

<b>ACTIONS</b>	
<b>Board of Supervisors Meeting of February 24, 2012</b>	
February 24, 2012	
<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 11:32 a.m. by the Chair, Ms. Mallek. All BOS members were present. Also present were Larry Davis and Ella Jordan.</li> </ul>	
2. Presentation on County Executive's FY 2012-2013 Recommended Budget. <ul style="list-style-type: none"> <li>• <b>RECEIVED.</b></li> </ul>	
3. Closed Meeting. <ul style="list-style-type: none"> <li>• At 12:47 p.m., the Board went into closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia, under subsection (7) to consult with legal counsel and staff regarding probable litigation concerning an alleged violation of the Freedom of Information Act; under subsection (7) to consult with legal counsel and staff regarding actual litigation concerning two appeals of BZA decisions upholding Zoning Administrator determinations; and under subsection (7) to consult with legal counsel and staff regarding actual litigation concerning the denial of a zoning application.</li> </ul>	
4. Certify Closed Meeting. <ul style="list-style-type: none"> <li>• At 1:29 p.m., the Board reconvened into open meeting and certified the closed meeting.</li> <li>• By a vote of 6:0, the Board <b>ADOPTED</b> a Resolution Confirming Authority of County Attorney and Zoning Administrator.</li> </ul>	<u>Clerk:</u> Forward copy of signed resolution to County Attorney and Zoning Administrator. (Attachment 1)
5. Adjourn to February 29, 2012. <ul style="list-style-type: none"> <li>• 1:30 p.m., the Board adjourned until February 29, 2012, 6:00 p.m., Lane Auditorium.</li> </ul>	

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Attachment 1 – Resolution Confirming Authority of County Attorney and Zoning Administrator

**RESOLUTION  
CONFIRMING AUTHORITY OF COUNTY  
ATTORNEY AND ZONING ADMINISTRATOR**

**WHEREAS**, pursuant to §§ 15.2-528 and 15.2-1542 of the Code of Virginia, the Board of Supervisors has appointed a County Attorney whose duties and responsibilities include, but are not limited to, defending or bringing actions in which the County or any of its boards, departments or agencies, or officials or employees, thereof, shall be a party; and

**WHEREAS**, in such matters of representation the County Attorney has general authority to act for and on behalf of the Board of Supervisors without additional specific authorization; and

**WHEREAS**, under *Albemarle County Code* § 18-31.1, the zoning administrator, or her designee, has all necessary authority on behalf of the Board of Supervisors to administer and enforce the zoning ordinance, including the authority to make determinations and decisions on any matters arising under the zoning ordinance, such as preliminary and final site plans; and

**WHEREAS**, on November 3, 2010, the Board granted Special Use Permit SP-2009-00034, allowing for the construction of the Re-Store'N Station gas station and convenience store, with certain conditions; and

**WHEREAS**, on February 25, 2011, the Zoning Administrator's designee made an official determination regarding the preliminary site plan submitted under SP-2009-00034, which determination was appealed to the County Board of Zoning Appeals; and

**WHEREAS**, on May 3, 2011, the County Board of Zoning Appeals affirmed the official determination of the Zoning Administrator's designee regarding the preliminary site plan submitted under SP-2009-00034, which BZA decision was appealed to the Circuit Court for Albemarle County; and

**WHEREAS**, at a hearing on February 7, 2012, on Motion of the County Attorney the Circuit Court dismissed the appeal of said BZA decision; and

**WHEREAS**, on October 11, 2011, the Zoning Administrator's designee made an official determination regarding the final site plan submitted under SP-2009-00034, which determination was appealed to the County Board of Zoning Appeals; and

**WHEREAS**, on January 10, 2012, the County Board of Zoning Appeals affirmed the official determination of the Zoning Administrator's designee regarding the final site plan submitted under SP-2009-00034, which BZA decision has been appealed to the Circuit Court for Albemarle County.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors confirms the general and specific authority of the County Attorney to represent the Board of Supervisors and the County of Albemarle in defending or bringing actions in which the County or any of its boards, departments or agencies, or officials or employees, thereof, shall be a party without the need for any specific additional authorization in any matter.

**BE IT FURTHER RESOLVED THAT** by adopting *Albemarle County Code* § 18-31.1, the Board has authorized the Zoning Administrator to act on its behalf in administering and enforcing the zoning ordinance, including the authority to make determinations and decisions on any matters arising under the zoning ordinance, such as preliminary and final site plans.

**BE IT FURTHER RESOLVED THAT** though the County Attorney and the Zoning Administrator need no further authorization to act on the Board's behalf in such matters, in the case of the site plans submitted under SP-2009-00034 specifically, the Board supports both (a) the official determinations made by the Zoning Administrator and (b) the legal positions and authority of the County Attorney to defend those determinations in all tribunals.