

# 7

**ACTION ITEM  
BOARD OF SUPERVISORS**

**DATE:** December 14, 2010

**TO:** Board of Supervisors

**FROM:** Harry L. Critzer *HLC*  
Director of Utilities *ML*

**ISSUE:** Authorize a Public Hearing to Consider Condemnation and Exercise of Quick-Take Powers to Acquire an Easement on a Portion of the Property Located at Tax Map Parcel 53A-1-5B in Connection with the Falls Run Phase 1 Sewer Project

**STAFF RECOMMENDATION:** Approval

**BUDGET IMPACT:** \$1,600; budgeted in the FY11 Adopted Budget

**TIME SENSITIVITY:** N/A

**ATTACHMENTS:** (4)

[1] Background Report [4] Reso/Ord/Proc # R10-363

[2] Exhibit [ ] Reso/Ord/Proc #

[3] Proposed Resolution R10-364 [ ] Reso/Ord/Proc #

**REVIEW:** [X] County Administrator's Office *Ante...*

[X] County Attorney *Charles A. Thomas*

[X] Finance and Budget *Marc Penick*

[X] Consent Agenda

[ ] Other Business

[ ] Public Hearing

[ ] Discussion Item

[ ] Presentation

[ ] Unfinished Business

[ ] New Business

[ ] Work Session

**PRESENTATION BY:** Harry L. Critzer, Director of Utilities

**ELECTION DISTRICT:** Falmouth

### **BACKGROUND REPORT**

The Water and Sewer Master Plan recommends construction of an interceptor sewer line to replace the existing, aging, and failing Falls Run Sewer Interceptor sewer line. A sewer interceptor is a large diameter sewer line used to collect wastewater from other sewer mains and transport it to treatment facilities or major pump stations.

Property acquisition started in July, 2009 with the properties along the alignment of the replacement sewer line. The County is currently in the process of acquiring the remaining easements necessary for construction of the Falls Run Sewer Interceptor replacement project. There is currently one easement that staff has been unable to obtain through negotiation and that staff has determined is unlikely to result in successful purchase agreements. The County must obtain this easement to proceed with the project.

Specific information on this property and the easement necessary for the Falls Run Interceptor project is as follows:

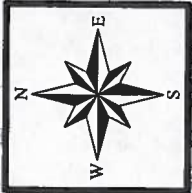
TM Parcel 53A-1-5B is owned by John C. Lafley, Trustee, under the John C. Lafley Revocable Trust Agreement, and John C. Lafley and John Matthew Lafley, Successor Trustees under the Karen V. Lafley Revocable Trust Agreement. The County requires approximately 0.0236 acres of permanent sewer easement. The fair market value for the easement area of the property, together with damages, if any, to the remainder of the property, is \$1,600, based upon the 2010 tax assessed value. The value is derived from a multiplier of 35% of the tax assessed value for permanent easements, as is standard practice for our easement acquisition process. The property owner presented a counter offer of \$5,000 on December 1, 2009, which was denied by the County. To date, staff has been unable to complete an agreement, and feels that significant progress in the negotiations is unlikely.

This item was before the Board on October 19, 2010 and the Board authorized staff to proceed with condemnation. It is being brought back to the Board to accurately state the exact property owners' names. Previously, John C. Lafley and Karen V. Lafley were listed as property owners. Karen V. Lafley has passed away and the property owners are listed above. Given the critical effect on the project schedule, staff recommends authorization to schedule a public hearing for the above-referenced easement through quick-take condemnation. While the condemnation process proceeds, 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.

Sufficient funds are budgeted in the current year for the easement acquisition.

Staff recommends approval of proposed Resolution R10-363 to authorize a public hearing for the Board to consider the exercise of quick-take condemnation to acquire the necessary easement.





**PROPOSED**  
**Falls Run Replacement Sewer**

**Parcel**  
**53A 1 5B**

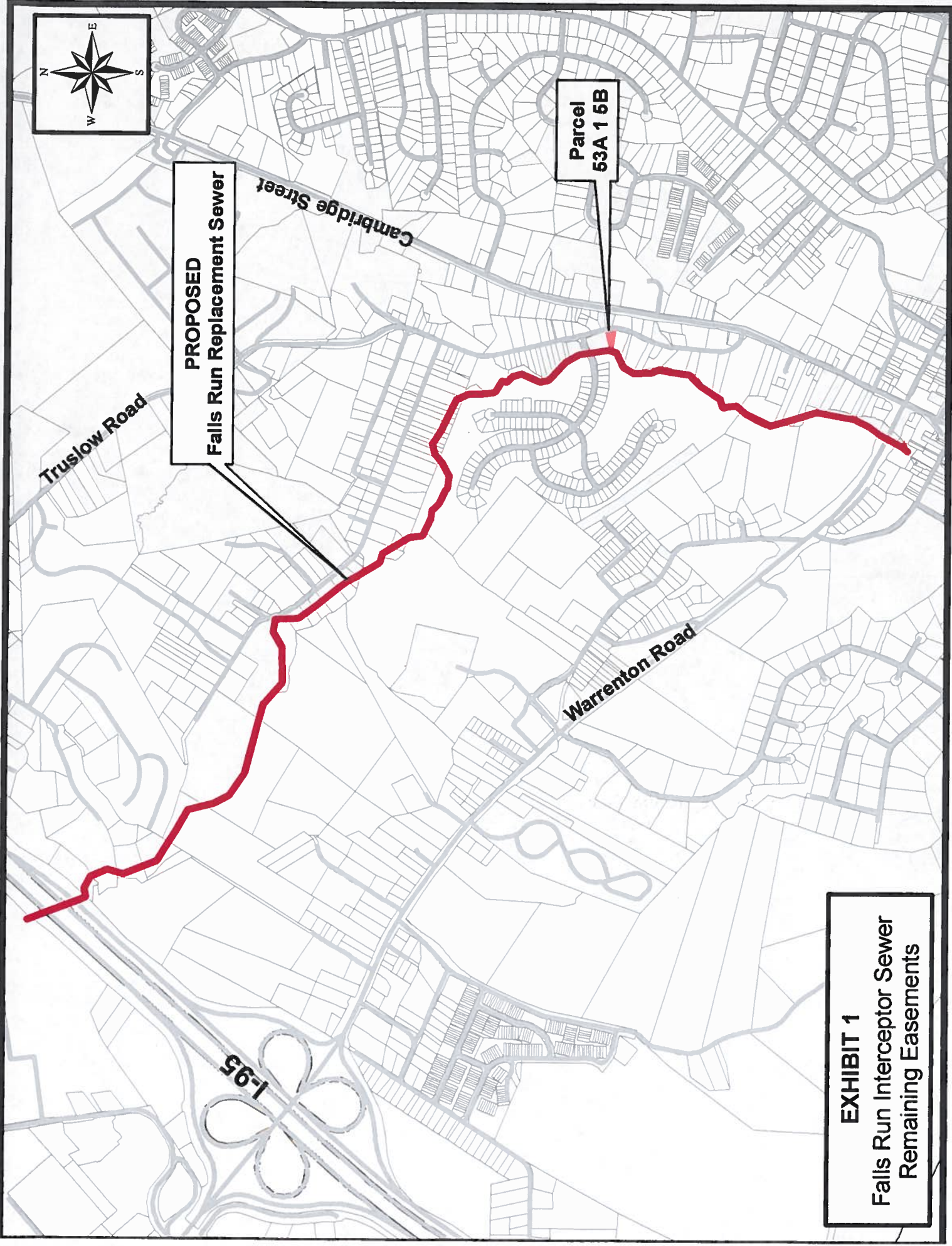
Cambridge Street

Truslow Road

Warrenton Road

I-95

**EXHIBIT 1**  
**Falls Run Interceptor Sewer**  
**Remaining Easements**



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 day of , 2010:

MEMBERS:

Mark Dudenhefer, Chairman  
Paul V. Milde III, Vice Chairman  
Harry E. Crisp II  
Gary F. Snellings  
Cord A. Sterling  
Susan B. Stimpson  
Robert "Bob" Woodson

VOTE:

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

**A RESOLUTION TO AUTHORIZE CONDEMNATION AND EXERCISE OF QUICK-TAKE POWERS TO ACQUIRE AN EASEMENT ON A PORTION OF TAX MAP PARCEL 53A-1-5B OWNED BY JOHN C. LAFLEY, TRUSTEE UNDER THE JOHN C. LAFLEY REVOCABLE TRUST AGREEMENT, AND JOHN C. LAFLEY AND JOHN MATTHEW LAFLEY, SUCCESSOR TRUSTEES UNDER THE KAREN V. LAFLEY REVOCABLE TRUST AGREEMENT, IN CONNECTION WITH THE FALLS RUN SEWER INTERCEPTOR REPLACEMENT PROJECT**

**WHEREAS, the 2006 Water and Sewer Master Plan recommends construction of a new sewer line from the Falls Run Pump Station following along Falls Run up to and including a crossing of I-95 to replace an older failing sewer, an approved public use; and**

**WHEREAS, the Board has approved and is in the process of acquiring the necessary easements for the construction of the Falls Run Sewer Interceptor; and**

**WHEREAS, Tax Map Parcel 53A-1-5B consists of approximately 0.293 acres of land, owned by John C. Lafley, Trustee under the John C. Lafley Revocable Trust Agreement, and John C. Lafley and John Matthew Lafley, Successor Trustees under the Karen V. Lafley Revocable Trust Agreement (the "Property Owners"); and**

WHEREAS, because the design for the project requires installation of the sewer interceptor and clearing and grading of approximately 0.0236 acres for a permanent sewer easement on Tax Map Parcel 53A-1-5B (the "Property"), the Board must acquire the easement on the Property; and

WHEREAS, the fair market value of the easement on the Property, together with damages, if any, to the remainder of the Property is One Thousand Six Hundred Dollars (\$1,600), based upon the 2010 tax assessed value; and

WHEREAS, the Board, through its consulting negotiator, has made a bona fide but ineffectual effort to purchase the easement area of 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 County'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 0.0236 acres of permanent sewer easement on Tax Map Parcel 53A-1-5B;

NOW, THEREFORE, BE IT RESOLVED BY THE Stafford County Board of Supervisors on this day of , 2010, that the Board be and it hereby does find that public necessity exists for the Board's easement ownership of the Property to complete construction and begin operation of the Falls Run Sewer Interceptor, an approved public use to meet the County's sewer demand needs; and

BE IT FURTHER RESOLVED that the Board determines, notwithstanding the Board's bona fide offer of \$1,600 as just compensation for the Property, including damages, if any, to the remainder of the Property, that the Board and the Property Owners cannot agree on compensation to be paid or on other terms of purchase and settlement; and

**BE IT 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 Falls Run Sewer Interceptor, 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 Board 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 One Thousand Six Hundred Dollars (\$1,600), 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 the law.

AJR:HLC:jmp



**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 14<sup>th</sup> day of December, 2010:

**MEMBERS:**

Mark Dudenhefer, Chairman  
Paul V. Milde III, Vice Chairman  
Harry E. Crisp II  
Gary F. Snellings  
Cord A. Sterling  
Susan B. Stimpson  
Robert "Bob" Woodson

**VOTE:**

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

**A RESOLUTION TO AUTHORIZE A PUBLIC HEARING TO CONSIDER  
CONDEMNATION AND EXERCISE OF QUICK-TAKE POWERS TO  
ACQUIRE AN EASEMENT ON TAX MAP PARCEL 53A-1-5B IN  
CONNECTION WITH THE FALLS RUN SEWER INTERCEPTOR  
REPLACEMENT PROJECT**

WHEREAS, the 2006 Water and Sewer Master Plan recommends construction of a new sewer line from the Falls Run Pump Station following along Falls Run up to and including a crossing of I-95 to replace an older failing sewer, an approved public use; and

WHEREAS, the Board approved and is in the process of acquiring the necessary easements for the construction of the Falls Run Sewer Interceptor; and

WHEREAS, because the design of the project requires installation of the sewer interceptor, clearing and grading of approximately 0.0236 acres for a permanent sewer easement on Tax Map Parcel 53A-1-5B, the Board must acquire the easement; and

WHEREAS, staff has determined that the fair market value of the easement area of the Property, together with damages, if any, to the remainder of the Property is One Thousand Six Hundred Dollars (\$1,600), based upon 2010 tax assessed value; and

WHEREAS, the Board, through its consulting negotiator, has made a bona fide but ineffectual effort to purchase the easement area of 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 must conduct 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;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this 14<sup>th</sup> day of December, 2010, that it be and hereby shall conduct a public hearing to be scheduled under the provisions of Sections 15 2-1903(B) and 15 2.1905(C), Va Code Ann, to consider the necessity for condemnation and necessity for the use of the County's quick-take powers to immediately acquire the property interests described above for the Falls Run Sewer Interceptor replacement project; and

AJR:HLC:jmp