

BOARD OF SUPERVISORS MEETING

November 1, 2022

The regular meeting of the Campbell County Board of Supervisors was held on the 1st day of November 2022 in the Board of Supervisors meeting room of the Walter J. Haberer Building, Rustburg, Virginia. The members present were:

Matt W. Cline, Chairman, Presiding	Concord Election District
Kenneth R. Brown (via Zoom)	Spring Hill Election District
Justin A. Carwile	Timberlake Election District
Jon R. Hardie	Rustburg Election District
A. Dale Moore	Altavista Election District
Steve W. Shockley	Sunburst 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
 Catherine H. Moore, Clerk

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

// REQUEST FOR ELECTRONIC MEETING PARTICIPATION

At this time Supervisor Brown requested permission to participate from Florida in the November 1, 2022 regular meeting through electronic communication. He was out of town on a personal matter.

On motion of Supervisor Hardie, it was resolved the Board of Supervisors approves Supervisor Brown's request to participate in the November 1, 2022 regular meeting through electronic communication from Florida for personal matters.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
 Nay: None
 Absent: None

// APPROVAL OF MINUTES

On motion of Supervisor Shockley, it was resolved the Board of Supervisors dispenses with the reading and approves the minutes of the August 16, 2022 and September 20, 2022 meetings as presented.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
 Nay: None
 Absent: None

// PURCHASE OF RUSTBURG PRESBYTERIAN CHURCH

In April of 2021, the County was contacted by representatives of the Rustburg Presbyterian Church to explore any interest on the County's part in acquiring the property. Prior to that inquiry, as part of the acquisition of land to facilitate the construction of the new Rustburg Middle School, the County had purchased from the church the property immediately adjacent to the church that housed a rental home.

Following negotiations between County representatives and Church representatives, the draft offer and land sale contract were shared with the Board of Supervisors at the February 1, 2022 regular meeting. At that time, the Board of Supervisors authorized staff to move forward.

The local session of the Presbyterian Church formally approved the proposal for the sale of the building in August of 2022.

The Rustburg Presbyterian Church is a unique architectural feature in the Village of Rustburg. The facility is approximately 5,500 square feet on 0.27 acres. The County would acquire the building and associated parcels for \$150,000. In the future, the facility will be converted to County office and meeting space. The Church will retain use of the facility for worship and related activities for a period of one year. Purchasing the property enables the County to provide necessary space to conduct County business and serve County residents; as well as preserve a historically significant structure in the Village of Rustburg.

Supervisor Hardie offered the following motion to approve the purchase of the Church. He was excited to preserve the beautiful structure and a piece of history in the Village of Rustburg.

On motion of Supervisor Hardie, it was resolved the Board of Supervisors authorizes and affirms in open session the acquisition of the Rustburg Presbyterian Church property and further authorizes the County Administrator to execute any and all documents necessary to complete the transaction, subject to review as to form by the County Attorney.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

// PERMISSION TO ADVERTISE – CAMPBELL COUNTY CODE UPDATE

Tripp Isenhour, County Attorney, reviewed proposed updates to the County Code, the majority of which were mandated changes to mirror state law changes that were effective July 1. There were several changes to Chapter 22 – Zoning that defines the definition of adult foster care, clarifies that residence within an RV or Camper for more than 10 days would violate the zoning ordinance unless specifically exempted, and clarifies the regulations of an adult foster care or group home with under eight (8) residents.

On motion of Supervisor Carwile, it was resolved the Board of Supervisors authorizes staff to advertise a public hearing to consider the proposed updates to the Campbell County Code for the December 6, 2022 Board of Supervisors meeting.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, 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.

- Speed study along Leesville Road from Leesville Estates to the City Limits has not been received.
- VDOT continues to monitor the intersection of Route 460 and Doss Road.
- Speed study for English Tavern Road has not been received.
- VDOT still needs to check elevations to develop solutions for flooding at 2890 Brookneal Highway.
- VDOT was still awaiting the speed study for Greenhouse Road (Route 738) and Calohan Road (Route 685).
- Mr. Brown reported the study to consider a traffic signal at Calohan Road and Greenhouse Road was completed and indicated a signal was not warranted. However, the study did highlight some improvements that would help that intersection. VDOT would be reviewing those recommendations.
- Chairman Cline thanked VDOT for the repainting of one cross-walk in the Village of Concord and there is one more at the elementary school that needs to be done. Mr. Brown indicated it should be repainted by December 1st.

- Supervisor Moore indicated he had already shared one concern regarding Bethel Church Road with Mr. Brown.

// CONSENT AGENDA

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

a) Appropriations –

1. General Fund, Non-Departmental Expenses, deleting \$6,451 from Budget Set Aside, and appropriating to DMV – Police Traffic Services Grant, \$2,353 to Employer Cost – FICA and \$1,009 to Workers Comp, and to DMV – 402 Grant – Alcohol, \$2,162 to Employer Cost – FICA and \$927 to Workers Comp, grants awarded to the Sheriff’s Department only covered overtime reimbursement and not benefit costs;

2. General Fund, Special Tax Districts, appropriating \$40,352.82 to TWID – Special Tax District, and increases estimated revenue, General Fund, in the amount of \$2,524.67 (with TWID revenue that reverted back to General Fund in FY 2022), 2022 TWID Spec Tax Dist – 1st Billing, in the amount of \$30,168.17 and 2022 TWID Spec Tax Dist – 2nd Billing, in the amount of \$7,659.98, taxes collected on behalf of the Timberlake Watershed Improvement District (TWID), and returns those funds to TWID upon their request;

3. General Fund, Public Safety, appropriating \$450 to Comp – EMT, and increases estimated revenue, EMS Billing Revenue Proceeds by \$450, payment for EMT support for Liberty University football game on 9/24/22;

4. General Fund, Public Safety, appropriating \$630 to Comp – EMT, and increases estimated revenue, EMS Billing Revenue Proceeds by \$630, payment for EMT support for VA Ten Miler on 9/24/22;

5. General Fund, Public Safety, appropriating \$3,435.18 to Maint/Repair – Vehicles, and increases estimated revenue in Insurance Recoveries by \$3,435.18, insurance reimbursement for repair to 1997 International Pumper damaged during training, Lyn – Dan Fire Company;

6. General Fund, Public Safety, appropriating \$6,102.50 to Maint/Repair – Vehicles from Insurance Recoveries, insurance reimbursement for repair to 2007 Pierce Arrow – 2007, Concord Volunteer Fire Department;

7. General Fund, DMV – Police Traffic Services Grant, appropriating \$30,750 to COMP – Overtime, and \$5,970 to Police Supplies, and increases estimated revenue, DMV – Police Traffic Services Revenue, by \$36,720, federal pass thru state DMV grant entitled Selective Enforcement – Police Traffic Services requiring an in-kind match of \$18,360;

8. General Fund, DMV – 402 Grant – Alcohol, appropriating \$28,250 to COMP – Overtime, and increases estimated revenue, DMV 402 Grant – Selective Enforcement – Alcohol, by \$28,250, federal pass thru state DMV grant entitled Selective Enforcement – Alcohol requiring a 50% in-kind match of \$14,125;

9. Capital Improvement Fund, Public Works, appropriating \$8,514 to County Vehicle Replacement, and decreases Beginning Fund Balance by \$8,514, insurance recovery funds for the Public Works Ford F-150 totaled on October 20, 2021 to be utilized with additional funds to purchase a replacement vehicle;

10. Capital Improvement Fund, Public Works, appropriating \$6,389 to County Vehicle Replacement, and increases estimated revenue, Insurance Recoveries, by \$6,389, insurance recovery funds from a 2009 Ford Escape that was totaled on 8/22/22; these funds to be combined with recovery funds from the Ford F-150 to purchase a replacement vehicle;

b) County Attorney invoice –

Approves payment to the County Attorney in the amount of \$15,422.25 for services rendered from September 21, 2022 through October 18, 2022.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

// APPOINTMENTS

Several appointments were made at this meeting.

Social Services Board

On motion of Supervisor Moore, it was resolved the Board of Supervisors reappoints Morris Dews, 312 Butterfly Lane, Lynch Station, Virginia to a four year term until June 30, 2026 on the Social Services Board for the Altavista Election District.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

Planning Commission

CCUSA

On motion of Supervisor Hardie, it was resolved the Board of Supervisors reappoints Michael Condrey, 2051 Rocky Road, Rustburg, Virginia, to a four year term until June 30, 2026 on the Campbell County Planning Commission for the Rustburg Election District, and reappoints Carter Elliott, Jr., 2112 Suburban Road, Lynchburg, Virginia, to a two-year term until December 31, 2024 on the Campbell County Utilities and Service Authority for the Rustburg Election District.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

CCUSA

On motion of Chairman Cline, it was resolved the Board of Supervisors reappoints Don Austin, 25 Kimball Road, Concord VA 24538, to a two-year term until December 31, 2024 on the Campbell County Utilities and Service Authority for the Concord Election District.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

Recreation Advisory Council

On motion of Supervisor Brown, it was resolved the Board of Supervisors reappoints James Enoch, 41 Squire Circle, Lynchburg VA 24501, to a three-year term until December 31, 2025 on the Recreation Advisory Council for the Spring Hill Election District.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

// MATTERS FROM THE BOARD

- Supervisor Hardie recommended the Board discuss staggering the terms of the CCUSA members. The terms all expire at the same time, and this would be a concern if all members transitioned out at the same time.

- Supervisor Hardie referenced a Letter to the Editor in the Altavista Journal on the possibility of reducing the costs of pharmacy benefits for employees, and why the County did not consider the proposal. Administrator Rogers advised health insurance benefits would be up for rebid in 2023, and all proposals would be considered at that time.
- Supervisor Hardie appreciated the work session on reassessment. Looking ahead to the discussions on the FY 2024 Budget, he asked the Board to give some thought on the possibility of freezing real estate tax rates for senior citizens to reduce the impact of rising costs. Administrator Rogers indicated other states used what was called a Homestead Exemption which was not allowable under Virginia Code. But the County did have in place a debt relief program for senior citizens. He suggested the Commissioner of the Revenue be invited to join in this conversation.
- Supervisor Watts commended County Attorney Isenhour on the Delinquent Tax Sale held this past weekend. He was not able to attend, but heard from several that the sale was successful in disposing of a number of properties.

// CLOSED MEETING

On motion of Chairman Cline, it was resolved the Board of Supervisors enters into a closed meeting at 6:33 p.m. to discuss legal matters related to a public nuisance, in accordance with the legal exemption §2.2-3711 (A)(7) of the Code of Virginia, as amended.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
 Nay: None
 Absent: None

// The Campbell County Board of Supervisors entered into a closed meeting on this 1st day of November, 2022 at 6:33 p.m. to discuss legal matters related to a public nuisance, in accordance with the legal exemption §2.2-3711 (A)(7) of the Code of Virginia, as amended.

Supervisor Brown was not able to participate in the closed meeting remotely due to technical issues, but was present via Zoom when the Board returned to the meeting room.

// On motion of Supervisor Hardie, it was resolved the meeting return to open session at 7:04 p.m.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
 Nay: None
 Absent: None

// On motion of Supervisor Carwile, the following resolution was adopted:

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Campbell County Board of Supervisors had convened a closed meeting on the 1st day of November, 2022 pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, §2.2-3711 of the Code of Virginia requires a certification by the Campbell County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

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

The roll call vote was: Aye: Carwile
 Aye: Cline
 Aye: Hardie

Aye: Moore
Aye: Shockley
Aye: Watts
Nay: None
Absent During Meeting: Brown
Absent During Vote: None

// PUBLIC HEARING – REZONE 20795 LYNCHBURG HIGHWAY

The first public hearing was opened at 7:05 p.m. on:

PL-22-153 Request by Nathaniel Cody Beckner, agent for F. Dale Hull, to rezone property located at 20795 Lynchburg Highway from Business – General Commercial and Agricultural, Conditional to Business – Heavy Commercial in order to operate an automotive body repair facility. The property is located in an area designated as medium to high density commercial per the current Comprehensive Plan.

Paul Harvey, Director of Community Development, presented a request from Nathaniel Cody Beckner, 1826 Austin Mill Road, Evington, to rezone 1.50 ± acres from Business – General Commercial and Agricultural, Conditional to Business – Heavy Commercial in order to operate an automotive body repair facility. The property was located at 20795 Lynchburg Highway in the Timberlake Election District.

The facility would operate from the existing building on the property and provide body repair and automobile painting. The rezoning to Business – Heavy Commercial allows for the proposed use as by-right if done within enclosed buildings or otherwise screened from view from surrounding properties and public right-of-ways. There is a small portion of the property currently zoned Agricultural, Conditional that would be rezoned. The rezoning would have the effect of removing the existing proffers associated with that area of the parcel.

An existing entrance from Lynchburg Highway (Route 460) would serve the property. The request would not significantly impact the traffic flow, and a traffic impact analysis was not required. The parcels were served by public water and an on-site septic system. The rezoning would remove the existing proffers associated with the rezoning from Agricultural, Conditional to Business – Heavy Commercial; no proffers were submitted with the current request. The property was located in an area designated as medium to high density commercial. The Planning Commission recommended approval of the request by a vote of 7-0 citing good zoning practice.

Joe Laslie, 12156 Leesville Road, Lynch Station, spoke on behalf of his son, **Nathaniel Beckner**, 1826 Austin Mill Road, Evington, who was requesting permission to rezone this parcel to operate an automobile repair shop to serve the citizens of the County.

Chairman Cline called for comments in favor of or in opposition to the proposed rezoning request.

Russ Nixon, 172 Jumping Creek Road, Rustburg, spoke in favor of the request. He did the original design work for the property when the garage was built. The property has easy access to Route 460, and all stormwater protections were put in place. The location was previously used as an RV dealership, but went out of business during the pandemic. He thought the business at this location was a good idea.

No one else spoke in favor of or in opposition to the proposed rezoning. The public hearing was closed at 7:07 p.m.

On motion of Supervisor Carwile, it was resolved the Board of Supervisors accepts the recommendation of the Campbell County Planning Commission and citing good zoning practice **APPROVES** Request PL-22-153 by Nathaniel Cody Beckner, agent for F. Dale Hull, to rezone property located at 20795 Lynchburg Highway from Business – General Commercial and Agricultural, Conditional to Business – Heavy Commercial in order to operate an automotive body repair facility

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts

Nay: None
Absent: None

// PUBLIC HEARING – SPECIAL USE PERMIT AT 523 DAWNDRIDGE DRIVE

The next public hearing was opened at 7:10 p.m. on:

PL-22-154 Request by Estelle Brinius for a special use permit to operate a rooming house on property zoned Residential – Single Family. The property is located at 523 Dawnridge Drive in an area designated as medium to high density residential per the current Comprehensive Plan.

Mr. Harvey presented a request from Estelle Brinius for a special use permit to use an existing single-family dwelling as a rooming house on property zoned Residential – Single Family. The property was located at 523 Dawnridge Drive, Lynchburg, in the Timberlake Election District, and the property contains 0.459 acres. The applicant was the owner of the property and wanted to rent out a portion of the dwelling for overnight guests using a platform such as Airbnb. The upper level of the dwelling with three bedrooms would be rented out on a short-term basis while the owner resides in the lower level. This was the primary residence of the owner.

Dawnridge Drive serves the property. The property was served by public water and a private septic system. The Planning Commission recommended approval of the request with the condition the applicant utilizes the site in conformance with the use described in the narrative submitted with the request, and with a further condition of a maximum occupancy of six (6) renters, not including owners, by a vote of 7-0 citing good zoning practice. The property was located in an area designated as medium to high density residential. The Planning Commission voted to limit the number of renters due to the small lot size, parking availability, and lack of public sewer.

In answers to questions from the Board, the Planning Commission recommended a limit of six (6) renters in addition to the property owner. The space to be rented was 3 bedrooms that included 1.5 bathrooms. The property owner interjected she had a 1,000 gallon septic system.

Estelle Brinius, 523 Dawnridge Drive, Lynchburg, indicated she would like to start a bed and breakfast at her home. Her home was near five major universities and hospitals, and many times there was a need for short-term accommodations especially for nurses. Mrs. Brinius plans to vet everyone carefully and require identification. She would remain on site at all times and plan to impose a three-night minimum stay. Her driveway was wide enough for at least four (4) cars.

Chairman Cline called for comments in favor of or in opposition to the proposed special use permit.

Kenneth Catlett, 562 Dawnridge Drive, lives across the street from the subject property. He was not opposed, but commented Mrs. Brinius was limited on parking and not sure how many cars would need to be parked for six renters.

In response to Mr. Catlett's comments, Mrs. Brinius commented she would limit the number of cars to four, and no one would be allowed to park on the lawn.

Hearing no further comments, the public hear was closed at 7:15 p.m.

On motion of Supervisor Carwile, it was resolved the Board of Supervisors accepts the recommendation of the Planning Commission and citing good zoning practice **APPROVES** Request #PL-22-154 by Estelle Brinius for a special use permit to operate a rooming house on property zoned Residential – Single Family located at 523 Dawnridge Drive with the condition the applicant utilizes the site in conformance with the use described in the narrative submitted with the request, and a further condition of a maximum occupancy of six (6) renters, not including owners.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts

Nay: None
Absent: None

// PUBLIC HEARING – SPECIAL USE PERMIT AT 684 ARRINGTON DRIVE

The next public hearing opened at 7:16 p.m. on:

PL-22-155 Request by Gwendolyn Good for a special use permit to operate a rooming house and allow one additional dwelling unit within the existing single family dwelling for use by immediate family on property zoned Agricultural. The property is located at 684 Arrington Drive in an area designated as medium to high density residential per the current Comprehensive Plan.

Mr. Harvey indicated this request was from Gwendolyn Good for a special use permit to use an existing single-family dwelling as a rooming house and allow one additional dwelling unit within the existing single family dwelling for use by immediate family on property zoned Agricultural located at 684 Arrington Drive, Evington, in the Altavista Election District. The property contains 5.129 ± acres. The applicant is the owner of the property and wishes to rent out a portion of the existing single-family dwelling for overnight guests using a platform such as Airbnb. The basement of the dwelling would be rented on a short-term basis while the owner resides in the upper level. This is the primary residence of the owner. The owner is also seeking to allow for an additional dwelling unit in the basement for her parents to live when they could no longer live independently.

Arrington Drive services the property. The property is served by public water and a private septic system. The property was located in an area designated as medium to high density residential. The Planning Commission recommended approval of the request by a vote of 7-0 citing good zoning practice with the condition the applicant utilizes the site in conformance with the use described in the narrative submitted with the request.

Gwendolyn Good, 684 Arrington Drive, Evington, explained that her parents actually purchased the home 15 years ago as a potential option to live with her when they could no longer live independently. She purchased the home in 2020. Her last child just went to college, and she decided she would like to operate an Airbnb while her parents were not using the space.

No one else spoke in favor of or in opposition to the proposed special use permit. The public hearing was closed at 7:19 p.m.

On motion of Supervisor Moore, it was resolved the Board of Supervisors accepts the recommendation of the Planning Commission and citing good zoning practice **APPROVES** Request #PL-22-155 by Gwendolyn Good for a special use permit to operate a rooming house and allow one additional dwelling unit within the existing single family dwelling for use by immediate family on property zoned Agricultural on property located at 684 Arrington Drive with the condition the applicant utilized the site in conformance with the use described in the narrative submitted with the request.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

// PUBLIC HEARING – REZONING ON AUSTIN MILL AND BUFFALO MILL ROAD

The last public hearing was opened at 7:20 p.m. on:

PL-22-156 Request by Russ Nixon, agent for Ben Kalu, to rezone property located on Austin Mill Road and Buffalo Mill Road and further identified as tax map parcel 29-A-7 from Agricultural to Residential – Single Family, Conditional for use as a single-family subdivision. The property is located in an area designated as transitional per the current Comprehensive Plan.

Mr. Harvey presented a request to rezone 55.374 ± acres from Agricultural to Residential – Single Family, Conditional for use as a single-family subdivision on Austin Mill Road and

Buffalo Mill Road in the Altavista Election District. As this was a conditional rezoning, proffers were submitted, but revised proffers were received on October 31, 2022 and have been distributed to the Board. Mr. Harvey read those proffers into the record:

1. We will leave a 25-foot natural buffer between the new development and the existing lots with homes fronting on Austin Mill and Buffalo Mill Road. There will be an exception made and the 25 foot buffer removed if it is determined that leaving such buffer would not allow the new lots in this development to be created due to environmental and developmental restraints. Exceptions include but are not limited to needing to remove trees for construction of a drainfield area. Such exceptions will be duly communicated to the affected homeowners along Austin Mill Road and Buffalo Mill Road.
2. We will have restrictive covenants with restrictions that comparable to those of Hunters Mill Subdivision. (These proposed restrictions will be presented to the board at the meeting, they are in development at this time.)
3. We will have all required erosion and sediment control measures in place during construction and until all dwellings are in place and the site is stabilized.
 - 3a. The developer will design and construct all needed erosion and sediment control measures for this development.
4. The site will be developed in substantial compliance with the site plan, not to exceed 60 lots total if the soils will support that many lots.
5. Dwellings to be built in this development will have a minimum house size of 2500 sq. ft.
6. All utilities to be installed below ground.
7. We will work closely with AEP to assure all engineering measures meet the standards they set for construction while under the overhead power lines are met.

The parcel would be accessed by new streets with entrances onto Austin Mill Road (Route 625) and Buffalo Mill Road (Route 684). VDOT would evaluate traffic counts for full buildout when considering entrance requirements onto existing roads. The parcels would be served by public water and private on-site septic systems. The property was located in an area designated as transitional. The Planning Commission recommended approval of the request by a vote of 6-1 citing good zoning practice.

Russ Nixon, Nixon Land Surveying, LLC, was representing the property owners, Ben and Amy Kalu. Mr. Nixon provided a packet that included the proffers and the soils report by Hubbard Soil Consulting, Inc. In the preliminary soil study, Mr. Hubbard indicated the overall majority of the site contained soils that were suitable for conventional onsite sewage disposal systems. Class III soils were prevalent on the site, and those soils would require a 50% reserve area for future repairs. Some areas of the property did contain shallow rock and/or a high seasonal water table, and those areas may require the use of alternative systems.

Mr. Nixon indicated this process was started a year ago, and the revised version limits the development to 60 lots which would allow them to build the infrastructure. The property was served by public water. The packet also outlined 25 restrictions which equaled or exceeded the restrictions for the Hunters Mill Subdivision.

Also included in the packet was an e-mail from Mason Sokira, Trans Right of Way Agent for AEP, in response to Mr. Nixon's question about designing and constructing a VDOT approved road under the transmission line. The e-mail was read into the record as follows: "Tom had reached out to me concerning your question about designing and constructing a VDOT approved road under the transmission line. See blurb below, generally they are allowable, but need Transmission Line Engineering approval. If you have plans, please send over and I can forward on to engineering. They would also want to know the specific types of equipment/vehicles you would be using in the ROW to ensure line clearances are met. No buildings and structures are allowed in the right of way. Roads plans must be approved by AEP transmission line engineering."

Mr. Nixon believed this was going to be a good development and a good opportunity for Campbell County to have good single-family housing in an area that was suitable. Currently, there were a lot of townhomes and apartments.

Supervisor Shockley confirmed that nothing could be built or planted within the transmission line right-of-way which was 100 feet on each side. Looking at the site plan and the lots that bordered the transmission line, Supervisor Shockley questioned if there would be sufficient space for a home. Mr. Nixon indicated yes and added those lots would be larger than the standard lot to allow for all required setbacks. In answer to a question by Supervisor Moore, the homes would be sited an additional 30 to 75 feet from the power line easement. This was done after reviewing the distance of homes built in the County that border the transmission line. The transmission line runs 24 miles through the County.

Chairman Cline called for comments in favor of or in opposition to the proposed rezoning request.

Dr. Rebecca Irby, 1697 Austin Mill Road, Evington, was opposed to the rezoning based on the increased traffic the development would bring to the area. She moved from the Somerset Meadows subdivision because it became too congested to her current home on five (5) acres that was directly across from this proposed development. She walked the road regularly, and there was little room on the shoulder to move for vehicles. Because this development would be directly across the road from her home, she was concerned for the safety of her family. Dr. Irby added she believed the Kalu's were good people with the best intentions, but no one had addressed her concerns.

Wes Gardner, 69 Gracie Court, Evington, lives on the back side of Somerset Meadows. The transmission line also runs through their subdivision, but the property was zoned Agricultural with larger lot sizes. He spoke in favor of the rezoning indicating that a home near him recently sold for \$950,000. The transmission line has not affected their property values. Mr. Gardner was more concerned about property that was zoned agricultural because of the numbers of different uses that were allowed in an agricultural zone. He supported the Kalu's project indicating the need for single family homes in that area.

Wendy Davis, 1660 Austin Mill Road, Evington, lives directly behind the proposed subdivision. Six months ago the Board denied the request, and since that time the Kalu's had not addressed their concerns nor met with the property owners concerning easements and restrictions. They had requested the number of lots be reduced with larger lot sizes and had expressed concerns about speed limits, turn lanes and increased buffers. They had also asked that the Austin Mill entrance be moved so as to not shine headlights on the homes across the road. None of those items were addressed in the revised proposal.

Just recently they were given short notice for a neighborhood meeting and provided a copy of the proposed restrictions that were very vague. The number of lots were reduced from 77 to 60, but the lot sizes were still less than an acre. Mrs. Davis contacted VDOT and learned a traffic study to consider the speed limit on Austin Mill Road was pending, but it could be a year before it was completed. She acknowledged a 25-foot tree buffer was included in the restrictions and would remain unless it interfered with development of the lot. This past year a house was built near her, and the construction noise interfered with her peace and quiet. She was concerned about the noise from multiple homes being built at the same time.

Mrs. Davis attended the September 26th Planning Commission meeting and felt very threatened by the Planning Commission and the Kalu team just as she felt threatened by the comments of the speaker before her. She had also felt threatened by Mr. Nixon when he made comments that the property owners would be sorry if the Kalu's sold their property to a pig farmer. She disagreed with statements that more single family homes were needed as she identified at least 120 homes that were available in the County. She added the children from this subdivision may not be able to attend schools in the Brookville District as those schools were full. Mrs. Davis was also concerned about the transmission line and did not see any homes built as close to the transmission line as indicated by Mr. Nixon.

Mrs. Davis referred to the e-mail that Mr. Nixon read from AEP, but he did not read one of the statements. She read the statement into the record "Beware that 765Kv lines are very high

voltage, and any construction operations within the ROW are a serious safety concern and are not to take place without AEP approval.” She believed this was a serious safety concern. That past weekend she and her daughter took a common fluorescent bulb and held it under the transmission lines and the bulb lit up. Just being under the lines for 30 minutes, her daughter had a headache and was shocked. In conclusion, 60 homes on 50 acres would move their area from low density to high density and the road and infrastructure could not support this development. Lastly, she presented a petition signed by many of the neighbors in opposition of the rezoning.

James Kevin McConnell, 2960 Buffalo Mill Road, Evington, using GIS data researched the lot sizes on Austin Mill Road and Buffalo Mill Road. Mr. McConnell indicated they were being told the proposed subdivision would be like Hunters Mill Subdivision, but he disagreed citing the lot sizes of the homes along Austin Mill and Buffalo Mill Road. He was also concerned about the transmission line and wished they had more details about the restrictions being offered. He too would like to see the number of lots reduced with bigger lots. He believed that would create a better neighborhood.

Sandy Glass lives in the Hunter’s Mill Subdivision. She presented another petition in opposition to the proposed subdivision that 85% of the neighbors signed. Using slides, Mrs. Glass spoke to the importance of looking to the County’s Comprehensive Plan to decide land use issues to protect natural resources and to protect high density residential developments from impacting rural areas. She contended this development would do just that.

She commented the transmission lines that would run through the proposed subdivision were some of the most powerful lines in the country. Some have indicated those lines run through the Hunter’s Mill subdivision, but they only bordered some of the back lots. The lines that ran through the Somerset Meadows subdivision were distribution lines and were lower voltage. Mrs. Glass added weed killers were routinely sprayed under the transmission lines to retard growth, and this may not be healthy for residents especially children.

Mrs. Glass commented the entrances for the proposed subdivision had not received VDOT approval as of yet. She also commented the current roads were inadequate and they needed to be addressed before adding more traffic. One entrance would be on Austin Mill Road, and one would be on Buffalo Mill Road. Should turning lanes be needed, it would impact other property owners land. No traffic studies had been completed for this project nor was there any updated traffic data for the two roads.

Continuing, Mrs. Glass contended that residential developments do not increase revenues for the County. The County really needed commercial and business development to increase revenues to support the citizens. Mrs. Glass encouraged the Board of Supervisors to consider the quality of life for all citizens and for the Board to reflect on how this subdivision would impact the current citizens. In conclusion, Mrs. Glass cited occasions when she and her neighbors had been discouraged to speak to this matter having been told “it was a done deal” and veiled threats from Mr. Nixon and others that if it didn’t pass, they would be looking at single-wide and double-wide homes or a pig farm. Mrs. Glass commented that everyone was welcome to their community, and everyone had the right to live in a rural area. Many of the people that lived in the area of Austin Mill Road, Hunters Mill and Buffalo Mill were teachers, law enforcement officers and volunteer firemen. She asked the Board to vote “no” to the proposed subdivision.

Carsen Wilkerson, 2127 Austin Mill Road, lives in the house her grandfather built in the 1950’s on the edge of their family farm. Most of the farm was in Bedford County, except 40 acres that was in Campbell County. She and her family have been amazed at the change to the rural areas in both Bedford and Campbell counties. She was opposed to the rezoning request as more rural land would be lost to subdivisions. While there were stormwater protections in place, they did not always work as they had witnessed first-hand from a development next door.

Tom Clark, 2973 Buffalo Mill Road, asked the Board to delay a vote on this proposal until more information was collected. He did not think they had all the facts. The property was purchased as agricultural and should be developed as agricultural.

Ben Kalu, 3811 Capstone Drive, Lynchburg, was the owner of the property, a physician and a cell biologist. He and his wife purchased the subject property and about six (6) months ago presented a petition to have the property rezoned from agricultural to single-family

residential. At that meeting some of the neighbors expressed concerns, and the petition was denied. They have come back with good faith accommodations to address those concerns as outlined in the proffers submitted with the revised application. He did not speak at the last public hearing because he did not want to make the application contentious. Mr. Kalu wanted to be able to live with the neighbors, be friends with the neighbors and build a community that was founded on love. He added that relationships with his neighbors was more valuable than money. He was heartbroken by the accusations and his intentions had been grossly misrepresented. They had done everything that was required by County Code, and it appeared his application was being judged by a higher standard. This was merely an application to have the land rezoned, and they could not satisfy all the demands being made. For instance, they could not go to the expense of designing a road until after the property was approved. Following the Planning Commission meeting, he had a meeting with the neighbors and told them he was willing to listen to their concerns, but some things were out of his control. Mr. Kalu has gone on record that he would not do anything that would jeopardize the prosperity of his neighbors. But what was he to do when a neighbor says I don't like the sound of construction?

Mr. Kalu commented that he came from a place where people would trample on your rights and take your stuff. The individual freedoms in the United States was what made this country what it was today. He asked everyone to think about that. Neighbors have stated they don't want him to cut the trees on his own property for whatever reason. As a concession, he has proffered a 25 foot buffer which demonstrates his willingness to work with the neighbors. He did not think it was fair for someone else to tell you what to do with your own property. Continuing, Mr. Kalu indicated the number of lots has been reduced, and he knew that all lots would not perk and some lots may not sell due to the transmission line. He could not further reduce the number of lots due to inflation, the cost of gas, materials, and infrastructure costs because it would make the project feasibly impossible. In conclusion, he did not set out to hurt anyone, and if the application did not pass, it would not be the end of the world. He wanted to build a community that would be beautiful and be a blessing to him, his neighbors and Campbell County.

Amy Kalu, 3811 Capstone Drive, Lynchburg, owner of the property, was a computer science professor at Liberty University. She and her husband planned to build a 6,000 s.f. home on this property for their five children, soon to be six children. Mrs. Kalu did not feel they should have had to file a second application for the rezoning. This process was only a rezoning, and it was not the time and place to design the subdivision. That would come later, and there were many governmental agencies that would provide oversight to make sure they did it correctly. If they were following all agency rules and requirements, that should speak for itself. What was being asked of them was asking for the impossible. She feels at this point, there was nothing they could do to satisfy everyone. The number of lots had been downsized by 17 lots, and most likely they would not be able to develop all the lots. It could take 20+ years to build out the subdivision. Mrs. Kalu wondered where the people that were opposing their project were when Hunter's Mill Subdivision was being proposed. Those same people were now enjoying Hunter's Mill and because they enjoyed it so much, they were trying to stop others from expressing themselves likewise.

Mrs. Kalu, also a realtor, indicated the subject property was zoned transitional; if the rezoning was denied, they would like to have fact based reasons, not sentimental reasons. She was confused by people saying they had felt threatened. Why is talking a threat? She referred to a world where you could not even speak or someone felt threatened. If she believed she had said something wrong, she would be the first to apologize. At this point she was wondering if all of this was worth it; she did not want to raise her kids in a hostile environment. Was it worth building a \$900,000 home when she would not even be able to drive by and say hi to her neighbors? In response to several people who had asked to purchase some of the land, she explained again they could not sell any of the property while they had a rezoning application in progress.

Rachel Mikulas, 423 Bridge Tree Court, Evington, lives in the Hunter's Mill Subdivision. She just purchased her home in April and felt very lucky to find a home in a beautiful neighborhood. As everyone knew, there has been a shortage of homes in the area. When she heard about the proposed subdivision, she was very excited to meet her new neighbors. She had heard concerns about bus driver shortages and commented that it was an issue that affected many jurisdictions, not just Campbell County. In response to estimates she

heard of 10 trips a day per home, her family only made two (2) trips per day as she works from home. Mrs. Mikulas was 100% percent in favor of the rezoning application.

Dustin Reynolds, 376 Runner Shone Drive, Evington, was opposed to the rezoning application as currently presented. He was trained as a dentist and endodontist and was currently the President-Elect of the Virginia Dental Association. Before obtaining his professional degrees, he served as a volunteer firefighter and EMT. He was not opposed to growth and development as it was vital to the County's success; however, he did find fault with the size of the proposed development due to safety and infrastructure. Speaking to the Kalu's, he believed they did have the best of intentions and he trusted Mr. Nixon to make sure the application was flawless. He did want to speak to safety concerns. After speaking directly with AEP, he confirmed the 765 kV transmission lines were the most powerful lines in AEP's power grid, and you could not build within the right-of-way of those lines. They did make concessions for road construction, but it was a stringent approval process. You could be shocked just by walking underneath those lines. Dr. Reynolds agreed there were no studies that indicated power lines led to basal cell carcinoma; however the non-ionizing radiation emitted by power lines has been linked to childhood leukemia. Dr. Reynolds also had concerns regarding the increased traffic and does not believe those concerns were addressed. The existing roads could not handle the additional traffic, and VDOT was not properly consulted regarding turn lanes, the widening of the roads and the location of the entrances. He believed this was a great project, but it was in the wrong place. In conclusion, the decision was up to the Board, but if there was a 1% chance that a child could get cancer from the high-voltage power lines, was it worth it?

Randy Higgins, 426 Bridge Tree Court, Evington, commented that after listening to everything that was said at the meeting, he wanted the Kalu's to know they were beautiful people, and he was blessed to know them.

Nathaniel "Cody" Beckner, 1826 Austin Mill Road, Evington, indicated he and his wife wanted to remain neutral, but he felt compelled to speak. He lives on family land, and it was a wonderful neighborhood. He would love to have them as neighbors. The Lord had blessed them with this land, and they should be able to do what they wanted with the land as long as it did not infringe upon others. From what he could determine, he did not see how this development would infringe on the other residents. These property owners should do what they wanted with their land. As far as the high voltage lines, if no one buys the lots, then no one buys the lots. If people were so concerned about the power lines, they should go to every single home from here to Ohio to warn them. Mr. Beckner added that he did not want anyone to take his comments as "for" someone or "against" someone. He hoped to be friends with all of them.

James Enoch, 41 Squire Circle, Lynchburg, was a realtor and questioned if it was the role of the County to consider safety when considering a rezoning change. He believed safety was up to the buyer to do his or her due diligence. These homes would be a minimum of 2,500 s.f., and currently there were only 22 homes in the County with that square footage. There was a big demand for homes of this size. In addition, he tells customers looking to buy a home in the County, that it did not matter which school district they were in. Their kids would receive a good education anywhere in the County.

Michael Berenz, 222 Hunters Mill Lane, indicated the closest house to the right-of-way of the power line was 128 feet. This may be a good indicator of how close someone might want to live near a power line. That day he walked up to one of the towers for the transmission line and commented how tall the towers were. He did not think anyone would buy the lots in the proposed subdivision that were near the transmission line. For that reason, he did not think there would be 60 homes. He also questioned if AEP would allow them to build a road within 25 feet of the tower. He talked with the Kalu's and thought they had a good idea, but he thought there were issues with this plan. Mr. Kalu indicated that with the cost of infrastructure, he could not reduce the number of lots. He was concerned about the future of this project and believed the project needed more to make it work.

Wendy Davis read into the record a letter from Joseph & Lindsey Brown, 1828 Austin Mill Road:

"Thank you very much for taking the time to hear about our concerns in this letter. We regret not being able to attend this meeting. We build our new home on Austin Mill Road in

2021. We built this home the way we did so we could enjoy our ponds view. If homes are built that would take away from our entire purpose we built here in the first place. We built this home to be our family's forever home without overlooking other homes. Our second concern is the pond. We are afraid neighbors (even though there is a barrier) will trespass onto our property to the pond. We do not want any incidents to happen which we would be liable for. Thirdly, we are concerned about the power lines (which also runs across our property). You can hear the power running through them especially on humid days. If you even hold a set of keys in your hand and walk under them they will shock you. We also have a four wheel we ride on our property and if you touch the metal while riding you will get shocked. We have also witnessed these power lines being struck multiple times by lightning during thunderstorms. That genuinely concerns us for the home owners. If homes are built close to them they could possibly be struck as well. Lastly, we love our quiet, private area and wish to keep it green. We have three young children and want to keep traffic as low as possible for everyone's safety. Thank you for hearing our concerns."

Chairman Cline offered Mr. Kalu an opportunity to respond to some of the concerns.

Ben Kalu clarified he had never mentioned that EMF radiation would not cause basal cell carcinoma, but said that you could just as easily get basal cell carcinoma from sunlight. His property deed does say you could not build any closer than 128 feet to the transmission line right-of-way. He spoke to the different types of studies for the effects of EMF radiation, and those issues have been factored into their plan. If neighbors were concerned about the radiation from the power lines, they should not walk or drive under those power lines. What is the exact distance you should build from a power line to not get cancer?

Russ Nixon added he provided information in the packet for the Board on EMF radiation, the sources of and the effects of this radiation. When he submitted the original application for this rezoning, VDOT and AEP were present at the initial planning meeting. At that meeting VDOT indicated they did not have to do a traffic study. If they had requested it, they would have done just that. If this project was approved, they will have to conduct traffic studies to site the two entrances into the property and determine the construction of the access roads. They would also be working with AEP, and they were just as stringent as VDOT if not more.

Hearing no further comments, the public hearing was closed at 9:51 p.m.

Supervisor Moore commented he was very impressed with Mr. and Mrs. Kalu, their occupations, their story and their faith. However, he could not support the proposed project based on the lack of traffic studies and the concern regarding the transmission line. He had to represent all the neighbors, and he would not want to approve something that may harm someone. He advised the Kalu's to keep the land, turn it into a farm with cattle and horses for his family and his children to enjoy.

Supervisor Watts acknowledged the transmission line goes behind Hunters Mill, English Commons and Russell Meadows. There had been several subdivisions developed with the power line. The Board did not approve this application the last time, but since that time, proffers had been made. He reminded the Board this property was in transitional zoning. He added it was not to us to decide if the lots would be sold. Some of the lots in Russell Meadows did not sell for a long time, but homes have now been built on those lots. The Board could also not control what VDOT did, but knew the applicant would have to work with VDOT to develop the property. If a subdivision has more than 30 lots, the Code requires two entrances. In conclusion, all the subdivisions like Hunters Mill were developed by an entrepreneur and were now the homes of many of the speakers. He would be voting to support the proposal.

In a question by Supervisor Moore, Supervisor Watts indicated he would be voting on the proposal. The County Attorney had already opined that it would not be a conflict of interest because Mr. Watts sold the Kalu's the property.

Supervisor Hardie appreciated everyone coming to the meeting and sharing their concerns. One of the roles of government was to consider safety. The lot sizes did not bother him, but he was concerned about safety of the power lines and the road infrastructure although he realized development usually precedes road upgrades. He was not in favor of the application

due to safety. His other concern was the impact on existing neighbors from the proposed entrance (lights shining on the houses across the road) and wished the entrance could be placed elsewhere.

Chairman Cline was generally in favor of the proposal and believed the applicant did a good job addressing the concerns of the neighbors. However, he too shared the concern of Supervisor Hardie of the impact of the entrance road on the Irby property across the road. He would not want anyone to have headlights shining on their home every night.

Supervisor Shockley commented that most rezonings were not opposed. When there was opposition to a rezoning, it was harder for the Board of Supervisors because none of them wanted to disappoint citizens. The last time the Board considered this application, no proffers were submitted to lessen some of the concerns. Prior to tonight's hearing, proffers were submitted to address those concerns, although they may not address them all. After listening to both sides, he was impressed by all the information presented. He himself lives in Hunters Mill subdivision, and has his own personal wants, but as an elected official he had to set those personal feelings aside. He would vote to support the rezoning request.

Supervisor Carwile commented this project was in the Brookville school attendance zone, and everyone was aware of the capacity issues. The Board was currently addressing those issues. The roads were small and narrow, but additional development would be the only way VDOT would improve the roads. He had heard a lot about the transmission line and indicated he had grown up on Sunnymeade and recalled playing as a child under those lines. Through this process, the applicant had reduced the lots and they may lose more which would make the project consistent with medium density. He would support the rezoning application.

Supervisor Brown thanked both sides for coming out tonight to speak. He also thanked Mr. Nixon for the proffers offered, and Mrs. Glass for her hard work and research. If the project passes, there would be a lot of work left to be done to receive VDOT and AEP approvals.

Supervisor Watts offered the following motion:

On motion of Supervisor Watts, it was resolved the Board of Supervisors accepts the recommendation of the Campbell County Planning Commission and **APPROVES** Request #22-156 by Russ Nixon, agent for Ben Kalu, to rezone property located on Austin Mill Road and Buffalo Mill Road and further identified as tax map parcel 29-A-7 from Agricultural to Residential – Single Family, Conditional for use as a single-family subdivision, subject to the following proffers submitted and accepted as part of the rezoning:

1. We will leave a 25-foot natural buffer between the new development and the existing lots with homes fronting on Austin Mill and Buffalo Mill Road. There will be an exception made and the 25 ft buffer removed if it is determined that leaving such buffer would not allow the new lots in this development to be created due to environmental and developmental restraints. Exceptions include but are not limited to needing to remove trees for construction of a drainfield area. Such exceptions will be duly communicated to the affected homeowners along Austin Mill Road and Buffalo Mill Road.
2. We will have restrictive covenants with restrictions that comparable to those of Hunters Mill Subdivision. (These proposed restrictions will be presented to the board at the meeting, they are in development at this time.)
3. We will have all required erosion and sediment control measures in place during construction and until all dwellings are in place and the site is stabilized.
 - 3a. The developer will design and construct all needed erosion and sediment control measures for this development.
4. The site will be developed in substantial compliance with the site plan, not to exceed 60 lots total if the soils will support that many lots.
5. Dwellings to be built in this development will have a minimum house size of 2,500 sq. ft.
6. All utilities to be installed below ground.

7. We will work closely with AEP to assure all engineering measures meet the standards they set for construction while under the overhead power lines are met.

The vote was: Aye: Brown, Carwile, Cline, Shockley, Watts
Nay: Hardie, Moore
Absent: None

// HOLIDAY DECORATIONS IN THE VILLAGE OF RUSTBURG

In response to the Board's request to provide holiday decorations throughout the Village of Rustburg, the Department of Public Works would be installing illuminated snowflakes on 25 light poles along Village Highway. The decorations were scheduled to be installed during the week of November 28th. The decorations would be illuminated from dusk to dawn and would be taken down during the first week of January 2023.

// ADJOURNMENT

On motion of Supervisor Watts, the meeting was adjourned at 10:11 p.m.

The vote was: Aye: Brown, Carwile, Cline, Hardie, Moore, Shockley, Watts
Nay: None
Absent: None

MATT W. CLINE, CHAIRMAN

Approved: _____