

BOARD OF SUPERVISORS MINUTES

March 27, 2012

At a regular meeting of the Orange County Board of Supervisors held on Tuesday, March 27, 2012 beginning at 5:00 p.m., in the Meeting Room of the Gordon Building, 112 West Main Street, Orange, Virginia. Present: S. Teel Goodwin, Chairman; Lee H. Frame, Jr., Vice-Chairman; Shannon C. Abbs; Grover C. Wilson; and James K. White. Absent: None. Also present: Julie G. Jordan, County Administrator; Sharon Pandak, County Attorney; Ashley Jacobs, Chief Deputy Clerk; Glenda Bradley, Finance Director, and Connie Clark, Accountant.

RE: ADOPTION OF AGENDA

Mr. Frame moved, seconded by Mr. White and carried, to adopt the agenda as modified. Ayes: Abbs, Goodwin, Wilson, Frame, White. Nays: None.

RE: CONSENT AGENDA

Mr. Frame moved, seconded by Mrs. Abbs and carried, to approve the consent agenda as presented.

RE: SUPPLEMENTAL APPROPRIATIONS

The Board approved the following supplemental appropriations:

MONTH	DEPT	ACCOUNT DESCRIPTION	AMOUNT	Funding Source
March 27, 2012 for FY2012				
	Schools	Schools Adult Education	\$ 12,000.00	Va. Dept of Housing & CD
	Subtotal Schools		\$ 12,000.00	
	Sheriff	Community Policing Academy	\$ 1,250.00	Donations
	Subtotal Sheriff		\$ 1,250.00	
	Animal Shelter	Emergency Vet	\$ 1,328.00	Donations
	Animal Shelter	Vaccinations	\$ 715.00	Donations
	Subtotal Animal Shelter		\$ 2,043.00	
		Total this meeting	\$ 15,293.00	
		Total Year to Date	\$ 2,901,992.78	

RE: RENEWAL OF CULPEPER CAREER RESOURCE CENTER

As detailed in the memorandum provided by Joe Rodish, Procurement Technician, it is the recommendation of staff that the Board of Supervisors renew the Memorandum of understanding between the Culpeper Workforce Investment Board and the County for the office space located in the basement of the Belleview building.

The Board approved staff to renew the Memorandum of Understanding between the Culpeper Workforce Investment Board and the County for the office space located in the basement of the Belleview building and occupied by the Workforce Investment Board Satellite Office.

RE: RENEWAL OF GENERAL ENGINEERING SERVICE CONTRACTS

As detailed in the memorandum provided by Joe Rodish, Procurement Technician, it is the recommendation of staff that the Board of Supervisors allow staff to renew the contracts with

the four incumbent engineering firms (Draper Aden Associates, Resource International, Ltd., RK&K, and Wiley Wilson) for general engineering services for one (1) additional one (1) year term.

The Board approved staff to renew the contracts with the incumbent firms for one (1) additional one (1) year term.

RE: PUBLIC WORKS DEPARTMENT VEHICLE SURPLUS REQUEST

As detailed in the memorandum provided by Kurt Hildebrand, Public Works Director, there are two vehicles assigned to the Landfill that staff recommends be removed from inventory. They are a 1994 Chevrolet Blazer and a 1996 Ford Crown Victoria. Mr. Hildebrand explained that both of these vehicles have high mileage, are in poor condition, and are no longer useful or needed for Landfill purposes.

The Board approved staff to surplus the Chevrolet Blazer (VIN 1GN1T13W5R0133825) and Ford Crown Victoria (VIN 2FALP71WXTX179731), which are assigned to the Landfill fleet.

RE: BUILDING INSPECTIONS DEPARTMENT VEHICLE SURPLUS REQUEST

As detailed in the memorandum provided by Bill Schwind, Building Official, there are two vehicles assigned to the Department of Building Inspections that staff recommends be removed from inventory. They are a 1998 Jeep Cherokee and a 2001 Jeep Cherokee. Both of these vehicles have high mileage, are in poor condition, and are no longer useful or needed for Building Inspection purposes.

The Board approved staff to surplus the 1998 Jeep Cherokee (VIN #1J4FJ68S1WL192482) and 2001 Jeep Cherokee (VIN#1J4FF48S51L536085), which are assigned to the Building Inspection fleet.

RE: PROCLAMATION FOR CHILD ABUSE PREVENTION MONTH

The Board approved the following proclamation as presented:

CHILD ABUSE PREVENTION MONTH PROCLAMATION

By virtue of the authority vested in the Orange County Board of Supervisors, we hereby proclaim the month of April as Child Abuse Prevention Month in Orange County, Virginia.

WHEREAS, every child in our great Commonwealth is a precious gift, full of promise and potential; and

WHEREAS, child abuse and neglect is a serious problem in Virginia and across the nation; and

WHEREAS, the prevention of child abuse is crucial to the preservation of the health and well-being of Virginia's families and can be accomplished by providing support and information to families as well as through increased community awareness; and

WHEREAS, all children learn from role models at home, at their place of worship, at school and in their communities and all children benefit from the love and leadership displayed by caring and responsible adults; and

WHEREAS, children are our most precious resource and we are committed to keeping the children of this great Commonwealth safe and happy;

NOW THEREFORE WE, the Orange County Board of Supervisors, do hereby recognize April, 2012 as Child Abuse Prevention Month in Orange County and we call this observance to the attention of all our citizens.

RE: MINUTES

The Board approved the following minutes:

- March 8, 2012 Budget Worksession
- March 13, 2012 Regular Meeting
- March 14, 2012 Budget Worksession

RE: 2012 PLANNING COMMISSION APPOINTMENTS

As detailed in the memorandum provided by Ashley Jacobs, Chief Deputy Clerk, upon the recommendation of Supervisor White, Supervisor Frame, and Supervisor Goodwin, the Board appointed George Yancey, District 2 Commissioner, and reappointed Nigel Goodwin, District 5 Commissioner, and Donald Brooks, District 3 Commissioner, respectively during its January 24, 2012, meeting.

Ms. Jacobs noted that the start date of all three terms was set to begin when the existing terms end and to expire on April 30, 2016. She further noted that there was an error in staff's communication with the Board regarding the beginning and end dates of these terms. Ms. Jacobs explained that the start date of the terms for Commissioner Yancey, Commissioner Goodwin, and Commissioner Brooks should be April 2, 2012, and the end date should be April 1, 2016. She requested the Board adjust the terms of these Commissioners.

The Board approved the changes to the beginning date(s) (April 2, 2012) and end date(s) (April 1, 2016), of Commissioner Yancey's, Commissioner Goodwin's, and Commissioner Brooks' term on the Orange County Planning Commission.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: PUBLIC APPEARANCES

RE: EMPLOYEE OF THE MONTH

Julie Jordan, County Administrator, and Chairman Goodwin, presented the Employee of the Month award to Donna Lucas for March 2012.

RE: INTRODUCTION OF RANDY CLATTERBUCK, LANDFILL SUPERVISOR

Julie Jordan, County Administrator, introduced Randy Clatterbuck, Landfill Supervisor, to the Board. Chairman Goodwin welcomed Mr. Clatterbuck to the County's staff.

RE: PARKS AND RECREATION QUARTERLY REPORT

Tim Moubray, Parks and Recreation Director, began his first quarter report for 2012, by thanking a number of individuals and groups, including: the Board of Supervisors, Julie Jordan, Alisha Vines and the Office on Youth, Shirley Irving, the Orange Review, School principals and other officials, and all of the many volunteers for their contributions to the Parks and Recreation Department.

Mr. Moubray updated the Board on current programming statistics and provided a summary of the various programs being offered, including: wrestling, gymnastics, karate, soccer, the Boomers and Seniors Program, the various amusement park tickets for sale through his office, and a number of other programs. He explained that generally there has been an increase

in participation in these programs, across the board. Mr. Moubray concluded his presentation by distributing a number of documents which highlight the various activities of the Parks and Recreation Department.

RE: PRESENTATION BY LT. COL. TIMMY MURPHY

Lt. Col. Timmy Murphy appeared before the Board to reiterate the need for the additional two investigator positions requested by the Sheriff's Office for funding in FY13. He stated that one investigator position would focus on child abuse sex cases and provided statistics relative to his request. He stated that 36 found cases of sexual assault on children had occurred during the last three years, and he noted that this did not include the number of unfounded cases. Mr. Murphy stated that the second proposed investigator position would focus on narcotic drug abuse, addiction, and illegal activity. He again provided statistics relative to his request, noting a recent case in which two men were apprehended following a break-in aimed at obtaining prescription drugs. He summarized his presentation by strongly suggesting the Board consider funding both proposed positions.

RE: PRESENTATION BY TED COLE, SENIOR VICE PRESIDENT, DAVENPORT & COMPANY, LLC

Ted Cole, Senior Vice President of Davenport & Company LLC., made a presentation to the Board regarding the County's existing profile. He provided a general overview of his presentation and then provided information regarding the County's current investment rating(s). Mr. Cole illustrated national and local comparisons of other Counties' ratings. He also provided peer comparisons of demographics, the current tax base, fund balances, and debt profiles.

Discussion ensued regarding the weighting of the ratios presented and debt affordability in relation to the budget.

Mr. Cole continued his presentation by providing information on the existing debt profiles, including: tax supported debt services, payout ratios, and existing debt ratios. He also provided information on debt affordability, a potential funding plan for future big ticket Capital Improvement Plan projects, debt issuances, and existing and potential debt ratios.

Discussion ensued regarding the ease of computing additional "what-if" scenarios, assumptions used by Davenport when computing potential funding plans, bank financing, and various policies proposed by Ted Cole. The Board thanked Mr. Cole for his thorough presentation.

RE: PUBLIC COMMENT

At 6:10 p.m. Chairman Goodwin opened the floor for public comment. The following individuals spoke:

- Alan Knewstep of Rapidan, Virginia, commented on FY13 funding for the Rapidan Volunteer Fire Department.
- Ann Kloeckner of Locust Grove, Virginia, commented on FY13 funding for Rappahannock Legal Services.
- Gary Jones, 230 Woodbrook Lane, Pratt, Virginia, commented on FY13 funding for the Rapidan Volunteer Fire Department.
- Deborah Reed of Rappahannock Legal Services (RLS) commented on FY13 funding for RLS.
- Cary Stanley, 6470 Rose Hill Drive, Rapidan, Virginia, commented on FY13 funding for the Rapidan Volunteer Fire Department.
- Sean Gregg, 12484 Greenwood Road, Orange, Virginia, commented on FY13 funding for the Piedmont Regional Dental Clinic.

Chairman Frame requested information on income level and other criteria for individuals which are served by Rappahannock Legal Services. Ms. Reed commented that they serve individuals which qualify at 125% of the Federal Government poverty levels, as stipulated by the Commonwealth.

There being no other speakers, public comment was closed at 6:32 p.m.

RE: CLOSED MEETING

At 6:33 p.m. Ms. Pandak read the following motion authorizing Closed Session:

WHEREAS, the Board of Supervisors of Orange County desires to discuss in Closed Meeting the following matter(s):

- One matter of legal advice related to cable franchise ordinance and franchise (§2.2-3711.A.7 VA Code Ann.);
- One matter related to land and easement acquisition for a public purpose where discussion in an open meeting would adversely affect the bargaining position of the County (§2.2-3711.A.3 VA Code Ann.);
- One matter of legal advice regarding a tax matter (§2.2-3711.A.7 VA Code Ann.);
- One matter of discussion of a prospective business or industry where no previous announcement has been made (§2.2-3711.A.5 VA Code Ann.); and
- One personnel matter related to consideration of prospective candidates for employment (§2.2-3711.A.1 VA Code Ann.); and

WHEREAS, pursuant to §§2.2-3711.A. 1, 3, 5 and 7 VA Code Ann., such discussion(s) may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Orange County does hereby authorize discussion of the aforesated matter(s) in Closed Meeting.

Mr. Frame made a motion, seconded by Mrs. Abbs and carried, approving the resolution as presented. Ayes: Abbs, Goodwin, Wilson, Frame, White. Nays: None.

RE: CERTIFICATION OF CLOSED MEETING

At 7:35 p.m. Ms. Pandak read the following resolution certifying the closed meeting:

WHEREAS, the Board of Supervisors of Orange County has this day adjourned into Closed Meeting in accordance with a formal vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Orange County does hereby certify that to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applies, and ii) only such public business matters as were identified in the Motion by which the said Closed Meeting was convened were heard, discussed or

considered by it.

Mrs. Abbs made a motion, seconded by Mr. Frame and carried, approving the resolution as presented. Ayes: Abbs, Goodwin, Wilson, Frame, White. Nays: None.

RE: BOARD COMMENT

No comments were made at this time.

RE: ACTION ITEMS

RE: ADOPTION OF RESOLUTION TO CREATE LOCAL FIRE INVESTIGATOR

Craig Johnson, Assistant Director of Fire/EMS, explained the Department of Fire and EMS's request for consideration of appointment of a local fire investigator for Orange County due to the County's need to begin identifying the source of fires. Mr. Johnson explained that in the Commonwealth of Virginia, a "Fire Marshal" may be appointed by a locality for fire investigation or for enforcement of the Statewide Fire Prevention Code. He further explained that the department's request excludes local enforcement of a "Fire Marshal" to be known locally as "Fire Investigator," with the limited duty to investigate fires. Julie Jordan, County Administrator, stated that this would not be a new position but would be an additional role added to an existing position.

Discussion ensued regarding: continuing education requirements; differences between a Fire Marshal and a Fire Investigator; training to date; necessary training that still needs to be obtained before Mr. Johnson assumes the role of Fire Investigator; the requirement to appoint Mr. Johnson as a Local Fire Investigator prior to receiving law enforcement training; and the fact that the new role comes at no additional funding request of the County.

Mr. Frame moved, seconded by Mrs. Abbs and carried, to approve the following resolution as presented:

RESOLUTION FOR APPOINTMENT OF A LOCAL FIRE INVESTIGATOR

WHEREAS, the Board of Supervisors, pursuant to the Code of Virginia, Title §27-30 and §27-36 has the authority to appoint a "fire marshal" to be known locally as "fire investigator"; and

WHEREAS, the safety of the community and emergency responders would be enhanced by the analysis of the behavior and intensity of fires; and

WHEREAS, the identification of the origin and cause of fires, may identify dangerous and defective appliances and equipment that would through the repair and/or recall of such products, save lives; and

WHEREAS, the investigation of fires may uncover criminal activity otherwise overlooked by untrained responders; and

WHEREAS, Craig Johnson, who holds the position of Assistant Chief within the Orange County Department of Fire and EMS, and who also serves as the County's Emergency Management Coordinator has expertise and credentials from the Virginia Department of Fire Programs to perform the duties of fire investigator;

NOW, THEREFORE, BE IT RESOLVED that Craig Johnson be appointed to serve as local "fire investigator" for Orange County. The local "fire investigator" shall have all the powers and duties set forth in the Code of Virginia Title §27, Chapter 3 related to fire and arson investigations including the power to arrest, to procure and serve warrants, to issue summons,

and investigate hazardous materials pursuant to general law and sections §27-34.2, §27-34.2:1 and §27-37.1.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: CSA PARENTAL CO-PAYS

Alisha Vines, Office on Youth Director, addressed the Board regarding changing the CSA Parental Co-payment policy and fees. Mrs. Vines explained that the new policy and procedures would mirror those used in Louisa County and have been reviewed by the County Attorney to ensure it meets the County’s needs and is compliant with the State Code. She further explained that the new policy is more user friendly than the previous sliding scale used and easier to understand when explained to participating families. Mrs. Vines asked that the Board consider approving the new policy so that it will take effect July 1, 2012.

Mrs. Abbs moved, seconded by Mr. Frame and carried, to approve the new Orange County CSA policy regarding Parental Co-payments, effective July 1, 2012.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: PROPOSED NEW AND REVISED CHILD CARE FEES

Alisha Vines, Office on Youth Director, presented to the Board the changes to the School Age Child Care fee schedule that the Office on Youth would like to make for the upcoming summer programs.

The first fee addressed by Mrs. Vines, was the removal of the “Early AM” fee of \$2.00 per morning for children arriving before 6:45 AM. The second change is in regard to the registration fees for the programs. Mrs. Vines suggested the County offer a “Drop-in” registration fee of \$5.00 per day for those students who use the program very minimally during the school year. The third change presented relates to the Summer School rates. The Office on Youth has added a Drop In/Part time status which they have not had before. Lastly, the final addition presented was to the “Special Fees” section.

Discussion ensued about additional labeling on the nature of the fees (i.e. are the fees monthly, weekly, etc.).

Mrs. Abbs moved, seconded by Mr. Frame and carried, to approve the new School Age Child Care Draft fee schedule to be effective, June 18, 2012, as modified for clarification purposes:

Orange County School Age Child Care Programs			
Fee Schedule			
Full time status = 4-5 days per week attendance**	**Please see full description of the status options in the OCSACC Parent Handbook.**		
Part time / Drop in status = 1-3 days per week attendance**			
SCHOOL YEAR - Full time	1 Child	2 Children	3 Children
Full Time School Year - AM Only - per week	\$19.00	\$ 37.00	\$ 55.00
Full Time School - PM only - 6:00 Pick Up - per week	\$54.00	\$103.00	\$152.00
Full Time School Year - AM/PM - 6:00 Pick up - per week	\$69.00	\$132.00	\$195.00
SCHOOL YEAR - Drop In / Part time	1 Child	2 Children	3 Children
Drop In / Part time School Year - AM - per day	\$6.00	\$11.00	\$16.00
Drop In / Part time School Year - PM - 6:00 Pick up - per day	\$16.00	\$31.00	\$46.00
SCHOOL YEAR - Special Fees (additional fees for full days - ex. teacher work day)	1 Child	2 Children	3 Children

Early Dismissal School Year - per event	\$5.00	\$10.00	\$15.00
Full Day School Year Full Time AM - add to weekly rate for each full day	\$21.00	\$40.00	\$61.00
Full Day School Year Full Time PM - add to weekly rate for each full day	\$14.00	\$26.00	\$38.00
Full Day School Year Full Time AM/PM - add to weekly rate for each full day	\$11.00	\$21.00	\$31.00
SUMMER / FULL DAYS - Full time (Holidays, etc.)	1 Child	2 Children	3 Children
Full Time Summer - County Resident - Full Day - per week	\$121.00	\$230.00	\$339.00
Full Time Summer - Out of County - Full Day - per week	\$140.00	\$265.00	\$390.00
SUMMER / FULL DAYS - Drop In/Part time (Holidays, Teacher work days, etc.)	1 Child	2 Children	3 Children
Drop In / Part time Summer - County Resident - Full Day - per day	\$35.00	\$67.00	\$100.00
Drop In / Part time Summer - Out of County - Full Day - per day	\$40.00	\$77.00	\$115.00
SUMMER / FULL DAYS - Orange County Summer School	1 Child	2 Children	3 Children
OC Summer School - Drop In / Part time (per summer school day only)	\$25.00	\$48.00	\$70.00
OC Summer School - Full time (per week during summer school session)	\$115.00	\$219.00	\$322.00
REGISTRATION FEES	1 Child	2 Children	3 Children
Summer Only - covers summer attendance only - must be renewed each summer	\$50.00	\$100.00	\$150.00
School Year Only - covers school year attendance only - must be renewed each school year	\$100.00	\$200.00	\$300.00
Year Round - covers one full year of attendance from date of payment - must be renewed each year	\$125.00	\$250.00	\$375.00
Drop-in Registration - per day (only available during the school year)	\$5.00	\$10.00	\$15.00
Late Pick up Fees	Rate Per Child		
First Time	\$10 plus \$1.00 per minute		
Second Time	\$15 plus \$1.00 per minute		
Third Time	\$20 plus \$1.00 per minute		
Fourth Time	\$25 plus \$1.00 per minute PLUS Termination		
Return Check Fee	\$50.00		
		<i>Effective</i>	<i>6/18/2012</i>

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: WETLANDS MITIGATION

Kurt Hildebrand, Public Works Director, explained that as part of the Landfill Expansion, permits were acquired from both the U.S. Army Corp of Engineers and the Virginia Department of Environmental Quality, for disturbance and mitigation of wetlands and streams that will be impacted by the expansion; in those permits are requirements and instructions for providing the mitigation. Mr. Hildebrand summarized the permit requirements as follows: i.) Purchase 2.99 wetland credits and 941 stream credits from the Woodford Mitigation Bank; ii.) Purchase 317 stream credits from Aythya Environmental, LLC. (The permit wording may be confusing. Orange County is not creating the Holly Ridge mitigation area, rather purchasing the 317 credits and Aythya is creating the mitigation area); iii.) Create "Orange County Landfill Expansion Proposed Stream and Buffer Preservation" to receive 440 stream credits.

Mr. Hildebrand recommended that Luck Stone Corporation-New Kent Environmental Bank be awarded the contract for the purchase of 2.99 wetland credits and 941 stream credits. He further recommended that a contract be executed with Aythya Environmental LLC for the purchase of 31 stream credits.

Discussion ensued regarding the savings as noted by Mr. Hildebrand.

Mrs. Abbs moved, seconded by Mr. Frame and carried, to authorize the County Administrator to award a contract to Luck Stone Corporation-New Kent Environmental Bank for

the purchase of 2.99 wetland credits and 941 stream credits, the total contract amount to be \$394,756.01, and to award a contract to Aythya Environmental LLC for the purchase of 317 stream credits, the total contract amount to be \$83,878.20, all to be paid from 4-513-094600-8207 (Landfill Expansion).

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: DRAPER ADEN PROPOSED ORDER NO. 18

Kurt Hildebrand, Public Works Director, additionally noted that prior to and during construction of the new landfill cell, the wetlands that are impacted must be monitored and documented to satisfy the conditions of the Expansion Project. Mr. Hildebrand presented Draper Aden's proposed Task Order # 18, which satisfies the monitoring and reporting requirements of the permits, and recommended its approval.

Discussion ensued regarding where the documentation will reside. Mr. Hildebrand stated that the Draper Aden will retain the documentation but that ultimately it will be sent to the Department of Environmental Quality.

Mr. Frame moved, seconded by Mrs. Abbs and carried, authorizing the County Administrator to execute Task Order #18 under the terms of the Agreement for Solid Waste Services between Orange County, Virginia, and Draper Aden Associates (Engineer). The fee for Task Order #18 is \$6,750, and will be paid from 4-513-094600-8207 (Landfill Expansion).

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: ECORRIDORS ACCELERATE VIRGINIA – INVITATION FOR ORANGE COUNTY TO PARTICIPATE

Karen Epps, Economic Development Director, stated to the Board that the County received an email invitation from Jean Plymale of eCorridors Accelerate Virginia Project, to participate in Virginia's first consumer internet speed testing campaign. She explained that by participating, residents of Orange County will be joining other Virginia counties in a unique opportunity to influence and inform the Virginia and National broadband maps. She further explained that this is the first time consumers, not just service providers, are being asked to provide information about broadband availability in Virginia.

Mrs. Epps stated that participation is free and by participating we will be provided all the data that is collected. She concluded by noting this is part of the Virginia Broadband Mapping initiative and, as recently discussed, broadband mapping is an area that the Board of Supervisors and the Economic Development Authority have placed an emphasis. She distributed a map to the Board which illustrates the "Number of Accelerate Virginia Internet Speed Tests per County (total speed tests = 6,700) as of February 13, 2012."

Discussion ensued regarding: the need to illustrate the over exaggeration of service by major providers as stated by such major providers; participation rates by County residents; the need to understand more specifically what participation entails and what data will be generated; and publicizing the campaign. Julie Jordan, County Administrator, demonstrated a live performance of the speed test.

Mrs. Abbs moved, seconded by Mr. Frame and carried, to authorize staff to facilitate Orange County's participation in the eCorridors Accelerate Virginia Program, Virginia's first consumer internet speed testing campaign.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: RESOLUTION TO SET PUBLIC HEARING FOR EROSION AND SEDIMENT CONTROL ORDINANCE AMENDMENT(S)

Sharon Pandak, County Attorney, explained to the Board the need to amend the County's Code regarding Erosion and Sediment Control to reflect State Code language on this matter.

Discussion ensued regarding: a typo on page two of the recommended amendments; the definitions associated with the term "Administrator"; the term "Reasonable" and its definition/application; the appeal process; and scheduling of the Public Hearing.

Supervisor White requested information from Planning Director Zody at the May 8, 2012, meeting that identifies the areas where the Board has discretion in regard to specific criteria.

Mrs. Abbs moved, seconded by Mr. Frame and carried, to approve the following resolution as presented:

AUTHORIZE PUBLIC HEARING ON PROPOSED AMENDMENTS TO
ORANGE COUNTY CODE CHAPTER 26 ENVIRONMENT

WHEREAS, the Board of Supervisors of Orange County desires to consider the attached proposed amendments to Chapter 26 of the County Code, Environment. Sec. 26-31 through 26-46, in order to update the language of the ordinance to be consistent with current Virginia Code language § 10.1-560 et seq. VA Code Ann., regarding erosion and sediment control;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Orange County does hereby authorize a public hearing, on Tuesday, May 8, 2012, at 7:30 p.m., to consider adoption of the attached proposed amendment to Chapter 26 of the County Code.

ATTACHMENT

ARTICLE II. - EROSION AND SEDIMENT CONTROL ^[23]

⁽²³⁾ **State Law reference**— Erosion and sediment control, Code of Virginia, § 10.1-560 et seq.

Sec. 26-31. - Purpose.

This article provides for the control of erosion and sedimentation both during and following development, and establishes procedures for the administration and enforcement of such controls.

(Ord. of 11-26-1997, § 2.a)

Sec. 26-32. - Authority.

This article is authorized by the Code of Virginia, § 10.1-560 et seq. This article shall conform to the criteria, standards and specifications of the Virginia Erosion and Sediment Control Handbook (VESCH), 1992 edition, and to any changes and/or updates in that handbook authorized by the general assembly.

(Ord. of 11-26-1997, § 3)

Sec. 26-33. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the same as certified program administrator (see below).

Agreement in lieu of a plan means a contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

Applicant means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.

Board means the Virginia Soil and Water Conservation Board.

Certified inspector means an employee or agent of a program authority Orange County who holds a certificate of competence from the board in the area of project inspection or is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer means an employee or agent of Orange County designated by the administrator, including the Culpeper Soil and Water Conservation District, or any person or agency designated by resolution of the board of supervisors who (i) holds a certificate of competence from the board Board in the area of plan review; (ii) is enrolled in the board's Board's training program for plan review and successfully completes such program within one year after enrollment; or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, § 54.1-400 et seq.

Certified program administrator, program administrator or administrator means an employee or agent of Orange County the official designated by resolution of the board of supervisors to administer this article, who (i) holds a certificate from the board Board in the area of program administration or (ii) is enrolled in the board's Board's training program for program administration and successfully completes such program within one year after enrollment.

County means the County of Orange, Virginia, acting by and through its board of supervisors and its officials, employees and authorized agents.

District or soil and water conservation district means a political subdivision of the commonwealth organized in accordance with Code of Virginia, § 10.1-506.

Erosion and sediment control plan, conservation plan or plan means a document which describes the potential for erosion and sedimentation problems on a construction project and explains and illustrates the measures which are to be taken to control those problems. The plan shall have a written portion known as a narrative and an illustrative portion known as a map, or site plan. The site plan shall include an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment a document containing material for the conservation of soil and water resources of a unit or group of units of land, including a written portion known as a narrative and an illustrative portion known as a map. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Land disturbing activity means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including but not limited to clearing, grading, excavating, transporting and filling of land, except those ~~activities excluded~~ included within section 26-35.

Land disturbing permit means a permit issued by the program administrator for the purpose of conducting a land disturbing activity.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

Orange County Erosion and Sediment Control Handbook means the Virginia Erosion and Sediment Control Handbook (VESCH), ~~current 3rd edition (1992),~~ as adopted and as amended from time to time thereafter by the Virginia Soil and Water Conservation Board, commonly referred to as the "handbook." The provisions of the VESCH, as amended, are incorporated by reference, as if set forth herein verbatim, as the Orange County Erosion and Sediment Control Handbook.

Owner means the owner or owners of the freehold of the premises or ~~lesser~~ lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person ~~in control~~ holding a legal right of ownership of a property.

Peak flow rate means the maximum instantaneous flow from a given storm condition at a particular location.

Permittee means the person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Permit issuing authority means the director of planning.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

Plan-approving authority means the certified program administrator, commonly referred to as the "administrator."

Program authority means Orange County, its board of supervisors and its officers, officials, employees and authorized agents, which has adopted a local soil erosion and sediment control program which has been approved by the ~~board~~ Board.

Responsible land disturber means an individual from the project or development team, who will be in charge of and responsible for carrying out a land disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, Article 1 (§ 54.1-400 et seq.) ~~of Chapter 4 of Title 54.1.~~

Single-family residence means a noncommercial dwelling that is occupied exclusively by one family.

Specifications means the written procedures, requirements or plans to control erosion and sedimentation as adopted in this article, and as explained in the handbook.

State waters means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

Subdivision means the subdivision definition adopted by the county pursuant to Code of Virginia, §15.2-2241 as set forth within Chapter 54 of this Code.

Water quality volume means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

(Ord. of 11-26-1997, § 4; Ord. of 9-12-06)

Cross reference— Definitions generally, § 1-2.

Sec. 26-34. - Application.

(a) Except as provided for ~~exempted~~ in section 26-35, it shall be unlawful for any person to engage in any land disturbing activity until such person has submitted to the certified program administrator, and has had approved, an erosion and sediment control plan for such land disturbing activity and the plan has been reviewed and approved by the administrator issued a land disturbing permit as prescribed by this article. Where the land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan at the discretion of ~~if executed by the program administrator~~.

(b) It shall also be unlawful for any person performing any land disturbing activity to willfully fail to conform to the requirements of the erosion and sediment control plan approved for such activity plans and specifications so approved in performing such activities.

(c) From time to time the board of supervisors shall, by resolution, establish a schedule of fees for the applications, approvals, permits and inspections required by this article.

(Ord. of 11-26-1997, § 5)

Sec. 26-35. - Noncontrolled Exempt activities.

In no instance shall the provisions of this article be construed to apply to the following:

(1) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.

(2) Individual service connections.

(3) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced.

(4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity related to construction of the building to be served by the septic tank system.

(5) Surface or deep mining activities authorized under a permit issued by the Department of Mines, Minerals and Energy.

(6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas.

(7) Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour

cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Code of Virginia, § 10.1-1100 et seq., or is converted to bona fide agricultural or improved pasture use as described in subsection B of Code of Virginia, § 10.1-1163.

(8) Repair or rebuilding of the tracks, rights-of-way, bridges, communications facilities and other related structures and facilities of a railroad company.

(9) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Code of Virginia, § 10.1-604 et seq., ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.

(10) Disturbed land areas of less than 10,000 square feet in size; however, provided that the board of supervisors may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply.

(11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.

(12) Emergency work to protect life, limb or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, the land area disturbed shall be shaped and stabilized in accordance with the requirement of the plan approving authority.

The administrator shall be responsible for determining whether or not a particular activity falls within one of the exemptions listed above.

(Ord. of 11-26-1997, § 6)

Sec. 26-36. - Erosion and sediment control plan.

(a) An approved erosion and sediment control plan is required under this article, for any land disturbing activity other than that specified within Sec. 26-35. The plan shall detail those methods and techniques to be utilized in the control of erosion and sedimentation; and as a minimum requirement, the plan shall follow the minimum standards established by state erosion and sediment control regulations and presented in chapter 8 of the Virginia Orange County Erosion and Sediment Control Handbook, as defined in Sec. 26-33 current edition, as amended by the Virginia Soil and Water Conservation Board. This handbook is adopted by reference as a part of this article as if fully set forth in this section; and the requirements of the handbook are included in toto as the Orange County Erosion and Sediment Control Handbook. Approved standards and specifications for control techniques to be utilized in preparing the plan are set forth in chapter 3 of the handbook.

(b) Whenever a land disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission, approval and compliance with the required erosion and sediment control plan shall be the responsibility of the owner of the land. County officers, departments and agencies authorized under any other laws to issue building or other permits for activities which involve any land-disturbing activity shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and a copy of the permit issued pursuant to Sec. 26-40.

(Ord. of 11-26-1997, § 7)

Sec. 26-37. - Plan submission.

(a) Four copies of the a proposed erosion and sediment control plan as required by this article shall be submitted to the administrator, along with (i) the required application fee(s) and application form(s). and (ii) a written certification by the person responsible for carrying out the plan that he will properly perform the conservation measures included in the plan and will conform to the provisions of state law and of this article. ~~who~~ The administrator shall transmit two copies of the plan to the certified plan reviewer reviewing authority within seven calendar days of receipt.

(b) ~~Where land disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan may, at the option of the applicant, be submitted to the board for review and approval rather than to each jurisdiction. The certified plan reviewer shall be required to return his findings and comments to the administrator, in sufficient time to allow the administrator to meet the response time required by Sec. 26-39~~

(c) ~~Where the land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan, as executed by the administrator. Upon request of the certified plan reviewer or the administrator, an applicant shall provide such additional information as may be necessary to determine whether a proposed plan meets the requirements of the Board's regulations and of this article.~~

(d) An erosion and sediment control plan shall be filed required for a development and the buildings constructed within the development, regardless of the phasing of construction.

(e) If individual lots or sections in a residential development are being developed by different property owners, all land disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an agreement in lieu of a plan signed by the property owner and submitted for approval under this article.

(f) Land disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the state law and this article if the total land disturbing activity in the development is equal to or greater than 10,000 square feet. Whenever land disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the administrator may either consider the off-site activity as being part of the proposed land disturbing activity or, if the off-site activity is already covered by an approved erosion and sediment control plan, require the applicant to provide proof of the approval and to certify that the plan will be implemented in accordance with the requirements of state law Code of Virginia, title 10.1, chapter 5, article 4 and this article.

(g) At the time of plan submission, an applicant may request a variance modification of applicable requirements to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for the requested requesting variances modifications in writing. Specific variances modifications which are allowed approved by the administrator shall be documented in the approved plan.

(Ord. of 11-26-1997, § 8)

Sec. 26-38. - Certification; bonding of performance.

(a) ~~Prior to issuance of any permit under this article, the permit issuing authority shall require an applicant to submit All control measures required by the provisions of this article shall be undertaken at the expense of the owner or his agent; and pending such actual provision, the owner or his agent shall execute and file with the administrator, prior to issuance of the land disturbing permit, a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or other such legal arrangement acceptable to the board of supervisors, to ensure that measures could be taken at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may~~

be required of him by the approved plan as a result of his land disturbing activity. The in an amount of the bond or other security for performance shall be determined by the administrator, and shall not exceed the equal to the approximate total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the county, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed of providing erosion and sediment control improvements plus 25 percent of the estimated cost of the conservation action. surety for administrative costs and inflation; to ensure that measures could be taken by the board of supervisors at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by the approved plan as a result of his land disturbing activity. If the board of supervisors administrator takes such conservation action upon such failure by the permittee of the applicant to do so, it the administrator may collect from the permittee applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

(b) Within 60 days of the achievement of adequate stabilization of the land disturbing activity in any project or section thereof, the cash bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant owner or his agent or terminated based upon the percentage of stabilization accomplished in the project or section. The administrator shall determine whether there has been adequate stabilization, and the applicable percentage of stabilization, based on an inspection and verification that All refunds of surety are subject to a final inspection ensuring that recommendations on the plan requirements have been satisfied and permanent vegetation has been established. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform, mature enough to survive, and will inhibit erosion. Surety refund may be partial if the administrator or his designee deems the plan has not been 100 percent adhered to after 60 days from stated completion.

(c) Prior to engaging in the land disturbing activities shown on an approved plan, the person responsible for carrying out the plan shall obtain the permit required by Sec. 26-40 and shall notify the administrator, in writing, of the name of the responsible land disturber for such activities. Failure to designate a responsible land disturber prior to engaging in land disturbing activities shall constitute grounds for the administrator to revoke an approved plan, and the person responsible for carrying out the plan shall be subject to the penalties provided in this article. The administrator may waive the certificate of competence requirement for an agreement in lieu of a plan. The land disturbing permit shall be kept at the site of the authorize land disturbing activity at all times during which such activity is being performed.

(Ord. of 11-26-1997, § 9)

Sec. 26-39. - Approval.

(a) The administrator shall promptly review plans submitted under this article. If the administrator determines that a plan meets the requirements of the Board's regulations and this article, and if the person responsible for carrying out the plan has certified that he will properly perform the conservation measures included in the plan and will conform to the provisions of the Board's regulations and this article, then the administrator shall grant approval, in the form of a written permit, within 45 days of receipt of the plan. Any erosion and sediment control plan submitted under the provisions of this article shall be acted on within 45 days from receipt by either approving or disapproving in writing and giving specific reasons for disapproval. If no formal action has been taken by the plan approving authority within 45 days after receipt of plan, the plan shall be deemed approved, and the applicant authorized to proceed with the proposed activity. Written notice of approval or disapproval of the plan shall be communicated to the applicant within 45 days. No plan shall be approved without written permission for authorized persons to enter the construction site for inspection purposes, or without certification from the person responsible for carrying out the plan that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. Further, the

approval of a plan shall be conditioned upon compliance with the bonding requirements set forth within Sec. 26-38.

When a proposed plan is determined by the administrator to be inadequate, written notice of disapproval, stating the specific reasons for disapproval, shall be communicated to the applicant within 45 days of receipt of the plan. The notice shall specify the modifications, terms and conditions that will permit approval of the plan. If no action is taken by the administrator within the time specified in this paragraph, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(b) Should a land disturbing activity not begin during the 180-day period following plan approval or cease for more than 180 days, the administrator may evaluate the existing approved erosion and sediment control plan to determine whether the plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. If the administrator finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the resumption of land disturbing activity.

(c) The administrator shall report to the Department of Conservation and Recreation, in a method and on a time schedule established by the Department, a listing of each land disturbing activity in the locality for which a plan has been approved under this article.

(Ord. of 11-26-1997, § 10)

Sec. 26-40. - Issuance of land disturbing permit.

Following approval of an issuance of a land disturbing permit is conditioned on an approved erosion and sediment control plan, and receipt of the bond or other security required by section 26-38, and upon the request of the applicant, the permit issuing authority shall issue a permit for the land disturbing activities that are the subject of the approved plan. which shall be presented at the time of application for such a permit and in addition, the requirement of section 26-38 concerning a performance bond, cash escrow, letter of credit, any combination, or such other legal arrangement as is acceptable under the provisions of section 26-38 and to the fees levied for land disturbing activities. A land disturbing permit fee as determined by the board of supervisors shall be paid at the time of filing erosion and sediment control plans. Each permit authorizing any land disturbing activity shall be conditioned upon the agreement of the person carrying out the plan (i) to allow for periodic inspections of the land disturbing activity, and (ii) to provide a responsible land disturber on site during all land disturbing activity. The permit issuing authority may require, as a condition of permit issuance, that the person responsible for carrying out the plan must provide monitoring, and must make reports thereof to the administrator, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment.

(Ord. of 11-26-1997, § 11)

Sec. 26-41. - Inspection and enforcement.

(a) *Inspections.* The plan approving authority administrator shall provide for periodic inspections of any the land disturbing activity for which a permit has been issued or a complaint has been filed (in the event of a non-permitted activity). The owner, permittee, or person responsible for carrying out the plan shall be given notice of inspection. These inspections shall be conducted by a certified inspector within the Orange County Planning and Zoning Department or building department and shall occur in accordance with the county's alternative inspection program as approved by the Virginia Department of Conservation and Recreation Board.

(b) *Notice to comply.* Responsibility for inspections, administration and enforcement of this article shall rest with the administrator;. The administrator who shall develop application forms and materials, and written procedural guidelines to be used followed in the inspections, administration

and enforcement of this article. ~~All~~, such forms, materials and guidelines ~~to~~ shall be maintained on file in the office of the administrator. If the administrator determines that there is a failure to comply with the an approved plan, or a condition of a permit, a notice ~~to comply~~ shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan or permit and shall specify the time within which such measures shall be completed. Upon a failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and ~~upon conviction~~ shall be subject to the penalties provided by section 26-44.

(c) *Stop work order.*

(1) Upon receipt of a sworn complaint ~~from the administrator of alleging~~ a violation of this section or of Code of Virginia, § 10.1-563 or Code of Virginia, § 10.1-564, the County administrator or his designee, or the Board may shall, in conjunction with or subsequent to a notice to comply as specified in subsection (b) of this section, issue an order requiring that all or part of the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken; or, if land disturbing activities have commenced without an approved plan, as provided in section 26-36 and Code of Virginia, § 10.1-563, requiring that all of the land disturbing activities be stopped until an approved plan or any required permits are obtained.

(2) ~~For claims of exemption, the administrator shall determine the validity of a claim of exempt status by a property owner who disturbs 10,000 square feet or more. As soon as a nonexempt status is determined, the requirements of state law shall be immediately enforced.~~

(3) ~~Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply. Otherwise, such a stop work order may be issued only after the alleged violator has failed to comply with a notice to comply.~~

(3)(4) The stop work order shall be served in the same manner as a notice to comply and shall remain in effect for seven days from the date of service pending application by the administrator or alleged violator for appropriate relief to the county circuit court. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the stop work order, the County administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county. Upon completion and approval of corrective action, or upon obtaining an approved plan or any required permits, the order shall be immediately lifted.

(4)(5) The owner may appeal the issuance of a stop work order to the county circuit court. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

(5) Any person violating or failing, neglecting or refusing to obey a stop work order issued pursuant to this section may be compelled in a proceeding instituted in the circuit court to obey the same and to comply therewith by injunction, mandamus or other appropriate remedy. Nothing in this section shall prevent the County from taking any other action specified in Virginia Code §10.1-569.

(Ord. of 11-26-1997, § 12; Ord. of 9-12-06)

Sec. 26-42. - Amendments to plan.

An approved erosion and sediment control plan may be amended by the ~~plan-approving authority~~ administrator if on-site inspection indicates that the approved control measures are not effective in controlling erosion and sedimentation or because of changed circumstances the approved plan cannot be carried out; provided such amendments are agreed to by persons responsible for carrying out the plan. During construction, the person responsible for implementing the approved plan may request a variance in writing from the administrator. ~~The administrator shall consult with the plan-approving authority before written amendments to the plan are approved.~~

(Ord. of 11-26-1997, § 13)

Sec. 26-43. - Administrative appeal; judicial review.

(a) Final decisions of the administrator ~~or permit issuing authority~~ under this article shall be subject to review by the board of supervisors or its designated representative, provided an appeal is filed within 30 days from the date of any written decision by the administrator or the ~~plan-approving permit issuing authority~~. The final decision of the board of supervisors or its designated representative shall be set forth in writing, and a copy of such decision shall be mailed to the person engaging in, or proposing to engage in land disturbing activity.

(b) Final decisions of the board of supervisors or its representative under this article shall be subject to review by the ~~county~~ circuit court, provided an appeal is filed within 30 days from the date of the final written decision.

(Ord. of 11-26-1997, § 14)

Sec. 26-44. - Penalties, injunctions, and other legal actions.

(a) ~~Any person who violates any provision of violation~~ of this article shall be deemed guilty of a class 1 misdemeanor.

(b) ~~The appropriate permit issuing authority, the program authority, the board~~ Board, or the owner of property which has sustained damage or is in imminent danger of being damaged may apply to the county's circuit court to enjoin a violation or a threatened violation of this article without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated this article, and the County administrator, that a violation of this article has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated this article nor the county has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(c) In addition to any criminal ~~or civil~~ penalties provided under this article, any person who violates any provision of this article may be liable to the ~~program authority~~ county, or the board, as appropriate, in a civil action for damages.

(d) Any person who violates any regulation or order of the ~~board~~ Board, or any provision of the ~~Board's program, any provision of this article or any condition of a permit issued under this article, any provision of its program, or any provision of this article~~ shall, upon a finding of a violation by an appropriate the County's general district court, such person shall be assessed a civil penalty in accordance with the schedule as set forth ~~herein~~ within subsection (e), below. The administrator or a certified inspector for the county may issue a summons for collection of the civil penalty, and the action may be prosecuted by the county. An admission or finding of liability shall not be a criminal conviction for any purpose. Any civil penalty assessed by the court shall be paid into the county treasury, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury. Any civil penalty obtained pursuant to this section shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation

as a misdemeanor under subsection (a).

(e) Upon conviction of a violation pursuant to paragraph (d), above, the The civil penalty for any one violation shall be \$100.00, except that the civil penalty for commencement of land disturbing activities without an approved plan as provided in the Virginia Erosion and Sediment Control Law, Code of Virginia, § 10.1-563, shall be \$1,000.00. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000.00 except that a series of violations arising from the commencement of land disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00.

(f) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or, refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. A civil action for such violation or failure may be brought by the county in the appropriate court. Any civil penalty assessed by a court shall be paid into the treasury of the county, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(g) With the consent of any person who has violated or failed, neglected or refused to obey any provision of this article, or any condition of a permit, regulation or order of the program administrator, or any condition of a permit or any provision of this chapter, the program administrator or permit issuing authority may provide, in an order issued by him against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (f) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsections (e) or (f) of this section.

(h) Upon request of the program administrator or the permit issuing authority, the county attorney or the commonwealth's attorney shall take appropriate legal action to enforce the provisions of this chapter.

(i) In addition to any other remedies provided for in this section, the program administrator may utilize a permittee's erosion bond to arrange for installation or maintenance of erosion controls (including stormwater management facilities) when the permittee fails to do so after reasonable notice from the program administrator.

(Ord. of 11-26-1997, § 15; Ord. of 10-10-06(2))

Sec. 26-45. - Liability.

(a) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met; and the complaining party must show negligence in order to recover any damages.

(b) The owner of the land is responsible for the successful completion of the plan.

(Ord. of 11-26-1997, § 16)

Sec. 26-46. - Fee schedule.

The fees schedule for erosion and sediment control permits adopted by the board of supervisors for applications, approvals, permits and inspections required by this article shall be kept on file, available for public inspection, in the county offices of the administrator and the permit issuing authority.

(Ord. of 11-26-1997, § 19)

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mrs. Abbs moved to re-appoint Olin Herndon and Anne Sommerville, as the At-Large Representatives to the Litter Control Committee, for a two year term beginning on June 1, 2012, with said terms expiring May 31, 2014.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: DISCUSSION ITEMS

RE: ADDITIONAL ORANGE COUNTY WELCOME SIGNS

As requested by Supervisor Frame, Joe Rodish, Procurement Technician, provided the Board with a memorandum regarding the Request for Quote(s) of seven (7) additional entrance signs for the County, as well as annual maintenance costs of each sign. Mr. Rodish noted that three (3) quotes were received and the apparent low bidder was Performance Signs based out of Ruckersville, Virginia with a cost of \$2,924 per sign. He further noted that the new sign cost would be an increase in price from what the County received five (5) years ago.

Julie Jordan, County Administrator, provided information regarding the Transportation Enhancement Program, which uses federal funds to aid in enhancement activities relating to surface transportation. Ms. Jordan stated that staff is working to gather additional information relating to the program and will provide the Board with information as it becomes available.

Discussion ensued regarding whether the new signs will be identical to the existing signs, the Transportation Enhancement Program, and the proposed locations of the signs.

By consensus, the Board directed staff to delay installation of additional Orange County welcome signs and apply for the next round of Transportation Enhancement grant funding, offered by the Virginia Department of Transportation (VDOT). The Board also requested staff to research proposed locations of the additional signage and to identify VDOT right-of-way availability.

RE: INFORMATION ITEMS

The Board received the following correspondence for its information:

- Treasurer's Report
- CSA Monthly report for February

RE: COMMITTEE REPORTS

There were no committee reports.

RE: CALENDAR

The Board received copies of its calendar for the months of March, April, and May, 2012.

RE: SCHEDULE PUBLIC HEARING FOR VILLAGE MOTORSPORTS REZONING 11-04 AND PROFFER MODIFICATION 11-04-APRIL 24, 2012 AT 7:30 P.M.

Mr. Frame moved, seconded by Mrs. Abbs and carried, to authorize staff to advertise and schedule a public hearing, to receive comments on a Rezoning Application and Proffer Modification for Village Motorsports for Tuesday, April 24, 2012, at 7:30 p.m.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: SCHEDULE PUBLIC HEARING FOR SIX YEAR PLAN-MAY 8, 2012 AT 7:30 P.M.

Mr. Frame moved, seconded by Mrs. Abbs and carried, to authorize staff to advertise and schedule a public hearing, to receive comments on the Virginia Department of Transportation's, Six Year Plan, for Tuesday, May 8, 2012, at 7:30 p.m.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: RESCHEDULE THURSDAY, APRIL 5, 2012 BUDGET WORKSESSION FOR WEDNESDAY, APRIL 4, 2012 AT 5:00 P.M.

Mr. Frame moved, seconded by Mrs. Abbs and carried, to authorize staff to re-schedule the Thursday, April 5, 2012, Budget Worksession, to Wednesday, April 4, 2012, at 5:00 p.m.

Ayes: Abbs, White, Goodwin, Wilson, Frame. Nays: None.

RE: RECESS

The Board took a brief recess at 8:18 p.m.

RE: RECONVENE

The Board reconvened for its Budget Worksession at 8:29 p.m.

RE: BUDGET WORKSESSION

Glenda Bradley, Finance Director, began the Budget Worksession by providing follow-up information from the previous budget worksession. She stated that the Commissioner of Revenue confirmed that all vehicles are classified under Personal Property-Regular and are assigned a "personal" or "business" designation for Personal Property Tax Relief purposes. She also provided information as prepared by Gregg Zody, Planning Director, regarding proposed Planning and Zoning Fee Schedule changes, which have been suggested to cover actual costs and to more closely reflect fees of neighboring Counties. The Board requested to postpone conversation regarding the Planning and Zoning Fees to May 2012, in an effort to discuss them after the FY13 Budget is approved but in enough time to adopt them to be effective on July 1, 2012. Ms. Bradley also provided follow-up information regarding the Computer Replacement Schedule as provided by Larry Clement, Information Technology Manager. Discussion ensued regarding VCIN Terminals for the Sheriff's Office and the stand-alone nature of the system.

Ms. Bradley discussed Virginia Retirement System (VRS) mandate expenses as outlined in Senate Bill 497, and stated that Budget Option Five (5), to be presented later tonight, included the additional compensation required to meet the demands of Senate Bill 497. Ms. Bradley stated the legislation requires local government employees who are currently members under Plan One (1) for the Virginia Retirement System (VRS) to begin paying the 5% member contribution through payroll deduction beginning July 1, 2012; she stated that it also requires the locality to increase the affected employees' compensation by 5% to offset the deduction. Ms. Bradley noted that the County employee payroll must address the VRS mandated costs in FY13, while the School System has been given five years to phase in the cost of the mandate. Discussion ensued regarding the sample charts which illustrate the impact on pay for employees as proposed with the recent VRS mandate and additional costs for both the employer and the employees, which are unfunded mandates from the Commonwealth.

Supervisor Abbs discussed her suggestion to have the employees absorb the cost of the Health Insurance increases, and stated that over the past several years; the County has essentially given raises when it continued to absorb the Health Insurance cost increases.

Discussion ensued regarding the Davenport Analysis presented by Ted Cole, earlier in the evening, including the payoff rates for the proposed short term debt. Discussion continued regarding Mr. Cole's suggestions for funding specific big ticket Capital Improvement Projects.

Glenda Bradley, Finance Director, explained the assumptions as provided by Supervisor Abbs, for Option Four (4) for revisions to the County Administrator's proposed budget for consideration by the Board. Discussion ensued.

The Board viewed various scenarios of proposed cost of living increase percentages, proposed employee absorption of the Health Insurance increases, and various levels of salary amounts and its effects on the aforementioned scenarios. Julie Jordan, County Administrator, explained the current Health Insurance program and its various levels of coverage.

Ms. Jordan also explained Option Five (5) and the assumptions proposed in this FY13 Budget option.

Discussion ensued regarding the Board's considerations for its final version of the FY13 Proposed Budget.

RE: ADJOURNMENT

There being no further business to discuss, Mrs. Abbs moved, seconded by Mr. Frame and carried, to adjourn the meeting at 10:00 p.m. Ayes: Abbs, Goodwin, Wilson, Frame, White. Nays: None.

S. Teel Goodwin, Chairman

Julie G. Jordan, County Administrator