

**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 Parcel 43-76-2-14 (Dever), in Connection with the Rocky Pen Run Reservoir

**STAFF RECOMMENDATION:** Approval

**BUDGET IMPACT:** Utilities Acct# 510-9410-501.82-31; \$125,978

**ATTACHMENTS:** (3)

[1] Background Report [3] Reso/Ord/Proc # R09-173

[2] TM Parcel Plat: 43-76-2-14 [ ] Reso/Ord/Proc #

[ ] [ ] Reso/Ord/Proc #

**REVIEW:** [X] County Administrator's Office *[Signature]*  
[X] Legal *Joseph L. Hayward, Jr.*  
[X] Utilities *[Signature]*

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

**PRESENTATION BY:** N/A

**ELECTION DISTRICT:** Hartwood

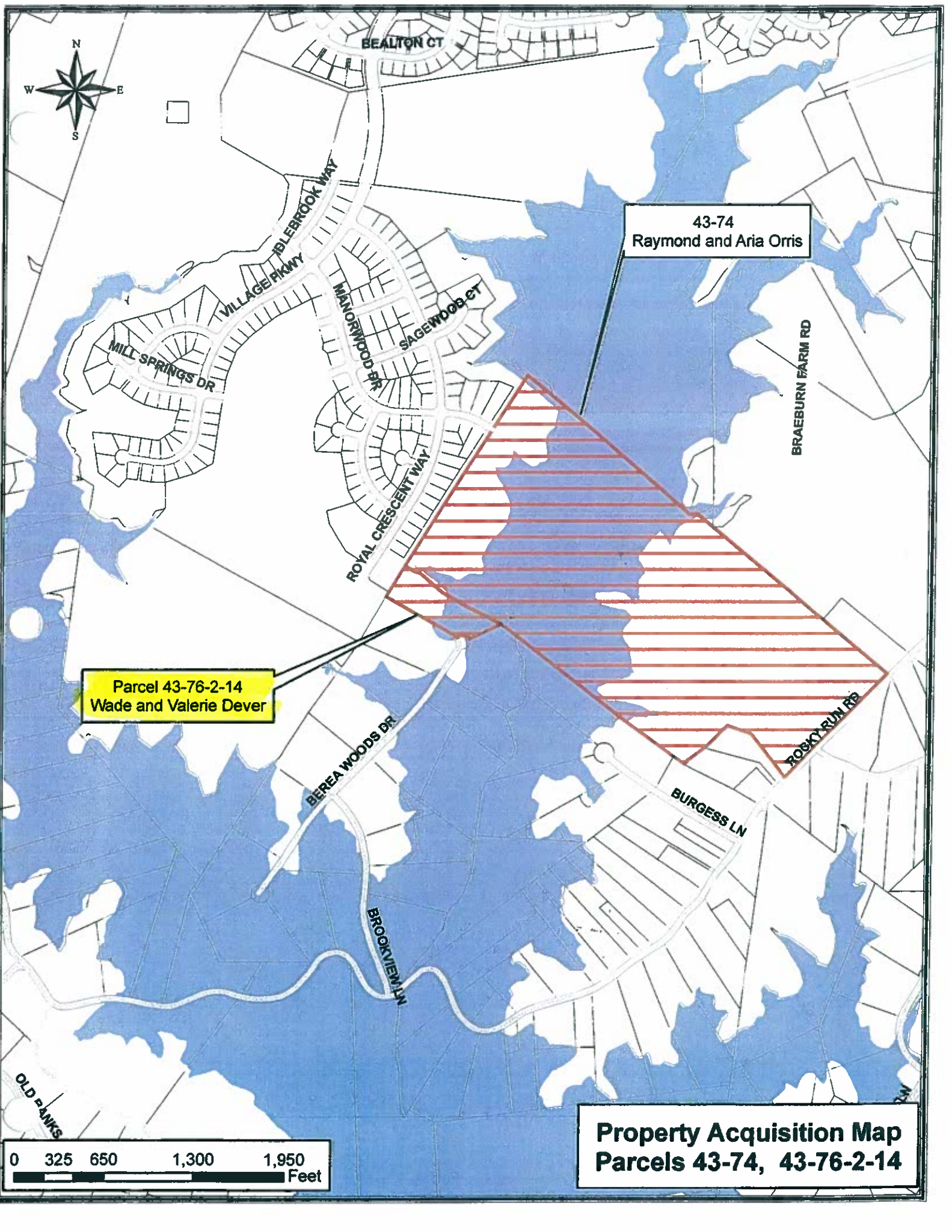
### **BACKGROUND REPORT**

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 43-76-2-14, owned by Wade and Valerie Dever. 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 43-76-2-14 is owned by Wade and Valerie Dever. The County requires approximately 2.39 acres of the current 4.9 acre parcel for the reservoir. The appraiser contracted by the County completed the appraisal of this parcel in May 2008, determining just compensation at \$125,978. This offer was subsequently presented to the owners. While the County's acquisition consultants have heard no specific objection to the appraised value of the property, the attorney representing the owners has indicated that there should be damages to the remaining property caused by the County's development of a "public park" adjacent to the property. He contends that the Devers' property will be accessible by boaters, hikers, etc. upon the completion of the reservoir. The Devers demanded an extra \$32,000 associated with this claim of damages. The County's acquisition consultants rejected this claim in early February. A counteroffer was made and a draft contract has been sent to the Dever's attorney. Negotiations are continuing with the Dever's attorney, but a final contract has not been signed at this point.

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, 2009.



43-74  
Raymond and Aria Orris

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

**Property Acquisition Map**  
**Parcels 43-74, 43-76-2-14**



BEALTON CT

BLEBROOK WAY

VILLAGE PKWY

MILL SPRINGS DR

MAJORWOOD DR

SAGEWOOD CT

ROYAL CRESCENT WAY

BRAEBURN FARM RD

BEREA WOODS DR

BROOKVIEW LN

BURGESS LN

ROCKY RUN RD

OLD PANKS

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 WADE AND VALERIE DEVER, TAX MAP PARCEL 43-76-2-14, 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 43-76-2-14 consists of approximately 4.9 acres of land, owned by Wade and Valerie Dever (the "Owners"); and

WHEREAS, because the design for the project requires clearing and grading of a 2.39 acre portion of Tax Map Parcel 43-76-2-14 ("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 One Hundred Twenty-Five Thousand, Nine Hundred Seventy-Eight Dollars (\$125,978) 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 2.39 acre portion of Tax Map Parcel 43-76-2-14;

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 \$125,978 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, or their designees, to sign the Certificate and to deposit One Hundred Twenty-Five Thousand, Nine Hundred Seventy-Eight Dollars (\$125,978), 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.