

Regular Meeting, Wednesday, November 14, 2012, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Tracy C. Pyles, Jr., Chairman
Jeffrey A. Moore, Vice-Chairman
David R. Beyeler
David A. Karaffa
Marshall W. Pattie
Michael L. Shull
Larry J. Wills
Timmy Fitzgerald, Director of Community Development
Becky Earhart, Senior Planner
Jennifer M. Whetzel, Director of Finance
Patrick J. Morgan, County Attorney
Patrick J. Coffield, County Administrator
Rita R. Austin, CMC, Executive Secretary

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, November 14, 2012, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 237th year of the Commonwealth....

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Chairman Pyles welcomed the citizens present.

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Erica Snook, Emma Woods, Michaela Beidler and Karan Deengar, seniors of Wilson Memorial High School, led us with the Pledge of Allegiance. Erica is a Drum Major of the Marching Band, attends the Shenandoah Valley Governor School (Stem and Arts Program), active in Community Theater and plans on going to college for Musical Theater. Michaela is in the National Honor Society (NHS), is Drum Line Captain in the Marching Band and plans to attend college for Music Therapy. Emma attends the Shenandoah Valley Governor School, is in the National Honor Society and President of the Wellness Club. She runs cross country in indoor and outdoor track and plans to go to college for International Diplomacy. Karan is the Captain of the Chess Team, Captain of the Debate Team and plans to be a Pharmacist.

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Larry J. Wills, Supervisor for the Middle River District, delivered invocation.

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Chairman Pyles presented public hearing rules and asked that the audience respect one another.

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BARKING DOGS - ORDINANCE

This being the day and time advertised to consider an ordinance to add that dogs in residentially zoned subdivisions that bark for more than ten consecutive minutes or for thirty non-consecutive minutes between the hours of 12:00 a.m. and 6:00 a.m. are a violation of the Augusta County noise ordinance. The fine for violation of the ordinance will be \$100 for the first offense, \$250 for the second, and \$500 for the third such offense in a twelve-month period.

Patrick J. Morgan, County Attorney, recalled that the Board had received several complaints about problems with barking dogs at night. An ordinance was drafted as the Board had directed and advertised for tonight's public hearing. This ordinance is an amendment to the current Noise Ordinance and will be applicable only in "residentially zoned subdivisions". He added that this would make it unlawful for dogs in "residentially zoned subdivisions" to be barking for more than 10 consecutive minutes or non-consecutive minutes in any 30-minute period of time, between the hours of 12:00 midnight and 6:00 a.m. the following day, if throughout the ten-minute period, the noise

November 14, 2012, at 7:00 p.m.

BARKING DOGS – ORDINANCE (cont'd)

generated by the animal is (i) plainly audible across real property boundaries, or (ii) through partitions common to 2 residences within a building. This ordinance requires that the citizens seek a summons from the Magistrate for enforcement. The fines for violation of the ordinance will be \$100 for the first offense, \$250 for the second, and \$500 for the third such offense in a twelve-month period.

Chairman Pyles asked for clarification of the summons to the Magistrate. Did both citizens need to go before the Magistrate? Mr. Morgan said that the Magistrate will swear out the warrant that would eventually be heard in the General District Court.

The Chairman declared the public hearing open.

Mr. Moore clarified that the wording of the ordinance does not involve Law Enforcement or Animal Control. It is a civil issue between one homeowner (dog owner) and another homeowner.

The following spoke in opposition of the ordinance:

John Geary, Joan Geary, Don Benson, Charles Perry, Ramona Fisher

Many expressed concerns of submitting “false” evidence. Mr. Geary expressed concern of it setting a bad precedent. He noted that barking dogs were annoying, but if this ordinance was passed, it could lead to regulating goats, sheep and cows. It was mentioned that many dogs in the County are “working” dogs such as herding dogs, guard dogs, kennels, and hunting dogs and noted that most barking would occur between midnight and 6:00 a.m. when wildlife is out. It was noted that you could have more barking when a neighbor is trying to record/photograph a dog barking. Ms. Geary stated that in very rural areas, you could not determine where the noise is coming from and asked what would be done if people from a nearby subdivision complain about her dogs on her 200-acre property. Instances were noted where dog owners do not even try to quiet their dogs. Mr. Benson felt that the dogs needed to be cared for better because of them being hungry, thirsty or cold. Mr. Perry spoke for the dogs and stated, “I think it’s a people problem because of people not taking care of their dogs”. He suggested a no-chain ordinance and require people to take care of their animals.

The following spoke in support of the ordinance:

Sandy Motto, Tony Motto, Mary Wood, Betty Bennett, Deborah Cheezum

Ms. Motto stated that “chronic noise can threaten public health and safety causing anxiety, depression, poor performance at work and school and other physiological and mental conditions. She further stated, “Dog lovers should embrace this change since it prevents owners from tying a canine to a post and ignoring a dog’s need for love and companionship. This is a people problem, not a dog problem.” Ms. Bennett expressed concern in her neighborhood where retired people and others with health issues resided and they were unable to rest. Ms. Cheezum suggested that the fine be lower. It was noted that many attempts had been made to stop the barking but were unsuccessful.

Chairman Pyles added that two e-mails were received from: 1) Cindy Lewis (supports) and 2) Karin Magno (supports), noting that it is a “people problem”.

Mr. Wills added that he had an e-mail from Tami Gochenour, of Crimora, who expressed opposition.

There being no other speakers, the Chairman declared the public hearing closed.

November 14, 2012, at 7:00 p.m.

BARKING DOGS – ORDINANCE (cont'd)

Mr. Moore stated that he represented the Wayne District, which is the most urbanized area in the County. He reiterated that the ordinance is intended to protect citizens that live close to their neighbors. He said that the ordinance was not about dogs barking when a wild animal is in the backyard. "There is a responsibility for your animals. If you are not being responsible for your actions, there should be a type of procedure where you can be held accountable. The hope is that you work things out among yourselves." In regards to the fine, he felt that the Judge was capable of making a good decision. The first offense could possibly be a "warning".

Mr. Beyeler said there were people who do not respect their neighbors and that the ordinance "responds to a few people who lack respect for their neighbors".

Mr. Shull felt that the ordinance "pitted neighbor against neighbor," and feared the situation could escalate to violence. He suggested electronic devices being used to stop the barking.

Mr. Karaffa said that he hoped that the cases would be few and that the property owners would look at why the dog is barking, and possibly bring the pet inside. He felt that it was important for government to give the citizens a tool to resolve a dispute.

Mr. Pattie felt that the ordinance would not be effective and expressed concern of false evidence. He suggested that the Homeowners Association should set guidelines.

Mr. Wills expressed the concern of 1) Enforceability of verification evidence; 2) Placing neighbor against neighbor once a legal action has been taken; and 3) Lot of nuisances other than barking dogs, with no ordinance

Chairman Pyles asked Mr. Morgan if it took more than one complainant to have a summons issued; Mr. Morgan said it did not take more than one. Chairman Pyles asked if the Judge finds a person guilty, can he impose less than \$100 fine; Mr. Morgan felt that it was under the discretion of the Judge.

Chairman Pyles noted that there were ten speakers tonight, noting one-half were in favor of the ordinance. He mentioned the concern that a citizen had of not having Law Enforcement involved and stated that we had a justice system where Law Enforcement need to be "neutral observers". He agreed that it will be difficult to enforce the evidence. He said that the County government cannot solve all issues. "Folks here have to figure it out for themselves."

Mr. Moore, as a supervisor for the largest urbanized area, hoped that if this ordinance is not adopted tonight, that it can be considered at a later time. He realized the concern of "neighbors pitting against neighbors" but felt that this ordinance would resolve this problem.

Mr. Karaffa asked that neighbors be civil with each other and not take their anger and frustration out on their dog. "This is a neighbor issue, not a dog issue."

Mr. Beyeler felt that it would be a rare case of going to court, but if it did go to court, it would be acknowledged that there was a problem and the Judge would possibly suggest that it be resolved and hope that they not return to court.

Chairman Pyles responded to Mr. Moore of the idea of rural vs. urban and stated, "We all represent a variety of folks, and I would hope the support that I have given to the Fishersville area on different things would say that I respect what is going on there. We need more fire department and we need all of that. This isn't rural vs. urban; to me, this is a matter of personal liberties and personal responsibility."

November 14, 2012, at 7:00 p.m.

BARKING DOGS – ORDINANCE (cont'd)

Mr. Beyeler thanked the citizens for coming out tonight.

Mr. Moore moved, seconded by Mr. Beyeler, that the Board adopt the ordinance as submitted.

Vote was as follows: Yeas: Karaffa, Moore and Beyeler

Nays: Shull, Pattie, Wills and Pyles

Motion failed.

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PANHANDLING – ORDINANCE

This being the day and time advertised to consider an ordinance that declares it unlawful to solicit money or other things of value in an aggressive manner in any public area, near banks and ATMs, on private property without permission of the property owner, and on, by, or adjacent to, any street or highway. The fine for violating the ordinance shall be not more than \$500.

Mr. Morgan advised that the purpose of this ordinance is to prohibit the solicitation would make it unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services in any of the following ways:

- a. In an aggressive manner in any public area;
- b. Within 15 feet of any bank, during its hours of operation;
- c. Within 15 feet of any automated teller machine, during the hours of operation of such machine;
- d. On private property, if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
- e. While sitting on or adjacent to, walking on, standing on or going into any street or highway used for motor vehicle travel, or any area appurtenant thereto, including medians, shoulder areas, turning lanes, ramps and exit ramps of any intersection.

He explained that aggressive manner is defined in the ordinance as intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation, without the person's consent. He noted that it had been discussed before that this will affect the high school students who have the carwashes and bring the signs out close to the street and the fire departments with their fundraising-type activities. He added that the Highway Department had not granted the fire departments permits to raise funds that way anyway. Because of the definition of an aggressive manner, he pointed out that it would not affect the High School or other charity groups having bake sales. The fine for violating the ordinance would not be more than \$500.

The Chairman declared the public hearing open.

Brandon Williams, Pastor of the Church on the Hill in Fishersville, reflected on his father, 88 years old, being a World War II veteran who grew up during the Great Depression. He remembered people going through neighborhoods asking for assistance. His grandparents were poor sharecroppers and virtually had nothing, but would give what they could. Pastor Williams said charity needs have increased. He expressed concern about what the proposed ordinance interprets as "aggressive". He

November 14, 2012, at 7:00 p.m.

PANHANDLING – ORDINANCE (cont'd)

knows a man bent over in pain who cannot work that his church has helped. "People who are solicited should decide what aggressive means rather than government. Certainly, people need to be protected. I am concerned that this ordinance would communicate something that it shouldn't about the heart of this community and the desire to help people who are in need."

John Geary noted that the ordinance reflects that panhandling was basically asking or soliciting for money or other things of value. "If you ask for anything near banks or any public area, ATMs, or private property without permission, you could get a \$500 fine." He assumed that would refer also to those campaigning for votes when running for elections. "This is like using a cannon to kill a cricket. It's annoying, but you can always say no." He questioned if the Liberty tax guy in front of the Farm Bureau was panhandling. "He looks pretty aggressive to me sometimes." He felt that this ordinance would stifle free speech.

Roger Johnson stated that he and his wife are disabled and supported the ordinance. He felt that there were places for assistance.

Steph Mason had two questions:

1. Anybody panhandling, in the law, they would be in commerce (?), would they not? They would be in commerce unless they knew enough not to consent. Have you considered that there are any laws pertaining to the law of commerce that govern?
2. Don't you have laws against loitering? What's the problem here? Can you make the construction that they're there loitering?

There being no other speakers, the Chairman declared the public hearing closed.

Mr. Beyeler moved, seconded by Mr. Karaffa, that the Board adopt the ordinance.

Mr. Karaffa supported the ordinance for safety concerns. "The community provides many resources for those who are down and out. There are plenty of ways that our community embraces those who are in need." He said that the Tax Liberty guy should not be in the road.

Mr. Beyeler also supported the ordinance for safety concerns. He added his concern of the image given to those coming from areas outside of Augusta County.

Mr. Wills said that he has worked at his church Food Pantry for the last seven years. "Looking at the USDA regulations on the distribution of food on a monthly basis, there is no way that comes anywhere close to covering the food that is needed by these people and their families." He opined that if someone makes physical contact, or steps out in front of a car, there are laws that can take care of that problem. He said that he was brought up to help others in need. He agreed with Pastor Williams that there are many who are embarrassed to ask for help and added that "at least these people acknowledge they need some help". He added that this image is everywhere, not just in Augusta County. "The reason you see it is because of the economy that we are in today. There is no way that I will support this motion that would say to these people, no, you cannot find a way to feed your family."

Mr. Shull said that he would not support the motion, either. "You ought to put yourself in their shoes. Suppose you lost everything; you lost your job; what would you do?" He noted that there were many assistance resources that were misused. He added that he was taught, like Mr. Wills, that he should be a Good Samaritan. He agreed that there were those who were making money as panhandlers, but there were those who needed assistance.

November 14, 2012, at 7:00 p.m.

PANHANDLING – ORDINANCE (cont'd)

Mr. Pattie stated that this interest started when people were stepping in front of cars and tapping on windows. He agreed that no one on this Board wanted that to happen, but he felt that this ordinance has prohibited anyone who is trying to do any type of fundraiser. He did not see any problem with people asking for help, “whether it is for firefighters, or for food.”

Mr. Moore asked for clarification of having any ordinance that prohibits people from tapping on windows. Mr. Morgan said there was no ordinance in that regard. Mr. Moore reiterated that was the reason for this ordinance.

Chairman Pyles thanked Pastor Williams for speaking. “We have government and we have beliefs. I was very proud of Mr. Wills and Mr. Shull.” He agreed of not knowing what others are suffering but noted that many of the panhandlers are veterans. “He goes to war for us to defend the rights and then we can just sit up here and take them away. We have a Constitution. We have a right of assembly. We have the right of free speech. Why would we go about to try to knock that out because of an image problem for something that really hasn’t happened?” Chairman Pyles referred to some lawsuits in different states regarding panhandling laws being unconstitutional.

Vote was as follows: Yeas: Karaffa, Moore and Beyeler

 Nays: Wills, Shull, Pattie and Pyles

Motion failed.

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ALTERNATIVE ONSITE SEWAGE SYSTEMS – ORDINANCE

This being the day and time advertised to consider an ordinance to allow for the installation, maintenance and operation of Alternative Onsite Sewage systems in Augusta County. This ordinance will conform to new requirements of the Code of Virginia and regulations promulgated by the Virginia Health Department.

Mr. Morgan said that the County has an ordinance currently in place for Nonconventional Sewage Disposal Systems. He noted that the State Code and regulations from the Health Department have changed. This ordinance brings the County Code in compliance with the State Code. It addresses alternative discharge systems and alternative onsite systems. It provides for a more detailed inspection and sampling program than what is called for in the current ordinance. It still requires that there be a maintenance contract to ensure that there is proper maintenance of these alternative systems.

The Chairman declared the public hearing open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Shull noted that in the VACo conference, he attended a meeting that informed him that there will probably be some legislation that will be introduced in Richmond and will involve Augusta County and the ramifications of those who are not taking care of the systems.

Mr. Wills moved, seconded by Mr. Shull, that the Board adopt the following ordinance:

November 14, 2012, at 7:00 p.m.

ALTERNATIVE ONSITE SEWAGE SYSTEMS – ORDINANCE (cont'd)

ORDINANCE OF THE BOARD OF SUPERVISORS
OF AUGUSTA COUNTY, VIRGINIA

WHEREAS, The Augusta County Board of Supervisors has found it desirable to amend Section 11-13 of the Augusta County Code to integrate changes required by the Code of Virginia;

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF AUGUSTA COUNTY, VIRGINIA:

That Section 11-13 of the Augusta County Code is amended to read as follows:

§ 11-13. ~~Nonconventional~~ Alternative Onsite Sewage ~~Disposal~~ Systems and Alternative Discharge Sewage Treatment Systems.

A. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

1. "Alternative discharging sewage treatment system" or "discharging system" means any device or system which results in a point source discharge of treated sewage for which the Department of Health may issue a permit authorizing construction and operation when such system is regulated by the SWCB pursuant to a general VPDES permit issued for an individual single family dwelling with flows less than or equal to 1,000 gallons per day on a yearly average. Such a system is designed to treat sewage from a residential source and dispose of the effluent by discharging it to an all weather stream, an intermittent stream, a dry ditch, or other location approved by the department.

2. "Alternative onsite sewage system," "AOSS," or "alternative onsite system" means a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.

3. "Conventional onsite sewage system" means a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

4. "Health officer" shall mean the health officer of the county or a qualified person designated by the health officer of the county.

~~2. "Nonconventional sewage disposal system" shall mean those systems described as such in Virginia Code § 15.2-2157. "Nonconventional sewage disposal systems" shall include, without limitation, sewage disposal systems (a) incorporating a septic tank and subsurface soil absorption system, where pumping, enhanced flow distribution or low pressure distribution is necessary, and (b) other than a septic tank and subsurface soil absorption system. The term does not include privies or systems deemed nonconventional solely due to the use of pumps to transfer effluent from a septic tank to a subsurface soil absorption system.~~

5. "Operator" means any individual employed or contracted by any owner, who is licensed or certified under Chapter 23 (§54.1-2300 et seq.) of Title 54.1 of the Code of Virginia as being qualified to operate, monitor, and maintain an alternative onsite sewage system.

36. "Public groundwater supply source" shall mean a well, spring or other groundwater source that is owned by the Augusta County Service Authority and is currently utilized as a water supply for domestic, agricultural, industrial or other beneficial purposes. The term shall exclude any source utilized as a water supply for a transient or other non-community water system.

7. "Source water protection area" shall mean an area within 250 feet of a public groundwater supply source, established by the Augusta County Service Authority to protect such source.

8. "Large AOSS" means an AOSS that serves more than three attached or detached single-family residences with a combined average daily sewage flow greater than 1,000 GPD or a structure with an average daily sewage flow in excess of 1,000 GPD.

November 14, 2012, at 7:00 p.m.

ALTERNATIVE ONSITE SEWAGE SYSTEMS – ORDINANCE (cont'd)

9. "Best management practice" means a conservation or pollution control practice approved by the division, such as wastewater treatment units, shallow effluent dispersal fields, saturated or unsaturated soil zones, or vegetated buffers, that manages nutrient losses or other potential pollutant sources to minimize pollution of water resources.

~~5. "Spray irrigation system" shall mean a nonconventional sewage disposal system that sprays effluent by means of spray irrigation infrastructure on the ground surface for final treatment and dispersal. Any spray irrigation system shall utilize a process that treats to at least secondary standards and disinfects effluent. The term does not include systems utilized for agricultural applications.~~

~~B. Except as expressly permitted in this section, nonconventional sewage disposal systems shall be prohibited in the county.~~

EB. Nonconventional Alternative onsite sewage disposal systems and alternative discharging sewage treatment systems shall be permitted in the county, subject to the following conditions:

1. The installation and operation of any ~~nonconventional~~ **alternative onsite** sewage disposal system ~~or alternative discharging sewage treatment system~~ must be approved by the health officer, as compliant with this section and the applicable regulations of the Virginia Department of Health.

2. **In accordance with the requirements of 12VAC5-613-60 of the *Regulations for Alternative Onsite Sewage Systems*:**

A. The department shall not issue an operation permit for an AOSS until the property owner has recorded an instrument that complies with § 15.2-2157 E of the Code of Virginia in the land records of the circuit court having jurisdiction over the site of the AOSS. The local health department shall receive legal documentation indicating that the instrument has been duly recorded before issuance of the operation permit.

B. When all or part of the project area is to be used in the management of nitrogen from a large AOSS, the property owner or the owner of the AOSS shall record legal documentation in the land records of the circuit court having jurisdiction over the site of the AOSS. Such documentation shall contain assurances that the land area will be protected and preserved in accordance with the acceptable best management methods established by the designer, and as defined in 12VAC5-613-10 of the *Regulations for Alternative Onsite Sewage Systems*. The local health department shall receive legal documentation indicating that the instrument has been duly recorded before issuance of the operation permit.

C. All large AOSSs and any AOSS permitted pursuant to 12VAC5-613-90 C of the *Regulations for Alternative Onsite Sewage Systems* shall be subject a renewable operating permit. Such permits shall be issued for a period of five years. The owner of the AOSS shall apply for a new permit at least 180 days prior to the expiration date.

~~Prior to the installation and operation of any nonconventional **alternative onsite** sewage disposal system an agreement, in a form approved by the county attorney and executed by the health officer and the property owner, a Notice of Recordation must be recorded in the land records of the Office of the Clerk of the Circuit Court of Augusta County.~~

3. **All Alternative onsite sewage systems shall be sampled and monitored in accordance with 12VAC5-613-100 of the *Regulations for Alternative Onsite Sewage Systems*. All maintenance and monitoring reports are to be filed in accordance with the provisions of 12VAC5-613-190 of the *Regulations for Alternative Onsite Sewage Systems*.**

4. **Prior to the installation and operation of any alternative discharging sewage treatment systems, an agreement shall be executed by the property owner. The agreement shall, at a minimum:**

a. permit the installation and operation of such ~~nonconventional~~ **sewage disposal alternative discharge sewage treatment system, in accordance with the**

November 14, 2012, at 7:00 p.m.

ALTERNATIVE ONSITE SEWAGE SYSTEMS – ORDINANCE (cont'd)

requirements of 12VAC5-640 *Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings*.

- b. provide notice to the public, including, without limitation, subsequent owners of the property, that the property is served by a ~~nonconventional sewage disposal~~ **alternative discharge sewage treatment** system,
- c. ~~impose~~ **notify owners, and subsequent owners** of installation, operation and maintenance conditions as determined by the health officer, **and the system designer. In accordance with all elements of 12VAC5-640-500 of the *Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings*, or the Board of Supervisors, as applicable, the operation and maintenance requirements shall include** based on the maintenance requirements of such system, including, without limitation, a requirement for a **system** maintenance contract, and monitoring contract **with a Virginia Department of Professional and Occupational Regulation licensed professional Class IV wastewater system operator, or alternative onsite system operator (when licensed to operate discharge systems). Such contract shall be valid for a minimum duration of 24 months, and the system owner shall keep such contracts in effect for the life of the General Permit as required by 9VAC25-110-80C2 of the Department of Environmental Quality General Permit to Discharge,**
- d. require the property owner to **assure that a licensed operator inspects, samples, and monitors the discharge system annually on the anniversary date of the operation permit issued date to procure an inspection in accordance with 12VAC5-640-490 of the *Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings* to ensure such system continues to operate as designed and in accordance with this section and such agreement. , which inspection shall be performed by an individual:**
- (i) ~~certified by the Virginia Department of Health as an authorized onsite soil evaluator,~~
 - (ii) ~~licensed by the Virginia Department of Professional and Occupational Regulation as a professional engineer,~~
 - (iii) ~~qualified as an accredited septic system inspector, as such term is defined in title 59.1, chapter 24.2 of the Code of Virginia (1950), as amended, or~~
 - (iv) ~~employed by the system manufacturer or designated by the system manufacturer as an authorized service provider, as demonstrated by evidence acceptable to the health officer,~~
- e. require the property owner ~~annually, within thirty (30)~~ **fifteen (15) working days of receiving any report or test result the anniversary date of the operation permit issued date, or such longer period as may be permitted by the health officer,** to deliver to the health officer a copy of the inspection report **or test result**, in a form approved by the health officer, and **to obtain necessary permits** to repair or replace such system, as necessary, to correct any deficiencies identified in the inspection report ~~in compliance with~~ **as required by** this section and the applicable regulations of the Virginia Department of Health,
- f. require the property owner to report to the health officer any modifications, alterations, and expansions of such system, within ~~thirty (30)~~ **fifteen (15) working** days thereof;
- g. provide that in the event of the failure of such system, as determined by the health officer, the repair or replacement of such system shall be subject to the applicable regulations of the Virginia Department of Health, to the extent such regulations are not inconsistent with this section and such agreement,
- h. permit the health officer to enter the property to inspect such system and to determine whether such system is installed, operated and maintained in accordance with this section and such agreement,
- i. provide that the property owner's obligations under such agreement shall run with the land and bind the property owner, and the property owner's heirs, personal representatives, successors and assigns, and

November 14, 2012, at 7:00 p.m.

ALTERNATIVE ONSITE SEWAGE SYSTEMS – ORDINANCE (cont'd)

j. permit the termination of such agreement, and the revocation of the authorization under this section of the installation and operation of such system, in the event the property owner fails to cause the continued operation of such system, as designed and in accordance with this section and such agreement.

~~3. No nonconventional sewage disposal system shall be permitted for a structure used for residential purposes which requires a sewage treatment capacity in excess of 1,000 gallons per day.~~

5. No nonconventional sewage disposal system alternative onsite sewage system, alternative discharging sewage treatment system, or conventional onsite sewage system shall be permitted within a source water protection area.

~~5. Spray irrigations systems on any property and nonconventional sewage disposal systems in residentially zoned major subdivisions shall be subject to the further conditions set forth in subsection (D) below.~~

~~D. The Board of Supervisors, in its discretion, may permit spray irrigation systems on any property and nonconventional sewage disposal systems in residentially zoned major subdivisions, subject to the following conditions:~~

~~1. Any such system shall be subject to the conditions set forth in subsection C above and such additional conditions as are imposed by the Board of Supervisors, as a condition of its approval.~~

~~2. After approval by the health officer, an application for the installation and operation of any such system shall be submitted to the Board of Supervisors for consideration at its next regularly scheduled meeting, but no sooner than seven (7) days after approval by the health officer.~~

~~3. The Board of Supervisors shall consider approving all nonconventional sewage disposal systems for any proposed new major subdivision, at the time a preliminary plat is considered.~~

~~Approval of the use of nonconventional sewage disposal systems designated on a preliminary plat will not create a vested right for the developer or a lot purchaser to install or operate such a system. A Health Department permit must be secured before any nonconventional sewage disposal system may be installed.~~

~~4. An applicant for any spray irrigation system subject to this subsection (D) shall also submit the following for consideration by the Board of Supervisors:~~

~~a. a sketch of the property which shows the location of any proposed system on the property, the location of actual and proposed dwellings and other structures on the property, the distance of any proposed system from the boundaries of the property, and the distance of the proposed system from the closest dwelling on adjacent property;~~

~~b. a list of owners of adjacent properties, as shown on the current real estate tax assessment records and a statement signed by each such owner which indicates whether such owner supports or opposes the proposed system;~~

~~c. a plan to limit access to the spray area by children and livestock; and~~

~~d. a plan to mitigate any aesthetic impact of the system on adjacent properties.~~

~~E. Pursuant to the agreement required under subsection (C)(2) above, the health officer may enter any property served by a nonconventional sewage disposal system to inspect such system and to determine whether such system is installed, operated and maintained in accordance with this section and such agreement.~~

November 14, 2012, at 7:00 p.m.

ALTERNATIVE ONSITE SEWAGE SYSTEMS – ORDINANCE (cont'd)

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Beyeler and Pyles

Nays: None

Motion carried.

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FIRE FLOW – ORDINANCE

This being the day and time advertised to consider an ordinance to amend Section 24-2, Water Supply for Fire Protection, of the County Code to clarify the ordinance for new major residential subdivisions.

Timmy Fitzgerald, Director of Community Development, noted that the ordinance would be in place for major residential subdivisions where public water is available. Changes were also made to the distance between buildings. The waiver process is revised to reflect if “the developer can demonstrate that there is adequate fire protection available for the proposed development” it can be presented to the Board of Supervisors for a waiver.

Mr. Wills referred to Paragraph E assuming that “one development” meant one building or subdivision; Mr. Fitzgerald said that was correct.

The Chairman declared the public hearing open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Beyeler moved, seconded by Mr. Shull, that the Board adopt the following ordinance:

**AN ORDINANCE TO AMEND
SECTION 24-2
OF THE AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to amend Section 24-2, Water Supply for Fire Protection, of the County Code to clarify the ordinance;

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Section 24-2 of the Augusta County Coded is amended to read as follows:

Sec. 24-2. Water supply for fire protection.

A. (1) For new **major residential development subdivisions, where public water is available**, adequate fire hydrants will be installed by the developer and/or builder. Placement of hydrants shall be coordinated with the Augusta County Service Authority and with the county's fire chief or his authorized representative. Adequate water supply to such hydrants shall also be available as determined by the standards set forth in the schedule below. Placement decisions made by the fire chief should be predicated on public safety and welfare considerations, the standards listed below, and the ability to properly and efficiently use fire-fighting apparatus. Decisions of the fire chief may be appealed to the Board of Supervisors, whose decision shall be final.

Schedule for fire flow in residential developments

Fire flow shall be based on two hour flow duration for all construction projects.

Based on distance between structures:

<u>Distance</u>	<u>Required Flow</u>
Buildings over 100' apart	500 gpm
Over 30' to 99 100'	750 gpm

November 14, 2012, at 7:00 p.m.

FIRE FLOW – ORDINANCE (cont'd)

4: Over 10' to 29.9' 30'	1,000 gpm
10' or less	1,500 gpm

(2) In the event that fire flow requirements cannot be met at all hydrants within a proposed development, the Fire Chief in ~~agreement~~ **consultation** with the Augusta County Service Authority, may reduce the required fire flow at no more than two (2) fire hydrants within the proposed development. Provided that the fire flow requirements for the hydrants may not be reduced by more than 200 gpm per hydrant and at no time will any hydrant be approved with a fire flow below 500 gpm.

(3) For the purposes of this section, duplexes, townhouses and apartments will be treated as residential structures and must comply with the Statewide Building Code for fire protection.

B. (1) For commercial, business and industrial structures located where public water is available, adequate water supply shall be not less than 1,000 gpm based on a two hour designed flow duration. Required flow will be determined by use of the ISO formula using total square footage.

(2) For the purposes of this section, to calculate a structure's square footage to determine adequate fire flow, one half of the total square footage of any floors other than the main floor, including basements and mezzanines, if any, shall be added to the total square footage of the main floor.

(3) Fire flow will be established by using the largest one building of a commercial or industrial development.

(4) Buildings divided by fire walls, as defined by the Statewide Building Code may receive a reduction in required fire flow based on the largest spaces between the two commercial or industrial spaces.

C. Square footage of buildings protected by approved fire suppression systems, such as sprinkler systems, shall not be used to determine adequate fire flow, provided that NFPA Standard for fire suppression systems is met. In no event will the minimum fire flow for any commercial or industrial structure with an approved fire suppression system be less than 500 gpm.

D. Where a new subdivision is to be developed with individual wells, the Fire Chief, shall require that alternative sources of water for fire suppression purposes be made available including construction of a fire suppression well system, provision of "dry" hydrants, and/or easements granting access to water sources.

E. Upon application of the developer and for good cause shown, the standards for buildings or subdivisions set forth in paragraphs A through D above may be waived or reduced by the Board of Supervisors, provided that ~~the proposed water system or connection will produce sufficient water for fire safety purposes~~ **the developer can demonstrate that there is adequate fire protection available for the proposed development.**

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Beyeler and Pyles

Nays: None

Motion carried.

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MATTERS TO BE PRESENTED BY THE PUBLIC

Paul Harper and Larry Smoot expressed concerns of a "junkyard" on a Fishersville Industrial site. Mr. Harper noted that a planning effort was initiated by Supervisor Wendell Coleman several years ago. A large group participated in the program and created a plan known as the "Fishersville Small Area Development Plan". This 90-page Plan, with a map of Fishersville, developed guidelines for Fishersville buildings, roads, etc. He reported that a "junkyard" has been established on Valley Recycling Service property. Since that property is zoned Industrial, he understands it is legal because the Augusta County Comprehensive Plan overrides the Fishersville Plan. Mr. Harper suggested that the zoning be changed to Small Business. Mr. Smoot referred to a similar problem with Wilson Trucking Company 40 years ago.

November 14, 2012, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE PUBLIC (cont'd)

Mr. Fitzgerald displayed a map of the property and pictures. He noted that staff has viewed the property and found that the operation is in order from a zoning perspective. He advised that this property was zoned Industrial in 1974; there is one piece of property that remains to be developed (displayed) and is for sale. He informed the Board that there is a plan for a rail siding to be built. The application has been submitted. It was Mr. Fitzgerald's expectation that once the rail siding is completed, Valley Recycling will begin hauling the recycled bails out on the rail and will significantly cut down the pile. He added that the pile will not completely go away.

Mr. Moore stated that he had viewed the property. He pointed out that Valley Recycling is being paid for this and that the intent is for them to get it out as quickly as possible because that is how they get their money back. Mr. Harper asked that the zoning be changed so that this would not be allowed. Chairman Pyles said that the property owner is the one to request a zoning change.

Interested citizens asked what the status of the rail plan was. Mr. Fitzgerald said that the application has been submitted but he has not received a response from the rail application group. A suggestion of some type of buffer was mentioned. Mr. Fitzgerald noted that a buffer requirement is already in place for Industrial property against Residential; however, with this particular property, the adjoining property is also zoned Industrial so it does not require a buffer. Mr. Karaffa asked what the height limit was; Mr. Fitzgerald stated it was 75 feet maximum in terms of a structure. A citizen expressed concern of the value of property decreasing.

Chairman Pyles understood the problems and suggested that the rail plan be put in place as quickly as possible. He also suggested planting trees to establish a buffer.

Mr. Harper added that when Shoffner Industries leveled the land, there was a stormwater problem and a ditch was created to resolve the problem. He asked that when the other property is sold, or developed, that this ditch not be eliminated. Mr. Fitzgerald said, with the site plan process for development, stormwater will be discussed and this ditch would not be eliminated.

Mr. Moore asked that Mr. Fitzgerald speak with Valley Recycling to determine a timeline for the spur and notify the neighbors.

A concern had been expressed of oil and antifreeze going into the ground. Chairman Pyles directed Mr. Fitzgerald to ask DEQ to review the property. Chairman Pyles explained to the public that DEQ is Department of Environmental Quality who have the oversight of those particular regulations and to determine if Valley Recycling is in compliance of the law.

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NEW HOPE COMMUNITY TRAFFIC CONTROL

The Board considered request of New Hope Community residents to consider erecting "Maximum Penalty" speeding signage (Middle River District).

Patrick J. Coffield, County Administrator, reported that a background regarding VDOT's Maximum Penalty speeding program had been enclosed with the agenda package. He noted that after six months of monitoring, the community requested us to proceed with process for approval.

Mr. Wills added that this had been requested in February and noted that larger signs had been placed in an effort to reduce the speeding. It had been determined by Law Enforcement that the speed through that particular areas was 45 to 50 m.p.h. He felt that, with the houses being near the road, placement of these signs was appropriate for safety reasons.

November 14, 2012, at 7:00 p.m.

STAGGERED TERMS (cont'd)

A. In each magisterial district there shall be chosen by the qualified voters thereof at the general election for such purpose one supervisor who shall hold office for the term of four years as provided by state law.

B. Beginning with the general election in November, 2015, the Board of Supervisors and members of the School Board shall be elected to staggered terms.

Vote was as follows: Yeas: Pattie, Karaffa, Wills, Moore and Pyles

Nays: Beyeler and Shull

Motion carried.

Mr. Morgan advised that tonight's ordinance will establish that the Board of Supervisors and the School Board will run for staggered terms beginning at the November Election in 2015. In accordance with State law, once that determination has been made, four Board members will run for four-year terms and three Board members will run for two-year terms. The ordinance does not address how that decision would be made. It was discussed at an earlier meeting that three can volunteer to run for two-year terms, or the Board of Elections can either determine which three districts would run for two-year terms prior to the qualification date for running for office; or the day immediately after the Election, they can do that by drawing lots.

Chairman Pyles asked if there were any volunteers. Messrs. Karaffa, Wills and Pyles volunteered to run for two-year terms. These Board members reported that they have consulted with the School Board members in their respective districts about volunteering for two-year terms in 2015.

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WAIVERS/VARIANCES – NONE

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CONSENT AGENDA

Mr. Pattie moved, seconded by Mr. Karaffa, that the Board approve the consent agenda as follows:

MINUTES

Approved minutes of the following meetings:

- Staff Briefing Meeting, Monday, October 22, 2012
- Special Meeting, Monday, October 22, 2012
- Regular Meeting, Wednesday, October 24, 2012

CLAIMS

Approved claims paid since October 10, 2012.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Beyeler and Pyles

Nays: None

Motion carried.

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MATTERS TO BE PRESENTED BY THE BOARD

The Board discussed the following issues:

Mr. Wills:

1. VACo Conference – attended two sessions:
 - a. VRA Pensions – suggested it to be discussed at a future Staff Briefing

November 14, 2012, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE BOARD (cont'd)

- b. Fracking Regulations – attended a meeting in Pennsylvania with Rockingham and Shenandoah Counties. Suggested that staff work with Rockingham and Shenandoah in providing regulations for local control. Chairman Pyles suggested that a presentation be given at a future meeting.

Mr. Shull:

- 1. VACo Conference - commended County staff. "This County is so far advanced and ahead of some of these other counties."
- 2. Veterans Day – "I would like to honor our veterans for all the service that they have given and the ones who are in the military now and are risking their lives for our freedom. Freedom should not be taken lightly and I hope that this country will remain free for a long time."

Mr. Pattie:

- 1. VACo Conference –
 - a. Meeting regarding Administration of Government, Public Safety and Telecommunications – "Broadband will be the priority to lobby."
 - b. Stormwater presentation did not look good.

Mr. Karaffa: A citizen had commented that he appreciated the public dialog regarding ordinances and other items that were being considered. "I think it is good exercise that we do here on this Board that we get up here and we discuss our issues in depth. I think more people who sit out in the audience and take a listen to how we consider things and talk about things, more proud they would be of their representation in how well we do our issues and look at all sides of it."

Mr. Moore:

- 1. VACo Conference –
 - a. Transportation Committee meeting had lengthy dialog on tolls.
 - b. VDOT representative said that Route 636 application was in its final stages. "They are looking at it as a project of setting a trend for future projects."
 - c. Secretary of Finance – Sequestration - three areas affected – Northern Virginia, Norfolk, and Richmond.
 - d. Senator Hanger – Tax Code changes – Composite Index will be reviewed – exemption for land use.
- 2. MPO – he has been chosen as Chairman of the regional entity.

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MATTERS TO BE PRESENTED BY STAFF

Staff discussed the following:

- 1. Landfill Management Committee – Derecho Storm report distributed to Board. Landfill has received 50% more wood waste than the historical average over the last three years. FY13 budget for wood waste processing is \$145,000; Service Authority believes the wood waste grinding will easily exceed the line item by well over \$100,000. A controlled burn will be scheduled to eliminate surplus of woodwaste. Mr. Shull asked if mulch is offered to citizens. It was noted that much of the mulch produced is not suitable for flower beds.
- 2. AIB Signage – Mr. Wills asked that this item remain on the pending list.
- 3. ECC Report – Upgrade of the ECC Telephone Equipment to digital platform – a grant has been submitted for \$150,000; if successful, the balance of cost will be funded from CIP Depreciation Account (\$120,655.55).

November 14, 2012, at 7:00 p.m.

MATTERS TO BE PRESENTED BY STAFF (cont'd)

- 4. Multi-Jurisdictional Government Agencies summary and funding formula report distributed to Board. "This is a working draft."
- 5. Fire and Rescue - Medicare Revalidation process – Mr. Morgan reported that they were notified that if the County did not own or operate the emergency vehicles that the County was billing for and that each Volunteer organization would need to have a separate Federal Identification Number and bill separately. They were also told if the vehicles were leased, that would be enough of ownership to allow the County to continue the current process of billing for all of the Volunteer departments through the County. A lease was created to allow the County minimal ownership of the vehicles. The Volunteer Rescue Squads will still own them, operate them, but it will allow the County to continue to bill without going through "red tape". A draft has been circulated to the squads; 4 have signed; Stuarts Draft will consider it at their board meeting Thursday night. They have indicated probable approval. Once the County has received signed leases, the County's billing agency will be informed. Minday Craun and Mike Armstrong were available to answer questions.

Mr. Beyeler moved, seconded by Mr. Moore, that the Board authorize contingent upon receipt of executed leases.

Mr. Karaffa said that he would like to view the lease.

Jennifer M. Whetzel, Director of Finance, said that the vehicles would still be titled with the squads. "Everything is exactly as it is now, except we're signing a piece of paper to satisfy Medicare billing reasons." Mr. Morgan added that we are leasing them, but the squads still have them and operate and maintain them. Minday Craun, 1st Lt., added that this pertained to the six County rescue squads that they bill for.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Beyeler and Pyles

Nays: None

Motion carried.

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- 6. Dominion Power Understanding Right-of-Way Easements brochure distributed to Board.
- 7. USDA ballot given to Mr. Wills.
- 8. VACo Committee Interest Form – asked if Board wanted to remain on their assigned committees or change. Will be discussed at future meeting.

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CLOSED SESSION

On motion of Mr. Moore, seconded by Mr. Karaffa, the Board went into closed session pursuant to:

- (1) **the personnel exemption under Virginia Code § 2.2-3711(A)(1)**
[discussion, consideration or interviews of (a) prospective candidates for employment, or (b) assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific employees]:

A) Boards and Commissions

November 14, 2012, at 7:00 p.m.

CLOSED SESSION (cont'd)

(2) the real property exemption under Virginia Code § 2.2-3711(A)(3)
[discussion of the acquisition for a public purpose, or disposition, of real property]:

- A) Recommendations from Property Committee
- B) Augusta Woods R-O-W

(3) the economic development exemption under Virginia Code § 2.2-3711(A)(5)

[discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of its interest in locating or expanding its facilities in the county]:

- A) Industrial Prospect

On motion of Mr. Karaffa, seconded by Mr. Moore, the Board came out of closed Session.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Moore, Beyeler, Wills and Pyles

Nays: None

Motion carried.

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The Chairman advised that each member is required to certify that to the best of their knowledge during the closed session only the following was discussed:

1. Public business matters lawfully exempted from statutory open meeting requirements, and
2. Only such public business matters identified in the motion to convene the executive session.

The Chairman asked if there is any Board member who cannot so certify.

Hearing none, the Chairman called upon the County Administrator/ Clerk of the Board to call the roll noting members of the Board who approve the certification shall answer AYE and those who cannot shall answer NAY.

Roll Call Vote was as follows:

AYE: Pattie, Karaffa, Shull, Moore, Wills, Beyeler and Pyles
NAY: None

The Chairman authorized the County Administrator/Clerk of the Board to record this certification in the minutes.

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November 14, 2012, at 7:00 p.m.

ECONOMIC DEVELOPMENT APPOINTMENT

Mr. Pattie moved, seconded by Mr. Wills, that the Board accept the resignation of Edward Craun and appoint Richard K. Halterman, II to serve an unexpired 4-year term on the Economic Development Authority, effective immediately, to expire March 25, 2013.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Beyeler and Pyles

 Nays: None

Motion carried.

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ADJOURNMENT

There being no other business to come before the Board, Mr. Karaffa moved, seconded by Mr. Wills, the Board adjourned subject to call of the Chairman.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Beyeler and Pyles

 Nays: None

Motion carried.

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Chairman

County Administrator

H:11-14min.12