

THE FRANKLIN COUNTY BOARD OF SUPERVISORS HELD THEIR REGULAR MONTHLY MEETING ON TUESDAY, AUGUST 17, 2010, AT 1:30 P.M., IN THE BOARD OF SUPERVISORS MEETING ROOM LOCATED IN THE GOVERNMENT CENTER, 1255 FRANKLIN STREET, SUITE 104, ROCKY MOUNT, VIRGINIA.

THERE WERE PRESENT: Charles Wagner, Chairman
Wayne Angell, Vice-Chairman
Leland Mitchell
Ronnie Thompson
David Cundiff
Russ Johnson
Bobby Thompson

OTHERS PRESENT: Richard E. Huff, II, County Administrator
Larry V. Moore, Asst. County Administrator
B. J. Jefferson, County Attorney
Sharon K. Tudor, MMC, Clerk

Chairman Charles Wagner called the meeting to order and recessed the meeting until 3:30 P.M.

Chairman Wagner called the meeting to order.

Invocation was given by Chairman Wagner.

Pledge of Allegiance was led by Supervisor Russ Johnson.

PUBLIC COMMENT:

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DIGITAL COUNTIES AWARD PRESENTATION

John Patt, Quest Software, presented Sandie Terry, Director of IT, a certificate for the County's accomplishment for placing 3rd in the top 10 Digital Counties Survey Nationwide.

Ms. Terry thanked Mr. Patt for the award and also paid special thanks to the Departments of Public Safety, E-911, and the Franklin Center for their contributions in the 2010 survey process.

CONSENT AGENDA

APPROVAL OF ACCOUNTS PAYABLE LISTING, APPROPRIATIONS, TRANSFERS & MINUTES FOR – JULY 20, 2010

APPROPRIATIONS

<u>DEPARTMENT</u>	<u>PURPOSE</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
Animal Control	Cat and Dog Sterilization Fund	3501- 5620	600.00
	Donation		
Building Inspections	Insurance Proceeds for Building		
	Inspector vehicle being declared	30- 0008	4,075.00
	total loss from recent accident		
	(2004 Chev Cavalier)		
General District Court	Carry forward of unused funds	2102- 7002	9,310.00
	for carpet replacement		
Human Resources	Unused training funds	1216- 5540	3,395.00
	Total		<u>\$17,380.00</u>

Transfers Between Departments or Funds

Tourism 8110- 5810 (500.00)
Disc Golf Capital Account 30- 0178 500.00

To transfer tourism grant funds to the Disc Golf account in the County Capital Fund

11th ANNUAL JAKES EVENT

For the past 10 years, the Franklin County Longbeards Chapter of the National Wild Turkey Federation has held a JAKES (Juniors Acquiring Knowledge, Ethics and Sportsmanship) event at Waid Recreational Area. Among the many worthwhile activities that happens at this event is the live firing of black powder (muzzleloading) and shot guns. Each year the JAKES event committee has gotten permission from the Board of Supervisors to allow live firing in the park and they are once again coming to the Board for permission. This event is scheduled for September 11, 2010.

This is the 11th year for the JAKES event in Franklin County. Under the strict supervision of the Franklin County Longbeards Chapter of NWTF, the Chief of Police for Rocky Mount, and Erik Molin (an instructor and qualified in firearm handling and safety), the group wishes to allow a live firing exercise with muzzleloading and 20 gauge shotguns. Here are their requirements for participation in this exercise:

- Youths must be between the ages of 11-17 years old to participate
- Each youth will be allowed to shoot a total of 2 rounds
- Each youth will be closely supervised, one on one by adult committee member
- Youths will be shooting at a still target
- Eye and hearing protection will be required and provided.

The FC Longbeards Chapter of the NWTF also has their own insurance covering this event.

RECOMMENDATION:

Staff respectfully requests Board approval for the FC Longbeards Chapter of the National Wild Turkey Federation to have permission to conduct this live fire exercise in conjunction with the JAKES event at Waid Recreational Area on September 11, 2010.

INFORMATION TECHNOLOGY POLICY AMENDMENT

Any organization that wants to accept credit cards for payments of taxes or fees must meet the Payment Card Industry (PCI) Compliance regulations. This requires certification by the acquiring bank on an annual basis – in Franklin County’s case this would be Bank of America through our contractual agreement with Virginia.GOV for payment processing. In order to become PCI compliant, we must have in place the appropriate compliance policies. Changes were made to our current IT Policy # 1.25 “Acceptable Use of Information Technology” and 3 additional compliance policies were developed. PCI requires that all employees read and sign off on all the security policies annually. Because this policy being amended is part of the Board adopted Human Resource Policy manual, Board approval is required to amend it.

Policies and their purpose are as follows:

Policy # 1.25 – Use of Information Technology: To protect Franklin County’s employees, partners and the organization from illegal or damaging actions by individuals, either knowingly or unknowingly. Inappropriate use exposes Franklin County to risks including virus attacks, compromise of network systems, services and legal issues.

Supplemental Compliance Policies:

- **Technology Security Policies:** Protects the “access” to the data to protect the privacy of the employees and citizens against security breaches.
- **Information Security Policy:** Protects the “data” itself and informs employees of the rules and procedures relating to data security compliance.
- **Network Policy:** Protects the actual “network” from unauthorized access by third party vendors and outlines the roles of the IT department and the expectations of all other users.

RECOMMENDATION: The staff respectfully recommends and requests that the Board of Supervisors authorize the staff to amend the HR Policy manual to include these technology and security policies.

PCI Compliance

Payment Card Industry Rules for Accepting Credit Card Payments

Credit Cards Acceptance Options

- Stand-alone credit card swipe machines
 - Connected to separate phone line
 - Transmitted to payment processor
 - No integration into applications
- Integrated into Applications
 - Swipe machine loads CC data to application
 - Data transmitted (over network) to payment processor

CC Acceptance Options

- Integrated into Application, we process and we transmit directly to bank
 - Swipe machine loads CC data into application
 - CC data temporarily stored until validated
 - CC data transmitted over network to bank
 - Very stringent regulations
 - Physical facility security required

PCI Merchant Levels

- How CC data is handled or processed determines compliance regulations
- We will be Merchant Level 4
 - We accept CC data but only transmit over network – via Internet – to external processor (VA.GOV)
 - No electronic (or paper) storage of CC data



PCI Compliance Regulations

- Build and maintain a secure network
 - Internal access limited & documented
 - External access prohibited & protected
 - Fully documented
 - Updates & patches current
 - Quarterly scan for wireless devices
 - Internal & external scans to identify vulnerabilities – quarterly!



PCI Compliance Regs (Cont'd)

- Strong access control measures
 - Unique individual logons
 - Limit access based on job duties
 - Passwords expire every 90 days
- LOTS of Policies
- Formal Security Awareness Program
 - Annual employee acknowledgement of policy awareness



Policies

- Acceptable Use Policy
- Technology Security Policy
- Information Data Security Policy
- Network Policy

Acceptable Use Policy

- Intention:
 - *To protect employees, partners and the organization from illegal or damaging actions by individuals, either knowingly or unknowingly. Inappropriate use exposes Franklin County to risks including virus attacks, compromise of network systems and services, and legal issues.*

AUP – Cont'd.

- Acceptable Use guidelines for:
 - Security guidelines – in addition to Security Policy
 - Network/Computer Usage
 - Email/Electronic Communication Use
 - Internet Use (*including monitoring/filtering*)
 - Removable Media
 - *Flash/thumb drives, CDs, DVDs, etc.*

Technology Security Policy

- Intention:
 - *Franklin County takes the privacy of our employees and citizens very seriously. To ensure that we are protecting our County and citizen data from security breaches, this policy must be followed and will be enforced to the fullest extent.*



Tech. Security Policy - 2

- **Anti-Virus Policy**
 - *instructions for employees to help achieve effective virus detection & prevention*
- **Firewall Policy**
 - *Describes how county firewall will filter Internet traffic to mitigate risks and losses from security threats*



Tech. Security Policy - 3

- **Remote Access Policy**
 - *Defines standards, procedures and restrictions for connecting to the County network*
- **Password Policy**
 - *Provides the guidelines necessary for all employees to create appropriate passwords & use & protect in appropriate manner*
 - *Every 90 days, no reuse within 1 year*



Info. Data Security Policy

- Intention:
 - *To inform employees of the rules and procedures relating to data security compliance.*
 - *Data = (but not limited to) electronic data in*
 - *Email, databases, applications & other media*
 - *Paper information*
 - *Hard copies of emails, employee files, internal memos, etc.*

Don't throw paper with financial / personal information in the trash – SHRED IT!

Info. Data Security Policy - 2

- Access Privileges Policy
 - *Who can access what, when, and for how long via which devices/applications*
 - *Dept heads must submit “New Hire IT Services Request Form” to specify what an employee needs when hired or whenever job duties change*
 - *MUST be documented for compliance!*

NEW HIRE FORMS

[IT General Properties Work Order](#)

[New Hire I/T Services Request Form](#)

Info. Data Security Policy - 3

- Backup Policy
 - *To inform employees of the rules and procedures relating to data backups*
 - *Data is one of the most important assets and backups are integral to protecting this asset from loss or destruction.*
 - *Explains*
 - *What is backed up by IT*
 - *The IT backup schedule*
 - *Restore procedures*

*Records Management
-- see Vinnie!!!!!!*

Network Policy

- Intention:
 - *Ensure that employees are protecting county and citizen data from security breaches -- protecting the network and access*

Network Policy

- **Server Configuration Policy**
 - *Defines standards, procedures and restrictions for new servers installed*
- **Wireless Access Policy**
 - *To limit and restrict the number of wireless access points connecting to the County network*

Network Policy - 2

- **Third-party Access Policy**
 - *Rules for 3rd party access to county systems and data center*
- **Systems Admin Policy**
 - *Outlines responsibilities, guidelines, and standards of conduct for all IT employees*
- **Systems Change Control Policy**
 - *Control changes to info systems to prevent degradation of the security of the system*

Policy Acknowledgement

- PCI Compliance requires
 - Annual acknowledgement by all employees of these policies
- Goal is to implement an online application for this annual acknowledgement
 - Initially will just be paper form to be signed and returned to HR

What You Need to Do

- Inform all your staff of these policies
- Read the policies (everyone)
 - Stored on Intranet – SharePoint – Management Team Meeting site
- Sign acknowledgement form & return to HR

Management Team Meetings

Documentation	Modified By	Type	Name
	Terry, Sandie		Franklin County Technology Security Policy <small>new</small>
	Terry, Sandie		Franklin County Information Data Security Policy
	Terry, Sandie		Franklin County Network Policy
2, 2010	Stanley, Connie		Franklin County printer policy
7, 2010	Stanley, Connie		Franklin County Acceptable Use Policy V3

Technical Changes

- Implement the new Password Policy
 - Requires 'strong' passwords
 - You must change them every 90 days
 - DO NOT SHARE your password!!!
- Only ONE logon per employee (TRS)
- Background/Network Controls
 - McAfee Intrusion Prevention
 - Access Control Lists

Timeline

- Share policies with your staff **ASAP!**
- Paper acknowledgement form to be included with August payroll
 - To be signed by employee and returned to HR to be logged and placed in personnel folder
- My To Do: *(hopefully complete in Sept)*
 - setup scans with a vendor
 - complete some forms and submit for certification



How Do You Accept CC?

- Currently this effort has only been completed for Govt Center
 - Will address remote locations in separate phase once we are certified in this facility
- TRS / CoR
 - dependent on whether we move to commercial solution
- Dev Services
 - You will use the CAP/VA.GOV interface



RABIES CLINIC

In an effort to control the spread of the rabies virus, Franklin County in conjunction with local veterinarians and staff, previously sponsored a yearly rabies vaccination clinic to benefit citizens who ordinarily may not have an opportunity to obtain vaccinations for their pets. Traditionally the clinic is held in the fall prior to hunting season. The clinic, if approved, will be held in various locations throughout the County on October 2, 2010.

Sponsorship of a rabies vaccination clinic for pets in Franklin County will reduce the potential spread of the rabies virus. The Code of Virginia relating to Animal Laws requires that two conditions be met before a canine or feline can be vaccinated outside the controlled environment of a certified veterinary facility. First, approval must be granted by the local health department. Second, the local governing body must declare the holding of such a clinic is for the health, safety, and welfare of the citizens to reduce the potential threat of rabies transmission in the area.

Once approved by the Board of Supervisors, staff will secure authorization from the local health department for conducting the clinic.

- The clinic is only to Franklin County and Rocky Mount residents. The rabies clinic has always been a means to distribute the rabies vaccine to the public to lessen the chance of exposure to the rabies virus. The revenues generated from past rabies clinics do not meet the expense to have the event. Local veterinarians charge between \$8.00 and \$20.00 to vaccinate animals in their offices. To offset expense of the clinic we determined that if the fee for vaccinations were increased from \$5.00 per vaccination to \$7.75 per vaccination, the revenue generated would be \$11.00 less than the expense to hold the clinic. The fees are explained in greater detail below:

The costs and revenues generated from the rabies clinic held in 2009 were as follows:

Costs associated with two (2) veterinarians:	
Cost of the rabies vaccine, syringes, mileage,	\$787.00
Veterinarian labor (\$5.00 per administered vaccination)	\$2775.00
Total veterinarian costs:	\$3562.00
Six (6) assistants; three (3) per veterinarian @ \$125.00 each.	
*(Assistants issue rabies receipts, issue dog licenses, and collect fees)	<u>\$750.00</u>
Total rabies clinic expense:	\$4312.00
Revenue received: (555 vaccinations @ \$5.00 each)	\$2775.00
Estimated revenue: (555 vaccinations @ \$7.75 each)	\$4301.25

The date, times, and locations of the clinic will be published in local newspapers for a minimum of five (5) editions. Flyers will also be distributed in various places throughout the county. Fees for dog licenses sold at the authorized locations will remain unchanged from that charged at the Franklin County Treasurer’s Office. Revenue to cover the expense of conducting the rabies clinic are included in the fiscal year 2010 – 2011 county budget in line item # 3501-3002.

RECOMMENDATION: Staff respectfully recommends that the fee for vaccinations be increased to \$7.75 and further requests the Board of Supervisors declare the holding of this County Rabies Clinic is for the health, safety, and welfare of the citizens to reduce the potential threat of rabies transmission in the area and authorize the County Rabies Clinic to be held on October 2, 2010.

EMERGENCY DECLARATION/FIRE CHIEF POSEY DILLON & FIREFIGHTER DANNY ALTICE

On 7/27/2010 Fire Chief Posey Dillon and firefighter Danny Altice were killed in the line of duty. Both funeral services for the fallen firefighters were scheduled on July 30. Thousands of mourners were expected to attend both the visitation and funeral services. In order to allow all county fire and EMS personnel to attend the services, arrangements for supplemental staffing would be necessary through mutual aid agreements with neighboring jurisdictions. On July 30, 2010 a declaration of a local emergency was enacted by the County Administrator to assist county agencies in responding to the event. 44-146.21 of the Code of Virginia requires that following a declaration of a state of emergency, the local Board of Supervisors must affirm the action.

On 7/30/2010 fire and emergency medical services personnel from neighboring jurisdictions were scheduled to fill county fire and EMS stations while funeral services were conducted. The Franklin County Emergency Operations Center was opened with full staffing to coordinate the funeral events and to coordinate county all fire and EMS calls. In addition to these personnel, crews from Carilion Patient Transportation Services were sent to handle emergency medical services. Jurisdictions that sent personnel included, Amherst County, Bedford County, Roanoke County, Roanoke City, Botetourt County, Henry County, Martinsville City, and Patrick County. Due to the size of the funeral processions and potential impacts on the community, additional troopers and VDOT personnel were assigned to assist the Sheriff’s Office and Town of Rocky Mount Police with traffic control. Additional dispatchers were sent to the Emergency Operations Center from the Henry County and Amherst County E911 centers.

The assistance provided by these agencies and jurisdictions was invaluable. All calls for service were handled without incident. The disaster declaration enabled Franklin County to enact mutual aid agreements and request additional state resources to manage the event.

RECOMMENDATION: Staff respectfully recommends that the Board affirm the State of Emergency declaration prepared on 7/30/2010.

REHAB HOUSING BOARD

For several years the County has administered the Indoor Plumbing and Rehabilitation Grant Program that is funded (100%) through the Virginia Department of Housing and Community Development (DHCD). The program is aimed at improving the living conditions of low-moderate income home owners, so that the home owners have adequate housing with indoor plumbing meeting DHCD’s low-moderate income guidelines. Qualified home owners may apply for assistance, which is provided in the form of forgivable loans (provided by DHCD via the County).

The funds collected from the Indoor Plumbing loans are placed in a payback account which is then used to fund additional projects. Qualifying applications are reviewed and projects approved by the County's Housing Rehab Board (HRB). A Payback Fund project typically will include one or more of the following: drilling of a well, installation of a septic system, essential indoor plumbing, etc. Such a project will generally cost between \$500 and \$5,000. Since 2008 the HRB has been overseeing projects for the Payback Fund (Program Fund). The board has assisted twenty (20) low/moderate income individuals with small house repairs and well / septic issues. The current balance in the Payback Fund account is approximately \$48,106. Such funds can only be used for essential housing repair & plumbing projects.

The purpose and function of the Housing Rehabilitation Board (HRB) is that of implementing housing rehabilitation projects; such as Indoor Plumbing Projects (IPR), Community Development Block Grants (CDBG) and payback fund (program fund) projects under the guidelines of the Virginia Department of Housing and Community Development and the HRB By-Laws (as submitted). Such By-Laws were adopted and initial members appointed by the Board of Supervisors on October 16, 2001. The Board of Supervisors has made some other appointments along the way to replace various HRB members. However, no appointments have been made in the last couple of years.

The HRB currently has six (6) voting members and two (2) planning staff personnel. The following are the current members and staff personnel:

Members:

William Helm, Chairman
 Charles Wagner
 Chris Whitlow
 Mike Thurman
 Barbara Garst
 Hubert Quinn

Staff:

Lisa Cooper, Grant Manager
 Bonnie Shively, Grant Secretary

Housing Rehab Board (HRB) members have served for the last several years and Article II (Duration of Appointment) of the (HRB) BY-Laws states that "all members shall serve for the duration of the project." As such, staff suggests the current list of Housing Rehab Board members be re-appointed to complete the current calendar year and that the Board of Supervisors consider amending Article II (Duration of Appointment) of the By-Laws to require annual appointments to the Housing Rehab Board (appointed at the Board's annual organization meeting each January) as with other similar boards, commissions, and committees accordingly.

RECOMMENDATION:

Staff respectfully requests the Board of Supervisors to ratify current appointments to the of Housing Rehab Board with such members completing terms on December 31st, 2010; to amend Article II (Duration of Appointment) of the Housing Rehab Board By-Laws to require annual appointments of said Board memberships; and to begin making these annual appointments to the Housing Rehab Board at the Board of Supervisors' organizational meeting held each January as with other similar boards, commissions, and committees accordingly.

TRI-COUNTY LAKE COOPERATIVE AGREEMENT

The Tri-County Lake Administrative Commission (TLAC) was created in October of 2000 as a joint administrative organization under the provisions of Section 15.2-1300 of the Code of Virginia. The organizational cooperative agreement creating the commission is among the counties of Bedford, Franklin and Pittsylvania and was approved for two-year terms.

A two-year extension of the original agreement was approved in September of 2008. The current agreement will expire on October 3, 2010.

The TLAC Board of Directors requests that the three counties extend the agreement creating TLAC for another two year period. This can be accomplished by the adoption of a similar motion by all three counties.

Due to ongoing negotiations with Appalachian Power Company, discussions with Campbell County and a review of the language regarding committee chairs, there is a possibility that

amendments to this Agreement may be recommended prior to October of 2012. No recommendations will be ready for consideration until after the due date for the current renewal, thus we are requesting that the document be renewed as it is currently written, recognizing that amendments may be proposed in the near future.

RECOMMENDATION:

Staff respectfully requests the Board to endorse the Extension of the proposed Tri-County Lake Administrative Commission Cooperative Agreement as presented effective October 3, 2010 through October 3, 2012 subject to similar action by the Bedford and Pittsylvania counties.

ORGANIZATIONAL COOPERATIVE
AGREEMENT CREATING THE TRI-COUNTY LAKE
ADMINISTRATIVE COMMISSION (“TLAC”)

Creation of the Tri-County Lake Administrative Commission (“TLAC”)

This Cooperative Agreement is among the counties of Bedford and Franklin and Pittsylvania for a joint administrative organization under the provisions of Section 15.2-1300 of the Code of Virginia, and is:

–to be known as the **Tri-County Lake Administrative Commission**.

PURPOSE: The purpose of the Tri-County Lake Administrative Commission is to serve as the administrative department for the three counties surrounding Smith Mountain Lake and is established to carry out lake planning duties as may be assigned by the respective Boards of Supervisors. Such duties may include, but are not limited to navigation marker issues, debris cleanup, and coordination with American Electric Power on lake related issues. The Tri-County Lake Administrative Commission may also be tasked from time to time with specific projects which will require the coordination of lake volunteers in order to accomplish such activities. The Tri-County Lake Administrative Commission shall serve as the first point of contact for lake related issues and concerns and shall forward such concerns as are appropriate to the body or agency best able to respond to the citizen. The Tri-County Lake Administrative Commission shall replace the Smith Mountain Lake Policy Advisory Board and the Tri-County Intergovernmental Coordinating Committee and upon adoption of this agreement by all three localities, the Smith Mountain Lake Policy Advisory Board and the Tri-County Intergovernmental Coordinating Committee are hereby terminated and shall cease to exist.

MISSION: The mission of the Tri-County Lake Administrative Commission is to assist in the development of a harmonious community at the lake through the administration of those programs and projects delegated to it by the Boards of Supervisors of the three localities surrounding the lake and to study and advise the three Boards of Supervisors on issues related to the overall well being of the lake as directed by the member counties. It is the mission of the Tri-County Lake Administrative Commission to do for the three counties in a more efficient and effective manner what any one of the member counties could do for themselves individually and to perform such duties and to exercise such appropriate powers and authority as may be delegated by the Boards of Supervisors of the member counties to the “TLAC” and not exceeding the limits of delegation as prescribed under the Code of Virginia.

GUIDING PRINCIPLES: (1) The “TLAC” shall serve at the direction of the member counties with input from the lake community at large and such other citizens who may wish to offer input into the public process of guiding lake area concerns. (2) The three member counties shall agree as to a fiscal agent for the “TLAC” who will process all income and expenditures of the entity under the guidelines established by the fiscal agent and shall be reimbursed from the TLAC budget for reasonable costs experienced in providing this service. Employees assigned to staff the “TLAC” shall be employees of the fiscal agent and function in the same manner as all other employees of the fiscal agent. (3) A work program shall be approved annually by the member counties and shall guide the activities of the “TLAC” unless directed otherwise by the member counties.

DURATION OF COOPERATIVE AGREEMENT: This cooperative Agreement shall become effective immediately on approval and adoption of resolutions by Bedford and Franklin and Pittsylvania counties and shall run for two year terms beginning October 3, 2000, or as the Cooperative Agreement may be amended or extended by action of parties to the Cooperative Agreement. This provision is to assure that the “TLAC’s “ effectiveness is regularly reviewed by member counties and recognizes that member counties may choose to supplant the TLAC with a modified organization or terminate the TLAC in favor of a new organization or entity.

ORGANIZATION OF THE TRI-COUNTY LAKE ADMINISTRATIVE COMMISSION: The "TLAC" shall be comprised of three members each from the participating political subdivisions of Bedford and Franklin Counties. One member from each subdivision shall be a member of the Board of Supervisors of that subdivision whose voting district borders Smith Mountain Lake, or his alternate; the alternate for the Board of Supervisors from Bedford and Franklin Counties shall be another member of the respective Board of Supervisors; one member shall be a citizen at large who shall reside in a voting precinct whose area shall include the shoreline of Smith Mountain Lake; one member shall be the county administrator, or his designee.

Pittsylvania County because of its smaller area involvement and financial responsibility shall have two members appointed by its Board of Supervisors annually; these shall include: a county board of supervisors member, or his alternate, whose voting district borders Smith Mountain Lake. The other member shall be the county administrator, or his designee. There shall also be one member chosen by each of the Smith Mountain Lake Association and the Smith Mountain Lake Chamber/Partnership and American Electric Power Company. There shall be a total of 11 members.

a) Voting Rights. All members shall all have an equal vote on the "TLAC"

b) Appointments to "TLAC". The citizen members and Board members of the Tri-County Lake Administrative Commission will be appointed by the Boards of Supervisors of the county which they represent. These members shall serve at the pleasure of the respective Boards of Supervisors. Appointments should be made at annual Board of Supervisors reorganization meetings.

c) Compensation of "TLAC" members. The respective member jurisdiction's Board of Supervisors shall determine compensation, if any, to be received by their respective appointed "TLAC" members.

d) Following annual appointment of "TLAC" membership by the various Boards of Supervisors, at the first regular "TLAC" meeting following the end of the calendar year, which shall end on December 31, members of the "TLAC" shall elect a member as "TLAC" chairman, and a member as vice chairman, and a member as secretary.

COVERING PROVISIONS OF THE CODE OF VIRGINIA. The Tri-County Lake Administrative Commission shall be subject to those same provisions of Virginia and United States law to which member counties are liable.

EXECUTIVE COMMITTEE AND BUDGET: There is hereby created an Executive Committee comprised of the county administrator from each of the participating counties or their designee. This shall be the Administrative body to carry out the purposes and terms of this Agreement. This committee shall prepare an annual budget for submittal to the participating counties.

The member counties shall be responsible for contributing funds on the following proportionate basis:

Bedford County - 45%
Franklin County - 45%
Pittsylvania County - 10%

The lowest approved contribution by a county shall be used to compute the annual budget for "TLAC".

"TLAC" shall be responsible to operate and maintain the existing system of navigational aids on Smith Mountain Lake. The Executive Committee will be the administrative branch to accomplish this and may approve contracts for this purpose.

Further, the Executive Committee may hire such employees for "TLAC" as the governing bodies might approve and such employees shall be considered employees of the Fiscal Agent.

DEBRIS REMOVAL:

The authority to administer debris removal is also delegated to the Executive Committee.

WITHDRAWALS FROM THIS COOPERATIVE AGREEMENT:

Any party to this Cooperative Agreement shall have the right to withdraw from this Cooperative Agreement at any time after written notification to the "TLAC" of the party's intention to withdraw from the "TLAC". Written notification of intent to withdraw shall be tendered to the "TLAC" at least

90 days before the date of official withdrawal. This is restricted in that notice must be given at least 90 days before the end of the "TLAC's then current fiscal year. In the event that either Franklin or Bedford counties withdraws from the agreement, then the agreement will be terminated since these two counties are essential to meeting the purposes of this agreement.

COMPLETE TERMINATION OF THIS COOPERATIVE AGREEMENT: This Cooperative Agreement shall be terminated upon withdrawal of sufficient parties to the Cooperative Agreement such that only one party remains after notice of withdrawal has been given as specified in this agreement.

DISPOSITION OF PROPERTIES AND FUNDS OF THE TRI-COUNTY LAKE ADMINISTRATIVE COMMISSION UNDER TERMINATION: In the event of termination, funds, records and tangible property, real and personal, that are held by the "TLAC" or are in custody of its administrative entity, its agents or assigns, shall be returned to the participating political subdivisions pro rata to their annual rates of contributions. Participating political subdivisions shall be defined as those that are members to the Cooperative Agreement on the day before termination shall become effective. Annual rate shall be that which is in use for the fiscal year in which the termination of this Cooperative Agreement shall occur

COMMITTEES: The "TLAC" shall from time to time establish such special committees as deemed necessary for aiding in the effective implementation of the "TLAC's" responsibilities, duties, and authorities. Committees shall report to the "TLAC". The Executive Committee of the "TLAC" may be utilized in communications between the "TLAC" and committees and between the committees and outside persons. The chairman of any such committee shall be a member of "TLAC" and all committee appointments shall be approved by the TLAC.

EFFECTIVE DATE OF THIS COOPERATIVE AGREEMENT: This Cooperative Agreement between the counties of Bedford and Franklin and Pittsylvania shall be effective beginning on the third day of October, 2000.

FRANKLIN COUNTY BOARD OF SUPERVISORS

BY _____
CHAIRMAN OF THE BOARD

ATTEST:

CLERK

APPROVED AS TO FORM: _____
COUNTY ATTORNEY

BEDFORD COUNTY BOARD OF SUPERVISORS

BY _____
CHAIRMAN OF THE BOARD

ATTEST:

CLERK

APPROVED AS TO FORM: _____
COUNTY ATTORNEY

PITTSYLVANIA COUNTY BOARD OF SUPERVISORS

BY _____
CHAIRMAN OF THE BOARD

ATTEST:

CLERK

APPROVED AS TO FORM:

COUNTY ATTORNEY

RECOMMENDATION:

Staff respectfully requests the Board to endorse the Extension of the proposed Tri-County Lake Administrative Commission Cooperative Agreement as presented effective October 3, 2010 through October 3, 2012 subject to similar action by the Bedford and Pittsylvania counties.

FINANCING FOR CARILION MEDICAL CENTER & CARILION FRANKLIN MEMORIAL HOSPITAL

Carilion Medical Center has several outstanding issues of revenue bonds (Series 2003A, Series 2003B and Series 2003C) which were issued through the City of Roanoke Economic Development Authority. Carilion Medical Center now desires to refund these issues and requires approval from the impacted localities.

A portion of the proceeds of the original bonds were used for improvements made to Carilion Franklin Memorial Hospital located at 124 Floyd Avenue in Rocky Mount, Franklin County. Projects completed here from the original proceeds included a 20,000 square foot out-patient wing, a 2,500 square foot obstetrical services wing, renovation of other patient care areas and the purchase of equipment and other building systems for those areas. Of the \$110,000,000 proposed financing, \$2,347,000 is the portion that pertains to Franklin County. This would be debt of Carilion issued through the Economic Development Authority of Roanoke City and does not impact or increase the existing debt of Franklin County.

RECOMMENDATION:

Staff respectfully requests the Board's adoption of the submitted resolution.

**RESOLUTION OF THE BOARD OF SUPERVISORS OF
FRANKLIN COUNTY, VIRGINIA APPROVING,
AMONG OTHER THINGS, THE ISSUANCE
OF NOT TO EXCEED \$110,000,000 AGGREGATE
PRINCIPAL AMOUNT OF THE ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF ROANOKE, VIRGINIA
HOSPITAL REVENUE REFUNDING BONDS (CARILION CLINIC
OBLIGATED GROUP)**

WHEREAS, Franklin County, Virginia (the "County") is a political subdivision of the Commonwealth of Virginia exercising public and essential governmental functions pursuant to the Constitution and laws of the Commonwealth of Virginia; and

WHEREAS, the Economic Development Authority of the City of Roanoke, Virginia (the "Roanoke Authority") is a political subdivision of the Commonwealth of Virginia and is authorized under Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), to issue revenue bonds for the purpose of facilitating the financing or refinancing of certain projects required or useful for health care purposes; and

WHEREAS, Carilion Medical Center ("CMC") is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which owns and operates Carilion Roanoke Memorial Hospital located in the City of Roanoke, Virginia; and

WHEREAS, CMC also owns and operates Carilion Roanoke Community Hospital in the City of Roanoke, Virginia; and

WHEREAS, Carilion Franklin Memorial Hospital ("CFMH") is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which owns and operates a health care facility located in the Town of Rocky Mount, Franklin County, Virginia; and

WHEREAS, the Roanoke Authority has by resolution adopted July 21, 2010 (the "Roanoke Authority Resolution") approved the issuance of the Economic Development Authority of the City of Roanoke, Virginia Hospital Revenue Refunding Bonds (Carilion Clinic Obligated Group) (the "Bonds") in an aggregate principal amount not to exceed \$110,000,000 for the purpose of (1) refunding all of the Roanoke Authority's outstanding Hospital Revenue Bonds (Carilion Health System Obligated Group) Series 2003A, Series 2003B and Series 2003C (collectively, the

“Bonds To Be Refunded”), the proceeds of which were loaned to CMC and CFMH, and (II) paying certain expenses incurred in connection with the issuance of the Bonds; and

WHEREAS, CMC owns and operates Carilion Roanoke Memorial Hospital, located at Jefferson Street and Belleview Avenue, S.E., Roanoke, Virginia; CMC also owns and operates Carilion Roanoke Community Hospital, located at 101 Elm Avenue, S.E., Roanoke, Virginia; and CFMH owns and operates Carilion Franklin Memorial Hospital, located at 124 Floyd Avenue, Rocky Mount, Franklin County, Virginia; and

WHEREAS, the Board of Supervisors of Franklin County (the “Franklin County Board”) must first approve the issuance of the Bonds before the Roanoke Authority can issue the Bonds; and

WHEREAS, the Roanoke Authority has delivered or caused to be delivered to the Franklin County Board the following: (i) a reasonably detailed summary of the comments expressed at the public hearing held by the Roanoke Authority in connection with the issuance of the Bonds, (ii) a fiscal impact statement in the form specified in Section 15.2-4907 of the Act, and (iii) a copy of the Roanoke Authority Resolution, which constitutes the recommendation of the Roanoke Authority that the Franklin County Board approve the issuance of the Bonds; and

WHEREAS, the Franklin County Board has determined that it is necessary at this time to approve the issuance by the Roanoke Authority of not to exceed \$110,000,000 aggregate principal amount of the Bonds to promote the improvement of the health and living conditions of the people of Franklin County and the Commonwealth of Virginia, increase opportunities for gainful employment, improve health care and otherwise aid in improving the prosperity and welfare of said County and Commonwealth and its inhabitants by refinancing the hospital facilities of CMC and CFMH, respectively;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Franklin County, Virginia:

SECTION 1. The Franklin County Board hereby approves the issuance by the Roanoke Authority of the Bonds in an aggregate principal amount not to exceed \$110,000,000 for the purpose of (i) refunding all of the Bonds To Be Refunded and (ii) paying certain expenses incurred in connection with the issuance of the Bonds.

SECTION 2. The Chairman or the Vice Chairman and the Clerk or any Deputy Clerk to the Franklin County Board are hereby authorized and directed, on behalf of the County, to take any and all action necessary, including the execution of any documents, to consummate the issuance and sale of the Bonds in conformity with the provisions of this resolution.

SECTION 3. This Resolution shall take effect immediately upon its passage.

AS CERTIFIED TO FORM:

Clerk, Franklin County Board
of Supervisors

(RESOLUTION #01-08-2010)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the consent agenda items as presented above.

MOTION BY: David Cundiff

SECONDED BY: Leland Mitchell

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Thompson, Cundiff, Angell, Johnson, Thompson & Wagner

VDOT – MOUNTAIN VALLY/VALLEY ROAD/ROUTE 1453

Tony Handy, Resident Administrator, VDOT, presented the Board with the following resolution for their review and consideration:

MOUNTAIN VALLEY
VALLEY ROAD – ROUTE 1453

RESOLUTION

WHEREAS, the street(s) described on the submitted Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Franklin County, and

WHEREAS, the Area Land Use Engineer for the Virginia Department of Transportation has advised this Board the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation, and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the street(s) described on the submitted Additions Form SR-5(A) to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements, and

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage, and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

(RESOLUTION #02-08-2010)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the aforementioned resolution as presented.

MOTION BY: David Cundiff

SECONDED BY: Ronnie Thompson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Thompson, Cundiff, Angell, Johnson, Thompson & Wagner

CLEMENTS MILL BRIDGE UPDATE

Tony Handy, Resident Administrator, VDOT, stated he did not have any updates at this time.

THROUGH TRUCK RESTRICTION FOR SECONDARY ROADS

Tony Handy, Resident Administrator, VDOT, stated recently there have been several inquires regarding through truck restrictions on secondary roadways in Franklin County. The process from the County's perspective is identical to the process taken for the recent Route 116 through truck restriction request. The only difference being that for secondary roadways, the VDOT Commissioner has the approval authority, while for primary roadways the Commonwealth Transportation Board has approval authority.

In order to comply with the requirements of the Code of Virginia, the local governing body must:

1. Hold a public hearing
2. Make a formal request of the Department

The following must be adhered to:

- The public notices for the hearing must include a description of the proposed through truck restriction and the alternate route with the same termini. A copy of the notices must be provided.
- A public hearing must be held by the local governing body and a transcript of the hearing must be provided with the resolution.
- The resolution must describe the proposed through truck restriction and a description of the alternate, including termini.
- The governing body must include in the resolution that it will use its good offices for enforcement of the proposed restriction by the appropriate local law enforcement agency.

Failure to comply with the above will result in the request being returned. The CTB and the Commissioner shall act upon any such formal request within nine months of its receipt, unless good cause is shown.

I have attached the following:

- Criteria VDOT considers in review through truck restriction
- Flow chart of the process

Criteria VDOT Considers for Through Truck Restriction

VDOT considers 4 criteria. The proposed restriction must meet both the first and second criteria in order to be approved:

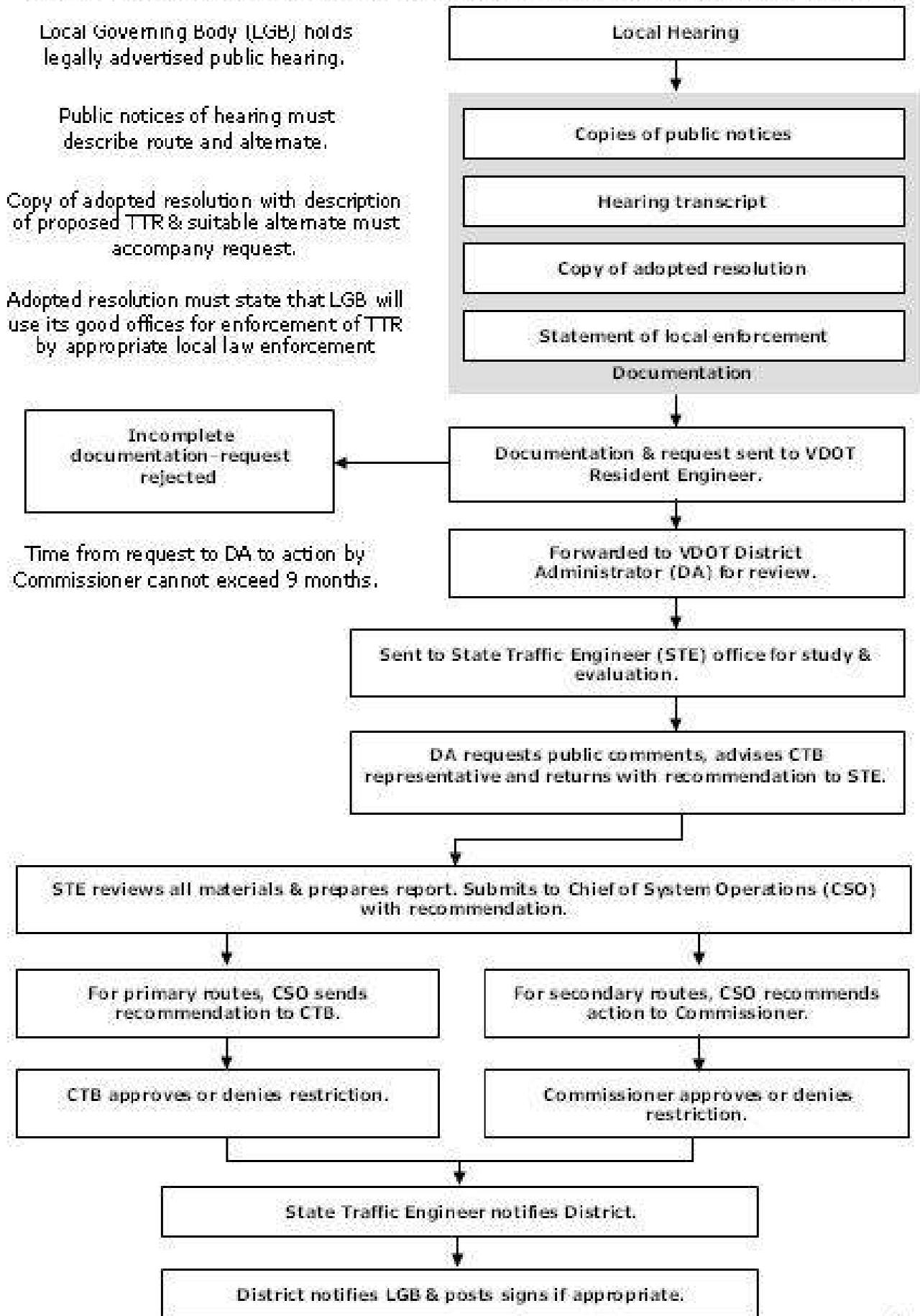
1. Reasonable alternate routing is provided.
2. The character and/or frequency of the truck traffic on the route proposed for restriction is not compatible with the affected area

In addition to meeting the first two criteria, the proposed restriction must meet either the third or the fourth criteria in order to be approved.

3. The roadway is residential in nature. Typically, the roadway will be judged to be residential if there are at least 12 dwellings combined on both sides within 150' of the existing or proposed roadway center line per 1,000 feet of roadway.
4. The roadway must be functionally classified as either a local or collector.

Failure to satisfy criteria 1 and 2, and either criteria 3 or 4 will normally result in rejection of the requested restriction.

Process to Restrict Through Trucks on Primary and Secondary Highways



Leland Mitchell, Snow Creek District Supervisor, also requested Chestnut Mountain Road to be included in the study as presented. The Board concurred with his request.

In closing, David Cundiff, Union Hall District Supervisor, thanked Mr. Handy for assisting with traffic control and road closures during the visitation and funerals for Chief Posey Dillon and Firefighter Danny Altice.

OVERVIEW OF AUGUST 31ST WORK SESSION ON DEVELOPMENT

Neil Holthouser, Director of Planning & Community Development, shared with the Board the following PowerPoint Update:

The Project

Franklin County's Land Development Ordinance Update



Franklin County is currently updating its code requirements related to land use and development ...

...also known as the **Zoning** and **Subdivision** ordinances.



Community Workshop
July 2010

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The Project

Franklin County's Land Development Ordinance Update



What is the Zoning Ordinance?

- Chapter 25 of the Franklin County Code.
- Controls how land is used, arranged, and built upon.
- Zoning was adopted by Franklin County in 1988.
- Franklin County is "split-zoned"

Applies to all or portions of 6 out of 7 Magisterial Districts.



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The Project

Franklin County's Land Development Ordinance Update



What is the Subdivision Ordinance?

- Chapter 19 of the Franklin County Code.
- Controls how land is divided or combined.
- County's first Subdivision Ordinance adopted in 1961.
- Current Subdivision Ordinance adopted in 1979.
- Applies to the whole County.

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The Project

Franklin County's Land Development Ordinance Update



Why are we updating these ordinances?

- Franklin County's **Comprehensive Plan** reflects a shared vision of how our community should grow over time.
- The Zoning & Subdivision ordinances are designed to support the Comprehensive Plan.
- Comprehensive Plan was updated by the Board of Supervisors in 2007.
- We're updating the ordinances to be consistent with the new Plan.



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The Project

Franklin County's Land Development Ordinance Update



Other ordinances related to Land Development

In addition to the Zoning and Subdivision ordinances, other aspects of the Franklin County Code are also used to guide land development.

These county-wide ordinances include:

Chapter 5:	Building Regulations
Chapter 5.5:	Community Development
Chapter 7:	Erosion and Sediment Control
Chapter 9:	Floodplain Management
Chapter 10:	Manufactured Homes and Manufactured Home Parks
Chapter 22:	Water and Sewer Systems

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The Project

Franklin County's Land Development Ordinance Update



Land Development Ordinance Update

Franklin County has retained the services of a consulting team to assist with the Land Development Ordinance Update.

The consultants include:



Roger Waldon, FAICP
Clarion Associates
Chapel Hill, NC



Chad Meadows, AICP
Clarion Associates
Chapel Hill, NC



Gregory Dale, FAICP
McBride Dale Clarion
Cincinnati, OH



Dean Stone, PE, MS
Stone Engineering
Rocky Mount, VA

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The Project

Franklin County's Land Development Ordinance Update



Land Development Ordinance Update



The consultants will work with Franklin County Planning staff to develop the project scope, gather community input, analyze trends and best practices, and make recommendations regarding improvements to the Land Development ordinances.

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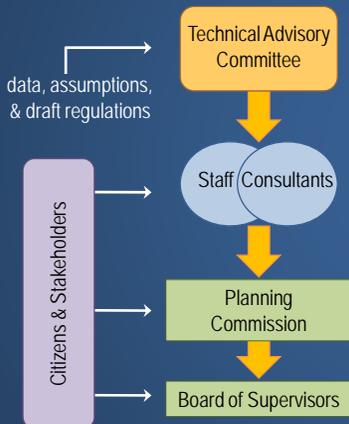
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The Project

Franklin County's Land Development Ordinance Update



The Process



To assist in the analysis of various data, assumptions, and draft code language, the Franklin County Board of Supervisors has appointed a Technical Advisory Committee, made up of local citizens representing various backgrounds and interests.

This committee will serve as a sounding board for Planning staff and the consulting team during the early stages of ordinance development.

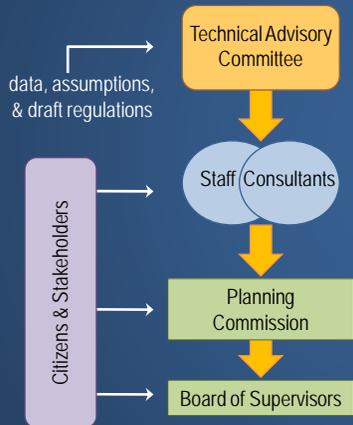
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The Project



The Process



As the project progresses, Planning Staff and the consulting team will present a draft Land Development Ordinance to the Franklin County Planning Commission for review and comment.

The Planning Commission will incorporate changes and improvements, and eventually make a recommendation to the Franklin County Board of Supervisors.





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Demand & Capacity



Did you know that:

- ➔ Franklin County's population grew at a rate of about 1% per year over the last ten years?
- ➔ This translates into an increase of about **500** new residents per year since 2000.
- ➔ The average household size in Franklin County is currently about 2.3 persons per dwelling unit.
- ➔ This means that, over the last decade, it took about **215** new homes per year to satisfy the demand for housing in Franklin County.



Questions:

Will this trend continue?

Where will these new houses go?

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Demand & Capacity



Population Projections

We examined six different projections for Franklin County's population over the next two decades. Some scenarios envision an **acceleration** of growth; others anticipate that the rate of growth will **slow down**. The Technical Advisory Committee agreed on a range of reasonable growth estimates – reflecting high, medium, and low growth scenarios for Franklin County over the next two decades.

2010 Population	Average annual growth rate over next 20 years		2030 Population (Projected)	# of new residents over next 20 years	# of new homes needed over next 20 years	average # of new homes needed per year
52,582	High	1.2 %	66,749	14,167	6,469	325
52,582	Medium	0.9 %	62,901	10,319	4,712	235
52,582	Low	0.6 %	59,265	6,683	3,052	150

Note: Average household size in year 2010 is 2.3 persons per dwelling unit
Average household size in year 2030 is 2.2 persons per dwelling unit

Demand & Capacity



Over the next 20 years:

- ➔ Franklin County's population could be as high as **66,700** if we return to a relatively high rate of growth...
- ➔ ...or as low as **59,200** if the economy is slow to recover.
- ➔ If we return to a high rate of growth, we'll need about **325** new homes per year to meet demand.
- ➔ If the economy continues to be weak, we'll need about **150** new homes per year to meet demand.



Demand & Capacity

Franklin County's Land Development Ordinance Update



Franklin County's Land Development ordinances play an important role in directing where and how future housing should be located.

The ordinances tell us how much development is **possible** or **desirable** in a given area.



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Demand & Capacity

Franklin County's Land Development Ordinance Update



Land capacity is a function of:

1. Suitability

- how much development the land can support
- how costly it is to develop

2. Desirability

- how convenient the location is
- how valuable the land is in the open market



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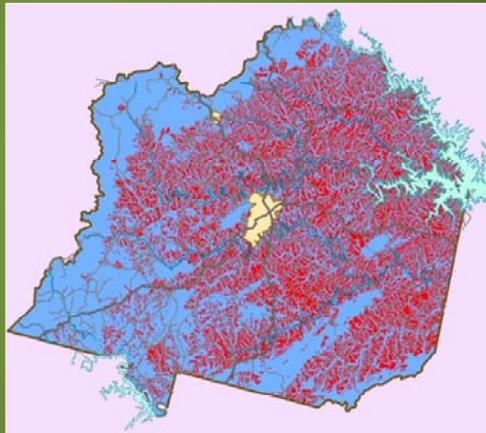


Suitability

According to the U.S. Geological Survey, soils here are rated as "somewhat limited" or "very limited" in terms of their ability to accommodate septic waste, which in turn governs the potential density of residential development.

Red areas indicate "somewhat limited" soils; blue areas are "very limited."

Septic Capacity



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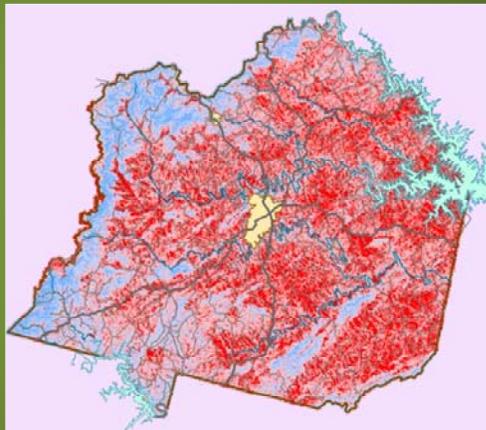


Suitability

Given Franklin County's rolling terrain, the potential density of residential development is often a function of how steep the land lays. Steeper terrain makes it difficult to install new roads, accommodate septic drain fields, and find suitable housing sites.

Red indicates relatively flat areas; blue indicates steeper slopes, which are less suitable for development.

Topography



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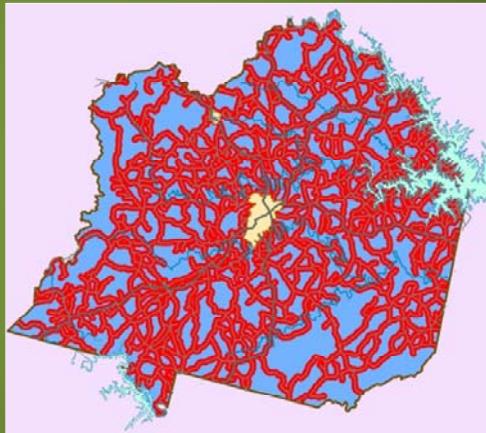


Suitability

Areas with high infrastructure costs are more expensive to develop, and can be considered less suitable.

In Franklin County, proximity to the existing network of public roads – along with associated utilities – tends to lessen infrastructure costs, thereby making land more suitable for development.

Access to Public Roads



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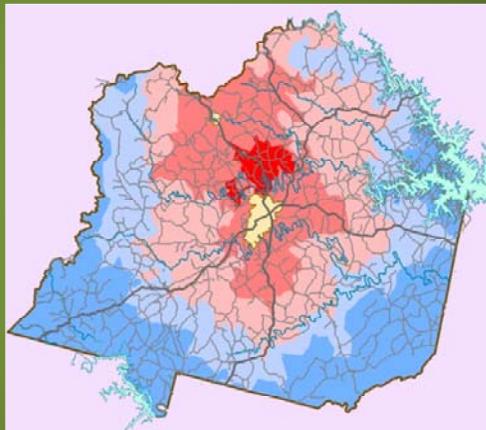
Desirability

Homebuyers often make their decisions based on proximity to where they work.

Most Franklin County residents work in Roanoke, Rocky Mount, or other businesses along the county's primary highway corridors.

Areas in red reflect relatively short commutes to the major employment centers. Areas in blue have longer commute times.

Commuting Patterns



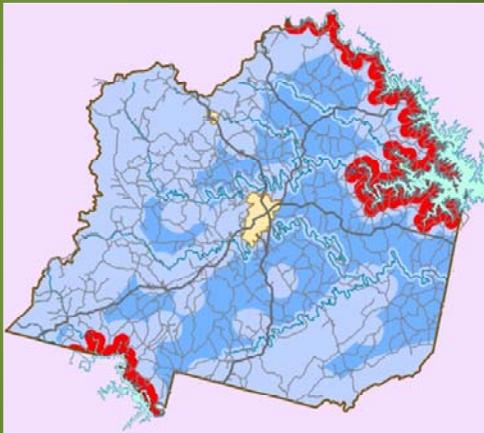
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Desirability

Many newcomers choose Franklin County for its scenic mountain beauty, rural character, and miles of waterfront shoreline. The market is willing to pay more for scarce natural advantages, particularly lake-area locations.

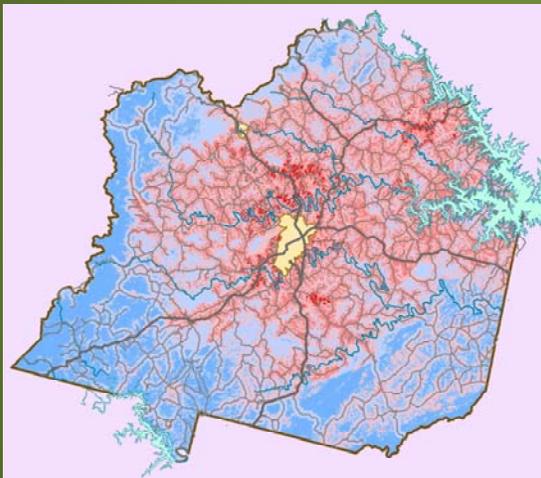
Natural Advantages



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Suitability & Desirability



Composite Score		
Residential Potential	Acreage	%
Very High	8,292	2%
High	82,108	18%
Moderate	143,021	31%
Low	144,598	32%
Very Low	77,074	17%

Taking all factors into account, about 20% of the county's land area exhibits high to very high residential growth potential.

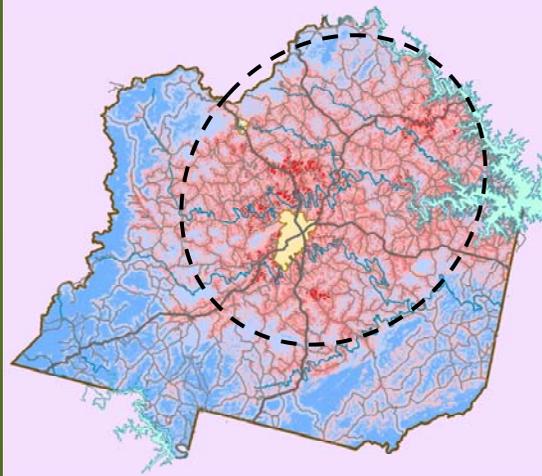
About half of the county's land area is said to have low or very low residential growth potential.

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Franklin County's Land Development Ordinance Update



Suitability & Desirability



Land Needed for Housing		
Growth Scenario	# acres needed over next 20 yrs.	# acres needed per year
High	6,500	325
Medium	4,700	235
Low	3,000	150

More than 90,000 acres are considered "prime" for residential development.

This far exceeds the amount of land that will be needed to accommodate residential growth over the next 20 years.

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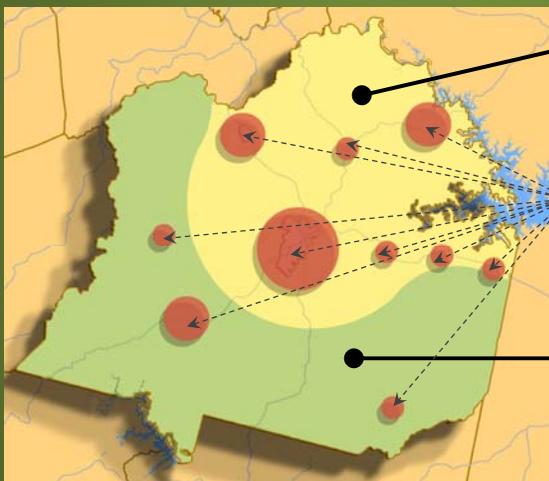
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Franklin County's Land Development Ordinance Update



Conclusions:



- Residential / Suburban**
 Although much of this area may remain agricultural or undeveloped, most of our residential growth over the next 20 years is likely to go here.
- Villages / Mixed-Use Centers**
 Most of our commercial growth and employment opportunities are likely to be found in towns, villages, and other mixed-use centers.
- Rural / Agricultural**
 While some new housing will occur, this area is likely to remain rural and agricultural with very few large-scale subdivisions.

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Demand & Capacity Franklin County's Land Development Ordinance Update 

For more information, contact:

Franklin County
 Department of Planning
 & Community Development
 120 East Court Street
 Rocky Mount, VA 24151
 Phone: (540)483-3027

Neil Holthouser, Director
 neilholthouser@franklincountyva.org
 Lisa Cooper, Senior Planner
 lisacooper@franklincountyva.org

www.franklincountyplanning.org

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 July 2010 27

Neil Holthouser, advised the Board the consultants would meet with the Board on the evening of Tuesday, August 31, 2010 meeting @ 6:00 P.M.

OTHER MATTERS BY SUPERVISORS

Russ Johnson, Gills Creek District, asked if there will be a Board Retreat. Discussion ensued with regards to circulate a questionnaire for possible topics for discussion to merit the need for conducting a retreat.

FEDERAL TAX INCOME

Russ Johnson, Gills Creek District, stated he had asked the County Attorney, prior to the meeting, if Federal monies should arrive to the County School System, in such a time the Board could reduce the tax increase, imposed during the April, 2010 meeting. Mr. Johnson stated the County Attorney advised him yes, this could be done if the locality is notified in time, prior to the printing of the tax tickets. Mr. Johnson, in closing, stated the Board, if so inclined, may revisit the adopted budget, to review possible federal monies, as received. General discussion ensued.

SOCIAL SERVICES ADDITIONAL SPACE

Richard E. Huff, II, County Administrator, stated the Andy Crawford, Director of Social Services, has inquired as to what is the next step for Social Services to take to pursue the space needs study. General discussion ensued.

Ronnie Thompson, Boone District, requested the County Administrator to provide a listing of all County owned buildings and property.

Russ Johnson, Gills Creek District, stated he would like to see a long range plan and has never been satisfied with the presentation made to the Board months ago. Mr. Johnson stated he felt the Board needed to get their arms around the numbers for square footage allocation requirements for the department. The Board stated the State will need to provide the official numbers to the Board for further study and consideration.

CLOSED MEETING
(RESOLUTION #03-08-2010)

BE IT THEREFORE RESOLVED, by the Board of Supervisors to into a closed meeting in accordance with 2.2-3711, a-1, Personnel, a-5, New Business or Industry, and a-7, Consult with Legal Counsel, of the Code of Virginia, as amended.

MOTION BY: Bobby Thompson

SECONDED BY: David Cundiff

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Thompson, Cundiff, Angell, Johnson, Thompson & Wagner

MOTION: David Cundiff
 SECOND: Leland Mitchell

RESOLUTION: #04-08-2010
MEETING DATE August 17, 2010

WHEREAS, the Franklin County Board of Supervisors has convened an closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act: and

WHEREAS, Section 2.2-3712(d) of the Code of Virginia requires a certification by this Franklin County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Franklin County Board of Supervisors.

VOTE:

AYES: Mitchell, Thompson, Cundiff, Angell, Johnson, Thompson & Wagner

NAYS: NONE

ABSENT DURING VOTE: NONE

ABSENT DURING MEETING: NONE

Chairman Wagner recessed the meeting for the previously advertise public hearings as follows:

Public Hearing was Opened.

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN pursuant to the requirements of Section 15.2-1800 of the Code of Virginia that the Franklin County Board of Supervisors will hold a public hearing to consider a proposal for leasing that real property owned by Franklin County being the former Stanley Jewelry building located at 285 South Main Street and containing approximately 900 square feet. The proposed use is for a cafe and deli. The County owns a building at 285 South Main Street (just below the Courthouse). The lower level contains approximately 900 sq. ft. and houses the Daily Grind Coffee House. The upper level is approximately 533 sq. ft. and the County extends courtesy occupancy of this area to the Virginia Division of Forestry for its local offices.

In the Spring of 1997, the County entered into the first agreement with regard to the lower level being used as a deli/café. Over the years several individuals have operated a similar operation here.

Currently David and Susan Peglar are operating under a "sub-lease" that was approved in 2006.

In reviewing records staff has discovered Mr. and Mrs. Peglar's original agreement with the County has technically expired. While they have continued to pay monthly rent in a timely manner (\$325/month) it has been determined that it will be proper and in the best interest of both parties to hold a public hearing and should the Board deem appropriate, enter into a new lease agreement for this property with David and Susan Peglar, operating as Daily Grind coffeehouse, L.L.C.

RECOMMENDATION:

Staff respectfully requests the Board's authorization to continue the lease of the property at 285 S. Main Street for the purpose of a deli/café. It is further requested by staff, for the Board to authorize the County Administrator to negotiate the terms of the lease to be in the best interest of the County.

No one spoke for or against the proposed lease.

Public Hearing was Closed.

(RESOLUTION #05-08-2010)

BE IT THEREFORE ORDAINED, by the Board of Supervisors to approve the aforementioned lease for the Daily Grind, L.L.C. and authorize the County Administrator and Attorney to negotiate and execute the necessary documents.

MOTION BY: David Cundiff

SECONDED BY: Ronnie Thompson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Thompson, Cundiff, Angell, Johnson, Thompson & Wagner

Public Hearing was Opened.

PUBLIC NOTICE

The Franklin County Board of Supervisors will hold a public hearing at approximately **6:00 P.M.**, on **Tuesday, August 17, 2010**, in the Board of Supervisors Meeting Room located in the Franklin County Government Center, Rocky Mount, Virginia to consider proposed amendment to Chapter 7 – Erosion and Sediment Control Ordinance for Franklin County. The proposed amendment would change the current ordinance as follows:

To remove the requirement for an engineered plan within 200 feet of the shoreline of Smith Mountain Lake for land disturbing activities associated with the construction or placement of a single-family dwelling unit.

No one spoke for or against the proposed move.

Neil Holthouser, Director of Planning and Community Development, stated on May 18, 2010, the Franklin County Board of Supervisors adopted revisions to Chapter 7 of the Franklin County Code, Erosion and Sediment Control Ordinance thereby requiring an engineered E & S control **plan** for all land disturbing activities greater than 3,000 square feet and located within 200 feet of the shoreline of Smith Mountain Lake, which are associated with the construction or placement of single family homes. An erosion and sediment control **permit** is required for all land disturbing activities that are greater than 3,000 square feet and located within 200 feet of any surface water, which are associated with the construction or placement of single family homes.

CONSIDERATIONS: At the May 18, 2010 Board meeting there was some discussion of the need for greater protection of the tributaries leading to Smith Mountain Lake, and whether or not an engineered erosion and sediment control **plan** should be required for land disturbing activities located within 200 feet of said tributaries. Staff has looked into possible ways to address the protection of these tributaries from siltation and has had discussions with John McCutcheon, the Virginia Department of Conservation and Recreation's Erosion and Sediment Control Program Manager, in regards to Franklin County considering alternatives to protecting Smith Mountain Lake tributaries from erosion.

Staff explained that we were requested to contact DCR to get an idea of what would be an appropriate distance up tributaries of Smith Mountain Lake to require an erosion and sediment control plan. The bulleted items are points made by Mr. McCutcheon as we consider various alternatives:

- It is an unusual prerequisite in determining whether or not a permit or plan should be required based upon the distance from a body of water and certain distance upstream along its tributaries. Mr. McCutcheon is not aware of any other localities that take this approach.
- Most localities that consider protection of water resources adopt the standards established for MS-4 localities and localities within the Chesapeake Bay Protection Area, which simply establishes a threshold for land disturbance within a certain distance of a defined area. This is similar to the way our current ordinance reads, wherein we utilize 3,000 square feet disturbed and a distance of 200 feet. The difference in our ordinance is that we utilize this standard to establish thresholds for both permits and plans as related to the construction of single family homes. The MS-4 localities and localities in the Chesapeake Bay Protection Area do not require plans for the construction of single family homes within its protection areas, only permits. Secondly, the threshold established in these localities requires a permit (plan if it is land disturbance related to non-residential) for land disturbance of 2,500 square feet or greater and the area of land disturbance is within 100 (or as close as 50) feet of the protected water resource. *Mr. McCutcheon stated that in most instances 50 feet is an adequate buffer.

*Please note that in Franklin County the amount of disturbance threshold is higher (3,000 sq. feet vs. 2,500 sq. feet); however we require land disturbance within a greater distance from water be subject to the greater restrictions (200 feet away vs. 100 feet away).

- There is no scientific way to determine how far upstream from the Shoreline of Smith Mountain Lake along its tributaries to require a plan. It would be very difficult to scientifically justify requiring a plan for disturbance within ½ mile vs 1 mile vs 2 miles or even 5 miles.
- The distance that sediment will travel is based upon the composition of that sediment. For example, fine clays will run as far as they can go without an impediment. The clays have a small volume and mass, but will make cloudy water over a long distance. On the other hand, sandy soils will tend to settle fairly quickly. An example-If I take a bottle of water and add clay to it, shake the bottle up, and set it on the end of my desk; it will still be cloudy

several weeks later. If I take a bottle of water and add sandy soils to it, shake the bottle up, and set it on the end of my desk; it will clear up within a couple of hours.

- Even though there is no real scientific way to determine the appropriate distance upstream from Smith Mountain Lake, Mr. McCutcheon suggested the farther the better. He did note that within the Chesapeake Bay Protection Area, all tributaries were subject to the greater restriction; but that only requires a permit.
- Mr. McCutcheon suggested that the best protection of Smith Mountain Lake, and all other surface water, is through better inspection and enforcement. He stated that the most widely ignored, but most highly beneficial practice is temporary stabilization. Even with a regular inspection frequency, of once every two weeks, it is difficult to monitor what damage may occur on a given site. However, greater attention to dates when sites have been denuded and stricter adherence to requiring temporary stabilization will significantly help in preventing erosion and sedimentation of these resources, and ultimately how much sediment ends up in Smith Mountain Lake.

At the July 20, 2010 Board of Supervisors meeting, Mr. Russ Johnson, Gills Creek District Supervisor requested the Board further discuss and reconsider the topic of requiring an engineered erosion and sediment control **plan** for all land disturbing activities greater than 3,000 square feet and located within 200 feet of the shoreline of Smith Mountain Lake, which are associated with the construction or placement of single family homes. The Board voted to conduct a public hearing at its August 17, 2010 meeting to consider revising Chapter 7 to eliminate the engineered **plan** requirements as were outlined in the draft ordinance presented at the July 20, 2010 meeting.

RECOMMENDATION: Staff has properly advertised for the Board of Supervisors to hold public hearing on August 17, 2010, to consider revisions to Chapter 7 of the County Code. **Staff recommends the Board eliminate the requirement for an engineered erosion and sediment control plan for all land disturbing activities greater than 3,000 square feet and located within 200 feet of the shoreline of Smith Mountain Lake, which are associated with the construction or placement of single family homes. This revision would result in the removal of Section 7-17 (2c)- “The area of land disturbance is located more than 200 feet from the shoreline of Smith Mountain Lake.”**

CHAPTER 7

EROSION AND SEDIMENT CONTROL

Article I. In General

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Article II. Erosion and Sediment Control Plan for A Land-Disturbing Activity

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Article III. Alternative Inspection Program

ARTICLE I. IN GENERAL

Sec. 7-1. Title of chapter.

This chapter shall be known as the "Erosion and Sediment Control Ordinance of Franklin County, Virginia."
(Ord. of 5-19-1998)

Sec. 7-2. Local control program established.

There is hereby established a local erosion and sediment control program for the effective control of soil erosion, sediment deposition and nonagricultural runoff which must be met to prevent the degradation of properties, stream channels, waters and other natural resources. Franklin County hereby adopts this chapter, regulations promulgated by the Virginia Soil and Water Conservation Board pursuant to section 10.1-562 of the Code of Virginia, and the "Virginia Erosion and Sediment Control Handbook" as currently in effect and amended from time to time.
(Ord. of 5-19-1998)

Sec. 7-3. Definitions.

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Administrator or program administrator. The representative of the board of supervisors (the program authority) who has been appointed to serve as the agent of the board in administering this chapter.

Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, authorizing land-disturbing activities to commence.

Board. The Virginia Soil and Water Conservation Board.

Certified inspector. An employee or agent of Franklin County who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer. An employee or agent of Franklin County who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.

Certified program administrator. An employee or agent of Franklin County who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one (1) year after enrollment.

Clearing. Any activity which removes the vegetative ground cover including, but not limited to, root mat removal and/or topsoil removal.

County. The County of Franklin.

Denuded. A term applied to land that has been physically disturbed and no longer supports adequate vegetative cover.

Department. The department of conservation and recreation.

District or soil and water conservation district. The Blue Ridge Soil and Water Conservation District, a political subdivision of this Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of chapter 5 of title 10.1.

Erosion and sediment control plan. A document containing material for the conservation of soil and water resources of a unit or units of land. It may include appropriate maps, and appropriate soil and water plan inventory and management information, with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives. All erosion and sediment control plans must be prepared by a professional engineer, certified landscape architect, or licensed surveyor.

Erosion and sediment control agreement. A contract between the program administrator and the owner which specifies conservation measures which must be implemented in the construction or location of a single-family residence. (See Sec. 7-17 and Sec. 7-18)

Erosion impact area. An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to shorelines where the erosion results from wave action or other coastal processes.

Excavating. Any digging, scooping or other method of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Grading. Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Land-disturbing activity. Any disturbance of land which may result in soil erosion from water or wind and the movement of sediment into water or onto land, including, but not limited to, clearing, grading, excavating, transporting and filling of land other than federal land, except that the term shall not include the following:

- (1) Minor activities such as home gardens and individual home landscaping, repairs and maintenance work.
- (2) Individual utility service connections.
- (3) Installation, repair and maintenance of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced.
- (4) Septic tank lines or drain fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system.
- (5) Surface or deep mining.
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines and off site disposal areas.
- (7) Tilling, planting, or harvesting of agricultural horticultural, or forest crops, or livestock feedlot operations; including agricultural engineering operations as follows; construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (section 10.1-604 et seq.) of Chapter 6 of this title, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally, or is converted to bona fide agricultural or improved pasture use.
- (8) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.
- (9) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.
- (10) Emergency work to protect life, limb or property and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment

control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

Land-disturbing permit. A permit issued by the county authorizing the applicant to undertake a land-disturbing activity in accordance with the provisions of the county erosion and sediment control program.

Local erosion and sediment control program or local program. An outline or explanation of the various elements or methods employed by the county to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permittee. The person to whom the permit authorizing the land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

Plan approving authority. The department of planning and community development of Franklin County.

Post-development. Conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Predevelopment. Conditions at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish pre-development conditions.

Program authority. Franklin County, Virginia.

Responsible land disturber. An individual from the project or development team who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved erosion and sediment control plan or an erosion and sediment control agreement, who (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (section 54.1-400 et seq.) of Chapter 4 of Title 54.1.

Single-family residence. A noncommercial dwelling unit that is occupied exclusively by one family.

Stabilized. An area that can be expected to withstand normal exposure to atmospheric conditions without incurring erosion damage.

State erosion and sediment control program or state program. The program administered by the Virginia Soil and Water Conservation Board pursuant to the state code including regulations designed to minimize erosion and sedimentation.

State waters. All waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdiction.

Surface water. All water at or above the land's surface including, but not limited to springs, streams, rivers, lakes, ponds, wetlands, and artificially created waterbodies.

Town. An incorporated town.

Transporting. Any movement of earth material from one place to another, when such movement results in destroying the vegetative cover, either by tracking or the buildup of earth materials, to the extent that erosion and sedimentation will result from the area over which such transporting occurs.

(Ord. of 5-19-1998; Ord. of 9-26-2006)

Sec. 7-4. Purpose of chapter.

The purpose of this chapter is to conserve the land, water, air and other natural resources of Franklin County and the State of Virginia and to promote the health, welfare and convenience of county residents by establishing requirements for the control of erosion and sedimentation and by establishing procedures by which these requirements can be administered and enforced.

(Ord. of 5-19-1998)

Sec. 7-5. Authority for chapter.

This chapter is authorized by the 1950 Code of Virginia, as amended, title 10.1, chapter 5, article 4 (section 10.1-560 et seq.), known as the "Erosion and Sediment Control Law." Such law provides for a comprehensive statewide program, with standards and guidelines to control erosion and sedimentation, which is implemented on a local level.

(Ord. of 5-19-1998)

Sec. 7-6. Applicability to Boones Mill.

This chapter shall apply to any land-disturbing activity in the incorporated town of Boones Mill.

(Ord. of 9-26-2006)

Sec. 7-7. Appeals from decisions under chapter.

(a) Final decisions of the program administrator under this chapter shall be subject to review by the Franklin County Board of Supervisors, provided an appeal is filed within thirty (30) days from any written decision by the program administrator which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(b) Final decisions of the board of supervisors under this chapter shall be subject to review by Circuit Court of Franklin County, provided an appeal is filed within thirty (30) days from the date of any written decision by the Franklin County Board of Supervisors which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(Ord. of 9-26-2006)

Sec. 7-8. Violations of chapter--Penalty, injunctive relief, civil relief.

(a) A violation of any provision of this chapter shall be deemed a Class 1 misdemeanor.

(b) The county, district, or board may apply to the Circuit Court of Franklin County for injunctive relief to enjoin a violation or a threatened violation of the chapter, without the necessity of showing that there does not exist an adequate remedy at law. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation.

(c) Civil penalties:

(1) A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offenses:

a. Commencement of a land-disturbing activity without an approved land disturbing permit as provided in section 7-11 shall be up to one thousand dollars (\$1,000.00)/day.

b. Failure to comply with the vegetative measures, structural measures, watercourse

measures or underground utility measures of the minimum standards found in the Virginia Erosion and Sediment Control Handbook shall be up to one hundred dollars (\$100.00)/violation/day.

- c. Failure to obey a stop work order shall be up to one hundred dollars (\$100.00)/day.
- d. Failure to stop work when a permit is revoked shall be up to one thousand dollars(\$1,000.00)/day.

- (2) Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00), except that a series of violations arising from commencement of land-disturbing activities without an approved erosion and sediment control plan or an approved erosion and sediment control agreement for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00). The assessment of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a) of this section.

(d) Any civil penalties assessed by the court shall be paid into the treasury of Franklin County, except that where the violator is the county itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(e) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the program administrator, or any condition of a permit or any provision of this chapter, the administrator may provide, in an order issued by the program administrator against such persons, for the payment of civil charges for violations in specific sums not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be in lieu of any appropriate civil penalty which could be imposed under subsection (c) or (e).

(f) Except when land disturbance requiring a permit has begun without a permit, or when in the opinion of the administrator, conditions pose an imminent danger to life, limb, property or to the waters of the commonwealth, this article shall be enforced in the following steps:

- (1) Issue a field correction notice listing the violations noted during inspection and the required corrective action.
- (2) Send a correction letter when follow-up inspection reveals that the violations cited in the field correction notice have not been corrected.
- (3) Send a notice to comply by certified mail, return receipt required, identifying the violations noted in the correction letter which have not yet been corrected and allowing ten (10) days after the receipt of the notice for the implementation of the corrective actions.
- (4) Issue a stop work order by certified mail, return receipt required, requiring that all work on the site should be stopped until the corrective measures noted in the notice to comply are implemented. A maximum period of seven (7) days after the receipt of the order shall be allowed to correct the violations. In addition, the land-disturbing permit may be revoked during this period until the corrective actions are taken. Should this permit be revoked, all construction work on the site shall be stopped. Upon the completion of the corrective actions, the stop work order is rescinded and the permit is reinstated.
- (5) Imposition of criminal or civil penalties. Either, but not both, of these penalties may be imposed if the seven-day period in the stop work order passes without the implementation of necessary corrective actions. The time frame for computing the number of days in violation shall not begin until the seven (7) days allowed for corrective action has expired unless work was not stopped as ordered.

- (6) (Ord. of 5-19-1998)

Sec. 7-9. Enforcement of chapter by legal action.

The county attorney and/or commonwealth's attorney shall, upon request of the program authority, take legal actions to enforce the provisions of this chapter.
(Ord. of 5-19-1998)

Sec. 7-10. Effect of compliance with chapter in proceedings for damages.

Compliance with the provisions of this chapter shall be prima facie evidence, in any legal or equitable proceeding for damages caused by erosion, or sedimentation, that all requirements of law have been met and the complainant must show negligence in order to recover any damages.
(Ord. of 5-19-1998)

Sec. 7-11. Permit required for land-disturbing activities.

1. Except as otherwise provided in this chapter, no land-disturbing activity shall commence prior to the issuance of a land-disturbing permit by the program authority.
2. A land-disturbing permit is required if:
 - (a) The area of land disturbance is 10,000 square feet or greater; or
 - (b) The area of land disturbance is 3,000 square feet or greater, and the area of land disturbance is located within 200 feet of any surface water.
3. A land-disturbing permit is not required if:
 - (a) The area of land disturbance is less than 10,000 square feet, and such area is located more than 200 feet from any surface water; or
 - (b) The area of land disturbance is less than 3,000 square feet, and such area is located within 200 feet of any surface water.

(Ord. of 5-19-1998, Ord. of 5-18- 2010)

Sec. 7-12. Erosion impact areas.

In order to prevent further erosion, the program administrator may identify any land, whether or not disturbed by the building process, as an erosion impact area and require an approved erosion and sediment control plan.
(Ord. of 5-19-1998)

Sec. 7-13. Shoreline protection required.

Notwithstanding any other provision of this chapter, any person who conducts land-disturbing activities, any part of which is within two hundred (200) feet of frontage along state waters must obtain a land-disturbing permit and must, as a requirement of the land-disturbing permit, install and maintain appropriate shoreline protective measures which, as a minimum, shall protect the land area from erosion caused by wave action, water level fluctuation or other water movement, and shall also protect the water from siltation resulting from erosion of the shoreline, subject to the approval of American Electric Power and the U.S. Army Corps of Engineers.

A method of shoreline protection shall be proposed by the property owner or agent of the owner and shall be approved by the county based upon factors such as location of the property (i.e., main channel vs. cove), topography, existing natural protection such as rock, stable vegetation, etc., and other factors as deemed pertinent. Installation of riprap shall be according to standards set out in this chapter in subsection 7-19(b) below.

It shall be the responsibility of the owner to consult with the U.S. Army Corps of Engineers for any requirements of that agency.
(Ord. of 5-19-1998)

Sec. 7-14. Inspection of land-disturbing activities.

(a) The program administrator shall provide for periodic inspections of land-disturbing activity either through the district or through county personnel. The district may inspect, monitor and make reports to the county, but enforcement shall be the responsibility of the program administrator. The program administrator may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan or erosion and sediment control agreement to insure compliance with the approved erosion and sediment control plan or

erosion and sediment control agreement, and to determine whether the measures required in the erosion and sediment control plan or erosion and sediment control agreement are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspectors. Inspections shall be performed in accordance with the Virginia Soil and Water Conservation Board's approved Alternative Inspection Program (AIP) for Franklin County, approved February 1, 2008.

(b) If the program administrator determines that there is a failure to comply with the erosion and sediment plan or erosion and sediment control agreement, notice shall be served upon the permittee or person responsible for carrying out the erosion and sediment control plan or erosion and sediment control agreement by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery, to the site of the land-disturbing activities, to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the erosion and sediment control plan or erosion and sediment control agreement and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the erosion and sediment control plan or erosion and sediment control agreement shall be deemed to be in violation of this chapter, and upon conviction shall be subject to the penalties provided herein.

(c) Upon receipt of a sworn complaint of a substantial violation of this chapter from a designated inspector of the county or the district, the program administrator may, in conjunction with or subsequent to a notice to comply as specified in subsection (b) above, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken, or, if land-disturbing activities have commenced without an approved erosion and sediment control plan or erosion and sediment control agreement, requiring that all of the land-disturbing activities be stopped until an approved erosion and sediment control plan, erosion and sediment control agreement, or any required permits are obtained. Where the alleged noncompliance is causing, or is in imminent danger of causing, harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, or where the land-disturbing activities have commenced without an approved erosion and sediment control plan, or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply order. The order shall be served in the same manner as a notice to comply and shall remain in effect for seven (7) days from the date of service, pending application by the enforcing authority or alleged violator for appropriate relief to the Circuit Court of Franklin County. Within seven (7) days from the service of the order, it shall be the responsibility of the owner to retain the services of a plan preparer to prepare and submit the required erosion and sediment control plan, and notify the program administrator that a plan preparer has been retained. Within this seven (7) day period temporary corrective measures shall be installed to prevent harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth. Such temporary corrective measures shall be maintained until an approved erosion and sediment control plan and any required permits have been obtained. If the alleged violator has not obtained a plan preparer and/or installed the necessary temporary corrective measures within seven (7) days from the date of service of the order, the program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of an order to the Circuit Court of Franklin County. Any person violating or failing, neglecting or refusing to obey an order issued by the program administrator may be compelled in a proceeding instituted in the Circuit Court of Franklin County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved erosion and sediment control plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the program administrator from taking any other action specified in section 7-8.

The required erosion and sediment control plan shall be submitted within (30) thirty days from the date of service of the order, unless otherwise agreed to by the program administrator. If the alleged violator has not submitted the required erosion and sediment control plan within the time period authorized by the program administrator, the program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or

certified mail to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of an order to the Circuit Court of Franklin County. Any person violating or failing, neglecting or refusing to obey an order issued by the program administrator may be compelled in a proceeding instituted in the Circuit Court of Franklin County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved erosion and sediment control plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the program administrator from taking any other action specified in section 7-8.(Ord. of 9-26-2006, Ord. of 5-18-2010)

Sec. 7-15. Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereto. The Franklin County Board of Supervisors hereby declares that it would have enacted this chapter and each section, subsection, sentence, clause, and phrases hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid, or unconstitutional.

(Ord. of 5-19-1998)

Sec. 7-16. Reserved

ARTICLE II. EROSION AND SEDIMENT CONTROL PLAN FOR A LAND-DISTURBING ACTIVITY

Sec. 7-17 Erosion and sediment control plan required.

1. Except as otherwise provided in this chapter, no permit for land disturbing activity shall be issued without an approved erosion and sediment control plan.
2. An erosion and sediment control agreement may be substituted for an erosion and sediment control plan, under the following conditions:
 - a) The land disturbing activity is associated with the construction or location of a single-family residence; and
 - b) The area of land disturbance is less than one (1) acre;

Sec. 7-18 Performance bond for land disturbing activities.

1. Except as otherwise provided in this chapter, no permit for land disturbing activity shall be issued without the submittal and acceptance of reasonable performance bond to secure the required erosion and sediment control measures. Such bond may take the form of surety, cash escrow, letter of credit, any combination thereof, or such legal arrangement acceptable to the program administrator. Such bond shall be held by the program authority. In the event that the applicant fails to initiate or maintain appropriate conservation actions which may be required of him by the approved erosion and sediment control plan, the county may utilize said bond to implement the appropriate conservation actions.

If the county takes such conservation action upon failure by the applicant or owner, the county may collect from the applicant or owner for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty (60) days of the achievement of adequate stabilization of the land-disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement or the unexpended or unobligated portion thereof, shall be refunded to the applicant or owner or terminated. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

2. For land disturbing activities that are associated with the construction or location of a single-family residence, an erosion and sediment control agreement may be substituted for a performance bond to secure the required erosion and sediment control measures. In cases where an erosion and sediment control plan is required, the erosion and sediment control agreement shall include the following:
 - a) The title of the erosion and sediment control plan;

- b) The name of the plan preparer;
- c) The date the plan was prepared;
- d) The name and license number of the responsible land disturber; and
- e) The signature of the property owner.

(Ord. of 5-18-2010)

Sec. 7-19. Submission and approval requirements.

(a) Except as otherwise specifically provided, no person shall engage in any land-disturbing activity until an erosion and sediment control plan has been submitted and approved by the county, and a permit has been issued by the program administrator.

(b) Any person whose land-disturbing activity involves lands which extend into the jurisdiction of another local erosion and sediment control program may submit an erosion and sediment control plan to the board for review and approval, rather than submission to each jurisdiction concerned. Such person shall comply with section 7-12 of this chapter. In such events, the applicant shall obtain permits for the land-disturbing activity from each jurisdiction.

(c) No grading, land-disturbing activity, building or other permit shall be issued by the county for any work which involves land-disturbing activity for which permit is required unless the applicant submits with his application an erosion and sediment control plan for approval, and certifies, after approval, that the erosion and sediment control plan will be followed.

(d) Where the land-disturbing activity results from the construction or location of a single-family residence, an erosion and sediment control agreement may be substituted for an erosion and sediment control plan if executed by the plan approving authority.

(e) Prior to the issuance of any permit for land disturbing activity, the person responsible for carrying out the erosion and sediment control plan shall provide the name of the responsible land disturber who will be in charge of and responsible for the projects land disturbance.

(f) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comments. The specifications shall apply to:

- (1) Construction, installation or maintenance of electric, natural gas and telephone utility lines and pipelines; and;
- (2) Construction of the tracks, rights of way, bridges, communication facilities and other related structures and facilities of the railroad company.

(g) State agency projects are exempt from the provisions of this chapter.
(Ord. of 5-19-1998; Ord. of 7-18-2006)

Sec. 7-20. Standards to be used in preparation and consideration.

(a) The Virginia Erosion and Sediment Control Handbook and Virginia Erosion and Sediment Control Regulations shall be available at the program administrators office and shall be used in preparing the erosion and sediment control plan required by this article. The county, in considering the adequacy of such erosion and sediment control plan, shall be guided by the standards set out in the handbook and regulations.

(b) Shoreline rip-rap shall be installed according to the following specifications, subject to approval under American Electric Power's Smith Mountain Lake Shoreline Management Plan:

- (1) Materials and design as part of an engineered plan, based on standards in the handbook and VDOT manual and approved by the county; or,
- (2) In the case of separate individual residential lots involving five hundred (500) feet or less of shoreline, the following minimum materials and design standards may be used:
 - a. Stone--Class B erosion stone, VDOT Class I, or equivalent

- b. Plastic filter cloth--Exxon GTF-400 Geotextile or equivalent.
 - c. Temporary and permanent seeding, fertilization, and mulching rates as specified by the Virginia Erosion and Sediment Control Handbook.
 - d. Maximum slope ratio for riprap area--2.5 to 1.
 - e. Minimum vertical face height--Thirty-six (36) inches above full pond level (795-foot contour) or to the prevailing cut line.
 - f. Terrace width (if needed at top of rip rap slope) shall have a minimum width of twelve (12) feet.
 - g. Terrace back slope ratio--Maximum 2:1.
 - h. Minimum thickness of rip rap layer--Twelve (12) inches.
- (3) All installation of materials shall be according to the VESC Handbook and manufacturers specifications.

(Ord. of 5-19-1998)

Sec. 7-21. Responsibility of property owner when work to be done by a contractor.

Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

(Ord. of 5-19-1998)

Sec. 7-22. Approval or disapproval.

(a) Upon receipt of an erosion and sediment control plan submitted under this chapter, together with the required fees, the program administrator shall act on such erosion and sediment control plan within forty-five (45) days, by either approving the erosion and sediment control plan in writing or by disapproving the erosion and sediment control plan in writing and giving specific reasons for disapproval. The program administrator shall approve the erosion and sediment control plan if the erosion and sediment control plan meets the conservation standards of the county E&S program and if the person responsible for carrying out the erosion and sediment control plan certifies that he will properly perform the erosion and sediment control measures included in the erosion and sediment control plan and will comply with all provisions of this chapter. If a temporary sediment basin, a permanent stormwater detention basin or any other permanent feature is a part of the approved erosion and sediment control plan, this same person must designate, in writing the person who will be liable for necessary long-term maintenance on these structures.

(b) If a erosion and sediment control plan is disapproved, the program administrator shall specify such modifications, terms and conditions as will permit approval of the erosion and sediment control plan and shall communicate such requirements to the permit issuing authority.

(c) If no action is taken by the plan approving authority within the time specified in subsection (a) above, the erosion and sediment control plan shall be deemed approved and the program administrator shall issue the land-disturbing permit.

(d) If action is taken by the plan approving authority within the time specified in subsection (a) above, and the erosion and sediment control plan is deemed disapproved, the applicant must resubmit within six (6) months following the date of disapproval, or the erosion and sediment control plan shall be deemed abandoned. If an erosion and sediment control plan is deemed abandoned, the applicant may resubmit the erosion and sediment control plan after the six (6) month period, however, the following shall apply:

- (1) The erosion and sediment control plan will be subject to a new review and all applicable fees must be paid.
- (2) The erosion and sediment control plan will be reviewed under the current Department of Conservation and Recreation regulations in place at the time of resubmittal.

(e) Should a land disturbing activity not begin within eighteen (18) months following erosion and sediment control plan approval, or after the erosion and sediment control plan is

ready for approval but the plan approval authority has not received the required performance bond, the plan approval authority may evaluate the existing approved erosion and sediment control plan to determine whether the erosion and sediment control plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. Should the plan approval authority determine the erosion and sediment control plan is no longer valid, the erosion and sediment control plan shall be deemed abandoned. If an erosion and sediment control plan is deemed abandoned, the following shall apply:

- (1) The erosion and sediment control plan will be subject to a new review and all applicable fees must be paid.
- (2) The erosion and sediment control plan will be reviewed under the current Department of Conservation and Recreation regulations in place at the time of resubmittal.

(f) Should a land disturbing activity cease for more than 180 days, the plan approval authority may evaluate the existing approved erosion and sediment control plan to determine whether the erosion and sediment control plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. Should the plan approval authority determine the erosion and sediment control plan is no longer valid, the erosion and sediment control plan shall be deemed abandoned. If an erosion and sediment control plan is deemed abandoned, the following shall apply:

- (1) The erosion and sediment control plan will be subject to a new review and all applicable fees must be paid.
- (2) The erosion and sediment control plan will be reviewed under the current Department of Conservation and Recreation regulations in place at the time of resubmittal.

(Ord. of 5-19-1998, Ord. of 5-18-2010)

Sec. 7-23. Changing an approved erosion and sediment control plan.

An erosion and sediment control plan that has been approved under this article may be changed by the program administrator in the following cases:

- (1) Where inspection has revealed that the erosion and sediment control plan is inadequate to satisfy applicable regulations.
- (2) Where the person responsible for carrying out the approved erosion and sediment control plan finds that because of changed circumstances or for other reasons the erosion and sediment control plan cannot be effectively carried out, and proposed amendments, consistent with the requirements of this chapter, are agreed to by the program administrator and the person responsible for carrying out the plan.

(Ord. of 5-19-1998)

Sec. 7-24. Review fee.

A plan review fee shall be paid to the county at the time of filing an erosion and sediment control plan under this article and prior to issuance of a land-disturbing permit or erosion and sediment control agreement. The maximum fee for any land-disturbing permit, regardless of acreage, shall be three thousand dollars (\$3,000.00). The fee shall be payable to the Treasurer of Franklin County in the amount required by a fee schedule adopted by the board of supervisors.

(Ord. of 5-19-1998; Ord. of 7-18-2006)**Cross references:** Section 27-1, Fee Schedule. **ARTICLE III. ALTERNATIVE INSPECTION PROGRAM**

PURPOSE: The alternative inspection program described herein for the County of Franklin is designed to provide the oversight of urban land-disturbing activities by effectively utilizing local staff to meet specific urbanization trends while addressing specific environmental conditions within the locality.

AUTHORIZATION: 10.1-566 of Title 10.1 Chapter 5, Article 4 of the Code of Virginia and 4VAC50-30-60 of the Erosion and Sediment Control Regulations.

POLICY: To most effectively utilize local staff and protect the resources of the County of Franklin and the Commonwealth, the County of Franklin will implement an alternative inspection program based on a system of priorities. The system of priorities will be based upon the amount of

disturbed project area, site conditions, stages of construction, and site conditions noted on previous inspections.

IMPLEMENTATION:

1. The erosion and offsite environmental impact potential of regulated projects shall be determined by an evaluation of the topography soil characteristics, acreage disturbed, proximity to water resources, and proximity to adjacent property lines.
2. After plan review and a site visit, the plan reviewer and the program administrator will assign a classification number to the project.
3. Classification numbers will be assigned to projects which address site specific erosion potential and offsite environmental impact. These classification numbers will be used to determine the frequency of inspections. The classification numbers will range from one to three, one (1) requiring a less frequent inspection schedule and three (3) requiring a more frequent inspection schedule.
4. The classification of a project may be adjusted to a higher or lower classification by the program administrator based upon complaints, violations, inspections, and stages of construction.
5. The classification number shall be included on the approved plan, written on the file folder, written on the building permit application, and made a part of the project database.

BASIS FOR CLASSIFICATION: Project classifications shall be assigned to projects based on a preliminary site visit, plan review, and utilizing the Tabular Rating System:

CLASS 1 Projects typically with total acres disturbed under two acres; greater than (LOW) 150 foot buffer between disturbed area and any property lines, water resources, or public streets; slopes are 0-7 percent and less than or equal to 300 feet; weighted soil K-factor is less than .23 within the limits of disturbance.

CLASS 2 Projects typically with total acres disturbed under two acres; disturbed (MED) area is 50 feet to 150 feet from any property lines, water resources, or public streets; slopes are 7-15 percent and less than or equal to 150 feet; weighted soil K-factor is between .23 and .36 within the limits of disturbance.

CLASS 3 Projects typically with total acres disturbed over two acres; disturbed (HIGH) area is less than 50 feet from any property lines, water resources, or public streets; slopes are greater than 15 percent and less than or equal to 75 feet; weighted soil K-factor is greater than .36 within the limits of disturbance.

FREQUENCY OF INSPECTIONS:

1. All permitted land-disturbing activities will be inspected at a minimum frequency according to the following schedule:

CLASS 1	At the beginning and completion of the project and every eight weeks.
CLASS 2	At the beginning and completion of the project and at least every five weeks.
CLASS 3	At the beginning and completion of the project and at least every two weeks.
2. All inspections will be documented on an inspection log maintained as a part of each project file. Project owners will receive copies of inspection reports with noted violations.
3. Inspection return frequency is not limited to the above schedule and will increase in frequency due to runoff producing storm events or documented violations.

(Ord. of 5-18-2010)

TABULAR RATING SYSTEM – EROSION AND SEDIMENT CONTROL

FRANKLIN COUNTY, VIRGINIA

<u>TOTAL DISTURBED ACREAGE</u>	<u>CHECK</u>	<u>RATING</u>	<u>DISTANCE TO WATERCOURSE</u>	<u>CHECK</u>	<u>RATING</u>
Less than ½ acre		0	0-50 feet		5
½ acre to one acre		3	50-100 feet		3
1 to 2 acres		5	150-300 feet		1
>2 acres- Must inspect every two weeks (High Priority)			Greater than 300 feet		0
Soil Erodibility (base on K-Factor)			Distance—Downstream Adjacent Property		
Low (0.23 and lower)		1	Less than 50 feet		5
Moderate (0.24 - .036)		3	50 feet to 150 feet		3
High (.037 and higher)		5	Greater than 150 feet		1
Buffer Vegetation Condition			Width of Buffer		
Very Good (Dense, grass, hayfield)		0	0-50 feet		5
Good (Avg. grass, forest good pasture)		1	50-150 feet		3
Fair (poor grass, fair pasture)		3	150-300 feet		1
Poor (Bare soil, pavement)		5	Greater than 300 feet		0
Critical Slope			Crossing Water Course		
Does the slope meet or exceed the following criteria			Yes—inspect every two weeks (High Priority)		
Grade of slope—0-7%, slope length>300 feet OR			No		0
Grade of slope—7-15%, slope length>150 feet OR					
Grade of slope—15%, slope length>75 feet					
If yes to any of these slope conditions ___ Rating <u>3</u> If no, rating 0					

OVERALL RATING FREQUENCY

INSPECTION

RETURN

(TOTAL OF THE ABOVE CATEGORIES)

If _____ is 26-33 then _____ Once every two (2) weeks
 If _____ is 20-26 then _____ Once every five (5) weeks
 If _____ is 13-19 then _____ Once every eight (8) weeks
 If _____ is 12 or less then _____ Frequency based on criteria below

Note: Inspection return frequency is not limited to the above schedule and will increase in frequency due to run-off producing storm events or documented violations. Also, an inspection will be performed at the beginning and completion of all projects, regardless of rating.

Project Name: _____ Approved By: _____ Date: _____

Public Hearing was Open.

Larry Iceman, President, Smith Mountain Lake Association, urged the Board to repeal the proposed amendment to Chapter 7 – Erosion and Sediment Control Ordinance, as advertised.

Bill Brush, urged the Board to adopt as advertised.

Public Hearing was Closed.

(RESOLUTION #06-08-2010)

NOW THEREFORE BE IT ORDAINED, by the Board of Supervisors to approve the proposed ordinance amendment, as advertised, and that the public purpose is public necessity, convenience, general welfare, or good zoning practice and in accord with the requirements of Section 25-638 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended.

MOTION BY: Russ Johnson

SECONDED BY: Ronnie Thompson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Thompson, Cundiff, Angell, Johnson, Thompson & Wagner

Chairman Wagner recessed the meeting until Tuesday, August 31, 2010 @ 6:00 P.M. in Room B75 (Training Room).

CHARLES WAGNER
CHAIRMAN

RICHARD E. HUFF, II
COUNTY ADMINISTRATOR