



COUNTY of FREDERICK

Finance Department
Cheryl B. Shiffler
Director

540/665-5610

Fax: 540/667-0370

E-mail: cshiffle@co.frederick.va.us

TO: Finance Committee

FROM: Cheryl B. Shiffler, Finance Director *CB*

DATE: April 13, 2007

SUBJECT: Finance Committee Agenda

The Finance Committee will meet in the Board of Supervisors' Meeting Room at 107 North Kent Street on Wednesday, April 18, 2007 at 8:00 a.m.

1. The Economic Development Commission requests a General Fund supplemental appropriation in the amount of \$10,000. This amount represents a Regional Workforce Study done in collaboration with the Shenandoah County EDC and Workforce Solutions and Continuing Education at LFCC. No local funds needed. See attached memo, p. 1.
2. The Sheriff requests a General Fund budget transfer in the amount of \$2,000 from the contingency line item. This amount represents estimated expenses for the remainder of the fiscal year to reimburse citizens for livestock killed. See attached information, p. 2 – 6.
3. The Winchester Law Group, P.C. provides a proposed Deed of Conveyance for the transfer of the old school property from the County to the Town of Stephens City for your consideration. See attached information, p. 7 – 9.

4. The Planning Department has provided information on Purchase Development Rights for your consideration. See attached information, p. 10 – 25.

**** FOR INFORMATION ONLY ****

1. The Finance Director provides a fund balance report. See attached report, p. 26.



WINCHESTER
FREDERICK COUNTY
VIRGINIA EDC

MEMORANDUM

March 27, 2007

TO: Cheryl Shiffler, Frederick County Finance Director

FROM: Patrick Barker, Executive Director *AB*

RE: Supplemental Appropriation Request for 10-8102-3002-000, FY06-07

The Economic Development Commission (EDC) is requesting an appropriation increase to 10-8102-3002-000 for FY06-07 in the amount of \$10,000.00. No local public funds are involved.

The appropriation increase will allow us to receive and expend non-local public monies associated with the Regional Workforce Study done in collaboration with, the Shenandoah County Economic Development Office and Workforce Solutions and Continuing Education at Lord Fairfax Community College.

We hope this request can be added to the next Finance Committee agenda. Please advise our office if you anticipate a delay. Thank you for your consideration.

Attachment (copy of checks)



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Your Move. Our Commitment.

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§ 3.1-796.126:11. Compensation for livestock and poultry killed by hybrid canines.

Any person who has any livestock or poultry killed or injured by any hybrid canine not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400 per animal or \$10 per fowl, provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a hybrid canine; (ii) the animal control officer or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the hybrid canine doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the hybrid canine upon which an execution has been returned unsatisfied.

Local jurisdictions may by ordinance waive the requirements of (ii) or (iii) or both provided that the ordinance adopted requires that the animal control officer has conducted an investigation and that his investigation supports the claim. Upon payment under this section the local governing body shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the hybrid canine and may enforce the same in an appropriate action at law.

(1997, c. 918; 1998, c. 817.)

[previous](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

FREDERICK COUNTY SHERIFF'S OFFICE



ROBERT T. WILLIAMSON
Sheriff

MAJOR R.C. ECKMAN
Chief Deputy

5 NORTH KENT STREET
WINCHESTER, VIRGINIA 22601

540/662-6168
FAX 540/722-4001

#999999

TO : Cheryl Shiffler, Director
Finance Department

FROM : Sheriff R. T. Williamson *RTW*

SUBJECT : Compensation for Livestock Killed

DATE : March 21, 2007

Attached please find a Report of Animal Control Officer submitted by Dep. M. Moreland for compensation for 3 Nigerian Dwarf goats attacked and killed by canines (pitbulls). The owner of the livestock, Ms. Trudi Dixon, 1623 Redbud Road, Winchester, VA is requesting compensation for her livestock.

The owner(s) of the canines are unknown.

In accordance to the Code of Virginia>3.1-796.126:11, we are requesting the county reimburse Ms. Dixon for her loss in the amount of \$300.00 from 5802-00.

RTW/asw



REPORT OF ANIMAL CONTROL OFFICER

As to Livestock, Fowls, etc... killed or injured by dogs

Name of Claimant: Trudi Dixon

Address: 1073 Redbud Rd. District: _____
Winchester, Va. 22603

Date Reported to Animal Control: 3/14/07 Case # 07001281

Date Killed	Number	Kind	Assessed Value per Head	Amount
<u>3/14/07</u>	<u>3</u>	<u>Goats Nigerian Dwarf</u>	<u>\$100.00</u>	<u>\$300.00</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Amount recommended to be paid \$ \$300.00

Remarks: 2 dogs (pitbulls) attacked complainant's 3 goats killing all three. Dogs accessed by digging under fence. Dogs had no identification (tags), microchips, or lost reports on file.

Given under my hand this 14 day of March, 2007.

Manoreland 153

Animal Control Officer/Unit&Code

FINANCE : MAKE CHECK PAYABLE TO CLAIMANT AND MAIL TO ADDRESS LISTED ABOVE.

Applicable line item: 3102-5802-00

Approved By: ok-cow Date to Finance: 3-21-07

FREDERICK COUNTY S.

ROBERT T. WILLIAMSON
Sheriff



5 NORTH KENT STREET
WINCHESTER, VIRGINIA

540/662-6168
FAX 540/722-4001

999999

Called
Angie
about
Code 319

AN

TO : Cheryl Shiffler, Director
Finance Department

FROM : Sheriff R. T. Williamson *AW*

SUBJECT : Compensation for Livestock Killed

DATE : March 9, 2007



Attached please find a Report of Animal Control Officer submitted by Dep. B. Harvey for compensation for 3 REO (fowls) killed by a canine. The owner of the livestock, Mr. Robert Arnold, 233 Huttle Road, Stephens City, VA, is requesting compensation for his livestock.

The owner of the canine is unknown.

In accordance to the Code of Virginia>3.1-796.126:11, we are requesting the county reimburse Mr. Arnold for his loss in the amount of \$750.00 from the General Fund.

RTW/asw

Cc: Dep. Harvey

REPORT OF ANIMAL CONTROL OFFICER

As to Livestock, Fowls, etc... killed or injured by dogs

Name of Claimant: Robert Arnold

Address: 233 Hubble Rd, Stephens City District: _____

Date Reported to Animal Control : 3-6-07 Case # 07001140

Date Killed	Number	Kind	Assessed Value per Head	Amount
<u>3-6-07</u>	<u>3</u>	<u>REO</u>	<u>\$250.00</u>	<u>\$750.00</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Amount recommended to be paid \$ 750.00

Remarks: Killed by Black and white Collie mix Dog, Can not
locate possible or wild Dog. No one in the area owns the
Dog.

Given under my hand this 8th day of March, 2007.

Billy J. [Signature] 152

Animal Control Officer/Unit&Code

FINANCE : MAKE CHECK PAYABLE TO CLAIMANT AND MAIL TO ADDRESS LISTED ABOVE.

~~Applicable fee from 2102 - 2102 00~~

Approved By: _____ Date to Finance: _____

Winchester Law Group, P.C.

Attorneys and Counselors at Law

Russell A. Fowler
J. David Griffin*
James A. Drown
James R. Larrick, Jr.
Beth M. Coyne

29 North Braddock Street
Winchester, Virginia 22601

Telephone (540) 667-6400
Facsimile (540) 722-0654
dgriffin@winchesterlaw.com

Of Counsel
David J. André

Please Reply To:
Post Office Box 444
Winchester, Virginia 22604

*Licensed in VA SC & D.C.

March 8, 2007

Mr. Bill Ewing
5266 Main Street
Stephens City, VA 22655

Re: Old Stephens City School (For the Dr. Peter B. Stickley School Corporation)

Dear Supervisor Ewing:

Thank you for your recent kind letter regarding the transfer of the old school property. Per your suggestion, I have enclosed a proposed Deed of Conveyance from the County to the Town. I have also included a reverter clause in the event that the property is not used for a public purpose by the Town that it may revert back to County ownership. However, if the reverter were to kick in during the original 99 year lease, all of which was pre-paid, the Town would still have the right to use the property under that 99 year lease. To avoid confusion for future generations, and hopefully not keep all of those future lawyers employed, I have referenced that in the proposed Deed as well.

I look forward to hearing from you and the Board on progress with this transaction. Once the Board has approved the transfer and Mr. Riley has signed the Deed, kindly let me know and we will take care of the recording.

Thank you again for your kind consideration of this and all matters.

Very truly yours



J. David Griffin

JDG/bnw
Enclosure

cc: Mike Kehoe (via email)
Mayor Ray Ewing (via email)

THIS DEED made and dated this _____ day of _____, 2007, by and between the COUNTY OF FREDERICK, VIRGINIA, of the one part, hereinafter called the Grantors; and the TOWN OF STEPHENS CITY, VIRGINIA, of the other part, hereinafter called the Grantee.

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey with general warranty and English covenants of title, unto the Grantee, in fee simple, all that certain lot or parcel of land, together with all rights, rights of way and appurtenances thereto belonging and improvements thereon, lying and being situate in the Town of Stephens City, Opequon Magisterial District, Frederick County, Virginia, on the East side of U. S. Route 11 (Main Street), designated and described as "PARCEL A" in that certain plat of survey of Elliott Ritchie, Jr., C.L.S., dated May 27, 1992, attached to the hereinafter referenced deed, containing 1.2961 acres. This is the same property conveyed to the Grantor herein by Deed dated July 9, 1992, from the County School Board of Frederick County, Virginia, said Deed and attached plat of record in the Clerk's Office of the Circuit Court of Frederick County, Virginia, in Deed Book 781 at Page 544.

This conveyance is made subject, however, to all rights, rights of way and easements of record, if any, affecting the aforesaid property.

WINCHESTER
LAW
GROUP, P.C.
Attorneys at Law
Winchester, VA

CONSIDERATION: -0-
TAX EXEMPT PER SECTION _____
GRANTEE'S ADDRESS: _____
TAX MAP NO. _____

In the event the Grantee fails to use the above described property for public use then it may revert back to the Grantor. If such reversion takes place within the time frame of the original pre-paid 99-year lease, the property may continue to be used by the Grantee.

The conveyance of this property, following all proper legal procedures in force and in effect, was approved by the Board of Supervisors at their meeting on _____, 2007. The Board authorized the County Administrator to sign this Deed.

WITNESS the following signature and seal:

COUNTY OF FREDERICK, VIRGINIA

BY: _____ (SEAL)
County Administrator

STATE OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by the County of Frederick, Virginia, by _____, its County Administrator.

My commission expires _____.

Notary Public



COUNTY of FREDERICK

Department of Planning and Development

540/665-5651

FAX: 540/665-6395

MEMORANDUM

TO: Frederick County Finance Committee

FROM: Susan K. Eddy, Senior Planner *SKE*

RE: Purchase of Development Rights (PDR) Funding

DATE: April 10, 2007

Planning Department staff has recently been notified by the Virginia Office of Farmland Preservation that \$4.25 million has been approved by the General Assembly for the funding of Purchase of Development Rights (PDR).

The purchase of development rights is also referred to as the purchase of a conservation easement. A conservation easement is a legal agreement in which a landowner retains ownership of his or her property, while conveying certain specified rights to the easement holder. While the specifics terms of an easement can vary, all conservation easements place limits on the future development of the property. The Board of Supervisors, when it established the Frederick County Conservation Easement Authority in 2005, authorized the Authority to purchase conservation easements. To date, no money has been allocated to this program by the County and no conservation easements have been purchased.

It is the intent of the Virginia Office of Farmland Preservation (see Attachment #1) to equally divide the \$4.25 million amongst the counties with established PDR programs, provided they can match the funding. Currently 16 counties in Virginia (see Attachment #2), including Frederick County, have PDR programs. Should all 16 counties apply for funding, each would receive up to \$265,625. If all 16 counties do not apply, the money will be reallocated to those that do apply, providing of course they can match the funding.

This is a unique allocation of funding. Other PDR programs, such as funding from the Farm and Ranch Lands Protection Program (FRPP), the Virginia Land Conservation Foundation (VLCF) and the Virginia Outdoors Foundation (VOF) are allocated on a competitive basis.

Counties have until July 1, 2007 to certify that matching funds are available. They have until August 31, 2007 to apply for certification that their PDR program matches/addresses the state model PDR program. (Frederick County's program closely parallels the state model.) Counties do not need to

immediately identify properties from which development rights will be purchased. Local programs will have two fiscal years to draw down the allocated funds. Any funds not spent will be returned to the state for future reallocation.

While Frederick County has not yet used its PDR program, the program is established in the County Code (see Attachment #3). The criteria for ranking properties have already been determined. An application form is available. An easement template, based on the Virginia Outdoors Foundation Easement, has been written. The County would of course need to undertake publicity for the program and the Easement Authority and Board of Supervisors would need to evaluate and select among properties that applied for the purchase of development rights funding. Other task associated with conservation easements include site visits, appraisal, drafting of the document, recordation and long term monitoring of the property to ensure conformance with the terms of the easement.

At the present time, no funds are allocated towards the purchase of development rights in Frederick County and no local funding sources have been identified. Other localities in Virginia have directly allocated money from their general funds, dedicated a portion of the real estate taxes, and used surplus general funds.

Committee Members are asked to make a recommendation to the Board of Supervisors regarding participation in this particular grant program.

Please contact me if you have any questions.

SKE/bhd

Attachments

INITIAL THOUGHTS ON STATE MATCHING FUNDS FOR LOCAL PURCHASE OF DEVELOPMENT RIGHTS (PDR) PROGRAMS

The following are some initial thoughts regarding the process for certifying local Purchase of Development Rights (PDR) programs, and the establishment of an allocation formula for state matching funds for these certified local programs. These ideas were first drafted by a small working group assembled by the Office of Farmland Preservation in response to questions from Senate Finance Committee staff. These ideas were then reviewed by the Statewide Farmland Preservation Task Force on March 5, 2007, and the local PDR managers group on March 23, 2007.

- **Certification requirements-** The annual certification process will include two components: 1) certification of the local program elements based on the model elements in *A Model Purchase of Development Rights (PDR) Program for Virginia*; and 2) certification of the amount of matching funds that the locality will provide for that fiscal year. The certification application will require the locality to describe how their program addresses/matches the elements established in the model PDR program. The certification application also will require the appropriate fiscal agency for the locality to certify the amount and availability of matching funds. These certification applications would then be reviewed by the Office of Farmland Preservation, with the members of the Statewide Farmland Preservation Task Force serving as advisors when needed.

The deadline for local programs to submit both parts of their applications for certification is July 1 of each year. For the first year of the program, the deadline for submitting an application for certification of the local program elements will be extended to Friday, August 31, 2007. The deadline for submitting the amount of local matching funds will still be July 1, 2007.

- **Fund distribution formula-** Once it has been determined which localities will be certified for the fiscal year, the Office of Farmland Preservation will divide the total amount of state matching funds available for that year by the number of localities that have a certified program for that year. For example, given the budget amendment funding of \$4.25 million for FY 2006- 2008 approved by the General Assembly, and assuming that all 14 of the current local programs become certified, that would equate to \$4.25 million/14 or \$303,571 that would be reserved for each local program in FY 2008. (Note: while budgeted for two fiscal years, the Office of Farmland Preservation plans to use all of these funds in FY 2008.)

These funds would be available to localities only to the extent that they provide an equal match with local funds. Therefore, those local jurisdictions that demonstrate they can match the amount allocated to each local program (so \$303,571 in the FY 2008 example) will be able to retain their allocation of state funds. Those that cannot demonstrate the match, or only can demonstrate a part of it, will be allocated the amount that they can match. The remainder of the funds that have not been matched by each local program would then be divided again in a second round by the number

of programs that can provide a match greater than the per program average in the first round. Should funds remain unallocated at the end of the second round, a third round would be conducted.

Local programs will have two fiscal years to draw down the allocated funds. All funds that have not been used by this time will be added to the funds for the fiscal year following the year by which they needed to be spent. Localities will be able to submit a request to draw down the funds allocated to them once they have closed on the easement. The request for drawing down the allocated state funds will be limited to 50 percent of the purchase price of the easement. (Note: The Office of Farmland Preservation will work to further refine this in the case of Installment Purchase Agreements.) It is expected that some localities may not have enough funds to actually go to closing without state funds in hand. Therefore, the Office of Farmland Preservation may need to allow for the funds to be used at closing by these programs.

In terms of allowable local matching funds, The Office of Farmland Preservation also will include non-profit contributions, private donations, and federal funds such as those from the Federal Farm and Ranch Land Protection Program (FRPP), to the extent that the use of these funds does not eliminate the need for a local contribution to the project. Local matching funds should not include funds contributed by other state agencies/programs, nor any possible bargain sales from landowners.

For certification applications and additional information, please contact:

Kevin Schmidt
Coordinator, Office of Farmland Preservation
Virginia Department of Agriculture and Consumer Services
102 Governor Street
Richmond, VA 23219
Phone: (804) 786-1346
Fax: (804) 371-2945
kevin.schmidt@vdacs.virginia.gov

Map of Local Purchase of Development Rights Programs

STATUS OF LOCAL PURCHASE OF DEVELOPMENT RIGHTS (PDR) PROGRAMS

PDR Program Status
 Developed - Funded
 Not Developed - Funded
 Developed - No Funding
 Development in Progress
 Possible Development
 No Program or Funding



Map Prepared on 1/22/07 by:



§ 68-1 CONSERVATION EASEMENT PROGRAM

§ 68-1

Chapter 68

CONSERVATION EASEMENT PROGRAM

- § 68-1. Intent.
- § 68-2. Authority/applicability.
- § 68-3. Definitions.
- § 68-4. Program administrator; powers and duties.
- § 68-5. Authority; powers and duties.
- § 68-6. Eligibility criteria.
- § 68-7. Ranking criteria.
- § 68-8. Easement terms and conditions.
- § 68-9. Application and evaluation procedure.
- § 68-10. Acceptance of easements.
- § 68-11. Purchase of conservation easement.
- § 68-12. Program funding.

[HISTORY: Adopted by the Board of Supervisors of the County of Frederick 8-24-2005. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 144.
Zoning — See Ch. 165.

§ 68-1. Intent.

To further the goals of the County's Comprehensive Plan and provide a means to assist county landowners in protecting and preserving farm and forest land, open space, scenic vistas, historic sites, water resources and environmentally sensitive lands, and the county's rural character. This chapter establishes a program which will enable the County to acquire voluntary conservation easements either through donation or, should funding be made available, through purchase, as one means of assuring these valuable County resources are protected. It is hoped that this will in turn assist in shaping the character and direction of development, promote tourism through the

preservation of scenic and historic resources and assist in preserving the quality of life for the inhabitants of the County.

§ 68-2. Authority/applicability.

The Frederick County Conservation Easement Program (FCEP) is established under the provisions of the Open Space Land Act, Chapter 17, Title 15.2 (§ 10.1-1700 et seq.), Code of Virginia, and shall be available for all land in the County. The owner shall voluntarily offer any conservation easement acquired pursuant to this chapter.

§ 68-3. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

AUTHORITY — The Frederick County Conservation Easement Authority.

CONSERVATION EASEMENT — A nonpossessory interest in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise or bequest imposing limitations of affirmative obligations, the purpose of which include retaining or protecting natural or open space values of real property, assuring its availability for agricultural, forestal, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality or preserving the historical, architectural or archaeological aspects of real property.

DEVELOPMENT RIGHT — The number of residential building lots that may be created from the parent tract in a given zoning district per the Frederick County Zoning and Subdivision regulations.¹

OWNER — The owner or owners of the freehold interest of the parcel.

PROGRAM ADMINISTRATOR — The Director of Planning and Development.

¹ Editor's Note: See Ch. 165, Zoning, and 144, Subdivision of Land, respectively.

PARCEL — A lot or tract of land, lawfully recorded in the Clerk's office of the Circuit Court of the County of Frederick. Because a conservation easement may contain one or more parcels, for purposes of this chapter the term "parcel" shall include all parcels covered by, or proposed to be covered by, the conservation easement.

§ 68-4. Program administrator; powers and duties.

The Director of Planning and Development, or his designee, shall have the following powers and duties with respect to the program:

- A. Establish reasonable and standard procedures and forms consistent with this chapter for the administration and implementation of the program.
- B. Evaluate all applications to determine their eligibility and their ranking based on their score, and make recommendations thereon to the Authority.
- C. Determine the number of usable development rights existing on each parcel subject to an application.
- D. Where funding is made available for purchase, coordinate the preparation of appraisals.
- E. Provide staff support to the Authority.
- F. Assure that the terms and conditions of all easements are monitored and complied with by coordinating with each easement holder.

§ 68-5. Authority; powers and duties.

The Authority shall have the powers and duties to:

- A. Acquire and co-hold easements pursuant to the provisions of this chapter.
- B. Apply for and pursue grants, other funding and gifts from the Virginia Land Conservation Fund, state and federal agencies and private persons and entities for the purchase of easements.
- C. Promote the program, in cooperation with the program administrator, by providing educational materials to the public and conducting informational meetings.

- D. Review the ranking of applications recommended by the program administrator and make a determination as to whether an easement donation offer should be accepted and, subject to funding availability, which, if any, conservation easements should be purchased.
- E. Annually review the program's eligibility and ranking criteria and recommend to the Board of Supervisors any changes needed to maintain the program's consistency with the comprehensive plan or to improve the administration, implementation and effectiveness of the program.
- F. Take action to enforce compliance with terms of easements being co-held by the Authority.
- G. Exercise any powers authorized by the Public Recreation Facilities Authorities Act.

§ 68-6. Eligibility criteria.

In order for a parcel to be eligible for a conservation easement, it must meet the following criteria:

- A. The use of the parcel subject to the conservation easement must be consistent with the comprehensive plan;
- B. The proposed terms of the conservation easement must be consistent with the minimum conservation easement terms and conditions set forth in § 68-8, Easement terms and conditions; and
- C. The parcel shall obtain at least 15 points under the ranking criteria set forth under § 68-7, Ranking criteria, unless the Authority finds that it is in the best interest of the County to waive this requirement.

§ 68-7. Ranking criteria.

In order to effectuate the purposes of this chapter, parcels for which FCEP applications for purchase have been received shall be ranked according to the criteria and the point values assigned thereto as set forth herein. Points shall be rounded to the first decimal (e.g., under Subsection A(1), a property with 740 feet of shared boundary with a park would receive 1 point for sharing a boundary, plus 1.48 points for the length of the shared boundary, which when

rounded to the first decimal would be 1.5 points, for a total of 2.5 points for that criteria).

A. Open space resources.

- (1) The parcel adjoins an existing permanent conservation easement, a national, state or local park: one point, plus one point for every 500 feet of shared boundary.
- (2) The number of usable development rights on the parcel as determined by the program administrator based on the applicable Frederick County Zoning Ordinance regulations: 1/2 point per usable development right.

B. Threat of development.

- (1) The parcel is zoned for a nonagricultural use: three points.
- (2) The parcel is deemed to be threatened due to it's proximity to the County's Urban Development Area or Sewer and Water Service Area boundary or to property that has been developed for a nonagricultural use within the last three years: two points.

C. Natural, cultural, recreational and scenic resources.

- (1) The parcel adjoins a state maintained road: one point for each 500 feet of road frontage along a designated Virginia scenic highway or byway; one point for each 1,000 feet of road frontage on a nondesignated public road.
- (2) The parcel contains or fronts a public trail or is identified as part of a planned trail network: two points; an adjoining parcel contains or fronts on a public trail or is identified as part of a planned trail network: one point.
- (3) The parcel contains historic resources:
 - (a) Three points if:
 - [1] The parcel is within or adjoins a national or state historic park or Civil War battlefield;
 - [2] Is listed on the State or National Register of Historic Places; or
 - [3] Is subject to a permanent easement protecting a historic resource.

- (b) Two points if the parcel contains or adjoins a parcel containing a historic structure identified by the Frederick County Rural Land Mark Survey or otherwise documented as being over 100 years old. An additional one point if the parcel contains identified archaeological resources.
- (4) The parcel is within a watershed or subwatershed identified as impaired on the Virginia Department of Environmental Quality's Impaired Waters List: three points.
- (5) The parcel fronts on a perennial stream as identified by the USGS 7.5 minute series quad maps or other reliable source: one point for every 1,000 linear feet of stream frontage.
- (6) The parcel is within a sensitive groundwater recharging area as demonstrated by the presence of sinkholes or karst topography: one point.
- (7) The parcel contains perennial springs or wetlands: one point for each occurrence.

D. Farm or forestland protection.

- (1) The parcel contains prime farm land as identified by the 1987 USDA Soil Survey of Frederick County: 1/2 point for each 10 acres containing such soils, for up to a total of five points.
- (2) The parcel is currently designated as part of an agricultural or forestal district: four points; The parcel qualifies for land use taxation under the provision for agricultural land but is not in an agricultural or forestal district: three points; the parcel qualifies for land use taxation under the provision for forestal land but is not in an agricultural or forestal district: two points.
- (3) The parcel has an approved nutrient management plan and/or employs agricultural best management practices as approved by the Lord Fairfax Soil and Water Conservation District or Natural Resources Conservation Service: one point.
- (4) The property owner can document that he/she has in place a conservation plan or participates in a recognized program that restores and/or protects stream channels, riparian zones and wetlands: one point.

- E. Fund leveraging. Nonlocal government funding has been identified to leverage the purchase of the conservation easement: one point for each 10% of the total purchase price for which those funds can be applied. Donation of all or a portion of the easement by the owner shall be considered fund leveraging and points awarded at the same rate.

§ 68-8. Easement terms and conditions.

Each conservation easement shall conform with the requirements of the Open-Space Land Act and of this chapter. The deed of easement shall be in a form approved by the County Attorney and shall contain, at a minimum, the following provisions:

- A. Restrictions. In addition to the foregoing, the parcel shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and may include, but not necessarily be limited to, restrictions pertaining to:
- (1) The accumulation of trash and junk;
 - (2) The display of billboards, signs and advertisements;
 - (3) The management of forest resources;
 - (4) Grading, blasting or earth removal;
 - (5) The number of new dwellings and the number and size of outbuildings and farm buildings or structures;
 - (6) The conduct of industrial or commercial activities on the parcel; and
 - (7) Monitoring of the easement.
- B. Designation of easement holders. The Authority and the Frederick County Board of Supervisors shall be the co-holders of all easements acquired under this program. The Authority shall seek one or more public bodies, as defined in Virginia Code § 10.1-1700, or private holder, as defined in Virginia Code § 10.1-1009, to be additional co-holders in the deed of easement or added by the Board of Supervisors and the Authority later, unless the Authority finds additional co-holders to be not feasible or not advisable.

§ 68-9. Application and evaluation procedure.

Each application for a conservation easement shall be processed as follows:

- A. Application materials to be provided to owner. The application materials provided by the program administrator to an owner shall include, at a minimum, a standard application form, a sample deed of easement and information about the FCEP program.
- B. Application form.
 - (1) Each application shall be submitted on a standard form prepared by the program administrator. The application form shall require, at a minimum, that the owner:
 - (a) Provide the name and address of all owners of the parcel;
 - (b) The acreage of the parcel;
 - (c) The Tax Map and parcel number;
 - (d) The zoning designation of the parcel;
 - (e) Permission for the program administrator to enter the property after reasonable notice to the owner to evaluate the parcel and for the County's assessor or an independent appraiser to appraise the property;
 - (f) Identification of all lien holders on the parcel, including, without limitation, holders of deed of trust liens and judgement liens; and
 - (g) Identify whether it is his desire to donate or sell an easement.
 - (2) The application form shall also include a space for an owner to indicate whether he volunteers to have his parcel be subject to greater restrictions than those contained in the standard sample deed of easement, and to state those voluntary, additional restrictions.
- C. Submittal of application. Applications shall be submitted to the office of the program administrator. An application may be submitted at any time. However, applications involving an easement purchase received after June 1 shall be evaluated in the following fiscal year.
- D. Evaluation by program administrator. The program administrator shall evaluate each complete application received and determine whether

the parcel satisfies the eligibility criteria set forth in § 68-6 and shall make recommendations thereon to the Authority.

- E. Evaluation by Authority. The FCEP shall review the list of parcels submitted by the program administrator and identify on which parcels, if any, it desires conservation easements.
- F. Board of Supervisors approval. The program administrator shall forward to the Board of Supervisors for their review and approval any parcel which is located within the bounds of the County's Sewer and Water Service Area or Urban Development Area prior to the Authority pursuing acquisition of an easement.
- G. Application. An owner of a parcel not selected by the Authority for purchase or acceptance of a conservation easement may reapply in any future year.

§ 68-10. Acceptance of easements.

Upon approval of an easement by the Authority pursuant to the terms of this chapter, the proposed easement shall be forwarded to the Board of Supervisors for its approval. No easement shall be accepted unless approved by both the Authority and the Board of Supervisors. Upon approval by the Authority and the Board of Supervisors, and by any additional co-holder if applicable, the deed of easement shall be executed by all parties and recorded in the Frederick County land records. Nothing in this chapter shall obligate the Authority to purchase or accept a conservation easement on any property.

§ 68-11. Purchase of conservation easement.

Should the Authority desire to purchase an easement, the following procedures shall apply.

- A. Identification of initial pool. For applications received under § 68-9, in which the owner has indicated a desire to sell an easement, the program administrator shall determine the number of points to be attributed to each parcel by applying the criteria set forth in § 68-7. The program administrator shall rank each parcel scoring at least 15 points with the parcel scoring the most points being the highest ranked and descending therefrom. The program administrator shall submit the list of ranked parcels to the Authority. The Authority shall

designate the initial pool of parcels identified for conservation easements to be purchased. The purchase price may be supplemented by non-county funding as discussed in § 68-7E above. The size of the pool shall be based upon the funds available for easement purchases in the current fiscal year.

- B. Additional application information required by program administrator. The program administrator may require an owner to provide additional information deemed necessary to determine:
 - (1) Whether the proposed easement is eligible for purchase; and
 - (2) The purchase price of such easement.
- C. Appraisal of conservation easement value. Each conservation easement identified by the Authority to be purchased shall be appraised either by the County's Assessor or by an independent qualified appraiser chosen by the Authority. Each completed appraisal shall be submitted to the program administrator and the owner. The program administrator shall forward each appraisal to the Authority, which shall review each appraisal.
- D. Invitation of offer to sell. The Authority shall invite the owner of each parcel included in the initial pool of conservation easements to submit an offer to sell to the Authority a conservation easement on that parcel, subject to the terms and conditions of a proposed deed of easement. The invitation to sell shall be in writing and shall include the desired purchase price, the proposed deed of easement and the date by which a written offer must be received by the program administrator in order to be considered. The invitation may contain an offer form to be returned if the owner desires to sell a conservation easement.
- E. Offer to sell.
 - (1) Each owner who desires to sell a conservation easement shall submit a written offer that must be received by the program administrator by the date contained in the invitation to offer to sell. The offer should include a statement that substantially states the following:

“(The owner) offers to sell a conservation easement to the Authority for the sum of (purchase price), subject to the terms

and conditions set forth in the proposed deed of easement enclosed with the invitation to offer."

- (2) Nothing in this chapter shall compel an owner to submit an offer to sell.
- F. Acceptance. Nothing in this chapter requires the Authority to accept an offer to sell a conservation easement.
- G. Offers not made; offers not accepted; invitation to other owners. If an owner invited to submit an offer elects not to do so, or if his offer to sell is not accepted by Authority, then the Authority may send an invitation to offer to sell to other owners on the list.
- H. Costs. If the Authority accepts an offer to sell a conservation easement, the Authority may pay all costs, including environmental site assessments, surveys, recording costs, grantor's tax, if any, and other charges associated with closing; provided, however, the Authority shall not pay fees incurred for independent appraisals or legal, financial or other advice, or fees in connection with the release and subordination of liens to the easement purchased by the Authority.
- I. Application. An owner for whose parcel a conservation easement is not purchased may reapply in any future year.
- J. Special consideration. The Authority shall give special consideration and take immediate action to review applications in the special case where private funding is available to cover 100% percent of the cost of the purchase, or the owner is willing to donate the conservation easement at no cost to the County, provided that such parcel meet the eligibility requirements of this chapter.

§ 68-12. Program funding.

The FCEP program may, but is not required to, be funded annually by the Board of Supervisors in the County budget or by special appropriation. The Authority shall endeavor to seek funds from federal, state and private sources to effectuate the purposes of this chapter. Nothing in this chapter shall require the Board of Supervisors to fund this program.

**County of Frederick, VA
Report on Fund Balance
March 2007**

Fund Balance, Beginning of Year, July 1, 2006		32,429,542
Prior Year Funding & Carry forward Amounts		
Public Works 2007 4x4 truck carry forward	(24,000)	
Public Safety MAGIC system upgrade & maintenance carry forward	(26,000)	
Public Safety dispatcher testing software carry forward	(1,015)	
Public Safety CAD training & travel carry forward	(4,700)	
Public Safety tower repairs carry forward	(24,000)	
Telephone maintenance carry forward	(8,027)	
LaserFische board minutes webpage modification & maintenance carry forward	(600)	
Public Safety Center legal, staff, & engineering review carry forward	(31,099)	
Inspections scheduling system carry forward	(37,875)	
Recycling calendar carry forward	(2,800)	
COR phone and field units carry forward	(4,152)	
Clearbrook Convenience Center completion	(328,650)	
Warrior Drive pedestrian/bike trail completion	(87,633)	
2004 Homeland Security Grant carry forward	(21,337)	
Technology survey carry forward	(37,953)	
Forfeited Asset carry forward	(16,592)	
DARE carry forward	(4,900)	
School Operating funds carry forward	(21,655)	
School modular classrooms carry forward	(622,287)	(1,305,275)
Other Funding / Adjustments		
Adjust Fire Company Capital Reserves	(55,799)	
Public Transit Lines	(80,000)	
Cook blast site cleanup	(20,000)	
Magistrate budget	(10,375)	
Clerk additional two Comp Board positions	(5,389)	
COR additional two Comp Board positions	(6,263)	
Sheriff additional two Comp Board positions	(24,948)	
COR reassessment staff	(19,487)	
Airport capital projects	(52,867)	
Audit Adjustments (includes School Operating)	677,970	
Maintenance Supervisor supplement	(37,030)	
Supplement- Sunnyside engineering study	(30,000)	
COR promotions	(3,428)	
Public Safety Building furniture & fixtures	(961,927)	
Public Safety Building utility trench and conduit	(250,000)	
Clearbrook Park sewer line project	(284,571)	
Public Safety Building operation & maintenance	(84,659)	
June 2007 Primary Election	(25,320)	
		(1,274,093)
Fund Balance, March 2007		29,850,174