

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

MINUTES

Regular Meeting

March 20, 2012

Call to Order. A regular meeting of the Stafford County Board of Supervisors was called to order by Susan B. Stimpson, Chairman, at 3:03 P. M., Tuesday, March 20, 2012, in the Board Chambers, George L. Gordon, Jr. Government Center.

Roll Call. The following members were present: Susan B. Stimpson, Chairman; Cord A. Sterling, Vice Chairman; Jack R. Cavalier; Paul V. Milde, III; Ty A. Schieber; Gary F. Snellings; and Robert “Bob” Thomas, Jr.

Also in attendance was Anthony Romanello, County Administrator; Charles Shumate, County Attorney; Marcia Hollenberger, Chief Deputy Clerk; Pamela Timmons, Deputy Clerk, associated staff and interested parties.

Standing Committee Reports by Board Members Mr. Milde provided an update on the activities of the Community and Economic Development Committee saying that the County’s new website design was very impressive and should be unveiled in approximately ten days. He also spoke about the upcoming Hansen 8 software update, the Boswell’s Corner initiative, and Code/Zoning ordinance updates being considered.

Mr. Sterling provided an update on the activities of the Finance, Audit and Budget Committee including elements of the FY2013 budget, the CIP, the Schools’ requested transfer of \$864,000, and scheduling a special meeting on the Utilities CIP, and possible rate increases.

Ms. Stimpson called Tom Coen to the podium and thanked him for his efforts that resulted in another successful Student Government Day. Mr. Coen said that County staff did a tremendous job working with 100 students from five high schools. He offered special thanks to Jeff Shover and Joanie DeShazo with the Citizen's Assistance Office and to John Palmer with Information Technology. In response to Mr. Milde's question, Mr. Coen said that this was his 9<sup>th</sup> year working with Student Government Day. Ms. Stimpson said that students really benefit from Mr. Coen's hard work and that it helps toward making Stafford's students civic-minded adults.

Stafford Regional Airport Terminal Building Mr. Hank Scharpenberg gave a presentation to the Board and introduced Mr. Ed Wallis, Mr. Randall Burdett, and Mr. Hamilton Palmer. He talked about the hangars being full and a waiting list to fill vacancies as they occur. Mr. Scharpenberg said that hangar rental takes care of debt service but corporate aviation brings in real revenue. He presented slides of terminals at regional airports in Loudoun County, VA and Manassas, VA. He said that Fortune 500 companies (typically) use Gulfstream jets which require a 6000' runway and use instrument landing systems (ILS), adding that the FAA funded land acquisition for necessary clearing and that the ILS should be activated by June, 2013. Ms. Stimpson thanked Mr. Scharpenberg for the respect shown to the property owners involved in the recent land acquisitions. Mr. Scharpenberg talked about the removal of trees which impinged on the Glide Scope. Mr. Sterling requested that Mr. Scharpenberg provide information about the Airport's plans to re-shield the area that is being cleared.

Mr. Scharpenberg showed a slide depicting an artist's rendering of the proposed terminal renovation and talked about the funding necessary to accomplish the next phase of construction at the Airport and a possible no-interest loan from the County in the amount of \$1.4M. Mr. Milde asked about debt service of 20 years. Mr. Scharpenberg responded that it would be 25 years. Mr. Milde said that Manassas and Loudoun are inside an area bound by "special flight rules", saying that it is a hassle and that Stafford's airport has the advantage of being outside special flight rules. Mr. Milde talked about expectations and the vision for the entire area around the airport including American Legion Road and Centreport Parkway.

Mr. Snellings inquired about extending the runway to 6000' and said that on the shorter, existing runway, larger jets cannot take off with a full fuel load, adding that he believes that extending the runway is more important than building a new terminal building. Mr. Scharpenberg will provide the Board with a cost estimate for extending the runway.

Mr. Sterling said he assumed that when the airport taxes were lowered, there would be a zero subsidy and now Mr. Scharpenberg is asking the County for a no interest loan in the amount of \$1.4M. Mr. Sterling spoke about G5 jets and concentrating on extending the length of the runway. He also talked about where the County sees the Airport going in the future and its impact on the surrounding area, adding that he felt that the Airport was built in the wrong location and that the military flight area could be extended and then special flight rules would include Stafford.

Mr. Milde said that he was proud of the Airport and that the double-wide trailer was an embarrassment. He added that he knew of people anxious to leave the Fredericksburg Airport due to their higher fees and move to Stafford when hangar space becomes available. Mr. Milde asked the Chairman when the Airport's request could be discussed further.

In talking about the Airport's request for the County to fund a \$1.4M no-interest loan, Mr. Shumate said that the Board could suspend the bylaws, approve a reimbursement resolution and come back later with the financing mechanism. Mr. Cavalier said that he did not think that was the best protocol and suggested that a public hearing be held to get input on the proposed Airport expansion. Ms. Stimpson suggested that it be brought first to the Community and Economic Development Committee meeting. Mr. Schieber asked if, when the Board next addressed the issue, there was enough time to ensure that the Airport would not miss the available matching funds. Mr. Scharpenberg said that they may miss the 60/40 but that the Federal government does not participate in terminal construction. He added that there was some "wiggle room" in the dates; bids must be in-hand by mid-July. Ms. Stimpson directed staff to add additional Airport discussion to the April 4<sup>th</sup> agenda for the Community and Economic Development Committee.

Finance and Budget / Planning and Zoning; Proffer Guidelines Mr. Jeff Harvey, Director of Planning and Zoning, began the presentation. Ms. Mickey Kwiatkowski, Accounting Manager, and Ms. Donna Olsen, Budget Analyst, also participated in the presentation. Mr. Sterling talked about proffers being shared across various categories. Mr. Harvey responded that the first step is to look within categories but that the County can then look across categories and use proffers where they can be put to the best use. Mr. Milde noted that proffers are just suggested guidelines. Mr. Harvey said that proffers are negotiated on a case-by-case basis and proffer guidelines are an effort on the part of staff to standardize proffers for the County. He added that the Comprehensive Plan gives guidance and direction to applicants for specific areas of development as well as input from various Boards and Commissions.

Mr. Romanello said that the presentation was intended only as guidance on what the Board may wish to consider, that staff was not asking for a vote on finalized proffer guidelines. Staff was bringing suggestions and each suggestion should be considered on its own merit. He added that semantics are important; proffer guidelines are important (but voluntary) and are a dynamic guideline for future growth and development in the County.

Ms. Kwiatkowski spoke about the methodology behind the suggested changes to the guidelines and walked the Board through calculations for General Government. The numbers given in the presentation were based on current assessments and would be revised and updated. Mr. Thomas asked about the CIP escalation factor for out-years and built-in inflationary rules and asked if proffers were updated yearly. Ms. Kwiatkowski responded that they were updated yearly using the Marshall-Swift Index.

Ms. Olsen spoke about proffer credits. Ms. Stimpson said that she was surprised by the concept, and asked about giving credits to new housing (possibly ten years into a twenty year debt) when those newly housed residents will be driving on the roads or using the courthouse facilities, public safety, etc. Mr. Romanello said that it is a shift in methodology, that the County does not currently have a system of credits. The proposed credit was a portion that a house pays which go towards debt service. He added that it is possible to have no credits, which is how the County currently handles proffers.

Mr. Snellings talked about proposed credits and asked what happened if the value of the house went down. Ms. Olsen said that credits would be based on the assessed value of the house and would be reevaluated with each reassessment. Mr. Snellings also talked age-restricted credits and asked if there was a provision to increase the proffers in age-restricted developments where there would be a higher usage of public safety departments. Ms. Olsen responded that there is no provision to increase the proffers in age-restricted developments.

Mr. Harvey said that this is a first draft and that staff, following Board direction, will work on a final draft. A next step is to consider how the Board wants to handle Transportation guidelines, saying that staff held off due to Transportation Impact Fees and that the Board can decide if it wants one or both. Mr. Milde asked for clarification about Impact Fees. Mr. Harvey said that an Impact Fee looks at all new by-right development and imposes a fee for the individual dwelling unit's share to provide for roads and transportation infrastructure to the area.

Mr. Harvey said that the next step is to establish a process and to determine how the Board wishes to proceed, which could include modification of certain parameters, doing nothing, or adopting the Guidelines as presented. Also, the Board should consider whether it wants to involve the Planning Commission. Staff recommends that the Board consider holding a public hearing before final adoption of proffer guidelines.

Mr. Milde said that the most important thing is that no one, in his seven years on the Board, has done any rezonings in Stafford under the current proffers, whether by design of the previous Board, or not. Mr. Milde said that he supports a reduction in proffers because the current system is creating sprawl. Ms. Stimpson reiterated Mr. Harvey's options. Mr. Snelling said that it should go to the Planning Commission. Mr. Cavalier concurred. Mr. Romanello said that it could be sent to the Planning Commission in a variety of formats, like Mr. Harvey said, with the same wide view if the Board prefers. Mr. Thomas said that the Board had just been given a very broad scope of options and that may need to be pared down before sending it to the Planning Commission. Mr. Romanello said that it could be worked down at the Board level before sending it to the Planning Commission. Mr. Milde said that the Planning Commission has so much latitude; they can do anything they want to do with it.

Mr. Snellings motioned, seconded by Mr. Cavalier, to send it to the Planning Commission and asked Mr. Harvey about the Planning Commission's current work load. Mr. Harvey recommended 90 days if the Planning Commission holds a public hearing. Mr. Schieber asked if the Board would give the Planning Commission any context in which to review the new proffer guidelines. He inquired what the Planning Commission will use with which to frame their response and how broad the Board wants consideration by the Planning Commission.

Mr. Cavalier said that the Board was presented a new methodology today, realizing that proffer guidelines are just that, nothing is set in stone. Things have changed and the County will have to come up with new guidelines. This new methodology will help to flesh that out.

Mr. Snellings repeated his motion, seconded by Mr. Cavalier, to send Proffer Guidelines to the Planning Commission with a 90-day turn around.

The Voting tally was:

Yea: (6) Snellings, Cavalier, Milde, Schieber, Stimpson, Thomas

Nay: (1) Sterling

Public Works Authorize a Public Hearing to Amend and Reordain Stafford County Code to Repeal Sections 3.5-1 through 3.5-10 and Sections 3.5.-12 through 3.5.-14 of Chapter 13.5, Article I, entitled "Impact Fees" Mr. Mike Smith, Director of Public Works, gave a presentation and answered Board member's questions.

Mr. Sterling inquired why a road that runs primarily through Marine Corps Base Quantico was identified on the TIF map. Mr. Smith said that the map identifies all roads that have been degraded even if they will not necessarily be identified for future TIF funding. Mr. Sterling then asked why there were different fees associated with and tied with different types of dwelling units, adding that he thought that all dwelling units should be included in one cost.

Mr. Milde said that TIF captures un-subdivided property and that County can anticipate an approximate \$9M in revenue. Mr. Smith confirmed that amount. Mr. Milde asked for the transportation component for single-family homes. Mr. Harvey responded that at the current rate, it is \$15,388. Mr. Milde asked about locally generated transportation revenue. Budget Director, Ms. Nancy Collins, responded that there was approximately \$5.2M in gas tax. Recordation is \$700k, of which about one-half is transportation. Mr. Milde said that FRED, VRE and the Airport are committed to an additional \$3M, adding that TIF promises to generate nearly three times the current revenue. Mr. Smith said there is a backlog of 2000 lots which have been recorded but not yet built on and these lots would not be subjected to TIF. Mr. Snellings cited the example of his living in Hartwood, owning three acres for the past forty years. If he decided to build a house on the acreage, he would not have to pay TIF. Mr. Smith said that state law does not permit TIF if the land has already been recorded.

Ms. Stimpson said that in the Committee meeting, Mr. Thomas asked if the County could keep existing Impact Fees. Mr. Smith responded that the County could keep the existing TIF but they are for only two small areas of the County. Once new impact fees were presented for Board consideration, TIF would cover the entire County. Mr. Smith said that once the County adopts a County-wide TIF, they would apply only for lots recorded after the TIF was imposed. Mr. Snellings asked if the Clift Farm rezoning would be subject to TIF. Mr. Smith said that if they record their lots before the TIF has been fully adopted by the Board, Clift Farm would not be subject to impact fees. Mr. Sterling pointed out that they currently have 145 recorded lots that would be wiped out if/when the rezoning is approved but TIF would be collected on the new lots.

Mr. Thomas said that he appreciates the brief but that it was really about the new fees and he does not know why there is a move to publicize a public hearing and a rush to get rid of the old fee before new fees are adopted. Mr. Cavalier said he was wondering the same thing. Mr. Thomas asked what happens to fees previously collected and said that some roads in his district (on which fees were collected) have completely fallen off the list of roads presented. Mr. Romanello said that for the southwest project, the Board authorized work on Poplar Road which would be paid for using already collected TIF. He added that in the southeast district, it is a bit different.

Mr. Dayton addressed the Board saying that there is a provision in State Code that unused fees can go into the County's Secondary System of Roads (the SSYP program) for use on roads within the County. Mr. Thomas suggested that funds be channeled to roads within a particular district. Mr. Romanello said that funds would first have to be budgeted and appropriated by the Board.

Mr. Milde said that he agreed that the County should not repeal one without approving the other. He requested that staff give the Board other versions that change the 50% threshold for the sole purpose of lowering the fee that might be impacted on a development lot because when the County looked at proffers, there was never thought "what is the real impact here, how will this change applications for rezoning?" "It is just so high that nobody would do it. We should have a scale if we can – maybe something \$6300 and down so we have some options on how much we want to saddle subdivisions with." Mr. Milde added that it was just his opinion and that he'd like an option to go lower with TIF.

Mr. Shumate reminded the Board that his intent was to advertise for a public hearing but hold in abeyance the collection of all TIF until a new ordinance is in place. Mr. Sterling said there was another element... in four years there had not been an adoption of County-wide impact fees and added that the County cannot wait another four years.

Mr. Milde asked if this could be moved forward but with changing the higher percentage of future growth, which changes to a higher percentage and lowers the fee charged on each type of dwelling unit. Mr. Shumate said that the Board could direct staff to come back to the Board in a certain number of days and present this again adding that there was no need to deal with the Resolution or Ordinance at that time. Mr. Romanello suggested that staff will have TIF ready for the Board's next meeting including a referral resolution to send TIF to the Planning Commission if the Board so desires. Mr. Thomas asked if there was any provision to make exceptions on a case-by-case basis. Mr. Shumate said that staff would have to take a very close look at it. Mr. Thomas said, to be as non-discriminatory as possible, to look at all commercial, as it is very wide-ranging. Mr. Romanello confirmed that staff has the direction they need and that Transportation Impact Fees will be included on the April 4<sup>th</sup> agenda.



Finance and Budget; Authorize a Public Hearing for the FY2013 County Budgets, CY2012 Property Tax Rates and the Fiscal Year 2013 – 2022 Capital Improvement Plan Mr. Sterling presented the item for discussion and motioned, seconded by Mr. Milde, to authorize a public hearing for the FY2013 County budgets, the CY2012 property tax rates, and the FY2013-2022 Capital Improvement Plan.

Mr. Thomas offered a friendly amendment that Warrenton Road rates should be left as is until further study and discussion including Mr. Snellings as it involves his district. Mr. Sterling clarified that the rate be equalized to which Mr. Thomas agreed.

The Voting tally with the friendly amendment was:

Yea: (7) Thomas, Cavalier, Milde, Schieber, Snellings, Sterling, Stimpson  
Nay: (0)

Resolution R12-85 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ADVERTISE PUBLIC HEARINGS ON THE PROPOSED FY2013 COUNTY BUDGETS, THE PROPOSED CALENDAR YEAR 2012 TAX RATES, AND THE PROPOSED FY2013-22 CAPITAL IMPROVEMENTS PLAN

WHEREAS, the Virginia Code requires that the governing body shall cause to be published in a newspaper having general circulation in the County, a brief synopsis of the budget and notices of a public hearing, at which any citizen of the County shall have the right to attend and state views thereon;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of March, 2012, that the County Administrator be and he hereby is authorized to publish a brief synopsis of the proposed Fiscal Year 2013 County Budgets, the proposed Fiscal Year 2012 Calendar Year Property Tax Rates, and the Proposed Fiscal Year 2013-2022 Capital Improvements Plan, and to advertise a public hearing to be held on April 4, 2012.

Legislative; Consent Agenda Mr. Cavalier motioned, seconded by Mr. Snellings, to adopt the Consent Agenda consisting of Items 11 thru 25, omitting Items 22 and 25.

The Voting Board tally was:

Yea: (7) Cavalier, Snellings, Milde, Schieber, Sterling, Stimpson, Thomas

Nay: (0)

Item 11. Legislative; Approve Minutes of Board Meeting Regular Meeting of March 6, 2012.

Item 12. Finance and Budget; Approve Expenditure Listing

Resolution R12-84 reads as follows:

A RESOLUTION TO APPROVE EXPENDITURE LISTING (EL)  
DATED MARCH 7, 2012 THROUGH MARCH 19, 2012

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 20<sup>th</sup> day of March 2012 that the above-mentioned EL be and hereby is approved.

Item 13. Finance and Budget; Authorize a Contract Renewal for FY2012 Audit Services

Resolution R12-72 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO RENEW AUDIT SERVICES CONTRACT FOR FY2012

WHEREAS, in March, 2010, the Board awarded a contract for external audit services of the County, Schools, and R-Board to Cherry, Bekaert & Holland, LLP; and

WHEREAS, the County desires to renew the audit services contract for FY2012; and

WHEREAS, the Board's Finance, Audit, and Budget Committee requested that the scope of services for the FY2012 audit services contract renewal include a full audit of the Schools' financials; and

WHEREAS, the negotiated costs for FY2012 audit services are \$188,584; and

WHEREAS, funds are budgeted for this expenditure; and

WHEREAS, Virginia Code Section 15.2-2511, states that every locality shall contract for the performance of an annual audit not later than April 1 of each fiscal year; and

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that the County Administrator be and he hereby is authorized to execute a contract renewal with Cherry, Bekaert & Holland, LLP, for FY2012 audit services in the amount of One hundred Eighty-eight Thousand Five Hundred Eighty-four Dollars (\$188,584).

Item 14. Finance and Budget; Budget and Appropriate Proffer Fund Proceeds

Resolution R12-71 reads as follows:

A RESOLUTION TO BUDGET AND APPROPRIATE  
CASH PROFFER FUND PROCEEDS

WHEREAS, cash proffer funds in the amount of \$33,593 are available for General Government projects and may be used to offset costs related to the Chichester Building project; and

WHEREAS, cash proffer funds in the amount of \$42,594 are available for library projects and may be used to reimburse the County for the cost of the phone system installed at England Run Library; and

WHEREAS, cash proffer funds in the amount of \$6,864 are available for regional landfill projects and may be used for capital improvements;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that it be and hereby does budget and appropriate the following in cash proffer funds:

GENERAL FUND	\$83,051
CAPITAL FUND	\$76,187

Item 15. Finance and Budget; Authorize the Issuance, Sale and Award of General Obligation Refunding Bonds

Resolution R12-83 reads as follows:

A RESOLUTION TO APPROVE THE ISSUANCE, SALE AND AWARD  
OF ITS GENERAL OBLIGATION REFUNDING BOND, SERIES 2012,  
AND SET FORTH THE FORM, DETAILS, AND PROVISIONS FOR THE  
PAYMENT THEREOF

WHEREAS, on April 16, 2002, the County of Stafford, Virginia, a political subdivision of the Commonwealth of Virginia (the "County"), issued its General Obligation

and Refunding Bonds, Series 2002, in the original aggregate principal amount of \$15,675,000 (the "2002 Bonds"); and

WHEREAS, the County desires to issue a refunding bond (the "Bond") to refund all or a portion of the 2002 Bonds, subject to the terms and conditions herein, including a condition that the refunding achieve an aggregate net present value debt service savings of not less than 3% of the refunded principal amount (the "Targeted Savings"); and

WHEREAS, the County has applied to the Virginia Resources Authority ("VRA") for the purchase of the Bond, and VRA has indicated its willingness to purchase such Bond from the proceeds of its Infrastructure and State Moral Obligation Revenue Bonds (Virginia Pooled Financing Program), Series 2012A (as more particularly defined in the below-defined Financing Agreement, the "VRA Bonds"), in accordance with the terms of a Local Bond Sale and Financing Agreement, between VRA and the County (the "Financing Agreement"), the form of which is on file with the County Administrator; and

WHEREAS, VRA has advised the County that the sale date of the VRA Bonds is tentatively scheduled for May 23, 2012, but may occur, subject to market conditions, at any time between May 1, 2012 and June 1, 2012 (the "VRA Sale Date"), and that VRA's objective is to pay the County a purchase price for the Bond which, in VRA's judgment, reflects its market value (the "VRA Purchase Price Objective") taking into consideration such factors as the Targeted Savings, the purchase price received by VRA for the VRA Bonds, the issuance costs of the VRA Bonds (consisting of the underwriters' discount and other costs incurred by VRA (collectively, the "VRA Costs")), and other market conditions relating to the sale of the VRA Bonds; and

WHEREAS, the Financing Agreement will provide that the terms of the Bond may not exceed the parameters set forth below in paragraph 3;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of March, 2012, as follows:

**1. Authorization of Bond and Use of Proceeds.** The Board of Supervisors hereby determines that it is advisable to cause the County to contract a debt and to issue the Bond in an aggregate principal amount not to exceed \$7,000,000. The Bond shall be designated as the County of Stafford, Virginia General Obligation Refunding Bond, Series 2012. The issuance and sale of the Bond under the terms of this Resolution are authorized. The proceeds from the issuance and sale of the Bond shall be used, along with other available County funds, if any, to (i) refund all or a portion of the 2002 Bonds, and (ii) pay the costs of issuing the Bond.

**2. Award and Sale to the Virginia Resources Authority.** The award and sale of the Bond to or at the direction of VRA is authorized. The Bond shall be delivered to or upon the order of VRA, upon VRA's payment of the purchase price to be set forth in the Financing Agreement.

**3. Details of Bond.** The Bond shall be issued as a single fully registered bond. The Board of Supervisors authorizes the issuance and sale of the Bond on terms as shall be

determined by VRA subject to VRA's Purchase Price Objective and market conditions described above; provided, however, the Bond (i) shall be in an aggregate principal amount sufficient to refund the 2002 Bonds, but not to exceed \$7,000,000, (ii) shall have a final maturity not later than December 31, 2021, (iii) shall be subject to prepayment upon the terms set forth in the Financing Agreement, and (iv) the refunding of the 2002 Bonds shall achieve at least the Targeted Savings. Subject to the preceding terms, the Board of Supervisors further authorizes the County Administrator of the County (the "County Administrator") and the Chief Financial Officer of the County (the "Chief Financial Officer"), either of whom may act, to accept the final terms presented by VRA, including (a) the final principal amount of the Bond, (b) the interest rate, and (c) the amortization schedule (including the principal installment dates and amounts) for the Bond. The actions of the County Administrator or the Chief Financial Officer, in determining the final terms of the Bond, shall be conclusive, and no further action shall be necessary on the part of the Board of Supervisors.

As set forth in the Financing Agreement, the County agrees to pay such "Supplemental Interest" and other charges as provided therein, including such amounts as may be necessary to maintain or replenish the VRA defined in the Financing Agreement. The principal amount of and premium, if any, and interest on the Bond shall be payable in lawful money of the United States of America.

**4. Payments under Financing Agreement.** The County agrees to pay all amounts required by the Financing Agreement, including any amounts required by Section 6.1 of the Financing Agreement, including any "Supplemental Interest," as provided in such section.

**5. Redemption of Bond.** The principal of premium, if any, and interest on the Bond shall be payable as set forth in the Bond and the Financing Agreement. The Bond shall be subject to defeasance, refunding, and/or redemption, as provided in the Bond and the Financing Agreement.

**6. Pledge of Full Faith and Credit.** The full faith and credit of the County are hereby irrevocably pledged for the payment of the principal of premium, if any, and interest on the Bond as the same become due and payable. The Board of Supervisors shall levy an annual ad valorem tax upon all property in the County, subject to local taxation, sufficient to pay the principal of, premium, if any, and interest on the Bond as the same shall become due for payment unless other funds are lawfully available and appropriated for the timely payment thereof.

**7. Approval of Financing Agreement.** The Financing Agreement is approved in substantially the form on file with the County Administrator, with such changes, insertions, or omissions as may be approved by the County Administrator or the Chief Financial Officer, either of whom may act, whose approval shall be evidenced conclusively by the execution and delivery of the Financing Agreement on the County's behalf. The County Administrator and the Chief Financial Officer, either of whom may act, are hereby authorized to execute and deliver the Financing Agreement and such other documents and certificates as such officer may consider necessary in connection therewith.

The actions of the County Administrator and the Chief Financial Officer in accepting the final terms of the Bond shall be conclusive, and no further action shall be necessary on the part of the Board of Supervisors.

**8. Form of Bond.** The Bond shall be in substantially the form presented to Board of Supervisors at this meeting, with such variations, insertions, or deletions as may be approved by the County Administrator and the Chief Financial Officer, either of whom may act. There may be endorsed on the Bond such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

**9. Evidence of Approval.** The County Administrator's or the Chief Financial Officer's approval or determination of all of the details and provisions of the Bond that such officers have been authorized and/or directed to approve under this Resolution shall be evidenced conclusively by the execution and delivery of the Bond on the County's behalf.

**10. Execution and Delivery of Bond.** The Chairman of the Board of Supervisors (the "Chairman") is authorized and directed to execute the Bond and the Clerk of the Board of Supervisors (the "Clerk") is authorized and directed to affix the seal of the County thereon and to attest such seal. Such officers are further authorized and directed to deliver the Bond to or at the direction of VRA upon payment of the purchase price set forth in the Financing Agreement.

**11. Registration, Transfer and Exchange.** The Chief Financial Officer is hereby appointed as the County's registrar and transfer agent to keep books for the registration and transfer of the Bond and to make such registrations and transfers under such reasonable regulations as the Board of Supervisors may prescribe.

**12. Disclosure Documents.** The County authorizes and consents to the inclusion of information with respect to the County to be contained in VRA's Preliminary Official Statement and VRA's Official Statement in final form, both prepared in connection with the sale of the VRA Bonds, a portion of the proceeds of which will be used to purchase the Bond. If appropriate, such disclosure documents shall be distributed in such manner and at such times as any of them shall determine. The County Administrator and the Chief Financial Officer, either of whom may act, are hereby authorized and directed to take whatever actions are necessary and/or appropriate to aid VRA in ensuring compliance with Securities and Exchange Commission Rule 15c2-12.

**13. Tax Documents.** The County Administrator and the Chief Financial Officer, either of whom may act, are authorized to execute a Nonarbitrage Certificate and Tax Compliance Agreement or any related document (the "Tax Documents") setting forth the expected use and investment of the proceeds of the Bond and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), including the provisions of Section 148 of the Tax Code and applicable regulations relating to "arbitrage bonds." The County covenants that the proceeds from the issuance and sale of the Bond will be invested and expended as set forth in the Tax Documents, to be delivered simultaneously with the issuance and delivery of the Bond and that the County shall comply with the other covenants and representations contained therein.

**14. Refunding.** (a) The Board of Supervisors hereby authorizes and directs the County Administrator and the Chief Financial Officer, either of whom may act, to exercise their discretion in selecting the particular 2002 Bonds to be refunded; provided, however, that the Targeted Savings are achieved.

(b) The Board of Supervisors hereby authorizes and directs the County Administrator and the Chief Financial Officer, either of whom may act, to cause each of the 2002 Bonds selected for refunding under subparagraph (a) above to be called for optional redemption on its earliest optional redemption date required under applicable federal tax law. The redemption proceedings, including the giving of redemption notices to the holders of the refunded 2002 Bonds, shall be done pursuant to the terms of the 2002 Bonds.

(c) The County Administrator and the Chief Financial Officer, either of whom may act, are hereby authorized to cause to be prepared and directed to execute and deliver an Escrow Agreement, between the County and an escrow agent to be selected by the County Administrator, to provide for the refunding and defeasance of the 2002 Bonds.

**15. Further Actions; Authorized Representative.** The Chairman, the Clerk, the County Administrator, the Chief Financial Officer, and such officers and agents of the County as may be designated by any of them, are authorized and directed to take such further actions in conformity with the purpose and intent of this resolution as may be necessary or appropriate in connection with the issuance and sale of the Bond, and the execution, delivery, and performance of the Financing Agreement, including the execution and delivery on behalf of the County of such instruments, documents, or certificates as necessary or appropriate to carry out the transactions contemplated by this resolution. All actions previously taken by such officers and agents in connection with the issuance and sale of the Bond are ratified and confirmed. The County Administrator is designated the County's Authorized Representative for purposes of the Financing Agreement.

**16. Filing of Resolution.** The County Attorney is authorized and directed to file a certified copy of this resolution with the Circuit Court of Stafford County pursuant to Sections 15.2-2607 and 15.2-2627 of the Virginia Code.

**17. Repeal of Conflicting Resolutions.** All resolutions are repealed to the extent they are inconsistent with this resolution.

**18. Effective Date.** This resolution shall take effect immediately.

Item 16. Public Works; Request Reimbursement from the Potomac and Rappahannock Transportation Commission (PRTC) for Transportation Expenditures for the Second Quarter of FY2012

Resolution R12-79 reads as follows:

A RESOLUTION TO REQUEST REIMBURSEMENT FROM

THE POTOMAC AND RAPPAHANNOCK TRANSPORTATION  
COMMISSION FOR TRANSPORTATION EXPENDITURES  
DURING THE SECOND QUARTER OF FISCAL YEAR 2012

WHEREAS, the County budgeted funds in the FY2012 Transportation Fund for various programs, including management services, professional services, transportation modeling, transportation services, street name signs, the regional airport, road improvements, and transportation of Social Services clients; and

WHEREAS, the County expended \$579,534 for qualifying transportation-related expenses during the second quarter of FY2012; and

WHEREAS, these funds can be reimbursed from the County Motor Fuels Tax Fund;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that the Potomac and Rappahannock Transportation Commission be and it hereby is requested to reimburse the County Five Hundred Seventy-nine Thousand Five Hundred Thirty-four Dollars (\$579,534) from the County Motor Fuels Tax Fund.

Item 17. Public Works; Request VDOT Approve Construction of the Centreport Parkway and Ramoth Church Road Intersection Locally Administered Project (LAP)

Resolution R12-80 reads as follows:

A RESOLUTION TO REQUEST THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO APPROVE CONSTRUCTION OF THE CENTREPORT PARKWAY AND RAMOTH CHURCH ROAD INTERSECTION AS A LOCALLY ADMINISTERED PROJECT

WHEREAS, the Board committed to a phased completion of the Centreport Parkway and Ramoth Church Road intersection by adopting Resolution R11-326 on December 31, 2011; and

WHEREAS, the Virginia Department of Transportation (VDOT) has approved the concept of a phased completion of this intersection;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that the Board be and it hereby does indicate its desire to have the construction of the Centreport Parkway and Ramoth Church Road intersection project be completed as a Locally Administered Project (LAP); and

BE IT FURTHER RESOLVED, that the County Administrator is authorized to sign all documents necessary for Stafford County to administer this project as a LAP; and

BE IT STILL FURTHER RESOLVED that the County Administrator provide the VDOT District Administrator with a certified copy of this resolution.



Item 18. Public Works; Authorize the County Administrator to Advertise a Joint Public Hearing to Consider Virginia Department of Transportation's FY2012-2017 Secondary Six-Year Improvement Program (SSYP)

Resolution R12-99 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ADVERTISE A JOINT PUBLIC HEARING WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO CONSIDER VDOT'S FY2013-FY2018 SECONDARY SYSTEM SIX-YEAR IMPROVEMENT PROGRAM

WHEREAS, the Virginia Department of Transportation (VDOT) is responsible for the construction and maintenance of the Secondary System of State Highways in the County; and

WHEREAS, the Board sets priorities for road improvements in the County for the Secondary System Six-Year Improvement Program (SSYP); and

WHEREAS, the Board desires to receive the funding provided by the proposed FY2013-FY2018 SSYP to complete road improvement priorities in Stafford County; and

WHEREAS, pursuant to VA. Code Section 33.1-70.01, the Board shall conduct a joint public hearing with VDOT prior to adopting the proposed FY2013-2018 SSYP;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March 2012, that the County Administrator be and he hereby is authorized to advertise a joint public hearing with VDOT to consider the proposed FY2013-FY2018 Secondary System Six-Year Improvement Program.

Item 19. Public Works; Authorize a Contract for Construction Inspection Services for Poplar Road

Resolution R12-96 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO AWARD A CONTRACT FOR CONSTRUCTION ENGINEERING INSPECTION SERVICES FOR THE POPLAR ROAD PHASE I IMPROVEMENT PROJECT

WHEREAS, the Board adopted R09-309 on August 18, 2009, authorizing the award of a contract for design of the improvements on Poplar Road (SR-16) in the vicinity of Warrenton Road (US-17) and Truslow Road (SR-652); and

WHEREAS, the Board desires to begin construction of the improvements on Poplar Road (SR-16) in the vicinity of Warrenton Road (US-17) and Truslow Road (SR-652); and

WHEREAS, improvements to Poplar Road will be funded through Transportation Impact Fees from the Central West Impact Area; and

WHEREAS, staff determined that Rinker Design Associates, P.C. is best qualified to provide these services; and

WHEREAS, Rinker Design Associates, P.C. submitted a cost proposal to perform the construction engineering and inspection services; and

WHEREAS, staff determined that this proposal is reasonable for the scope of work proposed;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that the County Administrator be and he hereby is authorized to execute a contract with Rinker Design Associates, P.C., in an amount not to exceed Three Hundred Eight Thousand, Fifty-nine Dollars (\$308,059) for construction engineering inspection services for the Poplar Road Phase I improvements, unless modified by a duly-authorized change order; and

BE IT FURTHER RESOLVED, that the amount of Three Hundred Eight Thousand, Fifty-nine Dollars (\$308,059) in Transportation Impact Fees is budgeted and appropriated for this project.

Item 20. Public Works; Amend FY2013 Virginia Department of Transportation Revenue Sharing Program Funds

Resolution R12-100 reads as follows:

**A RESOLUTION TO AMEND THE REQUEST FOR FY2013 VDOT REVENUE SHARING PROGRAM FUNDS**

WHEREAS, the Board adopted Resolution R11-292 on October 18, 2011, which approved the FY2013 Revenue Sharing Program request to the Virginia Department of Transportation (VDOT); and

WHEREAS, the Board desires to amend the previously submitted FY2013 Revenue Sharing Program funding request; and

WHEREAS, the Board desires to add intersection improvements at US-1 and Garrisonville Road (SR-610), US-1 and Courthouse Road (SR-630), and US-3 and Ferry Road (SR-606), in that priority order, to the request for VDOT FY2013 Revenue Sharing Program funds; and

WHEREAS, the Board requests VDOT Revenue Sharing Program funds in the amount of \$100,000 for each of these projects, to be matched equally with County funds; and

WHEREAS, the Board also requests additional VDOT Revenue Sharing Program funds for the feasibility study for the Stafford Parkway project between Warrenton Road (US-17) and the I-95 Interchange near Centreport Parkway in the amount of \$200,000, to be matched equally with County funds; and

WHEREAS, the Board commits to matching \$100,000 in FY2013 Revenue Sharing Program funds with \$100,000 in County matching funds, for the intersection improvements at US-1 and Garrisonville Road (SR-610) as a VDOT Revenue Sharing Program project; and

WHEREAS, the Board commits to matching \$100,000 in FY2013 Revenue Sharing Program funds with \$100,000 in County matching funds for the intersection improvements at US-1 and Courthouse Road (SR-630) as a VDOT Revenue Sharing Program project; and

WHEREAS, the Board commits to matching \$100,000 in FY2013 Revenue Sharing Program funds with \$100,000 in County matching funds for the intersection improvements at US-3 and Ferry Road (SR-606) as a VDOT Revenue Sharing Program project; and

WHEREAS, the Board commits to matching \$200,000 in FY2013 Revenue Sharing Program funds with \$200,000 in local matching funds for the Stafford Parkway engineering study from the Centreport Interchange to US-17 as a VDOT Revenue Sharing Program project;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that Stafford County's FY2013 VDOT Revenue Sharing Program funding request be and it hereby is amended as follows:

Staffordboro Commuter Lot expansion: One Million Eight Hundred Seventy-five Thousand Dollars (\$1,875,000) in Revenue Sharing Program funds, with One Million Eight Hundred Seventy-five Thousand Dollars (\$1,875,000) in matching County funds; and

Garrisonville Road (SR-610) widening project between Onville Road (SR-641) and Eustace Road (SR-751): Six Million Four Hundred Thousand Dollars (\$6,400,000) in Revenue Sharing Program funds, with Six Million Four Hundred Thousand Dollars (\$6,400,000) in matching County funds; and

Truslow Road (SR-652) between Berea Church Road (SR-654) and Plantation Drive (SR-1706): One Million Two Hundred Twenty-five Thousand Dollars (\$1,225,000) in VDOT Revenue Sharing Program funds, with One Million Two Hundred Twenty-five Thousand Dollars (\$1,225,000) in matching County funds; and

US-1 and Garrisonville Road (SR-610) intersection improvement project: One Hundred Thousand Dollars (\$100,000) in Revenue Sharing Program funds, with One Hundred Thousand Dollars (\$100,000) in matching County funds; and

US-1 and Courthouse Road (SR-630) intersection improvement project: One Hundred Thousand Dollars (\$100,000) in Revenue Sharing Program funds, with One Hundred Thousand Dollars (\$100,000) in matching County funds; and

US-3 and Ferry Road (SR-606) intersection improvement project; One Hundred Thousand Dollars (\$100,000) in Revenue Sharing Program funds, with One Hundred Thousand Dollars (\$100,000) in matching local revenue; and

Stafford Parkway engineering study: Two Hundred Thousand Dollars (\$200,000) in Revenue Sharing Program funds, with Two Hundred Thousand Dollars (\$200,000) in matching County funds; and

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

Item 21. Legislative; Approve Appointment of Debra Fults to the Community Policy and Management Team (CPMT)

Item 23. Public Information; Recognize and Commend Mountain View Rescue Squad on its 30<sup>th</sup> Anniversary

Proclamation P12-02 reads as follows:

A PROCLAMATION TO RECOGNIZE AND COMMEND THE 30<sup>TH</sup>  
ANNIVERSARY OF THE MOUNTAIN VIEW RESCUE SQUAD

WHEREAS, the Mountain View Rescue Squad will celebrate its 30<sup>th</sup> anniversary in March, 2012; and

WHEREAS, the Mountain View Rescue Squad is an all-volunteer organization that has run hundreds of calls aiding the residents of Stafford County; and

WHEREAS, the Mountain View Rescue Squad raised money and provided its own squad building at no cost to the County; and

WHEREAS, the Mountain View Rescue Squad purchased the first rehab unit in Stafford County; and

WHEREAS, the Mountain View Rescue Squad has supported local charities in Stafford County;

NOW, THEREFORE, BE IT PROCLAIMED by the Stafford County Board of Supervisors on this the 20th day of March, 2012, that it be and hereby does recognize and commend the Mountain View Rescue Squad for its service to the citizens of Stafford County.

Item 24. Parks, Recreation and Community Facilities; Authorize a Public Hearing to Convey an Easement on County-owned Property Located at 60 Butler Road for Parking for the Falmouth Cemetery

Resolution R12-94 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ADVERTISE A PUBLIC HEARING TO CONSIDER CONVEYANCE OF AN EASEMENT ON COUNTY-OWNED PROPERTY ON TAX MAP PARCEL 53-119 TO THE TRUSTEES OF THE UNION CHURCH CEMETERY (AKA FALMOUTH CEMETERY)

WHEREAS, the Trustees of the Union Church Cemetery (aka Falmouth Cemetery) requested permission to use the existing entrance and gravel parking lot of County-owned property on Tax Map Parcel 53-119; and

WHEREAS, the Falmouth Cemetery is adjacent to and just west of the County-owned property which currently serves as the only access point to the cemetery; and

WHEREAS, the existing entrance and gravel parking lot on Tax Map Parcel 53-119, served the C. Ray Grizzle Center, which has been taken out of service and is planned for demolition; and

WHEREAS, this easement will not negatively impact future uses of Tax Map Parcel 53-119; and

WHEREAS, Virginia Code Section 15.2-1800 requires a public hearing for the conveyance of any real property interest owned by the County; and

WHEREAS, the Board desire to consider the easement requested by the Trustees of the Union Church Cemetery (aka Falmouth Cemetery); and

WHEREAS, the Board desires to consider public comments concerning the proposed conveyance of an easement;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of March, 2012, that the County Administrator be and he hereby is authorized to advertise a public hearing for the purpose of considering the conveyance of an easement on County-owned property on Tax Map Parcel 53-119 to the Trustees of the Union Church Cemetery (aka Falmouth Cemetery).

Economic Development; Authorize Memorandum of Agreement for the Proposed Stafford Technology and Research Park Following discussion, this item was deferred to the April 4, 2012 Board meeting.

Item 25. Sheriff; Authorize the County Administrator to Apply for a Community Oriented Policing (COPS) Grant Following discussion and clarification by Sheriff Jett, Mr. Milde motioned, seconded by Mr. Sterling, to adopt proposed Resolution R12-98.

The Voting tally was:

Yea: (7) Milde, Sterling, Cavalier, Schieber, Snellings, Stimpson, Thomas

Nay: (0)

Resolution R12-98 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO APPLY TO THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) FOR A GRANT TO PARTIALLY FUND SEVEN DEPUTY SHERIFF I POSITIONS

WHEREAS, the United States Department of Justice Community Oriented Policing Services (COPS) Hiring Program provides funding directly to law enforcement agencies to hire new law enforcement officers in an effort to create new jobs, and to increase their community policing capacity and crime-prevention efforts; and

WHEREAS, the Sheriff's Office desires to achieve a 40% Uncommitted Patrol Time for Community Policing Projects; and

WHEREAS, the COPS Grant will cover 75% of the entry-level salary and fringe benefits of each newly-hired, full-time, sworn career law enforcement officer for thirty-six (36) months; and

WHEREAS, the Grant will reimburse Stafford County up to Eight Hundred Seventy-five Thousand Dollars (\$875,000) for salary and benefits for a thirty-six (36) month period for the seven (7) positions; and

WHEREAS, the County will need to provide a local match of Five Hundred Sixty-one Thousand Six Hundred Thirty Eight Dollars (\$561,638) and in the fourth year Five Hundred and Eight Thousand Dollars (\$508,000) because the County must retain any Grant-funded positions awarded for at least twelve (12) months after the thirty-six (36) months of federal funding ends for each position; and

WHEREAS, the Sheriff's Office desires to seek grant funding for seven (7) entry-level Deputy Sheriff I positions through the COPS Hiring Program;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 20th day of March, 2012, that the County Administrator be and he

hereby is authorized to apply to the United States Department of Justice COPS Hiring Program for a COPS Grant for seven (7) entry-level Deputy Sheriff I positions.

Legislative; Closed Meeting. At 5:28 p.m., Mr. Cavalier motioned, seconded by Mr. Snellings, to adopt proposed Resolution CM12-08.

The Voting tally was:

Yea: (7) Cavalier, Snellings, Milde, Schieber, Sterling, Stimpson, Thomas

Nay: (0)

Resolution CM12-08 reads as follows:

A RESOLUTION TO AUTHORIZE CLOSED MEETING

WHEREAS, the Stafford County Board of Supervisors desires to hold a Closed Meeting for (1) Discussion concerning a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating its facilities in the County; and (2) Discussion of the award of a public contract under the Public Private Transportation Act (PPTA) for County Road Bond projects; and

WHEREAS, pursuant to Virginia Code Section 2.2-3711(A)(5) and (29), such consultations and discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, does hereby authorize discussions of the aforestated matters in Closed Meeting.

Call to Order At 6:18 p.m., the Chairman called the meeting back to order.

Legislative; Closed Meeting Certification Mr. Sterling motioned, seconded by Mr. Thomas, to adopt proposed Resolution CM12-08(a).

The Voting Board tally was:

Yea: (7) Sterling, Thomas, Cavalier, Milde, Schieber, Snellings, Stimpson

Nay: (0)

Resolution CM12-08(a) reads as follows:

A RESOLUTION TO CERTIFY THE ACTIONS OF THE STAFFORD COUNTY BOARD OF SUPERVISORS IN A CLOSED MEETING ON MARCH 20, 2012

WHEREAS, the Board has, on this the 20<sup>th</sup> day of March, 2012 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 20<sup>th</sup> day of March, 2012, 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.

Recess At 6:19 p.m., the Chairman declared a recess until 7:00 p.m.

Call to Order At 7:04 p.m., the Chairman called the meeting back to order.

Invocation Ms. Stimpson gave the Invocation.

Pledge of Allegiance Mr. Milde led in the recitation of the Pledge of Allegiance to the Flag of the United States of America.

Introduction of Mr. Tim Ware, GWRC Executive Director Ms. Stimpson welcomed Mr. Tim Ware, new Executive Director of the George Washington Regional Commission (GWRC). Mr. Ware talked about his background and his desire to meet and work with all participating jurisdictions.

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

- |                 |   |
|-----------------|---|
| George Schwartz | - EDA funding to FABA; BOS consideration of issues; FOIA responses; respect for public speakers |
| Jack Starkey    | - School Board budget consideration; deferral of school maintenance issues                      |
| Dean Fetterolf  | - School Board transfer request; OPEB; proffer reductions; Transportation Impact Fee changes    |



Paul Waldowski - Word of the month - Perseverance; stormwater management; public hearing process

Planning and Zoning; Consider a Conditional Use Permit for Vehicle Fuel Sales Facility and Convenience Store at 9 South Gateway Drive Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board member's questions. Chris Hornung, applicant, also addressed the Board and answered Board member's questions.

The Chairman opened the public hearing.

The following persons spoke:

Paul Waldowski

The Chairman closed the public hearing.

Mr. Thomas motioned, seconded by Mr. Snellings, to adopt proposed Resolution R12-22.

The Voting Board tally was:

Yea: (7) Thomas, Snellings, Cavalier, Milde, Schieber, Sterling, Stimpson

Nay: (0)

Resolution R12-22 reads as follows:

A RESOLUTION TO APPROVE A CONDITIONAL USE PERMIT PURSUANT TO APPLICATION CUP1100266 FOR A VEHICLE FUEL SALES FACILITY IN AN B-2, URBAN COMMERCIAL, ZONING DISTRICT, AND A VEHICLE FUEL SALES FACILITY AND CONVENIENCE STORE IN AN HC, HIGHWAY CORRIDOR OVERLAY, ZONING DISTRICT ON ASSESSOR'S PARCEL 45-25A AND 45T-1 (PORTION) WITHIN THE GEORGE WASHINGTON ELECTION DISTRICT

WHEREAS, Silver-Honaker Development Co., applicant, on behalf of Carter West, LLC, has submitted application CUP1100266 requesting a Conditional Use Permit to allow a vehicle fuel sales facility in an B-2, Urban Commercial, Zoning District, and a vehicle fuel sales facility and convenience store in an HC, Highway Corridor Overlay, Zoning District, on the above described property; and

WHEREAS, the application has been submitted pursuant to 28-35 of the Zoning Ordinance which permits this use in an B-2, Urban Commercial, Zoning District after a Conditional Use Permit has been issued by the Board; and

WHEREAS, the application also has been submitted pursuant to Stafford County Code, Section 28-59(e) of the Zoning Ordinance, which permits vehicle fuel sales facilities and convenience stores in an HC, Highway Corridor Overlay, Zoning District after a Conditional Use Permit has been issued by the Board; 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 20<sup>th</sup> day of March, 2012, that a Conditional Use Permit pursuant to application CUP1100266 be and it hereby is approved with the following conditions:

- 1) This Conditional Use Permit is to allow Motor Vehicle Fuel Sales within the B-2, Urban Commercial Zoning District, and Convenience Store and Motor Vehicle Fuel Sales within the Highway Corridor Overlay District (HCO) on Assessor's Parcel 45-25A and a portion of 45T-1.
- 2) The site shall be redeveloped in accordance with the Generalized Development Plan prepared by Fairbanks & Franklin dated January 18, 2012 as it relates to the layout and orientation of the main building, fuel pump canopies and drive aisles, including Jones Lane.
- 3) The main building and fuel pump canopies will be constructed in conformance with the approved architectural elevations prepared by LMA Architects, LLC dated January 18, 2012. The dumpster enclosure(s) shall be constructed with the same building materials as the main building and screened from public view with additional landscaping. The applicant will construct the proposed monument sign using the same building materials as the main building and dumpster enclosure(s).
- 4) The applicant shall construct a sidewalk along the frontage of Warrenton Road.
- 5) Any canopy lighting shall be recessed within the canopy. Freestanding lighting shall be directed downward and inward to minimize glare on surrounding public streets.
- 6) Fuel sales shall be limited to vehicles less than five (5) tons gross volume weight (GVW).
- 7) Loading spaces and truck delivery spaces, except for fuel delivery, shall be located outside of any required travel lane. Such spaces shall be designed to allow for adequate turning radius to accommodate free-flowing turning movements to prevent temporary obstruction of travel lanes.
- 8) The use of "carnival-style" flags, banners, balloons, windsocks, inflatables, and unapproved lighting is prohibited. New signage shall be limited to the following: business signs, general advertising signs, and shopping center signs, as permitted in the Zoning Ordinance, except shopping center signs shall not exceed 20 feet in

- height; window signs, covering no more than 25 percent of the window area; directional signs; and no more than one temporary sales sign per public street frontage.
- 9) The applicant shall remove the existing on-site pylon sign for the adjacent Carter's West Shopping Center and may replace it with a monument style sign to be installed on the existing pylon base. The pylon sign shall be removed prior to approval of an occupancy permit on the subject parcel.
  - 10) The Applicant shall assist Stafford County in obtaining state and federal permits and easements for a Stafford County welcome sign along Route 17 at the northeast corner of the Route 17/South Gateway Drive intersection.
  - 11) Trench drains shall be installed at the perimeter of the fueling area to capture spilled fuels and oils. The trench drains shall drain to an oil/water separator prior to discharging to the storm sewer system.
  - 12) To the maximum extent practical, a berm with shrubs (in addition to trees) shall be installed in the street buffer.
  - 13) Subject to VDOT approval, directional signage to the business on the subject parcel shall be installed on Warrenton Road westbound directing vehicles straight through the South Gateway Drive intersection, for the purpose of encouraging access to the site via Jones Lane. The signage shall be installed prior to the granting of an occupancy permit.
  - 14) To clearly identify the site entrance along Warrenton Road, the applicant shall install a directional "Enter Here" sign at the Jones Lane entrance off of Warrenton Road.
  - 15) If, within six (6) months after the Motor Vehicle Fuel Sales facility is open for business, VDOT or the County determines that the U-turn movement at the first left turn off of South Gateway Drive (from the direction of Warrenton Road) in the Carter's Crossing shopping center is operating in an unsafe condition and notifies the Applicant, the Applicant shall install a "No U-Turn" sign at the left turn movement, within one (1) month of notification.
  - 16) This Conditional Use Permit may be revoked or conditions amended by the Board of Supervisors for violation of these conditions or any applicable county, state or federal law.

Planning and Zoning; Consider Repeal of Cluster Provisions in the Zoning and Subdivision Ordinances Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board member's questions. Mr. Harvey said that the Planning Commission was writing new regulations which would be brought back to the Board by May 30, 2012. Mr. Sterling asked why the Board is being asked to repeal the current Ordinance when a new Ordinance is not ready for Board consideration and approval. Mr. Thomas said that the

Board should repeal one and replace it with the other at the same time. Mr. Shumate said that the County's current Cluster Ordinance has inconsistencies with enabling legislation. Mr. Sterling asked if any previous cluster decisions brought before the Board were illegal. Mr. Shumate said that time ran out on those, they are vested and already have proceeded with build-out. Mr. Sterling asked again if it was illegal and asked for an explanation of what was non-compliant. Mr. Shumate said that everything was fine with previous Board decisions, that time had run for any appeal and that the County could not, or would not, be sued. Mr. Shumate suggested that the Board consider a vote to go into Closed Meeting to discuss areas of non-compliance and inconsistencies in the County's current Ordinance. Assistant County Attorney Rysheda McClendon was available to discuss the same with the Board in Closed Meeting. Mr. Milde said that he could not support a motion to go into Closed Meeting, that he felt that they should be stated in public. He added that this is, by definition, a down-zoning which is something that he vowed never to support.

Mr. Milde said that based on Planning Commission minutes, this was based on a particular subdivision which, he felt, was improper and something that he would like to discuss in Closed Session. Ms. Stimpson asked if the Planning Commission discussed this in Closed Session. Mr. Shumate said that the Planning Commission did discuss it in Closed Session. Mr. Milde asked for clarification of his point regarding a particular subdivision being considered by this vote and if it was proper, trying to change an ordinance to stop a particular subdivision application. Mr. Shumate said that he was not aware that this repeal was trying to stop a particular application; this matter before the Board was to address changes in legislation and to get the County's Cluster Ordinance in line with State Code.

Mr. Sterling said that Mr. Shumate said that the County was in no jeopardy, and asked why go into Closed Meeting, adding that the County has changed ordinances many times in the past without going into closed meeting. He asked Mr. Harvey if, with the applications already in the pipeline, they could be grandfathered as had been done in the past. Mr. Shumate said that legal advice should be shared in closed session. Mr. Milde read an excerpt of the 2/15/12 and 3/7/12 minutes regarding a specific pending application and said that it should be talked about in closed session. Mr. Sterling said that he could see closed session

based on what Mr. Milde read but does not understand why, given historic practice, it was never been done before to discuss a change to an ordinance in closed session.

Mr. Thomas, speaking about grandfathering, said the County probably did that with an ordinance that was consistent with existing Code. Mr. Shumate said that the Board was in a different situation because of what was brought to light, adding that if the Board did not repeal this Ordinance then, they could be faced with a legal challenge. Regarding grandfathering, Mr. Shumate said that the Planning Commission saw fit not to consider it. They moved right to the repeal of the ordinance, so the advertising did not present itself to be moved forward at that time. Mr. Cavalier said that at that point, the Board needed to know what the inconsistencies were before recommending appeal of the current ordinance, and that the Board should have been informed ahead of time. Mr. Milde said that it seemed clear but in reading the Planning Commission minutes, it seemed to be the theme from the Planning Commission about the route to “protect that existing neighborhood.”

Ms. Stimpson said that what the Planning Commission did is before the Board. Therefore she would not make a decision based on anything other than what the Board had in hand.

Mr. Snellings asked about oversight. Mr. Harvey said that staff reviews the application, the Planning Commission has no oversight. He also talked about one of the inconsistencies being that it was designed to save open space in the A-1 zoned parts of the County, so long as those parts of the County had access to water and sewer, but that the County’s ordinance applies mainly to R-1 parcels and cited an area on Abel Lake in the Hartwood District. Mr. Snellings’ main concern was that the County’s current ordinance was not compliant with State law and that if the Board did not repeal the current ordinance, they were overlooking State law. Mr. Sterling said that the Board was presented with a situation that could result in radical changes to people’s property rights, and he did not remember a time where everyone in the pipeline was not grandfathered, which could be considered arbitrary and capricious by acting in opposition to previous Board action.

Ms. Stimpson inquired about the timeline. Mr. Harvey said the Board gave the Planning Commission until the end of May. Mr. Thomas asked for the number of applications in the

pipeline. Mr. Harvey said that there are currently four, and the ordinance would apply uniformly if/when adopted.

Mr. Milde asked how many lots would be down-zoned away if the repeal was passed. Mr. Harvey said he did not have the number between the current and proposed ordinances but there was discussion to change the density bonus in residential zones. Ms. Stimpson asked Mr. Shumate to clarify if it was accurate to call it a down-zoning. Mr. Shumate said that while he understood Mr. Milde's question, it was not technically a down-zoning. Mr. Milde said he would like to know the magnitude of the lot-yield change. Mr. Harvey said that one of the stipulations was that it be applied to at least 40% of the vacant unimproved land whether it was zoned agricultural or residential.

Mr. Shumate said that the County's current ordinance was non-compliant with the State's enabling legislation and the Board would be in error to go forward with the four applications currently in the pipeline.

Regarding grandfathering, Mr. Shumate said that the Planning Commission did not advertise grandfathering for the public hearing. Because they did not advertise it, this Board could not rise above the advertisement. He added that it is not a contrivance of the County Attorney; it was a fact of law. With regard to the new ordinance, the Board could take up the issue of grandfathering when it was considered. Mr. Milde inquired about setting an effective date somewhere in the future. Mr. Shumate asked for clarification and Mr. Milde asked if the law could be repealed sometime in the future. Mr. Shumate said that it could be done. Mr. Sterling asked if the Board could make the effective date of the repeal the same as the effective date of the new ordinance. Ms. Stimpson said that if the Board did not repeal it at then, it was literally in conflict with State Code and asked how the Board could consider not repealing it. Mr. Shumate said that it was a flawed ordinance and the Board should move forward to put in place a compliant ordinance.

Mr. Sterling asked, if the County was not in jeopardy, why was it necessary to go into closed session. Ms. Stimpson reiterated that the County Attorney suggested that the Board go into closed session. Mr. Sterling asked about lost property rights including the applicant's current

property rights and what they would be if the Board passed the repeal. Mr. Harvey said there would be no change on one of the applications. Another applicant would drop from twenty-four to fourteen and he had to research the other two. Mr. Sterling asked if it increased infrastructure costs to build under the non-cluster proposition. Mr. Harvey said it may make a difference on two of the applications, and that he would have to look into the other two to fully answer Mr. Sterling's question.

Ms. Stimpson asked if they were losing the right to build. Mr. Harvey said that a vested plan must be approved so up until that point, Zoning allows general things to occur but that until there is an approved plan, there is no loss. Mr. Harvey said there is an inconvenience factor, the County could refund paid application fees upon withdrawal of the application or suspend any work on their application until the new ordinance is approved

Legislative; Closed Meeting At 8:22 p.m. Mr. Thomas motioned, seconded by Mr. Schieber, to go into closed session to receive legal advice about how the County's Code is out of sync with State Code and adopting proposed Resolution CM12-09.

The Voting Board tally was:

Yea: (5) Thomas, Schieber, Cavalier, Snellings, Stimpson

Nay: (2) Milde, Sterling

Resolution CM12-09 reads as follows:

**A RESOLUTION TO AUTHORIZE CLOSED MEETING**

WHEREAS, the Stafford County Board of Supervisors desires to hold a Closed Meeting for (1) Consultation with legal counsel regarding the cluster subdivision ordinance; and

WHEREAS, pursuant to Virginia Code Section 2.2-3711(A)(7), such consultations and discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, does hereby authorize discussions of the aforesaid matters in Closed Meeting.

Legislative; Closed Meeting Certification At 8:40 p.m., Mr. Thomas motioned, seconded by Mr. Snellings to adopt proposed Resolution CM12-09(a)

The Voting Board tally was:

Yea: (7) Thomas, Snellings, Cavalier, Milde, Schieber, Sterling, Stimpson

Nay: (0)

Resolution CM12-09(a) reads as follows:

A RESOLUTION TO CERTIFY THE ACTIONS OF THE STAFFORD COUNTY BOARD OF SUPERVISORS IN A CLOSED MEETING ON MARCH 20, 2012

WHEREAS, the Board has, on this the 20<sup>th</sup> day of March, 2012 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 20<sup>th</sup> day of March, 2012, 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.

Assistant County Attorney, Rysheda McClendon, outlined the four potential legal challenges and inconsistencies with the County's current Cluster Ordinance which were: 1. Required 40% threshold of Agricultural and Residential Zoning. Currently the County only has Clustering in R1, R2, and R3 zoned areas; 2. Calculation of Open Space – State Code does not permit inclusion of slopes in the calculation of open space in the County. Currently, the County's ordinance excludes a high percentage but not all slopes in that calculation; the County's definition of Open Space is broader than the State's definition; 3. State Code requires that approval be administrative and currently, the County's Code approval process is discretionary. The Planning Commission is allowed to provide approval along with the Board; and 4. The State Code allows for only single-family dwelling units whereas currently, the County's current ordinance permits clustering of duplexes.



The Chairman opened the public hearing.

The following persons spoke:

Wallace Renner

Donald King

James Scott

Charlie Payne

Jack May

Ed Foxwell

Paul Waldowski

Brenda Cooper

The Chairman closed the public hearing.

Mr. Snellings asked Mr. Harvey to repeat how applicants currently in the pipeline may handle the repeal of the current ordinance. Mr. Harvey said that they could request a refund of fees already paid (and withdraw their application) or they could stay in the pipeline and may qualify under the new ordinance when it is adopted.

Mr. Milde asked about the size of the Anderson Drive application. Mr. Harvey said it was approximately ten acres, 24 houses, adding that previous zoning allowed 14 houses. Ms. Stimpson said that the Board was talking about the entire County, not one specific development. Mr. Milde said that down-zoning had to be geared to the entire County and when it was used for fixing a problem in one particular subdivision, that was not the way to do it, and he would vote against the approval of proposed Ordinance O12-30.

Mr. Snellings motioned, seconded by Mr. Thomas, to approve proposed Ordinance O12-30. Following the motion, Mr. Sterling said that the County is in a Catch 22 position and he hoped that the Planning Commission got their work done without asking for an extension, adding that what happened at the meeting was not the way the process should work. Ms. Stimpson said that she agreed with Mr. Sterling and that the bottom line was that the County's current ordinance was not in compliance with State Code, that the Board had no

choice but to repeal the existing ordinance and that she was looking forward to the Planning Commission’s proposed, revised Cluster Ordinance.

The Voting Board tally was:

Yea: (6) Snellings, Thomas, Cavalier, Schieber, Sterling, Stimpson, Thomas

Nay: (1) Milde

Ordinance O12-30 reads as follows:

AN ORDINANCE TO REPEAL STAFFORD COUNTY CODE, CHAPTER 22, ARTICLE IX, SECTIONS 22-266 THROUGH 22-271, ENTITLED “CLUSTER SUBDIVISIONS;” CHAPTER 28, ARTICLE V, SECTIONS 28-71 THROUGH 28-80, ENTITLED “RESIDENTIAL CLUSTER PROVISIONS;” and CHAPTER 28, ARTICLE V, TABLE 5.1. ENTITLED “CLUSTER OPTION”

WHEREAS, Virginia Code Section 15.2-2286.1 requires localities with a population growth rate of 10% or more to adopt clustering provisions for single-family dwellings so as to preserve open space; and

WHEREAS, Stafford County is required to adopt clustering provisions; and

WHEREAS, Stafford County Code Chapter 22, Article IX, Sections 22-266 through Sections 22-271, entitled “Cluster Subdivisions;” Chapter 28, Article V, Sections 28-71 through 28-80, entitled “Residential Cluster Provisions;” and Chapter 28, Article V, Table 5.1, entitled “Clustering Option” (“County Clustering Provisions”) are in conflict with Virginia Code Section 15.2-2286.1; and

WHEREAS, the Board desires to repeal the County Clustering Provisions; and

WHEREAS, the Board desires to establish new County Clustering Provisions in compliance with the Virginia Code; 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 zoning practices require adoption of an ordinance repealing the County Clustering Provisions;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that Stafford County Code Chapter 22, Article IX, Sections 22-266 through 22-271, entitled “Cluster Subdivisions;” Chapter 28, Article V, Sections 28-71 through 28-80, entitled “Residential Cluster Provisions;” and Chapter 28, Article V, Table 5.1, entitled “Cluster Option,” be and it hereby is repealed as follows, all other portions remaining unchanged:

## **ARTICLE IX. – CLUSTER SUBDIVISIONS**<sup>[55]</sup>

<sup>(55)</sup> ~~Editor's note~~ Ord. No. 087-05, § 3, adopted May 5, 1987, added a new article hereto, which has been codified as Art. IX, §§ 22-266 – 22-271, at the editor's discretion.

~~Sec. 22-266. – Legislative intent.~~

~~Sec. 22-267. – Definitions.~~

~~Sec. 22-268. – Open space regulations.~~

~~Sec. 22-269. – Maintenance and ownership of open space.~~

~~Sec. 22-270. – Provisions for pipe stem lots.~~

~~Sec. 22-271. – Review and approval of cluster subdivision plans.~~

### **Sec. 22-266. – Legislative intent.**

The purpose of the cluster development provision is to encourage innovative and attractive housing alternatives to the type of development permitted in conventional subdivisions. This is achieved by allowing the design flexibility and cost reduction of smaller lot sizes in exchange for the protection of sensitive areas such as steep slopes and stream valleys, the integration of open space and recreation areas into a development, and, where appropriate, the provision of land for public use. (Ord. No. 087-05, § 3(div. 1, § A), 5-5-87)

### **Sec. 22-267. – Definitions.**

For the purpose of this article, certain words or terms used herein shall be interpreted as follows:

*Open space:* That area within the boundaries of a tract that is intended to provide light and air, and is designated for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants of those in neighboring areas, or a general appearance of openness. Open space may include, but need not be limited to, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, golf courses, tennis courts, undisturbed natural areas, agriculture, wooded areas, and water bodies. Open space shall not include roads, driveways, parking lots, or other vehicular surfaces, any areas occupied by a dwelling, nor areas so located or so small as to have no substantial value for the purposes stated in this definition. The open space shall be composed of only those areas not contained in individually owned lots. For the purpose of this provision, space shall include and be qualified as landscaped open space, common open space, dedicated open space, and useable open space, all as defined herein.

*Open space, common:* All open space within the boundaries of a given tract that is designed and set aside for the use and enjoyment by all residents or occupants of the development or by the residents and occupants of a designated portion of the development. Common open space shall represent those areas not to be dedicated as public lands, but are to remain in the ownership of a homeowner's association or a condominium association.

~~*Open space, dedicated:* All open space within the boundaries of a given tract which is to be dedicated or conveyed to the county or an appropriate public agency, board, or body for public use such as, but not limited to, a park, trail, school or other community serving public facility.~~

~~*Open space, landscaped:* That open space within the boundaries of a given tract that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped areas may include, but need not be limited to, lawns, decorative planting, flower beds, sidewalks/walkways, ornamental objects such as fountains, statues or other similar natural or artificial objects, wooded areas, and water courses, any or all of which are designed and arranged to produce an aesthetically pleasing effect within the development. Landscaped open space may either be common or dedicated open space as defined herein.~~

~~*Open space, useable:* That open space within the boundaries of a given tract that is designed for recreational purposes and may include, but need not be limited to, such uses as ballfields, multipurpose courts, swimming pools, tennis courts, play lots and playgrounds, boating docks, walking, bicycle or bridle trails, and shuffleboard courts. Useable open space shall not include areas in easements under power lines, steep slopes greater than fifteen (15) percent, golf courses and stormwater ponds.~~

~~*Tot lot:* An improved and equipped play area for small children consisting of swings and sandboxes, as well as benches and fences.~~

~~(Ord. No. 087-05, § 3(div. 1, § B), 5-5-87; Ord. No. 093-38, 9-7-93; Ord. No. 094-21(R), 5-24-94; Ord. No. 000-22, 10-17-00)~~

## **Sec. 22-268. – Open space regulations.**

~~The open space regulations stated for cluster subdivisions are set out as minimum criteria. The regulations are expressed as a specific percentage of the gross area of the tract. The computation of open space shall be based upon the following rules:~~

~~(1) In cases where the balance of land not contained in lots and streets is needed by the county for parks, recreation areas, or stream valleys, as set out in the comprehensive plan, and such land is suitable in location, size, shape, condition and topography for such needed purposes as determined by the planning commission or board of supervisors, as appropriate, then it shall be dedicated to the county at no cost for such purpose. Such dedicated open space shall be given full credit in satisfying the open space requirements for the given district.~~

~~(2) In cases where a given area within a tract is needed by the county for a school site or other public use as determined and approved by the school board, such land shall be deeded to the county at no cost for such purpose. Such sites shall be given full credit in satisfying the open space regulations of the given district.~~

~~(3) In cases where the balance of land not contained in lots and streets is not needed by the county for such public purposes as listed above, then land shall be designated as common open space. All common open space shall be developed in accordance with the Development Control Policy – Parks and Recreation Land Requirements.~~

~~(4) Fifty (50) percent of the area located within a designated flood plain, but outside of the floodway, may be calculated as open space.~~

~~(5) In subdivisions approved for cluster development, there shall be provided at least one area of open space consisting of lands outside of the flood plain being at least one acre in size and having no dimension less than fifty (50) feet.~~

~~(6) In subdivisions approved for cluster development wherein the required open space is approximately one acre or greater in area, generally such open space shall be so located and shall have such dimension and topography as to be useable open space.~~

~~(7) Fifty (50) percent of the area located within a major utility easement or right of way may be calculated as open space, but only if the remainder of the easement or right of way is dedicated for recreation or open space use. Land within a major utility easement shall not constitute more than thirty (30) percent of the minimum required open space for a cluster development. For the purpose of this paragraph, a major utility easement or right of way shall be one having a width of twenty five (25) feet or more which is located entirely outside of a street right of way.~~

~~(8) In no instance shall open space credit be given for land included within a street right of way.~~

~~(Ord. No. 087-05, § 3(div. 2), 5-5-87; Ord. No. 093-38, 9-7-93; Ord. No. 000-22, 10-17-00; Ord. No. 000-33, 10-3-00)~~

**~~Sec. 22-269. – Maintenance and ownership of open space.~~**

~~The maintenance and ownership of common and dedicated open space shall be specified on the subdivision plan and shall consist of one of the following:~~

~~(1) Homeowners' association. If a homeowners' association or condominium association is to assume ownership of the common open space, then it shall bear all responsibility for maintenance of the land and all structures thereon. There shall be restrictive covenants recorded which prohibit the use of the subject land for any purpose but recreation and open space use. Such covenants shall run with the land. These covenants shall become part of the deed to each lot or parcel within the development. Such covenants shall be recorded in the county land records simultaneously with, or prior to, the recordation of the subdivision plat.~~

~~(2) When the open space to be dedicated to the county as a public site is contained in the comprehensive plan, the agent shall accept its dedication on the final plat. When the open space to be dedicated to the county as a public site is not contained in the comprehensive plan, it shall first be reviewed by the board of supervisors or school board, as appropriate. If the dedication is accepted by the board of supervisors or school board, it shall be conveyed by deed to the board of supervisors or school board at no cost before the subdivision plat is recorded, or be dedicated on the subdivision plat.~~

~~(Ord. No. 087-05, § 3(div. 3), 5-5-87)~~

**Sec. 22-270. – Provisions for pipe stem lots.**

When permitted in the zoning ordinance, pipe stem lots shall conform to the following requirements:

- ~~(1) The maximum number of lots on a pipe stem driveway shall be two (2). In the event use of the pipe stem access is increased to provide access to a third lot, either by a subsequent division of property or for use by an adjacent lot owner, the access will be considered to be a street and must be (a) dedicated to public use and (b) improved by the owners of the lots served to satisfy the prevailing design and construction standards published in the Virginia Department of Transportation's Subdivision Street Requirements or other applicable VDOT standards. No more than ten (10) percent of all lots within any subdivision shall be served by pipe stem driveways and dispersed throughout the subdivision.~~
- ~~(2) The maximum length of the pipe stem portion of a lot is three hundred fifty (350) feet.~~
- ~~(3) In no case shall any lot be adjoined by more than one pipe stem driveway.~~
- ~~(4) There shall be no more than two (2) pipe stem lots in a row.~~
- ~~(5) The pipe stems portion of two (2) abutting pipe stem lots shall be a shared driveway.~~
- ~~(6) The access point onto the public street for the shared or common driveway shall have a minimum distance of two hundred (200) feet from any other access points of a shared or common driveway on the same side of a street, including an access point that may be around a corner but on the same side of the street. This does not apply to an access point for a shared or common driveway located on the opposite side of the street.~~
- ~~(7) The pipe stem portion of a lot shall be a fee simple part of the lot with cross-easements for access. The required lot area shall be exclusive of the pipe stem portion of a lot.~~
- ~~(8) The combined minimum width of the pipe stem portion for adjoining pipe stem lots is twenty four (24) feet (each lot twelve (12) feet) and the common driveway shall be eighteen (18) feet in width. The minimum width of the pipe stem portion of a pipe stem lot which does not adjoin another pipe stem lot is eighteen (18) feet.~~
- ~~(9) No structure, whether main or accessory, shall be erected nearer to the edge of the pipe stem portion of a lot than ten (10) feet.~~
- ~~(10) The final plat shall note each pipe stem driveway as: "The access over the pipe stems shall be shared exclusively by the owners of the lots of which the pipe stems are a part; they are privately owned and privately maintained by the lot owners served. In the event use of the pipe stem access is increased to provide access to a third lot, either by a subsequent division of property or for use by an adjacent lot owner, the access will be considered to be a street and must be (a) dedicated to public use and (b) improved by the owners of the lots served to satisfy the prevailing design and construction standards published in the Virginia Department of Transportation's Subdivision Street~~

~~Requirements or other applicable VDOT standards."~~

~~(11) Each house served by a pipe stem driveway shall be numbered in accordance with chapter 28, article IX, of the Stafford County Code, and each such number shall be displayed on a sign showing the address and an arrow which shall designate the direction to which the address usage applies.~~

~~(12) Minimum setbacks for buildings shall be measured exclusive of the pipe stem portion of a lot. The front of a lot on a pipe stem shall be determined by the orientation of the dwelling.~~

~~(Ord. No. 087-05, § 3(div. 4), 5-5-87; Ord. No. 005-60, 12-13-05; Ord. No. 007-38, 6-19-07)~~

~~**Sec. 22-271. – Review and approval of cluster subdivision plans.**~~

~~The review and approval of a developer's plans for a cluster subdivision shall follow the following steps:~~

~~(1) *Concept plans:* The applicant shall confer with the county administrator or his designee to discuss the appropriateness of the cluster proposal and whether land should be dedicated to public use or reserved in common. The applicant shall then confer with the planning commission to discuss the appropriateness of the plan. The planning commission shall either approve, approve with conditions, or deny the proposed plan and open space provisions.~~

~~(2) *Board of supervisors and school board approval of dedicated open space:* Where it is determined by the planning commission that areas are suitable for dedication to public use, but such areas are not contained in the comprehensive plan, then the board of supervisors shall review and approve such proposed conveyance. Where a school site is proposed to be dedicated, the school board shall first review and approve the proposed conveyance.~~

~~(3) *Preliminary plan:* Following the endorsement of the cluster plan by the planning commission and, where necessary, approval of a conveyance by the board of supervisors or school board, the applicant shall submit a preliminary subdivision plan under the requirements of article III of the subdivision ordinance. The requirements for a cluster development plan shall be the same as for a conventional subdivision except that plans shall be prepared showing five foot contour intervals and shall include the location and plan for all open spaces. Useable open space, designed for recreational purposes, shall be subject to review regarding implementation plans by the agent.~~

~~(4) *Construction plans:* The requirement for the submission and approval of construction plans shall be the same as in article III of the subdivision ordinance.~~

~~(5) *Final plats:* The requirement for the submission of final plats shall be the same as in article III of the subdivision ordinance.~~

~~(Ord. No. 087-05, § 3(div. 5), 5-5-87; Ord. No. 093-38, 9-7-93)~~

~~**ARTICLE V. – RESIDENTIAL CLUSTER PROVISIONS**~~

~~[Sec. 28-71. Purpose.](#)~~

~~[Sec. 28-72. Applicability.](#)~~

~~[Sec. 28-73. Where allowed.](#)~~

~~[Sec. 28-74. Relationship with other applicable regulations.](#)~~

~~[Sec. 28-75. Density and dimensional requirements.](#)~~

~~[Sec. 28-76. Permitted uses.](#)~~

~~[Secs. 28-77 – 28-80. Reserved.](#)~~

**Sec. 28-71. Purpose.**

The purposes of this article are:

- ~~(1) To encourage the protection and preservation of environmentally sensitive portions of sites and agricultural lands in the county;~~
- ~~(2) To encourage development in a manner which lessens the cost of infrastructure;~~
- ~~(3) To provide incentives for clustering residential development in the most appropriate locations;~~
- ~~(4) To encourage more efficient and aesthetic use of open space;~~
- ~~(5) To encourage the reservation of open space for scenic and recreational uses;~~
- ~~(6) To create and encourage the use of a variety of development choices to satisfy the changing needs of the county;~~
- ~~(7) To offer flexibility to the developer in his approach and solution to land development problems.~~

~~(Ord. No. 094-29, § 28-501, 8-9-94)~~

**Sec. 28-72. Applicability.**

~~This article shall apply to cluster developments, which are areas of residential development under unified ownership or control and which are to be developed and improved as a whole under a comprehensive cluster development plan. The provisions of this article will allow residential dwellings to be developed in clusters, subject to the provisions of section 28-75, Density and dimensional requirements, with less than the minimum lot area and setbacks required by article III, General District Use Regulations and Standards, for conventional subdivisions, but without any increase in the total allowable density as specified by this chapter. (Ord. No. 094-29, § 28-502, 8-9-94)~~

**Sec. 28-73. Where allowed.**

~~Cluster development as allowed by the provisions of this article shall be permitted only in the R-1, R-2 and R-3 districts. All cluster developments shall provide usable open space that can be developed for a community park, fire and rescue station, school or other public facility. (Ord. No. 094-29, § 28-503, 8-9-94; Ord. No. 000-22, 10-17-00)~~



**Sec. 28-74. -- Relationship with other applicable regulations.**

A cluster development shall be subject to all of the applicable standards of this chapter, and all other requirements of Stafford County, unless specifically modified or excepted by the provisions of this article. (Ord. No. 094-29, § 28-504, 8-9-94)

**Sec. 28-75. -- Density and dimensional requirements.**

The dimensional requirements set forth in Table 5.1, Cluster Option, shall supersede those stipulated for other development types, except that:

(1) The allocated densities for each respective land use district shall not be exceeded. The maximum net density and net buildable area for a cluster development shall be calculated as follows:

Subtract the areas of all wetlands, floodplains, and slopes greater than thirty-five (35) percent from the gross area of the site to obtain the net area. Multiply the net area of the site by the allocated density to obtain the maximum net density for the site. Multiply the net area by the open space ratio to determine the required open space area. Subtract the required open space area from the net area to determine the net buildable area.

(2) The requirements for corner visibility, as set forth in section 28-105, are not waived;

(3) The yard dimensional requirement and the setback requirement for any building on a cluster lot which abuts a lot located outside the cluster development, shall be not less than the greater of such requirements set forth for the cluster lot or the abutting lot.

(Ord. No. 094-29, § 28-505, 8-9-94)

**Sec. 28-76. -- Permitted uses.**

The permitted uses for cluster developments shall conform to the respective permitted uses for the district in which the development is located, as specified in Table 3.1 of this chapter. (Ord. No. 094-29, § 28-506, 8-9-94)

**Secs. 28-77 -- 28-80. -- Reserved.**

*TABLE 5.1*

*Cluster Option*

<b>District</b>	<b>Allocated Density*</b>	<b>Min. O.S.R.</b>	<b>Minimum Area Cluster Lot</b>	<b>Minimum Width (in feet)</b>	<b>Minimum Frontyard (in feet)</b>	<b>Minimum Sideyards (in feet)</b>	<b>Minimum Rearyard (in feet)</b>
<b>R-1</b>	<b>3.0du/1.0ac.</b>	<b>0.5</b>					
<b>S.F.</b>			<b>8,000 sf</b>	<b>60</b>	<b>25</b>	<b>8/18</b>	<b>25</b>
<b>Duplex</b>			<b>6,500</b>	<b>60</b>	<b>30</b>	<b>5/12</b>	<b>25</b>
<b>R-2</b>	<b>7.0du/1.0ac.</b>	<b>0.25</b>					

<b>S.F.</b>			<b>8,000-sf</b>	<b>60</b>	<b>25</b>	<b>5/12</b>	<b>25</b>
<b>Duplex</b>			<b>4,000-sf</b>	<b>40</b>	<b>25</b>	<b>3/15</b>	<b>25</b>
<b>Twnhse</b>			<b>1,200</b>	<b>16</b>	<b>15</b>	<b>20**</b>	<b>20</b>
<b>R-3</b>	<b>15.0du/1.0ac.</b>	<b>0.25</b>					
<b>S.F.</b>			<b>6,500-sf</b>	<b>60</b>	<b>30</b>	<b>5/12</b>	<b>25</b>
<b>Duplex</b>			<b>4,000-sf</b>	<b>40</b>	<b>25</b>	<b>3/12</b>	<b>25</b>
<b>Twnhse</b>			<b>1,200</b>	<b>16</b>	<b>15</b>	<b>20**</b>	<b>20</b>

\*Dwelling units per gross acre

\*\*Minimum between townhouse structures

*Notes:*

(1) ~~Side yard requirements are indicated with two (2) numbers, the first number indicates the minimum yard for one of the side yards, and the second number is the minimum combined total for both side yards.~~

(2) ~~Height restrictions shall be the same for clustered developments as for conventional developments.~~

(Ord. No. 094-29, 8-9-94; Ord. No. 095-11, 3-7-95; Ord. No. 000-22, 10-17-00)

BE IT FURTHER ORDAINED that this ordinance shall become effective on March 20, 2012.

Planning and Zoning; Consider an Amendment to the Zoning Ordinance to Allow Wetland Mitigation Banks as a By-Right Use within the A-1 and A-2 Zoning Districts Mr. Jeff Harvey, Planning and Zoning Director, gave the presentation and answered Board member's questions.

Mr. Milde asked when the last time the Board considered wetlands mitigation banks. Mr. Harvey responded that it had been discussed for more than a year. Mr. Milde said that he believed that most people did not understand how wetland mitigation banks operate and that he was the only one to vote "No" the last time the Board heard this issue.

Mr. Sterling asked about the review process. Mr. Harvey said that they were by-right and so long as there were no structures built and it was open or forested land placed in a conservation easement in perpetuity, there was no review by either the Board or the Planning Commission, nor was there a public hearing.

Mr. Sterling asked if State law required wetlands. Mr. Harvey said, “No, Sir.” Mr. Milde asked if a conditional use permit was required and Mr. Harvey said that, under the current ordinance, a conditional use permit was required and a public hearing was also required. Mr. Thomas asked about the cost. Mr. Harvey said it cost approximately \$12,000 but there was a base fee, then a per-acre fee, which was typically associated with this kind of use. Mr. Sterling said the fee should be associated with staff work, review, etc. Mr. Harvey said an Erosion and Sediment Control Plan would be submitted and that the Planning Commission recommended approval by a vote of 6 – 1, with Mr. Hirons voting against the amendment because while he thought it was a great concept, the \$10,000 minimum fee was in excess of what it should be, and that the County needed lower rates.

The Chairman opened the public hearing.

The following persons spoke:

Alane Callandar

James Parker (with Falling Springs LLC)

Lorena Kreiser

The Chairman closed the public hearing.

Mr. Sterling asked Mr. Harvey about A-2 Rural Residential 1-acre lots, and if it was possible to have a Wetlands Mitigation Bank on one acre. Mr. Harvey will research how A-2 will apply and report back to the Board. Mr. Sterling asked if the County wanted to establish a size for Wetlands Banks. Mr. Harvey said that the process with DEQ was very expensive and it would likely take 50 acres or more in order to make it profitable for a land-owner. Mr. Sterling asked if there were any undeveloped A-2 zoned areas in the County. Mr. Harvey said there was one tract in the Griffis-Widewater District. Mr. Cavalier asked if it was a property on Norman Road. Mr. Harvey said he was thinking about property on Brentsmill Road. Mr. Thomas said that he would like for there to be a notification process of applications which, he thought, would help with public input.

Mr. Milde motioned, seconded by Mr. Snellings, to approved proposed Ordinance O12-04. Following the motion and second, Mr. Milde said that the Board was trying to preserve open

space outside the Urban Services Area and this ordinance did that, and he hoped that the Board would support it and at no cost to County taxpayers. Mr. Snellings said that he had concerns about no public input but after studying it, there was a lot more public input than was first apparent. The last thing that needed to be done was to add another layer of government, adding that to charge \$12,000 made no common sense.

The Voting Board tally was:

Yea: (7) Milde, Snellings, Cavalier, Schieber, Sterling, Stimpson, Thomas

Nay: (0)

Ordinance O12-04 reads as follows:

AN ORDINANCE TO AMEND STAFFORD COUNTY CODE, SECTION 28-25, “DEFINITIONS OF SPECIFIC TERMS,” AND SECTION 28-35, TABLE 3.1, “TABLE OF USES AND STANDARDS”

WHEREAS, Robert Proutt, Jr., with Hunton & Williams LLP, has requested amendments to the zoning ordinance to provide a definition of a wetland mitigation bank and to allow a wetland mitigation bank as an allowed use in the A-1, Agricultural and A-2, Rural Residential Zoning; and

WHEREAS, the Board desires to amend and reenact Stafford County Code, Section 28-25, entitled “Definitions of Specific Terms,” and Section 28-35, Table 3.1, entitled “Tables of Uses and Standards;” and

WHEREAS, the Board desires to amend the Zoning Ordinance to promote the conservation of sensitive environmental resources, consistent with Objective 3.6 of the Comprehensive Plan; and

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

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

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that Stafford County Code, Section 28-25, “Definition of Specific Terms,” and Section 28-35, Table 3.1, “Table of Uses and Standards,” be and they hereby are amended and re-ordained as follows, all other portions remaining unchanged:

## Chapter 28 – Zoning Ordinance

### Section 28-25. Definitions of specific terms.

When used in this chapter, the following terms shall have the meanings herein ascribed to them:

Wetland Mitigation Bank. A wetland mitigation bank is a wetland or stream area that has been restored, established, enhanced, or preserved, which is then set aside to compensate for future conversions of wetlands for development activities, and is subject to the approval of state and federal regulatory agencies.

### Section 28-35. Table of uses and standards.

**Table 3.1 District Uses and Standards**

A-1, Agricultural.

(a) Uses permitted by right:

Wetland Mitigation Bank

A-2, Rural Residential.

(a) Uses permitted by right:

Wetland Mitigation Bank

BE IT FURTHER ORDAINED that this Ordinance shall take effect on March 20, 2012.

Planning and Zoning; Consider an Amendment to the Zoning Ordinance to Amend the Definition of a Recycling Center Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board members questions regarding an inconsistency in the Zoning Ordinance and with the State Ordinance. It would add the words, “pre-sorted,” and specifies that it is not intended to apply to inoperable motor vehicles or parts thereof. Mr. Sterling asked for clarification if the State could approve it without County approval. Mr. Harvey said that it must also fall within County guidelines.

The Chairman opened the public hearing.

No persons spoke.

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Thomas, to approved proposed Ordinance O12-05.

The Voting Board tally was:

Yea: (7) Sterling, Thomas, Cavalier, Milde, Schieber, Snellings, Stimpson,

Nay: (0)

Ordinance O12-05 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE, SECTION 28-25, ENTITLED “DEFINITIONS OF SPECIFIC TERMS”

WHEREAS, the Board desires to amend and reordain Stafford County Code, Section 28-25, entitled “Definitions of Specific Terms”; and

WHEREAS, “Recycling center” is not consistent with the listed use in the M-1, Industrial Light and M-2, Industrial, Heavy zoning districts, which refer to “Recycling facilities”; and

WHEREAS, the Board desires to amend “Recycling center” to “Recycling facility” to be consistent with Section 28-35, “Table of uses and standards;” Table 3.1 “District Uses and Standards” for the M-1, “Industrial Light” and M-2, “Industrial, Heavy” zoning districts; and

WHEREAS, the Board also desires to amend the current definition of “Recycling center”; and

WHEREAS, the Board has referred the proposed amendments to the Planning Commission and 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 zoning practices require adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 20<sup>th</sup> day of March, 2012, that Stafford County Code, Section 28-25, “Definitions of Specific Terms” be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

**Sec. 28-25. - Definitions of specific terms.**

Recycling center facilities, A structure, or confined site or place where recycling activities such as the extraction and processing or reprocessing of useful materials from pre-sorted recyclable waste, refuse, garbage or other discarded materials takes place. This definition is not intended to apply to wrecked, inoperable, or abandoned motor vehicles or parts thereof.

BE IT FURTHER ORDAINED that this ordinance shall become effective on March 20, 2012.

Fire and Rescue; Amend and Reordain Stafford County Code, Chapter 12, Article VII, entitled “Ambulance Cost Recovery” Mr. Rob Brown, Fire Chief, gave the presentation and answered Board member’s questions. Mr. Cavalier said that back when this first was presented to the Board in 2006, he voted against it but that now he is past the point of hesitation and will vote for this ordinance.

The Chairman opened the public hearing.

No persons spoke.

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Thomas, to adopt proposed Ordinance O12-09.

The Voting Board tally was:

Yea: (7) Sterling, Thomas, Cavalier, Milde, Schieber, Snellings, Stimpson,

Nay: (0)

Ordinance O12-09 reads as follows:

AN ORDINANCE TO AMEND STAFFORD COUNTY CODE, SECTION 12-82, FEES, FOR THE PURPOSE OF AMENDING FEES CHARGED FOR AMBULANCE RECOVERY COSTS

WHEREAS, providing public safety services is a primary responsibility of the County; and

WHEREAS, the Ambulance Fee Cost Recovery program enhances fire and rescue service in the County; and

WHEREAS, the Board believes the Ambulance Cost Recovery program is necessary and in the public’s best interest; and

WHEREAS, the Board desires to increase the charges for the Ambulance Cost Recovery program to be consistent with those utilized by the Center for Medicare and Medicaid Services (CMS); and

WHEREAS, the Board 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 ORDAINED by the Stafford County Board of Supervisors on this the 20th day of March, 2012, that Stafford County Code, Section 12-82, Fees, be and it hereby is amended and reordained to read as follows, all other portions remaining unchanged:

(c) Fees for emergency medical transport services shall be charges per patient transported for services rendered and transportation provided, as initially set and reviewed annually:

BLS	<del>\$400.00</del> <u>500.00</u>
ALS-1	<del>500.00</del> <u>650.00</u>
ALS-2	<del>675.00</del> <u>800.00</u>

(d) Transportation fees: ~~Ten~~ Twelve dollars (~~\$10~~ 12.00) per GTM.

Legislative; Additions to the Regular Agenda Mr. Milde motioned, seconded by Mr. Thomas, to approve the agenda as presented. The Board agreed to defer Item 22. Authorize Memorandum of Agreement for the Proposed Stafford Technology and Research Park until April 4<sup>th</sup>; and to defer Item 26. Amend the Board of Supervisor’s Bylaws and Rules of Procedure. No return date was specified for the return of Item 26.

The Voting Board tally was:

Yea: (7) Milde, Thomas, Cavalier, Schieber, Snellings, Sterling, Stimpson,  
 Nay: (0)

County Attorney; Appoint a Committee to Consider Election of an At-Large Chairman in Stafford County Mr. Thomas discussed the Charter and suggested that the Board not take a vote on proposed Resolution R12-81 until it was ready to appoint members to the Committee. Mr. Milde said that he was happy with the Charter and motioned, seconded by Mr. Thomas, to approve the Charter and to bring the item back to the Board on April 4<sup>th</sup> for appointment of members to the Committee.

The Voting Board tally was:



Yea: (7) Milde, Thomas, Cavalier, Schieber, Snellings, Sterling, Stimpson,  
Nay: (0)

Finance and Budget; Consider Amending the Schools' FY2012 Budgets Mr. Sterling said that the Finance, Audit and Budget Committee voted 3 – 0 to recommend against the School's requested transfer of \$864,000 from Instruction and Technology to the Administrative line item in the School's FY2012 budget. The County was waiting for additional information regarding use of funds. Also taking into account the Schools' late response to the auditor's request, Mr. Sterling said that he could not support the request.

Mr. Schieber said that he had the unique position of sitting on both Boards and stated that last year's budget was rushed and hurried and that after the budget was approved, it became obvious that there were inadvertent errors made, and that the Schools' finance staff was working hard at resolving mistakes that were made and to ensure that they do not happen again. Mr. Schieber said that he absolutely shared Mr. Sterling's concerns in terms of communication issues with the budget and finance staff, transparency, and working towards making things better. He added that he was not close enough to understand the day-to-day impact of a decision to deny the Schools' request but he believed that transferring the \$864,000 as requested would allow School staff to move forward with necessary operations, repairs, etc. Mr. Schieber said that he understands the Board's frustration but recommended reallocation of the funds with additional reporting requirements to be placed on the Schools.

Mr. Sterling responded that while he appreciated Mr. Schieber's comments and perspective on the Schools' request, he wanted to clarify that there was no transfer. The Board appropriated, after a public hearing, \$190,560,000 in the Instructional Category and \$45,669,556 into all other categories. The Schools executed a spend rate 2% in excess of their budgeted amount. After executing a spend rate in excess of their approved budget, Schools said they were confused but had taken no steps to address the confusion. Mr. Sterling said that he was concerned that this would happen again in future years and that steps must be taken to ensure that it did not happen again. He added that the Schools' knew this on July 1<sup>st</sup> and should have executed at that time.

Mr. Schieber refuted that the School Board knew, saying that it was not clear to him as a School Board member and was not clear until he became a member of the Board of Supervisors adding his thought that, regrettably, there was a precedent for confusion.

Ms. Stimpson said that the Board acknowledged that conversation between the two Boards has been very good, but that from her perspective, the Schools' finance staff knew and that she could not justify moving money from the Instructional Line. Mr. Thomas asked why Schools needed the \$864,000. He said there was silence then Mr. Carruthers responded, "carpet." Ms. Stimpson added that this was not at all about the Board's relationship with School Board members but rather that funds were targeted for the Instructional and Technology line to ensure that the money was there for the teachers. Ms. Stimpson said that she supported the motion to not appropriate the money to other line items.

Mr. Cavalier said that in past years, the County transferred an amount for the Schools use and it was the School Board's responsibility to oversee, formulate, and execute a budget which they could do better than the Board of Supervisors. He added that he does not know the history of the \$864,000 but it was his opinion that the County was not adding or taking money away from the Schools, it only mattered in what category the money was in, adding that perhaps there was a misunderstanding or a mistake. Mr. Cavalier said that he did not think it was the Board's call to say that the Schools could not use the money as they thought best.

Mr. Thomas said that he was not here during the back and forth with the \$864,000 and he worked with his School Board member who was also new. He added that he wished there had been more specific details provided. Mr. Thomas said he understands the position the School Board was in and that he was going to have to support the Schools request on this with their assurance that it will not happen again.

Mr. Sterling addressed concerns about the origins of the request and talked about the County's concessions made to meet budget requests of the Schools including use of carry-over to fund buses and computer requests. Administrative requests were higher; Instruction requests were lower, so the County gave Instruction more funding. He stated that there was

nothing done over the years to fix the problem and said that he anticipated being in the same position, with budget irregularities occurring again and again, year after year. Mr. Sterling added that the School Board must address fiscal accountability and he could not support the request, taking money out of the classrooms and moving it “across the street” to Administration.

Ms. Stimpson said that it is important to note that built into the County’s budget this year, is \$864,000 for the Schools. Mr. Romanello said that the proposed budget has a \$4M increase in addition to the \$864,000 for funds which have not been spent and that (at the end of the 3<sup>rd</sup> quarter) it was thought that they would be used primarily to cover increases in VRS. Ms. Stimpson said that there is \$18M sitting in a fund that is not reported in the budget and she could not believe that the Board would even consider re-appropriating \$864,000 to another line item.

Mr. Schieber said that he did not refute the need to refine the financial process and that there should be additional review of the Schools’ budget process but there was a precedence of administrative confusion. It did not make it right and could be used as a good leverage point to improve communication. Mr. Thomas said that he had time to absorb what Mr. Sterling said and believed that something should be put in motion to prevent this from happening again and that he would like to know what, specifically, that Schools’ could not buy if this request is denied. He added that he wished he knew the impact of the approval or denial. Mr. Sterling stated that when asked, the Schools’ response for how the money would be used was, “carpet.” He added that there has not been a better explanation provided.

Mr. Milde said that they said that he really wanted to help out the Schools but that the County was quite clear how they wanted the money allocated and it appeared that the County was being ignored which made no sense, adding that it seemed to be the case and wondered what would happen next time. Mr. Sterling said that he did not believe that it was the fault of the School Board members. Mr. Schieber said that it was an issue of clarity and was regrettable. He wished a more substantive answer than, “carpet,” had been provided from the Schools’ CFO.

Mr. Cavalier suggested that the Board go directly to the School Board and ask for further explanation, do it as a full Board, not just the Committee, and request a clear and concise explanation. Mr. Sterling said that he hoped the School Board could explain all the details as well as what changes they made to ensure that problems like this did not happen again including back-dating expenditures, etc.

Mr. Snellings said that the key word for him is “carpet.” The CFO said that he was going to take \$864,000 out of the classroom and buy “carpet.” Mr. Snellings added that he cannot support doing that and talked about people coming to the budget public hearing asking for all kinds of classroom supplies and the Board was going to have to say that they gave the Schools’ \$864,000 to buy “carpet.”

Mr. Thomas motioned, seconded by Mr. Cavalier, to defer the request and to ask the School Board to bring back a more complete explanation. Mr. Sterling specified that the Board can vote for, vote against, or vote to defer, which is the same as taking no action or, therefore, a vote against. Mr. Thomas withdrew his motion.

Mr. Sterling motioned, seconded by Mr. Snellings, to deny the request, proposed Resolution R12-90. Mr. Cavalier said that his intent was to get clarity from the School Board rather than relying on the CFO’s off-handed reply of, “carpet.”

The Voting Board tally was:

Yea: (5) Sterling, Snellings, Milde, Stimpson, Thompson

Nay: (2) Cavalier, Schieber

Discuss Route 17 Widening Impacts Following discussion, this item was deferred to the April 17, 2012, meeting of the Community and Economic Development Committee, giving Mr. Snellings an opportunity to address the Committee and to explain why he believed action should be taken, and to get staff involved. Ms. Stimpson said that as the Chair of that Committee, it was discussed at length. She suggested that it should come back to the full Board for additional discussion, rather than being referred back to the Committee. It was agreed that it would be placed on the Board of Supervisors’ agenda for April 17<sup>th</sup>.

Discuss Steep Slopes In response to Mr. Schieber’s request, Mr. Keith Dayton gave a presentation and answered Board member’s questions. Ms. Stimpson talked about using geo-technical engineers and Mr. Milde spoke about getting soil scientists involved to certify plans prior to development even though the County currently has no such requirement in terms of General Development Plans (GDP).

Mr. Dayton said that marine clay was largely responsible for the problem and that water is a culprit. Other contributing factors are uneven terrain and economic factors with the value to lot sizes and decreases in lot sizes and a desire for flat building sites which creates more grading, filling and cutting. Mr. Dayton clarified what he meant by the word, “cluster” and that he did not mean to imply that it had anything to do with the previously discussed Cluster Ordinance.

Ms. Stimpson suggested as part of the process and with Mr. Schieber’s permission, that the matter be brought before the Community and Economic Development Committee. Mr. Schieber said that Planning and Zoning would be the principle department to deal with this. Ms. Stimpson thanked Mr. Schieber for his leadership in the matter and also thanked Mr. Dayton for his exceptional leadership in this area.

Adjournment At 10:47 p.m. the Chairman declared the meeting adjourned.

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Anthony J. Romanello, ICMA-CM  
County Administrator

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Susan B. Stimpson  
Chairman