BOARD OF SUPERVISORS MINUTES

At a regular meeting of the Orange County Board of Supervisors held on Tuesday, July 12, 2011 beginning at 4:00 p.m., in the Meeting Room of the Gordon Building, 112 West Main Street, Orange, Virginia. Present: Lee H. Frame, Jr., Chairman; Shannon Abbs, Vice-Chairman; S. Teel Goodwin; Grover Wilson; and Zack Burkett. Absent: None. Also present: Julie G. Jordan, County Administrator; Sharon Pandak, County Attorney; and Ashley Jacobs, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

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

RE: CONSENT AGENDA

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

RE: SUPPLEMENTAL APPROPRIATIONS

The Board approved the following Supplemental Appropriations:

FY 2011 DEPT	ACCOUNT DESCRIPTION	ΑN	IOUNT	FUNDING SOURCE
Animal Shelter	Emergency Vet	\$	1,364.00	Donations
Subtotal Animal Shelter				
Donations		\$	1,364.00	
	Total this request	\$	1,364.00	
	Total Year to			
	Date	\$	292,884.99	

FY 2012	ACCOUNT	•		
DEPT	DESCRIPTION	AMOUNT		FUNDING SOURCE
School Cafeteria Fund Subtotal School Operating Fund	Food Products	\$ \$	17,799.00 17,799.00	Cafeteria Receipts
	Total this request Total Year to Date	\$ \$	17,799.00 17,799.00	

RE: BUDGET TRANSFERS

Transfer from Transfer from department line item		Transfer to department	Transfer to line item	Amount
Sheriff	Salaries-Regular	Court Security	Salaries & Benefits	5,049.21

Transfer to cover increased cost in Court Security overtime salaries and associated benefits

RE: MINUTES

The Board approved the following minutes:

June 28, 2011 Regular Meeting

RE: CONTRACT MODIFICATION WITH R.M. SODERQUIST

Mrs. Abbs moved, seconded by Mr. Burkett and carried, to authorize the County Administrator to extend the current agreement with R.M. Soderquist through June 30, 2012. The Contract amount shall be \$812,800 and Line 513-042400-3106 of the County's FY2012 Budget will be adjusted to reflect this amount. Closure activities shall be performed using unit prices from the original agreement, and negotiations during this term extension may occur as alternate closure methods are explored.

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

RE: PUBLIC APPEARANCES

RE: EMPLOYEE OF THE MONTH

Jamie Clark, Director of Fire and EMS, was recognized as the Employee of the Month for July, 2011.

RE: PRESENTATION OF SERVICE AWARDS

Hoover Dickson, Deputy for the Sheriff's Office, was recognized for five years of service to the County.

RE: APPRECIATION OF OFFICE ASSISTANT/RECEPTIONIST

Chairman Frame, on behalf of the Board, thanked Michelle Ratcliff, Office Assistant/Receptionist, for her service and assistance to the County and presented her with a bouquet of flowers.

RE: INTRODUCTION OF LARRY CLEMENT, INFORMATION TECHNOLOGY MANAGER

Julie Jordan, County Administrator, introduced Larry Clement as Orange County's new Information Technology Manager. Ms. Jordan stated that Mr. Clement has been with the County since January, 2010, and first came to the County with over five years of Information Technology experience, a Bachelor of Science Degree in Information Management Systems from West Virginia University Institute of Technology, and was recently recognized as the March, 2011, Employee of the Month.

RE: ECONOMIC DEVELOPMENT QUARTERLY REPORT

Ms. Karen Epps, Director of Economic Development, presented the second quarter Economic Development Report for 2011. Ms. Epps updated the Board on the following topics:

- Orange Workforce Center Ribbon Cutting Ceremony on June 14, 2011
- Development of the Economic Development website
- Upcoming Closure of American Press on August 31, 2011
- Business Advocacy Program
- Business Pulse Database recently populated with existing business information
- Route 20 Residential Sewer and Orange County Gas Availability Project
- OCHS Career Day Fair
- Airport Terminal Ribbon Cutting Ceremony Saturday, May 14, 2011

- Agritourism Seminar
- Various Other Activities

Discussion ensued regarding placements resulting from use of the Orange Workforce Center. Chairman Frame stated that feedback about job placements would be encouraging to those individuals using the center and looking for new positions. Ms. Epps also stated that additional staff members and additional hours of operation were proposed to be added to the Orange Workforce Center, to support those impacted by American Press.

RE: VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) UPDATE

Marshall Barron, Transportation and Land Use Director, and David Cubbage, Residency Administrator, updated the Board on the status of road projects in Orange County.

Discussion ensued about minimum standards for "center-lining" a paved roadway and concerns of individual Supervisors about roads within their respective districts.

RE: <u>ACTION ITEMS</u>

RE: EMERGENCY OPERATIONS PLAN UPDATE

Jamie Clark, Fire & EMS Director, presented to the Board the Emergency Operations Plan update, which was written as an all-hazards plan with the intention of covering various natural and man-made disasters that are specific to Orange County.

Mrs. Abbs stated that she found two typographical errors on page two of the Emergency Operations Plan, but otherwise approved of the plan.

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to approve the following resolution:

Approve the Emergency Operations Plan as Amended

WHEREAS the Board of Supervisors of Orange County, Virginia recognizes the need to prepare for, respond to, and recover from natural and man-made disasters; and

WHEREAS the County of Orange has a responsibility to provide for the safety and well being of its citizens and visitors; and

WHEREAS the County of Orange has established and appointed a Director and Coordinator of Emergency Services;

NOW, THEREFORE, BE IT HEREBY PROCLAIMED by the Board of Supervisors of the County of Orange, Virginia that this Emergency Operations Plan as revised July, 2011 is officially adopted; and

IT IS FURTHER PROCLAIMED AND ORDERED that the Coordinator of Emergency Services, or his designees, are tasked and authorized to maintain and revise as necessary this document over the next four year period or until such time it be ordered to come before this Board.

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

RE: HEALTH/DENTAL/VISION INSURANCE RENEWAL

Glenda Bradley, Finance Director, explained to the Board that Orange County, Orange County Public Schools and the Department of Social Services, have received revised renewal

proposals for employee health, dental and vision plans for FY 2012 through a competitive bidding process conducted by Dominion Benefits. Ms. Bradley stated that the County was able to procure a rate increase for renewal with Anthem at a rate of 10.3% for all existing health plans. She further stated that a rate increase for Delta Dental was procured at 3.75% and the EyeMed Vision Insurance is set in a rate guarantee period but that the employee deduction rate would be adjusted downward because of the elimination of the commission structure that the County previously had with Dominion Benefits.

Chairman Frame asked why the rate was estimated at a 25% increase but was settled at a 10.3% increase. Mr. David Blanchard with Dominion Benefits commented that the rate is estimated based on the previous twelve months of claims experience, and that the competitive bid process helped lower the rate. He further stated that closer to renewal, with more actual experience, a new estimate is developed.

Mr. Goodwin moved, seconded by Mr. Burkett and carried, to authorize the County Administrator to extend the Anthem, Health, Delta Dental and EyeMed Vision Insurance contracts for one (1) year, ending September 30, 2012.

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

RE: RURITAN BUILDING LEASE (TAX PARCEL 33-56)

Julie Jordan, County Administrator, presented to the Board a copy of the East Orange Ruritan Lease in a revised format from the previous lease. Ms. Jordan stated she had been asked what the County provides for the East Orange Ruritans in comparison to other organizations housed in County owned buildings. Ms. Jordan provided the Board with charts to illustrate these comparisons. Ms. Jordan further stated that the chart provided for the old Airport Terminal Hanger could be disregarded due to additional information needed to complete the charge accurately.

Discussion ensued about utility costs provided by the County and about the possibility of removing these costs from the lease and granting these costs as a donation to the East Orange Ruritan Club.

Mr. Perry Marshman, Past President of the East Orange Ruritan Club, spoke on behalf of the Club, regarding the Club's generous contributions to the County as a whole, and reiterated the fact that the Club allows the building to serve various groups.

Mr. Frame moved, seconded by Mr. Burkett, to approve the East Orange Ruritan Lease Agreement as amended, excluding the provision which stipulates that the electric and heating costs will be provided by the County.

Ayes: Burkett, Frame. Nays: Abbs, Goodwin, Wilson.

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to approve the East Orange Ruritan Lease as presented.

Ayes: Abbs, Burkett, Goodwin, Wilson. Nays: Frame.

RE: PLACEMENT OF DONATION BOX ON TAX BILLS

Julie Jordan, County Administrator, explained that County Staff and the County Treasurer have researched the potential of including a donation solicitation request for non-profit agencies with County tax bills when they are mailed. Ms. Jordan stated doing so would give the non-profits access to an extensive audience of possible donors, but would require several measures of prequalification. Ms. Jordan further stated that there are several points of discussion and questions

that would need to be addressed before the solicitation requests could be included in the tax bill mailing.

Phyllis Yancey, Treasurer, stated that she felt that the process would be very costly and time consuming, and not efficient for her staff. Ms. Yancey recommended not doing the solicitation.

Discussion ensued about the potential of mailing out a flier to prompt people to donate directly to these non-profit entities or the potential of sending out a school mailing.

Janice Sidle, President of the Orange County Activities Association, addressed the Board and stated that a County-wide tax mailing would reach more people than a school mailing.

By consensus, the Board agreed to <u>not include</u> donation solicitation requests for non-profit agencies, in the mailing of the upcoming County tax bills.

RE: CONTRIBUTION TO ORANGE COUNTY FAIR FOR FEE DONATION

Julie Jordan, County Administrator, stated that the Orange County Fair is requesting a fee donation for landfill fees associated with the 2011 Orange County Fair to be held on July 21-24, 2011. Ms. Jordan also stated that approximately \$4,500.00 remained in the budget for fee donations such as this.

Discussion ensued about the potential costs for the landfill fees.

Mr. Burkett moved, seconded by Mr. Wilson, to table the request for a fee donation for landfill fees associated with the 2011 Orange County Fair, to be held on July 21-24, 2011, at Montpelier. The motion was withdrawn by Mr. Burkett and Mr. Wilson.

Mr. Burkett moved, seconded by Mr. Wilson and carried, to approve a fee donation not to exceed \$1,500.00, for landfill fees associated with the 2011 Orange County Fair, to be held on July 21-24, 2011, at the Fairgrounds of Montpelier.

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

RE: POTENTIAL DONATIONS FOR ANIMAL SHELTER PROJECTS

Julie Jordan, County Administrator, stated that the Animal Shelter has collected donations for three specific projects: a second animal livestock area, additional fire protection for the new addition in the animal shelter, and a faithful companion cottage meet and greet area.

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to authorize the County Administrator to approve installation of a second livestock area at the Animal Shelter and to accept the specified donations which entirely fund materials and labor.

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

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to authorize the County Administrator to enter into a contract with Richmond Alarm to install five additional smoke detectors, one pull box, and one strobe at the Animal Shelter the cost of which will be entirely covered by donations.

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

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to authorize the County Administrator to approve installation of a containment area, attached to the Faithful Companion Cottage at the Animal Shelter, the cost of which will be entirely covered by donations.

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

RE: CONDEMNATION OF PROPERTY (PORTION OF TAX PARCEL 45-4)

Sharon Pandak, County Attorney, requested a determination from the Board of Supervisors on whether they desire to condemn a parcel of land identified as tax map number 45-4 (1.364 acres) for purposes of the Orange County Airport operations when a bona fide offer had been made to the landowner, Helen Marie Taylor, and rejected.

Discussion ensued about the limitations to the property resulting from the easement.

Mr. Henry Howell, legal representative for Helen Marie Taylor, gave disagreeing arguments regarding the condemnation.

Discussion ensued regarding the subject property, notification of intent to condemn and notice of legal hearing regarding such condemnation.

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

APPROVE CONDEMNATION FOR AIRPORT OF PROPERTY OWNED BY HELEN MARIE TAYLOR, 1.364 ACRE PORTION OF TAX MAP 45-4

WHEREAS, the Board of Supervisors of Orange County has authorized acquisition of land and easements in order to meet State and Federal Aviation requirements for the Orange County Airport and to ensure proper operation of the Airport, and for which grant funding has been secured; and

WHEREAS, the County's consultant has advised that the County acquire in fee simple property located at the eastern corner of Rt.20 and Bloomsbury Road, which consists of 1.364 acres and is a portion of Tax Map parcel No. 45-4, and is owned by Helen Marie Taylor, and over which the County has an avigation easement; and

WHEREAS, the County has made an offer to Mrs. Taylor to purchase said property based on an independent appraisal which valued the property at \$110,000, and a review of said appraisal by a second appraisal firm, which offer has been rejected by Mrs. Taylor through her counsel; and

WHEREAS, the County needs to acquire said property for a public purpose, i.e. proper operation of the Orange County Airport as this land is within the Runway Protection Zone ("RPZ"), and the Federal Aviation Administration ("FAA") requires the Airport/County to have a controlling interest in such land, for the protection of personnel on the ground;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Orange County does hereby approve the initiation of condemnation proceedings in order to acquire the property located at the eastern corner of Rt.20 and Bloomsbury Road, consisting of 1.364 acres and which is a portion of Tax Map parcel No. 45-4, and is owned by Helen Marie Taylor.

Ayes: Abbs, Goodwin, Wilson, Frame. Nays: None. Abstain: Burkett.

RE: <u>DRAFT LETTER – POLICY OPTIONS FOR SECONDARY ROAD CONSTRUCTION</u> AND MANAGEMENT

Mr. Goodwin stated that he had received an email regarding an option that the State has examined to assign Counties the fiscal responsibility for all roads in each respective County and that VaCo has spoken out about this option. Mr. Goodwin stated that he felt that the State did an excellent job managing the roads and that this management role should be left as a State responsibility. He further commented that a letter should be sent to this effect.

Mr. Goodwin moved, seconded by Mr. Burkett and carried, to send the draft letter expressing the Boards concerns regarding the State commissioned study "The Policy Options for Secondary Road Construction and Management in the Commonwealth of Virginia" to Governor McDonnell as presented.

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

RE: APPOINTMENT OF ACTING ZONING ADMINISTRATOR

Julie Jordan, County Administrator, stated in the absence of the Zoning Administrator, Gregg Zody, appointment of an Acting Zoning Administrator would ensure that the public was not delayed in getting official records signed and processed.

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to approve the following resolution:

APPOINT ACTING ZONING ADMINISTRATOR

WHEREAS, pursuant to Sec. 70-36 of the Zoning Ordinance, the Board of Supervisors appoints the Zoning Administrator, and

WHEREAS, appointment of an Acting Zoning Administrator is necessary in the absence of the Zoning Administrator, Gregg Zody;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Orange County does hereby appoint County Administrator, Julie Jordan, as the Acting Zoning Administrator in the absence of the Zoning Administrator, Gregg Zody.

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

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

By consensus, the Board directed staff to look into the status of the Rappahannock Rapidan Disability Services Board and remove it from the appointments listing if it is deemed inactive.

RE: <u>DISCUSSION ITEMS</u>

RE: LINE OF DUTY ACT RESOLUTION

Glenda Bradley, Finance Director, stated that beginning with FY 2012 the State is requiring localities to absorb the cost of funding the Line of Duty Act which pays benefits to eligible hazardous duty professionals who are killed or permanently disabled in the line of duty. Ms. Bradley explained that all localities will automatically be enrolled in the Virginia Retirement System (VRS) administered plan (at a cost of approximately \$230.00 per eligible employee for FY 2012) unless the locality chooses to "opt out" by self-funding the mandated benefits.

By consensus, the Board agreed to delay their decision about opting out of the VRS administered plan for the Line of Duty Act, until the final deadline of July 1, 2012, to allow staff to

explore other options for plan administration.

RE: TOTAL MAXIMUM DAILY LOAD – WATERSHED IMPLEMENTATION PLAN

Mr. Goodwin reminded the Board that a plan of action needed to be put into effect by October, 2011 for the Watershed Implementation Plan.

By consensus, the Board directed staff to request a representative from the Virginia Department of Conservation and Recreation (DCR) to present to the Board about the upcoming October, 2011 deadline for Phase II of the Watershed Implementation Plan.

RE: INFORMATION ITEMS

The Board received the following correspondence for its information:

- Virginia Department of Transportation Monthly Report for July
- Listing of Unused County Property

RE: CALENDAR

The Board received copies of its calendar for the months of July, August and September 2011. The new middle school's Open House set for August 30, 2011 at 10:00 a.m. was brought to the Board's attention.

RE: RECESS FOR DINNER/TOUR OLD COURTHOUSE

The Board recessed the meeting at 5:38 p.m. to tour the old courthouse.

RE: RECONVENE

The Board reconvened in Open Meeting at 5:41 p.m. to authorize Closed Meeting following the tour of the old courthouse.

RE: CLOSED MEETING

At 5:42 p.m., Mrs. Pandak read the following motion authorizing Closed Meeting:

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

- One matter of discussion concerning a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating in the community, and legal advice related thereto (§2.2-3711.A.5 and 7 VA Code Ann.);
- One matter regarding consideration of prospective candidates for employment;
- One matter regarding assignment of specific public officers; and

WHEREAS, pursuant to §§2.2-3711.A. 1, 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 aforestated matter(s) in Closed Meeting.

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

Ayes: Abbs, Wilson, Frame. Nays: None. Absent: Burkett, Goodwin.

RE: CERITFICATION OF CLOSED MEETING

At 7:02 p.m., Mrs. 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.

Mr. Burkett moved, seconded by Mrs. Abbs and carried, to approve the resolution as presented. Ayes: Abbs, Burkett, Goodwin, Wilson, Frame. Nays: None.

RE: PUBLIC COMMENT

Chairman Frame opened the floor for public comment. There being none, public comment was closed.

RE: BOARD COMMENT

Chairman Frame stated that he arranged a public meeting with Walmart to update the residents of Lake of the Woods on the new site location. Mr. Frame apologized to the remaining Board members for not notifying them of a meeting of such significance and blindsiding them with the details. He further apologized to Mr. Wilson because the Walmart officials arranged to have a meeting with Mr. Wilson's constituents (which Mr. Frame was aware of) without notifying Mr. Wilson. Mr. Frame stated that although each individual Supervisor works on individual issues within the County, being responsible to the entire County is a duty of each Supervisor.

Mr. Goodwin thanked Mr. Frame for his apology.

RE: DISCUSSION

Prior to the three scheduled public hearings, discussion ensued regarding the Hopwood Special Use Permit, the proposed Temporary Agricultural Uses, and the proposed Noise Ordinance.

Supervisor Burkett raised the question about whether or not a special use permit would be necessary for previously approved farm markets, should the proposed Temporary Agricultural Uses be adopted. Supervisor Burkett requested staff look into the possibility of eradicating special use permits that already exist, should the permit be deemed not necessary as a result of newly adopted Zoning Ordinance Amendments that are less restrictive.

Supervisor Abbs stated that she had received concerns from the Farm Bureau regarding the Noise Ordinance and agricultural noises occurring during nighttime hours; she further stated that she had contacted the Sheriff's Office about common noise complaints. Discussion ensued about noise ordinance regulations in residentially zoned areas.

Supervisor Abbs went page by page through the proposed Temporary Agricultural Uses and suggested several changes to the recommended ordinance amendments proposed by the Planning Commission.

RE: PUBLIC HEARINGS

RE: PUBLIC HEARING #1: SUP 11-04-ERIC AND BRANDY HOPWOOD

Kevin McMahan, Planner, gave a staff report regarding the Special Use Permit request made by Eric and Brandy Hopwood, which was followed by a brief report from the applicants.

Discussion ensued about the hours of operation for the farm market.

At 7:44 p.m., Chairman Frame called the public hearing to order to receive comments on the following:

• SUP 11-04: Application of Eric and Brandy Hopwood for a Special Use Permit to operate a farm market (with a retail area of approximately 960 square feet), the site is zoned Agricultural (A) which, pursuant to Orange County Zoning Ordinance Sec. 70-303(15), requires a special use permit for a retail store of less than 4,000 square feet gross floor area, as well as to operate a choose-and-cut Christmas tree farm. The 149.48 acre property, identified on Orange County tax maps as parcel 57-10, is located at 13172 Honah Lee Farm Drive, northwest off James Madison Highway (Route 15), directly across Route 15 from Liberty Road (Route 718).

Chairman Frame opened the floor for public comment. There being no one wishing to speak, Chairman Frame closed the public hearing.

Discussion ensued about lighting for the parking lot.

Mr. Burkett moved, seconded by Mr. Goodwin and carried, to approve the following resolution as presented with modified conditions:

SPECIAL USE PERMIT 11-04 FOR OPERATION OF A RETAIL STORE OF LESS THAN 4,000 SQUARE FEET GROSS FLOOR AREA AND PROVIDE ASSOCIATED "AGRICULTURALLY BASED" ACTIVITIES ON PROPERTY KNOWN AS TAX MAP PARCEL 57-10

WHEREAS, Eric and Brandy Hopwood have applied for the approval of a special use permit (SUP) to operate a retail store of less than 4,000 square feet gross floor area and provide associated "Agriculturally-Based" activities on property known as tax parcel 57-10; and

WHEREAS, prior to the operation of a retail store of less than 4,000 square feet gross floor area and provide associated "Agriculturally-Based" activities an SUP must be obtained from the Board of Supervisors; and

WHEREAS, the Department of Planning and Zoning staff and the Planning Commission recommended approval of the SUP with conditions; and

WHEREAS, the Board of Supervisors advertised and held a public hearing on the proposed SUP; and

WHEREAS, the Board of Supervisors have reviewed the request for the SUP and have determined that it is consistent with the Comprehensive Plan future land use designation of the property as Agricultural Conservation; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice support approval of this SUP.

NOW, THEREFORE, BE IT ORDAINED, that the Orange County Board of Supervisors hereby approves SUP 11-04, to operate a retail store of less than 4,000 square feet gross floor area and provide associated "Agriculturally-Based" activities on the subject property identified as tax parcel 57-10 subject to the attached conditions.

CONDITIONS

SUP 11-04, Eric and Brandy Hopwood (BerryWood at Honah Lee Farm):
Operating a farm market and a choose-and-cut Christmas tree farm
Orange County T.M. # 57-10
Date: June 6, 2011

Amended by Planning Commission: <u>June 16, 2011</u> Amended by the Board of Supervisors: <u>July 12, 2011</u>

The conditions of this Special Use Permit shall apply to parcel Tax Map # 57-10 (the "Subject Property"), and compliance is the responsibility of the applicants, owners, and assigns ("Applicant"). If the conditions of this special use permit or the information on the SUP plans are in conflict with one another or with the Zoning Ordinance or approved conditions, the more restrictive provisions shall apply, unless specifically modified, waived or otherwise specified by these conditions. Violation of these conditions, in whole or in part, may be cause for revocation of the special use permit by the Board of Supervisors pursuant to §15.2-2309(7) of the VA Code Ann.

1. Controlling Documents:

Controlling documents shall be the conditions as set forth herein and materials submitted as part of the application for special use permit, including the general site plan submitted with the application.

Compliance:

Use and development of the Subject Property shall be in conformance with these conditions. The Zoning Administrator shall determine "conformance." The Applicant shall be responsible for obtaining all required site plan approvals, building permits, health permits, VDOT permits, and zoning permits.

Uses:

By-right uses shall not be denied by this special use permit, and may be exercised.

a. Farm market use within a structure less than 1,000 square feet for the sale of the following permitted items:

Permitted Sales:

- On-site grown flowers, fruits, herbs, vegetables, plants, produce, trees, and wreaths;
- Meat, dairy, or eggs from livestock or poultry raised on-site;
- Honey, jams, jellies, fruit butters, salsas, sauces, and syrups made from on-site grown fruits, herbs, and vegetables and other on-site raised or growth products;
- Food products made from on-site grown fruits, herbs, vegetables, and produce (i.e. bottled, canned, dried, frozen);
- Candy and baked goods (produced on-site) including: artisan chocolates and candies, breads, brownies, cakes, cookies, and pies;
- Crafts (hand-crafted on-site, including items such as gift baskets containing on-site raised, grown or produced products);

b. Choose-and-cut Christmas tree farm.

4. Performance Standards:

a. Hours of Operation:8:00 a.m. – 10:00 p.m. Daily

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

RE: <u>PUBLIC HEARING #2: PROPOSED AMENDMENTS TO COUNTY CODE CHAPTER 70,</u> ZONING ORDINANCE

Ms. Pandak gave a brief staff report about the proposed amendments. Discussion ensued about the proposed new definitions/amendments.

At 8:03 p.m., Chairman Frame called the public hearing to order to receive comments on the following:

 PROPOSED AMENDMENTS TO COUNTY CODE CHAPTER 70, ZONING ORDINANCE.

Chapter 70: Zoning Article I.

Section 70-1 Add Definitions.

-Farm

-Farm Enterprise

-Farm or Food Products

-Farmer's Market

-Farm Stand

-Wayside Stand

ZONING DISTRICTS

Division 2, Agricultural Zoning District (A)

Sec. 70-302 Amend Permitted Uses
Sec. 70-303 Amend Uses Permitted by Special Use Permit

Sec. 70-309 Temporary Uses (New Subsection)

In General

Chairman Frame opened the floor for public comment. The following individuals spoke:

- Mac MacEwan, 9125 Blue Haven Lane, Somerset, VA
- Bill Speiden, Somerset, VA
- Art Magner, 22161 Berry Run Road, Orange, VA

There being no one else wishing to speak, Chairman Frame closed the public hearing at 8:20 p.m.

The Board went page by through the Planning Commission recommended changes and Supervisor Abbs' recommended changes and discussed final revisions to the proposed ordinance amendments.

Mr. Goodwin moved, seconded by Mr. Burkett and carried, to approve the following Ordinance as presented:

ADOPT AMENDMENTS TO ZONING ORDINANCE CHAPTER 70

WHEREAS, the Board of Supervisors directed the Planning Commission to consider certain zoning ordinance amendments pertaining to Temporary Uses in the Agricultural (A) zoning district; and

WHEREAS, the Planning Commission advertised and held a public hearing on June 16, 2011 to receive public comment regarding such proposed amendments; and

WHEREAS, the Planning Commission discussed the proposed amendments at length, made modifications to reflect comments received during the public hearing, and recommended approval of the draft zoning ordinance amendments as modified; and

WHEREAS, the Board of Supervisors advertised and held a public hearing on the proposed amendments; and

WHEREAS, public necessity, convenience, general welfare, and good zoning practice support approval of the draft zoning ordinance amendments as modified;

NOW, THEREFORE, BE IT ORDAINED, that the Orange County Board of Supervisors hereby approves the proposed amendments to County Code Chapter 70, Zoning Ordinance as attached.

<u>ATTACHMENT - FINAL COPY</u>

Proposed Amendments to the Orange County Zoning Ordinance for Permitted and Temporary Agricultural Uses

Sec. 70-1. Definitions.

Farm: A parcel of land not less than five (5) acres which is actively used for the commercial, soil-dependent cultivation of agricultural crop production and/or for the raising of livestock and which generates at least \$1,000.00 per year in gross sales.

Farm Enterprise: An agricultural or silvicultural based process, activity or business use of a property that is subordinate to and conducted in conjunction with an ongoing bona fide agricultural, horticultural, aquacultural or silvicultural operation, pursuant to §3.2-300 VA Code Ann. Activities of a farm enterprise may include-the following uses: secondary processing and sale of agricultural, horticultural, aquacultural or silvicultural products grown or raised on-site. Other permitted uses include farm tours, petting, feeding and viewing of farm animals, hayrides, crop mazes, animal walks, horse and pony rides, and carriage rides.

Farm or Food Products: Any agricultural, horticultural, forest or other product of the soil or water, including fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey or similar items, nuts, maple and sorghum products, apple cider, fruit juice, wine, ornamental or vegetable plants, nursery products, livestock feed, or baked goods.

Farmer's Market: A space where locally grown produce and hand-crafted goods are sold by multiple vendors to the general public, not including wholesale or bulk sales to commercial enterprises.

Farm Stand: A permanent accessory structure with a maximum floor area of 1,000 square feet dedicated to that use. A Farm Stand may be contained within a larger accessory structure (e.g. Agricultural Building), but the Farm Stand must not exceed the 1,000 square feet gross floor area and shall be used solely for the purpose of sales of on-site farm or food products as defined, and which is clearly a secondary use of the premises and does not change the character thereof.

Wayside Stand: Any temporary or portable structure not exceeding 500 square feet used for the sale of, by the owner or his family or tenant, onsite farm or food products as defined herein, which is clearly a secondary use of the premises and does not change the character thereof.

Sec. 70-302. Permitted uses.

- (8) Farm Enterprise, Farm Stand, Wayside Stand.
- (9) Temporary Uses, with a zoning permit pursuant to Sections 70-309 and 70-122, limited to the following:
 - i. Temporary or seasonal sales.
 - ii. Special events.

Sec. 70-303. Uses permitted by special use permit.

- (15) Retail Store of less than 4,000 square feet gross floor area, including, farmer's market, farm stand greater than 1,000 square feet gross floor area, flea market, or retail nursery.
- (19) Bicycling, horseback riding, carriage rides, and other similar transient recreational uses which involve overnight night stays on private property.

Sec. 70-309. Temporary Uses.

In the agricultural district, temporary uses may be permitted upon the issuance of a temporary zoning permit granted by the Zoning Administrator.

- (a) Reserved.
- (b) Temporary or seasonal sales.
- (1) Temporary sales of produce not otherwise permitted by right, meals, Christmas trees, fireworks, and other seasonal goods, are permitted upon approval of a temporary zoning permit. Such permit may impose conditions necessary to alleviate any adverse impacts such as provisions for adequate traffic control, on-site parking, public safety, fire safety, hours of operation, provision for sewage disposal, and other health and safety concerns.
- (2) A temporary zoning permit for temporary sales of farm or food products shall be valid for a period not to exceed 90 days, and shall require that all structures and materials be removed within such time period.
- a. Structures for temporary sales shall meet the required setbacks set forth in Section 70-306 (Setbacks and yards).
- b. Entrances and exits must be clearly delineated and located to provide safe ingress and egress from roads.
- (3) Outdoor on-site farm or food products sales shall be allowed daily.
- (4) Flea markets shall be allowed one 3-three weekend event every 30 days. Permitted hours are from 7:00 a.m. 9:00 p.m.
- (c) Special events.
- (1) A temporary zoning permit shall be required for special events that are planned for or which reasonably may be expected to attract more than 100 persons a day. Examples of special events which require a temporary zoning permit are: carnival, circus, equipment show and display, festival, fair, fireworks show, tent event or similar meetings or events. Each subsequent event shall require a new permit.
- (2) Adequate provisions must be made for off-street parking, security, safe ingress and egress, refuse disposal, sanitary facilities as appropriate and approved by the zoning administrator.
- (3) Special events are permitted only between the hours of 7:00 a.m. 10:00 p.m., Sunday through Thursday; and 7:00 a.m. 12:00 a.m., Friday and Saturday. The zoning administrator may require that no activity, including set-up or knockdown of any such use, be permitted between 11:00 p.m. 7:00 a.m.
- (4) Night operations shall be permitted only if the zoning administrator determines that the proposed lighting protects the public safety and will not cause excessive glare into residential areas or onto public streets.
- (5) If a temporary use permit is obtained for an outside music/festival, an entertainment permit will not be required.
- (6) Prior to issuance of a zoning permit, fireworks shows must also obtain a fireworks display permit, which sets forth the days and hours of the show, from the county administrator's office.

- (7) The following special events are exempt from the requirements of this section and may occur without a temporary zoning permit. Exempt special events, however, shall remain subject to all other applicable provisions of this ordinance and the county laws and regulations, including obtaining any and all other permits necessary for said event.
- a. Special events planned or reasonably expected to attract less than 100 persons at any one time.
- b. Special events to include private parties and social events occurring within, or upon the grounds of, a private residence, where the property owner receives no compensation for hosting the event and guests/attendees are not charged an admission fee.
- c. Any event sponsored in whole or in part by the county or another political subdivision of the Commonwealth of Virginia.
- d. Any organized special events conducted at sites or facilities typically intended, used, and designed for such events. Examples of such exempt activities include: sporting events conducted on courses or fields, animal show events, equestrian events held at stables or riding facilities, events held on the property of historic home/site museums, wedding services, wine tasting and wine tasting dinners at wineries whose facilities are designed for such events, and conferences and similar events in facilities designed and which have a zoning permit for such use.
- e. Any established event/festival that has been in existence five (5) or more years prior to the passing of this ordinance amendment will not be required to obtain a temporary use permit, provided that the use does not change.
- f. Yard sale events at a private residence or community yard sale, held by the occupant of the residence, that do not last more than three (3) days at any given time.

Aves: Abbs, Burkett, Goodwin, Wilson, Frame. Navs: None.

RE: PUBLIC HEARING #3: PROPOSED AMENDMENTS TO COUNTY CODE CHAPTER, 42 OFFENSES

Ms. Pandak gave a brief staff report about the proposed amendments and confirmed the legality of the Board's previous discussion of the possibility of limiting the applicability of the ordinance to residentially zoned areas only.

At 9:21 p.m., Chairman Frame called the public hearing to order to receive comments on the following:

- PROPOSED AMENDMENTS TO COUNTY CODE CHAPTER, 42 OFFENSES.
 - o Repeal of County Code Sec. 42-1 Unlawful noise
 - o Addition of New County Code Sections in Chapter 42, Offenses.
 - o Sec. 42-1, Policy
 - o Sec. 42-2, Definitions
 - o Sec. 42-3, Use of sound level meters
 - o Sec. 42-4. Violations
 - o Sec. 42-5, Excessive noise prohibited
 - o Sec. 42-6, Specific prohibitions

Chairman Frame opened the floor for public comment. The following individuals spoke:

- George Johnson, 32969 Indiantown Road, Locust Grove, VA
- Bill Speiden, Somerset, VA
- Art Magner, 22161 Berry Run Road, Orange, VA
- S.P. Higginbotham, Orange, VA
- Terry Lohr, 24073 Monrovia Road, Orange, VA

There being no one else wishing to speak, Chairman Frame closed the public hearing at 9:42 p.m.

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

REPEAL CURRENT SECTION 42-1, UNLAWFUL NOISE

WHEREAS, the Board of Supervisors desires to make changes to Chapter 42 of the County Code, Offenses, in order to update the ordinance consistent with the ruling of the Virginia Supreme Court in *Tanner v. City of Virginia Beach*; and

WHEREAS, the Board desires to repeal current Sec. 42-1, unlawful noise; and

WHEREAS, the Board finds it in the interest of the County and its citizens to repeal this ordinance; and

WHEREAS, a public hearing has been duly advertised and held by the Board;

NOW, THEREFORE, BE IT ORDAINED that the Board of Supervisors does hereby, effective immediately, repeal Current Sec. 42-1.

Ayes: Abbs, Burkett, Goodwin, Frame. Nays: Wilson.

Mrs. Abbs moved, seconded by Mr. Goodwin and carried, to deny approval of the noise ordinance as presented.

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

Mr. Frame moved to approve the proposed noise ordinance as modified, limiting the applicability of the provisions in Section 42-5 (a) and (b) to residential districts only. The motion died for lack of a second.

RE: <u>ADJOURNMENT</u>

There being no further business to discuss, Mr. Burkett moved, seconded by Mrs. Abbs and carried, to adjourn the meeting at 9:44 p.m. Ayes: Abbs, Goodwin, Wilson, Frame, Burkett. Nays: None.