

THE FRANKLIN COUNTY BOARD OF SUPERVISORS HELD THEIR RESCHEDULED REGULAR MONTHLY MEETING ON WEDNESDAY, FEBRUARY 17, 2016 AT 1:30 P.M., (*DUE TO INCLEMENT WEATHER ON TUESDAY, FEBRUARY 16, 2016*) IN THE BOARD OF SUPERVISORS MEETING ROOM LOCATED IN THE GOVERNMENT CENTER, 1255 FRANKLIN STREET, SUITE 104, ROCKY MOUNT, VIRGINIA.

THERE WERE PRESENT: Cline Brubaker, Chairman  
Charles Wagner, Vice-Chairman  
Bob Camicia  
Ronnie Thompson left at 5:10 P.M.  
Leland Mitchell  
Tommy Cundiff  
Tim Tatum left at 6:45 P.M.

OTHERS PRESENT: Brent Robertson, County Administrator  
Christopher Whitlow, Deputy Co. Administrator  
B. J. Jefferson, County Attorney  
Sharon K. Tudor, MMC, Clerk

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Cline Brubaker, Chairman, called the meeting to order.

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Invocation was given by Supervisor Charles Wagner.

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Pledge of Allegiance was led by Supervisor Tim Tatum.

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#### **PUBLIC COMMENT:**

❖ Mike Carter - Follow Up to Public Hearing for MVP

Preserve Franklin County thanks you for the recent public hearing and allowing the voices of the citizens to be heard, concerning the proposed Mountain Valley Pipeline. The public speakers all in a unified voice condemned the proposed Mountain Valley Pipeline. Third generation farmers with their land being taken, their pastures and woodlands destroyed. **For what?** The greed of out of state corporate entities. Gentlemen if you have a heart, and you listened, truly listened on January 19th. You cannot in good conscience support the Mountain Valley Pipeline. The citizens have spoken, standing room only, over 50 speaking publicly and asking for your help. **Will you remain silent?** Please don't tell us there "nothing you can do", you can pass a resolution against Mountain Valley Pipeline and send it to FERC today!

I would like to reference a letter sent to Chairman Brubaker on January 27, by Charles L. Williams. A very well respected member of the legal community, with over 35 years' experience. Preserve Franklin County along with Mr. Williams is well aware of **the liabilities the county is assuming, should this venture collapse:** to quote Mr. Williams "It is my strong suspicion that the individual principals in the development companies have carefully structured their organizations so as to protect themselves from liability" More risk, more costs, and more damage to our county and its citizens. **Who will pay? Franklin County should insist on the conduct of a Programmatic Environmental Study (PEIS).**

Another letter was sent to Chairman Brubaker on January 29 on behalf of the members of Preserve Franklin County. By virtue of the public hearing, we are asking you to form an advisory committee comprised of designated Preserve Franklin County volunteers and county staff. Let us bring these issues into the light and work together for the future of Franklin County and future generations. **I am, as the new director of Preserve Franklin County extending the olive branch.** During the public hearing it was conclusive a lot of your constituents have become very disillusioned with the Franklin County Government. This is an opportunity to work in unison. Come into the light and out of the shadows. I hope you will form this bipartisan committee moving forward. **We are willing to work with you!**

On this note, a lot was said about transparency in government. Each one of you was elected to represent the people in your districts. The time has come to speak up and let the people of Franklin County know exactly what your position is concerning the proposed Mountain Valley Pipeline. We are requesting a motion asking for a public roll call. Speak out either for or against this pipeline. Tell the people of Franklin County your position concerning the taking of their land, damage to our water shed, damage to Smith Mountain Lake, and a permanent easement through our county by EQT frackers from **Pittsburgh Pennsylvania.**

**Presentation to Franklin County Board of Supervisors; Tue., Feb. 16, 2016**

On Aug. 31, 2015, the Blue Ridge Environmental Defense League (on behalf of Preserve Franklin) presented you, the Franklin County Board of Supervisors with a Freedom of Information Request for all correspondence and documents pertaining to the Franklin County government and its communication with the Mountain Valley Pipeline, LLC and Roanoke Gas.

Six months later, we are none the wiser, because you have steadily stonewalled this request and we're still awaiting the first morsel of information from your side.

At first, you demanded a ridiculous sum of \$3,800, with the possibility of even more monetary liability beyond that amount, but you have finally agreed - after a lot of back and forth - to provide at least some of what we asked for if we paid you \$400.

The information requested is a matter of public record and the Freedom of Information Act provides for its release to the requestor. There are 170 excuses to decline to release records, but none of these excuses are mandatory except where confidential informants in criminal matters must be protected. The long and short of this issue is that the law is clear: This information has to be released.

The law already requires employees, officials and officers of public bodies to be familiar with the Freedom of Information Act, but according to a November article in the Roanoke Times, ignorance and apathy of the Act pervades the Commonwealth. Therefore, Virginia's four-decade old Freedom of Information Act is widely disregarded and the Franklin County government appears to be in lock-step with that trend!

In all cases, there's something public officials need to remember about ANY Virginian's request for public records: The one thing these requests have in common is a citizenry that longs to be kept informed and wants to be able to access records they deem important to them!

With regard to interactions between the Franklin County government, Mountain Valley Pipeline, LLC, and Roanoke Gas, we should be informed by you as to what has taken place so far and what your intentions are. Citizens cannot participate in government if they are continually kept in the dark by government.

In closing, I present you with a check in the amount of \$400, from Preserve Franklin, a chapter of the Blue Ridge Environmental Defense League; that being the sum you have given in order to fulfill our Freedom of Information Act request.

We expect all electronic documents and files within 5 business days (by Tuesday, February 23<sup>rd</sup>). In our documentation we've included who the files can be sent to. (Mike Carter, Director of Preserve Franklin: mikeandchris.carter@gmail.com AND Carolyn Reilly, BREDL Representative: CarolynReilly3@gmail.com).

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**MEALS TAX**

Tadd LaFountain, addressed the Board regarding Meals Tax in Franklin County. Mr. LaFountain urged the Board to phase out the County's meals tax over a 5 year period and to increase the real estate tax rate to absorb the revenue loss due to the deletion of the County's meal tax, which would change the vision of Franklin County.

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**CONSENT AGENDA**

**APPROVAL OF ACCOUNTS PAYABLE LISTING, APPROPRIATIONS, TRANSFERS & MINUTES FOR – JANUARY 19 & FEBRUARY 2, 2016**

**APPROPRIATIONS**

<b><u>DEPARTMENT</u></b>	<b><u>PURPOSE</u></b>	<b><u>ACCOUNT</u></b>	
Sheriff	Donation for K-9 Replacement	3102- 57008	\$50
Economic Development	Tobacco Grant Repayment	CIP	\$4,188
Clerk of Court	Part Time Reimbursement	2106- 51003	\$2,208
Library	Book Sales, Donations	7301- 55411	\$282
	Total		\$6,728

Transfers Between Funds, Departments or Capital Accounts		(Decrease), Increase	
Non-Departmental Professional Services		9103- 53002	(8,700)
Parks and Rec Repairs and Maintenance		7102- 53004	8,700
To move funds from Non-Departmental to Parks and Rec for Snow Ball Field Creek Project			
	Total Transfers		\$0

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**2016 DANCE HALL PERMIT/FRANK R. ERHARTIC**

In accordance with Section 3-16, Public Dance Halls, staff has received a dance hall application from Frank R. Erhartic, Jr., as submitted. The Board tabled Mr. Erhartic's dance hall permit during their Tuesday, January 19, 2016 meeting in order to obtain additional information from the applicant. Submitted hereto, Mr. Erhartic has submitted a revised dance hall application with the required signatures in accordance with Franklin County Code Section 3-16, which states the definition of a public dance hall, as follows:

Sec. 3-16. - Defined.

For the purposes of this article the term "public dance hall" includes any dance hall or other place where there is dancing and which is open to members of the public upon the payment of an admission fee or any other form of compensation to the operator. (Ord. of 12-19-77)

Mr. Erhartic, has received the required pertinent signatures from the Planning & Zoning, Public Safety and Sheriff's Departments, in accordance with Section 3-19, as follows: (with the exception of the Building Official's and Fire Marshall signatures at this time).

Sec. 3-19. - Permit.

- (a) It shall be unlawful for any person to own, operate or maintain a public dance hall within the county, unless he has a permit so to do issued pursuant to this section.
- (b) Application for a permit required by this section shall be filed with the county administrator, who shall, within thirty (30) days thereafter, conduct such investigation as he deems necessary and report the results thereof to the board of supervisors.
- (c) Upon receipt of the report referred to in subsection (b) above, the board of supervisors shall either approve or disapprove the permit application. If the application is approved by the board, the county administrator shall issue a signed permit to the applicant. If the application is disapproved by the board, the permit shall be denied.
- (d) Upon receipt of approved county dance hall license from the board of supervisors, it shall be displayed next to the existing ABC License within the establishment.  
(Ord. of 12-19-77; Res. No. 24-12-91, 12-17-91)  
State Law reference— Authority of county to require dance hall permit, Code of Virginia, § 18.2-433

Sec. 3-38. - Fee.

The annual fee for a license required by this division shall be one hundred dollars (\$100.00); provided, however, that such fee shall be prorated as follows, if the initial license is obtained after the beginning of the license year:

- (1) If obtained during the first quarter of the year, the fee shall be one hundred dollars (\$100.00).
- (2) If obtained during the second quarter of the year, the fee shall be seventy-five dollars (\$75.00).
- (3) If obtained during the third quarter of the year, the fee shall be fifty dollars (\$50.00).
- (4) If obtained during the last quarter of the year, the fee shall be twenty-five dollars (\$25.00).

The fee prescribed by this section shall be paid to the county treasurer.  
(Ord. of 12-19-77)

Cross reference— License taxes, § 20-151 et seq.

State Law reference— Authority of county to impose license tax on dance halls, Code of Virginia, § 18.2-433.

Sec. 3-39. - Issuance.

Upon proper application, payment of the fee prescribed by Section 3-38 and compliance with all applicable provisions of this article, the county administrator shall issue the license for a public

dance hall; provided, however, that no such license shall be issued until such time as the board of supervisors has approved such application.  
(Ord. of 12-19-79; Res. No. 39-01-91, 1-22-91)

Mr. Erhartic, Jr., applicant, stated he intends to bring along with the appropriate signatures of the Building Official and Fire Marshall **Section III: Division of Public Safety (page 4) & Section IV: Building Inspection (page 5)** to the Board on Tuesday, February 16, 2016 for the Board's review and consideration. Mr. Erhartic stated he will have an architect's signature for the change of use of a building required from the Building Official. Once Section III is executed the Fire Marshall will consider executing page 5 of the Dance Hall Application.

**RECOMMENDATION:**

Staff respectfully request Board action/direction on the submitted Dance Hall Application.

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**A & E SERVICES/ANIMAL SHELTER BID AWARD**

Staff has previously presented reports to the Board of Supervisors during meetings and work sessions in recent years outlining the deficiencies of the current animal shelter. Last year, the county obtained a needs assessment, identified a potential building site, and authorized advertising for proposals for architectural and engineering (A&E) firms to provide these services for the shelter replacement project. The request for proposal process was completed in late November and firms were interviewed in January by Animal Control and General Properties staff.

Four firms were interviewed during the selection process. Each firm gave a list of their qualifications and recommendations for the Franklin County facility. After hearing each of the proposals, references were contacted and site visits were conducted by Animal Control staff to review the projects of the A & E firms.

Of the four proposals, the interview panel recommends Dominion 7 Architects from Lynchburg to provide A & E services for the Franklin County Animal Shelter Project. Staff bases this recommendation on Dominion 7's experience in constructing nine municipal animal shelters across Virginia in both rural and urban areas. Dominion 7 has a track record of completing projects within an average of 1% of prescribed budget amounts based on the final adjusted contract amounts on their projects averages compared to the original contracted amounts. Finally, all references for past and current Dominion 7 projects gave the firm a high recommendation for the quality of the work provided. Upon approval of this recommendation staff will staff will negotiate with Dominion 7 to confirm A&E service costs and move forward to complete a design of the facility to report back to the Board at a later date.

**RECOMMENDATION:** Staff respectfully recommends the Board of Supervisors authorize staff to negotiate with Dominion 7 to provide architectural and engineering services and to prepare designs for the animal shelter project.

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**2016 SPECIAL ENTERTAINMENT PERMIT/ADAM RITCHIE**

Franklin County has received a request by the Red Truck Events Center, represented by Mr. Adam Ritchie, to hold a series of outdoor events on a 68-acre property located at the intersection of Hopkins Road and Coles Creek Road, further identified as Franklin County Tax Map/Parcel #62-16, #62-24.4, and #62-25.1. The property is owned by W&H Enterprises, Inc. of Roanoke. Mr. Ritchie has an agreement to lease the property. The property is located in a non-zoned area in the Blackwater District of Franklin County.

Mr. Ritchie is requesting approval from the Board of Supervisors to hold outdoor events consisting of games (billed as the "Hillbilly Olympics"), a 5-kilometer run, motorcycle/ATV trail riding, and live music, on the following dates:

Chapter 3, Article III of the Franklin County Code sets forth the requirements for "Outdoor Musical or Entertainment Festivals." Outdoor music or entertainment festivals are defined as:

*...any gathering or group of individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted in open spaces and not within an enclosed structure and either admission is charged or refreshments or other concessions are sold.*

Under the provisions of Chapter 3, Article III, such events require a permit to be issued by the Board of Supervisors. In addition, the event(s) must be planned and conducted in accordance with a series of regulations and standards related to traffic, safety, sanitation, crowd control,

etc. Mr. Ritchie has submitted an application which has been routed to various County agencies to review for compliance.

As of this writing, staff is satisfied that the events have been planned in accordance with ordinance standards. Staff will continue to monitor the site and events for compliance.

**RECOMMENDATION:**

Staff respectfully requests Board approval for the 2016 Special Entertainment Permit for the Red Truck Event Center, as presented. The \$100 permit fee will be received and deposited, upon approval. The Board set the bond for this event during 2015 at \$10,000, therefore, staff is requesting for the same bond amount for 2016, due to zero claims being filed.

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**2016 OUTDOOR OCCASION PERMIT/DAVID PHILPOTT**

David Philpot is requesting approval for his 2016 Annual Outdoor Occasion Permit for the racing season. The Outdoor Occasion Permit for Mr. Philpott is submitted for your review and consideration.

All pertinent agencies per County Code Section 13-29.2 have signed off on the 2016 Outdoor Occasion Permit for Mr. Philpott.

Per County Code Section 13-29.4 the fee of \$100.00 has been remitted and deposited with the County Treasurer's Office.

**RECOMMENDATION:**

Staff request Board approval on the 2016 Outdoor Occasion Permit application, as submitted per County Code Section 13-29.1.

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**2016 FRANKLIN COUNTY SPEEDWAY OUTDOOR OCCASION PERMIT**

As in years past, Donald "Whitey" Taylor and Langley Austin are requesting approval for their 2016 Annual Outdoor Occasion Permit for the racing season. The submitted Outdoor Occasion Permit for F. C. S. Enterprise, Inc. is enclosed for your review and consideration.

All pertinent agencies per County Code Section 13-29.2 have signed off on the 2016 Outdoor Occasion Permit for Mr. Taylor.

Per County Code Section 13-29.4 the fee of \$100.00 has been remitted and deposited with the County Treasurer's Office.

**RECOMMENDATION:**

Staff request Board approval on the 2014 Outdoor Occasion Permit application as submitted per County Code Section 13-29.1.

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**SCHOOL BUS APPROPRIATION**

The Board of Supervisors has requested that County staff review all additional appropriation requests from the Franklin County Public Schools.

The County currently has \$366,300 in school bus replacement funds in the County's capital fund. \$340,000 was the original appropriation for FY15-16 and \$26,300 are unused funds remaining from FY14-15.

The Schools would like to replace four buses in the current fiscal year:

3 Regular Replacement School Buses - 71 Passenger	\$270,000
1 Special Education Handicapped-Equipped Replacement School Bus - 22 Passenger	\$68,000
Reserve for the Purchase of School Buses in FY16-17	\$2,000
Total	\$340,000

**RECOMMENDATION:**

Staff respectfully requests the Board transfer \$338,000 to the Schools for the purchase of 3 regular 71 passenger school buses and 1 special education handicapped-equipped school bus from the County's capital fund. Unused school bus replacement funds of \$2,000 will remain in the county's capital fund for school bus replacement in the 16-17 fiscal year. This \$2,000 will be added to the current balance of \$26,300 (from FY14-15) for a new total of \$28,300.

The Franklin County School Board is respectfully request that the Franklin County Board of Supervisors consider approving an increase in our 2015-16 appropriations as follows:

## Revenues:

County Capital Funds for School Buses	<u>\$340,000</u>
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## Expenditures:

3 Regular Replacement School Buses – 71 Passenger	\$270,000
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1 Special Education Handicapped-Equipped Replacement Buses – 22 Passenger	68,000
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Reserve for the Purchase of School Buses in 2015-16	<u>2,000</u>
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Total Expenditures	<u>\$340,000</u>
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**LIBRARY ORGANIZATIONAL UPDATES**

The Franklin County Public Library consists of the main facility located in Rocky Mount, a branch located in Westlake, and a bookmobile. These facilities are currently supported by approximately 8 full time employees, 14 part-time employees, and approximately 18 volunteers. During the last year, various operational and program improvements have been made to better support customers. Such enhancements have included new circulation software, improved seating areas, more community programs, grant partnership funding, staff training, and a greater focus on customer service.

In January 2015, Alison Barry was hired as the Director of the Franklin County Library System. The new Library Director's challenge was to meet County Administration's and the Library Board's expectations to improve the quality and quantity of services provided to the community. The strategy was to provide more progressive activities, increased technology capability and outstanding customer service to make the library a focal point of the community. Mrs. Barry gladly accepted this challenge and reviewed the various programs/activities, the collection, library operations and staffing. This review took time, whereby various goals and desired outcomes were developed.

In working with the Library Board of Trustees, such review indicates the Franklin County Public Library has wonderful facilities that are well loved by the community. The assessment further notes that the Library also has some opportunities for improvements as its offerings maybe slightly outdated and behind in the critical roles of technology and youth programming, therefore, under-serving the County. Libraries are no longer just bricks and mortar book storage facilities; instead they should offer the patrons they serve new educational opportunities, programming that informs and entertains and an opportunity for life-long learning.

With a few small position changes/adaptations the Library can continue to support the community in the manner it deserves. This includes more technology initiatives for both adults and children, more STEM (Science, Technology, Engineering, Math) programs for our elementary/middle school aged users, and bookmobile outreach efforts that bring the full "library experience" (technology in addition to books) to those who cannot make it to the actual library buildings. A reorganizing of some job tasks and duties among some existing positions will help create a more equitable workflow and thus a more efficient staff.

As part of the operational review, Library staff has worked to refocus a couple of its full time and part time positions to better support the goals and objectives of more technology and youth programming. More specifically, a couple of organization modifications would include the following:

- **Adapt the current fulltime bookmobile position to a full-time technology/mobile media librarian position, while modifying the current fulltime bookmobile position to a part time ILL and bookmobile assistant. The technology position will support the bookmobile, yet such role will be expanded to increase the emphasis on technology and multi-media offerings in an effort to meet customer service needs**
- **Adapt the current fulltime librarian for special services position at Westlake to a full time coordinator of user services position at Westlake. This position will assist in programming, technology and circulation at Westlake, while modifying the current librarian for special services position to a part time youth services assistant who will focus solely on developing programming for preschool/elementary/young adult populations at Westlake. The coordinator of user services position will better support every aspect of operations at Westlake, while focusing the youth services assistant position on both children and teen**

**programs**

Such adaption and modification will be to existing positions, whereby such organizational updates will not increase the number of net positions or salaries budget within the Library system. Furthermore, such changes and modified positions will be posted whereby those affected employees within the existing positions will have the opportunity to apply and seek one of the newly, adapted positions.

The Franklin County Library Board of Trustees has reviewed the Director's operational assessment and has subsequently approved such structural program improvements as outlined in this summary. Section #3.05 of the County's Human Resources Policy Manual notes "it is the responsibility of the department head/designee to maintain equitable and properly evaluated positions within his/her department" and that "changes in the functions or responsibilities of an existing position shall be submitted to the County Administrator for submission to the Board of Supervisors for approval".

**RECOMMENDATION:**

As previously reviewed and supported by the Library Board of Trustees, staff respectfully requests the Board of Supervisors approve these structural changes as presented.

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**2016 DANCE HALL PERMIT/FRANK R. ERHARTIC**

Chris Whitlow, Deputy County Administrator, advised the Board that just prior to the Board meeting, the Building Inspections Department received preliminary plans for the proposed Dance Hall location, whereby there was not sufficient time for staff review and subsequent sign off of all pertinent paperwork. Andy Morris, Building Official, shared with the Board current issues regarding the dance hall application for Frank R. Erhartic, as follows:

The Franklin County Building Department received Mr. Erhartic's application for the change of use of the property located at 8160 Franklin Street, Ferrum, VA. An initial, preliminary plan review indicates the following list will need to be addressed prior to the Change of Use approval;

1. VDOT approval for a commercial entrance or a letter from VDOT stating the entrance is not required.
2. All exit doors will need to swing out on the business. (a permit is required for this)
3. All Exit doors require panic hardware. (a permit is required for this)
4. The proposed occupant load is 168, the existing septic system is approved for 100 please clarify or have the architect review the occupant load.

Mr. Morris stated, once these items are addressed Mr. Erhartic may resubmit a copy of the plans with the revisions, a copy of the letter from VDOT and a building permit application for the Exit doors and panic hardware.

General discussion ensued.

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**ACCOUNTS PAYABLE/SHERIFF'S VEHICLE/PURCHASE OF 4 VEHICLES**

Leland Mitchell, Snow Creek District Supervisor, asked about the purchase of 4 new vehicles from the Sheriff's Department seen in the Sheriff's Parking Lot.

Sheriff W. Q. Overton, Jr., advised the Board the Sheriff's Department did purchase 4 vehicles off of the state contract, but that there was a breakdown within his office for the purchase of such vehicles. Sheriff Overton stated the issue has been addressed and it would not happen again.

Staff noted the funds to purchase the vehicles were budgeted and had been appropriated, however such purchases were made without routing back through the Board or the Finance Office.

Brent Robertson, County Administrator, advised the Board since his employment, a Vehicle Committee has been formed and a formalized system would be established for anyone purchasing vehicles a request would come before the County Fleet Committee. The Committee will discuss and bring a recommendation to the Board for action.

General discussion ensued.

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**(RESOLUTION #03-02-2016)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the consent agenda items as presented with the exception of the 2016 Frank Erhartic Dance Hall Permit to be tabled, until March 15, 2016 meeting, as presented.

MOTION BY: Bob Camicia

SECONDED BY: Ronnie Thompson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Thompson, Wagner, Cundiff, Camicia, Tatum & Brubaker

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**FINANCE MONTHLY REPORT**

Vincent Copenhaver, Director of Finance, presented the following monthly finance report:

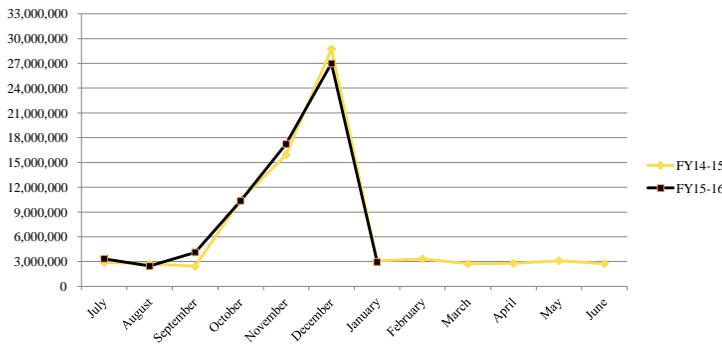


**Finance Report**

February 17, 2016

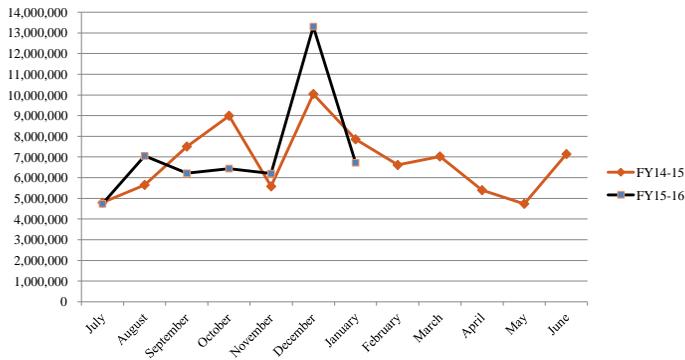


**Franklin County  
General Fund Actual Revenues by Month**

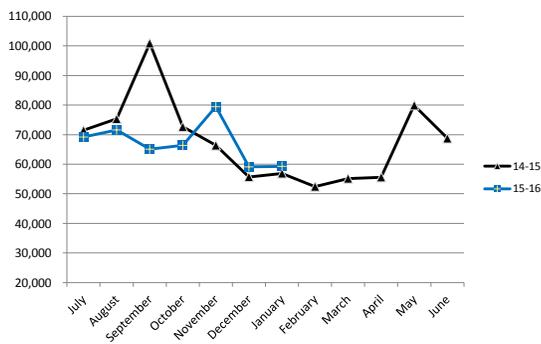




**Franklin County  
General Fund Actual Expenditures by Month**



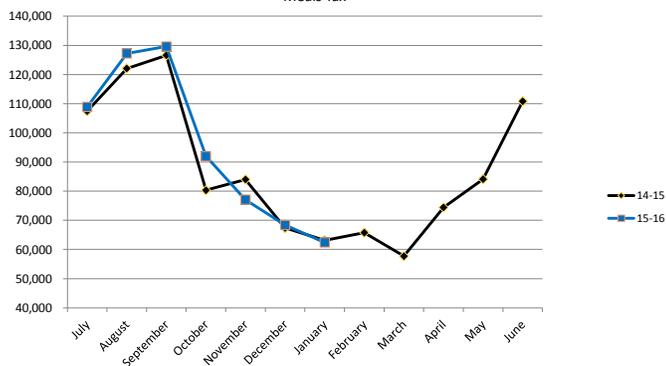
**Landfill Receipts**



YTD 15-16 = \$470,047, 14-15 = \$499,373



**Meals Tax**



2.2% ahead of last year

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**ROANOKE REGIONAL PARTNERSHIP ANNUAL REPORT**

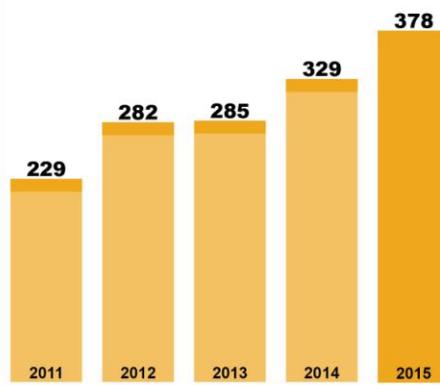
Beth Doughty, Executive Director presented the following Roanoke Regional Partnership Annual Report PowerPoint to the Board for their review:

ROANOKE REGIONAL PARTNERSHIP

# YEAR IN REVIEW



### Information Requests by Year

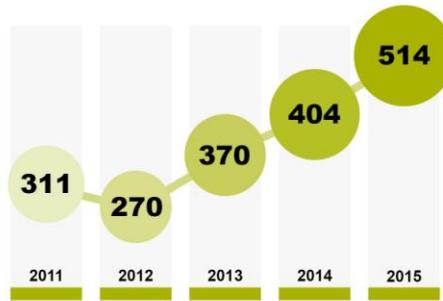


### Social Engagement





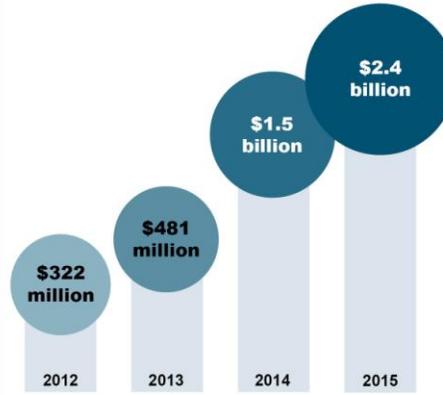
### Business Attraction/ Expansion/Retention Activity



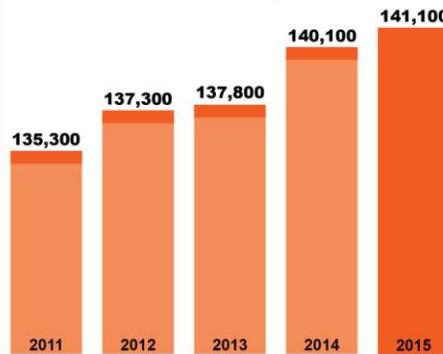
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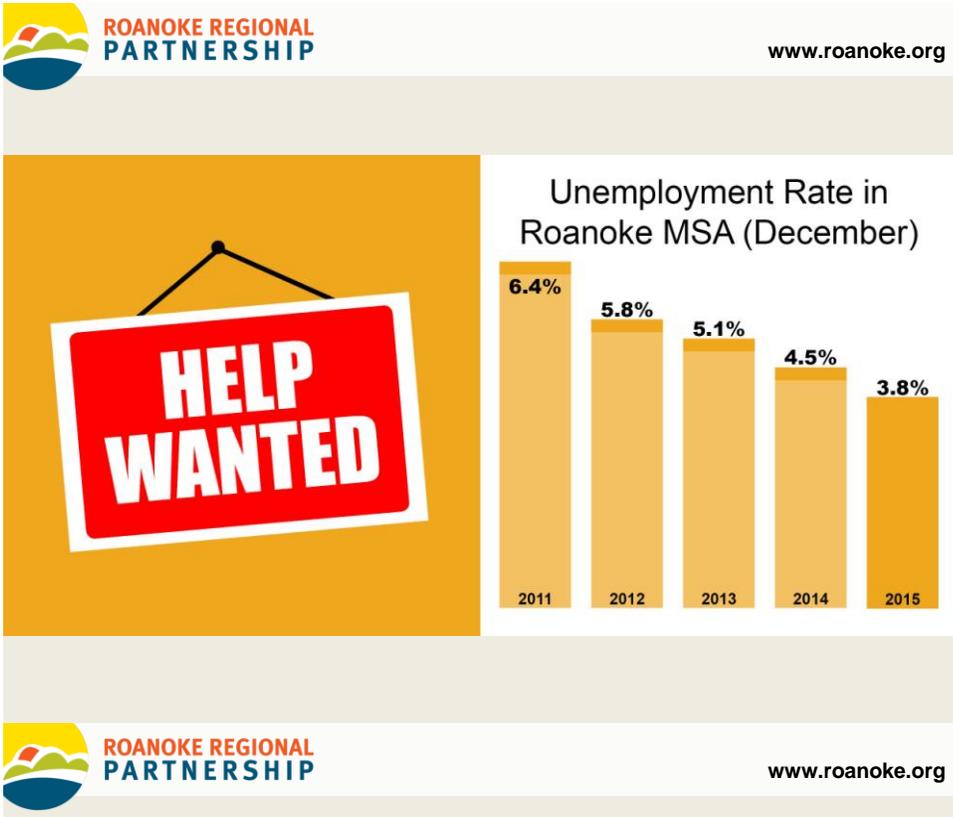


### Annual Economic Impact



### Private Sector Employment in Roanoke MSA (December)





ROANOKE REGIONAL PARTNERSHIP

# YEAR IN REVIEW

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**BENEFITS OF OUTDOOR RECREATION**

Peter Eshelman, Roanoke Regional Partnership, Director of Outdoor Branding, advised the Board the Roanoke Regional Partnership is the regional economic development organization representing the counties of Alleghany, Botetourt, Franklin and Roanoke; cities of Covington, Roanoke, and Salem; and the town of Vinton. Founded in 1983, the Partnership is a joint venture between the seven governments and more than 200 private sector businesses that want to help this region grow.

In the late 2000s, business leaders asked the [Roanoke Regional Partnership](http://www.roanoke.org) to reevaluate their approach to economic development. The Partnership identified that our region has a unique mix of outdoor amenities such as Smith Mountain and Philpott Lake, the Blue Ridge Parkway, national forests, and much more that set us apart from other communities. In 2009, the Partnership hired a Director of Outdoor Branding to use the outdoors as a means of attracting commerce and investment.

Pete Eshelman, Director of Outdoor Branding will present the benefits of outdoor recreation as it relates to improving quality of life, tourism, and economic development. Mr. Eshelman will share the initiatives that he is working on and how outdoor recreation can benefit Franklin County.

**ROANOKE REGIONAL PARTNERSHIP** [www.roanokeoutside.com](http://www.roanokeoutside.com)

# ECONOMIC BENEFITS OF OUTDOOR RECREATION

**ROANOKE REGIONAL PARTNERSHIP** [www.roanokeoutside.com](http://www.roanokeoutside.com)

# Knight Soul of the Community

- Openness
- Aesthetics
- Social Offering

**ROANOKE REGIONAL PARTNERSHIP** [www.roanokeoutside.com](http://www.roanokeoutside.com)

2014

**TOP TOWNS**  
2015

outdoors  
an outdoors and plan

BEST MID-SIZED TOWN  
**ROANOKE, VA.**

2013 BEST TRAIL TOWN  
ROANOKE, VA

BICYCLE FRIENDLY COMMUNITY  
Roanoke, VA  
BRONZE



**ROANOKE REGIONAL PARTNERSHIP** [www.roanokeoutside.com](http://www.roanokeoutside.com)

**More than 3 out of 4 American's Engage in Some Form of Outdoor Recreation Every Year.**



**ROANOKE REGIONAL PARTNERSHIP** [www.roanokeoutside.com](http://www.roanokeoutside.com)

**\$646 Billion Industry**

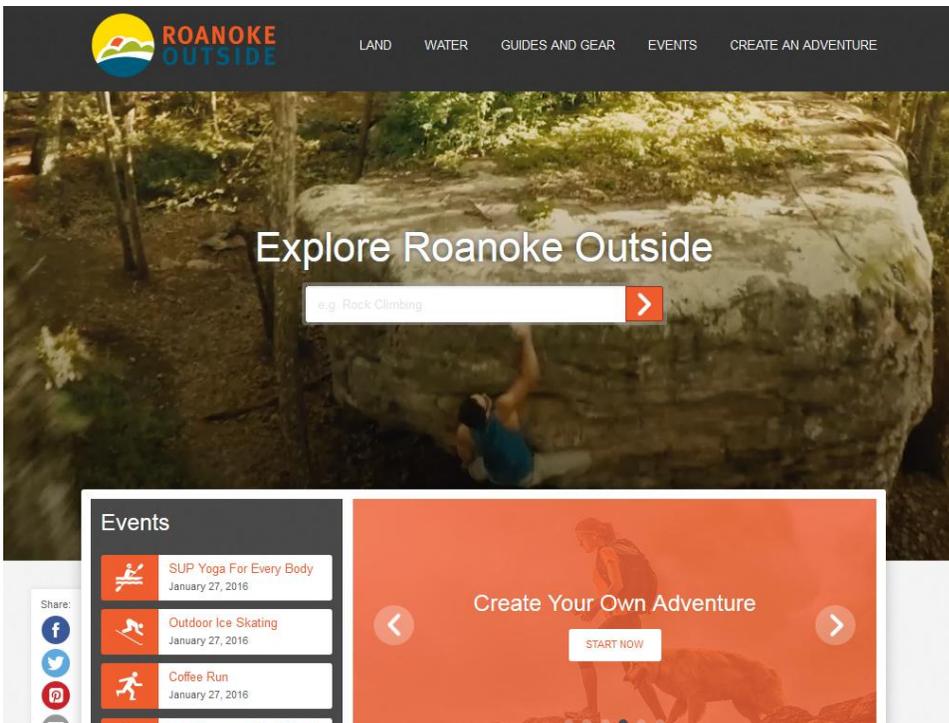


**ROANOKE REGIONAL PARTNERSHIP** [www.roanokeoutside.com](http://www.roanokeoutside.com)

**\$646 Billion Industry**

**In Virginia:**

- \$13.6 billion consumer spending
- 138,000 jobs
- \$923 million state & local tax revenue



ROANOKE REGIONAL PARTNERSHIP  
www.roanokeoutside.com

## Identify Gaps

- Improve Accessibility
- Increase User Friendliness
- Create Opportunities

BICYCLE FRIENDLY COMMUNITY  
Roanoke, VA  
BRONZE

BIKE RENTAL  
2016 GREENWAY  
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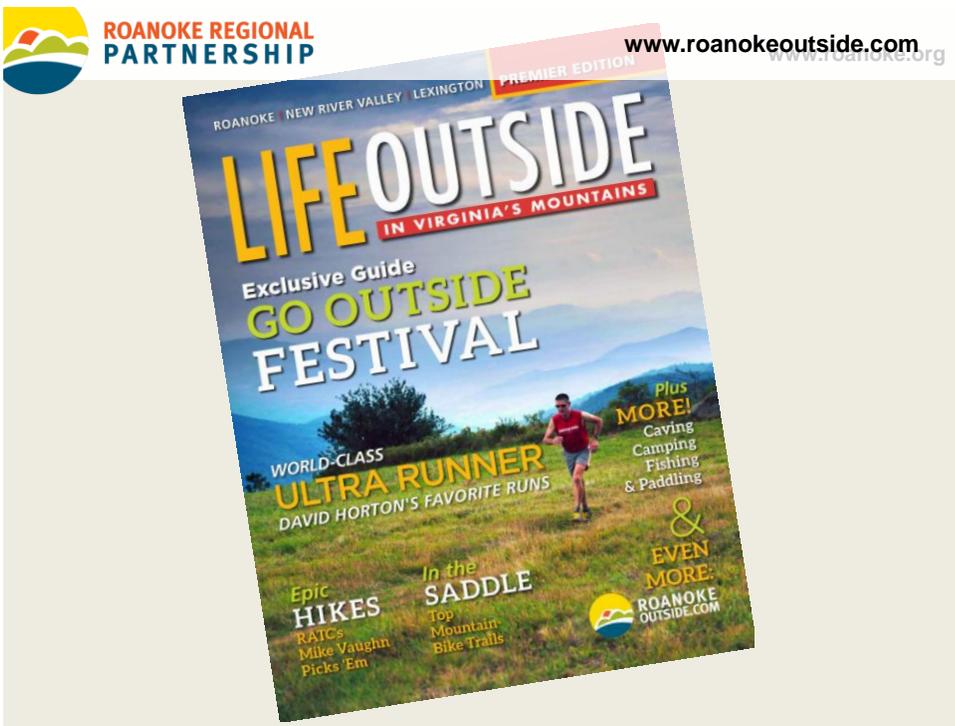
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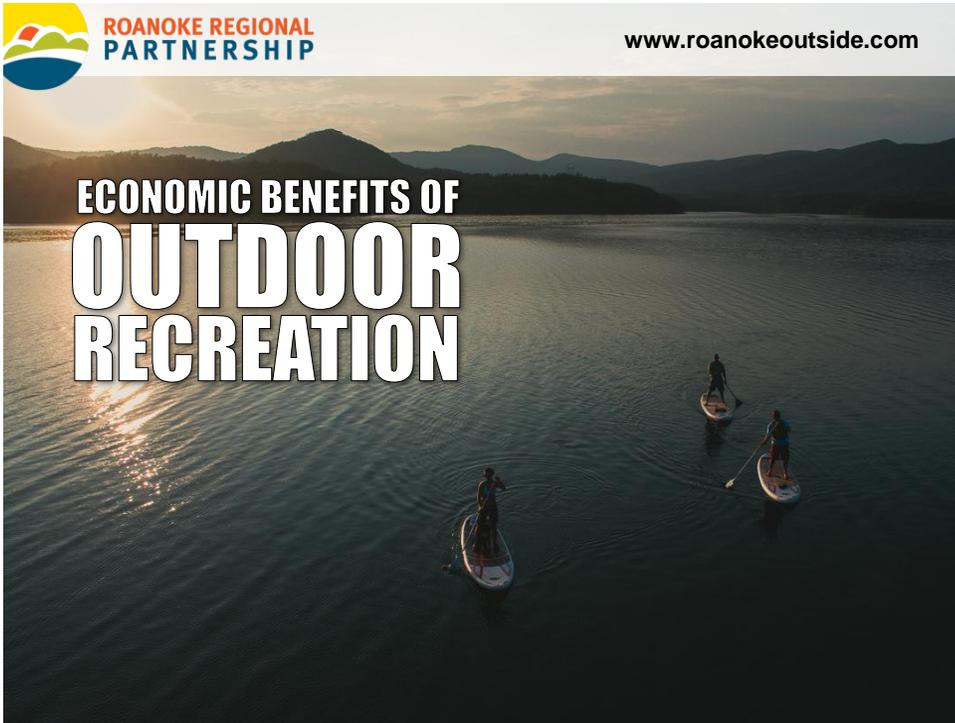
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**PHILPOTT LAKE JAMISON MILL PARK BRIDGE UPDATE**

Rocky Rockwell, Army Corps of Engineers Superintendent for Philpott Lake advised the Board the entrance bridge to Jamison Mill park was deemed the most significant safety hazard in the parks on Philpott Lake a number of years ago. Tight budgets in the US Army Corps of Engineers (USACE) have not allowed this project to garner funding. In a last-ditch effort to resolve this issue, USACE turned to a partnership effort with the Dan River Basin Association (DRBA), who was working with a few companies to provide the equipment and labor to remove and replace the bridge, with USACE providing \$150,000. Once USACE secured the \$150,000, the potential companies for DRBA fell through, leaving USACE with only the ability to procure the concrete, hardware, and rock components for the bridge, hoping that DRBA would find another company to do the work. That effort was unsuccessful, so USACE decided to attempt to finish the project through a contract, which also failed for lack of funding and an unrealistic Internal Government Estimate.

The current effort has been made possible by DRBA’s success at securing a local contractor to demolish and remove the existing bridge at a very low cost, which DRBA has turned to Franklin County to cover. This allows USACE to re-scope the contract, removing the demolition, and also removing the paving of the new bridge. While USACE works to get this contract in place, DRBA is prepared to move forward getting the existing bridge removed.

**RECOMMENDATION:**

Staff respectfully requests that the Board of Supervisors commit to reimbursing DRBA for costs incurred removing Jamison Mill Park Entrance Bridge, amount not to exceed \$10,000. However, the recommendation is also that the Board of Supervisors hold this commitment until word that USACE has a successful bidder to perform a successful bridge construction contract effort.

**(RESOLUTION #04-02-2016)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve reimbursing DRBA for costs incurred removing Jamison Mill Park Entrance Bridge, in an amount not to exceed \$10,000 and that the Board of Supervisors hold this commitment until word that USACE has a successful bidder to perform a successful bridge construction contract with funds coming from the existing Board of Supervisor's Contingency Fund.

MOTION BY: Bob Camicia

SECONDED BY: Tim Tatum

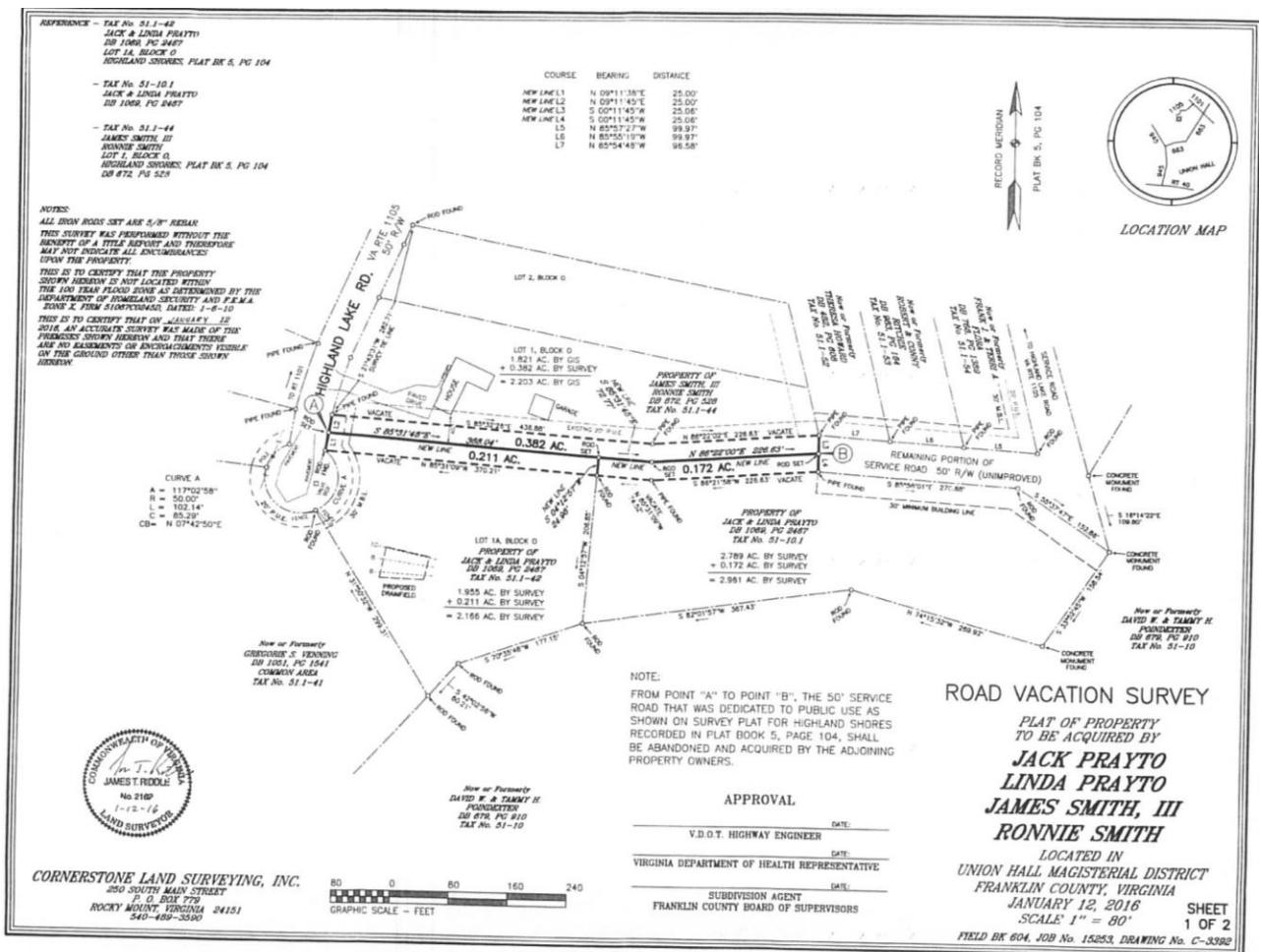
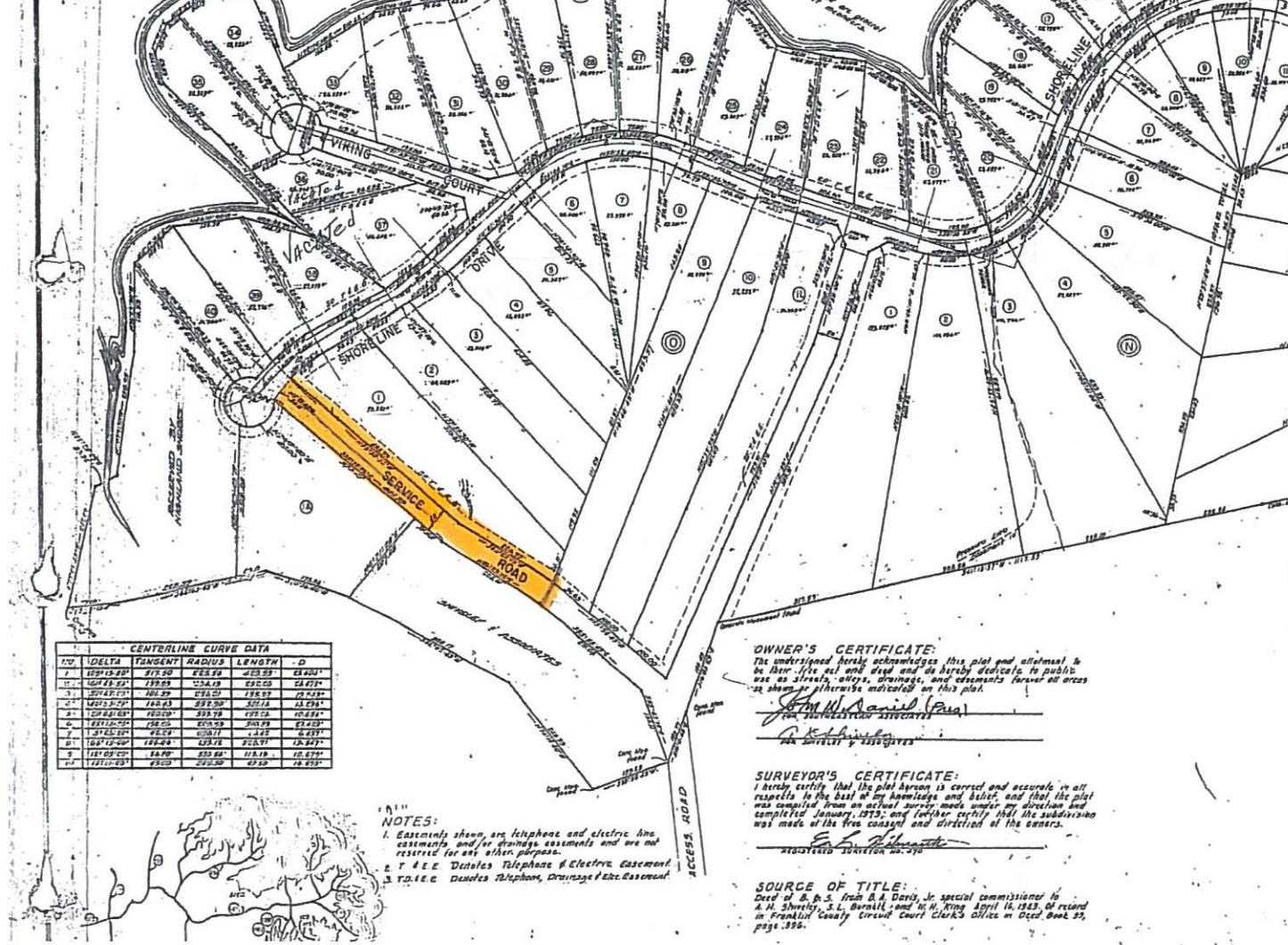
VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Thompson, Wagner, Cundiff, Camicia, Tatum & Brubaker

\*\*\*\*\*

**VACATE A PORTION OF ROAD IN HIGHLAND SHORES SUBDIVISION**

Lisa Cooper, Principal Planner, advised that County staff had met with Linda Prayto concerning a public right of way located in Highland Shores Subdivision. Mr. and Mrs. Prayto purchased property located on Highland Lake Drive, identified as tax map numbers 51.1-42 and 51-10.1 to construct a home closer to family. The Praytos have requested to vacate a portion of the fifty foot (50’) public right of way identified as “service road” on the recorded subdivision plat in order to meet the required setbacks.



**(RESOLUTION #05-02-2016)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to authorize staff to advertise for a public hearing on Tuesday, March 15, 2016 to consider the request to vacate a portion of road in Highland Shores Subdivision, as presented.

MOTION BY: Bob Camicia  
 SECONDED BY: Ronnie Thompson  
 VOTING ON THE MOTION WAS AS FOLLOWS:  
 AYES: Mitchell, Thompson, Wagner, Cundiff, Camicia, Tatum & Brubaker

\*\*\*\*\*

**OTHER MATTERS:**  
**STATE TROOPER VACANCIES/FRANKLIN COUNTY**

Brent Robertson, County Administrator, shared with the Board a letter dated February 5, 2016 from Richard A. Denney, Captain, Division VI, Salem, State Police. Mr. Robertson advised the Board Captain Denney stated there are eleven (11) trooper positions allocated to serve Franklin County and currently, there are ten (10) troopers serving Franklin County. On November 25, 2015, a trooper assigned to Franklin County applied for and received a position to serve on a permanent detail in Richmond, thus creating the vacancy. Captain Denney advised the State Police is divided into seven (7) Divisions. Division VI, Salem, is comprised of six (6) Area Offices. The Area 41 Office covers Bedford & Franklin County. In closing Captain Denney stated it is their hope to assign a trooper to fill the vacancy in Franklin County, but will be unable to do so until more troopers are hired and complete required training at the State Police Academy.

\*\*\*\*\*

**OTHER MATTERS BY SUPERVISORS**

Bob Camicia, Gills Creek District Supervisor, advised the Board that he, Dr. Church and Brent Robertson, (Cline Brubaker unavailable) had a very productive meeting regarding the Career Technical Education Center (CTE). Mr. Camicia advised the Board the school was moving forward with progress, thereby including Kathy Hodges, Director of the Franklin Center, Mike Burnette, Director of Economic Development, Cline Brubaker, Chairman, Franklin County Board of Supervisors, Bob Camicia, Gills Creek District Supervisor, Dr. Mark Church, Superintendent of Schools, Brent Robertson, County Administrator on the working committee.

\*\*\*\*\*

Ronnie Thompson, Boone District Supervisor reminded the Board of his opposition to the proposed MOUNTAIN VALLEY PIPELINE and noted Roanoke Gas could get natural gas service to Franklin County extending a line from the Clearbrook area of Roanoke County. Mr. Thompson expressed it was time for the County to take a vote concerning the proposed Mountain Valley Pipeline.

**(RESOLUTION #06-02-2016)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to forward a resolution to FERC stating Franklin County's opposition to Mountain Valley Pipeline coming through Franklin County.

- MOTION BY: Ronnie Thompson
- SECONDED BY: Tommy Cundiff
- VOTING ON THE MOTION WAS AS FOLLOWS:
- AYES: Thompson & Cundiff
- NAYS: Mitchell, Wagner, Camicia, Tatum & Brubaker

THE MOTION FAILS WITH A 2-5 VOTE.

\*\*\*\*\*

Leland Mitchell, Snow Creek District Supervisor stated he would like to see a Board member included as a member of the Fleet Management Committee recently organized by the County Administrator's Office.

**(RESOLUTION #07-02-2016)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to have Mike Thurman, Director of General Properties, lead the Fleet Management Committee recently organized by the County Administrator's Office and appoint Charles Wagner, Rocky Mount District Supervisor to serve as the Board's representative on said committee.

- MOTION BY: Charles Wagner
- SECONDED BY: Leland Mitchell
- VOTING ON THE MOTION WAS AS FOLLOWS:
- AYES: Mitchell, Thompson, Wagner, & Tatum
- NAYS: Cundiff, Camicia & Brubaker

MOTION PASSED WITH A 4-3 VOTE.

\*\*\*\*\*

**RECESS TO B-75 FOR BUDGET WORKSESSION.**

**FY'2016-2017 BUDGET WORKSESSION**

Vincent Copenhaver, Finance Director, presented with the Board the following budget update:



**Franklin County**  
Worksession  
02-17-2016

**Quick Look at General Fund Revenues for FY 16-17**

As of February 12, 2016 – Subject to change

<u>Major Revenue Category</u>	<u>15-16 Adopted Budget</u>	<u>16-17 Proposed Budget</u>	<u>Dollar Change</u>	<u>% Change</u>
General Property Taxes	48,250,204	49,051,675	801,471	1.66%
Other Local Taxes	11,238,734	11,428,868	190,134	1.69%
Permits, Licenses, Fees	377,000	377,000	0	0.00%
Court Fines/Costs	110,000	60,000	(50,000)	-45.45%
Revenue from Money & Property	710,560	710,560	0	0.00%
Charges for Services	2,497,764	2,442,604	(55,160)	-2.21%
Miscellaneous/Recovered Costs	877,306	877,306	0	0.00%
Commonwealth of Virginia	15,546,308	15,534,808	(11,500)	-0.07%
Federal Revenues	170,904	170,904	0	0.00%
Subtotal	79,778,780	80,653,725	874,945	1.10%
Fund Balance-One Time Local Funds for Schools	635,276	-	(635,276)	-100.00%
Total General Fund	80,414,056	80,653,725	239,669	0.30%

**Quick Look at General Fund Expenditures for FY 16-17**

	<u>15-16 Budget</u>	<u>16-17 Requested</u>	<u>Dollar Change</u>	<u>% Change</u>
<b>General Government Administration</b>				
Board of Supervisors	363,940	363,940	0	0.00%
<b>General and Financial Administration</b>				
County Administrator	431,089	372,698	(58,391)	-13.54%
Commissioner of Revenue	595,663	620,885	25,222	4.23%
Reassessment	150,000	150,000	0	0.00%
Treasurer	467,224	519,427	52,203	11.17%
Finance	255,257	255,828	571	0.22%
Risk Management	395,221	395,221	0	0.00%
Human Resources	124,025	124,554	529	0.43%
Information Technology	1,164,237	1,644,836	480,599	41.28%
Registrar	290,544	438,708	148,164	51.00%
	4,237,200	4,886,097	648,897	15.47%
<b>Judicial Administration</b>				
Circuit Court	106,920	105,437	(1,483)	-1.39%
General District Court	7,080	7,080	0	0.00%
Magistrate	2,000	2,000	0	0.00%
Juvenile and Domestic Relations Court	17,150	21,250	4,100	23.91%
Clerk of the Circuit Court	645,835	686,082	40,247	6.23%
Sheriff - Courts	613,361	780,470	167,109	27.24%
Juvenile Court Services	429,288	430,901	1,613	0.38%
Commonwealth Attorney	809,565	816,692	7,127	0.88%
	2,631,199	2,849,912	218,713	9.75%

### Justifications

**General Government Administration**

Board of Supervisors

**General and Financial Administration**

County Administrator

Commissioner of Revenue Reassessment Full year funding of new position approved mid year last year

Treasurer Increase in DMV stop fees & postage (DMV stops offset by fee revenue)

Finance

Risk Management

Human Resources

Information Technology Increase in maintenance contracts \$100,000, New Telephone System \$275,000, Hardware and Software \$60,000

Registrar Increase in part time, supplies for possible elections

**Judicial Administration**

Circuit Court

General District Court

Magistrate

Juvenile and Domestic Relations Court Furniture, supplies for new J and D Court

Clerk of the Circuit Court Additional full time position requested

Sheriff - Courts Additional part time requested for court security

Juvenile Court Services

Commonwealth Attorney

	<b>15-16 Budget</b>	<b>16-17 Requested</b>	<b>Dollar Change</b>	<b>% Change</b>
<b>Public Safety</b>				
Sheriff	4,381,797	4,643,969	262,172	5.98%
Corrections	4,050,951	4,124,422	73,471	1.81%
Building Inspections	540,524	500,094	(40,430)	-7.48%
Animal Control	268,892	319,955	51,063	18.99%
EMS Billing	1,294,564	1,294,564	0	0.00%
Public Safety	2,368,888	2,683,846	314,958	13.30%
	12,905,616	13,566,850	661,234	5.01%
<b>Public Works</b>				
Road Viewers	450	450	0	0.00%
Public Works	235,288	208,986	(26,302)	-11.18%
Solid Waste and Recycling	2,197,051	2,071,323	(125,728)	-5.72%
General Buildings and Grounds	1,253,237	1,400,852	147,615	11.78%
	3,686,026	3,681,611	(4,415)	-0.12%

### Justifications

**Public Safety**

Sheriff 3 new positions requested, miscellaneous operating increases

Corrections Position moved from Law Enforcement to Jail

Building Inspections

Animal Control Increase in part time, over time, spay, neuter program

EMS Billing

Public Safety Increase in part time and training, new radio system operating costs

**Public Works**

Road Viewers

Public Works

Solid Waste and Recycling

General Buildings and Grounds 2 new positions requested

	<b>15-16</b>	<b>16-17</b>	<b>Dollar</b>	
	<b>Budget</b>	<b>Requested</b>	<b>Change</b>	<b>% Change</b>
<b>Health and Welfare</b>				
Health Department	338,705	372,899	34,194	10.10%
Contributions to Health and Welfare	107,596	121,070	13,474	12.52%
Social Services	5,933,689	6,809,385	875,696	14.76%
CSA - Youth Services	4,767,213	4,798,004	30,791	0.65%
Family Resource Center	261,665	266,094	4,429	1.69%
Aging Services	232,424	230,169	(2,255)	-0.97%
	<b>11,641,292</b>	<b>12,597,621</b>	<b>956,329</b>	<b>8.18%</b>
<b>Parks, Recreation and Cultural</b>				
Parks and Recreation	993,067	1,092,978	99,911	10.06%
Libraries	940,262	1,003,981	63,719	6.78%
	<b>1,933,329</b>	<b>2,096,959</b>	<b>163,630</b>	<b>8.48%</b>

### Justifications

**Health and Welfare**

Health Department	Increase requested because of loss of grants
Contributions to Health and Welfare	
Social Services	3 new positions, increase to programs offset by additional state and federal revenue
CSA - Youth Services	Slight increase in CSA Mandated cases
Family Resource Center	
Aging Services	

**Parks, Recreation and Cultural**

Parks and Recreation	1 new position, increase in advertising and supplies
Libraries	1 full time and 1 part time position requested

**Community Development**

Planning Agencies/Contributions	573,839	599,528	25,689	4.48%
Planning and Community Development	585,312	547,750	(37,562)	-6.42%
Economic Development	1,054,372	1,214,216	159,844	15.16%
Franklin Center	199,234	209,942	10,708	5.37%
Tourism Development	201,825	270,671	68,846	34.11%
GIS and Mapping	159,082	165,313	6,231	3.92%
Virginia Cooperative Extension	104,392	109,641	5,249	5.03%
	<b>2,878,056</b>	<b>3,117,061</b>	<b>239,005</b>	<b>10.12%</b>
<b>Nondepartmental</b>	<b>329,753</b>	<b>607,931</b>	<b>278,178</b>	<b>84.36%</b>

**Transfers to Other Funds**

Schools - Operations	30,674,665	30,674,665	0	0.00%
Schools - Debt Service	2,402,459	2,356,248	(46,211)	-1.92%
Schools - Canneries	34,746	34,746	0	0.00%
Schools - Carryovers		0	0	
County Capital: School Projects	1,220,000	1,220,000	0	0.00%
Debt Service	2,883,056	2,929,267	46,211	1.60%
E911	926,158	926,158	0	0.00%
Utilities	15,000	15,000	0	0.00%
County Capital Projects	2,015,501	2,015,501	0	0.00%
<b>Total Transfers</b>	<b>40,171,585</b>	<b>40,171,585</b>	<b>0</b>	<b>0.00%</b>

<b>Total General Fund</b>	<b>80,414,056</b>	<b>83,575,627</b>	<b>3,161,571</b>	<b>3.93%</b>
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Justifications

**Community Development**

Planning Agencies/Contributions	Increase for dues and additional requests from external services
Planning and Community Development	
Economic Development Franklin Center	\$160,000 increase in professional services
Tourism Development	Increase for fishing tournament marketing and other general tourism marketing
GIS and Mapping	
Virginia Cooperative Extension	

New Positions or Reclassifications Requests for FY 16-17

Full Time Positions requested:

<u>Department</u>	<u>Job Title/Action Requested</u>	<u>Total Costs</u>
<b><u>Clerk of Court</u></b>		
1	New Deputy Clerk	\$47,192
<b><u>Sheriff</u></b>		
1	Narcotic Investigator	\$63,589
1	Administrative Assistant II	\$49,392
1	General Investigator	\$63,589
4	Communication Officers	\$47,192
	3 Additional Positions	\$141,576
<b><u>General Properties</u></b>		
1	Custodian	\$42,564
1	Senior Maintenance Technician	\$76,457
<b><u>Social Services</u></b>		
3	Family Service Specialist	\$49,767
	2 Additional Positions	\$99,534
<b><u>Parks and Recreation</u></b>		
1	Outdoor Recreation Manager	\$77,703
<b><u>Library - Main</u></b>		
1	Webmaster/Mobile Media Library Assistant	\$47,773
15	Total Full Time Positions Requested	<u>\$806,328</u>

Continuation of New Positions or Reclassifications

Part Time Positions Requested:

<u>Department</u>	<u>Job Title/Action Requested</u>	<u>Total Costs</u>
<b><u>Library</u></b>		
1	Technical Services/Cataloging Assistant	\$15,347
<b><u>Sheriff</u></b>		
2	J & D Court Bailiff	\$27,398
		\$27,398
	Total	<u>\$70,144</u>

## Budget Summary to Date

Total New Revenue	\$874,945
Department Requests above Current Budget	<u>\$3,161,571</u>
Difference	<u>-\$2,286,626</u>

### Additional Items Not Considered Above

Health Insurance Renewal	-	\$200,000
VRS Savings (2.57% decrease)	+	\$286,000
Additional DSS Revenue (Reimbursement)	+	\$656,000
State Budget		?

## Major Issues Identified for FY 16-17

- ❖ Health Insurance renewal
- ❖ Public Safety station coverage
- ❖ Capital projects exceeding available funding
- ❖ Trustee Labor – Courthouse
- ❖ Full Year funding of bailiffs for new J & D Court
- ❖ Additional full time positions requested
- ❖ Compensation

## Next Steps

- March 1: Budget Work Session
  - Compensation issues
  - Health Insurance Renewal
  - Public Safety: Staffing priorities/Station priorities
- March 15: Regular BOS Meeting
  - School Board Budget Presentation
  - FY16-17 CIP Recommendations

## Next Steps (cont.)

- March 22: Budget Work Session
  - Departmental Recommendations
    - Community Services
    - Human Services
    - Internal Services
  - School Board Budget (if needed)
- March 29: School Board Work Session
  - If needed

## Next Steps (cont.)

- April 4: County Administrator's Proposed FY16-17 Budget
  - Work Session on outstanding items (if needed)
- April 19: Regular BOS Meeting
  - Public Hearing on Proposed FY16-17 Budget
- April 26: Adoption of FY16-17 Budget and Capital Improvements Plan

# February 2016

January 2016							March 2016						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1	2	6	7	8	9	10	11	12
3	4	5	6	7	8	9	13	14	15	16	17	18	19
10	11	12	13	14	15	16	20	21	22	23	24	25	26
17	18	19	20	21	22	23	27	28	29	30	31		
24	25	26	27	28	29	30							
31													

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
31	1	▶ 3:00PM - 5:00PM Budget Worksession-CIP w/ schools, Fleet, Equip. Apparatis 2	3	4	5	6
7	8	9	10	11	12	13
14	15	▶ 1:30PM - 5:00PM Monthly BOS Meeting ▶ 3:30PM - 4:30PM Budget Worksession - Salary Strategy & Health Insurance 10	17	18	19	20
21	22	23	24	25	26	27
28	29	▶ 3:00PM - 5:00PM Budget Worksession - Compensation issues/ Health Ins./Public Safety (B75) 1	2	3	4	5

2/19/2016 11:14 AM

1/3

jackiewagner

# March 2016

February 2016							April 2016						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
1	2	3	4	5	6		1	2	3	4	5	6	7
7	8	9	10	11	12	13	8	9	10	11	12	13	14
14	15	16	17	18	19	20	15	16	17	18	19	20	21
21	22	23	24	25	26	27	22	23	24	25	26	27	28
28	29						29	30	31				

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
28	29	▶ 3:00PM - 5:00PM Budget Worksession - Compensation issues/Health Ins./Public Safety (B75) 1	2	3	4	5
6	7	8	9	10	11	12
13	14	▶ 1:30PM - 5:00PM Monthly BOS Meeting ▶ 3:30PM - 4:30PM Budget Worksession - CIP Recommendations ▶ 5:00PM - 6:00PM School Board Budget Presentation 15	16	17	18	19
20	21	▶ 3:00PM - 5:00PM Budget Worksession - Community Services / Human Services / Internal Services (B75) ▶ 5:00PM - 6:00PM School Board Budget Work Session, if needed 22	23	24	25	26
27	28	▶ 5:00PM - 6:00PM School Board Budget Worksession, if needed 29	30	31	▶ 8:00AM - 8:30AM REMINDER Schools Budget to BOS per state code 1	2

2/19/2016 11:15 AM

2/3

jackiewagner

April 2016

March 2016						
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

May 2016						
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
27	28	29 <small>5:00PM - 6:00PM School Board Budget Worksession, if needed</small>	30	31	1 <small>8:00AM - 8:30AM REMINDER Schools Budget to BOS per state code</small>	2
3	4 <small>6:00PM - 8:00PM Budget Presentation &amp; Budget Ad Published in News Post (Work Session on outstanding items if needed)</small>	5	6	7	8 <small>8:00AM - 8:30AM Budget Ad Published in News Post</small>	9
10	11	12	13	14	15	16
17	18	19 <small>1:30PM - 5:00PM Monthly BOS Meeting 7:00PM - 9:00PM Budget Public Hearing (BPMs East Auditorium)</small>	20	21	22	23
24	25	26 <small>6:00PM - 8:00PM Adoption of County Budget &amp; CIP</small>	27	28	29	30

2/19/2016 11:15 AM 3/3 jackiewagner

\*\*\*\*\*  
Mr. Ronnie Thompson left at 5:10 p.m.

**CLOSED MEETING**  
**(RESOLUTION #08-02-2016)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to into a closed meeting in accordance with 2.2-3711, a-1, Personnel & a-3, Acquisition of Land, a-5, Economic Development and a-7, Consult with Legal Counsel, of the Code of Virginia, as amended.

MOTION BY: Charles Wagner  
 SECONDED BY: Leland Mitchell  
 VOTING ON THE MOTION WAS AS FOLLOWS:  
 AYES: Mitchell, Wagner, Cundiff, Camicia, Tatum & Brubaker

\*\*\*\*\*

MOTION: Tim Tatum **RESOLUTION: #09-02-2016**  
 SECOND: Tommy Cundiff MEETING DATE February 17, 2016

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, Wagner, Cundiff, Camicia, Tatum & Brubaker  
 NAYS: NONE  
 ABSENT DURING VOTE: NONE  
 ABSENT DURING MEETING: NONE

\*\*\*\*\*

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

**PETITION for REZONE** – Petition of David Sine, Petitioner and Alvin Sine & Marcella Sine, Owners, requesting to amend proffered conditions #1 and #6, approved as part of a zoning amendment on November 27, 2007, relating to conformance to concept plan and allowable

signage. The property is currently zoned Business District, General (B-2) consisting of +/- 1.58 acres, located at 20734 Virgil Goode Highway, in the Boone District of Franklin County, and further identified as Tax Map/Parcel #0360018501A. (Case # REZO-12-15-14994

**BACKGROUND:**

Steven Sandy, Director of Planning & Community Development, advised the Board the petitioner requests to amend proffered conditions #1 and #6 from a previously approved rezoning of the property approved on November 27, 2007 (see submitted). The conditions relate to conformance to the concept plan and allowable signage, respectively. This 1.58 +/- acre property fronts on U.S. 220 North in Boone District. The applicant has also submitted a conceptual plan entitled "Blackwater 4WD & Tractor, LLC Concept Plan" prepared by Price Buildings, Inc. and dated December 3, 2015. The new concept plan shows the proposed 20 x 40 showroom addition that was not included on the concept plan in 2007 approval. The applicant has submitted a revised concept plan dated January 8, 2016. Therefore, proffer #1 is being amended to reference the new concept plan depicting the addition.

In addition, the petitioner has proposed to eliminate condition #6 that limited signage on the property to two (2) freestanding signs measuring no more than thirty-two (32) square feet in area and a prohibition on off-premise signs on the property. Currently, the Business B-2 district allows multiple freestanding signs for businesses and allows up to one hundred (100) square feet of area for each freestanding sign. Individual freestanding signs are required to maintain a separation of 250 feet. Based on the current sign location, the removal of this proffer would allow the one existing sign to be increased to 100 square feet in area however, another sign would not be allowed on the property due to the separation distance. Furthermore, off-premise signage would not be allowed due to the prohibition found in Section 25-502.10 of the 220-North Mixed Use Overlay.

The aerial view of the parcel shows the highway commercial nature of the area. The area is served by public water and septic systems. US Route 220, fronting the property is a public highway; the property has approximately 380' of frontage. .

During the Development Review Team (DRT) meeting where the application was reviewed with representatives from Public Works, Planning, VDOT, and the Virginia Dept. of Health. No major concerns were raised concerning the proposed special use permit.

The application was advertised, posted, and notifications sent to all adjacent property owners. Adjoining property owners and/or general public may raise comments and concerns during the public hearings.

**SITE STATISTICS:**

<i>Location:</i>	20734 Virgil H. Goode Highway (US 220 North), in the Boone District
<i>Size:</i>	+/- 1.58 acres
<i>Existing Land Use:</i>	Highway Commercial
<i>Adjoining Zoning:</i>	A1, Agricultural District
<i>Adjoining Land Uses:</i>	Commercial, Agriculture
<i>Adj. Future Land Uses:</i>	Commercial Highway Corridor

**COMPREHENSIVE PLAN:**

This property is designated in the 2025 Comprehensive Plan as Commercial Highway Corridor.

**Commercial Highway Corridors** are linear commercial development along an established primary highway. These highway corridors are intended to provide development opportunities extending behind the parcels that front on the primary highway.

The Commercial Highway Corridors identified in the Franklin County Comprehensive Plan are:

Route 220:

Between Brick Church Road and Iron Ridge Road (The commercial highway corridor this particular property is located)

Between Shady Lane (983) and the Rocky Mount Town limits.

Between Cassell Drive and the Franklin County Commerce Park

Route 40 West:

Between the Rocky Mount Town limits and Six Mile Post Road

Route 40 East:

Between the Rocky Mount Town limits and Golden View Road

### **Policies for Commercial Highway Corridors**

- 1. The County will explore and implement effective ways to manage and improve the negative impacts of strip commercial development on important arterial roads that have already experienced development. These impacts include frequent curb cuts, proliferation of signs and visual clutter, poor aesthetics and poor traffic flow.*
- 2. In areas that face increasing pressure for strip commercial development, the County will explore ways to provide incentives to encourage beneficial development, and desirable site characteristics, and to reduce the negative impacts on the rural character of the County. The methods will include planning for intersecting local access road nodes connecting to parallel collector roads.*
- 3. The County will encourage and monitor site plans for new development along key commercial corridors to coordinate entrances according good engineering practices to reduce safety hazards and congestion and to meet or exceed VDOT commercial highway entrance standards.*
- 4. Discourage further linear expansion of commercial highway corridors.*
- 5. Discourage the future designation of any new commercial highway corridors.*
- 6. New commercial development should be directed to identified Towns and Villages and/or lateral expansion of existing commercial corridors.*
- 7. Scale and design of development should be in keeping with traditional character of Franklin County.*

Also, this particular property is located in the 220 North Corridor Plan adopted by the Board of Supervisors in February of 2009. The property is located in the Mixed Use District of the plan.

### **ZONING ORDINANCE:**

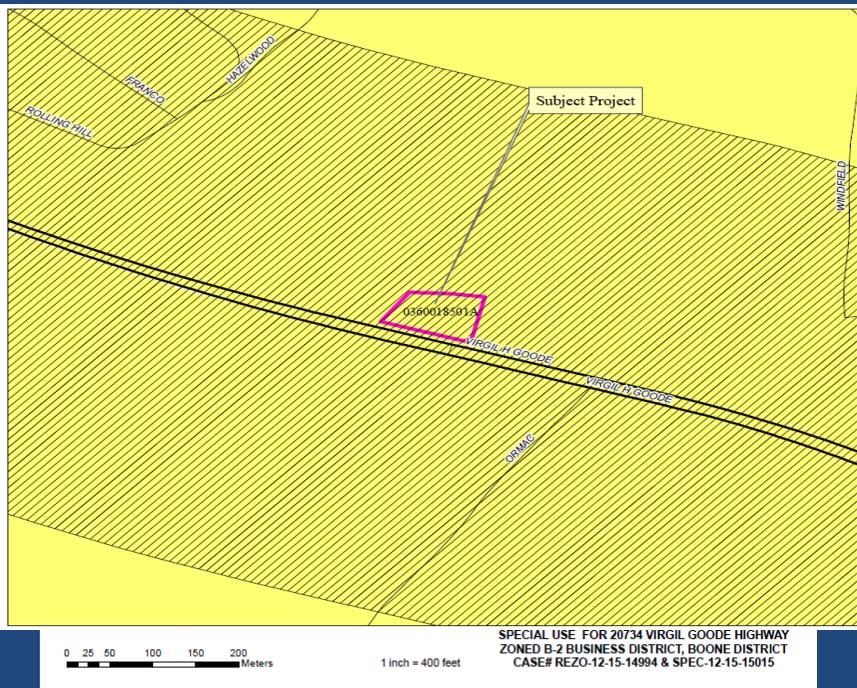
The development of the property is governed by Chapter 25 of the Franklin County Code. In addition, the property is located within the 220-North Mixed Use Overlay District and is subject to additional zoning regulations found in Chapter 25, Article IV, Division 6 of the County Code. These regulations govern required landscape yards, required landscaping, signage, etc. In particular, the overlay district requires a twenty-five (25) foot minimum landscape yard. This area shall landscape yard prohibits outdoor displays, outdoor storage, parking buildings within the yard.

### **ANALYSIS:**

Staff believes that the zoning history for this property, including the most recent rezoning cases in 2003 and 2007, indicates willingness by the Board of Supervisors for this property to develop as part of the commercial highway corridor. The property is already developed with commercial use and has been for several years. Staff believes that the continued B-2, Business District General, is appropriate for a commercial highway corridor, if given proffered assurances to limit the impact of commercial uses and development through appropriate landscaping, screening, and buffering against adjacent uses.

Allowance of signage consistent with other Business B-2 uses does not appear to be inconsistent with other B-2 properties in the area along this major highway corridor.





**BLACKWATER 4WD & TRACTOR, LLC  
CONCEPT PLAN**

TAX PARCEL: 36-185.1A  
BOONE MAGISTERIAL DISTRICT  
FRANKLIN COUNTY, VIRGINIA

GEORGE D. BARNHART  
D.B. 667 PG. 1297  
TAX: 36-186  
ZONING: A-1

JACKSON L. MCCRAY, JR.  
D.B. 941 PG. 1285  
TAX: 36-185.1  
ZONING: A-1

EXISTING BUILDING  
PROPOSED 14'x40' SHOWROOM  
PROPOSED OUTDOOR DISPLAY AREA  
EXISTING SIGN  
EXISTING GRUBBLES  
EXISTING FINE TREE ROW  
EXISTING 50' PRIVATE R/W D.B. 430 PG. 1051  
EXISTING SIGN  
JAMES M. EDWARDS, JR.  
D.B. 1012 PG. 2054  
TAX: 36-183.2A  
ZONING: A-1

U.S. 220 NORTH - VIRGIL H. GOODE HWY - VARIABLE R/W

1/4 0.40 MILE TO ROUTE 697

SCALE: 1" = 40'

PROPERTY INFORMATION  
OWNER: ALVIN & MARCELLA SINE  
675 SHADETREE LANE  
HARDY, VA 24101  
PROPERTY ADDRESS: 20734 VIRGIL H. GOODE HWY  
ROCKY MOUNT, VA 24151  
DEED REFERENCE: TRACT A - 1.580 ACRES  
DEED BOOK 1037, PAGE 2453  
ZONING: B-2  
PARKING: 8 SPACES BASED ON 1500 SQUARE FOOT  
RETAIL AREA PER SECTION 88-92-4E

VICINITY MAP

Price Buildings, Inc.  
11000 W. STATE ST.  
SUITE 100  
ROCKY MOUNT, VA 24151  
TEL: 540-963-0000  
WWW.PRICEBUILDINGS.COM

DATE: 05/09/14  
DRAWN BY: R. YOUNG  
SHEET: 1  
OF: 1

**Recommendation:**

Planning Commission by a vote of 6-0-1 (Webb abstained) recommends that the Board of Supervisors consider and approve the requested amendment to proffered conditions by rezoning from Business B-2 to Business B-2 with the following revised proffered conditions:

1. Substantial conformity. The property shall be developed in substantial conformity with the conceptual plan, entitled "Blackwater 4WD & Tractor, LLC Concept Plan", prepared by Price Buildings, Inc. dated 01/08/16.
2. Limitation of Use. The use of the Property shall be limited to the uses permitted in the Business B-2 district, except that the following uses will not be permitted on the Property: Apartments with combined business; Assembly halls; Auction barn/auction house; Blacksmiths; Boat clubs; Car and vehicle wash operations; carpet cleaning; Cemeteries, community and commercial; Clubs (private); Clubs (public); Cold storage lockers, facilities; Drive-in restaurants/walk-ins; Flea markets; Gasoline stations; Laundromats; Marinas; Mobile home sales; Railroad facilities.
3. The applicant shall comply with all requirements of the Virginia Department of Health regarding the provision of water and sewage disposal.
4. The applicant shall coordinate with Virginia Department of Transportation to meet requirements for a commercial entrance permit.
5. The applicant shall maintain a twenty (20) foot landscaped buffer adjacent to Route 220. In addition, the applicant shall maintain landscaped buffer to the east and west of the property in conformance with the Franklin County Landscape and Buffering Ordinance adopted July 2002.

Public Hearing was opened.

Mr. David Sine, Petitioner, presented his request for the Board's consideration.

\*\*\*\*\*

Public Hearing was closed.

\*\*\*\*\*

**(RESOLUTION #10-02-2016)**

BE IT THEREFORE ORDAINED, by the Board of Supervisors to approve the aforementioned rezoning with proffers, whereby the proposed rezoning will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare, will promote good zoning practice and is in accord with Section 25-730 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended with the following proffers and deviations:

Approved Proffers and Deviations:

1. Substantial conformity. The property shall be developed in substantial conformity with the conceptual plan, entitled "Blackwater 4WD & Tractor, LLC Concept Plan", prepared by Price Buildings, Inc. dated 01/08/16.
2. Limitation of Use. The use of the Property shall be limited to the uses permitted in the Business B-2 district, except that the following uses will not be permitted on the Property: Apartments with combined business; Assembly halls; Auction barn/auction house; Blacksmiths; Boat clubs; Car and vehicle wash operations; carpet cleaning; Cemeteries, community and commercial; Clubs (private); Clubs (public); Cold storage lockers, facilities; Drive-in restaurants/walk-ins; Flea markets; Gasoline stations; Laundromats; Marinas; Mobile home sales; Railroad facilities.
3. The applicant shall comply with all requirements of the Virginia Department of Health regarding the provision of water and sewage disposal.
4. The applicant shall coordinate with Virginia Department of Transportation to meet requirements for a commercial entrance permit.
5. The applicant shall maintain a twenty (20) foot landscaped buffer adjacent to Route 220. In addition, the applicant shall maintain landscaped buffer to the east and west of the property in conformance with the Franklin County Landscape and Buffering Ordinance adopted July 2002.

MOTION BY: Bob Camicia  
 SECONDED BY: Tommy Cundiff  
 VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Wagner, Cundiff, Camicia, Tatum & Brubaker  
 ABSENT: Thompson

\*\*\*\*\*

**PETITION for SPECIAL USE PERMIT** - Petition of David Sine, Petitioner and Alvin Sine & Marcella Sine, Owners, requesting a Special Use Permit in Business District, General (B-2) for outdoor displays on business property consisting of +/- 1.58 acres, located on 20734 Virgil Goode Highway, in the Boone District of Franklin County, and further identified as Tax Map/Parcel #0360018501A. (Case # SPEC-12-15-15015)

**BACKGROUND:**

Steve Sandy, Director of Planning presented the staff report noting the petitioner requests a Special Use Permit for "Outdoor Displays on Business Property" for the 1.58 +/- acre property fronting on U.S. 220 North in Boone District. The applicant has also submitted a conceptual plan entitled "Blackwater 4WD & Tractor, LLC Concept Plan" prepared by Price Buildings, Inc. and dated December 3, 2015. The applicant has submitted a revised concept plan dated January 8, 2016. In order to allow "Outdoor Displays on Business Property", a Special Use Permit is required to be issued by the Board of Supervisors under Section 25-336 of the County Code.

The aerial view of the parcel shows the highway commercial nature of the area. The area is served by public water and septic systems. US Route 220, is a public highway fronting the property. The property has approximately 380' of frontage.

During the Development Review Team (DRT) meeting where the application was reviewed with representatives from Public Works, Planning, VDOT, and the Virginia Dept. of Health, no major concerns were raised concerning the proposed special use permit.

The application was advertised, posted, and notifications sent to all adjacent property owners. No comments have been received as of the date of this report. However, adjoining property owners and/or general public may raise comments and concerns during the public hearings.

**SITE STATISTICS:**

Location: 20734 Virgil H. Goode Highway (US 220 North), in the Boone District  
 Size: +/- 1.58 acres  
 Existing Land Use: Highway Commercial, Business District (B-2)  
 Adjoining Zoning: A1, Agricultural District  
 Adjoining Land Uses: Commercial, Agriculture  
 Adj. Future Land Uses: Commercial Highway Corridor

**COMPREHENSIVE PLAN:**

This property is designated in the 2025 Comprehensive Plan as Commercial Highway Corridor.

Commercial Highway Corridors are linear commercial development along an established primary highway. These highway corridors are intended to provide development opportunities extending behind the parcels that front on the primary highway.

The Commercial Highway Corridors identified in the Franklin County Comprehensive Plan are:

Route 220:

Between Brick Church Road and Iron Ridge Road (The commercial highway corridor this particular property is located)  
 Between Shady Lane (983) and the Rocky Mount Town limits.  
 Between Cassell Drive and the Franklin County Commerce Park

Route 40 West:

Between the Rocky Mount Town limits and Six Mile Post Road

Route 40 East:

Between the Rocky Mount Town limits and Golden View Road

**Policies for Commercial Highway Corridors**

1. The County will explore and implement effective ways to manage and improve the negative impacts of strip commercial development on important arterial roads that have already experienced development. These impacts include frequent curb cuts, proliferation of signs and visual clutter, poor aesthetics and poor traffic flow.
2. In areas that face increasing pressure for strip commercial development, the County will explore ways to provide incentives to encourage beneficial development, and desirable site characteristics, and to reduce the negative impacts on the rural character of the County. The methods will include planning for intersecting local access road nodes connecting to parallel collector roads.
3. The County will encourage and monitor site plans for new development along key commercial corridors to coordinate entrances according good engineering practices to reduce safety hazards and congestion and to meet or exceed VDOT commercial highway entrance standards.
4. Discourage further linear expansion of commercial highway corridors.
5. Discourage the future designation of any new commercial highway corridors.
6. New commercial development should be directed to identified Towns and Villages and/or lateral expansion of existing commercial corridors.
7. Scale and design of development should be in keeping with traditional character of Franklin County.

Also, this particular property is located in the 220 North Corridor Plan adopted by the Board of Supervisors in February of 2009. The property is located in the Mixed Use District of the plan.

**ZONING ORDINANCE:**

Special Uses for the A-1 District are set forth in Sec. 25-336. The requested use is referenced as “Outdoor Displays on Business Property” to allow.

The property is located in the 220-North Mixed Use Overlay District and is subject to additional zoning regulations found in Chapter 25, Article IV, Division 6 of the County Code. These regulations govern required landscape yards, required landscaping, signage, etc. In particular, the overlay district requires a twenty-five (25) foot minimum landscape yard. This landscape yard area prohibits outdoor displays, outdoor storage, parking buildings within the yard. Therefore, the proposed outdoor display area will need to maintain a setback of twenty-five (25) feet from the right of way.

Sec. 25-638 of the Zoning Ordinance sets forth the County’s authority to issue special use permits for certain uses. The ordinance states that, in order to issue a special use permit, the Board of Supervisors must find that “such use will not be of substantial detriment to adjacent property, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this chapter, and with the public health, safety, and general welfare.”

Sec. 25-640 of the Zoning Ordinance sets forth the County’s authority to impose conditions for the issuance of special use permits. The ordinance states that the Board of Supervisors “may impose upon any such permit such conditions relating to the use for which such permit is granted as it may deem necessary in the public interest...” Conditions associated with a special use permit must be related to the particular land use which required the permit, and must be related to some impact generated by or associated with such land use.

Sec. 25-641 of the Zoning Ordinance states that a special use permit shall expire eighteen (18) months from the date of issuance if “no commencement of use, structure or activity has taken place.” The ordinance states that “commencement” shall consist of “extensive obligations or substantial expenditures in relation to the project,” including engineering, architectural design, land clearing, and/or construction.

**ANALYSIS:**

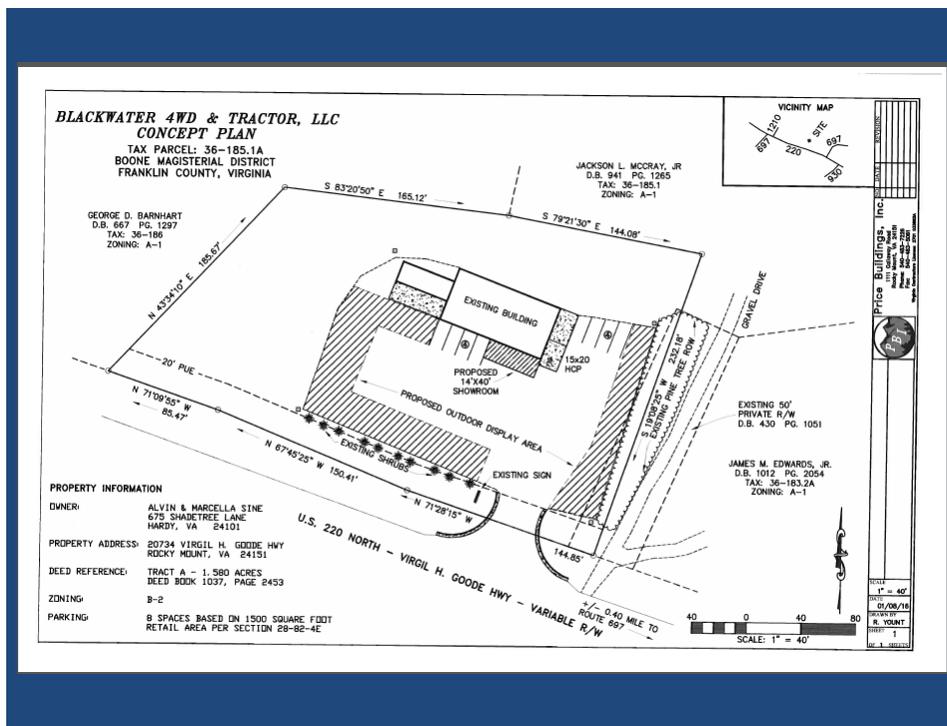
In accordance with Section 25-638 of the Zoning Ordinance, the proposed special use permit is being evaluated to determine if the use will be substantial detriment to adjacent properties, whether the character of the zoning district will be changed thereby, and that such uses will be in harmony with the purpose and intent of this chapter, with the uses permitted by-right in the zoning district, with additional regulations provided in sections 25-111 through 25-137, supplemental regulations, and amendments, of this chapter, and with the public health, safety,

and general welfare. Review of the proposed use does identify potential impacts in the following areas to be addressed:

Visual Clutter - Items displayed shall be in good working condition and displayed within the designated area as shown on the concept plan. Items shall not infringe on the required parking spaces and/or required landscape yard.

**CASE # SPEC-12-15-15015**  
**REQUEST:**

**PETITION for SPECIAL USE PERMIT -** Petition of **David Sine, Petitioner and Alvin Sine & Marcella Sine, Owners,** requesting a Special Use Permit in Business District, General (B-2) for outdoor displays on business property consisting of +/- 1.58 acres, located on 20734 Virgil Goode Highway, in the Boone District of Franklin County, and further identified as Tax Map/Parcel #0360018501A. (Case # SPEC-12-15-15015)





**Recommendation:**

Planning Commission recommends by a vote of 6-0-1 (Webb abstained) that the Board of Supervisors consider and approve the requested Special Use Permit for Outdoor Displays on Business property with the following conditions:

1. Substantial conformity. *The property shall be developed in substantial conformity with the conceptual plan, entitled "Blackwater 4WD & Tractor, LLC Concept Plan", prepared by Price Buildings, Inc. dated 01/08/16.*
2. Limitation of Use. *The use of "Outdoor Displays on Business Property" shall be limited to that area and location as shown on concept plan referenced in #1 above.*
3. Zoning Regulations. *The use of "Outdoor Displays Business Property" shall comply with the Special Use Permit conditions herein as well as all zoning regulations found under Business District (B-2) and Route 220 North Mixed Use Overlay.*

Public Hearing was opened.

No one spoke for or against the proposed Special Use Permit.

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Public Hearing was closed.

**(RESOLUTION #11-02-2016)**

BE IT THEREFORE ORDAINED, by the Board of Supervisors to approve the aforementioned rezoning with proffers, whereby the proposed rezoning will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare, will promote good zoning practice and is in accord with Section 25-730 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended with the following proffers and deviations:

Approved Proffers and Deviations:

1. Substantial conformity. The property shall be developed in substantial conformity with the conceptual plan, entitled "Blackwater 4WD & Tractor, LLC Concept Plan", prepared by Price Buildings, Inc. dated 01/08/16.
2. Limitation of Use. The use of the "Outdoor Displays on Business Property" shall be limited to that area and location as shown on concept plan referenced in #1 above and further limited to vehicles and equipment related to farming, garden, logging, construction, and similar uses only.

3. Zoning Regulations. The use of the "Outdoor Displays on Business Property" shall comply with the Special Use Permit conditions herein as well as all zoning regulations found under the Business District, General (B-2) and Route 220 North Mixed Use Overlay.

MOTION BY: Tim Tatum

SECONDED BY: Leland Mitchell

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Wagner, Cundiff, Camicia, Tatum & Brubaker

ABSENT: Thompson

\*\*\*\*\*

Mr. Tatum left at 6:45 p.m.

**PETITION** of Franklin County Board of Supervisors to amend Chapter 7, "Erosion and Sediment Control and Stormwater Management," and Chapter 27, "Land Use Development: Fee Schedule" of the Franklin County Code, as follows: Amend entirety of Chapter 7 for administrative changes and conformance with State of Virginia law as well as clarification of terminology and references to applicable laws and regulations; § 7-11, Fees, to clarify changes for processing applications and incomplete payments; § 7-15, General Usage Terms, to clarify terms and abbreviations; § 7-29, Performance Surety, to amend acceptable types of surety; § 7-51, Permit Required for land disturbance activities, to add criteria for permits; § 7-58, Technical Criteria for Regulated Land Disturbing land activities, to define grandfathering of previously approved plans; § 7-62, Monitoring and Inspections, to define monitoring and inspection process for stormwater management facilities; and § 27-1, Fee Schedule, to add state required fees for modification/transfer of permits and annual permit maintenance, administrative clarification of fees and to add exemption of fees for Franklin County agencies, board or division. (Case # A-01-16-0001)

Lisa Cooper, shared with the Board On January 19, 2015, Board of Supervisors scheduled a public hearing for Tuesday, February 16, 2016, to consider adopting revisions to Chapter 7: Erosion and Sediment Control and Stormwater Management and Chapter 27: Land Use Development Fee Schedule to comply with Department of Environmental Quality (DEQ) regulations concerning the erosion and sediment and stormwater management programs.

On July 1, 2014, new state regulations went into effect governing stormwater, runoff, and water quality related to land development. At this time Franklin County also became a permitting authority for stormwater permits. Due to the new state regulations the Board of Supervisors held a public hearing and repealed the existing Chapter 7 in the Franklin County Code and adopted a new Chapter 7: Erosion and Sediment Control and Stormwater Management on April 15, 2014. Additionally, June 17, 2014, the Board of Supervisors held a public hearing and adopted revisions to Chapter 27: Land Use Development Fee Schedule for new stormwater management fees.

During the previous meetings, the Board of Supervisors was informed there may be further changes to Chapter 7 and Chapter 27 possible at a later date due to the DEQ annual review of program and possible state law changes.

Staff has been working with the DEQ on revisions effecting the state regulations concerning Erosion and Sediment Control and Stormwater Management.

The following request for changes in the documents listed below will allow us to be in compliance with DEQ at this time.

1. Revisions to Chapter 7: Erosion and Sediment Control and Stormwater Management are as follows:
  - Administrative changes and conformance with State of Virginia law as well as clarification of terminology and references to applicable laws and regulations;
  - § 7-11, Fees, to clarify changes for processing applications and incomplete payments;
  - § 7-15, General Usage Terms, to clarify terms and abbreviations;
  - § 7-29, Performance Surety, to amend acceptable types of surety;
  - § 7-51, Permit Required for land disturbance activities, to add criteria for permits;
  - § 7-58, Technical Criteria for Regulated Land Disturbing land activities, to define grandfathering of previously approved plans; and,
  - § 7-62, Monitoring and Inspections, to define monitoring and inspection process for

stormwater management facilities.

2. Additions and revisions to Chapter 27: Land Use Development Fee Schedule. There are no new fees being added. The fees are currently required by the State, but do not appear in our fee schedule.

Please find submitted draft copies of Chapter 7 and 27 for your review. Additions to the ordinance and fee schedule are bold and underlined. Deletions to the ordinance and fee schedule are shown as strike through marks.

Notice of these proposed changes has been posted in the local newspaper for two (2) consecutive weeks. In addition, the proposed changes have been posted on the County's website and sent directly to engineers, surveyors, builders, developers, and other interested parties to make them aware of these changes and seek comments.

**RECOMMENDATION:**

Staff respectfully requests the Board of Supervisors to adopt the proposed revisions to Franklin County Code Chapter 7: Erosion and Sediment Control and Stormwater Management to be effective immediately. In addition staff respectfully requests the Board of Supervisors to adopted proposed revisions to Franklin County Code Chapter 27: Land Use Development Fee Schedule to be effective April 15, 2016. On April 15, 2016, the County's new EnerGov permitting system will be operating and the new fee schedules will be activated at this time. Prior to this date new fees cannot be activated.

**Chapter 7.**  
**Erosion and Sediment Control and Stormwater Management**  
**Article I. In General**

**Division 1. Authority**

- Sec. 7-1. Title of Article
- Sec. 7-2. Purpose of Article
- Sec. 7-3. Authority of Article
- Sec. 7-4. Local Control Program Established
- Sec. 7-5. Geographic Applicability
- Sec. 7-6. Severability
- Sec. 7-7 Standards to be used in preparation and consideration
- Secs. 7-8 - 7-9 Reserved

**Division 2. Administration**

- Sec. 7-10. Permits
- Sec. 7-11. Fees
- Sec. 7-12. Reference Documents
- Sec. 7-13 Appeals
- Sec. 7-14. Reserved

**Division 3. Definitions**

- Sec. 7-15. General Usage Terms
- Secs. 7-16 - 7-19. Reserved

**Article II. Erosion and Sediment Control**

- Sec. 7-20. Exemptions
- Sec. 7-21. Permit required for land disturbing activities
- Sec. 7-22. Erosion and Sediment Control Plan Required
- Sec. 7-23. Erosion Impact Areas
- Sec. 7-24. Submission and approval of Plans
- Sec. 7-25. Responsibility of property owner when work is being done by a contractor
- Sec. 7-26. Approval or Disapproval
- Sec. 7-27. Variances
- Sec. 7-28. Changing an approved erosion and sediment control plan
- Sec. 7-29. Performance Bond
- Sec. 7-30. Long term maintenance of permanent facilities
- Sec. 7-31. Closure of Erosion and Sediment Control Permit
- Sec. 7-32. Monitoring and Inspections
- Sec. 7-33. Enforcement
- Secs. 7-34 - 7 - 39 Reserved

**Article III. Alternative Inspection Program**

- Sec. 7-40. Alternative Inspection Program
- Secs. 7-41 - 7-49 Reserved.

**Article IV: Stormwater Management**

Sec. 7-50. Exemptions

**Sec. 7-51. Permit required for land disturbing activities**

**Sec. 7-52. Stormwater Management permit required**

Sec. 7-54 **53.** Submission and Approval of Plans

Sec. 7-52 **54.** Stormwater Pollution Prevention Plan

Sec. 7-53 **55.** Stormwater Management Plan

Sec. 7-54 **56.** Pollution Prevention Plan

Sec. 7-55 **57.** Review of Stormwater Management Plan

Sec. 7-56 **58.** Technical Criteria for Regulating Land Disturbing Activity

Sec. 7-57 **59.** Performance Bond

Sec. 7-58 **60.** Long term maintenance of Permanent Stormwater Facilities

Sec. 7-59 **61.** Closure of Land Disturbing Activities

Sec. 7-60 **62.** Monitoring and Inspections

Sec. 7-64 **63.** Enforcement

Sec. 7-62 **64.** Reserved

### **ARTICLE I. - IN GENERAL**

#### **Division 1 Authority**

##### **Sec. 7-1. Title of article.**

This article shall be known as the "Erosion and Sediment Control and Stormwater Management Ordinance of Franklin County, Virginia."

##### **Sec. 7-2. Purpose of article.**

The purpose of this article is as follows:

1. Erosion and Sediment Control (**ESC**) conserves the land, water, air and other natural resources of Franklin County and the State of Virginia and promotes 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.
2. **Stormwater Management provides the framework for the administration, implementation and enforcement of the Virginia Stormwater Management Act (VASWM Act) and to delineate the procedures and requirements to be followed in connection with state permits issued by a Virginia Stormwater Management Program (VSMP) Authority, while at the same time providing flexibility for innovative solutions to stormwater management issues.**

##### **Sec. 7-3. Authority for article.**

This article is adopted pursuant to the following:

1. Code of Virginia, 1950, as amended, Title 62.1, **3.1**, Chapter 3.1, Article 2.4 (§62.1-15:51 et seq.), known as the "Erosion and Sediment Control Law."
2. **Code of Virginia, 1950, as amended, Title 62.1, Chapter 3.1, Article 2.3 (§62.1-15:24 et seq.) known as the "Stormwater Management Law."**
3. **Virginia Administrative Code Chapter 840 Erosion and Sediment Control Regulations (9VAC25-840-10 et seq.)**
4. **Virginia Administrative Code Chapter 850 Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850-10 et seq.)**
5. **Virginia Administrative Code Chapter 870 Virginia Stormwater Management Program (VSMP) Regulation (9VAC25-870-10 et seq.)**
6. **Virginia Administrative Code Chapter 880 General Permit for Discharges of Stormwater from Construction Activities (9VAC25-880-1 et seq.)**

Such laws provide for a comprehensive statewide program, with standards and guidelines to control erosion and sedimentation and stormwater quantity and quality, which are implemented on a local level.

##### **Sec. 7-4. Local control program established.**

In accordance with the authority granted by the State of Virginia (62.1-44.15:27), Franklin County hereby establishes the following local control programs:

1. Effective April 15, 2014, a Virginia Erosion and Sediment Control Program (**VESCP**) ~~shall be in the effective to~~ 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 article, any regulations promulgated by the Virginia State Water Control Board pursuant to the Code of Virginia, as amended; and the Virginia Erosion and Sediment Control (**VESC**) Handbook as currently in effect and amended from time to time. Franklin County hereby designates the ~~Department Planning and Community Development~~ **Development Review Coordinator** as the Administrator of its Virginia Erosion and Sediment Control Program.
2. Effective July 1, 2014, a Virginia Stormwater Management Program (VSMP) for land-disturbing activities and adopts the applicable regulations that specify standards and specifications for VSMP's promulgated by the Virginia State Water Control Board pursuant to the Code of Virginia, as amended; and the Virginia Stormwater Management Handbook as currently in effect and amended from time to time. Franklin County hereby designates the ~~Department Planning and Community Development~~ **Development Review Coordinator** as the Administrator of its Virginia Stormwater Management Program (**VSMP**).

#### **Sec. 7-5. Geographic Applicability.**

This chapter shall apply to any land-disturbing activity in Franklin County and the incorporated Towns of Boones Mill and Rocky Mount, **unless they choose to administer their own program.**

#### **Sec. 7-6. 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.

#### **Sec. 7-25 7. Standards to be used in preparation and consideration.**

- (A) The most recent edition of the Virginia Erosion and Sediment Control (**VESC**) Handbook and Virginia Erosion and Sediment Control **and Stormwater Management (SWM)** Regulations and the Virginia Stormwater Management (**VSMP**) Handbook shall be available at the program administrators office as well as online and shall be used in preparing the Erosion and Sediment Control **and Stormwater Management** Plans required by this article. The county, in considering the adequacy of such Erosion and Sediment Control **and Stormwater Managment** Plans, shall be guided by the standards set forth in state regulations, or otherwise included in the Virginia Erosion and Sediment Control Handbook, the Virginia Stormwater Management Handbook, or the local program manual.
- (B) In areas governed by American Electric Power's (**AEP**) Smith Mountain Lake Shoreline Management Plan **adopted as of January 30, 2014, as amended; any land disturbing activities** shoreline rip-rap shall be installed according to the following specifications, and subject to AEP approval:
  - (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.~~

(C) All installation of materials shall be according to the VESC Handbook and manufacturers specifications.

### **Secs. 7-8 - 7-9 Reserved**

## **Division 2. Administration**

### **Sec. 7-10. Permits.**

The following **land disturbing** permits may be issued pursuant to this chapter:

1. Erosion and Sediment Control Permit.
2. Stormwater Management Permit.

### **Sec. 7-11. Fees.**

- (A) There shall be a reasonable fee charged for the processing of erosion and sediment control permit application(s). The permit application review fee shall be due at the time of initial submittal of the erosion and sediment control plan / agreement in lieu of plan application.
- (B) The application review fee shall cover costs associated with the implementation of the **VSMP and VESCP** related to land disturbing activities as listed on the **Land Use Development Fee Schedule, Chapter 27 of the Franklin County Code** for Planning & Community Development. ~~which can be obtained from the Department of Planning and Community Development. Incomplete payments will be deemed as non-payments.~~
- (C) There shall be a reasonable fee charged for the processing of stormwater management permit application(s). The permit application review fee **a minimum of fifty (50%) percent** shall be due at the time of initial submittal of the stormwater management plan **application**.
- (D) ~~The application review fee shall cover costs associated with the implementation of the VSMP related to land disturbing activities as listed on the Fee Schedule for Planning & Community Development, which can be obtained from the Department of Planning and Community Development. Incomplete payments will be deemed as non-payments. Interests may be charged on late payments, as a 10% late payment fee may be applied to delinquent accounts.~~
- (D) All incomplete payments will be deemed as non-payments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in the Code of Virginia § 58.1-15 and will be calculated on a monthly basis at the applicable periodic rate. A ten (10%) percent late fee shall be charged to any delinquent (over 90 days past due) account. The county shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.**

### **Sec. 7-12. Reference Documents.**

In administering this chapter, the local program authority may refer to any document, manual, handbook or guideline recognized by the state of Virginia related to Erosion and Sediment Control and/or Stormwater Management. In addition, the local program authority may develop and reference a local program manual to establish policies and procedures for program administration, plan review, inspections and enforcement related to this chapter.

### **Sec. 7-62 13. Appeals.**

Final decisions of the program administrator under this article 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.

Final decisions of the Board of Supervisors under this article 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.

**7-14. Reserved.**

**Division 3. Definitions**

**Sec . 7-15. General Usage Terms.**

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

**"Administrator"** means the VESCP & and/or VSMP Administrator, hereby designated as the **Development Review Coordinator** . ~~Franklin County Department of Planning and Community Development.~~

**"Adequate channel"** means a watercourse that will convey the designated frequency storm event without overtopping its banks or causing erosive damage to the bed, banks and overbank sections of the same.

**"Agreement in lieu of a plan"** means a contract between the VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the VESCP authority in lieu of an erosion and sediment control plan.

**"Agreement in lieu of a stormwater management plan"** means a contract between the VSMP authority and the owner or permittee that specifies the methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

**"Applicant"** means any person submitting an application for a permit or requesting issuance of a permit under this Ordinance.

**"Best management practice" or "BMP"** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and non-structural practices, to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

**"Board or State Board"** means the State Water Control Board

**"Channel"** means a natural stream or manmade waterway.

**"Certification"** means the process whereby the Board, on behalf of the Commonwealth, issues a certificate to persons who have completed board-approved training programs and met any additional eligibility requirements of 9VAC25-850-50 related to the specified classifications (9VAC25-850-40) within the areas of ESC or SWM or in other ways demonstrated adequate knowledge and experience in accordance with the eligibility requirements of 9VAC25-850-50 in the specified classifications within the areas of ESC or SWM.

**"Certified combined administrator for ESC"** means an employee or agent of a VESCP authority who holds a certificate of competence from the Board in the combined ESC classifications of program administrator, plan reviewer, and project inspector in the area of ESC.

**"Certified combined administrator for SWM"** means an employee or agent of a VSMP authority who holds a certificate of competence from the Board in the combined classifications of program administrator, plan reviewer, and project inspector in the area of SWM.

**"Certified project inspector for ESC"** means an employee or agent of a VESCP authority who holds a certificate of competence from the Board in the classification of project inspector in the area of ESC.

**"Certified project inspector for SWM"** means an employee or agent of a VSMP authority who holds a certificate of competence from the Board in the classification of project inspector in the area of SWM.

**"Certified plan reviewer for ESC"** means an employee or agent of a VESCP authority who: (i) holds a certificate of competence from the Board in the classification of plan reviewer in the area of ESC; or (ii) is a professional registered in the Commonwealth pursuant to Article 1 (§ [54.1-400](#) et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia; or (iii) is a professional soil scientist as defined in Chapter 22 (§ [54.1-2200](#) et seq.) of Title 54.1 of the Code of Virginia.

**"Certified plan reviewer for SWM"** means an employee or agent of a VSMP authority who (i) holds a certificate of competence from the Board in the classification of plan reviewer in the area of SWM, or (ii) is a professional registered in the Commonwealth pursuant to Article 1 (§ [54.1-400](#) et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

**"Certified program administrator for ESC"** means an employee or agent of a VESCP authority who holds a certificate of competence from the Board in the classification of program administrator in the area of ESC.

**"Certified program administrator for SWM"** means an employee or agent of a VSMP authority who holds a certificate of competence from the Board in the classification of program administrator in the area of SWM.

**"Classification"** refers to the four specific certificates of competence classifications within the areas of ESC or SWM that make up activities being performed (program administrator, plan reviewer, project inspector, and combined administrator).

**"Combined administrator for ESC"** means anyone who is responsible for performing the combined duties of a program administrator, plan reviewer and project inspector of a VESCP authority.

**"Combined administrator for SWM"** means anyone who is responsible for performing the combined duties of a program administrator, plan reviewer and project inspector of a VSMP authority.

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

**"Clean Water Act" or "CWA"** means the federal Clean Water Act (33 U.S.C §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

**"Common plan of development or sale"** means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules. ~~The "plan" in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that construction activities may occur on a specific plot.~~ "Common plan of development or sale" does not include any residential, commercial, or industrial lot recorded in the Franklin County Clerk of the Circuit Court's office on or before July 1, 2004.

**"Control measure"** means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

**"County"** means The County of Franklin.

**"Denuded"** means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

**"Department" or "DEQ"** means the Virginia Department of Environmental Quality.

**"Development"** means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

**"Director"** means the Director of the Virginia Department of Environmental Quality.

**"District" or "soil and water conservation district"** means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1- 506 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

**"Dormant"** refers to denuded land that is not actively being brought to a desired grade or condition.

**"ESC"** means erosion and sediment control.

**"ESC Act"** means the Erosion and Sediment Control Law, Article 4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

**"Erosion and Sediment Control Plan" or "ESC plan"** means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an 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 and all information deemed necessary by the plan-approving authority 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 registered in the Commonwealth pursuant to Article 1 (§ [54.1-400](#) et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, or a professional soil scientist as defined in Chapter 22 (§ [54.1-2200](#) et seq.) of Title 54.1 of the Code of Virginia.

**"Erosion and Sediment Control Agreement"**. – An agreement authorized by the program administrator to be provided in lieu of a performance bond on single family home construction. See agreement in lieu of plans.

**"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 any lot or parcel of land 10,000 square feet or less used for residential purposes or 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.

**"General permit"** means the state permit titled general permit for discharges of stormwater from construction activities found in Chapter 880 (9VAC25-880-1 et. seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

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

**"Land disturbance or Land disturbing activity"** – means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, or that potentially changes its runoff characteristics including, but not limited to, clearing, grading, and excavation, transporting and filling of land except that the term shall not include those exemptions specified elsewhere in this chapter.

**"Land Disturbing Activity Permit"** – See Permit for Land Disturbing Activity

**"Layout"** means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

**"Licensed professional" or "professional registered in the Commonwealth of Virginia"** means a person registered to engage in the practice of engineering, land surveying, or landscape architecture pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, or a professional soil scientist as defined in Chapter 22 (§ [54.1-2200](#) et seq.) of Title 54.1 of the Code of Virginia. .

**"Live watercourse"** means a definite channel with bed and banks within which concentrated water flows continuously.

**"Local program manual"** means a reference document developed by the local program authority to document policies and procedures for program administration, plan review, inspections or enforcement related to Erosion and Sediment Control and/or Stormwater Management.

**"Locality"** means Franklin County, including the incorporated towns of Boones Mill and Rocky Mount.

**"Minor modification"** means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions,

substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

**"Natural stream"** means nontidal watercourses that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams. Channels designed utilizing natural design concepts may be considered natural streams.

**"Non-erodible"** means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

**"Operator"** means the owner or operator of any facility or activity subject to regulation under this Ordinance.

**"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.

**"Permit" or "VSMP Authority Permit"** means an approval to conduct a land-disturbing activity issued by the Administrator for the initiation of a land-disturbing activity, in accordance with this Ordinance, and which may only be issued after evidence of general permit coverage has been provided by the Department where applicable.

**"Permit for Land Disturbing Activity"** A permit issued by the county authorizing the applicant to undertake a land-disturbing activity in accordance with the provisions of the VESCP or VSMP programs.

**"Permittee"** means 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 and/or stormwater management plan will be followed.

**"Person"** means 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, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

**"Program administrator"** means the person or persons responsible for administering and enforcing the VESCP or VSMP of a VESCP authority or a VSMP authority as may be applicable in the areas of ESC or SWM.

**"Project inspector"** means anyone who, as a representative of a VESCP authority or a VSMP authority, is responsible for periodically examining the ESC or SWM activities and premises of a land-disturbing activity for compliance with the ESC Act and Regulations or the SWM Act and Regulations as may be applicable.

**"Plan approving authority"** The Department of Planning and Community Development of Franklin County.

**"Post-development"** refers to 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.

**"Pre-development"** refers to conditions that exist at the time the erosion and sediment control plan is submitted to the VESCP authority or plans for land development are submitted to the VSMP 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 or land development plans for the initial phase is submitted for approval shall establish pre-development conditions.

**"Program Authority"** refers to Franklin County, Virginia.

**"Regulations"** include, but are not limited to, the Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870 and 9VAC25-880, as amended; and the Virginia Erosion and Sediment Control Program (VESCP) Regulations 9VAC25-840, as amended.

**"Responsible Land Disturber" or RLD,** 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, or (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review, or (iii) holds a current contractor certificate of

competence for erosion and sediment control, or (iv) is registered as a professional in the Commonwealth pursuant to Article 1 (Code of Virginia, § 54.1-400 et seq.) of [Chapter 4](#) of Title 54.1, or (v) is a professional soil scientist as defined in Chapter 22 (§ [54.1-2200](#) et seq.) of Title 54.1 of the Code of Virginia.

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

**"Site"** means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channel ward of mean low water in tidal Virginia shall not be considered part of a site.

**"Stabilized"** means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

**"State"** means the Commonwealth of Virginia.

**"State Board"** means the State Water Control Board.

**"State Permit"** means an approval to conduct a land-disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

**"State Water Control Law"** means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

**"State Erosion and Sediment Control Program" or "VESCP" or State Program."** means the program administered by the Department of Environmental Quality pursuant to the state code including regulations designed to minimize erosion and sedimentation.

**"State Waters"** means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

**"Stormwater Detention"** means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

**"Stormwater Maintenance Facility"** – means a control measure that controls stormwater runoff and changes the characteristics of that runoff including but not limited to, the quantity and quality, the period of release or velocity of flow.

**"Stormwater Management Plan" or "SWM plan"** means a document containing material describing methods for complying with the requirements of a VSMP and the SWM Act and its attendant regulations.

**"Stormwater"** means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

**"Stormwater Pollution Prevention Plan" or "SWPPP"** means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this Ordinance. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

**"Surface Water"** means all water, at or above the land's surface including, but not limited to springs, streams, rivers, lakes, ponds, wetlands, and artificially created water bodies.

**"SWM"** means stormwater management.

**"Total Maximum Daily Load" or "TMDL"** means the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

**"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.

**“Virginia Erosion and Sediment Control Program” or “VESCP”** means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in the ESC Act and this article, and evaluation consistent with the requirements of the ESC Act and this article.

**“Virginia Erosion and Sediment Control Program authority” or “VESCP authority”** means an authority approved by the Board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § [15.2-5102](#) of the Code of Virginia.

**“Virginia Stormwater Management Act” or “SWM Act”** means Article 2.3 (§62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

**“Virginia Stormwater BMP Clearinghouse website”** means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

**“Virginia Stormwater Management Program” or “VSMP”** means a program approved by the Board after July 1, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in the SWM Act and associated regulations, and evaluation consistent with the requirements of the SWM Act and associated regulations.

**“Virginia Stormwater Management Program authority” or “VSMP authority”** means an authority approved by the Board after July 1, 2013, to operate a Virginia Stormwater Management Program or, until such approval is given, the department. An authority may include a locality; state entity, including the department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of § 62.1-44.15:31 of the Code of Virginia, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § [15.2-5102](#) of the Code of Virginia.

**Secs. 7-16 - 7-19. Reserved.**

**Article II Erosion and Sediment Control**

**Sec. 7-20. Exemptions.**

- (A) Except as provided herein, no person may engage in any land-disturbing activity until an erosion and sediment control permit has been issued by the Administrator in accordance with the provisions of this Ordinance.
- (B) Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:
  - (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 drainage 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) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 **of the Code of Virginia**;
  - (6) Tilling, planting, or harvesting of agricultural horticultural, or forest crops, or livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, 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 in accordance with the provisions of Chapter 11(10.1-1100 et seq.) **of Title 10.1 of the Code of Virginia** or is converted to bona fide agricultural or improved pasture use as described in subsection B of **Section 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia**;
  - (7) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
  - (8) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 ( 10.1-604 et seq.) of Chapter 6, ditches, strip, cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
  - (9) Disturbed land areas of less than 3,000 square feet in size. See section 7-49 **21** for clarification as to when a permit is required;
  - (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
  - (11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
  - (12) 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 VESCP authority.

**Sec. 7-21. Permit required for land-disturbing activities.**

- (A) Except as otherwise provided in this article, no land disturbing activity shall commence prior to the issuance of an Erosion and Sediment Control permit by the Department of Planning and Community Development.
- (B) A Erosion and Sediment Control permit is required if:
  - (1) The area of land disturbance is ten thousand (10,000) square feet or greater; or
  - (2) The area of land disturbance is three thousand (3,000) square feet or greater; and the area of land disturbance is located within two hundred (200) feet of any surface water.
- (C) A Erosion and Sediment Control permit is not required if:
  - (1) The area of land disturbance is less than ten thousand (10,000) square feet, and such area is located more than two hundred (200) feet from any surface water; or
  - (2) The area of land disturbance is less than three thousand (3,000) square feet, and such area is located within two hundred (200) feet of any surface water.
  - (3) Any land disturbance in accordance with Section 7-20(B) shall be exempt.**

**Sec. 7-22. Erosion and Sediment Control Plan required.**

- (A) Except as otherwise provided in this article, no erosion and sediment control permit for land-disturbing activity shall be issued without an approved Erosion and Sediment Control Plan.

- (B) An Agreement in lieu of a plan may be substituted for an Erosion and Sediment Control Plan under the following conditions:
- (1) The land-disturbing activity is associated with the construction of a single family residence ~~that is not part of a common plan of development or sale~~; and
  - (2) The area of land disturbance is less than ~~one (1) acre~~ **five (5) acres**; and
  - (3) No additional proffers or conditions are required as part of a rezoning or special use permit which require low impact development techniques.

**Sec. 7-23. 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 as defined above and require an approved Erosion and Sediment Control plan and Erosion and Sediment Control permit.

**Sec.7-24. 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 (ESC 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 Department of Environmental Quality (DEQ) for review and approval, rather than submission to each jurisdiction concerned. 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~~ ESC plan for approval (unless otherwise exempted by this Ordinance), and certifies, after approval, that the ~~Erosion and Sediment Control Plan~~ ESC plan will be followed.
- (D) Where the land-disturbing activity results from the construction or location of a single-family residence, an Agreement in lieu of plans may be substituted for an ~~Erosion and Sediment Control Plan~~ ESC plan in accordance with Section 7-22(B) 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~~ ESC plan or agreement in lieu of 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 ~~Department of Environmental Quality~~ DEQ for review and approval prior to performing work in Franklin County. 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.

**Sec. 7-26 25. Responsibility of property owner when work is being 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~~ ESC plan shall be the responsibility of the owner of the land.

**Sec. 7-27 26. Approval or disapproval.**

- (A) Upon receipt of an erosion and sediment control plan submitted under this article, 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~~ **ESC** 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 article. 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 an 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 applicant.
- (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 Environmental Quality regulations in place at the time of resubmittal.
- (E) Should a land-disturbing activity not begin within **one hundred eighty (180)** days 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 will be considered 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 Environmental Quality regulations in place at the time of re-submittal.
- (F) Should a land-disturbing activity cease for more than one hundred eighty (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 Environmental Quality regulations in place at the time of re-submittal.

#### **Sec. 7-28 27. Variances.**

The VESCP authority may waive or modify any of the minimum standards that are deemed inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under the following conditions:

1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the VESCP authority shall be documented in the plan.
2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the VESCP authority. The VESCP authority shall

respond in writing either approving or disapproving such a request. If the VESCP authority does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

3. The VESCP authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.

**Sec. 7-29 28. 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 article, are agreed to by the program administrator and the person responsible for carrying out the plan.

**Sec. 7-30. Reserved.**

**Sec. 7-31 29. Performance Bond Surety.**

Except as otherwise provided in this article, no erosion and sediment control permit for land-disturbing activity shall be issued without the submittal and approval of a reasonable ~~performance bond~~ **surety** to secure the required erosion and sediment control measures. Such ~~bond~~ **surety** may take the form of ~~surety~~, cash escrow, letter of credit, **insurance bond**, any combination thereof, or such legal arrangement acceptable to the ~~program administrator~~ **County Attorney**. Such ~~bond~~ **surety** 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~~ **surety** 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~~ **surety**, cash escrow, letter of credit, **insurance bond**, 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.

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~~ **surety** to secure the required erosion and sediment control measures. The Erosion and Sediment Control Agreement shall include the following:

1. **The title of the Erosion and Sediment Control Plan;**
2. **The name of the plan preparer;**
3. **The date the plan was prepared;**
4. **The name and license number of the Responsible Land Disturber; and**
5. **The signature of the property owner.**

**Sec. 7-32 30. Long term maintenance of permanent facilities.**

(A) The Administrator shall require the provision of long-term responsibility for and maintenance of permanent Erosion and Sediment Control facilities. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Administrator and shall at a minimum:

- (1) Be submitted to the Administrator for review and approval prior to the approval of the Erosion and Sediment Control plan;
- (2) Be stated to run with the land;

- (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
  - (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
  - (5) Be enforceable by all appropriate governmental parties.
- (B) At the discretion of the Administrator, such recorded instruments need not be required for Erosion and Sediment Control facilities designed to accommodate runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator.

**Sec. 7-33 31. Closure of Erosion and Sediment Control Permit.**

Post-construction record documents, also known as "as-built" drawings, are required for all development projects that include permanent facilities for Erosion and Sediment Control. Such post-construction record documents shall be sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (54.1-400 et. seq.) of Chapter 4 of Title 54.1, and shall include language on the record documents certifying that the permanent facilities are in conformance with the approved Erosion and Sediment Control plan.

**Sec. 7-34 32. Monitoring and Inspections.**

- (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 ESC plan or Agreement in Lieu of plans to ~~insure~~ **ensure** compliance with the approved plan and to determine whether the measures required in the approved plans 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 State Soil and Water Conservation Board's approved Alternative Inspection Program (AIP) for Franklin County, approved February 1, 2008. See Article III.
- (B) If the program administrator determines that there is a failure to comply with the ESC plan or Agreement in Lieu of plans, notice shall be served upon the permittee or person responsible for carrying out the ESC plan or Agreement in Lieu of plans 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 ESC Plan or Agreement in Lieu of plans 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 ESC Plan or Agreement in Lieu of plans shall be deemed to be in violation of this article, and upon conviction shall be subject to the penalties provided herein.
- (C) Upon receipt of a sworn complaint of a substantial violation of this article 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 Agreement in Lieu of plan, requiring that all of the land-disturbing activities be stopped until an approved ESC plan or Agreement in Lieu of plan, 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 ESC 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 ESC 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.

- (D) 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 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.

**Sec. 7-35 33. Enforcement.**

- (A) A violation of any provision of this article 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 article, without the necessity of showing that there is not 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:
  2. Commencement of a land-disturbing activity without an approved land-disturbing permit shall be not less than \$100.00/day and no more than (\$1,000.00)/day.
  3. 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.
  4. Failure to obey a stop work order shall be up to one hundred dollars (\$100.00)/day.
  5. Failure to stop work when a permit is revoked shall be up to one thousand dollars (\$1,000.00)/day.
- (D) 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 ten thousand dollars (\$10,000.00), 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 (§ 62.1-44.15:54).
- (E) Individuals who hold a Responsible Land Disturber Certification as issued by the State Water Control Board and administered by the Virginia Department of Environmental Quality (DEQ) are hereby considered to be the person responsible for carrying out the plan and upon repeated violations, will be reported to DEQ for revocation of their certification. A Responsible Land Disturber is also accountable for any and all sanctions included in this article and is subject to the same penalties as the owner of the property.
- (F) 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.
- (G) 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 article, 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 paragraph (B) of this section. Such civil charges shall be in lieu of any appropriate civil penalty which could be imposed under paragraphs (B) and (C).

(H) 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 as follows:

1. Issue a field correction notice listing the violations noted during inspection and the required corrective action.
2. 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.
3. 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.
4. 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.
5. Such orders shall be issued in accordance with the ~~Stormwater Management and Erosion Control Manual~~ Erosion and Sediment Control and Stormwater Management Manual.

#### Sec. 7-36 34. Appeals.

~~Final decisions of the program administrator under this article 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.~~

~~Final decisions of the board of supervisors under this article 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.~~

#### Secs. 7-37 7-34 - 7-39. Reserved.

### **Article III Alternative Inspection Program for Erosion and Sediment Control**

#### **Sec. 7-40. 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: 62.1-44.15:52 of Title 62.1, Chapter 3.1 Article 2.4 of the Code of Virginia and 9VAC25 840-60 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 (LOW)	1	Projects typically with total acres disturbed under two acres; greater than 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 (MED)	2	Projects typically with total acres disturbed under two acres; disturbed 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 (HIGH)	3	Projects typically with total acres disturbed over two acres; disturbed 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.

**TABULAR RATING SYSTEM - EROSION AND SEDIMENT CONTROL**

**FRANKLIN COUNTY, VIRGINIA**

TOTAL DISTURBED ACREAGE	CHECK	RATING	DISTANCE TO WATERCOURSE	CHECK	RATING
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			Greater than 300 feet		0
(High Priority)					
<b>Soil Erodibility (base on K-Factor)</b>			<b>Distance—Downstream Adjacent Property</b>		
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
<b>Buffer Condition</b>	<b>Vegetation</b>		<b>Width of Buffer</b>		
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
<b>Critical Slope</b>			<b>Crossing Water Course</b>		
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 3 If no, rating 0					
OVERALL RATING	INSPECTION RETURN FREQUENCY				
(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: \_\_/\_\_/\_\_\_\_

**Secs. 7-41 - 7-49. Reserved.**

**Article IV. Stormwater Management**

**Sec. 7-50. Exemptions**

- (A) Except as provided herein, no person may engage in any land-disturbing activity until a [Virginia Stormwater Management Program](#) or VSMP authority permit has been issued by the Administrator in accordance with the provisions of this Ordinance.
- (B) Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:
  - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
  - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, 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 in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

- (3) Single-family residences separately built and disturbing less than one **(1)** acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures.
- (4) Land disturbing activities that disturb less than one **(1)** acre of land area ~~except for~~ **or** activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
- (5) Discharges to a sanitary sewer or a combined sewer system;
- (6) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;
- (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and
- (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (A) is required within 30 days of commencing the land-disturbing activity.

Sec. 7-51. Permit required for land-disturbing activities.

- (A)** Except as otherwise provided in this article, no land disturbing activity shall commence prior to the issuance of a Stormwater management permit by the Department of Planning and Community Development.
- (B)** A Stormwater Management permit is required if:
- (1)** The area of land disturbance in one (1) acre or greater; or
  - (2)** The area of land disturbance as part of a common plan of development or sale not covered by an active stormwater management permit.
  - (3)** Any land disturbance in accordance with Section 7-50(B) shall be exempt.
- (C)** A Stormwater Management permit is not required if:
- (1)** The area of land disturbance is less than one (1) acre; or
  - (2)** The area of land disturbance as part of a common plan of development or sale covered by an active stormwater permit.

Sec. 7-52. Stormwater Management

- (A)** Except as otherwise provided in this article, no stormwater management permit for land disturbing activity shall be issued without an approved stormwater management plan.
- (B)** An Agreement in lieu of a Stormwater Management plan may be substituted for a stormwater management plan under the following conditions:
- (1)** The land disturbing activity is associated with the construction of a single family residence; and
  - (2)** The area of land disturbance is less than five (5) acres; and

- (3) No additional proffers or conditions are required as part of a rezoning or special use permit which require low impact development techniques.**

**Sec. 7-51 53. Submission and Approval of Plans; Prohibitions.**

- (A) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:
- (1) A permit application that includes a general permit registration statement, **if such statement is required;**
  - (2) An Erosion and Sediment Control Plan approved in accordance with the Franklin County Erosion and Sediment Control Ordinance Section 7-23 ~~24~~, and;
  - (3) A Stormwater Management Plan that meets the requirements of ~~Section 7-50~~ **Sections 7-53 and 7-54** of this Ordinance.
- (B) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.
- (C) No VSMP authority permit shall be issued until the appropriate fees have been paid and a performance bond has been submitted and approved.
- (D) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing; construction, disturbance, land development and drainage will be done according to the approved permit.
- (E) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator unless otherwise exempted by this ordinance.

**Sec. 7-52 54. Stormwater Pollution Prevention Plan; Contents of Plans.**

- (A) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Chapter 880 General Permit for Discharges of Stormwater from Construction Activities 9VAC25-880-1 et seq ~~-70~~.
- (B) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (C) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

**Sec. 7-53 55. Stormwater Management Plan; Contents of Plan.**

- (A) The Stormwater Management Plan, as required by this Article, must apply the stormwater management technical criteria set forth in this Article to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, **individuals lots in new residential, commercial, or industrial developments shall not be considered separate land disturbing activities,** and include the following information including but not limited to any additional information as required by the VSMP Permit Regulations (9VAC25-870-55) and the Franklin County Stormwater Management and Erosion Control Manual:

- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post development drainage areas;
  - (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
  - (3) A narrative that includes a description of current site conditions and final site conditions;
  - (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
  - (5) Information on the proposed stormwater management facilities, including but not limited to:
    - (a) The type of facilities;
    - (b) Location, including geographic or state plain coordinates;
    - (c) Acres treated, and;
    - (d) The surface waters or karst features, if present, into which the facility will discharge.
  - (6) Hydrologic and hydraulic computations, including runoff characteristics;
  - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of this Article and the Franklin County Stormwater Management and Erosion Control Manual.
  - (8) A map or maps of the site that depicts the topography of the site and includes at a minimum:
    - (a) All contributing drainage areas;
    - (b) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
    - (c) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
    - (d) Current land use including existing structures, roads, and locations of known utilities and easements;
    - (e) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
    - (f) The limits of clearing and grading, and the proposed drainage patterns on the site;
    - (g) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
    - (h) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (B) If an operator intends to meet the water quality and/or quantity requirements set forth in this s Section 7-53 of ~~this~~ the o Ordinance through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.
- (C) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

- (D) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator except for stormwater management facilities for which maintenance agreements are not required pursuant to this Article. The construction record drawing shall be appropriately sealed and signed by a licensed professional registered in the Commonwealth of Virginia, pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

**Sec. 7-54 56. Pollution Prevention Plan; Contents of Plans.**

- (A) Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21 (d) to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
  - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
  - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (B) The pollution prevention plan shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450 21 (e):
- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
  - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
  - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance, and;
  - (4) Soaps or solvents used in vehicle and equipment washing.
- (C) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls in accordance with 40 CFR 45.21 (c).

**Sec. 7-55 57. Review of Stormwater Management Plan.**

- (A) The Administrator or any duly authorized agent of the Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:
- (1) The Administrator shall determine the completeness of a plan in accordance with this Article, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
  - (2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.
  - (3) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.

- (4) For plans not approved by the Administrator, all return comments shall be addressed by the applicant within 90 calendar days. Plans that are not resubmitted within this time period will be subject to a new application fee and review for current regulations.
- (5) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance and the ~~Stormwater Management and Erosion Control~~ **Erosion and Sediment control and Stormwater Management** Manual.
- (6) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.
- (B) Approved stormwater plans may be modified as follows:
- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.
- (2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.
- (C) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to this Article.

**Sec. 7-56 58. Technical Criteria for Regulated Land Disturbing Activities.**

- (A) All land-disturbing activities shall comply with the technical criteria outlined in the ~~Stormwater Management and Erosion and Control Plan~~ **Erosion and Sediment Control and Stormwater Management** Manual, latest edition.
- (B) **Any land-disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C (9VAC25-870-93 et seq.) technical criteria of the article provided:** ~~Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by Franklin County as being equivalent thereto, was approved by the Franklin County prior to July 1, 2012, and for which no coverage under the general permit has been issued prior to July 1, 2014, shall be considered grandfathered by the Administrator and shall not be subject to the technical criteria of Part II B [of the Regulations], but shall be subject to the technical criteria of Part II C [of the Regulations] for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the Locality as being equivalent thereto, (i) provides for a layout and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C. In the event that the Locality-approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.~~
- (1) **A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in**

9VAC25-870-10, (iii) will comply with the Part II C technical criteria of this chapter, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff; Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the Department has approved a stormwater management plan prior to July 1, 2012, such projects shall be considered grandfathered by Franklin County and shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of Part II C of the Regulations for those areas that were included in the approval.

(2) A state permit has not been issued prior to July 1, 2014; and For land-disturbing activities grandfathered under this Subsection, construction must be completed by June 30, 2019, or portions of the project not under construction shall become subject to the technical requirements of Part II B.

(3) Land disturbance did not commence prior to July 1, 2014.

(C) Locality, state, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of this article provided: In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements Part IIC of the Regulations.

(1) There has been an obligation of locality, state, or federal funding in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

(D) Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the Part II C technical criteria of the article for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board. The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.

(1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit or required state permits shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director except where allowed under Part II C of the regulations.

(2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(E) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

(F) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

**Sec. 7-57 59. Performance Bond Surety.**

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable ~~performance bond with~~ surety, cash escrow, letter of credit, insurance bond or any combination thereof, or such other legal arrangement acceptable to the county attorney, to ensure that measures could be taken by the County of Franklin at the Applicant's expense should he/she fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him/her by the permit conditions as a result of his/her land disturbing activity. If the County of Franklin takes such action upon such failure by the Applicant, the Locality may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within **sixty (60)** days of the completion of the requirements of the permit conditions, such ~~bond~~ **surety**, cash escrow, letter of credit, insurance bond or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

**Sec. 7-58 60. Long-term Maintenance of Permanent Stormwater Facilities.**

(A) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Administrator and shall at a minimum:

- (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
- (2) Be stated to run with the land;
- (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
- (5) Be enforceable by all appropriate governmental parties.

(B) At the discretion of the Administrator, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator.

(C) If a recorded instrument is not required pursuant to ~~Subsection 7-55~~ **Section 7-60(B)**, the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.

**Sec. 7-59 61. Closure of Land Disturbing Activities.**

Post-construction record documents, also known as "as-built" drawings, are required for all development projects that include permanent facilities for Stormwater Management; **excluding individual residential lot improvement (agreement in lieu of plan)**. Such post-construction record documents shall be sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (54.1-400 et. seq.) of Chapter 4 of Title 54.1, and shall include language on the record documents certifying that the permanent facilities are in conformance with the approved Stormwater Management plan.

**Sec. 7-60 62. Monitoring and Inspections.**

(A) The Administrator or any duly authorized agent of the Administrator shall inspect the land-disturbing activity during construction for:

- (1) Compliance with the approved erosion and sediment control plan;
- (2) Compliance with the approved stormwater management plan;

- (3) Development, updating, and implementation of a stormwater pollution prevention plan; and
- (4) Development and implementation of any additional control measures necessary to address a TMDL.

**(B) The VSMP authority shall establish an inspection program that ensures that stormwater management facilities are being adequately maintained as designed after completion of land disturbing activities. Inspection programs shall:**

**(1) Be approved by the board;**

**(2) Ensure that each stormwater management facility is inspected by VSMP authority, or its designee, not to include the owner, except as provided in subsections C and D of this section, at least once every five years; and**

**(3) Be documented by records.**

**(C) The Virginia Stormwater Management Program (VSMP) authority may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in subsection B of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article I (Section 54.1-400 et. seq.) of Chapter 4 of Title 54.1; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the board.**

**(D) If a recorded instrument is not required pursuant to 9VAC25-870-112, a VSMP authority shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the VSMP authority.**

~~(E)(B)~~ The Administrator or any duly authorized agent of the Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.

~~(F)(C)~~ In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

~~(G)(D)~~ Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.

~~(E)~~ Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator or any duly authorized agent of the Administrator pursuant to the Locality's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in this Article.

**Sec. 7-61 63. Enforcement.**

- (A) If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.
- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (B) or the permit may be revoked by the Administrator.
  - (2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.
- (B) Such orders shall be issued in accordance with the ~~Stormwater Management and Erosion Control~~ **Erosion and Sediment Control and Stormwater Management** Manual. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with this Article.
- (C) In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the Franklin County ~~Stormwater Management and Erosion Control~~ **Erosion and Sediment Control and Stormwater Management** Manual.
- (D) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in Franklin County Circuit Court by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (E) Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.
- (1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
    - (a) No state permit registration;
    - (b) No SWPPP;
    - (c) Incomplete SWPPP;
    - (d) SWPPP not available for review;
    - (e) No approved erosion and sediment control plan;
    - (f) Failure to install stormwater BMPs or erosion and sediment controls;
    - (g) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
    - (h) Operational deficiencies;

- (i) Failure to conduct required inspections;
  - (j) Incomplete, improper, or missed inspections; and
  - (k) Discharges not in compliance with the requirements of Section 9VAC25-880-70 of the general permit.
- (2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
- (3) In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
- (4) Any civil penalties assessed by a court as a result of a summons issued by Franklin County shall be paid into the treasury of the Franklin County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.
- (F) Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

**Sec. 7-62. Appeals.**

~~Final decisions of the program administrator under this article 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.~~

~~Final decisions of the board of supervisors under this article 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.~~

**Sec. 7-62. Reserved**

<b>SUBDIVISIONS (Chapter 19)</b>	
Minor Subdivisions <del>Family Divisions, Subdivisions of 2 lots or less, Boundary Line Adjustments, etc.</del>	\$75.00
<b><u>Family Divisions, Boundary Line Adjustments</u></b> , Vacations, etc.	\$50.00
Vacations requiring Public Hearing	\$200.00
Major Subdivisions 3 lots or greater	\$125.00 + \$10.00 per lot
<b><u>Large Lot Subdivisions 5 to 15 acres</u></b>	<b><u>\$10.00 per lot</u></b>
<b>ZONING PERMITS (Chapter 25)</b>	
Single Family Dwellings, <b><u>Temporary Events</u></b>	\$35.00
Multi-Family Dwellings	\$35.00 per unit
Docks, Piers, etc. (2 or less slips)	\$50.00
Docks, Piers, etc. (3 or greater slips)	\$50.00 + \$5.00 per slip
All other Accessory Uses	\$25.00
Additions to Primary Structures	\$35.00
Signage	\$40.00

\***Cross references** - Erosion and sediment control, ch. 7; subdivision, ch. 19; water and sewer systems, ch. 22; zoning, ch. 25; PUD district ordinance, app. A

<b>SITE PLAN REVIEW (Chapter 25)</b>	
Planned Developments	\$250.00 + \$10.00 per acre
All Others	\$200.00 + \$10.00 per acre
<b>PUBLIC WATER &amp; SEWER REVIEW (CHAPTER 22/§ 22-36(D))</b>	
Public Water & Sewer (Residential)	\$200.00 + \$5.00 per structure/unit
Public Water or Public Sewer (Residential)	\$100.00 + 2.50 per structure/unit
Public Water & Sewer (Commercial/Industrial)	\$200.00 + \$5.00 per 1,500 sq. ft. of floor space of structures
Public Water or Sewer (Commercial/Industrial)	\$100.00 + \$2.50 per 1,500 sq. ft.
<b>REZONINGS (Chapter 25)</b>	
Planned Developments	\$300.00 + \$10.00 per acre
Residential/Agricultural	\$250.00 + \$5.00 per acre
Commercial & Industrial	\$250.00 + \$5.00 per acre

<b>SPECIAL USE PERMITS (Chapter 25)</b>			
Planned Developments <b>and Conformance Review</b>		\$300.00 + \$5.00 per acre	
Residential/Agricultural		\$250.00 + \$5.00 per acre	
Commercial & Industrial		\$250.00 + \$5.00 per acre	
<b>BOARD OF ZONING APPEALS (Chapter 25)</b>			
Appeal		\$200.00	
Variance		\$200.00	
<b>EROSION &amp; SEDIMENT CONTROL &amp; STORMWATER</b>			
Agreement in Lieu of Plan <b>for ESC</b>		\$100.00	
E-&S <b>ESC</b> Plan Review		\$200.00 + \$20.00 per acre	
<b>STORMWATER MANAGEMENT FEE TYPE</b>	<b>TOTAL FEE Registration/Coverage 9VAC25-870-820 - Coverage under General Permit for discharge of stormwater from construction activities</b>	<b>VSMP Authority (Franklin County) per Modification/Transfer 9VAC25-870-825</b>	<b>VA Department of Environmental Quality (DEQ) portion Annual Permit Maintenance 9VAC25-870-830</b>
General / Stormwater Management – Detached Single family home construction with land disturbance acreage less than five (5) acres <b>(agreement in lieu of Plan)</b> .	\$209.00 <b>(state portion \$0)</b>	<b>\$0.00</b>	<b>\$0.00</b>
General / Stormwater Management – Small Construction Activity / Land Clearing (areas within common plans of development or sale) with land disturbance acreage less than one (1) acre, <b>except single family detached</b> .	\$290.00 <b>(state portion \$81.00)</b>	<b>\$20.00 (No state portion)</b>	<b>\$50.00 (No state portion)</b>
General / Stormwater Management – Small Construction Activity / Land Clearing <b>(sites or areas within common plans of development or sale)</b> with land disturbance acreage greater than or equal to one (1) acre but less than five (5) acres.	\$2,700.00 <b>(state portion \$700.00)</b>	<b>\$200.00 (No state portion)</b>	<b>\$400.00 (No state portion)</b>
General / Stormwater Management – Large Construction Activity / Land Clearing <b>(sites or areas within common plans of development or sale)</b> with land disturbance greater than or equal to five (5) acres but less than ten (10) acres.	\$3,400.00 <b>(state portion \$900.00)</b>	<b>\$250.00 (No state portion)</b>	<b>\$500.00 (No state portion)</b>
General / Stormwater Management – Large Construction Activity / Land Clearing <b>(sites or areas within common plans of development or sale)</b> with land disturbance greater than or equal to ten (10) acres but less than fifty (50) acres.	\$4,500.00 <b>(state portion \$1,100.00)</b>	<b>\$300.00 (No state portion)</b>	<b>\$650.00 (No state portion)</b>
General / Stormwater Management – Large Construction Activity / Land Clearing <b>(sites or areas within common plans of development or sale)</b> with land disturbance greater than or equal to fifty (50) acres but less than one hundred (100) acres.	\$6,100.00 <b>(state portion \$1,708.00)</b>	<b>\$450.00 (No state portion)</b>	<b>\$900.00 (No state portion)</b>
<b>ADDITIONAL FEES</b>			
Zoning Compliance Letter	\$75.00		
<b>Manufactured, Home Park (Chapter 10)</b>	<b>\$35.00 + \$3.50 per lot</b>		
Re-Inspect failed inspection	\$100.00		

**Application fees are hereby waived for the following:**

- 1. Franklin County School Board.**
- 2. Fire and rescue companies serving Franklin County.**
- 3. Any agency, board or division acting in the name of the Board of Supervisors of Franklin County.**

(ORD. of 8-19-03; Res. No. 18-06-05; Amend of 3-25-05(6); Res. No. 10-06-2014, 6-17-14)**Draft  
January 8, 2016**

Public Hearing was opened.  
No one spoke for or against the proposed code amendments  
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Public Hearing was closed.

**(RESOLUTION #12-02-2016)**

**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 25-729 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended with Chapter 27 effective April 15, 2016 and Chapter 7 effective immediately.

MOTION BY: Charles Wagner  
SECONDED BY: Bob Camicia  
VOTING ON THE MOTION WAS AS FOLLOWS:  
AYES: Mitchell, Wagner, Cundiff, Camicia, & Brubaker  
ABSENT: Thompson & Tatum

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Chairman Brubaker adjourned the meeting.

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CLINE BRUBAKER  
CHAIRMAN

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SHARON K. TUDOR, MMC  
COUNTY CLERK