

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

MINUTES
Regular Meeting
October 20, 2009

Call to Order. A regular meeting of the Stafford County Board of Supervisors was called to order by George H. Schwartz, Chairman, at 1:03 P. M., Tuesday, October 20, 2009, in the Board Chambers, Stafford County Administration Center.

Roll Call. The following members were present: George H. Schwartz, Chairman; Harry E. Crisp II, Vice Chairman; M. S. "Joe" Brito; Mark Dudenhefer; Cord A. Sterling; and Robert "Bob" Woodson. Paul V. Milde, III arrived at 1:04 P.M.

Also in attendance were Anthony Romanello, County Administrator; Joe Howard, County Attorney; Marcia Hollenberger, Chief Deputy Clerk; Pamela Timmons, Deputy Clerk, associated staff and interested parties.

Mr. Sterling motioned, seconded by Mr. Crisp, to refer Items 2, Technology Zones; and 27a, Adopt the Technology Zone Ordinance (Proposed Resolution R09-380) to the Economic Development Authority for further review.

The Voting Board tally was:

Yea: (6) Sterling, Crisp, Brito, Dudenhefer, Schwartz, Woodson

Nay: (0)

Absent: (1) Milde

Legislative; Presentation of a Proclamation

- Designate October 18-24, 2009 as Teen Driver Safety Week.

Legislative; Work Session on a Major Incident After-Action Report Ms. Tammi Ellis, Executive Director of Organizational Development, gave a presentation and answered Board members questions.

Legislative; Work Session on Redevelopment Status Update Mr. Brad Johnson, Redevelopment Administrator, gave a presentation and answered Board members questions. Mr. Johnson noted that a formal proposal will be presented at the Board of Supervisor's November 17, 2009 meeting.

Legislative; Work Session on Towing on Private Property. Mr. Charles Jett, Sheriff, gave a presentation and answered Board members questions.

Legislative; Work Session on FY2010 First Quarter Review and FY 2011 Preview. Ms. Nancy Collins, Budget Division Director gave a presentation and answered Board members questions. Ms. Tammi Ellis, Executive Director of Organizational Development, gave a presentation on employee compensation and answered Board members questions.

Mr. Sterling asked that staff provide a cost analysis for keeping vehicles on the road longer rather than replacing them as noted in Ms. Collins' report.

Mr. Sterling further inquired if the Schools were already using Windows 2007 on their computers.

Mr. Woodson requested that staff provide the cost of computer and computer software upgrades per employee/license.

Mr. Sterling requested that Ms. Ellis provide a salary comparison chart using several different groups of workers including teachers, deputies and fire fighters.

Mr. Brito requested that staff provide the median salary for Stafford County residents.

Legislative; Additions to the Regular Agenda. Mr. Sterling motioned, seconded by Mr. Dudenhefer, to add Item 30b. Discuss bond referendum pedestrian improvements; 30c. Discuss requesting Legislation to Authorize EMS Personnel to Administer Seasonal Influenza Vaccines (Proposed Resolution R09-386); and 30d. Discuss Naming of the New Courthouse Road CSX Bridge (Proposed Resolution R09-387).

The Voting Board tally was:

Yea: (7) Sterling, Woodson, Brito, Crisp, Dudenhefer, Milde, Schwartz

Nay: (0)

Legislative; Consent Agenda. Mr. Milde motioned, seconded by Mr. Dudenhefer, to adopt the Consent Agenda consisting of Items 16 thru 28, omitting Items 18, 20, 21, 23 and 27a.

The Voting Board tally was:

Yea: (7) Milde, Dudenhefer, Sterling, Woodson, Brito, Crisp, Schwartz

Nay: (0)

Item 16. Legislative; Approve Minutes of Board Meeting. Regular Meeting of October 6, 2009.

Item 17. Finance and Budget; Approve Expenditure Listing

Resolution R09-378 reads as follows:

A RESOLUTION TO APPROVE EXPENDITURE LISTING (EL)
DATED OCTOBER 6, 2009 THROUGH OCTOBER 19, 2009

WHEREAS, the Board has appropriated funds to be expended for the purchase of goods and services in accordance with an approved budget; and

WHEREAS, the payments appearing on the above-referenced Listing of Expenditures represent payment of \$100,000 and greater for the purchase of goods and/or services which are within the appropriated amounts;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October 2009, that the above-mentioned EL be and it hereby is approved.

Item 19. Public Information; Approve a Proclamation to Designate October 18-24, 2009 as Teen Driver Safety Week

Proclamation P09-20 reads as follows:

A PROCLAMATION TO DECLARE OCTOBER 18-24, 2009 AS
NATIONAL TEEN DRIVER SAFETY WEEK IN STAFFORD COUNTY

WHEREAS, motor vehicle crashes are the leading cause of death for adolescents and young adults in the United States, and many of these deaths are preventable; and

WHEREAS, the fatality rate in the United States for drivers between 16 and 19 years of age, based on miles driven, is four times the fatality rate for drivers between 25 and 69 years of age; and

WHEREAS, young drivers are the least experienced and therefore traffic crashes involving them are most often the result of driver error such as speed, distraction and failure to observe driving regulations and conditions; and

WHEREAS, in 2004 the Board created a Youth Driver Taskforce to examine and make recommendations to improve safety for our teen drivers; and

WHEREAS, the Board, the Sheriff's Office, the Fire and Rescue Department, the School Division, the Courts, the Office of Transportation, the business community and

the Virginia Department of Transportation have implemented many of the recommendations put forth by the Taskforce to ensure the safety of teens and drivers of all ages; and

WHEREAS, Congress has designated the third week of October each year as National Teen Driver Safety Week; and

WHEREAS, the Board desires to call to the attention of citizens everywhere the critical need to raise awareness of the unique issues surrounding teen drivers, and to promote safe driving among licensed teenagers;

NOW, THEREFORE, BE IT PROCLAIMED by the Stafford County Board of Supervisors on this the 20th day of October, 2009 that the week of October 18-24, 2009 be and it hereby is declared National Teen Driver Safety Week in Stafford County.

Item 22. Planning and Zoning; Participate in the Regional All-Hazard Mitigation Plan Update

Resolution R09-376 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR
TO PARTICIPATE IN THE GEORGE WASHINGTON REGIONAL
COMMISSION ALL-HAZARD MITIGATION PLAN UPDATE

WHEREAS, the Board adopted the regional All-Hazards Mitigation Plan on June 6, 2006; and

WHEREAS, the plan is valid for a period of five years; and

WHEREAS, upon adoption of the plan, the County is eligible for hazard mitigation and post disaster hazard mitigation grants; and

WHEREAS, the George Washington Regional Commission has offered to take the leading role in a grant application to update the plan; and

WHEREAS, the Board desires to update the plan in order to be eligible for future grant funding and to eliminate long term risks to the community by reducing future damages from natural and man made hazards that will inevitably occur over time; and

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the County Administrator be and he hereby is authorized to participate in the George Washington Regional Commission All-Hazard Mitigation Plan update.

Item 24. Public Works; Approve and Implement a Traffic Calming Plan for the Shelton's Run Subdivision

Resolution R09-369 reads as follows:

A RESOLUTION TO APPROVE AND IMPLEMENT THE TRAFFIC CALMING PLAN FOR SHELTON'S RUN SUBDIVISION

WHEREAS, the Board is interested in promoting public health, safety, and welfare, including the prevention of accidents and injuries caused by speeding vehicles on residential streets; and

WHEREAS, on April 7, 2009, the Board authorized the Office of Transportation to prepare a Traffic Calming Plan for Walt Whitman Boulevard (SR-1595) and Montgomery Drive (SR-1592) in Shelton's Run Subdivision; and

WHEREAS, in consultation with the Shelton's Run Homeowners Association, Virginia Department of Transportation, Department of Public Works, Fire and Rescue Department, Sheriff's Office, and School Pupil Transportation, a proposed Traffic Calming Plan was developed following the guidelines set forth in the Residential Traffic Management Plan, Traffic Calming Program; and

WHEREAS, the proposed Plan includes all-way stop conditions at the intersection of Montgomery Drive (SR-1592), Melville Court (SR-1596), Twain Court (SR-1593), and St. Albans Drive (SR-1522); and the intersection of Walt Whitman Boulevard (SR-1595), Katrine Court (SR-1573), and Bradstreet Court (SR-1599); and

WHEREAS, the proposed Plan also includes two (2) speed humps along Montgomery Drive (SR-1592) in the vicinity of the homes located at 21 through 23, and 11 through 12 Montgomery Drive; and three (3) speed humps along Walt Whitman

Boulevard (SR-1595), in the vicinity of the homes located at 4 through 7, 27, and 35 through 37 Walt Whitman Boulevard;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October 2009, that the Board be and it hereby approves the proposed Traffic Calming Plan for Shelton's Run Subdivision, and authorizes its implementation by the Virginia Department of Transportation; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator of the VDOT Fredericksburg Residency Office.

Item 25. Public Works; Endorse Concept Design for Project to Improve the Intersection of Garrisonville Road and Mine Road at Staffordboro

Resolution R09-377 reads as follows:

A RESOLUTION TO ENDORSE A CONCEPTUAL DESIGN FOR A PROJECT TO IMPROVE THE INTERSECTION OF GARRISONVILLE ROAD (SR-610) AND MINE ROAD / STAFFORDBORO BOULEVARD (SR-684)

WHEREAS, an improvement project is proposed for the intersection of Garrisonville Road (SR-610) and Mine Road / Staffordboro Boulevard (SR-684) which currently operates during peak periods at a failing level of service; and

WHEREAS, traffic analyses have identified the most beneficial improvements to the intersection to improve the level of service; and

WHEREAS, the Virginia Department of Transportation (VDOT) developed two conceptual designs for the improvements; and

WHEREAS, the preferred conceptual design will construct a second left-turn lane from Garrisonville Road to Mine Road, construct a new right-turn lane from Mine Road to Garrisonville Road, and add a right-turn movement to the right-through lane on Staffordboro Boulevard, with pedestrian accommodations; and

WHEREAS, this conceptual design is fully-funded with federal Congestion Mitigation and Air Quality (CMAQ) Program and VDOT Revenue Sharing Program monies; and

WHEREAS, this intersection improvement project, VDOT UPC 16267, is to be administered by VDOT;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that it be and hereby does endorse this preferred conceptual design for the intersection improvement; and

BE IT FURTHER RESOLVED that VDOT is requested to begin detailed design on this project; and

BE IT STILL FURTHER RESOLVED that the VDOT Residency Administrator receives a certified copy of this resolution.

Item 26. Parks, Recreation and Community Facilities; Authorization to Commit Matching Funds to the Department of Conservation and Recreation Trails Program Grant for Phase 3 of the Belmont-Ferry Farm Trail

Resolution R09-379 reads as follows:

A RESOLUTION TO COMMIT MATCHING FUNDS FOR THE DEPARTMENT OF CONSERVATION AND RECREATION TRAILS PROGRAM GRANT FOR PHASE 3 OF THE BELMONT-FERRY FARM TRAIL

WHEREAS, the Department of Conservation and Recreation (DCR), in partnership with the Federal Highway Administration (FHWA), provides funds to assist in the development of trails and trail related facilities within the Commonwealth of Virginia; and

WHEREAS, Phase 3 of the Belmont-Ferry Farm Trail meets an identified deficiency for local and regional trails by creating a critical .89 mile link in the 4.02 mile long trail; and

WHEREAS, the Belmont-Ferry Farm Trail increases recreational opportunities for residents by providing connectivity between county parks, the Stafford Visitor Center, and numerous natural and cultural resources along the Rappahannock River in the Falmouth historic district; and

WHEREAS, the Belmont-Ferry Farm Trail will become an invaluable tourism asset that will create new economic development opportunities for Stafford County and the region; and

WHEREAS, through DCR, Stafford County has applied for a \$100,000 Recreation Trails Program (RTP) grant for Phase 3 of the trail, and if selected as a grant recipient, commits to providing the matching \$25,000 and completing the project within three years;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th of October 2009, that it be and hereby does authorize the County Administrator, or his designee, to enter into such agreements as may be necessary to permit the formulation, approval, and funding of Phase 3 of the Belmont-Ferry Farm Trail; and

BE IT FURTHER RESOLVED, Stafford County gives its assurance that the funds needed as the proportionate share of the cost of the approved program will be provided, up to Twenty-five Thousand Dollars (\$25,000); and

BE IT FURTHER RESOLVED, that Stafford County gives its assurance that the Safe, Accountable, Flexible, Equity Act-A Legacy for Users (SAFETEA-LU) and the RTP Grant Manual and fiscal procedures thereof will be complied with in the administration of this project; and

BE IT FURTHER RESOLVED, that Stafford County will operate and maintain the public recreational Belmont–Ferry Farm Trail in good condition; and

BE IT FURTHER RESOLVED, that Stafford County gives its assurance that all other applicable federal and state regulations governing such expenditure of funds will be complied with in the administration, development, and subsequent operation of the Belmont–Ferry Farm Trail; and

BE IT FURTHER RESOLVED, that the Department of Conservation and Recreation is respectfully requested to assist in approving and funding of the Belmont–

Ferry Farm Trail project in order to enhance the standard of public recreational enjoyment for all our citizenry.

Item 28. Legislative; Endorse Regional Home Performance with Energy Star Program Application

Resolution R09-381 reads as follows:

A RESOLUTION TO ENDORSE THE GEORGE WASHINGTON REGIONAL COMMISSION'S EFFORT TO SECURE A GRANT FOR A COMPETITIVE ENERGY AND CONSERVATION BLOCK GRANT TO SUPPORT THE DEVELOPMENT AND IMPLEMENTATION OF A REGIONAL HOME RETROFIT ENERGY EFFICIENCY PROGRAM

WHEREAS, the Virginia Department of Mines, Minerals and Energy (DMME) has announced a competitive grant process for Virginia's Energy Efficiency and Conservation Block Grant (EECBG) program to distribute \$9.17 million dollars from the federal government under the American Recovery and Reinvestment Act (ARRA) of 2009; and

WHEREAS, the Counties of Caroline and King George, the Towns of Port Royal and Bowling Green, and City of Fredericksburg are among the 295 local government units eligible to apply for EECBG funds; and

WHEREAS, the Counties of Stafford and Spotsylvania are not directly eligible to participate in the balance of State EECBG grant competition because said counties received a direct EECBG formula grant from the U.S. Department of Energy; and

WHEREAS, the Virginia EECBG program guidelines allow for and encourage regional grant applications to be submitted by one locality on behalf of itself and other eligible localities (i.e., a consortium of eligible localities) or by a Planning District Commission on behalf of eligible localities; and

WHEREAS, DMME has been notified by the U.S. Department of Energy (USDOE) that Planning District Commissions may be the lead applicant on behalf of their eligible member local governments and has further indicated that a local

government applicant can contract with a Planning District Commission to implement an EECBG project; and,

WHEREAS, National Home Performance with Energy Star (HPwES) programs have been recognized by the USDOE and the U.S. Environmental Protection Agency (USEPA) in the Rapid Deployment Energy Efficiency (RDEE) Planning Guide as a strong candidate for stimulus funding due to its performance relative to five (5) ARRA priority criteria, namely: 1) Job Impact, 2) Collaboration & Leverage of Funds, 3) Significance of Savings, 4) Cost of Savings, and 5) Sustainability and Market Transformation (see Appendix A attached); and

WHEREAS, a regional Home Performance with Energy Star (HPwES) program (see Appendix B attached) as been endorsed by the Green Building Sub-Committee of George Washington Regional Commission's (GWRC) Green Government Commission as the preferred means to help residents of the Region achieve higher residential sector energy efficiency and stimulate the local economy with sustainable job development; and

WHEREAS, by its passage of Resolution 10-08 on September 21, 2009, the GWRC endorsed the regional Home Performance with Energy Star program and agreed to support local interest in this program by preparing a regional EECBG grant application and, if successful, operating the program as management and fiscal agent; and

WHEREAS, the pilot regional HPwES program is intended to be a part of a larger strategy to win national certification of GWRC's HPwES program by the USEPA and leverage State and national recognition of the program to enhance its competitiveness for USDOE's national EECBG program for the distribution of \$454 million to successful regional home energy retrofit programs; and

WHEREAS, the proposed HPwES program has been endorsed by a variety of regional stakeholders, including the Fredericksburg Area Builders Association, the Fredericksburg Area Association of Realtors, the Fredericksburg Regional Chamber of Commerce, the Rappahannock Area United Way, the Central Virginia Housing Coalition, Dominion Virginia Power and other endorsements from local utility companies as partners in this regional effort are anticipated before the final application deadline of November 6, 2009;

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of Stafford County hereby endorses GWRC’s HPwES program proposal and requests GWRC to develop a regional EECBG grant application to include Stafford as a secondary participating jurisdiction and further requests GWRC to submit said application on its behalf; and

BE IT FURTHER RESOLVED, that the Board of Supervisors of Stafford County agrees, in the event said HPwES project proposal is awarded an EECBG implementation grant by DMME sufficient to undertake the regional program, that the George Washington Regional Commission will function as the management and fiscal agent for the proposed pilot regional HPwES program; and

BE IT STILL FURTHER RESOLVED that the Board of Supervisors of Stafford County on this 20th day of October, 2009, agrees to support regional efforts to pursue USEPA “Energy Star” program certification and a regional home energy efficiency retrofit program through the U.S. Department of Energy’s national EECBG competitive grant program.

Legislative; FY2010 Personnel Policies. Mr. Sterling commented.

Mr. Sterling motioned, seconded by Mr. Woodson to adopt proposed Resolution R09-370.

The Voting Board tally was:

Yea: (7) Sterling, Woodson, Milde, Dudenhefer, Schwartz, Brito, Crisp

Nay: (0)

Resolution R09-370 reads as follows:

**A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR
TO SUSPEND CERTAIN PERSONNEL POLICIES**

WHEREAS, the Board desires to ensure the health and well being of County citizens and employees; and

WHEREAS, the seasonal flu and H1N1 influenza virus could affect continuity of operations; and

WHEREAS, reviewing personnel policies that relate to sick leave and the care of employees and employee family members is an important aspect of continuity of operations; and

WHEREAS, suspending certain personnel rules relating to the use of sick leave and the sick leave bank if sick leave usage exceeds 6% of the workforce allows for flexibility within the workforce;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the County Administrator be and he hereby is authorized to suspend certain personnel policies during extenuating circumstances relating to the seasonal flu and/or H1N1 influenza virus.

Public Works; Authorize a Contract for Construction of the Government Island Historic Trail. Mr. Crisp commented.

Mr. Tim Baroody, Deputy County Administrator and Mr. Keith Dayton, Director of Public Works answered Board members questions.

Discussion ensued.

Mr. Milde motioned, seconded by Mr. Sterling to adopt proposed Resolution R09-372.

Mr. Brito made a friendly amendment to replace “County Administrator” with “Chairman of the Board of Supervisors” in the last paragraph.

Voting Board tally was:

Yea: (7) Milde, Sterling, Brito, Woodson, Dudenhefer, Schwartz, Crisp

Nay: (0)

Resolution R09-372 reads as follows:

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT
TO CONSTRUCT THE GOVERNMENT ISLAND HISTORIC TRAIL

WHEREAS, the Board desires to construct the trail to Government Island to allow public access to this important Stafford County historic resource; and

WHEREAS, the County solicited public bids to complete this work; and

WHEREAS, eight (8) bids were received from interested firms; and

WHEREAS, the apparent low bidder, Gator Paving Company, is determined to be the lowest responsive bidder with a bid of \$579,000; and

WHEREAS, Gator Paving Company has offered an option to construct an eight foot wide trail for an additional \$20,000; and

WHEREAS, staff recommends exercising this option for a total contract amount of \$599,000; and

WHEREAS, staff further recommends authorization of the award of the contract to the second lowest responsive bidder should the Gator Paving Company fail to execute the contract; and

WHEREAS, W. C. Spratt, Inc. has been determined to be the second lowest responsive bidder with a bid of \$821,600;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the County Administrator be and he hereby is, authorized to execute a contract with Gator Paving Company in an amount not to exceed Five Hundred Ninety-nine Thousand Dollars (\$599,000) for construction of the Government Island Historic Trail; and

BE IT FURTHER RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the Chairman of the Board of Supervisors be and he hereby is, authorized to execute a contract with W. C. Spratt, Inc. in an amount not to exceed Eight Hundred Twenty-one Thousand Six Hundred Dollars (\$821,600) for completion of the Government Island Historic Trail should Gator Paving Company fail to execute the contract authorized herein.

Utilities; Award a Contract for Construction of Rocky Pen Run Reservoir Dam Foundation. Mr. Sterling commented.

Mr. Sterling motioned, seconded by Mr. Dudenhefer to adopt proposed Resolution R09-375.

The Voting Board tally was:

Yea: (6) Sterling, Dudenhefer, Crisp, Milde, Schwartz, Woodson

Nay: (0)

Abstain: (1) Brito

Resolution R09-375 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR
TO AWARD A CONTRACT FOR ROCKY PEN RUN RESERVOIR
DAM EXCAVATION AND FOUNDATION PREPARATION

WHEREAS, the Board authorized the design of the dam necessary to create the Rocky Pen Run Reservoir; and

WHEREAS, the first phase of this design, consisting of excavation for the dam, has been partially completed; and

WHEREAS, it is necessary to complete the excavation and foundation preparation for the dam; and

WHEREAS, bidding documents were prepared and offered for public bid; and

WHEREAS, this project was identified in the current Capital Improvement Program;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the County Administrator be and he hereby is authorized to execute a contract with General Excavating Incorporated in an amount estimated at Eight Million Six Hundred Ninety-six Thousand Nine Hundred Twenty-eight Dollars (\$8,696,928) for excavation and foundation preparation for the Rocky Pen Run Reservoir Dam.

Sheriff; Authorize the County Administrator to Enter into a Separate Lease Agreement to Facilitate the Public Safety Radio Communication System. Mr Brito commented.

Mr. Milde motioned, seconded by Mr. Brito to adopt proposed Resolution R09-373.

The Voting Board tally was:

Yea: (6) Milde, Brito, Dudenhefer, Schwartz, Woodson, Crisp,

Nay: (0)

Absent: (1) Sterling

Resolution R09-373 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT WITH AMERICAN TOWER ASSET SUB, II, LLC AND/OR OWNER TO FACILITATE PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM

WHEREAS, Stafford County is in the implementation and construction phase of its public safety radio communications system as authorized by Stafford County Board of Supervisors Resolution R07-487 and subsequent contract between Motorola and the County of Stafford dated December 6, 2007; and

WHEREAS, as part of this public safety radio communications system, the need exists to co-locate its infrastructure on existing ‘approved for construction’ or existing towers throughout Stafford County; and

WHEREAS, Stafford County has negotiated a lease agreement with American Tower Asset Sub, II, LLC to co-locate its public safety radio system infrastructure utilizing identified space on its tower and on the ground in and around the tower located at 151 Venture Lane, Stafford, VA;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that it be and hereby does authorize the County Administrator to enter into a lease agreement with American Tower Asset

Sub, II, LLC and/or owner to facilitate the public safety radio communications installation.

Sheriff; Authorize a Public Hearing to Amend Stafford County Code, Chapter 15, Entitled “Towing Motor Vehicles/Trespassing on Private Property”. Mr. Schwartz commented.

Mr. Schwartz motioned, seconded by Mr. Milde, to adopt proposed Resolution R09-374 as presented and with the following change to O09-29 when presented at Public Hearing: delete Section 15-176.

The Voting Board tally was:

Yea: (7) Schwartz, Milde, Dudenhefer, Woodson, Sterling, Brito, Crisp

Nay: (0)

Resolution R09-374 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ADVERTISE A PUBLIC HEARING TO AMEND AND REORDAIN STAFFORD COUNTY CODE CHAPTER 15, ARTICLE VII, ENTITLED “TOWING OF TRESPASSING MOTOR VEHICLES FROM PRIVATE PROPERTY”

WHEREAS, the Board desires to consider amending the Stafford County Code to regulate the towing of trespassing motor vehicles from private property; and

WHEREAS, the Board desires to consider public comments concerning the proposed changes;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the County Administrator be and he hereby is authorized to advertise a public hearing to allow for presentation and public comment for the purpose of amending the Stafford County Code.

Finance; Reappropriation of FY2009 - School Carryover.

Mr. Schwartz motioned, seconded by Mr. Milde, to adopt proposed Resolution R09-382.

The Voting Board tally was:

Yea: (7) Schwartz, Milde, Crisp, Dudenhefer, Woodson, Sterling, Brito

Nay: (0)

Resolution R09-382 reads as follows:

A RESOLUTION TO RE-APPROPRIATE \$4,700,000 IN CARRY-OVER FUNDS TO THE SCHOOL BOARD FOR FY2010

WHEREAS, the Board of Supervisors on April 21, 2009 approved R09-151 which directed the County Administrator to bring forward a resolution requesting re-appropriation to Schools their unspent funds above \$3,300,000 which is to be returned to the County general fund balance; and

WHEREAS the FY2010 budget included \$4,700,000 in carry-over for Schools; and

WHEREAS the school staff has indicated they will have funds of \$4,700,000 above and beyond the \$3,300,000 for fund balance and the amount needed to fund all expenditures, encumbrances, and commitments; and

WHEREAS the County commends the School Board for their careful and responsible budget management;

NOW, THEREFORE BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009 that it be and hereby does re-appropriate \$4,700,000 in unspent funds to the School Board for FY2010.

Discuss S.E.R.V.E., Inc. Mr. Crisp commented that the Food Bank delivered food to many places in Stafford County last year at a cost of \$41,019, and he would like that during the next budget cycle, when fund allocations are made, that the County consider asking the Food Bank to offset the maintenance fee with a comparable amount.

Discuss Bond Referendum Pedestrian Improvements. Mr. Brito commented that there are many areas in the County that need improvements for pedestrians walking to businesses. He suggested that a committee be formed to look into this issue.

Discussion ensued.

Hearing no objections, the Board determined that staff should prioritize improvements and bring back this issue to the Board at its January 19, 2010 meeting.

Discuss Requesting Legislation to Authorize EMS Personnel to Administer the Seasonal Influenza Vaccine. Mr. Rob Brown, Fire Chief, asked the Board to adopt proposed Resolution R09-386, which requests the Virginia General Assembly to enact legislation to authorize emergency medical personnel to administer vaccinations.

Mr. Milde motioned, seconded by Mr. Dudenhefer to adopt proposed Resolution R09-386.

Mr. Dudenhefer directed staff to send letters to Speaker Howell, Senator Stuart, and to the Governor, as well as the Board taking this issue to the next GWRC meeting as an agenda item. Mr. Dudenhefer stated that he feels that if all regional governments join together, it will help bring the weight of this issue to the Attorney General.

The Voting Board tally was:

Yea: (7) Milde, Dudenhefer, Schwartz, Crisp, Woodson, Sterling, Brito

Nay: (0)

Resolution R09-386 reads as follows:

RESOLUTION TO REQUEST THE VIRGINIA GENERAL ASSEMBLY
TO ENACT LEGISLATION TO AUTHORIZE EMERGENCY MEDICAL
SERVICES PERSONNEL TO ADMINISTER VACCINATIONS

WHEREAS, The Stafford County Fire and Rescue Department has highly-trained and certified EMS personnel available and ready to administer vaccines as needed; and

WHEREAS, the current Scope of Practice for certified EMS providers allows for providing vaccinations; and

WHEREAS, a recent opinion from the Virginia Attorney General's Office states that certified EMS providers are permitted to administer vaccinations, including the H1N1 vaccine, only if authorized by the State Health Commissioner when the Governor of Virginia has declared a disaster or state of emergency in the Commonwealth; and

WHEREAS, Stafford County's EMS personnel are well-qualified to administer vaccines, and the requirement for the Governor to declare a disaster or state of emergency in the Commonwealth before they may do so fails to recognize the critical need to proactively administer the H1N1 influenza (and other) vaccines to prevent the spread of an international pandemic; and

WHEREAS, the Board desires that the County's EMS personnel be authorized to administer vaccines as needed;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009 that it hereby requests Stafford's delegation to the Virginia General Assembly to introduce legislation to amend the Code of Virginia to provide the authority for certified Emergency Medical Services personnel to administer vaccines.

Discuss Naming of the New Courthouse Road CSX Bridge. Mr. Sterling commented that the current CSX Bridge should be named for a family with some historical significance to the area. After discussing the issue with Mr. Milde, in whose district the bridge is located, the Board determined that the bridge should be named Payne Bridge after a family who has resided in that area for generations.

Mr. Sterling motioned, to adopt proposed Resolution R09-386. Discussion ensued.

Mr. Brito suggested that this issue be referred to the Historical Commission for a recommendation.

Mr. Schwartz requested background on the Payne family.

Mr. Sterling requested that the issue be brought back to the Board at the December 1, 2009 meeting and Mr. Milde suggested that the Historical Commission consider the names of Payne, Jones, or Watson.

Mr. Sterling motioned, seconded by Mr. Milde, to refer this item to the Historical Commission for a recommendation and bring back to the Board at its December 1, 2009 meeting a recommendation, considering the name Payne, Jones, or Watson for the bridge.

The Voting Board tally was:

Yea: (7) Sterling, Milde, Woodson, Brito, Crisp, Dudenhefer, Schwartz

Nay: (0)

Legislative; Closed Meeting. At 3:34 p.m., Mr. Sterling motioned, seconded by Mr. Sterling to adopt proposed Resolution CM09-17.

The Voting Board tally was:

Yea: (7) Sterling, Woodson, Schwartz, Crisp, Brito, Dudenhefer, Milde

Nay: (0)

Resolution CM09-17 reads as follows:

A RESOLUTION TO AUTHORIZE CLOSED MEETING

WHEREAS, the Stafford County Board of Supervisors desires to consult with counsel and discuss in Closed Meeting legal advice regarding (1) pending litigation in *R Income Properties, LLC, et al. v. Board of Supervisors, et al.* and *Airport Business Group, et al. v. Stafford Board of Supervisors, et al.*; and regarding the proposed rezoning of R Income and Airport Business Group property on Wyche Road; and (2) Potential Business or Industry Economic Development Prospect Where No Public Announcement has been Made; and

WHEREAS, pursuant to Section 2.2-3711 A.5 and A.7, Va. Code Ann., such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors on this the 20th day of October, 2009, does hereby authorize discussions of the aforesated matters in Closed Meeting.

Call to Order At 4:17 p.m., the Chairman called the meeting back to order.

Legislative: Closed Meeting Certification

Mr. Sterling motioned, seconded by Mr. Milde to adopt proposed Resolution CM09-17a.

The Voting Board tally was:

Yea: (7) Sterling, Milde, Woodson, Crisp, Schwartz, Brito, Dudenhefer

Nay: (0)

Resolution CM09-17(a) reads as follows:

A RESOLUTION TO CERTIFY THE ACTIONS OF THE STAFFORD COUNTY BOARD OF SUPERVISORS IN A CLOSED MEETING ON OCTOBER 20, 2009

WHEREAS, the Board has, on this the 20th day of October, 2009, adjourned into a closed meeting in accordance with a formal vote of the Board and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Virginia Freedom of Information Act, as it became effective July 1, 1989, provides for certification that such Closed Meeting was conducted in conformity with law;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors does hereby certify, on this the 20th day of October, 2009, that to the best of each member's knowledge: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were

discussed in the Closed Meeting to which this certification applies; and (2) 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 the Board. No member dissents from the aforesaid certification.

Recess. At 4:18 P.M, the Chairman declared a recess until 5:00 P.M. for the Joint Budget Work Session with the School Board.

Call to Order. At 5:00 the Chairman called the Joint Budget Work Session to order.

School Board Chair, Ms. Patricia Healy, spoke on behalf of the School Board. Discussion ensued between members of the Board of Supervisors, the School Board, and associated staff.

Board of Supervisors Chairman, Mr. George Schwartz, adjourned the Joint Budget Work Session at 6:03 p.m.

Call to Order. At 7:03 P.M., the Chairman called the meeting back to order.

Invocation. Mr. Milde gave the Invocation.

Pledge of Allegiance. Boy Scout Troop 949 led in the recitation of the Pledge of Allegiance to the Flag of the United States of America.

Legislative; Presentation of Proclamation

- Recognize and Commend the Hartwood Volunteer Firemen’s Association for Renovation of Hartwood Fire and Rescue Station 6.

Legislative; Presentations by the Public The following persons spoke on topics as identified:

- Paul Waldowski - Utility Bills
- Lou Silver - Voting

Finance and Budget; Amend Stafford County Code, Section 1-2, entitled “Assessment for Law Library as Part of Costs in Civil Actions”. Mr. Anthony Romanello presented the item for discussion.

The Chairman opened the public hearing.

No persons spoke.

The Chairman closed the public hearing.

Mr. Woodson motioned, seconded by Mr. Crisp, to adopt proposed Ordinance O09-52.

The Voting Board tally was:

Yea: (7) Woodson, Crisp, Milde, Sterling, Dudenhefer, Schwartz, Brito

Nay: (0)

Ordinance O09-52 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE, SECTION 1-12, ENTITLED “ASSESSMENT FOR LAW LIBRARY AS PART OF COSTS IN CIVIL ACTIONS”

WHEREAS, a recent change to state enabling legislation has increased the maximum assessment to be collected for law library from two dollars (\$2.00) to four dollars (\$4.00); and

WHEREAS, the Board desires to collect the maximum assessment allowable by the state; and

WHEREAS, the Board wishes to explore all available revenue sources to aid in the support of the Central Rappahannock Regional Library; and

WHEREAS, the Board has conducted a public hearing and carefully considered the recommendations of staff and the testimony at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, and general welfare requires adoption of such an ordinance;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the Stafford County Code, Section 1-12 be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

Sec. 1-12. Assessment for law library as part of costs in civil actions.

(a) Amount of fee: A fee of ~~two dollars (\$2.00)~~ four dollars (\$4.00) shall be assessed to each and every qualifying civil action filed in the courts located within the boundaries of the County of Stafford. The assessments provided for herein shall be in addition to all other costs prescribed by law but shall not apply to any action in which the commonwealth or any political subdivision thereof or the federal government is a party and in which the costs are assessed against the commonwealth, political subdivision thereof, or federal government.

(b) Collection of fees: The assessed fees shall be collected by the clerk of the court in which the action was filed and remitted to the county treasurer.

(c) Payment of fees:

(i) The treasurer shall pay half of said fees collected on a monthly basis to the Central Rappahannock Regional Library for maintenance and operation of a law library which shall be opened for the use of the public during normal operating hours. The treasurer shall retain half of the fees collected subject to disbursements by the board of supervisors to the Central Rappahannock Regional Library for maintenance and operation of a law library which shall be opened for the use of the public during normal operating hours. Subsection (c) (i) shall remain in effect until June 30, 2010.

(ii) Effective July 1, 2010, the treasurer shall retain the fees collected subject to disbursements by the board of supervisors to the Central Rappahannock Regional Library for maintenance and operation of a law library which shall be opened for the use of the public during normal operating hours.

(d) Contributions to law library fund: The board of supervisors is authorized to accept contributions to the fund from any bar association.

(Ord. No. 084-07, 1-17-84; Ord. No. 089-92(R), 10-17-89; Ord. No. 008-59, 10-7-08) State law references: Similar provisions, Code of Virginia, § 42.1-70.

Planning and Zoning; Amend Proffered Conditions on Assessor's Parcels 46-21, 46-26, and 46-27 on 48.80 Acres Zoned R-1, Suburban Residential Zoning District, located at 1465 Forbes Street.

Planning and Zoning; Consider a Conditional Use Permit for a Place of Worship in a R-1, Suburban Residential Zoning District at 1465 Forbes Street

Mrs. Kathy Baker, Assistant Director of Planning and Zoning, gave a presentation and answered Board members questions.

Clark Leming spoke on behalf of the applicant.

Discussion ensued.

The Chairman opened the public hearing.

The following persons desired to speak:

Pastor Daniel Moseley

Glenn Trimmer

The Chairman closed the public hearing.

Mr. Schwartz motioned, seconded by Mr. Sterling to adopt proposed Ordinance O09-57 with the following change: the date of the accepted proffers was changed to October 20, 2009.

The Voting Board tally was:

Yea: (7) Schwartz, Sterling, Milde, Dudenhefer, Brito, Crisp, Woodson

Nay: (0)

Ordinance O09-57 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN THE ZONING ORDINANCE FOR STAFFORD COUNTY BY AMENDING THE PROFFERED CONDITIONS ON ASSESSOR’S PARCELS 46-21, 46-26, AND 46-27, ZONED R-1, SUBURBAN RESIDENTIAL WITHIN THE FALMOUTH ELECTION DISTRICT

WHEREAS, H. Clark Leming, for Stafford Crossing Community Church, Inc. applicant, has submitted application RC2900184 requesting an amendment to proffer conditions on Assessor’s Parcels 46-21, 46-26, and 27; and

WHEREAS, the Board has carefully considered the recommendation of the Planning Commission, staff and testimony at the public hearing; and

WHEREAS, the Board has determined that the requested zoning is compatible with the surrounding land uses and zoning; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practice require adoption of an ordinance to reclassify the subject property;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the Zoning Ordinance for Stafford County be and it hereby is amended and reordained by amending the proffered conditions on Assessor’s Parcels 46-21, 46-26 and 46-27, Zoned R-1, Suburban Residential, as shown in the proffers entitled “Proffer Statement: Stafford Crossing Community Church, Inc.” dated October 20, 2009.

Mr. Schwartz motioned, seconded by Mr. Milde to adopt proposed Resolution R09-342 with the following change: Condition 5 was removed (Condition 5 read: All signage

shall be designed of monument style, per the Zoning Ordinance, with the prohibition of any LED lighting).

The Voting Board tally was:

Yea: (7) Schwartz, Milde, Sterling, Dudenhefer, Brito, Crisp, Woodson

Nay: (0)

Resolution R09-342 reads as follows:

A RESOLUTION TO APPROVE A CONDITIONAL USE PERMIT PURSUANT TO APPLICATION CUP2900185 TO ALLOW A PLACE OF WORSHIP IN AN R-1, SUBURBAN RESIDENTIAL ZONING DISTRICT, LOCATED ON ASSESSOR'S PARCEL 46-21, 46-24, 46-25, 46-26, 46-27 AND 46-29A, FALMOUTH ELECTION DISTRICT

WHEREAS, H. Clark Leming, for Stafford Crossing Community Church, Inc. applicant, has submitted application CUP2900185 requesting a Conditional Use Permit to allow a place of worship in an R-1, Suburban Residential, Zoning District on the above-described properties; and

WHEREAS, the application has been submitted pursuant to Section 28-35 of the Zoning Ordinance which permits a Conditional Use Permit for a place of worship in the R-1, Suburban Residential District; and

WHEREAS, the Board has carefully considered the recommendation of the Planning Commission, staff, and testimony at the public hearing; and

WHEREAS, the Board finds that the request meets the standards of the Zoning Ordinance for issuance of a Conditional Use Permit;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that a Conditional Use Permit pursuant to application CUP2900185 be and it hereby is approved with the following conditions:

1. This Conditional Use Permit is to allow a place of worship in an R-1, Suburban Residential, Zoning District located on Assessor's Parcel 46-21, 46-24, 46-25, 46-26, 46-27 and 46-29A.
2. The structure shall not exceed the maximum height of 35 feet, which includes a steeple.
3. The capacity of the structure shall be limited to 550 seats or 18,500 square feet.
4. Sprinklers shall be installed in the structure to meet all requirements of the NFPA-13 (National Fire Protection Association).
5. An automated external defibrillator shall be installed prior to occupancy permit, in an area designated by the Fire Marshal.
6. The building shall be in conformance with the Proposed Elevations, dated August 25, 2009.
7. Building façade for the proposed building shall be in conformance with the proposed elevation plan.
8. All building entrances shall be properly illuminated in accordance with Crime Prevention through Environmental Design (CEPTED) principles.
9. This Conditional Use Permit may be revoked or conditions amended by the Board for violation of these conditions or any applicable county, state, or federal codes.

Planning and Zoning; Reclassify from A-1, Agricultural and B-3, Office to B-2, Urban Commercial Zoning District on Assessor's Parcels 38-76A, 38-76B (portion), 38-76C, 38-76E, 38-76F, 38-76G, 38-77 (portion), and 38-80, located at the south end of Wyche Road. Mr. Jeff Harvey, Director of Planning and Zoning gave a presentation and answered Board members question.

The applicant, Mr. Edgar S. Wilborn, III, answered Board members questions.

Discussion ensued.

The Chairman opened the public hearing.

No persons desired to speak.

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Brito, to defer this item to January, 2010 with a request that staff provide more information regarding the transportation element of this request.

The Voting Board tally was:

Yea: (7) Sterling, Brito, Milde, Dudenhefer, Schwartz, Crisp, Woodson

Nay: (0)

Planning and Zoning; Amend and Reordain the Zoning Ordinance by Amending the Zoning District Map to Reclassify from B-3, Office to B-2, Urban Commercial Zoning District on Assessor's Parcel 19U-I, located at 15 and 25 Tech Parkway. Mrs. Kathy Baker, Assistant Director of Planning and Zoning, gave a presentation and answered Board members questions.

Clark Leming spoke on behalf of the applicant.

Discussion ensued.

The Chairman opened the public hearing.

No persons desired to speak.

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Woodson, to adopt proposed Ordinance O09-54.

The Voting Board tally was:

Yea: (7) Sterling, Woodson, Milde, Dudenhefer, Schwartz, Brito, Crisp,

Nay: (0)

Ordinance O09-54 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN THE ZONING ORDINANCE FOR STAFFORD COUNTY BY AMENDING THE ZONING DISTRICT MAP TO RECLASSIFY FROM B-3, OFFICE, TO B-2, URBAN COMMERCIAL ZONING DISTRICT ON ASSESSOR’S PARCEL 19U-1 WITHIN THE ROCK HILL ELECTION DISTRICT

WHEREAS, H. Clark Leming, applicant, has submitted application RC2900128 requesting a reclassification from B-3, Office to B-2, Urban Commercial on Assessor’s Parcel 19U-1; and

WHEREAS, the Board has carefully considered the recommendation of the Planning Commission, staff and testimony at the public hearing; and

WHEREAS, the Board has determined that the requested zoning is compatible with the surrounding land uses and zoning; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practice require adoption of an ordinance to reclassify the subject property;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the Zoning Ordinance for Stafford County be and it hereby is amended and reordained by amending the zoning district map to reclassify from B-3, Office to B-2, Urban Commercial on Assessor’s Parcel 19U-1, with proffers entitled “Proposed Proffers, The Shoppes at North Stafford,” dated September 9, 2009.

Planning and Zoning; Amend Proffered Conditions on Assessor’s Parcels 45-51A and 45-51B, Zoned M-2, Heavy Industrial, consisting of 1.99 acres located at RV Parkway. Mrs. Kathy Baker, Assistant Director of Planning, gave a presentation and answered Board members questions.

Clark Leming spoke on behalf of the applicant.

Discussion ensued.

The Chairman opened the public hearing.

The following person desired to speak:

Lou Silver

The Chairman closed the public hearing.

Mr. Schwartz motioned, seconded by Mr. Milde, to adopt proposed Ordinance O09-55.

The Voting Board tally was:

Yea: (7) Schwartz, Milde, Sterling, Dudenhefer, Brito, Crisp, Woodson

Nay: (0)

Ordinance O09-55 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN THE ZONING ORDINANCE FOR STAFFORD COUNTY BY AMENDING THE PROFFERED CONDITIONS ON ASSESSOR'S PARCELS 45-51A AND 45-51B, ZONED M-2, HEAVY INDUSTRIAL, FALMOUTH ELECTION DISTRICT

WHEREAS, Leming and Healy, P.C, on behalf of Loyd C. Taylor has submitted application RC2900044 requesting an amendment to proffered conditions on Assessor's Parcels 45-51A and 45-51B, zoned M-2, Heavy Industrial, consisting of 1.99 acres, located on the west side of RV Parkway, within the Falmouth Election District; and

WHEREAS, the Board has carefully considered the recommendation of the Planning Commission, staff and testimony at the public hearing; and

WHEREAS, the Board has determined that the requested amendment to proffered conditions is appropriate; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practice require adoption of an ordinance to amend the proffered conditions on the subject property;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the Zoning Ordinance for Stafford County be and it hereby is amended and reordained by amending the zoning district map to amend proffered conditions on Assessor's Parcels 45-51A and 45-51B, zoned M-2, Heavy Industrial, with proffers entitled "RV Parkway, Loyd C. Taylor, Applicant", dated September 1, 2009.

Planning and Zoning; Amend and Reordain the County Code by Amending the Stormwater Management Ordinance. Mr. Jeff Harvey, Director of Planning and Zoning gave a presentation and answered Board members questions.

Mr. Sterling commented.

Discussion ensued.

The Chairman opened the public hearing.

No persons desired to speak.

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Woodson, to adopt proposed Ordinance O09-56.

The Voting Board tally was:

Yea: (7) Sterling, Woodson Milde, Dudenhefer, Schwartz, Brito, Crisp,

Nay: (0)

Ordinance O09-56 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN COUNTY CODE
21.5 (STORMWATER MANAGEMENT ORDINANCE)

REGARDING ESTABLISHING AND LIMITING DEVELOPMENT
IN DAM BREAK INUNDATION ZONES

WHEREAS, the Board is authorized by the Code of Virginia (§10.1-606.3) to adopt requirements for development in dam break inundation zones; and

WHEREAS, the Board desires to amend the Stormwater Management Ordinance to prevent localized flooding, or degradation to water resources, stream channel erosion, groundwater resources;

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practice require adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that Section 21.5 of the Stormwater Management Ordinance be and hereby is amended and reordained as follows:

Sec. 21.5-2 (d) Flooding

- (7) a. Dam Break Inundation Zones shall be developed as required by the Section 10.1-606.2 of the Code of Virginia.
- b. Any proposal to encroach the Dam Break Inundation Zone shall meet the requirements set forth in Sections 10.1-606.2 and 10.1-606.3 of the Code of Virginia.
- c. Establish a Potential Dam Break Inundation Zone to provide guidance to design professionals and citizens.

Included: Dam Break Inundation Zone map showing Potential Dam Break Inundation Zones.

Planning and Zoning; Amend and Reordain the County Code by Adding Chapter 27A, Coastal Primary Sand Dunes. Mr. Jeff Harvey, Director of Planning and Zoning gave a presentation and answered Board members questions.

Discussion ensued.

The Chairman opened the public hearing.

No persons desired to speak.

The Chairman closed the public hearing.

Mr. Woodson motioned, seconded by Mr. Milde, to adopt proposed Ordinance O09-11.

The Voting Board tally was:

Yea: (7) Woodson, Milde, Sterling, Dudenhefer, Schwartz, Brito, Crisp,

Nay: (0)

Ordinance O09-11 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN THE STAFFORD
COUNTY CODE BY ADDING CHAPTER 27A, COASTAL
PRIMARY SAND DUNES

WHEREAS, Section 28.2-1403 of the Code of Virginia (1950), as amended, allows localities in Virginia coastal zone to adopt the coastal primary sand dune zoning ordinance; and

WHEREAS, the Comprehensive Plan includes goals for preservation and enhancement of the County's natural resources, including shorelines; and

WHEREAS, the Wetlands Board has unanimously recommended the Coastal Primary Sand Dune Ordinance for adoption by the Board; and

WHEREAS, the Board has carefully considered the recommendation of the Wetlands Board and staff and the testimony at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practice require adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the Stafford County Code be amended and reordained to add Chapter 27A, "Coastal Primary Sand Dunes", as follows:

CHAPTER 27A. COASTAL PRIMARY SAND DUNES

Sec. 27A-1. Purpose

The Board of Supervisors, acting pursuant to Chapter 14 (§28.2-1400 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of coastal primary sand dunes. Whenever coastal primary sand dunes are referred to in this ordinance, such references shall also include beaches.

Sec. 27A-2. Definitions

As used in this ordinance, unless the context requires a different meaning, the following words and terms shall have the meaning ascribed to them in this section:

Beach means the shoreline zone comprised of unconsolidated sandy material upon which there is a mutual interaction of the forces of erosion, sediment transport and deposition that extends from the low water line landward to where there is a marked change in the either material composition or physiographic form such as a dune, bluff, or marsh, or where no such change can be identified, to the line of woody vegetation (usually the effective limit of stormwaves), or the nearest impermeable man-made structure, such as a bulkhead, revetment, or paved road.

Coastal primary sand dune or dune means a mound of unconsolidated sandy soil which is contiguous to mean high water, whose landward and lateral limits are marked by a change in grade from ten percent or greater to less than ten percent, and upon which is growing any of the following species: American beach grass (*Ammophila brevilgolata*); beach heather (*Hudsonia tomentosa*); dune bean (*Strophostyles* spp.); dusty miller (*Artemisa stelleriana*); salt meadow hay (*Spartina patens*); seabeach sandwort (*Honckenya peploides*); sea oats (*Uniola paniculata*); sea rocket (*Cakile edentula*); seaside goldenrod (*Solidago sempervirens*); Japanese sedge or Asiatic sand sedge (*Carex kobomugi*); Virginia Pine (*Pinus virginiana*); broom sedge (*Andropogon virginicus*); and short dune grass (*Panicum amarum*). For purposes of this ordinance, “coastal primary sand dune” shall not include any mound of sand, sandy soil, or dredge spoil deposited by any person for the purpose of temporary storage, beach replenishment or beach nourishment, nor shall the slopes of any such mound be used to determine the landward or lateral limits of a coastal primary sand dune.

Commission means the Virginia Marine Resources Commission.

Commissioner means the Commissioner of Marine Resources.

County, city and town means the governing body of the county, city and town.

Governmental activity means any of the services provided by the Commonwealth or a county, city or town to its citizens for the purpose of maintaining public facilities, including but not limited to, such services as constructing, repairing, and maintaining roads; providing street lights and sewage facilities; supplying and treating water; and constructing public buildings.

Wetlands Board or board means the board created pursuant to §28.2-1303 of the Code of Virginia.

Sec. 27A-3. Permitted uses and activities on primary dunes

The following uses and activities in dunes are authorized if otherwise permitted by law:

- (a) The construction and maintenance of noncommercial walkways which do not alter the contour of the coastal primary sand dune;
- (b) The construction and maintenance of observation platforms which are not an integral part of any dwelling and which do not alter the contour of the coastal primary sand dune;
- (c) The planting of beach grasses or other vegetation for the purpose of stabilizing coastal primary sand dunes;
- (d) The placement of sand fences or other material on or adjacent to coastal primary sand dunes for the purpose of stabilizing such features, except that this provision shall not be interpreted to authorize the placement of any material which presents a public health or safety hazard;
- (e) Sand replenishment activities of any private or public concern, provided no sand shall be removed from any coastal primary sand dune unless authorized by lawful permit;
- (f) The normal maintenance of any groin, jetty, riprap, bulkhead, or other structure designed to control beach erosion which may abut a coastal primary sand dune;
- (g) The normal maintenance or repair of existing roads, highways, railroad beds, and facilities of the United States, this Commonwealth, or Stafford County, or of any person, provided no coastal primary sand dunes are altered;

- (h) Outdoor recreational activities, provided the activities do not alter the natural contour of the coastal primary sand dune or destroy the vegetation growing thereon;
- (i) The conservation and research activities of the Commission, Virginia Institute of Marine Science, Department of Game and Inland Fisheries, and other conservation-related agencies;
- (j) The construction and maintenance of aids to navigation which are authorized by governmental authority;
- (k) Activities pursuant to any emergency declaration by Stafford County or the Governor of the Commonwealth or any public health officer for the purpose of protecting the public health and safety; and
- (l) Governmental activity in coastal primary sand dunes owned or leased by the Commonwealth or a political subdivision thereof.

Sec. 27A-4. Application for permit

- (a) Any person who desires to use or alter any coastal primary sand dune within Stafford County, other than for the purpose of conducting the activities specified in §27A-3 of this ordinance, shall first file a Joint Permit Application with the Commission.
- (b) The permit application shall include the following: (1) the name and address of the applicant; a detailed description of the proposed activities and a map, drawn to an appropriate and uniform scale, showing the area of dunes directly affected, the location of the proposed work thereon, the area of any proposed fill and excavation, the location, width, depth and length of any disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; (2) a description of the type of equipment to be used and the means of equipment access to the activity site; (3) the names and addresses of owners of record of adjacent land; (4) an estimate of cost; (5) the primary purpose of the project; (6) secondary purpose of the project; (7) a complete

description of measures to be taken during and after the alteration to reduce detrimental offsite effects; (8) the completion date of the proposed work, project, or structure; and (9) such additional materials and documentation as the wetlands board may require.

- (c) A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense. No person shall be required to file two separate applications for permits if the proposed project will require permits under this ordinance and Chapter 27, Wetlands, of the Stafford County Code. Under those circumstances, the fee shall be established pursuant to this ordinance.

Sec. 27A-5. Application open for public inspection

All applications, maps, and documents submitted shall be open for public inspection at the Stafford County Department of Planning and Zoning office.

Sec. 27A-6. Hearing on application

Not later than sixty days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, board of supervisors, Commissioner, owner of record of any land adjacent to the coastal primary sand dunes in question, the Virginia Marine Resources Institute, the Department of Game and Inland Fisheries, the State Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application, shall be notified of the hearing. The board shall mail these notices not less than twenty days prior to the date set for the hearing. The wetlands board shall also cause notice of the hearing to be published at least once a week for two weeks prior to such hearing in a newspaper of general circulation in Stafford County. The costs of publication shall be paid by the applicant.

Sec. 27A-7. Determination of board; grant or denial

- (a) Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.
- (b) The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may

appear and be heard at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decisions of the board, and the rationale for the decision.

- (c) The board shall make its determination within thirty days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within forty-eight hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the thirty-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved.
- (d) If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the office of the Stafford County Department of Planning and Zoning.

Sec. 27A-8. Bond to secure compliance with conditions and limitations

The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

Sec. 27A-9. Board Responsibilities

In fulfilling its responsibilities under this ordinance, the board shall preserve and protect coastal primary sand dunes and beaches and prevent their despoliation and destruction. However, whenever practical, the board shall accommodate necessary economic development in a manner consistent with the protection of these features.

Sec. 27A-10. Grounds for decision of board regarding application

(a) In deciding whether to grant, grant in modified form, or deny a permit, the board shall consider the following:

- (1) The testimony of any person in support of or in opposition to the permit application;
- (2) The impact of the proposed development on the public health, safety, and welfare; and
- (3) The proposed development's conformance with standards prescribed in §28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to §28.2-1401 of the Code of Virginia.

(b) The board shall grant the permit if all of the following criteria are met:

- (1) The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment;
- (2) The proposed development conforms with the standards prescribed in section §28.2-1408 of the Code of Virginia and guidelines promulgated pursuant to §28.2-1401 of the Code of Virginia; and
- (3) The proposed activity does not violate the purposes and intent of this ordinance or Chapter 14 (§28.2-1400 et seq.) of Title 28.2 of the Code of Virginia.

(c) If the board finds that any of the criteria listed in subsection (b) of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.

Sec. 27A-11. Form of the permit.

The permit shall be in writing, signed by the chairman of the board, and notarized. A copy of the permit shall be transmitted to the Commissioner.

Sec. 27A-12. Expiration date of permit

No permit shall be granted without an expiration date established by the board. Upon proper application, the board may extend the permit expiration date.

Sec. 27A-13.

No permit granted by a wetlands board shall in any way affect the right of any person to seek compensation for any injury in fact incurred by him because of the permitted activity.

Planning and Zoning; Amend the Stafford County Subdivision Ordinance, Section 22-5, Family and Minor Subdivisions. Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board members questions.

The Chairman opened the public hearing.

No persons desired to speak.

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Crisp, to adopt proposed Ordinance O09-38.

The Voting Board tally was:

Yea: (6) Sterling, Crisp, Dudenhefer, Schwartz, Brito, Woodson

Nay: (1) Milde

Ordinance O09-38 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE, SECTION 22-5, "FAMILY AND MINOR SUBDIVISIONS", OF THE SUBDIVISION ORDINANCE

WHEREAS, a Private Access Easement (PAE) may only serve two (2) lots, including the lot it travels through; and

WHEREAS, there are no restrictions preventing a Minor Subdivision from having two (2) Private Access Easements adjoining each other; and

WHEREAS, the Board believes that PAEs should be used in a manner not to circumvent the Subdivision Ordinance; and

WHEREAS, the Board has carefully considered the recommendations of the Planning Commission, staff and the testimony at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good subdivision practice requires adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20th day of October, 2009, that the Stafford County Code be and it hereby is amended and reordained by amending Section 22-5, Family and Minor Subdivisions, of the Subdivision Ordinance as follows, with all other portions remaining unchanged:

BE IT FURTHER ORDAINED that this ordinance shall become effective on October 20, 2009.

Sec. 22-5. Family and minor subdivisions.

(b) *Minor subdivisions.*

(9) A minor subdivision shall contain no more than one (1) Private Access Easement (PAE).

Planning and Zoning; Amend Stafford County Code, Sections 28-25, “Definitions of Specific Terms” and 28-39, Special Regulations, (a) “Fences, Walls and Hedges”. Mr. Jeff Harvey, Director of Planning and Zoning gave a presentation and answered Board members questions.

The Chairman opened the public hearing.

No persons desired to speak.

The Chairman closed the public hearing.

Mr. Milde motioned, seconded by Mr. Sterling, to adopt proposed Ordinance O09-32.

The Voting Board tally was:

Yea: (7) Milde, Sterling, Dudenhefer, Schwartz, Brito, Crisp, Woodson

Nay: (0)

Ordinance O09-32 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE, SECTION 28-39, SPECIAL REGULATIONS, (a) FENCES, WALLS AND HEDGES AND SECTION 28-25, DEFINITIONS OF SPECIFIC TERMS

WHEREAS, the Zoning Ordinance provides height regulations for fences, walls and hedges in specific zoning districts; and

WHEREAS, the Zoning Ordinance does not provide height regulations for fences, walls and hedges on residential corner lots for street facing side yards nor a definition for street facing side yard; and

WHEREAS, the Board of Zoning Appeals requests an amendment to include street facing side yard within Section 28-39, Special Regulations, (a) Fences, Walls and Hedges; and

WHEREAS, the Board has carefully considered recommendations of the Planning Commission, staff, and the testimony at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practice require adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20th day of October, 2009 that Section 28-39, Special Regulations (a) Fences, Walls and Hedges and Section 28-25 be and hereby is amended and reordained as follows, with all other portions remaining the same:

Section 28-25. Definitions of specific terms.

When used in this chapter, the following term shall have the meaning herein ascribed:

Yard, street facing side. An open space adjacent to a street and extending from the property line to the required yard of twenty-five (25) feet or the minimum front yard requirement for the zoning district, whichever is less.

Sec. 28-39. Special regulations.

(a) *Fences, walls and hedges.*

Rural and residential districts (A-2, R-1, R-2, R-3 and R-4). Fences, walls, and hedges shall not exceed eight (8) feet in height within any side or rear yard nor four (4) feet in

height within any front yard, street facing side yard (except A-2), or within that portion of the side yard in front of the front setback line. In no event shall barbed wire, razor wire, or any other similar contrivance be used in residential districts.

BE IT FURTHER ORDAINED that this ordinance shall become effective on October 20, 2009.

Adjournment At 9:01 p.m. the Chairman declared the meeting adjourned.

Anthony J. Romanello, ICMA-CM
County Administrator

George H. Schwartz
Chairman