

BOARD OF SUPERVISORS MINUTES**JUNE 28, 2022**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, June 28, 2022, beginning at 5:00 p.m., in the Meeting Room of the Public Safety Building, 11282 Government Center Drive, Orange, Virginia. Present: R. Mark Johnson, Chairman; James P. Crozier, Vice Chairman; James K. White; Keith F. Marshall; and Lee H. Frame. Also present: Stephanie R. Straub, Assistant County Administrator; Thomas E. Lacheney, County Attorney; and Alyson A. Simpson, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

On the motion of Mr. Frame, seconded by Mr. Crozier, which carried by a vote of 5-0, the Board adopted the agenda, as modified. Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: SPECIAL PRESENTATIONS AND APPEARANCES

There were no Special Presentations or Appearances at this time.

RE: CONSENT AGENDA

On the motion of Mr. Frame, seconded by Mr. Crozier, which carried by a vote of 5-0, the Board adopted the Consent Agenda, as presented.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: FY22 BUDGET AMENDMENTS (SUPPLEMENTALS AND TRANSFERS)

As part of the Consent Agenda, the Board approved the following budget amendments, as presented:

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUS BUDGET	BUDGET CHANGE	AMENDED BUDGET
30026501-32400	Library Fees	\$ (667.00)	\$ (279.00)	\$ (946.00)
30026501-32475	Library Fees	(142.00)	(18.00)	(160.00)
30026501-32525	Library Fees	(550.00)	(214.00)	(764.00)
47310001-46466	Orange County Library	847.00	279.00	1,126.00
47311001-46466	Wilderness Branch Library	264.00	18.00	282.00
47312001-46466	G'ville Branch Library	550.00	214.00	764.00
41222001-42610	Human Resources	5,000.00	37,714.00	42,714.00
49140001-45900	Contingency Fund	316,500.00	(37,714.00)	278,786.00
30045004-35975	Forfeited Assets - Sheriff	(1,275.00)	(140.00)	(1,415.00)
43120006-46800	Sheriff's Office - For. Assets	31,432.00	140.00	31,572.00
30034001-34030	Recovered Costs	(55,400.00)	(2,446.00)	(57,846.00)
48110001-43100	Planning Services	57,720.00	2,446.00	60,166.00
30052001-39900	Appropriated Fund Balance	(4,156,278.63)	(330,000.00)	(4,486,278.63)
44320001-48290	Maint. of Building & Ground	0.00	330,000.00	330,000.00
TOTALS		\$ (3,801,999.63)	\$ 0.00	\$ (3,801,999.63)

RE: ADOPTION OF THE JUNE 14, 2022 WORKSESSION MINUTES

As part of the Consent Agenda, the Board adopted the June 14, 2022 Worksession minutes, as presented.

RE: ADOPTION OF THE JUNE 14, 2022 REGULAR MEETING MINUTES

As part of the Consent Agenda, the Board adopted the June 14, 2022 Regular Meeting minutes, as presented.

RE: NEW BUSINESS

RE: AWARD OF THE CONTRACT FOR THE COUNTY ENTRANCE SIGN PROJECT

Amanda Amos, Contract and Procurement Specialist, stated that the County had released a solicitation on May 12, 2022, for the design and construction of the County's Entrance Signs. Staff advertised the request for proposals on the County's website, in The Orange Review, and on eVA (Virginia's e-procurement website), and three (3) responses were received.

Ms. Amos indicated that staff recommended awarding a contract to Color-Ad, the lowest responsive bidder, for the design and construction of seven (7) County Entrance Signs, consisting of three (3) monument signs and four (4) breakaway signs. She added that Color-Ad had experience working with localities throughout Virginia on similar design and construction projects.

Ms. Amos noted that the total project cost equaled \$108,932 and that funding had been budgeted in the Capital Improvements Plan in Project C1092 (County Entrance Signs).

Discussion ensued among the Board regarding: the location of the firm.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board authorized staff to enter into a contract with Color-Ad for the design and construction of seven (7) County Entrance Signs (three (3) monument signs and four (4) breakaway signs) with a contract term valid for the duration of the project, using funding from Project C1092 (County Entrance Signs) in the Capital Improvements Plan, as presented.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: OLD BUSINESS

RE: STA 22-02 (SUBDIVISION TEXT AMENDMENT CONCERNING PRIVATE COMMUNITY ROADS)

Eric Bittner, Planner, explained that the Board had previously requested that staff prepare a Subdivision Text Amendment to allow for subdivisions of private communities with more than seven (7) lots to maintain private roads, and to allow for major subdivision preliminary plats previously approved in 2018 to do the same. He presented the recommended amendment language for the Board's discussion, noting the language had been prepared by both Planning Services staff and the County Attorney.

Discussion ensued among the Board regarding: why staff recommended physical barriers, such as gates or checkpoints, between the public road and the private community roads; and the desire to modify the recommended language regarding the separation of the public road and the private community roads before Planning Commission action.

By consensus, the Board requested that staff clarify the recommended amendment language concerning the physical distinction between the public road and the private community roads, and then initiate Planning Commission action on said amendment (STA 22-02).

RE: DEPARTMENT DIRECTOR / CONSTITUTIONAL OFFICER REPORTS
There were no Department Director or Constitutional Officer Reports at this time.

RE: COUNTY ATTORNEY'S REPORT
The County Attorney had nothing to report on at this time.

RE: COUNTY ADMINISTRATOR'S REPORT
The Assistant County Administrator had nothing to report on at this time.

RE: BOARD COMMENT
Supervisor Marshall commented on and congratulated the Orange County Fair Association on the recent success of the annual Orange County Fair.

Supervisor White commented that the end of Fiscal Year 2022 was approaching and remarked on staff's ability to serve the needs of the citizens while ending the year in good financial standing.

Chairman Johnson, as Board Historian, shared stories he had recently located while conducting research in the archives at The Orange Review.

RE: INFORMATIONAL ITEMS
The Board received the following correspondence for its information:

- CSA Monthly Report
- Parks and Recreation Quarterly Report

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES
By consensus, the Board appointed Mark Johnson as an At-Large Representative on the Rapidan Service Authority (RSA) for a four-year term, with said term commencing immediately, and expiring on June 24, 2026.

By consensus, the Board re-appointed Sarah Lupo as a Member of the Barboursville Village Overlay District Advisory Committee (BVODAC) for a two-year term, with said term commencing October 1, 2022, and expiring on September 30, 2024.

By consensus, the Board appointed Adam Bryington as the District Four Representative on the Planning Commission, filling the unexpired four-year term of Julie Zeijlmaker, with said term commencing immediately, and expiring on March 31, 2026.

During his nomination of Mark Johnson, Mr. Frame noted this appointment to the Rapidan Service Authority represented the additional (third) representative for Orange County, which was part of the restructuring of the RSA Board following Greene County's withdrawal.

During his nomination of Adam Bryington, Mr. Crozier noted this appointment to the Planning Commission was intended to be for a temporary (approximately 60-day) appointment, until such time a longer-term appointee was selected.

RE: CALENDAR
The Board received copies of its calendar of meetings for the months of June 2022, July 2022, and August 2022.

RE: RESCHEDULE THE PUBLIC HEARING FOR SUP 22-04 (SOL MADISON)

By consensus, the Board authorized staff to advertise for and reschedule the public hearing for SUP 22-04 (Sol Madison) for Tuesday, July 26, 2022, as presented.

RE: RESCHEDULE THE PUBLIC HEARING FOR A SITING AGREEMENT FOR SUP 22-04

By consensus, the Board authorized staff to advertise for and reschedule the public hearing for the Siting Agreement for SUP 22-04 for Tuesday, July 26, 2022, as presented.

RE: PUBLIC HEARING #1; STA 21-01

Keri Ragland, Senior Planner, presented the staff report regarding proposed amendments to the Subdivision Ordinance to amend the private road standards and bonding requirements, which had previously been initiated and discussed by the Board. She reviewed the proposed language, indicating that the Planning Commission's vote had resulted in a recommendation of approval.

At 5:21 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

STA 21-01

The Board of Supervisors will consider an amendment to Chapter 54 (Subdivision) of the Orange County Code of Ordinances, specifically to Sections 54-56, 54-121, and 54-123. The purpose of said amendment is to modify road bond requirements and private road standards relative to construction and maintenance. Through this amendment, private roads for up to seven (7) lots would become permitted by-right so long as certain road quality and surety requirements are met.

The following individuals spoke:

- Roderic Slayton, 110 Boxley Lane, Orange
- Gail Babnew, 19240 Springfield Road, Gordonsville

There being no further speakers, Chairman Johnson closed the Public Hearing at 5:30 p.m.

Discussion ensued among the Board regarding: the concerns raised by Mr. Slayton; the fact that an "undue hardship" had to be proved in order to exceed the maximum number of lots under the current ordinance language; the desire to "grandfather" all pending applications that had applied under the current ordinance language; and the idea that reducing the number of driveways on a limited section of roadway could sometimes be achieved more efficiently through use of a private road.

On the motion of Mr. Crozier, seconded by Mr. White, which carried by a roll call vote of 5-0, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING AMENDMENTS TO ARTICLE V (BONDING, IMPROVEMENT GUARANTEES, AND CERTIFICATIONS OF IMPROVEMENT) AND ARTICLE VIII (ROAD AND ACCESS STANDARDS), SECTION 54 (SUBDIVISION), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING BONDING REQUIREMENTS AND PRIVATE ROAD STANDARDS

WHEREAS, Planning Commission action was previously initiated on amendments to Article V (Bonding, Improvement Guarantees, and Certifications of Improvement) and Article VIII (Road and Access Standards), Section 54 (Subdivision), of the Orange County Code of Ordinances concerning bonding requirements and private road standards; and

WHEREAS, the recommended language for the text amendments was prepared, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and conducted a Public Hearing on the proposed text amendments on June 2, 2022; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as presented during its meeting; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the proposed text amendments on June 28, 2022, these amendments being revised from the amendments previously considered during a public hearing on April 12, 2022; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as presented during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good practice also support approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 28th day of June, 2022, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article V (Bonding, Improvement Guarantees, and Certifications of Improvement) and Article VIII (Road and Access Standards), Section 54 (Subdivision), of the Orange County Code of Ordinances concerning bonding requirements and private road standards, as presented and shown below; and

BE IT FURTHER ORDAINED, that, while these amendments shall take effect immediately, the Board of Supervisors hereby authorizes that any pending applications at the time of this public hearing are “grandfathered” to be considered under the ordinance language in existence before these amendments.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

Amendments to the Orange County Code of Ordinances

**As adopted in Ord. No. 220628 – PH1
by the Orange County Board of Supervisors
on June 28, 2022**

Chapter 54 - Subdivision

Article V – Bonding, Improvement Guarantees, and Certifications of Improvements

Sec. 54-56. – Public Road Bonds.

(a) For plats whereby one or more roads have been dedicated to public use or must otherwise be constructed to VDOT standards pursuant to this Chapter, in addition to any other required bonds, the County shall accept a bond dedicated solely to the construction and maintenance of said road(s) and related right-of-way improvements, along with a contingency amount of ten percent (10%). Any such bond must be issued by a company licensed to transact business in the Commonwealth of Virginia. The County shall retain this bond until VDOT has inspected and/or has been furnished a report confirming that the road construction meets VDOT requirements. With respect to a private road built to VDOT standards, a third-party professional engineer may certify that the road has been constructed to VDOT standards. Only after this may a bond reduction be granted, provided that a portion of the bond is retained in amount sufficient to cover projected maintenance of the road(s) for a period of time satisfactory to the County and to VDOT (if applicable). At no point shall this bond be released until the necessary maintenance bonds have been posted with VDOT or with the County as required as part of the road acceptance process.

(b) For plats whereby the road will not be dedicated to public use, but will be constructed to the standards contained to Sec. 54-121(c), in addition to any other required bonds, the County shall accept a bond dedicated solely to the construction of said road(s) and related right-of-way improvements, along with a contingency amount of ten percent (10%). Any such bond must be issued by a company licensed to

transact business in the Commonwealth of Virginia. The County shall retain this bond subject to the following methodologies for release of said bond:

- (1) If the road was constructed by a Class A licensed contractor that regularly constructs roads in the Commonwealth of Virginia, or if it was constructed by a contractor that is pre-qualified by VDOT to construct roads in Virginia, said bond may be reduced upon the certification by the contractor that said road was constructed in compliance with this Chapter. The certification shall be upon a form provided by the County.
- (2) For road construction not falling under subparagraph (1) above, said bond may be released upon any of the following occurrences:
 - a. A third-party inspector certifies compliance with items (2)a. through (2)e. in Sec. 54-121(c). For purposes of this section, "third party inspector" means a professional engineer or a certified technician/inspector supervised by a professional engineer who has been hired by the developer to provide a level of testing and inspection on the project equivalent to that for a VDOT project and who has no relationship otherwise with the developer or contractor. Firms that designed a project may be used as providers of third-party inspection services, except in the case where that firm is also the provider of construction services for the project.
 - b. A majority of the subdivided lots have been sold and the owners of said lots have adopted a Road Maintenance Agreement or ratified a previously adopted Road Maintenance Agreement as required in Sec. 54-122.
 - c. The road has been accepted by a Property Owner's Association which is not controlled by the developer of the subdivided lots.

At the sole discretion of the County, a portion of any road bond may be retained in an amount sufficient to cover projected maintenance of the road(s) for a period of time satisfactory to the County prior to a majority of the subdivision lots being sold and the lots becoming subject to a Road Maintenance Agreement or a Property Owner's Association.

Article VIII – Road and Access Standards.

Division II. – Standards for Roads and Access.

Sec. 54-121. – Approval, Construction, and Maintenance Standards.

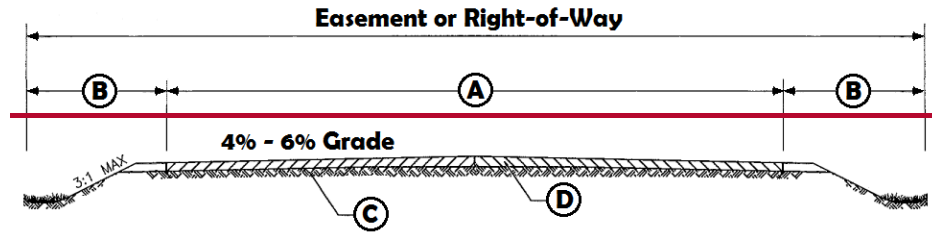
[...]

~~(c) Private Roads. Although it is the intent of the county that all roads be constructed to meet current VDOT standards, the county recognizes that there might be unusual situations concerning the construction of a road, or situations when strict adherence to the general regulations would result in substantial injustice or hardship. In such cases, the Planning Commission may approve a private road subject to the following:~~

- ~~i. Except as provided in Sec. 54-123 below, the Planning Commission may allow a road serving up to ten (10) lots to be privately constructed and maintained. In making its decision on a private road request, the Commission shall consider impacts of the proposed road and its resulting development related to: the future land use objectives of the Comprehensive Plan; the adequacy and safety of the state road network in the area; the availability of other means of accessing the property; sensitive environmental areas; the suitability of the land for utilities; and the proximity and arrangement of neighboring properties. The Planning Commission may impose reasonable conditions on any approval of a private road to address identified impacts. The Planning Commission shall be the sole determiner of whether a variation/exception allowing a private road is granted, and a denied request shall be final and unappealable.~~

ii. ~~Private Road Standards.~~ The standards governing the construction, maintenance, and usage of all private roads shall be as follows:

1. ~~Construction Standards:~~



Total Number of Lots Served	A Surface Width	B Ditch / Clear Zone Width	C Subbase	D Surface
3-4*	14 feet	2 feet	Compacted earth or other solid material	6" min. compacted aggregate
5-7	16 feet	4 feet	6" compacted aggregate base material (VDOT 21A or 21B stone)	2" surface aggregate
8-10	18 feet	6 feet	6" compacted aggregate base material (VDOT 21A or 21B stone) with a CBR of ≥ 10	Prime and double seal or min. 2" asphalt concrete

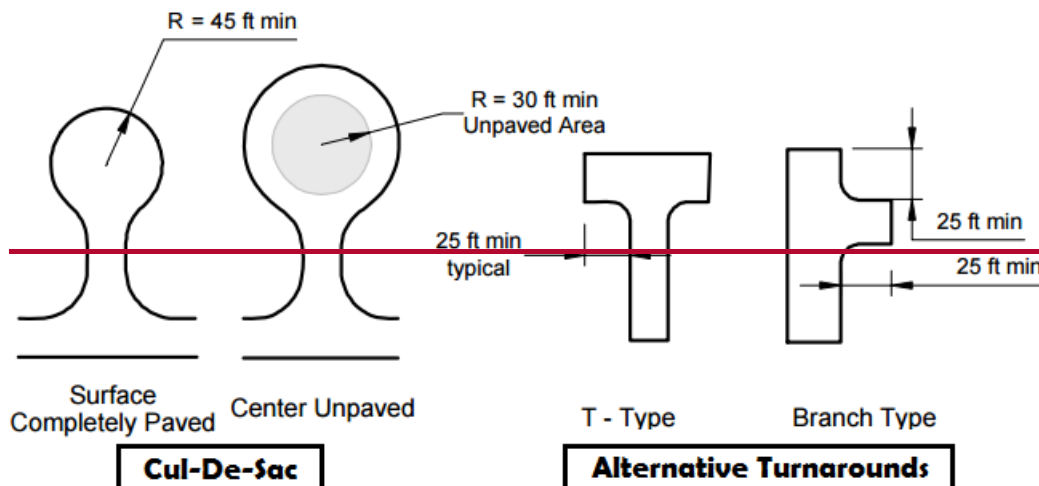
* The center of the roadway may be grassed and/or non-surfaced.

2. ~~Grades.~~ No portion of a private road shall exceed a grade of ten percent (10%).

3. ~~Vertical Clearance.~~ The area between the roadway surface upward a minimum of fourteen (14) feet shall remain clear of tree branches and other obstructions.

4. ~~Drainage; Culverts.~~ All culverts and other means of drainage for private roads shall be designed and constructed in accordance with the VDOT Road and Bridge Standards.

5. ~~Turnarounds.~~ A private road serving five (5) or more lots shall have a turnaround provided and constructed within the easement or right of way pursuant to either of the following:



- ~~6. *Easement/Right-of-Way Termini.* Where a private road does not extend beyond the boundary of the subdivision and its continuation is not required for access to adjoining property at the time of approval, the end of the road easement/right-of-way shall be no closer than fifty (50) feet to an adjoining property. However, the Subdivision Agent or Planning Commission may require the reservation of an appropriate easement that extends beyond the end of the road easement/right-of-way to accommodate drainage facilities, pedestrian traffic, utilities, or an anticipated potential future vehicular connection.~~
- ~~7. *Floodplain.* Private roads shall not be constructed within any area designated on FEMA Flood Insurance Rate Maps (FIRMs) as flood zone A or AE (areas subject to inundation by the 1%-annual-chance flood event).~~
- ~~8. *Zoning.* A private road shall not traverse a given zoning district in order to provide access to property in another zoning district.~~
- ~~9. *Parking.* Parking within a private road easement or right-of-way is prohibited except in any areas, outside of the travelway(s), which may be approved to be dedicated for parking.~~
- ~~10. *Intersections.* Where two (2) private roads intersect, or where a private road intersects with a state road, the angle of that intersection shall be no less than seventy (70) degrees. A minimum return radius of twenty-five (25) feet shall be utilized between intersecting private roads. The minimum sight distance at any such intersection shall be two-hundred (200) feet. Sight distance easements may be utilized to achieve this requirement.~~

(c) Private Roads.

- (1) Any road created to serve one (1) or two (2) lots, or any family subdivision of up to seven (7) lots, may be privately constructed and maintained so long as all lots have a minimum right-of-way of twenty (20) feet to be used as access to a public road.
- (2) Any road created to serve at least three (3) and up to seven (7) lots, or any other road not otherwise provided for in this ordinance, may be privately constructed and maintained, provided the following minimum road construction standards are met:
 - a. The minimum width of the roadway shall be fourteen (14) feet and the minimum vertical clearance shall be fourteen (14) feet.
 - b. The road surface may be either paved or gravel. Gravel roads shall consist of a minimum of six (6) inches of aggregate; paved roads shall consist of a minimum of six (6) inches of gravel and asphalt.
 - c. The roadway shall provide adequate drainage so as not to promote standing water.
 - d. All culverts shall be constructed and installed to VDOT standards.
 - e. A test commonly known as a "proof roll" shall be conducted and any deficient areas addressed. For purposes of this section, "proof roll" means the use of heavy pneumatic tired equipment (i.e. loaded 10-ton tandem dump truck) for testing the subgrade for stability and uniformity of compaction. A proof roll is considered to have failed if lateral movement, vertical deformation, or pumping of the subgrade occurs.
 - f. A bond in an amount sufficient to cover the construction of the road and all associated construction requirements shall be posted per Sec. 54-55 and Sec. 54-56(b).

Sec. 54-123. – Road Maintenance Agreements for Existing Private Roads.

- ~~(a) Any subdivision on an existing private road which does not require extension of said road, but where said road lacks a recorded road maintenance agreement, Planning Commission approval of the subdivision shall be required pursuant to Sec. 54-121 above. If said road is already subject to a~~

~~recorded road maintenance agreement, and no extension of said road is required, approval of the subdivision may be provided by the Subdivision Agent.~~

- (b) For any extension of an existing private road, ~~so approved by the Planning Commission,~~ which lacks a recorded Road Maintenance Agreement, as a requisite for plat approval, a Road Maintenance Agreement shall be required for at least eighty percent (80%) of existing lots which utilize the private road, in addition to the newly-created lots. The agreement shall comply with the requirements of Sec. 54-122.

RE: PUBLIC COMMENT

At 5:51 p.m., Chairman Johnson opened the floor for public comment.

The following individual spoke:

- Daniel Janzegers, Resident of Spotsylvania County

There being no further speakers, public comment was closed at 5:55 p.m.

RE: ADJOURN

On the motion of Mr. Crozier, seconded by Mr. Frame, which carried by a vote of 5-0, the Board adjourned the meeting at 5:55 p.m. Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

R. Mark Johnson, Chairman

Theodore L. Voorhees, County Administrator