The Business Journal
of Tri-Cities Tennessee / Virginia
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Corker bullish on community banking

Senator confident regulatory relief is on the way

Plus:
Virginia board approves Ballad
and
Lemons to lemonade at Emory & Henry

Senator Bob Corker at the offices of The Business Journal.
Photo by Alison Castle.

November 2016
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The election is over. The question remains: Who should lead?

"You are 40 young men and women who are making a difference in your home and your workplace and in your community. You are 40 of the reasons we have a bright future as we look toward a tomorrow that is increasingly interconnected and globally competitive – and for the record, you are 40 people who would all make better presidential candidates than the two we have to choose from."
\- Dr. Bill Greer, Milligan College president, speaking at The Business Journal's 40 Under Forty gala, Oct. 14*

Dr. Greer's comment above was met with great applause. It was clear he had found and tapped into a rich vein of disappointment in the choice of Donald Trump v Hillary Clinton. Many of the young professionals in the room (and the not-as-young professionals as well) agreed with Greer's assertion that neither candidate for America's chief executive post created much in the way of inspiration.

As Greer spoke, it became apparent he was not engaging in hyperbole or just going for easy applause by telling the 40 honorees he considered them better presidential material than Mr. Trump or Secretary Clinton. The argument he put behind that assertion was compelling. He referred to Robert Greenleaf, who coined the term "servant leadership."

"Servant leadership begins with the natural feeling that one wants to serve first. It isn't something you learn or are taught. It's natural. That's saying a lot about human behavior and character at a time when people are so often thought of as self-centered, and who are constantly looking out for No. 1."

I think Greer is onto something here. If you look back at the presidential elections in my lifetime, the candidate who better conveyed the sentiment that he cared for the average American (more than his opponent has) has generally been victorious. Jimmy Carter, Ronald Reagan, Bill Clinton, George W. Bush, Barack Obama – all convinced the winning margin of voters he cared about their problems more than he cared about wielding power. Just so, Bob Dole, Al Gore, John Kerry, John McCain and Mitt Romney all left voters with the opposite impression.

Both major party candidates in this election struck me, and apparently most voters, as self-centered individuals. I think that's a big part of why many Americans saw no great benefit in voting for either.

"A servant leader cares about the growth and well-being of others as well as their communities," Greer told the honorees. "Servant leaders are not afraid of sharing power. They put the needs of others first, and that helps others reach their full potential. What happens when the members of a team all reach their full potential? Success."

You see, to me, what Dr. Greer was talking about sounds like a real first step in making America great again. Electing leaders whose philosophy is about Americans building each other up instead of tearing each other apart – leaders who don't want their followers to have t-shirts that say, "I'm with her," but rather, "She's with us."

Greer hit the nail on the head when he said, "I don't think we're seeing a lot of servant leadership in the presidential race this year."

"Instead of a servant-first attitude, we're seeing a leader-first attitude," Greer said, "the kind of attitude that comes from people who care more about the amount of power or the amount of control they have instead of the amount of influence they have. For you see, true influence doesn't come from control or power. It comes from the ability to cast a vision in a way that leads others toward a common goal. Others will not follow, voluntarily at least, unless there is trust, confidence and shared values."

The 40 young men and women whom we honored Oct. 14 are proof that servant leadership still exists at the local level. But if we are to stem the decline of American greatness, we must foster a political environment in which those leaders are allowed to bring that philosophy back to positions of national leadership.

Clinton and Trump were willing to tear apart not just the nation, but even their own parties in their personal quests for power. It is desperately important that on the local and state level, we begin to bring forward leaders who will put the needs of all whom they represent before their own short term goals, or even those of their party. Those are the men and women we must lift up.

While we have squabbled among ourselves, our rivals in the world have grown stronger, economically and militarily. We must find leaders capable of uniting us. And we should look to our servant leaders first.

** For full coverage of 40 Under Forty, see next month's issue.*

Scott L. Robertson

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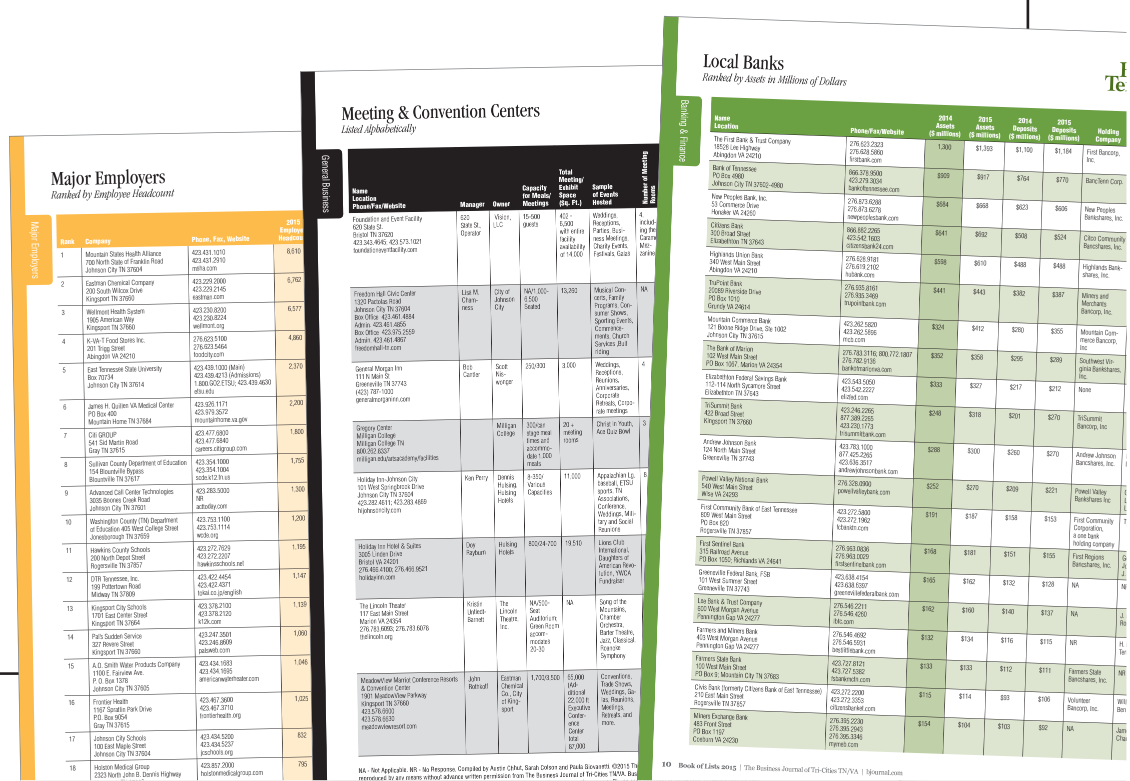

Ups & Downs

A quick check of the conventional wisdom on who's going what direction in Tri-Cities business

Battle at Bristol – Speedway Motorsports President and CEO Marcus Smith confirmed in October that the Battle at Bristol event, along with its accompanying ventures including a concert featuring Kenny Chesney and The Band Perry, netted between $5 million and $6 million. The company is already looking into conducting similar events in the future, Smith said.

Pilot Flying J Battle at Bristol
College Football's Biggest Ever
September 10, 2016

Eastman Chemical Co. – The company posted third quarter earnings numbers that beat expectations while revenue figures for the quarter were in line with expectations. Yes, there have been workforce reductions announced recently as part of the effort to bring the company back in line, but the profitability of the whole company must take precedence.

Tri-Cities Crossing – The site that would have been the retail hub of the Tri-Cities a few years back may now be finding its way in the world. Ideally suited for several potential businesses at the intersections of interstates 81 and 26, the site now appears as though it will be anchored by a group of auto dealerships currently operating on Stone Drive. Approval of the plan by the Kingsport Planning Commission and Gateway Review Commission was first reported by Hank Hayes in the *Kingsport Times News.*

Tough summer – The February issue of this publication featured the grand opening of Pure Foods new corporate headquarters in Kingsport. The May issue featured a celebration of the Domtar paper plant's centennial of Kingsport operations. Within a 24-hour period just prior to the print deadline for this issue, Domtar announced it would cut production at the mill while Pure Foods announced it would temporarily suspend production.

Publix in Bristol – In news first reported by Zach Irby of the *Bristol Herald Courier*, the Jefferson Trace development near Exit 7 of Interstate 81 will be delayed for a year, not opening until 2018. Publix was the only announced tenant for the development.

Corker at the offices of The Business Journal File photos

Corker bullish on bank regulation reform in 2017

By Scott Robertson

The tide of banking regulation that swept over America after the Great Recession of 2008 may finally have reached crest stage. You'll forgive small community bankers, though, if they're not celebrating. The floodwaters aren't rising anymore, but the house is still under water.

When TriSummit Bancorp and HomeTrust Bancshares announced their merger Sept. 21 in Kingsport, TriSummit CEO Lynn Shipley pointed out the role over-regulation plays in making it hard for any community bank to do business. "The regulators won't tell you, 'You have to hire another person to handle this compliance matter,'" he said. "They'll just say, 'You have to handle this matter,' and the way to do that is to hire another person, and of course, there's a cost associated with that."

That cost has become so large that even Congress may soon be willing to rein in the regulators. Competing bills made it through committees in both the House and Senate in the last year, but with presidential politics dominating the political landscape, none moved to the floor for a vote.

So how big does a problem have to be to get bipartisan agreement that it needs to be solved? Consider these statistics from the Community Banking Research and Policy Conference's "Community Banking in the 21st Century" (CB21) report, issued Sept. 28.

- 42.64 percent: The mean percentage of community banks' consulting and advisory spending that goes to regulatory compliance.
- 41.50 percent: The mean percentage of community banks' auditing and accounting spending that goes to regulatory compliance.
- 20.68 percent: The mean percentage of community banks' legal expenses that goes to regulatory compliance.
- 17.63 percent: The mean percentage of community banks' data processing expense that goes to regulatory compliance.
- 11.40 percent: The mean percentage of personnel expenditure that goes to regulatory compliance.

One banker quoted in the CB21 report said, "It feels like we're just a compliance shop that occasionally makes a loan."

Bob Corker (R-Tenn.) sits on the Senate Banking, Housing and Urban Affairs Committee. He's well aware of the costs bankers have had to deal with, and of the particularly deleterious effect of over-regulation on community banks.

"What you find in these cycles of extreme regulation," Corker said in an Oct. 25 conversation with *The Business Journal*, "is that it benefits the larger institutions because through a large asset base, they have the ability to really spread the cost of compliance over a much larger portfolio. This has happened through time, when you go through really stringent regulatory times it benefits the larger entities.

"So what you see with community banks across our state is that though they have a much smaller asset base, they still have to have a back office capable of dealing with all the new regulations. So it ends up making them far less profitable, and they have much greater difficulty supporting growth in the communities they serve through lending and dealing with people

Corker recently toured several rural counties including Carter...

they have in the past.

“It actually constrains their ability in a couple of ways,” Corker said. “You know, loans today have moved away from having anything to do with what you know about the customer. When I started back when I was 25 and had $8,000, it used to be about character, character, character. It’s no longer that way. So you’ve got two big problems. The asset base that community banks have is much smaller, but they still have to handle many of the same compliance issues, so the costs make them non-competitive. It also constrains them in their ability to lend. But in addition to that, the types of regulation, the boxes they have to check in many cases keep them from making credit available, period, to people they believe, under normal circumstances, should have credit available to them. That’s what we’re hearing across the state. I hear it non-stop and see it first-hand.”

The positive difference today is that, according to Corker, “There is, in fact, broad bipartisan support to enact regulatory reform. There really is.”

All things being equal, Corker said, the chances are better than 50/50 that some reform will come out of Washington within the next 365 days. “I believe the chances are more likely than less likely. I don’t want to be over – I have no idea what the environment is going to be like when we get back up there. But what I do know is we should have done it this last year. There’s enough that we agree upon. There’s tremendous agreement that small institutions in our country need relief, and providing that relief in no way creates significant risk to our country.”

That “significant risk” piece is what has held back bipartisan support until now. Democrats eager to be seen as protecting individuals from the big banks that started the recession in 2008 have been more likely to side against reform, even if it serves community banks, in favor of working through agencies like the Consumer Financial Protection Bureau (CFPB), the brainchild of Senator Elizabeth Warren (D-Mass.), directed by Richard Cordray.

Corker said though, that both sides of the aisle now understand they can help community banks without putting consumers at risk by deregulating the big banks whose problems spawned the outcry that gave rise to the CFPB.

“It’s not like you’re giving relief to the largest institutions,” Corker said. “You’re doing that for the smaller institutions. It doesn’t create risk for our country. It’s something that will promote growth in our country. There is enough bipartisan support for that.

“What happened over this last year is that there were things put in a package that couldn’t be agreed to by both Republicans and Democrats. My sense is the pressure is rising so much that we will at least get modest provisions done over this next year that I think at a minimum will help smaller institutions here in our country.”

> *On both the Republican and Democratic sides, there is an understanding that right now these regulations are crushing community banks.*
>
> - Senator Bob Corker

Drilling down into the question of what reforms might actually be possible in the next 12 months, Corker said, “Well first, there’s a desire to allow a much longer exam cycle for community banks so they’re not hit quite as often with exams. I think what you’re going to see is that we’ll probably pass legislation this year where institutions under a certain size will have a significant lessening of compliance costs because we understand what that’s doing to communities across America.”

In addition, Corker said, portions of the Financial Regulatory Improvement Act of 2015 (also called the Shelby Bill) that passed the Senate Banking Committee a year-and-a-half ago by a vote of 12 to 10, are also likely to be included in legislation in 2017.

“For banks with under $2 billion in assets (for reference, TriSummit’s assets are in the $350 million range, while HomeTrust’s are around $3 billion) we would make it easier for them to qualify as rural lenders, which will have an effect on the QM or qualified mortgage rule.”

Why is that a big deal? Well, if a community bank originates a mortgage and keeps it on its own portfolio, rather than selling it to Fannie or Freddie, that mortgage will have QM liability protection.

Another easy reform to put in place would help banks eliminate both legal and mail expenses. “If a bank, for instance, doesn’t change their privacy notice mailings each year, then they wouldn’t have to mail out a new privacy notice to all their clients.” Such reforms might seem

SEE **CORKER, 12**

CORKER, CONTINUED

like common sense to some, but in this day and age, Corker said, they represent progress.

In the longer term, Corker said, reforming the CFPB will be important to managing regulatory risk to the industry. "The CFPB is continuing to create problems unnecessarily because you've got a sole commissioner in there instead of having a board of people like every other regulatory entity," Corker said. "Addressing this one is more difficult because this is something that is not yet bipartisan, though there have been some court rulings recently challenging the way the CFPB is set up that will force us into a more bipartisan approach.

"From day one though, I have always thought and advocated for that consumer organization to have a board or commission where you don't just have an autocrat making decisions and rulings solely based on what that one person believes," Corker said. "That's the way it is now set up."

Corker has already attempted to move the CFPB off some of its more troublesome positions. In March, he sent a letter to Cordray expressing concerns that the CFPB was muddying waters it was supposed to clear. Particularly in the case of the Truth in Lending Act-Real Estate Settlement Procedures Act (TILA-RESPA) Integrated Disclosure (TRID) Rule, which was enacted in part to reduce consumer confusion, CFPB is increasing confusion.

...and Unicoi. Photos contributed.

"In a number of states including Tennessee," Corker wrote to Cordray, "the actual amount customers will pay for title fees is prohibited from being disclosed under the Bureau's rule. This has led to consumer confusion and has required additional disclosures to be provided to clarify the actual amount consumers will have to pay… What is the CFPB doing to address the borrower confusion?"

TILA-RESPA, TRID and Reg. Z are the bane of the community banker, according to the CB21 report. More than 23 percent of all community bank regulatory compliance expense goes to dealing with those regulations, which community bankers say slow the pace of business while increasing costs and liability.

What's most telling about that, however, is not that the CFPB's reading of those regulations is an annoyance to community bankers. It's that community bankers have to make tough decisions based on those regulations, which again, were written to regulate much bigger banks.

When community bankers were asked in the CB21 data gathering what the top reasons they "exited an activity" were, the top answer was regulatory burden (36.87 percent). Profitability was cited at a 26.98 percent rate. That means community bankers made the decision to cease provision of a product or service more often because of regulatory forces than because of market conditions.

Even Washington can see that's not a sound business model, Corker said. "On both the Republican and Democratic sides, there is an understanding that right now these regulations are crushing community banks. So yes, I do believe (regulatory reform) is going to occur." BJ

Award to help ACFCU extend services, lending

By Jeff Keeling

Fran Lutz, Interim CEO, Opportunity Finance Network; Allison Clark, Associate Director, Program Related Investments, MacArthur Foundation; Ron Scott, President & CEO, ACFCU; Mike Rizer, Executive Vice President and Director, Community Relations at Wells Fargo Bank; Tony Berkley, Vice President, Strategy & Impact, Prudential Financial, Inc.

Appalachian Community Federal Credit Union (ACFCU) has won an award that will allow it to bolster its lending by more than 25 percent and also bring "virtual teller machines" to three undeserved Appalachian counties.

ACFCU, which is headquartered in Gray, is one of only two credit unions nationwide this year to have won $2 million from the Wells Fargo NEXT Awards for Opportunity Finance for its innovative strategy to expand the credit union's services in central Appalachia. Of

> *We set out to reinvent ourselves over five years ago to focus on the underserved, and this award validates the success of that refocusing,*
> – Ron Scott

that total, $300,000 is a grant ACFCU will use to place virtual teller machines in three isolated Kentucky counties.

The remainder of the award is a $1.7 million loan from Wells Fargo. Because it is a designated Community Development Financial Institution (CDFI), the credit union was eligible to apply for the NEXT award. To become a CDFI, a private financial institution must demonstrate its commitment to bringing responsible, affordable lending to help low-income, low-wealth and other disadvantaged communities and people join the economic mainstream.

"We set out to reinvent ourselves over five years ago to focus on the underserved, and this award validates the success of that refocusing," ACFCU CEO Ron Scott said.

The grant award will fund the hardware and software for the virtual teller machines, which will be placed in Owsley and Jackson County and Whitesburg, Ky. Tellers, and eventually loan officers and other credit union staff, will perform normal credit union functions from a center in Gray. The machines should go live by early 2017.

As for the capital injection by Wells Fargo, it will allow ACFCU to leverage it into up to $17 million in loans to customers throughout the credit union's service area. More than 90 percent of its current borrowers – the bank made $60.2 million of loans in 2015 – are considered underserved.

"Wells Fargo is giving us more tools to achieve our mission," Scott said, adding that the large national bank's risk of that capital should be a safe one.

"We do a tremendous amount of financial coaching and we use a stairstep approach," Scott said. "We don't move people faster than they're capable of going, and that's really worked. The proof is that our delinquency rate is under 1 percent and our chargeoffs are under 1 percent."

Scott said those figures are a little higher than the average for credit unions, "but for CDFIs we're significantly lower."

Scott said virtual teller technology has been around for a few years, and that many financial institutions see it as a more cost-effective way to serve customers who aren't necessarily in underserved or economically distressed areas. ACFCU will approach its deployment of the technology differently, but may expand its use to other areas, including Roan Mountain and Mountain City in Tennessee, if this initial experiment proves successful.

The award is granted by the Opportunity Finance Network (OFN), one of the nation's leading CDFI networks.

"Never before has it been more necessary for CDFIs to embrace fintech, explore new distribution models, and develop leading-edge, responsible financial products," said Fran Lutz, interim president and CEO of OFN.

"ACFCU's innovative consumer finance strategy proves that community lenders are the next frontier for innovation in responsible consumer finance."

OFN presents the NEXT Awards in partnership with Wells Fargo and Prudential and support from the John D. And Catherine T. MacArthur Foundation and the Kresge Foundation. BJ

New Peoples Bank ITM network now at 23

By Scott Robertson

When Interactive Teller Machine (ITM) technology was first brought to bear in the U.S., some feared it meant the beginning of the end for branch banking. In Northeast Tennessee, Southwest Virginia and Southern West Virginia where New Peoples Bank pioneered the use of ITMs, that perception has proved false.

In fact, the bank has placed ITMs in three locations where it had previously consolidated existing branches, allowing what was essentially dead space to be brought back into service. "We put one in Jonesborough. We put one in downtown Bristol. We put one in Princeton, West Va.," says Frank Sexton, New Peoples COO. "That enables us to utilize those buildings to give customer service even though the branch had gone away."

It's important to note that the branches had closed before the ITMs were put in place at those locations, Sexton says. So instead of killing existing branches as some had feared, ITMs are bringing service back to former locations.

For the bank, ITMs serve several purposes in addition to making old space new again. "They allow us to leverage our employees and expand our hours for better customer service. It's more economical to do it that way. We have all of our digital bankers in one location and they service all the machines from that location," Sexton says. "We're taking advantage of the great fiber network we have in Southwest Virginia. It allows us to expand full service hours for customers from 7 a.m. to 7 p.m. six days a week."

In addition, Sexton says, "ITMs give us the ability to test out new markets. We can put a machine into a location and see how it does. If it doesn't work out, we'll know that and we can just move the ITM somewhere else. So it's a pretty economical way to test markets."

For customers, ITM utilization is a hybrid between one-to-one interaction with a live teller and interaction with an ATM. ITMs have video screens that allow customers to speak with a live teller, working from a call center in Bristol. Most transactions that can be done in a branch can be done via ITM, says Sexton. "It's just a different level of customer service. There are lights on the ITM that the teller can make flash. So she might tell the customer, 'Put your check in where you see I'm flashing the green light.' Some people at first are kind of apprehensive about using them. But when they see that the teller guides them easily through everything, they realize it's not hard, and most customers who use it really like it." BJ


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First Bank & Trust honored for Agribusiness support

First Bank & Trust Company was recently awarded the Virginia Agribusiness Council's 2016 Agribusiness of the Year Award. Council Chair Lynn Graves presented the award during the Council's Annual Membership Meeting in Winchester.

The recognition is presented annually to a Council member organization for outstanding service to the agribusiness industry. The Abingdon-based bank opened its doors in Lebanon in 1979 and has grown organically, from $1 million in assets in 1979 to $1.5 billion in assets today.

First Bank & Trust Company's leadership, including CEO Bill Hayter, and many members of the bank's board, all boast roots in agriculture and still actively farm. In 2002, the bank established an Agricultural Lending Division as a partner to continuing economic development and growth of agribusinesses. In 2015, the American Bankers Association ranked First Bank & Trust Company 8th among high-performing agriculture-oriented banks.

During the presentation, Graves said, "First Bank & Trust Company has continued to show their commitment to the agribusiness industry over the past decade. Through active involvement and support of the Governor's School for Agriculture, Virginia Cattlemen's Association, county farm bureaus, county fairs and agricultural expos, the State Fair of Virginia, and Virginia Tech's College of Agriculture and Life Sciences, First Bank & Trust Company is investing in our agribusiness industry in more ways than one."

First Bank & Trust Company is a long-time member of the Virginia Agribusiness Council, through leadership involvement in the Council's Board of Directors, sponsorships, and active participation at industry events and activities.

Council President Katie Frazier added, "First Bank & Trust Company has consistently demonstrated their commitment to the growth and success of Virginia's agribusiness industry and has risen to become a leader in the Commonwealth's number one industry of agriculture and forestry. We are pleased to recognize them for their long-standing contributions to both the Council and Virginia agribusinesses, and look forward to a bright future for the company and their industry partners." BJ

Jamie Whitacre, Keith Phillips, William Hayter and Gene Copenhaver accept the Agribusiness of the Year Award Oct. 17.

FTC representative Dr. Aileen Thompson makes a point Oct. 26 while colleague Stephanie Wilkinson looks on. Photos by Jeff Keeling

Southwest Virginia Health Authority staffer Dennis Barry questions FTC representatives as SVHA chairman Terry Kilgore listens.

Hospital merger process kicks into high gear in Virginia

By Jeff Keeling

We are well aware of the economic and healthcare challenges facing this region. The question for us, and more importantly the question for the Authority, is whether this merger is the only way to address the issues at the cost of displacing virtually all hospital competition in the area. – Mark Seidman, deputy assistant director, Mergers IV Division, FTC Bureau of Competition

The core issue facing you as board members of the Authority is whether you believe, after reviewing the extensive oral and written information presented to you over many months, that the market for health care in Southwest Virginia presents some significant and uncommon characteristics as to deem it unique enough to necessitate a solution other than pure competition.
– Richard Brownlee, professor emeritus, University of Virginia Darden School of Business

In Abingdon, Va. Oct. 26 and 27, a group of men and women from Southwest Virginia wrestled with two questions regarding health care. First, do circumstances in Southwest Virginia – related to factors including demographics, population health, and the economy – warrant replacement of a standard competitive market with what will in essence be a regulated monopoly? Second, can the state, in collaboration with regional leaders, build a regulatory structure that can hold that monopoly to enforceable commitments so the resulting benefits – benefits not achievable without the monopoly – outweigh the disadvantages created by greatly diminished competition?

"The members of the Authority are going to be making a judgment," Dennis Barry told the men and women, members of the Southwest Virginia Health Authority (SVHA) board, three hours into an Oct. 27 meeting in Abingdon. "I think the members of this authority could make a reasonable judgment that it's likely that the benefits (of a regulated "cooperative agreement") exceed the disadvantages."

But Barry, a retired healthcare attorney and one of three staff members the SVHA hired to help it navigate the application for a cooperative agreement, recognized the decision is not a slam dunk. "Reasonable members of this Authority could say, 'this is a monopoly, guys. I'm scared, and I don't want to do it.' I don't think that's an inherently unreasonable position."

The dual questions outlined above have faced the states of Tennessee and Virginia since April 2015, when Mountain States Health Alliance (MSHA) and Wellmont Health System, two long-competing rival hospital systems that dominate the regional market, announced their intention to merge. The relevant factors surrounding the questions, and the varied opinions about how they should be answered, were displayed and debated at their most developed level yet in Abingdon. SVHA board members will be the first group to move the merger forward or stop it in its tracks.

That made SVHA meetings Oct. 26 and 27 an early crucible for a process that's being followed not just regionally, but nationwide. If on Nov. 7 the SVHA recommends approval of a cooperative agreement regulating the merger in Virginia, and the Commonwealth and state of Tennessee both follow suit, the resulting system would be the largest such regulated hospital monopoly ever permitted in the United States.

The main benefits, the systems say, would include massive new investments ($450 million over 10 years) into improving community health, enhancing healthcare services and investing in research, among others. The cooperative agreement, and a

SEE **MERGER, 20**

MERGER, CONTINUED

Certificate of Public Advantage (COPA) in Tennessee, would make these and additional commitments enforceable, they add.

Those commitments include better pricing they say will save consumers around $10 million a year compared to the status quo, a better environment for non-employed physicians and other clinicians, better electronic medical records and more competitive pay rates for employees. Despite its monopoly power, the system could be held to these commitments with a strong regulatory mechanism, system leaders say, while the money to pay for all the advantages would be derived from a consultant-estimated $120 million in annual savings gained by merger efficiencies.

"This application was sent to you because the General Assembly believed you were in a unique position to weigh the benefits and disadvantages of this cooperative agreement because of the very unique backgrounds and the very unique populations that each of you represent," SVHA attorney Jeff Mitchell told board members Oct. 27.

Competition or regulated monopoly?

Federal Trade Commission (FTC) staffers have hinted throughout the process that they question whether such regulation could produce benefits outweighing the disadvantages. They have made abundantly clear that they doubt whether the commitments are enforceable, that they believe prices would be better without the merger, and that they think quality of care and access could suffer, not be enhanced, should the merger go forward.

Within the past month, both in a lengthy written comment (see *bjournal.com/ftc93016*) and in person Oct. 26, they have been more forceful, urging the SVHA not to recommend approval. And after the Oct. 27 meeting, in the non-committal fashion common to any public pronouncements regarding what its staffers typically deem "hypotheticals," the FTC's Stephanie Wilkinson said this regarding any potential challenge if both states approve the applications: "Whatever happens at the state level, the commission would evaluate and decide whether or not to challenge the merger or take some other action." Given the agency's approach to date, one given to wagering would likely put odds on a challenge.

Mark Seidman Photo by Jeff Keeling

The merger would create a 19-hospital system with revenues just shy of $2 billion. It would turn on its head the two-decade paradigm in a two-state, 13-county area where fierce competition between the systems has been the order of the day. In normal circumstances, such a proposal would not just draw the opposition of the Federal Trade Commission (FTC). It would by everyone's admission almost certainly not be permitted due to the combined system's market share and resultant market power – power that, unchecked, would likely have highly adverse effects on consumers.

But the region doesn't face normal circumstances. Even the FTC has admitted as much with respect to Southwest Virginia, where populations are declining, the economic base has been rocked by the collapse of coal and tobacco farming, and poor health factors occur at much higher rates than they do in other parts of the state and nationally. Those challenges led the Virginia legislature to create the SVHA in 2007, "to recommend ways to improve health and health-related prosperity in the far Southwest Virginia region," according to the SVHA website.

Wellmont and MSHA say the challenges have created a money-losing scenario at most Southwest Virginia hospitals that requires subsidy from their more profitable facilities, which in turn are challenged by decreasing inpatient volumes. That scenario, they say, was a major factor in their decision to seek a regulated merger that would shield them from standard antitrust intervention, using the 73-year-old doctrine of "state action immunity." For Southwest Virginia, they have said, the result would be transition to a healthcare approach best suited to the area's unique challenges, with investments that help protect and enhance residents' health care even as payment models shift toward a focus on value and quality, and inpatient hospitalization rates decline in favor of other clinical settings.

"If you look at the result of negotiations we had with (the SVHA), all of a sudden now we're working with them to put together long-term plans to then fund, and then we get measured against whether we actually fund what we say we're going to fund," MSHA CEO Alan Levine told *The Business Journal* Oct. 24. "It puts some weight behind what the overall strategy is, whether it's research, whether it's population health, enhancement of specialty services – that's what's so different as opposed to what exists today, which is a plan on paper."

The laws enabling a state-regulated cooperative agreement in Virginia and Certificate of Public Advantage (COPA) in Tennessee are meant to shield a merged system from standard antitrust regulation. The states are to determine whether the benefits of a regulated and actively supervised agreement outweigh the disadvantages caused by reduced competition – thus shutting the door on the FTC's normal path to challenging anticompetitive mergers. The FTC has expressed concern about this path since the systems filed their applications Feb. 16. It fired its strongest written shot in that battle Sept. 30, with the systems responding in kind Oct. 14 (see *bjournal.com/ballad101416*).

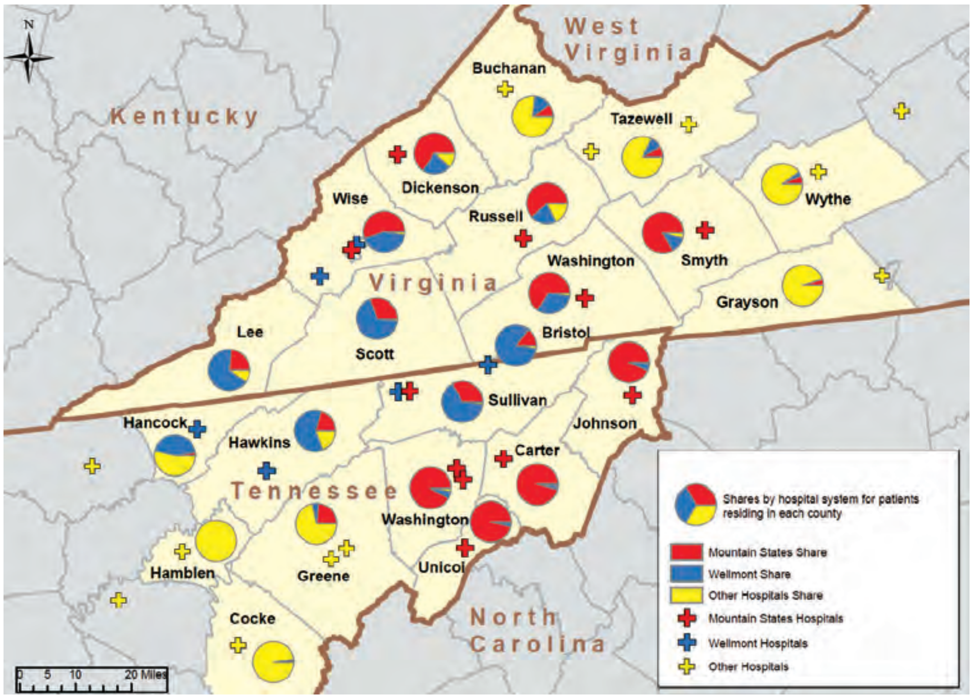
On Oct. 26, those competing viewpoints played out in real time as SVHA board members met with four FTC representatives in Abingdon a day before they began deliberating on whether to recommend that the Virginia Department of Health (VDH) approve or deny the cooperative agreement application. The FTC made clear its willingness to challenge even a state action immunized merger, in a July 6 statement related to a COPA approval in West Virginia. The agency wrote it would, "where appropriate, challenge anticompetitive mergers in the courts and, if necessary, through state cooperative agreement processes."

Whose pen is mightier?

From the time of the systems' COPA and cooperative agreement application submissions Feb. 16 through late September, the FTC remained relatively low-key in its communications with state and regional authorities. There were a few letters, and offers to lend FTC expertise as the SVHA, the state of Tennessee and the Commonwealth of Virginia wrestled with the task before them. An FTC staffer, Mark Seidman, offered notes of caution at a June 7 public hearing in Blountville, Tenn. held by the Tennessee Department of Health.

That soft approach changed with the FTC staff's Sept. 30 submission of a 66-page narrative (plus appendices) that amounted to a point-by-point rebuttal of the systems' case for a COPA/cooperative agreement. The document claimed that based on FTC research and experience, a Wellmont-MSHA merger, "would likely result in higher prices and reduced quality for healthcare services in Southwest Virginia and Northeast Tennessee," due primarily to its "near-monopoly" status and the system's ability to "exercise significant market power."

The systems provided a nearly point-by-point response to the FTC's arguments, saying the systems' commitments to the states, and the proposed regulations, would indeed provide not just an adequate substitute for competition, but a superior one.



A map from the FTC's written comment shows hospital market share (with MSHA in red and Wellmont in blue) for patients living in a 21-county region (data from 2014).

Talking past each other?

On Oct. 26, four FTC staffers sat in a packed room in Abingdon's Southwest Virginia Higher Education Center with SVHA board members. The SVHA had prepared an eight-page list of specific questions, but FTC members opened by augmenting the arguments made in their comment.

"We are not here to criticize the policy choice made by the Virginia legislature," Seidman began. "We respect that choice, and we've endeavored to evaluate the applicants' cooperative agreement application through the lens laid out in that legislation. Indeed, we structured the analysis in our public comment to track the statutory factors laid out in the cooperative agreement." He said the FTC was available to help elucidate the risks posed by elimination of competition, "and to identify the challenges, ambiguities and potential shortcomings within the applicants' claims and commitments." He called the systems' request "extraordinary. The burden is on the hospitals to fully describe the benefits from the merger and clearly explain how their commitments will mitigate any harm from the merger," Seidman said.

Seidman said FTC staff members are "not blind" to the difficult demographic and economic realities facing people and healthcare providers in Southwest Virginia. "The question for us, and more importantly the question for the authority is whether this merger is the only way to address the issues at the cost of displacing virtually all hospital competition in the area."

He and his colleagues don't think so, especially given the risk, Seidman said.

"In essence, the applicants are asking this community to take on a tremendous risk that their monopoly power can be effectively constrained by government regulation, and counterbalanced by promises that may be difficult to enforce, will take years to materialize in some cases, and which the Authority and the Department of Health may have limited ability to remedy if the parties fail to fulfill their promises."

A colleague, Goldie Walker, then said health insurers' bargaining leverage will remain static should the merger transpire. A merged system, conversely, will see its own leverage greatly enhanced. Without needing to compete to attract patients and payers, Walker said, a merged system may have fewer or even no incentives to improve quality levels, innovate and provide maximum access.

The only non-attorney present for the FTC, displayed a map showing the 2014 hospital inpatient data for the systems' service area. Analysis of where patients go for care, along with their "second choice" for care, shows two things, Thompson said. One is that between them, the two systems treat a large majority of patients from 13 counties – seven in Virginia and six in Tennessee. The second is that MSHA is the second choice for about 85 percent of Wellmont patients, and vice versa. "That's a very high degree of competition between the two systems," Thompson said. Past mergers that have created that degree of market power, she added, have been shown by studies to lead to price increases up to 100 percent.

Thompson acknowledged the presence of regulated pricing present in the cooperative agreement, but said the FTC has concerns about those price caps' effectiveness. "Even if the price caps are effective, this market power may manifest itself in other ways, through for example a decreased incentive to invest in quality of care initiatives."

The third FTC attorney present, Stephanie Wilkinson, picked up the price

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MERGER, CONTINUED

cap thread, saying the agency continues to believe those proposals may not adequately protect consumers. Wilkinson downplayed additional explanation regarding price commitments in the systems' response to the FTC's comment.

"Many of the specific terms of the price commitments remain ambiguous and still appear to contain gaps," Wilkinson said. "As such, we cannot foresee all the possible ways that these commitments could fall short of their intended purpose, could be circumvented, or could result in unintended consequences."

Wilkinson also raised questions about whether, as newer, value-based contracting models that rely less on negotiated "fee-for-service" reimbursement rates, the proposed price commitments would be applicable. "Competitive environments naturally allow for these kind of changing dynamics, but regulatory environments … may not allow for such adjustments," she said.

In addition to her criticisms, Wilkinson acknowledged the FTC, "is not in a position to determine what particular price commitments would be adequate to protect consumers." That statement was one of several – some brought on through exchanges with Barry – in which the FTC seemed to make clear that it had little interest in actually examining in real time the pros and cons of past COPAs and cooperative agreements.

Barry, who has specialized in healthcare reimbursement and compliance issues for more than 25 years, asked: "Are there any circumstances you can contemplate where the FTC staff would not oppose a merger of these two systems?"

Wilkinson said the FTC isn't aware of evidence establishing that the kind of regulatory scheme being proposed would yield a better outcome than competition, but is aware of many studies "that do establish the benefits of competition in healthcare markets."

Barry pressed Wilkinson, who responded that the Mission Health COPA in North Carolina – which the systems have touted as an example of a COPA that benefited consumers – and another in Montana had a combined 30 years of existence to provide any evidence that they worked.

"In North Carolina, with prices what happened?" Barry asked.

SVHA board members Dr. Dixie Tooke-Rawlins, Dr. Sue Cantrell and Dr. Donna Henry listen during the board's Oct. 27 meeting. Photos by Jeff Keeling

"I can't speak to that, because I'm not aware of any robust economic studies that actually fully evaluated the impact on price, cost and quality," Wilkinson said.

Barry then raised the Montana COPA. The FTC cited post-COPA price increases for that system, based in the Great Falls area, but Barry said those prices remained lower than their peers'.

"If we're speaking about these other COPAs, the FTC like I said has not conducted an empirical assessment of these COPAs," Wilkinson said.

The practical question: If it's the right thing to do, can it work?

A day after the FTC meeting, SVHA board members listened as Wellmont and MSHA CEOs Bart Hove and Alan Levine reiterated their cases for the mergers benefits. They spent nearly an hour questioning Levine on specific commitments and how enforceable those really could be.

An initial set of commitments related to health care in Southwest Virginia and proffered by the systems in February underwent significant modification as MSHA-Wellmont representatives and SVHA board members tightened and refined those commitments (see the marked up commitments, with changes, at *bjournal.com/svhacommitments*). "We spent a lot of time going back and forth," Barry said Oct. 27. "There were a lot of red line drafts… It was like negotiating an important contract."

Like Barry, Brownlee, the business professor, said, "these revised commitments are in my opinion substantially improved compared to the parties' original commitments."

Dr. Dixie Tooke-Rawlins sat on most of the SVHA's five working groups: competition, healthcare access, healthcare cost, healthcare quality and population health. The president of the Virginia College of Osteopathic Medicine has been among the more outspoken board members during numerous meetings with hospital system leaders, often pressing them on their claims. Like Barry, she said the dialogue with the systems and the committees' own research had led to a set of commitments that was much improved over those contained in the original application.

With respect to access, for instance, the systems agreed to a much more specific set of services ranging from primary and preventive care to crucial specialty services. Those negotiations occurred with the recognition that some of the system facilities that are currently hospitals may be retrofitted for more appropriate purposes given changes in health care, even during a five-year period that the systems have guaranteed they'll stay open.

"We wanted improved primary care and prevention programs, because the challenge is not just will it be the same, but will it be better?" Tooke-Rawlins asked Oct. 27. All told, she said, "the majority of the big things have been addressed under those commitments."

Dr. Donna Henry, chancellor at the University of Virginia's College at Wise, chaired the healthcare cost working group. She, too, said negotiations had strengthened and specified the systems' commitments. The group's primary concern by late October, she said, was how effectively cost and pricing regulations could be monitored by VDH. "I think we learned today how that can be monitored," Henry said.

Hospital system leaders say they expect similar "horse-trading" to continue as they enter dialogue with the Tennessee Department of Health (TDH) and VDH prior to state decisions on the merger.

"They (SVHA) have their own health goals for the region and they've really not had a structure to work forward and be able to implement a lot of those," Wellmont CEO Bart Hove said Oct. 24. "Tennessee has a lot of goals as well. We met with the commissioner last week and part of the discussion we had with the commissioner is, 'how can we work together to begin to implement some of those goals in Northeast Tennessee that are in synch with their long-range plan as well?'

"We're actually working in partnership with these two agencies to implement, and benefit the region with these different ideas and different approaches to health care."

In the same meeting, Levine said bringing in other perspectives has helped create a stronger set of commitments.

"Having their viewpoint from their perspective helped," Levine said. "There were some things where we thought we were saying something that was interpreted differently. That dialogue was really important, and I think it will help in Tennessee as well… I think it will help when you're sitting in the room and you get some real time dialogue about what our intentions were and what we hope to be.

"I think what everybody wants to see, is that as a major health system with the reach that we have, we will be a strong backbone for population health and for public health in the region. We want to be a reliable partner for both the Commonwealth and for the state of Tennessee. I think the commitments will help guide us in that direction."

Richard Brownlee

The hired guns say yes – but understands why 'no' would be reasonable

Brownlee, the business professor, told the board Oct. 27 he had come to the process with a pro-market background, having as a business school professor, "understood and advocated for the virtues of competition in the market." Brownlee added that experience had taught him most markets were, "imperfect in a variety of dimensions.

"That in fact is the issue in the case with Southwest Virginia: Is the market for health care there so filled with imperfections that the traditional market solution simply can't be expected to function properly and meet the serious needs of the people in the region?"

In Brownlee's case, the answer is yes, as it is in Barry's and that of the third professional the SVHA hired to help it in its work.

Dr. Thomas Massaro, a pediatrician now affiliated with U.Va., sounded perhaps the most emphatic positive tone.

Massaro has worked around the world in a number of regions where market forces and regulation commingle. He said when "balances of competition and regulation" are managed well, they can be extremely beneficial to the populations they serve. A cooperative agreement in this case, he said, "can deliver population health, public health benefits to this community that will not be available in any other way."

Using a familiar example for him, Massaro said he believes collaboration in an effort to deliver better subspecialty pediatric care, "will be better, more efficient, and more effective to those children than if they stay apart or if they are acquired, merged or in some other way deal differently with the region."

More broadly, he said, the plan contains elements that could become models for other distressed regions of the country as trends in health care continue to create cost pressures.

"Our experience with the merger applicants, people of good faith, and organizations committed to this region, has the ability not only to survive and to bring benefit here. I think it has the ability to be a paradigm, an initiative that might influence health policy in other similar environments around the country.

"If I lived here, I would enthusiastically support this merger, and I would do everything I could to bring about the best parts of the intent and the goals of this."

Barry was more equivocal. He said the FTC's root concerns were valid. "But for the commitments in monitoring and supervision by the Commonwealth of Virginia, this would be a bad idea," Barry said.

He added, though, that most of the FTC's contentions could be debunked, provided the board believes in the regulatory structure. SVHA would have ongoing involvement through a four-member committee – two health system representatives and two SVHA representatives, including the chair – that will meet with VDH representatives. "The Commissioner of Health has … the ability to exert an immense amount of power and influence over these parties," Barry said.

With the information and opinion from more than six hours of recent testimony in front of them, SVHA board members opted to take a little more time and reflect before voting on the application. When they do so Nov. 7 – just a few days before their statutory deadline – they won't have any more guarantees that they're making the right decision than they did at the close of their Oct. 27 session, Barry said.

"There have been very few COPAs out there, or cooperative agreements. The limited experience, the anecdotal evidence is positive. But we don't have a great deal of peer-reviewed analysis of the pros and cons of these agreements, so to some extent there's guesswork here that's inherent in what you're doing." BJ

"Antsy" lenders create opportunity for Emory & Henry

College breaks ground on apartment-style community

By Scott Robertson

Emory & Henry College broke ground Oct. 7 on a $12.5 million residence hall construction project to create 197 more beds for on-campus student living. Eight small residence halls, including six apartment-style halls, and a community center will be added to two existing residence halls in an area known as The Village.

It's a "lemonade from lemons" story, in that the funding for the project came available because the college had been investing so much in another area that private lenders were becoming, as the college's chief financial officer characterized, "antsy."

"We have been ramping up our school of health sciences," explained Rick Gaumer, vice president for Business and Finance. "Since 2011 we have been ramping that up and unfortunately you have to spend money to do that. So we had some operating losses as an institution during 2012, 2013 and 2014. The traditional lenders were getting antsy, so they were asking us to find a refinancing source."

Enter the United States Department of Agriculture's Rural Development Community Facilities Direct Loan and Grant Program, which, the USDA says, "provides affordable funding to develop essential community facilities in rural areas." The college found that if it were to enter into an effort that could be categorized as rural economic development, the USDA would not only loan the school the money for that project, it would also be willing to refinance the school's existing debt, and do so at a better rate. "So we had some issues to deal with," Gaumer said, "but we found that the USDA option allowed us to do some economic development here in our region along with the refinancing of our debt."

It quickly became obvious that this approach would be a win-win for everyone, Gaumer said, "The traditional bankers are now out of our picture and we have the USDA money."

"Because we are a rural area in Emory, Va., we were able to qualify for these loans," Gaumer added. "I talk to the other CFOs of other colleges in Virginia and some of them can't do this because they're in a bigger city."

Rick Gaumer, vice president for Business and Finance speaks at the Oct. 7 groundbreaking as President Jake Schrum looks on.

Perhaps the biggest stroke of good fortune isn't the fact that the college has been able to cheaply finance new construction on campus. It's that the school has locked in a very low interest rate for the next 40 years. Private lenders generally want to renegotiate the rate every five years or so on a 40-year note. The USDA locked in the 2.375 percent rate for the life of the loan.

"We got lucky on the interest rate because it is based on a five-year average of long-term treasury bills," Gaumer said. "Even though we may be seeing increases in short-term rates, the long-term rates are continuing to go down. This window of opportunity isn't going to last. We just kind of hit it right. We're very fortunate." Interest on the traditional loans had been running in the 4 to 5 percent range, Gaumer said. "They weren't really that bad, but they were traditional loans."

While the total refinancing package is in the $51 million range, the USDA isn't handling every penny directly. "(The USDA) wanted a local bank to take $5 million of that package," Gaumer explained. "So we have a $5 million USDA-guaranteed loan with First Bank & Trust. First Bank has the USDA guaranteeing 90 percent of that loan, but it's really a loan between us and First Bank & Trust. (The USDA) wanted local bank and local skin in the game, so we're happy that (First Bank & Trust) wanted to step up and take that role. It's not a high-risk role because the USDA is standing behind it, but that piece of the overall package is with First Bank & Trust."

The project qualifies as economic development because residence halls generate income. Students pay to live there. It qualifies as rural economic development because Emory, Va., has a total population of only 1,251 people as of the 2010 census.

The project will be organized around a central quad with the community center as the focal point. The project is approximately 55,000 square feet. The college will also create additional parking for Village residents.

"Our campus residence halls are near capacity," said Lacey Southwick, director of residence life. "With the continued trend of growth in our undergraduate student body, we need to add more on-campus housing in order to accommodate the demand for an Emory & Henry education."

Each apartment unit will include a shared living room and kitchen along with three bedrooms and two full bathrooms. The community building is designed to accommodate 300 students and house laundry facilities, a mailroom, a fitness center, a recreation area, a community kitchen and a collaborative meeting space. The community building also will include three various-sized classrooms and an apartment for the resident director.

The new structures will incorporate design and finishes that closely match

Architect's rendering of The Village at Emory & Henry.

Officials cut the ribbon to open the Health Sciences campus

Images courtesy Emory & Henry

other buildings on the historic campus. Completion for the project is scheduled for fall 2017. The project is being built with environmental sustainability in mind. Buildings will include recycling stations, a highly insulated exterior wall design, a highly efficient mechanical design, LED light fixtures with energy efficient control systems, and an innovative storm water management design.

"Students who live on campus are more likely to feel as if they are fully integrated into our college community," said President Jake Schrum. "These modern apartment style halls will allow our upper-class students the chance to get a glimpse of life after college while they continue to participate in campus life."

In addition to the revenues provided by residents of the Village development, the college should soon turn around the situation which started the entire chain of events. The Health Sciences school, the funding of which caused private lenders to become antsy, will begin taking in revenue soon. The ribbon-cutting for the school was held Sept. 30. BJ

Work Ready Communities program expands

By Scott Robertson

In a moment months in the making, the mayors of Washington and Sullivan counties stood together in the First Tennessee Development District rose garden Oct. 3 to announce their counties would join six other Northeast Tennessee counties in working to attain ACT Work Ready Community designation. The event was hailed as a step forward for regional employers, members of the workforce and economic development efforts.

Washington County Mayor Dan Eldridge and Sullivan County Mayor Richard Venable were joined by education, government and business leaders from across the region to explain the benefits of working together to achieve the designation.

The Work Ready Community designation is gained by communities when their workforce – including students just entering the workforce and existing workers transitioning from one position to another – earn National Career Readiness Certificates, or NCRCs, issued by the organization that also administers ACT testing. "This certification validates an individual's skills and qualifications for the workforce," Eldridge said, noting that NCRCs are recognized by businesses nationally.

Prevalence of that certification is one of the benchmarks existing companies use to determine whether to move into a market, Eldridge said. "*Site Selector* magazine, a highly influential industry journal now uses NCRC completions in their community assessments as they rank areas to recommend as the best places to do business and where businesses should consider locating…If a prospect isn't confident that we have a qualified workforce and a development pipeline to provide employees in the future, they won't choose Northeast Tennessee to invest their capital, create jobs and do business. It's just that simple."

Sullivan County is a year ahead of the other seven counties in the region, having already completed the four "academies" that teach communities how to grow the program and that coincide with the setting of goals for each county.

The academies also set goals each county must meet to achieve levels of Workforce Readiness. Sullivan County already knows it needs 82 companies to support the initiative. Clay Walker, CEO of NETWORKS Sullivan Partnership said in mid-October the county currently had around 30 on board. "We certainly encourage businesses to support this endeavor," Walker said. "Businesses do not have to commit to using NCRCs for their support to count. They only have to state their support for the program."

Venable said businesses in his county are eager to see NCRCs become part of the local landscape, as they identify stronger potential job candidates, making staffing easier. "Eastman Chemical has successfully used NCRCs for many years. They actually have jobs profiled by ACT to validate what level of NCRC attainment – bronze, gold, silver or platinum – matches skills needed for a specific job. In fact, Eastman has several entry level jobs that require an NCRC." Venable said some companies have positions only available to applicants with NCRCs. Others give interview preference to NCRC-certified applicants.

Mayors Dan Eldridge of Washington County and Richard Venable of Sullivan County announce the eight-county Work Ready Community effort at the headquarters of the First Tennessee Development District.
Photo by Scott Robertson

"Each and every county in Northeast Tennessee will benefit from their participation in this program," Venable said. "Citizens here commute between counties every day as a normal part of business. Having all our citizens have the opportunity to attain NCRC certification elevates the entire region. I see nothing but positives for our region with all of us being work-ready certified. The need to have a qualified workforce spans across our region.

"We want to emphasize how important regional cooperation is on objective opportunities," Venable said. "This is measurable. There will be outcomes that each community can judge how they are doing in it. The results will be tangible – will be people going to work, applying for jobs and getting jobs. That this will help every county in the region in every way was apparent to all of us."

The Work Ready Community initiative is one of a few new education and workforce development efforts underway in Northeast Tennessee. The eight counties of the First Tennessee Development District have also begun work on Pathways Tennessee, an initiative designed to connect students as early as middle school with potential employers in their region, and to see that those students receive the proper courses and training to be capable employees. BJ

Garland goes Greene

Former Tennessee economic developer settles in as Greene County Partnership CEO

By Scott Robertson

Garland at his desk. Photos by Scott Robertson

Matt Garland has hit the ground running as the new president/CEO of the Greene County Partnership. Garland, who has worked in Northeast Tennessee for the Tennessee Department of Economic and Community Development for the last eight years, already knows the people, places and things that will make the difference in Greene County's efforts to attract new industry and assist existing businesses to grow in place.

"We've been busy this month," Garland told the Partnership Board at its Oct. 20 meeting. "We have seven projects we're working on with expansions and new business. We have submitted with TVA on a project as well. We also had Tennessee Department of Economic and Community Development leadership here for a tour this month. We attended the ACT Work Ready Communities Academy in Atlanta with Lottie Ryans and the First Tennessee Development District. Our manufacturing appreciation event was a success. We also are submitting through state ECD and the Select Tennessee program two sites to be considered for a site development grant. That award can be up to $500,000 in assistance for site development. And we're gearing up for the governor's conference next week."

Garland is the newest of a younger generation of economic development professionals heading up county organizations in east Tennessee, joining Mitch Miller in Washington County and Marshall Ramsey in Hamblen County. It's clear Garland brings a young man's enthusiasm and energy to the job.

"I see Greene County and Greeneville as having so much potential," he said after the Partnership Board meeting. "I've always kept my eye on them. I think of Greeneville as kind of an unpolished gem in the region. So when the opportunity came open after Tom (Ferguson) resigned, I immediately began talking with local people here because I see a lot of different projects with a lot of potential, and I think our team is fantastic. It's very exciting to be able to look around and say, 'There's growth to be had.'"

Garland, who opens discussions of Greene County's advantages by talking about the county's history, poses with a statue of President Andrew Johnson.

As most new economic developers do when entering a community, Garland is concentrating on getting in front of the existing manufacturing companies. "Eighty-three to 85 percent of job growth comes to a community through existing companies," he said. But while he's spending a good deal of time with them, Garland is also putting significant time into working on inventory development for new business recruitment. "You need shovel-ready sites. So we're working with ECD on getting those state-certified sites. So building inventory is a constant."

Between working to create those shovel-ready sites, working to ensure industry and education are working together on workforce issues and working to stay ahead of the curve with local governments on infrastructure, Garland said, "There aren't enough hours in the day for me to do what I want to do. And I'm so happy here doing it." BJ

Grading set to begin at Washington County, Tenn., industrial park

By Jeff Keeling

Geotech studies occurred at the industrial park site this summer. Photo by Scott Robertson

The Washington County Economic Development Council (EDC) is on the cusp of two significant achievements that have been a while in coming – one organizational, the other developmental.

At the EDC's Oct. 20 board meeting, members heard updates on both. A partially grant-funded project to grade two tracts totaling 89 acres at the Washington County Industrial Park in Telford is nearly through some bureaucratic steps that are necessary due to grant funding from several outside entities, including the state of Tennessee, EDC Business Development Director Alicia Summers said.

That work, along with construction of an access road linking the larger of the two tracts (67 acres) to the rest of the industrial park, will allow for manufacturing facilities up to 150,000 square feet on the smaller tract and 400,000 square feet on the larger. It's being done for just over $1.5 million, the bid submitted by Thomas Construction.

$823,405 of that cost is being borne by TVA and the state thanks to grants to Washington County – a TVA grant awarded in March, and a state grant awarded in May.

"We were plugging along over the summer," Summers said, referencing geotechnical studies and other preparatory work. "We were hopeful and optimistic that we would be able to break ground by the end of September."

Instead, the grant money was tied to several steps that might not have been part of the process otherwise, with bids not opened until Sept 19. "We're obligated to follow their processes and procedures," Summers explained. "We accept the money, so we accept their (the state's) terms."

In mid-October, the Tennessee Department of Environment and Conservation issued a stormwater permit for the work, which allows for official notification of the contractor. A pre-construction conference is pending, and Summers said, "we should be moving dirt, hopefully, in November. We've got a lot of money invested in this, a lot of time, and I'm looking forward to us working hard to recruit new industry out there."

Current tenants at the park include Alo, Nakatetsu and Koyo, all manufacturing companies. The 67-acre tract was purchased in 2011, but the EDC couldn't effectively market it without graded, "pad ready" sites. The organization has fielded multiple requests for information over the past several years related to projects that may have kept Washington County in their sites if such an industrial location had been on line.

The organizational development that has long been in the works is the creation of a new, three-county economic development organization covering the Johnson City Metropolitan Statistical Area – Washington, Carter and Unicoi counties. Attorney Steve Darden has been helping the EDC and its soon-to-be partners draft the articles of incorporation for the Northeast Tennessee Regional Economic Partnership, or NETREP.

With that complete, an application for IRS-designated 501(c)6 not-for-profit status has been mailed to the state, Darden said.

"We conveyed to the IRS that this is an organization that will enhance economic development, improve the business climate and lead to job development in the Johnson City, Tennessee MSA," Darden said. He added that he's hopeful the IRS may approve NETREP by sometime in December.

The organization will continue and amplify the private-public partnership aspect of the EDC, which has paying private-sector members. A company called Convergent has been helping the EDC recruit new members for NETREP – a process EDC CEO Mitch Miller said has gotten off to a good start.

"It's important that as you go out and fundraise, it's now not just an abstraction," Darden said.

In addition to its IRS application, the organization has an initial set of bylaws, subject to revision when its full board is placed, as well as a three-year-budget and capital campaign materials. BJ

Rothberg addresses accounting profession issues and trends in Tri-Cities visit

By Scott Robertson

AICPA Vice President Jay Rothberg and BCS Managing Partner Tommy Greer in Greer's Johnson City office. Photo by Scott Robertson

As one of the 500 largest CPA firms in the country, as well as part of the "Group of 400," Blackburn Childers and Steagall hosts a representative from the American Institute of Certified Public Accountants (AICPA) every few years to discuss matters of importance to the profession. This year, Jay Rothberg, AICPA vice president – office of the president, was in Johnson City Sept. 30.

"The AICPA has a little over 400,000 members in 46,000+ firms," Rothberg said. "My goal is to meet the largest partner groups and talk with them about what's going on in the profession."

One of the biggest currently pressing issues is the new overtime law, Rothberg said. "We have put together some white papers that will help firms look at their options and decide how to address this. It isn't as much an issue in areas like New York, Boston and Chicago because they're already hiring over that threshold. But when you come to a Johnson City or a Waterloo, Iowa, or someplace like that, it becomes a big issue.

"There's a bill going through Congress right now that's picking up a lot of steam, which we were not expecting. It's from a congressman from Oregon who's a Democrat. He's pushing a bill that would defer implementation for three years (Ed. Note: Rep. Kurt Schrader's bill did not pass, though Schrader joined four other Democrats and every House Republican in passing a bill that would delay implementation of the new overtime rules by six months. Tennessee Senator Lamar Alexander introduced a companion Senate bill, but the Senate does not appear to have the votes to override a presidential veto).

Among the other top items on the agenda in Rothberg's visit was a discussion of the graying of the profession. "Although we are the largest major on college campuses today, and we are graduating 81,000 accounting graduates a year, because of the baby boom generation starting to retire, we are not going to be able as a profession to replace CPAs on a one-to-one basis," Rothberg said. "We will not do that."

To be fair, Rothberg noted, that will hold true for virtually every profession, and the AICPA has been working to increase the population of CPAs in the workforce for years. "In 2000, we did some research and found that 2 percent of college students were majoring in accounting. In 1990 it was 4 percent. The researchers, a company called Taylor Research, told us that if we did nothing that by the year 2010 it would be down to 1 percent."

So the AICPA invested about $5 million a year for seven years, hiring the direct marketing firm the U.S. Army used for recruiting. "We figured if they could attract people to the army, they should be able to do okay for us," Rothberg said. "They did a direct marketing campaign targeting high school students and freshmen and sophomores in college about how those individuals could benefit from becoming CPAs. Now we're at 6 percent. And again, we're at the largest major on college campuses today."

Plus, Rothberg said, accounting majors are generally the kinds of people any firm would want to hire – practical, intelligent and ready to work. "When you graduate with an accounting degree, the likelihood of you getting a job is very, very, very good," he said. "Whereas if you graduate with a marketing degree or a communications degree or a philosophy degree, it's tough."

Still, Rothberg said, the sheer number of retiring CPAs will mean a shift not just in demographics, but also in workflow for the profession. "We will have to rely on technology to get the work done. And if we could get Congress to pass a law so we could spread the work more evenly around the year, it would be tremendous. In 1986, the Tax Reform Act eliminated the ability for companies to utilize a fiscal year. That has put a real workload burden on CPAs during tax season." BJ

When *Fast Company* meets Sudden Service

Pal's featured in new business excellence book

By Scott Robertson

Bill Taylor, founding editor of *Fast Company* magazine, has spent the better part of his adult life learning and writing about companies that stand out from the crowd. In that respect, one might wonder why he didn't discover Pal's Sudden Service until 2016.

"I had been limiting my field of vision to a very small number of companies associated with the new economy and digital disruption," Taylor says during a book tour stop at East Tennessee State University. "Yet 95 percent of American society isn't in those places."

Bill Taylor

Thus, in his new book "Simply Brilliant" (Portfolio/Penguin), Taylor writes about ordinary organizations that do ordinary things in extraordinary ways. He introduces readers to businesses including Pal's Sudden Service, the Baldrige Award-winning, Kingsport, Tenn.-based fast food chain, and he does so with the same tone of fascination and admiration that business writers usually reserve for the Musks and Zuckerbergs of the world.

A sense of imagination and creativity in business is not solely the playground of young entrepreneurs in the tech sector, Taylor says. "I'm trying to define a cast of characters that are undeniably great at what they do, incredibly impressive and exciting – yet who feel a lot more accessible than the Gates and Bezoses, who often get written about as these almost cartoonish superhero businesspeople who explode off the magazine covers."

So how did the Massachusetts-based Taylor learn of a drive-through burger joint operating in Northeast Tennessee and Southwest Virginia? "There's a place in Boston called the Institute for Healthcare Improvement," Taylor says. "I went to them and asked, 'Who are two or three of the hospitals doing the most exciting, most compelling work in difficult circumstances?' The one everybody agreed on was a hospital in Anchorage, Alaska devoted to the Alaska native population. So I went there and spent two days in Alaska talking with the people there about, among other things, their hiring and training. They don't do it like most hospitals do. So I asked how they came up with that and they said, 'Everything we know about hiring and training we learned from this company called Pal's Sudden Service in Kingsport, Tenn.'"

It turns out the Southcentral Foundation, which runs the Anchorage Native Primary Care Center, is run by individuals who have attended the Pal's Business Excellence Institute. Both the Foundation and Pal's are winners of the Malcolm Baldrige National Quality Award.

"So," Taylor says, "I got on a plane and flew to Kingsport."

In "Simply Brilliant," Taylor spends about a dozen pages chronicling what Pal's does that he finds extraordinary. He sets the stage for his readers with exposition regarding Pal's "Sudden Service" tag line. Service at Pal's, he writes, "happens at a lightning pace – an average of 18 seconds at the drive-up window to place an order, an average of 12 seconds at the handout window to receive the order. That's four times faster than the second-fastest quick-serve restaurant in the country…But Pal's is not just absurdly fast…it is also staggeringly accurate."

Taylor then begins to drill down into the culture envisioned by CEO Thom Crosby and sustained by virtually every Pal's employee. "The result of this culture is that employees at Pal's show the same sense of loyalty as its customers," Taylor writes. "Turnover numbers are absurdly low. In 33 years of operation, only seven general managers (the people who run the individual locations) have left the company voluntarily. Seven! Annual turnover among assistant managers is 1.4 percent.

"The system is so carefully designed, and everyone in the restaurant so well trained," Taylor writes, "that the operation can be fast without being furious, relentless without being joyless."

Because business readers tend to be bottom-line oriented, Taylor also writes about the results the system creates. "An individual Pal's location, which requires only 1,100 square feet of space, generates a staggering $2 million of annual revenue, a sales-per-square-foot performance ($1,800) that is the envy of just about any fast food restaurant in America," Taylor writes. "The typical McDonald's location generates less than $650 of annual sales per square foot."

If Taylor paints Pal's Crosby and Pal Barger with the same superhero brush usually reserved for Uber execs, he does so with a specific purpose. Very few of us can truly identify with someone who can bring Big Data to bear in a way that creates thousands of jobs and billions of dollars in revenue. But running a burger joint in Tennessee or a hospital in Alaska or a parking garage in Florida – that's identifiable. And if a reader can identify with the subjects, Taylor says, why not take it one step further?

"The whole point is to give the reader permission to say, 'If they can do that, why can't I do that?'" BJ

King University suspends BSN program, plans to close Nashville campus

King University is suspending its traditional Bachelors of Science in Nursing (BSN) program and will close its Nashville campus, the university has announced. A release dated Oct. 27 stated, "King University is implementing organizational and program changes resulting from an ongoing review process that has spanned several months. These changes were approved by King's Board of Trustees at its fall meeting (in October)."

For the 2017-18 academic year, the university will temporarily suspend admissions to its BSN program. In addition, the university plans to close its Nashville campus in 2017, although the exact timing will be dependent upon specific arrangements with students to ensure completion of their academic programs.

The BSN program has been the focus of an internal assessment directed by King's president in August to evaluate all aspects of the program, including curriculum, staffing and support resources.

Since 2000, the release said, King University's School of Nursing has been known for quality, as evidenced by the significant number of nursing students who are recruited for key positions prior to graduation. However, said King University President Alexander Whitaker, "King University's commitment to its students includes ongoing program evaluations, and our declining first-time pass rate on the National Council Licensure Examination for registered nurses, as well as our own preliminary findings, suggest room for improvement in our Traditional BSN program curriculum and instruction. King University is committed to our current and future students, and we owe it to them, as well as to our alumni, to ensure the program reflects the excellence that is expected from all of King's academic offerings. We have put in place corrective measures to address the problems we have identified and are confident they will be effective."

Students currently enrolled in the traditional BSN program and other nursing programs will not be affected by the decision, and may continue to pursue their degrees under existing curriculum requirements. In addition, BSN graduates will remain eligible to take the NCLEX. All King nursing programs remain fully accredited.

The Board accepted Whitaker's recommendation to close King's Nashville-area campus in Franklin. "Our campus in the Nashville area has provided increased educational opportunities for residents there, giving them another choice when seeking a quality program for their return to school," Whitaker said. "But the realities of that market and the costs associated with the campus compel us to refocus our energies where King has its traditional, time-tested strengths. The closure will enable us to reallocate resources to better fulfill our mission. This includes making much-needed enhancements at our flagship campus in Bristol and improving programs to better prepare King graduates for success in their chosen professions."

King University staff will work with affected students at the Nashville campus to develop a personalized plan to help make their transition to alternative programs as seamless as possible. BJ

Administration

Dr. Jason Pierce has been named vice president of academic affairs for Tusculum College effective January 2, 2017. Dr. Pierce replaces Dr. Ron May who announced his retirement in April. Pierce comes to Tusculum from Mars Hill University, where he has served most recently as interim vice president for academic affairs and enrollment management.

As chief academic officer, Dr. Pierce will be responsible for the academic integrity of the institution, for all programs and administrative offices related to the academic enterprise, and — in consultation with faculty, officers, and trustees — for long-range academic strategic planning, resource allocation and the implementation of new academic programs.


Richard Rhoda

Dr. Richard Rhoda, former executive director of the Tennessee Higher Education Commission, has been named interim dean of the Clemmer College of Education at East Tennessee State University.

Rhoda served as executive director of THEC from 1997 until his retirement in 2004. THEC is the coordinating body for the Tennessee Board of Regents and the University of Tennessee system.

Rhoda's career in Tennessee higher education spans more than 40 years. Rhoda holds a Ph.D. in higher education administration from Vanderbilt University. In addition to serving as interim dean, Rhoda is director of ETSU's newly established Center for Community College Leadership.

Advertising


Buddy Scheerer

Buddy Scheerer has joined The Business Journal of Tri-Cities, TN/VA as account executive. Scheerer is an accomplished sales professional with more than 40 years of successful experience in the Tri-Cities market. Scheerer has previously served as general manager of Bristol Broadcasting, where he was responsible for radio stations in Indiana, Kentucky and Virginia; and as vice president/general manager at Lamar Tri-Cities, an outdoor advertising company.

Scheerer is a United States Navy veteran of both the Vietnam and Persian Gulf wars. He is a member of Abingdon Rotary Club, the Virginia Highlands Festival Board, Northeast Tennessee Tourism Association (NETTA), the Hands On Museum Board, and the Jericho Shrine Temple.


Nate Hook, Robert King and Kristen Wilhoit

Creative Energy, the region's largest locally owned advertising, marketing and public relations firm, has increased its staff to better serve clients, specifically in the digital space that includes websites, online advertising and video production.

Originally from Lake Jackson, Texas, and a graduate of SAA Design School, **Nate Hook**, digital media director, began his career in the music industry working for Pearl Drums in Nashville, Tenn. Nate works with clients across the practice in the areas of user experience, digital strategy, mobile and web. Nate coordinates with others within and outside the agency on content, art, and programming for websites, e-marketing, apps and video.

Robert King, video producer, is a Johnson City native and graduate of University School, who holds a B.S. degree in Digital Media from ETSU. King expands Creative Energy's photography and video production capabilities including shooting, editing and utilizing drone footage for clients.

Kristen Wilhoit, graphic designer, holds a BFA in Graphic Design from ETSU. Wilhoit expands the agency's design capabilities as it continues to increase its client base.

Banking and Finance


Kelli Phillips

HomeTrust Bank is pleased to announce **Kelli Phillips** has joined the Bank's leadership team as Branch Manager of the Johnson City office. Phillips will manage the retail operations and sales and service staff of the office located at 1907 North Roan Street.

"We're thrilled to have Kelli at HomeTrust," commented HomeTrust Market President Corey Webb. "Her passion for customer service and her retail banking experience will bring value to HomeTrust

SEE **ON THE MOVE, 34**

customers as well as our banking team."

Brown, Edwards & Company, LLP is pleased to announce that **Matthew Von Schuch** has joined the firm as a director in the tax department. Von Schuch is a CPA and lawyer specializing in the taxation of individuals, non-profits, and businesses. In addition to providing tax planning and compliance services, he will be representing clients before the IRS and other tax authorities in audits, collection activities, and other matters. He will also consult with clients on matters involving mergers and acquisitions, estate planning, and business succession planning.

He is also a former trial attorney in the Tax Division of the U.S. Department of Justice where he served as the IRS's lawyer in tax cases before federal courts throughout the country. Von Schuch has been named a Legal Elite by Virginia Business, a Rising Star by Superlawyer magazine, and is the recipient of several honors from the U.S. Department of Justice and the IRS.

UT College of Engineering named for Tickle

The University of Tennessee Board of Trustees voted Oct. 14 to name the College of Engineering for distinguished alumnus John D. Tickle.

It marks the second time in the campus's 222-year history that a college has been named for an alumnus and benefactor. Tickle, a 1965 industrial engineering graduate from Bristol, Tenn., is chairman of the Strongwell Corporation.

"My goal is for the University of Tennessee to be known for their education and the product they put out," said Tickle. "(My wife) Ann and I both believe that education is what fuels success—not just our own success, but the success of UT and the state as well.

"I'm deeply honored and will try to live up to the billing," Tickle said of the naming recognition.

The naming and the foundation of support it reflects better align the college with its aspirational top-ranked public university peers. The college joins the Haslam College of Business as the only named UT Knoxville colleges, with benefits that extend well beyond the new name.

John Tickle

Tickle began supporting UT just a year after he graduated. A recent transformational gift will impact every aspect of the college—from students and faculty to research and facilities.

"This is a historic day for our university and our state," said Chancellor Jimmy G. Cheek. "We want to thank John and the Tickle family. Their support will accelerate the college's bold plans for growth and improvements and the university's plans for becoming a top-ranked public research university."

The gift establishes the following:

- The Tickle Graduate Fellows program, which will fund doctoral students across all of the college's

academic programs
- Tickle Professorships to recognize excellent faculty, helping the college recruit and retain these important scholars
- The addition of a team of professional advisors over the next year to provide more guidance to students about their academic goals

Engineering Dean Wayne Davis said that naming the college enables the next big steps in its journey.

"John wants our students to have the very best education and experience here so that they will graduate as the most versatile and well-trained professionals in their industries. He's been a special partner in so much of the progress we've been able to make, and this gift will make a difference for our students, the profession, and our state for many years to come.

"It's a very special and historic day for the college and John's support means a lot to me, both as dean and as an alumnus of the college."

In the past decade, the college has grown its enrollment by 1,600 students, or roughly 60 percent. It has added 30 world-renowned faculty and nearly doubled its annual research funding to almost $70 million. The college has risen more than 10 spots among public institutions to become the country's 32nd- and 36th-ranked undergraduate and graduate engineering schools, respectively, in *U.S. News and World Report*'s annual rankings. The quality of incoming students has also surged; current freshmen have an average GPA of 4.0 and math ACT score of more than 30. In fall 2015 the College of Engineering announced their part of the Journey to the Top 25 Campaign with a goal of $150 million. John Tickle is chair of the engineering campaign committee, and to date over $125 million has been committed.

"Leadership is the key, and John is tireless in his efforts to ensure that we have the financial base to propel this college forward," said Davis.

Tickle said that seeing so many changes across the campus gives him goosebumps. He said he considers the cranes, road disruptions, and new buildings a sign of the university's stability and health.

He noted the contrast to the perception of the college just after he graduated, relating a conversation that angered but also inspired him.

At a lunch with colleagues, someone asked where he had gone to school and he proudly answered, "the University of Tennessee." "I'd hear a silence, and that really bothered me," said Tickle. "It's stuck in my craw for over 50 years."

Acknowledging that much has changed since then, he added, "When someone says 'I'm a University of Tennessee graduate' I want people to say 'Wow.'"

The Tickles have invested in many UT programs over the years, including support for professorships, building projects, and athletics initiatives. John Tickle was appointed to the UT Board of Trustees in 2015.

The John D. Tickle Engineering Building opened in 2013, the John and Ann Tickle Small Animal Hospital opened in 2008, and the John and Ann Tickle Athletic Development Suite is a key feature of the Brenda Lawson Athletic Center, which opened in 2006.

SEE **AWARDS & ACHIEVEMENTS, 36**

AWARDS & ACHIEVEMENTS, CONTINUED

CONSOL named Operator of the Year

CONSOL Energy was recognized as the Operator of the Year during the Virginia Department of Mines, Minerals and Energy-Virginia Oil and Gas Association annual awards program last month in Abingdon.

CONSOL Energy's Virginia Gas Operations were also recognized with awards for Development and Innovation, Community Outreach and for a partnership with one of its Virginia contractors, Matney Construction. This is the second year the company has been named the recipient of the Development and Innovation award. "At the core of our operations is a commitment to safety, compliance and continuous improvement," Anthony Johnson, CONSOL Energy Central Appalachia E&P asset manager said. "Being chosen to receive these awards further indicates the continuing commitment we have to our employees, the environment and to the communities in which we have operations."

Coburn Creative earns advertising awards

Glade Spring, Va.-based marketing and design agency Coburn Creative won five local American Advertising Awards during the annual Southwest Virginia Chapter awards ceremony at the General Francis Marion Hotel, in Marion, Virginia. The American Advertising Awards is the advertising industry's largest and most representative competition, attracting over 40,000 entries every year in local AAF (American Advertising Federation) Club competitions. The mission of the American Advertising Awards competition is to recognize and reward the creative spirit of excellence in the art of advertising.

Of the five awards, Coburn Creative won one Gold for the Wellmont Urgent Care television advertisement. Gold award winners advance to the District level where it will compete against other winners in Virginia, North Carolina, and South Carolina. An award there will send it to the national competition. Winners from the nationals will be announced on May 31, 2014 at an event in Boca Raton, Florida.

"We are grateful for the external validation of this informative and well-developed commercial that showed how easily people can access our urgent care facilities," said Todd Norris, Wellmont's Senior Vice President for system development. "Our marketing communications staff crafted a message that was easy to understand and worked with our partners at Coburn Creative, who assisted us in developing a commercial that resonated with the public."

Coburn Creative picked up three Silver awards for the Powell Valley National Bank holidays Billboard, Andria McClellan's Virginia Senate Campaign website, and the 2013 Barter Theatre Poster Campaign which was shared with the team at Barter Theatre.

Andria McClellan, candidate for Virginia State Senate commented, "We challenged their team to create a site that was visually appealing, easily navigable and incorporated interactive news feeds. We were thrilled with the collaboration and outcome." BJ

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Wellmont Health System

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