

<b>ACTIONS</b>	
<b>Board of Supervisors Meeting of July 6, 2011</b>	
July 8, 2011	
<u><b>AGENDA ITEM/ACTION</b></u>	<u><b>ASSIGNMENT</b></u>
1. Call to Order. <ul style="list-style-type: none"> <li>• Meeting was called to order at 9:01 a.m. by the Chair, Ms. Mallek. All BOS members were present. Also present were Tom Foley, Larry Davis, Ella Jordan and Meagan Hoy.</li> </ul>	
4. Adoption of Final Agenda. <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> agenda with no changes.</li> </ul>	
5. Recognitions: <ol style="list-style-type: none"> <li>a. Betty Burrell, Director of Finance.</li> </ol> <ul style="list-style-type: none"> <li>• Mr. Foley introduced Ms. Burrell.</li> </ul>	
6. From the Public: Matters Not Listed for Public Hearing on the Agenda. <ul style="list-style-type: none"> <li>• <u>The following individuals expressed opposition to the Board's action on the Route 29 Bypass and/or the process by which the Board reintroduced and took a vote on the Bypass:</u> <ul style="list-style-type: none"> <li>• Elizabeth Murray</li> <li>• Emerald Young</li> <li>• Scott VandePol</li> <li>• Milton Moore</li> <li>• George Larie</li> <li>• Robert Humphris</li> <li>• Elly Tucker</li> <li>• Saunders Midyette</li> <li>• Daniel Bowman</li> <li>• Jeff Dixon</li> <li>• Patricia Jordan</li> </ul> </li> <li>• <u>Charles Battig</u> expressed support for the Route 29 Bypass, spoke about the County's support of Cool Counties, and spoke about climate science.</li> <li>• <u>Tom Olivier</u> spoke about the Board's June 8<sup>th</sup> vote to withdraw from ICLEI.</li> <li>• <u>Ray Caddell</u> discussed the issue of sludge and biosolids.</li> <li>• <u>Charles Winkler</u> spoke about ICLEI.</li> <li>• <u>John Martin</u> discussed the status of the Water Supply Plan.</li> <li>• <u>Neil Williamson</u> discussed a poll the Free Enterprise Forum commissioned by the Mason Dixon Group, which was conducted in 2004, regarding a Route 29 Bypass.</li> </ul>	
7.2 FY11 Budget Amendment and Appropriations. <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the budget amendment in the amount of \$5,475.05 and <b>APPROVED</b> Appropriations #2011085, #2011086, and #2011097.</li> </ul>	<u>Clerk:</u> Forward copy of signed appropriations to OMB, Finance and other appropriate individuals.
7.3 Set public hearing for August 3, 2011 on False Alarm Ordinance. <ul style="list-style-type: none"> <li>• <b>SET</b> public hearing on August 3, 2011.</li> </ul>	<u>Clerk:</u> Advertise and scheduled on agenda.
7.4 Request for Dance Hall Permit for Guadalajara	<u>Community Development:</u> Proceed as

	<p>Restaurant #5.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> dance hall permit.</li> </ul>	approved.
7.5	<p>Cancel Board of Supervisors' Meeting of August 10, 2011.</p> <ul style="list-style-type: none"> <li>• Meeting cancelled.</li> </ul>	<u>Clerk</u> : Notify appropriate staff persons.
8.	<p>Pb Hrg: Administration of the Housing Choice Voucher Program.</p> <ul style="list-style-type: none"> <li>• <b>DIRECTED, by a vote of 6:0</b>, Ron White to present any comments received on the Housing Choice Voucher Plan to the appropriate department.</li> </ul>	<u>Ron White</u> : Proceed as approved.
9.	<p>Pb Hrg: CPA-2011-00003. Urban Development Areas.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED, by a vote of 6:0</b>, CPA-2011-00003.</li> </ul>	
10.	<p>Pb Hrg: ZMA-2009-00005. Kroger Fuel Center w/Canopy (Signs #29&amp;1).</p> <ul style="list-style-type: none"> <li>• <b>APPROVED, by a vote of 6:0</b>, ZMA-2009-00005, Kroger Fuel Center with Canopy, as shown on the Revised Application Plan.</li> </ul>	
11.	<p>Pb Hrg: 10-03( ) – Agricultural and Forestal Districts: AFD-2011-1. Hatton AFD – District Review. AFD-2011-2. Totier Creek AFD – District Review.</p> <ul style="list-style-type: none"> <li>• <b>MOVED, by a vote of 6:0</b>, to rescind the ordinance adopted by the Board on June 1, 2011 that continued the Hatton and Totier Creek AFDs for ten years.</li> <li>• <b>ADOPTED, by a vote of 6:0</b>, an ordinance to continue the Hatton and Totier Creek AFDs for a ten year period to July 6, 2021, including the withdrawal of Tax Map 121, Parcel 70B, from the Totier Creek AFD.</li> </ul>	<p><u>Clerk</u>: Forward copy of adopted ordinance to County Attorney's office and Community Development. (Attachment 1) Prepare letters to individuals in districts, for Chair's signature.</p>
12.	<p>Pb Hrg: 11-03( ) – Agricultural and Forestal Districts. AFD-2011-5. Blue Run AFD – Addition. AFD-2011-4. Buck's Elbow Mountain AFD – Addition. AFD-2011-3. Jacob's Run AFD – Addition.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0</b>, the ordinance.</li> </ul>	<p><u>Clerk</u>: Forward copy of adopted ordinance to County Attorney's office and Community Development. (Attachment 2) Prepare letters to individuals in districts, for Chair's signature.</p>
13.	<p>Pb Hrg: An ordinance to amend Chapter 4, Animals and Fowl.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0</b>, the ordinance.</li> </ul>	<u>Clerk</u> : Forward copy of adopted ordinance to County Attorney's office. (Attachment 3)
14.	<p>Pb Hrg: An ordinance to amend Chapter 11, Parks and Recreations Facilities.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0</b>, the ordinance.</li> </ul>	<u>Clerk</u> : Forward copy of adopted ordinance to County Attorney's office and Parks and Recreation. (Attachment 4)
15.	<p>Pb Hrg: An ordinance to amend Chapter 15, Taxation.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED, by a vote of 6:0</b>, the ordinance.</li> </ul>	<u>Clerk</u> : Forward copy of adopted ordinance to County Attorney's office and Finance. (Attachment 5)
16.	<p>Pb Hrg: FY12 Budget Amendment and Appropriations.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the FY 2012 Budget Amendment in the amount of \$17,377,971.22 and <b>APPROVED</b> Appropriations #2012001, #2012002, #2012003, #2012004, #2012005, #2012006, #2012007, #2012008 and #2011009 to provide funds for various local government and school projects and programs.</li> </ul>	<u>Clerk</u> : Forward copy of signed appropriations to OMB, Finance and other appropriate individuals.

	<b>NonAgenda. The Board recessed at 10:33 a.m. and reconvened at 10:48 a.m.</b>	
17a.	<p>VDoT Quarterly Report, Karen Kilby.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> <li>• Mr. Thomas asked when the Meadow Creek Parkway path will be opened. Ms. Kilby responded that nothing can be opened until construction is completed and accepted.</li> <li>• Mr. Boyd asked about signage for the Shadwell/I-64 exit. Ms. Kilby said she would ask Traffic to take a look at the situation.</li> <li>• Mr. Rooker asked if sidewalk maintenance along Whitewood Road is a VDoT function. There are places where trees have come under the sidewalk and caused the sidewalk to buckle. Mr. David Crim, Residency Maintenance Manager, said he would get their maintenance sidewalk contractor to take care of it.</li> </ul>	<u>Clerk:</u> Forward comments to Karen Kilby.
17b.	<p>Update on Transit Development Plan and Transit Service to Pantops.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
18.	<p>Prisoner Reentry Summit Overview, Michael C. Murphy, Director of Human Services, City of Charlottesville.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
19.	<p>Funding Priorities Report.</p> <ul style="list-style-type: none"> <li>• <b>ACCEPTED, by a vote of 6:0</b>, the Steering Committee's report and <b>ENDORSED</b> in principle the following recommendations 2-6 from the executive summary.</li> </ul>	<u>County Executive/OMB:</u> Proceed as approved. (Attachment 6)
20.	<p>Closed Session.</p> <ul style="list-style-type: none"> <li>• At 11:46 a.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to boards, committees and commissions and under subsection (3) to discuss the acquisition of real property for a public facility because a discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board.</li> </ul>	
21.	<p>Certified Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 12:55 p.m., the Board reconvened into open meeting and certified the closed meeting.</li> </ul> <p>Closed Session.</p> <ul style="list-style-type: none"> <li>• At 12:58 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to discuss the performance of a specific individual appointed by the Board.</li> </ul> <p>Certified Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 1:31 p.m., the Board reconvened into open meeting and certified the closed meeting.</li> </ul>	
22.	<p>Boards and Commissions: Appointments.</p> <ul style="list-style-type: none"> <li>• <b>APPOINTED</b> Barbara Hutchinson to the Charlottesville Albemarle Convention and Visitors Bureau with said term to expire June 30, 2013.</li> </ul>	<u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.

	<ul style="list-style-type: none"> <li>• <b>APPOINTED</b> Aimee Fausser to the Jail Authority with said term to expire August 6, 2014.</li> <li>• <b>APPOINTED</b> Peter DeMartino to the Region Ten Community Services Board with said term to expire June 30, 2014.</li> <li>• <b>APPOINTED</b> Vincent Day to the Rivanna Solid Waste Authority Citizens Advisory Committee with said term to expire December 31, 2011.</li> </ul>	
23.	<p>Pb Hrg: SP-2009-00025. Dover Foxcroft (Signs #20&amp;22).</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 6:0, SP-2009-00025, subject to two conditions.</li> </ul>	Clerk: Set out conditions of approval. (Attachment 7)
24.	<p>Pb Hrg: SP-2008-00038. Ragged Mountain Dam (Signs #6&amp;11).</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 6:0, SP-2008-00038, subject to five conditions.</li> </ul>	Clerk: Set out conditions of approval. (Attachment 7)
25a.	<p>Quarterly Update: Albemarle County Service Authority, Gary O'Connell.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
25b.	<p>Quarterly Update: Rivanna Water and Sewer Authority, Tom Frederick.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
26.	<p>Presentation: LEAP Overview, Cynthia Adams.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
	<b>NonAgenda. At 3:38 p.m., the Board took a recess and reconvened at 3:46 p.m.</b>	
27.	<p>Presentation: Shared Destiny; Shared Responsibility, Gordon Walker.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
28.	<p>Presentation: Biosolids, Tim Higgs, DEQ- Valley Regional Office.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> <li>• <b>DIRECTED</b> staff to draft a letter in support of regulatory changes to increased notification requirements.</li> </ul>	
29.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>• There were none.</li> </ul>	
30.	<p>Closed Meeting: Personnel Matters.</p> <ul style="list-style-type: none"> <li>• This item was moved to the afternoon portion of the Agenda.</li> </ul>	
31.	<del>Certify Closed Meeting.</del>	
32.	<p>Adjourn.</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 5:28 p.m.</li> </ul>	

ewj/mrh

- Attachment 1 – Ordinance No. 11-03(1) — Hatton and Totier Creek AFDs
- Attachment 2 – Ordinance No. 11-03(2) – Blue Run, Buck’s Elbow and Jacob’s Run AFDs
- Attachment 3 – Ordinance No. 11-04(2) – Chapter 4, Animal and Fowl
- Attachment 4 – Ordinance No. 11-11(1) – Chapter 11, Parks and Recreations Facilities
- Attachment 5 – Ordinance No. 11-15(3) – Chapter 15, Taxation
- Attachment 6 – Funding Priorities Recommendations
- Attachment 7 – Planning Conditions of Approval

**ORDINANCE NO. 11-03(1)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

**By Amending:**

3-215 Hatton Agricultural and Forestal District

3-227 Totier Creek Agricultural and Forestal District

**CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS**

**DIVISION 2. DISTRICTS**

**Sec. 3-215 Hatton Agricultural and Forestal District.**

The district known as the "Hatton Agricultural and Forestal District" consists of the following described properties: Tax map 135, parcels 13, 13A, 13B, 14B, 15, 15A, 15C, 17, 18, 19, 22, 22A, 22C, 22C1, 22C2; tax map 136, parcels 2A, 6B, 8H, 9, 9A2, 9B, 9C, 9D1, 9E. This district, created on June 29, 1983 for not more than 10 years and last reviewed on July 6, 2011, shall next be reviewed prior to July 6, 2021.

(Code 1988, § 2.1-4(a); Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 07-3(1), 7-11-07; Ord. 10-3(2), 7-7-10)

**Sec. 3-227 Totier Creek Agricultural and Forestal District.**

The district known as the "Totier Creek Agricultural and Forestal District" consists of the following described properties: Tax map 121, parcels 70A, 70D, 70E, 72C, 85, 85A; tax map 122, parcels 5, 5A; tax map 128, parcels 13, 14A, 14B, 14C, 14D, 27, 29, 30, 72; tax map 129, parcels 3, 5, 6, 6A, 7A, 7D, 9; tax map 130, parcels 1, 5A; tax map 134, parcels 3, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L; tax map 135, parcels 7, 10. This district, created on June 29, 1983 for not more than 10 years and last reviewed on July 6, 2011, shall next be reviewed prior to July 6, 2021.

(Code 1988, § 2.1-4(b); Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01)

**ORDINANCE NO. 11-03(2)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

**By Amending:**

3-208 Blue Run Agricultural and Forestal District  
3-209.5 Buck's Elbow Mountain Agricultural and Forestal District  
3-218 Jacob's Run Agricultural and Forestal District

**CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS  
DIVISION 2. DISTRICTS**

**Sec. 3-208 Blue Run Agricultural and Forestal District.**

The district known as the "Blue Run Agricultural and Forestal District" consists of the following described properties: Tax map 35, parcels 22, 23, 24A, 26, 26B, 26B1, 26C, 26D, 28A, 29, 31, 32A, 41A, 41E, 43; tax map 36, parcels 6A, 9, 20; tax map 49, parcels 4A1, 4A5, 24, 24A, 24B; tax map 50, parcels 5, 5B, 32A, 41A, 41Q, 42A, 42A1, 43, 45B, 47, 47A, 47B; tax map 51, parcel 13, 14. This district, created on June 18, 1986 for not more than 8 years, since amended at its last review on July 10, 2002 to continue for not more than 10 years, shall next be reviewed prior to July 10, 2012.

(5-11-94; 7-13-94; 4-12-95; Code 1988, § 2.1-4(d); Ord. 98-A(1), 8-5-98; Ord. 01-3(3), 8-8-01; Ord. 02-3(3), 7-10-02; Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10)

**Sec. 3-209.5 Buck's Elbow Mountain Agricultural and Forestal District.**

The district known as the "Buck's Elbow Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 25, parcel 1; tax map 38, parcels 4, 7, 8, 10, 20; tax map 39, parcels 1, 1F, 1F1, 1G, 2B, 8, 10A, 21Q, 21R, 21Z. This district, created on December 2, 2009 for not more than 10 years, shall next be reviewed prior to December 2, 2019.

(Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10)

**Sec. 3-218 Jacobs Run Agricultural and Forestal District.**

The district known as the "Jacobs Run Agricultural and Forestal District" consists of the following described properties: Tax map 19, parcels 25, 25A; tax map 19A, parcel 31; tax map 20, parcel 6J; tax map 30, parcel 32B; tax map 31, parcels 1, 1B, 4K, 8, 8E, 16, 16B, 44C, 45, 45B, 45C. This district, created on January 6, 1988 for not more than 6 years, since amended to continue for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.

(3-2-94; Code 1988, § 2.1-4(i); Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 09-3(4), 12-2-09; Ord. 10-3(2), 7-7-10)

**ORDINANCE NO. 11-4(2)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, ANIMALS AND FOWL, ARTICLE III, IMPOUNDMENT, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 4, Animals and Fowl, is hereby amended and reordained as follows:

**By Amending:**  
**Sec. 4-300 Impoundment**

**CHAPTER 4. ANIMALS AND FOWL**

**ARTICLE III. IMPOUNDMENT**

**Sec. 4-300 Duties of animal control officers; seizure and impoundment of animals; notice and hearing; disposition of animals.**

A. Any animal control officer or law enforcement officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health.

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

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

If there is a direct and immediate threat to an agricultural animal, the animal control officer or law enforcement officer may seize the animal, in which case the law-enforcement officer or animal control officer shall file within five (5) business days on a form approved by the state veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the state veterinarian.

C. Upon seizing or impounding an animal, the animal control officer or law enforcement officer shall petition the general district court in the county for a hearing. The hearing shall be not more than ten (10) business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five (5) days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the law-enforcement officer or animal control officer shall cause to be published in a newspaper of general

circulation in the county notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five (5) days prior to the hearing at the place provided for public notices at the county courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. If requested by either party on appeal to the circuit court, trial by jury shall be as provided in Virginia Code §§ 19.2-260 *et seq.*

F. The law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. The county may require the owner of any animal held pursuant to this section for more than thirty (30) days to post a bond in surety with the county for the amount of the cost of boarding the animal for a period not to exceed nine (9) months.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care, then the court shall order that the animal may be: (i) sold by the animal control officer if not a companion animal; (ii) disposed of by a local governing body pursuant to subsection D of Virginia Code § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (iii) delivered to the person with a right of property in the animal as provided in subsection G.

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

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

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of the companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating section 4-107 or section 4-108. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two (2) years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. In case of sale of an animal under this section, the proceeds shall first be applied to the costs of the sale, then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund of the state treasury.

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



**State law reference**—Va. Code § 3.2-6569.

**ORDINANCE NO. 11-11(1)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 10, PARKS AND RECREATION FACILITIES, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 10, Parks and Recreation Facilities, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

**By Amending:**

- 11-301 Beaver Creek Reservoir**
- 11-302 Chris Greene Lake**
- 11-303 Ragged Mountain Reservoir**
- 11-304 South Fork Rivanna Reservoir**
- 11-305 Sugar Hollow Reservoir**
- 11-306 Totier Creek Reservoir**

**CHAPTER 11. PARKS AND RECREATION FACILITIES**

**ARTICLE III. WATER SUPPLY RESERVOIRS UTILIZED BY THE RIVANNA WATER AND SEWER AUTHORITY**

**Sec. 11-301 Beaver Creek Reservoirs**

Uses and activities within the boundaries of the Beaver Creek Reservoir shall be regulated as provided herein:

A. *Boundaries of reservoir.* The boundaries of the reservoir are shown on maps on file in the office of the clerk of the board of supervisors, entitled "Beaver Creek Reservoir, Tax Maps 41, 56, 57."

B. *Authorized activities.* Fishing, which is conducted in compliance with all applicable state statutes and regulations, canoeing, boating with boats not operated by internal combustion engines, hiking, birdwatching and picnicking shall be authorized within the boundaries of the reservoir.

C. *Activities authorized only by permit.* Boating with boats operated by internal combustion engines are authorized within the boundaries of the reservoir only pursuant to a permit issued by the Rivanna Water and Sewer Authority.

D. *Prohibited activities.* Any activity not expressly permitted, including but not limited to, swimming, hunting, trapping or discharging of firearms and camping shall be prohibited within the boundaries of the reservoir.

E. *Boats.* The Rivanna Water and Sewer Authority, the Albemarle County Department of Parks and Recreation and the Virginia Department of Game and Inland Fisheries are authorized to use boats operated by internal combustion engines within the boundaries of the reservoir for official purposes. Boats equipped with internal combustion engines whose use is prohibited shall have the engine tilted in a nonoperating position when within the boundaries of the reservoir. If such boats are equipped with or utilize removable gas tanks, the gas tanks shall be removed prior to entering reservoir waters.

F. *Motor vehicles.* Motor vehicles shall be prohibited from all but designated paved or improved roads and designated parking areas.

G. *Fires.* Fires shall be prohibited, except for those within a picnic grill or those required and approved by the Rivanna Water and Sewer Authority as part of the watershed management program.

(12-9-81; 6-8-83; 2-11-87; Code 1988, §§ 14-13, 14-17, 14-19, 14-21, 14-23; Ord. 98-A(1), 8-5-98)

State law reference-- Va. Code § 15.2-2109.

**Sec. 11-302 Chris Greene Lake.**

Uses and activities within the boundaries of Chris Green Lake shall be regulated as provided herein:

A. *Boundaries of lake.* The boundaries of the lake are shown on maps on file in the office of the clerk of the board of supervisors, entitled "Chris Greene Lake, Tax Map 32, parcels 1A, 3A and 4I."

B. *Authorized activities.* Lake bank fishing which is conducted in compliance with all applicable state statutes and regulations, canoeing, boating with boats not operated by internal combustion engines, hiking, picnicking and swimming within a designated swimming area while a lifeguard is on duty shall be authorized within the boundaries of the lake.

C. *Prohibited activities.* Any activity not expressly authorized, including but not limited to, hunting, trapping or discharging of firearms, and camping shall be prohibited within the boundaries of the lake.

D. *Boats.* All boats operated with internal combustion engines shall be prohibited within the boundaries of the lake, except for those boats operated by the Rivanna Water and Sewer Authority, the Albemarle County Department of Parks and Recreation and the Virginia Department of Game and Inland Fisheries for official purposes. Boats equipped with internal combustion engines whose use is prohibited shall have the engine tilted in a nonoperating position when within the boundaries of the upper and lower reservoir. If such boats are equipped with or utilize removable gas tanks, the gas tanks shall be removed prior to entering reservoir waters.

E. *Motor vehicles.* Motor vehicles shall be prohibited from all but designated paved or improved roads and designated parking areas.

F. *Fires.* Fires shall be prohibited, except for those within a picnic grill or those required and approved by the Rivanna Water and Sewer Authority as part of the watershed management program.

(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-2109.

**Sec. 11-303 Ragged Mountain Reservoir.**

Uses and activities within the boundaries of the Ragged Mountain Reservoir shall be regulated as provided herein:

A. *Boundaries of reservoir.* The boundaries of the upper and lower reservoir are shown on maps on file in the office of the clerk of the board of supervisors, entitled "Ragged Mountain Reservoir, Tax Maps 59, 74, 75."

B. *Authorized activities.* Fishing which is conducted in compliance with all applicable state statutes and regulations, hiking, birdwatching and picnicking shall be authorized within the boundaries of both the upper and lower reservoir.

C. *Activities authorized only by permit.* Canoeing and boating with boats not operated by internal combustion engines are authorized within the boundaries of both the upper and lower reservoir only pursuant to a permit issued by the Rivanna Water and Sewer Authority.

D. *Prohibited activities.* Any activity not expressly permitted, including but not limited to, swimming, hunting, trapping or discharging of firearms and camping shall be prohibited within the boundaries of both the upper and lower reservoir.

E. *Boats.* All boats operated with internal combustion engines shall be prohibited within the boundaries of both the upper and lower reservoir, except for those boats operated by the Rivanna Water and Sewer Authority and the Virginia Department of Game and Inland Fisheries for official purposes. Boats

equipped with internal combustion engines whose use is prohibited shall have the engine tilted in a nonoperating position when within the boundaries of the upper and lower reservoir. If such boats are equipped with or utilize removable gas tanks, the gas tanks shall be removed prior to entering reservoir waters.

F. *Motor vehicles.* Motor vehicles shall be prohibited from all but designated paved or improved roads and designated parking areas.

G. *Fires.* Fires shall be prohibited, except for those within a picnic grill or those required and approved by the Rivanna Water and Sewer Authority as part of the watershed management program.

(12-9-81; 2-11-87; Code 1988, §§ 14-13, 14-15, 14-19, 14-21, 14-23; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2109.

### **Sec. 11-304 South Fork Rivanna Reservoir.**

Uses and activities within the boundaries of the South Fork Rivanna Reservoir shall be regulated as provided herein:

A. *Boundaries of reservoir.* The boundaries of the reservoir are shown on maps on file in the office of the clerk of the board of supervisors, entitled "South Fork Rivanna Reservoir, Tax Maps 30, 44, 45."

B. *Authorized activities.* Fishing, which is conducted in compliance with all applicable state statutes and regulations, canoeing, boating with boats not operated by internal combustion engines, hiking, birdwatching and picnicking shall be authorized within the boundaries of the reservoir.

C. *Activities authorized only by permit.* Boating with boats operated by internal combustion engines and the establishment of private boat docks are authorized within the boundaries of the reservoir only pursuant to a permit issued by the Rivanna Water and Sewer Authority.

D. *Prohibited activities.* Any activity not expressly permitted, including but not limited to, swimming, hunting, trapping or discharging of firearms and camping shall be prohibited within the boundaries of the reservoir.

E. *Boats.* The Rivanna Water and Sewer Authority and the Virginia Department of Game and Inland Fisheries is authorized to use boats operated by internal combustion engines within the boundaries of the reservoir for official purposes. Boats equipped with internal combustion engines whose use is prohibited shall have the engine tilted in a nonoperating position when within the boundaries of the reservoir. If such boats are equipped with or utilize removable gas tanks, the gas tanks shall be removed prior to entering reservoir waters. Boats launched from trailers shall access the reservoir only from improved access ramps approved by the Rivanna Water and Sewer Authority and the Albemarle County Department of Parks and Recreation.

F. *Motor vehicles.* Motor vehicles shall be prohibited from all but designated paved or improved roads and designated parking areas.

G. *Fires.* Fires shall be prohibited, except for those within a picnic grill or those required and approved by the Rivanna Water and Sewer Authority as part of the watershed management program.

(12-9-81; 6-8-83; 2-11-87; Code 1988, §§ 14-13, 14-16, 14-19, 14-21, 14-23; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2109.

### **Sec. 11-305 Sugar Hollow Reservoir.**

Uses and activities within the boundaries of the Sugar Hollow Reservoir shall be regulated as provided herein:

A. *Boundaries of reservoir.* The boundaries of the reservoir are shown on maps on file in the office of the clerk of the board of supervisors, entitled "Sugar Hollow Reservoir, Tax Maps 24, 25, 38."

B. *Authorized activities.* Reservoir bank fishing which is conducted in compliance with all applicable state statutes and regulations, hiking, birdwatching and picnicking shall be authorized within the boundaries of the reservoir.

C. *Prohibited activities.* Any activity not expressly authorized, including but not limited to, canoeing, boating, swimming, hunting, trapping or discharging of firearms and camping shall be prohibited within the boundaries of the reservoir.

D. *Boats.* All boats shall be prohibited within the boundaries of the reservoir, except for those boats operated by the Rivanna Water and Sewer Authority and the Virginia Department of Game and Inland Fisheries for official purposes.

E. *Motor vehicles.* Motor vehicles shall be prohibited from all but designated paved or improved roads and designated parking areas.

F. *Fires.* Fires shall be prohibited, except for those within a picnic grill or those required and approved by the Rivanna Water and Sewer Authority as part of the watershed management program.

(12-9-81; 2-11-87; Code 1988, §§ 14-13, 14-14, 14-19, 14-21, 14-23; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2109.

#### **Sec. 11-306 Totier Creek Reservoir.**

Uses and activities within the boundaries of the Totier Creek Reservoir shall be regulated as provided herein:

A. *Boundaries of reservoir.* The boundaries of the reservoir are shown on maps on file in the office of the clerk of the board of supervisors, entitled "Totier Creek Reservoir, Tax Maps 130, 136."

B. *Authorized activities.* Fishing, which is conducted in compliance with all applicable state statutes and regulations, canoeing, boating with boats not operated by internal combustion engines, hiking, birdwatching and picnicking shall be authorized within the boundaries of the reservoir.

C. *Prohibited activities.* Any activity not expressly permitted, including but not limited to, swimming, hunting, trapping or discharging of firearms and camping shall be prohibited within the boundaries of the reservoir.

D. *Boats.* All boats operated with internal combustion engines shall be prohibited within the boundaries of the reservoir, except for those boats operated by the Rivanna Water and Sewer Authority, the Albemarle County Department of Parks and Recreation and the Virginia Department of Game and Inland Fisheries for official purposes. Boats equipped with internal combustion engines whose use is prohibited shall have the engine tilted in a nonoperating position when within the boundaries of the reservoir. If such boats are equipped with or utilize removable gas tanks, the gas tanks shall be removed prior to entering reservoir waters.

E. *Motor vehicles.* Motor vehicles shall be prohibited from all but designated paved or improved roads and designated parking areas. Parking in a designated parking area under the control of the Rivanna Water and Sewer Authority shall be allowed only by a permit issued by the Rivanna Water and Sewer Authority.

F. *Fires.* Fires shall be prohibited, except for those within a picnic grill or those required and approved by the Rivanna Water and Sewer Authority as part of the watershed management program.

(12-9-81; 6-8-83; 2-11-87; Code 1988, §§ 14-13, 14-18, 14-19, 14-21, 14-23; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 15.2-2109.

**ORDINANCE NO. 11-15(3)**

AN ORDINANCE TO AMEND CHAPTER 15, TAXATION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 15, Taxation, is hereby amended and reordained as follows:

**By Amending:**

- Sec. 15-600 Definitions
- Sec. 15-601 Imposed; amount
- Sec. 15-604 Duties of seller generally

**By Adding:**

- Sec. 15-1101.1 Exemption of certain personal property from taxation

**By Repealing:**

- Sec. 15-603 Telephone service
- Article XIV Enhanced Emergency Telephone Service Tax – E-911
  - Sec. 15-1400 Enhanced emergency telephone service tax--Levy and rate; effective date; exemptions
  - Sec. 15-1401 Definitions
  - Sec. 15-1402 Collection and payment
  - Sec. 15-1403 Receipt and disbursement by finance director
  - Sec. 15-1404 Violations, penalties

**ARTICLE VI. UTILITY TAX**

**Sec. 15-600 Definitions.**

(1) *CCF*. The term “CCF” means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

(2) *Commercial*. The term “commercial” means for use not defined as residential or industrial.

(3) *Industrial*. The term “industrial” means for use in mining, manufacturing, or processing of raw materials. For purposes of classifying electrical services, the demand load must be greater than 50kw based on the connected load for a new purchaser and a history of purchasers exceeding 50kw for 3 months out of a twelve-month period for an existing purchaser.

(4) *Kilowatt hours (kWh) delivered*. The term “kilowatt hours (kWh) delivered” means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual purchaser, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

(5) *Purchaser*. The term “purchaser” means every person who purchases a utility service.

(6) *Residential*. The term “residential” means for use by persons primarily for domestic purposes in buildings having single or multiple meters for electricity or natural gas and used as a single dwelling unit or in normal farming operations.

(7) *Seller*. The term “seller” means every person, whether a public service corporation or a municipality or private corporation who sells or furnishes a utility service in the county.

(8) *Utility service*. The term “utility service” means electric service and natural gas service furnished within the county.

(6-22-67, § 1; 6-20-68, § 1; Ord. No. 94-8(2), 11-2-94; Code 1988, § 8-12; Ord. 98-A(1), 8-5-98; Ord. 00-15(3), 10-4-00)

**Sec. 15-601 Imposed; amount.**

There is hereby imposed and levied by the county upon each and every purchaser of utility services as set forth herein a tax for general purposes in the following amounts:

A. *Electrical Services - Residential.* On purchasers of electric service for residential purposes, the tax shall be in the amount of \$0.031283 per kWh for the first 128 kWh and \$0.000000 per kWh exceeding 128 kWh delivered monthly by a seller not to exceed four dollars (\$4.00) per month.

B. *Electrical Services - Commercial.* On purchasers of electric service for commercial purposes, the tax shall be in the amount of \$0.006161 per kWh for the first 48,693 kWh and \$0.001636 per kWh exceeding 48,693 kWh delivered monthly by a seller.

C. *Electrical Services - Industrial.* On purchasers of electric service for industrial purposes, the tax shall be in the amount of \$0.005265 per kWh for the first 56,980 kWh and \$0.000934 per kW exceeding 56,980 kWh delivered monthly by a seller.

D. *Gas Service - Residential.* On purchasers of natural gas service for residential purposes, the tax shall be \$1.25 per CCF for the first 1.6 CCF and \$0.00 per CCF exceeding 1.6 CCF delivered monthly by a seller.

E. *Gas Service - Commercial or Industrial.* On purchasers of natural gas service for commercial or industrial purposes, the tax shall be \$0.0638 per CCF for the first 4,500 CCF and \$0.0110 per CCF exceeding 4,500 CCF for non-interruptible service, and \$0.0588 per CCF for the first 4,770 CCF and \$0.0110 per CCF exceeding 4,770 CCF for interruptible service.

(6-22-67, § 2; 6-20-68, § 2; 11-2-68, § 1; 4-21-76; Ord. No. 94-8(2) of 11-2-94; Code 1988, § 8-13; Ord. 98-A(1), 8-5-98; Ord. 00-15(3), 10-4-00)

State law reference--Va. Code § 58.1-3814.

**Sec. 15-602 Utility bills.**

Bills shall be considered monthly bills if rendered twelve (12) times annually with each bill covering a period of approximately one (1) month or a portion thereof. If bills for utility services are submitted less frequently than monthly, covering periods longer than one (1) month, the maximum amounts of such bills which shall be subject to the tax levied by this article shall be increased by multiplying the appropriate maximum fixed by § 15-601 for the utility service involved by the number of months of service covered by such bills.

(6-22-67, § 3; 6-20-68, § 3; 11-2-68, § 2; Code 1988, § 8-14; Ord. 98-A(1), 8-5-98)

**Sec. 15-604 Duties of seller generally.**

A. It shall be the duty of every seller in acting as the tax collection medium or agency for the county to collect from the purchaser for use of the county, the tax imposed and levied by this article at the time of collecting the purchase price charged therefor. The seller shall remit monthly to the county the amount of tax billed during the preceding month to the purchaser.

B. In all cases where the seller collects the price for utility service in stated periods, the tax imposed and levied by this article shall be computed on the amount of purchase during the month or period according to each bill rendered; provided, the amount of tax to be collected shall be the nearest whole cent to the amount computed.

C. The tax shall, when billed, be stated as a distinct item separate and apart from the monthly gross charge. Until the purchaser pays the tax to the seller, the tax shall constitute a debt of the purchaser

to the county. If any purchaser refuses to pay the tax, the seller shall notify the county. After the purchaser pays the tax to the seller, the taxes collected shall be deemed to be held in trust by the seller until remitted to the county.

(6-22-67, § 7; 6-20-68, § 7; Ord. No. 94-8(2), 11-2-94; Code 1988, § 8-16; Ord. 98-A(1), 8-5-98)

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## ARTICLE XI. PERSONAL PROPERTY – IN GENERAL

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### **Sec. 15-1101.1 Exemption of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment from taxation.**

The following farm animals, grains and other feeds used for the nurture of farm animals, agricultural products, farm machinery and farm implements are hereby exempted from taxation:

- A. Horses, mules and other kindred animals.
- B. Cattle.
- C. Sheep and goats.
- D. Hogs.
- E. Poultry.
- F. Grains and other feeds used for the nurture of farm animals.
- G. Grain; tobacco; wine produced by farm wineries as defined in *Virginia Code* § 4.1-100 and other agricultural products in the hands of a producer.
- H. Farm machinery other than the farm machinery described in subsection J of this section, and farm implements, which shall include equipment and machinery used by farm wineries as defined in *Virginia Code* § 4.1-100 in the production of wine.
- I. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.
- J. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.
- K. Privately owned trailers as defined in *Virginia Code* § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subsections A through G of this section.

**State law reference**--Provisions authorizing county to exempt farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment from taxation, Va. Code § 58.1-3505.

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## ARTICLE XIV. RESERVED



## FUNDING PRIORITIES

2. Board of Supervisors to endorse the following goals as highest priority for funding and that applications successfully addressing these goals be given additional weight:
  - Community residents are physically and mentally healthy.
  - Community residents are safe and have basic needs met.
  - Children in the community develop appropriately and succeed academically.
 Additional goals were identified as important and should be considered for funding:
  - The community provides a vibrant economic climate.
  - The community manages natural resources to sustain current and future generations.
  - The community uses arts, culture and recreation.
  - The community is inclusive and engaged.
3. The Steering Committee has identified indicators that reflect accomplishment of the goals and recommends that programs be evaluated, in part, on their ability to promote attainment of the goals.
4. Funding to be prioritized on successfully addressing the goals outlined in Recommendation 2 above, using the following criteria:
  - a. Demonstration of need and programming that effectively addresses need.
  - b. Evaluation of program outcomes showing program effectiveness.
  - c. Demonstration of financial benefit to the localities and/or program participants.
  - d. Outreach to and engagement of underserved populations.
5. The funding process be modified as follows: *NOTE: The Steering Committee recommended the use of “non-contractual” rather than “discretionary” to define agency funding that is not mandatory or required by contract. Beginning with FY12 funding, all funded agencies will enter into a contract/agreement for both City and County funding. A list of agencies proposed for the ABRT process can be found in Appendix 10 of the Report.*
  - a. Non-contractual funding for non-profit programs should be consolidated into one process with review by the ABRT or a subcommittee.
  - b. Arts and Cultural Programs and Festivals should be included in the ABRT process, and reviewed by a subcommittee with relevant expertise.
  - c. All programs being considered for non-contractual funding should complete the same application and be considered under the same criteria.
  - d. Contractual or statutory funding should continue to be managed by the Offices of Management and Budget.
6. The Steering Committee recommends that:
  - a. Applications are considered on their merits on an annual basis, using an objective scoring system that rates them as Poor, Fair, Solid, or Exemplary. Programs rated Poor should be defunded. Programs rated Fair should receive at least a 25% cut in funding and be required to submit quarterly progress reports, with a second rating of Fair resulting in defunding.
  - b. ABRT make funding recommendations for programs rated Solid and Exemplary based on community need, effectiveness and program characteristics with existing programs rated Solid or Exemplary receiving not more than a 10% cut in funding or a 20% increase in funding per year.
  - c. Funding for previously unfunded programs that demonstrate that they meet community needs effectively be considered for funding if they receive a rating of “Solid” or better on their application.

**SP-2009-00025. Dover Foxcroft.**

1. Development and use shall be in general accord with the conceptual plan titled "SP Application" prepared by Natural Design Concepts, LLC and dated 3/7/11 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major element within the development essential to the design of the development, as shown on the Conceptual Plan:

- location of buildings and structures (all existing, no new)

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. All outdoor lighting installed after July 6, 2011 shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval before any new outdoor lighting is installed.

**SP2008-00038 Ragged Mountain Dam.**

1. Development and use shall be in general accord with the conceptual plan consisting of the two plan sheets titled "Proposed Site Plan – Dam Site" prepared by Schnabel Engineering, and dated 3-18-2011, and "Reservoir Area Map Overall" prepared by Schnabel Engineering and dated 1-13-2011 (hereafter referred to as "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
  - a. Approximate limits of disturbance;
  - b. General design and location of the new dam;
  - c. Maximum normal-pool increase of 42 feet above the existing normal pool. While the plan titled "Proposed Site Plan – Dam Site" shows the dam design for a 30 foot increase, any increase up to 42 feet accomplished by adding height to the top of the new dam would be considered to be in general accord with the conceptual plan.

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. If the use, structure or activity authorized by this special use permit is not commenced by [date 15 years from Board action], the special use permit shall be deemed abandoned and the authority granted hereunder shall terminate. For the purposes of this condition, the term "commenced" means starting the lawful physical construction of any structure shown on the Conceptual Plan referenced in Condition 1 above.
3. The applicant shall not begin work on the dam until:
  - a. The Virginia Department of Transportation (VDOT) and the County Engineer (or his designee) have approved the following:
    - i. A plan of improvements to Reservoir Road to safely transport construction vehicles to the site while maintaining access to private property, and minimizing erosion and impacts to the stream. This plan may include:
      - paved or gravel pull off areas at certain intervals;
      - widening of Reservoir Road at key locations;
      - grading and clearing for sight distance;
      - other improvements that are deemed safety issues by the County Engineer or VDOT;
      - erosion control measures;
      - pipe replacements or upgrades;
      - other drainage improvements to reduce erosion or impacts to the streams and support heavy vehicles
    - ii. A maintenance-of-traffic plan that includes flaggers and a communication plan with existing residents of the road and that assures unimpeded emergency vehicle access at all times. This plan shall also address

any time of day restrictions including the daily peak hour restriction and weekend or holiday restrictions. The plan shall give VDOT or the County Engineer the authority to monitor the contractor and make adjustments when needed due to conflicts and unforeseen circumstances. A person who has a VDOT Work Zone Traffic Control Certification shall be required on site at any time there are activities on Reservoir Road that will restrict normal traffic operations.

- iii. A maintenance plan to include regular inspection and documentation, and prompt repair work
  - b. VDOT has approved any embankment changes to I-64; and
  - c. The applicant has completed any pre-construction work shown in the plans listed above.
4. After the completion of construction and prior to the release of water protection ordinance bonds for the project, Reservoir Road shall be restored according to a plan approved by VDOT and the county engineer. At the discretion of VDOT and the county engineer, the plan may require final grading and the addition of stone for the gravel sections of the road and paving from Fontaine Ave to the last access to a single family residence.
5. Upon completion of earth-disturbing work in any above-water area upstream of the dam, the applicant shall replant each area in such a way as to restore and maintain a complete, contiguous wooded buffer around the reservoir. This planting shall be done according to a replanting plan subject to the approval of the Program Authority of the Water Protection Ordinance. This planting shall use native tree and shrub species listed in Appendix A of the *Riparian Buffers Modification & Mitigation Guidance Manual*, published by the Virginia Department of Conservation and Recreation; the brochure *Native Plants for Conservation, Restoration, and Landscaping*, published by the Virginia Department of Conservation and Recreation; and/or Appendix 7 of the *Chesapeake Bay Riparian Handbook*, published by the United States Department of Agriculture and shall be designed to re-establish vegetation consistent with the existing forest vegetation of the Ragged Mountain Natural Area. Trees and shrubs shall be planted at the densities specified in Appendix D, Table A of the *Riparian Buffers Modification & Mitigation Guidance Manual*, published by the Virginia Department of Conservation and Recreation, or to another established standard intended for non-commercial forest restoration, subject to the approval of the Director of Planning.