



**AGENDA
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JANUARY 8, 2014
7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

Call To Order

Invocation

Pledge of Allegiance

Organization of the Board of Supervisors for 2014:

Pursuant to *Code of Virginia*, 1950, as Amended, the Board is Required to Organize Its Functions at Its First Meeting in January Including:

- A. Election of Vice-Chairman
- B. Adoption of Rules of Procedure
- C. Selection of a Parliamentarian
- D. Selection of Time and Place for Regular Meetings
- E. Chairman's Board/Committee Assignments.

Adoption of Agenda:

Pursuant to established procedures, the Board should adopt the Agenda for the meeting.

Consent Agenda:

(Tentative Agenda Items for Consent are Tabs: F, G, and H)

Citizen Comments (Agenda Items Only, That Are Not Subject to Public Hearing.)

Board of Supervisors Comments

Minutes: (See Attached)----- A

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1. Work Session with Planning Commission/Staff, December 6, 2013.
2. Closed Session, December 11, 2013.
3. Work Session with School Board, December 11, 2013.
4. Regular Meeting, December 11, 2013.

County Officials:

1. Presentation of Energy Award by Virginia Association of Counties (VACo).
(See Attached) ----- **B**
2. Committee Appointments. **(See Attached)**----- **C**
3. Request from Commissioner of the Revenue for Refunds.
(See Attached) ----- **D**
4. Resolution and Performance Agreement for HP Hood LLC.
(See Attached) ----- **E**

Committee Reports:

1. Parks and Recreation Commission. **(See Attached)**----- **F**
2. Landfill Oversight Committee. **(See Attached)**----- **G**
3. Public Safety Committee. **(See Attached)**----- **H**
4. Business Friendly Committee. **(See Attached)**----- **I**
5. Human Resources Committee. **(See Attached)**----- **J**
6. Code & Ordinance Committee. **(See Attached)**----- **K**
7. Stormwater Subcommittee – Update of New Stormwater Permit Program
and Ordinance (For Information Only). **(See Attached)**----- **L**

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Public Hearing:

1. Amendment to the 2013-2014 Fiscal Year Budget - Pursuant to Section 15.2-2507 of the Code of Virginia, 1950, as Amended, the Board of Supervisors will Hold a Public Hearing to Amend the Fiscal Year 2013-2014 Budget to Reflect: School Construction Fund Supplemental Appropriation in the Amount of \$45.5 Million for Replacement Frederick County Middle School. This Project is Nearing the Point to Seek Solicitation for Construction Bids and is the Remaining Appropriation Amount Needed for the Replacement Frederick County Middle School Project. **(See Attached)**----- **M**

2. An Ordinance to Amend the Ordinance Creating the Industrial Development Authority of the County of Frederick, Virginia, Adopted by the Board of Supervisors of Frederick County, Virginia on October 24, 1967, To: (1) Change the Name of the Authority from the Industrial Development Authority of the County of Frederick, Virginia to the Economic Development Authority of the County of Frederick, Virginia, Pursuant to the Provisions of Section 15.2-4903(C) of the Code of Virginia, 1950, as Amended, and (2) To State that the Authority Shall Continue to Have all of the Powers Set Forth in Chapter 49 of Title 15.2 of the Code of Virginia, 1950, as Amended. **(See Attached)** ----- **N**

Board Liaison Reports (If Any)

Citizen Comments

Board of Supervisors Comments

Adjourn

A

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

WORK SESSION

December 6, 2013

A work session of Frederick County Board of Supervisors was held on Friday, December 6, 2013 at 11:30 A.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Chairman Richard C. Shickle; Charles S. DeHaven, Jr.; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells

ABSENT

Christopher E. Collins (Arrived at 11:55 a.m.)

OTHERS PRESENT

John R. Riley, Jr., County Administrator; Kris C. Tierney, Assistant County Administrator; Jay E. Tibbs, Deputy County Administrator; Eric R. Lawrence, Planning Director; Candice Perkins, Senior Planner; Michael Ruddy, Deputy Planning Director; Patrick Barker, Executive Director of the Winchester-Frederick County Economic Development Commission; and Planning Commission members: June Wilmot, H. Paige Manuel, Gary Oates, Charles Triplett, Charles Dunlap, J. Stanley Crockett, Lawrence Ambrogi, Rhodes Marsten, Kevin Kenny, and Roger Thomas.

CALL TO ORDER

Chairman Shickle called the work session to order.

PLANNING ITEMS

URBAN CENTER DESIGN CABINET REPORT & TRADITIONAL NEIGHBORHOOD DESIGN ORDINANCE

Deputy Planning Director Michael Ruddy provided a brief overview of the Urban Center Design Cabinet. He noted the group looked at four areas in the county identified as urban centers: Crosspointe, Greenwood Road, Parkins Mill, and Sherando Town Centre. The cabinet

was based on the 2030 Comprehensive Plan. He went on to say this report was not intended to be part of the Comprehensive Plan, but rather a standalone resource/document. He advised the design of these urban centers is yet to be determined. He noted the report lists what is important to make the urban centers work. Those factors include: entertainment, employment, residential, transportation, and public services. He went on to explain that the uses in the urban centers are higher intensity than seen elsewhere in the county.

Deputy Director Ruddy advised staff and the Planning Commission sought additional input through a development roundtable. He explained part of this development consult effort looked at the Design Center Cabinet report and reviewed the Traditional Neighborhood Design ordinance.

Senior Planner Candice Perkins briefly reviewed the proposed Traditional Neighborhood Design ordinance. She noted this proposal would allow for the development of compatible mixed uses. It would require a minimum of 20 acres, but contiguous properties could be added.

Planning Director Eric Lawrence and Planning Commission Chairman June Wilmot reviewed the membership of the development consult and the group's findings.

Director Lawrence stated the group felt the policy and the ordinance made sense. The group noted this was a long-term project with this type of development occurring over the next 30 to 50 years. He went on to say if this ordinance is not on the books then the development community would not consider or think about it. He concluded by saying staff was seeking Board feedback on this proposed ordinance and whether or not it was ready for public hearing.

Supervisor Lofton expressed concern about the need to put limits on the number of units per acre.

Director Lawrence responded that he believed the ordinance provided flexibility for the developer.

Chairman Shickle stated he would like to see more work done on “why we need this”. He went on to say this information would help us ascertain at a later date if we were effective. He concluded by saying he was not sure everyone agreed on the why.

Director Lawrence advised the development consult felt the “why” was important and that a scale of some sort would work in Frederick County.

Supervisor Fisher advised he had issues with this proposal at the Planning Commission retreat and he had not gotten past them. He expressed concern about the density and intensity of this proposal. He wanted to know who drives the marketability of this type of project. He concluded by saying he was not ready for it to go anywhere yet.

Planning Commissioner Roger Thomas stated that both comments lean to the direction he is looking. He asked how much flexibility should the county provide for people coming into the county? He noted it was a struggle being everything to everybody or creating a niche. He concluded by saying the advantage of the ordinance was it gave more control over how development was to occur.

Director Lawrence noted staff had met with two teams interested in this type of development and he would prefer to have an ordinance that was cut and dry versus having to interpret proffers.

Planning Commissioner Charles Dunlap noted that he had seen firsthand how poor policy had led to a lot of bad stuff. The ordinance does provide a starting point to prevent some of the stuff in northern Virginia.

Director Lawrence advised the county has to plan for the future and 30 years seem to be a good horizon.

Supervisor Hess asked if the county should be considering existing residential classes, particularly young people.

Supervisor Wells stated he liked the concept, but he grew up in Arlington and moved away in order to get away from the congestion.

Planning Commissioner Oates stated, in response to the question of why, this proposal implements the Comprehensive Plan. He went on to say if the Board does not want this type of development then they need to amend the Comprehensive Plan.

BUSINESS FRIENDLY COMMITTEE RECOMMENDATIONS

County Administrator John R. Riley, Jr. reviewed the history of this series of recommendations from the Frederick County Business Climate Assessment Citizens' Committee. The phase I recommendations were:

Public Information Officer;
Signage Along Major Routes Entering Frederick County;
Establishment of an Economic Development Authority;
Review and Evaluation of the Master Development Plan Process;
Simplification of the Landscape Ordinance; and
Reduction in Proffer Requirements

At this meeting, discussions would focus on three of those recommendations:

- 1) The Public Information Officer
- 2) Establishment of and EDA, and
- 3) Reduction in Proffer Requirements.

The goal is for the Board to reach a consensus on how to proceed with those respective items.

PUBLIC INFORMATION OFFICER

Administrator Riley advised the dominant theme coming from the various business subcommittees was public outreach and promotion of Frederick County. One of the recommendations pertaining to this theme was the need to create a public information officer position. This recommendation was forwarded to the Human Resources Committee for further evaluation. It is envisioned this position would play a key role in enhancing the County's professional image as a first rate, livable, business friendly community by promoting our successes and providing a central point of contact for Frederick County. The HR Committee recommended creation of this position, which would make it eligible for funding consideration as part of the FY 2015 budget process.

Supervisor Fisher suggested looking at efficiencies of combining functions of the Frederick County Public Schools PIO and Frederick County Government.

Administrator Riley advised staff had looked internally at the efficiencies of combining functions since a number of people within the organization were doing different aspects of the PIO function; however, they had not looked across the schools and government.

The Board consensus was to authorize the creation of the position. Supervisor Lofton did not support creating the position at this time.

ESTABLISHMENT OF ECONOMIC DEVELOPMENT AUTHORITY

Administrator Riley reviewed the committee's recommendation that the Board change the current Industrial Development Authority to an Economic Development Authority. This recommendation was forwarded to the Winchester-Frederick County Economic Development Commission for further study. The EDC established a working group comprised of Frederick County residents and business owners. This working group reviewed the various elements of economic development authorities including the pros and cons of such a change.

The working group ultimately recommended the conversion of the existing IDA to an EDA. The EDA would be funded per the County's current funding of the EDC, to include staffing.

The make-up of the new EDA board could consist of four current EDC board members, three members of the current IDA, and one Board of Supervisors' liaison. The members would serve staggered terms, similar to the current IDA board.

It was recommended this new body hold annual meetings, at a minimum, with the Board of Supervisors to confirm strategy alignment regarding economic development goals, aggressiveness (e.g. land acquisition, bond issuance, etc.), and continuance of existing business function.

It was felt this option most clearly mirrored the current EDC structure, which has performed well and would provide a mostly seamless transition. This structure would provide one point of contact for new businesses and business expansions. It would also provide the County with a vehicle to prime business development properties with increased speed and fewer obstacles. Finally, this model would provide accountability not just in the near term, but going forward.

At the Board's November 13, 2013 meeting, the Board authorized staff to proceed with the creation of an EDA with an effective date of July 1, 2014. In order to make that happen, the following needs to occur:

- 1) The Board must conduct a public hearing to approve the ordinance changing the name of the INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA to the ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA. It is anticipated this hearing and ordinance adoption will take place at the Board's January 8, 2014 meeting. A copy was included in your agenda packet.

- 2) Staff has met with members of our state delegation regarding the need for special legislation to allow a Board of Supervisors' member to be appointed as a voting member of the EDA. It is anticipated this legislation will be presented during the upcoming General Assembly Session.
- 3) A plan must be developed to transition the existing EDC staff to EDA staff.

We have checked with IDA counsel and it has been determined that the name change from Industrial Development Authority to Economic Development Authority would not affect the outstanding bond financings.

Staff is seeking Board direction regarding the make-up of the EDA Board. Would you prefer to:

- 1) to keep the existing IDA members in place and then make any new appointments as those terms come due?
- 2) to follow the working groups recommendation of four current EDC board members and three current IDA members?
- 3) the Chairman of the Board of Supervisors appoints new members to the new EDA board?

Supervisors Wells, Fisher, and Collins favored option 2, consisting of four current EDC members and three current IDA members.

Supervisor Hess stated his preference to have a voting board of supervisors' representative starting out on the new EDA.

Supervisor Lofton supported Supervisor Hess's position.

After some discussion, the Board's consensus was for the make-up of the new EDA to consist of three members each from the IDA and EDC and one member of the Board of Supervisors.

It is important to note the EDC has a deadline of December 20, 2013 to submit a funding request to the City of Winchester for consideration as part of the FY 2015 budget process. Based on discussions at the Joint Finance Committee and the respective reports submitted to the Board

the City has categorized the EDC as an outside agency for purposes of funding. EDC staff is seeking direction from the Board regarding whether or not to submit a funding request for FY 2015.

Chairman Shickle stated, unless the city can articulate what services the new EDA can do for them, he would suggest no funding request be submitted. He went on to say if the new EDA would provide services to the city then those services must be identified and a cost estimate provided. He concluded by saying he would like to see the proper documentation drafted and send to the city for consideration to dissolve the EDC.

DEVELOPMENT IMPACT MODEL – TRANSPORTATION CREDITS

Administrator Riley reviewed the final item, which was the Business Friendly Committee's recommendation that the Development Impact Model be re-evaluated to take into account current economic conditions. He noted the current model projects capital facility impacts resulting from new residential development. While reviewing the model, it was noted by members of the Development Impact Model Oversight Committee that a reduction in proffer expectations would not equate to a reduction in the capital impact to the County. These costs of new residential development must be covered by either the developer/homebuilder/homeowner or they could be distributed countywide through contributions from all taxpayers. Members of the DIM-OC commented that current residents should not be expected to bear the costs associated with new growth through increased real estate taxes.

It has also been the position of this board, in the past, that development needs to pay its way and the current residents should not be expected to bear this cost through higher taxes.

The Development Impact Model Oversight Committee felt that offering a credit for proffered transportation improvements, above what is typically expected to address

transportation mitigation, would be appropriate. This practice is occurring in other localities and has occurred locally on some of the larger, more heavily transportation proffered projects. It was felt that projects offering extensive road rights-of-way such as for planned Route 37 should receive credits to mitigate their projected residential impacts.

The DIM-OC discussed how the value of transportation credits would be derived. It was determined the value would be developed through discussions with the applicant, VDOT, and the County's transportation planner.

The DIM-OC ultimately recommended approval of a policy modification to enable the credit for transportation.

Supervisor Fisher stated he did not think this credit would apply to an old rezoning, but would apply only to new rezonings.

Planning Commissioner Roger Thomas stated he thought the transportation credit was a good thing, but if a developer wished to have it apply to a previously approved rezoning then they should be required to use the current proffer model.

Chairman Shickle stated he was ready to move forward with allowing transportation credits for new rezonings.

After further discussion, the Board's consensus was to allow transportation credits.

Chairman Shickle asked staff to provide information on the % of proffers collected, which were spent for capital items, on an annual basis. He also asked the DIM-OC to review the model to see if there are any components that prohibit growth. He concluded by saying the committee should continue to review the model.

There being no further business, the work session adjourned at 1:10 p.m.

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

CLOSED SESSION

December 11, 2013

A Regular Meeting of the Frederick County Board of Supervisors was held on Wednesday, December 11, 2013 at 5:00 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Chairman Richard C. Shickle; Charles S. DeHaven, Jr.; Christopher E. Collins; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells

CALL TO ORDER

Chairman Shickle called the meeting to order.

BOARD RETIRED INTO CLOSED SESSION

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Frederick County Board of Supervisors convened in closed session pursuant to Virginia Code Section 2.2-3711(A)(7), for consultation with legal counsel regarding the matter of County of Frederick, Virginia v. Russell 150, LC, currently pending in the Circuit Court of Frederick County, and/or any claims related thereto, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, and for consultation with legal counsel regarding specific legal matters concerning the Russell 150 Community Development Authority assessments and requiring the provision of legal advice by such counsel.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

BOARD RECONVENED INTO REGULAR SESSION

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Hess, the Board came out of closed session and reconvened in Regular Session.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board certified that to the best of each board member's knowledge the Board discussed only involving consultation with legal counsel regarding the matter of County of Frederick, Virginia v. Russell 150, LC, currently pending in the Circuit Court of Frederick County, and/or any claims related thereto, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, and for consultation with legal counsel regarding specific legal matters concerning the Russell 150 Community Development Authority assessments and requiring the provision of legal advice by such counsel, pursuant to Virginia Code Section 2.2.-3711 A (7).

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

The Board adjourned at 6:10 p.m. to attend the joint work session with Frederick County Public Schools.

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

**WORK SESSION WITH
FREDERICK COUNTY SCHOOL BOARD**

December 11, 2013

A Work Session of the Frederick County Board of Supervisors and the Frederick County School Board was held on Wednesday, December 11, 2013 at 6:15 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Chairman Richard C. Shickle; Vice-Chairman Charles S. DeHaven, Jr.; Christopher E. Collins; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells.

SCHOOL BOARD MEMBERS PRESENT

Benjamin F. Waterman, Vice-Chairman; Dr. John Lamanna; Jody S. Wall; Michael A. Lake; Peggy Clark and Frank E. Wright

OTHERS PRESENT

John R. Riley, Jr., County Administrator; Kris C. Tierney, Assistant County Administrator; Jay E. Tibbs, Deputy County Administrator; Roderick B. Williams, County Attorney; Dr. David Sovine, Superintendent of Schools; Albert Orndorff, Assistant Superintendent for Administration; Peter Vernimb, Assistant Superintendent for Instruction; Lisa Frye, Executive Director of Finance; Tim Crisman, Director of Facilities Services; John Lee, Assistant Director of Facilities Services, Wayne Lee, Coordinator of Planning and Development; Jim Angelo, Director of Middle and Secondary Instructional Services; Debbie Crawford, Supervisor of Mathematics and World Languages; Susan Brinkmeier, Frederick County Middle School Principal; and Steve Edwards, Coordinator of Policy and Communications.

CALL TO ORDER

Chairman Shickle called the work session to order.

School Board Vice-Chairman Benjamin Waterman thanked the Board of Supervisors and county staff for taking time to meet with the school board regarding the replacement Frederick County Middle School.

Superintendent of Schools, Dr. David Sovine, and Assistant Superintendent of Administration, Al Orndorff, provided an overview of the design and cost of the replacement Frederick County Middle School. Dr. Sovine advised the estimated cost of this project is \$49.5 million.

At the conclusion of the presentation, Chairman Shickle asked for a breakdown of the \$49.5 million cost and the building square footage.

There being no further business, the meeting adjourned at 6:58 p.m.

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

REGULAR MEETING

December 11, 2013

A Regular Meeting of the Frederick County Board of Supervisors was held on Wednesday, December 11, 2013 at 7:00 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Chairman Richard C. Shickle; Charles S. DeHaven, Jr.; Christopher E. Collins; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells

CALL TO ORDER

Chairman Shickle called the meeting to order.

INVOCATION

Supervisor Fisher delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice-Chairman DeHaven led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

County Administrator John R. Riley, Jr. advised he had no changes to the agenda.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board approved the agenda by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

CONSENT AGENDA - APPROVED

Administrator Riley offered the following items for the Board's consideration under the consent agenda:

- Resolution Supporting First Day Introduction Requirement for Bills with Local Fiscal Impacts – **Tab H**;
- Technology Committee Report of November 6, 2013 – **Tab I**;
- Technology Committee Report of December 4, 2013 – **Tab J**;
- Public Works Committee Report – **Tab K**; and
- Road Resolutions – Wakeland Manor Subdivision, Phases 7, 12, 13, and 14, and Fieldstone Subdivision; Channing Drive – **Tab T**.

Upon a motion by Supervisor Fisher, seconded by Supervisor Hess, the Board approved

the consent agenda by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

CITIZEN COMMENTS

Jay Marts, Gainesboro District, read the following:

“Chairman Shickle, Members of the Board, Administrator Riley:

I attended the Frederick County Public Works Committee meeting this month. The “Space Planning Needs Assessment Summary” report for the proposed new County Administration building was on the agenda as it is tonight.

I was actually surprised that there was little to no discussion on what to do with the data in this report. Simple things, like de-conflicting the common area requirements listed by each department (kitchenette, restroom, conference room, reception area, storage, work room, etc...). Additionally, there is another 13,000sq’ of County/School shared space. Who, how, & when will this detailed planning be accomplished? There was no direction provided in the committee meeting.

Will there be any quality control on the numbers?? Is this just a Department “Wish-List”. There are many large space increases. Is anyone going to ask for a further justification? Why does the Registrar have a 141% increase in space, the EDC 144%, Coop Extension 86%, County Attorney 74%. These huge expansions are based upon what? Will you ask the question? I am.

Will anyone give consideration to alternative proposals? Perhaps there are some components of the County Government that could work away from the "flag pole"? Perhaps this would accomplish the same result at a much lower cost to taxpayers.

Take a look at the County Registrar & Virginia CooP Extension office.

How about the joint offices? Frederick/Winchester Environmental Health Office or Frederick/Winchester Service Authority. Is it wise to move them out of the city?

Should you move the Commonwealth Attorney away from the Judicial Center?

The needs assessment seems somewhat incomplete. While the County Depts provide a comparison of current & future requirements, the School Board does not. They only list requested space and have also included a nebulous requirement of "Future Growth" for 4,725 sq'. It was my understanding that the requested space was the future growth.

When I looked at the overall numbers, I see...

*Current Gross County Departments (sq') = 100,000
Cumulative Gross County Departments (Sq') = 10,207*

If this is the case, I see no requirement to move or build at all. Your future planning requirements could be satisfied simply by moving a department or two to another space or Converting Conference room space.

Another factor to consider ... With the current trends, in Office Property, "Days on the Market" near 240 & prices continually dropping from \$190 sq' down near 140 sq', should the County be building more, especially since the current building will be paid for in December 2014?

I am concerned that this Needs Assessment Summary is just another block being checked on the hasty march to building this un-needed structure.

*I have spoke before this Board previously about the process you have used in an attempt to reach a decision on this proposal. I believe it to be **flawed**. I ask you to reject this proposal and adopt the Virginia Public Procurement Act and Procurement Process Best Practices.*

*We should not be in a hurry to put the County in more debt. Take this just completed **Needs Assessment** as the 1st step in a process, not the last step. Put it in the hands of the Planning Commission and the Comprehensive Plans & Programs Committee (CPPC). Allow them to do their work with **Citizen Involvement**.*

Thank you for the opportunity to address the board.

Jay L. Marts"

BOARD OF SUPERVISORS COMMENTS

There were no Board of Supervisors' comments.

MINUTES

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board approved the minutes from the November 13, 2013 regular meeting.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

COUNTY OFFICIALS

WASTE TO ENERGY PRESENTATION BY FREDERICK-WINCHESTER SERVICE AUTHORITY DIRECTOR

Jesse Moffett, Executive Director of the Frederick-Winchester Service Authority, appeared before the Board to provide an update on the Service Authority's proposed Opequon facility waste to energy concept.

RESOLUTION CONSENTING TO NEW PROJECTS TO BE UNDERTAKEN AND FINANCED BY THE FREDERICK-WINCHESTER SERVICE AUTHORITY PURSUANT TO THE OPEQUON WATER RECLAMATION FACILITY INTERMUNICIPAL AGREEMENT AND OTHER MATTERS THEREWITH - APPROVED

Upon a motion by Supervisor Collins, seconded by Supervisor Hess, the Board approved the resolution consenting to new projects to be undertaken and financed by the Frederick-Winchester Service Authority pursuant to the Opequon Water Reclamation Facility Intermunicipal Agreement and other matters.

WHEREAS, the County of Frederick, Virginia (the "County"), the City of Winchester, Virginia (the "City"), the Frederick County Sanitation Authority (the "Sanitation Authority") and

Frederick-Winchester Service Authority (the "Service Authority") have entered into the Opequon Water Reclamation Facility Intermunicipal Agreement dated as of April 16, 2008 (the "Intermunicipal Agreement"), for the purposes of providing for the construction of such wastewater treatment facilities as are agreed upon from time to time and the financing, operation and maintenance of all such facilities and for providing security for the bonds to be issued by the Service Authority in connection with such facilities;

WHEREAS, pursuant to such Agreement and its predecessor, the Service Authority has undertaken from time to time the construction, expansion and improvement of the Opequon Water Reclamation Facility (the "Facility") and has issued from time to time revenue bonds to finance such undertakings;

WHEREAS, the Service Authority has determined to undertake a series of projects at the Facility that will provide some or all of the improvements as further described in the executive summary attached hereto as Exhibit A (collectively, the "New Projects");

WHEREAS, the Service Authority has further determined to finance the New Projects by the issuance of one or more additional series of revenue bonds (the "Bonds") pursuant to the Agreement of Trust dated as of October 1, 1985, as supplemented and amended from time to time (collectively, the "Trust Agreement"), secured in part by the payments to be made in accordance with the terms of the Intermunicipal Agreement;

WHEREAS, pursuant to Article III of the Intermunicipal Agreement, the Service Authority has requested the consent of the County, the City and the Sanitation Authority with respect to the undertaking of the New Projects and the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF FREDERICK COUNTY, VIRGINIA:

1. The Board of Supervisors (the "Board") of the County approves and consents, for purposes of the provisions of Section 3.1 of the Intermunicipal Agreement, to the Service Authority's undertaking of the New Projects and the issuance of the Bonds in an aggregate principal amount not to exceed \$53,000,000, for the purposes of financing the New Projects, funding debt service and operating reserve funds and paying related issuance costs.

2. The Board acknowledges that the Bonds will be payable from and secured by amounts received by the Service Authority from the payments assessed under the Intermunicipal Agreement.

3. The Board authorizes and consents to the inclusion of County information in the Official Statement (in its preliminary and final forms) to be prepared by the Service Authority for purposes of marketing the Bonds and hereby directs County staff to assist the Service Authority in the preparation of such County disclosure.

4. The County Administrator is hereby authorized and directed to execute and deliver such documents and certificates as are necessary to enable the Service Authority to issue

the Bonds and to finance the New Projects, including, but not limited to, a continuing disclosure agreement and closing certificates requested by the Service Authority and its bond counsel. Any other County official so designated by the County Administrator is hereby similarly authorized and directed to execute and delivery such documents and certificates.

5. All other acts of the officers of the County, heretofore or hereafter taken, that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the financing of the New Projects by the Service Authority are hereby approved, ratified and confirmed.

6. Nothing in this Resolution or in the Intermunicipal Agreement is or shall be deemed to be a lending of the credit of the County of the City to the Service Authority or to any holder of any of the Bonds or to any other person, and nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the County or the City within the meaning of the Constitution of Virginia.

7. This Resolution shall take effect immediately.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

COMMITTEE APPOINTMENTS

APPOINTMENT OF JOSHUA HUMMER AS FREDERICK COUNTY REPRESENTATIVE TO THE MPO CITIZENS ADVISORY COMMITTEE (CAC) -APPROVED

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board appointed Joshua Hummer as Frederick County representative to the MPO Citizens Advisory Committee.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye

Robert A. Hess Aye
Gary A. Lofton Aye
Robert W. Wells Aye

REAPPOINTMENT OF HEATHER MCKAY AND RUTH BODEN AS MEMBERS-AT-LARGE TO THE EXTENSION LEADERSHIP COUNCIL - APPROVED

Upon a motion by Supervisor DeHaven, seconded by Supervisor Lofton, the Board reappointed Heather McKay and Ruth Boden as members-at-large to the Extension Leadership Council. This is a four year appointment. Term expires February 13, 2018.

The above motion was approved by the following recorded vote:

Richard C. Shickle Aye
Charles S. DeHaven, Jr. Aye
Christopher E. Collins Aye
Gene E. Fisher Aye
Robert A. Hess Aye
Gary A. Lofton Aye
Robert W. Wells Aye

REQUEST FROM FREDERICK COUNTY SCHOOL FINANCE DIRECTOR TO CONSIDER FY14 SCHOOL CONSTRUCTION FUND BUDGET ADJUSTMENT AND SCHEDULE PUBLIC HEARING DATE – SCHEDULED PUBLIC HEARING FOR JANUARY 8, 2014

Administrator Riley advised this was a request from the Frederick County School Board for an FY 2014 School Construction Fund budget adjustment in the amount of \$45,500,000 which is the remaining appropriation needed for the replacement Frederick County Middle School.

Upon a motion by Supervisor Fisher, seconded by Vice-Chairman DeHaven, the Board approved a budget public hearing for January 8, 2014.

The above motion was approved by the following recorded vote:

Richard C. Shickle Aye
Charles S. DeHaven, Jr. Aye
Christopher E. Collins Aye

Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

REQUEST FROM THE COMMISSIONER OF THE REVENUE FOR REFUND - APPROVED

Administrator Riley advised this was a request from the Commissioner of the Revenue for a supplemental appropriation and to authorize the Treasurer to refund American Telephone & Telegraph the amount of \$4,536.55, for an adjustment to the 2013 annual public service corporation assessment based on information as required from the State Corporation Commission.

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board authorized the supplemental appropriation and refund request.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

REVISED RESOLUTION FOR NAVY FEDERAL CREDIT UNION - APPROVED

Upon a motion by Supervisor Hess, seconded by Supervisor Fisher, the Board approved the revised resolution for Navy Federal Credit Union.

WHEREAS, NAVY FEDERAL CREDIT UNION has made known its intent to expand its operation by making new taxable real estate and personal property investments and retain and create jobs; and

WHEREAS, the company meets the policy guidelines of the Frederick County Economic Development Incentives Policy as established by the Winchester-Frederick County Economic Development Commission in 1995;

BE IT RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia, does hereby approve and appropriate the payment of \$250,000.00 in installments as stated in the executed Performance Agreement to the Industrial Development Authority of Frederick County, Virginia from the Frederick County’s Fund Balance to assist in expanding the operation for NAVY FEDERAL CREDIT UNION in Frederick County, Virginia.

BE IT RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia, does hereby approve and appropriate the payment of \$250,000.00 to the Industrial Development Authority of Frederick County, Virginia from the Governor’s Development Opportunity Fund to assist in expanding the operation for NAVY FEDERAL CREDIT UNION in Frederick County, Virginia.

BE IT RESOLVED, that said funds are subject to an executed Performance Agreement outlining the required performance criteria.

BE IT FURTHER RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia, does authorize the County Administrator to execute the Performance Agreement on its behalf.

ADOPTED, this 11th day of December of 2013.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

RESOLUTION SUPPORTING FIRST DAY INTRODUCTION REQUIREMENT FOR BILLS WITH LOCAL FISCAL IMPACTS – APPROVED UNDER CONSENT AGENDA

WHEREAS, many local governing bodies in Virginia have an ever-growing concern about the impact of state mandates and cost shifting on localities; and

WHEREAS, Section 30-19.03 of the Code of Virginia states that the Commission on Local Government shall prepare and publish a statement of fiscal impact “whenever any bill requiring a net additional expenditure by any county, city, or town, or whenever any bill requiring a net reduction of revenues by any county, city, or town, is filed during any session of the General Assembly”; and

WHEREAS, due to limited time and resources, numerous bills fitting this criteria have been submitted and gone through the legislative process during the General Assembly session without a review of local fiscal impacts; and

WHEREAS, a need exists for additional time and resources to perform this review and provide such information during the rigid procedural confines of the current legislative process; and

WHEREAS, we believe it is critical that lawmakers have better and timelier information on the fiscal impact to localities when considering bills and budget items.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Frederick, Virginia, hereby requests that the General Assembly support measures that require its members to file bills with local fiscal impacts as early as possible, but no later than the first day of session.

COMMITTEE REPORTS

TECHNOLOGY COMMITTEE REPORT OF NOVEMBER 6, 2013 – APPROVED UNDER CONSENT AGENDA

The Board of Supervisors Information Technology Committee met on Wednesday, November 6, 2013 at 8:15 a.m., in the First Floor Conference Room, County Administration Building, 107 North Kent Street, Winchester, Virginia. Present were: Gary Lofton, Chairman, Charles S. DeHaven, Jr., and Quaiser Absar. Committee members absent were: Robert Wells, Todd Robertson, and Brian Madagan. Other present included: Walter Banks, IT Director; Kris Tierney, Assistant County Administrator; and Alisa Scott, Administrative Assistant.

The committee submits the following:

*****Items NOT Requiring Board Action*****

1. Walter Banks gave updates on Microsoft's announcement that they will no longer support Microsoft XP Operating Systems. The IT department is currently confirming the amount of operating systems and computers it will need to replace over the 2014-2015 budget year in response to this announcement. A global strategy of implementing annual updates using a percentage of inventory method was discussed.
2. Walter Banks discussed upcoming trials and demos for virtual desktops and Help Desk Software.
3. Walter Banks and Kris Tierney discussed the Broadband Public Meeting Agenda for November 14th to format the meeting according to the goal of facilitating the improvement of broadband in Frederick County.

TECHNOLOGY COMMITTEE REPORT OF DECEMBER 4, 2013 – APPROVED
UNDER CONSET AGENDA

The Board of Supervisors Information Technology Committee met on Wednesday, November 6, 2013 at 8:15 a.m., in the First Floor Conference Room, County Administration Building, 107 North Kent Street, Winchester, Virginia. Present were: Gary Lofton, Chairman, Charles S. DeHaven, Jr., Quaiser Absar, and Todd Robertson. Committee members absent were: Bob Wells and Brian Madagan. Others present included: Andrew Robbins, Commonwealth's Attorney's Office; Cheryl Shiffler, Finance Director; Sharon Kibler, Assistant Finance Director; Walter Banks, IT Director; Kris Tierney, Assistant County Administrator; Patrick Fly, GIS Manager; and Alisa Scott, Administrative Assistant.

The Committee submits the following:

*****Items Requiring Board Action*****

NONE

*****Items NOT Requiring Board Action*****

- 1. Recommendation to forward to the Finance Committee a request for supplemental appropriation for the purchase of Software Unlimited case management system for the Commonwealth's Attorney's Office in the amount of \$140,000.00 with a portion of the funds, \$40,000, to increase host and storage to expand current environment.**

The software is part of a state-wide replacement due to the current software, VCAIS is no longer offering support potentially resulting in loss of all data and functionality. Through the Commonwealth's Attorneys' Services Counsel (CASC), over 35 offices have banded together and joined Prince Edward County in submitting an RFP.

The winning vendor is Software Unlimited offering significant savings to offices that purchase their programming packages through the CASC consortium.

The vendor and pricing have been reviewed by Mr. Banks and met with approval alongside two recommendations. The first recommendation is that the Premium Document Package be purchased in order to allow a paperless office and access to all files everywhere, including the courtroom. The second recommendation is that additional hardware be purchased in order to provide adequate data storage.

Mr. DeHaven stated he would recommend this request be forwarded to the Finance Committee for purchase this fiscal year, if the quote expires before the end of the fiscal year, which would result in the County not being able to take advantage of the \$13,000 discount. However, if the quote can be extended into the next fiscal year, he would prefer this item be included as part of next year's budget.

Upon a motion by Mr. DeHaven, seconded by Mr. Robertson, the Committee unanimously recommended the Finance Committee approve a General Fund supplemental appropriation in the amount of \$140,000.00, with funds to be taken from unreserved fund balance.

2. IT Director provides a list of computers with XP operating systems that are in need of replacement due to Microsoft no longer offering support and subsequently resulting in a high security risk to the network.

The Windows XP operating system will be discontinued as of April 2014. The committee agreed that the list should be refined to include strictly needed computers, broken out by department, in order of importance. The committee requested a justification from each department as to the amount/type of computers needed for operations. Each department head should write a qualifying statement. This list will be reviewed prior to the January 8, 2014 BOS IT Committee meeting and at that time the BOS IT Committee will forward a recommendation to the Finance Committee with supporting quotes.

PUBLIC WORKS COMMITTEE – APPROVED UNDER CONSENT AGENDA

The Public Works Committee met on Tuesday, December 3, 2013 at 8:00 a.m. All members were present. The following items were discussed:

*****Items Not Requiring Action*****

1. Needs Assessment Study

The committee discussed the results of the needs assessment study that had been performed by OWPR, Inc. for a proposed new county office complex. The study included the potential ten (10) year office needs for the county government administration and the county school administration. The results of the study indicated a total need of 164,128 square feet. However, it was the consensus of the committee that there were areas that could be reduced and/or shared to fit within the 150,000 square feet highlighted in the recent PPEA proposal. This conclusion will be forwarded to the board for their consideration. It should be noted that Mr. David Ganse abstained from any discussion of this topic because of a possible conflict of interest.

2. Stormwater Ordinance Update

Deputy Director of Public Works, Mr. Joe Wilder, indicated that he is incorporating additional minor changes dictated by the Department of Environmental Quality (DEQ) in the proposed stormwater ordinance. The revised draft will then be presented to the stormwater committee on December 18, 2013 for their final review and comment. In order to meet the January 15, 2014 draft submittal deadline imposed by DEQ, Mr. Wilder requested that he be permitted to send the draft ordinance accompanied by an executive summary directly to the board in time for their scheduled January 8, 2014 meeting. He plans to attend this meeting to answer any questions pertaining to the proposed ordinance.

3. Brief Discussion of Fiscal Year 2014/2015 Budgets

The Director of Public Works presented a brief overview of the proposed fiscal year 2014/2015 budgets with an emphasis on the two (2) non-general fund budgets. Shawneeland and the landfill. In order to comply with the limited time schedule dictated by the finance department, the director requested that the committee convene a meeting on January 7, 2014 at 8:00 a.m. to review the fiscal year 2014/2015 budget submittals.

4. Miscellaneous Reports

- a) Tonnage Report
(Attachment 1)
- b) Recycling Report
(Attachment 2)
- c) Animal Shelter Dog Report
(Attachment 3)
- d) Animal Shelter Cat Report
(Attachment 4)

FINANCE COMMITTEE - APPROVED

The Finance Committee met in the First Floor Conference Room at 107 North Kent Street on Wednesday, November 20, 2013 at 8:00 a.m. All members were present. Items 1 and 3 were approved on consent agenda.

Upon a motion by Vice-Chairman DeHaven, Supervisor Lofton, the Board approved the consent agenda by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

1. The Sheriff requests a General Fund supplemental appropriation in the amount of \$125. This amount represents donations received. No local funds required. See attached memos, p. 4-5. – **APPROVED UNDER CONSENT AGENDA**
2. The Sheriff requests a General Fund supplemental appropriation in the amount of \$18,346.70. This amount represents proceeds from the public auction to be used to purchase mobile radios. No local funds required. See attached memo, p. 6. The committee recommends approval. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Collins, the Board approved the above request by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

3. The Sheriff requests a General Fund supplemental appropriation in the amount of \$2,390.83. This amount represents reimbursements for travel and extraditions. No local funds required. See attached memos, p. 7-9. – **APPROVED UNDER CONSENT AGENDA**
4. The Sheriff requests a General Fund supplemental appropriation in the amount of \$11,401.88. This amount represents State reimbursements due to the County for prisoner extraditions. No local funds required. See attached memo, p.10. The committee recommends approval. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Wells, the Board approved the above request by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

5. The Director of Public Works requests a General Fund supplemental appropriation in the amount of \$15,000. This amount represents funds required to retain the part-time receptionist position in the Building Inspections Department. Revenue is currently exceeding projections. See attached memo, p. 11-12. The committee recommends approval. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board approved the above request by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye

Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

6. The Winchester Regional Airport Director requests an Airport Fund supplemental appropriation in the amount of \$2,669.96. This amount represents an insurance reimbursement for roof damage of the FBO building. See attached information, p. 13-19. The committee recommends approval. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board

approved the above request by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

7. The Finance Committee Chairman requests discussion on a potential donation from Redbud proffers for historic preservation to the Shenandoah Valley Battlefield Foundation. The committee recommends designating \$50,000 from Redbud historical proffers for the final debt payment on the Huntsberry property. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Wells, the Board

approved the above request by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

8. The Finance Committee Chairman presents a memo concerning the FY2015 budget and the Finance Director provides a budget calendar. See attached information, p. 20-21.

INFORMATION ONLY

1. The Finance Director provides a Fund 10 Transfer Report for FY 2014. See attached, p. 22.
2. The Finance Director provides FY 2014 finance statements for the period ending October 31, 2013. See attached memo, p. 23-33.
3. The Finance Director provides the FY 2014 Fund Balance Report for the period ending October 31, 2013. See attached, p. 34.

TRANSPORTATION COMMITTEE - APPROVED

The Transportation Committee met on October 28, 2013 at 8:30 a.m.

Members Present

Chuck DeHaven (Voting)
 James Racey (Voting)
 Christopher Collins (Voting)
 Lewis Boyer (liaison Stephens City)
 Gary Oates (liaison PC)

Members Absent

Mark Davis (liaison Middletown)
 Gene Fisher (Voting)

*****Items Requiring Action*****

1. Speed Study Request – Cedar Creek Grade

Attached please find the request from VDOT for County concurrence on a speed study for Cedar Creek Grade between Route 37 and the City line of Winchester. Staff has also attached a map of the current speeds in this area.

The Committee considered the item and noted the heavy traffic flows, entrance configurations, and geometrics of the area. Some consideration was given to extending the study to include the intersection with Jones Road, but this was not done.

MOTION: Mr. Collins made a motion, seconded by Mr. Racey to recommend that the Board endorse the completion of a speed study on Cedar Creek Grade between the interchange with Route 37 and the Winchester City line. Motion passed unanimously.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Collins, the Board endorsed the speed study on Cedar Creek Grade.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye

Robert A. Hess Aye
Gary A. Lofton Aye
Robert W. Wells Aye

*****Items Not Requiring Action*****

2. Capital Improvement Plan

VDOT staff was on hand to provide updates on Route 277, Exit 310, Exit 313, and Route 37 projects. Staff can arrange for similar updates to the Board of Supervisors, if so desired.

3. County Road Projects

Staff provided brief updates on the Tevis Street Extension and bridge project as well as the Snowden Bridge Blvd. project.

4. Other

PUBLIC HEARING

TWELVE MONTH OUTDOOR FESTIVAL PERMIT REQUEST OF BELLE GROVE PLANTATION, PURSUANT TO THE FREDERICK COUNTY CODE, CHAPTER 86, FESTIVALS; SECTION 86-3, PERMIT REQUIRED; APPLICATION; ISSUANCE OR DENIAL; FEE; PARAGRAPH D, TWELVE MONTH PERMITS. ALL EVENTS TO BE HELD ON THE GROUNDS OF BELLE GROVE PLANTATION, 336 BELLE GROVE ROAD, MIDDLETOWN, VIRGINIA. PROPERTY OWNED BY THE NATIONAL TRUST FOR HISTORIC PRESERVATION. - APPROVED

Administrator Riley advised this was a request from Belle Grove Plantation for a 12 month outdoor festival permit, which would run from January-December 2014. The property, located at 336 Belle Grove Road, Middletown, Virginia, is owned by the National Trust.

Kristen Laise appeared before the Board on behalf of Belle Grove. She asked the Board to approve this permit request.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board approved the 12 month outdoor festival permit for Belle Grove Plantation to run from January 2014-December 2014.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

PLANNING COMMISSION BUSINESS

PUBLIC HEARINGS

HEIGHT WAIVER REQUEST FOR CARMEUSE LIME & STONE, INC. – REQUEST FROM LAWSON AND SILEK, P.L.C. ON BEHALF OF CARMEUSE LIME & STONE, INC. TO ALLOW THE CONSTRUCTION OF A 200 FOOT TALL KILN AT THE EXISTING CLEARBROOK QUARRY LOCATED OFF OF QUARRY LANE IN THE STONEWALL MAGISTERIAL DISTRICT. THE PROPERTY IS IDENTIFIED BY PROPERTY IDENTIFICATION NUMBER 33-A-144. - APPROVED

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised this was a request for a height waiver to allow for the construction of a kiln at the Carmeuse Clearbrook quarry. The waiver request would allow the construction of a 200 foot tall kiln. The Planning Commission recommended approval of this waiver request with the “skin”, which is the screening element of the top portion of the kiln structure. She concluded by saying, without the waiver, the proposed structure could not exceed the permitted 45 foot height limit.

Supervisor Hess asked about the economic benefits this project would bring to Frederick County.

Winchester-Frederick County Economic Development Commission Executive Director Patrick Barker advised the company was investing \$49.5 million and creating 25 jobs at this facility. This would equate to approximately \$1.65 million in new tax revenue.

Jim Bottom, Area Operations Manager for Carmeuse, advised this kiln was new technology. He noted the project had been incentivized by both Frederick County and the State. He went on to say this was the first waiver request of this kind in Frederick County. The actual kiln would be 193 feet tall. The proposed “skin” would allow Carmeuse to block light at the top of the structure. He concluded by saying the “skin” offered some noise reduction.

Supervisor Lofton asked if this waiver was for two kilns to be constructed side by side.

Mr. Bottom responded yes.

Chairman Shickle convened the public hearing.

Mark Regan, Stonewall District, addressed the Board regarding the proposed waiver request. He noted there were 25 students at Stonewall Elementary School, who suffer from asthma and the Carmeuse facility was located across the street. He hoped the school board would have spoken out against this proposal. He believed Carmeuse’s statements concerning this proposal were misleading. He went on to say he would have to question the validity of this request since the application was for one kiln, not for two, which were being built. He concluded by urging the Board to deny this request.

There being no further comments, Chairman Shickle closed the public hearing.

Chairman Shickle asked if the hearing was properly advertised and asked the applicant to explain the request.

Mr. Bottom responded the height waiver was for two kilns to be constructed.

Chairman Shickle asked County Attorney Williams about the advertisement.

County Attorney Williams responded that this was the first time this structure had been identified as two kilns; therefore, the public hearing advertisement was for one kiln. He went on to say this called into question the advertisement. He concluded by saying if the Board wanted to act on both kilns then the hearing would need to be readvertised.

Mr. Bottom advised that he would prefer the vote to be on both kilns, but if the Board could not act on both tonight then he would take action on one.

Supervisor Fisher stated it appeared this was one structure and both kilns would be built together with a single feed to the top.

After some discussion, it was determined this was one structure.

Chairman Shickle recommended the word "unit" be inserted after kiln.

Upon a motion by Supervisor DeHaven, seconded by Supervisor Fisher, the Board approved the waiver request for the kiln unit.

WHEREAS, Carmeuse Lime and Stone, Inc. has requested a waiver of the 45' EM District height maximum in accordance with § 165-608.06 Height limitations, to allow for the construction of a new kiln unit that exceeds the 45 foot EM (Extractive Manufacturing) District height maximum, up to 200 feet in height. The subject property is located at the Clearbrook Quarry and is identified by Property Identification Number 33-A-144.; and

WHEREAS, the Planning Commission held a public hearing for this waiver request at their meeting on December 4, 2013 and recommended approval of the requested height waiver for the kiln unit with the condition that the kiln unit include the "skin"; and

WHEREAS, the Board of Supervisors considered this waiver request during a public meeting on December 11, 2013; and

WHEREAS, the Frederick County Board of Supervisors finds that the approval of this waiver request be in the best interest of the public health, safety, welfare, and in good zoning practice;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Carmeuse Lime and Stone, Inc. is hereby granted a waiver of the maximum height in the EM (Extractive Manufacturing) Zoning District per § 165-608.06 Height limitations, for the construction of a new kiln unit that exceeds the 45 foot EM District height maximum, up to 200 feet in height. The kiln unit must include the "skin". The subject property is located at the Clearbrook Quarry and is identified by Property Identification Number 33-A-144.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye

Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Nay

REZONING #03-13 MADISON VILLAGE, SUBMITTED BY PAINTER-LEWIS, P.L.C., TO REZONE 51.26 ACRES FROM RA (RURAL AREAS) DISTRICT TO 46.26 ACRES OF RP (RESIDENTIAL PERFORMANCE) DISTRICT AND 5 ACRES OF B2 (GENERAL BUSINESS) DISTRICT WITH PROFFERS. THE PROPERTY IS LOCATED ON THE WEST SIDE OF ROUTE 522 (FRONT ROYAL PIKE), APPROXIMATELY 1,000 FEET SOUTH OF THE INTERSECTION OF ROUTE 522 (FRONT ROYAL PIKE) AND ROUTE 645 (AIRPORT ROAD), AND IS IDENTIFIED BY PROPERTY IDENTIFICATION NUMBER 64-A-18 IN THE SHAWNEE MAGISTERIAL DISTRICT. – APPROVED WITH AMENDED PROFFERS

Deputy Planning Director Michael Ruddy appeared before the Board regarding this item.

He advised this was a request to rezone 51.26 acres from RA (Rural Areas) District to 46.26 acres of RP (Residential Performance) District and 5 acres of B2 (General Business) District with proffers. The property is located in the Shawnee District. He noted the proposed proffers provide for a road network to connect to the properties to the west and the south. This proposal also includes a connection to the Russell 150 property. The Planning Commission recommended approval of this request. Deputy Director Ruddy concluded by saying this rezoning is consistent with the Comprehensive Plan and the Senseny/Eastern Frederick Urban Areas Plan and the impacts are addressed by the proffers.

Supervisor Fisher asked for clarification on the property identification number for the property to the south. He noted in one place it was listed as 64-A-21 and another it was 64-A-20.

Deputy Director Ruddy responded that he believed 64-A-21 was correct.

John Lewis, Painter-Lewis, appeared before the Board on behalf of the applicant. He reviewed the project's background. He noted a minimum residential density had been proffered

and a variety of housing types had been included. He concluded by asking for Board support of this proposed rezoning.

Supervisor Lofton asked about the proposed entrance's proximity to the Route 522 intersection.

Mr. Lewis responded 280 feet.

Supervisor Lofton stated he was not sure a roundabout would work.

Mr. Lewis responded VDOT said it would work with the traffic and configuration.

Ben Butler, attorney for the applicant, noted there had been two items raised by the Shawnee District Supervisor. In response to those issues, Mr. Butler noted the applicant had revised the proffers to state the owner must obtain access to public roads and the developer agrees to fund the property owner' association the sum of \$5,000 to fund operating costs.

Supervisor Lofton asked if there would be an adverse impact if the Board of Supervisors acted tonight without an agreement in place with the adjacent property owners.

Mr. Butler responded that he did not see how because the adjoining property owner could not be impacted without his cooperation.

Supervisor Fisher stated he would really like to see an agreement in writing because he did not want to put the applicant or neighbor at risk.

Chairman Shickle convened the public hearing.

Michael Shepherd, Shawnee District and adjoining property owner, addressed the Board regarding this item. He advised that he owned two B2 lots that adjoined the Madison property. He went on to say that he had filed a site plan with the County for his project. He noted when his project is built it would make the applicants connection to Route 522 unbuildable. He also

noted the proposed deceleration lane could not move because of site distance and Madison needed the easements for his project.

Becky Morrison, Gainesboro District, asked the developer to include a proffer that he would not use TDRs.

There being no further comments, Chairman Shickle closed the public hearing.

Chairman Shickle stated the timing of the proffers was a concern to him. He wanted to know what happens if the minimum number of project units does not get built.

Deputy Director Ruddy stated that minimum number was the trigger to construct the connection to Route 522. Should the project stop then the approval would not be in conformance with the Comprehensive Plan. He went on to say this provision moves the project in the direction of being more consistent with the plan.

David Madison, property owner, advised the minimum density was 420 units because that was the minimum amount of density needed to facilitate the project.

Supervisor Fisher asked what would take precedence, if the rezoning is approved. Would the rezoning go away if the Shepherd property develops first?

Deputy Director Ruddy responded the applicant might have to make accommodation. He noted they were bound to the entrance on to Route 522.

Mr. Butler stated the project needs access to public roads and the applicant has to make it work.

Supervisor Hess asked why the proposed proffer revision referenced public road versus Route 522.

Chairman Shickle asked the applicant's representatives if they would have considered Route 522 versus the way they wrote it.

Mr. Lewis responded the connection has to be to Route 522 because that is the only public road near the property. He agreed to amend the revised proffers to specifically reference Route 522.

Upon a motion by Supervisor Fisher, seconded by Supervisor Wells, the Board approved Rezoning #03-13 with the amendment to the proffers to include the addition of the reference to Route 522.

WHEREAS, Rezoning #03-13 of Madison Village, submitted by Painter-Lewis, P.L.C., to rezone 51.26 acres from RA (Rural Areas) District to 46.26 acres of RP (Residential Performance) District and 5 acres of B2 (General Business) District with proffers dated April 22, 2013 and last revised on September 5, 2013 was considered. The property is located on the west side of Route 522, approximately 1,000 feet south of the intersection of Route 522 and Airport Road. The property is further identified with P.I.N. 64-A-18 in the Shawnee Magisterial District.

WHEREAS, the Planning Commission held a public meeting on this rezoning on August 21, 2013 and a public hearing on November 6, 2013; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on December 11, 2013; and

WHEREAS, the Frederick County Board of Supervisors finds the approval of this rezoning to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan.

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map to rezone 51.26 acres from RA (Rural Areas) District to 46.26 acres of RP (Residential Performance) District and 5 acres of B2 (General Business) District with proffers. The conditions voluntarily proffered in writing by the applicant and the property owner are attached.

This ordinance shall be in effect on the date of adoption.

Passed this 11th day of December, 2013 by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

OTHER PLANNING ITEMS

REZONING APPLICATION #06-13 – PROFFER REVISION OF SILVER LAKE, LLC - APPROVED

Deputy Planning Director Michael Ruddy appeared before the Board regarding this item. He advised this was a request for a minor proffer revision associated with rezoning #01-09, Silver Lake, to relocate the site provided for the development of a new fire and rescue facility and support facilities. The property is located in the Gainesboro magisterial district. The proposal would relocate the original site to Corporate Place Drive. The proposal also changes the date certain to April 21, 2014. The Planning Commission recommended approval of this proposed proffer amendment.

Evan Wyatt, Greenway Engineering, noted that in addition to what had been discussed, the applicant has also amended the proffer statement to add pre-emption to the existing signal at the intersection of National Lutheran Boulevard and Route 50.

Upon a motion by Supervisor Hess, seconded by Supervisor Collins, the Board approved Rezoning #06-13.

WHEREAS, Rezoning #06-13 Proffer Revision of Silver Lake, LLC, submitted by Greenway Engineering, Inc., to revise the proffers associated with Rezoning #01-09 relating to the relocation of the site provided for the development of a new fire and rescue facility and support facilities, was considered. The proffer revision, proffers originally dated November 25, 2008, with final revision dated November 4, 2013, is replacing the previous fire and rescue site which was located along Northwestern Pike and Silver Lake Road with the new location with will front on Corporate Place Drive near the intersection of National Lutheran Boulevard. The properties are located on the north side of Northwestern Pike (US Route 50 West), west of Retail Boulevard, and east of Poor House Road (Route 645), and is identified by Property Identification Numbers 52-a-C, 52-A-50A, 52-A-52, and 52-A-63 in the Gainesboro Magisterial District.

WHEREAS, the Planning Commission held a public meeting on this rezoning on December 4, 2013 and forwarded a recommendation of approval; and

WHEREAS, the Board of Supervisors held a public meeting on this rezoning on December 11, 2013; and

WHEREAS, the Frederick County Board of Supervisors finds the approval of this rezoning to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan.

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the proffers associated with Rezoning #01-09 relating to the relocation of the site provided for the development of a new fire and rescue facility and support facilities. The proffer revision, originally dated November 25, 2008, with final revision dated November 4, 2013, is replacing the previous fire and rescue site which was located along Northwestern Pike and Silver Lake Road with the new location which will front on Corporate Place Drive near the intersection of National Lutheran Boulevard.

This ordinance shall be in effect on the date of adoption.

Passed this 11th day of December, 2013 by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

REVISED MASTER DEVELOPMENT PLAN #03-13 – THE TOWNES AT TASKER – INFORMATION ONLY

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised this was a revised master development plan for the Townes at Tasker. This item is being brought back to the Board because the unit count has increased to 81. The parcel is 10.25 acres zoned RA (Rural Areas) and is located on the Shawnee Magisterial District. She concluded by saying this item was being presented to the Board for information only.

REQUEST FOR PUMP & HALL PERMIT – 186 STAR TANNER ROAD, STAR TANNERY, VIRGINIA - APPROVED

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised this was a request to approve a pump and haul permit for an existing accessory residence located at 186 Star Tannery Road. She noted the property owners are currently trying to sell this

property. The Health Department conducted a walk over for the sewage disposal systems and discovered the system for the accessory structure was installed incorrectly and is unable to be repaired. She went on to say the property owners appear to have addressed the requirements of the County Code to utilize a pump and haul system. She noted the maintenance costs associated with a pump and haul system can be expensive, but this system is the only available option to bring the septic system into compliance for this property. She concluded by saying Board action on this request would be appropriate.

Upon a motion by Supervisor Lofton, seconded by Supervisor Hess, the Board approved the pump and haul permit for 186 Star Tannery Road.

Chairman Shickle stated he was voting yes because it appeared the property owner had been defrauded.

Their being no further discussion, the above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

ROAD RESOLUTIONS

WAKELAND MANOR SUBDIVISION, PHASES 7, 12, 13, AND 14 – APPROVED UNDER CONSENT AGENDA

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk’s Office of the Circuit Court of Frederick County; and

WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

**FIELDSTONE SUBDIVISION; CHANNING DRIVE – APPROVED UNDER
CONSENT AGENDA**

WHEREAS, the Virginia Department of Transportation has provided this Board with a sketch and a VDOT-AM 4.3 form dated 11/27/13 depicting the additions and discontinuance required in the Secondary System of State Highways as a result of Project Fieldstone Subdivision-Channing Drive which sketch is hereby incorporated herein by reference; and

WHEREAS, the portions of old road identifies to be discontinued are deemed to no longer serve public convenience warranting maintenance at public expense; and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Commissioner to discontinue from the Secondary System of State Highways the portion of old road identified by the sketch to be discontinued, pursuant to Section 33.1-155 Code of Virginia; and

BE IT FURTHER RESOLVED, this Board concurs with the discontinuance as part of the Secondary System of State Highways, those portions of road identified by the sketch to be discontinued, pursuant to Section 33.1-150, Code of Virginia; and

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

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

BOARD LIAISON REPORTS

There were no Board liaison reports.

CITIZEN COMMENTS

Jay Marts, Gainesboro District, stated he had caught the tail end of the discussion on the replacement Frederick County Middle School and there had been a lot of detail about the Frederick-Winchester Service Authority's project, but he did not see the same transparency on the county building. He stated citizens need to hear this type of detail. He questioned whether the county should be building more office space. He went on to say he was not sure this was the time to build a new county building. He concluded by urging the Board to do it correctly and there was no need to worry.

BOARD OF SUPERVISORS COMMENTS

Supervisor Fisher stated he attended the meeting of the Public Works Committee and he thought they discussed the space needs study and determined 150,000 square feet would be sufficient. He went on to say this is still a work in progress. He stated there was no rush and neither the committee nor the Board has been pushed through this process.


Chairman Shickle stated that he never thought the space needs study was done to serve any other purpose than to confirm that what was proposed would work space wise or not.

ADJOURN

UPON A MOTION BY VICE-CHAIRMAN DEHAVEN, SECONDED BY SUPERVISOR COLLINS, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (9:25 P.M.)

B

MEMO

To: Board of Supervisors
From: Jon Turkel, Green Advisory Committee Staff Liaison 
Subject: VML/VACO Green Government Challenge 2013
Date: January 2, 2014

For the second time Frederick County is being recognized as a 'Green Government' in the Virginia Association of Counties (VACO), and the Virginia Municipal League (VML) Green Government Challenge.

VACO and VML's Go Green Virginia initiative (GoGreenVa) recognizes communities that have taken innovative steps to reduce energy usage and promote sustainability. The Green Government Challenge is designed to encourage implementation of specific environmental policies and practical actions that reduce the carbon emissions generated by both the local government and the broader community. Cities, towns and counties can become a certified "Green Government." Many of the actions taken have saved Frederick County money.

The Green Government Challenge recognizes communities reaching a minimum of 100 out of a possible 200 points. In participating, Frederick County earned 108 points for 2013.

C



John R. Riley, Jr.
County Administrator

540/665-5666

Fax 540/667-0370

E-mail:

jriley@co.frederick.va.us

MEMORANDUM

TO: Board of Supervisors
FROM: John R. Riley, Jr., County Administrator
DATE: December 31, 2013
RE: Committee Appointments

Listed below are the vacancies/appointments due through March, 2014. As a reminder, in order for everyone to have ample time to review applications, and so they can be included in the agenda, please remember to submit applications prior to Friday agenda preparation. Your assistance is greatly appreciated.

VACANCIES/OTHER

MPO Citizens Advisory Committee (CAC)

Alan Toxopeus – Frederick County Representative
1579 Cedar Creek Grade
Winchester, VA 22601

(The County currently has one vacancy on the MPO Citizens Advisory Committee. Mr. Alan Toxopeus has passed away. According to MPO By-Laws, the Citizen's Advisory Committee shall be composed of individuals representing a diverse background in the Win-Fred County region and shall provide citizen input, review, comments and recommendations to the MPO. Appointments are made by each locality with the County and City having three representatives and one from Stephens City.)

Planning Commission

Brian Madagan – Opequon District Representative
147 Blackburns Ford Drive
Stephens City, VA 22655
Term Expires: 04/07/17
Four year term

(Staff has been advised that Mr. Madagan has resigned effective November 4, 2013.)

Community Policy and Management Team (CPMT)

Greta Cherry - Parent Representative
112 Corral Drive
Stephens City, VA 22655
Term Expires: 06/30/14
Two year term

(Ms. Greta Cherry has resigned. CSA Coordinator Jackie Jury and CPMT staff is attempting to get recommendation(s) for appointment and upon receipt, will forward same to the Board of Supervisors at a future meeting.)

Extension Leadership Council

Edward J. Keenan – Shawnee District Representative
840 Carpers Valley Road
Winchester, VA 22602
Home: (540)667-4816
Term Expires: 01/25/14
Four year term

(Mr. Keenan has resigned.)

DECEMBER 2013

Board of Zoning Appeals

Kevin C. Scott – Shawnee District Representative
106 Jutland Court
Stephens City, VA 22655
Home: (540)869-4799
Term Expires: 12/31/13
Five year term

(There are seven members on the Board of Zoning Appeals. Recommendations for appointment/reappointment are made by the Board of Supervisors and submitted to the Judge of the Frederick County Circuit Court for final appointment.)

JANUARY 2014

Industrial Development Authority

Beverly B. Shoemaker - Opequon District Representative
P. O. Box 480
Stephens City, VA 22655
Home: (540)869-4828
Term Expires: 01/23/14
Four year term

Planning Commission

Christopher M. Mohn – Red Bud District Representative
316 Ridge Road
Winchester, VA 22602
Home: (540)678-1366
Term Expires: 01/27/14
Four year term

Charles F. Dunlap – Red Bud District Representative
401 Lynnehaven Drive
Winchester, VA 22602
Home: (540)323-7438
Term Expires: 01/27/14
Four year term

FEBRUARY 2014

Historic Resources Advisory Board

Claus Bader – Red Bud District Representative
102 Whipp Drive
Winchester, VA 22602
Home: (540)722-6578
Term Expires: 02/22/14
Four year term

MARCH 2014

Conservation Easement Authority

Memorandum – Board of Supervisors
December 31, 2013
Page 4

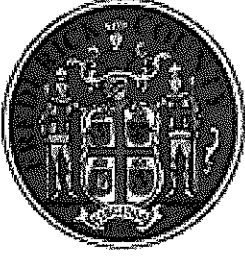
Ron Clevenger – County Representative
1028 Welltown Road
Winchester, VA 22603
Home: (540)323-0630
Term Expires: 03/23/14
Three year term

*(The Conservation Easement Authority was established in August, 2005. The Authority consists of seven citizen members, one member from the Board of Supervisors and one member from the Planning Commission. **Members shall be knowledgeable in one or more of the following fields: conservation, biology, real estate and/or rural land appraisal, accounting, farming, or forestry.** Members serve a three year term and are eligible for reappointment.)*

JRR/tjp

U:\TJP\committeeappointments\WmosLetrs\BoardCommitteeAppts(010814BdMtg).docx

D



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

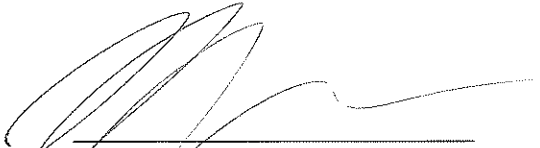
rwillia@co.frederick.va.us

MEMORANDUM

TO: Frederick County Board of Supervisors
CC: John R. Riley, Jr., County Administrator
FROM: Roderick B. Williams, County Attorney
DATE: January 2, 2014
RE: Commissioner of Revenue Refund Requests

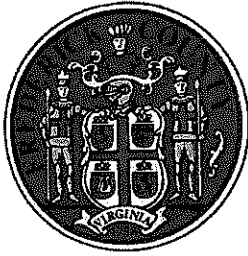
Attached, for the Board's review, are requests to authorize the Treasurer to refund the following entities and an undisclosed taxpayer:

1. T W Wallace Construction Corp – \$2,536.80
2. LaSalle Systems Leasing Inc – \$3,061.82
3. BB&T Leasing Corp – \$2,593.00
4. Disabled Veteran's Relief – \$3,316.89



Roderick B. Williams
County Attorney

Attachments



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

MEMORANDUM

TO: Ellen E. Murphy, Commissioner of the Revenue
Frederick County Board of Supervisors

CC: John R. Riley, Jr., County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: December 31, 2013

RE: Refund – T W Wallace Construction Corp

I am in receipt of the Commissioner's request, dated December 19, 2013, to authorize the Treasurer to refund T W Wallace Construction Corporation the amount of \$2,536.80, relating to one vehicle housed in another locality for 2010, 2011, and 2012. Refund includes personal property taxes and vehicle license fees. Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner's memorandum.

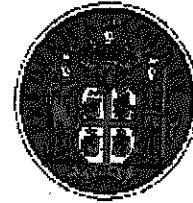
A handwritten signature in black ink, appearing to be "R. Williams", is written over a horizontal line.

Roderick B. Williams
County Attorney

Attachment



Frederick County, Virginia
Ellen E. Murphy
Commissioner of the Revenue
107 North Kent Street
Winchester, VA 22601
Phone 540-665-5681 Fax 540-667-6487
email: emurphy@co.frederick.va.us



December 19, 2013

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Jay Tibbs, Secretary to the Board

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration T W Wallace Construction Corp

Please approve a refund of \$2,536.80 for personal property taxes for T W Wallace Construction Corp for one vehicle housed in another locality at the head office. Company has other property in Frederick County. We have verified that the vehicle is being taxed in the home locality. Please also approve a supplemental appropriation for the Finance Director on this request.

Documentation for this refund has been reviewed by the Commissioner's staff and meets all requirements. It is retained in the Commissioner of the Revenue office and contains secure data.

Exoneration is \$2,536.80.

Date: 12/13/13

Cash Register: COUNTY OF FREDERICK

Time: 09:43:03

Customer Name: T W WALLACE CONSTRUCTION CORP

Total Transactions: 688
Customer Transactions: 7

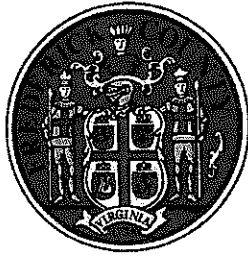
Options: 2=Edit 4=Delete 5=View

Opt	Dept	Trans	Ticket No.	Tax Amount	Penalty/Int	Amount Paid
-	PP2010	1	00511980001	\$426.47-	\$.00	\$426.47-
-	PP2010	2	00511980002	\$426.46-	\$.00	\$426.46-
-	PP2011	3	00522310001	\$417.96-	\$.00	\$417.96-
-	PP2011	4	00522310002	\$417.96-	\$.00	\$417.96-
-	PP2012	5	00522800001	\$390.02-	\$.00	\$390.02-
-	PP2012	6	00522800002	\$390.01-	\$42.92-	\$432.93-
-	VL2012	7	00735190001	\$25.00-	\$.00	\$25.00-

Total Paid : \$2,536.80

F3=Exit F14=Show Map# F15=Show Balance F18=Sort-Entered F21=CmdLine

Needs Board Approval



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

MEMORANDUM

TO: Ellen E. Murphy, Commissioner of the Revenue
Frederick County Board of Supervisors

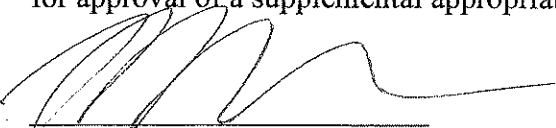
CC: John R. Riley, Jr., County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: December 31, 2013

RE: Refund – LaSalle Systems Leasing Inc

I am in receipt of the Commissioner's request, dated December 19, 2013, to authorize the Treasurer to refund LaSalle Systems Leasing Inc the amount of \$3,061.82, for adjustment to business equipment filings for 2013. The company filed in the county but the contract with the company is in the City of Winchester. Refund includes personal property taxes. Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner's memorandum.



Roderick B. Williams
County Attorney

Attachment



Frederick County, Virginia
Ellen E. Murphy
Commissioner of the Revenue
107 North Kent Street
Winchester, VA 22601
Phone 540-665-5681 Fax 540-667-6487
email: emurphy@co.frederick.va.us



December 19, 2013

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Jay Tibbs, Secretary to the Board

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration LaSalle Systems Leasing Inc

Please approve a refund of \$3061.82 for business equipment taxes as filed by lease holder. Leasing company has other holdings in Frederick County and included this assessment but the company with this contract is in the City of Winchester. Please also approve a supplemental appropriation for the Finance Director on this request.

Taxpayer did not itemize and need for exoneration was found when they received the duplicate billing.

Documentation for this refund has been reviewed by the Commissioner's auditing staff and meets all requirements. It is retained in the Commissioner of the Revenue office and contains secure data.

Exoneration is \$3,061.82.

Date: 12/05/13

Cash Register: COUNTY OF FREDERICK

Time: 16:45:16

Customer Name: LASALLE SYSTEMS LEASING INC

Register: OPEN

Drawer: LKH

Soc. Sec. No.:

Customer Transactions: (F5=Review)

Total Transactions:

Dept	Ticket No.	FRO	BillDate	Charge	Penalty/Int	Amount Paid	Balance
PP2013	00301040003	001	4/18/2013	1530.91-			1530.91-
PP2013	00301040004	002	4/18/2013	1530.91-			1530.91-

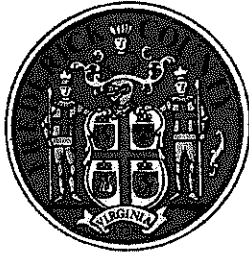
Comment.....:

Old/New Promise Date.: / Total: \$3061.82-

No. of Transactions: 2 Amount to Pay:

F3=Exit F4=Accept Payment F7=Pay Bills Separately F21=Command Line
 F15=Show Penalty/Int

Needs Board Approval



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

MEMORANDUM

TO: Ellen E. Murphy, Commissioner of the Revenue
Frederick County Board of Supervisors

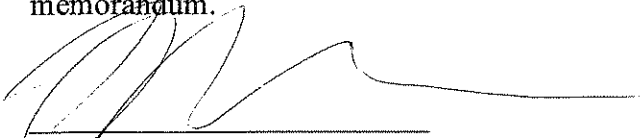
CC: John R. Riley, Jr., County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: January 2, 2014

RE: Refund – BB&T Leasing Corp

I am in receipt of the Commissioner's request, dated December 31, 2013, to authorize the Treasurer to refund BB&T Leasing Corp the amount of \$2,593.00, for adjustment to business equipment filings for 2013. The leasing company found that assets were sold to the lessee and the lessee should be billed for 2013. Refund includes personal property taxes for 2013. Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner's memorandum.



Roderick B. Williams
County Attorney

Attachment



Frederick County, Virginia
Ellen E. Murphy
Commissioner of the Revenue
107 North Kent Street
Winchester, VA 22601
Phone 540-665-5681 Fax 540-667-6487
email: emurphy@co.frederick.va.us



December 31, 2013

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Jay Tibbs, Secretary to the Board

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration BB&T Leasing Corp

A handwritten signature in cursive script, reading "E. Murphy".

Please approve a refund of \$2,593.00 for business equipment taxes as originally filed by BB&T Leasing Corp, the original lease holder. Leasing company, upon examination found that assets were sold to lessee and that lessee should be billed for 2013. Please also approve a supplemental appropriation for the Finance Director on this request.

Purchaser has been billed for 2013 on these assets.

Documentation for this refund has been reviewed by the Commissioner's staff and meets all requirements. It is retained in the Commissioner of the Revenue office and contains secure data.

Exoneration is \$2,593.00.

12/30/2013

Abatement Register
COUNTY OF FREDERICK

-UPDATE-

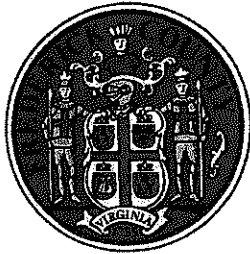
TX306ABP

Page 1

FOR DATE -12/30/2013

ACCOUNTING PERIOD - 2013/12

Type	Dept	Ticket#	Date	Amt. Charged	Customer	Tran#
----	----	-----	----	-----	-----	-----
ABA	PP2013	00022250001	12/30/2013	\$1,296.50-	B B & T LEASING CORP	39856
ABA	PP2013	00022250002	12/30/2013	\$1,296.50-	B B & T LEASING CORP	39857
Total for Dept.				\$2,593.00-		
Total for Tran Type				\$2,593.00-		
Abatement count =	2	Total for Company		\$2,593.00-		



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

MEMORANDUM

TO: Ellen E. Murphy, Commissioner of the Revenue
Frederick County Board of Supervisors

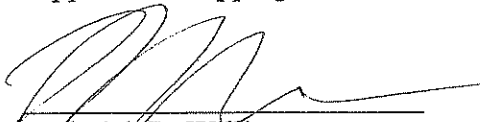
CC: John R. Riley, Jr., County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: December 31, 2013

RE: Refund – Undisclosed Taxpayer – Disabled Veteran’s Relief

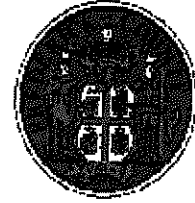
I am in receipt of the Commissioner’s request, dated December 19, 2013, to authorize the Treasurer to refund a taxpayer the amount of \$3,316.89 for 2011, 2012 and 2013 real estate taxes, based on proper filing of proof of 100% permanent and total disability directly due to military service, as required under the Virginia Code change as a result of the Constitutional amendment that took effect for 2011. Taxpayer’s name cannot be made public because of applicable legal requirements as to privacy, but is known to the Commissioner, the Treasurer, and the County Attorney on a confidential basis. Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner’s memorandum.


Roderick B. Williams
County Attorney

Attachment



Frederick County, Virginia
Ellen E. Murphy
Commissioner of the Revenue
107 North Kent Street
Winchester, VA 22601
Phone 540-665-5681 Fax 540-667-6487
email: emurphy@co.frederick.va.us



December 19, 2013

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Jay Tibbs, Secretary to the Board

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration Veteran Relief Refund (Name withheld)

A handwritten signature in cursive script, reading "E. Murphy".

Please approve a refund of \$3,316.89 for real estate taxes for undisclosed taxpayer that qualified under the disabled veteran relief. Taxpayer had received needed information from Department of Veterans Affairs (DVA) and did not understanding filing procedure. He is qualified for 2011, 2012 and 2013 real estate tax relief. The Treasurer and County Attorney have the taxpayer name but under DVA rules this cannot be made public. Please also approve a supplemental appropriation for the Finance Director for this refund.

Documentation for this refund has been reviewed and meets all requirements. It is retained in the Commissioner of the Revenue office and contains secure data.

Exoneration is \$3,316.89.

Date: 12/05/13

Cash Register: COUNTY OF FREDERICK

Time: 16:43:54

Register: OPEN

Drawer: LKH

Customer Name:

MAP#:

Prop Adr:

Customer Transactions: (F5=Review)

Total Transactions:

Dept	Ticket No.	FRO	BillDate	Charge	Penalty/Int	Amount Paid	Balance
RE2011	00004450001	001	4/18/2011	528.42-			528.42-
RE2011	00004450002	002	4/18/2011	528.42-			528.42-
RE2012	00004520001	001	5/09/2012	567.21-			567.21-
RE2012	00004520002	002	5/09/2012	567.20-			567.20-
RE2013	00004660001	001	4/12/2013	562.82-			562.82-
RE2013	00004660002	002	4/12/2013	562.82-			562.82-

Comment.....:

Old/New Promise Date.: / Total: \$3316.89-

No. of Transactions: 6 Amount to Pay:

F3=Exit F4=Accept Pymt F7=Pay Separately F15=Show Penalty/Int F21=CmdLine

Needs Board Approval

copy to duplicate

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BOARD OF SUPERVISORS

Resolution HP HOOD LLC

WHEREAS, HP HOOD LLC has made known its intent to expand its operation by making new taxable real estate and machinery investments and retain and create jobs; and

WHEREAS, the company meets the policy guidelines of the Frederick County Economic Development Incentives Policy as established by the Winchester-Frederick County Economic Development Commission in 1995;

BE IT RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia, does hereby approve and appropriate the payment of \$1,100,000 in installments as stated in the executed Performance Agreement to the Industrial Development Authority of Frederick County, Virginia from the Frederick County's Fund Balance to assist in expanding the operation for HP HOOD LLC in Frederick County, Virginia.

BE IT RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia, does hereby approve and appropriate the payment of \$500,000.00 to the Industrial Development Authority of Frederick County, Virginia from the Governor's Development Opportunity Fund to assist in expanding the operation for HP HOOD LLC in Frederick County, Virginia.

BE IT RESOLVED, that said funds are subject to an executed Performance Agreement outlining the required performance criteria.

BE IT FURTHER RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia, does authorize the County Administrator to execute the Performance Agreement on its behalf.

Upon motion duly made by _____, seconded by _____, and on the votes hereafter recorded,

ADOPTED, this 8th January 2014

Richard C. Shickle _____

Bob Hess _____

Charles S. Dehaven, Jr. _____

Gary Lofton _____

Gene Fisher _____

Robert Wells _____

Christopher E. Collins _____

A COPY TESTE:

John R. Riley, Jr.
Clerk, Board of Supervisors

GOVERNOR'S DEVELOPMENT OPPORTUNITY FUND

PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** made and entered this 8th day of January, 2014, by and among the **COUNTY OF FREDERICK, VIRGINIA** (the "Locality") a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), and **HP HOOD LLC** (the "Company"), a Delaware limited liability company authorized to transact business in the Commonwealth, and the **INDUSTRIAL DEVELOPMENT AUTHORITY OF FREDERICK COUNTY, VIRGINIA** (the "Authority"), a political subdivision of the Commonwealth.

WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive \$500,000 from the Governor's Development Opportunity Fund (a "GOF Grant") through the Virginia Economic Development Partnership Authority ("VEDP") for the purpose of inducing the Company to expand and improve a processing facility in the Locality (the "Facility"), thereby making a significant Capital Investment, as hereinafter defined, and creating a significant number of New Jobs, as hereinafter defined;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality wishes to make a Local Economic Development Incentive Grant in the amount of \$1,100,000 (the "LEDIG") through the Authority to the Company for the purpose of inducing the Company to expand and improve the Facility, thereby making a significant Capital Investment and creating and retaining a significant number of New Jobs;

WHEREAS, the Locality, the Authority and the Company desire to set forth their understanding and agreement as to the payout of the GOF Grant and the LEDIG (together, the "Grants"), the use of the Grants proceeds, the obligations of the Company regarding Capital Investment and New Job creation, and the repayment by the Company of all or part of the Grants under certain circumstances;

WHEREAS, the expansion, improvement and operation of the Facility will entail a capital expenditure of approximately \$84,628,856, of which approximately \$52,069,839 will be invested in machinery and equipment and approximately \$32,559,017 will be invested in real property improvements;

WHEREAS, the expansion, improvement and operation of the Facility will further entail the creation of 75 New Jobs at the Facility; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for each of the Grants:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

Section 1. Definitions.

For the purposes of this Agreement, the following terms shall have the following definitions:

“Capital Investment” means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility excluding existing real property improvements. The Capital Investment must be in addition to the capital improvements at the Facility as of May 29, 2013. The total expected capital expenditure of \$84,628,856 is referred to in this Agreement as the “Capital Investment.”

“Maintain” means that the New Jobs created pursuant to the Grants will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company’s employment levels (so long as there is active recruitment for open positions), (ii) strikes and (iii) other temporary work stoppages.

“Facility” means that certain industrial facility operated by the Company situate in Frederick County, Virginia at 160 Hood Way.

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are paid by the Company for the employee, and for which the Company pays an average annual wage of at least \$44,080. Each New Job must require a minimum of either (i) 35 hours of an employee’s time per week for the entire normal year of the Company’s operations, which “normal year” must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs. The New Jobs must be in addition to the 425 full-time jobs at the Facility as of May 29, 2013.

“Performance Date” means July 31, 2016. If the Locality, in consultation with the Authority and VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, the Locality may agree to extend the Performance Date by up to 15 months. If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company and VEDP and the date to which the Performance Date has been extended shall be the “Performance Date” for the purposes of this Agreement. Neither the Locality, the Authority, nor VEDP, shall have any obligation whatsoever to extend the Performance Date.

“Targets” means the Company’s obligations to make or cause to be made Capital Investments at the Facility of at least \$84,628,856 and to create and Maintain at least 75 New Jobs at the Facility, Jobs, in addition to maintaining the current 425 jobs at the Facility, all as of the Performance Date.

“Virginia Code” means the Code of Virginia of 1950, as amended.

Section 2. Targets.

The Company will expand, improve and operate the Facility in the Locality, make or cause to be made a Capital Investment of at least \$84,628,856, and create and Maintain at least 75 New Jobs at the Facility, all as of the Performance Date.

The Locality and the Authority hereby strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to “Residents” of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

The average annual wage of the New Jobs of at least \$44,080 is greater than the prevailing average annual wage in the Locality of \$39,362.

Section 3. Disbursement of the Grants

(a) *GOF Grant*: By no later than March 1, 2014, the Locality will request the disbursement to it of the GOF Grant. If not so requested by the Locality by March 1, 2014, this Agreement will terminate and the Company will have no claim whatsoever against the Locality or the Authority. The Locality and the Company will be entitled to reapply for a GOF Grant thereafter, based upon the terms, conditions and availability of funds at that time.

The Locality anticipates that the GOF Grant in the amount of \$500,000 will be paid to the Locality, upon its request. Within 30 days of its receipt of the GOF Grant proceeds, the Locality will disburse the GOF Grant proceeds to the Authority. Within 30 days of its receipt of the GOF Grant proceeds, the Authority will disburse the GOF Grant proceeds to the Company as an inducement to the Company to achieve the Targets at the Facility. The Company will use the GOF Grant proceeds for utility capacity development on and off site, as permitted by Section 2.2-115(D) of the Virginia Code. This Performance Agreement shall terminate and shall be of no force or effect in the event that the GOF Grant is not received by the Locality on before December 31, 2013.

(b) *LEDIG*: As an inducement to the Company to achieve the Targets at the Facility and provided that the Company is not in default under the terms of this Performance Agreement, the LEDIG in the amount of \$1,100,000 will be paid by the Locality through the Authority in four installments; and thereafter disbursed by the Authority to the Company. The first

installment of \$500,000 will be paid by the Locality to the Authority and by the Authority to the Company after July 1, 2013 but no later than and June 30, 2014. The second installment of \$250,000 will be paid by the Locality to the Authority and thereafter by the Authority to the Company after July 1, 2014 but no later than June 30, 2015. The third installment of \$250,000 will be paid by the Locality to the Authority and thereafter by the Authority to the Company after July 1, 2015 but no later than June 30, 2016. The fourth installment of \$100,000 will be paid by the Locality to the Authority and thereafter by the Authority to the Company after July 1, 2016 but no later than June 30, 2017. The Company will use the LEDIG proceeds for workforce training and to upgrade public and private utilities at and around the Facility.

Section 4. Break-Even Point; State and Local Incentives.

VEDP has estimated that the Commonwealth will reach its “break-even point” by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth’s expenditures on incentives, including but not limited to the GOF Grant. With regard to the Facility, the Commonwealth expects to provide incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
GOF Grant	\$ 500,000
Virginia Investment Partnership (“VIP”) Grant	1,000,000
Virginia Jobs Investment Program (“VJIP”) (Estimated)	33,600

The Locality expects to provide the following incentives, as matching grants or otherwise, for the Facility:

<u>Category of Incentive:</u>	<u>Total Amount</u>
LEDIG	\$ 1,100,000

If, by the Performance Date, the LEDIG funds disbursed or committed to be disbursed by the Locality to the Authority and thereafter disbursed by the Authority to the Company total less than the required \$500,000 GOF Grant local match, the Locality, subject to appropriation, will make an additional grant to the Authority, and thereafter, the Authority will make an additional grant to the Company of the difference at the Performance Date, so long as the Company has met its Targets.

The proceeds of the GOF Grant shall be used for the purposes described in Section 3(a). The VJIP grant proceeds shall be used by the Company to pay or reimburse itself for recruitment and training costs. The VIP Grant proceeds may be used by the Company for any lawful purpose. The proceeds of the LEDIG shall be used for the purposes described in Section 3(b).

Section 5. Repayment Obligation.

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company make a Capital Investment of at least \$5,000,000 in the Facility and create and Maintain at least 50 New Jobs at the Facility in order to be eligible for the GOF Grant. Failure by the Company to meet both of these statutory minimum eligibility requirements by the Performance Date shall constitute a breach of this Agreement and the entire GOF Grant must be repaid by the Company to the Authority.

(b) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (b) shall be applicable only if the Company has met the statutory minimum eligibility requirements described in subsection (a). For purposes of repayment, each of the Grants is to be allocated as 50% for the Company's Capital Investment Target (\$250,000 for the GOF Grant and \$550,000 for the LEDIG) and 50% for the Company's New Jobs Target (\$250,000 for the GOF Grant and \$550,000 for the LEDIG). If the Company has met at least 90% of both of the Targets at the Performance Date, then and thereafter the Company is no longer obligated to repay any portion of either Grant. If the Company has not met at least 90% of either or both of its Targets at the Performance Date, the Company shall repay to the Authority that part of the Grants that is proportional to the Target or Targets for which there is a shortfall. For example, if at the Performance Date, the Capital Investment is only \$50,777,314 (reflecting achievement of 60% of the Capital Investment Target) and only 60 New Jobs have been created and Maintained (reflecting achievement of 80% of the New Jobs Target), the Company shall repay to the Authority 40% of the moneys allocated to the Capital Investment Target (\$100,000 for the GOF Grant and \$220,000 for the LEDIG) and 20% of the moneys allocated to the New Jobs Target (\$50,000 for the GOF Grant and \$110,000 for the LEDIG). Also, in the event that the Company should file any amended return indicating that the Company did not meet the Capital Investment and/or New Jobs Target, the Company shall be obligated to repay all or a portion of the Grants, according to the formula set forth herein. The Company's repayment obligation hereunder shall survive the Performance Date to the extent that the Locality subsequently receives information to the effect that the Company did not meet the Targets.

(c) *Determination of Inability to Comply:* If the Locality or VEDP shall determine at any time prior to the Performance Date (a "Determination Date") that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company must repay the entire amount of the Grants to the Authority. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 or Chapter 11 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates the Company will be unable or is unwilling to satisfy the Targets for the Grants, as determined by the Locality or VEDP.

(d) In the event that the Company is obligated to repay Grants, or any portion thereof, as called for under the terms of this Agreement, the Company shall pay such sums within 30 days after notification of the amount of the sums to be repaid by the Company. Such determination of

liability shall be made on the Performance Date or the Determination Date or promptly upon receipt of the Progress Report or other information confirming lack of achievement of the Targets as of the Performance Date, whichever shall first occur. Any sums that the Company is obligated to repay shall be paid to the Authority.

(e) In the event that the Company fails to comply with the repayment obligations set forth in this Section 5, the Locality and the Authority shall be entitled to recover their reasonable attorney's fees and costs incurred in connection with such default by the Company, whether or not judicial proceedings are instituted to collect such funds. The Locality and the Authority shall use their best efforts to recover such funds, including judicial proceedings for any breach of this Agreement by the Company. In the event that the Company fails to make a full repayment, 31% of any repayment shall be deemed to be allotted to the GOF Grant and 69% shall be deemed to be allotted to the LEDIG.

(f) GOF Grant: Any GOF Grant moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to the Locality within 30 days after the repayment by the Company to the Authority, and shall be repaid by the Locality promptly to VEDP for redeposit into the Governor's Development Opportunity Fund.

(g) LEDIG: Any LEDIG moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to the Locality within 30 days after repayment by the Company to the Authority.

(h) Interest: In the event that the Company fails or refuses to repay any of the LEDIG moneys as called for in this Section 5, such sums shall be assessed interest at the rate of 8.00% per annum until repaid in full by the Company.

Section 6. Company Reporting.

Commencing on October 31, 2014; and on October 31st of each year thereafter, the Company shall provide an annual letter confirming progress on achieving the Targets for Capital Investment and New Jobs (the "Progress Reports"). The Progress Reports shall confirm Capital Investment incurred by or on behalf of the Company and the number of New Jobs created and maintained by the Company at the Facility through the prior July 31st. The Progress Reports shall include an affirmative statement signed by an authorized Company Officer or Director that the information provided in Progress Reports is true and correct and certify the status of its efforts to achieve the Targets for New Jobs and Capital Investment.

As part of the Progress Reports, the Company shall provide for review by the Locality and VEDP of the Company's quarterly Virginia unemployment tax return filing confirmation page, which indicates the number of employees and total wages paid for the quarter, to confirm satisfaction with the Company's progress on achieving the Targets for New Jobs. The Company also will permit the Locality and VEDP to review annual business personal property and real estate filings to confirm reasonable satisfaction with the Company's progress on achieving the Capital Investment Targets.

Upon a request from VEDP, the Company shall provide to VEDP a copy of Virginia Form 502, Pass-Through Entity Return of Income and Return of Non-Resident Withholding Tax. The Commonwealth hereby represents to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

Section 7. Notices.

Any notices required or permitted under this Agreement shall be given in writing, and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee):

if to the Company, to:
HP Hood LLC
6 Kimball Lane, Suite 400
Lynnfield, MA 01940
Att: Theresa M. Bresten, Treasurer

with a copy to:
HP Hood LLC
6 Kimball Lane, Suite 400
Lynnfield, MA 01940
Att: Paul Nightingale, Legal Department,

if to the Locality, to:
County of Frederick, Virginia
107 North Kent Street
Winchester, VA 22601
Attention: County Administrator

with a copy to:
County of Frederick, Virginia
107 North Kent Street, 3rd Floor
Winchester, VA 22601
Attention: County Attorney

if to the Authority, to:
Industrial Development Authority of Frederick
County, Virginia
107 North Kent Street
Winchester, VA 22601
Attention: Chair

with a copy to:
Industrial Development Authority of Frederick
County, Virginia
107 North Kent Street
Winchester, VA 22601
Attention: Counsel to the Authority

if to VEDP, to:
Virginia Economic Development Partnership
901 East Byrd Street, 19th Floor
Post Office Box 798 (zip: 23218-0798)
Richmond, Virginia 23219
Attention: President and CEO

with a copy to:
Virginia Economic Development Partnership
901 East Byrd Street, 19th Floor
Post Office Box 798 (zip: 23218-0798)
Richmond, Virginia 23219
Attention: General Counsel

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Section 8. Miscellaneous.

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement among the parties hereto as to the Grants and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP, which consent may be withheld by the Locality, the Authority and VEDP; provided however this Agreement may be assigned in connection with a sale of the Facility and/or the sale of all or substantially all of the assets of the Company.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving the GOF Grant under the terms of this Agreement shall lie in the Circuit Court of the City of Richmond, and such litigation shall be brought only in such court. Jurisdiction and venue for any litigation arising out of or involving the LEDIG under the terms of this Agreement shall lie in the Circuit Court of the County of Frederick, Virginia, and such litigation shall be brought only in such court.

(c) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability:* If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Time:* Time is of the essence as to all matters set forth in this Performance Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

COUNTY OF FREDERICK, VIRGINIA

By _____
Name: _____
Title: _____
Date: _____

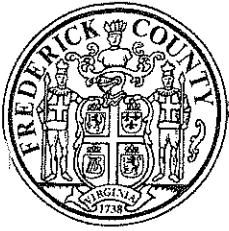
**INDUSTRIAL DEVELOPMENT
AUTHORITY OF FREDERICK
COUNTY, VIRGINIA**

By _____
Name: _____
Title: _____
Date: _____


HP HOOD LLC

By _____
Name: _____
Title: _____
Date: _____

F



MEMO

To: John R. Riley, Jr., County Administrator
From: Jason L. Robertson, Director, Parks & Recreation Dept. 
Subject: Parks and Recreation Commission Action
Date: December 11, 2013

The Parks and Recreation Commission met on December 10, 2013. Members present were: Patrick Anderson, Randy Carter, Gary Longerbeam, Ronald Madagan and Charles Sandy, Jr.. Members absent were: Kevin Anderson, Greg Brondos, Jr., Christopher Collins, and Marty Cybulski.

Items Requiring Board of Supervisors Action:

None

Submitted for Board Information Only:

1. Cosponsor Committee – Recommend Organizations for FY15 – The Cosponsor Committee recommended to approve the following organizations: Frederick County American Little League Association, Frederick County National Little League Association, Blue Ridge Youth Soccer Association, American Legion, Mavericks, and Winchester Athletic Association for co-sponsorship provided all procedural steps as outlined in the policy are complied with and established the criteria for badge non-compliance as follows: any coach observed not wearing a badge on three separate occasions will not be allowed to participate with their organization for a period of one week, second by Mr. Madagan, motion carried unanimously (5-0).
2. Public Relations Committee – July 4th Update – The Public Relations Committee felt that bringing music back the event was positive for the community. The committee was in favor of the format, yet felt that changing over three acts in the stadium in the timeframe provided was unrealistic. Staff and iDiddy have taken this into consideration and a revised stadium schedule with two sets on the 4th and one on the 5th is being pursued. No action from the Commission is required at this time.

3. Building and Grounds Committee

- a. Rose Hill Park – The Buildings and Grounds Committee recommended to forward the lease agreement for the creation of Rose Hill Park to the Frederick County Finance Committee with a recommendation for the Board of Supervisors to enter the proposed agreement, second by Mr. Sandy, motion carried unanimously (5-0). Please find attached a copy of the proposed lease agreement. The proposed lease agreement will be forwarded to the Frederick County Finance Committee.
- b. Frederick County National Little League Request – The Buildings and Grounds Committee recommended the approval of the Frederick County National Little League request except outfield signage which is not allowed according to department policy, second by Mr. Sandy, motion carried unanimously (5-0).

4. Finance Committee – Fiscal 2015 Budget and Work Program – The Parks and Recreation Finance Committee recommended to approve the Fiscal 2015 Budget and Work Program as submitted with a \$.25 per hour increase in extra help and park security personnel in the Clearbrook and Sherando budgets, second by Mr. Madagan, motion carried unanimously (5-0). The Fiscal 2015 Budget and Work Program will be submitted to the Finance Department.

cc: Martin Cybulski, Chairman
Christopher Collins, Board Liaison
Cheryl Shiffler, Finance Director

AGREEMENT BETWEEN THE COUNTY OF FREDERICK
AND GLASS-GLEN BURNIE FOUNDATION, INC.

This agreement, is made and entered into this ____ day of _____, 2013, by and between the County of Frederick County (hereinafter "County"), party in the first part, and GLASS-GLEN BURNIE FOUNDATION, INC. (hereinafter "GGBF"), party in the second part.

WHEREAS, GGBF is the fee simple owner of certain property (hereinafter known as "Rose Hill"), located at 1985 Jones Road in the County of Frederick, Virginia identified with Property Identification Number 62-A-73B in the Back Creek Magisterial District and is agreeable to a 50 year lease, commencing on this date, on a 118.4 acre portion of that real estate shown on the attached diagram prepared by Painter-Lewis dated 9/9/13, which will be used for recreation purposes for the general public; and

WHEREAS, GGBF expects to receive additional community support and the annual sum of one dollar (\$1) as a result of the location of recreation facilities upon its premises; and

WHEREAS, the County is tasked with meeting the recreational needs of the community and has recognized that amenities located at Rose Hill will provide for fulfilling an identified community need.

NOW THEREFORE, THIS AGREEMENT, WITNESSETH: That for and in consideration of the mutual benefits to be derived and the desire of the parties hereto to meet and fulfill the recreational needs of the general public of Frederick County, in consideration of the premises and the mutual covenants and promises contained herein, GGBF hereby leases to the County for a term of fifty (50) years from the date hereof, that certain portion of its real estate situate in Back Creek Magisterial District, Frederick County, Virginia, to include the physical footprint of recreation amenities, specific amenity access routes, and a six (6) foot buffer area of amenities and amenity access routes developed on the property, as designated by the attached diagram and agreed by the parties hereto, subject to the following:

1. The County will pay GGBF the sum of one dollar (\$1) per year.
2. GGBF hereby agrees to be solely responsible, within two (2) years of the date hereof, for the costs of construction of access road, parking lot, gate, restroom building, and interpretative signage at the Rose Hill property shown in substantial conformance with the attached diagram prepared by Painter-Lewis dated 11/13/2012, and which items, irrespective of whether located within the leased area, shall remain the property of GGBF.
3. Restroom building as set forth in 2 above may include indoor fixtures, or alternatively be of a design to accommodate two (2) portable toilets.
4. GGBF hereby agrees to maintain said items (identified in 2 above); restroom building, gate and interpretative signage and structural elements of access road and parking lot.
5. GGBF agrees to allow public access to the Rose Hill parking area and recreation amenities on a daily basis, consistent with existing County park rules.
6. GGBF agrees to mow open fields adjacent to the leased area at a minimum annually.

7. GGBF agrees that main entrance signage to Rose Hill shall be agreed by the parties hereto and identify "Frederick County Parks and Recreation" in substantial conformance with the attached diagram prepared by FCPRD dated 8/22/13.
8. GGBF and the County shall keep in force and effect during the term of this agreement General Liability Insurance in mutually agreeable amounts. Parties shall provide the other with a Certificate of Insurance annually.
9. Except as set forth in 2 above, the County hereby agrees to be solely responsible for the costs of construction of recreation amenities at the Rose Hill property to include a compacted stone dust surface multi use trail and park entrance sign within two (2) years of the date hereof, playground area, picnic shelter, play fields and associated signage within five (5) years of the date hereof in substantial conformance with the attached diagram prepared by Painter-Lewis dated 10/1/2013, and other amenities as agreed upon by the County and GGBF; the playground and shelter shall remain the property of the County, including upon termination of the lease term.
10. Location of playground set forth in 9 above, shall be subject to finding a suitable drain field replacement site.
11. The County hereby agrees to maintain the said recreation amenities (identified in 9 above), specified buffer area, access road, parking lot, and specific amenity and restroom access routes on a year round basis, including trash removal and regular mowing of the grass on or adjacent to the amenity.
12. The County shall be responsible for cleaning, stocking and associated restroom facility costs.
13. It is agreed that the playground and multipurpose trail will be unscheduled, open to anyone, provided however, that the rules governing the use of the playground and trail will be formulated and enforced by the County. GGBF shall have the opportunity for input in the formulation of the rules. Posting the rules in appropriate areas, once formulated, will be the responsibility of the County. Failure to comply with the formulated rules may result in the termination of the privilege of the use of these facilities by persons failing to comply, for such periods of time as the County shall determine.
14. It is agreed that the shelter and play field(s) will be open on a first come first basis unless reserved. The County will manage reservations consistent with County policy; any fees collected will remain with the County, GGBF shall have fees waived for reservations.
15. The County shall be responsible for daily opening and closing and clearing of Rose Hill access road consistent with County park rules.
16. GGBF and the County shall agree to coordinate opening or closing due to either parties' special events or activities requiring access to Rose Hill outside of regular hours.
17. GGBF and the County shall agree to invite representative(s) of the other organization to meetings where the Rose Hill project is on the agenda to be discussed.
18. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this agreement promptly by negotiation between officials who have authority to settle the controversy. Either party shall give the other party written notice of any dispute not resolved in the normal course of business.

19. If the dispute has not been resolved within 45 days after written notice of a dispute, this Agreement does not preclude either party from initiating litigation thereafter, provided, however, that if one party fails to participate in resolution of a dispute or in the instance of irreparable harm or the need for injunctive relief, the other party can initiate litigation prior to the expiration of the time period set forth above.
20. In the event the recreation amenities are abandoned or eliminated within the period of this lease, the County shall physically remove the amenities, other than the trail and play fields, and restore the property to the substantial equivalent of its original condition.
21. In the event GGBF terminates or otherwise renders null this agreement prior to the agreed upon date, GGBF shall pay the County a prorated amount of the nominal total construction costs of the multi use trail. Such costs shall be agreed to be the actual cost after competitive bidding process and completion of work (engineer estimate is \$169,097), and the proration shall be based upon the remaining portion of the 50-year term at the time of termination.
22. If no notice of termination is presented by one party to the other at least six months prior to the conclusion of this agreement, the agreement will continue until six months after such notice is presented. Either party may also, upon two years notice or upon any nonappropriation of funds, sooner terminate this agreement.
23. This agreement represents the entire agreement of the parties and supersedes all prior written and/or oral understandings. No amendment to this agreement or waiver of any term of this agreement shall be effective except upon a writing signed by the parties to this agreement.
24. This agreement shall be construed according to the law of the Commonwealth of Virginia and any disputes hereunder shall be heard only in the courts of Frederick County, Virginia.

THIS AGREEMENT EXECUTED IN DUPLICATE with one copy to Glass-Glen Burnie Foundation, Inc., and the other to the County of Frederick, Virginia.

WITNESS the following signatures and seals:

THE COUNTY OF FREDERICK, VIRGINIA

By: _____
County Administrator

State of _____ City/County of _____, on _____,
whose name is signed to the foregoing instrument, personally appeared before me, acknowledged the foregoing signature to be his, and having been duly sworn by me, made oath that the statements made in the said instrument are true.

My Commission expires _____ (Seal)
Notary

GLASS-GLEN BURNIE FOUNDATION, INC.

By: _____
President

State of _____ City/County of _____, on _____,
whose name is signed to the foregoing instrument, personally appeared before me, acknowledged the
foregoing signature to be his, and having been duly sworn by me, made oath that the statements made
in the said instrument are true.

My Commission expires _____ (Seal)
Notary

GLASS-GLEN BURNIE MUSEUM
TM#62-A-73
ZONING: RA
USE: 66.29 ACRES

RT 37

GLASS-GLEN BURNIE MUSEUM
TM#62-A-73B
ZONING: RA
193.4 ACRES

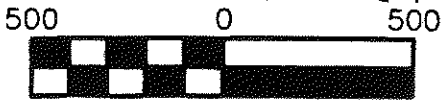
PROPOSED
PROPERTY
BOUNDARY

EXISTING
PROPERTY
BOUNDARY

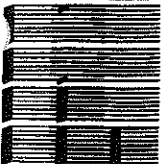
M.S.V. LAND
(118.4 AC.)

M.S.V. LAND
(78 AC.)

Jones Road



Scale in Feet



CONSULTING
ENGINEERS

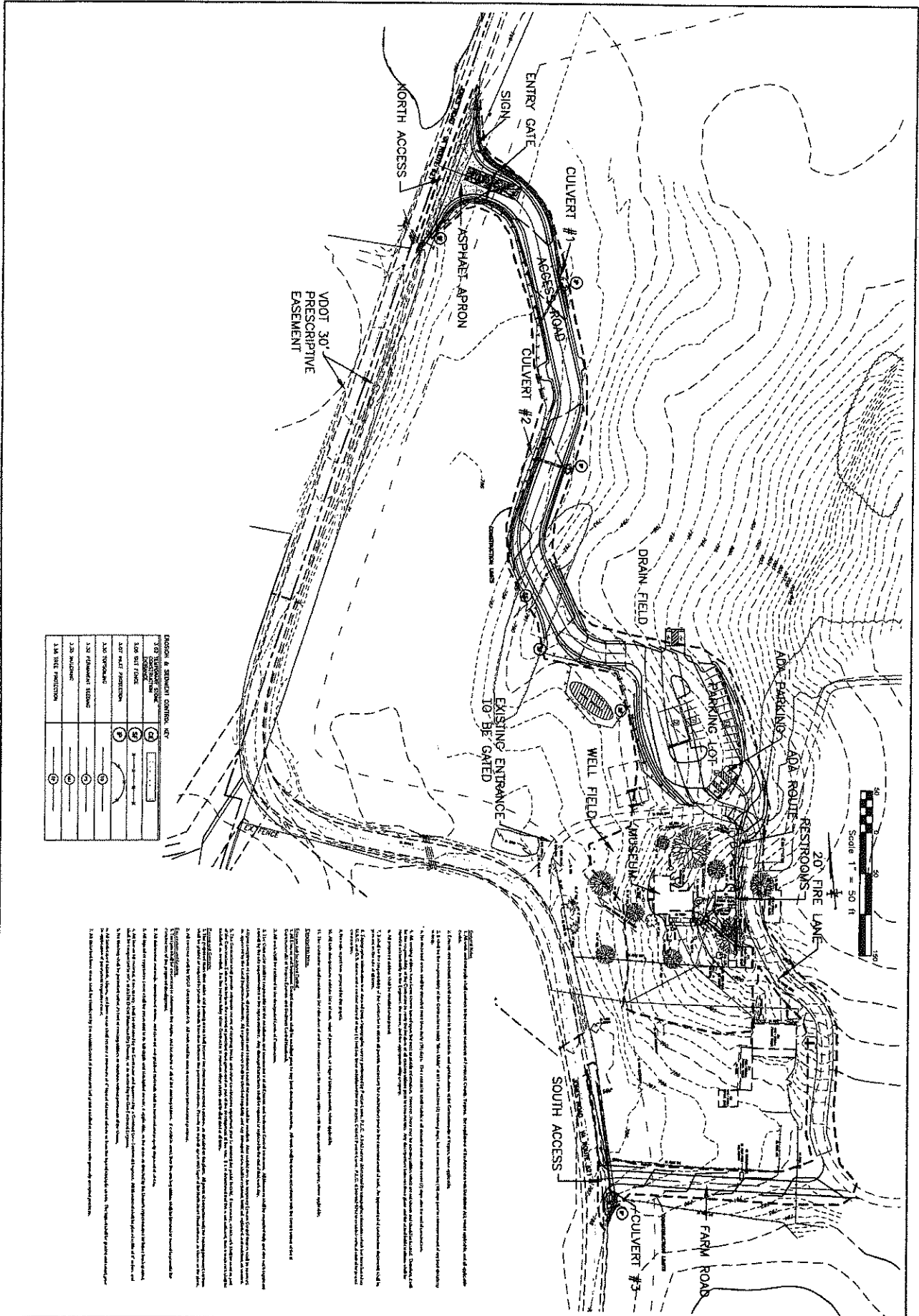
PAINTER-LEWIS, P.L.C.

817 Cedar Creek Grade, Suite 120
Winchester, Virginia 22601
Telephone: (540)662-5792
Facsimile: (540)662-5793
Email: office@painterlewis.com

PROJECT:

**HISTORIC AREAS
M.S.V. ROSE HILL
FREDERICK COUNTY, VIRGINIA**

SURVEY: P-L	C.I.:
DRAWN BY: JOB P-L	1111025
SCALE: SHOWN	DATE: 9/9/13
SHEET:	HA



EROSION & SEDIMENT CONTROL KEY

1.00 EROSION CONTROL	(1)	(2)
2.00 SLOPE PROTECTION	(3)	(4)
3.00 SLOPE PROTECTION	(5)	(6)
4.00 SLOPE PROTECTION	(7)	(8)
5.00 SLOPE PROTECTION	(9)	(10)
6.00 SLOPE PROTECTION	(11)	(12)
7.00 SLOPE PROTECTION	(13)	(14)
8.00 SLOPE PROTECTION	(15)	(16)
9.00 SLOPE PROTECTION	(17)	(18)
10.00 SLOPE PROTECTION	(19)	(20)

NOTES:

1. The contractor shall be responsible for obtaining all necessary permits from the appropriate local, state, and federal agencies.
2. The contractor shall be responsible for obtaining all necessary easements from the appropriate landowners.
3. The contractor shall be responsible for obtaining all necessary utility information from the appropriate utility companies.
4. The contractor shall be responsible for obtaining all necessary survey information from the appropriate surveyor.
5. The contractor shall be responsible for obtaining all necessary environmental information from the appropriate agencies.
6. The contractor shall be responsible for obtaining all necessary traffic control information from the appropriate agencies.
7. The contractor shall be responsible for obtaining all necessary safety information from the appropriate agencies.
8. The contractor shall be responsible for obtaining all necessary insurance information from the appropriate agencies.
9. The contractor shall be responsible for obtaining all necessary bonding information from the appropriate agencies.
10. The contractor shall be responsible for obtaining all necessary performance information from the appropriate agencies.

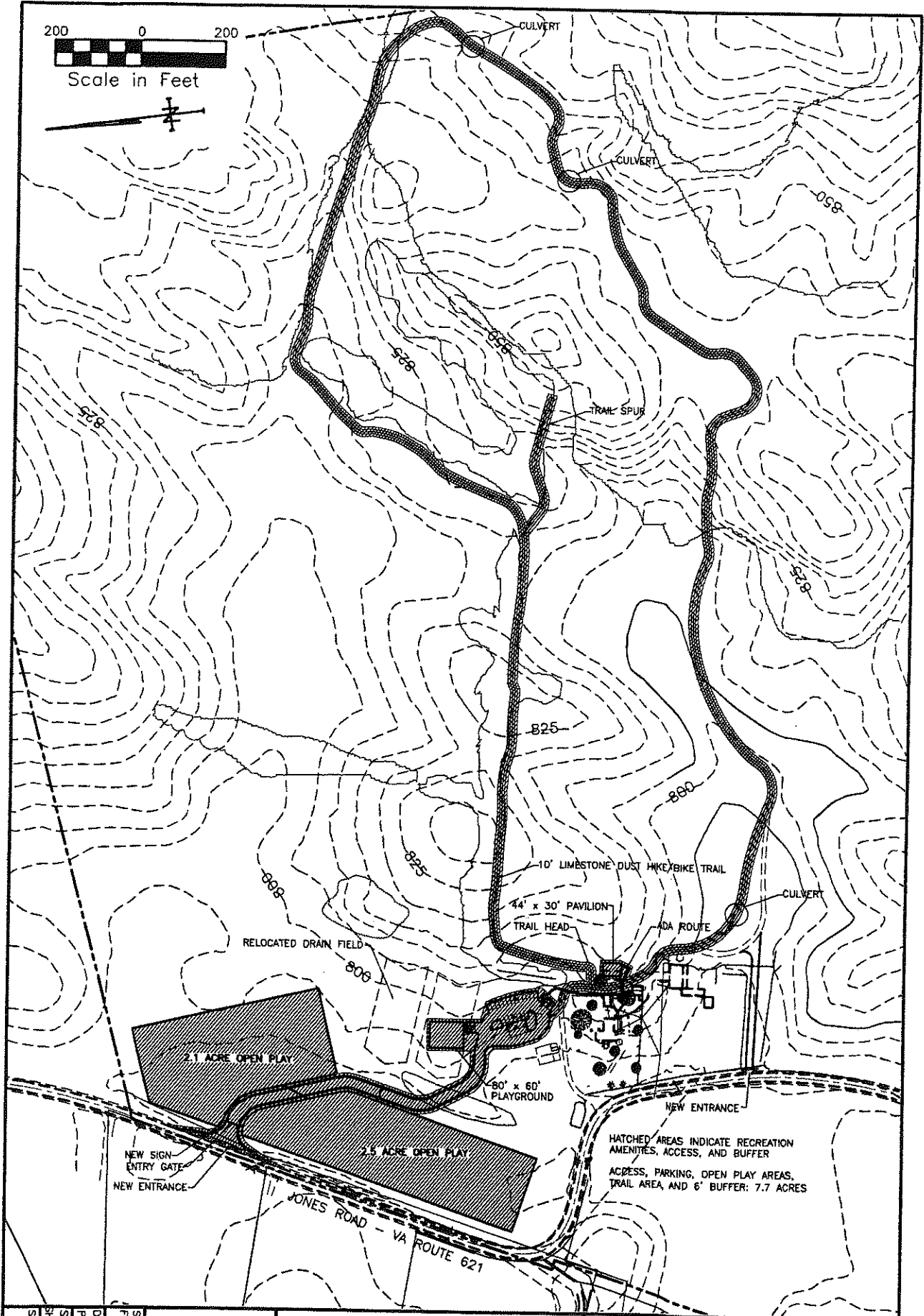
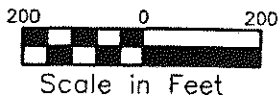
ROSE HILL PARK

A partnership between:

Frederick County Parks & Recreation Dept.

and

Museum of the Shenandoah Valley



SURVEY:	FRYDHO	C.I.:
DRAWN BY:	JOB NO.:	
SCALE:	DATE:	
SHOWN:	10/07/13	
SHEET:	1/1	

PAINTER-LEWIS, P.L.C.
 817 Cedar Creek Grade, Suite 120
 Winchester, Virginia 22601
 Telephone (540)662-5792
 Facsimile (540)662-5793
 Email office@painterlewis.com

PROJECT:
**LAYOUT PLAN
 PARKS & REC FACILITIES
 ROSE HILL
 FREDERICK COUNTY, VIRGINIA**

G



MEMORANDUM

TO: Landfill Oversight Committee Members

FROM: Harvey E. Strawsnyder, Jr., P.E., Director of Public Works *HES*

SUBJECT: Landfill Oversight Committee Report for Meeting of December 5, 2013

DATE: December 10, 2013

The landfill oversight committee met on Thursday, December 5, 2013, at 8:00 a.m. All committee members were present except Winchester representative, City Manager, Dale Iman and Clarke County Administrator, David Ash. The following items were discussed:

*****Items Not Requiring Action*****

1. Fiscal Year 2012/2013 Accomplishments

Staff presented the following accomplishments for Fiscal Year 2012/2013:

- Purchased a new 3,300 gallon Hydroseeder and mounted it to a used 2000 International truck frame;
- Generated 13,555 MW/hr of power from Landfill Gas to Energy plant;
- Performed 20,000 hour maintenance service on both Jenbacher Gensets;
- Collected and discharged 19,535,000 gallons of pretreated leachate to the Opequon Water Reclamation Facility;
- Performed improvements to the site stormwater collection system including adding silt sacs to areas of concern to obtain compliance with regulations;
- Added five (5) new gas collection wells in Municipal Solid Waste (MSW) landfill (Permit 529) to assist with landfill gas collection efficiencies;
- Relocated/constructed a new haul road for the active MSW landfill to allow access for future closure activities;
- Processed 144,984 tons of refuse;

Landfill Oversight Committee Report

Page 2

December 10, 2013

- Recycled 4,130 tons of scrap metal.

2. Proposed Projects for Fiscal Year 2014/2015

Staff discussed the following proposed projects for Fiscal Year 2014/2015:

- Add horizontal landfill gas collection wells in new cell of MSW landfill. Extend the gas collection header to the east side of the new cell;
- Perform partial closure of the Construction/Demolition Debris (CDD) landfill (Permit 591);
- Construct a 40 foot x 80 foot machine shed;
- Install compactors to assist with recycling of plastics and cardboard at the citizens' convenience center;
- Overlay and widen existing asphalt haul roads, pave approximately a half mile of new road;
- Begin a program to crush rock and concrete rubble;
- Perform improvements to the permit 40 lagoon area, including relining pond and installing permanent electrical pumping system;
- Install a heat exchange system on the landfill gas generators to provide heat for leachate treatment process.

3. Fiscal Year 2014/2015 Budget

Staff presented the proposed Fiscal Year 2014/2015 budget to the committee for their review. Significant items related to projected revenue included maintaining the municipal tipping fee at \$12 per ton and increasing the sludge tipping fee from \$28 to \$32 per ton. Significant changes in expenditure line items included reducing the recycling rebate from \$2 to \$1 per ton. Capital expenditures were dramatically reduced in the proposed budget compared to the current budget.

Staff is proposing a Fiscal Year 2014/2015 budget of \$7,107,805 and a revenue projection of \$5,267,187. The difference will be funded from the landfill's retained earnings. The landfill's fund balance is currently estimated at approximately \$26,000,000. Of that amount, approximately \$12,000,000 is dedicated to a closure/post-closure trust fund. Staff anticipates that the landfill fund balance will be reduced to an amount of approximately \$24,000,000 at the end of the current fiscal year.

At the conclusion of the discussions, the committee unanimously recommended that the proposed budget be received as general information and forwarded to the appropriate committees in the respective jurisdictions.

HES/rls

cc: file

Н



COUNTY OF FREDERICK, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY COMMUNICATIONS
1080 Coverstone, Drive, Winchester, VA 22602

LeeAnna Pyles
Director
Public Safety
Communications

MEMORANDUM

TO: Board of Supervisors

FROM: LeeAnna Pyles, Director Public Safety Communications

SUBJECT: Public Safety Committee Meeting
Report for December 17, 2013

DATE: December 31, 2013

A meeting of the Public Safety Committee was held on Tuesday December 17, 2013 at 8:30 a.m. at the Frederick County Public Safety Building, 1080 Coverstone Drive, Winchester, VA. Committee members present were: Committee Chairman Gary Lofton, Ron Wilkins, Chuck Torpy, and Gene Fisher. Members Chris Collins and Michael Lindsay were absent. Also in attendance were County Administrator John R. Riley, Jr., Fire & Rescue Chief Denny Linaburg, Deputy Fire Chief Larry Oliver, County Attorney Rod Williams, Human Resources Director Paula Nofsinger, Sheriff Robert Williamson, Deputy Fire Chief Bill Bowmaster, Co.17 Chief Brian Shifflett and EMS Billing Manager Chrissy Bauserman. The following items were discussed:

*****Items Not Requiring Action*****

1. Star Tannery request for staffing (Attachment A)

Chief Linaburg and Chief Brian Shifflett addressed the need for career staffing at Star Tannery. Company 17 is the only company in the County that does not have career staffing. They are a dual dispatch company with Shenandoah County due to an overlap in coverage area between the two jurisdictions. With Star Tannery's geographical layout and lack of career staff and volunteers, the need to call other due companies (e.g. Strasburg, North Mountain, Tom's Brook, and Middletown) puts critical response times at 15-20 minutes in some cases which are unacceptable. It should also be noted that all 911 calls go to Shenandoah County for dispatch and are then transferred to Frederick County Emergency Communications for dispatch. In addition, responding to these calls by other companies diminishes those companies' availability. As an example a general illness call will last at least 4 hours due to the layout of the area, transport times, time spent at WMC completing reports, and time back to the station.

Currently there are three volunteers who are certified fire fighters and nine EMS personnel at Company 17. A full compliment “out the door” is needed to run every call. Within the past few months, at least two of the volunteers have moved out of the area resulting in diminished staffing. Chief Shifflett talked about various scenarios used to help recruit more personnel to his station. He noted biggest problem was the volunteer base, even though they promote and advertise within a wide area.

Mr. Fisher asked about a meeting with Shenandoah County regarding contributions (mutual aid) to Frederick County when running calls.

Deputy Chief Bowmaster advised that he has placed a call the Shenandoah County asking for figures and information on mutual aid.

Mr. Riley agreed that a meeting is warranted, but we need to act now on the current staffing situation.

Chief Linaburg stated he would be comfortable with two people on 24 hour shifts (six people total) for the moment with the cost totaling about \$300,000 for salaries/benefits. The additional six career staff personnel at the station would help encourage volunteer recruitment. The volunteers would be at the station more frequently for hands-on training taught by the career staff. It was noted the additional six staff could be cleared fairly quickly with proper credentials. In the interim, other current career staff could fill the station temporarily.

The Public Safety Committee unanimously recommended the hiring of six additional career staff at Star Tannery (Company 17). This recommendation will go before the HR committee in early January 2014 then to the Finance Committee before being going to the Board of Supervisors at the end of January 2014 for action.

2. Revenue Recovery program update (Attachment B)

EMS Billing Manager Chrissy Bauserman updated the committee on the current status of the Revenue Recovery program. The transactions and monies coming in between the vendor and insured are moving well. She reviewed the October totals, but noted those numbers do not reflect a large amount of Anthem payments. This was due to Anthem experiencing a computer glitch in their system. The glitch has since been resolved. Mrs. Bauserman stated by February/March staff should have a better idea of the money received. The projected returns should increase to 43-45% resulting in net revenue of around \$970,000 for the full year (October 2013-October 2014).

Next Meeting:

Tuesday January 14, 2014 8:30 a.m.

At the next Public Safety Committee meeting, FY14-15 budgets for Fire & Rescue, Sheriff's Department and Public Safety Communications will be presented. The department heads will highlight those areas where they are experiencing the greatest difficulties and those areas where

they are asking for increased funding.

Adjourn:

The meeting was adjourned at 9:30 a.m.

Respectfully submitted by,

Stefanie Salvato

Stefanie Salvato, Secretary
Frederick County Department of Public Safety Communications

cc:

G.Lofton

J. Riley

R. Williamson

D. Linaburg

G. Fisher

R. Williams

T. Price

M. Lindsay

C. Collins

B. Vance

A. Lloyd

R. Wilkins

G. Williamson

L. Pyles



C. Torpy



Dennis D. Linaburg
Fire Chief

MEMORANDUM

TO: Public Safety Committee

FROM: Dennis D. Linaburg, Chief 
William R. Bowmaster, Deputy Chief 

SUBJECT: Career Staffing Request – Star Tannery

DATE: November 26, 2013

Star Tannery Volunteer Fire & Rescue (Company 17) requested career staffing due to low volunteer participation. After our initial presentation to the Public Safety Committee, we were asked to compile response statistics for review. The attached reports clearly show that Star Tannery's request is valid and staffing is necessary.

We compiled response data from both Frederick County and Shenandoah County for the period of January through August 2013. We chose this timeframe due to previous data collection errors resulting in skewed results. This data represents the most accurate response information, which progressively worsens throughout the reporting period.

During the first four months (Jan.-Apr.), there are 41 dispatched calls in Company 17's first due. Star Tannery, however did not respond to seven (7) of these calls, which accounts for 17% of the calls during the first four months of 2013. During the second half of the reporting period (May-Aug), there were 58 dispatched calls for Company 17. Star Tannery was unable to respond to 26 of these calls, which is 44.8% of all dispatched calls during the second half of the reporting period. This clearly indicates a significant decrease in the ability of Star Tannery to adequately respond to emergencies in their district.

The lack of available volunteer members at Star Tannery is also taxing the surrounding companies and jurisdictions. In order to cover emergencies in Company 17's district, we must pull resources from other companies, leaving that first due area unprotected and threatening the lives and property of residents living elsewhere in Frederick County.

Star Tannery originally requested daytime staffing. However, after reviewing the response data obtained for review, our Department is recommending four career members, 24/7, be placed at Star Tannery. This recommendation is based on the proximity of the closest automatic aid companies for Company 17. North Mountain (Company 19) is the second due company for Star Tannery. However, from time of dispatch to expected arrival on scene is approximately 15 minutes. Strasburg Company 51 in Shenandoah County would be the next dispatched company to assist Star Tannery, and it would take approximately 17 minutes for them to arrive on scene. These are only estimated times. However, they are based on the automatic aid companies responding immediately at time of dispatch. Typically,

there is a several minutes delay in responding. The physical address of Company 17 was used for the travel time estimates due to its centralized location within the response district.

These response times illustrates the amount of time that Company 17 staff will be operating on an incident before automatic aid companies arrive. For example, at the scene of a house fire, four members could respond with three on the engine and one on the tanker. Further, it would allow one member to operate the pumper, two to fight the fire, and one to provide water supply. Even in this scenario, there would not be enough staffing for a safe interior attack on the fire or search and rescue efforts.

In the case of an ALS call (i.e., cardiac arrest), a minimum of four members is still necessary. Two members would be performing CPR, one would operate the AED and one would be the driver. American Heart Association (AHA) studies have shown that the best chances of surviving an out-of-hospital cardiac arrest are early CPR and defibrillation. Brain death/damage occurs within four to six minutes without early life saving measures.

It is realized the total call volume for Star Tannery is significantly less than other Frederick County Companies, however, we must ask ourselves are the taxpayers living in the community of Star Tannery deserving of the same level of protection as residents living elsewhere in the County? In short, the answer is yes.

/attachments (5)

Star Tannery 1/1/13 - 8/31/13

Month	FredCo	Shen	Dispt	Self-Disp	Total Calls
Jan	2	9	11	0	11
Feb	6	6	12	0	12
Mar	8	3	11	0	11
Apr	2	5	7	0	7
May	10	5	15	0	15
June	5	5	10	0	10
July	10	6	16	0	16
Aug	8	9	17	0	17
Total	51	48	99	0	99

total	failed	% no response
41	7	17.07
58	26	44.83

Avg Per Month: 14 dispatched calls.

99% accuracy rate

0600-1800hrs

Month	0-5mins	5-8mins	8+mins	11+mins	Cancelled	Fail/1st Due	Total	% of Total
Jan	3	4	1	1		0	9	14.75
Feb	0	2	0	0		2	4	6.56
Mar	0	1	2	1		2	6	9.84
Apr	2	1	1	1		1	6	9.84
May	1	2	4	3		2	12	19.67
June	1	1	1	1		2	6	9.84
July	2	1	1	1		4	9	14.75
Aug	1	0	0	1		7	9	14.75

61 100

Total	10	12	10	9	0	20		
% of Total	16.39	19.67	16.39	14.75	0.00	32.79		100

1800-0600hrs

Month	0-5mins	5-8mins	8+mins	11+mins	Cancelled	Fail/1st Due	Total	% of Total
Jan	2	1	0	0		0	3	8.11
Feb	1	2	2	1		1	7	18.92
Mar	1	2	0	0		1	4	10.81
Apr	1	0	0	0		0	1	2.70
May	2	1	0	0		0	3	8.11
June	1	1	0	1		2	5	13.51
July	1	0	1	0		4	6	16.22
Aug	1	2	0	0		5	8	21.62

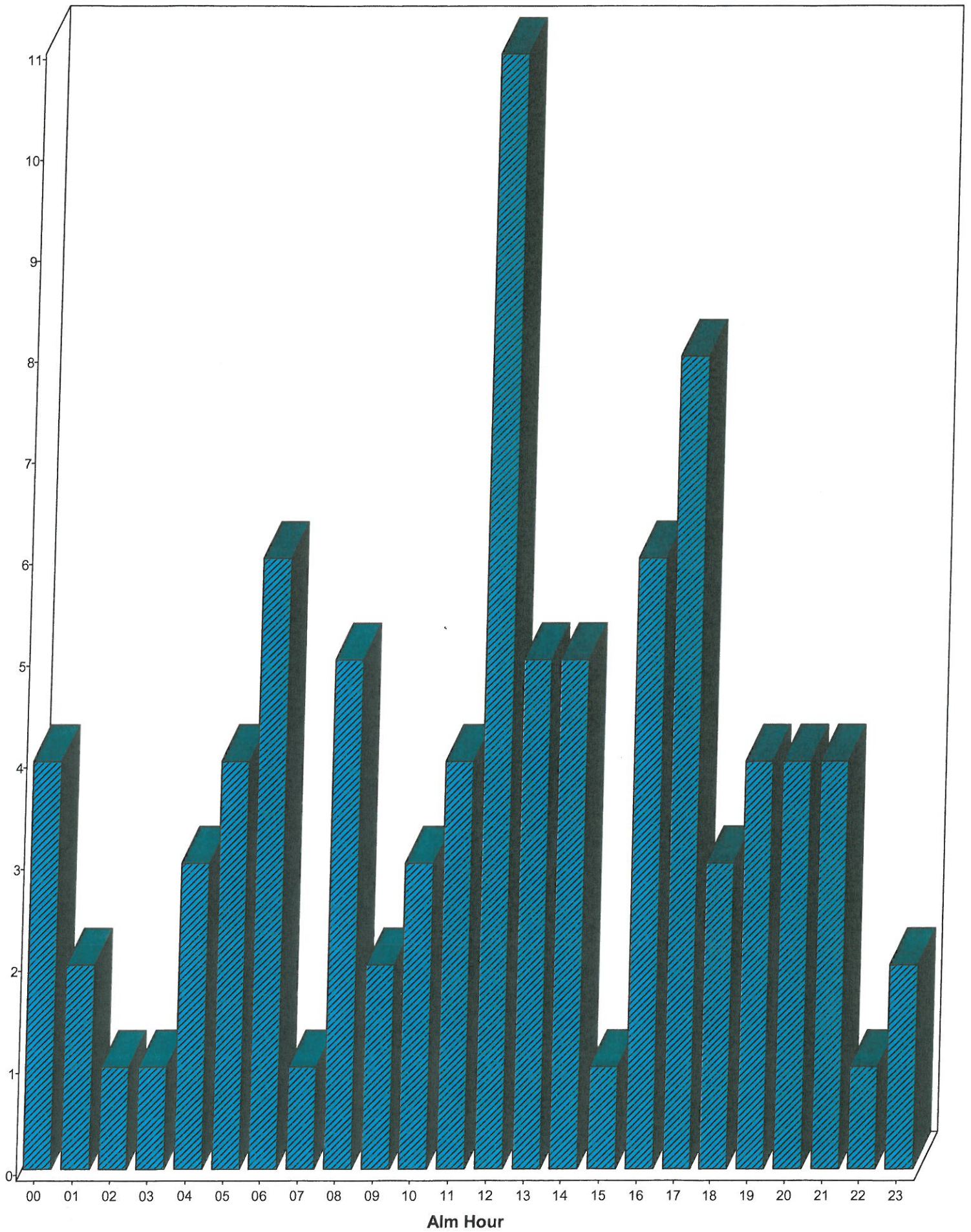
37 100

Total	10	9	3	2	0	13		
% of Total	27.03	24.32	8.11	5.41	0.00	35.14		100.00

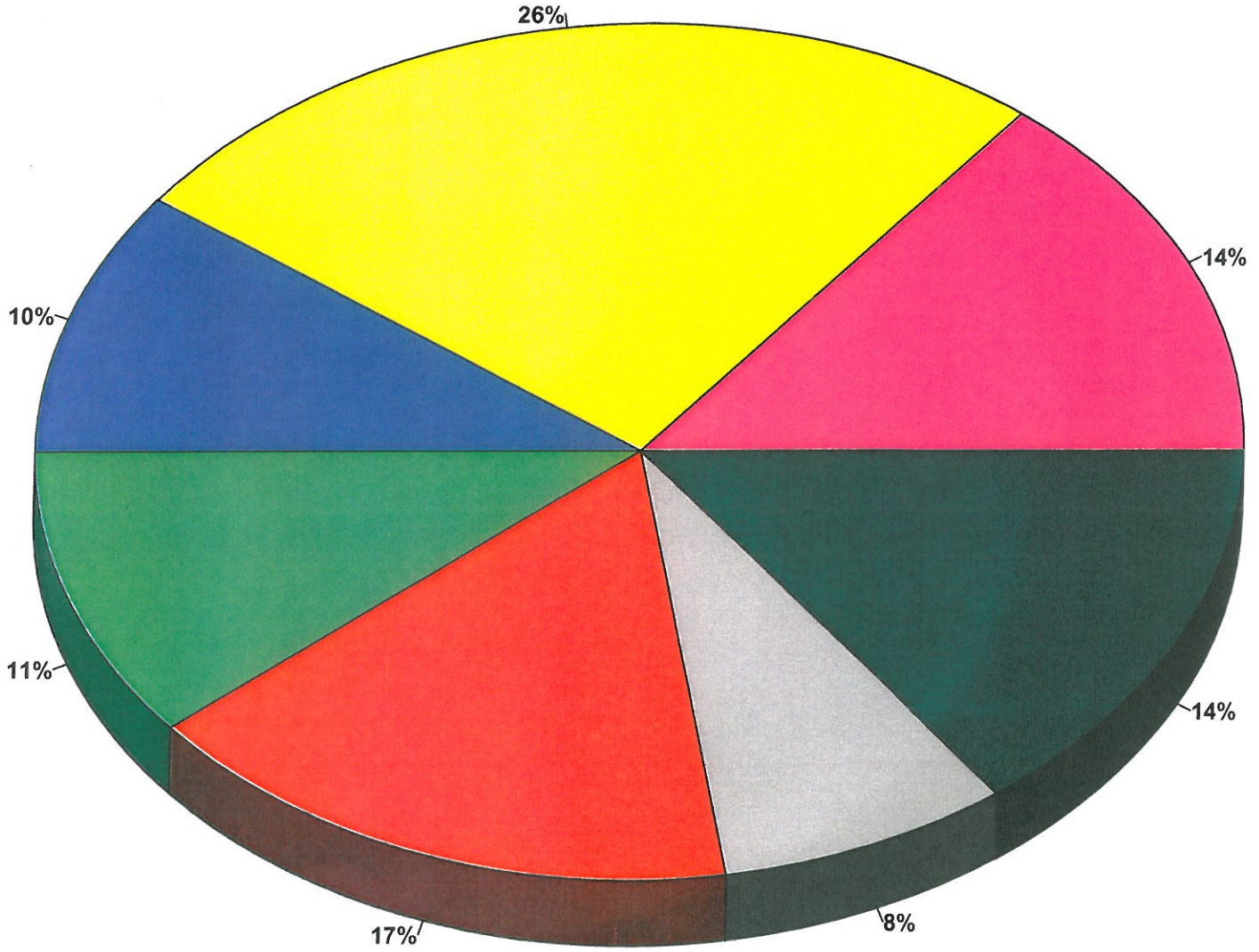
Total Reporting Calls: 98

Times are based on time of dispatch to time unit marks enroute to scene.

Count of Incidents by Alarm Hour
Alarm Date Between {01/01/2013} And {08/31/2013} and District = "17"



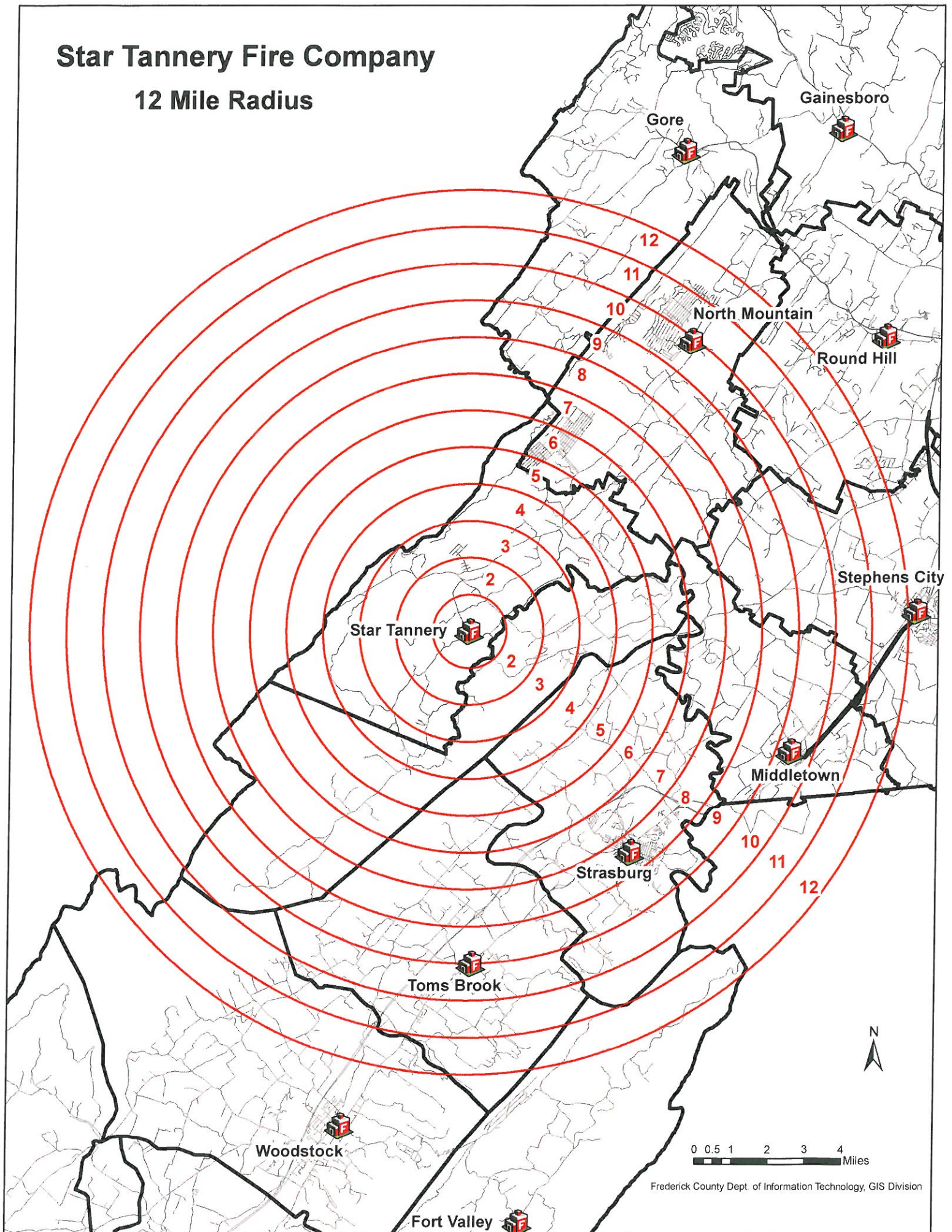
Incident Responses by Day of Week
Alarm Date Between {01/01/2013} And {08/31/2013} and District = "17"



Sun	Tue	Thu	Sat
Mon	Wed	Fri	

Star Tannery Fire Company

12 Mile Radius



December 11, 2013

Current Status of the Revenue Recovery Program

As you are aware the County started billing for EMS calls October 1, 2013. As this program was new to all of us we have decided that it was time for a program update. To date we have billed \$496,179 since October 1st and we have collected \$116,976. As you can see from the tables each station has been broken down to show the amount of mileage that has been received per station with a grand total of \$1708.86 as of December 10th to be distributed to the appropriate stations. We are currently at a 35% return on our money from the insurance companies for October. I have seen an approximate 13% of our calls being write offs for uninsured patients. We are still waiting on 130 claims to come back for October alone and once that has happened I will have a better idea of the expected percentage per month.

Per my current calculations we should be able to more than meet the expenses of the program while providing approximately \$127,000 to the Volunteer stations in mileage payments and approximately \$325,000 in 50/50 monies once all the startup costs have been satisfied. This money will be distributed to the stations in accordance with the guidelines set forth in the Memorandum of Understanding.

Our contracted billing company, Premier Accounts Receivable Management, has been an invaluable resource. The ladies that we have had the pleasure of working closely with have answered every email and phone call promptly and efficiently.

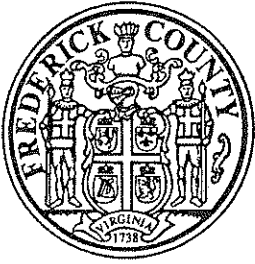
Estimated Annual Billed	\$2,773,418.69			
Percent to be collected	35%			
Net revenue	\$970,696.54			
Salary	\$44,462.00			
Premier	\$72,802.24			
P&B	\$2,500.00			
Image Trend	\$13,580.00			
Maintenance	\$500.00			
Protection Pln	\$3,027.00			
Postage	\$100.00			
Office	\$700.00			
VHS	\$51,000.00			
EMS Supplies	\$7,250.00			
Misc	\$1,000.00			
Travel	\$1,390.00			
Mileage	\$126,190.55			
Total Expenses	\$324,501.79			**Estimated 13% of total received
50/50 Money to be shared	\$646,194.75			
Split	\$323,097.38			

Billed/Received YTD
as of 12/10/13

Station	Base Billed	Mileage Billed	Total Billed	Base Received	Mileage Received	Total Received	2nd Ins. Base	2nd Ins Mileage	Total 2nd Ins.	Total Mileage/Station
11	\$97,507.00	\$20,654.50	\$118,161.50	\$21,938.98	\$4,070.71	\$26,009.69	\$2,076.58	\$180.18	\$2,256.76	\$4,250.89
12	\$30,286.00	\$9,370.70	\$39,656.70	\$5,535.12	\$1,461.92	\$6,997.04	\$348.52	\$73.03	\$421.55	\$1,534.95
13	\$37,199.00	\$5,647.40	\$42,846.40	\$10,142.41	\$1,394.34	\$11,536.75	\$512.05	\$73.44	\$585.49	\$1,467.78
14	\$9,971.00	\$2,562.60	\$12,533.60	\$1,616.16	\$338.65	\$1,954.81	\$180.21	\$18.58	\$198.79	\$357.23
15	\$62,580.00	\$4,531.00	\$67,111.00	\$17,443.15	\$1,088.20	\$18,531.35	\$1,169.72	\$32.35	\$1,202.07	\$1,120.55
16	\$24,422.00	\$4,384.10	\$28,806.10	\$3,748.22	\$707.46	\$4,455.68	\$316.78	\$47.78	\$364.56	\$755.24
17	\$3,125.00	\$1,515.20	\$4,640.20	\$872.82	\$422.65	\$1,295.47	\$0.00	\$0.00	\$0.00	\$422.65
18	\$95,717.00	\$14,514.10	\$110,231.10	\$19,950.47	\$3,047.29	\$22,997.76	\$1,074.09	\$106.63	\$1,180.72	\$3,153.92
19	\$13,758.00	\$3,657.40	\$17,415.40	\$3,345.88	\$727.68	\$4,073.56	\$151.20	\$14.75	\$165.95	\$742.43
21	\$46,340.00	\$8,437.30	\$54,777.30	\$10,608.80	\$1,613.68	\$12,222.48	\$430.48	\$95.18	\$525.66	\$1,708.86
Grand Totals	\$420,905.00	\$75,274.30	\$496,179.30	\$101,461.64	\$15,514.50	\$116,976.14				
Total Write-Offs			\$62,175.00							
Remaining after w/o and payments			\$317,028.16							
Percent Write-Offs			13%							

**Number is minus w/o and payments already received.

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John R. Riley, Jr.
County Administrator

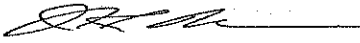
540/665-5666

Fax 540/667-0370

E-mail:

jriley@co.frederick.va.us

MEMORANDUM

TO:	Board of Supervisors
FROM:	John R. Riley, Jr., County Administrator 
SUBJECT:	Business Friendly Committee Report
DATE:	December 30, 2013

At the Board of Supervisors' December 6, 2013 work session, the Board discussed the first part of the phase I recommendations derived from the Business Friendly Committee. Those recommendations were:

1. Public Information Officer
2. Establishment of an Economic Development Authority
3. Reduction in Proffer Requirements

Staff is seeking formal Board action on the following items, based on the consensus reached at the December 6, 2013 work session.

Public Information Officer

The Human Resources Committee recommended approval of the creation of the position of Public Information Officer. The creation of this position would make it eligible for funding consideration during the upcoming budget cycle. The Board's majority consensus was to create the position with funding to be determined as part of the 2014-2015 budget cycle.

Staff is seeking board action to affirm the creation of this position.

Establishment of an Economic Development Authority

At the Board's November 13, 2013 meeting, the Board authorized staff to proceed with the creation of an EDA with an effective date of July 1, 2014. In order to make that happen, the following needs to occur:

- 1) The Board must conduct a public hearing to approve the ordinance changing the name of the INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA to the ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA. This hearing and ordinance adoption will take place at the Board's January 8, 2014 meeting.
- 2) Special legislation to allow a Board of Supervisors' member to be appointed as a voting member of the EDA. Staff has met with members of our state delegation regarding this need for special legislation. It is anticipated this legislation will be presented during the upcoming General Assembly Session.
- 3) A plan must be developed to transition the existing EDC staff to EDA staff.

Staff has checked with IDA legal counsel and it has been determined that the name change from Industrial Development Authority to Economic Development Authority would not affect the outstanding bond financings.

At the Board's December 6, 2013, the Board discussed the proposed make up of the new EDA. It was the consensus of the board members that the new EDA would consist of three members each from the existing EDC and IDA and one member of the Board of Supervisors.

Staff is seeking board action to affirm the membership of the new EDA.

Reduction in Proffer Requirements

The Development Impact Model Oversight Committee conducted a re-evaluation of the current Development Impact Model, taking into account current economic conditions. The Committee discussed the possibility of offering credits for proffered transportation improvements above those typically expected to address transportation impacts. The Development Impact Model Oversight Committee recommended approval of a policy modification to enable credit for transportation. After some discussion, the Board's consensus was to allow transportation credits for rezonings.

Staff is seeking board action to affirm the change to the Impact Model to allow transportation credits.

The Development Impact Model Oversight Committee will continue to re-evaluate the model to see if further modifications would be appropriate. Those additional areas of study include:

- Tax contributions that may result from new residential development.
- Tax contributions that may result from new commercial development associated with a residential development proposal.

In addition, the Committee is to review the model to see if there are any components that prohibit growth.

Phase I Recommendations Continued.

There remain three outstanding items from the Committee's phase I recommendations. Those items are:

1) Signage Along Major Routes Entering Frederick County

This recommendation was forwarded to the Transportation Committee and the Economic Development Commission for review of signage placement and messaging, respectively. The EDC staff is finalizing a proposed design, which will be shared with the current Industrial Development Authority. Once approved, it will go to the Transportation Committee.

2) Review and Evaluation of the Master Development Plan Process

The re-evaluation of the current Master Development Plan process has been referred to the Planning Commission and the Development Review and Regulations Committee.

3) Simplification of the Landscape Ordinance

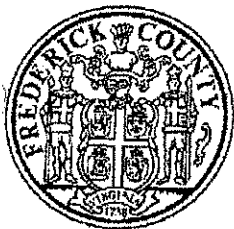
The re-evaluation of the current Buffers and Landscaping Ordinance has been referred to the Planning Commission and the Development Review and Regulations Committee.

Once staff receives the final recommendations from the respective committees, it is envisioned these items will part of a future work session agenda.

Should you have any questions, please do not hesitate to contact me.

JRR/jet

Attachments



County of Frederick

Paula A. Nofsinger
Director of Human Resources

(540) 665-5668
Fax: (540) 665-5669
pnofsinger@fcva.us

TO: Board of Supervisors
FROM: Paula Nofsinger, Director of Human Resources
DATE: October 9, 2013
SUBJECT: Human Resources Committee Report

The HR Committee met in the First Floor Conference Room at 107 North Kent Street on Friday, October 4, 2013, at 8:00a.m. Committee members present were: Supervisor Robert Hess, Supervisor Robert Wells, Supervisor Chris Collins, and Citizen Member Dorrie Greene. Committee members absent were Citizen Member Barbara Vance and Citizen Member Beth Lewin. Also present were: Assistant County Administrator Kris Tierney, County Attorney Rod Williams, NRADC Superintendent Jim Whitley, and DSS representative Delsie Butts.

***** Items Requiring Action*****

1. Approval of new Human Resource Policies.

The Committee recommends adoption of the two new HR policies outlined below and included in the Board of Supervisors' packet.

Information Technology Usage

This newly created policy combines two current IT policies:

1. Acceptable Use Guidelines for Internet Services (1998)
2. Security – Acceptable Use Policy (2004)

The proposed policy updates and combines all of the County's technology resources and outlines to our employees expectations of: monitoring, retention, use, and privacy. The Technology Committee recommends approval of the new policy.

Work for Hire

This newly created policy addresses ownership rights of copyrightable material.

2. Creation of the Public Information Officer position to facilitate funding consideration during the Fiscal Year 2014-2015 budget cycle.

The Committee recommends approval to create the position of Public Information Officer. Should the Board adopt to create it; the position can then be subject to funding consideration during the upcoming budget cycle.

*****Items Not Requiring Action*****

1. None.




COUNTY of FREDERICK

MEMORANDUM

Kris C. Tierney
Assistant County Administrator

TO: Board of Supervisors Members

FROM: Kris C. Tierney, Assistant County Administrator 

RE: Public Information Officer (PIO) Position

DATE: November 19, 2013

540/665-5666

Fax 540/667-0370

E-mail:

ktierney@co.frederick.va.us

As it has been recommended by the Human Resources committee, the PIO position would serve at the pleasure of the County Administrator and provide support to all County Departments. The position's primary responsibility would be to provide a reliable communication link between the county government and the residents of Frederick County, providing the citizens with timely, reliable and helpful information on County projects, programs and activities, as well as providing information to the media and other external groups. The position would also assist the County Administrator, Board of Supervisors, county departments and other county officials with the preparation of, or for; press releases, public and media relations and the coordination of special events. The position would play a key role in enhancing the County's professional image as a first rate, livable, business friendly, community by communicating its attributes and successes. The position would also:

- **over see the cable channel, website and social media sites**
 - Currently, routine management of the cable channel is handled by the Parks and Recreation department's PIO. The channel is presently sorely underutilized, other than Board and Planning Commission meetings it is a looping "slide show".
 - Management of the County website is currently a hodgepodge with some departments manage the entire content of their WebPages, others rely heavily on the Webmaster (employed within the IT Department) to do nearly all updating for them, still others manage some content and use the Webmaster for more complex changes or updates.
 - Various departments independently post to various forms of social media, with no countywide coordination or consultation.
- **be the principle point of contact for Freedom of Information requests**
 - Currently departments independently handle FOIA requests they receive. Coordination with the County Attorney and County Administrators office is sporadic.

- **coordinate compliance with the State records retention laws**
 - Individual Departments are responsible complying with relevant records retention requirements with the Deputy County Administrator functioning as the County's official Records Retention Officer.

- **be the primary point of contact for media information during weather or other emergencies**
 - There is currently no central point of contact for the media.

 - Various aspects of communication regarding weather emergencies are handled by dispatch, county administration and fire and rescue.

If created and funded, the position would be within the County Administrator's budget, and be housed on the 3rd floor of the Kent Street administration building, between the County Administration and County Attorney's offices. Clerical support would be provided by the County Attorney's administrative assistant.

The HR Committee has recommended the position be established at the R12 with a salary range of (\$59,043.94 to \$108,078.63). We would hope to fill the position with an internal candidate at a salary in the low to mid \$60,000's. A full job description is attached for your review and information.

County of Frederick, Virginia

Position Details

Position Title: Public Information Officer		Date Position Created:
Department: County Administration		Reports To: County/Assistant County Administrator
<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Non-Exempt	Date Prepared: 7/24/2013	Prepared By: Assistant County Administrator
Range: R12	Grade: up to C	Salary: \$60,000-\$65,000
G/L Line Item: TBD		

Job Description

Job Purpose: Under the direction of the County Administrator, the POI manages, coordinates and provides leadership for the County's public information and engagement initiatives. Performs specialized work involving the preparation, publication and distribution of multi-media materials and press releases for the County. Responsibilities include assisting in establishing and maintaining cooperative relationships with community representatives, employees, public interest groups and the media. Provides expert advice, consultation, training and facilitation to all levels of county management in developing and implementing communication strategies and public participation programs.

Essential Functions

- Plans and manages dissemination of information regarding county programs, services and general information to citizens, including oversight of the County's website and supervision of web content staff.
- Provides strategic and technical assistance to the County Administrator and elected officials relating to all aspects of relations with the public and the dissemination of information to the public.
- Serves as primary county liaison to media, oversees and manages communications with the public, including local press, radio and television media.
- Coordinates responses by County departments, offices, and agencies in accordance with the Virginia Freedom of Information Act (FOIA) and, as appropriate, prepares responses to such inquiries.
- Oversees and manages the development, writing, design, production and editing of programming for the County's cable channel.
- Assists county administration, constitutional officers and department heads in planning and arranging various promotional activities and special events including arranging press conferences for elected and appointed county officials.
- Works with the county administrative staff in the preparation of reports, executive summaries, speeches and correspondence, formulates message and articulates the County's response to sensitive, controversial community issues.
- Works closely with public safety and emergency services departments and serves as the media representative for the Emergency Operations Center when activated.
- Develops and manages department budget.

Job Requirements:

Education: Bachelor's degree in Public Administration, Public Relations, Communication, Journalism or English, or substantially similar field required.

Experience: Minimum of five years of experience in designing and implementing community based information programs, editing and writing publications, preparing media releases.

Knowledge/Skills: Extensive knowledge of modern principles and practices of public relations as applied to local government. Exceptional written and oral communication skills; proven ability to work effectively, productively, and diplomatically with and maintain effective working relationships with elected and appointed officials, employees, members of the media, community organizations, and citizens. Ability to perform under pressure and make effective presentations to civic/business organizations. Working knowledge of local government; including, criminal justice, emergency service systems, and FOIA. Substantial knowledge of word processing and web content management and computer graphics. Basic knowledge of television production and broadcast processes and techniques.

Working Conditions:

Physical Demands: Walking, talking, stooping, kneeling, bending, reaching, and gripping. Incumbent may be required on occasion to move and lift up to 30 lbs. (boxes, files, etc.); work long periods at a desk; walk over rough terrain on occasion.

Supervisory Responsibilities:

Number of Employees Supervised: 0

Number of Subordinate Supervisors Reporting to Job: 0

Approvals:

Department Director:

Date:

HR Director:

Date:

Finance Director:

Date:

County Administrator:

Date:

Board of Supervisors Approval:

Date:



**RESOLUTION OF THE FREDERICK COUNTY
BOARD OF SUPERVISORS**

**To Enable Proffered Transportation Improvement Credits
against the Development Impact Model**

Action:

BOARD OF SUPERVISORS: January 8, 2014 APPROVED DENIED

WHEREAS, Sec. 15.2-2298 of the Code of Virginia enables Frederick County to accept cash proffers as part of the conditional rezoning process; and

WHEREAS, Frederick County has exercised such authority since 1990 as a method for rezoning applicants to mitigate the projected fiscal impacts of development projects on county capital facilities, and the County utilized economic modeling created by Hammer-Siler-George Associates to project fiscal impacts; and

WHEREAS, the Frederick County Board of Supervisors, in November 2005, adopted the current Development Impact Model (DIM), created by Tischler & Associates, to project the impact development places on the county's capital facilities, authorized staff to utilize the DIM to project impacts development places on the county's capital facilities, and annually updates the DIM in order to maintain the DIM's accuracy in projecting development impacts; and

WHEREAS, an applicant for a rezoning may seek, by proffer, to mitigate the rezoning's projected impacts on the county's capital facilities; and

WHEREAS, an applicant for a rezoning may seek, by proffer, to mitigate the proposal's impacts on the transportation network by constructing transportation improvements identified in a Transportation Impact Analysis (TIA), and commit to implement aspects of the Comprehensive Plan's road plans and other long range transportation plans; and

WHEREAS, proffered transportation commitments that implement aspects of the Comprehensive Plan's road plans and other long range transportation plans are recognized as contributions to greater community; and

WHEREAS, County staff, with assistance from each rezoning applicant and the Virginia Department of Transportation (VDOT), may determine the value by which the applicant's proffered transportation improvements exceeds the value of the transportation improvements identified in the TIA;

NOW, THEREFORE, BE IT RESOLVED that the Frederick County Board of Supervisors permits the value of a project's proffered transportation improvements which exceed those improvements identified in a project's TIA to be utilized as credit values to reduce the amounts identified by the DIM for the project.

Passed this 8th day of January, 2014 by the following recorded vote:

Richard C. Shickle, Chairman	_____	Gary A. Lofton	_____
Robert A. Hess	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Charles S. DeHaven, Jr.	_____
Christopher E. Collins	_____		

A COPY ATTEST

John R. Riley, Jr.
Frederick County Administrator

J



County of Frederick

Paula A. Nofsinger
Director of Human Resources

(540) 665-5668
Fax: (540) 665-5669
pnofsinger@fcva.us

TO: Board of Supervisors
FROM: Paula Nofsinger, Director of Human Resources
DATE: December 27, 2013
SUBJECT: Human Resources Committee Report

The HR Committee met in the First Floor Conference Room at 107 North Kent Street on Friday, December 6, 2013, at 8:00a.m. Committee members present were: Supervisor Robert Hess, Supervisor Robert Wells, Supervisor Chris Collins, Citizen Member Dorrie Greene, and Citizen Member Beth Lewin. Committee member absent was Citizen Member Barbara Vance. Also present were: Assistant County Administrator Kris Tierney, County Attorney Rod Williams, NRADC Superintendent Jim Whitley, DSS representative Delsie Butts, Assistant Finance Director Sharon Kibler, and Budget Manager Jennifer Place.

***** Items Requiring Action*****

1. Approval of updated Human Resource Policy.

The Committee recommends adoption of the updated HR policy, *XVI. Employment Classification*, included in the Board of Supervisors' packet. (Attachment A)

*****Items Not Requiring Action*****

- 1. As part of the Committee's monthly department presentations, Superintendent Whitley offered an overview of the Northwestern Regional Adult Detention Center.**
- 2. The HR Director presented an overview of the department's proposed budget to be submitted for fiscal year 2015. (Attachment B)**

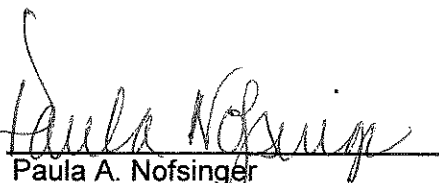
There being no further business, the meeting was adjourned.

The next HR Committee meeting is scheduled for Friday, January 10, 2014.

Respectfully Submitted,

Human Resources Committee

Robert Hess, Chairman
Chris Collins
Robert Wells
Dorrie Greene
Beth Lewin

By: 
Paula A. Nofsinger
Director of Human Resources

Attachment A



County of Frederick

Paula A. Nofsinger
Director of Human Resources

(540) 665-5668
Fax: (540) 665-5669
pnofsing@co.frederick.va.us

TO: Human Resources Committee
FROM: Paula Nofsinger, HR Director *Paula Nofsinger*
DATE: December 2, 2013
SUBJECT: Employment Classifications Policy Changes

I am recommending modification to our current policy, XVI. Employment Classifications. Industry standards have historically defined full time and part time positions in terms of hours worked and benefit eligibility. As you may know, it is anticipated that the Affordable Care Act will require us to offer healthcare coverage to employees who work, on average, 30 hours per week or more. This determination of eligible employees will be calculated based upon a look back period of twelve (12) months. Currently, the requirement of offer healthcare to part time employees is scheduled to begin either on January 1, 2015 or July 1, 2015, the rules are still unclear. Therefore, I am proposing changes to our current employment definitions to clarify our employment categories to define them terms of hours worked per week. Taking this action now, will enable us to clearly know and be able to prepare for our federally mandated requirements in 2015.

During the month of October, I conducted several meetings with our Department Heads to provide this information to them and get feedback on the proposal. They are fully aware of the changes we are considering and have been very supportive in any adjustments they may have to make within their organization.

I would appreciate this Committee recommending approval to the attached changes in the policy to the Board of Supervisors' for their January 2014 meeting.

Thank you for your support and please contact me directly with any questions.

Current Policy

VVI. EMPLOYMENT CLASSIFICATIONS

16.1 Full Time Employment

Full time employment is defined as any person who, in consideration of wages or salary, performs a service for the benefit and under the control of the County and whose position is authorized as full-time by the Board of Supervisors. Full time positions that are authorized by the Board of Supervisors provide health and welfare benefits.

16.2 Part Time Employment

Part time employment is defined as any person who is not in a position authorized as a full time position by the Board of Supervisors. Part time positions do not provide health and welfare benefits.

However, part-time employees who work year-round and work a minimum of 30 (thirty) hours per week to carry out their job responsibilities will be entitled to the following personal leave time:

The number of hours in an employee's personal leave day will be determined by the number of hours worked on an average day as designated by his position:

- i.e. work 30 hours divided by 5 (workdays) = six personal leave hours earned for the month.
- Personal leave time may not be used until it is earned.
- Use of personal leave time shall be reflected on the timesheet as "PL", such time will be paid at the straight time rate.

Personal leave hours shall accrue annually. Personal leave hours must be used within the calendar year they are accrued and will not be transferred to the subsequent year. Personal leave hours will be used only upon approval of the supervisor. Upon separation of employment, any unused personal leave hours will be paid out at the employee's hourly rate at the time of separation.

Proposed Policy

VVI. EMPLOYMENT CLASSIFICATIONS

16.1 Full Time Employment

Full time employment is defined as employment of any person who, in consideration of wages or salary, performs a service for the benefit and under the control of the County and whose position is authorized as full-time by the Board of Supervisors. Full time employment comprises a regularly scheduled workweek of at least 37.5 hours. Full time positions that are authorized by the Board of Supervisors provide health and welfare benefits.

16.2 Part Time Employment

Part time employment is defined as employment of any person who is not in a position authorized as a full time position by the Board of Supervisors and works 37.5 or fewer hours per week. Part time positions do not provide health and welfare benefits.

The County has established three categories of part time employment:

1. Regular Part Time- This type of part time employment is comprised of a workweek that averages 30 to less than 37.5 hours per week. Employees classified as regular part time will be entitled to personal leave at a rate of six (6) hours per month.

Personal leave may not be used until it is earned. Personal leave hours must be used within the calendar year they are earned and will not be transferred to the subsequent year. Personal leave hours will be used only upon approval of the supervisor. Upon separation of employment, any unused personal leave hours will be paid out at the employee's hourly rate of pay at the time of separation.

2. Restricted Part Time- This type of part time employment is comprised of a workweek that averages less than 30 hours per week. Employees who retire from Frederick County and return to work on a part time basis will be eligible only for restricted part time employment.

3. Seasonal Part Time- This type of employment is intermittent in nature, irregular and infrequent, or based upon required work that is seasonal in nature. It generally has a specific and/or projected timeframe.

However, part-time employees who work year-round and work a minimum of 30 (thirty) hours per week to carry out their job responsibilities will be entitled to the following personal leave time:

The number of hours in an employee's personal leave day will be determined by the number of hours worked on an average day as designated by his position:

- i.e. work 30 hours divided by 5 (workdays) = six personal leave hours earned for the month.
- Personal leave time may not be used until it is earned.
- Use of personal leave time shall be reflected on the timesheet as "PL", such time will be paid at the straight time rate.

Personal leave hours shall accrue annually. Personal leave hours must be used within the calendar year they are accrued and will not be transferred to the subsequent year. Personal leave hours will be used only upon approval of the supervisor. Upon separation of employment, any unused personal leave hours will be paid out at the employee's hourly rate at the time of separation.

Attachment B



County of Frederick

Paula A. Nofsinger
Director of Human Resources

(540) 665-5668
Fax: (540) 665-5669
pnofsinger@fcva.us

To: HR Committee
Through: John R. Riley, Jr., County Administrator
From: Paula Nofsinger, Director of Human Resources *Paula Nofsinger*
Date: December 2, 2013
Subject: Human Resources Department Budget for 2014-2015

I am pleased to present to the HR Committee this year's draft budget for the Human Resources department. Over the seven years of my employment, this is the first time I have had this valuable opportunity. Because of this, I believe it important to have a brief history of the department's budget, so I have included the budget figures back to fiscal year ending 2012.

With this year's recommended budget, you will see a request for funding a third party vendor to complete an HR audit. Additionally, in working with the Finance Director, we have established a tracking mechanism for the funding spent on the County's Wellness Initiatives and reimbursement for those initiatives. These figures are not included in the HR budget (they are healthcare expenditures), but the monitoring of these funds are the responsibility of this department.

Request for HR Audit

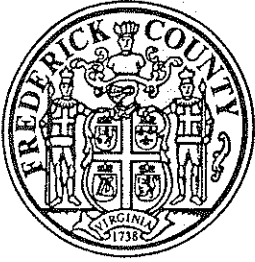
The HR department was established in 1980/1981 with the appointment of a secretary to the Personnel Director's position. Ms. Kelican grew the personnel department until 2002 when she retired. Our second Director began the process of transitioning from a Personnel department to a Human Resources department. In 2007, I was hired and became the third Director to manage this department. My goal is to take our HR department to the next level that involves human capital strategy, workforce planning, compensation and benefits, employee relations, training, and risk management. In order to do this, I believe we must have a solid foundation from which to grow. Therefore, I am requesting funding to complete an HR Audit to assist us in showing areas of strengths, weaknesses, opportunities, and threats. Additionally, an annual audit can identify employee administration policies and procedures that, when recognized, will allow us to address these areas that place unnecessary risk on the County. This first audit is the basis that will establish our plan moving forward in transforming this department.

I appreciate the opportunity to share this draft budget and welcome any feedback that you may be willing to provide. Thank you for your support during this year and moving forward.

Human Resources Draft Budget 2014-2015

Line Item	Description	2012	2013	2014	2015	Justification
010-012030-1001-000-000	Personnel Salaries	\$185,552.88	\$196,684.56	\$203,636.41	\$203,636.41	
010-012030-1003-000	Part Time Help	\$0.00	\$13,476.00	\$12,348.00	\$12,350.00	
010-012030-1007-000	Employee Of the Month	\$0.00	\$800.00	\$0.00	\$2,700.00	EOM Expenses
010-012030-2000-000	Fringe Benefits	\$65,983.25	\$67,204.30	\$64,885.00	\$69,714.00	
Personnel Expenses		\$251,536.13	\$278,164.86	\$280,869.41	\$288,400.41	
010-012030-3002-000	Professional Services	\$6,258.00	\$5,590.75	\$5,500.00	\$17,671.00	See Memo
010-012030-3006-000	Printing and Binding	\$0.00	\$0.00	\$500.00	\$0.00	
010-012030-3007-000	Advertising	\$3,366.21	\$2,120.34	\$4,000.00	\$6,000.00	
010-012030-4003-000	Copy Charges	\$0.00	\$0.00	\$360.00	\$0.00	
010-012030-5204-000	Postage and Telephone	\$1,370.06	\$1,237.40	\$1,840.00	\$1,840.00	
010-012030-5401-000	Office Supplies	\$4,162.77	\$3,504.01	\$3,125.00	\$3,125.00	
010-012030-5411-000	Books and Subscriptions	\$1,636.00	\$1,550.00	\$716.00	\$1,980.00	
010-012030-5413-000	Other Operating Supplies	\$2,564.41	\$7,261.04	\$4,000.00	\$3,050.00	
010-012030-5414-000	Other Expenses	\$9,963.07	\$7,159.87	\$5,500.00	\$8,000.00	Years of Service Awards
010-012030-5506-000	Travel	\$0.00	\$649.38	\$650.00	\$0.00	
010-012030-5801-000	Dues and Associations	\$350.00	\$429.00	\$440.00	\$300.00	
010-012030-9001-000	Lease	\$4,729.77	\$4,519.20	\$4,800.00	\$4,800.00	
Operating Expenses		\$34,400.29	\$34,020.99	\$31,431.00	\$46,766.00	
HR Department Total		\$285,936.42	\$312,185.85	\$312,300.41	\$335,166.41	
022-018990-5312-000-000	Wellness Initiatives	\$12,831.00	\$22,110.50	\$31,710.00	\$32,000.00	
	Wellness Reimbursement- Anthem	\$0.00	\$5,000.00	\$15,000.00	\$15,000.00	
	Total Spent	\$12,831.00	\$17,110.50	\$16,710.00	\$17,000.00	

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COUNTY of FREDERICK

John R. Riley, Jr.
County Administrator

TO: Board of Supervisors
FROM: John R. Riley, Jr., County Administrator
DATE: December 23, 2013
RE: Code and Ordinance Committee Report

540/665-5666
Fax 540/667-0370
E-mail:
jriley@co.frederick.va.us

The Code & Ordinance Committee met on Monday, December 16, 2013 at 3:00 P.M., in the Board of Supervisors' Closed Session Room, County Administration Building, 107 North Kent Street, Winchester, Virginia. Present were Christopher E. Collins, Chairman; Robert A. Hess; James Drown; and Stephen Butler. Committee members Derek Aston and Robert Wells were absent. Also present were County Administrator John R. Riley, Jr.; Jay E. Tibbs, Deputy County Administrator; County Attorney Rod Williams; Ellen Murphy, Commissioner of the Revenue; and C. William Orndoff, Jr., Treasurer.

The committee submits the following:

*****Items Requiring Board Action*****

1. Proposed Amendments to the Frederick County Code, Chapter 155, Taxation, Various Articles/Sections; and Chapter 112 Massage Parlors and Health Clubs.

The Code and Ordinance Committee reviewed a request to amend the Frederick County Code, Chapter 155 Taxation. A number of the proposed amendments would bring the County Code into conformance with the State Code. In addition, amendments were proposed to allow the establishment of a business license tax for wine wholesalers and to allow businesses in the Town of Stephens City and Middletown that hold a valid business license to be exempt from the festival business license requirement, similar to the treatment of County businesses. Finally, the repeal of Chapter 112, Massage Parlors and Health Clubs is being proposed because the Code of Virginia contains no express authority for local regulation.

Upon a motion by Mr. Hess, seconded by Mr. Butler, the Code and Ordinance Committee forwarded this item to the Board for public hearing with a recommendation of approval. The motion was unanimously approved.

2. Proposed Amendments to Chapter 155, Taxation, Article XXV Exemption for Nonprofit Organizations, Section 155-153, Property Exempted from Taxation by Designation.

Mr. Butler abstained from consideration of this item.

The Code and Ordinance Committee reviewed a request to amend the Frederick County Code, Chapter 155 Taxation, Article XXV Exemption for Nonprofit Organizations, Section 155-153,

Property Exempted from Taxation by Designation. The proposed amendments would principally accomplish two goals. First, the amendments would have the ordinance fully conform with the corresponding state law provisions, as the state law has evolved since 2003, when the General Assembly gave authority to localities to grant new tax exemptions. Specifically, this includes the insertion of the new 155-153(B), setting out the triennial application procedure which is a prerequisite to any request the County might make to the General Assembly for the repeal of a pre-2003 General Assembly exemption. Second, 155-154 is proposed for repeal because the list of organizations granted exemptions appears to have been added by the Code publisher for unknown reasons and does not currently reflect all exemptions the Board has granted (the Board's exemption actions in fact never stated a requirement to include them in the County Code), the section is not necessary. It should be noted the exemptions would remain in force.

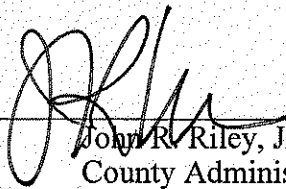
Upon a motion by Mr. Hess, seconded by Mr. Drown, the Code and Ordinance Committee forwarded this item to the Board for public hearing with a recommendation of approval. The motion was approved.

Respectfully Submitted,

Code and Ordinance Committee

Christopher E. Collins, Chairman
Robert A. Hess
James Drown
Stephen Butler

By: _____


John R. Riley, Jr.
County Administrator

JRR/jet

Attachments



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383
Fax 540/667-0370
E-mail:

rwillia@co.frederick.va.us

MEMORANDUM

TO: Code and Ordinance Committee

FROM: Roderick B. Williams
County Attorney

DATE: November 14, 2013

RE: Frederick County Code, Chapter 155 (Taxation), Sections 155-32, 155-35, 155-47, 155-96, 155-100, and 155-113
and
Frederick County Code, Chapter 112 (Massage Parlors and Health Clubs)

Attached please find draft proposed ordinance amendments concerning the above-referenced Chapters of the County Code. The reasons in support of these proposed amendments are as follows:

Chapter 155 (Taxation), Section 155-32 (Retail Sales Tax/Administration and Collection) – proposed amendment

The proposed amendment would delete the words “with the adjustments required by § 58.1-628” from the provision concerning administration and collection of the sales tax. The General Assembly repealed § 58.1-628 of the Code of Virginia, which concerned the calculation of the sales tax for sale amounts of \$5.00 and under, in 2004 and deleted the “with the adjustments” language from the other sections of state law regarding the sales tax. With the 2004 changes and the fact that the sales tax is actually administered by the state, there is no reason to retain the obsolete reference in the County Code.

Chapter 155 (Taxation), Section 155-35 (Utility Tax/Local User Fee) – proposed amendment

This section currently refers to § 58.1-3813A of the Code of Virginia. Section 58.1-3813 was repealed by the Acts of 2000, c. 1064. It was replaced in substantial part by § 58.1-3813.1. Therefore, in County Code § 155-35, § 58.1-3813A should be changed to § 58.1-3813.1.

Chapter 155 (Taxation), Section 155-47 (Home Heating Oil Local Option Sales and Use Tax) – proposed repeal

This authority for this section was § 58.1-609 of the Code of Virginia, which was repealed in 1993. At the same time, the General Assembly enacted § 58.1-609.10, which exempted home heating oil from the sales tax. Therefore, § 155-47 of the County Code should be repealed.

Chapter 155 (Taxation), Section 155-96 (Business License Fee and Tax) – proposed amendments

These are limited changes identified by the Commissioner of the Revenue. The County had not previously had any wine wholesalers and, therefore, had not established a tax for such establishments. The County now has at least one wine wholesaler. The proposed tax amount corresponds with the amount permitted under § 4.1-233 of the Code of Virginia. Also, the current County Code section contains two amounts (for wineries and for beer wholesalers) that exceed the amounts provided for under state law and, accordingly, the draft proposes conforming amendments.

Chapter 155 (Taxation), Section 155-100 (Business License Fee and Tax/Itinerant and Distressed Merchandise Vendors) – proposed amendment

This is a limited change identified by the Commissioner of the Revenue. The recent revisions to this section exempted businesses that already hold County business licenses from further licensing if they appear at festivals in the County, but did not address the issue of businesses that hold business licenses issued by the Town of Stephens City or the Town of Middletown. The suggestion here is that it is appropriate to exempt such businesses from the festival business license requirement and the draft reflects that.

Chapter 155 (Taxation), Section 155-113 (Business License Fee and Tax/Contractor to Provide List of Subcontractors) – proposed amendment

The Commissioner of the Revenue has requested the explicit inclusion of authority to require contractors to provide lists of subcontractors to the Commissioner. This assists the Commissioner in enforcement of business license matters. Va. Code § 58.1-3109 provides the authority for this amendment. The proposed provision is based upon similar provisions in force in Spotsylvania County and the City of Newport News.

Chapter 112 (Massage Parlors and Health Clubs) – proposed repeal

The minutes of the Board of Supervisors indicate that the provisions of this Chapter were first passed as an ordinance on September 14, 1977. In the intervening years, this particular industry has evolved significantly from what it was in 1977 and, today, it can be considered to be an established medically-related practice. Toward that end, in 1997, the General Assembly amended the Code of Virginia to permit the Board of Nursing to regulate massage therapy. State law defines "massage therapy" as "the treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body. The terms "massage therapy" and "therapeutic massage" do not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture, or podiatry is required by law." Va. Code § 54.1-3000.

With respect to local regulation of the practice, the Code of Virginia contains no express authority for local regulation. This fact, combined with the General Assembly's 1997 assignment of the responsibility to the Board of Nursing, suggests that localities may not separately regulate the practice. Toward this end, Arlington County, Virginia repealed its massage regulation ordinance in 2011.

State law regulation of the practice is presumably adequate to protect the public health, safety, and welfare. As well, local law enforcement officers are always empowered to enforce state laws. Accordingly, repeal of the County's regulation (Chapter 112) is appropriate.

Attachments



ORDINANCE
_____, 201_

The Board of Supervisors of Frederick County, Virginia hereby ordains that Sections 155-32, 155-35, 155-96 and 155-100 of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby are, amended by enacting amended Sections 155-32, 155-35, 155-96 and 155-100 of Chapter 155 (Taxation) of the Code of Frederick County, Virginia, as follows and to take effect immediately, that a new Section 155-113 of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby is, enacted as part of Article XVI of Chapter 155, as follows and to take effect immediately, and that Section 155-47 of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby is, repealed effective immediately (deletions are shown in **~~bold strikethrough~~** and additions are shown in **bold underline**):

CHAPTER 155 TAXATION

Article VII Retail Sales Tax

§ 155-32 Administration and collection.

Pursuant to Title 58.1, Chapter 6, § 58.1-605 of the Code of Virginia, the local general retail sales tax levied pursuant to this article shall be administered and collected by the State Tax Commissioner of the commonwealth in the same manner, subject to the same penalties provided for the state sales tax, ~~with the adjustments required by § 58.1-628.~~

Article VIII Tax on Purchasers of Utility Service

§ 155-35 Local user fee.

- A. An E-911 local user fee to each Verizon Telephone Company user is hereby adopted. The purpose of this fee is to allow for the implementation of the Enhanced 911 Emergency Telephone System. The fee shall be as prescribed by ordinance of the Board of Supervisors.

- B. The local user fee for Star Tannery area residents served by the Shenandoah Telephone Company shall be as established by the Shenandoah County E-911 Emergency Telephone System Ordinance, as prescribed in a joint agreement pursuant to Code of Virginia, § ~~58.1-3813A~~ 58.1-3813.1.

Article XII ~~Home Heating Oil Local Option Sales and Use Tax~~

~~§ 155-47 Tax imposed.~~

~~Effective upon adoption and pursuant to § 58.1-609 of the Code of Virginia 1950, as amended, purchases of home heating oil by an individual purchaser for domestic consumption shall be subject to the one-percent local option sales and use tax.~~

Article XVI Business License Provisions

§ 155-96 License fee and tax.

[Subsections A and B remain unchanged.]

- C. Instead of the license fees specified in Subsections A and B above and except as provided in Subsection C(9)(f), every other such person or business subject to licensure under this article shall be assessed and required to pay a license tax as set forth below for the class of enterprise listed:

[Paragraphs 1 through 8 remain unchanged.]

(9) For sale of alcoholic beverages:

(a) Every person who shall engage in the business of manufacturing, bottling, wholesaling or retailing alcoholic beverages shall obtain a license therefor and shall pay therefor the license tax hereinafter provided.

[1] Distiller's license. For each distiller's license, the license tax shall be \$500 per annum, provided that no license shall be required of any distiller manufacturing not more than 5,000 gallons of alcohol or spirits, or both, during such license year.

[2] Winery license. For every winery license, the license tax shall be ~~\$500~~ \$50 per annum, provided that no license shall be required of any winery

manufacturing not more than 5,000 gallons of wine during such license year.

[3] Brewery license. For each brewery license, the license tax shall be \$500 per annum.

[4] Bottler's license. For each bottler's license, the license tax shall be \$150 per annum.

[5] Wholesale beer and wine license. For each wholesale beer license, the license tax shall be ~~\$200~~ **\$75** per annum. **For each wholesale wine license, the license tax shall be \$50 per annum.**

[6] Retail on-premises wine and beer license. For each retail on-premises wine and beer license, the license tax shall be \$20 per annum.

[7] Retail off-premises wine and beer license. For each retail off-premises wine and beer license, the license tax shall be \$20 per annum.

(b) For each mixed beverage license for restaurants, including restaurants located on premises of and operated by hotels and motels, the license tax shall be:

[1] One hundred dollars per annum for each restaurant with a seating capacity at tables for 50 to 100 persons.

[2] One hundred fifty dollars per annum for each restaurant with a seating capacity at tables for more than 100 but not more than 150 persons.

[3] Two hundred dollars per annum for each restaurant with a seating capacity at tables for more than 150 persons.

[4] Two hundred dollars per annum for each private, nonprofit club operating a restaurant on the premises of such club.

(c) The aforesaid license shall be as respectively defined by the Act of the General Assembly, known as the "Alcoholic Beverage Control Act," and the terms "alcoholic beverages," "alcohol," "spirits" and "wine," wherever used in this article, shall reflect the meanings respectively ascribed to them by such Act.

(d) No license shall be issued under this section to any person unless such person shall hold or secure simultaneously therewith the proper state license required by the Alcoholic Beverage Control Act, which state license shall be exhibited to the Commissioner of the Revenue, and all dining rooms,

restaurants, lunchrooms and clubrooms wherein the beverages herein defined are sold for consumption on the premises shall at all times be open to inspection by the State Police and the police or Sheriff's authorities of this County; provided, further, that all storerooms or other buildings from which deliveries are made, either at wholesale or retail, whether they are bottlers, wholesalers or retailers, shall at all times be open to inspection by State Police and police or Sheriff's authorities of the County. Any violation of the terms of this provision shall be sufficient grounds for the revocation of the license issued in accordance with this section.

(e) No alcoholic beverage license shall be prorated or transferable.

(f) This tax shall be in addition to applicable license taxes based on gross receipts or gross purchases. In imposing retail merchant license taxes measured by gross receipts, the term "gross receipts" shall be construed to include receipts from the sale of alcoholic beverage by persons licensed under this section. In computing gross receipts, alcoholic beverages shall be included in the base for measuring such license taxes the same as if the alcoholic beverages were nonalcoholic. No alcoholic beverage license levied under this section shall be construed as exempting any license from any merchant license tax, and such merchant license tax shall be in addition to the alcoholic beverage taxes levied under this section.

§ 155-100 Itinerant and distressed merchandise vendors.

- A. Each person who shall engage in or transact any temporary or transient business in this County for the sale of goods, wares and merchandise and who, for the purpose of carrying on such business, shall hire, lease, use or occupy any building or structure, motor vehicle, tent, car or public room or any part thereof, including rooms in hotels, lodging houses or houses of private entertainment, or in any street, alley or other public place for a period of less than a year for the exhibition or sale of such goods, wares or merchandise shall pay for such privilege a license tax of \$500 per year, which license shall not be prorated or transferable.
- B. Each person who or which has not been licensed for at least one year to sell or to offer for sale goods, wares or merchandise before the adoption of this section and who shall hereafter apply for a license to sell or offer for sale, goods, wares or merchandise within the County shall file with such application a statement from the owner of the building, structure, etc., to be used by such applicant, indicating consent to use the premises for such sales, or no license shall be issued unless and until such statement is attached to the application.

- C. On each transient vendor for the sale of bankrupt, assignee, trustee, fire-wreck stock or salvage stock, a license tax shall be paid of \$500 per year, which license shall not be prorated or transferable.
- D. No persons shall be exempt from the payment of the license tax imposed by this section by reason of associating temporarily with any local merchant, dealer or trader or by reason of conducting such business in the name of any local merchant, dealer, trader or auctioneer.
- E. No license tax shall be required under this section for any itinerant merchant participating in an event, not to exceed ten consecutive days in length, conducted by a nonprofit organization, when the purpose of such event is in furtherance of the nonprofit nature of such organization, and the sale of any goods, wares or merchandise is merely ancillary to such event and not the primary purpose therefor, and any such itinerant merchant shall have registered with and been approved by such nonprofit organization. The provisions of this subsection E do not create any exemption from the provisions of this Code regarding the meals tax or from the provisions of the Code of Virginia regarding the sales and use tax.
- F. Notwithstanding subsections A through D of this section, each person who shall engage in or transact any business in this County for the sale of goods, wares and merchandise at a festival, as that term is defined in Section 86-2 of this Code, or at any other pre-arranged event at a single location, whether indoors or outdoors, of more than 100 individuals, shall pay for such privilege a license tax of \$30 per festival or event, which license shall not be prorated or transferable, and any such person shall have registered with and been approved by the person conducting the festival or event. No license shall be required under this subsection for (i) vendors at flea markets under Section 155-112 of this Code, who are to be licensed under that section; or (ii) vendors who have otherwise obtained or are otherwise required to obtain a license pursuant to Section 155-73 of this Code **or pursuant to the laws or ordinances of any incorporated town located in Frederick County.** The provisions of this subsection F do not create any exemption from the provisions of this Code regarding the meals tax or from the provisions of the Code of Virginia regarding the sales and use tax.
- G. "Conducting" shall, for purposes of this section, mean organizing, sponsoring, promoting, hosting, or otherwise being responsible for a festival or event under this section.

§ 155-113 Contractor to provide list of subcontractors.

The commissioner, in performing the duties of such office, shall have authority to require any person doing business in the county to furnish, as to each subcontractor to whom any part of a contract is sublet, a list of, among other things, the names and addresses of each subcontractor and the amount of each subcontract performed in the county.

Enacted this ____ day of ____, 201__.

Richard C. Shickle, Chairman _____

Gary A. Lofton _____

Robert A. Hess _____

Robert W. Wells _____

Christopher E. Collins _____

Gene E. Fisher _____

Charles S. DeHaven, Jr. _____

A COPY ATTEST

John R. Riley, Jr.
Frederick County Administrator



ORDINANCE
_____, 201_

The Board of Supervisors of Frederick County, Virginia hereby ordains that Chapter 112 (Massage Parlors and Health Clubs) of the Code of Frederick County, Virginia be, and the same hereby is, repealed in its entirety, effective immediately.

Enacted this ____ day of _____, 201_.

Richard C. Shickle, Chairman _____

Gary A. Lofton _____

Robert A. Hess _____

Robert W. Wells _____

Christopher E. Collins _____

Gene E. Fisher _____

Charles S. DeHaven, Jr. _____

A COPY ATTEST

John R. Riley, Jr.
Frederick County Administrator




COUNTY of FREDERICK

John R. Riley, Jr.
County Administrator
540/665-6382
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E-mail:
jriley@co.frederick.va.us

MEMORANDUM

TO: Code & Ordinance Committee Members

FROM: John R. Riley, Jr., County Administrator 

SUBJECT: Amendments to Section 155-153 Property Exempted from Taxation by Designation

DATE: November 21, 2013

Attached please find a draft ordinance to address the changes to our tax exemption ordinance necessary to clean it up and put the triennial filing requirement in place, so that we could in turn then petition the GA for any revocations. The genesis of this amendment was a request from The Village at Orchard Ridge seeking a tax exempt designation for their facility located on Route 50 West.

By way of background:

- March 20, 2013 – Finance Committee discussed a request from The Village at Orchard Ridge seeking a tax exemption. The Committee recommended postponement of this request pending the receipt of additional information.
- April 17, 2013 – Finance Committee received additional information regarding the request from The Village at Orchard Ridge. The Committee recommended denial of this tax exempt request.
- April 24, 2013 – The Board of Supervisors considered the tax exempt request from The Village at Orchard Ridge. The Board voted to deny the request. During the discussions leading to the vote, some supervisors wished to look at entities which had previously received a tax exempt designation.

Virginia Code §58.1-3605 outlines the process the Board must follow in order to remove a tax exempt designation that was either granted by the locality or by the General Assembly. The proposed code amendment would allow Frederick County to begin the process to enable the removal of certain tax exempt designations.

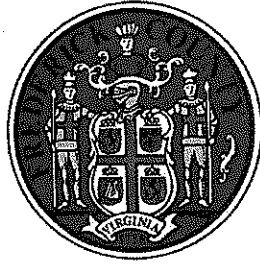
Below the County Attorney has outlined items in the proposed amendment for additional explanation:

- The sentence at the end of 155-153(A) is proposed to be deleted because it relates to GA exemptions and the rest of the subsection relates to BOS exemptions. Therefore, the ordinance need not include that reference. A locality can itself revoke a locality-granted exemption in the same manner as it granted the exemption. 2004 Op. Va. Att’y Gen. 224.
- The new 155-153(B) is drawn from the language of Va. Code 58.1-3605 and would apply both to GA exemptions and BOS exemptions (the only difference being that, after receipt of the filings from the entities, the BOS would need to forward a request to the GA to revoke a GA exemption). November 15 as the application deadline comes from 58.1-3605’s statement that “Such application shall show the ownership and usage of such property and shall be filed within the next sixty days preceding the tax year for which such exemption, or the retention thereof, is sought.”
- The deletion of 155-154 has been proposed for two reasons:
 - First, while the BOS did grant those exemptions, the BOS minutes do not reflect the particular codification of them.
 - Second, the list is not necessarily complete. For this reason and for the first reason, I think it best simply to have the exemption list be uncodified.
- The last paragraph of the ordinance (which would likewise be uncodified) is for “comfort”, namely, to assure everyone that the exemptions of the named entities are not being revoked by the amendments.

Should you have any questions, please do not hesitate to contact me.

JRR/jet

Attachment



ORDINANCE
_____, 2014

The Board of Supervisors of Frederick County, Virginia hereby ordains that:

1. Section 155-153 of Article XXV (Exemption for Nonprofit Organizations) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby is, amended by enacting an amended Section 155-153 of Article XXV (Exemption for Nonprofit Organizations) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia, as follows (deletions are shown in **~~bold strikethrough~~** and additions are shown in **bold underline**):

CHAPTER 155 TAXATION

Article XXV Exemption for Nonprofit Organizations

§ 155-153 Property exempted from taxation by designation.

- A. The real property of an organization designated by **the Board of Supervisors** ~~a section within this article~~ and used by such organization exclusively for ~~a religious, charitable, patriotic, historical, benevolent, cultural or public park and playground~~ **one or more of the** purposes as set forth in Article X, Section 6(a), of the Constitution of Virginia, ~~the particular purpose of which such organization is classified being specifically set forth within each section,~~ shall be exempt from taxation so long as such organization is operated not for profit and the property so exempted is used in accordance with the purpose(s) for which the organization is classified. ~~In addition, such exemption may be revoked in accordance with the provisions of § 58.1-3605, Code of Virginia.~~
- B. Each organization which owns real property exempt from taxation pursuant to designation of the Board of Supervisors or pursuant to designation of the General Assembly shall file triennially, commencing on November 15, 2014, an application with the Commissioner of the Revenue as a requirement for retention of the**

exempt status of the property. The Commissioner of the Revenue shall send notice of this requirement to each such organization by not later than September 15 preceding the November 15 on which such application is due. Such application shall show the ownership and usage of such property, and such other information as the entity deems desirable, for the property for which retention of such exemption is sought.

~~B.C.~~ Exemptions of property from taxation under this article shall be strictly constructed in accordance with the provisions of Article X, Section (6)(f) of the Constitution of Virginia.

2. Section 155-154 of Article XXV (Exemption for Nonprofit Organizations) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby is, repealed (deletions are shown in **bold strikethrough**):

~~§ 155-154 Organizations granted exemption.~~

~~A. Fort Collier Civil War Center, Inc. (Property Identification Number 54-A-81G).~~

~~B. Young Life -- Northern Shenandoah Valley.~~

~~C. Fort Colvin -- The Association for the Preservation of Virginia Antiquities (Property Identification Number 62-A-51-A).~~

~~D. The Nature Conservancy (Property Identification Numbers 83-2-1; 83-2-2; 83-2-3; 83-2-4; 83-2-5; 83-A-61; 83-A-61C; 83-A-61D; 83-A-61E; 83-A-61F; and 83-A-61G.)~~

~~E. Blue Ridge Hospice.~~

3. The repeal herein of Section 155-154 of the Code of Frederick County, Virginia shall not affect the tax exemption of any organization as such tax exemption was in existence immediately prior to the adoption of this ordinance, but all such organizations are otherwise subject to the provisions of Section 155-153 of the Code of Frederick County, Virginia, as amended herein, and each such organization must comply with such provisions following the adoption of the ordinance in order to maintain its respective tax exemption(s).

4. The provisions of this ordinance shall take effect immediately.

Enacted this ____ day of ____, 2014.

Richard C. Shickle, Chairman _____

Gary A. Lofton _____

Robert A. Hess _____

Robert W. Wells _____

Christopher E. Collins _____

Gene E. Fisher _____

Charles S. DeHaven, Jr. _____

A COPY ATTEST


John R. Riley, Jr.
Frederick County Administrator

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EXECUTIVE SUMMARY

To: Board of Supervisors

From: Joe C. Wilder, Deputy Director of Public Works 

Subject: Update of New Stormwater Permit Program and Ordinance

Date: December 20, 2013

Frederick County has been working for several years with the State in developing a new stormwater permit program. As required by state law, Frederick County will be required to regulate and enforce the Virginia Stormwater Management Permit (VSMP) program beginning July 1, 2014. This new program will bring many changes to our department and will impact local development to some degree. In this summary, I would like to outline these changes and describe some of the impacts. I also want to summarize the recent history of this new regulation and then discuss the attached DRAFT Stormwater/ Erosion and Sediment Control Ordinance.

Several years ago, the State determined that the Department of Conservation and Recreation (DCR) could not enforce the portion of the Federal Clean Water Act dealing with non-point source run-off from new and existing development sites. During 2009 /2010, the Federal Environmental Protection Agency (EPA) began exerting more pressure on the State of Virginia and other Chesapeake Bay states to deal with stormwater run-off draining into the Chesapeake Bay and causing impacts. In response, the State through the Legislation, the Soil and Water Conservation Board and DCR, enacted laws and regulations that require all localities in the state to regulate stormwater discharges from new development or re-development on existing sites beginning on July 1, 2014. The final major change occurred on July 1, 2013 when there was a transfer of power within the state that made the Department of Environmental Quality (DEQ), empowered through the State Water Control Board, responsible to oversee stormwater and erosion and sediment control programs within the state.

In response to this requirement, the Frederick County Public Works Committee created a subcommittee to assist the Department in developing a new ordinance and reviewing all aspects of this new program. The stormwater sub-committee contains members of the Public Works Committee as well as other

Update of New Stormwater Permit Program and Ordinance

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December 18, 2013

members from the community related to construction, the environment and design professionals. Currently, we have developed a DRAFT ordinance which is attached to this summary. This draft is based on the latest guidance from DEQ. DEQ is requiring all localities to submit a DRAFT ordinance by January 15, 2014. The DEQ will review and comment on our DRAFT ordinance. Once we receive their comments, we will amend our ordinance into a FINAL form. It is important to note that other minor changes will occur to this DRAFT ordinance prior to final adoption. At this time, I am providing this attached DRAFT ordinance for your information and comment only. A vote on adoption of this ordinance along with a Public Hearing will occur in March or April 2014.

The Public Works Department will administer the stormwater program in much the same way we currently administer the erosion and sediment control program. The DRAFT stormwater ordinance incorporates our current erosion and sediment control ordinance (Frederick County Code – Chapter 79) into one ordinance which will be codified as Chapter 143. We will repeal the current Chapter 79. The stormwater program will require more duties and responsibilities for our staff over our current program requirements. However, at this point, we will manage this new program with our current staff. We will determine future staffing needs as the program takes effect and as future development trends are determined. DEQ requires all staff administering the stormwater program to be state certified in regards to plan review, inspection and enforcement. DEQ has developed comprehensive training programs, which staff is currently attending so we can meet the certification requirements as set forth in the law. We will need to maintain certified personnel to administer this program into the future. By incorporating these ordinances and programs, it will allow us to provide a one stop shop for issuing a joint permit which incorporates the following elements: Erosion and Sediment Control Permit, the General Permit for Construction Activities and the Virginia Stormwater Management Permit. All of these permits are required by state law to be issued at the time of land disturbing activity.

The stormwater program ordinance and law provides regulations that address the following requirements:

- New stormwater quality and quantity requirements that must be incorporated into site plans for all new development or sites for redevelopment. Note: If a site is existing and no new development occurs, they will not be required to obtain a new permit.
- Owner/ Contractor will be required to have and maintain a Stormwater Pollution Prevention Plan (SWPPP) on-site and have an individual responsible to make sure all environmental controls are maintained and working at all times.
- Provide documentation that indicates all required Best Management Practices (BMPs') are constructed properly on-site per the approved site plan. These BMPs' will have to be recorded with the land records of Frederick County and will have to be maintained and inspected into the future. Frederick County Public Works will have to administer this part of the program to make sure the environmental controls are maintained into the future. This part of the permitting program is not occurring on sites today and we will have to develop additional policy and future funding requirements as we see more development occur that incorporate the new stormwater requirements.

Update of New Stormwater Permit Program and Ordinance

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-Our stormwater program will have to meet DEQ requirements into the future. DEQ will be inspecting our program every few years to ensure we are meeting their standards. They do have overriding authority and if for some reason we don't meet their standards, they have the authority to make us achieve the state standards.

-The proposed fee schedule (pages 35 – 37) included in our DRAFT ordinance is the state fee schedule. It shall be noted that DEQ will receive 28% of the total permit fee based on the fee schedule. In the attached chart, the total fee for a permit is the number in the left chart, the DEQ portion of the fee is on the right side of the chart. DEQ will only receive funds for new permit fees. All additional fees for permit maintenance, transfer, etc. will be for Frederick County only. The fees from issuance of stormwater permits must maintain our departmental staff to comply with state law. We are developing a funding and staffing plan for DEQ that verifies we can administer this program into the future based on revenue generated from permit fees. In the future, we will review actual revenue generated from issuing stormwater permits and determine if fees need to be changed or modified. However, based on current development trends, the proposed fee schedule will adequately fund the department to meet the new standards and maintain work volume.

We know that issuing the new stormwater permit will cause some impacts to local development. We are planning to hold an information training session for all local contractors, developers, and engineers during the Spring 2014 and will be FREE to all attendees. The training we provide will go over the following items:

- How to obtain a stormwater permit from Frederick County?
- Who is required to have a permit and who is exempt?
- New site plan requirements.
- Review new stormwater quality and quantity requirements.
- Go over new permit fees.
- What contractors will have to do during construction to comply with new requirements?
- What owners/ HOAs' will have to do in future to ensure new BMPs' are inspected and maintained?
- How stormwater permits can be terminated?
- Review revised performance bond requirements for stormwater BMPs'.

By providing this training and inviting the development community, we will begin the process of educating everyone on these new requirements. I plan to utilize members of the stormwater subcommittee to help communicate these requirements to the community as well.

One of the impacts with the new stormwater permit will be single family dwellings that are constructed in subdivisions. There will be more requirements and additional measures needed to address new home construction. Due to the additional permit requirements, the state permit fee is \$290/ home. Currently, Frederick County charges a fee of \$100/ home for issuance of a land disturbance permit. The new permit language for single family homes will be almost the same standards as commercial sites. We will be

Update of New Stormwater Permit Program and Ordinance

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developing additional guidance to make sure builders, homeowners and HOAs' are aware of the permit requirements including long term inspection and maintenance requirements.

In conclusion, I have attempted to summarize the new stormwater permit requirements and proposed ordinance. I will be glad to answer any questions and receive any input you may offer as we move forward to enact this new ordinance and program by July 1, 2014.

**Draft Stormwater/Erosion and Sediment Control Ordinance
Frederick County, Va. – Proposed County Code Chapter 143
January 8, 2014**

§ 143-100 Purpose

The Frederick County Board of Supervisors desires to protect the health, safety, welfare, and property of Frederick County residents and businesses, and the quality of waters within the County. The Frederick County Board of Supervisors recognizes that development tends to degrade these waters through erosion and sedimentation, increased flooding, stream channel erosion, and the transport and deposition of waterborne pollutants. This degradation is due, in part, to increased stormwater runoff as property is developed. Hence, as required by § 62.1-44.15:27 Code of Virginia and in compliance with the Virginia State Water Control Board requirements, the Frederick County Board of Supervisors has determined that it is in the public interest to establish requirements which regulate the discharge of stormwater runoff from developments by integrating hydrologic and water quality functions into all aspects of a development's design, landscape and infrastructure.

- A. The purpose of this ordinance is to establish minimum stormwater management and erosion and sediment control requirements which:
1. Reduce flood damage to property; minimize the impacts of increased stormwater runoff from new land development;
 2. Maintain the hydraulic adequacy of existing and proposed culverts, bridges, dams, and other structures;
 3. Prevent, to the greatest extent feasible, an increase in nonpoint source pollution;
 4. Maintain the integrity of stream channels for their biological functions and drainage;
 5. Maintain natural drainage patterns to the extent practicable in order to promote existing hydrologic processes;
 6. Promote infiltration of stormwater to recharge groundwater resources;
 7. Minimize the impact of development upon stream erosion;
 8. Preserve and protect water supply facilities from increased flood discharges, stream erosion, and nonpoint source pollution;
 9. Establish provisions for long-term responsibility for and maintenance of stormwater management control devices and techniques to manage the quality and quantity of stormwater runoff; and
 10. Provide effective control of soil erosion and sediment deposition and to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources.
- B. This chapter supplements and is to be applied in conjunction with Frederick County building code, subdivision, and zoning ordinances as they apply to the development or subdivision of land within the county.

§ 143-105 Authority

- A. This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4 (§ 62.1-44.15.51 et seq.), known as the Virginia Erosion and Sediment Control Law; and Title 62.1, Chapter 3.1, Article 2.3 (§62.1-44.15.24 et seq.), known as the Virginia Stormwater Management Act.
- B. Pursuant to the Code of Virginia § 62.1-44.15:54, the Frederick County Public Works Department is designated as a Virginia Erosion and Sediment Control Program (VЕСP) Authority to operate a Virginia Erosion and Sediment Control Program.
- C. Pursuant to the Code of Virginia § 62.1-44.15:27, the Frederick County Public Works Department is designated as a Virginia Stormwater Management Program (VSMP) authority to operate a Virginia Stormwater Management Program in compliance with all required elements hereto.

Reference: Va. Code § 62.1-44.15:27; 62.1-44.15.54

§ 143-110 Definitions

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Program Permit (VSMP) Regulations, 9VAC25-840-10 of the Virginia Erosion and Sediment Control (VESC) Regulations, and 9VAC25-850-10 of the Virginia Erosion and Sediment Control and Stormwater Management Certification (VSMC) Regulations, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise.

“Administrator” or “VSMP Administrator” means the Virginia Stormwater Management Program (VSMP) authority including the Frederick County Public Works Department responsible for administering the VSMP on behalf of Frederick County, Virginia.

“Agreement in lieu of plan” means a contract between the plan-approving 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 plan-approving authority in lieu of a formal site plan for the residence.

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

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

"Best management practice implementation plan" or “BMP Implementation Plan” is a site specific design plan for the implementation of BMP facilities on an individual single

family lot or other parcel with less than one acre of land disturbance within a larger common plan of development. The BMP Implementation Plan provides detailed information on the implementation of the SWM pollutant load and volume reduction BMP and other requirements for the individual lot or parcel as detailed in the SWPPP and SWM plans of the VSMP Permit for the larger common plan of development.

"Board" means the Virginia State Water Control Board.

"Channel" means a natural or manmade waterway.

"Certificate of Competence" means a certificate of competence, issued to an individual from the Board, or successful completion, within one year after enrollment, of the Board's training program for

- i) project inspection for ESC;
- ii) project inspection for SWM;
- iii) plan review for ESC, or is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia;
- iv) plan review for SWM;
- v) program administration for ESC;
- vi) program administration for SWM; or
- vii) responsible land disturber, or is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

"Commencement of land disturbance" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g. stockpiling of soil fill material).

"Common plan of development" means the contiguous area of a proposed residential, commercial, or industrial subdivision where the timing of the development of any one or multiple lots or parcels may result in separate and distinct construction activities taking place at different times on different schedules.

"Control measure" means any best management practice or other method used to prevent or reduce the discharge of pollutants to surface waters.

"Department" means the Department of Environmental Quality.

"Design Storm" for purposes of addressing quantity control provisions of § 143-165(E) means the one-year, two-year, 10-year, 24 hour design storms as defined in § 143-145. The design storm for purposes of complying with the water quality provisions of § 143-165(C) is the one-inch rainfall depth as applied with the "Virginia Runoff Reduction Method" as identified by 9VAC25-870-65.

"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 VSMP Authority program administrator or assigned designee.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Erosion and Sediment Control (ESC) Plan" or "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.

"Erosion control handbook" means the Virginia Erosion and Sediment Control handbook and/ or a locally adopted erosion and sediment control handbook with such amendments, modifications and supplements as may, from time to time, be properly adopted.

"Erosion impact area" means 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 of 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" means any digging, scooping or other methods of removing earth materials.

"Filling" means any depositing or stockpiling of earth materials.

"Final stabilization" means that one of the following situations has occurred:

1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.

2. For individual lots in residential construction, final stabilization can occur by either:

- a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or

- b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.
3. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes, but is not limited to, the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include, but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset.

"Immediately" means as soon as practicable, but no later than that end of the next work day, following the day when the land-disturbing activities have temporarily or permanently ceased. In the context of this permit, "immediately" is used to define the deadline for initiating stabilization measures.

"Impaired waters" means surface waters identified as impaired on the 2010 § 305(b)/303(d) Water Quality Assessment Integrated Report.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Infeasible" means not technologically possible or not economically practicable and achievable in light of best industry practices.

"Initiation of stabilization activities" means:

1. Prepping the soil for vegetative or non-vegetative stabilization;
2. Applying mulch or other non-vegetative product to the exposed area;
3. Seeding or planting the exposed area;
4. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; or
5. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

"Inspection" means an on-site review of the project's compliance with the VSMP Authority Land-Disturbing Permit or VSMP Authority permit, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of this ordinance.

"Karst area" means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

"Karst features" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"Land disturbance" or "Land-disturbing activity" means any man-made change to the land surface that potentially changes its runoff characteristics, including, but not limited to clearing, grading, or excavation, except that the term shall not include those exemptions specified in § 62.1-44.15:34 and § 62.1-44.15:51, Code of Virginia and in this ordinance.

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

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

"Main channel" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Major modification" means, for the purposes of this chapter, the modification or amendment of an existing state permit before its expiration that is not a minor modification as defined in this regulation.

"Manmade" means constructed by man.

"Measurable storm event" means a storm event resulting in an actual discharge from the construction site.

"Minor modification" means, for the purposes of this chapter, minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40 CFR 122.63 and as specified in 9VAC25-870-640. Minor modification for the purposes of this chapter also means other modifications and amendments 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 state permit modification or amendment does not substantially alter state 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 channel design concepts" means the utilization of engineering analysis based on fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bank full storm event within its banks and allows larger flows to access its floodplain.

"Natural stream" means a tidal or non-tidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is 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; however, channels designed utilizing natural channel design concepts may be considered natural streams.

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

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" or "VSMP authority permit" means an approval to conduct a land-disturbing activity issued by the Frederick County Public Works Department, the permit-issuing VSMP authority, for the initiation of a land-disturbing activity after evidence of coverage under the General Permit for Discharges of Stormwater from Construction Activities found in (9VAC25-880 et seq.) of the Virginia Stormwater Management Program Regulations has been provided.

"Permittee" means the person to whom the Permit is issued.

"Person" means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Postdevelopment" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site.

"Predevelopment" refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the plan approval VSMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

"Prior developed lands" means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity.

"Regulations" means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870-10, et seq, as amended, and/or the Virginia Erosion and Sediment Control Regulations 9VAC25-840-10, et seq, as amended.

"Responsible land disturber" means an individual from the project or development team, who will be in charge and responsible for carrying out a land-disturbing activity covered by an agreement in lieu of a plan, when applicable, or an approved erosion and sediment control plan, who (i) holds a certificate of competence as a responsible land disturber, or (ii) holds a current certificate of competence from the Board in the area of

inspection, or (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Section 54.1-400 et seq. of Chapter 4 of Title 54.1 of the Code of Virginia.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Runoff characteristics" include maximum velocity, peak flow rate, volume, and flow duration.

"Runoff volume" means the volume of water that runs off the site from a prescribed design storm.

"Single-family residence" means a non-commercial dwelling that is occupied exclusively by one family.

"Site" means the land or water area where any facility or activity is physically located or conducted, a parcel of land being developed, or a designated area of a parcel in which the land development project is located.

"Site hydrology" means the movement of water on, across, through and off the site as determined by parameters including, but not limited to, soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

"State" means the Commonwealth of Virginia.

"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" 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 conveyance system" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;
2. "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or
3. "Restored stormwater conveyance system" means a stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

"Stormwater discharge associated with construction activity" means a discharge of stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

"Stormwater management 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 the velocity of flow.

"Stormwater management plan" means a document(s) containing material for describing methods for complying with the requirements of this ordinance and the VSMP Permit regulations.

"Stormwater management concept plan" means a document(s) developed at the preliminary plan, zoning, or other stage of the development process that establishes the initial layout of the development along with sufficient information to ensure that the final development stormwater management plan will comply with this ordinance.

"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. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, and/ or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan, and a Total Maximum Daily Load (TMDL) & Exceptional Waters (EW) Action Plan.

"Stormwater Pollution Prevention Plan Template" or "SWPPP Template" means a document intended to be used for single family residential construction land-disturbing activity that disturbs less than one acre of land and is part of a larger common plan of development to identify all applicable requirements of the SWPPP that was developed for the larger common plan of development.

"Subdivision" means the same as defined in the Frederick County Subdivision Ordinance (Chapter 144 of Frederick County, Virginia Code).

"Surface waters" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;

3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. That is used or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. That is used or could be used for industrial purposes by industries in interstate commerce.
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

"Total maximum daily load" or "TMDL" means the sum of the individual wasteload 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.

Virginia Erosion and Sediment Control Program (VESCP) land disturbance or VESCP 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, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
2. Individual service connections;
3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk that 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, 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 § 10.1-1163 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 of Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
9. Disturbed land areas of less than 10,000 square feet in size; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;
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 chapter 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.

“Virginia Stormwater Management Act” or “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 Handbook” means a collection of pertinent information that provides general guidance for compliance with the Act and associated regulations and is developed by the Department with advice from a stakeholder advisory committee.

“Virginia Stormwater Management Program” or “VSMP” means the program established by Frederick County and approved by the Board to manage the quality and quantity of runoff resulting from land-disturbing activities and includes Frederick County’s local

ordinance and requirements for plan review, inspection, enforcement, permit requirements, policies and guidelines, and technical materials.

“Virginia Stormwater Management Program authority” or “VSMP authority” means that the Board has determined that the VSMP ordinance adopted by Frederick County is consistent with the Virginia Stormwater Management Act (Article 2.3 (§62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Permit Regulations (9VAC25-870-10) including the General Permit for Discharges of Stormwater from Construction Activities (9VAC25-880 et seq.) and Frederick County is thereby authorized by the board to operate a Virginia Stormwater Management Program.

“Virginia Stormwater Management Program (VSMP) land disturbance” or “VSMP land-disturbing activity” means a manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include:

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 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 the Code of Virginia;
3. Single-family residences separately built and disturbing less than one 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 acre of land area except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance; however, the governing body of any locality that administers a VSMP may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;
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;

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 VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection A, including a registration statement that substantiates the occurrence of an emergency, is required within 30 days of commencing the land-disturbing activity.

"VSMP authority permit" means an approval to conduct a land-disturbing activity issued by Frederick County as the permit-issuing VSMP authority for the initiation of a land-disturbing activity after evidence of coverage under the General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 et seq.) of the Virginia Stormwater Management Program Regulations has been provided.

"VSMP Construction General Permit" or "Construction General Permit" means the General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 of the Virginia Stormwater Management Program Regulations.

"Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

§ 143-125 Permits Required and Exemptions

A. No person shall conduct a VESCP land-disturbing activity as defined in the § 143-110 until a Frederick County land disturbing permit has been obtained from the Administrator.

Reference: § 62.1-44.15:55

B. No person shall conduct a VSMP land disturbing activity as defined in the § 143-110 until a Frederick County land disturbing-permit as required in item A and a VSMP authority permit has been obtained from the Administrator.

Reference: § 62.1-44.15:34(A)

§ 143-130 Permit Application

- A. Prior to issuance of a Frederick County land disturbing permit for a VESCP land disturbing activity, the following items must be submitted in accordance with the provisions of this chapter and approved:
 - 1. Frederick County land disturbing permit application;
 - 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements applicable to a VESCP land disturbing activity;
 - 3. The performance bond(s) in compliance with § 143-240 and
 - 4. The applicable permit fee.

- B. Prior to issuance of a Frederick County VSMP permit for a VSMP land disturbing activity the following items must be submitted in accordance with the provisions of this chapter and approved:
 - 1. The requirements of land disturbing permit application of subsection A,
 - 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements applicable to a VSMP land disturbing activity,
 - 3. A VSMP Authority permit application / registration statement;
 - 4. All appropriate fees and
 - 5. Evidence of coverage under the state general permit for discharges from construction activities through the Virginia e-permitting system.

Reference: 9VAC25-870-59; 9VAC25-870-108; 9VAC25-870-750 (A)

- C. Prior to issuing coverage under an existing VSMP Authority permit for a land-disturbing activity within a common plan of development, the following items must be addressed:
 - 1. The requirements of a Frederick County land disturbing permit application; and
 - 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements applicable to a VSMP land disturbing activity, or when the area of disturbance is less than one acre, a SWPPP Template and a BMP Implementation Plan consistent with the BMP performance goals of the common plan of development.

- D. Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation and submission of plans, obtaining approval of the required plans, and obtaining all required permits shall be the responsibility of the owner of the land.

Reference: **Va. Code** § 62.1-44.15:34; 9VAC25-870-54; 9VAC25-870-108; 9VAC25-870-1170.

§ 143-145 Applicable Design Standards, Specifications and Methods

- A. The standards contained within the Virginia Erosion and Sediment Control Regulations (VESCR), the Virginia Erosion and Sediment Control Handbook (VESCH) (latest edition), the Virginia Stormwater Management Handbook (VSMH) (latest edition), and any additional guidance provided by the VSMP Authority are to be used by the applicant in the preparation and submission of an erosion and sediment control plan, and by the VSMP Authority in considering the adequacy of a plan submittal. When the standards vary between the publications, the state regulations shall take precedence.
- B. The latest approved version of BMPs found on the Virginia Stormwater BMP Clearinghouse Website shall be utilized to effectively reduce the pollutant load and runoff volume as required in this chapter in accordance with the Virginia Runoff Reduction Method.

Reference: 9VAC25-870-65

- C. The erosion and sediment control plan and stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface run-off.

Reference: 9VAC25-870-55 (A)

- D. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the development project as a whole. Individual lots or parcels shall not be considered separate development projects, but rather the entire subdivision shall be considered a single development project. Hydrologic parameters shall reflect the ultimate development and shall be used in all engineering calculations. Implementation of the plan may be phased or carried out by individual or separate applicants as referenced in § 143-130(C).

- E. Unless otherwise specified, the following shall apply to the hydrologic computations of this section:
 - 1. The prescribed design storms are the one-year, two-year, and 10-year 24-hour storms using the site-specific rainfall precipitation frequency data recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14 and provided in the VA SWM Handbook.
 - 2. All hydrologic analyses shall be based on the existing watershed characteristics and how the ultimate development condition of the subject project will be addressed.
 - 3. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20, hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers, or other NRCS standard

hydrologic and hydraulic methods, shall be used to conduct the analyses described in this part.

4. For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation.
5. Predevelopment and post development runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall be considered appropriate practices.
Reference: 9VAC25-870-72
6. All proposed sediment control or stormwater impounding structures shall be designed in accordance with State standards.

Reference: 9VAC25-870-85

§ 143-148 Grandfathering provisions

All provisions regarding grandfathering of projects shall be in accordance with 9VAC25-870-48.

§ 143-150 Stormwater Pollution Prevention Plan Components and Applicability

For each of the following activities as may be relevant, a Stormwater Pollution Prevention Plan (SWPPP) shall contain the indicated components:

- A. VESCP Land-Disturbing Activities:
 1. General SWPPP requirements as described in **§ 143-155; and**
 2. An erosion and sediment control (ESC) plan or if single family residential construction an agreement in lieu of an ESC plan as described in **§ 143-160;**
- B. VSMP Land-Disturbing Activities:
 1. General SWPPP requirements as described in **§ 143-155;**
 2. An ESC plan or if single family residential construction an agreement in lieu of an ESC plan as described in **§ 143-160;**
 3. A SWM plan as described in § 143-165; and
 4. A PP plan as described in § 143-175.
- C. VSMP Land-Disturbing Activities part of a larger Common Plan of Development shall include:
 1. General SWPPP requirements as described in **§ 143-155;**
 2. An ESC plan or if single family residential construction an agreement in lieu of an ESC plan as described in **§ 143-160;** and
 3. A SWM Plan as described in § 143-165, or if less than 1 acre, a *BMP Implementation Plan* or a completed SWPPP Template demonstrating

compliance with all applicable elements of the approved SWPPP developed for the larger common plan of development.

Reference: Va. Code § 62.1-44.15:34; 9VAC25-870-53; 9VAC25-870-54; 9VAC25-870-30.

§ 143-155 General Stormwater Pollution Prevention Plan (SWPPP) Requirements

- A. In addition to the applicable components as provided in § 143-150, a Stormwater Pollution Prevention Plan (SWPPP) shall include the following general requirements:
1. Contact information.
 2. The SWPPP Certification.
 3. The Operator Certification
 4. Certification of Compliance with all other applicable permits necessary for activities in state waters and wetlands or appropriate waivers of jurisdiction have been obtained.

- B. Prior to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of a Qualified Personnel to the Administrator. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in § 143-225.

Reference: Va. Code § 62.1-44.15.55 (B)

- C. The SWPPP must be maintained 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. The operator shall make SWPPP's and all updates available upon request to County personnel.

Reference: 9VAC25-870-54 (G)

- D. Prior to commencement of land disturbance, the operator shall maintain and post a copy of the land disturbing permit at a central location onsite.

§ 143-160. Erosion and Sediment Control (ESC) Plan Requirements

- A. As required in § 143-150, an erosion and sediment control plan shall be developed and referenced into the SWPPP.
- B. The erosion and sediment control plan shall be designed to control stormwater volume and velocity within the site to minimize soil erosion and to minimize sediment discharges from the site by incorporating the following performance goals to the maximum extent practicable:
1. The area of land disturbance at any one time shall be the minimum necessary to install and/or construct the proposed site improvements.
 2. The installation and/or construction of the proposed site improvements shall be phased to limit the duration of exposed soils to the minimum time needed to construct and/or install the improvements in the immediate vicinity of the disturbance.

3. The disturbance and/or compaction of the existing native soils shall be minimized by directing construction traffic, material stockpiling, and other activities to only those areas of the site that are designated for proposed infrastructure (buildings, roads, parking areas, etc.).
4. Disturbance of slopes 15% or steeper shall be avoided to the maximum extent practicable given the proposed site improvements. When disturbance of steep slopes is unavoidable, or the resulting grade of exposed soil is 15% or greater, the area shall be stabilized immediately with an approved soil stabilization matting.
5. Existing topsoil shall be preserved to the maximum extent practical.
6. The selection and design of erosion and sediment controls shall be based on the expected frequency, intensity, and duration of precipitation, and the corresponding expected volume of runoff and sediment erosion, sedimentation, and transport during the land-disturbing activity.
 - a. The volume and peak flow rate of runoff from the construction site should be estimated for the 2-year and/or 10-year design storms as required for the particular controls being considered using accepted NRCS hydrologic methods as described in the VESCH and the VSWMH, latest editions; and
 - b. The expected volume of sediment erosion, sedimentation, and transport during land-disturbing activities should be estimated considering the surface area, length, and slope of exposed soil, the soil horizons exposed by grading activities, and the range of soil particle sizes expected to be present.
7. Provide 50-foot natural vegetated buffers around surface waters, and direct stormwater to vegetated areas where feasible. Where infeasible, alternate practices that remove or filter sediment and maximize stormwater infiltration may be approved by Frederick County in accordance with state standards;
8. Sediment basins, when used in accordance with the requirements of the VESCH shall incorporate an outlet structure that discharges from the surface.

Reference: 9VAC25-870 Section IIA.2. b (4); 9VAC25-870-54.F

- C. When the land-disturbing activity is part of a larger common plan of development, the ESC plan shall demonstrate compliance with the approved SWPPP for the larger common plan of development, and shall contain the following: Information and/or statements demonstrating compliance with the minimum standards of the erosion and sediment control regulations of the Board (9VAC25-840).
 1. Compliance with the water quantity requirements of §§ 62.1-44.2 et seq. of the Code of Virginia shall be deemed to satisfy the requirements of 9VAC25-840-40.(19) (Minimum Standard 19 of the Virginia Erosion and Sediment Control Regulations).
 2. A statement by the permittee that all erosion and sediment control measures shall be maintained and that the permittee will inspect the erosion and sediment control measures at least once in every two-week period and within 48 hours following rainstorm events of 0.25 inches or greater during

construction to ensure continued compliance with the approved plan. Records of self-inspection shall be maintained on the site and available for review by county inspectors.

3. The location, dimensions, and other information as required ensuring the proper construction and maintenance of all temporary erosion and sediment controls necessary to comply with the provisions of this chapter.
4. Calculations for sediment traps, basins, outlet protection, etc. as applicable.
5. A sequence of construction and clear delineation of the initial areas of land disturbance necessary for installation of the initial erosion and sediment control measures such as earthen dams, dikes, and diversions. The areas of initial land disturbance shall be the minimum necessary for installation of the initial erosion and sediment control measures and the delineation should include all areas necessary for such installation, including stockpiles, borrow areas, and staging areas. The sequence should also include the stabilization of these areas *immediately* upon reaching final grade.
6. Clear delineation of the proposed areas of land disturbance and those areas to be protected from construction activity and traffic, including the following:
 - a. Minimize the disturbance of slopes 15% or greater; and
 - b. Minimize soil compaction and, unless infeasible, preserve topsoil.
7. Requirement that final stabilization of disturbed areas shall be initiated immediately upon reaching final grade on any portion of the site, and that temporary stabilization shall be initiated immediately upon areas that may not be at final grade but will remain dormant for longer than 14 days. Stabilization shall be applied within 7 days of initiating stabilization activities.
8. A comprehensive drainage plan including:
 - a. The existing and proposed drainage patterns on the site;
 - b. All contributing drainage areas to permanent stormwater practices and temporary sediment controls;
 - c. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains ;
 - d. Land cover such as forest meadow, and other vegetative areas;
 - e. Current land use including existing structures, roads, and locations of known utilities and easements;
 - f. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
 - 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 forest or reforestation, buffers, impervious cover, managed turf (lawns), and easements.
10. The location of any stormwater management practices and sequence of construction.
11. Temporary natural vegetated buffers in accordance with the requirements of the VSMP Construction General Permit. . These buffers shall be delineated on the ESC Plan and protected with accepted signage, safety fence, or other barrier.

- D. In lieu of the plan described in subsections A and B of this section, single family residential construction that is not part of a larger common plan of development, including additions or modifications to an existing single-family detached residential structures, may execute an ESC Agreement in Lieu of an Erosion and Sediment Control Plan with the Administrator.
- E. In lieu of the plan described in subsections A and B of this section, single family residential construction that disturbs less than 1 acre and is part of a larger common plan of development, may execute a SWPPP Template with the Administrator that demonstrates compliance with the practices and strategies identified for the lot or parcel in the larger common plan of development SWPPP.
- F. In regard to the erosion and sediment control minimum standards, the following changes are effective within Frederick County (references are to 9VAC25-840-40):
1. Subsection 6.b. Surface run-off from disturbed areas that are comprised of flow from drainage areas greater than or equal to three acres shall be controlled by a sediment basin. The minimum storage capacity of a sediment basin shall be 134 cubic yards per acre of drainage area. The outfall system shall, at a minimum, maintain the structural integrity of the basin during a 100-year-storm of twenty-four hour duration. Runoff coefficients used in runoff calculations shall correspond to a bare earth condition or those expected to exist while the sediment basin is utilized.
 2. Subsection 14 - Regulation of Watercourse Crossing - All applicable federal, state and local regulations pertaining to working in or crossing live watercourses shall be met. Prior to obtaining a land disturbance permit, copies of all applicable environmental permits, including but not limited to wetland disturbance, stream crossing, stormwater discharge permits, shall be submitted with the application.
 3. Subsection 17 - Vehicular Sediment Tracking - Where construction vehicle access routes intersect paved or public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto paved or public road surface; the road surface shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and transported to a sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner. This provision shall apply to individual development lots as well as to larger land-disturbing activities.
 4. In subdivisions, the owner/developer of the subdivision shall be responsible for compliance with the standard set forth in section 3 until the streets are taken into the Virginia Department of Transportation's Secondary Road System for maintenance, and the plan submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto subdivision streets does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction. In addition, if individual lots or sections in a subdivision are being developed by a different owner, such owner shall be jointly and severally responsible with the owner/developer of the subdivision for achieving compliance with this minimum standard, and the erosion and sediment control plan, or "agreement

- in lieu of a plan," submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto the applicable roads does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction.
5. The provision found in Subsection 19b (1) is deleted.
 6. In order to assure proper stormwater drainage and site stabilization, the following policies are hereby adopted concerning all development. Prior to release of building permits, the following infrastructure shall be completed and stabilized within the subdivision, subsection or phase as shown on the approved plan:
 - a. Stormwater conveyance systems, including but not limited to culverts, road surface, curb and gutter, stormwater structures, drainage swales and ditches, channel linings and all cleared areas shall be stabilized, etc.
 - b. Submittal of a certified as-built plan of the subdivision, subsection or phase, which includes but is not limited to stormwater conveyance systems, curb and gutter, drainage swales and ditches, stormwater/sediment ponds, graded areas, etc. A letter from the engineer-of-record shall be included with the as-built plan which states that the subdivision has been constructed in accordance with the approved plan.
 - c. A proposed overall lot grading plan is required by Frederick County prior to the release of building permit(s) for subdivisions. This plan shall meet the intent of the original site plan submitted by the developer. It is required that the developer provide the builder/owner a copy of the original engineered site grading plan for the particular subdivision.
 - d. It will be necessary to submit a certified as-built plan for all lots on which proposed lot grading plans were required. This certified as-built plan shall indicate the following: properly annotated boundary lines; setback lines; proposed house footprint; offsets to house; existing grading; spot shots as necessary to show positive drainage; proposed driveway; proposed floor elevation to include basement, first floor and garage; and erosion and sediment controls, if required. The as-built plan shall be accompanied by a document prepared by a professional engineer or a certified land surveyor certifying that the as-built conditions meet the intent of the approved site grading plan. The proposed lot grading plan and the as-built survey shall be submitted to the Public Works Department prior to release of the final certificate of occupancy.
 7. Before adopting or revising regulations, the County shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the County is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the County proposes or revises regulations that are more stringent than the state program.
 8. Pursuant to § 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The erosion control program of the County shall contain a certified

program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

9. The County hereby designates the Department of Public Works as the plan-approving authority.
10. The program and regulations provided for in this chapter shall be made available for public inspection at the office of the Department of Public Works.

§ 143-165 Stormwater Management (SWM) Plan Requirements

- A. As required in § 143-150, a stormwater management plan shall be developed and referenced into the SWPPP.
- B. In addition to the plan requirements outlined in § 143-155 and § 143-160, the stormwater management plan shall include the following:
 1. Verification of consistency, when applicable, with the approved SWM Concept plan required by the VSMP Authority.
 2. A general description of the proposed stormwater management facilities, including:
 - a. The type of stormwater facilities;
 - b. The location of stormwater facilities, including geographic coordinates;
 - c. The acres treated; and
 - d. The named surface waters to which the facility eventually drains;
 3. All necessary documentation and calculations supporting the design and construction of the proposed stormwater management structures, including sufficient details such as cross sections, profiles, dimensions, grades, and other information as needed to ensure that the BMP facilities are built in accordance with the approved plans and BMP Design Standards and Specifications;
 4. Runoff Reduction Method Compliance Spreadsheet Summary Sheet.
 5. A landscaping plan prepared by an individual familiar with the selection of appropriate vegetation for the particular BMP (emergent and upland vegetation for wetlands, woody and/or herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater management facilities, etc.). The landscaping plan must also describe the maintenance of vegetation at the site and what practices should be employed to ensure that adequate vegetative cover is preserved.
 6. Identification of all easements provided for inspection and maintenance of stormwater management facilities in accordance with specifications in the Stormwater Management Design Manuals and Frederick County requirements.
 7. When Applicable, a copy of the Frederick County *SWM BMP Operation and Maintenance Agreement* to be recorded in the local land records prior to plan approval. This may be submitted prior to plan approval.
 8. When stormwater facilities are proposed on individual residential lots, a copy of the proposed *Residential Lot BMP Inspection and Maintenance Agreement* to be signed by the property owner upon settlement. This may be submitted prior to plan approval.

9. If an applicant intends to meet the water quality requirements of subsection C of this section through the use of off-site compliance options, the a letter of availability from the off-site provider must be included, and the use of the off-site options shall be in accordance with the VSMP Regulations Offsite Compliance Options (9VAC25-870-69).
- C. Stormwater management (SWM) plans shall demonstrate compliance with the following:
 1. Stormwater runoff quality and runoff volume reduction criteria for new development. Reference: 9VAC25-870-63.
 2. Stormwater runoff quality criteria for development on prior developed lands. Reference: 9VAC25-870-63.
 3. Channel protection criteria. Reference: 9VAC25-870-66.
 4. Flood protection criteria. Reference: 9VAC25-870-66.
 5. Requirements for identifying, evaluating, and addressing increased volumes of sheet flow resulting from pervious or disconnected impervious areas or from physical spreading of concentrated flow through level spreaders. Reference: 9VAC25-870-66.
 - D. Prior to release of the stormwater plan surety bond, two (2) sets of the construction record drawing or as-built of permanent stormwater management facilities, also referred to as "as-built plans," in accordance with county requirements shall be submitted to the Administrator. The construction as-built 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, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. Reference: 9VAC25-870-108, 9VAC25-870-55 (D).
 - E. Single family residential construction that is less than one acre of disturbance and part of a larger common plan of development may execute and implement a BMP Implementation Plan as part of the SWPPP Template in order to demonstrate compliance with the practices and strategies identified in the larger common plan of development SWPPP.
 - F. Stormwater Management Facility Maintenance Agreements: Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance agreement that must be approved by the Administrator and recorded in the land records prior to issuance of a land-disturbing permit and contain the following provisions:
 1. A copy of the County Frederick County BMP Operation and Maintenance Agreement proposed for recordation in the local land records prior to plan approval to be signed by the property owner upon settlement shall be submitted with the plans. Reference: 9VAC25-870-112.
 2. Responsibility for the operation and maintenance of stormwater management facilities shall remain with the property owner or an owner's association and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the responsibility to successors in title. Reference: 9VAC25-870-112.

3. Maintenance agreements shall be in accordance with the Frederick County requirements (BMP Inspection & Maintenance Program) and provide for all necessary access for inspections. Reference: Va. Code § 62.1-44.15:39; 9VAC25-870-112.
4. Except as provided in item 5 below, maintenance agreements shall be enforceable (by the Administrator). Reference: 9VAC25-870-112.
5. Individual on-lot stormwater facilities that are designed to primarily manage the runoff from the individual residential lot on which they are located require a County Residential Lot BMP Inspection & Maintenance Agreement acknowledging the presence, purpose, location, and basic maintenance requirements for the particular BMP facilities in accordance with County requirements. Reference: 9VAC25-870-112.

§ 143-175 Pollution Prevention (PP) Plan

- A. A Pollution Prevention (PP) plan is required for all VSMP Land-Disturbing Activities as required in § 143-125, and shall be developed for incorporation into the SWPPP.
- B. The pollution prevention plan shall be developed in accordance with the Frederick County VSMP Manual to minimize the discharge of pollutants and the exposure of materials to stormwater, and prohibit illicit discharges from construction activities.
- C. The PP plan shall be implemented and updated as outlined in § 143-205 (C) and the Frederick County VSMP Manual (if adopted) as necessary throughout all phases of the land-disturbing activity to implement appropriate pollution prevention measures applicable to construction activities.

Reference: 9VAC25 870-56. Pollution prevention plans.

§ 143-185 Review and Approval of Plans

- A. Upon receipt of an application for a land-disturbing permit and accompanying plans as required by § 143-150, the Administrator shall determine the completeness of the application and notify the applicant within **15** calendar days if the submittal is considered incomplete.
- B. Once the applicant has been notified of a complete submittal, the Administrator shall have an additional **60** calendar days from the date of the communication for the review of the plans to determine compliance with the requirements of this ordinance, and to communicate to the applicant the approval or disapproval of the plans.
- C. If a determination of completeness is not made and communicated to the applicant within the **15** calendar days, the plans shall be deemed complete as of the date of submission and a total of **60** calendar days from the date of submission shall be allowed for the review of the plans.
- D. If the plans are not approved, the reasons for not approving the plans shall be provided in writing to the applicant.

- E. The Administrator shall review within **45** calendar days of the date of resubmission any plans that have been previously disapproved.
- F. Unless otherwise indicated in the application, electronic communication shall be considered communication in writing.

Reference: Va. Code §62.1-44.15:55(B); §62.1-44.15:34(A); 9VAC25-870-55 (B); 9VAC25-870-108.

§ 143-190 Pre-Construction Meeting Required

No land-disturbing activities shall commence until a Pre-Construction Meeting between the Administrator and the applicant, and the individual responsible for carrying out the plan, has been conducted. The applicant shall notify the Administrator in advance to schedule the meeting on-site.

§ 143-195 Issuance, Time Limit, Modification, Maintenance, Transfer and/or Termination of the Frederick County Land-Disturbing Permit and the VSMP Authority Permit

- A. Permit Issuance: Once the requirements for obtaining a Frederick County Land-Disturbing Permit and coverage under the state general permit for discharges from construction activity (if applicable) have been met, including the receipt or verification of payment of all required permit fees in accordance with the fee schedule of **§ 143-235**, the Administrator will issue a Frederick County Land-Disturbing Permit and a VSMP Authority permit.
- B. No transfer, assignment, or sale of the rights granted by virtue of a Frederick County Land-Disturbing Permit shall be made unless a written notice of transfer and corresponding permit modification fee is filed with the Administrator and the transferee certifies agreement to comply with all obligations and conditions of the permit. The Administrator may require modification or revocation and reissuance of the VSMP Authority Permit to change the name of the permittee and incorporate such other requirements as may be necessary for the transfer.
- C. If land-disturbing activity has not commenced within 180 days of land-disturbing or VSMP Authority permit issuance or cease for more than 180 days, the Administrator may evaluate the existing approved ESC plan to determine whether the plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. If the previously filed ESC plan is determined to be inadequate a modified plan shall be submitted and approved prior to the resumption of land-disturbing activity.-

Reference: 9VAC25-840-80-(B).

- D. VSMP Authority Permits are effective for a fixed permit cycle of 5 years. Activities requiring a VSMP permit may obtain coverage at any time during the 5-year permit cycle and must be renewed if the permit has not been terminated prior to the end of the cycle. The annual permit maintenance fees in **§ 143-235** apply until the permit coverage is terminated or renewed.
- E. Land-disturbing activities for which VSMP Permit coverage was issued between July 1, 2009 and June 30, 2014 for that permit cycle may remain subject to the

technical criteria of Part II C of the Virginia Stormwater Regulations for two additional permit cycles provided coverage under the original VSMP Permit is maintained. After two permit cycles have passed, or should the original VSMP Permit coverage not be maintained, portions of the project not under construction shall become subject to any new technical criteria adopted by the VSMP Authority after the original VSMP Permit coverage was issued.

- F. Land-disturbing activities for which VSMP Permit coverage was issued between July 1, 2009 and June 30, 2014 for that permit cycle may elect to modify the permit by paying the appropriate permit modification fee and request approval for compliance with the technical criteria of Part II B for any remaining portions of the project.

Reference: Va. Code §62.1-44.15:24; 9VAC25-870-47.

§ 143-200 Variances/Exceptions

- A. Frederick County may grant exceptions or modify the ESC requirements of land-disturbing activities if the requirements 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 from the requirements of an erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed 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 Administrator. The Administrator shall respond in writing either approving or disapproving such a request. If the Administrator does not approve a variance within 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 Administrator 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.
- B. The Administrator may grant exceptions to the Technical Criteria of **§ 143-165: SWM Plan Requirements**. An exception may be granted provided that:
 - 1. the exception is the minimum necessary to afford relief,
 - 2. reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of this chapter is preserved,
 - 3. granting the exception will not confer any special privileges that are denied in other similar circumstances,
 - 4. exception requests are not based upon conditions or circumstances that are self-imposed or self-created, and
 - 5. economic hardship alone is not sufficient reason to grant an exception from these requirements.
- C. Under no circumstance shall an exception to the requirement that the land-disturbing activity obtain required VSMP permits be granted, nor shall the use of

a BMP not found on the Virginia Stormwater BMP Clearinghouse Website be approved.

- D. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options available as described in **§ 143-165 (B)(9)** have been considered and found not available.

Reference: 9VAC25-840; 9VAC25-870-122

§ 143-205 Amendments to Approved Plans

- A. Amendments to an approved ESC plan may be made once the proposed change has been agreed to by the Administrator and the person responsible for carrying out the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
2. Where the person responsible for carrying out the approved plan demonstrates that because of changed circumstances or for other reasons the approved plan cannot effectively be carried out, and proposed amendments to the plan are consistent with the requirements of this article.

Reference: Va. Code § 62.1-44.15:55 (C).

- B. Amendments to an approved SWM Plan may be made only after review and written approval by the Administrator. An approved plan may be modified in accordance with the following:

1. The person responsible for carrying out the approved plan demonstrates in writing to the Administrator that because of changed circumstances or for other reasons the approved plan cannot effectively be carried out, and has proposed amendments to the plan with all necessary calculations and documents consistent with the requirements of this chapter (refer to **§ 143-165**).
2. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such requests.
3. Based on an inspection, the Administrator may require amendments to the approved stormwater management plan to address any deficiencies within a time frame set by the Administrator.

Reference: 9VAC25-870-108

- C. Amendments to an approved PP Plan may be required in order to reflect changes in the implementation of an approved ESC or SWM Plan. In addition to the requirements of subsection A and B of this section, the site operator shall document the implementation of the provisions of the PP as follows:

1. The operator shall amend the PP whenever there is a change in design, construction, operation, or maintenance that may have a significant effect on the discharge of pollutants from the construction activity and that has not been previously addressed in the PP.
2. The PP must be amended if during inspections or investigations by the operator's qualified personnel, or by the Administrator, state or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in stormwater discharges from the construction site.

3. Where revisions to the PP include additional or modified control measures designed to correct problems identified, and where such revisions to the PP require the Administrator's approval, the additional control measures shall be completed within seven calendar days of approval or prior to the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, the situation shall be documented in the PP and alternative control measures shall be implemented as soon as practicable.
4. Revisions to the PP must be dated and signed in accordance with Section III of the VSMP permit. Changes to any component of an approved SWPPP with VSMP Permit coverage that result in changes to stormwater management plans or that require additional review by the Administrator shall be subject to permit modification fees set out in § 143-235.

§ 143-210 Monitoring and Inspections during Land-Disturbing Activities

All erosion and sediment control measures must be periodically inspected by the individual responsible for carrying out the plan and/or the operator and properly maintained in effective operating condition in accordance with the approved plans and the VESCH. If site inspections identify control measures that are not operating effectively, maintenance shall be performed as soon as practicable to maintain the continued effectiveness of stormwater controls.

Reference: Va. Code §62.1-44.15:58-(A); 9VAC25-840-60.

- A. The VSMP Authority will inspect all regulated land-disturbing activities to ensure compliance with the approved ESC Plan in accordance with the County and state requirements. The owner, permittee or person responsible for carrying out the plan or agreement may be given notice of the inspection.

Reference: Va. Code § 62.1-44.15:58.

- B. The County requires that stormwater management facilities are inspected and the construction of such facilities are certified in accordance with sub-section D of § 143-210. The VSMP Authority may also inspect the construction of permanent stormwater management facilities at critical stages of construction and in accordance with the Virginia BMP Design Specifications to ensure compliance with the approved plans.

Reference: Va. Code § 62.1-44.15:37.

- C. The right-of-entry for the VSMP Authority to conduct such inspections shall be expressly reserved in the permit. The permit holder, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.

Reference: § 62.1-44.15:39 Right of entry.

- D. The County will accept the submittal of inspection reports certifying that the stormwater management facilities are being constructed in accordance with the approved plan conducted by:
 1. a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia;
 2. a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or

3. a person who holds a certificate of competence in Stormwater Inspection from the Board.

Reference: Va. Code § 62.1-44.15:37.

E. The VSMP Authority will inspect all regulated land-disturbing activities covered by a VSMP Authority Permit to ensure the operator is conducting and documenting the operator inspections as required by the County and is appropriately updating the PP plan as required by the County. The owner, permittee or person responsible for carrying out the plan or agreement may be given notice of the inspection.

Reference: A, B, & C above; 9VAC25-870-114-(A);

F. All land-disturbing activities covered by a VSMP Permit shall be inspected by the operator in accordance with the requirements of the County. The operator shall maintain records of inspections and maintenance in order to determine whether the measures required in the ESC plan are effective in controlling erosion and sedimentation and to ensure compliance with the approved plan. Records shall be made available to the Administrator or the VSMP Authority inspector upon request.

G. Prior to the release of any performance bonds or termination of the VSMP Authority Permit, the applicant shall submit the required as-built drawings for the stormwater management facilities as described in § 143-165;

Reference: 9VAC25-870-108.

§ 143-215 Monitoring and Inspections of Permanent Stormwater Management Facilities

A. Owners of stormwater management facilities shall be responsible for conducting inspections and performing maintenance in accordance with the recorded Stormwater BMP Maintenance Agreement as described in § 143-165 and in accordance with county requirements. **Reference:** 9VAC25-870-112.

B. The Administrator will ensure that all stormwater management facilities are being inspected and maintained according to the following:

1. The Administrator shall track the 5-year frequency comprehensive inspection report submittals as required by the recorded maintenance agreement and in accordance with County requirements. The Administrator shall conduct maintenance inspections at a minimum of once every 5 years for certain BMPs as defined by County requirements.

2. The right-of-entry for the Administrator to conduct such inspections shall be expressly reserved in the Maintenance Agreements. The owner, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.

C. The Administrator shall notify the property owner or owner's association in writing in accordance with § 143-225(A)(1) to the address as identified in the SWM BMP Inspection and Maintenance Agreement when a determination has been made that the stormwater management facility is in disrepair or is not functioning as intended. The notice shall specify the measures needed to comply with the approved maintenance plan and shall specify the time within which such

measures shall be completed. If the responsible party fails to perform such maintenance and repair, the county shall have the authority to initiate enforcement action in accordance with **§ 143-225 (D)**, and perform the work and recover the costs from the responsible party.

§ 143-225 Enforcement

- A. If, during inspections at any stage of the land-disturbing activity, the Administrator determines that the operator has failed to comply with the approved plan, including but not limited to failure to install or properly install stormwater BMP facilities or erosion and sediment controls, the Administrator shall serve notice upon the permittee or person responsible for carrying out the permit conditions as follows:
1. A Notice to Comply shall be sent as follows:
 - a. Certified mail, return receipt requested, sent to the address specified by the owner or permittee in his application or plan certification; or
 - b. Delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.
 2. The notice shall specify the measures necessary to comply with the plan or agreement in lieu of a plan and shall specify the time within which such measures shall be completed.
 3. Stop Work Order:
 - a. If a permittee fails to comply with a notice to comply issued in accordance with paragraph 1 within the time specified, the Administrator may issue an order requiring the owner, permittee, or person responsible for carrying out the approved plan, to cease all land-disturbing activities until the violation of the permit has ceased or the specified corrective actions have been taken. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the registration statement, or by personal delivery by an agent of the VSMP authority or Department.
 - b. In addition to the cessation of all land-disturbing activities as described in item a above, the permittee may also be subject having the VSMP Authority permit revoked; and furthermore, he shall be deemed to be in violation of this ordinance and, upon conviction or adjudication of violation, shall be subject to the penalties as provided in the Code of Virginia **or** by this ordinance.
Reference: Va. Code §62.1-44.15:63-; §62.1-44.15:48.
 - c. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in surface waters within the watersheds of the state, or where the land-disturbing activities have commenced without an approved plan, agreement in lieu of a plan or any required permits, such an order may be issued without regard to whether or not the owner or permittee has been issued a notice to comply.
- B. If, at any stage of the land-disturbing activity, the VSMP Authority determines that the physical conditions on the site are not as stated or shown on the approved

erosion and sediment control plan or stormwater management plan, or the county determines that the storm drainage system or stormwater management facility is inadequate or not constructed as shown on the approved stormwater management final plan, the VSMP Authority may refuse to approve further work and the county may revoke existing permits or approvals until a revised stormwater management final plan has been submitted and approved.

C. Commencing Land-Disturbing Activities without an Approved Plan or a Permit

1. If land-disturbing activities have commenced without an approved plan, agreement in lieu of a plan, or a VSMP Authority Permit where required, a stop work order may be issued requiring that all land-disturbing activities be stopped until an approved plan, an agreement in lieu of a plan or any required permits are obtained.
2. The stop work order shall remain in effect for a period of seven calendar days from the date of service pending application by the Administrator or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation is alleged to have occurred. If the alleged violator has not obtained an approved plan, agreement in lieu of a plan or any required permits within seven days from the date of service of the order, the director 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 plan, agreement in lieu of a plan or any required permits have been obtained. The order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county.
3. The owner may appeal the issuance of an order to the circuit court.

D. Maintenance of permanent stormwater facilities

1. If during periodic inspections to ensure that stormwater management facilities are being adequately maintained as designed, the VSMP Authority identifies operational deficiencies and/or determines that the owner of the stormwater management facility has failed to perform maintenance or conduct maintenance inspections in accordance with the recorded SWM BMP Maintenance and Inspection agreement, the VSMP Authority shall notify the person or organization responsible for carrying out the requirements of the agreement. The notice shall specify the deficiencies, the corrective actions required to restore the facility, and the time frame within which the corrective actions shall be completed.
2. If the individual or organization fails to comply with the notice within the time specified, the VSMP Authority may initiate informal and/or formal administrative enforcement procedures including but not limited to directives issued by the Board in accordance with Va. Code § 62.1-44.15:25, or civil or criminal penalties in accordance with this ordinance and Va. Code §§ 62.1-44.15:48 and 62.1-44.15:63.

E. 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 VSMP Authority or any provisions of this chapter may be compelled in a proceeding instituted in any appropriate court by the VSMP Authority to obey same and to comply therewith by injunction, mandamus or

other appropriate remedy. Nothing in this section shall prevent the VSMP Authority from taking additional enforcement action permitted by state law.

- F. Any person who violates any provision of this chapter or of any regulations or ordinances, or standards and specifications adopted or approved hereunder, including those adopted pursuant to the a VSMP permit, or who fails, neglects or refuses to comply with any order of the VSMP Authority, the Department, the Board, or court, other than any violation that relates solely to the erosion and sediment control requirements of any of the foregoing, 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.

Reference: § 62.1-44.15:48 of the Code of Virginia.

1. Violations for which a penalty may be imposed under this subsection shall include but not be limited to the following:
 - a. no permit registration,
 - b. no SWPPP,
 - c. incomplete SWPPP;
 - d. SWPPP not available for review;
 - e. failure to install stormwater BMP
 - f. stormwater BMP facilities improperly installed or maintained;
 - g. operational deficiencies;
 - h. failure to conduct required inspections;
 - i. incomplete, improper, or missed inspections; and
 - j. Discharges not in compliance with the requirements of the VSMP Construction 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 Frederick County shall be paid into the treasury of the Frederick County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of Frederick County and abating environmental pollution therein in such manner as the court may, by order, direct.
- G. Notwithstanding any other civil or equitable remedy provided by this section, any person who willfully or negligently violates any provision of this chapter, any order of Frederick County or the Department, any condition of a permit, or any order of a court, other than any violation that relates solely to the erosion and sediment control requirements of any of the foregoing, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$32,500, either or both.
- H. Notwithstanding any other civil or equitable remedy provided by this section, any person who violates any provision of this chapter, any order of Frederick County or the Department, any condition of a permit, or any order of a court relating to the erosion and sediment control requirements of any of the foregoing shall be

guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

Reference: Va. Code § 62.1-44.15:63. § 62.1-44.15;48.

§ 143-230 Hearings

Any person subject to the Frederick County Land-Disturbing Permit or VSMP Authority Permit requirements aggrieved by any action of the Administrator taken without a formal hearing, or by inaction of the VSMP Authority may demand in writing a formal hearing by the VSMP Authority, provided a petition requesting such hearing is filed with the VSMP Authority within 30 days after notice of such action. Any hearings conducted by the VSMP Authority shall be in accordance with § 62.1-44.15:44 of the Code of Virginia.

Reference: § 62.1-44.15:44 *Right to hearing.*

§ 143-235 Fees

- A. The fee for the Frederick County Land-Disturbing Permit and fees for coverage under the VSMP Authority Permit shall be imposed in accordance with Table 1. When a site or sites have been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1.

Reference: Part XIII of the VSMP Regulations

Table 1: Fees for coverage under the VSMP Construction General Permit

Type of Permit	Total Fee Paid by Applicant	Portion to be Paid to DEQ
VESCP permit fee if VSMP permit not required	\$290	\$0
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$290	\$0
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$2,700	\$756
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$4,500	\$1,260
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688

- B. Fees for the modification or transfer of coverage under the VSMP Construction *General Permit* issued by the Administrator shall be imposed in accordance with Table 2. If the permit modifications result in changes to stormwater management plans that require additional review by the Administrator, such reviews shall be subject to the fees set out in Table 2 based on the total disturbed acreage of the site. Modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in Table 1.

Table 2: Fees for the modification or transfer of registration statements for the VSMP Authority Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$20
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$200
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

C. Permit maintenance fees. (9VAC25-870-830):

1. The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the VSMP Authority Permit, these fees shall apply until the permit coverage is terminated.
2. VSMP Authority Permit coverage maintenance fees shall be paid annually to the VSMP Authority, by the anniversary date of VSMP Authority General Permit coverage, in accordance with Table 3. No VSMP Authority permit will be reissued or automatically continued without payment of the required fee. VSMP Authority permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

Table 3: VSMP Authority Permit Maintenance Fees

Type of Permit	Fee Amount
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$50
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$400
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$1,400

- D. The fees set forth in subsections A-C, above, shall apply to:
1. All persons seeking coverage under the VSMP Authority Permit.
 2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a VSMP Authority Permit.
 3. Persons whose coverage under the VSMP Authority Permit has been revoked shall reapply for an Individual Permit for Discharges of Stormwater from Construction Activities.
 4. Permit and permit coverage maintenance fees outlined under Section may apply to each VSMP Authority Permit holder.
- E. No VSMP Authority Permit application fees will be assessed to Permittees whose permits are modified or amended at the initiative of the VSMP Authority, excluding errors in the registration statement identified by the Director or errors related to the acreage of the site.
- F. All incomplete VSMP permit fee payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete permit fee payments. Interest may be charged for late permit fee payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The Administrator shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

§ 143-240 Performance Bonds

- A. Prior to the issuance of any land-disturbing permit, the owner or permittee shall execute and file with the Administrator a Frederick County *Erosion and Sediment Control and Stormwater Management Performance Agreement* and cash escrow or irrevocable letter of credit (or other form of a performance bond as approved by the Frederick County Attorney) in an amount determined in accordance with the *Frederick County Bond Estimate Worksheet* which shall be equal to the approximate total cost of providing erosion and sediment control and stormwater quality and quantity improvements as required by this ordinance and shown on the approved plans.
- B. The Frederick County Erosion and Sediment Control and Stormwater Management Performance Agreement and performance bond is to ensure that measures could be taken by Frederick County at the applicant's expense should he fail, after proper notice as outlined in § 143-225, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land-disturbing activity. If Frederick County takes such action upon such failure by the applicant, Frederick County 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.
- C. Upon successful completion of the land-disturbing activity, to include submittal of the construction as-built drawings of permanent stormwater management facilities described in § 143-165 and prior to termination of the VSMP Permit, the owner or permittee must provide written notification to Frederick County. Upon verification of adequate stabilization of land disturbing activity in the project or any section thereof, the director shall reduce, return, or terminate the required bond, cash escrow or irrevocable letter of credit to the owner, as the case may be, within 60 days.
- D. If the applicant/owner fails to comply with the approved SWPPP as documented through the site inspections described in § 143-210, and after proper notification, the Administrator may determine that the performance bond or escrow may be used to execute the plan.

Reference: §62.1-44.15:34; 9VAC25-870-104 (D).

M



BOARD OF SUPERVISORS

RESOLUTION FISCAL YEAR 2013-2014 BUDGET AMENDMENT

WHEREAS, Pursuant to Section 15.2-2507 of the *Code of Virginia*, 1950, as Amended, the Frederick County Board of Supervisors, meeting in regular session and public hearing held on January 8, 2014, took the following action:

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors that the FY 2013-2014 Budget be Amended to Reflect:

School Construction Fund Supplemental Appropriation in the Amount of \$45.5 Million for Replacement Frederick County Middle School. This Project is Nearing the Point to Seek Solicitation for Construction Bids and is the Remaining Appropriation Amount Needed for the Replacement Frederick County Middle School Project.

Upon motion made by _____ and seconded by _____, the above was approved by the following recorded vote:

Richard C. Shickle	_____	Robert A. Hess	_____
Charles S. DeHaven, Jr.	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Christopher E. Collins	_____
Gary A. Lofton	_____		

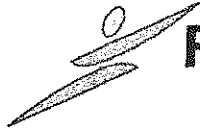
A COPY TESTE:

John R. Riley, Jr.
Clerk, Board of Supervisors
County of Frederick, Virginia

Attachment

Res. No. 032-14

Original: Cheryl B. Shiffler, Finance Director
cc: C. William Orndoff, Jr., Treasurer
Dr. David Sovine, Superintendent, Frederick County Schools
Lisa Frye, Finance Director, Frederick County Schools



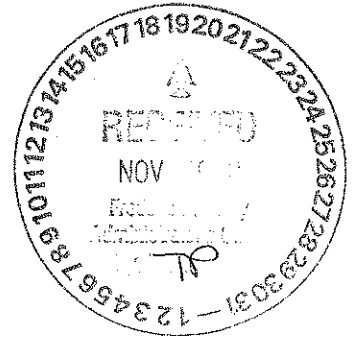
Frederick County Public Schools

... to ensure all students an excellent education

Executive Director of Finance

fryel@frederick.k12.va.us

DATE: November 19, 2013
TO: Cheryl Shiffler, Director of Finance – County of Frederick
FROM: Lisa K. Frye, Executive Director of Finance - FCPS *Lisa K. Frye*
SUBJECT: FY14 Budget Adjustment – School Construction Fund



At their meeting, November 18, 2013, the School Board approved the following budget adjustment, subject to approval by the Board of Supervisors.

Requested Action:

FY2014 School Construction Fund budget adjustment in the amount of \$45,500,000, which is the remaining appropriation needed for the replacement Frederick County Middle School

Background:

The estimated total project cost of the replacement Frederick County Middle School at the Route 522 North site is \$49,500,000. This estimate encompasses the components for the turnkey project including land, design, engineering, site improvement, construction, equipment, and furnishings. The project is targeted for completion by mid-2016.

The project currently has \$4,000,000 appropriated for initial project costs. The School Board procured land adjacent to Gainesboro Elementary School, proceeded with design, and is nearing the point to seek solicitation for construction bids. Appropriation of the remaining estimated project cost is requested, which is \$45,500,000.

It is requested consideration of this budget adjustment be placed on the agenda for the December 11, 2013 meeting of the Board of Supervisors, at which time a public hearing and subsequent action could be set for January 8, 2014.

Thank you.

C: David T. Sovine, Superintendent
John R. Riley, County Administrator

N



ORDINANCE
January 8, 2014

The Board of Supervisors of Frederick County, Virginia hereby ordains that the Ordinance Creating the Industrial Development Authority of the County of Frederick, Virginia, adopted by the Board of Supervisors of Frederick County, Virginia on October 24, 1967, be, and the same hereby is, amended as follows, effective immediately:

(1) The name of the Authority is changed from the Industrial Development Authority of the County of Frederick, Virginia to the Economic Development Authority of the County of Frederick, Virginia.

(2) The Authority shall continue to have all of the powers set forth in Chapter 49 of Title 15.2 of the Code of Virginia, 1950, as amended.

Enacted this 8th day of January, 2014.

Richard C. Shickle, Chairman _____

Gary A. Lofton _____

Robert A. Hess _____

Robert W. Wells _____

Christopher E. Collins _____

Gene E. Fisher _____

Charles S. DeHaven, Jr. _____

A COPY ATTEST

John R. Riley, Jr.
Frederick County Administrator