



MINUTES

**BEDFORD COUNTY BOARD OF SUPERVISORS**

BEDFORD COUNTY ADMINISTRATION BUILDING

JUNE 9, 2014

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**5:00 P.M. WORK SESSION**

- a. Discussion regarding FY2014-15 Budget

**6:45 P.M. Dinner**

**7:30 P.M. WELCOME**

- a. Moment of Silence  
b. Pledge of Allegiance

**(1) APPROVAL OF AGENDA**

**(2) FIFTEEN MINUTE CITIZEN COMMENT PERIOD**

**(3) APPROVAL OF CONSENT AGENDA**

- a. Consideration of a request for Supplemental Appropriations for the Federal Forfeited Asset account, State Forfeited Asset Sharing account, Montvale Park, Moneta Recreation Park, Stroosbants Park and Falling Creek Park (*Resolution #R060914-01*)
- b. Consideration of a request for authorization to advertize a Public Hearing for Nursing Home Room Rates. (*Resolution #R060914-02*)
- c. Consideration of a request for a Supplemental Appropriation for Revenue Sharing Road Projects. (*Resolution #R060914-03*)
- d. Consideration of a request for approval of the School Board VRS Rate Certification. (*Resolution #r060914-04*)

**(4) APPROVAL OF MINUTES – April 14, 2014**

**(5) PUBLIC HEARINGS / PUBLIC APPEARANCES**

- ~~a. Presentation by Delegate Terry Austin of General Assembly Resolutions Commending Hubert F. Fitzgerald, Jr. and Clyde Roberts~~ **cancelled**

- b. Joint Public Hearing with the Planning Commission regarding a proposed zoning ordinance text amendment for “commercial feedlots” (*Ordinance #O 060914-05*)
  - *Staff Presentation: Brad Robinson*
- c. Public Hearing regarding an ordinance to amend Chapter 7 “Erosion and Sediment Control”; specifically to rename the Chapter “Environmental”, to amend Article I “Erosion and Sediment Control” and to add Article II “Stormwater Management”. (*Ordinance #O 060914-06*)
  - *Staff Presentation: Carl Boggess, County Attorney*

**(6) ACTION ITEMS**

- a. Consideration of a request to adopt the FY2014-15 Budget (*Resolution #R060914-07*)
  - *Staff Presentation: Mark K. Reeter, County Administrator*
- b. Consideration of a request for approval of School Board Re-appropriation, Supplemental and Category Transfer Requests (*Resolution #R060914-08, R060914-09, R060914-10 and R060914-11*)
  - *Staff Presentation: Susan Crawford, Director of Fiscal Management*
- c. Consideration of a request for approval of a Tower Lease for Region 2000 (*Resolution #R060914-12*)
  - *Staff Presentation: Carl Boggess, County Attorney*
- d. Transfer of Responsibility from County Administration of Comprehensive Services Act and the Department of Youth and Family Services to the Department of Social Services. (*Resolution #R060914-13*)
  - *Staff Presentation: Mark K. Reeter, County Administrator*

**(7) BOARD COMMENTS, COMMITTEE REPORTS, REQUESTS AND RECOMMENDATIONS**

- a. Planning Commission meeting minutes from April 15, 2014
- b. Bedford Public Library Board of Trustees meeting minutes from May 6, 2014
- c. Bedford Regional Water Authority meeting minutes from April 15, 2014

**(8) APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

- a. Reminder - Appointments are needed for the Recreation Advisory Board for Districts 4, 5 and 7

**(9) COUNTY ATTORNEY REPORTS, REQUESTS AND RECOMMENDATIONS**

**(10) COUNTY ADMINISTRATOR’S REPORTS, REQUESTS AND RECOMMENDATIONS**

**(11) PENDING MATTERS**

**(12) UPCOMING MEETINGS**

- June 23<sup>rd</sup> – Regular Meeting at 7:30 p.m. (*tentative* - work session from 5:00 to 6:45 p.m.)
- July 14<sup>th</sup> – Regular Meeting at 7:30 p.m. (work session from 5:00 to 6:45 p.m.)
- July 28<sup>th</sup> – Regular Meeting at 7:30 p.m.

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**5:00 P.M. – WORK SESSION**

**Board of Supervisors:** John Sharp, Chairman – District 4; Tammy Parker, Vice-Chairman, District 7; Bill Thomasson, District 1; Curry Martin, District 2; Steve Wilkerson, District 3; \*Steve Arrington, District 5; and Annie Pollard, District 6

***\*Absent from the Work Session***

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**Staff Present:** Mark K. Reeter, Frank J. Rogers, Carl Boggess, Susan Crawford, Ashley Dorcsis, Traci Blido and Brigitte Lockett

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**School Division Staff Present:** Randy Hagler and Doug Schuch

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Chairman Sharp called the Board of Supervisors to order and turned the meeting over to County Administrator Mark Reeter and Deputy County Administrator Frank Rogers for a recap of the FY2014-15 budget situation before final adoption.

Mr. Rogers reviewed a handout with the Board, beginning with the General Fund Summary. He stated that the total General Fund Revenue is \$89,337,592.00, which captures the revenues that were discussed throughout the budget process as well as additional revenue generated from the adopted tax increase. He said that on the Expenditure side General Government Administration is at approximately \$3.7 million; Judicial Administration is at just over \$2 million; Public Safety is just over \$16.5 million; Public Works is slightly under \$4.5 million; Health, Welfare and Education is at \$10.3 million; Recreation and Cultural is just under \$3 million; and Community Development is just over \$3 million. He also reviewed non-departmental expenditures such as vehicles, Solid Waste expansion reserves, etc., and noted that after tweaking the health insurance numbers money would not need to be taken from the Contingency Fund to balance the budget. Mr. Rogers said that Expenditures total \$89,174,323.00.

In response to a question from Chairman Sharp, Mr. Rogers stated that due to the timing of the process the budget is based on revenue estimates before the real estate book is run by the Commissioner of the Revenue's office. Once the book is run it is compared to the revenue estimate, which sometimes results in a difference. This year the difference was \$163,000.00.

Fiscal Management Director Susan Crawford continued the budget review, explaining that, based on direction from the Board, \$500,000.00 from the tax increase has been directed towards emergency apparatus; \$500,000.00 is in reserve for Solid Waste; and \$530,000.00 is in reserve for school debt

service. She noted that the Tri-County Lake Administration Commission (TLAC) budget allocation contained more than TLAC requested, and suggested moving the excess to the Contingency Fund. Ms. Crawford noted that the E911 Coordinator and the Garage Supervisor positions will not be refilled, and recommended setting aside \$60,000.00 for costs that may be associated with implementation of the radios; the remainder would go to the Contingency Fund. She said staff is suggesting leaving half of the Garage Supervisor funds in the Central Garage, while moving the other half to the Contingency Fund. She said the remaining funds available come to \$163,269.00. There followed a brief discussion between staff and members of the Board regarding the budget. Supervisor Pollard voiced her opinion that the \$60,000.00 should go back into Contingency; she also noted that the Museum will need the \$10,000.00 that was cut from their budget to avoid laying off staff or being closed more days of the week. Mr. Rogers clarified that last year's budget included \$50,000.00 for the Museum, with the additional \$10,000.00 being added to that after a request from the Museum. He said that the Museum was level funded this year so they were given \$50,000.00, but without the Board's direction staff could not again add in the additional \$10,000.00. Supervisor Pollard said the additional funding was needed. Supervisor Martin said he wanted the \$1 million that was held back from the School Division to be given to them to help keep the schools running and in good shape; Supervisor Wilkerson concurred.

There followed a discussion between members of the Board regarding how the Schools have been using funding, including the reversion money. In response to a question from Supervisor Thomasson, Mr. Rogers clarified that while the Board did not directly specify funds to be set aside for school construction, there were statements that the reversion funds were directed towards the County in recognition of the reversion impacts and were intended to offset the needs of the School Division. In response to a question from Supervisor Martin, County Attorney Carl Boggess stated that the \$6 million in reversion funds and the requirement to build a school are two separate things. Attorney Boggess said the Voluntary Settlement Agreement does not specifically state the County must build a school; it says the County can only lease the Middle School for a specific period of time (the lease of which is mandatory). The discussion continued, with the Board noting both the need for a new Middle School and the need to not be dependent on the reversion money since it will not continue to be received indefinitely.

School Division Chief Financial Officer Randy Hagler addressed the Board with a review of the schools maintenance projects, including roofing projects for Forest and Montvale Elementary; fuel tank replacement for Stanton River High School; water tank replacement for Otter River; and accessibility upgrades which are mandatory after the facility review. Vice-Chairman Parker stated that she did not recall the accessibility upgrades being discussed at an earlier meeting with the School Board. Mr. Hagler explained that when the list was first put together last year for budget purposes, the Stanton River Middle School Elevator was also on the list. He stated that if the School Division does not comply with everything in the facility review report, all Federal Funding can be pulled. School Superintendent Doug Schuch added that maintenance priorities were shuffled in order to comply. Mr. Hagler noted that the

elevator has been put on hold due to the Moneta Elementary School septic system issue. There followed a discussion between the Supervisors, Mr. Hagler and Dr. Schuch regarding various school maintenance needs. Dr. Schuch noted that they have been offered a \$100,000.00 donation to assist with the hookup to the sewer system for the Moneta school. However, he said the question is how do the Schools continue to operate on this level of funding given the age of the facilities and the fact that what is being planned are not upgrades – they are parity baseline issues. Dr. Schuch said they could use more than the \$1 million that was held back, but that money would help them move forward on a number of projects. He said if the Board looks at the efficiency review, they will see that clearly more needs to be invested in the maintenance of the school facilities.

Chairman Sharp commented that the efficiency study also points out that \$1.6 million will be saved by closing two schools in the upcoming school year, but the School Division is not closing any of them. Dr. Schuch replied that this option has been available to the Board for years but they have chosen not to exercise it because our communities value their small schools. He said that they will be able to better coordinate the closing of the schools by waiting and planning for one more year. Dr. Schuch stated that if the School Board had not received the reversion funds this year they would have had to ask the Board of Supervisors for \$10 million in increased funding instead of the \$4 million they actually requested. He said he wished more of these concerns had been addressed when the Supervisors and the School Board met a while ago, and that the community in general is becoming concerned with the lack of funding from the County.

Chairman Sharp said that the School's debt service is in excess of other localities, which is not reflected in the efficiency review. He said previous Bedford County Board's have spent money on schools at a far greater cost than other localities. He noted that as the debt service expires, more funds will flow into the per-pupil spending. He said he understands the School Division needs more money, but he doesn't understand why they chose to leave \$1.6 million on the table by not closing two schools this year.

Supervisor Martin said that he anticipates an outcry from the citizens in the future for the Board of Supervisors to increase taxes to fund the schools.

Chairman Sharp asked Dr. Schuch if the two elementary schools being considered for closure would be closed due to lack of funding, or do they need to close because the efficiency study found that we have excess schools for the capacity needed. Dr. Schuch replied they would not have been required to do the report if they were not to take all the recommendations seriously; the closing of the two schools were the two largest recommendations on the cost savings. Chairman Sharp said he knew the School Board did not make their decision lightly, but the public needs to understand that the schools are not closing due to lack of funding from the County.

Dr. Schuch said that he cannot speak to what the School Board would have done if the local funding had been higher. He said his perspective is that since the report did provide data about funding

and other areas that are severely underfunded in the schools, people in the community are now learning about both; he is not sure any of this can be decoupled at this point. He said he can't control what the media reports or what people think, but he agrees with Supervisor Martin that people seem to have not been paying attention to the schools budget and the local funding for the schools in the past, but they are now. Dr. Schuch noted that from a practical standpoint it would be very difficult to efficiently close any school this late in the year, which is why the School Board opted to put the closures off for one year.

Vice-Chairman Parker stated that the way the letters went out to the Moneta and Body Camp communities regarding the potential school closures pitted the two communities against each other. She said there was no way both of those schools were going to close, so she feels the School Board created fear in those communities. She said she has been asking for over a year why the School Board wanted to close Bedford Primary School, and she was told it was so that the School Administration Offices could be moved to the Primary School instead, and make a \$5 million addition to the elementary school. She said that the efficiency study does not recommend building an addition when children are absorbed from the closed Primary School into the elementary school.

Chairman Sharp brought the meeting back to a discussion on the budget, noting that without Supervisor Arrington present, it will not be possible to reach a consensus on the \$100,000.00 for the septic system at Moneta or the \$1 million being held back from the schools. Mr. Rogers clarified that the only direction being given to staff at this time was to take the \$60,000.00 from position vacancy savings that had been suggested for radios and put it into Contingency; Chairman Sharp concurred with Mr. Rogers statement.

Mr. Reeter stated that based on what has been done in this work session, the Board is in a position to adopt the FY2014-15 County Operating Budget, with a total General Fund Revenue of \$89,337,592.00. He noted that while the State has yet to adopt a budget, this will not affect the Board's ability to do so, and reiterated some of the consequences localities could face if the State's budget isn't adopted by the end of June. The Chairman received consensus from the Board to add the budget adoption to this evening's regular meeting agenda as an action item, even though much of the funding will not be allocated until the State adopts its budget.

There being no further discussion for the work session, the Board recessed for dinner at 6:34 p.m.

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**7:30 P.M. – REGULAR MEETING**

**Board of Supervisors:** John Sharp, Chairman – District 4; Tammy Parker, Vice-Chairman, District 7; Bill Thomasson, District 1; Curry Martin, District 2; Steve Wilkerson, District 3; Steve Arrington, District 5; and Annie Pollard, District 6

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**Planning Commission:** Lewis Huff – District 1; Jeff Burdett – District 2; Harold Brown – District 3; Josiah Tillett – District 4; Tommy Scott – District 5; \*Derrick Noell – District 6; and Jerry Craig – District 7

**\*Absent**

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**Staff Present:** Mark K. Reeter, Frank J. Rogers, Susan Crawford, Traci Blido, Jessica Hupp, Brad Robinson and Brigitte Luckett

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Chairman Sharp called the meeting to order and welcomed those in attendance; a moment of silence was held and the Pledge of Allegiance was said.

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Chairman Craig called the Planning Commission to order with a quorum of six.

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**(1) APPROVAL OF AGENDA**

Mr. Mark Reeter, County Administrator, noted the changes to the agenda as follows:

- Additional Documentation: #4 – Minutes from April 14, 2014
- Deletion: #5a – Presentation by Delegate Austin of General Assembly Resolutions (will be presented as a later meeting – date yet to be determined)
- Additional Documentation: #6a – Adoption of the FY2014-15 Budget
- Supervisor Arrington stated that he would have comments under ‘Board Comments’
- Supervisor Pollard stated that she would have an appointment under ‘Appointments to Boards, Committees and Commissions’

**Supervisor Arrington made a motion to approve the agenda as amended; motion passed by acclamation.**

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**(2) FIFTEEN MINUTE CITIZEN COMMENT PERIOD**

- Judge Louis Harrison, Bedford Juvenile and Domestic Court, addressed the Board with his concerns regarding the Board’s pending decision to move the Department of Youth and Family Services (Y&FS) from the authority of the Bedford County Administration Office to the Department of Social Services (DSS). Judge Harrison noted that he has been working in Bedford, first as a lawyer and then as a judge, since 1987. He stated that in 1994 the financial match when DSS had control of this function was \$314,000.00, with an average increase of \$327,000.00; in 2001, the figure was \$2,605,000.00, and it was spiraling out of control. At that point, DSS got rid of CSA and it was given to CeCe Smith in Youth and Family Services. Ms. Smith slowed the financial increases, but still by 2005 there were \$2.9 million per year going from County match funds. Since Krystal Hulette was hired to replace Ms.

Smith, there has been a 56% decrease in the amount of the County match. Judge Harrison said Mrs. Hullette managed this decrease in spite of 19% inflation and an 11% increase in census. He distributed to the Board a breakdown of the County's local match funds from 1994 to 2013, which showed that under the DSS the County match increased 705%, while decreasing 56.5% when managed by Mrs. Hullette. Judge Harrison said putting this program back under DSS also creates a conflict of interest; it's equivalent to handing people the checkbook who also want the money. He said the cost savings were achieved by Mrs. Hullette not only through putting a cap on spending; it's been planning low-cost services and planning protective services. In particular, the prevention work Mrs. Hullette has developed has been important in reducing costs, such as her truancy program. He said it's also her expertise - knowing the services and the people that can work with the County; knowing what will work and what will not with different children and different problems, etc., are what make a difference in the long-term cost. Judge Harrison said this all requires talent, and the numbers show that prevention funds, when well spent, are very effective at reducing costs. He said the services to children in the County have been greatly improved despite the fact that less money is being spent. He said there was a time when there were 172 children in care; we now have only 38 due to successful prevention. He said prevention is a place you don't want to cut because it is where you will actually save money in the long-term. He also noted that while localities all around Bedford lose money in audits, we have not lost a dime even though Bedford is audited frequently. Judge Harrison noted that of the six people in Mrs. Hullette's office, two have already left because they learned their department would be moved back under DSS. He cautioned the Board that if they moved forward with this proposal, he feared there would be no one left in the office; they will leave because they would not want to work under a conflict-of-interest situation. He said once these employees are gone, he is not sure how we would be able to replace them due to their experience with the services. Judge Harrison said serving the children of the community is important to all of us, and so is saving money, but he feels this proposal would be a mistake. He said there are other ways to save costs, and asked the Board to table the motion when it is heard later in the meeting to give us a chance to find a way to save costs while keeping the staff and services we have in place.

- Barry Tosh, citizen from Bedford, addressed the Board with his concerns with how the School Board and the Board of Supervisors are handling the elementary schools. He said several years ago citizens came before both boards to ask for more cooperation between the County and the School Division. Mr. Tosh stated that the key item in the recently release efficiency study is how Bedford's school are funded (locally) \$9 million less than the other localities in the report; he said this means we will lose good teachers. He said that of the \$6

million the Schools receive in reversion funds, the Board needs to remember that \$5 million will need to be put in VRS. He said our teachers are last in salary according to the study, in spite of the fact that the School Board spends 75% of its budget on salaries. Mr. Tosh noted that his son ran track at Staunton River for five years and never had a home meet because the school didn't have the facilities to accommodate one. Mr. Tosh asked the Board to remember that the children of the County are its future. He said he is not saying everything is the Supervisors or the School Board's fault, as the citizens also shoulder some of the blame for not showing up and participating in the meeting. However, he feels the School Board needs to be better funded, and there needs to be better dialog between the two Boards.

- Ann Briscoe, citizen from Thaxton, addressed the Board with a prayer.
- Nancy Walker, Supervisor for Body Camp Recreation Association and citizen from Bedford, addressed the Board on behalf of Body Camp schools, staff and students to ask the Board to not give the School Board money if they are going to close Body Camp Elementary. She said the closure would be very unfair to the taxpayers in that area.
- Pamela Dooley, citizen of Bedford, addressed the Board regarding her opposition to closing elementary schools. She asked the Board of Supervisors to not give the School Board any funding unless they can keep every school in Bedford County open. She said closing schools will keep people and businesses from wanting to locate in Bedford.
- John Thompson addressed the Board, saying that the speculation regarding school closings has created an atmosphere of one community fighting another. He said according to the efficiency study our schools are underfunded, and what the School Board is given to work with is insufficient. He said he is asking for more dialog between the Supervisors, the School Board and parents to work through these issues.

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Supervisor Arrington addressed the audience regarding the school closings. He stated that he has had frequent dialog with Mr. Tosh, and also thanked those in attendance for coming to speak to the Board this evening. He said we have seen how our communities can come together to rally around a cause and we have a great community here in Bedford. But there are some misunderstandings regarding the efficiency study and the school closings. He said its purpose was to look at the funding we do have and see if those funds are being efficiently used, not whether the schools are being underfunded. Supervisor Arrington said he has received a disturbing phone call that indicated the Board of Supervisors were being blamed for this school closing issue due to underfunding the schools. He said the funding has nothing to do with the efficiency study. He said that because of reversion the Schools are receiving \$6.2 million from the State, but there is no guarantee these funds will continue to be received. He said that between the 6.2 million from the State and the additional \$4.8 million the School Board has requested from the County, it's a \$10 million increase over last year's School budget. He said one penny on our tax rate is

equivalent to approximately \$750,000.00; this would mean a tremendous rate. He said he does not apologize for being the County with the lowest tax rate in the region, and listed the various services the County provides through good financial management. He reviewed how the Supervisors have handled school issues in the past (such as renovating Jefferson Forest High School), and stressed that the Board works for the citizens, not against them. He said the Board is doing its best to prioritize what needs to be done versus what can wait till funding is available. Supervisor Arrington said the Board could give the School Division \$10 million more this evening, but the efficiency study will still recommend closing two elementary schools. He said he appreciates the citizen's passion on this issue, and he also hates some of the recommendations of the study. But these are decisions that must be made by the School Board, not the Supervisors.

Chairman Sharp commented that the efficiency study also noted that out of the surrounding localities, Bedford has the highest debt service because we have paid 50% more per square foot for the schools we've built than other localities. He said this impacts the per-pupil spending, since the money is channeled to pay the debt service instead. He noted that the efficiency study did not cite lack of funding as the reason to close the schools; rather, it is because of excess capacity at the elementary school level; the schools being considered for closure are at 70% capacity. Chairman Sharp said Richmond is not the 'bad guy' in this scenario; they have given the schools \$6.2 million that they expect us to use wisely. He stated that since no schools will be closed this fiscal year (as was recommended by the study), \$1.6 million in savings from school closures will not be realized this year.

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**(3) APPROVAL OF CONSENT AGENDA**

County Administrator Mark Reeter read the consent agenda as follows:

- a.** Consideration of a request for Supplemental Appropriations for the Federal Forfeited Asset account, State Forfeited Asset Sharing account, Moneta Recreation Park, Stroosbants Park and Falling Creek Park (*Resolution #R060914-01*)
- b.** Consideration of a request for authorization to advertize a Public Hearing for Nursing Home Room Rates. (*Resolution #R060914-02*)
- c.** Consideration of a request for a Supplemental Appropriation for Revenue Sharing Road Projects. (*Resolution #R060914-03*)
- d.** Consideration of a request for approval of the School Board VRS Rate Certification. (*Resolution #R060914-04*)

**Supervisor Arrington made a motion to approve the consent agenda.**

**Voting yes: Mr. Thomasson, Mr. Martin, Mr. Wilkerson, Mr. Sharp, Mr. Arrington, Mrs. Pollard and Mrs. Parker**

**Voting no: None**

**Motion passed.**

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**(4) APPROVAL OF MINUTES**

**Supervisor Wilkerson made a motion to approve the minutes of April 14, 2014 as presented; motion passed by acclamation.**

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**(5) PUBLIC HEARINGS / PUBLIC APPEARANCES**

**(5a)** Cancelled – Presentation by Delegate Terry Austin

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**(5b)** Brad Robinson, Planner, addressed the Board of Supervisors and the Planning Commission regarding a proposed zoning ordinance text amendment for commercial feedlots. Mr. Robinson stated that the request is to modify regulations of the Zoning Ordinance for the use “Commercial Feedlots (Confined Animal Feeding Operations)” in Article IV, Section 30-81-2. Mr. Robinson noted that this request was originally brought forward by the Bedford County Agricultural Economic Development Board (BCAEDB) and briefly reviewed the process that led to this request. He stated that the Planning Commission voted 7-0 to initiate the amendment at their meeting on March 18, 2014. He said that the amendment would consolidate and reduce the setback requirements for poultry and swine operations as follows:

- 150 feet from the right-of-way of any public road or road of record (currently 1,000 feet for poultry and 2,500 feet for swine)
- 250 feet from any property line other than the above right-of-way (currently 1,000 feet for poultry and 2,500 feet for swine)
- 300 feet from any dwelling (currently 1,000 feet for poultry and 2,500 feet for swine)
- 1,000 feet from platted residential sub-divisions, residentially zoned districts, mobile home parks, public schools, hospitals, churches, county and community recreation areas, and public facilities (currently 2,000 feet for poultry and 5,000 feet for swine)
- 250 feet from blue line streams (currently 2,000 feet for poultry and 3,000 feet for swine)
- 1,000 feet from public water sources (currently 2,000 feet for poultry and 3,000 feet for swine)

Mr. Robinson noted a printed email from Mary-Margaret Parks Cash in opposition to the amendments, which he had distributed to the Board; he said staff has also received phoned-in comments from the public.

W. P. Johnson, representative for the BCAEDB, addressed the Board with a brief presentation regarding this request. Mr. Johnson explained that this request would accommodate an industrialized form of farming (including the production of cattle, poultry, swine and fish for meat, milk and egg production) at high stocking rates to increase the density. Mr. Johnson stated that the BCAEDB toured these types of facilities, and displayed for the board a variety of photographs that illustrated what the

facilities look like. He also had several photographs to show examples of what the reduced setbacks would actually look like. Mr. Johnson noted that the amendment would bring all livestock setbacks to the current beef and dairy standard setback. Mr. Johnson said this request was being made for a number of reasons, including the importance of providing this farming opportunity if there is interest; that it is an agricultural economic development generator with income for both the operator and the County's tax base; that it provides risk management for the operators; allows farmers to stay on their farms full time with a more secure cash flow; helps maintain the agricultural/commercial/residential balance; and that it provides an opportunity for full-time jobs. Mr. Johnson stated that there are many options available to assist operators with managing odors, etc., produced by these operations. He said by not accommodating these operations the County is missing out on an opportunity for economic growth.

Mr. Johnson said he is sure previous Boards had a reason to uphold the setbacks as they are, but in today's time a change is needed to provide growth and development. He said this amendment will not guarantee these facilities will come, but it gives producers an opportunity to go to these companies and possibly participate in this type of farming.

In response to a question from Supervisor Wilkerson, Mr. Johnson stated the investment necessary for a hog house is approximately \$180,000.00 to \$250,000.00 each; the poultry facilities can range from \$300,000.00 to \$600,000.00. Mr. Johnson clarified that the facilities would be owned by the operator.

The public hearing was opened. The following people spoke against the text amendment: Lee Walker of Bedford; Edrie Bays of Bedford; Michael Trussell of Bedford; Linda Burger of Big Island; Ken Burger of Big Island; Nathan Hatcher from Goodview; Brent Wills of Montvale; Edmund Coffey of Bedford; Blaine Creasey of Bedford; Ben Coleman of Sedalia; and Jason Fowler of Bedford. (Mr. Fowler presented also documentation to the Board documenting his research on this issue.)

The most common reasons cited by those speaking against this amendment included a negative impact on property values; impacts to air and water quality from animal waste; added stress on the county's already low water table; impacts from close proximity to so much livestock waste to human health and the environment; the burden on infrastructure; moral issues regarding humane conditions for both the animals and the workers; toxicity cannot be removed from the soil once it's in, creating a permanent health issue; the major companies the operators will run the facilities for are located outside the County, so most of the revenue will not stay here (such as how Smithfield is now owned by a company in China); the setbacks are being reduced by far too much; the cost of paying staff to monitor these facilities; the negative impacts this will have on the sustainable family farms already operating in the County; nothing has been studied on the impacts from this proposal aside from the economic benefits; the environmental impacts from these types of facilities is not yet fully understood; farming is not about making a lot of money; there has not been enough public notification or comment on this issue; and commercialization of the County to the detriment of local agriculture.

Several of the speakers stated that they were not entirely against this amendment, but wanted further studies done on the potential environmental impacts before the Board moves forward. Some noted that they felt a compromise between the proposed amendment and their objections to it could be found; several others asked that it be voted on in November. While making his comments, Mr. Brent Wills offered his services as a certified soil consultant to the Board to assist with future studies to determine whether this is a step the County wants to take; he also asked that the public comment not be closed this evening so that the Board will be able to accept comments at a later date before making a decision.

Gary Wright, citizen from Huddleston, stated he was asked to attend this meeting in case anyone had DEQ questions he could answer for them, but was not in attendance to speak either for or against the amendment. Supervisor Wilkerson asked if there are different environmental impacts from different kinds of livestock (hence the different setbacks currently in place for cattle and dairy versus poultry and swine). Mr. Wright stated the DEQ setbacks are related to environment, storage capacity, management plans, etc.; DEQ has not found that one particular species has a greater impact than another. There are differing rules for different species with regard to how their waste is stored and disposed of.

The following people were signed up to speak in favor of the amendment:

Richard Ruff of Goode; Sam Gardner from Huddleston; Susan Gardner of Huddleston; Don Gardner of Huddleston; Wayne Turner of Bedford; John Briscoe of Thaxton; Jeff Powers of Vinton; Joy Powers of Moneta; and Hunter Wimmer of Bedford.

The most common reasons cited by those speaking in favor of this amendment included the need for such operations to supply enough food to meet the demand; the need to use this opportunity to keep farming from dying out in the County and keeps families on their farms; the economic benefit to farmers; the waste produced by these operations can be utilized by other farms in the county for fertilizer; it will provide full time agricultural jobs; the potential for economic growth; it's a misconception that factory farming is cruel; this will enable farmers to provide opportunities to younger generations which won't require a large land base without the time-consuming drudgery of farmer's direct marketing; litter from these operations is already trucked in for use on farms in Bedford from other localities; the animals are safer from weather issues in confined farming operations; the intention of these changes is to make it possible for smaller local producers to enter into these types of businesses; CAFOs already operate in the County – this proposal is just to reduce the setbacks so farmers have the use of more of their land; the way the setbacks are set up now is unfair; this proposal was originally brought forward by the Ag Board based on requests from young farmers in the County; research was done by the Ag Board on CAFOs through the Extension Office and the Virginia Agricultural Department; tobacco, tomato and dairy farming has shrunk dramatically in Bedford – CAFOs may help combat this trend; large farming operations combat hunger; it will allow family farms in Bedford to grow into larger scale operations.

There being no one else to speak, the public hearing was closed. Chairman Sharp then turned the meeting over to the Planning Commission for comment and possible action.

Commissioner Tillett stated that this is an issue he personally finds conflicted and difficult due to his convictions and beliefs being in conflict with good and responsible public policy, and a responsible view of the role of government in these types of issues. He said he was disappointed that certain individuals have stooped to condescension and hatred in the way they have spoken to each other; the dialog is necessary but it needs to be respectful. He said this proposal will address a discrepancy between different livestock species in the zoning setbacks. Commissioner Tillett noted that the DEQ representative said there is no good reason why the standards should be so drastically different; he takes issue with the zoning ordinance negatively impacting business, and he is going to support the proposal. He said he agrees on personal preference with the sustainable farming movement, and said if there is anything he can do to get the government out of the sustainable farmers way in the County they should let him know, as that is what he is here to do. Commissioner Tillett commented that more diversity of thought and representation for the sustainable farmers was needed on the BCAEDAB, and called on the Board of Supervisors to ensure this was addressed.

**Planning Commissioner Burdett made a motion to table action on Ordinance #O 060914-05 until the Planning Commission's next meeting for further discussion.**

**Voting yes: Mr. Huff, Mr. Burdett and Mr. Brown**

**Voting no: Mr. Tillett, Mr. Scott and Mr. Craig**

**Absent: Mr. Noell**

**Motion failed.**

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**Planning Commissioner Tillett made a motion to recommend approval of Ordinance #O 060914-05.**

**Voting yes: Mr. Huff, Mr. Tillett, Mr. Scott and Mr. Craig**

**Voting no: Mr. Burdett and Mr. Brown**

**Absent: Mr. Noell**

**Motion passed.**

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Chairman Craig then asked the Board of Supervisors to consider the Planning Commission's recommendation for approval. There being no further discussion for the Planning Commission, Chairman Craig declared the meeting closed.

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Supervisor Wilkerson stated he was in favor of further discussion before a decision is made.

Supervisor Arrington stated that the BCAEDAB has looked at a lot of data regarding this and has heard the public comment. He said the way the setbacks are written now are discriminatory against individual landowners rights. He said the farmers in Bedford are responsible landowners, and we've heard what DEQ has to say on the issue. Supervisor Arrington stated he supports the BCAEDAB and

Planning Commission in their decisions regarding this issue; these changes are in agricultural districts and he would not stand in the way.

Supervisor Martin said farming is a difficult way to make a living, and this will give farmers an opportunity to better their situation. He said in order to survive farmers need to diversify.

Supervisor Thomasson said he appreciated all of the dialog this evening. He said that diversification was needed to make a living in farming, and making the setbacks the same for all livestock species will enable farmers to do so.

Chairman Sharp said he personally likes the idea of compromise on the setback distances, and he also prefers a more organic free-range product. However, he did not want to use the power of the Board to force farmers to do that since it would not be an appropriate use of government. Chairman Sharp said the proposed changes are a bit dramatic.

Supervisor Martin asked if Chairman Sharp is asking that the proposed setback be reduced by half; Chairman Sharp responded that he would favor something along those lines.

Supervisor Wilkerson suggested that, if the Board does decide to entertain a compromise on the originally proposed text amendments, to do so in conjunction with the BCAEDAB and the Planning Commission instead of throwing out random numbers.

County Attorney Carl Boggess stated that since the public hearing is closed and the Planning Commission has made its recommendation, the Board needed to act.

Supervisor Wilkerson said he has no issue with the poultry setbacks, but would like to see the setbacks for swine increased from 300' to 500' from any dwelling.

Vice-Chairman Parker said this has been discussed by the Planning Commission for a year, and originally came to the Board of Supervisors with a 7-0 vote recommending approval from the Planning Commission. Supervisor Wilkerson stated that the 7-0 vote Vice-Chairman Parker was referring to was the vote to bring it to a public hearing so a recommendation and decision could be made to the Board of Supervisors.

Supervisor Pollard said that when she first read the amendments she thought they were a little drastic, but she has done a bit of research on it. She said she would prefer to have products grown here than shipped here from China, where they have no regulations.

**Supervisor Pollard made a motion to approve Ordinance #O 060914-05 with the setback from swine from any dwelling being increased to 500'.**

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**Supervisor Arrington made a motion to complete the agenda and continue the meeting past 10:30 p.m.; motion passed by acclamation.**

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**Supervisor Pollard reiterated her motion.**

**BE IT HEREBY ORDAINED**, by the Board of Supervisors of Bedford County, Virginia, that setback regulations of the Bedford County Zoning Ordinance pertaining to commercial feedlots, also known as confined animal feeding operations, be amended and readopted as follows:

**PART I.** That **Section 30-81-2(B)(1), General Standards – Commercial Feedlots (Confined Animal Feeding Operations)**, be amended as follows:

(B) General standards:

1. Minimum setbacks:

- One hundred fifty (150) feet from the right-of-way of any public road or road of record.
- Two hundred fifty (250) feet from any property line other than the above right-of-way.
- Three hundred (300) feet from any dwelling for dairy/beef cattle and poultry, and five hundred (500) feet for swine.
- One thousand (1,000) feet from platted residential subdivisions, residentially zoned districts, mobile home parks, public schools, hospitals, churches, county and community recreation areas, and public facilities.
- Two hundred fifty (250) feet from blue line streams; one thousand (1,000) feet from public water sources.

**PART II.** Should any portion or provision of this ordinance be held by any court to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole, or any part of the ordinance other than the part held to be unconstitutional or invalid.

This ordinance shall become effective immediately upon its adoption.

**Voting yes: Mr. Thomasson, Mr. Martin, Mr. Wilkerson, Mr. Arrington, Mrs. Pollard and Mrs. Parker**

**Voting no: Mr. Sharp**

**Motion passed.**

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**(5c)** County Attorney Carl Boggess addressed the Board with an ordinance to amend Chapter 7 “Erosion and Sediment Control”, and to add Article II “Stormwater Management”. Attorney Boggess gave the Board an overview of the process that led to the request before the Board this evening, noting the changes to Article I are not substantive. He said the only language in the ordinance for Stormwater Management is that which was absolutely necessary according to the State and Federal Government; the County will be the permitting agency.

Chairman Sharp asked why he has to vote on something when really he has no choice in the matter. Attorney Boggess explained that the County can opt-in or opt-out of being the permitting agency. Opting-out would leave that responsibility to the Department of Environmental Quality, which will create

significant delays for developers, etc., in getting their permits, plus the County would not be able to keep a portion of the fees and fines.

In response to a question from Supervisor Thomasson, Attorney Boggess stated that the fee structure is set up by the State, and is incorporated by reference in the regulations.

The public hearing was opened; there being no one to speak, the public hearing was closed.

**Supervisor Wilkerson made a motion to approve Ordinance #O 060914-06.** (*Attorney Boggess noted that the Ordinance contained corrected language from the once originally given to the Board in Section 7-40, subsection F; there had originally been three subsections to F, but the first was removed to avoid redundancy with items contained elsewhere in the Ordinance.*)

**BE IT HEREBY ORDAINED**, that the Board of Supervisors of the County of Bedford, Virginia, hereby amend Chapter 7 “Environmental” to amend Article I “Erosion and Sediment Control”; and to add Article II “Stormwater Management”.

### **Chapter 7 ENVIRONMENTAL**

**Art. I-Erosion and Sediment Control §7-1---7-12**

**Reserved-§7-13---7-25**

**Art. II-Stormwater Management-§7-26---7-41**

### **ARTICLE I**

### **EROSION AND SEDIMENT CONTROL**

Sec. 7-1. Title, purpose and Authority.

Sec. 7-2. Definitions.

Sec. 7-3. Local erosion and sediment control program.

Sec. 7-4. Plan submission, approval requirements and permit issuance.

Sec. 7-5. Requirement of a project surety.

Sec. 7-6. Fees.

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

Sec. 7-8. Inspection of land-disturbing activities: correction of defects.

Sec. 7-9. Closure of land-disturbing activities.

Sec. 7-10. Severability.

Sec. 7-11. Violations of penalty, injunctive relief, civil relief.

Sec. 7-12. Appeals.

**Sec. 7-1. Title, purpose and Authority.**

This article shall be known as the "Erosion and Sediment Control Ordinance of Bedford County, Virginia." The purpose of this chapter is to conserve the land, water, air and other natural resources of the County of Bedford and the Town of Bedford by establishing requirements for the control of erosion and sediment deposition, and by establishing procedures whereby these requirements shall be administered and enforced.

**State law reference**— Code of Virginia, § 62.1-44.15:51

**Sec. 7-2. Definitions.**

For the purpose of this article, the following words and terms shall have the meanings ascribed to them in this section:

*Administrator:* The representative of the board of supervisors (the permit issuing Authority) who has been appointed to serve as the agent of the board of supervisors in administering this chapter.

*Agreement in lieu of a plan:* A contract between the plan-approving Authority and the owner/person responsible for the carrying out the plan that specifies conservation measures which must be implemented in the construction of a single-family residence; the county, in lieu of a formal site plan, may execute this contract.

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

*Board:* The Virginia Soil and Water Conservation Board.

*Certified inspector:* An employee or agent of a program Authority who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one (1) year after enrollment.

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

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

*Clearing:* Any activity that removes the vegetation or ground cover, including, but not limited to, the root mat or topsoil.

*Common plan of development or sale:* A contiguous area where separate and district construction activities may be taking place at different times on different schedules.

*Conservation plan, erosion and sediment control plan, or plan:* A document containing material for the conservation of soil and water resources of a unit or groups of units of land. It shall include appropriate maps, appropriate soil and water inventories, and management information, with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the

conservation objectives. The plan shall be signed and sealed by a professional engineer, land surveyor, architect or certified landscape architect, except for single-family dwellings.

*Conservation standards or standards:* The criteria, guidelines, techniques and methods for the control of erosion and sediment deposition as set forth in the Virginia Erosion and Sediment Control Handbook.

*County:* The County of Bedford, Virginia.

*Department:* The Department of Environmental Quality.

*Development:* A tract of land developed or to be developed as a single unit under single ownership or unified control, which is to be used for any residential, business, commercial, civic or industrial purpose, or for the purpose of marketing all or a portion of the tract.

*Director:* The Director of the Virginia Department of Environmental Quality.

*Disturbed area:* Any area subject to a land-disturbing activity including any area within a public utility easement.

*Erosion and sediment control plan:* 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 to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

*Erosion impact area:* An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of ten thousand (10,000) square feet or less used for residential purposes or to shorelines where the erosion results from wave actions or other shoreline processes.

*Excavating:* Any digging, scooping, or any other method of moving or removing earth material.

*Filling:* Any depositing or stockpiling of earth material.

*Flooding:* 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.

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

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

- (1) Such minor activities 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 existing hard-surface road, street or sidewalk, provided such land-disturbing activity is confined to the area of the road, street, or sidewalk which is hard surfaced.
- (4) Septic tank line or drainage fields, unless included in an overall plan for a land-disturbing activity relating to construction of the building to be served by the septic tank system.
- (5) Surface or deep mining.
- (6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas.
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feed lot operations; 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 Code of Virginia, Chapter 11 (§ 10.1-1100 et seq.) is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163.
- (8) Repair or rebuilding of the tracks, right-of-way, bridges, communicating facilities and other related structures and facilities of a railroad company.
- (9) 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, Code of Virginia, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.
- (10) Disturbed land areas of less than ten thousand (10,000) square feet in size, unless otherwise included elsewhere in this chapter. The ten thousand (10,000) square foot minimum exemption shall not apply to any person who diverts or disturbs the channel of a stream or where there is probability of sediment being deposited into state waters or upon adjoining property owners. Such activity shall fall within the bounds of this chapter and all chapters and sections shall apply and a land-disturbing permit shall be required.
- (11) Installation of fence and signposts or telephone and electric poles and other kinds of posts and poles.
- (12) Emergency work to protect life, limb and 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 immediately in accordance with the requirements of the plan-approving Authority.

*Land-disturbing permit:* A permit issued by the County for clearing, filling, excavating, grading or transporting, or any combination thereof, on all lands, privately owned or otherwise, except those specifically excluded by this chapter.

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

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

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

*Plan approving Authority:* The Board, the program Authority, or a department of the program Authority, responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of land and for approving plans. The natural resources administrator or his/her designee is the plan approving Authority for Bedford County.

*Program Authority:* A district, county, city or town that has adopted a soil erosion and sediment control program which has been approved by the Board. Bedford County is the program Authority.

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

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

*Virginia Stormwater Management Program or VSMP:* means a program approved by the Board after September 13, 2011, that has been established by a VSMP Authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in the Act and associated regulations, and evaluation consistent with the requirements of the Stormwater Maintenance Act and associated regulations.

### **Sec. 7-3. Local erosion and sediment control program.**

There is hereby established a local erosion and sediment control program consisting of this chapter and the Virginia Erosion and Sediment Control Handbook, as amended from time to time. The Virginia Erosion and Sediment Control Regulations, as amended from time to time, are adopted and incorporated as a part of the county program. All construction practices and requirements shall comply with the specifications of the current edition of the Virginia Erosion and Sediment Control Handbook.

**Sec. 7-4. Plan submission, approval requirements and permit issuance.**

Except as provided in §62.1-44.15:56 for state agency and federal entity land-disturbing activities, no person shall engage in any land-disturbing activity until he has submitted to the Virginia Erosion and Sediment Control Plan Authority (VЕСP Authority) an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved. Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a VЕСP Authority shall then be required to obtain evidence of Virginia Stormwater Management Program permit coverage where it is required prior to providing approval to begin land disturbance. Where land-disturbing activities involve lands under the jurisdiction of more than one VЕСP, an erosion and sediment control plan may, at the request of one or all of the VЕСP authorities, be submitted to the Department for review and approval rather than to each jurisdiction concerned. The Department may charge the jurisdictions requesting the review a fee sufficient to cover the cost associated with conducting the review. A VЕСP may enter into an agreement with an adjacent VЕСP regarding the administration of multijurisdictional projects whereby the jurisdiction that contains the greater portion of the project shall be responsible for all or part of the administrative procedures.

Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the permit issuing Authority, however the permit-issuing Authority reserves the right to require an erosion and sediment control plan and a land-disturbing permit for a single-family residence considering such factors as the square footage of disturbed area involved, topography, proximity to water sources or occurrence of violation.

Additionally, any residential land-disturbing activity involving more than ten thousand (10,000) square feet of disturbed area and/or within two hundred (200) linear feet of any state water shall require an erosion and sediment control plan.

- (b) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of an erosion and sediment control plan shall be the responsibility of the owner. However, any person contracted to perform land-disturbing work as provided in Code of Virginia, § ~~10-1-561~~ 62.1-44.15:52, is equally responsible for the approval of an erosion and sediment control plan and issuance of a land-disturbing permit prior to commencement of land-disturbing activity.
- (c) No land-disturbing, building or other permit shall be issued by the county for any work which involves land-disturbing activities for which a permit is required unless the applicant submits with his application an erosion and sediment control plan for approval by the administrator, and certifies by signature upon that application that the plan will be followed.
- (d) Applications for a land-disturbing permit to do work in Bedford County, whether residential or commercial, shall adhere to the respective checklist as provided by the Bedford County Department

of Natural Resources. If the items contained within the specific checklist are not included in the submittal for application of the land-disturbing permit, a review of the erosion and sediment control plan shall not occur until which time the owner or applicant provides all pertinent information for site development.

- (e) Upon receipt of a plan submitted under this chapter, together with the required fees, the Administrator shall act on such plan within sixty (60) days, by either approving the plan in writing or by disapproving the plan in writing, giving specific reasons for disapproval. The administrator shall approve the plan if the plan meets the conservation standards of the County's erosion and sediment control program and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will comply with all provisions of this chapter. In addition, as a prerequisite to land disturbance, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, as provided by Code of Virginia, § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land-disturbing activity.

If Best Management Practices (BMP's) are a part of the approved plan, a stormwater facility maintenance agreement shall be required outlining in writing the person or party responsible for long-term maintenance on these BMP's. The agreement must be completed, signed, notarized and recorded prior to issuance of the land-disturbing permit.

- (f) If a plan is determined to be inadequate, the Administrator shall specify such modifications, terms and conditions as will permit approval of the plan and shall communicate such requirements to the party responsible for plan design.
- (g) A plan approved under this chapter may be changed by the administrator in the following cases:
  - (1) Where inspection reveals the inadequacy of the plan to accomplish the objectives of the plan, or
  - (2) When it is found that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out.
- (h) In order to prevent further erosion and to protect adjoining land or water resources, the Administrator may identify land as an erosion impact area and require an approved plan, regardless of size, type or location of the land disturbance.
- (i) Any person who conducts land-disturbing activities on property having frontage along state waters must, as a requirement of his land-disturbing permit, install and maintain rip rap or other specific shoreline protective measures which, as a minimum, shall protect the land area from erosion caused by wave action, water level fluctuation or other water movement, and shall also protect the water from deposition of sediment resulting from erosion of the shoreline. Riprap protection shall be installed according to section 3-19 of the Virginia Erosion and Sediment Control Handbook. Alternate natural methods of shoreline protection are encouraged and may be used, subject to approval of the plan approving Authority and other governing organizations.

- (j) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies or railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comments. If said utilities undertake any land-disturbing activities and have not filed an annual plan to the board, they shall be subject to all requirements and specifications within this chapter. If said utilities have filed an annual plan with the board and are proposing activities included in subparagraphs (1) and (2) of this subsection, they shall be considered exempt from the provisions of this chapter.
  - (1) Construction, installation and maintenance of electric, natural gas and telephone utility lines and pipelines, and
  - (2) Construction of the tracks, rights-of-ways, bridges, communication facilities and other related structures and facilities of the railroad company.
  - (3) Projects not included in subparagraphs (1) and (2) of this subsection shall comply with the requirements of the county erosion and sediment control program.
- (k) State agency projects are exempt from the provisions of this chapter except as provided for in the Code of Virginia, § 62.1-44.15:56.
- (l) All projects in Bedford County that will disturb one (1) acre or more or are part of a common plan of development or sale are subject to the Department of Environmental Quality (DEQ). Virginia Stormwater Management Program (VSMP) permit. Common Plans of Development or sale are defined as plats that were approved and recorded on and after 1 July 2014 per DEQ.

**Sec. 7-5. Requirement of a project surety.**

- (a) Prior to the issuance of any land-disturbing permit, the Administrator may require an applicant to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such legal arrangement acceptable to the County Attorney to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by the approved plan as a result of land-disturbing activity. If the County takes such conservation action upon failure by the permittee, the County may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.
- (b) The bond requirement may be waived for county-supported agencies, such as the public service Authority, school board, nursing home, recreation committee, and fire and rescue units.
- (c) Upon achievement of adequate stabilization of the land-disturbing activity, or upon request from the owner, such bond, cash escrow, letter of credit or other legal arrangement or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated. All projects approved with means of stormwater conveyance (channels, pipes, etc.) shall have design certification submitted to the plan approving Authority prior to release of any surety providing reasonable

assurance that all stormwater measures have been constructed as designed, are well stabilized and appear to be in proper working order.

**Sec. 7-6. Fees.**

The fee for a single-family dwelling land-disturbing permit shall be fifty dollars (\$50.00) per acre or fraction thereof, of the disturbed area, with a minimum fee of fifty dollars (\$50.00). The fee for a land-disturbing permit for all other development shall be one hundred fifty dollars (\$150.00) per acre, or fraction thereof, of the disturbed area, with a minimum fee of one hundred fifty dollars (\$150.00). The disturbed area of a residential subdivision shall be calculated to include all the land within the public utility easement.

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

- (a) The current issue of the Virginia Erosion and Sediment Control Handbook shall be used in preparing the plan required by this article. The administrator, in considering the adequacy of such plan, shall be guided by the guidelines and standards set out in such handbook.
- (b) Plan submission checklists, as set forth in subsection 7-4 (d) of this article, shall be used in erosion and sediment control plan submission. Both residential and commercial checklists, as amended from time to time, are available at the Bedford County Department of Natural Resources.
- (c) All work and installation of materials shall be in accordance with the Virginia Erosion and Sediment Control Handbook, manufacturer's specifications, and/or approved and inspected by the plan approving Authority of Bedford County.
- (d) Alternative shoreline stabilization shall be allowed upon submittal and approval by the administrator and other governing organizations.
- (e) If the project disturbs an acre or more or is in a common plan of development or sale (platted on 1 July 2004 or later), a Virginia Stormwater Management Program (VSMP) permit will be required. If a VSMP permit is not required, stormwater management will be addressed by Minimum Standard 19 found in 9VAC25-840-40: "Minimum Standards".
- (f) Design flow summary tables are required with a commercial erosion and sediment control plan. Design flow summary information can be obtained through the Bedford County Department of Natural Resources.

**Sec. 7-8. Inspection of land-disturbing activities: correction of defects.**

- (a) Periodic inspections of land-disturbing activities—those with a land-disturbing permit as well as those under an agreement in lieu of a plan—shall be provided by certified personnel from one (1) of the following sources or a combination thereof:
  - (1) Bedford County Department of natural resources personnel,
  - (2) Bedford County Department of building inspections personnel, or
  - (3) Other qualified Bedford County Code Enforcement personnel.

Enforcement shall be the responsibility of the Administrator; the Administrator may require monitoring and reports from the person responsible for carrying out the plan to ensure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and the movement of sediment. At which time the owner, permittee or person responsible for carrying out the plan makes application for the land-disturbing permit, they are hereby notified that inspections shall take place upon the property covered under the plan at any reasonable time and by the personnel listed in subsection (a) above pursuant to 4VAC50-30-60 (b) of the regulations.

- (b) If the Administrator or his or her designee determines that there is a failure to comply with the plan and/or the erosion and sediment control regulations, a notice of violation shall be communicated to the permittee or person responsible for carrying out the plan by telephone, mail or by delivery to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a notice to comply shall be issued and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article. A notice to comply shall specify all corrective action and provide a timeframe for completion.
- (c) Projects that are under an agreement in lieu of a plan shall have the same notice of a violation as set forth in subsection (b) above, listing the timeframe for completion of corrective action. If the following inspection reveals that all corrective action has not been completed in the time allowed, a stop work order shall be posted and the owner shall be required to obtain a land-disturbing permit and correct all violations prior to commencement of any construction activities on the project site.
- (d) If land-disturbing activities have commenced without an approved plan, the Administrator shall require that all construction activities be stopped until an erosion and sediment control plan is submitted, erosion and sediment control measures are installed and all required permits are obtained.
- (e) Where the alleged noncompliance is causing, or is in imminent danger of causing, harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, a stop work order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection (b) above. The order shall be posted on-site and shall remain in effect for seven (7) days from the date of service pending application by the enforcing Authority or alleged violator for appropriate relief to the Circuit Court of Bedford County. The owner may appeal the issuance of a stop work order to the Circuit Court of Bedford County. Any person violating or failing, neglecting or refusing to obey an order issued by the natural resources administrator or his designee may be compelled in a proceeding instituted in the Bedford County Circuit Court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action and obtaining an approved plan and all required

permits, the order shall immediately be lifted. Nothing in this section shall prevent the administrator or his designee from taking any other action specified in section 7-11

**Sec. 7-9. Closure of land-disturbing activities.**

- (a) It shall be required that all developments shall have achieved final grade and adequate stabilization of the disturbed areas located within the project prior to issuance of the certificate of zoning compliance (CZC) and certificate of occupancy (CO). If weather or other extenuating circumstance prevents attainment of final grade and/or final stabilization, per section 30-10 of the Bedford County Zoning Ordinance, a temporary CZC shall be granted until which time the owner or person responsible for carrying out the plan can achieve final stabilization.
- (b) Development projects that provide on-site stormwater management facilities (pipes, channels, ditches, basins, etc.) are hereby required to submit, upon completion and stabilization of the project, design certification for all manner of stormwater conveyance. Certification shall be provided by a licensed professional engineer and shall include language and/or as-built drawings as to the conformance of said structures to the plan, their stabilization and working order.

**Sec. 7-10. Severability.**

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

**Sec. 7-11. Violations of penalty, injunctive relief, civil relief.**

- (a) A violation of any provision of this article shall be deemed a class 1 misdemeanor.
- (b) Civil penalties:
  - (1) Failure to comply with any of the nineteen (19) minimum standards as set forth in the Commonwealth of Virginia Erosion and Sediment Control Regulations shall result in a one hundred dollar (\$100.00) per violation per day penalty;
  - (2) Commencement of a land-disturbing activity without an approved land-disturbing permit as provided in section 7-2 shall result in a one thousand dollar (\$1,000.00) per violation per day penalty;
  - (3) Failure to obey a stop work order shall result in a one thousand dollar (\$1,000.00) per violation per day penalty; and
  - (4) Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall a series of specified violation(s) arising from the same operative set of facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00), except that a series of violations arising from commencement of land-disturbing activities

without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00). The assessment of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a) of this section.

- (c) The County Attorney shall, upon request of the County, take legal action to enforce the provisions of this article.
- (d) Individuals who hold a responsible land disturber certification as issued by the Virginia Department of Environmental Quality (DEQ) are hereby considered to be the person responsible for carrying out the plan and upon repeated violations, will be reported to DEQ for revocation of their certification. A responsible land disturber is also accountable for any and all sanctions included in this article and is subject to the same penalties as the owner of a property.
- (e) The County or Board may apply to the Circuit Court of Bedford County for injunctive relief to enjoin a violation or a threatened violation of the article, without the necessity of showing that there does not exist an adequate remedy at law.
- (f) In addition to any criminal or civil penalties provided, any person who violates any provision of this article may be liable to the county in a civil action for damages.
- (g) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. The County may bring a civil action for such violation or failure. Any civil penalties assessed by the court shall be paid into the treasury of Bedford County, except that where the violator is the County or its agent, the court shall direct the penalty to be paid to the state treasury.
- (h) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Administrator, or any condition of a permit or any provision of this chapter, the County may provide, in an order issued by the administrator against such persons, for the payment of civil charges for violations in specific sums not to exceed the limit specified in subsection (b) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (b) or (f).
- (i) Except when land-disturbance requiring a permit has begun without a permit, or when, in the opinion of the administrator, conditions pose an imminent danger to life, limb, property or to the waters of the Commonwealth, this article shall be enforced in the following steps:
  - (1) Verbal or written notice of violation shall be issued listing the violations noted during inspection and the required corrective action.
  - (2) A notice to comply shall be issued when the following inspection reveals that the violations cited in the notice of violation have not been corrected. A notice to comply shall be issued either

upon delivery in person or via certified mail, return receipt requested. Notice will allow five (5) days after receipt for implementation of the corrective actions.

- (3) A stop work order shall be posted on the project site, requiring that all construction work on the site be stopped until the corrective measures noted in the notice to comply are implemented. The owner and/or person responsible for carrying out the plan, if not on-site at time of posting, will be notified by telephone of the order. As of this posting, all zoning and building permits will be temporarily suspended and no inspections will be provided for the project. A maximum period of seven (7) days after the receipt of the order shall be allowed to correct the violations. Upon the completion of the corrective actions, and issuance of a land-disturbing permit if so required, the stop work order is rescinded and zoning and building permits reinstated.
- (4) Imposition of criminal or civil penalties. Either, but not both, of these penalties may be imposed if the seven-day period in the stop work order passes without the implementation of the necessary corrective actions. The time frame for computing the number of days in violation shall not begin until the seven (7) days allowed for corrective action has expired unless work was not stopped as ordered.
- (j) Compliance with the provisions of this article shall be prima facie evidence, in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation, that all requirements of law have been met and the complaining party must show negligence in order to recover any damages.

#### **Sec. 7-12. Appeals.**

- (a) Final decisions of the Administrator under this article shall be subject to review by the Board, provided an appeal is filed within thirty (30) days from the date of any written decision by the Administrator which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.
- (b) Final decisions of the County under this article shall be subject to review by the Circuit Court of Bedford County, provided that an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.
- (c) Final decisions of the Board either upon its own action or upon the review of the action of the Administrator shall be subject to judicial review in accordance with the provisions of the Administrative Process Act.

## **ARTICLE II STORMWATER MANAGEMENT**

#### Sec. 7-26. Purpose and Authority.

#### Sec. 7-27. Definitions.

#### Sec. 7-28. Stormwater Permit Requirement; Exemptions.

Sec. 7-29. Stormwater Management Program Established; Submission and Approval of Plans;

Prohibitions.

Sec. 7-30. Stormwater Pollution Prevention Plan; Contents of Plans.

Sec. 7-31. Stormwater Management Plan; Contents of Plan.

Sec. 7-32. Pollution Prevention Plan; Contents of Plan.

Sec. 7-33. Review of Stormwater Management Plan.

Sec. 7-34. Technical Criteria for Regulated Land Disturbing Activities.

Sec. 7-35. Long Term Maintenance of Permanent Stormwater Facilities.

Sec. 7-36. Monitoring and Inspections.

Sec. 7-37. Hearings.

Sec. 7-38. Appeals.

Sec. 7-39. Enforcement.

Sec. 7-40. Fees.

Sec. 7-41. Performance Bond.

**Sec. 7-26. Purpose and Authority.**

- (a) The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of Bedford County and the Town of Bedford and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures where by stormwater requirements related to water quality and quantity shall be administered and enforced.
- (b) This ordinance is adopted pursuant to § 62.1-44.15:27 et seq. of the Code of Virginia.

**Sec. 7-27. Definitions.**

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"*Administrator*" means the Virginia Stormwater Management Program (VSMP) Authority including the County Administrator, or designee, for administering the VSMP on behalf of the locality.

"*Administrative Guidance Manual*" means the documentation of policies and procedures for documentation and calculations verifying compliance with the water quality and quantity requirements, review and approval of Stormwater Pollution Prevention Plans and Stormwater Management Plans, site inspections, obtaining and releasing bonds, reporting and recordkeeping, and compliance strategies for reviews, enforcement, and long-term maintenance and inspection programs.

"*Agreement in lieu of a stormwater management plan*" means a contract between the VSMP Authority and the owner or permittee that specifies methods that shall be implemented to comply with

the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP Authority in lieu of a stormwater management plan.

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

"*Best management practice*" or "BMP" means schedules of activities, prohibitions of practices, 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.

"*Common plan of development or sale*" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules. For the purpose of this Ordinance, the term shall not include individual lots within existing residential, commercial or industrial site plans and subdivision plans that were platted prior to July 1, 2004, and which are considered separate land-disturbing activities.

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

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

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

"*Development*" means land disturbance and the resulting land form 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.

"*General permit*" means the state permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (9VAC25-880-1etseq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

"*Land disturbance*" or "*land-disturbing activity*" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in Section 7-28 (c) of this Ordinance.

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

"*Locality*" means Bedford County, Virginia.

"*Minor modification*" means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling

locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

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

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

*"Permittee"* means the person to whom the VSMP Authority 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.

*"Regulations"* means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870, as amended.

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

*"State"* means the Commonwealth of Virginia.

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

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

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

*"State 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, snowmelt runoff, and surface runoff and drainage.

*"Stormwater management plan"* means a document(s) containing material describing methods for complying with the requirements of Section 7-31 of 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, and otherwise meets the requirements of this Ordinance. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

*"Subdivision"* means any change or rearrangement in the boundaries of division lines of any lot, parcel, piece, or tract of land, or the division of such lot, parcel, piece, or tract of land into two (2) or more parts, pieces, tracts of land or lots as defined in Article I of the Bedford County Subdivision Ordinance.

*"Total maximum daily load"* or *"TMDL"* means the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

*"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, as amended.

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

*"Virginia Stormwater Management Program"* or *"VSMP"* means the program established by the County to manage the quality and quantity of runoff resulting from land-disturbing activities in accordance with state law, and which has been approved by the State Board.

*"Virginia Stormwater Management Program Authority"* or *"VSMP Authority"* means Bedford County.

**Sec. 7-28. Stormwater Permit Requirement; Exemptions.**

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a permit application to the VSMP Authority that includes a state VSMP permit registration statement, if such statement is required, is submitted to the Administrator in accordance with the provisions of this Ordinance.
- (b) The construction of a single family detached residential structure, with or outside of a common plan of development or sale, equal to or less than 5 acres, may be eligible for an agreement in-lieu of a stormwater management plan. This agreement shall not require a registration statement or the Department's portion of the state permit fee for coverage under the General Permit for Discharges

of Stormwater from Construction Activities. Even though a registration statement is not required for such a structure, the project must adhere to the requirements of the general permit.

- (c) Not with standing any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:
- (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
  - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
  - (3) Single-family residences separately built and disturbing less than one 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;
  - (6) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;
  - (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and
  - (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the

administrative requirements of Subsection A of § 62.1-44.15:34C is required within 30 days of commencing the land-disturbing activity.

**Sec.7-29. Stormwater Management Program Established; Submission and Approval of Plans; Prohibitions.**

- (a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, Bedford County hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in Section 7-26 of this Ordinance. The Bedford County Board of Supervisors hereby designates the County Administrator, or designee, as the Administrator of the Virginia stormwater management program.
- (b) No VSMP Authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:
  - (1) A permit application that includes a general permit registration statement, if such registration statement is required;
  - (2) An erosion and sediment control plan approved in accordance with the Bedford County Erosion and Sediment Control Ordinance; and
  - (3) A Stormwater Management Plan that meets the requirements of Section 7-31 of this Ordinance, or an executed agreement in lieu of a Stormwater Management Plan.
- (c) No VSMP Authority permit shall be issued until evidence of general permit coverage is obtained, if such permit is required.
- (d) No VSMP Authority permit shall be issued until the fees required to be paid pursuant to Section 7-40, are received, and a reasonable performance bond required pursuant to Section 7-41 of this Ordinance has been submitted.
- (e) No VSMP Authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (f) No grading, building or other local permit shall be issued for a property unless a VSMP Authority permit has been issued by the Administrator.

**Sec. 7-30. Stormwater Pollution Prevention Plan; Contents of Plans.**

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54, including, but not limited to, an erosion and sediment control plan, Stormwater Management Plan, Pollution Prevention Plan, and additional control measures necessary to address a TMDL, and must also comply with the requirements and general information set forth in Section 9VAC25-880-70 of the general permit.

- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

**Sec. 7-31. Stormwater Management Plan; Contents of Plan.**

- (a) A stormwater management plan shall be developed and submitted to the VSMP Authority. The stormwater management plan shall be implemented as approved or modified by the VSMP Authority and shall be developed in accordance with the following:
  - (1) A stormwater management plan for a land disturbing activity shall apply the stormwater management technical criteria set forth in this part to the entire land disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.
  - (2) A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- (b) The stormwater management plan shall include the following information and as required by the VSMP Permit Regulations (9VAC25-870-55) and the Administrative Guidance Manual:
  - (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post development drainage areas;
  - (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
  - (3) A narrative that includes a description of current site conditions and final site conditions;
  - (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete and a note that states the stormwater management meets the requirements set forth in the VSMP Permit Regulations (9VAC25-870-55) and the Administrative Guidance Manual;
  - (5) Information on the proposed stormwater management facilities, including:
    - (i) The type of facilities;
    - (ii) Location, including geographic coordinates;
    - (iii) Acres treated; and
    - (iv) The surface waters or karst features, if present, into which the facility will discharge.
  - (6) Hydrologic and hydraulic computations, including runoff characteristics;

- (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of Section 7-34 of this Ordinance and the Administrative Guidance Manual.
- (8) A map or maps of the site that depicts the topography of the site and includes:
- (i) Contributing drainage areas;
  - (ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
  - (iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
  - (iv) Current land use including existing structures, roads, and locations of known utilities and easements;
  - (v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
  - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
  - (vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
  - (viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 7-34 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.
- (c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional engineer, architect, surveyor, or landscape architect registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional engineer, architect, landscape architect, or land surveyor registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. If there is an executed agreement in lieu of a Stormwater Management Plan, a construction record drawing is required; however, the drawing may not be required to be appropriately sealed and signed by a professional engineer,

architect, landscape architect, or land surveyor registered in the Commonwealth of Virginia.

- (e) Approved stormwater management plans for residential, commercial or industrial subdivisions which govern the development of the individual parcels within that plan will do so throughout the development life even if the ownership changes.

**Sec. 7-32. Pollution Prevention Plan; Contents of Plan.**

- (a) Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained as required by 9VAC25-870-56.A 1-3, B 1-4, and C.

**Sec. 7-33. Review of Stormwater Management Plan.**

- (a) The Administrator shall review stormwater management plans and shall approve or disapprove as stormwater management plan according to the following:
  - (1) The Administrator shall determine the completeness of a plan in accordance with Section 7-32 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
  - (2) The Administrator shall have an additional 45 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in Sec.7-33 (a) (1), then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.
  - (3) For plans not approved by the Administrator, all comments shall be addressed by the applicant within 180 calendar days. Plans that are not resubmitted within this time period will be subject to a new application fee.
  - (4) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.
  - (5) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the Applicant. If the plan is not approved, the reasons for not approving the plan shall be provided in writing to the Applicant. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance and the Administrative Guidance Manual.
  - (6) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in Sec.7-33 (a) (2) for review, the plan shall be deemed approved.
- (b) Approved stormwater plans may be modified as follows:

- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60calendar days to respond in writing either approving or disapproving such request.
- (2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.
- (c) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities.

**Sec. 7-34. Technical Criteria for Regulated Land Disturbing Activities.**

- (a) To protect the quality and quantity of statewater from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the Locality hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations ,as amended, expressly to include 9VAC25-870-30 [Applicability]; 9VAC25-870-63[water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; 9VAC25-870-85 [stormwater management impoundment structures or facilities]; and, 9VAC25-870-92 [comprehensive stormwater management plans], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Sec. 7-34 (b) the technical criteria for regulated land-disturbing activities set forth in Part II C of the Regulations, as amended, 9VAC25-870-93 through 99 shall apply
- (b) Any land disturbing activity shall be considered grandfathered by the VSMP Authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:
  - (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of the VSMP Regulation, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
  - (2) A state permit has not been issued prior to July 1, 2014; and
  - (3) Land disturbance did not commence prior to July 1, 2014.
- (c) Locality, state and federal projects shall be considered grandfathered by the VSMP Authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:
  - (1) There has been an obligation of locality, state or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1,

2012;

- (2) A state permit has not been issued prior to July 1, 2014; and
  - (3) Land disturbance did not commence prior to July 1, 2014.
- (d) Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the Part II C technical criteria of the VSMP Regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the State Board.
  - (e) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.
  - (f) Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.
  - (g) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.
    - (1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP Authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearing house Website, or any other control measure duly approved by the Director.
    - (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

**Sec. 7-35. Long Term Maintenance of Permanent Stormwater Facilities.**

- (a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local and record prior to general permit termination, if such a permit is required, or earlier as required by the Administrator and shall at a minimum:
  - (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
  - (2) Be stated to run with the land;
  - (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;

- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
- (5) Be enforceable by all appropriate governmental parties.

**Sec. 7-36. Monitoring and Inspections.**

- (a) The Administrator shall inspect the land-disturbing activity during construction for:
  - (1) Compliance with the approved erosion and sediment control plan;
  - (2) Compliance with the approved stormwater management plan;
  - (3) Development, updating, and implementation of a pollution prevention plan; and
  - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- (b) The Administrator has the right, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance. In the event the Administrator, or his agent shall be denied access to property, the Administrator may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a violation of this ordinance has occurred, request that the magistrate or court grant the Administrator an inspection warrant to enable the director of utilities or his agent to enter the property for the purpose of determining whether a violation of this ordinance exists. The Administrator shall make a reasonable effort to obtain consent from the owner or occupant of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this section for any person to deny the Administrator access to any property after the director of utilities or his agent has obtained an inspection warrant from a magistrate or a court of competent jurisdiction for the inspection of such property. Nothing herein shall be construed to authorize Administrator to enter or inspect the interior portions of any dwelling or structure situated on such property unless that inspection be reasonably necessary and directly related to verifying the presence and character of a stormwater control mitigation system or control measure that the owner of the property claims to be installed therein.
- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- (d) Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP Authority permit applicant or permittee, or any such person subject to VSMP Authority permit

requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance. Refer to § 62.1-44.15:40 regarding protection of specified confidential information.

- (e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance and the recorded maintenance agreement shall be conducted by the Owner and at the Owner’s cost pursuant to the Locality's adopted and State Board approved inspection program, and shall occur within the minimum frequencies shown in Table 1-11-1 following approval of the final construction record report for each stormwater facility.

**Table 1-11-1**

<b>BMP Classification</b>	<b>BMP Type</b>	<b>Minimum Inspection Schedule</b>	<b>Notes</b>
1	Rooftop Disconnection	Every 5 Years	Owner shall inspect and provide documentation as per the requirements found on the Virginia Stormwater BMP Clearinghouse Website and the Administrative Guidance Manual for BMPs with classifications 2, 3, and 4. The Locality shall inspect all BMPs every 5 years.
1	Sheetflow to Vegetated Filter or Conserved Open Space	Every 5 Years	
1	Grass Channel	Every 5 Years	
1	Soil Amendments	Every 5 Years	
2	Permeable Pavement	Annually	
2	Infiltration	Annually	
2	Bioretention	Annually	
2	Dry Swale	Annually	
2	Wet Swale	Annually	
2	Filtering Practice	Annually	
2	Constructed Wetland	Annually	
2	Wet Pond	Annually	
2	Extended Detention	Annually	
3	Vegetated Roof	Twice per year (Spring/Fall)	
3	Rainwater	Twice per year	

	Harvesting	(Spring/Fall)	
4	Manufactured/ Other BMP	Yearly or per manufacturer recommendations, whichever is more frequent.	Owner shall inspect and provide documentation according to manufacturer's guidelines and the Administrative Guidance Manual.

- (f) The Owner shall furnish to the Administrator an inspection report for BMPs within classifications 2, 3, and 4 as provided in Table 1-11-11 prepared by a qualified inspector within the timeframe listed in Table 1-11-1. This report shall include, but not be limited to, the items listed in Table 1-11-1, current photographs of the BMP, and a summary of the current BMP condition and any recommendations for improvements, if necessary.
- (g) Qualified inspection personnel include professional engineer, architect, landscape architect, or land surveyor registered in the Commonwealth of Virginia or project inspector for SWM or combined administrator for SWM who have met the certification requirements of 9VAC25-850-50.
- (h) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator pursuant to the Locality's adopted and State Board approved inspection program, and shall occur, at a minimum, at least once every five (5) years.

**Sec. 7-37. Hearings.**

- (a) Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action of the Bedford County taken without a formal hearing, or by inaction of the Bedford County may demand in writing a formal hearing by the Bedford County Board of Supervisors causing such grievance, provided a petition requesting such hearing is filed with the Administrator within 30 days after notice of such action is given by the Administrator.
- (b) The hearings held under this Section shall be conducted by the Bedford County Board of Supervisors at a regular or special meeting of the Bedford County Board of Supervisors, or by at least one member of Bedford County Board of Supervisors designated by the Bedford County Board of Supervisors to conduct such hearings on behalf of the Bedford County Board of Supervisors at any other time and place authorized by the Bedford County Board of Supervisors.
- (c) A record of the proceedings of such hearings shall be taken and filed with the Bedford County Board of Supervisors. Depositions may be taken and read as inactions at law.
- (d) The Bedford County Board of Supervisors or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to

produce documents shall be acted upon by the Bedford County Board of Supervisors, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

**Sec. 7-38. Appeals.**

- (a) Appeals to decisions made by the Bedford County Board of Supervisors are subject to judicial review by the Bedford County Circuit Court provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

**Sec. 7-39. Enforcement.**

- (a) If the Administrator determines that there is a failure to comply with the VSMP Authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

1. The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Sec. 7-39 (b) or the permit may be revoked by the Administrator.
2. If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with Administrative Guidance Manual. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the water sheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as

to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 7-39(c).

- (b) In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the Administrative Guidance Manual.
- (c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in by the Circuit Court of the Locality by the Locality too be same and to comply there with by injunction, mandamus or other appropriate remedy.
- (d) Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.
  - (1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
    - (i) No state permit registration;
    - (ii) No SWPPP;
    - (iii) Incomplete SWPPP;
    - (iv) SWPPP not available for review;
    - (v) No approved erosion and sediment control plan;
    - (vi) Failure to install stormwater BMPs or erosion and sediment controls;
    - (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
    - (viii) Operational deficiencies;
    - (ix) Failure to conduct required inspections;
    - (x) Incomplete, improper, or missed inspections; and
    - (xi) Discharges not in compliance with the requirements of Section 9VAC25-880-70 of the general permit.
  - (3) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
  - (4) 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.

- (5) Any civil penalties assessed by a court as a result of a summons issued by the Locality shall be paid into the treasury of the Bedford County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.
- (e) Not with standing any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12months or a fine of not less than \$2,500 nor more than \$32,500, or both.

**Sec. 7-40. Fees.**

- (a) Fees for a land-disturbing permit for a detached single-family home construction within or outside of common plan of development or sale with a land-disturbing activity less than five (5) acres shall be imposed in accordance with the VSMP Permit Regulations 9VAC25-870-820 and the Administrative Guidance Manual less the Department portion of the total fee. Half of the fees must be paid by the Applicant at the initial plan submittal, and the remaining half shall be paid prior to permit issuance.
- (b) Except as set forth in subsection (a) above, fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP Authority permits shall be imposed in accordance with the VSMP Permit Regulations 9VAC25-870-820 and the Administrative Guidance Manual. Half of the fees must be paid by the Applicant at the initial plan submittal, and the remaining half shall be paid prior to permit issuance.
- (c) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with the VSMP Permit Regulations 9VAC25-870-825 and the Administrative Guidance Manual and shall be paid directly to the Administrator.
- If the general permit modifications result in changes to stormwater management plans that require additional review by the Bedford County such reviews shall be subject to the fees set out in the VSMP Permit Regulations 9VAC25-870-825 and the Administrative Guidance Manual. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in the VSMP Permit Regulations 9VAC25-870-820 and the Administrative Guidance Manual. These fees shall be paid directly to the Administrator.
- (d) The annual permit maintenance shall be imposed in accordance with the VSMP Permit Regulations 9VAC25-870-830 and the Administrative Guidance Manual, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated.

General permit coverage maintenance fees shall be paid annually to the Bedford County, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

- (e) The fees set forth in Subsections (a) through (d) above, shall apply to:
  - (1) All persons seeking coverage under the general permit, if such permit is required.
  - (2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
  - (3) Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater from Construction Activities.
  - (4) Permit and permit coverage maintenance fees outlined under Section 7-40(c) may apply to each general permit holder.
- (f) No general permit application fees will be assessed against the following:
  - (1) Permittees who request minor modifications to general permits as defined in Section 7-27 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.
  - (2) Permittees whose general permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.
- (g) All incomplete payments will be deemed as non-payments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the under payment 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. Bedford County shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

**Sec. 7-41. Performance Bond.**

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the County Attorney and Administrator, or designee, to ensure that measures could be taken by Bedford County at the Applicant's expense should he fail, after proper notice, 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 Bedford County takes such action upon such failure by the Applicant, the Locality may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60

days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of creditor, other legal arrangement or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

**Voting yes: Mr. Thomasson, Mr. Martin, Mr. Wilkerson, Mr. Sharp, Mr. Arrington, Mrs. Pollard and Mrs. Parker**

**Voting no: None**

**Motion passed.**

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**(6) ACTION ITEMS**

**(6a)** County Administrator Mark Reeter addressed the Board with a request to adopt the FY2014-15 budget. Mr. Reeter noted that the final General Fund figure, as decided in the work session, is \$89,337,592.00.

**Supervisor Thomasson made a motion to approve Resolution #R060914-07.**

**WHEREAS**, the FY 2014-2015 Budget has been duly prepared and presented to the Board of Supervisors; and

**WHEREAS**, the appropriate advertisements and public hearings, as required by the Code of Virginia, have been conducted; and

**WHEREAS**, numerous budget work sessions, open to the general public have been conducted; and

**WHEREAS**, the Board of Supervisors has considered the services required and desired by the citizens of Bedford County.

**NOW, THEREFORE, BE IT RESOLVED**, that the FY 2014-2015 Budget is established as follows:

General Fund	\$	89,337,592
Law Library Fund	\$	13,560
Vehicle Replacement Fund	\$	225,000
General Capital Improvement Fund	\$	3,430,602
Nursing Home Fund	\$	5,404,230
Solid Waste Fund	\$	2,935,008

**Voting yes: Mr. Thomasson, Mr. Martin, Mr. Wilkerson, Mr. Sharp, Mrs. Pollard and Mrs. Parker**

**Voting no: Mr. Arrington**

**Motion passed.**

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**(6b)** Fiscal Management Director Susan Crawford addressed the Board with a request for approval of School Board Re-Appropriations, Supplemental, and Category Transfer Requests. Ms. Crawford briefly reviewed the requests with the Board, noting the details had been contained in the Board's agenda packet.

**Supervisor Thomasson made a motion to approve Resolution #R060914-08, R06914-09, #R060914-10 and #R060914-11.**

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**WHEREAS**, the Bedford County School Board applied for the School Security Equipment Grant; and

**WHEREAS**, the state awarded Bedford County Public Schools \$75,597 for the purchase and installation of security equipment at Bedford Elementary, Bedford Primary, Stewartsville Elementary and Thaxton Elementary; and

**WHEREAS**, camera equipment was purchases and installed at all four schools; now

**THEREFORE, BE IT RESOLVED**, by the Bedford County Board of Supervisors that the Board does hereby authorize a Supplemental Appropriation in the amount of \$75,597 to the major category of Maintenance in the FY 2013-2014 School Operating Budget.

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**WHEREAS**, during the 2013-2014 school year, the Bedford County School Board budgeted for 21<sup>st</sup> Century federal grant expenditures in both the Instruction and Transportation categories; and

**WHEREAS**, there was higher than expected transportation costs associated with the 21<sup>st</sup> Century grant; and

**WHEREAS**, the 21<sup>st</sup> Century Instruction category costs are projected to come in under budget; now

**THEREFORE, BE IT RESOLVED**, by the Bedford County Board of Supervisors that the Board does hereby authorize a Category Transfer in the amount of \$45,000 from the major category of Instruction to the major category of Transportation in the FY 2013-2014 Operating Budget.

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**WHEREAS**, during the 2013-2014 school year, the Bedford County School Board is projected to come in under budget in the Instruction category by \$63,000 and the Administration category by \$88,000; and

**WHEREAS**, there was higher than expected transportation costs associated with fuel and added bus routes which is projected to cause the category to come in \$100,000 over budget; now

**THEREFORE, BE IT RESOLVED**, by the Bedford County Board of Supervisors that the Board does hereby authorize a Category Transfer in the amount of \$20,000 from the major category of Instruction to the major category of Transportation and a Category Transfer in the amount of \$80,000 from the major category of Administration to the major category of Transportation in the FY 2013-2014 Operating Budget.

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**WHEREAS**, during the 2012-2013 school year, the Bedford County School Board received funding from County tax dollars, State, Federal and other monies allotted for operation of the schools; and

**WHEREAS**, there was a balance in the School Operating Fund of \$178,509.43 at June 30, 2013; and

**WHEREAS**, the 2013-2014 debt service budget was developed based on projected savings on the refinancing of current debt; and

**WHEREAS**, the savings came in less than the projected which will cause the Debt Service category to come in over budget \$110,000; now

**THEREFORE, BE IT RESOLVED**, by the Bedford County Board of Supervisors that the Board does hereby authorize a re-appropriation in the amount of \$110,000 to the major category of Debt Service in the School Operating Fund and \$68,509.43 to the School Maintenance Project Fund in the FY 2013-2014 School Budget.

**Voting yes: Mr. Thomasson, Mr. Martin, Mr. Wilkerson, Mr. Sharp, Mr. Arrington, Mrs. Pollard and Mrs. Parker**

**Voting no: None**

**Motion passed.**

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**(6c)** County Attorney Carl Boggess addressed the Board with a request for approval of a tower lease for Region 2000. Attorney Boggess stated the tower and the land are owned by the County, but the equipment on the tower (which needs repair) will be owned by Region 2000 through this request. He noted that the tower was built during the time of the last radio board, but the way this one is formatted it will be much cleaner to allow Region 2000 to do the actual work on the equipment.

In response to a question from Supervisor Thomasson, Attorney Boggess stated that this tower is owned by the County and was built as part of a public-private partnership between U.S. Cellular and the County in 1997. The County bought the land and U.S. Cellular built the tower; the only occupant at present is U.S. Cellular, who does not pay rent because they built the tower. The County, Public Safety and the Bedford Regional Water Authority have equipment on the tower, but there is no rent being paid on anything at this point.

In response to a question from Supervisor Martin, Attorney Boggess said the land is owned by the County and the portion of the property that is attributable to the County is not taxable.

**Supervisor Pollard made a motion to approve Resolution #R060914-12.**

**WHEREAS**, the County of Bedford owns a certain communications tower and a certain parcel of land located in Bedford County and more commonly known to the County as the Dumpling Mountain tower site (the "Licensed Premises"); and

**WHEREAS**, Amherst County, Bedford County, the Town of Bedford, and the City of Lynchburg have been operating a jointly funded Regional Emergency Communications System (“System”) since 1996; and

**WHEREAS**, the localities determined in 2011 that significant upgrades to the System were necessary and entered into the Region 2000 Emergency Communications Regional Cooperative Agreement with the Council (“Cooperative Agreement”) in order to jointly finance such upgrades and in order to transfer ownership and operation of the System to the Council; and

**WHEREAS**, the Licensed Premises has been and continues to be integral to the operation of the System, and as such the Parties agree that the Council will implement all necessary System upgrades at the Premises and take over ongoing the responsibility of maintaining and operating the System equipment located at the Premises pursuant to the terms of the Cooperative Agreement; and

**WHEREAS**, providing a reliable emergency communications system to serve law enforcement agencies and fire and rescue agencies is in the best interest of the citizens of Bedford County and necessary to protect the public’s health safety and welfare, and this Agreement serves to further these important interests.

**NOW, THEREFORE, BE IT RESOLVED**, by the Bedford County Board of Supervisors that the Board does hereby grant a license to Virginia’s Region 2000 Local Government Council for the continued operation of the Dumpling Mountain Tower site in accordance with the attached agreement. The Board further authorizes the Board Chairman or the County Administrator to execute the Agreement.

**Voting yes: Mr. Thomasson, Mr. Martin, Mr. Wilkerson, Mr. Sharp, Mr. Arrington,  
Mrs. Pollard and Mrs. Parker**

**Voting no: None**

**Motion passed.**

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**(6d)** County Administrator Mark Reeter addressed the Board with a request to transfer responsibility from County Administration of Comprehensive Services Act and the Department of Youth and Family Services to the Department of Social Services. Mr. Reeter briefly reviewed the process that led to this request, stating this will enable approximately 30% of the salaries to be reimbursed by State funds and will be effective July 1, 2014. He noted this percentage is subject to change. Mr. Reeter stated that he has noted in his memo accompanying the resolution the expressions of concern he has received throughout the development of this request. He commented that the concerns were substantive but outside the scope of what he was tasked to do regarding this issue, which was to look at the feasibility of making the transfer without weighing in on the substantive concerns brought forward both previously and by Judge Harrison this evening.

Supervisor Pollard asked Department of Social Services (DSS) Director Any Crawford if he thinks there will be any changes in the level of service the Department of Youth and Family Services currently provides once it is transferred under DSS; Mr. Crawford responded in the negative.

Supervisor Wilkerson stated that when this was first explained to him, it was presented as the same services being given to the same target group with the same personnel; it would just be a shift in supervision. He said it would seem, from Judge Harrison's comments, that model has decayed somewhat with the departure of a couple of staff as well as the pending departure of others as a direct result of this reorganization. Considering the impact of those experienced personnel being lost, he asked Mr. Crawford what his thoughts were. Mr. Crawford stated he thinks it will be fine. Supervisor Wilkerson said he was not casting dispersions on Mr. Crawford's abilities or intentions, but he said he has reservations since what seemed to be an easy transfer is now going to be complicated. It's not always about the money; sometimes there are other considerations, and he is concerned about delivery of services based on what he has learned since his first exposure to this issue.

Vice-Chairman Parker said this needed to be looked at the same way Domestic Violence was transferred from being under the County to DSS. She said there has been no change in services or anything else except that it is now under DSS. She said CSA is supposed to provide services to youths while looking for savings. Vice-Chairman Parker said this transfer will save between \$125,000.00 and \$130,000.00 per year in administrative costs. She said these costs do not provide services; they provide for salaries. The department will remain exactly the same with the same services and offices. She said anytime we can save funding with State funding, she doesn't know why we wouldn't do it. She said this has been proposed negatively to staff, and some people become fearful when change is proposed in a negative way.

**Vice-Chairman Parker made a motion to approve Resolution #R060914-13.**

**WHEREAS**, the Bedford County Department of Youth and Family Services (hereinafter DYFS) is the County entity responsible for the provision of a number of human service programs including, but not limited to: administration of the Virginia Comprehensive Services Act (hereinafter CSA); administration of the Virginia Juvenile Community Crime Control Act plan; truancy prevention and therapeutic services for youth and families in crisis; and

**WHEREAS**, in 2003 the Bedford County Board of Supervisors (hereinafter the Board) established the DYFS as an administrative unit of the County government under the Office of County Administrator in part for the purposes of fulfilling the administrative responsibilities of CSA, and

**WHEREAS**, the Board's expansion of prevention efforts and programs, coupled with strong program management, has contributed to significant reductions in costs associated with the delivery of mandated CSA services of approximately \$1.7 million since July 1, 2003, and

**WHEREAS**, administrative and personnel costs associated with prevention efforts and programs have gradually increased while non-local sources of funding available to defray such administrative and personnel costs have remained constant, and

**WHEREAS**, the Bedford County Department of Social Services (hereinafter the LDSS) currently may receive state and federal reimbursement through the Virginia Department of Social Services (herein the VDSS) to support administrative and personnel expenses associated with DYFS programs if the responsibility for same is transferred to the LDSS by the local government, and

**WHEREAS**, the Board desires to maximize the use of state and federal funds to cover as much of the administrative and personnel expenses associated with DYFS and its current staffing of seven (7) full-time County employees as possible, thereby easing the burden on limited County (local) funds, and

**WHEREAS**, the LDSS has agreed to accept responsibility for local administration of DYFS programs, including CSA, in Bedford County and has determined that all seven positions currently within DYFS may be transferred and made part of the LDSS's authorized workforce, eligible as of July 1, 2014 for state financial support;

**NOW, THEREFORE, BE IT RESOLVED**, by the Bedford County Board of Supervisors that the Board does hereby act as follows:

(1). Effective July 1, 2014, the responsibility for the administration of the DYFS programs in their totality and more specifically, the locality's requirements and obligations under the CSA in Bedford County is transferred to the LDSS.

(2). Effective July 1, 2014, all seven (7) positions currently within the DYFS are hereby transferred to the LDSS, and DYFS is dissolved as of that date. All accrued paid leave, and other benefits of the involved personnel shall be transferred to the LDSS. Effective July 1, 2014, transferred personnel will accrue leave in accordance with the VDSS policies and beginning years of service shall be equal to years of service with the County as of June 30, 2014. Leave payout (exclusive of sick (except for retirement)) upon resignation or retirement of any of the 7 current employees during the period July 1, 2014 to June 30, 2015 shall be considered a local-only LDSS expenditure. Leave payout upon Employer termination during the period July 1 2014 to June 30, 2015 shall considered a reimbursable LDSS expenditure. Sick Leave payout upon resignation during the period July 1, 2014 to June 30, 2015 shall be considered a reimbursable LDSS expenditure.

(3). On and after July 1, 2014, personnel and/or positions formally associated with DYFS may remain housed in their current office space in the County Administration Building, and that space may continue to be used for the purposes of personnel directly associated with the former DYFS programs. If at any time the LDSS finds it necessary to relocate staff, all changes will be agreed upon by the LDSS Director and the County Administrator. Bedford County shall charge the LDSS for depreciation and maintenance costs for such space beginning July 1, 2014.

(4). Equipment and office furnishings, including County-provided computers and related hardware and software in use by DYFS as of June 30, 2014 may continue to be used by LDSS solely for the administration of CSA and other DYFS programs for a period of no less than two (2) fiscal years (through June 30, 2016). Such equipment/furnishings shall remain in the County Administration Building unless relocation of same is approved by the County Administrator. Equipment/furnishings no longer needed for such purposes shall be returned to the County.

(5). All funds budgeted for Youth and Family Services (Budget Department 5330) and Comprehensive Services Act (Budget Department 5331) for Fiscal Year 2015 will be available to LDSS for the purpose of continued administration of DYFS programs and personnel.

**BE IT FURTHER RESOLVED**, that the Board reserves the right to re-establish administrative control over the County's CSA administration and other former DYFS responsibilities at its discretion.

**Voting yes: Mr. Thomasson, Mr. Martin, Mr. Sharp, Mr. Arrington, Mrs. Pollard and Mrs. Parker**

**Voting no: Mr. Wilkerson**

**Motion passed.**

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**(7) BOARD COMMENTS, COMMITTEE REPORTS, REQUESTS AND RECOMMENDATIONS**

Supervisor Pollard commended Youth and Family Services Manager Krystal Hulette for the job she's done, and stated that this transfer was no reflection on her. It's just a way to help the taxpayers and do what's right.

Chairman Sharp noted that if the Board is not happy with the results of this transfer they can reverse their decision. Supervisor Wilkerson stated that he almost abstained from voting because he does not have the depth of understanding that the rest of the Board does, but he doesn't like to abstain.

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**(7a)** The Board was given a copy of the Planning Commission meeting minutes from April 15, 2014 for review.

**(7b)** The Board was given a copy of the Bedford Public Library Board of Trustees meeting minutes from May 6, 2014 for review.

**(7c)** The Board was given a copy of the Bedford Regional Water Authority meeting minutes from April 15, 2014 for review.

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**(8) APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

**(8a) Supervisor Pollard made a motion to appoint Andy Dooley to represent District 7 on the Recreation Advisory Board; motion passed by acclamation.**

**(9) COUNTY ATTORNEY’S REPORTS, REQUESTS AND RECOMMENDATIONS**

Attorney Boggess stated that at the last meeting Supervisor Pollard brought to the Board’s attention an issue involving a couple who had bought a house with no septic system just west of town. He asked that the Board give him the authority to make an application to the Department of Health for a pump and haul general permit. It doesn’t mean anything more than giving him the authority to start the process. In response to a question from Supervisor Thomasson, Attorney Boggess stated the couple knew before buying the property that it did not have a septic system, but if they are willing to post the bond then no liability would fall on the County. Supervisor Martin stated the owners are having a lot of problems besides the septic; Attorney Boggess said he was aware of the other issues, such as the entrance permit from VDOT. Supervisor Pollard said the Board should do what they can to help this couple; they are trying to move their business. The Board gave its consensus for Attorney Boggess to proceed.

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**(10) COUNTY ADMINISTRATOR’S REPORTS, REQUESTS AND RECOMMENDATIONS - none**

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**(11) PENDING MATTERS** - Supervisor Arrington said he will support giving \$100,000.00 to Economic Development to use towards the septic system project for Moneta Elementary School, but would not support giving the funds directly to the School Division. Supervisor Thomasson suggested that Mr. Aznavorian also route his contribution through Economic Development; Mr. Aznavorian agreed. The Board gave its consensus to follow Supervisor Arrington’s suggestion.

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**(12)** Chairman Sharp noted the Board’s upcoming meetings on June 23<sup>rd</sup> – Regular Meeting at 7:30 p.m. (*tentative* - work session from 5:00 to 6:45 p.m.); July 14<sup>th</sup> – Regular Meeting at 7:30 p.m. (work session from 5:00 to 6:45 p.m.); and July 28<sup>th</sup> – Regular Meeting at 7:30 p.m. Mr. Reeter noted that if the State didn’t approve a budget by June 23<sup>rd</sup>, the Board would need a work session to discuss appropriations.

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**Supervisor Thomasson made a motion to adjourn the meeting; motion passed by acclamation at 11:12 p.m.**