

**ACTION ITEM  
BOARD OF SUPERVISORS**

**DATE:** May 19, 2009

**TO:** Board of Supervisors

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

*KCD*

**ISSUE:** Consider Condemnation and Exercise of Quick-Take Powers to Acquire Tax Map Parcel 43-74 (Orris), in Connection with the Rocky Pen Run Reservoir

**STAFF RECOMMENDATION:** Deferral

**BUDGET IMPACT:** \$548,300

**ATTACHMENTS:** (3)

[1] Background Report [3] Reso/Ord/Proc # R09-174

[2] TM Parcel Plat: 43-74 [ ] Reso/Ord/Proc #

[ ] [ ] Reso/Ord/Proc #

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

[X] Legal *Haley A. Roberts*

[X] Utilities *[Signature]*

- [ ] Consent Agenda
- [ ] Discussion Item
- [ ] New Business
- [X] Other Business
- [ ] Presentation
- [ ] Public Hearing
- [ ] Unfinished Business

**PRESENTATION BY:** N/A

**ELECTION DISTRICT:** Hartwood

## **BACKGROUND REPORT**

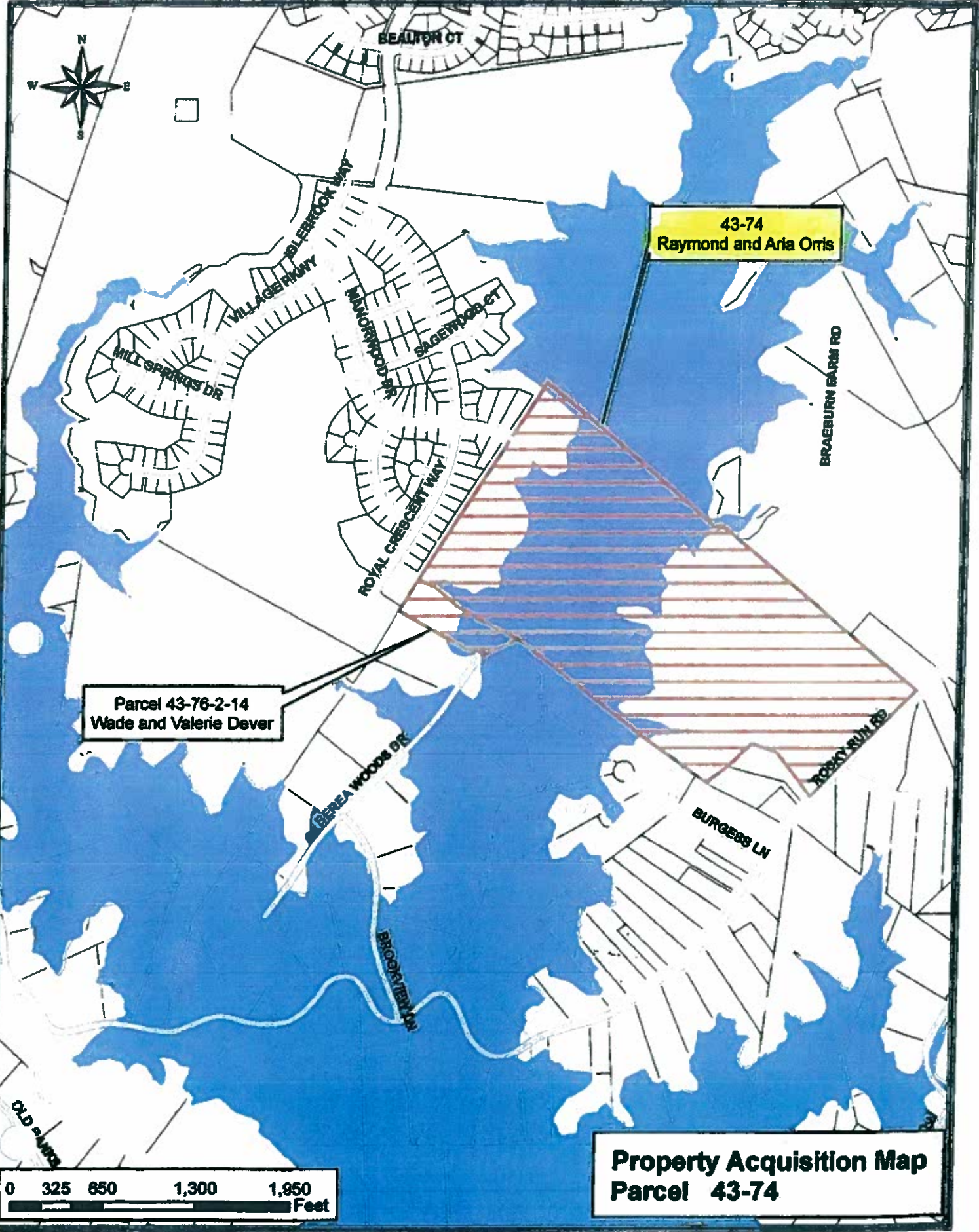
The County is currently in the process of acquiring the remaining properties necessary for the construction of the Rocky Pen Run Reservoir (the "Reservoir"). The following parcel is in the area affected by construction of the Reservoir and acquiring this portion is critical to maintaining the schedule for the project: Tax Map Parcel 43-74, owned by Raymond and Aria Orris. 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 the property is as follows:

TM Parcel 43-74 is owned by Raymond and Aria Orris. The County requires approximately 43.5 of the currently 105.5 acre parcel for the Reservoir. The appraiser contracted by the County completed the appraisal of this parcel in February 2008, determining just compensation at \$548,300. This offer was subsequently presented to the owners. This appraised amount includes \$69,800 as damage to the residue due to the expected Critical Resource Protection Area that will be identified as a result of the reservoir. The Orris' responded that they felt the appraisal was too low, but did not provide a counter offer. The County's acquisition consultant responded to these comments in January and noted that they felt the original appraisal reflected an accurate value. The Orris' have not responded to our reply to date and staff feels that significant progress in the negotiations is unlikely.

Given the critical effect on the project schedule, staff recommends authorization to immediately acquire the above-referenced property 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 from the May 5, 2009 Board meeting to May 19<sup>th</sup>.

The County and its acquisition consultant are continuing to negotiate the purchase of the Orris property. Staff recommends deferral of this matter to the June 2, 2009 meeting.



**43-74**  
**Raymond and Aria Orris**

**Parcel 43-76-2-14**  
**Wade and Valerie Dever**

0 325 650 1,300 1,950  
Feet

**Property Acquisition Map**  
**Parcel 43-74**

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 19<sup>th</sup> day of May, 2009:

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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:

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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 RAYMOND AND ARIA ORRIS, TAX MAP PARCEL 43-74, 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 Parcel 43-74 consists of approximately 105.5 acres of land, owned by Raymond and Aria Orris (the "Owners"); and

WHEREAS, because the design for the project requires clearing and grading of approximately a 43.5 acre portion of Tax Map Parcel 43-74 ("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 is Five Hundred Forty-eight Thousand Three Hundred Dollars (\$548,300) 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 by offering said determination of value on behalf of the County to the Property Owners; 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 Owners, but will continue to work with the Property Owners 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; and

WHEREAS, the Board declares its intent to use its quick-take powers to enter and take the above-referenced 43.5 acre portion of Tax Map Parcel 43-74;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19<sup>th</sup> day of May, 2009, that the Board be and it hereby does 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, notwithstanding the Board's bona fide offer of \$548,300 as just compensation for the Property, including damages, if any, to the remainder of the Property, the Board and the Property Owners cannot agree on compensation to be paid or on other terms of purchase and settlement; and

BE IT STILL FURTHER RESOLVED that the Board determines it is necessary to do so and hereby declares its intent to exercise the County's quick-take powers to enter upon and immediately acquire the Property for construction and operation of the Rocky Pen Run Reservoir, under the provisions of Sections 15.2-1903(B) and 15.2-1905(C), Va. Code Ann.; 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 Five Hundred Forty-eight Thousand Three Hundred Dollars (\$548,300), with the Clerk of the Stafford County Circuit Court, for the Property Owners' 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.