

BOARD OF SUPERVISORS MINUTES**SEPTEMBER 26, 2023**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, September 26, 2023, 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; Lee H. Frame, Vice Chairman; James K. White; Keith F. Marshall; and Crystal D. Hale. Also present: Theodore L. Voorhees, 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. Marshall, which carried by a vote of 5-0, the Board adopted the agenda, as modified. Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: SPECIAL PRESENTATIONS AND APPEARANCES

There were no Special Presentations and Appearances at this time.

RE: CONSENT AGENDA

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

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

RE: FY23 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
45351001-43280	Comm. Based Services	\$ 656,766.00	\$ 50,740.00	\$ 707,506.00
30045055-36125	Cat. Aid - State - CSA	(2,323,997.36)	(70,534.00)	(2,394,531.36)
30052001-39900	Appropriated Fund Balance	(7,601,725.29)	19,794.00	(7,581,931.29)
TOTALS		\$ (9,268,956.65)	\$ 0.00	\$ (9,268,956.65)

RE: FY24 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
43551001-45900	Contingency - CARES Act	\$ 0.00	\$ (16,100.00)	\$ (16,100.00)
49310015-47100	Transfer to General Fund	0.00	16,100.00	16,100.00
30051001-39290	Trans. from COVID-19 Fund	0.00	(16,100.00)	(16,100.00)
41211001-43100	Prof. Services - Other	3,922.00	16,100.00	20,022.00

30045006-35775	State - Airport Grant	(193,244.00)	(1,124.00)	(194,368.00)
48170001-43370	Grounds Maintenance	53,000.00	1,124.00	54,124.00
30045006-35775	State - Airport Grant	(193,244.00)	(3,547.00)	(196,791.00)
48170001-43370	Grounds Maintenance	53,000.00	3,547.00	56,547.00
TOTALS		\$ (276,566.00)	\$ 0.00	\$ (276,566.00)

RE: RESOLUTION RECOGNIZING THE 50TH ANNIVERSARY OF RAPPAHANNOCK-RAPIDAN REGIONAL COMMISSION

As part of the Consent Agenda, the Board adopted the following resolution, as presented:

A RESOLUTION OF RECOGNITION FOR
*the 50th Anniversary of the
Rappahannock-Rapidan Regional Commission*

WHEREAS, in 1966, the General Assembly created the Metropolitan Areas Study Commission (the Hahn Commission), which found that a holistic approach to solving local and regional problems needed to be taken, and the Commission recommended a new concept - the creation of planning district commissions and service district commissions; and

WHEREAS, the Virginia Area Development Act (VADA), passed in 1968, created the Planning District Commission framework "to encourage and facilitate local government cooperation and state-local cooperation in addressing, on a regional basis, problems of greater than local significance"; and

WHEREAS, on January 16, 1973, the Rappahannock-Rapidan Regional Commission (RRRC) held its first meeting at the Culpeper Town Hall with charter members from Fauquier County, Orange County, Rappahannock County, and the Town of Warrenton in attendance; and

WHEREAS, the Rappahannock-Rapidan Regional Commission is now led by members representing the Counties of Culpeper, Fauquier, Madison, Orange, and Rappahannock, and the Towns of Culpeper, Gordonsville, Madison, Orange, Remington, The Plains, Warrenton, and Washington; and

WHEREAS, the RRRC has provided professional planning and technical resources, a concerted approach to regional cooperation, planning assistance with program delivery, and a forum for the interaction of appointed and elected officials and citizen members of the region, and serves as a liaison between local and state governments, partnering with the Commonwealth to carry out state initiatives at the local and regional level; and

WHEREAS, the RRRC and its partners have worked on numerous projects impacting the Rappahannock-Rapidan region in the areas of agricultural development, environmental planning, transportation planning and coordination, regional tourism, criminal justice planning, housing development and homeless services, hazard mitigation planning, and regional growth issues; and

WHEREAS, the Rappahannock-Rapidan Regional Commission takes great pride in the value its work has brought to the Rappahannock-Rapidan region over the past fifty years, and recognizes the importance of regional collaboration in addressing challenges in the future;

NOW, THEREFORE, BE IT RESOLVED, on this 26th day of September, 2023, that the Orange County Board of Supervisors hereby commends the Rappahannock-Rapidan Regional Commission on the occasion of its 50th Anniversary, recognizes its many contributions and achievements, and thanks the Commission for its continued support over the decades.

RE: ADOPTION OF THE SEPTEMBER 12, 2023 WORKSESSION MINUTES

As part of the Consent Agenda, the Board adopted the September 12, 2023 Worksession minutes, as presented.

RE: ADOPTION OF THE SEPTEMBER 12, 2023 REGULAR MEETING MINUTES

As part of the Consent Agenda, the Board adopted the September 12, 2023 Regular Meeting minutes, as presented.

RE: NEW BUSINESS

RE: ADOPTION OF THE APRIL 13, 2023 BOARD OF SUPERVISORS MEETING MINUTES FROM THE ECONOMIC DEVELOPMENT PARTNERSHIP GROUP MEETING

Chairman Johnson indicated this item was inadvertently included on the Consent Agenda for the Regular Meeting on September 12, 2023, and it should not have been as there were several members of the Board who did not attend the meeting and, therefore, did not want to vote on the minutes, per tradition. Therefore, he requested reconsideration of this item.

On the motion of Mr. Johnson, seconded by Mr. Frame, which carried by a vote of 5-0, the Board rescinded its previous action from September 12, 2023, to adopt the April 13, 2023 Economic Development Partnership Group Meeting minutes, as presented.

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

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 3-0-2, with Supervisors Johnson and Hale abstaining, the Board adopted the April 13, 2023 Board of Supervisors Meeting minutes from the Economic Development Partnership Group meeting.

Ayes: White, Marshall, Frame. Nays: None. Abstentions: Johnson, Hale.

RE: ADOPTION OF THE SEPTEMBER 14, 2023 BOARD OF SUPERVISORS MEETING MINUTES FROM THE ECONOMIC DEVELOPMENT PARTNERSHIP GROUP MEETING

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 3-0-2, with Supervisors Johnson and Marshall abstaining, the Board adopted the September 14, 2023 Board of Supervisors Meeting minutes from the Economic Development Partnership Group meeting.

Ayes: White, Hale, Frame. Nays: None. Abstentions: Johnson, Marshall.

RE: OLD BUSINESS

RE: PROPOSED LANGUAGE FOR DRIVEWAY STANDARDS AND ROAD MAINTENANCE AGREEMENT TEXT AMENDMENT (STA 23-02)

Josh Frederick, Planning and Zoning Services Manager, explained that, with adoption of several amendments to the Subdivision Ordinance in June 2022, a peculiar issue was introduced with respect to Road Maintenance Agreement (RMA) requirements and two-lot "driveways." He stated that, while a "driveway" serving up to two lots did not have construction standards, the verbiage of the 2022 amendments classified them as private roads, thus requiring an RMA. Mr. Frederick noted this was not the intent of the original concept of "driveways" when included in the rewrite of the Subdivision Ordinance adopted by the Board in 2018.

Mr. Frederick further explained that, if the Board desired to retain its original intent within the context of the 2022 amendments, additional amendments were needed to Sec. 54-121(d) and Sec. 54-122. He indicated that, based on feedback from the worksession on September 12, 2023,

staff had prepared draft text amendment language for the Board's discussion, adding that these edits would remove the conflicting standard introduced with the 2022 amendments and would clarify that an RMA was not required for family subdivision roads or for driveways as defined. Mr. Frederick noted that Planning Commission action would be necessary in order for any amendments to be considered for adoption.

Discussion ensued among the Board regarding: whether the code language for public road needed to be amended as well; minimum right-of-way widths; and the triggering number of lots being confusing and hard to determine.

By consensus, the Board requested that staff make changes to the proposed amendment language to be presented for discussion again at the next meeting on October 10, 2023.

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 County Administrator had nothing to report on at this time.

RE: BOARD COMMENT

As this was his last meeting, Supervisor Frame thanked his colleagues on the Board for their work together over the years and expressed appreciation to the County's employees for their efforts.

Collectively, the Board thanked Supervisor Frame for his service and for his involvement in all the many accomplishments over the last sixteen years. Chairman Johnson presented Mr. Frame with a plaque.

RE: INFORMATIONAL ITEMS

The Board received the following correspondence for its information:

- CSA Monthly Report
- Parks and Recreation Quarterly Report
- Health Center Commission Meeting Minutes; May 26, 2023
- Health Center Commission Meeting Minutes; June 30, 2023
- Health Center Commission Meeting Minutes; July 28, 2023
- VDOT Monthly Report for September

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

There were no appointments at this time.

RE: CALENDAR

The Board received copies of its calendar of meetings for the months of September 2023, October 2023, and November 2023.

RE: PUBLIC HEARING #1; STA 23-01

Josh Frederick, Planning and Zoning Services Manager, presented the staff report regarding proposed various amendments to the Subdivision Ordinance, which had previously been initiated and

discussed by the Board. He reviewed the proposed language, indicating that the Planning Commission's vote had resulted in a recommendation of denial.

At 5:22 p.m., Chairman Johnson called the Public Hearing to order to receive comments on the following:

STA 23-01

The Board of Supervisors will consider a County-initiated Subdivision Text Amendment that would amend several sections to alter requirements for agricultural subdivisions, remove requirements related to waterbodies and waterways, alter lot shape requirements, alter lot orientation requirements for common plan subdivisions, clarify frontage requirements for pipestem lots, and increase - from 2 to 3 - the threshold for when public roads are required for nonresidential subdivisions.

There being no speakers, Chairman Johnson closed the Public Hearing at 5:22 p.m.

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

ORDINANCE APPROVING AMENDMENTS TO SECTION 54 (SUBDIVISION), ARTICLES IV (RECORD PLAT AND IMPROVEMENTS PLAN REQUIREMENTS) AND VII (LAYOUT AND DESIGN STANDARDS), OF THE ORANGE COUNTY CODE OF ORDINANCES

WHEREAS, Planning Commission action was previously initiated on amendments to Section 54 (Subdivision), Articles IV (Record Plat and Improvements Plan Requirements) and VII (Layout and Design Standards), of the Orange County Code of Ordinances; 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 1, 2023; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended denial 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 September 26, 2023; and

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

WHEREAS, public necessity, convenience, general welfare, and/or good planning and zoning practice also support approval of the proposed text amendments, as presented during the Public Hearing;

NOW, THEREFORE, BE IT ORDAINED, on this 26th day of September, 2023, that the Orange County Board of Supervisors hereby approves the proposed amendments to Section 54 (Subdivision), Articles IV (Record Plat and Improvements Plan Requirements) and VII (Layout and Design Standards), of the Orange County Code of Ordinances, as presented and shown below.

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

Amendments to the Orange County Code of Ordinances

As adopted in Ord. No. 230926 – PH1
by the Orange County Board of Supervisors
on September 26, 2023

Chapter 54 – Subdivision

Article IV – Record Plat and Improvements Plan Requirements

Sec. 54-43 – Record Plat Notes and Certificates

The following notes and certificates shall appear on the record plat, and shall be executed as appropriate:

[...]

- (l) For a plat showing ~~the vacation of a~~ subdivision to supersede a previous agricultural subdivision and subsequent approval of the lot(s) as buildable:

“Approval and recordation of this plat ~~vacates~~ supersedes the previous agricultural subdivision recorded in *(insert Circuit Court deed book/page number or instrument number for the plat)* and hereby creates a lot deemed buildable by the County.”

Sec. 54-44 – Supplemental Requirements for Certain Types of Record Plats

In addition to the requirements of this Ordinance, and/or modified as stated in this section, the following shall apply depending on the type of record plat being submitted:

[...]

- (d) Agricultural Subdivisions. Plats showing the creation of a lot for bona fide agricultural purposes shall be subject to the following:
 - (1) Approval of the plat by VDH and VDOT shall not be required, provided the lot on the plat is clearly marked with the following statement: “Not approved as a residential or commercial building lot.”;
 - (2) The deed for the lot shall clearly indicate that it is approved as an agricultural subdivision and not approved as a residential or commercial building lot until such time as all necessary approvals, including but not limited to the County, VDOT, VDH, and RSA, are secured in order to develop the lot;
 - (3) Prior to any non-agricultural development of the lot, ~~the previous plat showing the agricultural subdivision shall be vacated and~~ a new subdivision plat shall be required to be approved pursuant to this Ordinance. For the purposes of this section, non-agricultural development shall refer to any residential, commercial, or industrial uses and/or structures, but not intensive livestock facilities otherwise regulated by the Zoning Ordinance.

Article VII – Layout and Design Standards

Division 1 – Generally

Sec. 54-79 – ~~Waterbodies and Waterways~~ Floodplain and Dam Break Inundation Zones

- ~~(a) No more than twenty percent (20%) of the area of a lot, so required by this Ordinance and/or the Zoning Ordinance, shall be under water. Lots held in common ownership by a homeowners' association or other owners' association, held by a public entity, or created for stormwater management purposes shall be exempt from this provision.~~
- ~~(b)~~ Lots which contain established FEMA floodplain and/or a mapped dam break inundation zone shall contain enough area outside of the floodplain and/or dam break inundation zone to accommodate a buildable area and associated improvements, or to otherwise be developable. Lots held in common ownership by a homeowners' association or other owners' association, held by a public entity, or created for stormwater management purposes shall be exempt from this provision.
- ~~(c) Where a property line is drawn along the course of a waterway, the line shall generally be drawn so as to follow the meandering center of the waterway.~~

Article VII – Layout and Design Standards

Division 2 – Design and Arrangement of Lots

Sec. 54-88 – Lot Shape

(a) The shape of lots within the Agricultural (A) zoning district shall conform to the following provisions:

- (1) ~~The shape of lots six (6) acres in size or less shall generally be rectangular or some reasonable variation thereof as may be permitted by the Subdivision Agent to overcome a unique topographical situation or other situation not generally affecting adjacent lots.~~ Except for pipestems as provided herein, lots six (6) acres in size or less shall not contain unusual elongations to meet minimum area, frontage, or other requirements.
- (2) Except where may be stated in this Ordinance or elsewhere in this Code, lots larger than six (6) acres shall have no minimum standards for shape.
- (3) Pipestem lots may be permitted as follows:
 - a. ~~The maximum length of the pipestem portion of the lot shall be seven-hundred and fifty (750) feet and the~~ The width of the pipestem shall generally be fifty (50) feet no less than thirty (30) feet and no greater than fifty (50) feet. In administration of the term “generally,” the Subdivision Agent may allow minor deviations in the width requirements to overcome unique situations that do not affect neighboring properties.
 - b. No two (2) pipestems may be adjacent.
 - c. The pipestem portion of the lot, if subject to an access easement, shall not provide access for more than two (2) lots.
 - d. In a subdivision under a common plan of development which simultaneously creates eleven (11) or more lots, no more than ten percent (10%) of lots may have pipestems. This figure may be thirty percent (30%) for cluster developments.

(b) The shape of lots within any residential zoning district shall conform to the following provisions:

- (1) Lots shall generally be rectangular in shape with side lot lines at approximate right angles to the front lot line. The Subdivision Agent may allow for minor deviations from this provision to overcome a unique topographical situation or other situation not generally affecting adjacent lots. Except for pipestems as provided herein, lots shall not contain unusual elongations to meet minimum area, frontage, or other requirements.
- (2) Pipestem lots may be permitted as follows:
 - a. The maximum length of the pipestem portion of the lot shall be five-hundred (500) feet and the minimum width of the pipestem shall generally be ~~fifty (50) feet~~ no less than thirty (30) feet and no greater than fifty (50) feet. In administration of the term “generally,” the Subdivision Agent may allow minor deviations in the width requirements to overcome unique situations that do not affect neighboring properties.
 - b. No two (2) pipestems may be adjacent.
 - c. The pipestem portion of the lot, if subject to an access easement, shall not provide access for more than two (2) lots.
 - d. In a subdivision under a common plan of development which simultaneously creates eleven (11) or more lots, no more than twenty percent (20%) of lots may have pipestems. This figure may be thirty percent (30%) for cluster developments.

[...]

Sec. 54-89 – Lot Orientation

Except as may be allowed by the Zoning Ordinance or elsewhere in this Ordinance, all lots shall be oriented to face the front lot line such that the lots abut and are served by a road right-of-way or access easement. ~~Unless allowed by the Subdivision Agent for unusual situations or for subdivisions under common plans of development, lots shall be oriented such that rear property lines do not abut the side property line(s) of any~~

~~adjacent property.~~ For subdivisions under common plans of development within the Germanna-Wilderness Area as established by the Board of Supervisors, building lots within said development (not to include the residual lot) shall be arranged such that side lot lines do not abut rear lot lines and vice versa. This standard shall not apply to pipestem lots, nor shall it apply to corner lots or to uniquely arranged lots resultant of topography, when, at the discretion of the Subdivision Agent, the road network, block design, and/or lot layout make such a situation unavoidable.

Sec. 54-90 – Lot Frontage

- (a) Every lot shall have the minimum frontage required by its respective zoning district, except as provided in Sec. 54-77, and except in the case of cul-de-sacs or other approved turnarounds in which the minimum frontage shall be seventy (70) feet. In the case of pipestem lots, frontage shall be measured as the width of the lot where the pipestem portion adjoins the remainder of the property, to include the width of the pipestem at the point where it adjoins.

[...]

RE: PUBLIC COMMENT

At 5:25 p.m., Chairman Johnson opened the floor for public comment.

The following individuals spoke:

- J. Bryan Nicol, 306 Birchside Circle, Locust Grove
- Jason Tennstedt, Resident of Unionville
- Daniel Frank, Resident of Stafford
- Bill Morris, 9027 Old Rapidan Road, Orange
- Brit Lewis, 2511 Meeting House Road, Locust Grove
- D. J. Anglin III, 11152 St. Just Road, Unionville

There being no further speakers, public comment was closed at 5:44 p.m.

RE: CLOSED MEETING

At 5:46 p.m., Mr. Lacheney read the following motion authorizing Closed Meeting:

WHEREAS, the Orange County Board of Supervisors desired to discuss in Closed Meeting the following matters:

- Consultation with legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel concerning Unionville Brewing and Daniels Point Subdivision. - §2.2-3711(A)(8) of the Code of Virginia

WHEREAS, pursuant to §2.2-3711 (A)(8) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby authorized discussion of the aforesated matters in Closed Meeting.

On the motion of Mr. Frame, seconded by Mr. Marshall, which carried by a vote of 5-0, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

RE: CERTIFICATION OF CLOSED MEETING

At 6:40 p.m., Ms. Simpson read the following resolution certifying Closed Meeting:

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

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

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

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

RE: ADJOURN

On the motion of Mr. Frame, seconded by Mr. Marshall, which carried by a vote of 5-0, the Board adjourned the meeting at 6:40 p.m. Ayes: Johnson, White, Marshall, Hale, Frame. Nays: None.

R. Mark Johnson, Chairman

Theodore L. Voorhees, County Administrator