



**BOARD OF SUPERVISORS OF FAUQUIER COUNTY
WARREN GREEN BUILDING
10 HOTEL STREET
WARRENTON, VIRGINIA 20186**

MINUTES

***A MEETING OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS WAS HELD
OCTOBER 13, 2016, AT 11:00 A.M. IN WARRENTON, VIRGINIA***

P R E S E N T Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.; Mr. Paul S. McCulla, County Administrator; Mr. Kevin J. Burke, County Attorney

A B S E N T None

CALL TO ORDER

Mr. Granger called the meeting to order at 11:00 A.M. Ms. Kimberley Fogle, Director of the Department of Community Development, introduced Mr. Myles Busching, Planner I, who is a new employee in the Department.

AGENDA REVIEW

The Board of Supervisors reviewed the agenda.

A CLOSED SESSION PURSUANT TO SECTION 2.2-3711(A)(7) OF THE CODE OF VIRGINIA TO DISCUSS LEGAL ISSUES RELATED TO THE APPLE MANOR SUBDIVISION ROAD WAIVER REQUEST

Mr. Granger moved to go into closed session pursuant to Virginia Code Section 2.2-3711(A)(7) to discuss legal issues related to a road waiver request for Apple Manor Subdivision. Upon being seconded, the vote was unanimous, as follows:

Ayes: Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.

Nays: None

Absent During Vote: None

Abstention: None

Upon reconvening from closed session, the Board adopted the following Certification of Closed Meeting:

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Fauquier County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712.D of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia Law; now, therefore, be it

RESOLVED this 13th day of October, 2016, That the Fauquier County Board of Supervisors certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Fauquier County Board of Supervisors.

A WORK SESSION TO PRESENT THE COST ESTIMATE RELATED TO THE CONSTRUCTION OF A LIBRARY ON THE WATERLOO PROPERTY OTHERWISE KNOWN AS THE FLETCHER TRACT

Mr. Paul McCulla, County Administrator, introduced Mr. Jack Boarman, a principle of BKV Group, and then presented a cost study estimate for the construction of the central Library on a parcel commonly known as the Fletcher Tract.

The Board of Supervisors reconvened in regular session at 6:30 P.M.

INVOCATION

Mr. Butler offered the Invocation.

PLEDGE OF ALLEGIANCE

Mr. Butler invited Mr. Ed Fox from the Sumerduck Ruritan Club to lead the Pledge of Allegiance.

ADOPTION OF THE AGENDA

Mr. Gerhardt moved to adopt the agenda with the following changes. Mr. Butler seconded, and the vote was unanimous, as follows:

Ayes: *Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.*
Nays: *None*
Absent During Vote: *None*
Abstention: *None*

- Remove Consent Agenda Item #6(n), and add as new Regular Agenda Item #8: A Resolution Authorizing the Acceptance of a Conservation Easement over the Property of Josiah Bunting, III and Diana C. Bunting.

CITIZEN'S TIME

- Mr. Don Neese, Sr., Marshall District, spoke in opposition to a proposed street waiver application WAIV-16-005690 in Apple Manor subdivision.
- Ms. Melanie Fein, Marshall District, spoke in opposition to a proposed street waiver application WAIV-16-005690 in Apple Manor subdivision.
- Mr. Michael Coughlin, Esq., representing Ms. Partow Payandeh, applicant, spoke in support of an alternative design for a street waiver application WAIVE-16-005690.
- Mr. Alan Lumb, Marshall District, spoke in support of a proposed street waiver application WAIV-16-005690 in Apple Manor subdivision, and asked the Board of Supervisors to defer its decision to allow the applicant an opportunity to address neighbors' concerns.
- Ms. Andrea Young, Marshall District, proprietor of Hidden Creek Farm in Delaplane, spoke in opposition to a proposed street waiver application WAIV-16-005690 in Apple Manor subdivision.
- Mr. John Richardson, Marshall District, President of Friends of Pleasant Valley Baptist Church, spoke in opposition to a proposed street waiver application WAIV-16-005690 in Apple Manor subdivision.
- Ms. Partow Payandeh, Applicant, rebutted statements of previous speakers and asked for the Board of Supervisors' favorable consideration of application WAIVE-16-005690.
- Mr. Joe Verga, Marshall District, spoke in opposition to a proposed street waiver application WAIV-16-005690 in Apple Manor subdivision.
- Ms. Monica Nixon, Marshall District, spoke in support of a proposed street waiver application WAIV-16-005690 in Apple Manor subdivision.

PROCLAMATIONS AND RECOGNITION

- Mr. Gerhardt was joined by Captain Mike Miller of the Fauquier County Sheriff's Office to present to Young Marine Corporal Cody Jackson a Proclamation to Declare October 23-31, 2016, as Red Ribbon Week in Fauquier County.
- Mr. Gerhardt presented to Planning Commissioner Adrienne Garreau, a Proclamation to Declare October 2016 as Community Planning Month in Fauquier County.
- Mr. Granger presented to Chief Darren Stevens of the Department of Fire, Rescue and Emergency Management Services, and President Tom Marable of the Volunteer Fire & Rescue Association, a Proclamation to Declare the Week of October 9-15, 2016, as Fire Prevention Week in Fauquier County.
- Mr. Granger presented to Ms. Erin Kozanecki, Budget Director, and Mr. Paul McCulla, County Administrator, a Proclamation Recognizing the Staff of the Fauquier County Office of Management and Budget on the Occasion of the County's Receipt of Its Twentieth Annual Distinguished Budget Presentation Award.

CONSENT AGENDA

Mr. Gerhardt moved to adopt the following Consent Agenda items. Mr. Butler seconded and, following discussion, the vote was unanimous, as follows:

Ayes: Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.

Nays: None

Absent During Vote: None

Abstention: None

Minutes of the Fauquier County Board of Supervisors

Approved as presented.

A Resolution to Amend the Board of Supervisors 2016 Regular Meeting Schedule

RESOLUTION

A RESOLUTION TO AMEND THE BOARD OF SUPERVISORS' 2016 REGULAR MEETING SCHEDULE

WHEREAS, at its organizational meeting on January 7, 2016, in accordance with the Board of Supervisors Bylaws and Rules of Procedure, the Board established its 2016 schedule of regular meetings; and

WHEREAS, the Board may prescribe any other meeting place or time in compliance with Section 15.2-1416 of the Code of Virginia (1950); and

WHEREAS, in order to achieve quorum, the Board deems it necessary to adjust its regular meeting schedule during the month of November; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the 2016 meeting schedule be, and is hereby, amended as follows:

BOARD OF SUPERVISORS MEETING SCHEDULE 2016

The regular meetings of the Fauquier County Board of Supervisors are held in the Board Meeting Room, Warren Green Building, 10 Hotel Street, Warrenton, Virginia on the second Thursday of each month. The meeting agenda shall be as follows: 11:00 a.m. Work Sessions; 6:30 p.m. Regular Session; immediately followed by Public Hearings. When a regularly scheduled meeting falls on a legal holiday, the meeting shall be held on the previous Wednesday. *The Board may, however, prescribe any other meeting place or time in compliance with Section 15.2-1416 of the Code of Virginia (1950), as amended.* When an agenda submission deadline falls on a legal holiday, the agenda request and supporting materials shall be due on the previous business day.

The following dates are reserved for Board of Supervisors regular meetings for the calendar year 2016:

Meeting Date (second Thursday)	Agenda Items Due Date (by 4:30 p.m.)	Public Hearing Information (Legal Ad) Due Date (by 12:00 noon)
January 7	December 28	(Organizational Meeting)
January 14	January 4	December 28
February 11 ^{10*}	February 1	January 25
March 10	February 29	February 22
April 14	April 4	March 28
May 12	May 2	April 25
June 9	May 27 †	May 23
July 14	July 1 †	June 27
August 11	August 1	July 25
September 8	August 29	August 22
October 13	October 3	September 26
November 10 ^{3**}	October 31 ²⁴	October 24 ¹⁷
December 8	November 28	November 21

¹ Rescheduled due to schedule conflict with 2016 VACo Annual Legislative Day in Richmond, VA
^{**} Rescheduled due to schedule conflict for two board members.
[†] Early deadline for submission due to legal holiday.

A Resolution to Amend the Charter Agreement of the Rappahannock-Rapidan Regional Commission

RESOLUTION

A RESOLUTION TO AMEND THE CHARTER AGREEMENT OF THE
RAPPAHANNOCK-RAPIDAN REGIONAL COMMISSION

WHEREAS, the Rappahannock-Rapidan Regional Commission has been duly organized under the laws of the Commonwealth of Virginia and duly chartered by 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 County of Fauquier is a current member in good standing of the Rappahannock-Rapidan Regional Commission; and

WHEREAS, the Rappahannock-Rapidan Regional Commission has completed a review of the Charter Agreement of the Rappahannock-Rapidan Regional Commission; and

WHEREAS, the Rappahannock-Rapidan Regional Commission has authorized a proposed Charter Amendment for presentation to current members in good standing relating to Article II – Membership and Article III – Terms of Office and Voting Rights to permit two local officials to represent a locality on the Commission; and

WHEREAS, the Rappahannock-Rapidan Regional Commission has presented current members in good standing with a Charter Amendment which would amend the above sections of the existing Charter Agreement; and

WHEREAS, the Charter Agreement of the Rappahannock-Rapidan Regional Commission may be amended only after concurring resolutions have been adopted by the governing bodies of two-thirds of the member governmental subdivisions of the Rappahannock-Rapidan Regional Commission; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That as a current Charter Member in good standing of the Rappahannock-Rapidan Regional Commission, having reviewed the proposed Charter Amendment, and having no objections therefore, the Board of Supervisors of Fauquier County recommends, and deems it to be in the best interest of the Rappahannock-Rapidan Regional Commission and its members; and, be it

RESOLVED FURTHER, That the Board of Supervisors of Fauquier County hereby concurs with the proposed Amendment to the Charter Agreement of the Rappahannock-Rapidan Regional Commission.

A Resolution Authorizing the Chairman to Enter into Open Space Agreement with Landowners

RESOLUTION

A RESOLUTION AUTHORIZING THE CHAIRMAN TO ENTER INTO OPEN SPACE AGREEMENT WITH LANDOWNERS

WHEREAS, Fauquier County has established a special land assessment program for the preservation of real estate devoted to open space pursuant to § 58.1-3233, *Code of Virginia*, 1950, as amended; and

WHEREAS, a landowner may qualify for the special land assessment program for the preservation of open space upon the execution and recordation of a written open space use agreement between the landowner and the Board of Supervisors; and

WHEREAS, to qualify for the special land assessment program for the preservation of open space, the real estate to be entered into the program must meet the general and specific standards promulgated by the Director of the Department of Conservation and Historic Resources as set forth in the Manual of the State Land Evaluation Advisory Council (1992); and

WHEREAS, the hereinafter identified landowners have requested that the Board of Supervisors enter into an Open Space Use Agreement for the preservation of certain land owned by them for the purposes of qualifying for the special land assessment program under the open space category; and

WHEREAS, the Board of Supervisors has determined that the hereinafter described land meets the general and specific standards as promulgated by the Director of the Department of Conservation and Historic Resources for entering into an Open Space Use Agreement committing the landowner not to change the use of the land to a non-qualifying use for a time period of eight years; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the Chairman be, and is hereby, authorized to execute an Open Space Use Agreement with the hereinafter identified landowners:

NAME	IDENTIFICATION	ACREAGE
<u>RENEWAL</u> Bellingham, Andrew B. Bellingham, Dacy C.	6022-84-1922-000 8000 Barron Farm Road Catlett, VA 20 119	42.3325

NEW Gaskins, Jesse N. Gaskins, Kelly M. Gaskins, Kirsten N.	6936-55-2664-000 2907 Piney Grove Court Fairfax, VA 22031	25.0
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; and, be it

RESOLVED FURTHER, That upon execution and recordation of the agreement, the described real estate shall be eligible for classification as Open Space under the Fauquier County Special Land Assessment Program.

A Resolution to Initiate a Zoning Ordinance Text Amendment to Article 11 to Provide Flexibility in Telecommunication Facility Setbacks

RESOLUTION

A RESOLUTION TO INITIATE A ZONING ORDINANCE TEXT AMENDMENT TO ARTICLE 11 TO PROVIDE FLEXIBILITY IN TELECOMMUNICATION FACILITY SETBACKS

WHEREAS, Article 11 of the Fauquier County Zoning Ordinance establishes setback requirements for telecommunication facilities; and

WHEREAS, these setback requirements do not take into consideration breakpoint technology, which creates a smaller fall-zone for a facility; and

WHEREAS, Fauquier County seeks to provide additional flexibility in setbacks to reduce obstacles to tower approval; and

WHEREAS, the County has determined that the public necessity, convenience, general welfare and good zoning practice warrant this amendment; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the County hereby initiates consideration of the following text amendment:

11-102.3 (b)(6)

Any telecommunication facility and antenna located in a district or immediately adjacent to a district permitting residences shall be located to a height that is equal to or less than the distance from the base of the antenna, tower or monopole to the closest property line, (1) one foot setback for each (1) one foot of facility height. Within and adjacent to districts not allowing residences, telecommunication towers or monopoles shall not be located any closer than one (1) foot for every five (5) feet in height to any property line. Associated structures and buildings, in both instances, may be constructed within the setback areas of the tower or monopole, however, they must meet all setback requirements for primary structures for the specific zoning district in which they are located. The Board of Supervisors may reduce these additional setback requirements in

conjunction with Special Exception approval where an applicant proposes to utilize breakpoint technology to reduce the “fall zone,” the area in which a tower is designed to collapse. When such a waiver is approved, prior to construction the applicant shall provide a certification of the “fall zone” by a registered professional engineer in Virginia.

A Resolution to Approve Subdivision Ordinance Waiver WAIV-16-005613 - Gracie Lou LLC - An Application to Waive the Requirements of Section 8-1 of the Fauquier County Subdivision Ordinance Related to a Pedestrian Trail (PIN 6994-10-9878-000), Cedar Run District

RESOLUTION

A RESOLUTION TO APPROVE SUBDIVISION ORDINANCE WAIVER WAIV-16-005613, GRACIE LOU LLC – AN APPLICATION TO WAIVE THE REQUIREMENTS OF SECTION 8-1 OF THE FAUQUIER COUNTY SUBDIVISION ORDINANCE RELATED TO A PEDESTRIAN TRAIL (PIN 6994-10-9878-000), CEDAR RUN DISTRICT

WHEREAS, the Applicant, Tyler Ross of Gracie Lou, LLC, has requested a Waiver of Subdivision Ordinance 8-1 Subsections C and D to waive the construction of a pedestrian trail as part of a proposed subdivision located within the Village of Frytown in the Warrenton Service District; and

WHEREAS, the Applicant proposes to subdivide the 2.566-acre parcel into two (2) lots of less than two acres in size; and

WHEREAS, Section 8-1.C of the Subdivision Ordinance requires the construction of a four (4) foot wide pedestrian trail along all public streets qualifying as local collectors or major collectors in subdivisions having lot sizes between 25,000 square feet and two (2) acres; and

WHEREAS, Section 8-1.D of the Subdivision Ordinance requires the construction of pedestrian trails, or dedication of easements for future trails, as shown in the Comprehensive Plan; and

WHEREAS, Section 8-1 of the Subdivision Ordinance allows the requirement for constructing the trail to be waived; and

WHEREAS, on September 15, 2016, the Planning Commission held a public meeting and considered the waiver request; and

WHEREAS, the Planning Commission recommended approval of the waiver after determining that construction of the pedestrian trail as part of the proposed subdivision is not in keeping with the character of the area, does not serve the public interest and that no pedestrian and vehicular traffic hazards will be created; and

WHEREAS, the Planning Commission determined that the need for a future pedestrian trail as shown in the Comprehensive Plan will be satisfied by the dedication of an easement at the time of subdivision of the property; and

WHEREAS, the Board of Supervisors affirms the determination of the Planning Commission that the application satisfies the standards of Subdivision Ordinance Section 8-1; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That WAIV-16-005613 be, and is hereby, approved subject to the following conditions:

1. The waiver is granted only for the purpose(s), structure(s) and/or uses indicated in the waiver application (WAIV-16-005613) submitted by Gracie Lou LLC (Owner), and Tyler Ross (Applicant), and shall be in conformance with the application materials, except as modified by these conditions.
2. A public access easement for future trail construction, to be a minimum of fifteen (15) feet in width, shall be recorded as a part of the Final Plat of subdivision. The location of the trail easement shall be determined at the time of Construction Plan review and approval.

A Resolution to Authorize the County Administrator to Execute a Lease Extension for the Marshall Business Incubator

RESOLUTION

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT FOR THE MARSHALL BUSINESS INCUBATOR

WHEREAS, the Department of Economic development previously obtained approval for the Board of Supervisors to establish a business incubator in Marshall; and

WHEREAS, the Department has negotiated a twelve (12) month lease extension agreement with Top Dog, LLC; and

WHEREAS, the Board has determined that it is appropriate to enter into the proposed lease agreement; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the County Administrator be, and is hereby, authorized to execute the aforementioned lease agreement for the Marshall Business Incubator, subject to any modifications as are acceptable to the County Administrator and the County Attorney.

LEASE EXTENSION AGREEMENT

THIS LEASE EXTENSION AGREEMENT (hereinafter referred to as the "Lease Extension") is made and entered into this 1st day of October, 2016, by and between Top Dog, LLC (hereinafter referred to as "Landlord") and Fauquier County (hereinafter referred to as "Tenant," whether one or more, and each agreeing to be bound by and held jointly and severally liable under the terms and conditions of this Lease Extension).

In consideration of the covenants and obligations contained herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. PRIOR LEASE: The parties executed a Lease Agreement dated October 1, 2015 (hereinafter "Lease Agreement") with a term of lease commencing on the 1st day of October 2015, and which expires on the 1st day of October 2016. All terms, conditions, and provisions of said Lease Agreement are hereby incorporated by reference or by attachment.

2. EXTENSION OF PRIOR LEASE TERM: The parties hereby agree to extend and continue the aforementioned Lease Agreement for an additional term, commencing on the 1st day of October 2016 and expiring on the 30th day of September 2017.

3. REVISED RENT PAYMENTS: The rent shall be payable in equal monthly installments of \$2,000.00, payable on the 1st day of each month of the term. The first full rent payment under this Lease Extension is due on the 1st day of October 2016.

4. REVISED PREMISES: The Parties have agreed that the Premises shall be amended to include only the following areas at the original location of 8452 Renalds Avenue, Marshall, Virginia 20115: four offices (#'s 104, 111, 114 and 115) and all common areas (restrooms, hallways, kitchen, event/meeting room, resource room). The three additional offices defined in the original Lease (#'s 102, 103 and 105) may be leased back in the future, as needed, upon the written consent of both parties.

LANDLORD ("LANDLORD"):

Dr. Norris Royson, Jr. for Top Dog, LLC _____
Date

TENANT ("TENANT"):

Paul McCulla for Fauquier County _____
Date

A Resolution Authorizing the County Administrator to Enter Into an Inducement Agreement with the Company OVH, an Economic Development Prospect

RESOLUTION

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO AN INDUCEMENT AGREEMENT WITH THE COMPANY OVH, AN ECONOMIC DEVELOPMENT PROSPECT

WHEREAS, a company, OVH, is considering the location of a new business in a Technology Zone created in accordance with the Code of Virginia and the Fauquier County Code; and

WHEREAS, the County may provide incentives to new or expanding businesses within such technology zones to induce such qualifying businesses to locate or expand in the County; and

WHEREAS, the Director of the Department of Economic Development has determined that the proposed new business qualifies for such incentives; and

WHEREAS, the Board of Supervisors has determined that it is appropriate to offer the proposed new business an incentive package in the form of site plan and permit fee waivers, real estate tax rebates for up to three (3) years within a five (5) year period, Business / Professional / Occupational License (BPOL) and personal property tax rebates for up to three (3) years within a five (5) year period; and

WHEREAS, the Board has further determined that it is appropriate and in the best interest of the County to offer the prospect infrastructure improvements that will benefit the new business and other existing or new businesses in the amount of up to \$1 million and will seek to own up to 28% of the fiber that the County helps to install; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the County Administrator be, and is hereby, authorized to offer the proposed incentives to the prospective business and negotiate such performance agreements and infrastructure agreements as are deemed appropriate.

A Resolution to Amend the FY 2017 Adopted Budget by \$90,242

RESOLUTION

A RESOLUTION TO AMEND THE FY 2017 ADOPTED BUDGET BY \$90,242

WHEREAS, the Fauquier County Board of Supervisors is charged by the Code of Virginia with the preparation of an annual budget for Fauquier County; and

WHEREAS, on April 5, 2016, the Board of Supervisors adopted the Fauquier County FY 2017 Budget; and

WHEREAS, during the course of the fiscal year certain events occur that necessitate changing the budget plan by increasing or decreasing the total budget; and

WHEREAS, at its meeting on September 26, 2017, the Finance Committee recommended for FY 2017, an appropriation of \$36,338 to the General Fund and appropriations of \$55,904 to the School Division Operating Fund; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the FY 2017 Budget be, and is hereby, amended in the amount of \$90,242, and as indicated on the attached summary:

Requesting Department	Description	Amount	Category		Action/Explanation
			From	To	
Consent Agenda					
FY 2017					
Management & Budget	FY 2016 Fauquier SPCA Funding	\$36,338	General Fund Balance	Fauquier SPCA	Appropriates \$36,338 in General Fund Balance to the Fauquier SPCA for FY 2016 Dog Tags and Animal Friendly License plate revenue.
School Division	Career and Technical Education Program	\$31,050	Virginia Department of Education	School Division	Appropriates \$31,050 from the Virginia Department of Education for Career and Technical Education to match actual FY 2017 award.
School Division	Project Graduation	\$22,854	Virginia Department of Education	School Division	Appropriates \$22,854 from the Virginia Department of Education for Project Graduation to match the actual FY 2017 award.

A Resolution Authorizing the Acceptance and Appropriation of a Highway Safety Grant Programs Award by the Virginia Department of Motor Vehicles

RESOLUTION

A RESOLUTION AUTHORIZING THE ACCEPTANCE AND APPROPRIATION OF A HIGHWAY SAFETY GRANT PROGRAMS AWARD BY THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES

WHEREAS, the Fauquier County Sheriff's Office has been awarded two grants to support the implementation of highway safety projects, not to exceed \$41,364; and

WHEREAS, this funding will be used to conduct checkpoints and / or saturation patrols;
and

WHEREAS, these grants require a local match component of up to \$20,682; and

WHEREAS, the source of the local match for this grant is in the Sheriff's Office existing
FY 2017 operating budget; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016,
That the Board of Supervisors does hereby accept this grant award; and, be it

RESOLVED FURTHER, That the Board of Supervisors authorizes the appropriation of
grant funds not to exceed \$41,364, as the funds are allocated by the Virginia Department of Motor
Vehicles, and authorizes the Office of Management and Budget and the Finance Department to
process the budget adjustments required for these appropriations.

**A Resolution Authorizing the Acceptance and Appropriation of Transportation Alternatives
Program (TAP) Funding for the Marshall Streetscape Improvements Project**

RESOLUTION

A RESOLUTION AUTHORIZING THE ACCEPTANCE AND APPROPRIATION OF THE
TRANSPORTATION ALTERNATIVES PROGRAM FUNDING FOR THE MARSHALL
STREETSCAPE IMPROVEMENTS PROJECT

WHEREAS, Fauquier County has been awarded additional Federal grant funding for the
Marshall Streetscape Improvements project, which includes the reconstruction of sidewalks,
construction of bicycle and pedestrian amenities, and landscaping; and

WHEREAS, the program award is \$392,000 from the Virginia Department of
Transportation (VDOT); and

WHEREAS, Fauquier County agrees to provide a minimum twenty percent (20%) or
\$98,000 matching contribution for this project, which is to be sourced through proffers and forward
funded through the County Capital Reserve; and

WHEREAS, Fauquier County agrees to enter into a project administration agreement with
VDOT and provide the necessary oversight to ensure the project is developed in accordance with
all state and federal requirements for design, right of way acquisition, and construction of a
federally funded transportation project; and

WHEREAS, Fauquier County will be responsible for maintenance and operating costs of
any facility constructed with the Transportation Alternatives Program funds unless other
arrangements have been made with VDOT; and

WHEREAS, if Fauquier County subsequently elects to cancel this project, Fauquier County agrees to reimburse VDOT for the total amount of costs expended by VDOT through the date that VDOT was notified of such cancelation; and

WHEREAS, Fauquier County agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the Board of Supervisors does hereby accept this grant award; and, be it

RESOLVED FURTHER, That the County Administrator be, and is hereby, authorized to sign documents related to the acceptance of the grant funds on behalf of Fauquier County; and, be it

RESOLVED FINALLY, That the Board of Supervisors authorizes the appropriation of grant funds as allocated by the Virginia Department of Transportation, and authorizes the Office of Management and Budget and the Finance Department to process the budget adjustment required for this appropriation.

A Resolution Authorizing the Acceptance and Appropriation of Additional Federal Grant Funding from the National Park Service for the Central Sports Complex

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE AND APPROPRIATION OF
ADDITIONAL FEDERAL GRANT FUNDING FROM THE NATIONAL PARK SERVICE
FOR THE CENTRAL SPORTS COMPLEX

WHEREAS, Fauquier County Parks and Recreation was previously granted a conditional award for the Land & Water Conservation Fund (LWCF) grant in the amount of \$421,404 for the construction of the Fauquier County Central Sports Complex; and

WHEREAS, Fauquier County Parks and Recreation was recently granted an additional \$80,000 for the completion of archeological surveys in support of a Section 106 determination of the National Historic Preservation Act of 1966, as amended; and

WHEREAS, the local match requirement to accept these funds is 50/50 and the source of match is identified in the County's Capital Improvement Program; and

WHEREAS, the Fauquier County Board of Supervisors is aware that the grant will be paid on a reimbursement basis, and that the County may only request payment after eligible and allowable costs have already been paid to its vendors and evidence of such has been provided to DCR in the format required; and

WHEREAS, the County acknowledges that any property developed with financial aid from LWCF must be placed in use and be retained in perpetuity as a public outdoor recreation area in

accordance with the provisions and requirements of the Land & Water Conservation Fund Act of 1965, as amended; and,

WHEREAS, the County acknowledges that any non-recreational uses may not be made of the property without undergoing a conversion of use process and obtaining approval from the Virginia Department of Conservation and Recreation (DCR) and the U.S. Department of Interior/National Park Service; and,

RESOLVED, by the Fauquier County Board of Supervisors this 13th day of October 2016, That the Board of Supervisors does hereby accept this \$80,000 grant award; and, be it

RESOLVED FURTHER, That the County Administrator be, and is hereby, authorized to sign documents related to the acceptance of the grant funds on behalf of Fauquier County; and, be it

RESOLVED FINALLY, That the Board of Supervisors authorizes the appropriation of grant funds as allocated by the National Park Service, and authorizes the Office of Management and Budget and the Finance Department to process the budget adjustments required for these appropriations.

A Resolution of Support for an Application for Fiscal Year 2017-2018 Virginia Department of Transportation (VDOT) Revenue Sharing Program Funds for Construction of a Norfolk Southern Rail Crossing on Route 622 (Whiting Road) in Marshall

RESOLUTION

A RESOLUTION OF SUPPORT FOR AN APPLICATION FOR FISCAL YEAR 2017 – 2018
VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) REVENUE SHARING
PROGRAM FUNDS FOR CONSTRUCTION OF A NORFOLK SOUTHERN RAIL
CROSSING ON ROUTE 622 (WHITING ROAD) IN MARSHALL

WHEREAS, the Fauquier County Board of Supervisors desires to submit an application for an allocation of funds of up to \$581,000 through the Virginia Department of Transportation Fiscal Year 2017-2018 Revenue Sharing Program; and

WHEREAS, this proposed project involves the construction of a rail crossing over the Norfolk Southern tracks, installation of a water line crossing and extension of Whiting Road (Route 622) on both sides of the track to create a through street, connecting Route 55 (East Main Street) to Route 17 (Winchester Road), at a total estimated cost of \$1,888,500; and

WHEREAS, the estimated cost includes \$726,500 in funding originally allocated by VDOT to the project, which reduces the overall Revenue Share component to \$1,162,000; and

WHEREAS, this proposed project will aid in economic development efforts by improving access for industrial properties located along Route 622 in the 17-66 industrial park and in the industrial area south of Route 55, and will provide a through street, as shown on the Marshall Service District Plan, improving the road network within the service district; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the Board of Supervisors hereby supports this application for an allocation of \$581,000 through the Virginia Department of Transportation Revenue Sharing Program; and, be it

RESOLVED FURTHER, That the Board of Supervisors will provide this \$581,000 as the local matching funds; and, be it

RESOLVED FINALLY, That the Board of Supervisors hereby grants authority for the County Administrator to execute the project administration agreement for the approved revenue sharing project proposal identified herein.

A Resolution Authorizing the Acceptance of a Conservation Easement Over the Property of Marcello Sanguinetti, Trustee

RESOLUTION

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF MARCELLO SANGUINETTI, TRUSTEE

WHEREAS, Marcello Sanguinetti, Trustee of the 3M Family Trust has proposed to donate a conservation easement over property described as tax map parcel PIN 6061-36-4829 consisting of approximately 43.91 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important recreational, historical and scenic lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act;” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the Board finds as follows:

1. The proposed easement preserves recreational, historical, and scenic open-space lands in the county pursuant to the goals and objectives stated in the county’s Comprehensive Plan and thereby advances a public purpose of the county; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and

3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia; and, be it

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

A Resolution Authorizing the Acceptance of a Conservation Easement Over the Property of Mary B. Schwab, Trustee

RESOLUTION

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF MARY B. SCHWAB, TRUSTEE

WHEREAS, Mary B. Schwab, Trustee of the Mary B. Schwab Revocable Trust, has proposed to donate a conservation easement over property described as tax map parcels PIN 6083-18-1154, PIN 6083-27-0453 and PIN 6083-09-107 consisting of approximately 138 acres, hereinafter “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important recreational, historical and scenic lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act;” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the Board finds as follows:

1. The proposed easement preserves recreational, historical, and scenic open-space lands in the county pursuant to the goals and objectives stated in the county’s Comprehensive Plan and thereby advances a public purpose of the county; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and which will not adversely affect the open-space values described in the easement; and

3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia; and, be it

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

COMMITTEE APPOINTMENTS

No appointments were made.

SUPERVISORS' TIME

- Mr. Trumbo said that the last Sydney's Walk was a great success and he appreciated the community support. Mr. Trumbo announced that the third annual benefits fundraiser for Findley's Fund will be held on Saturday October 29, 2016, at the Old Busthead Brewery in Vint Hill. Mr. Trumbo said that on the consent agenda this evening was a Resolution relating to an agreement with OVH, a European data center looking to establish its U.S. headquarters at Vint Hill. Mr. Trumbo extended his appreciation to Mr. Miles Friedman and the staff of the Department of Economic Development, as well as the Governor's office for working in positive way and for setting a good precedent for the community.
- Mr. Butler expressed his appreciation to everyone who attended the Remington Fall Festival last weekend in spite of the rainy weather, and added that it was good to see people from the community. Mr. Butler said the Sumerduck Ruritan Club has an event nearly every weekend and anything the community can do to support them is appreciated. Mr. Butler encouraged citizens to attend the fall Gold Cup, which will be held on October 22, 2016, at Great Meadows in The Plains, and added that he will be announcing the winners for the Terrier Races that day.
- Ms. McDaniel announced that her firm will be celebrating its 40th anniversary with a tent at the Gold Cup. Mr. McDaniel announced that the next Marshall Code Meeting will be held on October 26, 2016, at 7:30 P.M. Ms. McDaniel stated that the polls for the Coleman Precinct have been relocated to the former IGA store in Marshall, and she extended her appreciation to Mr. Trumbo for allowing the use of his building for the November election.
- Mr. Gerhardt said that the Broadband Advisory Committee continues to make strong progress and is receiving tremendous community support. He added that their intention is to have a strategic plan in place by December 2016, and that he is excited to see the formation of an overall plan for the County.

ANNOUNCEMENTS

- Mr. McCulla announced that the next regular meeting of the Board of Supervisors has been accelerated by one week and will be held on November 3, 2016, at 6:30 P.M. in the Warren Green Building meeting room, located at 10 Hotel Street in Warrenton, Virginia.
- Mr. McCulla announced that the following meeting of the Board of Supervisors will be held on December 8, 2016, at 6:30 P.M. in the Warren Green Building meeting room, located at 10 Hotel Street in Warrenton, Virginia.

A RESOLUTION TO CONSIDER WAIV-16-005690 - A WAIVER OF ZONING ORDINANCE SECTION 7-302.1.A.2 ALLOWING A PRIVATE STREET THAT DOES NOT CONNECT DIRECTLY TO A STATE MAINTAINED STREET - ZAND 78, LLC, AND DEMAVAND 9, LLC, (OWNERS) / PARTOW PAYANDEH, (APPLICANT) (PIN 6022-96-1121-000, PIN 6032-04-4173-000, PIN 6032-06-3415-000, PIN 6032-15-3237-000, PIN 6032-16-8625-000, PIN 6032-27-2904-000, PIN 6032-18-1323-000 AND PIN 6022-76-7256-000), MARSHALL DISTRICT

Ms. McDaniel moved to postpone consideration of WAIV-16-005690 for 30 days. Mr. Gerhardt seconded and, following discussion, the vote was unanimous as follows:

Ayes: Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.

Nays: None

Absent During Vote: None

Abstention: None

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF JOSIAH BUNTING, III AND DIANA C. BUNTING

Mr. Trumbo moved to adopt the following Resolution. Ms. McDaniel stated that she would recuse herself from deliberations due to her professional relationship with the applicant. Mr. Butler seconded and, following discussion, the motion carried by a vote of 4 to 0 as follows:

Ayes: Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Mr. R. Holder Trumbo, Jr.

Nays: None

Absent During Vote: None

Abstention: Ms. Mary Leigh McDaniel

RESOLUTION

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A CONSERVATION
EASEMENT OVER THE PROPERTY OF JOSIAH BUNTING, III
AND DIANA C. BUNTING

WHEREAS, Josiah Bunting, III and Diana C. Bunting have proposed to donate a conservation easement over their property described as tax map parcel PIN 6070-66-2971-000 consisting of approximately 51.5854 acres, hereinafter, “the Property;” and

WHEREAS, the Board of Supervisors has determined that the proposed easement is appropriate, in the public interest, and furthers the goals and objectives of its Comprehensive Plan; and

WHEREAS, the Board of Supervisors has determined that the proposed easement will preserve important recreational, historical and scenic lands and scenic and natural resources in a manner consistent with the Comprehensive Plan; and

WHEREAS, the Board of Supervisors hereby designates the Property as open-space under the authority granted by Chapter 17 of Title 10.1 of the Code of Virginia, 1950, as amended, the “Open-Space Land Act,” now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the Board finds as follows:

1. The proposed easement preserves recreational, historical, and scenic open-space lands in the county pursuant to the goals and objectives stated in the county’s Comprehensive Plan and thereby advances a public purpose of the County; and
2. The restrictions contained in the proposed easement will preserve and protect in perpetuity the open-space values of the Property and will limit the uses of the Property to those uses which are consistent with and that will not adversely affect the open-space values described in the easement; and
3. The proposed easement will provide a significant public benefit to the citizens of Fauquier County and the Commonwealth of Virginia; and, be it

RESOLVED FURTHER, That the County Administrator and the County Attorney be, and are hereby, authorized and directed to accept the donation of a conservation easement under those terms generally set forth in the proposed easement attached to the agenda request for this item, subject to such revisions as may be deemed appropriate to the County Administrator and County Attorney.

AN ORDINANCE TO ADOPT 13-24.2 OF THE FAUQUIER COUNTY CODE AUTHORIZING THE SCHOOL DIVISION TO USE VIDEO MONITORING OF VEHICLES PASSING SCHOOL BUSES AND CREATING A CIVIL PENALTY FOR THE INFRACTION

A public hearing was held to consider an ordinance that would permit the Fauquier County Public Schools to install and operate, or contract for such, a video-monitoring system in or on school buses for the purpose of recording vehicles illegally passing a bus while it is loading or unloading passengers. Violators would be subject to a civil fine of \$250 and prosecuted in the same manner as traffic infractions. The civil summons for a violation of this ordinance could be executed by mailing by first-class mail a copy of the summons to the registered owner of the vehicle. Mr. Kevin J. Burke, County Attorney, summarized the proposed text amendment. No one else spoke. The public hearing was closed. Mr. Butler moved to adopt the following Ordinance. Mr. Gerhardt seconded and, following discussion, the vote was unanimous as follows:

Ayes: ***Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.***
Nays: ***None***
Absent During Vote: ***None***
Abstention: ***None***

ORDINANCE

AN ORDINANCE TO ADOPT SECTION 13-24.2 OF THE FAUQUIER COUNTY CODE AUTHORIZING THE SCHOOL DIVISION TO USE VIDEO MONITORING OF VEHICLES PASSING SCHOOL BUSES AND CREATING A CIVIL PENALTY FOR THE INFRACTION

WHEREAS, § 46.2-844(B) of the *Code of Virginia* enables counties to adopt an ordinance that authorizes the school division to install and operate, or contract with a private vendor to do so on their behalf, a video-monitoring system in or on school buses for the purposes of recording violations of § 46.2-844(A), passing a stopped school bus loading or unloading passengers; and

WHEREAS, the Fauquier County School Board has requested that the Fauquier County Board of Supervisors adopt such an ordinance; and

WHEREAS, the Board of Supervisors, after due notice and public hearing, has determined that it is in the best interest of the health, safety, and welfare of the citizens of Fauquier County to adopt this Ordinance; now, therefore, be it

ORDAINED, by the Fauquier County Board of Supervisors this 13th day of October 2016, That Section 13-24.2 of the Code of Fauquier County be adopted, which Section shall read as follows:

Sec. 13-24.2. Authorization for the Fauquier County School Board to Install and Operate Video-Monitoring System on School Buses.

A. The Fauquier County School Division is hereby authorized to either (i) install and operate a video-monitoring system in or on school buses operated by the Division or (ii) contract with a private vendor to do so on their behalf for the purpose of recording violations of *Code of Virginia* § 46.2-844(A), passing a stopped school bus while it is loading or unloading passengers.

B. The civil penalty of \$250, not inclusive of court costs and fees, shall be prepayable through the Fauquier County General District Court. Civil penalty proceeds shall be transferred to the Fauquier County Treasurer who shall disperse the proceeds in accordance with guidelines established by the Fauquier County Board of Supervisors.

C. The summons for a violation may be executed as provided in *Code of Virginia* § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Virginia Department of Motor Vehicles. Every such mailing shall comply with the requirements of § 46.2-844(B) and shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

D. No summons may be executed pursuant to this Section until all forms and the process for citing violations and collecting civil penalties has been approved by the County Attorney, Commonwealth's Attorney and presiding judge of the Fauquier County General District Court.

(Ord. No. 16-____, 10-13-16)

State law references: Authority to adopt ordinance authorizing school division to install school bus video-monitoring system, § 46.2-844(B).

A ZONING ORDINANCE TEXT AMENDMENT TO SECTION 5-2601 TO ALLOW SPECIAL EXCEPTION OR WAIVER APPROVAL OF A REDUCTION IN NON-COMMON OPEN SPACE WHERE ANOTHER CONSERVATION EASEMENT ACHIEVES THE PURPOSE OF A NON-COMMON OPEN SPACE EASEMENT

A public hearing was held to consider a text amendment to Zoning Ordinance Section 5-2601 related to approval of a reduction in non-common open space. Currently, the Board may approve a Special Exception to reduce a non-common open space requirement in two situations: (1) where the property does not contain features the non-common open space is intended to protect; or, (2) where the property is below the required non-common open space because of a change in how the requirement is calculated. The proposed amendment would add a third situation, allowing a reduction in cases where the Board determines a conservation easement on the property achieves the same purpose as a non-common open space easement. As an alternative, staff has also provided an Ordinance that would allow the reduction to be approved as a Waiver, rather than a Special Exception. On September 15, 2016, the Planning Commission unanimously recommended approval of the Special Exception approach. Mr. Rob Walton, Assistant Zoning Administrator, summarized the proposed text amendment. No one else spoke. The public hearing was closed. Ms. McDaniel moved to adopt the following Ordinance amendment to Article 5, to allow Special Exception approval, and *also* to adopt the following Ordinance amendment to Article 2, to allow

Waiver approval. Mr. Gerhardt seconded and, following discussion, the vote was unanimous as follows:

Ayes: *Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.*

Nays: *None*

Absent During Vote: *None*

Abstention: *None*

ORDINANCE

AN ORDINANCE TO APPROVE A ZONING ORDINANCE TEXT AMENDMENT TO ARTICLE 5 TO ALLOW SPECIAL EXCEPTION APPROVAL OF A REDUCTION IN NON-COMMON OPEN SPACE WHERE ANOTHER CONSERVATION EASEMENT ACHIEVES THE PURPOSE OF A NON-COMMON OPEN SPACE EASEMENT

WHEREAS, Section 2-406.2 of the Fauquier County Zoning Ordinance requires 85 percent of the gross site area be placed in a non-common open space easement in conjunction with division of rural lots; and

WHEREAS, the intent of the non-common open space requirement is to conserve large parcels for agricultural use within the County by requiring subdivision to be clustered on 15 percent of a parcel's land area; and

WHEREAS, the County has a significant inventory of land located within conservation easements pursuant to Section 10.1-1700 or 10.1-1009 of the *Virginia Code*, and seeks to encourage such conservation easements; and

WHEREAS, these alternative conservation easements frequently accomplish the same goal as a non-common open space easement; and

WHEREAS, requiring a non-common open space easement as a second easement on such properties may not provide additional benefit; and

WHEREAS, the County wishes to amend the Zoning Ordinance to allow Special Exception approval of a non-common open space reduction in cases where the Board determines that an alternative conservation easement on the property accomplishes the same goal as the non-common open space easement; and

WHEREAS, the County has determined that the public necessity, convenience, general welfare and good zoning practice warrant this amendment; and

WHEREAS, the Fauquier County Board of Supervisors initiated this proposed amendment on August 11, 2016; and

WHEREAS, the Fauquier County Planning Commission held a public hearing on the proposed amendment on September 15, 2016 and unanimously recommended approval; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the following proposed amendment to Section 5-2601 be, and is hereby, recommended for approval:

5-2601 Standards for Reduction of Non-Common Open Space Outside Service Districts

The percentage of the gross site area required as non-common open space may be reduced by the Board provided that one of the following standards is satisfied:

1. The portion of the property on which the reduction is being requested does not contain natural resources, including prime agricultural and forestal lands; environmentally sensitive areas such as floodplains, steep slopes, rock outcrops and seasonally wet areas; predominant or unusual geologic features such as mountain peaks, caverns, gorges and areas critical to the existence of important types of flora and/or fauna as defined in Section 2-406.4 of this Ordinance; and provided further that all scenic and historic resources are protected.

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2. The property contains less than the minimum required non-common open space at the time of the requested reduction and the sole reason the property contains less than the minimum required non-common open space is due to a change in how the County calculates the minimum required non-common open space.

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3. Or the property is or will be placed within an open space or conservation easement authorized pursuant to either the Virginia Conservation Easement Act, Section 10.1-1009, et. seq., or the Open Space Easement Act, Section 10.1-1700, et. seq., of the Code of Virginia and the Board of Supervisors determines that the alternative conservation easement will allow no future division of the property and will protect the land for use as agriculture or open space to at least the same extent as a non-common space easement.

; and

ORDINANCE

AN ORDINANCE TO APPROVE A ZONING ORDINANCE TEXT AMENDMENT TO ARTICLE 2 TO ALLOW WAIVER APPROVAL OF A REDUCTION IN NON-COMMON OPEN SPACE WHERE ANOTHER CONSERVATION EASEMENT ACHIEVES THE PURPOSE OF A NON-COMMON OPEN SPACE EASEMENT

WHEREAS, Section 2-406.2 of the Fauquier County Zoning Ordinance requires 85 percent of the gross site area be placed in a non-common open space easement in conjunction with division of rural lots; and

WHEREAS, the intent of the non-common open space requirement is to conserve large parcels for agricultural use within the County by requiring subdivision to be clustered on 15 percent of a parcel's land area; and

WHEREAS, the County has a significant inventory of land located within conservation easements pursuant to Section 10.1-1700 or 10.1-1009 of the *Virginia Code*, and seeks to encourage such conservation easements; and

WHEREAS, these alternative conservation easements frequently accomplish the same goal as a non-common open space easement; and

WHEREAS, requiring a non-common open space easement as a second easement on such properties may not provide additional benefit; and

WHEREAS, the County wishes to amend the Zoning Ordinance to allow the Board of Supervisors to waive the requirement for a non-common open space easement to be placed on the non-common open space parcel in cases where the Board determines that an alternative conservation easement on the property accomplishes the same goal as the non-common open space easement; and

WHEREAS, the County has determined that the public necessity, convenience, general welfare and good zoning practice warrant this amendment; and

WHEREAS, the Fauquier County Board of Supervisors initiated this proposed amendment on August 11, 2016; and

WHEREAS, the Fauquier County Planning Commission held a public hearing on the proposed amendment on September 15, 2016 and recommended approval of an alternative approach requiring special exception approval rather than waiver approval;

WHEREAS, the Fauquier County Board of Supervisors has concluded that the waiver approach is preferable; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the following proposed amendment to Section 2-406.2 be, and is hereby, recommended for approval:

2-406.2 Non-Common Open Space Requirements

1. In the RA and RC Zoning Districts, 85 percent of gross site area shall be in non-common open space unless a special exception satisfying the standards of Section 5-2601 is approved or a waiver pursuant to Section 2-406.2(7) is approved. For lots of less than thirty

(30) acres on May 21, 1986 and less than thirty (30) acres at the time of division, the open space requirement of Section 3-408 does not apply.

2. The open space shall be in one parcel and shall meet the requirements of Section 2-705 of the Zoning Ordinance.
3. The acreage upon which the open space is to be calculated shall be determined as set forth in Section 2-406.3.
4. The open space shall be located so as to meet the requirements of Section 2-406.4.
5. A buffer meeting the requirements of Section 2-406.5 shall be established along all one-hundred year floodplain located in non-common open space.
6. The recordation of non-common open space shall meet the requirements of Section 2-406.6.
7. The Board of Supervisors may waive the requirement for a non-common open space easement if the required open space area is or will be placed within an open space or conservation easement authorized pursuant to either the Virginia Conservation Easement Act, Section 10.1-1009, et. seq., or the Open Space Easement Act, Section 10.1-1700, et. seq., of the Code of Virginia and the Board of Supervisors determines that the alternative ~~conservation~~ easement will allow no additional division of the property and will protect the land for use as agriculture or open space.

A RESOLUTION TO GRANT CONVEYANCE OF A 0.9183 ACRE WELL LOT WITH RELATED EASEMENTS TO THE FAUQUIER COUNTY WATER AND SANITATION AUTHORITY

A public hearing was held to consider a resolution to authorize the County Administrator to take all actions necessary to create, dedicate and convey a well lot along with necessary easements to the Fauquier County Water and Sanitation Authority. Fauquier County owns 96.3742 acres located on Rogues Road (PIN #7914-59-7136-000) that is adjacent to land owned by the School Board on which Kettle Run High School is located. The Fauquier County Water and Sanitation Authority has constructed and tested a water well on the property and is now requesting that Fauquier County create, convey and dedicate to the Authority a 0.9183 acre parcel of land as a well lot along with necessary easements. In order to convey property to another entity, the Code of Virginia requires that the County hold a public hearing on the proposed conveyance. Mr. Paul McCulla, County Administrator, summarized the proposed text amendment. No one else spoke. The public hearing was closed. Mr. Gerhardt moved to adopt the following Resolution. Ms. McDaniel seconded and, following discussion, the vote was unanimous as follows:

Ayes: Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.

Nays: None

Absent During Vote: None

Abstention: None

RESOLUTION

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO CREATE, DEDICATE AND CONVEY A WELL LOT AND RELATED EASEMENTS TO THE FAUQUIER COUNTY WATER AND SANITATION AUTHORITY

WHEREAS, Fauquier County owns a 96.3742 acre parcel of land further identified as PIN #7914-59-7136-000, said property is situated along Rogues Road and being adjacent to the land owned by the School Board upon which Kettle Run High School is located; and

WHEREAS, the Fauquier County Water and Sanitation Authority (Authority) has constructed and tested a water well on the aforesaid property; and

WHEREAS, the Fauquier County Water and Sanitation Authority has requested that the County create, convey and dedicate to the Authority a 0.9183 acre parcel of land containing the well lot along with utility easements; and

WHEREAS, prior to the conveyance of any publicly held real property, the County is required to hold a public hearing to receive public comment on the property sale or transfer; and

WHEREAS, after conducting the duly advertised public hearing, the Board of Supervisors wishes to consider the aforesaid request; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That the County Administrator be, and is hereby, authorized to take all actions necessary to create the aforesaid well lot and to convey the aforesaid well lot and easements to the Fauquier County Water and Sanitation Authority.

A RESOLUTION TO APPROVE SPECIAL EXCEPTION SPEX-16-005375, UNIVERSAL STONES - AN APPLICATION FOR A SPECIAL EXCEPTION TO ALLOW SIGNAGE OTHER THAN THAT ALLOWED BY-RIGHT (PIN 7906-10-4826-000), SCOTT DISTRICT

A public hearing was held to consider an application for Special Exception to allow signage other than that which is allowed by-right, in accord with Section 8-1500 (2) of the Zoning Ordinance. The Zoning Ordinance allows the Board of Supervisors to approve, through Special Exception, signage which is not in accord with the general requirements for signs. The property is located at 5415 Lee Highway in Warrenton. On September 15, 2016, the Planning Commission unanimously recommended approval of the application. Ms. Holly Meade, Chief of Planning, summarized the proposed text amendment. No one else spoke. The public hearing was closed. Mr. Trumbo moved to adopt the following Resolution. Mr. Butler seconded and, following discussion, the vote was unanimous as follows:

Ayes: *Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.*

Nays: *None*

Absent During Vote: *None*

Abstention: *None*

RESOLUTION

A RESOLUTION TO APPROVE SPECIAL EXCEPTION SPEX-16-005375, UNIVERSAL STONES – AN APPLICATION FOR A SPECIAL EXCEPTION TO ALLOW SIGNAGE OTHER THAN THAT ALLOWED BY-RIGHT (PIN 7906-10-4826-000), SCOTT DISTRICT

WHEREAS, U.S. Investment Group, LLC, (Owner), is seeking signage other than that allowed by-right, on property located at 5415 Lee Highway, Warrenton (PIN 7906-10-4826-000); and

WHEREAS, on September 15, 2016, the Fauquier County Planning Commission held a public hearing on the application and recommended that the application be approved; and

WHEREAS, on October 13, 2016, the Board of Supervisors conducted a public hearing and considered written and oral testimony; and

WHEREAS, the Board of Supervisors finds that the application satisfies the standards of Zoning Ordinance Section 5-006; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 13th day of October 2016, That SPEX-16-005375 be, and is hereby, approved, subject to the following conditions:

1. This Special Exception is granted only for the purpose(s), structure(s) and/or uses indicated on the plat titled Monument Sign for Universal Stones dated June 24, 2016, as approved with this application, as qualified by these development conditions.
2. Landscaping shall be installed, and maintained, as shown on the plat titled Monument Sign for Universal Stones, dated June 24, 2016.
3. The sign shall be placed outside of the VDOT right-of-way and meet clear zone requirements per Virginia Work Area Protection Manual Figure 2, Page A-4.
4. The location of the sign shall not obstruct sight distance at the entrance to this business.
5. The sign shall be set back a minimum of five (5) feet from the front property line and a distance equal to the height of the sign from the side property line.
6. A sign permit shall be required prior to the installation of the sign.

7. Lighting shall be in accord with the Fauquier County Zoning Ordinance.
8. All vehicles shall be parked in designated parking spots, outside of any required yard.

A RESOLUTION TO AUTHORIZE THE GRANT OF AN EASEMENT OVER PROPERTY OWNED BY THE COUNTY IN MARSHALL

A public hearing was held to consider the grant of a Fauquier County Water and Sanitation Authority easement over County owned property and provide for construction of a sidewalk on the property for the development of the Washburn Place townhouses in Marshall. Mr. Kevin Burke, County Attorney, summarized the proposed text amendment and said that staff has recommended postponement of action on this matter to allow for additional discussion with the property owner.

- Mr. Kim Hart, Marshall District, representing Windy Hill Foundation, provided an overview of the project, and concurred with the staff’s recommendation to postpone.

No one else spoke. The public hearing was closed. Ms. McDaniel moved postpone action on this matter until the December meeting. Mr. Trumbo seconded and, following discussion, the vote was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>None</i>
<i>Abstention:</i>	<i>None</i>

AN ORDINANCE TO ADOPT SECTION 4-9.1 OF THE FAUQUIER COUNTY CODE DESIGNATING THE ANIMAL SHELTER TO HOUSE SEIZED ANIMALS AND REQUIRE A BOND FOR THEIR CARE

A public hearing was held to consider a proposed Ordinance that clarifies that all animals seized by law enforcement or humane investigators within Fauquier County are to be housed and cared for by the Fauquier County Animal Shelter during court proceedings and requires a bond be posted to compensate for the expenses associated with their board pursuant to enabling legislation found in *Code of Virginia* §§ 3.2-6569 and 3.2-6543. Mr. Kevin Burke, County Attorney, summarized the proposed text amendment.

- Ms. Hilleary Bogley, Humane Investigator with Middleburg Humane Foundation, expressed her concerns about restrictions in the proposed Code amendment.

- Ms. Shannon Woods, Esq., representing the Middleburg Humane Foundation, said the proposed Ordinance is impractical and does not allow for direct contact between the Humane Investigators and Veterinarians, and she requested a 30 day deferral.
- Mr. Will Ashwell, Esq., Center District, Board member of Fauquier County Society for Prevention of Cruelty to Animals (SPCA), said that the Fauquier SPCA has a veterinarian on call 24-hours a day, and he does not anticipate any practical issues in approval of this Ordinance as presented, and requested approval so that all entities can move forward.
- Ms. Tracy Gallehr, Deputy County Attorney, addressed issues raised about livestock seizures and proposed adding a clarifying statement that would include provisions for emergency veterinarian care.

No one else spoke. The public hearing was closed. Ms. McDaniel moved to adopt the following Ordinance, as amended. Mr. Gerhardt seconded and, following discussion, the vote was unanimous as follows:

Ayes: *Mr. Christopher T. Butler; Mr. Richard R. Gerhardt; Mr. Christopher N. Granger; Ms. Mary Leigh McDaniel; Mr. R. Holder Trumbo, Jr.*

Nays: *None*

Absent During Vote: *None*

Abstention: *None*

ORDINANCE

AN ORDINANCE TO ADOPT SECTION 4-9.1 OF THE FAUQUIER COUNTY CODE DESIGNATING THE ANIMAL SHELTER TO HOUSE SEIZED ANIMALS AND REQUIRE A BOND FOR THEIR CARE

WHEREAS, *Code of Virginia* §§ 3.2-6543 and 3.2-6569 enables counties to adopt ordinances that are parallel to or more stringent than § 3.2-6569 which deals with the seizure, impoundment and disposition of animals; and

WHEREAS, the Board of Supervisors, after due notice and public hearing, has determined that it is in the best interest of the health, safety, and welfare of the citizens of Fauquier County to adopt this Ordinance; now, therefore, be it

ORDAINED, by the Fauquier County Board of Supervisors this 13th day of October 2016, That Section 4-9.1 of the Code of Fauquier County be adopted, which Section shall read as follows:

Fauquier County Code

Chapter 4 - Animals and Fowl

Article I. – In General

Sec. 4-9.1. – Seizure, Impoundment, Disposition of Animal and Disposition of Proceeds upon Sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of Chapter 4 of the Fauquier County Code or the Comprehensive Animal Care Act (Chapter 65 of Title 3.2 of the *Code of Virginia*) that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause (iii) of subsection A or clause (ii) of subsection B of *Code of Virginia* § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the Fauquier County Commonwealth's Attorney of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal. If the State Veterinarian finds there is a need to administer emergency veterinary care, or if the State Veterinarian cannot be reached, then in the discretion of the humane investigator, law-enforcement officer or animal control officer shall arrange for appropriate veterinary care. This may include arranging for emergency veterinary assistance where the animal is located or transportation to an appropriate facility where that care can be rendered. Once the need for emergency veterinary care has ceased, possession of the animal shall be given to the Fauquier County Animal Shelter. Upon seizure of the animal the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the Fauquier County General District Court for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the *Code of Virginia* shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 *et seq.*) of Chapter 15 of Title 19.2 of the *Code of Virginia*. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. If a seized or impounded animal is in need of immediate or emergency veterinary care, the humane investigator, law-enforcement officer, or animal control officer shall arrange for appropriate veterinary care. This may include arranging for emergency veterinary assistance where the animal is located or transportation to an appropriate facility where that care can be rendered. Once the need for emergency veterinary care has ceased, and deliver possession of the animal shall be given to the Fauquier County Animal Shelter which shall provide for such animal until the court has concluded the hearing. The owner of any animal held pursuant to this subsection for more than thirty days shall post a bond in surety with Fauquier County for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in either *Code of Virginia* § 3.2-6500 or Fauquier County Code Chapter 4, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of *Code of Virginia* § 3.2-6571, then the court shall order that the animal may be: (a) sold by the Fauquier County Animal Shelter, if not a companion animal; (b) disposed of by the Fauquier County Animal Shelter pursuant to subsection D of *Code of Virginia* § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take

into consideration the owner's past record of convictions under Chapter 4 of the Fauquier County Code, the Comprehensive Animal Care Act (Chapter 65 of Title 3.2 of the *Code of Virginia*) or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating Chapter 4 of the Fauquier County Code or *Code of Virginia* § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the County's fund used to defray the costs of the Fauquier County Animal Shelter, including efforts to promote sterilization of cats and dogs.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

N. For the purposes of this Chapter, the Fauquier County Animal Shelter means a facility located in and operated by Fauquier County for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility or facilities that are operated for the same purpose under a contract with Fauquier County.

(Ord. No. 16-____, 10-13-16)

State Law reference— Enabling legislation, *Code of Virginia* § 3.2-6543 & 3.2-6569.

With no further business, the meeting was adjourned at 8:02 P.M.

I hereby certify that this is a true and exact record of actions taken by the Fauquier County Board of Supervisors on October 13, 2016.

(SEAL)

Paul S. McCulla
Clerk to the Board of Supervisors