

**FLUVANNA COUNTY BOARD OF SUPERVISORS  
REGULAR MEETING MINUTES  
Circuit Court Room  
November 20, 2013, 7:00 pm, Regular Meeting**

**MEMBERS PRESENT:** Shaun V. Kenney, Chairman  
Bob Ullenbruch, Vice-Chairman  
Joe Chesser  
Donald W. Weaver  
Mozell H. Booker

**ALSO PRESENT:** Steven M. Nichols, County Administrator  
Fred Payne, County Attorney  
Mary Weaver, Clerk to the Board of Supervisors

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE**

Chairman Kenney called the meeting of Wednesday, November 20, 2013, to order at 7:00 p.m., in the Circuit Courtroom in Palmyra, Virginia; and the Pledge of Allegiance was recited, after which, Chairman Kenney called for a moment of silence.

**SPECIAL PRESENTATION**

Chairman Kenney read and presented a resolution to Mr. and Mrs. Goin recognizing the Modesto Farm of Fluvanna County as an Outstanding Conservation Farm.

**COUNTY ADMINISTRATOR'S REPORT**

Mr. Nichols reported on the following topics:

- Received State Farm Good Neighbor Grant for county-wide recruiting, training and retention of fire and rescue volunteers.
- "A Look at Fire and Rescue" Class is being planned for spring 2014. Potential volunteers or interested citizens will learn about Fluvanna's Fire and Rescue.
- Annual Library Book Sale was a great success.
- Lake Rescue has received a new ambulance (554).
- Fork Union Sanitary District (FUSD) Area Town Hall Meeting will be held December 12<sup>th</sup> at 7:00pm, Fluvanna County Community Center.
- Pleasant Grove House information and additional funding request will be on the December 4<sup>th</sup> agenda.
- Requested guidance from Board to staff on how to proceed with the Coyote Ordinance. Mr. Kenney asked staff to come back with best practices and recommendations.
- Mr. Bobby Popowicz will be the Acting County Administrator from November 21 – 27.

**PUBLIC COMMENTS #1**

Chairman Kenney opened the floor for the first round of public comments.

With no one wishing to speak, Chairman Kenney closed the first round of public comments.

**PUBLIC HEARING**

ZMP 12:03/Sycamore Square, LLC, Proffer Amendment – Mr. Steve Tugwell, Senior Planner, addressed the Board with this request to amend proffer number eight of ZMP 04:02. The applicant, Mr. Charlie Armstrong was present.

Chairman Kenney opened the floor for the public hearing.

With no one wishing to speak Chairman Kenney closed the public hearing.

The Board discussed.

**MOTION:**

Mr. Chesser moved to approve ZMP 12:03, a request to amend proffer number eight (8) of ZMP 04:02 with respect to Tax Map 9, Section A, Parcels 13, 14 and 14C the proffer will be amended to:

8. The development will meet, at a minimum, the federal standards for age-restricted housing as defined in the Fair Housing Amendments Act of 1988 and Housing for Older Persons Act of 1995: Final Rule. The following requirements shall apply:
  - a. The housing shall be intended and designed for persons aged 55 and older;
  - b. At least 80 percent of the occupied units shall be occupied by at least one (1) person who is 55 years of age or older;
  - c. The development shall publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older. This shall be recorded as a covenant and restriction for the community; and
  - d. The development shall also comply with rules issued by HUD for the verification of occupancy.

Mrs. Booker seconded. The motion carried, with a vote of 4-1. AYES: Kenney, Booker, Chesser and Weaver. NAYS: Ullenbruch. ABSENT: None.

SUP 13:04/Andrew & Jess Boyle, Commercial Kennel – Mr. Steve Tugwell, Senior Planner, addressed the Board with this request for a Special Use Permit to allow for a Commercial Kennel. The applicants, Mr. and Mrs. Boyle were present.

Chairman Kenney opened the floor for the public hearing.

With no one wishing to speak Chairman Kenney closed the public hearing.

MOTION:

Mr. Ullenbruch moved to approve SUP 13:04, a special use permit request to allow for a Commercial Kennel pursuant to Fluvanna County Code Section 22-4-2.2 with respect to 4.067 acres of Tax Map 4, Section 41, Parcel 3 with the eight conditions as follows.

1. Prior to development of the site, a site development plan that meets the requirements of the Fluvanna County Zoning Ordinance, must be submitted for review and approval.
2. The site must meet all Virginia Department of Transportation requirements.
3. The site must meet the requirements set forth by the Virginia Department of Health.
4. The property shall be maintained in a neat and orderly manner so that the visual appearance from the road and adjacent properties is acceptable to County officials.
5. The Board of Supervisors, or its representative, reserves the right to inspect the business for compliance with these conditions at any time.
6. Under Sec. 22-17-4 F (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.
7. Nine dog runs with possible expansion to provide a total of not more than 20 runs within a new building that would contain no more than 600 square feet.
8. Noise attenuation measures including insulation, wooden fencing, etc. satisfactory to the Zoning Administrator to be provided prior to issuance of Certificate of Occupancy.

Mr. Weaver seconded. The motion carried, with a vote of 5-0. AYES: Kenney, Booker, Ullenbruch, Chesser and Weaver. NAYS: None. ABSENT: None.

SUP 13:05/Lori L. Roberts, Commercial Greenhouse – Mr. Steve Tugwell, Senior Planner, addressed the Board with this request for a Special Use Permit to allow for a Commercial Greenhouse. The applicant, Ms. Lori Roberts was present.

Chairman Kenney opened the floor for the public hearing.

With no one wishing to speak Chairman Kenney closed the public hearing.

MOTION:

Mr. Weaver moved to approve SUP 13:05, a special use permit request to allow for a Commercial Greenhouse pursuant to Fluvanna County Code Section 22-4-2.2 with respect to 3.581 acres of Tax Map 29, Section A, Parcel 8, with the eight conditions as follows.

1. Prior to development of the site, a site development plan that meets the requirements of the Fluvanna County Zoning Ordinance, must be submitted for review and approval.
2. The site must meet all Virginia Department of Transportation requirements.
3. The site must meet the requirements set forth by the Virginia Department of Health.
4. The property shall be maintained in a neat and orderly manner so that the visual appearance from the road and adjacent properties is acceptable to County officials.
5. Hours of operation shall be between 8:00 am and 6:00 pm Monday through Saturday.
6. The Board of Supervisors, or its representative, reserves the right to inspect the business for compliance with these conditions at any time.
7. All outdoor storage of materials shall be screened from the view of public roads, rights-of-way, and adjacent properties as required by Sec. 22-24-7 3. iii of the Zoning Ordinance.
8. Under Sec. 22-17-4 F (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.

Mr. Ullenbruch seconded. The motion carried, with a vote of 5-0. AYES: Kenney, Booker, Ullenbruch, Chesser and Weaver. NAYS: None. ABSENT: None.

SUP 13:06/Gregory Cox, Auto Repair Service Establishment – Mr. Steve Tugwell, Senior Planner, addressed the Board with this request for a Special Use Permit to allow for an Auto Repair Service Establishment. The applicant, Mr. Greg Cox, was present.

Chairman Kenney opened the floor for the public hearing.

With no one wishing to speak Chairman Kenney closed the public hearing.

MOTION:

Mr. Weaver moved to approve SUP 13:06, a special use permit request to operate an Auto Repair Service Establishment pursuant to Fluvanna County Code Section 22-4-2.2 with respect to 10 acres of Tax Map 16, Section 14, Parcel 4 with the eleven conditions as follows.

1. Prior to development of the site, a site development plan that meets the requirements of the Fluvanna County Zoning Ordinance, must be submitted for review and approval.
2. The site must meet all Virginia Department of Transportation requirements.
3. The site must meet the requirements set forth by the Virginia Department of Health.
4. Not more than five (5) vehicles waiting for service shall be stored on the property outside of normal business hours.
5. All activity related to this automotive repair service establishment shall be confined to within the 31x28 detached building.
6. The hours of operation shall be from 7 a.m. to 5 p.m. Monday – Saturday.
7. All noise generated by this activity shall be limited to maximum daytime level of 60 dB at the property line.
8. Used motor oil, coolants, discarded automotive parts and tires shall be recycled or disposed of in accordance with State and local laws.
9. The property shall be maintained in a neat and orderly manner so that the visual appearance from the road and adjacent properties is acceptable to County officials.
10. The Board of Supervisors, or representative, reserves the right to inspect the business for compliance with these conditions at any time.
11. Under Sec. 22-17-4 F (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.

Mrs. Booker seconded. The motion carried, with a vote of 5-0. AYES: Kenney, Booker, Ullenbruch, Chesser and Weaver. NAYS: None. ABSENT: None.

SUP 13:07/Brad Kennedy, Auto Repair Service Establishment – Mr. Steve Tugwell, Senior Planner, addressed the Board with this request for a Special Use Permit to allow for an Auto Repair Service Establishment. The applicant, Mr. Bard Kennedy, was present.

Chairman Kenney opened the floor for the public hearing.

With no one wishing to speak Chairman Kenney closed the public hearing.

MOTION:

Mr. Weaver moved to approve SUP 13:07, a special use permit request to operate an Auto Repair Service Establishment pursuant to Fluvanna County Code Section 22-4-2.2 with respect to 25.422 acres of Tax Map 29, Section A, Parcel 12 with the ten conditions as follows:

1. Prior to development of the site, a site development plan that meets the requirements of the Fluvanna County Zoning Ordinance, must be submitted for review and approval.
2. The site must meet all Virginia Department of Transportation requirements.
3. The site must meet the requirements set forth by the Virginia Department of Health.
4. All activity related to this automotive repair service establishment shall be confined to within the 80x40 detached garage.
5. The hours of operation shall be from 7 a.m. to 5 p.m. Monday – Saturday.
6. All noise generated by this activity shall be limited to maximum daytime level of 60 dB at the property line.
7. Used motor oil, coolants, discarded automotive parts and tires shall be recycled or disposed of in accordance with State and local laws.
8. The property shall be maintained in a neat and orderly manner so that the visual appearance from the road and adjacent properties is acceptable to County officials.
9. The Board of Supervisors, or representative, reserves the right to inspect the business for compliance with these conditions at any time.
10. Under Sec. 22-17-4 F (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.

Mr. Ullenbruch seconded. The motion carried, with a vote of 5-0. AYES: Kenney, Booker, Ullenbruch, Chesser and Weaver. NAYS: None. ABSENT: None.

CPA 13:01/Fluvanna County, Amend Infrastructure and Land Use Chapter – Mr. Jay Lindsey, Planner, addressed the Board with this request to amend two chapters of the Fluvanna County Comprehensive Plan to reflect changes called for by an Interjurisdictional Agreement between Fluvanna and Louisa Counties.

Chairman Kenney opened the floor for the public hearing.

With no one wishing to speak Chairman Kenney closed the public hearing.

Mr. Ullenbruch expressed his opposition in changing the Comprehensive Plan to suit another county solely for their purposes. Mr. Chesser and Mrs. Booker expressed their support as an investment for the County.

**MOTION:**

Mr. Chesser moved to approve adoption of the attached amendments for CPA 13:01, a request to amend two chapters of the Fluvanna County Comprehensive Plan to reflect the location, extent, and nature of the James River Water Authority water pipeline called for by an Interjurisdictional Agreement between Fluvanna and Louisa Counties. Mrs. Booker seconded. The motion carried, with a vote of 3-2. AYES: Kenney, Booker and Chesser. NAYS: Ullenbruch and Weaver. ABSENT: None.

**ACTION MATTERS**

*James River Water Authority (JRWA) Funding Request* – Mr. Steve Nichols, County Administrator, addressed the Board with this request to initial funding for the JRWA to cover expected legal and engineering firm costs necessary to have the DEW withdrawal permit updated and moved from Bremo Bluff to Columbia.

**MOTION:**

Mr. Chesser moved to approve funding for the James River Water Authority (JRWA) in the amount of \$25,000.00 to cover initial legal, administrative, and engineering costs, with such funds to be transferred from FY14 BOS Contingency. Mrs. Booker seconded. The motion carried, with a vote of 4-1. AYES: Kenney, Booker, Chesser and Weaver. NAYS: Ullenbruch. ABSENT: None.

**PRESENTATIONS**

None

**CONSENT AGENDA**

The following items were approved under the consent agenda:

**MOTION:**

Mrs. Booker moved to approve the consent agenda, which consisted of:

- Minutes from November 06, 2013 as presented.
- Accounts Payable
- Appointment of Acting Planning and Zoning Administrator.

Mr. Chesser seconded. The motion carried, with a vote of 5-0. AYES: Kenney, Booker, Chesser, Ullenbruch and Weaver. NAYS: None. ABSENT: None.

**UNFINISHED BUSINESS**

*Part-time Deputy for the Town of Columbia* – Mr. Nichols, County Administrator, reviewed with the Board the response from Sheriff Washington in regards to placing a part-time deputy in the Town of Columbia. Sheriff Washington was not supportive of putting adding a position down there now, but could review through the budget process. Mr. Kenney expressed that he is not entirely satisfied with the Sheriff's answer.

*Aqua Virginia PPEA Proposal* – Mr. Chesser made a motion to approve the Aqua Virginia PPEA with amendments.

**MOTION:**

Mr. Chesser moved to approve the Aqua Virginia PPEA documents with five amendments:

1. In the Water Pipeline Construction, Operation and Maintenance Agreement Section 10, para 1, line 10, strike "...in the United States Federal District Court for the Western District of Virginia, Charlottesville Division" and add, "...as permissible by law" and;
2. In the Sewer Pipeline Construction, Operation and Maintenance Agreement Section 10, para 1, line 10, strike "...in the United States Federal District Court for the Western District of Virginia, Charlottesville Division" and add, "...as permissible by law" and;
3. In the Water Pipeline Construction, Operation and Maintenance Agreement Section 8, subsection (c), line 1, strike "...forty-five (45)" and add, "...seventy-five (75)" and ;
4. In the Sewer Pipeline Construction, Operation and Maintenance Agreement Section 8, subsection (d), line 1, strike "...forty-five (45)" and add, "...seventy-five (75)" and;
5. Instructs the County Administrator to remit the amount of \$500,000 towards the deposit for the Aqua Water Agreement per the terms of the agreement, and further instructs the County Administrator to remit the amount of \$50,000 towards the deposit for the Aqua Sewer Agreement per the terms of the agreement from the fund balance no later than noon, December 1, 2013.

Mrs. Booker seconded.

Mr. Ullenbruch and Mr. Weaver expressed their opposition to this request and their dismay at the way this was presented. Mr. Weaver, Mr. Ullenbruch, the County Administrator, and the County Attorney were not aware that this issue was being addressed this evening since it was not on the agenda and no mention had been made of a proposed motion or discussion. Mr. Payne could not answer whether or not his prior legal concerns with the agreements were adequately addressed by the motion since he had not reviewed the files for some time. Mr. Payne stated that he would not approve the agreements if all his issues have not been addressed. Mr. Kenney mentioned that the Board has the right to override the County Attorney's determinations.

The motion carried, with a vote of 3-2. AYES: Kenney, Booker, and Chesser. NAYS: Ullenbruch and Weaver. ABSENT: None.

Mr. Chesser asked for clarification on what happens now that this is approved and Mr. Payne finds that the contract is not right, where does that put us? Mr. Kenney said the Board of Supervisors will proceed accordingly.

### **NEW BUSINESS**

*Signage for the Town of Columbia* – Mr. Steve Nichols, County Administrator, addressed the type of signs that are being considered to place in the Town of Columbia as proposed by Mr. Kenney. The design and placement of signage will require approval by the Columbia Town Council.

#### **MOTION:**

Mrs. Booker moved to appropriate up to \$3,000 for the Town of Columbia signage to be taken from the board contingency. Mr. Chesser seconded. The motion carried, with a vote of 5-0. AYES: Kenney, Booker, Chesser, Ullenbruch and Weaver. NAYS: None. ABSENT: None.

*Planning Retreat* – Mr. Steve Nichols discussed having a strategic planning retreat with the new Board in the coming weeks. With the two new Board members present and concurring, the Board agreed to a 1 ½ day strategic planning retreat on January 24-25, 2014, in Fluvanna County, and using Mr. Mike Chandler to facilitate, the cost of which is not to exceed \$5,000.

*Radon Testing in Homes* – Mr. Ullenbruch expressed his concerns about the public having adequate information regarding radon testing and mitigation in homes. Staff will provide additional information and prepare information for FAN Mail, website NewsFlash, and local newspapers.

### **PUBLIC COMMENTS #2**

Chairman Kenney opened the floor for the second round of public comments.

- Mr. Robert Earl, Real Estate Professional – addressed the Board in regards to radon issues.
- Mr. Mel Sheridan, Columbia District – addressed the Board in regards to notifying the residents affected in the JRWA pipeline.
- Mrs. Katy Clossin, Palmyra District – addressed the Board in regards to opposition of the Aqua Virginia PPEA and notifying the residents affected in the JRWA pipeline.

With no one else wishing to speak, Chairman Kenney closed the second round of public comments.

Mr. Weaver expressed his sadness with the conduct of the Board with this last minute motion for the Aqua Virginia PPEA.

### **CLOSED SESSION**

None

### **ADJOURN**

#### **MOTION:**

At 9:43 p.m., Mr. Ullenbruch moved to adjourn the meeting of Wednesday, November 20, 2013. Mr. Weaver seconded. The motion carried, with a vote of 5-0. AYES: Kenney, Booker, Chesser, Ullenbruch and Weaver. NAYS: None. ABSENT: None.

ATTEST:

FLUVANNA COUNTY BOARD OF SUPERVISORS

\_\_\_\_\_  
Mary L. Weaver, Clerk

\_\_\_\_\_  
Shaun V. Kenney, Chairman

**An Ordinance To Amend The Fluvanna County Zoning Map, With Respect To Tax Map 9-A-13, 14, 14C, To Amend The Proffers Associated With The Ordinance Approving ZMP 04:02, A Conditional Rezoning Affecting The Same Parcels.  
(ZMP 12:03)**

BE IT ORDAINED BY THE FLUVANNA BOARD OF SUPERVISORS, pursuant to Virginia Code Section 15.2-2285, that the Fluvanna County Zoning Map be, and it is hereby, amended, as follows:

That Tax Map 9, Section A, Parcels 13, 14 and 14C be and is hereby, conditionally rezoned from R-3, Residential, Planned Community to R-3, Residential, Planned Community, subject to amended proffer #8 as set out in the application dated December 28, 2012, and which is attached hereto.

1. Access to the property from Route 618 shall be limited to three (3) locations (including River Run Drive). Furthermore, River Run Drive shall be limited (by design) to emergency vehicles only.
2. Between River Run Drive and the proposed entrance across from the main gate at Lake Monticello, there shall be a minimum building setback will be 125 feet, measured from the proposed Right-of-Way, as shown on the approved Preliminary Master Plan dated December 29, 2004 (revised). Every effort shall be made to preserve the existing vegetative buffer that exists in this setback.
3. The proposed Assisted Living Facility shall have a parking setback of not less than 50 feet as measured from the Route 618 R.O.W., as shown on the approved Master Plan for development. This setback area shall be landscaped in general accord with Section 22-24-1 (Landscape Plan – General provisions for landscaping) with some latitude for discretionary approval by the Fluvanna County Director of Planning.
4. Between the proposed entrance across from the main gate of Lake Monticello and the eastern property line, there shall be a 50-foot building setback. Every effort shall be made to preserve the existing tree vegetation within this setback for screening purposes.
5. Along River Run Drive, there shall be a minimum building setback of 80 feet, as measured from the property line of Tax Map 9-(A)-13, as shown on the approved Master Plan for development. Every effort shall be made to preserve the existing vegetation buffer that exists in this setback.
6. Along the northern property line, there shall be a 75-foot building setback, extending from River Run Drive in an easterly direction for 1,400 feet and including the proposed community center. Every effort shall be made to preserve 50 feet of existing tree vegetation for screening in this setback.
7. Pedestrian trails, with minimal disturbance, shall be allowed in all buffers, setbacks, and preservation areas.
8. The development will meet, at a minimum, the federal standards for age-restricted housing as defined in the Fair Housing Amendments Act of 1988 and Housing for Older Persons Action 1995: Final Rule: The following requirements shall apply:
  1. The housing shall be intended and designed for persons age 55 and older;
  2. At least 80 percent of the occupied units shall be occupied by at least one person who is 55 years of age or older;
  3. The development shall publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older. This shall be recorded as a covenant and restriction for the community; and
  4. The development shall also comply with rules issued by HUD for the verification of occupancy.
9. There shall be a Community Center, with minimum size of 5,000 square feet to serve the development and any appropriate community uses.
10. The commercial component of the Master Plan shall not total more than 40,000 square feet of

gross floor area, and shall be composed entirely of community retail and service uses, such as medical offices, dental offices, markets, bookstores, dry cleaners, coffee shops, cafes, florists, etc.

11. Construction will not begin until public water and sewer is available.
12. Public water shall provide adequate pressure.
13. On-site stormwater management shall be designed in consultation with the Thomas Jefferson Soil and Water Conservation District utilizing low impact development techniques and water quality best management practices.
14. The following improvements shall be constructed at the entrance across from the Main Gate to Lake Monticello: A conventional intersection with a left turn lane into Lake Monticello and right and left turn lanes into Lake Monticello shall be constructed to VDOT standards and specifications. The primary purpose of this entrance is to serve the assisted living component of Monticello Village, therefore the right and left turn lanes into Lake Monticello shall be constructed prior to issuance of the first residential certificate of occupancy in the Monticello Village community (the length of turn lanes shall be determined by VDOT during the Site Plan stage of Monticello Village).
15. The following improvements shall be constructed at the entrance across from Crofton Plaza. A conventional intersection with a left turn lane into Crofton Plaza and right and left turn lanes into Monticello Village, or a roundabout, shall be constructed prior to issuance of the first residential certificate of occupancy in the Monticello Village community
16. All improvements referenced in items 14 and 15 above are planned to utilize existing VDOT right-of-way or right-of-way dedicated by Southern Development, per the plan titled "proposed improvements to Route 618" and dated 1/14/2005 prepared by Rivanna Engineering. The estimated cost of such improvements is \$685,000.00. In the event a roundabout is desired, additional right-of-way may be necessary. Southern Development cannot guarantee the successful acquisition of, or funding for, any additional right-of-way beyond what is shown in the above referenced plan.
17. A complete copy of a comprehensive traffic analysis of the Lake Monticello Area of Fluvanna County has been provided to Fluvanna County Staff and VDOT. This study was conducted by Wilber Smith & Associates in January 2005, at a cost of \$15,000.
18. Southern Development will provide an additional \$5,000 cash proffer directly to VDOT, for future traffic improvement design in the Lake Monticello Area. Payment shall occur in conjunction with the first residential building permit.