

**BOARD OF SUPERVISORS MINUTES**

**JANUARY 28, 2020**

At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, January 28, 2020, beginning at 5:00 p.m., in the Meeting Room of the Gordon Building, 112 West Main Street, Orange, Virginia. Present: James P. Crozier, Chairman; R. Mark Johnson, Vice Chairman; James K. White; and Lee H. Frame. Absent: S. Teel Goodwin. Also present: Brenda G. Garton, Interim County Administrator; Thomas E. Lacheney, County Attorney; and Alyson A. Simpson, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the agenda, as presented. Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: SPECIAL PRESENTATIONS AND APPEARANCES

There were no Special Presentations or Appearances at this time.

RE: CONSENT AGENDA

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the Consent Agenda, as presented.

RE: FY20 BUDGET AMENDMENTS (SUPPLEMENTALS AND TRANSFERS)

As part of the Consent Agenda, the Board approved the following budget amendments, as presented:

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUS BUDGET	BUDGET CHANGE	AMENDED BUDGET
30044002-35650	Comp Board - Tech. Trust	\$ 0.00	\$ (30,721.00)	\$ (30,721.00)
42160002-48110	EDP Equipment	0.00	30,721.00	30,721.00
30034005-34030	Sheriff - OT Reimbursement	(7,460.00)	(260.00)	(7,720.00)
43120001-41200	Wages - Overtime	167,913.00	260.00	168,173.00
48155001-47737	To EDA Fund	236,139.00	45,810.00	281,949.00
30052001-39900	Appropriated Fund Balance	(2,367,686.75)	(45,810.00)	(2,413,496.75)
43510001-41111	Wages - Regular	145,126.00	6,000.00	151,126.00
43510001-42100	FICA & Medicare	12,330.00	459.00	12,789.00
30052001-39900	Appropriated Fund Balance	(2,367,686.75)	(6,459.00)	(2,374,145.75)
41211001-41107	Wages - Interim	0.00	55,000.00	55,000.00
41211001-42100	FICA & Medicare	15,856.00	4,208.00	20,064.00
41211001-42710	Workers Comp.	155.00	35.00	190.00
30052001-39900	Appropriated Fund Balance	(2,367,686.75)	(59,243.00)	(2,426,929.75)
30034005-34030	Sheriff - OT Reimbursement	(7,460.00)	(432.00)	(7,892.00)
43120001-41200	Wages - Overtime	167,913.00	432.00	168,345.00
30034005-34030	Sheriff - OT Reimbursement	(7,460.00)	(1,280.00)	(8,740.00)
43120001-41200	Wages - Overtime	167,913.00	1,280.00	169,193.00
48160003-43600	VTC Grant Expenses	10,298.00	4,702.00	15,000.00
48160003-43600	VTC Grant Expenses	10,298.00	2,500.00	12,798.00

30034001-34030	Recovered Costs - General	(30,250.00)	(2,500.00)	(32,750.00)
41211001-43100	Prof. Services - Other	40,000.00	(4,702.00)	35,298.00
<b>TOTALS</b>		<b>\$ (6,181,749.25)</b>	<b>\$ 0.00</b>	<b>\$ (6,181,749.25)</b>

RE: AMENDMENT OF REGULAR MEETING SCHEDULE FOR 2020

As part of the Consent Agenda, the Board adopted the following resolution, as presented:

**A RESOLUTION TO ESTABLISH THE  
BOARD OF SUPERVISORS' REGULAR MEETING SCHEDULE FOR 2020**

WHEREAS, Section 15.2-1416 of the Code of Virginia, 1950, as amended, requires the Board to adopt a resolution setting forth the days, times, and place of the Regular Meetings of the Board to be held during the ensuing months;

NOW, THEREFORE, BE IT RESOLVED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby establishes that its Regular Meetings will be held in the Gordon Building, 112 West Main Street, Orange, Virginia, unless otherwise stated, on the following dates and starting at the following times:

January 14 at 5:00 PM	Organizational Meeting and Regular Meeting
January 28 at 5:00 PM	Regular Meeting
February 11 at 5:00 PM	Regular Meeting
February 25 at 5:00 PM	Regular Meeting
March 10 at 5:00 PM	Regular Meeting
March 24 at 5:00 PM	Regular Meeting
April 14 at 5:00 PM	Regular Meeting
April 28 at 5:00 PM	Regular Meeting
May 12 at 5:00 PM	Regular Meeting
May 26 at 5:00 PM	Regular Meeting
June 9 at 5:00 PM	Regular Meeting
June 23 at 5:00 PM	Regular Meeting
July 14 at 5:00 PM	Regular Meeting
July 28 at 5:00 PM	Regular Meeting
August 11 at 5:00 PM	Regular Meeting
August 25 at 5:00 PM	Regular Meeting
September 8 at 5:00 PM	Regular Meeting
September 22 at 5:00 PM	Regular Meeting
October 13 at 5:00 PM	Regular Meeting
October 27 at 5:00 PM	Regular Meeting
November 18 at 6:00 PM	Regular Meeting at Lake of the Woods Clubhouse, Locust Grove
December 1 at 5:00 PM	Regular Meeting
December 15 at 5:00 PM	Regular Meeting

BE IT FURTHER RESOLVED, that this meeting schedule, adopted on this date, supersedes the schedule previously adopted on January 14, 2020; and

BE IT EVEN FURTHER RESOLVED, that pursuant to the authority set forth in Section 15.2-1416 of the Code of Virginia, 1950, as amended, if the Chairman, or Vice Chairman, is unable to act, finds and declares that the weather or other conditions are such that it is hazardous for the members to attend a regularly-scheduled meeting, such declared meeting shall be continued to the following Tuesday, to begin at 5:00 PM, and to be held in the Board Meeting Room.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: RENEWAL OF THE CONTRACT WITH DELL FOR HARDWARE AND MAINTENANCE  
As part of the Consent Agenda, the Board authorized staff to renew Contract No. VA-190822-Dell with Dell for hardware and maintenance, effective through January 28, 2021, with the option of three (3) one-year renewals, per the original contract terms, as presented.

RE: RENEWAL OF THE CONTRACT WITH STRYKER SALES CORPORATION FOR POWER COTS AND RELATED EQUIPMENT  
As part of the Consent Agenda, the Board authorized staff to renew Cooperative Contract No. 5012015 (Prince William County) with Stryker Sales Corporation for power cots and related equipment, for a one-year term, effective January 30, 2020, per the original contract terms, as presented.

RE: RENEWAL OF THE CONTRACT WITH OFFICE DEPOT FOR OFFICE SUPPLIES  
As part of the Consent Agenda, the Board authorized staff to renew the contract with Office Depot, through Cooperative Contract No. R190502, for office supplies, effective through January 31, 2021, per the original contract terms, as presented.

RE: MINUTES  
As part of the Consent Agenda, the Board approved the following minutes:

- January 2, 2020 Special Meeting
- January 7, 2020 Special Meeting
- January 14, 2020 Organizational Meeting
- January 14, 2020 Regular Meeting

RE: NEW BUSINESS

RE: AWARD OF THE CONTRACT FOR STREET SIGN REPAIR AND REPLACEMENT  
Amanda Amos, Procurement Coordinator, explained that staff had recently released a solicitation for street sign repair and replacement, which was advertised through the County's website, in The Orange Review, and on eVA. She indicated that four (4) responses were received.

Ms. Amos stated that, after a thorough review of the responses, staff recommended D & S Construction be awarded the contract.

Discussion ensued among the Board regarding: the need to confirm the credentials and good standing of the company with the Virginia Department of Transportation (VDOT); and the ability of the company to work within VDOT's right-of-way.

On the motion of Mr. Crozier, seconded by Mr. Frame, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board deferred action on the contract until the February 11, 2020, Regular Meeting.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: APPROVAL OF THE AGREEMENT WITH THE SHERIFF FOR SUPERVISION OF ANIMAL CONTROL  
Alyson Simpson, Chief Deputy Clerk, presented the final draft of the agreement with the Sheriff concerning supervision of the Animal Control function. She explained that the proposed agreement was consistent with the agreement currently in place; however, the new agreement allowed for an increase in the monthly stipend amount to \$2,000 and extended the terms of the agreement for four years, which coincided with the new term of the Sheriff.

Ms. Simpson noted that the agreement had been reviewed and approved by the Sheriff and was ready to be approved by the Board.

Discussion ensued among the Board regarding: the increase in Animal Control calls for service; and the effective date of the new agreement.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board approved the agreement with the Sheriff concerning supervision of the Animal Control function, and authorized the Interim County Administrator to execute the agreement on behalf of the County of Orange, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: CONSIDERATION OF A RESOLUTION FOR EQUAL TAXING AUTHORITY FOR COUNTIES

Alyson Simpson, Chief Deputy Clerk, presented information from the Virginia Association of Counties (VACo) requesting the Board's consideration to adopt a resolution of support regarding equal taxing authority for counties. She noted that, if adopted, the resolution would be submitted to Senator Bryce Reeves and Delegate Nick Freitas for consideration.

Discussion ensued among the Board regarding: an overall agreement that counties should have equal taxing authority as that of cities and towns.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following resolution, as presented:

RESOLUTION OF SUPPORT FOR  
EQUAL TAXING AUTHORITY FOR VIRGINIA COUNTIES

WHEREAS, under the Code of Virginia, county governments have less authority to raise revenues to meet their responsibilities than do cities and towns; and

WHEREAS, limitations on counties' abilities to raise revenues from diverse sources results in an over-reliance on real property taxes to fund basic services of local government; and

WHEREAS, counties are limited in their ability to raise revenues from meals, cigarette, transient occupancy, and admissions taxes that are available to cities and towns; and

WHEREAS, providing counties equal taxing authority merely provides local boards of supervisors the ability to levy the same taxes that may already be imposed by city councils; and

WHEREAS, county governments have the same responsibility as cities for the funding of and meeting of state requirements for core services, such as K-12 education, public safety, social services, and public health; and

WHEREAS, relying too heavily on one source of revenue leaves counties vulnerable to downturns in the real estate market and population shifts; and

WHEREAS, additional tools to raise revenues would allow counties options to invest the necessary additional funds to respond to modern-day challenges, such as enhancing election cybersecurity; providing mental health treatment in jails; addressing substance abuse; maintaining vital infrastructure, such as water and sewer systems; and implementing Next-Generation 911 technology; and

WHEREAS, state-enabling legislation is required to provide counties with this additional taxing authority; and

WHEREAS, each locality is best positioned to determine the appropriate mix of revenue sources to meet local needs;

NOW, THEREFORE, BE IT RESOLVED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby expresses its support and desire for the Virginia General Assembly to enact such legislation as is necessary to authorize Virginia counties to exercise additional taxing authority equal to that of cities and towns.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: OLD BUSINESS

RE: RESOLUTION FOR JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY COUNCIL

Stephanie Straub, Director of Management Services, presented a draft resolution to the Board, which would establish a Juvenile and Domestic Relations Court Citizens Advisory Council. She indicated that the Board was presented with the proposal at its previous meeting, agreed with the possible benefits, and consented to move forward with its creation.

Discussion ensued among the Board regarding: the fact that no funding was attached to the creation of this council; the number of members; and the demographic of the individuals to appoint to the council.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following resolution, as presented:

**RESOLUTION TO AUTHORIZE THE CREATION OF THE  
JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY COUNCIL**

WHEREAS, Virginia Code §16.1-240 allows the Board of Supervisors to create a Citizens Advisory Council; and

WHEREAS, the Juvenile and Domestic Relations Court for Orange County has requested a Citizens Advisory Council be created; and

WHEREAS, the Board of Supervisors has determined it beneficial to create such an Advisory Council;

NOW, THEREFORE, BE IT RESOLVED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby authorizes the creation of a Citizens Advisory Council, which shall contain of 10 members, 5 of which shall be appointed by the Juvenile and Domestic Relations Court of Orange County, and 5 of which shall be appointed by the Board of Supervisors.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: APPOINTMENT OF CLERK TO THE BOARD

Alyson Simpson, Chief Deputy Clerk, presented a resolution to the Board that would appoint Brenda G. Garton, Interim County Administrator, as Clerk to the Board for 2020, or until such time that a subsequent appointment was made. She noted this matter had not previously been addressed as part of the annual Organizational Meeting.

On the motion of Mr. White, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following resolution, as presented:

RESOLUTION TO APPOINT THE CLERK OF THE  
ORANGE COUNTY BOARD OF SUPERVISORS FOR 2020

WHEREAS, at the annual Organizational Meeting of the Orange County Board of Supervisors, one of the first matters of business is to appoint the Clerk of the Board; and

WHEREAS, the Board desires for the Clerk to be appointed through the date of the Organizational Meeting in January, 2021, or until such a time that a subsequent appointment is made;

NOW, THEREFORE, BE IT RESOLVED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby appoints Brenda G. Garton, Interim County Administrator, as Clerk, through the date of the Organizational Meeting in January, 2021, or until such a time that a subsequent appointment is made.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: ZONING ADMINISTRATOR APPOINTMENTS

Brenda Garton, Interim County Administrator, presented a resolution to the Board that would appoint Sandra B. Thornton, Planning Services Manager, as Zoning Administrator and Subdivision Agent for Orange County. She noted this appointment was necessary as the former County Administrator had previously been appointed.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following resolution, as presented:

RESOLUTION TO APPOINT THE ZONING ADMINISTRATOR  
AND SUBDIVISION AGENT FOR ORANGE COUNTY, VIRGINIA

WHEREAS, Section 70-36 of the Orange County Code of Ordinances requires that the Board of Supervisors appoint the Zoning Administrator; and

WHEREAS, Section 54-16 of the Orange County Code of Ordinances delegates certain authorities and powers to the Subdivision Agent, and the Board of Supervisors has the ability to formally designate said Subdivision Agent; and

WHEREAS, Sandra B. Thornton, Planning Services Manager, is well qualified for the appointment of Zoning Administrator and designation as Subdivision Agent, by both experience and training;

NOW, THEREFORE, BE IT RESOLVED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby appoints Sandra B. Thornton, Planning Services Manager, or her designee, as the Zoning Administrator and Subdivision Agent for Orange County until such time a subsequent appointment is made by resolution of the Board; and

BE IT FURTHER RESOLVED, that this appointment shall be effective as of January 28, 2020, and shall replace and supersede any previous appointments as Zoning Administrator and/or Subdivision Agent.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: COUNTY ADMINISTRATOR APPOINTMENTS

Alyson Simpson, Chief Deputy Clerk, presented a list of appointments held by the previous County Administrator and explained that it would be appropriate for the Board to consider appointing someone to fill the terms in the interim.

Discussion ensued among the Board regarding: the desire to hold off on appointing an Erosion and Sediment Control Program Administrator at this time.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board appointed Brenda Garton, Interim County Administrator, as follows:

- As the Local Board of Social Services;
- To the Central Virginia Partnership for Economic Development;
- To the Rappahannock-Rapidan Regional Commission; and
- To the Thomas Jefferson Area Community Criminal Justice Services Board.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: DEPARTMENT DIRECTOR / CONSTITUTIONAL OFFICER REPORTS

There were no Department Director or Constitutional Officer Reports at this time.

RE: COUNTY ATTORNEY'S REPORT

RE: SCHEDULE A PUBLIC HEARING FOR TAX RELIEF FOR THE ELDERLY AND DISABLED INCOME AND NET WORTH TABLES

Thomas Lacheney, County Attorney, explained that at the January 14, 2020, Regular Meeting, the Board approved a request from the Commissioner of the Revenue to update the net income and net worth tables for exemptions for Tax Relief for the Elderly and Disabled. As such, it would be appropriate for the Board to schedule a public hearing regarding the proposed changes to Chapter 58 (Taxation) of the Orange County Ordinances.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board authorized staff to advertise for and schedule a Public Hearing for Tax Relief for the Elderly and Disabled Income and Net Worth Tables on Tuesday, February 11, 2020, at 7:00 p.m., as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: COUNTY ADMINISTRATOR'S REPORT

The County Administrator had nothing to report on at this time.

RE: BOARD COMMENT

There were no Board Comments at this time.

RE: INFORMATIONAL ITEMS

The Board received the following correspondence for its information:

- CSA Monthly Report
- Economic Development Quarterly Report
- Social Services Quarterly Report

- September 30, 2019 Health Center Commission Minutes
- October 28, 2019 Health Center Commission Minutes

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

By consensus, the Board appointed Sharon Hujik as the Town of Gordonsville Representative on the Economic Development Authority for a four-year term, with said term commencing immediately and expiring on December 31, 2023.

RE: CALENDAR

The Board received copies of its calendar of meetings for the months of January 2020, February 2020, and March 2020.

RE: SCHEDULE A JOINT MEETING WITH THE VIRGINIA COOPERATIVE EXTENSION

By consensus, the Board authorized staff to schedule a joint meeting with the Virginia Cooperative Extension on Tuesday, February 25, 2020, at 6:00 p.m., as presented.

RE: PUBLIC COMMENT

At 5:30 p.m., Chairman Crozier opened the floor for public comment.

There being no speakers, public comment was closed at 5:30 p.m.

RE: CLOSED MEETING

At 5:31 p.m., Mr. Lacheney read the following motion authorizing Closed Meeting:

WHEREAS, the Orange County Board of Supervisors desired to discuss in Closed Meeting the following matters:

- Discussion and consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the public body concerning the County Administrator, Planning, Erosion and Sediment Control, and Economic Development. - §2.2-3711(A)(1) of the Code of Virginia
- Consultation with legal counsel pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body concerning S Power and copyright infringement. - §2.2-3711(A)(7) of the Code of Virginia
- Consultation with legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel concerning bonds. - §2.2-3711(A)(8) of the Code of Virginia

WHEREAS, pursuant to §§2.2-3711 (A)(1), (A)(7), and (A)(8) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby authorized discussion of the aforesated matters in Closed Meeting.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: CERTIFICATION OF CLOSED MEETING

At 7:01 p.m., Ms. Simpson read the following resolution certifying Closed Meeting:

WHEREAS, the Orange County Board of Supervisors has, this day, adjourned into Closed Meeting in accordance with a formal vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Orange County hereby certified that to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applied, and ii) only such public business matters as were identified in the motion by which the said Closed Meeting was convened were heard, discussed or considered by it.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: PUBLIC HEARING #1: ZTA 19-04; AMENDMENT TO THE ZONING ORDINANCE REGARDING THE EXPANSION OF NON-CONFORMING STRUCTURES IN THE AGRICULTURAL DISTRICT

Sandra Thornton, Planning Services Manager, presented the staff report regarding proposed amendments to Section 70-244(a) of the Orange County Zoning Ordinance to allow for enlargement of existing non-conforming structures in the Agricultural (A) District. She reviewed the proposed language, indicating that the Planning Commission's vote resulted in a recommendation of approval.

Discussion ensued among the Board regarding: the rationale prompting the amendment; and direction to modify the wording to include "other non-commercial" structures.

At 7:03 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

ZTA 19-04

The Board of Supervisors will consider an amendment to Section 70-244(a) of the Zoning Ordinance regarding the expansion of non-conforming residential and non-residential structures in the Agricultural (A) District. The purpose of the amendment is to allow owners of smaller structures an opportunity for a potentially greater expansion or enlargement of size than allowed under current regulations.

There being no speakers, Chairman Crozier closed the Public Hearing at 7:03 p.m.

On the motion of Mr. Johnson, seconded by Mr. Frame, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following ordinance, as modified:

**ORDINANCE APPROVING AMENDMENTS TO ARTICLE III (NONCONFORMITIES), SECTION 70 (ZONING), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING EXPANSION OF NONCONFORMITIES IN THE AGRICULTURAL (A) DISTRICT**

WHEREAS, the Board previously initiated Planning Commission action on amendments to Article III (Nonconformities), Section 70 (Zoning), of the Orange County Code of Ordinances concerning expansion of nonconformities in the Agricultural (A) District; and

WHEREAS, staff prepared recommended language for the text amendments, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and held a Public Hearing on the proposed text amendments on January 2, 2020; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as presented during its meeting; and

WHEREAS, the Board of Supervisors conducted a duly-advertised Public Hearing on January 28, 2020, to receive public comment; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as modified during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice also support approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article III (Nonconformities), Section 70 (Zoning), of the Orange County Code of Ordinances concerning expansion of nonconformities in the Agricultural (A) District, as modified and shown below.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

### **Amendments to the Orange County Code of Ordinances**

**As adopted in Ord. No. 200128 – PH1  
by the Orange County Board of Supervisors  
on January 28, 2020**

#### **Chapter 70 - Zoning**

#### **Article III - Nonconformities**

#### **Sec. 70-244 - Expansion or enlargement.**

- a. A nonconforming structure or use may be expanded or enlarged only in conformance with the requirements of this chapter. If a structure is nonconforming due to encroaching on a setback area or required yard, it may be expanded or enlarged provided the new portion of the structure is no closer to the affected property line than the nonconforming portion. Such an expansion or enlargement of a residential structure may be up to 50% of the original footprint of the nonconforming structure. Such an expansion or enlargement of a nonresidential structure may be up to 25% of the original footprint of the nonconforming structure.

Within the Agricultural (A) District, such an expansion or enlargement of a residential or other non-commercial structure may be up to the above-listed percentages or fifteen hundred (1,500) square feet, whichever is greater.

- b. A nonconforming use if changed to a conforming use, shall not thereafter be reverted back to any nonconforming use. A nonconforming use may, by special exception approved by the Board of Supervisors, be changed to another nonconforming use, provided that the proposed use does not detract from the character of the zoning district to a greater degree than the existing nonconforming use.
- c. A nonconforming use may be extended throughout any part of a structure or parcel which was arranged or designed for such use at the time of enactment or amendment of this chapter. Any expansion of the use beyond this shall only be in conformance with the requirements of the underlying zoning district.

- d. The refacing of a lawful nonconforming sign, with or without a digital component as otherwise provided for in this chapter, shall not be considered an expansion of a nonconforming use or an increase in intensity.

*(Ord. of 5-2-1996, § 1204; Ord. of 04-28-2015; Ord of 01-10-2017)*

**Secs. 70-245 - 70-275 – Reserved.**

RE: PUBLIC HEARING #2: ZTA 19-05; AMENDMENT TO THE ZONING ORDINANCE REGARDING ADMINISTRATIVE VARIANCES

Sandra Thornton, Planning Services Manager, presented the staff report regarding proposed amendments to Section 70-71 of the Orange County Zoning Ordinance to allow for administrative variances for persons with disabilities. She reviewed the proposed language, indicating that the Planning Commission’s vote resulted in a recommendation of approval.

At 7:06 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

ZTA 19-05

The Board of Supervisors will consider an amendment to Section 70-71 of the Zoning Ordinance by adding provisions to permit the Zoning Administrator to grant variances for reasonable modifications to property or improvements that are to benefit a person or persons covered by the State or Federal Fair Housing law or the Americans with Disabilities Act. The purpose of the amendment is to bring County regulations into compliance with the Code of Virginia.

There being no speakers, Chairman Crozier closed the Public Hearing at 7:06 p.m.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING AMENDMENTS TO ARTICLE II (ADMINISTRATION), SECTION 70 (ZONING), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING ADMINISTRATIVE VARIANCES FOR REASONABLE MODIFICATIONS RELATED TO FAIR HOUSING OR AMERICANS WITH DISABILITIES

WHEREAS, the Board previously initiated Planning Commission action on amendments to Article II (Administration), Section 70 (Zoning), of the Orange County Code of Ordinances concerning administrative variances for reasonable modifications related to Fair Housing or Americans with Disabilities; and

WHEREAS, staff prepared recommended language for the text amendments, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and held a Public Hearing on the proposed text amendments on January 2, 2020; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as presented during its meeting; and

WHEREAS, the Board of Supervisors conducted a duly-advertised Public Hearing on January 28, 2020, to receive public comment; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as presented during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice also support approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article II (Administration), Section 70 (Zoning), of the Orange County Code of Ordinances concerning administrative variances for reasonable modifications related to Fair Housing or Americans with Disabilities, as presented and shown below.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

### **Amendments to the Orange County Code of Ordinances**

**As adopted in Ord. No. 200128 – PH2  
by the Orange County Board of Supervisors  
on January 28, 2020**

#### **Chapter 70 - Zoning**

#### **Article II - Administration**

#### **Sec. 70-71 - Administrative variance.**

~~Repealed. (Ord. 04-28-2015)~~

~~The Zoning Administrator may grant variances for a reasonable modification to the zoning requirements where such variance request is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. Any such variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability shall expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance.~~

~~(State Code Sec. 15.2-2309)~~

RE: PUBLIC HEARING #3: ZTA 19-06; AMENDMENT TO THE ZONING ORDINANCE REGARDING THE BARBOURSVILLE VILLAGE OVERLAY DISTRICT ADVISORY COMMITTEE

Sandra Thornton, Planning Services Manager, presented the staff report regarding proposed amendments to Section 70-551 of the Orange County Zoning Ordinance, which would increase membership of the Barboursville Village Overlay District Advisory Committee from three (3) to five (5). She reviewed the recommended language, indicating that the Planning Commission's vote resulted in a recommendation of approval.

At 7:08 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

#### ZTA 19-06

The Board of Supervisors will consider an amendment to Section 70-551 of the Zoning Ordinance under the provisions of the Barboursville Village Overlay District. The purpose of the amendment is to increase membership on the Barboursville Village Overlay District Advisory Committee from three (3) to five (5) members, with the requirement that at least three (3) members reside or own real estate in the Barboursville Village Overlay District.

There being no speakers, Chairman Crozier closed the Public Hearing at 7:08 p.m.

On the motion of Mr. Johnson, seconded by Mr. Frame, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING AMENDMENTS TO ARTICLE IV (DISTRICT REGULATIONS), SECTION 70 (ZONING), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING MEMBERSHIP OF THE BARBOURSVILLE VILLAGE OVERLAY DISTRICT ADVISORY COMMITTEE

WHEREAS, the Board previously initiated Planning Commission action on amendments to Article IV (District Regulations), Section 70 (Zoning), of the Orange County Code of Ordinances concerning membership of the Barboursville Village Overlay District Advisory Committee; and

WHEREAS, staff prepared recommended language for the text amendments, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and held a Public Hearing on the proposed text amendments on January 2, 2020; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as presented during its meeting; and

WHEREAS, the Board of Supervisors conducted a duly-advertised Public Hearing on January 28, 2020, to receive public comment; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as presented during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice also support approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article IV (District Regulations), Section 70 (Zoning), of the Orange County Code of Ordinances concerning membership of the Barboursville Village Overlay District Advisory Committee, as presented and shown below.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

**Amendments to the Orange County Code of Ordinances**

**As adopted in Ord. No. 200128 – PH3  
by the Orange County Board of Supervisors  
on January 28, 2020**

**Chapter 70 - Zoning**

**Article IV - District Regulations**

**Sec. 70-551 - Establishment and Applicability.**

- a. *Applicability.* These overlay district regulations shall apply to the area designated as the Barboursville village on the Recommended Land Use Map of the adopted 2013 Comprehensive Plan, and more specifically as shown on the map adopted by the Board of Supervisors.
- b. *Overlay concept.* Unless otherwise stated herein, the permitted uses and other regulations of the underlying zoning districts and all other sections of this Zoning Ordinance shall continue to apply. All commercial development within the district shall conform to these provisions, unless specifically exempted.

- c. *Zoning Map*. The boundaries of this district shall be clearly delineated on the county's zoning maps.
- d. A BVOD Advisory Committee (BVODAC) shall be appointed by the Board Of Supervisors for terms of two (2) years each. The BVODAC shall be comprised of ~~three (3)~~ five (5) persons, at least ~~two (2)~~ three (3) of whom must reside in, or own real estate in, the BVOD.

RE: PUBLIC HEARING #4; SUP 19-05: THORBURN (THE ICEBOX CREAMERY)

Sandra Thornton, Planning Services Manager, presented the staff report and Special Use Permit (SUP) request from Mark and Jill Thorburn, which included information on the location and specifications of the subject property, the request to construct and operate a permanent seasonal ice cream concession on Tax Map No. 12A-17-1, the recommended conditions for approval, and the recommendation from the Planning Commission.

Discussion ensued among the Board regarding: how the parking and pedestrian areas would be delineated - by paint or by pylons.

Mark and Jill Thorburn, applicants, provided a brief history of the business and reviewed the intended use of the requested SUP, including the location of the permanent structure, fencing to be installed, and the number of parking spaces.

At 7:15 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

SUP 19-05

The Board of Supervisors will consider an application from Mark and Jill Thorburn for a Special Use Permit to operate The Icebox Creamery, a seasonal business, from a permanent structure at 4324 Germanna Highway, the site of Lake of the Woods Car Wash. The property is identified as Tax Map No. 12A-17-1 and is situated in Germanna-Wilderness Area Plan Subarea Five: Lake of the Woods.

There being no speakers, Chairman Crozier closed the Public Hearing at 7:15 p.m.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following ordinance, as presented:

ORDINANCE APPROVING SUP 19-05 TO ALLOW THE OPERATION OF A SEASONAL ICE CREAM CONCESSION FROM A PERMANENT STRUCTURE ON TAX MAP NO. 12A-17-1, REQUESTED BY MARK AND JILL THORBURN

WHEREAS, Mark and Jill Thorburn applied for a Special Use Permit to allow the operation of a seasonal ice cream concession from a permanent structure on property referenced as Tax Map No. 12A-17-1, containing a total of approximately 1.24 acres, pursuant to Section 70-483 (11) of the Orange County Zoning Ordinance; and

WHEREAS, Planning staff recommended conditional approval of this Special Use Permit; and

WHEREAS, the Planning Commission advertised and held a Public Hearing on the Special Use Permit request on January 2, 2020; and

WHEREAS, the Planning Commission considered whether the proposed Special Use Permit would further the purposes of the Comprehensive Plan and the Zoning Ordinance; threaten the public health, safety, or welfare; be compatible with its surroundings; or would result in substantial detriment to the surrounding property; and

WHEREAS, the Planning Commission reviewed the request and determined that the request was consistent with the considerations above, and, as such, recommended approval of the request to the Board of Supervisors, as presented during its Public Hearing; and

WHEREAS, the Board of Supervisors advertised and held a Public Hearing on the Special Use Permit request on January 28, 2020; and

WHEREAS, after deliberation, the Board of Supervisors has determined that public necessity, convenience, general welfare, and/or good zoning practice support approval of this Special Use Permit request, as presented during its Public Hearing;

NOW, THEREFORE, BE IT ORDAINED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby approves SUP 19-05 for Tax Map No. 12A-17-1 for a Special Use Permit to allow the operation of a seasonal ice cream concession from a permanent structure, subject to the four (4) conditions and two (2) sub-conditions as set forth below, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

### **Conditions for Approval**

**As adopted in Ord. No. 200128 - PH4  
by the Orange County Board of Supervisors  
on January 28, 2020**

#### **SUP 19-05: Mark and Jill Thorburn**

*To allow the operation of a seasonal ice cream concession  
from a permanent structure*

*Tax Map No. 12A-17-1*

The conditions of this Special Use Permit ("SUP") shall apply to the property identified on County Tax Map No. 12A-17-1, as well as any future division or consolidation of said property, unless otherwise specified herein. Compliance is the responsibility of the applicant, owners, and assigns. The following conditions are intended to offset and mitigate impacts of the proposed use, and to render the application consistent with the applicable provisions of the Comprehensive Plan. If the conditions of the SUP or the information on the SUP plans or application are in conflict with one another or with the Zoning Ordinance, the more restrictive shall apply, unless specifically modified, waived, or otherwise specified in these conditions. Violation of these conditions, in whole or in part, may be cause for the revocation of the Special Use Permit, pursuant to §15.2-2309(7) of the Code of Virginia.

1. **Controlling Documents** – Controlling documents shall be the conditions as set forth herein and the documents submitted with the application dated December 10, 2019.
2. **Compliance** – Use and development of the subject property shall be in substantial conformance with these conditions. The Zoning Administrator shall determine "substantial conformance." The property owner shall be responsible for obtaining all County licenses, site plan approvals, building permits, health permits, VDOT permits, zoning permits, stormwater permits, sign permits, land disturbance permits, and erosion & sediment control permits that may be required in association with this use.
3. **Uses** – This SUP shall permit the operation of a seasonal ice cream concession from a permanent structure.

4. Standards and Conditions –

- a. The conditions imposed with approval of SUP 98-5 shall continue in force, and the hours of operation for the concession stand shall not exceed those stipulated for the car wash (7:00 a.m. to 11:00 p.m.).
- b. Parking spaces and pedestrian access to the concession stand shall be delineated to minimize potential conflicts between concession customers and car wash patrons.

RE: PUBLIC HEARING #5: ORANGE COUNTY REAL ESTATE ASSESSMENT APPEALS PROCESS

Alyson Simpson, Chief Deputy Clerk, explained that this Public Hearing was necessary in order to establish the appeals process for the 2020 Real Estate Reassessment. She added that the action following the Public Hearing would essentially set the deadlines for appeals to the Board of Equalization.

Discussion ensued among the Board regarding: how the deadline for appeals was determined; the desire to extend the appeal deadline to March 31, 2020; and interest in establishing an in-house reassessment office.

At 7:21 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

ORANGE COUNTY REAL ESTATE ASSESSMENT APPEALS PROCESS

The citizens of the County determine the value of real estate in Orange County by buying and selling properties in arms-length transactions, thus creating the real estate market. The County utilizes the services of a third-party assessment firm to interpret the real estate market and determine assessments in an equitable manner. If a property owner believes that their assessment does not represent fair market value, is not equitable with similar properties in the County, or contains a factual error about the property, the County has the following process for the appeal of a property assessment.

There being no speakers, Chairman Crozier closed the Public Hearing at 7:21 p.m.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adopted the following ordinance, as modified:

**ORDINANCE ESTABLISHING THE 2020 REAL ESTATE REASSESSMENT APPEALS PROCESS**

WHEREAS, pursuant to §58.1-3378 VA Code Ann., the Board of Supervisors is authorized to provide, by ordinance, the date by which applications to the Board of Equalization must be made by property owners or lessees for relief, which date shall not be earlier than 30 days after the termination of the date set by the assessing officer to hear objections to the assessments, as provided in §58.1-3330 VA Code Ann.; and

WHEREAS, also pursuant to §58.1-3378 VA Code Ann., the Board of Supervisors may provide, by ordinance, the deadline by which all applications must be finally disposed of by the Board of Equalization; and

WHEREAS, the Board of Supervisors deems it advisable to establish such dates in order to ensure the efficient and expeditious handling of applications for relief; and

WHEREAS, a public hearing was duly advertised and held by the Orange County Board of Supervisors concerning this matter on January 28, 2020;

NOW, THEREFORE, BE IT ORDAINED, on this 28<sup>th</sup> day of January, 2020, that the Orange County Board of Supervisors hereby establishes the following:

1. The date by which applications for Administrative Appeal must be made by property owners or lessees for relief is hereby established as December 4, 2019 at 5:00 p.m.
2. The date by which applications to the Board of Equalization must be made by property owners or lessees for relief is hereby established as March 31, 2020 at 5:00 p.m.
3. The deadline by which all applications must be finally disposed of by the Board of Equalization is hereby established as June 30, 2020.
4. The "Orange County Real Estate Assessment Appeal Process" is hereby adopted as a part of this ordinance.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

### **ORANGE COUNTY REAL ESTATE ASSESSMENT APPEAL PROCESS**

The citizens of the County determine the value of real estate in Orange County by buying and selling properties in arms-length transactions, thus creating the real estate market. The County utilizes the services of a third-party assessment firm to interpret the real estate market and determine assessments in an equitable manner. If a property owner believes that their assessment does not represent fair market value, is not equitable with similar properties in the County, or contains a factual error about the property, the County has the following process for the appeal of a property assessment:

1. *Assessor's Review (Factual Errors Only)*

If a property record includes information about a property that is not correct, the property owner or agent may complete an appeal form located on the 2020 General Reassessment Information page of the Commissioner of the Revenue's website. Factual errors may be corrected at any time, and may result in an increase, decrease, or no change to a property assessment.

2. *Administrative Appeal*

If a property owner or agent felt that the property assessment did not represent fair market value, or if the property was not uniformly assessed in comparison with like properties in the County, then the owner may have requested an administrative appeal. Administrative appeals were due by December 4, 2019. As a result of an administrative appeal, assessments may have increased, decreased, or reflected no change. If an owner is dissatisfied with the result of the administrative appeal, they may file a formal appeal to the Board of Equalization.

3. *Board of Equalization (BOE) Appeal*

If the administrative appeal process does not resolve the concern, then either the owner or their agent must complete the BOE appeal application located on the 2020 General Reassessment Information page of the Commissioner of the Revenue's website. The application must be complete when submitted and include any documents that will be presented to the Board of Equalization.

BOARD OF EQUALIZATION APPEAL DEADLINE: March 31, 2020 at 5:00 p.m.

Owners must attempt to prove that a property's market value is either inaccurate or inequitable when compared to similar property types. State law puts the burden of proof on the owner to show that the assessment is incorrect (Virginia Code §58.1-3379).

4. *File Suit in Circuit Court*

Owners who do not agree with the ruling of the Board of Equalization may appeal their assessment to the Orange County Circuit Court. This is not an administrative procedure and filings must be made to the Clerk of the Circuit Court. The property owner may need to secure the services of an attorney to make the necessary filings to the Circuit Court.

RE: COUNTY ATTORNEY'S REPORT (Continued)

RE: APPOINTMENT OF INTERIM EROSION AND SEDIMENT CONTROL PROGRAM ADMINISTRATOR

Brenda Garton, Interim County Administrator, requested the appointment of Dan Ratzlaff as the Interim Erosion and Sediment Control Program Administrator, as discussed during Closed Meeting.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board appointed Dan Ratzlaff as Interim Erosion and Sediment Control Program Administrator, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: AUTHORIZATION OF SETTLEMENT AGREEMENT FOR COPYRIGHT INFRINGEMENT

Thomas Lacheney, County Attorney, requested authorization to settle a copyright infringement filed against the Orange County Tourism Department. He noted that the negotiated settlement amount was \$1,000, as discussed during Closed Meeting.

On the motion of Mr. White, seconded by Mr. Frame, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board authorized the County Attorney to enter into a Settlement Agreement for a copyright infringement in the amount of \$1,000, as presented.

Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

RE: ADJOURN

On the motion of Mr. White, seconded by Mr. Frame, which carried by a vote of 4-0, with Mr. Goodwin being absent, the Board adjourned the meeting at 7:24 p.m. Ayes: Johnson, White, Crozier, Frame. Nays: None. Absent: Goodwin.

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James P. Crozier, Chairman

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Brenda G. Garton, Interim County Administrator