

COUNTY OF BATH, VIRGINIA  
BOARD OF SUPERVISORS MEETING  
BATH COUNTY COURTHOUSE, Room 115

Tuesday, February 9, 2016, 7:00 p.m. Regular Meeting

At the Regular Meeting of the Board of Supervisors of Bath County, Virginia, Claire A. Collins, Chairperson; Richard B. Byrd, Vice Chairman; Stuart L. Hall; Edward T. Hicklin; Mathew S. Ratcliffe; Lady and Gentlemen Supervisors; Michael M. Collins, County Attorney; and Ashton N. Harrison, County Administrator.

Claire A. Collins, Chair called the meeting to order and moved the meeting to the Circuit Court Room on the second floor.

Upon a motion made by Supervisor Byrd which was adopted 5 in favor, 0 against, the Board went into closed meeting in the Upper Level Conference Room Pursuant to Code of Virginia of 1950 as amended section 2.2-3711.A.7 Consultation with Legal Counsel; Section 2.2-3711.A.1 Personnel; and Section 2.2-3711.A.3 Discussion of Disposition of Publicly Held Real Property.

Supervisor Byrd made a motion which was adopted 5-0, in favor of coming out of closed meeting and returning to the regular meeting and to certify as follows:

CERTIFICATE OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Bath County Board of Supervisors certifies that, to the best of each member's knowledge (1) Only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies and (2) Only such public business matters as were identified in the motion convening the closed meeting were heard, discussed and considered by the Bath County Board of Supervisors.

Ayes: Claire A. Collins, Richard B. Byrd, Stuart L. Hall, Edward T. Hicklin, and Matthew S. Ratcliffe

Nays: None

Absent: None

Chair Collins called the meeting to order and led the Pledge of Allegiance. Supervisor Byrd offered the invocation.

Chair Collins asked the Board if they wished to approve or amend the agenda and the minutes from the January 12, 2016, Board of Supervisors meeting.

Supervisor Byrd made the motion to add additional invoices and to approve the agenda as presented. The motion was adopted 5-0.

Supervisor Hall made the motion to approve the minutes of the January 12, 2016, Board of Supervisors Meeting as submitted. The motion was adopted 5-0.

### **Public Comment**

Mr. David Jurcak, Cedar Creek District, said the Board voted in January to to discontinue advertising for Boards and Commissions, discontinue the application process, and reinstate stipends for all positions. He referenced minutes from February 2008 and said the motion that passed in 2008 indicated that Board and Commission members should be paid whether they attend meetings or not. Mr. Jurcak said there are 59 citizens serving on various Boards and Commissions who receive anywhere from \$25 to \$125 per meeting. Mr. Jurcak said the County could pay \$ 53,100 per year in stipends. Mr. Jurcak asked that stipends for Boards and Commissions be placed on the March agenda for further review.

Mr. Carl Chestnut, Cedar Creek District, said he believed a sign in Warm Springs was illegal because it referenced a person as being a member of the Board of Supervisor's when they were no longer serving in that capacity.

Mr. Jay Trinca, Warm Springs District, said he was appointed to serve on the Public Service Authority along with Supervisor Hall, and although they were paid a stipend of \$50 per month they worked together to save the County about \$3M in charges related to the Homestead Preserve development. He said he figured out his time at one point and his compensation equaled about 25 cents per hour.

Mr. Cliff Gilchrest, Millboro District, said if the decline in revenue turns out to be significant he would support an increase in the tax rate. Mr. Gilchrest said by increasing the real estate tax rate by five cents the County would gain about \$1.5 million in revenue.

Mrs. Sarah Redington, Valley Springs District, spoke regarding staggered terms. She said she supports staggered terms and hoped the Board would leave it in place.

Mr. Danny Cardwell, Cedar Creek District, said with the ownership of Mountain Crest community building in question he had reservations about using public funds to install a generator.

Mr. Wally Robertson, Cedar Creek District, said he was not opposed to the County installing a generator at the retirement home but he thought more information was needed on who would maintain the generator and what the actual costs would be long term. Mr. Robertson also commented on leases for solid waste sites. He said the County should work with the Forest Service for waste sites before entering into agreements with private landowners.

Mrs. Mary Susan Blankenship, Warm Springs District, said tax credits used to construct Mountain Crest end in 15 years and at that time the Retirement Home Commission will try to attain ownership of the property. Mrs. Blankenship said at the January meeting of the Board of Supervisors she asked the Board for the definition of an unrelated organization. Mrs. Blankenship said she believes the County owns the community building at Mountain Crest.

Mr. Jack Lindsay, Warm Springs District, said his family donated the land to build the road leading to Mountain Crest. He said the community building should be for the entire community, not just residents of Mountain Crest. Mr. Lindsay urged the Board to purchase a portable generator.

Mr. Patrick Haynes, Warm Springs District, spoke regarding bump outs in Hot Springs. He said there is potential to make them more attractive. Mr. Haynes said parking on Main Street in Hot Springs should be reserved for short term parking, not all day parking for employees.

Mr. Jonah Windham, Valley Springs District, said restriping the parking spaces on Main Street would help by letting people know where to park.

#### **Board Comment**

Supervisor Hall said the Board was committed to working with the businesses in Hot Springs before making any decisions regarding parking.

Supervisor Ratcliffe thanked everyone for working together during recent weather related events.

Supervisor Byrd commented on the sign outside of a Warm Springs business that included a former Board Members name and phone number. He said leaving the sign in place was childish and upset citizens but it was not against the law or County code.

Chair Collins agreed with Supervisor Byrd regarding the sign. Chair Collins announced Boards and Commissions vacancies through June 30, 2016. She said anyone interested in serving on a Board or Commission should contact their District Supervisor or County Administration.

#### **Public Hearing - Staggered Terms for the Board of Supervisors and School Board**

Chair Collins opened the public hearing to receive input regarding the repeal of staggered terms for the Board of Supervisors and School Board. Which would amend Code Sections 9-1 and 9-2.

Mr. Keswick Phillips, Cedar Creek District, Mr. Jay Trinca, Warm Springs District, Mrs. Jackie Plecker, Williamsville District, Mrs. Claudia Trinca, Warm Springs District, Mr. Wally Robertson, Cedar Creek District, and Mr. Carl Chestnut Cedar Creek District, opposed staggered terms for the Board of Supervisors and School Board.

Mrs. Ellen Ford, Millboro District, Mr. Cliff Gilchrest, Millboro District, Mr. David Jurcak, Cedar Creek District, Mr. John Cowden, Williamsville District, Mr. John Loeffler, Warm Springs District, Mr. John Haney, Millboro District, Mrs. Sarah Redington, Valley Springs District, Mr. Patrick Haynes, Warm Springs District, Mr. Danny Cardwell, Cedar Creek District, and Mr. Jonah Windham, Valley Springs District, spoke in favor of staggered terms for the Board of Supervisors and School Board.

Chair Collins closed the public hearing and asked for discussion by Board members.

Supervisor Byrd said he heard from many citizens in his district who opposed staggered terms. He said the only positive comments he heard from his district were expressed during public comment. Supervisor Byrd said staggered terms does not help the electorate. He said he would be in favor of changing the County to three voting districts with two at large and every citizen voted for the majority. He said the former Board had experience and he did not understand those who felt staggered terms were necessary. He said he supported the repeal of staggered terms for Board of Supervisors and School Board. Supervisor Byrd made the motion to repeal Bath County Code Section 9-1 and 9-2, staggered terms for Board of Supervisors and School Board.

Supervisor Hicklin said he favors staggered terms and almost every surrounding locality with the exception of Highland County has staggered terms. He said there will always be five representatives no matter when the terms expire. He said he did not believe the County would incur additional costs because there's an election every year.

Supervisor Ratcliffe read a letter from Jon Trees in support of staggered terms. Supervisor Ratcliffe said the County had operated for over 200 years without staggered terms and he was not in favor of them now. He said he felt the 3-2 votes on the last Board was personal.

Supervisor Hall said he had served on the Board of Supervisors for many years and he never felt the need for staggered terms. He said when campaigning he didn't have one person that told him they favored staggered terms. He said it takes years to learn about government and two years is not enough time.

Chair Collins said she was one of the two Board members that voted against staggered terms in 2014. She said she had the opportunity to be involved with localities that had staggered terms and those that did not, and knowing Bath County like she does she did not feel there was enough people interested in running for public office. She said she voted against staggered terms because her constituents are against it not because of her personal feelings. She said staggered terms encourages party affiliation and can split Boards and Councils.

Chair Collins called for the vote on Supervisor Byrd's motion to repeal staggered terms for the Board of Supervisors and School Board thereby amending Bath County Code Sections 9-1 and 9-2. The motion was adopted 4-1, with Supervisor Hicklin casting the dissenting vote.

### **Public Hearing - Repealing the License Tax Ordinance**

County Administrator Harrison said County Code Chapter 14 Articles I and II have been on the books for years but not implemented. He said the former Board of Supervisors considered enacting the code sections with a fee but after much public comment did not enact the code sections regarding business licenses. County Administrator Harrison recommended repealing the license tax ordinance of County of Bath.

Chair Collins opened the public hearing.

Mr. Jay Trinca, Warm Springs District, said he circulated a petition to local businesses when the business license issue came up again in July 2015. He said he presented the petition to the Board of Supervisors for inclusion in the public record. Mr. Trinca said the petition was 9 to 1 against a business tax. He said few people had read the ordinance in its entirety and did not understand it was a tax. Mr. Trinca urged the Board to repeal the ordinance.

Mr. Carl Chestnut, Cedar Creek District, Mr. Keswick Phillips, Cedar Creek District, Mr. Wally Robertson, Cedar Creek District, Mrs. Claudia Trinca, Warm Springs District, and Mr. Patrick Haynes, Warm Springs District, spoke against the license tax ordinance and asked the Board to remove it from the books.

Mr. Jonah Windham, Valley Springs District, said if a potential new business owner called Bath County to see if how much competition they would have there would be no way of knowing. Mr. Windham said if the economy doesn't grow it will die. He said the Chamber tries to support local businesses but they have a hard time identifying them.

Mr. Jack Lindsay, Warm Springs District, said he has to have a business license in other areas and would support a business license being implemented in Bath.

Mrs. Jackie Plecker, Williamsville District, questioned what the business license would be based on.

Mr. Wayne Anderson, Millboro District, said the Economic Development Authority supports a business license because they need to know who is doing business in the County in order to support them.

Chair Collins closed the public hearing and asked for discussion by Board members.

Supervisor Hall said a business license is a nuisance tax. He suggested any business wanting a business license could apply for one in the Building, Planning and Zoning office and one would be issued to them at no charge.

Supervisor Ratcliffe said he looked at the ordinance from every angle and he did not know who would enforce it. He said it needed to be taken off the books.

Supervisor Hicklin said he felt it was important to have a list of businesses. He said maybe the ordinance we have now can be taken off the books and something else developed in its place so we know who the contractors are in the County.

Supervisor Byrd said he voted for the ordinance when it was originally developed. He said at that time the economy was good but just before the ordinance could be implemented the economy took a downturn. He said Supervisors need to look around their districts and find out who is doing business there. He said he will vote to repeal.

Chair Collins said we have an opportunity in Bath County to market the County as a County where taxes are low and you don't have to have a business license. She said the County needs to move forward and look at issues like workforce housing. She said any business who wants a business license can register with the County.

Supervisor Hall made the motion to repeal the license tax ordinance and authorized the Building, Planning, Zoning Office to issue business license upon request at no charge. The motion was adopted 5-0.

#### **VDOT Update**

Ms. Susan Hammond, VDOT Residency Administrator, gave an update of maintenance activities performed over the last month. Ms. Hammond said crew have remained busy responding to weather related events, shoulder work and pot hole patching. She said VDOT is also working to change the lights on Main Street to LED which should make the lights more reliable. Ms. Hammond requested the Board add her to the May 10, 2016, Board of Supervisors agenda for the Secondary Six year Plan. Ms. Hammond accepted comments and questions from the Board and members of the public.

Supervisor Hall brought several issues to Ms. Hammond's attention including potholes and broken edges on Route 609, water running in the road and freezing and the bank is washing out on Dry Run.

Supervisor Ratcliffe requested a speed study on McGuffin Lane and commented on logging trucks speeding on Route 220.

Supervisor Hicklin complimented VDOT on their work.

Chair Collins provided a list of issues to Ms. Hammond. Chair Collins also complimented VDOT on their response to recent weather related events.

Mr. Jack Lindsay, Warm Springs District, asked Ms. Hammond to check on Route 629 near River Ridge Ranch. He said water is running across the road and freezing.

Mr. Mike Deener and Mr. Carl Chestnut spoke regarding the speed limit on Route 687 near Run Wild Farm.

Mrs. Jackie Plecker, Williamsville District, asked VDOT to check on a dip in the road on Route 39 above Oak Ridge Station.

#### **Millboro Preservation & Cultural Association (MPCA) Request for Tax Exempt Status**

Mrs. Stephanie Forbes, MPCA, said in May 2014 the MPCA asked the Board of Supervisors to support the MPCA's efforts by awarding them tax exempt status. The Board did not take action on their request at that time. Mrs. Forbes said the IRS acknowledged MPCA as a 501c3. She said MPCA is not making this request for personal gain or recognition. Mrs. Forbes on behalf of MPCA asked the Board of Supervisors to consider their request for tax exempt status to allow them to continue their support of the Millboro community.

County Attorney Michael M. Collins, said the County can on a case by case basis grant tax exemptions. In order to do so the County would need to hold a duly advertised public hearing. Mr. Collins said there may be another exemption allowed for community centers but he asked the Board to allow him time to look at the code and confer with the Commissioner of the Revenue and MPCA before advertising a public hearing.

Commissioner of the Revenue Angel Grimm, said her understanding of the code section that allowed for tax exemption of community centers is that the organization must be actively holding meetings and using the facility as a community center. She said while the intention is there she did not know if MPCA would qualify as a community center at this time.

Supervisor Byrd made a motion to set a public hearing for March 8, 2016, at 7 p.m. to consider tax exempt status for MPCA. Supervisor Byrd withdrew his motion.

Supervisor Hall made a motion not to schedule a public hearing until the County Attorney has time to research the code and provide the information to the Board. The motion was adopted 5-0.

#### **Acceptance of FY 2015 Audit Report**

Supervisor Byrd made the motion to adopt the County's Audited Financial Report ending June 30, 2015, as presented to the Board by Robinson, Farmer, Cox Associates at the January Board of Supervisors meeting. The motion was adopted 5-0.

#### **Schedule Public Hearing to Seek Input on Disposition of County Real Property**

County Attorney Michael M. Collins said the County conducted a sale of several properties for delinquent taxes, at which time two small parcels in the Coles Mountain area of the County were acquired by the County. Mr. Collins said upon title examination it was found that the two small properties were located within a 30 acre tract owned by another individual. The two small parcels create an issue because they are not owned by said individual but are on the tax records and appear to have been double taxed. The adjoining property owner has offered

to pay the County \$1,000 each for the two tracts. Mr. Collins said the code states the County must hold a public hearing to seek input before disposing of any publicly owned real property. Mr. Collins asked the Board to consider scheduling a public hearing for its March 8, 2016 meeting.

Supervisor Hall made the motion to schedule a public hearing for March 8, 2016 at 7 p.m. or as soon thereafter as possible to seek input on Disposition of County Real Property. The motion was adopted 5-0.

#### **Schedule Public Hearing to Seek Input on Mobile Food Vendor Ordinance**

Mrs. Sherry Ryder, County Planner and Zoning Administrator, said the County has one business a mobile food vendor that moves from place to place serving sandwiches and hot food from a converted airstream travel trailer. Mrs. Ryder said the Planning Commission reviewed the proposed ordinance to be presented for inclusion in the Land Use Regulations as section 715.00. Mrs. Ryder said an annual permit fee of \$25 would apply. Mrs. Ryder said the business is licensed by the Virginia Department of Health. Mrs. Ryder said the Planning Commission at a duly advertised public hearing on January 25, 2016, voted unanimously to recommend the ordinance to the Board of Supervisors for adoption.

Supervisor Hall questioned adopting an ordinance for one business.

Mrs. Ryder said the Health Department has had several requests for information concerning mobile food vendors.

Supervisor Byrd made the motion to schedule a public hearing for March 8, 2016 at 7 p.m. or as soon thereafter as possible to seek input on Mobile Food Vendor Ordinance. The motion was adopted 5-0.

#### **Resolution in Recognition of Omni Homestead's 250 Years in Bath County**

Chair Collins presented the following resolution to David Jurcak, Managing Director, Omni Homestead.

**A PROCLAMATION OF THE BOARD OF SUPERVISORS  
OF THE  
COUNTY OF BATH, COMMONWEALTH OF VIRGINIA  
HONORING THE HOMESTEAD RESORT  
ON THEIR  
250<sup>TH</sup> ANNIVERSARY**

**WHEREAS**, The Homestead Resort is a part of American history nestled in the Allegheny Mountains of Virginia surrounded by the natural beauty of the landscape, permeated by healing mineral waters, and displaying the quintessential Southern charm for which it has become so well known. For 250 years, The Homestead Resort has served as a respite for weary travelers. From presidents and celebrities to families and visitors from around the world, The Homestead has been a place where generations have come to rest, relax, and rejuvenate all while enjoying the hospitality of our region.

**Whereas**, located in the County of Bath in the village of Hot Springs, the history of The Homestead began more than a decade before the founding of our nation. A young George Washington visited the area, and later granted the

land on which The Homestead was built to Captain Thomas Bullitt. In 1766, The Homestead saw its start as an 18-room lodge. In 1818, former President Thomas Jefferson spent three weeks soaking in the mineral pools. To date, 23 presidents have visited The Homestead.

**Whereas**, under the ownership of the Ingalls family for roughly 100 years until 1993, The Homestead saw many additions and improvements to shape the property as we know it today. Now known as The Omni Homestead Resort, over the past 200-plus years it has grown to encompass 2,300 acres with 483 guest rooms, numerous dining outlets, and more than 30 recreational activities. Today, this iconic resort continues to play a critical role in the economy of Bath County as a leading employer. Annually, the resort employs upwards of 1,000 workers, and is a significant source of tourism for the surrounding communities and attractions.

**Whereas**, the success of The Homestead is a testament to its hardworking and dedicated employees, like Woody Pettus, the long-time maître d' in the main dining room. Woody is an institution at The Homestead and is one of five generations of his family who have worked there over the years. For many guests, the staff at The Homestead has become an extended family.

**Whereas**, The Homestead is a little slice of heaven. From the columns flanking the main entrance and the welcoming expanse of the Great Hall to the beautifully designed gardens and miles of trails, a visit to The Homestead is certainly a unique experience.

**Now Therefore, Be It Resolved, That** the Board of Supervisors, on behalf of the citizens of Bath this 9<sup>th</sup> Day of February, 2016, are proud to call this landmark our own, and hereby wish the Omni Homestead Resort a Happy 250<sup>th</sup> Anniversary and the very best for the future.

### **Central Cost Allocation Plan Agreement**

Supervisor Byrd made the motion to authorize County Administrator Harrison to sign the agreement between the County and Robinson, Farmer, Cox Associates for Cost Allocation Services for fiscal years June 30, 2015 through June 30, 2017. The motion was adopted 5-0.

### **Solid Waste Lease Agreements**

County Administrator Harrison said the lease agreements are for existing sites at Millboro Springs and Lyles Chapel and are similar to the agreement the County has with the Wilfong's on Muddy Run. Mr. Harrison said the agreements contain a 60 day termination notice. Mr. Harrison said the County continues to work with the US Forest Service to restore sites on their property.

Supervisor Byrd made the motion to approve the lease agreements and authorize the required signatures. The motion was adopted 5-0.

### **Mountain Crest Community Building Generator**

County Attorney Collins provided a legal opinion regarding the ownership of Mountain Crest Community Center. He said in 1998 the County conveyed by deed of gift eight acres to Bath County Retirement Home Commission for the purpose of constructing a retirement home. The 0.577 acre parcel that the community center building is located is part of the eight acres. In 2003 the Bath County Retirement Home Commission (landlord) entered into a 99 year lease with the Bath County Retirement Home Limited Partnership (tenant). The landlord retained the right of first refusal of repurchase. By an amendment in 2008 the tenant agreed to sublease the community building under certain terms and conditions to commence upon the closing of permanent financing for a first and second construction loan and to continue for 35 years thereafter or until the loan was paid off. The sublease was never entered into or recorded between the tenant and the county, but the sublease still authorizes it. The tenant also consented

to allow the landlord to transfer the title to the community building to the county once those two loans were paid off. Mr. Collins said it is his opinion that the community building is owned by the Retirement Home Commission and leased to the Limited Partnership which is managed by South River Development Corp. for the remainder of the period of 99 years. He further stated that the Retirement Home Commission and or the County have the right to demand that the Limited Partnership execute a sublease whereby the County would have the parcel leased to the County.

Supervisor Hicklin asked if he understood Mr. Collins to say the County does not own the community building.

Mr. Collins said no the County does not own the community building.

County Administrator Harrison gave the Board five options for supplying generator service to the community building at Mountain Crest.

Supervisor Hall made the motion to table action regarding a generator for the community building at the present time.

Supervisor Ratcliffe did not agree the estimates were accurate. He said all community centers should be outfitted with generator hookups. He said the generator at the high school burns 70 gallons of diesel per hour. He said a mobile generator makes perfect sense.

Chair Collins said information is needed on which community centers that are shelters have need for generator service.

Chair Collins called for the vote in Supervisor Hall's motion to table action regarding a generator for the community building at the present time. The motion was adopted 5-0.

#### **Virginia Telecommunications Planning Grant Initiative Contract between the County and Department of Housing and Community Development (DHCD)**

County Administrator Harrison said this is a continuation of the first planning grant the County received from DHCD the second grant is for \$30,000 with a cash match of \$5,000 between Bath and Highland Counties. He said the final scope of work will be sent out to the management team and the Board when finalized.

Supervisor Hall made the motion to approve execution of the Virginia Telecommunications Planning Grant Initiative Contract between the County and Department of Housing and Community Development. The motion was adopted 5-0.

#### **Consent Agenda**

Supervisor Ratcliffe made the motion to approve the payment of invoices, additional invoices, requests for transfers and appropriations, accept correspondence and monthly reports as submitted. The motion was adopted 5-0.

### **Public Comment**

Mr. Carl Chestnut, Cedar Creek District, said he disagreed with the salary being paid to the Tourism Director.

Mr. Jonah Windham, Valley Springs District asked if the County had approached South River Development Corporation to encourage them to install a generator at the retirement home community building.

Mr. Jack Lindsay, Warm Springs District, said the generator currently located at the Sheriff's Office could be turned into mobile generator. He suggested the Bath County Senior Center as an alternate site for a shelter. He said the senior center has showers but does not have a generator. He offered his services to install generator plugs at community centers that are not equipped to handle a mobile generator.

Mrs. Mary Susan Blankenship, Warm Springs District, thanked everyone for their ideas regarding a generator for Mountain Crest. She said she still does not understand why some people feels the County does not own the community center at Mountain Crest.

Mr. Wayne Anderson, Millboro District and EDA Chairman invited the Board to attend the Economic Development Authority meetings.

Mr. John Loeffler, Warm Springs District, thanked the Tourism department for their assistance with his business. He said he valued the relationship he has with the Tourism department.

Mr. David Jurcak, Cedar Creek District and Managing Director Omni Homestead thanked the Board for the proclamation honoring the Homestead's 250 years in Bath County. Mr. Jurcak also thanked the Tourism department for their efforts.

Mr. Jack Lindsay, Warm Springs District, asked for a status update on the drainage pond repairs at Mountain Crest.

### **Board Comment**

Chair Collins said the engineering firm of Mattern and Craig is working with the Retirement Home Commission to develop a plan for work on the drainage pond.

Supervisor Hall congratulated The Omni Homestead for 250 years in Bath County and thanked Mr. Jurcak for attending Board of Supervisors meetings and his interest in the County.

Supervisor Byrd made the motion to adjourn the meeting. The motion which was adopted 5-0.

Chairperson Collins adjourned the meeting.

Ordered that this Board do now stand adjourned until 7:00 p.m., March 8, 2016 for the regular monthly meeting of the Board of Supervisors.

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Ashton N. Harrison, Clerk

APPROVED:

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Claire A. Collins, Chairperson