

Regular Meeting, Wednesday, May 27, 2015, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Michael L. Shull, Chairman  
Carolyn S. Bragg, Vice-Chairman  
Jeffrey A. Moore  
Marshall W. Pattie  
Tracy C. Pyles, Jr.  
Larry J. Wills (via electronically)  
G. L. "Butch" Wells  
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, May 27, 2015, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 239<sup>th</sup> year of the Commonwealth....

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Chairman Shull welcomed the citizens present.

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Meredith Lloyd, a seventh grader of Stewart Middle School, led us with the Pledge of Allegiance. Meredith is an upcoming President for Future Farmers of America; is a current member of the National Juniors Honor Society and she plays travel soccer and travel basketball.

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Michael L. Shull, Supervisor for the Riverheads District, delivered invocation.

\* \* \* \* \*

**SPECIAL MATTERS:**

A) Entertain motion to consider Supervisor Will's request to attend Board meeting electronically.

Because of personal business, Mr. Wills was unable to attend tonight's meeting.

Mr. Moore moved, seconded by Dr. Pattie, that the Board allow Mr. Wills to participate in tonight's meeting electronically.

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

Nays: None

Motion carried.

Pursuant to Virginia Code § 2.2-3708.1(A)(2), Mr. Wills joined the meeting by telephone.

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**AUGUSTA COUNTY BOARD OF SUPERVISOR – APPOINTMENT**

B) Entertain motion to consider G. L. "Butch" Wells as Interim Supervisor for Beverley Manor District. Term would expire December 31, 2015.

Ms. Bragg moved, seconded by Mr. Moore, that the Board appoint G. L. "Butch" Wells as the Interim Supervisor for the Beverley Manor Magisterial District to serve a term that will expire with December 31, 2015.

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AUGUSTA COUNTY BOARD OF SUPERVISOR – APPOINTMENT (cont'd)

Mr. Pyles questioned what was discussed in Closed Session about the new person’s term going one day after the election. Chairman Shull asked the County Attorney to address this question.

Patrick J. Morgan, County Attorney, said that there was over a year left in the unexpired term for the last person elected (Carolyn Bragg); therefore, the Special Election was for the remainder of one year. That is why the term went one day after the Election. In this case, there will not be a Special Election so the person appointed will serve until the end of the year.

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

Nays: None

Motion carried.

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- C) Request Clerk of Augusta County Circuit Court, Carol M. Brydge, to officiate the “Oath of Office” as prescribed by law.

G. L. “Butch” Wells, was sworn in by Carol Brydge, the Augusta County Circuit Court Clerk, as the Interim Beverley Manor District Supervisor.

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COMMUNITY FELLOWSHIP CHURCH OF THE NAZARENE - REZONING

This being the day and time advertised to consider a request to rezone from General Agriculture to Single Family Residential with proffers approximately 18.4 acres owned by Community Fellowship Church of the Nazarene located on the south side of the intersection of Long Meadow Road (Route 608) and Kiddsville Road (Route 796) in Fishersville (Wayne District). The Planning Commission recommends approval with proffers.

Becky Earhart, Senior Planner, displayed property on the overhead. The applicant submitted the following proffers:

1. There will be no more than 30 single family dwellings built on the property.
2. The minimum square footage for the single family detached dwellings will be 1800 square feet, not including any finished area in the basement. A minimum of 1200 square feet must be on the first floor.
3. The developer will dedicate to VDOT sufficient right-of-way to total 35’ of r-o-w from the existing centerline of Kiddsville Road (Rt. 796) and Long Meadow Road (Route 608).
4. Access will be limited to a single access off Kiddsville Road and no access on to Long Meadow Road. The road and lot layout will be in general conformance with the plans shown in Exhibit A. (Exhibit A was displayed, property shaded in red is the area dedicated to VDOT. Ordinance requires connectivity to adjacent property.)
5. All development on the property will utilize public water and sewer and no request will be made for any waivers of that requirement.

This property is currently zoned General Agriculture and is in the Comprehensive Plan, in the Urban Service Area, slated for Medium Density Residential, which is three to four units per acre. Public water and public sewer is available; although, a sewer extension will be required at the developer’s expense.

The Chairman declared the public hearing open.

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COMMUNITY FELLOWSHIP CHURCH OF THE NAZARENE – REZONING (cont'd)

Jody Sipe, applicant and agent for West Construction and B.J. Sipe & Son, which is an agent for the Community Fellowship Church of the Nazarene, noted that she had been part of the Fishersville Small Area Plan Committee which addressed issues of rezoning of property in and around Fishersville. The area studied was outlined in red on the map and noted that the property to be considered tonight lies within that boundary. The study indicated that Fishersville is growing rapidly and in 2028, the Fishersville area would have an increase of 45% in population, which would require 1294 new homes. A map showing the Urban Service Area was displayed indicating this property. When the study was done, small parcels of land were highly desirable for smaller development. Another map was shown indicating future land use. She did not feel there would be a great impact on the schools. She also displayed some homes that have been built in the past and planned to be “similar in style” for the future.

Mr. Moore asked about two-car garages; Ms. Sipe said that was required in the subdivision covenants.

Ms. Earhart read two letters to the Board:

- 1) Augusta County Board of Supervisors, our names are Joseph and Cynthia Steele. Due to a prior commitment out of town, we are unable to be at this meeting. We moved to Virginia eight years ago from Southern California. The back of our home, on Wyndham Hill Drive, is adjacent to and overlooks the property which is under consideration for rezoning to Medium Density Residential, with the plans stating they want to build 30 homes on that 18.4 acre property. The acreage near Kiddsville Road is a flood zone and not suitable for building and therefore reducing the number of acreage the 30 homes could be squeezed onto.

The first letter we received, dated March 30, 2015, was for 11 – 15 single family homes. Then we received a letter dated April 24, 2015 for doubling the number of homes to 30.

With that many homes, it will bring at least 2 to 6 people per household which would add 60 to 180 more people in that confined area with an addition of 40 to 60 or more automobiles. The traffic, which is already congested at peak times of the day, would become a nightmare. We would like to see VDOT’s traffic studies for Kiddsville and Long Meadow Roads and what their time schedule for enlarging the roads and improving the intersections at Longmeadow Road and 250, Longmeadow Road and Fishersville Road, and Longmeadow Road and Kiddsville Road.

Also, please consider the already overcrowded schools at Wilson or will the children of these new families be bussed over to a different school. In spite of what the builder claimed at the Planning Commission meeting, Wilson Middle school is over capacity, Wilson Elementary is near capacity but Wilson High School does have room for more students. We were told the school board will in two years adjust school boundaries splitting Emerald Hills and Wyndham Hills between the two school boundaries. If that is done, it will create six school busses on Kiddsville and Long Meadow Roads at the same time and also through Wyndham Hills and Emerald Hills subdivisions.

I propose keeping the General Agriculture zoning or go to RR zoning and having 2 to 5 homes in the 18.4 acres. The homes that were recently built on the hill to the North/East were a pleasant addition but 15 to 30 more..... The provided plot map shows access roads into adjacent property implying the county’s intention of allowing more homes to be built there in the future. If this adjacent property is also developed at the same density as the proposed project, it would add approximately 100 more homes and 200 plus cars with still no indication that any correction to road capacity would be addressed. These proposed 30 new homes will greatly impact the two new estate homes that were recently built behind the condominiums on Long Meadow Road. Allowing the development of the adjacent property will adversely impact these two homes’ property value.

Also, the builder’s proposed plot map does not indicate the crest of the hill North on Kiddsville Road where the proposed road is shown on the plot map which would make it a blind entrance for the South bound traffic coming at 45 plus MPH. For safety purposes, this access road needs to be moved further south towards Long Meadow Road and therefore the proposed plot map needs to be corrected before approved.

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COMMUNITY FELLOWSHIP CHURCH OF THE NAZARENE – REZONING (cont'd)

2) To the Board of Supervisors,

My family lives on the 8 acres adjacent to the 18.4 acres that is being considered for rezoning tonight. Our concerns with this proposal will be the additional traffic on an already busy road. Kiddsville is a heavy traveled road with two large subdivisions on it already and Long Meadow has a large subdivision as well. The two stop signs are congested with morning traffic making the morning commute difficult. Our hope is if the rezoning is approved some much needed updates to the roads and intersections will also be done.

Thank you for your consideration.  
Darren and Stephanie Ballew

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

Mr. Moore advised that this property is in the Urban Service Area where water and sewer is available. The density could be 3-4 homes per acre (54-72); however, he felt that the 30 homes proffered will be nice lot sizes. He noted that School Board issues have been addressed. He felt that this development is where it should be and "protects the rural areas of the County".

Mr. Moore moved, seconded by Mr. Pyles, that the Board adopt the following ordinance, with proffers:

Consider a request to rezone from General Agriculture to Single Family Residential with proffers approximately 18.4 acres owned by Community Fellowship Church of the Nazarene located on the south side of the intersection of Long Meadow Road (Route 608) and Kiddsville Road (Route 796) in Fishersville (Wayne District).

AN ORDINANCE to amend Chapter 25 "Zoning" of the Code of Augusta County, Virginia.

WHEREAS, application has been made to the Board of Supervisors to amend the Augusta County Zoning Maps,

WHEREAS, the Augusta County Planning Commission, after a public hearing, has made their recommendation to the Board of Supervisors,

WHEREAS, the Board of Supervisors has conducted a public hearing,

WHEREAS, both the Commission and Board public hearings have been properly advertised and all public notice as required by the Zoning Ordinance and the Code of Virginia properly completed,

WHEREAS, the Board of Supervisors has considered the application, the Planning Commission recommendation and the comments presented at the public hearing;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Supervisors that the Augusta County Zoning Maps be amended as follows:

Parcel number **67** on tax map number **45F** containing approximately 18.4 acres is changed from General Agriculture to Single Family Residential with the following proffers:

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COMMUNITY FELLOWSHIP CHURCH OF THE NAZARENE – REZONING (cont'd)

1. There will be no more than 30 single family dwellings built on the property.
2. The minimum square footage for the single family detached dwellings will be 1800 square feet, not including any finished area in the basement. A minimum of 1200 square feet must be on the first floor.
3. The developer will dedicate to VDOT sufficient right-of-way to total 35' of r-o-w from the existing centerline of Kiddsville Road (Rt. 796) and Long Meadow Road (Route 608).
4. Access will be limited to a single access off Kiddsville Road and no access on to Long Meadow Road. The road and lot layout will be in general conformance with the plans shown in Exhibit A.
5. All development on the property will utilize public water and sewer and no request will be made for any waivers of that requirement.

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

                                     Nays: None

                                     Abstained: Wells

Motion carried.

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FLOODPLAIN OVERLAY ZONING DISTRICT - ORDINANCE

This being the day and time advertised to consider an ordinance amending the Zoning Ordinance of Augusta County Related to the Floodplain overlay Zoning District and adopting new floodplain maps for the Sherando/Lyndhurst Area. This ordinance amends Article XLVII, Floodplain Overlay Districts by codifying administrative responsibilities with respect to the District, including the appointment of a Floodplain Administrator, citing statutory authority, adding Abrogation and Severability clauses, amending and adding selected definitions, codifying existing standards currently enforced through reference to the Virginia Uniform Statewide Building Code and the National Flood Insurance Program, clarifying the determination of "fair market value", and making miscellaneous administrative changes. The ordinance will also adopt new Flood Insurance Rate Maps (FIRMs) for the Sherando/Lyndhurst area which will add approximately 456 acres to, and remove approximately 440 acres from, the Floodplain Overlay Zoning District in the Back Creek area of Augusta County. The Planning Commission recommended approval, with the "Administration" being deleted from the Ordinance.

Doug Wolfe, County Engineer, provided a presentation with the following high-lights:

**Floodplain Ordinance**

- Floodplain Recent History
- Back Creek Flood Study
- Quick review of current ordinance
- Proposed amendments

**History - Why the 2011 Revision?**

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### FLOODPLAIN OVERLAY ZONING DISTRICT – ORDINANCE (cont'd)

- Flood Hazard study of Back Creek was performed in 1974
  - Reasonably accurate for the time, no glaring discrepancies
  - Served as the basis for 1990 Flood Insurance Rate Map (FIRM)
    - Errors in translation of the elevations
- FEMA Map Modernization – DFIRM 2007
- Field surveys identified significant differences between existing land elevations and floodplain elevations of the 2007 DFIRM
  - County reverted to using 1974 elevations rather than the published 2007 & 1990 elevations

Mr. Wolfe noted on a map that the published Base Flood Elevation (BFE) on Back Creek Lane (south of Sherando) was 1588 feet; the Ground Elevation was 1552; therefore, the elevations were saying the flood would have been 36 feet deep. That was not possible in that particular area. FEMA corrected that and provided a new version in 2011 (revised map displayed).

#### **History – 2011 New Maps to Correct Elevations**

- County asked FEMA to research and correct the error
- FEMA applied 1974 flood elevations to newer topography
- Maps provided to county in 2010
- No appeals period was provided since there was no new data

#### **History – 2011 Public Questions Accuracy**

- Public questioned accuracy during process of adopting maps
  - Several speakers at Public Hearings
- County adopted maps to avoid loss of flood insurance countywide
- Current floodplain maps were effective July 18, 2011

#### **Preliminary to Effective FIRMs**

- Board of Supervisors authorized funding for a flood study to identify problems with the newly adopted maps
- Grants were available from FEMA (\$50,00), Department of Recreation (\$8,500)
- Timeline:
  - February 28, 2014 – FEMA preliminary maps
  - May 20, 2014 – CCO Meeting
  - 30-day Comment Period
  - 90-day Appeal Period
  - February 3, 2015- August 3, 2015 – 6 months to adopt new maps

#### **Back Creek Floodplain Study**

(Map displayed)

New Detailed Engineering Analysis – Augusta County

- Back Creek

New Approximate Engineering Analysis - FEMA

- Back Creek (Upstream Section)
- Mills Creek

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**FLOODPLAIN OVERLAY ZONING DISTRICT – ORDINANCE** (cont'd)

- Orebank Creek
- Toms Branch
- North Fork Back Creek
- South Fork Back Creek

Mr. Wolfe explained that FEMA used the detailed elevation data and the study that had been commissioned and expanded on the main trunk of Back Creek and other areas.

**Study Results**

- County reviewed mapping at the locations cited by citizens during public meetings (Pulled minutes of the public hearings and compared to new floodplain that had been delineated.)
- New model appears to agree with anecdotal evidence provided

Mr. Wolfe showed examples where the new floodplain study was found to have accurately corrected issues identified during the public hearings (2011-2014).

He noted that the current ordinance prohibits development in the flood plain with three exceptions:

Exception A:

- Lot created prior to 12/1/10, and
- No portion of lot outside floodplain is greater than 9,000 square feet.

Exception B:

- Uses typically located in floodplain, such as sewage treatment plants, flood control structures, picnic structures, docks, mills, etc.

Exception C:

Public street or driveway where:

- No other reasonable access exists
- Created for connectivity purposes

He added that if the development qualifies for one of the three above-mentioned exceptions, the proposed developer will submit a Sketch Plan (owner drawn) to show the location of development and distance to property lines. Staff will look at the Sketch Plan to determine whether there would be any chance that it would be in the Floodplain. If no, it continues on with the Normal Permitting Process (Site Plan, Building Permit, etc.). If there is a possibility of it being in the Floodplain, then a Floodplain Development Plan will be requested by an engineer/surveyor. If that Plan determine is it not in the Floodplain, then it will continue with the normal process; if it is in the Floodplain, they will have to meet the requirements set forth in § 25-475C of the Ordinance.

**Proposed Amendments**

- No new provisions
- Updated map references
- Added required definitions
- Reorganized some sections

Mr. Wolfe explained that § 25-475C of the Ordinance – “Floodplain regulations allow area below the lowest floor to be used for parking access and storage if it is in the floodplain.”

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### FLOODPLAIN OVERLAY ZONING DISTRICT – ORDINANCE (cont'd)

He said that had always been a requirement and in the Building Code and in the Federal Code of Federal Regulations but has not been specifically defined in the County Code. It was put in the County Code for clarity so that when it is read it is better understood as to what is needed to be done for development in that particular area.

#### **Proposed Amendments (cont'd)**

- Advertised version included section titled “Administration”
  - Adapted from State model ordinance
  - Review version sent to FEMA did not include this section
  - Since FEMA did not require, recommend “Administration” not be included in the ordinance, but rather is more of a job description

#### **Notification Letters**

- 4 Separate Letters
  - Lot with areas added or changed in FPO district (134 Parcels)
  - Lot with areas added, changed and portions removed from FPO district (193 Parcels)
  - Lots with areas removed from district (47 Parcels)
  - Lots adjacent to lots added or changed, or added, changed and portions removed (726 Parcels)
    - Many also received one of the first three letters

The Chairman declared the public hearing open.

George Vogel, a property owner of approximately 165 acres in Back Creek, expressed his concern with the amount of acreage that was put in the flood zone that was not previously done. In 2011, approximately 10 acres was included in the flood zone. He was not concerned with that because that land was useless. At that time, he was aware of residents in that particular area (opposite side of Mt. Torrey Road) who felt that their land should not be included in the flood plain. He did not begrudge the people of having the ability of not having to have flood insurance, but he was not given the same opportunity. When the 2014 study occurred, 456 acres were added to the Floodplain and 440 acres was removed. Another six acres of flat pastureland (that could be subject to development at some point), which has road frontage on Howardsville Turnpike on his property, was added to the Floodplain. He submitted an appeal in accordance with correspondence from Augusta County to Augusta County, which then went to FEMA. It was rejected because FEMA said he had not submitted “scientific evidence”. He gave a history of this land and noted a wet-weather creek that runs through his property. When there is any flooding, that creek will fill up. He submitted a map of that area to Mr. Wolfe and FEMA and asked if there was any way that the six acres could be removed from the Floodplain. He thanked Mr. Wolfe for his assistance and asked the Board if there was any way that another request could be made to remove the six acres from the Floodplain.

Wanda Madison, of Mt. Torrey Road, was notified that her land was in the Floodplain and asked if it could be removed because there was never any flooding on her property.

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

Mr. Wolfe stated that one to two feet of Ms. Madison’s property boundary is in the Floodplain. That did not mean she would have to purchase flood insurance. The home site and the elevation of the home, with respect to the flood elevation, is what requires the purchase of flood insurance. The County GIS maps are not “survey accurate”; it could be five feet in or totally out of the Floodplain. He applied a five-foot buffer to “over-notify” just for assurance that anyone who could possibly be in the Floodplain



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FLOODPLAIN OVERLAY ZONING DISTRICT – ORDINANCE (cont'd)

would be notified. Ms. Bragg asked how Ms. Madison could find out if her property was in the Floodplain. After looking at the map, Mr. Wolfe determined that she could submit a Letter of Determination stating that her home site is not in the Floodplain on August 4<sup>th</sup> and request that it be removed from the Floodplain.

Mr. Wolfe displayed a map of Mr. Vogel's property to address his concerns mentioned tonight. Mr. Vogel had stated tonight that he was not afforded an opportunity to describe his issue of flooding. Mr. Wolfe stated that when he displayed the slides tonight describing areas where people had stated that it did not flood in those areas, those slides were not used to develop the study. Those sites were used for post study validation. After the flood study was gotten back from the engineers and FEMA, and new maps were given, then it was compared to what people had complained about at the public hearing. That was basically used for verification that what the people had complained about was accurate. The anecdotal evidence was not used to create, or draft, the flood study. Mr. Vogel had stated that there were two studies in two years. There were not two studies; FEMA took 1974 elevations, which were based on rough topography on the scale of 10-foot or 20-foot contour intervals and they had developed a flood study based on that information. Those elevations were then applied to newer topography in 2010-2011. It really was not a study; it was just taking old elevations and putting them on a new map. That is what caused the real issue. It was taking less precise information and putting it on a precise surface. It did not work as well as FEMA had hoped that it would. Mr. Wolfe displayed the two base flood elevations that Mr. Vogel spoke about, which is the "main finger of Back Creek". In looking closely at the map, it was determined that it was the main stream channel and it falls off more steeply whereas other land is very flat. "What that tells you is that the flooding is very shallow. When you are in a very shallow flooding area, the lateral extent in a very flat area can vary significantly." He did not think there was anything on this map that would justify any change in the Floodplain. That is what FEMA also concluded.

Mr. Moore asked if the Board had the authority to adjust the boundaries. Mr. Wolfe said that they were restricted because of the deadline being August. This could be revisited and warrant a restudy, which would be a 12-15 month process. Ms. Bragg asked if anything could be done after tonight's approval. Mr. Wolfe said that the County could submit a detailed study to FEMA, after the adoption of the maps, and have them approve it and they would officially change the map. Technical data can be submitted any time on any Floodplain in the County to FEMA and request that they revisit it. This is not always done. What FEMA has done is issue a "Map of Amendment" stating that that a structure is not in the Floodplain. You can also submit a Detailed Study but FEMA may not change the map even if they agree with the study, but they would issue a "Letter of Map Revision" which would be a "flag" on the map noting a revision. Ms. Bragg asked if this needed to be adopted tonight.

Timmy Fitzgerald, Director of Community Development, pointed out that these studies are costly. "It is doable, but substantial dollars involved and substantial time."

Patrick J. Coffield, County Administrator, said this is done countywide. "Usually when a structure is planned to be built, one can get a Letter of Map Amendment."

Mr. Fitzgerald added that Map Amendments have been created many times for specific structures to show the base elevation of flood and elevation of the structure. This is passed on to FEMA for determination. Individuals usually get private engineers to provide this information.

Mr. Vogel did not see a problem unless he chose to build something on the property.

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FLOODPLAIN OVERLAY ZONING DISTRICT – ORDINANCE (cont'd)

Ms. Bragg understood the concerns mentioned tonight but felt that the County “is trying to get things right and made an honest effort to get it right”.

Ms. Bragg moved, seconded by Mr. Pyles, that the Board adopt the following ordinance:

Mr. Moore suggested tabling this item for two weeks to determine if there is something that can be discussed with FEMA to make an adjustment to what Mr. Vogel would consider acceptable.

Mr. Wolfe said some time has been built into the schedule. It has to be approved in sufficient time to send the final adopted ordinance to FEMA for their review and approval. He added that the information that has been discussed tonight was presented to FEMA during the official 90-day appeals period when a change could have been made. No new information has been discussed tonight. FEMA evaluated that information and determined there was no justification for a change of what had been published as the preliminary map in February 2014. He did not believe FEMA would make any changes.

Mr. Pyles reminded the Board that a motion has been made.

Mr. Vogel said he did not think FEMA considered his four-page document of historical data. “They merely objected it. ‘This is not a valid appeal because you don’t have scientific evidence.’”

Mr. Pyles advised that when two studies were mentioned, one was modeling. When the people came and talked about the modeling and whatever everyone had experienced, the Board decided to pay for a study in an amount of \$100,000 to look at things individually. He felt that doing a new study would be quite costly. “We’ve done the best we can do scientifically to say ‘this is where it is’. We want it to be right, not just for Mr. Vogel, but for the person who buys the property later on. There is a study that says it is in the Floodplain and then we exempt it and then when somebody buys it and then it floods. You had the study and then you did something else? You haven’t been here during floods and all the people show up and says they did know it was in a Floodplain and needed FEMA money. There is a lot of money that goes into this. There is a reason that FEMA cares about getting this right. We have reason for getting it right for the folks that live there and the folks who may move there. Mr. Vogel suggested that it would cost a lot of money to fight it. It will cost us a lot of money to fight it! We have technical data that says this is where it should be. Is it 100% right? I don’t know. If Mr. Vogel wants to fight it, it ought to be to him because we did the best we could do here. We need to go ahead and approve this and if something else needs to come up, they need to bring it up. We did \$100,000 and we bent over backwards to be fair with these folks and I think we got it right. When you see what Mr. Wolfe put up it accorded with what the people were saying were true. That makes me feel good—that we got it that aligns with what they had historically noted and what we technically noted to be the Floodplain. I don’t know what we can learn in two weeks. You can’t get FEMA to return a phone call in two weeks. They are not going to change this in two weeks. We should go ahead and approve it and if things need to be changed, as all things can be changed, it comes back to be changed. Right now we’re working with the best information that is available and I don’t want to spend another \$100,000 looking at it again.”

Chairman Shull added that in 2011 FEMA expanded all of the streams. “There are other areas in the County that are like this.”

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**FLOODPLAIN OVERLAY ZONING DISTRICT – ORDINANCE** (cont'd)

**AN ORDINANCE TO REPEAL AND REPLACE  
THE FLOODPLAIN ORDINANCE**

WHEREAS, the Federal Emergency Management Agency (FEMA) has amended its floodplain maps in and for the County of Augusta; and

WHEREAS, the Floodplain Insurance Program is only available if the County adopts certain requirements for the floodplain districts, as established by the FEMA floodplain maps; and

WHEREAS, it is the desire of the Augusta County Board of Supervisors that floodplain insurance be available to residents of the County;

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that amendments to Section 25-471, Section 25-472, Section 25-473, Section 25-475, Section 25-477, and Section 25-478 are adopted and enacted to read as follows:

**CHAPTER 25. ZONING**

**DIVISION H. OVERLAY DISTRICTS**

**Article XLVII. Floodplain Overlay (FPO) Districts**

- § 25-471. Authority and Purposes, applicability, liability, abrogation and greater restrictions, severability and penalties.
- § 25-472. Definitions.
- § 25-473. Floodplain Overlay Districts.
- § 25-474. Development prohibited in Floodplain Overlay Districts.
- § 25-474.1. New lots prohibited in Floodplain Overlay Districts.
- § 25-475. Development in or near Floodplain Overlay Districts.
- § 25-476. Other prohibited structures and uses in Floodplain Overlay Districts.
- § 25-477. Existing structures in Floodplain Overlay Districts.
- § 25-478. Limitations on variances in Floodplain Overlay Districts.

**CHAPTER 25. ZONING.**

**DIVISION H. OVERLAY DISTRICTS.**

**Article XLVII. Floodplain Overlay (FPO) Districts.**

**§ 25-471. Authority, Purposes, applicability, liability, abrogation and greater restrictions, severability, and penalties.**

A. Authority and Purposes. This ordinance is adopted pursuant to the authority granted to localities by Va. Code §15.2-2280. The purpose of the Floodplain Overlay District is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, the impairment of the tax base, and to qualify Augusta County properties for the National Flood Insurance Program by:

1. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
2. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
3. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be flood proofed against flooding and flood damage.
4. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

B. Applicability. This article shall apply to all lands within the County of Augusta which are identified as being in the Floodplain Overlay Districts as established in § 25-473 of this article. (Ord. 07/15/11; 09/13/11)

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C. Compliance and liability.

1. No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered in the Floodplain Overlay Districts as established in this article except in full compliance with the terms and provisions of this article and any other applicable laws and regulations.

2. The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This does not imply that areas outside the floodplain districts or that land uses permitted within such districts will be free from flooding or flood damages.

3. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator who is hereby appointed the Floodplain Administrator.

4. This article shall not create liability on the part of the County of Augusta or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

D. Abrogation and Greater Restrictions. To the extent that the provisions are more restrictive, this article supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

E. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

F. Penalty for violations. Any person who fails to comply with any of the requirements or provisions of this article or directions of the Floodplain Administrator shall be subject to the penalties listed in division J of this chapter.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the county to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

**§25-472. Definitions**

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Article. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used; the word "person" shall include person, firm, corporation; the word "shall" is mandatory and not advisory; the word "approve" shall mean disapprove when appropriate.

Base Flood (One Hundred Year Flood). A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent (1%) chance of being equaled or exceeded in any given year).

Base Flood Elevation (BFE). The Federal Emergency Management Agency designated 100 year water surface elevation, (i.e., the elevation of the water surface during the anticipated base flood).

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Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

Channelization. The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Development. For purposes of this article only, the term "development" shall have the following meaning: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, picnic structures, docks, decks or other recreational items, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Dredging. A method for deepening streams, swamps or coastal waters by removing solids from the bottom.

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. (Ord. 9/26/07, eff. 9/28/07)

Fair market value. The price of a building or land that would be agreed upon voluntarily in fair negotiations between a knowledgeable owner willing, but not forced, to sell and a knowledgeable buyer willing, but not forced, to buy. For the purposes of this Article, the price shall be that value assigned to the improvement by the county at the date of the last assessment for tax purposes, or in the case of Manufactured Homes, the value assigned by the county for the purpose of personal property taxation.

Flood or flooding.

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters.
- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition. (Ord. 5/17/90)

Flood, base flood elevation. See "Base flood elevation"

Flood fringe area. That area of the floodplain not included in the floodway. (5/17/90)

Flood insurance rate map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any flooding source. (5/17/90)

Floodproofing. A combination of structural provisions and changes or adjustments to properties and structures subject to flooding for the

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reduction or elimination of flood damage to properties, water and sanitary facilities, and other utilities, structures, and the contents of buildings.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1') at any point. (5/17/90)

Historic structure. Any structure that is (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register of Historic Places; (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (a) by an approved state program as determined by the Secretary of the Interior, or (b) directly by the Secretary of the Interior in states without approved programs. (Ord. 9/26/07, eff. 9/28/07)

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the code of Federal Regulations, 44 CFR §60.3.

Manufactured home. A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision. For the purposes of this Article only, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

National flood insurance program. A federal program that provides for flood insurance.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after May 17, 1990 and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (Ord. 9/26/07, eff. 9/28/07)

One hundred year flood. See "Base Flood".

Recreational vehicle. For the purposes of this article only, a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet (400 sq. ft.) or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Augusta County Code 1969, § 25-115Q; Ord. 9/26/07, eff. 9/28/07

Special flood hazard area. The land in the floodplain subject to the Base Flood as determined in Section 473 of this Chapter.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction,

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rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Ord. 9/26/07, eff. 9/28/07)

Structure. For the purposes of this article only, the term "structure" shall have the following meaning, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically.

Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 9/26/07, eff. 9/28/07)

#### **§ 25-473. Floodplain Overlay Districts.**

A. Basis of Floodplain Overlay Districts. Floodplain Overlay Districts shall include areas subject to inundation by waters of a one hundred (100) year flood. The basis for the delineation of these districts shall be the Augusta County Floodpool Maps and the Flood Insurance Study and associated FIRM for the County of Augusta prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007 and with the following revision dates for specific map panels: Panel 51015C0339E dated January 6, 2010, Panel 51015C0539F dated August 3, 2015, Panel 51015C0541F dated August 3, 2015, Panel 51015C0543F dated August 3, 2015, Panel 51015C0645E dated August 3, 2015, Panel 51015C0652F dated August 3, 2015, Panel 51015C0654F dated August 3, 2015, Panel 51015C0655E dated August 3, 2015, Panel 51015C0660E dated August 3, 2015, and Panel 51015C0665E dated August 3, 2015, and any subsequent revisions or amendments thereto. Floodplain Overlay Districts include areas identified as Floodway Districts, Flood-Fringe and Approximated Floodplain Districts. (Ords. 9/26/07, eff. 9/28/07; 07/15/2011)

1. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one foot (1') at any point. Such areas are shown as Zone AE with Floodway on the FIRMs accompanying the Flood Insurance Study. The areas included in this District are specifically defined in Table 4 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

2. The Flood-Fringe District shall be that area of the one hundred (100) year floodplain not included in the Floodway District. Such areas are shown as Zone AE on the FIRMs accompanying the Flood Insurance Study. The basis for the outermost boundary of the District

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shall be the one hundred (100) year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map.

3. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year floodplain boundary has been approximated. Such areas are shown as Zone A on the FIRMs accompanying the Flood Insurance Study. For these areas, the one hundred (100) year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood- Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the County of Augusta. Where detailed analysis is required in accordance with § 25-475.C.5.d of this article, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one hundred (100) year flood elevation more than one foot (1') at any one (1) point. The engineering principle, equal reduction of conveyance shall be used to make the determination of increased flood height. Within the floodway area delineated by the applicant, the provisions of § 25-475.C.7 shall apply.

4. The Floodpool District shall be that area upstream of publicly owned or maintained flood control or water supply structures that are at or below the elevation of the top of the dam, i.e., the area that will be inundated when the structure is completely full. For the purposes of this district, the BFE shall be defined as the elevation of the top of the dam.

B. Official map. The boundaries of the Floodplain Overlay Districts are established as shown on the Augusta County Floodpool Maps and the Flood Insurance Rate Map (FIRM) for Augusta County, Virginia, which is declared to be a part of this ordinance and which shall be kept on file in the offices of the Department of Community Development. (Code of Augusta County 1969, § 25-115R)

C. District boundary changes. The boundaries of any of the Floodplain Overlay Districts may be revised by the County Engineer, as agent for the board of supervisors, where natural or man-made changes have occurred, where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. No such change shall take effect until approval is obtained from the Federal Emergency Management Agency.

D. Interpretation of district boundaries. Initial interpretations of the boundaries of the Floodplain Overlay Districts shall be made by the Floodplain Administrator with the advice and assistance of the County Engineer. Should a dispute arise concerning the boundaries of any district, the board of zoning appeals shall make the necessary determination upon appeal as provided by law. The party appealing the decision shall be given a reasonable opportunity to present his case to the board of zoning appeals and to submit his own technical evidence, if any.

E. Submission of technical data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The Floodplain Administrator may submit data via a LOMR.

**§ 25-474. Development prohibited in Floodplain Overlay Districts.**

Development, as defined in § 25-472 of this article, is prohibited in Floodplain Overlay Districts in Augusta County unless one (1) or more of the following exceptions applies:

A. Exception A. The lot or parcel on which the development is to occur meets all of the following criteria:



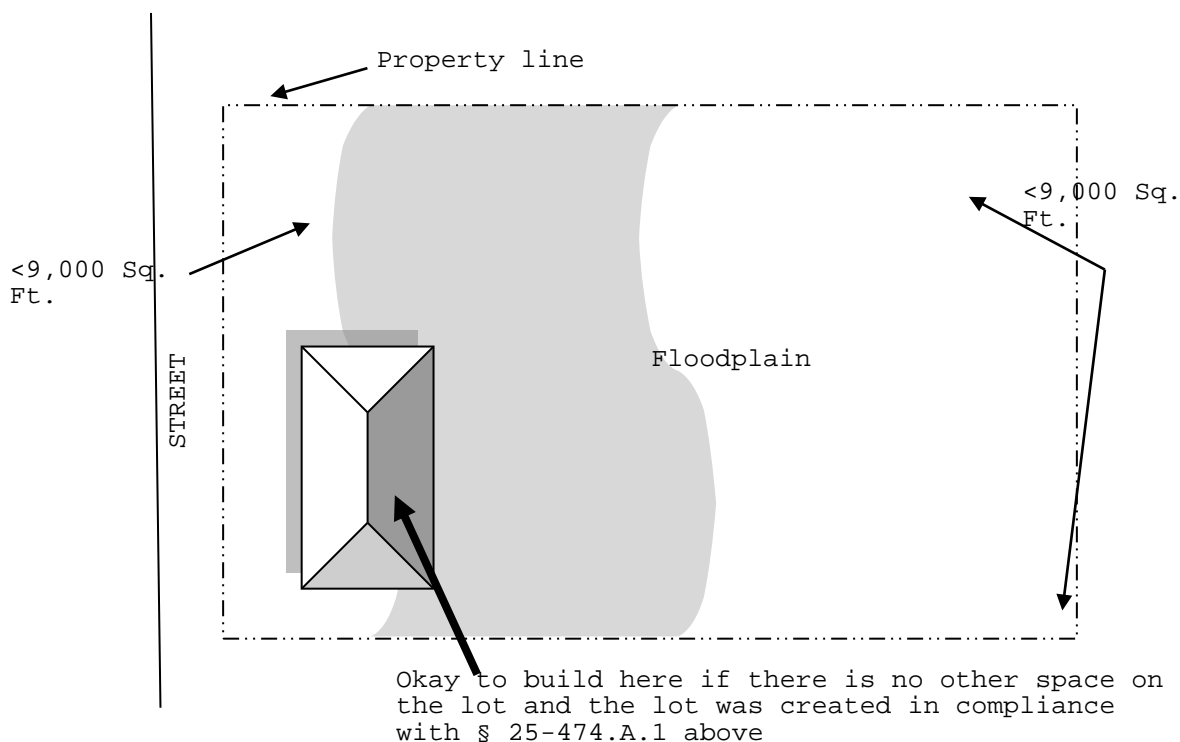
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1. The lot or parcel was created prior to January 1, 2010 or was lawfully created after January 1, 2010 and found to be in the floodplain by subsequent amendment to floodplain maps listed in §25-473. For the purposes of this section, when a lot is subdivided, all of the lots, including any residue, are deemed to have been created as of the date of recordation of the plat creating such lots. (Ord. 07/15/11)

2. No portion of the lot or parcel lying outside the Floodplain Overlay District either:  
a. contains at least nine thousand square feet (9,000 sq. ft.) or,

b. if less than nine thousand square feet (9,000 sq. ft.), is otherwise appropriate for the proposed development which is permitted by the regulations of the underlying zoning classification, and

3. The requirements of § 25-475 of this article are met.



B. Exception B. The development is one (1) which by its nature is normally and customarily located within a floodplain, including, but not necessarily limited to, sewage treatment plants, flood control structures, stream restoration projects, picnic structures, docks, decks or other recreational items and mills, and the requirements of § 25-475 of this article are met.

C. Exception C. The purpose of the development is to provide or improve either (a) a public street constructed by the Commonwealth of Virginia, or a political subdivision of the Commonwealth, or (b) a public or private street or driveway providing access to property where:

1. No other reasonable access exists, or
2. Connectivity of the street system is being provided in accordance with the county and/or state requirements, and
3. The requirements of §25-475 of this article are met.

Development permitted under this exception shall be undertaken in such a manner to impact as little floodplain as possible when considering any site specific restraints and shall be done in accordance with the requirements set forth in §25-475 below and all other sections of this Article.

**§25-474.1. New lots prohibited in Floodplain Overlay Districts.**

A. No new lots shall be created in Floodplain Overlay Districts in

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Augusta County unless a buildable area is clearly identified on the subdivision plat or the provisions of paragraph B have been met.

B. A lot which does not have a buildable area lying outside of the district may be created if the lot is otherwise appropriate for the proposed development which is permitted by the regulations of the underlying zoning classification and this article.

1. The following language shall appear on the plat creating such a lot "Lot \_\_\_\_\_, as depicted on this plat, does not contain sufficient land area outside of the floodplain for development."

2. The following language shall appear on any deed transferring ownership of such lot: "The lot conveyed by this deed has been identified as being in the floodplain. Development on this lot may only be allowed if the requirements of §25-474 B or C of the Augusta County Code are met."

(Ord. 09/13/11)

**§ 25-475. Development in or near Floodplain Overlay Districts.**

If development is permitted under one (1) of the exceptions provided in §25-474 or §25-474.1 above, the following submittal and approval process is required.

A. Step One, determination of whether an application for development shall include certain additional information.

1. All applications for a Land Disturbing Permit or a Building Permit are required to submit a "sketch plan" showing the location of the proposed development, including any access roadways in relation to the floodplain. The sketch plan will be examined by the Floodplain Administrator to determine if the proposed development may be in a Floodplain Overlay District.

2. If determined that no part of the proposed development will be in any Floodplain Overlay District, the permit for the development may be issued, provided the development otherwise qualifies for the permit under the applicable provisions of the County Code.

3. If determined that all or part of the proposed development may be in a Floodplain Overlay District, the applicant shall be required to supply the information required by "Step Two" in §25-475 subparagraph B below, unless a waiver is obtained as provided by item 4 below.

4. Where permitted in item 3 above, the required additional information under subparagraph B below may be waived by the consent of the Floodplain Administrator, with the advice and assistance of the County Engineer, if he is satisfied that there is no way any portion of the proposed development will be within the Floodplain Overlay District.  
(Ord. 9/13/11)

B. Step Two, determination of applicability of district regulations.

1. If the property is confirmed to be in the Floodplain Overlay District through "Step One" (§25-475 A) above, the applicant shall file a floodplain development plan prepared and sealed by a professional engineer or land surveyor showing:

- a. The proposed development including any access roadways,
- b. Existing and proposed contours at one foot (1') intervals,
- c. The elevation of the one hundred (100) year flood, both before and after the proposed development, and
- d. Applicable district setbacks (Ord. 09/13/11)

2. If the floodplain development plan shows that no portion of the proposed development will be in the Floodplain Overlay District, then the permit for the development may be issued, provided the development otherwise qualifies for the permit under the applicable provisions of the County Code.

3. If the floodplain development plan shows that all or part of the proposed development will be in the Floodplain Overlay

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District, the permit for development may be issued provided the development otherwise qualifies for the permit under the applicable provisions of the County Code, and further provided that the lot or parcel qualifies for exemption under § 25-474 or §25-474.1 of this article, and the requirements of "Step Three" under § 25-475 subparagraph C below are met.

C. Step Three, requirements before development allowed within Floodplain Overlay District.

If the development meets the requirements of § 25-474 or §25-474.1 of this chapter and is determined to be within the Floodplain Overlay District by § 25-475 A & B, a zoning permit may be issued subject to the following requirements

1. Permit and Application Requirement.

a. All uses, activities, and development occurring within any Floodplain Overlay District shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Augusta County Subdivision Regulations.

Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws, and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

b. Site plans and permit applications. All applications for development in the floodplain overlay district and all building permits issued for the floodplain shall be accompanied by a floodplain development plan and elevation certificate prepared and sealed by a professional engineer or land surveyor showing the following information:

- (1) All existing and proposed structures,
- (2) For structures to be elevated, the elevation of the lowest floor, including basement,
- (3) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed, and documentation demonstrating strict adherence to the flood-proofing requirements of the Virginia Uniform Statewide Building Code,
- (4) The elevation of the one hundred (100) year flood, both before and after development,
- (5) Topographic information showing existing and proposed ground elevations at one foot (1') intervals, and
- (6) The location of the cross-sections shown in the floodplain analysis from the Flood Insurance Study.

2. General Standards. The following provisions shall apply to all permits:

a. New construction and substantial improvements shall be built according to this Article and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure,

b. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage,

c. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage,

d. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding,

e. On-site waste disposal systems shall be located and

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constructed to avoid impairment to them or contamination from them during flooding,

In addition to provisions a-e above, in all special flood hazard areas, the additional provisions shall apply:

f. Prior to any proposed alteration or relocation of any channels or of any watercourse or stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality; and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations),

Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.

g. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

3. Elevation and Construction Standards. In all identified flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated by a certified professional in accordance with section 6.d. below, the following provisions shall apply:

a. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus one (1) foot.

b. Non-Residential Construction

(1) New construction or substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated to or above the base flood level plus one (1) foot.

(2) Non-residential buildings located in all AE zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus two feet are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.

c. Space Below the Lowest Floor. In zones A and AE, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

(1) Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator),

(2) be constructed entirely of flood resistant materials below the regulatory flood protection elevation,

(3) include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding,

ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding,

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iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit,

iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade,

v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions,

vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above,

d. Manufactured homes. All manufactured homes placed or substantially improved, on individual lots or parcels, in existing or in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must be designed such that:

(1) The lowest floor of the manufactured home is elevated no lower than one foot (1') above the base flood elevation,

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade, and

(3) The manufactured home is securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.

#### 4. Infrastructure and Utilities.

a. Sanitary sewer. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they shall be located and constructed to minimize or eliminate flood damage and impairment.

b. Water facilities. All new or replacement water facilities shall be designed and constructed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

c. All other utility lines, such as gas lines, electrical and telephone systems, being placed in flood-prone areas shall be located, elevated, or constructed to minimize the chance of impairment during a flooding occurrence.

d. Streets and sidewalks. Streets and sidewalks shall be designed and constructed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

e. Stormwater management facilities. Construction of stormwater management facilities within any Floodplain Overlay District shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations of this Article and Chapter 9 of the Augusta County Code. These stormwater management facilities shall be designed and located, to the extent practical, to provide an unrestricted release up to at least the 25-year flood elevation of the receiving waterway.

#### 5. Subdivision proposals.

a. All subdivision proposals shall be consistent with

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the need to minimize flood damage,

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage,

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

d. Where no base flood information is provided in the Flood Insurance Study, base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

6. Compensatory Storage required. When development is permitted in any floodplain overlay district and the development involves construction below the base flood elevation, placement of fill or otherwise reduces flood storage, compensatory storage shall be provided at a hydraulically equivalent site, either on the same parcel, or on an immediately adjacent parcel, which may be under the same or different ownership. When provided on an adjacent parcel, either under the same or different ownership, an easement shall be provided.

7. Development in floodways. Within a Floodway, no encroachments, including fill, new construction, substantial improvements, or other development or use shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the base flood elevation, and no buildings are permitted within the limits of the floodway. Hydrologic and hydraulic analysis shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analysis, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

8. Development in flood fringe (AE Zone) and approximated floodplain (A Zone) areas. Within flood fringe and approximated floodplain areas, development and use of land shall be permitted in accordance with the regulations of the underlying district provided that all such development and use shall be undertaken in strict compliance with the elevation, floodproofing and related provisions contained in the current edition of the Virginia Uniform Statewide Building Code, this Article and all other applicable codes and ordinances.

9. Development in floodpool areas: Within floodpool areas, development and use of land shall be permitted in accordance with the regulations of the underlying district provided that all such development and use shall be undertaken in strict compliance with the elevation, floodproofing and related provisions contained in the current edition of the Virginia Uniform Statewide Building Code, this Article, and all other applicable codes and ordinances. The Base Flood Elevation used in applying these codes and ordinances shall be the Base Flood Elevation established for the floodpool area.

(Ord. 09/13/11)

**§ 25-476. Other prohibited structures and uses in Floodplain Overlay Districts.**

The following structures and uses are prohibited in Floodplain Overlay Districts:

A. Landfills, junkyards, outdoor storage of vehicles or materials.

B. The keeping of recreational vehicles which are not fully licensed and ready for highway use, or the keeping of any recreational vehicle for a period of more than 180 days.

C. Utility sheds and other similar structures, whether or not requiring a building permit, unless properly anchored as provided in subsection E below.

D. Damming or relocation of any watercourse that will result in any downstream increase in flood levels during the base flood.

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E. The construction, placement or storage of any object subject to flotation or movement during flooding. Such objects may be constructed, placed or stored if properly anchored in accordance with a plan prepared by a professional engineer and approved by the County Engineer.

**§ 25-477. Existing structures in Floodplain Overlay Districts.**

A structure or use of a structure or premises which lawfully existed before the enactment of the Floodplain Overlay District provisions, but which is not in conformity with such provisions, may be continued subject to the following conditions:

A. An existing structure, development or other use located in the Floodplain Overlay District shall not be expanded or enlarged unless the adverse effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a development or use located in any Floodplain Overlay District to an extent or amount of less than fifty percent (50%) of its fair market value shall be elevated or flood proofed to the greatest extent possible.

C. The repair or reconstruction of a structure which suffers substantial damage, or the substantial improvement of any structure, shall require full compliance of the entire structure with the provisions of the Virginia Uniform Statewide Building Code and the National Flood Insurance Program, as applicable.

D. The modification, alteration, repair, reconstruction, or improvement of any kind to a development or use, regardless of its location in a Floodplain Overlay District, to an extent or amount of fifty percent (50%) or more of its fair market value shall be undertaken only if the entire development or use is brought into full compliance with the provisions of § 25-475 of this ordinance, and the Virginia Uniform Statewide Building Code.

E. The modification, alteration, repair, reconstruction, or improvement of any kind to a development or use, regardless of its location in a Floodplain Overlay District, to an extent or amount of seventy-five percent (75%) or more of its fair market value may not be undertaken within the Floodplain Overlay District if there is sufficient area within the lot or parcel to reconstruct or remove the development to an area outside the Floodplain Overlay District. If there is insufficient area to move the development outside the Floodplain Overlay District, then the modification, alteration, repair, reconstruction, or improvement may be undertaken within the Floodplain Overlay District only if the steps specified in § 25-475 above are followed and the requirements of that section are met.

**§ 25-478. Limitations on variances in Floodplain Overlay Districts.**

A. In considering applications for variances affecting property within Floodplain Overlay Districts, the board of zoning appeals shall consider the following:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within the Floodway District that will cause any increase in the one hundred (100) year flood elevation.

2. The danger that materials may be swept on to other lands or downstream to the injury of others.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

5. The importance of the services provided by the proposed facility to the community.

6. The requirements of the facility for a waterfront

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location.

7. The availability of alternative locations not subject to flooding for the proposed use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.

10. The safety of access by ordinary and emergency vehicles to the property in time of flood.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

12. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

13. Such other factors which are relevant to the purposes of Article XLVII, "Floodplain Overlay (FPO) Districts," of this chapter.

B. The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

C. Variances shall be issued only after the board of zoning appeals has determined that there is good and sufficient cause and that the granting of such variance will not result in (i) unacceptable or prohibited increases in flood heights, (ii) additional threats to public safety, or (iii) extraordinary public expense, and will not (i) create nuisances, (ii) cause fraud or victimization of the public, or (iii) conflict with local laws or ordinances.

D. Such variance shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.

E. Upon application for such variance, the Floodplain Administrator shall advise the applicant, in writing, that the approval of a variance to construct a structure below the one hundred (100) year flood elevation (a) may increase the risks to life and property and (b) may result in increased premium rates for flood insurance.

F. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of variances. Any such variance which is approved shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Sections 25-479 through 25-480 reserved.

That this ordinance shall become effective at 11:59 PM on August 2, 2015

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

Nays: None

Abstained: Wells

Motion carried.

\* \* \* \* \*

MATTERS TO BE PRESENTED BY THE PUBLIC - NONE

\* \* \* \* \*



May 27, 2015, at 7:00 p.m.

**MILL PLACE COMMERCE PARK – WATER TANK**

Considered resolution to create an Internal TIF Agreement.

Jennifer Whetzel, Director of Finance, advised that this had been discussed at the Staff Briefing on Tuesday. The project is at a cost of \$2.2 million and includes the tank itself and the connection to the Staunton water source. The County borrowed money to finance the project; total TIF Agreement would be \$2.4 million, principal and interest. The County would be reimbursed for the cost of the principal and interest through increased tax revenue to fund the project. The growth area is noted in Exhibit A and the map that was attached in the agenda package. It includes Mill Place Commerce Park, the Augusta Marketplace and some land that is for sale in between. The revenues would be from real property taxes excluding Single Family Residential, Machinery and Tools taxes, Business Personal Property taxes, and Business License Taxes. The Base Year for this project would be January 1, 2014.

Ms. Bragg moved, seconded by Mr. Moore, that the Board adopt the following resolution:

**RESOLUTION OF THE COUNTY OF AUGUSTA, VIRGINIA**

**WHEREAS**, the County entered into a Memorandum of Understanding with the Augusta County Service Authority ("the ACSA MOU") to construct, operate and maintain an elevated water tank ("the Project") in the Mill Place Commerce Park in Augusta County, Virginia; and

**WHEREAS**, the agreed upon contract price to complete the construction of the Project is two million, two hundred thousand, three hundred thirteen dollars and forty one cents (\$2,200,313.41); and

**WHEREAS**, to facilitate the Project, the County will finance two million, four hundred thirty-seven thousand, four hundred fifty nine dollars and forty-six cents (\$2,437,459.46), principal and interest; and

**WHEREAS**, it is anticipated that increased tax revenue generated in the future growth of Mill Place Commerce Park and the surrounding area near Interstate 81, exit 225 (the "Project Area") will be sufficient to fund the debt service for the County's portion of the construction costs; and

**WHEREAS**, it is the desire of the current Board of Supervisors to use the increased revenue to fund the debt service.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF AUGUSTA COUNTY, VIRGINIA** establishes the following policy concerning payment of the debt created to finance its contribution to the Project:

1. The Project Area is defined as shown on attached "Exhibit A."
2. The County Administrator is instructed to designate funds from the tax increment in the Project Area for the payment of the debt service for the Project for each budget year beginning Fiscal year 2014-2015 until such time as the debt has been satisfied.
3. "Tax Increment" shall mean the amount by which all then current ad valorem taxes, real property taxes (excluding single family residential), machinery and tools taxes, business personal property taxes, and business license taxes arising from the levies upon the Project Area and businesses located within the Project Area exceeds the Base Year Taxes.
4. "Base Year Taxes" shall mean all ad valorem taxes, real property taxes, machinery and tools taxes, business personal property taxes, and business license taxes arising from the levies upon the Project Area and businesses located within the Project Area as of January 1, 2014.

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MILL PLACE COMMERCE PARK – WATER TANK (cont'd)

- 5. Nothing in this policy is to be construed as creating a constitutionally cognizable debt. This policy is not to be construed as creating an enforceable duty on the part of the Board of Supervisors to appropriate any funds for the Project.

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

Nays: None

Abstained: Wells

Motion carried.

\* \* \* \* \*

WAIVERS/VARIANCES - NONE

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CONSENT AGENDA

Ms. Bragg moved, seconded by Mr. Moore, that the Board approve the consent agenda as follows:

MINUTES

Approved minutes of the following meetings:

- Regular Meeting, Wednesday, May 13, 2015

Vote was as follows: Yeas: Pattie, Shull, Wills, Moore, Wells, Bragg 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: Thank you for allowing him to participate in the meeting electronically.

Mr. Moore:

1. Welcomed Mr. Wells to the Board. "Look forward to working with you through the rest of our term."
2. School Board Property at Wilson Complex – discussed at Parks and Recreation Commission meeting regarding asbestos issue – Brownfield Grant money available? Mr. Coffield reported that the money came through EPA to DEQ; currently, DEQ does not have any funding available. Proposals are evaluated based on the economic and environmental needs. Vision on reuse, partnerships leveraged resources, incorporated liability and sustainability principles, benefits of reuse and redevelopment and coordination with other HUD, DOT and EPA programs, with a 20% match. He recommended that a Phase II Environmental Assessment be completed; identify the budget; and then have a vision – such as current Social Services or Employment Offices sites be relocated. Mr. Fitzgerald added that the County has an on-call consultant that could provide a proposal for a study.

May 27, 2015, at 7:00 p.m.

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

Mr. Moore moved, seconded by Mr. Pyles, that the Board authorize staff to get a quote for conducting the proposed Phase II Environmental Assessment Study for approval at a future meeting (June 10<sup>th</sup>).

Vote was as follows:       Yeas: Pattie, Shull, Wills, Moore, Wells, Bragg and  
                                                Pyles

Nays: None

Motion carried.

\* \* \*

Mr. Wells:    "It's an honor to be chosen to fill this position. I look forward to working with the Board and Mr. Coffield and members of County staff."

Mr. Pyles:    Welcomed Chief Wells. "I think his background in handling domestic disturbances will serve him well here."

Ms. Bragg:

1. Welcomed Mr. Wells.
2. Thanks to staff for providing a handbook for Senator Kaine's meeting tomorrow.

\* \* \*

VALLEY VASAP – REAPPOINTMENT

Ms. Bragg moved, seconded by Mr. Moore, that the Board reappoint Patrick J. Coffield, to serve another three-year term on the Valley VASAP, to begin July 1, 2015 and expire June 30, 2018.

Vote was as follows:       Yeas: Pattie, Shull, Wills, Moore, Wells, Bragg and  
                                                Pyles

Nays: None

Motion carried.

\* \* \*

AGRICULTURAL & FORESTAL DISTRICT ADVISORY COMMITTEE -  
APPOINTMENT

Ms. Bragg moved, seconded by Mr. Moore, that the Board appoint Ashlie Kiracofe Howell, to serve an unexpired one-year term on the Agricultural & Forestal District Advisory Committee, effective immediately, to expire December 31, 2015.

Vote was as follows:       Yeas: Pattie, Shull, Wills, Moore, Wells, Bragg and  
                                                Pyles

Nays: None

Motion carried.

\* \* \*

May 27, 2015, at 7:00 p.m.

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

Chm. Shull:

- 1. Elk – concerns have been mentioned and asked if staff would review.
- 2. Expressed concerns on News tonight regarding FAA regulations on drones. He felt this could be an evasion of privacy. Mr. Coffield suggested that this be discussed at VACo.

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MATTERS TO BE PRESENTED BY STAFF

Staff discussed the following issues:

- 1. Pledge of Allegiance – end of school – will need some volunteers for the summer – Boy Scouts/Girl Scouts?

\* \* \* \* \*

ADJOURNMENT

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

Vote was as follows:      Yeas: Pattie, Shull, Wills, Moore, Wells, Bragg and Pyles

Nays: None

Motion carried.

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\_\_\_\_\_  
Chairman

\_\_\_\_\_  
County Administrator