

**ACTION ITEM
BOARD OF SUPERVISORS**

DATE: May 19, 2009

TO: Board of Supervisors

FROM: Keith C. Dayton, Director *KCD*
Code Administration

ISSUE: Consider Condemnation and Exercise of Quick-Take Powers to Acquire Tax Map Parcels 43-32 and 43-33 (Roberson), in Connection with the Rocky Pen Run Reservoir

STAFF RECOMMENDATION: Approval

BUDGET IMPACT: \$798,383

ATTACHMENTS: (3)

[1] Background Report \ [3] Reso/Ord/Proc # R09-17

[2] TM Parcel Maps: 43-32 and 43-33 [] Reso/Ord/Proc #

[] [] Reso/Ord/Proc #

REVIEW: [X] County Administrator's Office *[Signature]*

[X] Legal *Maib A. Roberts*

[X] Utilities *[Signature]*

[] **Consent Agenda**

[X] **Other Business**

[] **Public Hearing**

[] **Discussion Item**

[] **Presentation**

[] **Unfinished Business**

[] **New Business**

PRESENTATION BY: N/A

ELECTION DISTRICT: Hartwood

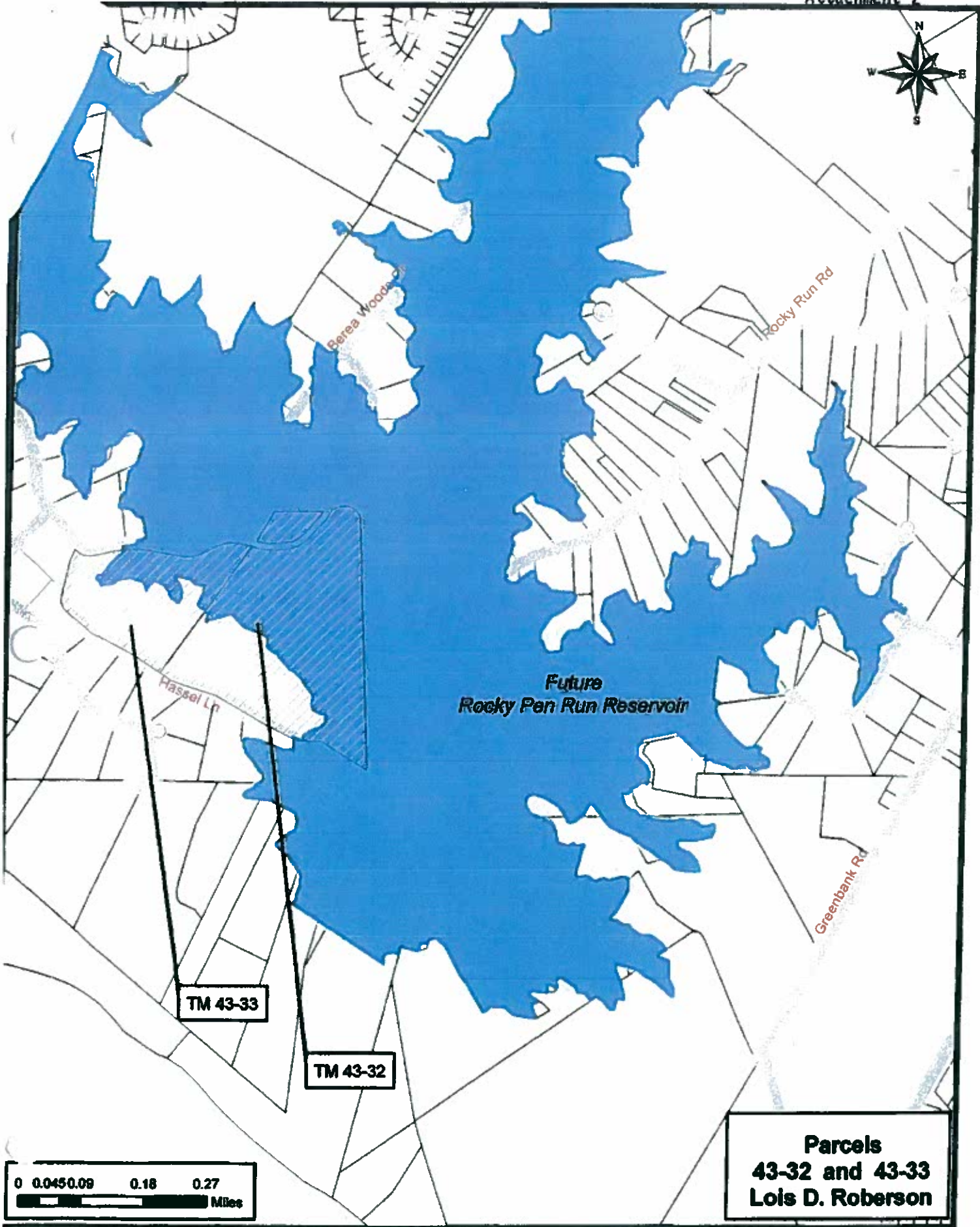
BACKGROUND REPORT

The County is currently in the process of acquiring the remaining properties necessary for the construction of the Rocky Pen Run Reservoir. A portion of each of the following parcels is in the area affected by construction of the Reservoir and acquiring those portions is critical to maintaining the schedule for the project: Tax Map Parcels 43-32 and 43-33, owned by Lois D. Roberson. The County must own the involved portions of these properties to proceed with construction of the Reservoir. Even minor delays may delay the necessary completion of the project.

Specific information on each of the properties is as follows:

Lois Roberson owns Tax Map Parcels 43-33 and 43-32, containing 46.645 and 17.448 acres respectively. The County needs 31.73227 acres of Parcel 43-32 and 6.28598 acres from Parcel 43-33. The appraiser contracted by the County completed the appraisal of the properties in April, 2008, determining just compensation at \$798,383. Subsequently the negotiator presented the appraisal report to Dick Nageotte, Ms. Roberson's attorney. Mr. Nageotte informed the County that the offer was considered too low and an independent appraisal would be obtained. Months passed and requests for the independent appraisal to be provided to the County were made to Mr. Nageotte. An appraisal of \$988,475 was finally received from Mr. Nageotte. The County increased its offer after receiving the counter-offer on behalf of Ms. Roberson. Mr. Nageotte rejected the County's counter-offer of \$815,000, and said his client will not accept less than \$950,000. Because of the wide difference between the County's offer and the Owner's demand, staff recommends proceeding with condemnation to avoid delaying this project.

Given the critical effect on the project schedule, staff recommends authorization to immediately acquire all the above-referenced properties through quick-take condemnation, although all avenues of negotiation with the property owners will remain open for as long as necessary to reach settlement, if settlement is at all possible. This item was deferred at the May 5, 2009 Board meeting to May 19th.



**Future
Rocky Pen Run Reservoir**

TM 43-33

TM 43-32



**Parcels
43-32 and 43-33
Lois D. Roberson**

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the "Board") held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 19th day of May, 2009:

MEMBERS:

George H. Schwartz, Chairman
Harry E. Crisp II, Vice Chairman
M. S. "Joe" Brito
Mark Dudenhefer
Paul V. Milde III
Cord A. Sterling
Robert "Bob" Woodson

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

A RESOLUTION WHICH AUTHORIZES CONDEMNATION AND EXERCISE OF QUICK-TAKE POWERS TO ACQUIRE A PORTION OF THE PROPERTY OF LOIS D. ROBERSON, LOCATED OFF HASSLE LANE, TAX MAP PARCELS 43-32 AND 43-33, IN CONNECTION WITH THE ROCKY PEN RUN RESERVOIR PROJECT

WHEREAS, the Board has approved and is in the process of acquiring the necessary parcels for the construction of the Rocky Pen Run Reservoir, an approved public use to meet the County's water supply needs; and

WHEREAS, Tax Map Parcels 43-32 and 43-33 consist of approximately 47 and 18 acres of land, respectively, owned by Lois D. Roberson (the "Property Owner"); and

WHEREAS, because the design for the project requires clearing and grading of a 31.73 acre portion of Tax Map Parcel 43-32 and a 6.28 acre portion of Tax Map Parcel 43-33 (collectively "the Property") largely for inundation by the reservoir, the Board must acquire ownership of the Property in fee simple; and

WHEREAS, the fair market value for the Property, together with damages, if any, to the remainder of the Property Owner's property, is Seven Hundred Ninety-eight Thousand Three Hundred Eighty-three Dollars (\$798,383) based upon a bona fide appraisal by an independent appraiser pursuant to Section 25.1-417 Va. Code Ann.; and

WHEREAS, the Board, through its consulting negotiator, has made a bona fide but ineffectual effort to purchase the Property from the Property Owner by offering said determination of value on behalf of the County to the Property Owner ; and

WHEREAS, the terms of purchase cannot be agreed upon and the Board's consulting negotiator has been unsuccessful in negotiating a final settlement with the Property Owner, but will continue to work with the Property Owner to attempt to reach an acceptable settlement; and

WHEREAS, the Board has conducted a public hearing in accordance with Sections 15.2-1903(B) and 15.2-1905(C), Va. Code Ann., to determine the necessity for condemnation and the use of the County's quick-take powers, and has carefully considered the recommendations of staff and the testimony, if any, at the public hearing;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19th day of May, 2009, that the Board does hereby find that public necessity exists for the Board's fee simple ownership of the Property to complete construction and begin operation of the Rocky Pen Reservoir, an approved public use to meet the County's water supply needs; and

BE IT FURTHER RESOLVED that the Board determines that, notwithstanding the Board's bona fide offer of \$798,383 as just compensation for the Property, including damages, if any, to the remainder of the Property Owner's property, the Board and the Property Owner cannot agree on the compensation to be paid or on other terms of purchase and settlement; and

BE IT STILL FURTHER RESOLVED that the Board determines that because it is necessary to do so it hereby declares its intent to exercise its quick-take powers to enter upon and take the above-referenced Property for construction and operation of the Rocky Pen Run Reservoir prior to condemnation proceedings; and

BE IT STILL FURTHER RESOLVED that the Stafford County Board of Supervisors does hereby authorize the County Attorney to file a Certificate of Take among the land records of Stafford County, and authorizes the County Administrator and Director of Finance and Budget, or their designees, to sign the Certificate and to deposit Seven Hundred Ninety-eight Thousand Three Hundred Eighty-three Dollars (\$798,383) with the Clerk of the Circuit Court for Stafford County for the Property Owner's benefit before entering and taking possession of the Property in connection with the quick-take condemnation process on behalf of the Stafford County Board of Supervisors in accordance with law.