

ACTIONS		
Board of Supervisors Meeting of January 16, 2013		
		January 17, 2013
<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>PODCAST</u>
4:00 p.m. – Afternoon Adjourned Meeting.		
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 4:02 a.m. by the Chair, Ms. Mallek. All BOS members were present. Also present were Larry Davis, Ella Jordan and Travis Morris. 		
2. Work Session: Solid Waste Options Update. <ul style="list-style-type: none"> By a vote of 6:0, directed staff to develop an RFP to privatize services through a lease with Rivanna at the same level of service as agreed to previously by the Board. By a vote of 6:0, directed staff to begin work on an interim RSWA agreement and work on a revised McIntire agreement. 	<u>County Executive:</u> Proceed as approved.	Listen
3. Closed Meeting: Appointments. <ul style="list-style-type: none"> At 5:10 p.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 in which there are pending vacancies or request for reappointments. 		
4. Recess. <ul style="list-style-type: none"> The meeting recessed until 6:00 p.m. 		
6:00 p.m. – Regular Night Meeting		
1. Call to Order. <ul style="list-style-type: none"> Meeting was called back to order at 6:06 p.m., by the Chair, Ms. Mallek. 		
1a. Certify Closed Meeting. <ul style="list-style-type: none"> By a vote of 6:0, CERTIFIED closed meeting. 		
4. Adoption of Final Agenda. <p>a. Resolution in opposition to House Bill 1430 ("The Boneta Bill").</p> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> Added a discussion on the County's current noise ordinance. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> Added a discussion on the County's Long Range Transportation Plan. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Added discussion on three correspondences to the Governor and the General Assembly regarding legislative issues. 		
5. Brief Announcements by Board Members. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> Announced that the Board should be receiving the Comprehensive Annual Financial report and asked Board members to focus on the unfunded VRS pension liability. Stated that this is the first year that there was no management letter included in the report. 		
6. From the Public: Matters Not Listed for Public Hearing on the Agenda. <p><u>The following individuals spoke about the proposed police firing range at the Keene landfill:</u></p>		Listen

<ul style="list-style-type: none"> • Eric Arllen • Alicia Morales • Michael Morales • Cyndra H. Van Clief • Hal West • Barbara West • Tom & Julie Polder • Marshall Pryor • Laurel Davis • Sophia Davis • Jim Bonner • Sarah Donnelly • Lawrence Barnett • Bill Tunner • Harold Pillar • Lisa Bittner • Alan Van Clief • D.G. Van Clief • Barbara Lape • Ken Lape • Paula Beasley • Jeff Werner • Greg Quinn • John Eickenberger • Jim Balheim • Althea Randolph • <u>Mary Ellen Ford</u> spoke about the Browns Gap Turnpike/State Route 629, and requested that the Board allow private citizens to repair and perform maintenance on the section of roadway in the public right of way. • <u>Charles Battig</u> made a presentation titled "<i>Some News for the New Year, Skepticism is the first step to Truth</i>". • <u>Rex Linville</u> spoke on conservation easements and asked the Board to fully fund the ACE Program. 		
<p>7.2 SDP-2012-00056. Yves Delorme, Inc – Minor Site Plan Amendment – Critical Slope Waiver.</p> <ul style="list-style-type: none"> • APPROVED, SDP-2012-00056, Critical Slope Waiver, as recommended by staff. 		
<p>7.3 SDP-2012-00065. Shifflett Property - Verizon Wireless Tier II Personal Wireless Service Facility.</p> <ul style="list-style-type: none"> • APPROVED, SDP-2012-00065, Shifflett/ Verizon Wireless – Tier II Personal Wireless Service Facility, as recommended by staff. 		
<p>7.4 Resolution Endorsing Nelson County’s Virginia Department of Transportation FY 13-14 Transportation Alternatives Program Application for the Blue Ridge Tunnel Project.</p> <ul style="list-style-type: none"> • ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to Stephen Carter, Nelson County. (Attachment 1)</p>	
<p>8. Pb. Hrg.: <u>ACSA Sales Contract.</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED resolution to authorize the County Executive to execute the sales contract and all legal documents, in a form approved by the County Attorney, necessary to complete the sale of the easements to the ACSA on and across TMP 93A1-2 for the location of a water storage 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney, Fire and Rescue, and ACSA. (Attachment 2)</p>	<p>Listen</p>

	facility and water lines to serve the Rivanna Village community.		
9.	<p>Pb. Hrg.: <u>PROJECT: SP-2010-00049. Howardsville Camping and SP-2010-00050. Howardsville Canoe Livery.</u></p> <ul style="list-style-type: none"> • By a vote of 3:3, (Dumler/Mallek/Rooker) motion to approve SP-2010-00049 failed. • By a vote of 6:0, APPROVED SP-2010-00050, subject to six conditions. 	Clerk: set out conditions of approval. (Attachment 3)	Listen
10.	<p>Pb. Hrg: <u>PROJECT: SP-2011-00002. Castle Hill Cider, SP-2012-00018. Castle Hill Cider Pond & SP-2012-00019. Castle Hill Cider Stream Crossing (Signs #30&32).</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, DEFERRED SP-2011-00002 to February 6, 2013. • By a vote of 6:0, APPROVED SP-2012-00018 with six conditions. • By a vote of 6:0, APPROVED SP-2012-00019 with three conditions. • By a vote of 6:0, APPROVED WPO-2012-00075 with one condition. 	Clerk: schedule SP-2011-00002 on February 6 th agenda and set out conditions of approval on items that were approved. (Attachment 3)	Listen
11.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • CONSENSUS that Chair send letter to Governor regarding biosolids. • By a vote of 6:0, ADOPTED resolution in opposition to House Bill 1430. • CONSENSUS that staff prepare a letter to legislators regarding House Bill 2142. • DEFERRED, discussions on the County's Long Range Transportation Plan and the current noise ordinance to February 6, 2013. <p><u>Ann Mallek:</u> Asked Board members to consider adopting resolution on industrial hemp.</p> <p><u>Chris Dumler:</u> Mentioned that Senator Hanger has introduced a bill that would direct adjustments to the local composite index for school funding purposes to reflect use assessment as opposed to fair market value.</p>	<p>Clerk: Forward resolution to legislators via email and mail. (Attachment 4)</p> <p>County Attorney: proceed as directed.</p> <p>Clerk: Forward letter to legislators via email and mail.</p> <p>Clerk: schedule on agenda.</p>	Listen
12.	<p>From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • There were none. 		
13.	<p>Adjourn.</p> <ul style="list-style-type: none"> • At 12:24 a.m., the meeting was adjourned. 		

ewj/tom

- Attachment 1 – Resolution Endorsing Nelson County's Virginia Department of Transportation FY 13-14 Transportation Alternatives Program Application for the Blue Ridge Tunnel Project
- Attachment 2 – Resolution – ACSA Sales Contract East Rivanna/Glenmore Water Storage Facility
- Attachment 3 – Conditions of Approval on Planning items
- Attachment 4 – Resolution in opposition to House Bill 1430

**RESOLUTION
ALBEMARLE COUNTY BOARD OF SUPERVISORS
ENDORSEMENT OF NELSON COUNTY, VIRGINIA'S
VIRGINIA DEPARTMENT OF TRANSPORTATION
FY13-14 TRANSPORTATION ALTERNATIVES PROGRAM
APPLICATION FOR THE BLUE RIDGE TUNNEL PROJECT**

WHEREAS, Nelson County continues to lead the ten-year-long, ongoing regional effort to advance its Blue Ridge Tunnel restoration project from a “shovel ready” plan to a fully built success story; and

WHEREAS, being an existing project sponsor of a Transportation Enhancement Project, Nelson County is eligible to apply for Transportation Alternatives Program grant funds under the newly enacted MAP-21 Federal Transportation Bill (the former Transportation Enhancement Grant program); and

WHEREAS, Nelson County staff are developing a proposal in response to the Transportation Alternatives Program grant opportunity announcement by the Virginia Department of Transportation; and

WHEREAS, Albemarle County recognizes that this is a very valuable project for Albemarle County, Nelson County, for the Central Virginia region, and for the entire Commonwealth of Virginia; and

WHEREAS, Albemarle County believes it is an important project for numerous community priorities, including:

- Increasing the local and regional community quality of life, adding to the area’s public recreation amenities, and promoting active and healthy communities;
- Strengthening rural economic development and strengthening the local and regional recreation tourism, ecotourism, agritourism, and heritage tourism industries;
- Advancing community goals related to historic preservation and cultural landscape protection; and
- Implementing long-range alternative transportation planning goals.

NOW, THEREFORE BE IT RESOLVED that the Albemarle County Board of Supervisors hereby endorses the submittal of a Transportation Alternatives Program grant application by Nelson County seeking a maximum funding award of approximately \$750,000 for Phase I construction of the Blue Ridge Tunnel Project and additionally resolves to continue its support of the proposed project.

**RESOLUTION TO AUTHORIZE
THE SALE OF EASEMENTS ON AND ACROSS
TAX MAP PARCEL 93A1-2 TO THE
ALBEMARLE COUNTY SERVICE AUTHORITY**

WHEREAS, the East Rivanna firehouse property (Tax Map Parcel 093A1-00-00-00200) is jointly owned by the County and the East Rivanna Volunteer Fire Company (“ERVFC”); and

WHEREAS, for and in consideration of \$100,000, the Albemarle County Board of Supervisors agrees to grant permanent easements and temporary construction easements on and across TMP 93A1-2 to the Albemarle County Service Authority (“ACSA”) necessary for the ACSA to locate and install a water storage facility and water lines to serve the Rivanna Village community; and

WHEREAS, the ERVFC Board of Directors has approved the sale of the easements to the ACSA.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute the sales contract and all legal documents, in a form approved by the County Attorney, necessary to complete the sale of the easements to the ACSA on and across TMP 93A1-2.

CONDITIONS OF APPROVAL

PROJECT: SP-2010-00050. Howardsville Canoe Livery

1. Development and use shall be in general accord with the conceptual plan titled "Howardsville Canoe Livery and Campground" prepared by Gregory A. Watson, and dated Dec. 6, 2012 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general 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:

- location of parking areas
- location of boat launch
- absence of structures
- length of fence at a height of no less than six (6) feet

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

2. There shall be no temporary or permanent amplified sound system permitted for this use.
3. The canoe livery shall be closed and all portable toilets, vehicles, trailers and other canoe livery equipment shall be removed while a flood warning issued by the National Weather Service is in effect for the portion of the James River adjoining the site.
4. The use shall not commence before the subject properties are combined into a single parcel.
5. The number of parking spaces shall not exceed one hundred (100) or the number determined by the Zoning Administrator to be necessary, under County Code § 18-4.12, whichever is greater.
6. SP-2010-00050 shall be valid until December 31, 2014.

SP-2012-00018. Castle Hill Cider Pond

1. The applicant shall make improvements to the dam and culvert in order to provide a stable, non-erosion path for floodwaters, while keeping flood level increases below one foot.
2. The applicant shall obtain County Engineer approval of plans for changes to the dam and culvert prior to construction.
3. The applicant shall obtain Program Authority approval for an erosion and sediment control plan, and obtain a land disturbance permit according to the Water Protection Ordinance requirements prior to the start of construction for any changes, regardless of whether the project exceeds the minimum disturbance limits.
4. The applicant shall obtain all necessary federal and state agency approvals (Army Corps of Engineers, Department of Environmental Quality, etc.).
5. The applicant shall obtain Program Authority approval of a mitigation plan, and provide mitigation according to the Water Protection Ordinance.
6. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps.

SP-2012-00019. Castle Hill Cider Stream Crossing

1. The applicant shall obtain approval from FEMA for changes to the floodplain, and update the FEMA maps.
2. The applicant shall obtain all necessary federal and state agency approvals (Army Corps of Engineers, Department of Environmental Quality, etc.).
3. The applicant shall obtain Program Authority approval of a mitigation plan, and provide mitigation according to the Water Protection Ordinance.

WPO-2012-00075

1. The mitigation plan shall be revised to include inlet and outlet protection measures, and channel modifications for those measures, to the satisfaction of the County Engineer.

RESOLUTION

A RESOLUTION TO RESPECTFULLY STATE THE OPPOSITION OF THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY TO HOUSE BILL 1430 (“THE BONETA BILL”)

WHEREAS, House Bill 1430 expands and commercializes the definition of “farm operations” to include the sale of items not associated with the bona fide production of crops, animals, or fowl by permitting the sale of any number of items not produced on that or any other farm nor normally associated with agricultural production; and

WHEREAS, the historical purpose of the Right to Farm Act was to protect farming operations from claims by encroaching residential development that farming activities constituted a nuisance, not to authorize retail sales and manufacturing operations in agricultural zones; and

WHEREAS, the provisions of House Bill 1430 do not protect farming but instead seek to expand the definition of farming to include activities which are wholly unrelated to farming such as the manufacture and sale of “art, literature, artifacts, furniture, food [and] beverages” which are more appropriate in commercial and industrial zones; and

WHEREAS, House Bill 1430 encroaches significantly on the powers of local government to protect citizens without affording true protection to actual agricultural activity which is adequately protected by the existing provisions of the Right to Farm Act; and

WHEREAS, House Bill 1430 will impact the rights of property owners to the quiet enjoyment of their properties by increasing the potential for land use conflicts with neighboring properties; and

WHEREAS, the provision of House Bill 1430 making County officials or employees personally liable for actions taken by them in the course of their duties in interpreting or enforcing an ordinance adopted by the official or employee’s Board of Supervisors will stifle the appropriate enforcement of ordinances intended to protect the health, safety and welfare of all of the citizens and property owners of the counties; and

WHEREAS, no factual evidence has been presented showing any actions taken by any county impinging on the rights of any farm to sell agricultural products produced on that farm which would necessitate action on the part of the General Assembly to create an entirely new category of “agriculture” which includes manufacturing and retail sale of non-agricultural products.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle does hereby state its opposition to House Bill 1430;

AND, BE IT RESOLVED FURTHER, that the Board of Supervisors respectfully requests that its legislative delegation oppose House Bill 1430 which unnecessarily expands and commercializes the definition of “farm operations,” abrogates the doctrine of sovereign immunity and impedes the enforcement of laws intended to protect the property values, health, safety and welfare of the citizens of the counties of Virginia;

AND, BE IT RESOLVED FINALLY, that the Board of Supervisors respectfully requests that other counties, cities and towns in Virginia join with it in opposition to this assault on local control of land use which also abrogates the doctrine of sovereign immunity and imposes personal liability on County officials and employees for carrying out their official duties while acting in the best interest of the County and its citizens.