



COUNTY OF PRINCE WILLIAM

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PLANNING
OFFICE

Christopher M. Price, AICP
Director of Planning

February 21, 2014

STAFF REPORT

Zoning Text Amendment #PLN2013-00340, Mandated Zoning Changes
(Countywide)

Planning Commission Public Hearing Date: March 5, 2014
Staff Recommendation: Adoption

I. Background is as follows:

- A. Purpose of the Zoning Ordinance – Section 15.2-2283 of the Code of Virginia states that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public.
- B. Purpose of Amendment – The Board of County Supervisors has enacted Chapter 32 of the Prince William Code, Zoning, and the Governor and General Assembly have enacted Chapters 178, 213, 603, and 611 of the 2013 Acts of Assembly prompting appropriate amendment of the Zoning Ordinance to incorporate the recent changes in State law.
- C. Proposed Remedy – The proposed remedy is to reflect the recent changes in State law to the Prince William County Zoning Ordinance.

II. Current Situation is as follows:

- A. Zoning Text Amendment Initiated – On May 21, 2013, the Board of County Supervisors initiated a zoning text amendment to address the requirements of Chapters 178, 213, 603, and 611 of the 2013 Acts of Assembly. See Attachment B – BOCS Initiating Resolution.
 1. Sec. 32-300.17. General Provisions for Cemeteries – This amendment will revise language in the Zoning Ordinance to comply with the new State definitions for cemeteries.

2. Sec. 32-601.34. Nonconforming Signs – This amendment would allow for the relocation of a non-conforming billboard to be relocated under certain circumstances.
 3. Sec. 32-210.16. Temporary Family Health Care Structures – This amendment would revise the temporary health care structures section to allow for a married couple to reside in the structure under certain conditions.
 4. Sec. 32-700.60. Notice Requirements for Map Amendments and Special Use Permits – This amendment would bring the notification requirements regarding military installations into compliance with State code. It would also amend the section to allow the Board of Zoning Appeals to extend a case with a tie vote, at the request of the person filing the appeal.
- B. Zoning and Development Review Advisory Committee – The committee reviewed the proposed text amendment on February 14, 2014 and recommended approval.
- C. Planning Office Recommendation – The Planning Office recommends approval of Zoning Text Amendment #PLN2013-00340, Mandated Zoning Changes, as proposed in Attachment A.
- D. Planning Commission Public Hearing – A public hearing before the Planning Commission has been advertised for March 5, 2014.

III. Issues in order of importance are:

- A. Policy – Does the amendment further the purposes of the Zoning Ordinance?
- B. Community Input – Have members of the community raised any issues?
- C. Legal – Are there any legal implications associated with this zoning text amendment?
- D. Timing – What are the timing considerations of the zoning text amendment?

IV. Alternatives beginning with the staff recommendation are as follows:

- A. Recommend Adoption of Zoning Text Amendment #PLN2013-00340, Mandated Zoning Changes, to the Prince William County Zoning Ordinance.
 1. Policy – The proposed text will bring the standards of the Zoning Ordinance into compliance with the Code of Virginia.

2. Community Input – The Planning Office has not received any comments from the community as of the date of this staff report.
3. Legal – The adoption of the zoning text amendment will incorporate the proposed restrictions and requirements into the Zoning Ordinance, which is enforceable by the County. Legal issues resulting from Planning Commission action would be appropriately addressed by the County Attorney’s Office.
4. Timing – The Planning Commission has until June 3, 2014, 90 days from the first public hearing, to take action on this proposal. A recommendation to adopt the zoning text amendment would meet the 90-day requirement.

B. Do Not Recommend Adoption of Zoning Text Amendment #PLN2013-00340, Mandated Zoning Changes, to the Prince William County Zoning Ordinance.

1. Policy – If the Planning Commission recommends to the Board of County Supervisors that the subject amendments be denied, the County Zoning Ordinance will be inconsistent with the Code of Virginia. This will result in a conflict between State law and the County’s Zoning Ordinance.
2. Community Input – The Planning Office has not received any comments from the community as of the date of this staff report.
3. Legal – A conflict between State law and the County’s Zoning Ordinance could expose the County to legal challenge. Legal issues resulting from Planning Commission action would be appropriately addressed by the County Attorney’s Office.
4. Timing – The Planning Commission has until June 3, 2014, 90 days from the first public hearing, to take action on this proposal. A recommendation to not adopt the zoning text amendment would meet the 90-day requirement.

V. Recommendation is that the Planning Commission concur with Alternative A and recommend adoption of Zoning Text Amendment #PLN2013-00340, Mandated Zoning Changes.

Staff: Brian Wilson, 703-792-7359

Attachments:

- A. Proposed Text Amendment
- B. BOCS Initiating Resolution

Attachment A – Proposed Text Amendment

Cemeteries

| Chapter | Section | Assembly Adoption Date | Assembly Description | Zoning Ordinance |
|----------------------------|-------------|--|---|---|
| CH. 414 | 15.2-2288.5 | 30-Mar-12 | Expand definition of cemetery to include specified components | Article I Part 100 – Definitions Sec. 32-300.17 |
| Assembly Amendment: | | <p><u>§ 15.2-2288.5. Meaning of "cemetery" for purposes of zoning.</u></p> <p><u>A. A "cemetery" for purposes of this chapter shall have the meaning set forth in § 54.1-2310.</u></p> <p><u>B. Nothing in this section shall exempt a licensed funeral home or cemetery from any applicable zoning regulation.</u></p> <p><u>C. The following uses shall be included in the approval of a cemetery without further zoning approval being required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion sediment control.</u></p> <p><u>D. Mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas that are shown in a legislative approval for the specific cemetery obtained at the request of the owner shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original local legislative approval. This subsection shall not supersede any permission required by an ordinance adopted pursuant to § 15.2-2306 relative to historic districts.</u></p> <p>§ 54.1-2310 "Cemetery" means any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.</p> | | |
| Zoning Amendment: | | <p>Cemetery shall mean property used for the interring of the dead, in which columbariums, and mausoleums may be utilized. <u>any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on the grounds of a religious institution or their placement in a columbarium on the property of a religious institution shall not constitute the creation of a cemetery.</u></p> <p><u>Sec. 32-300.17. General Provisions for Cemeteries</u></p> <p><u>The following uses shall be included in the approval of a cemetery without further zoning approval being required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion and sediment control.</u></p> | | |

Attachment A – Proposed Text Amendment

Billboards

| Chapter | Section | Assembly Adoption Date | Assembly Description | Zoning Ordinance |
|----------------------------|-----------|---|---------------------------------------|---|
| CH. 603 | 33.1-95.2 | 20-Mar-13 | Adjustment / Relocation of Billboards | Article VI Part 601.34 Nonconforming Signs |
| Assembly Amendment: | | <p><u>§ 33.1-95.2. Adjustment or relocation of certain billboard signs.</u> <u>A. Notwithstanding any other provision of law, general or special, whenever land is acquired due to the widening, construction, or reconstruction of any highway as defined in § 33.1-351 by purchase or by use of the power of eminent domain and upon such land is situated a lawfully erected billboard sign as defined in § 33.1-351, such billboard sign may be relocated as provided in this section.</u></p> <p><u>B. If a billboard sign meets all requirements under the provision of this title and § 4.1-113.1 in the case of outdoor alcoholic beverage advertising, but is considered nonconforming solely due to a local ordinance, the owner of the billboard sign, at his sole cost and expense, shall have the option to relocate such billboard sign to another location as close as practicable on the same property, adjusting the height or angle of the billboard sign to a height or angle that restores the visibility of the billboard sign to the same or comparable visibility as before the taking, provided the new location also meets all the requirements of this title and regulations adopted pursuant thereto.</u></p> <p><u>C. Nothing in this section shall authorize the owner of such billboard sign to increase the size of the sign face, and a relocated billboard shall continue to be nonconforming in its new location unless the relocated billboard becomes conforming in its new location under the local ordinance. The provisions of § 33.1-370.2 shall apply to any relocation.</u></p> | | |
| Zoning Amendment: | | <p>Sec. 32-601.34. Nonconforming Signs.</p> <p style="padding-left: 40px;">Nonconforming signs shall be governed by the regulations set forth in this part, except where such regulations conflict with the following provisions:</p> <ol style="list-style-type: none"> 1. Nonconforming signs shall not be expanded. 2. Nonconforming signs may be changed to reduce any nonconformity as to the number of signs permitted on a lot, sign height, sign size and sign type. 3. Signs that are nonconforming as to location may be relocated to be less nonconforming, provided such relocation shall not cause a greater detrimental impact on conforming uses in the neighborhood. 4. The face, message, or copy on a nonconforming sign may be changed, provided such change does not alter the sign type, unless the new sign type would be a conforming sign in all respects. 5. <u>Whenever land is acquired due to the widening, construction, or reconstruction of any highway as defined in VA Code 33.1-351 by purchase or by use of the power of eminent domain and upon such land is situated a lawfully nonconforming billboards sign as defined in VA Code 33.1-351, such billboard sign may be relocated, if such sign meets all requirements under the provision of VA Codes 33.1-351 and 4.1-113.1. in the case of outdoor alcoholic beverage advertising, but is considered a nonconforming sign; such billboard sign may be relocated by the owner of the billboard sign, at the owner's sole cost and expense, to another location as close as practicable on the same property, adjusting the height or angle of the billboard sign to a height or angle that restores the visibility of the billboard sign to the same or comparable visibility as before the taking, provided the new</u> | | |

Attachment A – Proposed Text Amendment

location also meets all the requirements of VA Code 33.1-95.2 and regulations adopted pursuant thereto. The owner of such billboard sign shall not be allowed to increase the size of the sign face, and a relocated billboard shall continue to be nonconforming in its new location. Maintenance of such nonconforming billboard signs shall be governed by the provisions of VA Code 33.1-370.2.

- ~~5.~~ 6. A sign permit, as set forth by section 32-250.25 of this chapter, shall be required for any changes permitted by subsections 2., 3. and 4., and 5. hereinabove.
- ~~6.~~ 7. Whenever the provisions of this part 601 require all nonconforming signs on a lot to be made conforming, such provision shall apply instead of the provisions of this section.

Attachment A – Proposed Text Amendment

Temporary Family Health Care Structures

| Chapter | Section | Assembly Adoption Date | Assembly Description | Zoning Ordinance |
|----------------------------|-------------|--|--|--|
| Ch. 178 | 15.2-2292.1 | 12-Mar-13 | Allows married couples to reside in temporary family health care structures. | Article I Part 100 – Definitions Article II Part 210.13 Temporary family health care structures |
| Assembly Amendment: | | <p>B. . . "Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation,; (ii) is limited to one occupant who shall be the mentally or physically impaired person, <u>or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in § 63.2-2200, as certified in writing by a physician licensed in the Commonwealth;</u> (iii) has no more than 300 gross square feet,; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.</p> <p>F. Any temporary family health care structure installed pursuant to this section shall be removed within 30 <u>60</u> days in <u>of the date on</u> which the <u>temporary family health care structure was last occupied by a</u> mentally or physically impaired person is no longer receiving services or is no longer in need of the assistance provided for in this section.</p> | | |
| Zoning Amendment: | | <p>Sec. 32-210.16. Temporary Family Health Care Structures.</p> <p>One temporary family health care structure, as a permitted accessory use, may be placed on any property zoned for a single family detached dwelling owned or occupied by a caregiver as his or her residence subject to the following:</p> <ol style="list-style-type: none"> 1. The temporary family health care structure (the structure) shall be limited to one (1) occupant who shall be the mentally or physically impaired person, <u>or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other who requires assistance with one or more activities of daily living as defined in §63.2-2200 VA Code.</u> 2. The structure shall have a maximum gross floor area of three hundred (300) square feet. 3. The structure shall comply with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code. 4. The structure shall not be placed on a permanent foundation. 5. The structure shall comply with the applicable standards for accessory buildings as set forth in section 32-300.03, except all yard setbacks shall be the same as those that apply to the primary structure. | | |

Attachment A – Proposed Text Amendment

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| | <p>6. The structure shall be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.</p> <p>7. No signage that advertises or promotes the structure shall be permitted on the structure or elsewhere on the property.</p> <p>8. Written certification verifying the status of the mentally or physically impaired occupant <u>or occupants</u> of the structure <u>(as established in subsection 1 above)</u> shall be provided by a physician licensed by the Commonwealth.</p> <p>9. Evidence of compliance with this section must be provided annually on the anniversary date of the initial zoning approval, including a current written certification by a physician licensed by the Commonwealth.</p> <p>10. The structure shall be removed within thirty (30) <u>sixty (60)</u> days <u>of the date on which the temporary family health care structure was last occupied by</u> after the <u>a</u> mentally or physically impaired person <u>is no longer receiving services or no longer</u> in need of the assistance for which the structure was provided.</p> |
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Attachment A – Proposed Text Amendment

Military Notification

| Chapter | Section | Assembly Adoption Date | Assembly Description | Zoning Ordinance |
|----------------------------|-----------------------------|--|---|------------------|
| CH. 548 | 12.2-2204 | 4-Apr-12 | Zoning amendment notification limited to property owners adjacent to federal or state land. Advertisement of plans, ordinance, etc. | Sec. 32-700.60 |
| Ch. 213 | 15.2-2200, 2201, 2204, 2211 | 12-Mar-13 | Military Notification | |
| Assembly Amendment: | | <p>B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as above required <i>by subsection A</i>, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. <i>However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.</i> Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.</p> <p>D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as above required by <i>this section</i>, written notice shall also be given by the local commission, or its representative, at least 10 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.</p> | | |
| Assembly Amendment: | | <p>15.2-2200</p> <p>1. This chapter is intended to encourage localities to improve the public health, safety, convenience, and welfare of its <i>their</i> citizens and to plan for the future development of communities to the end that transportation systems be carefully planned; that new community centers be developed with adequate highway, utility, health, educational, and recreational facilities; that the need for mineral resources and the needs of agriculture, industry, and business be recognized in future growth; <i>that the concerns of military installations be recognized and taken into account in consideration of future development of areas immediately surrounding installations and that where practical, installation</i></p> | | |

Attachment A – Proposed Text Amendment

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| | <p><i>commanders shall be consulted on such matters by local officials; that residential areas be provided with healthy surroundings for family life; that agricultural and forestal land be preserved; and that the growth of the community be consonant with the efficient and economical use of public funds.</i></p> <p>15.2-2201 <i>"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.</i></p> <p>15.2-2204 D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 40 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.</p> <p>15.2-2211 The planning commission of any locality may cooperate with local planning commissions or legislative and administrative bodies and officials of other localities so as to coordinate planning and development among the localities. <i>The planning commission of any locality shall consult with the installation commander of any military installation that will be affected by potential development within the locality so as to reasonably protect the military installation against any adverse effects that might be caused by the development.</i> Planning commissions may appoint committees and may adopt rules as needed to effect such cooperation. Planning commissions may also cooperate with state and federal officials, departments and agencies. Planning commissions may request from such departments and agencies, and such departments and agencies of the Commonwealth shall furnish, such reasonable information which may affect the planning and development of the locality.</p> |
| <p>Zoning Amendment:</p> | <p>Sec. 32-700.60. Notice Requirements for Map Amendments and Special Use Permits</p> <p>7. <u>When a comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport, then written notice shall be given consistent with Section 15.2-2204D. of the Code of Virginia.</u></p> <p>8. <u>When a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice shall be given consistent with Section 15.2-2204B. of the Code of Virginia.</u></p> |

Attachment A – Proposed Text Amendment

BZA Procedures

| Chapter | Section | Assembly Adoption Date | Assembly Description | Zoning Ordinance |
|----------------------------|-----------|---|--|---------------------------|
| CH. 550 | 15.2-2311 | 4-Apr-12 | Allows the BZA to extend case with tied vote until the next scheduled meeting. | Article IX Part 900.20 |
| Assembly Amendment: | | <i>D. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.</i> | | |
| Zoning Amendment: | | Sec. 32-900.20. Appeals. <u>5. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.</u> | | |

Attachment B – BOCS Initiating Resolution

MOTION: CADDIGAN

May 21, 2013
Regular Meeting
Res. No. 13-316

SECOND: COVINGTON

RE: AUTHORIZE PUBLIC HEARING TO CONSIDER THE AMENDMENTS TO THE COUNTY CODE TO BE EFFECTIVE JULY 1, 2013 MANDATED BY CHANGES TO STATE LAW MADE BY THE GOVERNOR AND THE 2013 GENERAL ASSEMBLY: PROPOSED AMENDMENTS TO CHAPTERS 2 (ADMINISTRATION), 4 (ANIMALS AND FOWL), 5 (BUILDING AND BUILDING REGULATIONS), 13 (MOTOR VEHICLES AND TRAFFIC), 16 (MISCELLANEOUS OFFENSES), 20 (POLICE), 22 (REFUSE), AND 27 (TAXICABS); INITIATE DEVELOPMENT REGULATION AMENDMENTS, INCLUDING ZONING TEXT AMENDMENTS

ACTION: APPROVED

WHEREAS, the Board of County Supervisors, pursuant to both general and specific authority granted by the Code of Virginia, has enacted certain provisions of Chapters 2 (Administration), 4 (Animals and Fowl), 5 (Building and Building Regulations), 13 (Motor Vehicles and Traffic), 16 (Miscellaneous Offenses), 20 (Police), 22 (Refuse), and 27 (Taxicabs) of the Prince William County Code to parallel certain provisions of the Code of Virginia; and

WHEREAS, the parallel provisions of the Code of Virginia have been amended by the 2013 General Assembly and the Governor of Virginia; and

WHEREAS, it is the Board's desire to conduct a public hearing for the purpose of considering adoption of corresponding amendments to the Prince William County Code; and

WHEREAS, the Board has enacted Chapter 32 of the Prince William Code, Zoning, and the Governor and General Assembly have enacted Chapters 178, 213, 603, and 611 of the 2013 Acts of Assembly, and Chapters 315 and 698 of the 2010 Acts of the Assembly, prompting appropriate amendment of local zoning ordinances and development regulations;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby determine that it shall conduct a public hearing to be scheduled on June 4, 2013, by the Clerk to the Board to consider the adoption of the amendments to Chapters 2, 4, 5, 13, 16, 20, 22, and 27 of the County Code, shown on the attachment to this Resolution, all to be effective July 1, 2013. The Clerk is further directed to make copies of all proposed amendments available to the public upon request;

BE IT FURTHER RESOLVED that the Clerk to the Board properly advertise notice of the public hearing for the stated purpose in a newspaper of general circulation in Prince William County;

Attachment B – BOCS Initiating Resolution

May 21, 2013
Regular Meeting
Res. No. 13-316
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BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors does hereby direct the Planning Commission and County staff to initiate appropriate amendments to all applicable development regulations, including but not limited to, Chapter 32 of the Prince William Code, which is the Zoning Ordinance, to address the requirements of Chapters 178, 213, 603, and 611 of the 2013 Acts of Assembly, and Chapters 315 and 698 of the 2010 Acts of the Assembly.

ATTACHMENTS: Proposed Amendments
Chapters 178, 213, 603, and 611, 2013 Acts of Assembly
Chapters 315 and 698, 2010 Acts of the Assembly

Votes:

Ayes: Caddigan, Candland, Covington, Jenkins, Nohe, Principi, Stewart

Nays: None

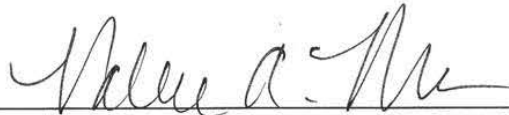
Absent from Vote: May

Absent from Meeting: None

For Information:

County Executive
Police Chief
Fire and Rescue Chief
Finance Director
Planning Director
Development Services Director
Zoning Administrator
Commonwealth's Attorney
Sheriff

ATTEST: _____



Chief Deputy Clerk to the Board