

December 6, 2010

The Randolph County Board of Commissioners met in regular session at 4:00 p.m. in the Commissioners Meeting Room, County Office Building, 725 McDowell Road, Asheboro, NC. Commissioners Holmes, Frye, Haywood, Kemp and Lanier were present. Pastor Richard Callahan, Mt. Calvary Baptist Church, Archdale, gave the invocation, and everyone recited the Pledge of Allegiance.

Reorganization of the Board

On motion of Haywood, seconded by Lanier, the Board voted unanimously to elect Harold Holmes as Chairman and Darrell Frye as Vice Chair.

On motion of Frye, seconded by Kemp, the Board voted unanimously to approve the following appointments: Associate County Attorney, Aimee Scotton; Clerk to the Board, Cheryl Ivey; Deputy Clerk to the Board, Amanda Varner; Representative to the Board of Health, Stan Haywood; Representative to the Social Services Board, Arnold Lanier; Representative to the Consolidated Mental Health Board, Darrell Frye; Representative to the Juvenile Crime Prevention Council, Phil Kemp; Representative to the High Point Transportation Advisory Board, Darrell Frye; Alternate Representative to the High Point Transportation Advisory Board, Stan Haywood; PTCOG Delegate, Darrell Frye; Piedmont Triad Partnership, Phil Kemp; Piedmont Authority for Regional Transportation, Darrell Frye; Regional Planning Organization Transportation Advisory Committee, Stan Haywood; Tourism Development Authority Liaison, Phil Kemp.

Appointment of New County Attorney

Chairman Holmes announced that current County Attorney Darren Allen has tendered his resignation as County Attorney due to his acceptance of the position of Assistant District Attorney for Montgomery County.

On motion of Kemp, seconded by Frye, the Board voted unanimously to appoint Ben Morgan as County Attorney. Note: Commissioner Haywood recused himself from voting because Mr. Morgan's wife is employed by Commissioner Haywood.

Public Comment Period

Pursuant to N.C.G.S. § 153A-52.1, Chairman Holmes opened the floor for public comment.

Kim Price, spoke on behalf of Saf-T Concierge Services, which operates the new Visitors Centers located on I-73/74, just south of Seagrove. She said that the number of visitors recorded in the last eleven months has exceeded NCDOT's expectations. More than 80,500 people have been counted at the center and almost 600,000 have visited the rest areas.

Presentation of County Employee Service Awards

Chairman Holmes and Vice Chair Frye, assisted by Stacy Griffin and Sara Baker of the County Human Resources office, presented County employee service award certificates and a piece of pottery to the following honorees: 15 Years of Service: Danny C. York, Building Inspections; Donovan L. Davis, EMS; Janet W. Gray, EMS; Phyllis S. Hurley, Health; Audrey W. Surratt, Health; Cindy C. Trogdon, Health; Jeffrey C. Mullins, IT; William L. King, Library; Irene M. Smith, Library; Linda G. Swaringen, Library; Gerald L. Dale, Jr., Planning and Zoning; Aundrea M. Azelton, Sheriff's Department; Michael W. Craven, Sheriff's Department; Jeffrey W. Goins, Sheriff's Department; Barry L. Hazelton, Sheriff's Department; Scottie L. Hicks,

Sheriff's Department; Sabrina L. Honeycutt, Sheriff's Department; Maria E. Jones, Sheriff's Department; Mary W. Davis, DSS; Katrina H. Evans, DSS; Cheryl F. Lackey, DSS; Sallie W. Cheek, Tax; Patty H. Willard, Tax. 20 Years of Service: Richard T. Wells, Administration; Kathi A. Auman-Einig, Health; Tonya L. Maness, Health; Ann C. McGlohon, Library; Felicia D. Butler, Sheriff's Department; Donna S. Mason, Sheriff's Department; Brent G. McNeill, Sheriff's Department; Maynard B. Reid, Jr., Sheriff's Department; Jeanette W. Gaines, DSS; Toni A. Welch, DSS; Charles W. Husband, Tax; Tammie M. Smith, Tax. 25 Years of Service: Dale T. Langley, EMS; Sandra H. Smith, EMS; Randle E. Brim, Planning & Zoning; Jill M. Wood, Planning & Zoning; Allen R. Brewer, Sheriff's Department; Patricia A. Jarrett, DSS; Melissa Y. Austin, Tax. 30 Years of Service: Jane H. Leonard, Administration; Fred W. DeFriess, EMS; John B. Lopienski, EMS; Arlene P. Smith (not present), Library; Linda S. Allred, Sheriff's Department.

Additions to Consent Agenda

Chairman Holmes announced that the following item had been added to the Consent agenda: *Item R. Appoint Jim Norman to the Tax Commission and to the Board of Equalization and Review; Item S. Adopt Resolution Approving Submission of Application for Grant Funds for Community Services Block Grant for Joint Orange Chatham Community Action Designation; and Item T. Reappoint Chris Corsbie to the Asheboro Planning Board.*

Approval of Consent Agenda

On motion of Kemp, seconded by Frye, the Board voted unanimously to approve the Consent Agenda, as follows:

- *approve minutes of regular and three sets closed session meetings of 11/1/10 and two sets special meeting minutes of 11/16/10 and one set of closed session minutes of 11/16/10;*
- *unseal the following: Closed Session 5/4/09, Closed Session II (Malt-O-Meal) 1/4/10, Closed Session I (Malt-O-Meal) 4/5/10, Closed Session I (Project Darr) 9/7/10, Closed Session II (Project FPE) 10/4/10.*
- *approve surety bonds for elected and appointed officials, as follows: Finance Officer Will Massie (\$500,000); Deputy Finance Officer Jane Leonard (\$500,000); Tax Collector Debra Hill (\$300,000); Deputy Tax Collectors: Sallie Cheek (\$200,000), Revonda Cox (\$200,000); Deputy Finance Officers for Jail Commissary: Brent McNeill (\$10,000), Judy Brown (\$50,000), JoAnn Sapp (\$10,000); Sheriff Maynard Reid (\$25,000), Register of Deeds Krista Lowe (\$50,000)*
- *approve continuation of employment for Sandra Jackson Reid (wife of re-elected Sheriff Maynard Reid) in the Sheriff's Office, pursuant to N.C.G.S. 153 A-103 (1);*
- *approve Budget Amendment #18 to effect transfer of two property development technician positions from the Building Inspections Dept. to the Planning & Zoning Dept.; as follows:*

2010-2011 BUDGET ORDINANCE		
General Fund—Amendment #18		
Appropriations	Increase	Decrease
<i>Building Inspections</i>		<i>\$59,340</i>
<i>Planning & Zoning</i>	<i>\$59,340</i>	

- *approve Budget Amendment #19 for Health Dept. for additional funding from the Division of Public Health/Women's & Children's Health/Immunization Branch in the amount of \$3,948*

to be used to help improve our capability to provide immunization services and to help improve immunization coverage rates to children/adults and funding in the amount of \$600 from NCBuckle Up Kids Program to establish and maintain permanent locations for parents/caregivers to become educated on child restraints and seat belts, as follows:

2010-2011 BUDGET ORDINANCE		
General Fund—Amendment #19		
Revenues	Increase	Decrease
<i>Restricted Intergovernmental</i>	\$4,548	
Appropriations	Increase	Decrease
<i>Health Department</i>	\$4,548	

- *reappoint Dr. Robert Dough and Jane Reid to the Randolph County Board of Health;*
- *appoint Dr. Charles Lee, DVM, to the Randolph County Board of Health;*
- *reappoint Beth Moran to the Adult Care Home Community Advisory Committee;*
- *reappoint Susan Behr to the Nursing Home Community Advisory Committee;*
- *reappoint Wayne Mendenhall to the Trinity Planning Board;*
- *appoint Raphael Beech to fill the unexpired term of Fred deFriess and Brandie Brundage to fill the unexpired term of Amy Beane on the EMS System Quality Management Committee;*
- *approve Ethics Policy for Board of County Commissioners, as follows:*

***Code of Ethics for the Board of County Commissioners of Randolph County, North Carolina
Preamble***

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty;” and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina’s State Motto, *Esse Quam Videri*, “To Be Rather than to Seem;” and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics; and

WHEREAS, as public officials we are charged with upholding the trust of the citizens and residents of Randolph County, and with obeying the law; and

WHEREAS, as public officials of Randolph County we believe our citizens and residents are entitled to the most open and ethical government possible under the law.

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens and residents of Randolph County, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Randolph County Board of Commissioners do hereby adopt the following General Principles and Code of Ethics to guide the Board of County Commissioners in their lawful decision-making.

FURTHER, the Randolph County Board of Commissioners directs all advisory boards and committees, which currently serve, or which may in the future be created to serve the Board of County Commissioners, to respect and abide by these same General Principles and Code of Ethics in the performance of their lawful duties insomuch as they may be applicable to the performance thereof.

GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- *The stability and proper operation of democratic representative government depends upon public confidence in the integrity of the government, and upon responsible exercise of the*

trust conferred by the people upon their elected officials.

- *Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.*
- *Board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.*
- *Board members must always remain aware that at various times they play different roles:*
 - *As advocates, who strive to advance the legitimate needs of their citizens and residents,*
 - *As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions, and*
 - *As fair and impartial decision-makers, when making quasi-judicial and administrative determinations.*

Board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

- *Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.*

CODE OF ETHICS

Purpose. *The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the Randolph County Board of Commissioners and to provide guidance in determining what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a board member's best judgment.*

Section 1. *The need to obey all applicable laws regarding official actions taken as a board member.*

- (a) *Board members should obey all laws that apply to their official actions as members of the board. Board members should be guided by the spirit, as well as, the letter of the law in whatever they do. At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To assert that a board member is behaving unethically due to the fact that one has a disagreement with that board member based on a question of policy (and not on the board member's ethical behavior) is unfair, dishonest, irresponsible, and is itself unethical.*
- (b) *Board members should endeavor to keep themselves up-to-date, through the board's attorney and other sources, on 1) the pertinent constitutional, statutory, and other legal requirements with which they must be familiar, and 2) about new or ongoing legal and ethical issues that they may face in the official positions.*
- (c) *Board members shall comply with General Statute §160A-87 (Ethics law) and participate in the periodic ethics education mandated by said statute.*

Section 2. *The need to uphold the integrity and independence of the board member's office.*

- (a) *Board members should act with integrity and with independence from improper influence as*

they exercise the functions of their offices. Characteristics and behaviors that are consistent with this standard are:

- *Adhering firmly to a code of sound values.*
 - *Behaving consistently and with respect towards everyone with whom they interact.*
 - *Exhibiting trustworthiness.*
 - *Living as if they are on duty as elected officials regardless of where they are or what they are doing.*
 - *Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner.*
 - *Remaining incorruptible, self-governing, and not subject to improper influence, while at the same time being able to consider the opinions and ideas of others.*
 - *Disclosing contacts and information about issues that they receive outside of public meetings, and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves.*
 - *Treating other board members and the public with respect, and honoring the opinions of others even when they disagree.*
 - *Not reaching conclusions on issues until all sides have been heard.*
 - *Showing respect for their office and not behaving in ways that reflect poorly on it.*
 - *Recognizing each board member is a part of a larger group and acting accordingly.*
 - *Recognizing that individual board members are not generally allowed to act on behalf of the board, but may only do so if the board specifically authorizes it, and that the board must take official action as a body.*
- (b) Board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To assert that a board member is behaving unethically due to the fact that one has a disagreement with that board member based on a question of policy (and not on the board member's unethical behavior) is unfair, dishonest, irresponsible, and is itself unethical.*

Section 3. The need to avoid impropriety in the exercise of the board member's official duties.

- (a) Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Consideration of whether a board member's actions were improper should be considered in light of the circumstances and information available to the board member at the time of the board member's action.*
- (b) If a board member concludes that his or her actions, while legal and ethical, may be misunderstood, he or she may seek the advice of the board's attorney. He or she may also state on the record the facts of the situation and the steps taken to resolve it.*
- (c) In the instance of alleged impropriety by any board member, the board member shall be afforded the opportunity to explain the situation and all relevant facts.*

Section 4. The need to faithfully perform the duties of the office.

- (a) Board members should be faithful in the performance of the duties of their offices. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.*
- (b) Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information that is properly submitted to them, mindful of the need not to*

engage in communications outside the meeting in quasi-judicial matters. Board members should require full accountability from those over whom the board has authority.

- (c) Board members should be willing to bear their fair share of the board’s workload. To the extent appropriate, they should be willing to put the board’s interests ahead of their own.

Section 5. The need to conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(a) Board members should conduct the affairs of their boards in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public’s trust. They should remember when they meet that they are conducting the public’s business. They should also remember that the records of their local government belong to the public and not to themselves or their employees.

(b) Board members should make clear that a climate of transparency and candor is to be maintained at all times in County government and should prohibit unjustified delay in fulfilling public records requests.

(c) In order to ensure strict compliance with the laws governing openness, board members should take deliberate steps to ensure that any closed sessions held by the board are lawfully conducted, and that such sessions do not stray from the purposed for which they are called.

- approve DOT Resolution Adding Mountain Oak View Drive to State Roads System, as follows:

WHEREAS, the Department of Transportation has investigated Mountain Oak View Drive in the Mountain Oak View Subdivision; and

WHEREAS, the subject street has been found to meet minimum requirements for addition.

NOW, THEREFORE, BE IT RESOLVED by the Randolph County Board of Commissioners that Mountain Oak View Drive in the Mountain Oak View Subdivision be added to the Division of Highways’ Secondary Road System.

- approve Budget Amendment #20 for Aging Services (Additional HCCBG & USDA Funds) & Form DOA-731, as follows:

2010-2011 BUDGET ORDINANCE		
General Fund—Amendment #20		
Revenues	Increase	Decrease
Restricted Intergovernmental	\$30,933	
Appropriations	Increase	Decrease
Other Human Services Appropriations	\$30,933	

- approve Budget Amendment # 21 for Health Department (TRU Grant);

2010-2011 BUDGET ORDINANCE		
General Fund—Amendment #21		
Revenues	Increase	Decrease
Restricted Intergovernmental	\$1,200	
Appropriations	Increase	Decrease

Public Health	\$1,200	
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- *reappoint Mike Fogleman to Liberty Planning & Zoning Board;*
- *appoint Jim Norman to the Tax Commission and the Board of Equalization and Review;*
- *adopt Resolution Approving Submission of Application for Grant Funds for Community Services Block Grant for Joint Orange Chatham Community Action Designation, as follows:*

RESOLUTION Approving Submission Of Application For Grant Funds For Community Services Block Grant To NC Office Of Economic Opportunity

WHEREAS, the Federal Government has provided Community Services Block Grant funding to the state of North Carolina; and

WHEREAS, the NC Office of Economic Opportunity has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, Randolph County is eligible to receive an allotment of funds to support the low income citizens of this county; and

WHEREAS, Joint Orange Chatham Community Action, Inc. (JOCCA), if selected, will enter into an agreement with the NC Office of Economic Opportunity to carry out this program.

NOW, THEREFORE, BE IT RESOLVED that the Randolph County Board of Commissioners

1. *Certifies that the Randolph County Board of Commissioners will support Joint Orange Chatham Community Action, Inc. through representation on the agency's Board of Directors, should the agency be designated as the CSBG eligible entry; and*
2. *Approves the filing of a designation application by Joint Orange Chatham Community Action, Inc.; and*
3. *Approves Joint Orange Chatham Community Action, Inc., if selected by the Governor as Randolph County's designee or eligible entity, to complete the application for funding; and*
4. *Certifies that Joint Orange Chatham Community Action, Inc. will submit its application and future initial planning applications to the Randolph County Commissioners for review at least 30 days prior to due date.*

- *reappoint Chris Corsbie to the Asheboro Planning Board.*

Additions to New Business Agenda

Chairman Holmes announced that the following item had been added to the New Business section of the agenda: *Item H. Set Special Meeting Date for South Wake Regional Landfill tour (Suggest Dec. 29)—Chairman Holmes*

Public Hearing and Approval of State Required Amendments to the Randleman Lake Buffer Rules

Hal Johnson, Planning & Zoning Director, said that on June 1, 2010, the N.C. Environmental Management Commission (EMC) adopted revised rules governing the Randleman Lake Water Supply Watershed and mandated that local governments adopt the revisions by December, 2010. The purpose in adopting the revised rules is to clarify local enforcement procedures necessary to protect and preserve existing riparian buffers throughout the Randleman Lake Watershed in order to maintain the nutrient removal and stream protection functions. Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. Well vegetated streamside riparian areas help to remove nitrogen and prevent sediment and other pollutants from reaching streams feeding into the Randleman Lake.

The revised rules clarify potential new uses within the buffers and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized are considered prohibited and may not proceed within the riparian buffer or outside the buffer (if the use would impact the buffer), unless a variance is obtained from the proper local or state authority.

Randolph County has maintained special watershed protection regulations around the Randleman Lake since January 1988. The State mandated that Randleman Lake Watershed protection regulations be adopted by December 6, 1999. Randolph County watershed regulations have always required a 50' riparian buffer along all existing streams. This requirement has had a major impact on water quality in all county watersheds.

Mr. Johnson presented amendments (listed below in motion) for the Board's consideration to Chapter 4, Watershed Protection Ordinance, Unified Development Ordinance, saying that the amendments are based on the state model and that they have been reviewed and recommended for approval by the County Planning Board:

At 4:40 p.m., Chairman Holmes opened the public hearing. Hearing no comments, the public hearing was closed.

On motion of Kemp, seconded by Frye, the Board voted unanimously to approve amendments to the County Watershed Regulations, Revised Randleman Lake Buffer and Buffer Mitigation Rules, as follows:

Delete Section 6. Criminal Penalties and Section 7. Remedies of Chapter 4. Randolph County Watershed Protection Ordinance, Article I: Authority and General Regulations.

Section 6. — Criminal Penalties

~~*Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be punished in accordance with NCGS 14 4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.*~~

Section 7. — Remedies

~~*(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Board of Commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100, action or proceedings to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143 215.6(a). Each day that the violation continues shall constitute a separate offense.*~~

~~*(B) If the Planning Director finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Planning Director is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.*~~

Amend Chapter 4. Randolph county Watershed Protection Ordinance, Article I: Authority and General Regulations to include new Section 6. Compliance and Enforcement

New Section 6. Compliance and Enforcement

A. Site Inspections

1. Agents, officials, or other qualified persons authorized by the Randolph County Planning Director may periodically inspect riparian buffers to ensure compliance with this ordinance.
2. Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.
3. Authority to Enter Property and Conduct Investigations and Inspections
Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Randolph County, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties. The County Planning Director shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.
4. Notice of Violation
 - a. If it is determined that a person has failed to comply with the requirements of this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4)j of the North Carolina Rules of Civil Procedure.
 - b. The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this Ordinance, or rules or orders adopted pursuant to this Ordinance. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance is subject to the civil and criminal penalties and other enforcement actions as provided in this Ordinance.
5. Power to Require Statements
The Randolph County Planning Director shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

B. Civil Penalties

1. Assessment of Penalties
Any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not less than five hundred dollars (\$500) per day. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under Section 6.(B)(1).

C. Criminal Penalties

1. Any person who negligently violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class 2 misdemeanor which may include a fine not less than five hundred dollars (\$500) per day of violation.
2. Any person who knowingly or willingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class I felony

which may include a fine not less than five hundred dollars (\$500) per day of violation.

3. Any person who knowingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class C felony which may include a fine not less than five hundred dollars (\$500) per day of violation.

D. Injunctive Relief

1. Civil Action in Superior Court

Whenever the Randolph County Planning Director has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of Randolph County for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Randolph County.

2. Order to Cease Violation

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

E. Compliance with Requirements

Any person engaged in new activities as defined by this Ordinance who fails to meet the requirements of this Ordinance shall be deemed in violation of this Ordinance.

Replace Section 8b. Riparian Area Protection within the Randleman Lake Watershed Chapter 4. Randolph County Watershed Protection Ordinance, Article I: Authority and General Regulations, as follows:

Section 8b. Riparian Area Protection within the Randleman Lake Watershed

(A) **Intent** - the purpose in adopting the following regulations are to protect and preserve existing riparian buffers throughout the Randleman Lake Watershed as generally described in Rule 15A NCAC 02B .0250 (Randleman Lake Water Supply Watershed: Nutrient Management Strategy), in order to maintain their nutrient removal and stream protection functions. Additionally this Ordinance will help protect the water supply uses of Randleman Lake Reservoir and of designated water supplies throughout the Randleman Lake watershed.

Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help to minimize flood damage in flood prone areas. Well-vegetated streamside riparian areas help to remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

(1) Buffers Protected.

The following minimum criteria shall be used for identifying regulated buffers:

- (a) This Ordinance shall apply to activities conducted within 50-foot wide riparian buffers directly adjacent to surface waters in the Randleman Lake watershed (intermittent streams, perennial streams, lakes, reservoirs, ponds and specified ditches), excluding wetlands.
- (b) Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

- (c) *For the purpose of this Ordinance, surface waters shall be subject to the requirements of this Ordinance if they are approximately shown on any of the following references, or if there is other site specific evidence that indicates to the Randolph County Planning Department the presence of waters not shown on any of these maps:*
- (1) *The most recent version of the hardcopy soil survey maps prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.*
 - (2) *The most recent version of the United States Geologic Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps.*
 - (3) *A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment.*
 - (4) *A map developed by the local government and approved by the NC Environmental Management Commission per 15A NCAC 02B .0250(4)(c).*
- (d) *Item is in question, upon request of the NC Division of Water Quality or another party, the Randolph County Planning Department shall make an on-site determination. A Randolph County Planning Department representative who has successfully completed the Division's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division publication or from the NC Division of Water Quality - 401 Oversight Express Permitting Unit, or its successor. The Randolph County Planning Department may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this Item shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B.*
- (e) *Riparian buffers protected by this Ordinance shall be measured pursuant to Section 8b.(A)(4) of this Ordinance.*
- (f) *Parties subject to this Ordinance shall abide by all State rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.*

(2) *Exemption Based on On-site Determination.*

When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult the Randolph County Planning Department. Upon request, a Randolph County Planning Department representative who has successfully completed the Division of Water Quality's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The County Planning Director may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination by the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

- (a) *Ditches and manmade conveyances, to include manmade stormwater conveyances, other than modified natural streams, unless the ditch or manmade conveyance delivers untreated stormwater runoff from an adjacent source directly to an intermittent or perennial stream.*
- (b) *Areas mapped as intermittent streams, perennial streams, lakes, ponds, or estuaries on the most recent versions of the United States Geological Survey 1:24,000 scale*

(7.5 minute quadrangle) topographic maps, hard-copy soil survey maps, or other EMC approved stream maps where no perennial waterbody, intermittent waterbody, lake, pond or estuary actually exists on the ground.

(c) Ephemeral streams.

(d) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a natural drainage way that is classified in accordance with 15A NCAC 02B .0100. Ponds are part of the natural drainage way when they are hydrologically connected (i.e. the pond is fed by an intermittent or perennial stream) or when they have a direct discharge point to an intermittent or perennial stream.

(3) Exemption when Existing Uses are Present and Ongoing.

This Ordinance shall not apply to uses that are existing and ongoing; however, this Ordinance shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

(a) It was present within the riparian buffer as of the December 6, 1999. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this Ordinance. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the December 6, 2010, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained.

(b) Projects or proposed development that are determined by the County Planning Director to meet at least one of the following criteria:

(1) Project requires a 401 Certification/404 Permit and these were issued prior to the December 6, 2010, and prior to the December 6, 2010.

(2) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the December 6, 2010;

(3) Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the December 6, 2010; or

(4) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the County Planning Director prior to the December 6, 2010.

(4) Zones of the Riparian Buffer.

The protected riparian buffer shall have two zones as follows:

(a) Zone One shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 8b.(B)(2) of this Ordinance. The location of Zone One shall be as follows:

(1) For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface

water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.

(2) For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

(b) Zone Two shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, Section 8b.(B)(2) of this Ordinance. Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

(5) Diffuse Flow Requirements.

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

- (a) Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;
- (b) Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and
- (c) As set out in Sections 8b.(A)(4) and 8b.(B)(2) of this Ordinance, The Zones of the Riparian Buffer and Table of Uses respectively, no new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, Section 8b.(B)(2) of this Ordinance, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

(B) **Potential Uses and Associated Requirements**

(1) Approval for New Development.

The Randolph County Planning Director shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in Section 8b.(A)(1) of this Ordinance, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

- (a) Determined the activity is exempt from requirements of this Ordinance;
- (b) Received an Authorization Certificate from the Randolph County Planning Director pursuant to Section 8b.(C) (1) of this Ordinance;
- (c) For uses designated as Allowable with Mitigation in the Table of Uses in Section 8b.(B)(2), received approval of mitigation plan pursuant to Section 8b.(C)(3) of this Ordinance; and
- (d) Received a variance pursuant to Section 8b.(C)(2).

(2) Table of Uses.

The following chart sets out potential new uses within the buffer and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Section 8b.(C)(3) of this Ordinance, Variances. The requirements for each category are given in Section 8b.(B)(3) of this Section following the Table of Uses.

<i>Use</i>	<i>Exempt*</i>	<i>Allowable*</i>	<i>Allowable with Mitigation*</i>
<p><i>Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:</i></p> <p><i>Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer</i></p> <p><i>Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer</i></p>	X	X	
<p><i>Airport facilities:</i></p> <p><i>Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer</i></p> <p><i>Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer</i></p> <p><i>Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)¹</i></p>		X X	X
<p><i>Archaeological activities</i></p> <p><i>In Zones 1 and 2 and are designed, constructed and maintained to provide the maximum sediment removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical</i></p>	X		
<i>Bridges</i>		X	
<i>Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.</i>	X		

** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.*

<p><i>Dam maintenance activities:</i></p> <p><i>Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit</i></p> <p><i>Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit</i></p>	X	X	
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** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.*

<i>Use</i>	<i>Exempt*</i>	<i>Allowable*</i>	<i>Allowable with Mitigation*</i>
<p><i>Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers:</i></p> <p><i>New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies.</i></p> <p><i>Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations.</i></p> <p><i>New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer</i></p> <p><i>New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed.</i></p>	X	X	X
<p><i>Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Items 8b.(A)(4) and 8b.(A)(5) of this Ordinance is established adjacent to the new channel.</i></p>	X		

** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.*

<p><i>Driveway crossings of streams and other surface waters subject to this Ordinance:</i></p> <p><i>Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer</i></p> <p><i>Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer</i></p> <p><i>In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer</i></p> <p><i>In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer</i></p>	X	X	X
<p><i>Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance</i></p>			X

<i>Use</i>	<i>Exempt*</i>	<i>Allowable*</i>	<i>Allowable with Mitigation*</i>
<i>Fences: Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance Fences provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance</i>	X	X	
<i>Fertilizer application: one-time application to establish vegetation</i>	X		
<i>Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated.</i>	X		

** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.*

<i>Greenway / hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.</i>		X	
<i>Historic preservation: Designed, constructed and maintained to provide the maximum nutrient removal and erosion protection, to have the least adverse effects on aquatic life and habitat, and to protect water quality to the maximum extent practical.</i>	X		
<i>Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.</i>		X	
<i>Mining activities: Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Sections 8b.(A)(4) and 8b.(A)(5) of this Ordinance are established adjacent to the relocated channels Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Sections 8b.(A)(4) and 8b.(A)(5) of this Ordinance are not established adjacent to the relocated channels Wastewater or mining dewatering wells with approved NPDES permit</i>	X	X	X

<i>Use</i>	<i>Exempt*</i>	<i>Allowable*</i>	<i>Allowable with Mitigation*</i>
<i>Playground equipment: Playground equipment on single family lots provided that installation and use does not result in removal of vegetation Playground equipment installed on lands other than single-family lots or that requires removal of vegetation</i>	X	X	
<i>Ponds in natural drainage ways, excluding dry ponds: New ponds provided that a riparian buffer that meets the requirements of Sections 8b.(A)(4) and 8b.(A)(5) of this Ordinance is established adjacent to the pond New ponds where a riparian buffer that meets the requirements of Sections 8b.(A)(4) and 8b.(A)(5) of this Ordinance is NOT established adjacent to the pond</i>		X	X
<i>Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel</i>		X	
<i>Railroad impacts other than crossings of streams and other surface waters subject to this Ordinance.</i>			X
<i>Railroad crossings of streams and other surface waters subject to this Ordinance: Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</i>	X	X	X

** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.*

<i>Recreational and accessory structures: Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance: ○ Total footprint less than or equal to 150 square feet per lot. ○ Total footprint greater than 150 square feet per lot. Wooden slatted decks and associated steps, provided the use meets the requirements of Sections 8b.(A)(4) and 8b.(A)(5) of this Ordinance: ○ Deck at least eight feet in height and no vegetation removed from Zone One. ○ Deck less than eight feet in height or vegetation removed from Zone One.</i>		X	X
<i>Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored</i>	X		
<i>Road impacts other than crossings of streams and other surface waters subject to this Ordinance</i>			X

<i>Use</i>	<i>Exempt*</i>	<i>Allowable*</i>	<i>Allowable with Mitigation*</i>
<i>Road crossings of streams and other surface waters subject to this Ordinance:</i> <i>Road crossings that impact equal to or less than 40 linear feet of riparian buffer</i> <i>Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer</i> <i>Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</i>	X	X	X
<i>Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety:</i> <i>Less than or equal to 2,500 square feet of buffer impact</i> <i>Greater than 2,500 square feet of buffer impact</i>		X	X
<i>Stormwater BMPs:</i> <i>Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One</i> <i>Wet detention, bioretention, and constructed wetlands in Zone One</i>		X	X
<i>Scientific studies and stream gauging:</i> <i>In Zones One and Two if they are designed, constructed and maintained to protect water quality to the maximum extent practical.</i>	X		
<i>Streambank or shoreline stabilization</i>		X	
<i>Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in Section 8b.(C)(3)(g) of this Ordinance:</i> <i>Less than or equal to 2,500 square feet of buffer disturbance</i> <i>Greater than 2,500 square feet of buffer disturbance</i> <i>Associated with culvert installation or bridge construction or replacement.</i>	X	X X	

**To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.*

<i>Use</i>	<i>Exempt*</i>	<i>Allowable*</i>	<i>Allowable with Mitigation*</i>
<i>Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance^{4,5};</i>	X		
<i>Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width</i>			
<i>Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width</i>		X	
<i>Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width</i>		X	
<i>Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width</i>			X
<i>Disturb greater than 150 linear feet of riparian buffer</i>			X

** To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.*

<i>Utility, non-electric, other than perpendicular crossings^{4,5};</i>			
<i>Impacts in Zone Two</i>		X	
<i>Impacts in Zone One¹</i>			X
<i>Vegetation management:</i>			
<i>Emergency fire control measures provided that topography is restored</i>	X		
<i>Mowing or harvesting of plant products in Zone Two</i>	X		
<i>Planting vegetation to enhance the riparian buffer</i>	X		
<i>Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised</i>	X		
<i>Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank.</i>	X		
<i>Removal of individual trees which are dead, diseased or damaged.</i>	X		
<i>Removal of poison ivy</i>			
<i>Removal of invasive exotic vegetation as defined in:</i>	X		
<i>Smith, Cheri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30</i>	X		
<i>Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet.</i>		X	
<i>Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers.</i>		X	

Use	Exempt*	Allowable*	Allowable with Mitigation*
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* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 8b.(B)(3) of this Ordinance.

<p>Water supply reservoirs: New reservoirs where a riparian buffer that meets the requirements of Sections 8b.(A)(4) and 8b.(A)(5) of this Ordinance is established adjacent to the reservoir New reservoirs where a riparian buffer that meets the requirements of Sections 8b.(A)(4) and 8b.(A)(5) of this Ordinance is not established adjacent to the reservoir</p>		<p>X</p>	<p>X</p>
<p>Water wells Single family residential water wells All other water wells</p>	<p>X</p>	<p>X</p>	
<p>Wetland, stream and buffer restoration that results in impacts to the riparian buffers: Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification</p>	<p>X</p>	<p>X</p>	
<p>Wildlife passage structures</p>		<p>X</p>	

¹Provided that:

- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of Sections 8b.(A)(4) and 8b.(A)(5)

²Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the County Planning Director, as defined in Section 8b.(C)(1).

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.

- *In wetlands, mats shall be utilized to minimize soil disturbance.*

³*Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless the County Planning Director completes a no practical alternative evaluation as defined in Section 8b.(C)(1).*

⁴*Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the County Planning Director, as defined in Section 8b.(C)(1).*

Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed. Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.

Underground cables shall be installed by vibratory plow or trenching.

The trench shall be backfilled with the excavated soil material immediately following cable installation.

No fertilizer shall be used other than a one-time application to re-establish vegetation.

Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.

Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.

In wetlands, mats shall be utilized to minimize soil disturbance.

⁵*Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.*

(3) Requirements for Categories of Uses.

Uses designated in Section 8b.(B)(2) of this Section as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

(a) *Exempt.*

Uses designated as exempt are permissible without authorization by Randolph County Planning Director provided that they adhere to the limitations of the activity as defined in Section 8b.(B)(2) of this Section, the Table of Uses. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

(b) *Allowable.*

Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to Section 8b.(C)(1) of this Section. This includes construction, monitoring, and maintenance activities. These uses require written authorization from the Randolph County Planning Director.

(c) *Allowable with Mitigation.*

Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to Section 8b.(C)(1) of this Section and an appropriate mitigation strategy has been approved pursuant to Section 8b.(C)(3). These uses require written authorization from the Randolph County Planning Director.

(C). **Permits Procedures, Requirements, and Approvals**

(1) Determination of No Practical Alternatives / Request for Authorization Certificate.

- (a) *Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a “no practical alternatives” determination to the Randolph County Planning Director. The applicant shall certify that the project meets all the following criteria for finding “no practical alternatives”:*

- (1) *The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;*
 - (2) *The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and*
 - (3) *Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.*
- (b) *The applicant shall also submit at least the following information in support of their assertion of “no practical alternatives”:*
- (1) *The name, address and phone number of the applicant;*
 - (2) *The nature of the activity to be conducted by the applicant;*
 - (3) *The location of the activity, including the jurisdiction;*
 - (4) *A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;*
 - (5) *An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and*
 - (6) *Plans for any best management practices proposed to be used to control the impacts associated with the activity.*
- (c) *Within 60 days of a submission that addresses Section 8b.(C)(1)(b), the County Planning Director shall review the entire project and make a finding of fact as to whether the criteria in Section 8b.(C)(1)(a) of this Section have been met. A finding of “no practical alternatives” shall result in issuance of an Authorization Certificate. Failure to act within 60 days shall be construed as a finding of “no practical alternatives” and an Authorization Certificate shall be issued to the applicant unless one of the following occurs:*
- (1) *The applicant agrees, in writing, to a longer period;*
 - (2) *The County Planning Director determines that the applicant has failed to furnish requested information necessary to the County Planning Director’s decision;*
 - (3) *The final decision is to be made pursuant to a public hearing; or*
 - (4) *The applicant refuses access to its records or premises for the purpose of gathering information necessary to the County Planning Director’s decision.*
- (d) *The County Planning Director may attach conditions to the Authorization Certificate that support the purpose, spirit and intent of this Ordinance.*
- (e) *Any appeals of determinations regarding Authorization Certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director’s decision is subject to review as provided in G.S. 150B Articles 3 and 4.*

(2) Variances.

(a) *Requirements for Variances*

Persons who wish to undertake prohibited uses may pursue a variance. The Board of Adjustment (in Randolph County, the Board of Adjustment serves as the Watershed Review Board) may grant minor variances. For major variances, the County Planning Director shall prepare preliminary findings and submit them to the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

For any variance request, the County Board of Adjustment shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A

finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

If the applicant complies with the provisions of this Ordinance, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the County Board of Adjustment shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that shall make reasonable use of the property possible;

The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;

The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this ordinance would not allow reasonable use of the property;

The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;

The hardship is rare or unique to the applicant's property.

The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves its spirit; and

In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

(b) Minor Variances

A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Section 8b.(C)(1)(a) through Section 8b.(C)(1)(c) by the County Board of Adjustment pursuant to G.S. 153A-Article 18, or G.S. 160A-Article 19. The County Board of Adjustment may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Request for appeals to decisions made by the County Board of Adjustment shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

(c) Major Variances

A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If the County Board of Adjustment or County Planning Director has determined that a major variance request meets the requirements in Section 8b.(C)(2)(a), then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after receipt by the Planning Director, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

(3) Mitigation

This item shall apply to persons who wish to impact a riparian buffer in the Randleman Lake watershed when one of the following applies:

- (1) A person has received an Authorization Certificate pursuant to Section 8b.(C)(1) of this Ordinance for a proposed use that is designated as “allowable with mitigation;” or
- (2) A person has received a variance pursuant to Section 8b.(C)(2) of this Ordinance and is required to perform mitigation as a condition of a variance approval.

Issuance of the Mitigation Approval

The Randolph County Planning Director shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Ordinance. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.

Options for Meeting the Mitigation Requirement

The mitigation requirement may be met through one of the following options:

- (1) Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269 (as referenced in 15A NCAC 02B .0252(7)) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, and the applicable trading criteria in Rule 15A NCAC 02B .0273;
- (2) Donation of real property or of an interest in real property pursuant to Section 8b.(C)(3)(f) of this Ordinance; or
- (3) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Section 8b.(C)(3)(g) of this Ordinance.

The Area of Mitigation

The Randolph County Planning Director shall determine the required area of mitigation, which shall apply to all mitigation options identified in Section 8b.(C)(3)(c) of this Ordinance and as further specified in the requirements for each option set out in this Section, according to the following:

- (1) The impacts in square feet to each zone of the riparian buffer shall be determined by the County Planning Director by adding the following:
 - (a) The area of the footprint of the use causing the impact to the riparian buffer;
 - (b) The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and
 - (c) The area of any ongoing maintenance corridors within the riparian buffer associated with the use.
- (2) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Section 8b.(3)(d)(1) of this Ordinance to each zone of the riparian buffer:
 - (a) Impacts to Zone One of the riparian buffer shall be multiplied by three;
 - (b) Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and
 - (c) Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

The Location of Mitigation

For any option chosen, the mitigation effort shall be located within the Randleman Lake watershed, as defined in 15A NCAC 02B .0249, and the same distance and upstream from the Randleman Lake Reservoir as the proposed impact, or closer to and upstream of the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere

within the Randleman Lake watershed, as defined in 15A NCAC 02B .0249, provided that the mitigation proposal accounts for differences in delivery of nutrients to the Randleman Lake Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in Section 8b.(C)(3)(f)(3)(a) of this Ordinance.

Donation of Property

Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

(1) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0252. The value of the property interest shall be determined by an appraisal performed in accordance with Section 8b.(C)(3)(f)(4)(d) of this Ordinance. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0252, the applicant shall pay the remaining balance due.

(2) The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

(3) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

(a) In addition to the location requirements of Section 8b.(C)(3)(e) of this Ordinance, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by NC Division of Water Quality pursuant to G.S. 143-214.10;

(b) The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration as defined in Section 8b.(C)(3)(g)(4) of this Ordinance;

(c) The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

(d) The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to Section 8b.(C)(3)(d) of this Ordinance;

(e) Restoration shall not require removal of man-made structures or infrastructure;

(f) The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;

(g) The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;

(h) The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;

(i) The property shall not contain any hazardous substance or solid waste;

(j) The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;

(k) The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and

(l) The property shall not have any encumbrances or conditions on the transfer of the property interests.

(4) At the expense of the applicant or donor, the following information shall be submitted to the County Planning Director with any proposal for donations or dedications of interest in real property:

(a) Documentation that the property meets the requirements laid out in Section 8b.(C)(3)(f)(3) of this Ordinance;

(b) US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

(c) A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors;

(d) A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department; and

(e) A title certificate.

(g) Riparian Buffer Restoration or Enhancement

Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

(1) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:

(a) The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Section 8b.(C)(3)(d) of this Ordinance; or

(b) The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Section 8b.(C)(3)(d) of this Ordinance;

(2) The location of the riparian buffer restoration or enhancement shall comply with the requirements in Section 8b.(C)(3)(d) of this Ordinance;

(3) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

(4) Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this Item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;

(5) The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of Section 8b.(C)(1) of this Ordinance. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the County Planning Director. The restoration or enhancement plan shall contain the following:

(a) A map of the proposed restoration or enhancement site;

- (b) A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;
 - (c) A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;
 - (d) A fertilization plan; and
 - (e) A schedule for implementation;
- (6) Within one year after the County Planning Director has approved the restoration or enhancement plan, the applicant shall present proof to the County Planning Director that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and the Randolph County riparian buffer protection program;
- (7) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and
- (8) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

Add the following new General Definitions to Article VI: Definitions, Chapter 4. Randolph County Watershed Protection Ordinance:

New General Definitions

For the purpose of these regulations, these terms shall be defined as follows:

Access Trails. Pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

Airport Facilities. All properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases 'air navigation facility', 'airport', or 'airport protection privileges' under G.S. 63-1; the definition of 'aeronautical facilities' in G.S. 63-79(1); the phrase 'airport facilities' as used in G.S. 159-48(b)(1); the phrase 'aeronautical facilities' as defined in G.S. 159-81 and G.S. 159-97; and the phrase 'airport facilities and improvements' as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water; interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of 'airport facilities':

1. Satellite parking facilities;
2. Retail and commercial development outside of the terminal area, such as rental car facilities; and
3. Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the

airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'.

Channel. A natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

DBH. Diameter at breast height of a tree measured at 4.5 feet above ground surface level.

Development. The same as defined in Rule 15A NCAC 2B .0202(23).

Ditch. A man-made, open drainage way in or into which excess surface water or groundwater from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

Ephemeral stream. A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

Existing development. Development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:

- (1) It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Randleman Lake Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0251 (Randleman Lake Water Supply Nutrient Strategy: Stormwater Requirements), Items (5) and (6).

Greenway / Hiking Trails. Pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

High Value Tree. A tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.

Intermittent stream. A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

Modified natural stream. An on-site channelization or relocation of a stream channel and subsequent relocation of the intermittent or perennial flow as evidenced by topographic alterations in the immediate watershed. A modified natural stream must have the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

New Development. Any development project that does not meet the definition of existing development set out in this Ordinance.

Perennial stream. A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

Perennial waterbody. *A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).*

Shoreline stabilization. *Is the in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.*

Stream restoration. *Is defined as the process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. 'Referenced' or 'referenced reach' means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.*

Stump diameter. *The diameter of a tree measured at six inches above the ground surface level.*

Surface waters. *All waters of the state as defined in G.S. 143-212 except underground waters*

Temporary road. *A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.*

Tree. *A woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inch*

Update on Regional Landfill Project

David Townsend, III, Public Works Director, said that plans are moving forward with the proposed regional landfill project. Since the contract for soils borings was awarded last month, the drilling company has found some rock and some good dirt. Mr. Townsend said that he's hopeful that the consultant will be ready to present the Fatal Flaws study to the Board in January.

Authorization to Proceed with Jail Renovation

Allen McNeill, Sheriff's Office Business Manager, reminded the Board that Brennan Architects conducted a study concerning the County's needs for additional prisoner bed space at the jail. Brennan presented their recommendations to the Board in December 2008. The proposal basically recommended a three-phase approach to insure acceptable bed space in the short-term, mid-term, and long-term. The first phase was to convert an existing jail multi-purpose room into prisoner bed space for working inmates, and add a covered secure courtyard, which would be the entry to a new housing unit that would be constructed in the near future. The second phase would be to add a new 48-bed housing unit. The third phase would renovate one existing housing unit by adding plumbing and door renovations. Due to the growing problem with overcrowding at the jail, Mr. McNeill asked the Board's authorization to begin the Phase One Project. This renovation of the existing jail multi-purpose room would add 12 new beds for working inmates and move them from an existing 25-bed dorm, which would then allow that dorm to be reclassified, thus making use of unused bed space. The cost estimate in 2008 was \$150,000. Mr. McNeill and Sheriff Maynard Reid said that funding for half the cost of the project is available using Law Enforcement Restricted Funds.

On motion of Haywood, seconded by Frye, the Board voted unanimously to authorize the Sheriff to proceed with jail renovations, as requested, using half the funds from Law Enforcement Restricted Funds and the other half from Appropriated Fund Balance up to \$100,000.

Bid Award for Central Permitting Software Solution

Michael Rowland, Information Technology Director, said that the Central Permitting Software currently in use was developed in-house in 1991 using the Pick programming language. The software has become difficult to maintain and support due to the age of the system and the loss of Pick programming skills, and the reliability of the system has become a major concern. It is one of the last applications running on the legacy Pick system, which the County has been phasing out since 2003. The replacement of the existing Central Permitting software was approved as part of the 2007 Strategic Technology Work Plan. The 2010 Strategic Technology Work Plan allocated additional funding to the project using savings and earnings from other Technology Work Plan projects. The Central Permitting software is vital to the following departments: Planning & Zoning, Building Inspections, 911-Addressing, Fire Marshal, Appraisal section of the Tax Department and the Environmental Health Division of the Health Department.

Pursuant to N.C. General Statute 143-129.8, the following proposals were received that met the RFP requirements:

Vendor Information:	Infor (CA)	IIS Opt 2 (NC)	PermitSoft (CA)	EnerGov (GA)	Computer Software (PA)	Municipal Software (BC)	IIS Opt 1 (NC)	New World (MI)
Software	177,500	145,000	375,000	259,939	200,800	168,000	145,000	152,100
Hardware/OS			50,000		21,000			
Options								
Other Services	725,420	544,176	145,000	292,437	330,600	321,020	153,605	108,000
Total	902,920	689,176	570,000	552,376	552,400	489,020	298,605	260,100
1 st year maint.	35,500	39,000	89,800	46,870	42,660	59,600	39,000	27,040
Grand Total	938,420	728,176	659,800	599,246	595,060	548,620	337,605	287,140

Mr. Rowland said that, after extensive review, we found that no one vendor’s proposal included everything we desired in the project. After evaluating the ratings on each proposal, the most cost effective, responsive bidder was determined. The low bid vendor, New World Systems, was deemed “Best Value” for Randolph County. Below is a breakdown of New World’s bid.

Vendor:	New World
Software	152,100
Hardware/OS	
Other Services	108,000
Total	260,100
1 st Yr Maintenance. Costs	27,040
Grand Total	287,140

Mr. Rowland said that the Technology Policy Team unanimously approved this recommendation on September 15, 2010. Funds are currently available within the Strategic Technology Project Fund to cover these expenses and any additional hardware and software that may be required as part of the project.

On motion of Kemp, seconded by Frye, the Board voted unanimously to award the bid to New World Systems for a central permitting software solution at \$287,140 and to authorize the County Manager to negotiate and sign the contract.

Bid Award for HVAC Renovations at DSS

Aaron Carter said that on November 23, 2010, the Public Works Department received sealed bids for renovations to the HVAC system at the Department of Social Services (DSS) building, as follows below. The renovations are a result of recommendations made by Millikan Engineering and their engineering work that was performed to address needed upgrades and energy efficiency improvements related to funds received from the Energy Efficiency Conservation Block Grant.

Contractor	Bid Amount	Alternate 1 Deduction	Alternate 2 Deduction	Net Total Bid
Chapman Mechanical Inc.	\$494,000	\$12,000	\$18,000	\$464,000
HM Kern Corp.	\$507,600	\$15,000	\$19,000	\$473,600
Superior Mechanical, Inc.	\$563,430	\$19,960	\$26,520	\$516,950
Systems Contractors, Inc.	\$623,544	\$21,886	\$27,800	\$573,858
American Industrial Contractors	\$633,600	\$21,800	\$26,300	\$585,500

After reviewing the bids, the Facilities Committee has recommended that the Board of Commissioners award a contract to the low bidder, Chapman Mechanical, Inc., in the amount of \$464,000. The committee is also requesting that the contract be signed by the Chairman of the Board upon receipt of a properly executed contract and all required bonds for the contract.

On motion of Kemp, seconded by Lanier, the Board voted unanimously to award the contract to Chapman Mechanical, Inc. in the amount of \$464,000 for HVAC renovations at DSS using Energy Efficiency Conservation Block grant funding, and authorized the Chairman to execute the contract upon receipt of all required bonds for the contract.

Adoption of Personnel Policies

Stacy Griffin, Human Resources Director, presented three new policies: Employee Personal Day Policy (effective 1/1/11), Severe Weather and Emergency Conditions Policy (effective 12/7/10), and Employee Identification (ID) Badge Policy (effective 12/7/10), for the Board’s consideration.

On motion of Frye, seconded by Haywood, the Board approved all three policies, as presented, and as follows:

EMPLOYEE PERSONAL DAY POLICY (Effective 1/1/11)
(Addition to Personnel Ordinance)

Each regular full time employee receives one (1) personal day each calendar year. Personal days may be used for sickness (non-FMLA), vacation, adverse weather conditions, etc. Personal days differ from vacation and/or sick days in the following manner:

- *Personal days are not accrued. Existing employees receive one (1) personal day at the beginning of each calendar year. New employees receive one (1) personal day after completing three months of employment and may also use the personal day within the six month probationary period.*

- *The value of a personal day does not exceed eight (8) hours. The value of the personal day will be prorated for those regular full time employees working 75-99% full time schedules.*
- *Personal days may not be rolled over from one calendar year to the next. You use it or you lose it.*
- *Personal days are not applicable to the same guidelines as vacation and sick leave. Therefore, any unused personal days or portions of unused days will not be paid out upon termination of employment, regardless of the notice given, nor can personal days be applied to any retirement benefits.*
- *Personal days may not be used for FMLA.*
- *Personal days may be used in increments, as small as one hour of time.*
- *Personal days may not be used once an employee has given their termination of employment notice.*
- *The continued granting of the personal day is at the discretion of the County Manager and may be discontinued at any time, with or without notice, if business needs warrant.*

SEVERE WEATHER AND EMERGENCY CONDITIONS POLICY (Effective 12/7/10)
(Revision to Personnel Ordinance)

As a local government, the essential services of Randolph County must be provided even during periods of severe weather or emergency conditions. The County is committed to maintaining full service levels to the extent possible. However, the County is also committed to maintaining the safety of all citizens and employees, which may necessitate the need for a delay or closing of County operations during severe weather or emergency conditions.

When conditions warrant, the County Manager will determine and announce all decisions to delay or close County operations. If the County manager is unavailable, the Chairman of the Board of County Commissioners will make the determination.

When the County's schedule is altered, operational status will be available through the following means:

- *News media outlets, specifically television channels WFMY2, Fox8 and News 14.*
- *The Randolph County Manager's phone line at 318-6300 and the Randolph County Government Information line at 318-6200.*
- *The Randolph County Home page on the internet at <http://www.co.randolph.nc.us>. The inclement weather message will be displayed on the home page at the top of the screen.*

An announcement of a delayed opening or closing will be made as early as possible, but no later than 6:30am. If severe weather or emergency conditions develop during the day, employees will be notified of closings through normal supervisory means. If no message is displayed on the television channels, county website or phone line, then the County is operating under normal operating hours.

Reporting For Work

All employees are expected to make the necessary advanced preparations and be prepared to report each scheduled workday.

***Essential Employees** are expected to report for work on their regular schedule despite any closing, delay, or cancellation. Generally these employees hold positions designated as "required for the essential operations of the County." Essential County operations are designated as but not limited to: Sheriff's Office and Jail, Emergency Services, Maintenance and other departmental personnel necessary for snow removal operations.*

***Non-Essential Employees** whose presence is not generally required for the essential operations of the County are excused from reporting during an official delay or closing unless they are notified by an appropriate supervisor that they must report for work to support the necessary operations of County Government despite the closing or delay of other activities or services. Such*

determinations and notifications are made on a situation-specific basis. Employees are responsible for ensuring they can be reached via valid contact information.

Please note that all employees are subject to becoming “**essential employees**” in the event of an extreme major emergency or disaster in order to assist with emergency management work such as handling calls, general office work in the Emergency Operations Center, assisting in the central receiving/distribution center, assisting at shelters, and any other such duties as defined by Emergency Services.

Compensation and Record Keeping

For the purposes of this policy, the following definitions apply:

1. *Delay: All County offices will open at 10am. In the event that a delay must occur beyond 10am, then the exact time to report will be listed and recorded on the locations outlined above. Otherwise, if the message simply indicates that “Randolph County is operating on a delay”, we will open at 10am.*
2. *Closing: All County Offices will be closed for the day. A day is defined as no more than eight hours. However, for employees working less than an eight-hour day, only the standard schedule typically worked for the closing day will be paid.*

Essential Employees who are required to report to work during a period of severe weather or emergency conditions will receive their base rate of pay. FLSA overtime rules apply. Overtime is typically compensated as compensatory time and requires the approval of the employee’s department director prior to being worked. Only the County Manager may approve employees to be paid monetary compensation rather than compensatory time for overtime hours worked during a severe weather or emergency event.

Non-Essential Employees will not forfeit pay for work hours missed due to an official delay, early closing or one day closing nor will they be required to make up the work time or use compensatory, sick, vacation or personal leave for such delays or closings. Conversely, if an employee arrives at the normal operating time or stays later when there is an early closing, no hours will be “credited” back to the employee’s compensatory, sick or vacation bank. When Non-Essential Employees report for work to support the necessary operations of County Government during a period of severe weather or emergency conditions for which there is an official delay or closing, they will receive their base rate of pay. FLSA overtime rules apply. Overtime is typically compensated as compensatory time and requires the approval of the employee’s department director prior to being worked. Only the County Manager may approve employees to be paid monetary compensation rather than compensatory time for overtime hours worked during a severe weather or emergency event.

Employees whose shifts or assignments are not affected by the official closing or delay will receive their normal compensation for work performed. Employees on vacation, out sick or on any kind of leave during an official delay or closing will not receive a reimbursement of hours for the delay or closing.

Payment for Multiple Day Closings

In the event that a severe weather or emergency event should lead to the closing of County operations for more than one business day, employees must use compensatory, sick or vacation time for the closings. Only the first day of an event will be fully compensated by the County.

Should you have an **exempt** employee who does not have enough vacation, personal or sick leave to cover the severe weather or emergency event, contact the Human Resources Director for guidance on wage payment for this employee.

Absences During Severe Weather or Emergency Events when the County is Operating Under a Normal Work Schedule

Employees who do not report to work when County departments and agencies are operating under a normal work schedule or on a delay must account for the absence by using compensatory time off, vacation leave, personal leave or sick leave for all days/hours taken. When the County implements an official delay, employees are required to provide notice of an absence from work to his/her supervisor no later than 10:30am. If your department enforces a stricter notification policy, you must follow your departmental policy on absence notification.

The County acknowledges that some departments may allow employees to work a flexible schedule. However, when the County is operating on a delayed opening, all flexible scheduling is suspended. Non-essential employees shall report for work during the hours designated by the County Manager.

If an employee desires to leave work early due to inclement weather conditions, approval must be obtained from the supervisor prior to leaving. The employee must account for the hours not worked by using compensatory time, vacation, personal or sick leave.

EMPLOYEE BADGING POLICY (Effective 12/7/10) ***(Addition to Personnel Ordinance)***

Randolph County recognizes the need to provide proper identification for its employees and other individuals that represent the County to the public. The following guidelines have been established in regard to the administration of the Identification Badge Program in order to provide uniformity among County employees and representatives. This identification badge will be for identification purposes only and will not allow entrance into controlled facilities. All Randolph County Government employees are required to wear badges at all times while conducting business on behalf of Randolph County Government. The Randolph County Identification Badge Program is administered and maintained through the Randolph County Human Resources Department.

I. PROCEDURES

All Randolph County employees, including full time, part time, volunteers and project (temporary) employees will be issued picture identification badges. All employees with the office of the Register of Deeds will be included in this policy. The Sheriff of Randolph County will designate those employees within his department that will be included in this policy. Requests for picture identification badges for other individuals must be approved by the Human Resources Director and Department Head.

Human Resources can also issue non-county employee identification badges to departments with contractual workers or volunteers. Department Heads will be responsible for notifying Human Resources of the need for such badges. Department Heads will also be responsible for tracking the usage and return of all such badges issued to their respective departments. These badges will clearly indicate contractor or volunteer status and are to be issued as needed and returned upon completion of the assignment. Human Resources will be available to make these badges each Friday afternoon from 2pm-4pm.

II. BADGE LOGO AND DESIGN

All identification badges have a consistent logo and format design. The design and format are the property of Randolph County and may not be reproduced.

III. BADGE CONTENT

- A. **Name:** All badges will include the individual's first and last name as listed on the payroll logs, unless specifically approved by the Human Resources Director and Department Head.*
- B. **Title:** Position titles will be included on badges for all employees.*

- C. **Department:** The name of the employee's department will appear on the badge.
- D. **Credentials:** Credentials will be included on badges **only** for employees in high public contact positions (i.e. R.N.) and as required by law.

IV. ISSUING IDENTIFICATION BADGES AND REPLACEMENTS

The Randolph County Human Resources Department will issue all Randolph County Government identification badges. The initial issuing of badges includes the following items:

- A. Badge
 - B. Clear Plastic Cover
 - C. Basic Badge Clip
1. **Initial Badges:** After the initial county-wide issuance of badges, new employees will receive badges at the benefit enrollment session occurring on their first day of employment. The new employees will be required to complete and sign the Identification Badge Acknowledgement Form. The Identification Badge Acknowledgement Form will be kept on file in the Human Resources Department. Human Resources will also be available to make badges for any new employees (not attending the benefits session...part-time, etc) each Friday afternoon from 2pm-4pm. The Human Resources Department will maintain the identification badge database.
 2. **Replacement Badges:** Human Resources will issue replacement identification badges using the existing database information. Upon request, replacements will be issued by Human Resources each Friday afternoon from 2pm-4pm. If an employee requires a replacement card due to his/her own negligence or need (lost, damaged, want a new photo, etc), he/she must complete the Identification (ID) Badge Replacement Request Form before a replacement badge will be issued. Identification badges will be replaced at a cost of \$15.00 to the employee. The \$15 replacement fee will be deducted from the employee's paycheck. Replacements will be issued free of charge for employees that transfer from one department to another. The Identification (ID) Badge Replacement Request Form will be kept on file in the Human Resources Department.

V. DISPLAYING IDENTIFICATION BADGES

Identification Badges are to be worn at all times while on County property and when conducting official County business. All badges are to be displayed at waist level or above, facing forward in plain view and not obstructed by clothing. Badges hanging or clipped below the waist are not acceptable. Should an employee wish to obtain a lanyard or alternative clip other than the standard clip and clear badge holder distributed by Human Resources, these additional items will be obtained at the employee's own expense and must receive approval from the employee's Department Head **prior** to usage.

VI. CARE AND USE OF IDENTIFICATION BADGES

- A. Employees are individually responsible for their assigned Identification Badges. If lost or damaged due to the fault of the employee, the employee will be responsible for the replacement badge.
- B. If an Identification Badge is lost or damaged, the employee should notify the Human Resources Department at 318-6600 within forty-eight (48) hours. With the exception of an extreme emergency, replacements will be issued by Human Resources each Friday afternoon from 2pm-4pm. In the case of an emergency, the employee must call Human Resources to make an appointment to make a replacement badge.
- C. Employees shall not allow any other individual to use their identification badge. Such action may result in disciplinary action as determined by the Human Resources Director and Department Head.
- D. Identification Badges remain the property of Randolph County and must be returned to the Human Resources Department upon separation from the County.

E. Badges shall not be altered or defaced in any way.

Election of Voting Delegate for Legislative Goals Conference

On motion of Haywood, seconded by Kemp, the Board voted unanimously to elect Commissioner Frye as the voting delegate for the NCACC Legislative Goals Conference in January.

Special Meeting Date Set for South Wake Regional Landfill Tour

On motion of Frye, seconded by Kemp, the Board voted unanimously to set December 29 as a special meeting date for a tour of the South Wake Regional Landfill.

Adjournment

At 5:40 p.m., on motion of Frye, seconded by Kemp, there being no further business, the meeting adjourned.

J. Harold Holmes, Chairman

Darrell L. Frye

Phil Kemp

Stan Haywood

Arnold Lanier

Cheryl Ivey, Clerk to the Board