

***A MEETING OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS WAS HELD  
DECEMBER 11, 2008 AT 9:30 A.M. IN WARRENTON, VIRGINIA***

P R E S E N T     Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz;  
Mr. Chester W. Stribling; Mr. R. Holder Trumbo; Mr. Paul S. McCulla,  
County Administrator; Mr. Kevin J. Burke, County Attorney

A B S E N T        None

**FAUQUIER COUNTY EMPLOYEE SERVICE AWARDS PROGRAM**

The Board of Supervisors attended the Fauquier County Employee Service Awards Program.

**A CLOSED SESSION TO CONSULT WITH LEGAL COUNSEL REGARDING  
PENDING LITIGATION, OAK SPRINGS NURSING HOME VS. BOARD OF  
SUPERVISORS, PURSUANT TO CODE OF VIRGINIA SECTION 2.2-3711(A)(7)**

Mr. Stribling moved to go into a closed meeting, pursuant to Virginia Code Section 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel regarding pending litigation, Oak Springs Nursing Homes vs. Board of Supervisors. Upon being seconded, the vote for the motion was unanimous as follows:

***Ayes:                                 Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo***  
***Nays:                                         None***  
***Absent During Vote:                 None***  
***Abstention:                                 None***

Upon reconvening from the closed meeting, Mr. Stribling moved, without objection, to adopt the following certification.

**CERTIFICATION OF CLOSED MEETING**

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

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

RESOLVED this 11<sup>th</sup> day of December 2008, That the Fauquier County Board of Supervisors certifies that, to the best of each member's knowledge (i) only public business

matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Fauquier County Board of Supervisors.

### **AGENDA REVIEW**

The Board of Supervisors reviewed the agenda.

### **VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) PROJECT STATUS**

David Cubbage, Residency Administrator of the VDOT Warrenton Residency Office, briefed the Board of Supervisors on the status of specific road projects within Board members' Magisterial Districts.

### **FY 2008 COMPREHENSIVE ANNUAL FINANCIAL REPORT**

Vivian McGettigan, Finance Director, introduced John Montoro of Cherry, Bekaert & Holland, L.L.P., and reviewed the annual independent audit of Fauquier County Government and School Division completed for Fiscal Year 2008.

### **UPDATE ON SOLID WASTE PROGRAMS**

Anthony I. Hooper, Deputy County Administrator, and Michael Dorsey, Director of Environmental Services, reviewed the progress to date on the Solid Waste Programs and requested the Board consider service reductions relating to certain recycling programs in order to cover the current revenue shortfall.

### **A WORK SESSION WITH THE FAUQUIER COUNTY CHAMBER OF COMMERCE, THE NORTHERN VIRGINIA BUILDING INDUSTRY ASSOCIATION, THE SOUTHERN FAUQUIER BUSINESS OWNERS ASSOCIATION AND THE GREATER PIEDMONT ASSOCIATION OF REALTORS TO DISCUSS ISSUES RELATED TO BUSINESS AND ECONOMIC DEVELOPMENT IN THE COUNTY**

Karen Henderson, Director of the Fauquier County Chamber of Commerce, and representatives of the Northern Virginia Building Industry Association, the Southern Fauquier Business Owners Association and the Greater Piedmont Association of Realtors addressed the Board of Supervisors regarding business and economic development issues.

The meeting was reconvened in Regular Session at 6:30 P.M.

### **INVOCATION**

Mr. Nyhous offered the invocation.

### **PLEDGE OF ALLEGIANCE**

Miss Disa Haugsdahl led the pledge of allegiance joined by Girl Scouts of America members from Junior Troop #875, Junior Troop #3496, and Brownies Troop #795.

### **ADOPTION OF THE AGENDA**

Mr. Trumbo moved to adopt the agenda with the following changes. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

*Ayes:* **Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo**  
*Nays:* **None**  
*Absent During Vote:* **None**  
*Abstention:* **None**

- Add new Consent agenda item #6(r), a Resolution to Authorize the Settlement of the Erroneous Assessment Claim of Oak Springs Nursing Home Limited Partnership.

### **CITIZENS' TIME**

- Jim Eustace, Cedar Run District, spoke in support of sustaining agricultural development and lauded the efforts of the Agricultural and Forestal Advisory Committee.
- Sally Murray and Sheryl Wolfe of the Fauquier County School Board, presented letters of appreciation from students in each magisterial district to the Board of Supervisors.
- John Schied, Cedar Run District, spoke in support of the Agricultural Development Office and Agricultural and Forestal Advisory Committee.

### **PROCLAMATIONS AND RECOGNITIONS**

- Mr. Stribling presented a Proclamation Recognizing Vivian McGettigan for Her Contributions to Fauquier County.
- Mr. Stribling presented to Michael Dorsey, Director of Environmental Services, the Virginia Association of Counties 2008 Achievement Award for an Innovative County Environmental Program.
- Mr. Nyhous presented a Proclamation to Commend Ruth Elizabeth (Betsy) Mayr Upon the Occasion of Her Retirement from the Office of the General Registrar.
- Mr. Stribling acknowledged a Proclamation Honoring Our Country's Service Members and Acknowledging the Uniformed Services Employment and Re-Employment Rights Act (USERRA).

- Mr. Graham presented to John Schied the 2008 Citizen of the Year Award for Cedar Run District.
- Mr. Nyhous presented to Rebecca Jane Chambers Crouch the 2008 Citizen of the Year Award for Center District.
- Mr. Stribling presented to Donald Mason the 2008 Citizen of the Year Award for Lee District.
- Mr. Schwartz presented to Anne Davis the 2008 Citizen of the Year Award for Marshall District.
- Mr. Trumbo presented to Mr. and Mrs. Bill Jackson of Tri-County Feeds, Etc. the 2008 Citizen of the Year Award for Scott District.

**CONSENT AGENDA**

Mr. Trumbo moved to adopt the following Consent agenda items. Mr. Schwartz seconded, and the vote for the motion was unanimous as follows:

*Ayes: Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*

*Nays: None*

*Absent During Vote: None*

*Abstention: None*

**Approval of the Minutes for the November 13, 2008 Regular Meeting of the Fauquier County Board of Supervisors**

**A Resolution Authorizing the County Administrator to Request the Re-Allocation of Transportation Enhancement Act (TEA) Grant Funds from Mosby Heritage Signage Project to the Marshall Main Street Project**

RESOLUTION

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO REQUEST THE RE-ALLOCATION OF TRANSPORTATION ENHANCEMENT GRANT FUNDS FROM THE MOSBY HERITAGE SIGNAGE PROJECT TO THE MARSHALL MAIN STREET PROJECT

WHEREAS, Transportation Enhancement Act (TEA) grant funds were awarded by the Virginia Department of Transportation (VDOT) to the Mosby Heritage Signage project in Fiscal Year 1999 for the purpose of developing a logo and design and installing signs designating the boundary lines of the Mosby Heritage Area; and

WHEREAS, this project was completed in 2003, with a grant balance of \$8,550 remaining; and

WHEREAS, it is the desire of the Fauquier County Board of Supervisors to retain the remaining TEA funds for the Marshall Main Street Project, approved for Fiscal Year 2009 TEA grant funding; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the Board of Supervisors does hereby direct the County Administrator to formally request that VDOT de-allocate remaining TEA funding from the Mosby Heritage Signage Project; and

RESOLVED FINALLY, That the County Administrator be, and is hereby, directed to request the re-allocation of those funds to the Marshall Main Street Project.

**A Resolution Directing the County Administrator to Schedule a Public Hearing on an Ordinance Amendment to Section 12-13 of the Code of Fauquier County to Revise Certain Business, Professional and Occupation License Fees**

RESOLUTION

A RESOLUTION DIRECTING THE COUNTY ADMINISTRATOR TO SCHEDULE A PUBLIC HEARING ON AN ORDINANCE AMENDMENT TO SECTION 12-13 OF THE CODE OF FAUQUIER COUNTY TO REVISE CERTAIN BUSINESS, PROFESSIONAL AND OCCUPATION LICENSE FEES

WHEREAS, Virginia Code §58.1-3700 provides that a county may require that a Business, Professional and Occupation License may be required; and

WHEREAS, Section 12-13(a) of the Code of Fauquier County provides for the rate of tax on those businesses with annual gross receipts of less than \$100,000; and

WHEREAS, on November 13, 2008, the Board of Supervisors indicated its support for restructuring the license fee for businesses with annual gross receipts below \$100,000; and

WHEREAS, when there are proposed changes to tax rates, the Board of Supervisors shall hold a public hearing to solicit the views of County citizens on the issue; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County Administrator be, and is hereby, directed to schedule a public hearing on proposed tax adjustments to the Business, Professional and Occupation License fees of Fauquier County Code to amend certain fees as follows:

Sec. 12-13. License Fees and Tax.

~~(a) For businesses whose gross receipts are less than one hundred thousand dollars (\$100,000.00) there shall be no license tax for the issuance of such license.~~

- (a) For businesses whose gross receipts are less than fifty thousand dollars (\$50,000.00) there shall be a license tax of \$25.00; for businesses whose gross receipts are fifty thousand dollars (\$50,000.00) or greater, but less than one hundred thousand dollars (\$100,000.00), there shall be a license tax of \$50.00; except for the Contractor classification whose gross receipts are less than twenty five thousand dollars (\$25,000.00) there shall be a license tax of \$20.00 for the issuance of such licenses. These fees shall be nonrefundable.

**A Resolution to Amend the Board of Supervisor's Legislative Proposals for the 2009 General Assembly**

RESOLUTION

A RESOLUTION TO AMEND THE BOARD OF SUPERVISORS'  
LEGISLATIVE PROPOSALS FOR THE 2009 GENERAL ASSEMBLY

WHEREAS, Fauquier County has a variety of issues and interests which require legislative action by the Virginia General Assembly; and

WHEREAS, on September 11, 2008, the Board of Supervisors adopted its legislative priorities for the 2009 General Assembly Session; and

WHEREAS, the Board wishes to amend its 2008 legislative priorities to reflect a request to be included in Virginia Code Section 58.1-3819; and

WHEREAS, Virginia Code Section 58.1-3819 permits certain designated counties to impose an additional 3% transient occupancy tax, provided that the proceeds of such tax be utilized for the promotion of tourism; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the Fauquier County 2009 Legislative Priorities be, and are hereby, amended.

**A Resolution Accepting the Project Administration Agreement from the Virginia Department of Transportation's Transportation Enhancement Program for the Warrenton Trail Connection - Woods of Warrenton**

RESOLUTION

A RESOLUTION ACCEPTING THE PROJECT ADMINISTRATION AGREEMENT FROM  
THE VIRGINIA DEPARTMENT OF TRANSPORTATION'S TRANSPORTATION  
ENHANCEMENT PROGRAM FOR THE WARRENTON TRAIL CONNECTION – WOODS  
OF WARRENTON

WHEREAS, the existing Fauquier trail system including the Warrenton Branch Greenway has been an unqualified success; and

WHEREAS, the community and the Fauquier County Parks and Recreation Department has received commitment for a donation of land for the purpose of adding approximately ½ mile of trail to the current trail system; and

WHEREAS, the proposed trail will ultimately connect the Woods of Warrenton subdivision with the White's Mill and the Warrenton Chase subdivisions and will provide a safe, off-road, and scenic means of transportation for citizens in and between the three neighborhoods, as well as preserve another section of the Cedar Run environmental corridor of the County; and

WHEREAS, the Fauquier County Parks and Recreation Department capitalized upon an opportunity to apply for funding from the Virginia Department of Transportation's Transportation Enhancement Program, also known as TEA; and

WHEREAS, the Virginia Department of Transportation has now awarded \$66,000 for initial design of the trail connecting the three subdivisions on the land proffered by the developer; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the Board of Supervisors does hereby authorize the County Administrator to execute the Standard Project Administration Agreement with the Commonwealth Transportation Board, Transportation Enhancement Program for the Warrenton Trail Connection – Woods of Warrenton that awards \$66,000 to design and construct the ½ mile trail on land proffered by the developer; and, be it

RESOLVED FURTHER, That the County of Fauquier hereby agrees to serve as the facilitator for the monies being contributed by Fauquier Trails Coalition, and for the in-kind services contributions as noted in the application that equal or exceed the twenty (20%) local match required for the application; and, be it

RESOLVED FURTHER, That the County of Fauquier shall not acquire, or agree to acquire, or agree to accept any donation of, or agree to expend any grant funds to acquire, any real property associated with this project, until it has received an environmental audit of the real property to be acquired by purchase or donation which is acceptable to the Board of Supervisors; and, be it

RESOLVED FURTHER, That the County of Fauquier shall reimburse the Virginia Department of Transportation (VDOT) for its proportionate share of the funds expended by VDOT associated with this project, provided, however, the County's obligation to reimburse VDOT for any funds expended by VDOT shall be subject to appropriation and shall extend only to those funds for which the Board of Supervisors has approved their expenditure; and, be it

RESOLVED FINALLY, That the Supplemental Appropriation in the amount of \$66,000, as outlined on the attached Budget Action Form be, and is hereby, approved.

**A Resolution to Approve the Evans Family Request to Reduce the Ten Year Sale Restriction for a Family Transfer Lot**

RESOLUTION

A RESOLUTION TO APPROVE THE EVANS FAMILY REQUEST TO REDUCE THE TEN YEAR SALE RESTRICTION FOR A FAMILY TRANSFER LOT

WHEREAS, on July 23, 2007, the owner, Scott Anthony Evans, created a family transfer parcel; and

WHEREAS, Section 2-39(3)(A)(3) of the Subdivision Ordinance does not permit such a lot to be voluntarily transferred to a non-immediate family member for at least ten (10) years; and

WHEREAS, the applicant has encountered severe financial hardship; and

WHEREAS, Section 2-39(3)(A)(15) of the Subdivision Ordinance allows the Board of Supervisors to reduce the ten (10) year restriction on selling a family transfer parcel to a non-immediate family member if it finds an extraordinary hardship is caused by the ten (10) year restriction; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11th day of December 2008, That the requirement that Scott Evans hold his family transfer parcel for a period of ten (10) years be, and is hereby, reduced so that the parcel may be transferred to a non-immediate family member.

**A Resolution Supporting the Owner-Initiated Nomination of “Hopefield” for Placement on the Virginia Landmarks and National Registers**

RESOLUTION

A RESOLUTION TO THE VIRGINIA BOARD OF HISTORIC RESOURCES AND THE NATIONAL PARK SERVICE SUPPORTING THE INCLUSION OF HOPEFIELD ON THE VIRGINIA LANDMARKS AND NATIONAL REGISTERS

WHEREAS, the historic estate known as Hopefield located at 6763 Airlie Road encompasses 168 acres of permanently preserved rural land three miles north of Warrenton adjacent to the Warrenton Reservoir; and

WHEREAS, the property features a circa 1855 Federal Style house that was redesigned in 1924 by architect W.H. Irwin Fleming and Hanback builders in the spirit of the Colonial Revival when it was popular to transform modest early American homes into grander designs; and

WHEREAS, Hopefield retains distinctive 19<sup>th</sup> century features such as a stone icehouse and summer kitchen, and Hopefield also retains unique features from the 1920s, such as an oak refrigerator, a service annunciator box that receives calls from ivory buttons in door frames throughout the house, and a 1924 pool and stone ha-ha wall; and

WHEREAS, a National Register District designation is a high honor to bestow on an individual property; and

WHEREAS, this architectural history was commissioned by a notable citizen named Mrs. Hope Wallach Porter and completed by Cheryl H. Shepherd who is a scholarly architectural historian who is a descendant of the master builder Hanback who remodeled the house in 1924; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the Board hereby supports and encourages the Virginia Board of Historic Resources to include the Hopefield National Register Nomination, located in the Marshall Magisterial District, in the Virginia Landmarks Register; and, be it

RESOLVED FURTHER, That the Virginia Board of Historic Resources recommend to the National Park Service, due to the established and unique history and national significance of Hopefield, that this individual property be enrolled in the National Register of Historic Places.

**A Resolution for Subdivision Street Acceptance for the Silver Cup Subdivision: Silver Cup Drive, Iron Bit Drive, and Reins Lane, Marshall Magisterial District**

RESOLUTION

A RESOLUTION FOR SUBDIVISION STREET ACCEPTANCE FOR THE SILVER CUP  
SUBDIVISION: SILVER CUP DRIVE, IRON BIT DRIVE, REINS LANE, MARSHALL  
MAGISTERIAL DISTRICT

WHEREAS, Silver Cup Drive, Iron Bit Drive, and Reins Lane, as depicted on the attached site location map, and described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on plats of record in the Clerk's Office of the Circuit Court of Fauquier County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board of Supervisors that this street meets the requirements established by the *Subdivision Street Requirements* of the Virginia Department of Transportation; and

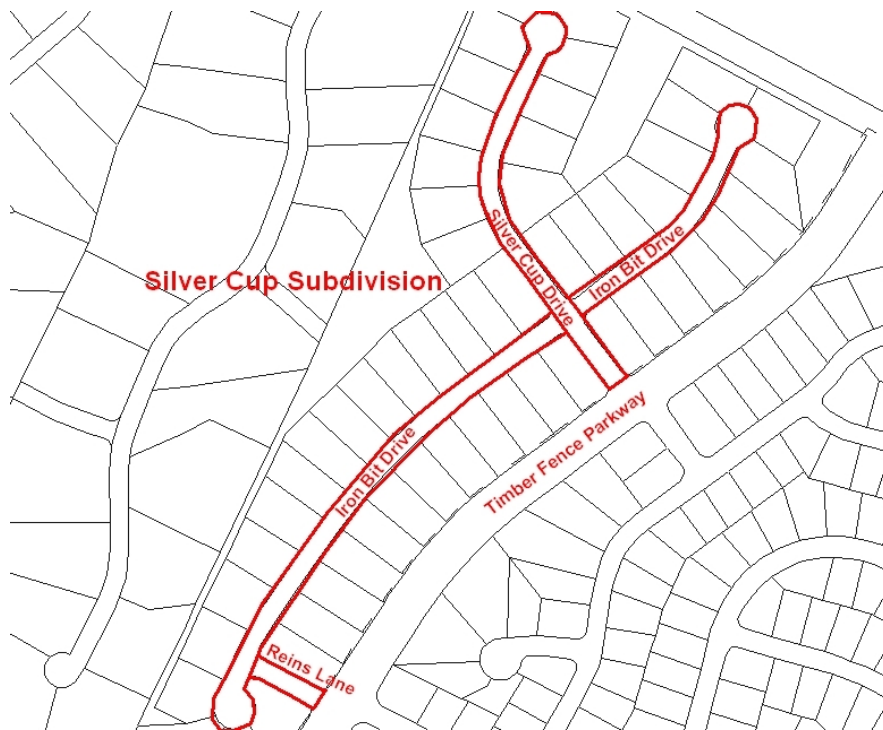
WHEREAS, the above streets serve a genuine public need; and

WHEREAS, in February of 1995, Fauquier County and the Virginia Department of Transportation entered into an agreement for comprehensive stormwater detention, which applies to this request for addition; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11th day of December 2008, That the Virginia Department of Transportation be, and is hereby, requested to take the necessary action to add the above described streets into the Secondary System of State Highways for maintenance, as provided in Section 33.1-229, Code of Virginia, and the Virginia Department of Transportation's *Subdivision Street Requirements*; and, be it

RESOLVED FURTHER, That the Board of Supervisors guarantees the Commonwealth of Virginia a minimum unrestricted right-of-way of fifty (50) feet in the Silver Cup Subdivision with necessary easements for cuts, fills, and drainage, as recorded in Deed Book 910 Page 375, approved on August 6, 2001, and Deed Book 1015 Page 1353, approved on March 21, 2003; and, be it

RESOLVED FINALLY, That this resolution shall become effective December 11, 2008, and a certified copy will be forwarded to the Resident Engineer for the Virginia Department of Transportation.





## **Report of Changes in the Secondary System of State Highways**

▶ **Iron Bit Drive, State Route Number 1542**

Old Route Number: 0

- From: CL Silver Cup Drive, Rte 1541  
To: 1278' SW to CL Reins Lane, Rte 1543, a distance of: 0.24 miles.  
Recordation Reference: db 1015 pg 1353  
Right of Way width (feet) = 50 feet

▶ **Iron Bit Drive, State Route Number 1542**

Old Route Number: 0

- From: CL Reins Lane, Rte 1543  
To: 212' W to cul-de-sac, a distance of: 0.04 miles.  
Recordation Reference: db 1015 pg 1353  
Right of Way width (feet) = 50 feet

▶ **Reins Lane, State Route Number 1543**

Old Route Number: 0

- From: Town of Warrenton/Fauquier County line (Timber Fence Pkwy)  
To: 223' NW to Iron Bit Drive, Rte 1542, a distance of: 0.04 miles.  
Recordation Reference: db 1015 pg 1353  
Right of Way width (feet) = 50 feet

**Stonewall Hill: Preliminary Plat PPLT09-MA-003, Marshall District**

No action was taken.

**Meadows of Remington (Phase 2, Sections 3-6): Preliminary Plat Amendment PPAM07-LE-002**

No action was taken.

**A Resolution to Authorize the Acceptance of a Conservation Easement Over the Property of Lucy J. and Barbara J. Bender**

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION  
EASEMENT OVER THE PROPERTY OF LUCY J. AND BARBARA J. BENDER

WHEREAS, Lucy J. and Barbara J. Bender have proposed to donate a conservation easement over their property described as PIN # 7923-65-1588 consisting of approximately 134.23 acres, hereinafter “the Property;” and

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

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

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

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the Board finds as follows:

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

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

**A Resolution to Authorize the Acceptance of a Conservation Easement Over the Property of Mahlon J. and Wilmer J. Bender**

RESOLUTION

A RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF A CONSERVATION EASEMENT OVER THE PROPERTY OF MAHLON J. AND WILMER J. BENDER

WHEREAS, Mahlon J. and Wilmer J. Bender have proposed to donate a conservation easement over their property described as PIN #7923-68-9098 consisting of approximately 146.1767 acres, hereinafter “the Property;” and

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

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

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

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the Board finds as follows:

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

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

**A Resolution Directing the County Administrator to Schedule a Public Hearing to Consider an Ordinance to Classify Real Property Owned by Didlake, Inc. as Exempt from Real and Personal Property Taxation**

RESOLUTION

A RESOLUTION DIRECTING THE COUNTY ADMINISTRATOR TO SCHEDULE A PUBLIC HEARING TO CONSIDER AN ORDINANCE TO CLASSIFY REAL PROPERTY OWNED BY DIDLAKE, INC. AS EXEMPT FROM REAL AND PERSONAL PROPERTY TAXATION

WHEREAS, Didlake, Inc. is a 501(c)(3) organization owning real property in Fauquier County; and

WHEREAS, Didlake, Inc. has requested an exemption from real and personal property taxation in order to permit it to be better able to use its financial resources for charitable purposes; and

WHEREAS, prior to granting a charitable organization an exemption from property tax, the Board of Supervisors must conduct a public hearing and adopt an Ordinance granting the exemption; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County Administrator be, and is hereby, directed to schedule a public hearing to consider the request of Didlake, Inc. for a real and personal property tax exemption.

**A Resolution to Authorize the Award of the Bealeton Depot Renovation to Hammerhead Construction of Virginia, Inc., Pending Virginia Department of Transportation Review and Approval**

RESOLUTION

A RESOLUTION TO AUTHORIZE THE AWARD OF A CONTRACT TO HAMMERHEAD CONSTRUCTION COMPANY OF VA, INC., IN THE AMOUNT OF \$270,950.00, PENDING VIRGINIA DEPARTMENT OF TRANSPORTATION REVIEW AND APPROVAL

WHEREAS, in 2001, Bealeton Landmarks, LLC, donated the Bealeton Station Depot to Fauquier County to be used as a community meeting room as well as a program room for the Bealeton Branch Library; and

WHEREAS, Bealeton Landmarks repaired the roof and placed the Depot on a permanent foundation; and

WHEREAS, in 2003, 2004, and again in 2007, Fauquier County applied for and was awarded Federal Transportation Enhancement Act for the Twenty-First Century (TEA-21) funds to renovate the Depot; and

WHEREAS, \$449,000 in total has been awarded for the project, and local matching funds include \$74,900 in corporate donations and \$215,900 in-kind contributions; and

WHEREAS, on October 8, 2008, the Procurement Division issued an Invitation for Bid with input and guidance from the Virginia Department of Transportation, the grant administering agency; and

WHEREAS, on November 12, 2008, twelve bids were received in response to the Invitation for Bids; and

WHEREAS, Hammerhead Construction of Virginia, Inc., was the lowest responsible and responsive bidder and has been sent to the Virginia Department of Transportation for review and approval; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> of December 2008, That the Board of Supervisors does hereby authorize the award of a contract to Hammerhead Construction of Virginia, Inc., in the amount of \$270,950 pending review and approval by the Virginia Department of Transportation; and, be it

RESOLVED FURTHER, That the Board of Supervisors hereby authorizes the Finance and Budget departments to process the necessary budget adjustments appropriating State grant funds in the amount of \$449,634, and recognizes the requisite local match in the form of \$290,752 in right-of-way, cash, and in-kind donations in a capital budget account for the Bealeton Station Depot project.

**A Resolution to Authorize the Transfer of Funds from the Capital Reserve Account and to Appropriate Grant Funds for the Replacement of the 911 Phone System**

RESOLUTION

A RESOLUTION TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE CAPITAL RESERVE ACCOUNT AND TO APPROPRIATE GRANT FUNDS FOR THE REPLACEMENT OF THE E911 PHONE SYSTEM

WHEREAS, it has been recommended that the E911 phone system be replaced and a sixth workstation added; and

WHEREAS, grant funds in the amount of \$150,000 have been awarded for this purpose; and

WHEREAS, contract terms have been provided by Verizon as a rider to the Clarke County contract; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County Administrator be, and is hereby, authorized to accept the bid of Verizon in the amount of \$291,684 for replacement of the E911 phone equipment; and, be it

RESOLVED FURTHER, That the Finance and Budget departments are hereby authorized to process the necessary budget adjustments appropriating State grant funds in the amount of \$150,000 and to transfer \$145,000 from the Capital reserve to a capital budget account in the amount of \$295,000 for the replacement of the E911 phone equipment.

**A Resolution to Waive Zoning and Building Permit Fees for the Elk Run Church Site Preservation Committee**

RESOLUTION

A RESOLUTION TO WAIVE ZONING AND BUILDING PERMIT FEES FOR THE ELK RUN CHURCH SITE PRESERVATION COMMITTEE

WHEREAS, Fauquier County has previously donated funds to Elk Run Church Site Preservation Committee to assist in its efforts to preserve the site of the Historic Elk Run Church; and

WHEREAS, the Preservation Committee has planned a small structure on a portion of the old foundation of the church in order to make the foundation excavation visible to the public in preparation for events associated with the Fauquier County 250<sup>th</sup> Anniversary Celebration; and

WHEREAS, the structure requires building and zoning permits and associated permit fees, and the Preservation Committee has requested a waiver of these fees; and

WHEREAS, the Board has considered the request and determined that it is appropriate; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County hereby waives the building and permit fees in accordance with the request of the Elk Run Church Site Preservation Committee.

**A Resolution Directing the County Administrator to Schedule a Public Hearing to Consider an Amendment to the Bethel Academy Special Taxing District Ordinance**

RESOLUTION

A RESOLUTION DIRECTING THE COUNTY ADMINISTRATOR TO SCHEDULE A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE BETHEL ACADEMY SPECIAL TAXING DISTRICT ORDINANCE

WHEREAS, the Ordinance which created the Bethel Academy Special Taxing District provided for the creation of a separate bill for the costs associated with the District; and

WHEREAS, the County is now able to include the billing for expenses associated with the District within the regular real estate bills for the residents; and

WHEREAS, the change to the billing process will be more efficient for the County and more convenient for the homeowners, but requires technical amendments to the Ordinance; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County Administrator be, and is hereby, directed to schedule a public hearing to consider an amendment to the Bethel Academy Special Taxing District Ordinance.

**A Resolution to Authorize the Settlement of the Erroneous Assessment Claim of Oak Springs Nursing Home Limited Partnership**

RESOLUTION

A RESOLUTION TO AUTHORIZE THE SETTLEMENT OF THE ERRONEOUS ASSESSMENT CLAIM OF OAK SPRINGS NURSING HOME

WHEREAS, Oak Springs Nursing Home limited Partnership filed suit against the County to challenge its 2002 assessment; and

WHEREAS, the County reassessed the subject property at its general assessment in 2006; and

WHEREAS, the 2006 assessment is substantially below the 2002 assessment; and

WHEREAS, Oak Springs has agreed to resolve the claim against the County by accepting the 2006 assessment as the value for effective date of 2002, and has further agreed to a lump-sum refund of \$147,000; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County Attorney be, and is hereby, authorized to take such actions as are required to reduce the assessed value of the subject property to the 2006 assessed value and refund \$147,000 to the taxpayer; and, be it

RESOLVED FURTHER, That the source of funds for the settlement shall be the General Fund Contingency Reserve.

**A RESOLUTION TO APPROVE FUNDING FOR THE PURCHASE OF DEVELOPMENT RIGHTS OF QUALIFYING EIGHTH ROUND APPLICANTS TO THE PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

Mr. Trumbo moved to adopt the following resolution. Mr. Graham seconded and, following discussion, the vote for the motion was unanimous as follows:

*Ayes: Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*  
*Nays: None*  
*Absent During Vote: None*  
*Abstention: None*

RESOLUTION

A RESOLUTION TO APPROVE FUNDING FOR THE PURCHASE OF DEVELOPMENT RIGHTS OF QUALIFYING EIGHTH ROUND APPLICANTS TO THE PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

WHEREAS, on February 19, 2002, the Fauquier County Board of Supervisors adopted the Purchase of Development Rights (PDR) Program to acquire conservation easements for the purpose of protecting agriculture, providing open space, and ameliorating the impact of development on the County; and authorizing payment of \$20,000 per development right; and

WHEREAS, on October 13, 2005, the Fauquier County Board of Supervisors approved an increase of \$10,000 in the payment per development right to total \$30,000 per development right in the Purchase of Development Rights (PDR) Program; and

WHEREAS, the Fauquier County Board of Supervisors created the PDR Committee to assist the Board of Supervisors in selecting qualified farm properties for preservation; and

WHEREAS, on August 25, 2008, the PDR Committee reviewed the new applications and on October 6, 2008 and October 16, 2008 visited and ranked the farms in accordance with the adopted PDR application scoring system; and

WHEREAS, the PDR Committee highly recommends that the Board of Supervisors approve funding for the Purchase of Development Rights Easements representing a total of 36 development rights on the four highest scoring farms; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County Administrator be, and is hereby, authorized to negotiate and execute the purchases of the following eligible development rights as recommended by the PDR Committee:

<b>Applicant</b>	<b>Acres</b>	<b>Parcels</b>	<b>Development Rights</b>	<b>Cost</b>
Frank C. Ott	279.2	2	13	\$390,000
Doug Linton	135	1	7	\$210,000
George & Ann Ashby	135.5	3	11	\$330,000
Robert Shoemaker	131.9	1	5	\$150,000
<b>TOTALS</b>	<b>681.6</b>	<b>7</b>	<b>36</b>	<b>\$1,080,000</b>

**A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR AND COUNTY ATTORNEY TO TAKE ALL ACTIONS NECESSARY TO EXTEND THE EXISTENCE OF THE FAUQUIER COUNTY WATER AND SANITATION AUTHORITY FOR A PERIOD OF FIFTY (50) YEARS**

Mr. Schwartz moved to postpone action on this matter until the next regular Board meeting on January 8, 2009. Mr. Trumbo seconded and, following discussion, the vote for the motion was unanimous as follows:

**Ayes:** *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*

**Nays:** *None*

**Absent During Vote:** *None*

**Abstention:** *None*

**APPOINTMENTS**

- Planning Commission – Marshall District: Ann McCarty was reappointed for a four-year term that ends December 31, 2012.

## **SUPERVISORS' TIME**

- Mr. Trumbo announced the expansion of commuter services beginning January 5, 2009, with bus service from the Warrenton commuter park and ride lot as an option for commuters traveling to Northern Virginia and Washington, DC. Additional information can be obtained at [www.rcommute.org](http://www.rcommute.org) or (540) 829-7451.
- Mr. Nyhous announced the annual Grandma's Homemade Favorites bake sale will be held at the Warrenton Community Center on Friday, December 12, 2008, to support the Warrenton Adult Day Care Program. Mr. Nyhous announced that the Partnership for Warrenton is sponsoring its annual Gum Drop Square at the John Barton Payton Building, to provide young children a holiday shopping experience for their families as well as an opportunity to meet Santa Claus. Further information can be obtained at [www.partnershipforwarrenton.org](http://www.partnershipforwarrenton.org).
- Mr. Graham encouraged citizens to make a donation to the annual Marine Corps Toys for Tots program, and noted that collection boxes are available throughout the community. Mr. Graham announced that Santa will visit Trennis Hardware in Catlett on Saturday, December 13, 2008. Mr. Graham stated that Warrenton First Night is seeking volunteers, and information can be obtained by calling (540) 341-0260. Mr. Graham added that the Fauquier Family Shelter is in need of financial assistance and food donations. Mr. Graham wished everyone a Merry Christmas and Happy New Year.
- Mr. Schwartz took an opportunity to read one of the student letters presented earlier in the evening: *"Dear Mr. Schwartz, thank you for paying the lunch ladies. Without you I would have to pack my own lunch."* Mr. Schwartz wished everyone a wonderful holiday season, a Merry Christmas, a Happy Hanukkah, a healthy and Happy New Year, and he asked that citizens remember those that may be having hardships this holiday season.
- Mr. Stribling suggested that citizens celebrate the Christmas season at the place of their choice with family and friends, and bear in mind the true meaning of the season. Mr. Stribling asked everyone to consider offering extra time, energy or money to help those that are less fortunate. Mr. Stribling reiterated the request for donations to the Toys for Tots program. Mr. Stribling added that Santa Claus will also be visiting the Lois Volunteer Department as well as the Remington Volunteer Department on Saturday, December 13, 2008. Mr. Stribling wished everyone a Merry Christmas and Happy New Year.

## **ANNOUNCEMENTS**

- Mr. McCulla announced that the annual Organizational Meeting and the next regular meeting of the Board of Supervisors will be on January 8, 2009, at 6:30 PM in the Warren Green Building meeting room located at 10 Hotel Street in Warrenton, Virginia.

**A RESOLUTION TO AMEND THE FY 2009 ADOPTED BUDGET IN THE AMOUNT OF \$3,821,118**

A public hearing was held to consider various budget related issues in the amount of \$3,511,118 in appropriations and \$310,000 in transfers for FY 2009. Ari J. Sky, Budget Director, summarized the proposed amendments. No one else spoke. The public hearing was closed. Mr. Graham moved to adopt the following resolution. Mr. Nyhous seconded and, following discussion, the vote for the motion was unanimous as follows:

**Ayes:** *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*

**Nays:** *None*

**Absent During Vote:** *None*

**Abstention:** *None*

RESOLUTION

A RESOLUTION TO AMEND THE FY 2009 ADOPTED BUDGET IN THE AMOUNT OF \$3,821,118

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

WHEREAS, on April 2, 2008, the Board of Supervisors adopted the Fauquier County FY 2009 Budget; and

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

WHEREAS, at its meeting on November 6, 2008, the Finance Committee recommended for FY 2009 budget adjustments of \$3,821,118 for the purposes set forth below; and

WHEREAS, on December 11, 2008, a public hearing was held; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the FY 2009 Budget be, and is hereby, amended in the amount of \$3,821,118 as follows:

<u>Source</u>	<u>FROM Code</u>	<u>Amount</u>	<u>Department</u>	<u>TO Code</u>	<u>Amount</u>
<b><u>FY 2009</u></b>					
Fund Balance	3-100-419000-0010	\$1,123,084	School Division	4-205-061310-3000-200-100	\$80,000
				4-205-061100-3000-200-200	\$15,335
				4-205-061100-6000-200-600	\$120,000
				4-205-063200-1177-900-000	\$67,879

				4-205-061100-6000-308-000	\$75,000
				4-205-061100-6000-211-100	\$30,000
				4-205-061410-1127-206-100	\$86,323
				4-205-061410-2100-206-100	\$6,594
				4-205-061410-2210-206-100	\$11,904
				4-205-061410-2212-206-100	\$931
				4-205-061410-2310-206-100	\$5,274
				4-205-061410-2400-206-100	\$707
				4-205-061410-2720-206-100	\$267
				4-205-061100-6000-202-100	\$2,045
				4-205-061100-6000-300-250	\$756
				4-205-061100-6050-200-100	\$10,199
				4-205-061800-3000-900-000	\$3,603
				4-205-061804-3000-900-000	\$5,148
				4-205-062124-3000-900-000	\$7,409
				4-205-064110-8107-900-000	\$6,000
				4-205-064110-8704-900-000	\$187,564
				4-205-064110-8705-900-000	\$173,190
				4-205-064210-3000-900-000	\$219,805
				4-205-064210-6000-900-000	\$7,151
Fund Balance	3-204-419000-0010	\$65,585	School Division	4-204-061100-6013-312-901	\$65,585
	3-206-419000-0010	\$201,799		4-206-061100-6020	\$201,799
	3-207-419000-0010	\$584,960		4-207-065100-6002-900-000	\$584,960
Fund Balance	3-100-419000-0010	\$19,523	Community Development	4-100-081200-3160	\$19,523
Fund Balance	3-100-419000-0010	\$46,564	Parks & Recreation (P&R) Comprehensive Maintenance	4-100-071170-3160	\$46,564
Fund Balance	3-100-419000-0010	\$14,274	P&R Rappahannock Landing Project	4-100-071130-3160	\$14,274
Fund Balance	3-100-419000-0010	\$5,521	P&R	4-100-071110-3160	\$3,925
				4-100-071120-3310	\$1,596
Fund Balance	3-100-419000-0010	\$798	Commissioner of the Revenue	4-100-012310-5410	\$798

Fund Balance	3-100-419000-0010	\$4,309	Commissioner of the Revenue	4-100-012310-3180	\$4,309
Fund Balance	3-100-419000-0010	\$104,755	County Administration Birmingham Green	4-100-053130-5650	\$104,755
Fund Balance	3-100-419000-0010 4-302-091400-0100	\$165,811 \$115,000	Comprehensive Maintenance	4-100-043414-3310	\$37,028
			Major Systems Replacement	4-100-043416-3310	\$232,410
			Courthouse Maintenance	4-100-043417-3310	\$11,373
Fund Balance	3-100-419000-0010	\$22,000	Board of Supervisors McRae's Road	4-100-011010-3160	\$22,000
Fund Balance	3-100-419000-0010	\$154,015	Sheriff's Office DEA Seizures	4-100-031240-8201 4-100-031230-8201	\$51,307 \$102,708
Fund Balance	3-100-419000-0010	\$23,332	Fire & Emergency Services	4-100-032421-1101 4-100-032421-3160	\$8,121 \$15,211
Fund Balance	3-100-419000-0010	\$15,907	Commonwealth's Attorney Drug Forfeiture	4-100-022100-9999	\$15,907
Federal Funds	3-205-332000-0045	\$100,000	School Division Title I	4-205-061101-1520-202-100 4-205-061101-1620-202-100 4-205-061101-2100-202-100 4-205-061101-2720-202-100 4-205-061101-3000-202-100 4-205-061101-5500-202-100 4-205-061101-6000-202-100	\$19,000 \$1,000 \$800 \$30 \$32,800 \$500 \$45,870
State Funds	3-205-242000-0001	\$204,826	School Division	4-205-061100-1120-306-100	\$204,826
State Funds	3-302-244500-0026	\$27,000	County Administration	4-302-071140-3160	\$27,000
State Funds	3-100-241000-0050	\$62,746	Social Services	4-100-053130-5722	\$2,211
Federal Funds	3-100-335000-0010	\$56,829		4-100-053120-5706 4-100-053120-5714 4-100-053130-5715 4-100-053130-5722 4-100-053120-5706 4-100-053120-5715	\$48,808 \$6,911 \$4,816 \$3,204 \$48,809 \$4,816
F&RA Fund Balance	3-270-419000-0010	\$392,480	Fire & Rescue Association (F&RA)	4-270-032260-6047 4-270-032200-3160 4-270-032210-6047 4-270-032200-3110 4-270-032260-6047 4-270-032200-9999 4-270-032200-8450 4-270-032310-5647	\$11,000 \$18,000 \$65,000 \$10,000 \$20,000 \$95,000 \$20,000 \$153,480

Recreation Access State Grant Funds (Transfer)	4-302-071120-8512	\$310,000	County Administration	4-302-071140-3160	\$310,000
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<b>TOTAL</b>		<b>\$3,821,118</b>			<b>\$3,821,118</b>
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**FAUQUIER COMMUNITY ACTION COMMITTEE LEASE AGREEMENT**

A public hearing was held to consider an agreement with Fauquier Community Action Committee to lease a portion of the Stafford property for use as a community farm. Anthony I. Hooper, Deputy County Administrator, summarized the proposed agreement. No one else spoke. The public hearing was closed. Mr. Nyhous moved to adopt the following resolution. Mr. Graham seconded and, following discussion, the vote for the motion was unanimous as follows:

*Ayes: Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*

*Nays: None*

*Absent During Vote: None*

*Abstention: None*

RESOLUTION

A RESOLUTION TO AUTHORIZE A LEASE OF PROPERTY TO THE FAUQUIER COMMUNITY ACTION COMMITTEE IN SUPPORT OF A COMMUNITY FARM PROPOSAL

WHEREAS, on November 13, 2008, Fauquier County Board of Supervisors conducted a work session to entertain a proposal for the development of a community farm on property leased from the County; and

WHEREAS, the proposal to utilize a portion of the Stafford property until such time as a master plan and permanent use for the site are developed by the County would provide needed assistance to facilitate the development of a community farm concept; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That the County Administrator be, and is hereby, authorized to enter into a lease with Fauquier Community Action Committee for property on the Stafford tract on Meetze Road to develop a community farm, subject to the review of the County Attorney.

**SPECIAL EXCEPTION #SPEX09-SC-006 AND SPECIAL PERMIT #SPPT09-SC-007 – FAIRVIEW FARM, LTD (OWNER) / MEADOWS FARMS NURSERY (APPLICANT) – MEADOWS FARMS NURSERY**

A public hearing was held to consider an application to obtain a Category 23 Special Exception to allow for the display of materials in the 100-year floodplain, as well as an application for a Category 18 Special Permit to allow for the continued operation of a retail

nursery in the Rural Agricultural (RA) zoning district. The property is located at 5020 Lee Highway (Route 15/29), Scott District, further described as PIN #7906-74-8395-000. Susan Eddy, Chief of Planning, summarized the proposed amendments. Bob Counts of Carson-Ashley Associates, requested favorable consideration of the application on behalf of the applicant. Robert Kube, of Fairview Farm, spoke in favor of the application. No one else spoke. The public hearing was closed. Mr. Trumbo moved to adopt the following resolution. Mr. Graham seconded and, following discussion, the vote for the motion was unanimous as follows:

**Ayes:** *Mr. Raymond E. Graham; Mr. Terrence L. Nyhous; Mr. Peter B. Schwartz; Mr. Chester W. Stribling; Mr. R. Holder Trumbo*  
**Nays:** *None*  
**Absent During Vote:** *None*  
**Abstention:** *None*

## RESOLUTION

### A CATEGORY 23 SPECIAL EXCEPTION (SPEX09-SC-006) TO ALLOW DISPLAY OF MATERIALS IN THE FEMA 100-YEAR FLOODPLAIN & A CATEGORY 18 SPECIAL PERMIT (SPPT09-SC-007) FOR CONTINUED USE AND EXPANSION OF PLANT NURSERY RETAIL SALES

WHEREAS, Fairview Farm LTD, owner and applicant, is seeking a Category 23 Special Exception to allow for display of materials within the FEMA 100-year floodplain and a Category 18 Special Permit for the continued use and expansion of plant nursery retail sales on approximately five acres of PIN 7906-74-8395-000; and

WHEREAS, on October 30, 2008, the Fauquier County Planning Commission held a public hearing on the proposed Special Exception and unanimously recommended approval of the applications, subject to conditions; and

WHEREAS, on December 11, 2008, the Board of Supervisors conducted a public hearing and considered written and oral testimony; and

WHEREAS, the Board of Supervisors has determined that the applications satisfy the standards of Zoning Ordinance Articles 5-006 and 5-2300 and 5-1800; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 11<sup>th</sup> day of December 2008, That SPEX09-SC-006 and SPPT09-SC-007 be, and are hereby, approved, subject to the following conditions:

1. This Special Exception and Special Permit are granted for and run with the land, identified as PIN 7906-74-8395-000, as indicated in this application and are not transferable to other land.
2. This Special Exception and Special Permit are granted only for the purpose(s), structure(s) and/or uses indicated on the Special Exception/Special Permit Plat dated August 1, 2008 as approved with this application; as qualified by these development

conditions; and as granted only for the purpose and use indicated in the Statement of Justification for Plant Nursery Retail Sales and Display of Materials in the Floodplain.

3. The Special Exception allows for display of landscape rock and similar materials within the FEMA 100-year floodplain as identified on the Special Exception/Special Permit Plat.
4. The display of rock shall be set back thirty (30) feet from the property line (this includes the required 20 foot buffer per Zoning Ordinance Section 7-604.3.i.2). The thirty (30) feet of buffer area shall include the required landscaping per Zoning Ordinance Section 7-604.3.i.2 and shall be supplemented by additional shrubs to be concentrated near the road in front of the canopy and understory trees.
5. Nursery structures, parking, display and storage that predate the Zoning Ordinance requirements for floodplain uses shall be allowed to continue in place, as identified on the aforementioned plan. Any expansions or changes in use will require new approval. A determination by the Zoning Administrator that violations of the Zoning Ordinance exist on site shall constitute grounds for revocation of the Special Permit.
6. A Site Plan shall be required.
7. The applicant shall provide sufficient documentation to demonstrate it meets the Category 23 Special Exception standards set forth in the Zoning Ordinance.
8. The applicant shall provide provisions to protect water quality, address drainage, and protect adjoining properties. This material shall be submitted with the Site Plan for approval by the County Engineer.
9. The entrance shall meet minimum sight distance and entrance requirements in accordance with the VDOT Minimum Standard of Entrances to State Highways.
10. Under no circumstances shall any use, activity, fill, and/or development within the floodplain adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system that would increase flood heights and/or velocities on adjacent or downstream properties.

With no further business, the meeting was adjourned at 7:49 P.M.

*I hereby certify that this is a true and exact record of actions taken by the Fauquier County Board of Supervisors on December 11, 2008.*

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*Paul S. McCulla*  
*Clerk to the Board of Supervisors*