

Regular Meeting, Wednesday, May 28, 2014, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Larry J. Wills, Chairman  
Michael L. Shull, Vice-Chairman  
Carolyn S. Bragg  
David A. Karaffa  
Jeffrey A. Moore  
Marshall W. Pattie  
Tracy C. Pyles, Jr.  
Timmy Fitzgerald, Director of Community Development  
Jennifer M. Whetzel, Director of Finance  
Patrick J. Morgan, County Attorney  
Patrick J. Coffield, County Administrator  
Rita R. Austin, CMC, Executive Secretary

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, May 28, 2014, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 238<sup>th</sup> year of the Commonwealth....

\* \* \* \* \*

Chairman Wills welcomed the citizens present.

\* \* \* \* \*

Mia Windley and Virginia Cline, seniors from Riverheads High School, led us with the Pledge of Allegiance. Mia enjoys playing softball and plans on attending Blue Ridge Community College. Virginia plans on attending Blue Ridge Community College and then transferring to George Mason University to study Criminology.

\* \* \* \* \*

Larry J. Wills, Supervisor for the Middle River District, delivered invocation.

\* \* \* \* \*

**SWEET DREAMS FESTIVAL - RESOLUTION**

Joyce Johnson, Program Coordinator of Parks and Recreation, on behalf of the Sweet Dreams Board, presented Kevin Blackford with a resolution for all of his hard work for the past ten years for the Sweet Dreams Festival. Mr. Blackford was the actual person who approached Augusta County wanting to create a partnership to create this event at the Stuarts Draft Park as one of the starting points of the park when that particular park was established ten years ago.

Mr. Pattie moved, seconded by Ms. Bragg, that the Board adopt the following resolution:

**RESOLUTION**

**WHEREAS**, in 2003, Kevin Blackford approached Augusta County with an idea for an event which became known as the Sweet Dreams Festival, to serve as a grand opening for the newly built Stuarts Draft Park; and

**WHEREAS**, his idea also incorporated the inclusion of Hershey Chocolate of Virginia and McKee Foods in the celebration, both industries are located in Stuarts Draft making it the "Sweetest Community in the Commonwealth"; and

**WHEREAS**, once his idea was approved by the County, Kevin Blackford assembled a committee to organize the event whose membership included representatives from Stuarts Draft 7-11, Hershey Chocolate of Virginia, McKee Foods, Community Bank, DuPont Community Credit Union, Stuarts Draft Post Office, individuals from the community and several County officials; and

**WHEREAS**, he assisted in obtaining sponsorships from local businesses and organizations to keep the Sweet Dreams Festival a free family oriented event; and

May 28, 2014, at 7:00 p.m.

**SWEET DREAMS FESTIVAL – RESOLUTION (cont'd)**

**WHEREAS**, Kevin Blackford envisioned an event that would include local artisans and crafters, businesses and entrepreneurs to showcase life in Augusta County; and

**WHEREAS**, he recruited people and organizations to conduct the pancake breakfast and 5K run; and

**WHEREAS**, Kevin Blackford helped to secure musical and family oriented entertainment such as: Willy Wonka performances, Little Debbie Look A-Like Contest, Letter Writing Contest, Bubble Gum Blowing Contest, carnival rides, rock climbing wall, and a life sized board game; and

**WHEREAS**, he was able to find local artists, such as Lisa Geiman, Linda Patrick, and P. Buckley Moss to create paintings, and Longaberger to create baskets in recognition of the Sweets Dreams Festival; and

**WHEREAS**, Kevin Blackford was instrumental in securing promotion of the event through the distribution of flyers mailed through local post offices, and also securing publicity in local newspapers, on radio stations, and on television stations; and

**WHEREAS**, Kevin Blackford obtained approval from the U. S. Postal Service for a different commemorative stamp cancellation in celebration of the Sweet Dreams Festival every year since its conception; and

**WHEREAS**, largely because of the efforts of Kevin Blackford the Sweet Dreams Festival has received a National Association of Counties Award, a Virginia Association of Counties Award, and a Virginia Parks and Recreation Society Best New Special Events Award.

**NOW THEREFORE BE IT RESOLVED** that the Board of Supervisors of Augusta County expresses its appreciation and gratitude for the leadership of Kevin Blackford and for the time, effort, and devotion he gave to make the Sweet Dreams Festival a successful family oriented event that the Board of Supervisors and Citizens of Augusta County are most proud of.

**BE IT FURTHER RESOLVED** that a copy of this resolution be spread upon the Minutes of the Board of Supervisors.

Vote was as follows:           Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

Mr. Blackford apologized for his apparel and explained that he had just come from the golf course and was informed by his wife of this special event. "This was really a community event created by many. Parks and Recreation was basically the nuts and bolts for this event, which is such a wonderful event for Stuarts Draft."

John Swett, of Stuarts Draft, noted that there are two "sweet wonderful factories" in Stuarts Draft and that is why "Sweet Dreams" was named. Mr. Blackford has "attended all meetings and been the prime mover to make this thing happen. He is the one who got together with Parks and Recreation so often to be able to work together to make this a wonderful success". He added that this event is going into its eleventh year, noting that attendance has been as high as 11,000 and not less than 7,000 in any other year. "It's a fun event. It's an event where it doesn't cost you a penny." He asked for the cheering section who was present tonight to stand. It was noted that the date for the event this year is July 26<sup>th</sup> from 9:00 a.m. to 5:00 p.m.

May 28, 2014, at 7:00 p.m.

SWEET DREAMS FESTIVAL – RESOLUTION (cont'd)

Ms. Bragg commented that Mr. Blackford is an “amazing visionary”. “His ideas always just happen. Stuarts Draft is a much better place because of the work and the efforts of programming that you put in it and your time. We, as a community, really appreciate everything that you have done.”

\* \* \* \* \*

STORMWATER MANAGEMENT ORDINANCE

This being the day and time advertised to consider combined Stormwater and Erosion Control Ordinance revisions

Timmy Fitzgerald, Director of Community Development, introduced Todd Flippen as the lead speaker and Doug Wolfe, County Engineer, who is available to answer questions.

Mr. Flippen noted that he is an engineer for the County and acted as lead for the new Stormwater regulations. He added that this was a culmination of two years of work. County staff has participated in local government advisory committees pertaining to stormwater regulations and they have also participated in technical advisory committees dealing with the revisions to the construction general permit. These committees have been quite helpful. He presented a PowerPoint with the following highlights:

Agenda:

- History of State and County E&SC and SWM
- State SWM Regulation Development
- Fee Examples

\* \* \*

Erosion and Sediment Control

Mr. Flippen explained erosion and sediment control to the Board as being the practice of having a construction site, tearing down the grass and the top layer of the soil; you grade; it rains; that bare earth gets washed away onto adjacent properties and streams and rivers. The regulations pertain how to control that runoff and keep it on the site as much as possible before it goes on to adjacent property.

- State Program started in the 1970s
- County Program since late 1980s
  - State reviews our program for compliance (every 5 years) Last review in 2007
  - Basins/channels may be required to meet “Adequate Channel”

Mr. Flippen explained that “Adequate Channel” was a channel that was able to carry water without overtopping and without eroding. Regulations allow a pond to be built big enough to where you have a small outlet where it trickles out during a storm; therefore, you would not need an outlet channel according to the regulations. This applies to locations for development where you have houses downstream where there is not an existing channel.

\* \* \*

Stormwater Management (SWM)

Mr. Flippen explained quantity as to having a house; someone develops a parking lot uphill of the development; water is directed towards the house (with no pond); during a storm, you’re getting more water that is not soaking into the ground. Early policies and ordinances with the County addressed mainly quantity—the amount of water that is produced by development.

May 28, 2014, at 7:00 p.m.

STORMWATER MANAGEMENT ORDINANCE (cont'd)  
Stormwater (SWM) Management (cont'd)

1980s-2012

- Localities may adopt, no requirement
- County adopted policy late 1980s, Quantity Only
- Ordinance 1999, Quantity Only

Since 2004, State required separate compliance for construction sites >1 ac

- Requires both Quantity AND Quality. County operated programs could still elect to regulate Quantity only
- Very relaxed state implementation, permit requirement but very little inspection and enforcement
- State was implementing through DEQ, transferred to DCR
- Inspection and enforcement has gradually been increasing

Mr. Flippen noted that the State does not have the manpower to review every plan submitted and stated that this is why responsibility comes to the locality.

\* \* \*

State SWM Law and Regulations Revisions

DCR issued Notice of Intent for Regulatory Action (NOIRA) July 21, 2005

Regulations approved May 24, 2011 by S&W Board. Regulations became effective September 13, 2011.

Localities could opt not to have a VSMP program, state will implement instead

- County advised DCR that we wanted state to run for 2 years, then evaluate

\* \* \*

Integration Bill 2012

- Makes the definition section consistent across the three acts (E&SC, SWM, CBPA)
  - Makes a common ordinance simpler
- Late amendment required that all localities adopt a VSMP program

This is what “triggered” the County to begin designing an ordinance and program to meet this regulation.

\* \* \*

Stormwater Bill 2014 (HB1173 & SB 423)

- Non-MS4 localities may be administered by the State
- Newly formed MS4 counties could defer for 6 months
- BMPs approved in other states would be allowed in Virginia
- Established an agreement-in-lieu-of a stormwater management plan for single family dwelling
- Updates the hearings and appeals processes

\* \* \*

E&S and SWM Ordinance

- Work started in Fall 2012
- Decision made to combine Erosion and Sediment Control (E&S) and Stormwater Ordinances
- Board approved ordinance submittal to DEQ in March 2013 and December 2013
- In March 2013, State approved a one year extension to implement program (original date was July 1, 2013)
- In January 2014, State approved preliminary package with minor comments.

May 28, 2014, at 7:00 p.m.

STORMWATER MANAGEMENT ORDINANCE (cont'd)

Mr. Flippen noted that the regulatory changes by the State have been incorporated into the ordinance and a final product can be submitted to the State for approval and have the VSMP program begin July 1<sup>st</sup>.

\* \* \*

As part of water quality equation:

1. Nutrient Removal Targets

Consistent rates statewide

New Development

- Loading Phosphorus target – 0.41 lbs/acre

Redevelopment

- 10% Phosphorus reduction for < 1 acre
- 20% Phosphorus reduction for > 1 acre

Construction within Total Maximum Daily Load (TMDL) area may lower reduction target

Mr. Flippen added that there are local TMDLs where there are impaired streams and TMDL studies associated with those streams where there could be a possibility if you construct within the watershed of that stream, your target rate could be lower than .41; for example, it could be .3 which would require you to put in additional measures to filter the water, etc. That is 0.41 lbs. per acre over a period of one year.

He noted that the State has been implementing these regulations since 2004. Technically, if you met the requirement for a VSMP permit, you were supposed to abide by specific criteria within the VSMP permit. At the County level, this is the first time looking at water quality.

\* \* \*

2. Runoff Reduction

Pollutant removal efficiencies for:

- Treatment
- Runoff Reduction

Low Impact Design BMPs

Meets Chesapeake Bay TMDL

Maintenance Agreements required for all constructed BMPs

Mr. Flippen explained that, in the 1980s, a lot of ponds were built to handle stormwater. The thought, now, is to try to manage stormwater like it would be managed before the development. A lot of the measures being considered is to promote water to get in the grass area and try to infiltrate into the ground. As you put measures to try to infiltrate into the ground, those nutrients and those pollutants go through the soil and the soil will take out a lot of the harmful things that you do not want going into the river. Another thing, it is water that is not washing onto downstream property. The water is going into the ground is not necessarily affecting the person next-door. As an example, he displayed a rain barrel cistern.

He noted that every plan will have a maintenance agreement requirement.

\* \* \*

Construction Permits

- Once local programs are approved and in operation, the following fees shall apply:

	Initial	Maintenance
• Comm. POD < 1 acre =	\$600	\$50
• ≥ 1 acre < 5 acres =	\$2,700	\$400
• ≥ 5 acres < 10 acres =	\$3,400	\$500
• ≥ 10 acres < 50 acres =	\$4,500	\$650
• ≥ 50 acres < 100 acres =	\$6,100	\$900
• ≥ 100 acres =	\$9,600	\$1,400

May 28, 2014, at 7:00 p.m.

STORMWATER MANAGEMENT ORDINANCE (cont'd)  
Construction Permits (cont'd)

Mr. Flippen learned that because of State regulations, fees must go through a public hearing before being implemented or changed; therefore, these fees were included in the ordinance. He noted that the Common Plan of Development (POD) less than an acre had changed from \$290 to \$600. It was changed because of a State regulation change in March that indicated that you could not charge a higher fee than an agreement in lieu of a plan. The agreement in lieu of a plan is a flat fee of \$250. He noted that the maintenance is associated with the Construction General Permit. Each year that your permit is active, there is a maintenance fee associated with it. While the permit is active, inspections and reports are still being done.

\* \* \*

Example projects

- **3 acre commercial project (2 year duration)**

<u>Old fees</u>	<u>New Fees</u>
\$1,200 Erosion Fee	\$2,700 SW Permit Fee
\$ 450 State Fee	\$800 Maintenance Fee (2yr)
<b>Total: \$1,650</b>	<b>Total: \$3,500</b>
  
- **40 acre commercial project (2 year duration)**

<u>Old Fees</u>	<u>New Fees</u>
\$8,500 Erosion Fee	\$4,500 SW Permit Fee
\$ 750 State Fee	\$1,300 Maintenance Fee (2yr)
<b>Total: \$9,250</b>	<b>Total: \$5,800</b>

Mr. Flippen noted that in the Old Fees column, a State Fee was required. This related to a 3-acre commercial project. He added that if you are looking at a larger site, for the same 2-year duration, the Old Fees were substantially larger than the New Fees. The analysis showed that between five and ten acres, is where you would see a break between the New Fees being more than the Old Fees. The larger acreage would indicate the New Fees being lower than the Old Fees.

The Chairman declared the public hearing open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Karaffa commended staff on working with the State to create an ordinance. He did not like the ordinance because it was going to affect small businesses and new start-ups who wanted to start at a smaller level. "When you look at what we have to pay to the State, and they don't really do anything, it's a money grab. It's being forced on our businesses and our citizens. However, we're required to implement it."

Mr. Pyles agreed that it was costly but he did not think it was a "money grab" because the County is not getting a lot of money after paying expenses. "This is work that we're required to do and I assume we're making these as fair as we can do it. We already know that our Inspections Department does not make money. It loses money. The people in Richmond have decided this is good for the environment. This adds some value to it – not to just that person, but, mainly, it has advantages to people downstream from him. It is entirely appropriate that the people at-large pay a portion of it. I don't want anyone get the impression that anybody is making money on this. We've got more work to do so we have to charge for it."

Mr. Shull reiterated that these are some of the mandates from Richmond. "It looks like the smaller business man is the one who is going to take the hit here. That is probably 75% of businesses in our County because the large commercial developers, we don't

May 28, 2014, at 7:00 p.m.

**STORMWATER MANAGEMENT ORDINANCE** (cont'd)

have that many here. It's a bad ordinance but I know where it is coming from. The EPA comes down on the State; the State has to do something for Chesapeake Bay cleanup. It comes back to the locality to do something."

Chairman Wills commented, "This is an ordinance that I have worked hard through the State and through the VACo Association to try to get things changed on it. The real frustrating thing about this is the State fees that Mr. Karaffa spoke of. They get 27% of the fee we charge. We can't change the fee we charge; they get the 27% of their suggested fee. Whether we charge half of it or whether we charge double, they get a certain percentage. We can't figure, really, what they're getting it for for developing the model ordinance, I guess. It's been very frustrating. I do appreciate what staff has done with it. It is just the type of ordinance that comes from the State that I feel like that is just a State mandate. We do the work, as Mr. Flippen said, they didn't have time to do so they gave it to localities to do. It wasn't any question that we had to put it together. I worked hard to try to get a year's relief on it. The one good thing that did come out of it, there are some small localities that did get by without having to put it in. The State will continue doing it for them. The thing that we have heard from the homebuilders—if we don't do it, the State will take forever to get it through and the developer can't get his project going. So our developers hurt."

Mr. Karaffa moved, seconded by Mr. Moore, that the Board adopt the following ordinance:

**AN ORDINANCE TO REPLACE CHAPTERS 9 AND 18, EROSION  
AND SEDIMENT CONTROL AND STORMWATER, OF THE  
AUGUSTA COUNTY CODE**

**WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to combine the Erosion and Sediment Control and Stormwater ordinances; and**

**WHEREAS comprehensive revisions to the Stormwater Ordinance are necessary to comply with amendments to the Virginia Stormwater Management Regulations;**

**NOW, THEREFORE be it resolved by the Augusta County Board of Supervisors, that Chapters 9 and 18 of the Augusta County Code are repealed and a new Chapter 9, entitled "Environment" reenacted to read as follows:**

**CHAPTER 9. ENVIRONMENT**

**ARTICLE I. REGULATION OF STORMWATER AND EROSION AND SEDIMENT CONTROL**

**§ 9-1. Purpose and authority**

1. Pursuant to Virginia Code § 62.1-44.15:27, this ordinance integrates stormwater management requirements with the erosion and sediment control requirements into an integrated erosion and sediment control and stormwater program. The integrated program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the County and those responsible for compliance with these programs. This ordinance accounts for any town lying within the County unless such towns choose to adopt their own program

2. The purpose of this ordinance is to establish minimum stormwater management (SWM) and erosion and sediment control (ESC) requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within the County, and protect aquatic resources.

3. This ordinance is adopted pursuant to Articles 2.3 & 2.4 of Chapter 3.1 of Title 62.1 of the Code of Virginia.

---

May 28, 2014, at 7:00 p.m.

## § 9-2. Definitions

As used in the ordinance, unless the context requires a different meaning, the following terms shall have the meanings indicated:

**"Administrator"** means the VSMP authority responsible for administering the VSMP on behalf of the County and the VESCP authority responsible for administering the VESCP on behalf of the County. The Department of Community Development is designated as the Administrator.

**"Agreement in lieu of a plan"** means a contract between the Administrator and the owner or permittee that specifies methods that must be implemented to comply with the requirements of a VSMP and/or Erosion and Sediment Control Plan in the construction of a single-family residence; this contract may be executed by the Administrator in lieu of a formal site plan. Fees associated with Agreement in lieu of a Plan do not require payment to Department.

**"Applicant"** means any person submitting a development plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

**"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.

**"Certified inspector"** means an employee or agent of the County of Augusta who (i) holds a certificate of competence from the state board in the area of project inspection pertaining to VESCP and/or VSMP or (ii) is enrolled in the state board's VESCP and/or VSMP training program for project inspection and successfully completes such program within one year after enrollment.

**"Certified plan reviewer"** means an employee or agent of the County of Augusta who (i) holds a certificate of competence from the state board in the area of plan review pertaining to VESCP and/or VSMP, (ii) is enrolled in the state board's VESCP and/or VSMP training program for plan review and successfully completes such program within one year after enrollment..

**"Certified program administrator"** means an employee or agent of the County of Augusta who (i) holds a certificate of competence from the state board in the area of program administration pertaining to VESCP and/or VSMP or (ii) is enrolled in the state board's VESCP and/or VSMP training program for program administration and successfully completes such program within one year after enrollment.

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

**"Common plan of development or sale"** means a contiguous area where separate and distinct construction activities may be taking place at different times on difference schedules.

**"Conservation Plan," "Erosion and Sediment Control Plan,"** or **"Plan"** means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

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

**"County"** or **"Program Authority"** means the County of Augusta, Virginia, which has adopted an erosion and sediment control program that has been approved by the state board.

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

**"Department of Community Development"** means the County of Augusta, Virginia, Department of Community Development.



---

May 28, 2014, at 7:00 p.m.

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

**"Director"** means the Director of DEQ.

**"District"** or **"Soil and Water Conservation District"** refers to the Headwaters Soil and Water Conservation District.

**"Erosion Impact Area"** means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action.

**"Excavating"** means any digging, scooping or other methods of removing earth materials.

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

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

**"Grading"** means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

**"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 9-4(E)-2 of this Ordinance.

**"Land-disturbing Permit" or "Permit"** means a permit issued by the County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

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

**"Local erosion and sediment control program" or "local control program"** means an outline of the various methods employed by the County to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

**"Minimum Standards or Minimum Standard"** means any or all of the 19 minimum standards set forth by DEQ.

**"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.

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

**"Perimeter Erosion and Sediment Control Permit"** means a permit issued by the County for installation of only perimeter erosion and sediment control measures on any project requiring a land-disturbing permit. This permit does not authorize the permittee to engage in a land disturbance activity outside that required for installation of the perimeter erosion and sediment control measures. Projects involving an agreement in lieu of a plan do not require this permit.

May 28, 2014, at 7:00 p.m.

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

**"Permittee"** means the person to whom the VSMP and/or land disturbing permit is issued.

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

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

**"Responsible Land Disturber"** means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who:

- (A). Holds a Responsible Land Disturber certificate of competence,
- (B). Holds a current certificate of competence from the state board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review,
- (C). Holds a current Contractor certificate of competence for erosion and sediment

control, or

(D). Is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

**"Single-family residence"** means a noncommercial dwelling that is intended to be occupied exclusively by one family.

**"Site"** means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity.

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

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

**"State erosion and sediment Control program" or "state program"** means the program administered by the state board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.

**"State permit"** means an approval to conduct a land-disturbing activity issued by the state board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the state board for stormwater discharges from an MS4.

Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

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

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

**"Stop Work Order"** A written notice sent to the responsible land disturber or appropriate agent that stops all land-disturbing activity on the project for a specified time period.

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

**"Stormwater management plan"** means a document(s) containing material describing methods for complying with the requirements of Section 9-7 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

May 28, 2014, at 7:00 p.m.

incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

**"Subdivision"** means a division of a parcel of land into two or more lots, tracts or parcels for any purpose. The term includes re-subdivision and boundary line adjustments.

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

**"Transporting"** means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

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

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

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

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

**"Virginia Stormwater Management Program" or "VSMP"** means a program approved by the state board after September 13, 2011, that has been established by a locality 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 this article, and evaluation consistent with the requirements of this article and associated regulations.

**"Virginia Stormwater Management Program authority" or "VSMP authority"** means an authority approved by the state board after September 13, 2011, to operate a Virginia Stormwater Management Program.

### § 9-3. Programs Established

A. Pursuant to §62.1-44.15:27 of the Code of Virginia, Augusta County hereby establishes a Virginia Stormwater Management Program (VSMP) 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 §9-1 of this Ordinance. Augusta County hereby designates the Department of Community Development as the Administrator of the Virginia stormwater management program.

B. Pursuant to § 62.1-44.15:54 of the Code of Virginia, Augusta County hereby establishes a Virginia Erosion and Sediment Control Program (VESCP) for land-disturbing activities and adopts the regulations, references, guidelines, standards and specifications promulgated by the state board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control

May 28, 2014, at 7:00 p.m.

Handbook, as amended. The County hereby designates the Department of Community Development as the VESCP authority.

**§ 9-4. Storm Water Permit and Land Disturbing Permit Requirement; Exemptions**

A. Except as provided herein, no person may engage in any land-disturbing activity until both a VSMP permit and a perimeter erosion and sediment control permit have been issued by the Administrator in accordance with the provisions of this Ordinance. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by § 62.1-44.15:55, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance. Property owners may be issued one agreement in lieu of a plan per calendar year for which a responsible land disturber need not be named. Subsequent permits in the same year however, will require naming of a responsible land disturber.

B. 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 and until the following items have been submitted to and approved by the Administrator as prescribed herein:

1. A permit application that includes a general permit registration statement, if such statement is required, and evidence that general permit coverage is obtained;
2. An erosion and sediment control plan approved in accordance with this chapter.
3. A stormwater management plan that meets the requirements of § 9-7 of this chapter.
4. Any fees and bond required to be paid in accordance with § 9-19.

C. No grading, building or other local permit shall be issued for a property unless a VSMP authority permit, when required, has been issued by the Administrator.

D. No land disturbing permit shall be issued until the applicant submits with his application approved erosion and sediment control plans and certification that the plan will be followed and all perimeter erosion and sediment control measures have been installed, inspected and approved by the Administrator.

E. Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:

**1. Exemptions to Stormwater Management Plan, Pollution Prevention Plan and VSMP permit requirement**

- a. 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;
- b. 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;
- c. 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;
- d. Land disturbing activities that disturb less than one acre of land that are not part of a larger common plan of development or sale that is one acre or greater of disturbance;
- e. Discharges to a sanitary sewer or a combined sewer system;
- f. Activities under a State or federal reclamation program to return an

May 28, 2014, at 7:00 p.m.

abandoned property to an agricultural or open land use;

g. 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

h. Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land-disturbing activity.

**2. Exemptions to Erosion & Sediment Control Plan and land disturbing permit requirement.**

a. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

b. Individual service connections;

c. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;

d. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

e. Surface or deep mining activities authorized under a permit issued by the Department of Mines, Minerals and Energy;

f. Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;

g. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6 of the Code of Virginia, 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 (Sec. 10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;

h. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

i. Disturbed land areas of less than 10,000 square feet in size

j. Installation of fence posts, sign posts or telephone and electric poles and other kinds of posts or poles;

k. Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and

l. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the Administrator.

**§ 9-5. Stormwater Pollution Prevention Plan; Contents of Plan**

May 28, 2014, at 7:00 p.m.

A. The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit. Such requirements shall include, but not be limited to:

1. an approved erosion and sediment control plan in accordance with § 9-6 of this chapter
2. an approved stormwater management plan in accordance with § 9-7 of this chapter
3. a pollution prevention plan for regulated land-disturbing activities in accordance with § 9-8 of this chapter
4. and a description of any additional control measures necessary to address a TMDL in accordance with § 9-9 of this chapter

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 of the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

#### **§ 9-6. Erosion & Sediment Control Plan; Contents of Plan**

A. Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the Administrator an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the Administrator. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the state board for review and approval rather than to each jurisdiction concerned. 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 Administrator.

B. The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook as amended are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The Administrator, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines.

C. Except for single family or two family dwellings covered by an Agreement in Lieu of an Erosion & Sediment Control Plan, stormwater detention or retention facilities will be required for proposed development where land disturbance is 10,000 square feet or greater and where there is a net increase in runoff between pre-developed and post-developed conditions.

D. In cases where the contributing drainage area being developed is equal to or less than 1% of the entire watershed, stormwater detention will not be required unless otherwise required by VSMP regulations. However, any concentrated water leaving the development site will be required to discharge into an adequate on or off site receiving channel.

E. All stormwater management facilities shall be designed and constructed in accordance with "Minimum Standard 19" of the Virginia Erosion and Sediment Control Law and Regulations, and the Virginia Stormwater Management Handbook, Latest Edition.

F. An approved plan may be changed by the Administrator when:

1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance are agreed to by the Administrator and the person responsible for carrying out the plans.

G. Variances: The Administrator may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these

May 28, 2014, at 7:00 p.m.

conditions:

1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the Administrator shall be documented in the plan.

2. During construction, the person responsible for implementing the approved plan may, with the property owner's written permission, request a variance in writing from the Administrator. The Administrator shall respond in writing within 10 calendar days either approving or disapproving such a request. If the Administrator does not approve a variance within 10 calendar days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

H. In order to prevent further erosion, the County may require approval of a plan for any land identified in the local program as an erosion impact area.

I. 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.

J. In accordance with the procedure set forth by § 62.1-44.15:55E of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the state board for review and approval consistent with guidelines established by the state board.

#### **§ 9-7. Stormwater Management Plan; Contents of Plan**

A. The Stormwater Management Plan, required in § 9-4 of this Ordinance, must apply the stormwater management technical criteria set forth in § 9-11 of this Ordinance to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff, and include the following information:

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 map number and parcel number of the property or properties affected;

3. A narrative that includes a description of current site conditions and final site conditions

4. A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

5. Information on the proposed stormwater management facilities, including:

a. The type of facilities;

b. Location, including geographic coordinates;

c. Acres treated; and

d. The surface waters or karst features, if present, into which the facility will discharge.

6. Hydrologic and hydraulic computations, including runoff characteristics;

7. Documentation and calculations verifying compliance with the water quality and quantity requirements of § 9-11 of this ordinance.

May 28, 2014, at 7:00 p.m.

8. A map or maps of the site that depicts the topography of the site and includes:
- a. All contributing drainage areas;
  - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
  - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
  - d. Current land use including existing structures, roads, and locations of known utilities and easements;
  - e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
  - f. The limits of clearing and grading, and the proposed drainage patterns on the site;
  - g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
  - h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.

B. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. 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 a stormwater management plan if executed by the Administrator. A registration statement shall not be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale

C. If an operator intends to meet the water quality and/or quantity requirements set forth in § 9-11 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of reservation 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.

D. Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

E. A stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners

#### **§ 9-8. Pollution Prevention Plan; Contents of Plans**

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

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.



May 28, 2014, at 7:00 p.m.

B. The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

1. Wastewater from washout of concrete, unless managed by an appropriate control;
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
4. Soaps or solvents used in vehicle and equipment washing.

C. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

#### **§ 9-9. Additional Control Measures to Address a TMDL**

In addition to the requirements of §9-6 through §9-8 of this chapter, if a specific Waste Load Allocation (WLA) for a pollutant has been established in a TMDL implementation plan and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the WLA in a state board approved plan.

#### **§ 9-10. Review of Submitted Plans**

A. The Administrator shall determine the completeness of a plan in accordance with 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.

B. The Administrator shall have an additional 30 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 subsection (A) of this section, then plan shall be deemed complete and the Administrator shall have 30 calendar days from the date of submission to review the plan..

C. The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission..

D. During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.

E. If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subsection (B) of this section for review, the plan shall be deemed approved.

F. Approved stormwater plans may be modified as follows:

(1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.

(2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.

G. The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 9-12 (B).

#### **§ 9-11. Technical Criteria for Regulated Land Disturbing Activities**

A. To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-62 [technical criteria]; 9VAC25-870-63 [water quality design criteria requirements];

May 28, 2014, at 7:00 p.m.

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]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities]; 9VAC25-870-92 [comprehensive plans]; 9VAC25-870-93 [grandfathered projects]; 9VAC25-870-94 [applicability]; 9VAC25-870-95 [general]; 9VAC25-870-96 [water quality]; 9VAC25-870-97 [stream channel erosion]; 9VAC25-870-98 [flooding]; and 9VAC25-870-99 [regional plans], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (B) of this Section.

Notwithstanding the above references to specific sections of 9VAC25-870-60, the technical criteria are modified to include the following:

1. Stormwater runoff shall be calculated by the following methods unless an alternative method for a specific project has been approved by the Administrator:
  - a. Using the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers; or other standard hydrologic and hydraulic methods.
  - b. The Rational Method may be used for evaluating peak discharges or the Modified Rational Method for evaluating volumetric flows to stormwater conveyances with drainage areas of 200 acres or less.
2. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices and performed with methods approved and illustrated in the Virginia Stormwater Management Handbook. Calculations and designs must be prepared by a licensed professional engineer, a land surveyor – B, or certified landscape architect.
3. Retention or detention facilities shall be designed according to the standards and specifications in the Virginia Stormwater Management Handbook as amended. Stricter regulations may be enforced in areas where the board of supervisors have established a general drainage improvement program. Development within these areas must also be in compliance with §9-13 (A).
4. Except for by right agricultural development, in cases of additions or incremental development, the pre-developed condition with respect to impervious or semi-impervious areas shall be the condition that existed on January 1, 1990. Stormwater detention or retention facilities may be required for proposed development where the sum of the currently proposed land disturbance and the existing impervious and semi-impervious surface is 10,000 square feet or greater and where there is a net increase in runoff between pre-developed and post-developed conditions. Existing stormwater management facilities must be verified adequate through calculations regardless of the type of development or the size of the addition or incremental development.
5. Natural channel characteristics shall be preserved to the maximum extent practicable.
6. For manmade or restored conveyance systems, bottom slopes shall, where reasonably possible, be no less than 1%. Side slopes shall be no steeper than 3:1. If side slopes of 3:1 cannot be achieved, the easement shall be piped.
7. All well-defined manmade or restored conveyance systems across lots one-half (1/2) acre or less in area shall be installed within drainage easements on lot lines. For the purposes of this section a well-defined channel is a channel with side slopes steeper than 3:1 and deeper than 2 feet or otherwise would be difficult to maintain with normal lawn equipment.
8. Construction of stormwater management facilities within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations under the National Flood Insurance Program, 44 CFR Part 59, and Chapter 25, Division H, Article XLVII, Floodplain Overlay Districts and the Augusta County Code. These stormwater management facilities shall be designed and located, to the extent practical, to provide an unrestricted release up to at least the 25-year flood elevation of the receiving state water.
9. Any stormwater management facilities that are designed to have a permanent pool of water constructed in or adjacent to residential and commercial zoning areas shall be constructed with an aquatic bench or have a minimum of a six-foot fence installed around the perimeter of the facility.

May 28, 2014, at 7:00 p.m.

10. Stormwater management facilities designed to detain or retain water on a temporary or permanent basis shall not be built on multiple lots, but located on one lot under single ownership. An access easement of sufficient width given site specific conditions, must be provided.

11. 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 registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

B. Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the County as being equivalent thereto, was approved by the County prior to July 1, 2012, and for which no coverage under a state permit has been issued prior to July 1, 2014 shall be considered grandfathered by the Administrator and shall not be subject to the technical criteria of Part II B [of the Regulations], but shall be subject to the technical criteria of Part II C [of the Regulations] and Chapter 18 of this Code as it existed at the time of such approval for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the County as being equivalent thereto, (i) provides for a layout as defined in 9VAC25-870-10 and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C [of the Regulations]. In the event that the Locality-approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.

1. Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which DEQ has approved a stormwater management plan prior to July 1, 2012; a state permit has not been issued prior to July 1, 2014, and land disturbance did not commence prior to July 1, 2014 such projects shall be considered grandfathered by the County and shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of Part II C of the Regulations for those areas that were included in the approval.

2. For land-disturbing activities grandfathered under this Subsection shall remain subject to the Part II C [of the Regulations] for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to the technical requirements of Subsection (a) above.

C. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements Part IIC of the Regulations.

D. 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 Clearinghouse 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.

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

#### **§ 9-12 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

---

May 28, 2014, at 7:00 p.m.

runoff. Such requirements shall be set forth in an instrument recorded in the local land records 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.
6. Be recorded among the land records prior to release of bonds..

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

C. If a recorded instrument is not required pursuant to Subsection 9-12 (B), the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.

D. For all types of development, the owner (s) or developer shall be responsible for maintenance of stormwater management facilities. In residential subdivisions only, the County may assume long-term maintenance of stormwater detention facilities and drainage easements from the developer in accordance with the provisions of the agreement required by Paragraph F below after eighty-five percent (85%) of the lots within the development have been built upon.

E. In residential subdivisions only, for final plats recorded on or after January 1, 2014 and where no homeowners association is required by this code, the County will assume both routine and long-term maintenance of stormwater detention or retention facilities in accordance with the percentage requirements of the above Paragraph D and in accordance with the provisions of the agreement required by Paragraph F below if the facility:

1. Has a capacity of at least fifteen thousand (15,000) cubic feet, and
2. Is located on property dedicated to the County.

F. For all types of development, including residential development, the responsibility of the property owner or developer and their successors for maintenance shall be set forth in a legal stormwater agreement which shall be recorded by the property owner or developer. This agreement is separate and distinct from any agreements and bonding required in accordance with a site plan or §21-36 (Subdivision). The agreement shall provide that:

1. The County will periodically conduct inspections to ensure stormwater management facilities are being properly maintained.
2. If deficiencies are found, the owner or developer and its successors will correct the deficiencies in a timely manner.
3. If applicable under Paragraph D above, the developer and its successors shall contact the county when the percentage requirement is met. At that time the county will conduct a final inspection and the developer and its successors will be notified of the results of the inspection. Any deficiencies shall be corrected by developer and its successors. If there are no deficiencies the county will accept the facilities for long term maintenance by written certificate. For purposes of this chapter, long term maintenance is defined as maintenance other than routine maintenance, such as the repair of erosion and failures that do not occur on a regular basis.
4. The property owners of all stormwater management facilities and easements

May 28, 2014, at 7:00 p.m.

shall be responsible for routine maintenance. For purposes of this chapter, routine maintenance is defined as mowing so that vegetation never exceeds the height limitation imposed in §15-22 of this code for the underlying zoning district and lot size, and removing debris and trash that occurs on a regular basis.

5. If the property owners fail to perform routine maintenance, the county reserves the right to complete the work. In such event the cost or expenses thereof shall be chargeable to and paid by the lot owners of such property and may be collected by the county as taxes and levies are collected.

**§9-13. General drainage improvement programs and multi-jurisdictional systems.**

A. When the board of supervisors has established a general drainage improvement program for an area having related and common drainage problems and within which the land owned or controlled by the subdivider or developer is located, the subdivider or developer shall pay a pro rata share of the cost of providing reasonable drainage facilities located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development.

B. Where stormwater resulting from a project flows into another political jurisdiction, final approval of the proposed development may be deferred until the county and the other jurisdiction mutually agree that the proposed system will be satisfactory.

**§9-14. Monitoring and inspections, Notice to Comply**

A. The Administrator shall inspect the land-disturbing activity during construction in accordance with the County's VESCP Alternate Inspection Program for:

1. Compliance with the approved stormwater management plan;
2. Compliance with the approved erosion and sediment control 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 may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.

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.

E. 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 minimum, at least once every five (5) years.

F. Notice to comply

1. If the Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

May 28, 2014, at 7:00 p.m.

2. 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 specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

G. Action in case of violation

1. Upon determination of a violation of this ordinance, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

2. If land-disturbing activities have commenced without an approved plan, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

3. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, a stop work order shall be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

4. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained.

5. The stop work order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the County.

6. The owner may appeal the issuance of an order to the Augusta County Circuit Court.

7. Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator may be compelled in a proceeding instituted in the Augusta County Circuit Court to obey same and to comply therewith by injunction or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the stop work order shall immediately be lifted.

8. Nothing in this section shall prevent the Administrator from taking any other action authorized by this ordinance.

**§ 9-15. Hearings and appeals**

A. Any applicant under the provision of this ordinance who is aggrieved by any action or inaction of the Administrator or its agent pursuant to this ordinance shall have the right to apply for and receive a review of such action by the Board of Supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Board of Supervisors shall be heard at the next regularly scheduled Board of Supervisors public hearing provided that the Board of Supervisors and other involved parties have at least 15 days prior notice. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the Board of Supervisors may affirm, reverse or modify the action. The Board of Supervisor's decision shall be final, subject only to review by the Circuit Court of Augusta County.

B. A verbatim record of the proceedings of such hearings shall be taken and filed with the Board of Supervisor meeting minutes. Depositions may be taken and read as in actions at law.

C. Final decisions of the Administrator under this ordinance shall be subject to review by the Augusta 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. Decisions of the Circuit Court shall be subject to review by the Court of Appeals.

May 28, 2014, at 7:00 p.m.

**§ 9-16. Penalties, Injunctions, and other legal actions under the VESCP**

A. Violators of any VESCP provision of this article shall be guilty of a class I misdemeanor.

B. The adoption 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 (refer to Code of Virginia, § 62.1-44.15:63(A)).

1. A civil penalty in the amount listed on the schedule below shall be assessed against the owner of the property where the violation has occurred, for each violation of the respective offenses:

a. Commencement of land disturbing activity without an approved plan as provided in §1-4(A) shall be \$1,000.00/day.

b. A site with an approved erosion and sediment control plan or agreement in lieu of a plan found in violation of any of the 19 Minimum Standards shall be assessed civil penalties as follows:

	Single Violation	Multiple Violations (Based on # of violations, not to exceed amounts below)
1 <sup>st</sup> Inspection:	Warning issued	Warning issued
2 <sup>nd</sup> Inspection:	\$100	\$250
3 <sup>rd</sup> Inspection:	\$150	\$500
4 <sup>th</sup> Inspection:	\$200	\$1,000
5 <sup>th</sup> Inspection:	\$250	\$1,500
6 <sup>th</sup> Inspection:	Refer to Co. Atty.	Refer to Co. Atty.

c. Failure to obey a stop work order shall be \$100.00/day.

2. The permittee shall be notified of each violation and associate assessment in writing, via certified mail or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. This notification shall be sent or posted no later than the first working day after the violation.

3. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000.00, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$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, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Augusta County Circuit Court to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property will not apply for injunctive relief unless:

1. He has notified in writing the person who has violated the local program, and the County, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and

2. Neither the person who has violated the local program nor the County has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

D. In addition to any criminal penalties provided under this article, any person who violates any provision of this article may be liable to the County in a civil action for damages.

E. 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 \$2,000.00 for each violation. A civil action for such violation or failure may be brought by the County. Any civil penalties assessed by a court shall be paid into the treasury of the County, except that where the violator is the

May 28, 2014, at 7:00 p.m.

locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

F. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this article, the County may provide an order for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (b) or (e).

G. The County Attorney may, upon request of the Administrator, take legal action to enforce the provisions of this article.

H. 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.

I. A Certificate of Occupancy and/or inspections by the County's building inspection department shall not be granted until all assessed civil penalties are paid and corrections to all erosion and sediment control practices have been made in accordance with the approved plans, notice of violation, stop work order, or agreement in lieu of a plan requirements, and accepted by the County.

J. Any violator may be required to restore land to its undisturbed condition or in accordance with a notice of violation, stop work order, or permit requirements. In the event that restoration is not undertaken within a reasonable time after notice, the County may take necessary corrective action, the cost of which shall be covered by the performance bond, or become a lien upon the property to be collected as taxes or levies, or be billed directly to the land owner.

#### **§9-17. Enforcement**

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

1. The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator.

2. If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 9- 17 (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 enforcement provisions contained in §1-12 of this chapter, *mutatus mutandus*.

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



May 28, 2014, at 7:00 p.m.

compelled in a proceeding instituted in the Circuit Court of Augusta County by the County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

D. Any person who violates any VSMP related provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

1. Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:

- a. No state permit registration;
- b. No SWPPP;
- c. Incomplete SWPPP;
- d. SWPPP not available for review;
- e. No approved erosion and sediment control plan;
- f. Failure to install stormwater BMPs or erosion and sediment controls;
- g. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- h. Operational deficiencies;
- i. Failure to conduct required inspections;
- j. Incomplete, improper, or missed inspections; and
- k. Discharges not in compliance with the requirements of Section 9VAC25-880- 70 of the general permit.

2. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

3. In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.

4. Any civil penalties assessed by a court as a result of a summons issued by the Locality shall be paid into the treasury of the 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. Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

#### **§9-18. Permits; Fees; Security for Performance**

A. No person may engage in a land disturbing activity until they have acquired the necessary permits, have paid all applicable fees per the current policy of the Board of Supervisors, posted the required bond and installed all perimeter controls, unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance

B. Fees for a land disturbing permit when a SWM permit is not also required

An administrative fee shall be paid to the County at the time of submission of the land disturbance permit application. The land disturbance permit fee is separate from all other fees paid to other departments in the County. The following fee is hereby adopted and shall be applied to land disturbance permits:

May 28, 2014, at 7:00 p.m.

1. Land disturbance: where no more than one acre disturbed -- \$500.00
2. Fees for applications requiring sediment basins -- \$100.00 each basin
3. Fees for applications requiring stream crossings -- \$100.00 each crossing
4. Fee for applications requiring storm water detention or retention facilities -- \$250.00 each facility
5. Additional fee for applications requiring newly constructed storm water conveyance channels -- \$50.00 for each channel
6. Additional fee for each resubmittal of the required erosion and sediment control plan due to the owner's failure to include required information -- \$100.00

C. Fees for coverage under the general permit shall be imposed in accordance with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1.

**Table 1: Fees for coverage for sites purchased for development within a previously permitted common plan of development or sale**

Type of Permit	Total Fee Amount	State Share (28%)	County Share (72%)
Agreement in lieu of a plan of a SWPPP and/or Erosion and Sediment Control Plan in the construction of a single family dwelling	\$250	N/A	\$250
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$600	\$81.20	\$518.80
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	\$2,700	\$756	\$1,944
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952	\$2,448
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	\$4,500	\$1,260	\$3,240
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708	\$4,392
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688	\$6,912

D. Fees for the modification or transfer of registration statements from the general permit issued by the County shall be imposed in accordance with Table 2. If the permit modifications result in changes to stormwater management plans that require additional review by the County, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In

May 28, 2014, at 7:00 p.m.

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 Table 1.

**Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities**

Type of Permit	Fee Amount
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

E. Permit maintenance fees. (9VAC-870-830):

The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated.

**Table 3: Permit Maintenance Fees**

Type of Permit	Fee Amount
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
VSMP General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
VSMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)	\$1,400

General permit coverage maintenance fees shall be paid annually to the 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.

F. The fees set forth in Sections C-E, above shall apply to:

1. All persons seeking coverage under the general permit.
2. All permittees who request modifications to or transfers of their existing registration

---

May 28, 2014, at 7:00 p.m.

statement for coverage under a general permit.

3. Persons whose coverage under the general permit has been revoked shall apply to DEQ for an Individual Permit for Discharges of Stormwater from Construction Activities.

4. Permit and permit coverage maintenance fees outlined under Section E may apply to each general permit holder.

5. County departments, groups, organizations or agencies specified in the County of Augusta Fee Waiver Policy approved by the Board of Supervisors will pay 28% of any required VSMP fee to the state in accordance with the fee schedule in §9-16, item C.

G. No permit application fees will be assessed to:

1. Permittees who request minor modifications to permits as defined in Section 9-3 of this chapter. 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 permits are modified or amended at the initiative of DEQ, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

H. All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The County shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

B. No land-disturbing permit shall be issued until the applicant submits with his application approved erosion and sediment control plan and certification that the plan will be followed and all perimeter erosion and sediment control measures have been installed, inspected and approved by the Administrator.

C. All applicants for permits will provide to the Administrator a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the Administrator and the County Attorney, to ensure that measures could be taken by the plan approving authority at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity.

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the plan approving authority to take such conservation action, the Administrator may collect from the applicant any costs in excess of the amount of the surety held.

Once the Administrator approves the conservation plan and receives a completed application for land disturbing permit, applicable fees and the required surety bond, the Administrator will issue a Perimeter Erosion and Sediment Control Permit. The owner may then install all perimeter controls as detailed in the approved erosion plan as indicated by Virginia Code, § 9VAC25-870-40 (4). Once perimeter controls are functional and seeded/stabilized, the Administrator will inspect erosion measures. If installed measures are satisfactory to the Administrator, a land disturbing permit shall be issued.

Within sixty (60) days of adequate stabilization, as determined by the Administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

May 28, 2014, at 7:00 p.m.

	ESC Plan & Land Disturbing Permit Required	SWM Plan and VSMP Permit Required	Pollution Prevention Plan Required	Additional Control Measures - TMDL
Development < 10,000 ft <sup>2</sup> and not part of a common plan of development disturbing ≥ 10,000 ft <sup>2</sup> .	NO	NO	NO	NO
Development < 10,000 ft <sup>2</sup> , and IS part of a common plan of development disturbing ≥ 10,000 ft <sup>2</sup> but ≤ 1 acre.	YES	NO	NO	YES
Development < 10,000 ft <sup>2</sup> , and IS part of a common plan of development disturbing ≥ 1 acre.	YES	YES	YES	YES
Development ≥ 10,000 ft <sup>2</sup> and < 1 acre and IS NOT part of a common plan of development disturbing ≥ 1 acre.	YES	NO	NO	YES
Development disturbing ≥ 1 acre or IS part of a common plan of development disturbing ≥ 1 acre	YES	YES	YES	YES

Agreement-In-Lieu of an Erosion and Sediment Control Plan and SWPPP may be permitted for construction of Single Family Dwelling

Be it further resolved by the Board of Supervisors for Augusta County, the effective date of this ordinance shall be July 1, 2014.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Moore, Bragg and Pyles

Nays: Wills

Motion carried.

\* \* \* \* \*

May 28, 2014, at 7:00 p.m.

CONVEYANCE OF REAL ESTATE – COUNTY OF AUGUSTA – LADD ELEMENTARY SCHOOL PROPERTY

This being the day and time advertised to consider conveyance of real estate owned by the County of Augusta, located at 1930 Rosser Avenue, Waynesboro, VA, containing approximately 12.924 acres.

Patrick J. Morgan, County Attorney, advised that after the School Board declared the Ladd Elementary School surplus and deeded the property to the Board of Supervisors, the Board of Supervisors has from time to time discussed selling the property. Required under Section 15.2-1800 of the Code of Virginia, before the Board of Supervisors can sell or lease the property, they must have a public hearing with public input of whether or not the property should be sold or leased.

The Chairman declared the public hearing open.

There being no speakers, the Chairman declared the public hearing closed.

Mr. Moore mentioned that this is property that was once rural land and now is in the Commercial district of Waynesboro and not a good location for a school.

Mr. Moore moved, seconded by Mr. Karaffa, that the County be allowed to either lease or sale the property of Ladd Elementary School.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

MATTERS TO BE PRESENTED BY THE PUBLIC

Nicole Medina, Adult Services and Adult Protective Services Supervisor of the Shenandoah Valley Social Services, announced that May is “Adult Abuse Awareness Month”. As the month closes, she wanted to make the Board aware of the prevalence of abuse, neglect and exploitation in the Staunton, Augusta, and Waynesboro area. She added that abuse of vulnerable adults is not new, but has long been silent and not had the public visibility child abuse has had. Adult abuse is greatly under-reported and under-funded. The Greater Augusta Coalition Against Adult Abuse is working locally to educate the community on reporting and has held several training since its inception on prosecuting abuse, neglect and exploitation. Last year, Virginia had 20,700 reports of abuse, neglect and exploitation. Our locality has received 872 of those reports (number 4 in the State of Virginia). She said they average between 50 and 78 investigations per month. When she began working in 2005, it was 20. Currently, Staunton leads the number of reports; closely followed by Augusta County and then Waynesboro. An unsettling trend is the rise and financial exploitation, generally, by a family member or the misuse of a Power of Attorney. They have seen a number of these cases rise substantially since 2007 when the economic downturn began followed by self-neglect, neglect, and abuse. They are constantly educating the public on reporting and encourage anyone who suspects abuse, neglect, or exploitation of an elderly or incapacitated person to contact their local Department of Social Services or the 24-hour State Hot Line.

Mr. Karaffa appreciated Ms. Medina’s report. He was not aware of the statistics but acknowledged that, working in long-term care with the elderly, it is a problem and definitely on the rise. “With child abuse, there are a lot of factors that go into it that can be difficult. Difficulties only compound when you deal with somebody who is elderly due to their diagnoses and different family dynamics. Attempted dignity can really get wrapped up into it.”

May 28, 2014, at 7:00 p.m.

\* \* \* \* \*

SIX-YEAR PLAN

Consider the advertised FY14-20 Secondary System Six-Year Plan and Fiscal Year 2014-15 construction budget.

Patrick J. Coffield, County Administrator, reported that a Public Hearing was held on May 14<sup>th</sup>. At Staff Briefing on Tuesday, the Board discussed with the VDOT Residency Administrator what the program includes. The Six-Year Plan has a number of projects, mostly secondary and Revenue Sharing; however, less than 10 years ago, the County had \$6 million a year (\$30 million over six years). Currently, this program has a total of \$813,000 for one year (less than \$6 million over six years). Communities across the State are being forced to use more creative means such as public/private partnerships (like we are doing with Route 636 and Mill Place) or State/Local relationships. He noted that the State, in recognizing these problems, have loosened some standards such as with the Rural Rustic Roads program. He added that there are almost 300 miles of unpaved roads in Augusta County. With funding limitations, it will be difficult to address unpaved road needs. In the urban areas, where there are two-lane roads that will need expansion to three or four-lane roads, it will be more difficult to address the congestion and road safety improvement projects. "The forecast is bleak. It's going to require additional creative efforts with the General Assembly to come up with funding. This year's funding is better than last year's funding. We did not recommend, other than to add the 608 project, to add any additional projects to the Six-Year Plan." He noted that a list is being kept of the citizens' requests to address in future years if funding improves.

Mr. Moore moved, seconded by Mr. Karaffa, that the Board adopt the FY14-20 Secondary Six-Year Plan and Fiscal Year 2014-15 Construction Budget.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

The Board considered application of the Edward Byrne Memorial Justice Assistance Grant.

Mr. Coffield advised the Board received a presentation at Tuesday's Staff Briefing from the Sheriff's staff, Sgt. Brian Jenkins, Grant Writer. This grant would provide 1) IT equipment for General, Narcotics and Gang Investigators; 2) a desktop computer system that will augment a new cell phone forensics devise; and 3) two additional surveillance cameras.

Mr. Pyles moved, seconded by Mr. Shull, that the Board approve the request.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

May 28, 2014, at 7:00 p.m.

LEGISLATIVE PACKAGE

The Board considered 2015 General Assembly Legislative Package, as revised.

Mr. Coffield advised that this had been discussed at the Staff Briefing on Tuesday. The Board had asked that language be added concerning Farm Use Tags. Suggested language was reviewed by the County Attorney as follows:

FARM USE TAGS

Allow localities to initiate a "Certificate of Farming" to verify farm use when vehicles are using public roads.

Mr. Coffield assured the Board that this is only a draft and that many changes will be made before being presented to the General Assembly.

Mr. Shull moved, seconded by Mr. Moore, that the Board adopt the 2015 General Assembly Legislative Package, as revised.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

Mr. Pyles referred to EMS Fees and noted "Money is better spent at the local level than at the State level or the National level. The money that stays gets something done." He asked for input from the Board in how to ask legislators to keep the money in the locality. "I think if we can put up something that shows we will get better use out of that money than they will get and that we get to keep all of it or a portion of it, it does two things: 1) it might get us money, but 2) it keeps it before them that money is just going back that we're earning." Chairman Wills noted that a meeting is scheduled with VACo this summer and this will be discussed. "That is a high priority to reduce the money that goes to the State level."

\* \* \* \* \*

SCHOLASTIC WAY SIDEWALK PROJECT

The Board considered close-out of Phase I, II and III of the Scholastic Way Sidewalk project.

Funding Source: Beverley Manor Infrastructure Account #80000-8011-74 \$2,797.64

Mr. Coffield reported that this had been discussed at the Staff Briefing on Tuesday. Phase I, II and III has been completed. He noted that this project has gone through three Board members (Bailey, Shifflett, and Karaffa). Mr. Karaffa understands and supports the value of the sidewalks, safe routes to schools and recreation areas. This project utilized federal funding for local government purposes and Mr. Coffield felt to be an excellent program. The \$2,797.64 represents what is remaining of the County's 20% match. There are additional funds remaining from this program that will be used towards Phase IV.

Mr. Karaffa commended Candy Hensley for her countless hours into this project. "It really has been a success having that sidewalk system in place. It needs to expand and I continue to support its expansion."

Mr. Karaffa moved, seconded by Ms. Bragg, that the Board approve the request.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.



May 28, 2014, at 7:00 p.m.

\* \* \* \* \*

VERONA COMMUNITY FOOD PANTRY

The Board considered Bathroom/Utility Closet Project.

Funding Sources:	Middle River Infrastructure Account	#80000-8012-86	\$3,000
	North River Infrastructure Account	#80000-8013-46	<u>3,000</u>
			\$6,000

Mr. Coffield advised that this had been discussed at Tuesday’s Staff Briefing. He felt it to be a clear need for a janitor’s closet as well as a restroom for the public. Chairman Wills challenged communities to have fundraisers to provide this funding. Mr. Coffield felt this to be a public/private partnership and one that could not be done without the help of the churches in the area.

Mr. Pattie moved, seconded by Mr. Karaffa, that the Board approve the request.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

VIRGINIA REGIONAL TRANSIT

The Board considered request for tax exemption for Personal Property.

Jennifer M. Whetzel, Finance Director, reported that Virginia Regional Transit (VRT) is a 501(C) organization that operates what is locally known as the CATS bus service. They are requesting an exemption from local Personal Property Taxes for all equipment, vehicles and other personal property to be located at their property in Fishersville. The facility was built in 2011. At that time, they requested of the Board an exemption for Real Estate and Personal Property Taxes. The Board decided to include a Real Estate contribution in budgets going forward; therefore, VRT would request a refund of taxes that were paid in the previous year. The first year of payment was FY13. The Board, at that time, did not move forward including the Personal Property as part of that contribution. At that time, they did not have anything housed at the Fishersville office that would be considered Personal Property. The Commissioner has inspected the property noting vehicles and other business personal property. VRT is requesting exemption from Augusta County Personal Property Taxes and a refund for Personal Property Taxes and late fees paid for the prior two years (FY13 - \$10,000). She noted that the funds can be used as local match to draw down State and Federal funds. If it is considered as a contribution from the County, as a return of their tax dollars, than the Federal government would pay 50% and the State would pay 18%, which would increase the amount of money available for Rural Transportation Services in the area. She recommended that the Board continue with the budget contribution but questioned the refund.

Mr. Karaffa asked if this has ever been refunded before. Ms. Whetzel said that a list had been included in the agenda package reflecting that it has always gone forward. If it was put into the revised FY15 budget, they would return the 2013 taxes. Mr. Karaffa asked for an explanation of the Federal and State return. Ms. Whetzel said they are able to draw down funds from the Federal and State government based on any local match that is given. If the \$10,000 is returned from our FY15 budget, they can get Transportation monies from Federal and State to match our contribution.

May 28, 2014, at 7:00 p.m.

VIRGINIA REGIONAL TRANSIT (cont'd)

Mr. Pyles did not agree with reimbursement of late fees. He also asked if VRT is renting a portion of the building. He referred to Craigsville renting a portion of the Stillwater building and losing their tax exemption status. Ms. Whetzel said they have not rented it, yet, but there is a sign.

Mr. Karaffa felt that this should be considered at next budget year (July 1, 2015).

Mr. Karaffa moved, no second, that the Board not consider until budget year 2015-2016.

Chairman Wills stated that with this to be determined at the next budget process, that no action was needed at this time. The Board agreed.

\* \* \* \* \*

GREENVILLE SEWER

The Board considered start date for sewer charges.

Timmy Fitzgerald, Community Development Director, advised that at the last Board meeting there was discussion as to the status of the Greenville Sewer project. He reported that all the main lines are completed and they are working on cleanup. The Augusta County Service Authority is working diligently on connections. At that meeting, there was discussion as to when to start billing. He noted that there have been several people connected for several months at no fee. It had also been questioned as to whether prior commitments had been made from a previous Board as to when the billing would start. Included in the agenda package was a copy of the minutes from September 28, 2011 regarding the ordinance on the connection fees. Comments in the minutes suggested that once the project was complete (in about 15 months) they would pay a sewer rate of \$55. He noted it has been over 15 months and he recommended that billing begin on July 1<sup>st</sup>. He added that, based on the Service Authority billing process, a bill would not be received until September, which would be \$110 (\$55 per month).

Mr. Shull moved, seconded by Mr. Moore, that the Board approve the start date for sewer charges to begin July 1<sup>st</sup>.

Mr. Pyles asked that the citizens be notified in advance of this billing process. Mr. Fitzgerald said this would be done.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

COMMUNITY DEVELOPMENT AND BUILDING OFFICIAL FEES

The Board considered revised fee schedules.

Mr. Fitzgerald mentioned to the Board that this had been discussed during Budget session. During that time, it was decided that it would be addressed after the Budget was adopted. During the Budget session, the original Inspection fees request was to consider a 3¢ increase but the Board decided to only consider a 1¢ increase with a minimum of \$75. There are two sets of fees to be considered: 1) Community Development and 2) Building Inspections. He noted that the Community Development fees are substantially less than adjacent jurisdictions. In determining the fees, they considered cost of staff work and advertisement requirements. He pointed out that

---

May 28, 2014, at 7:00 p.m.

COMMUNITY DEVELOPMENT AND BUILDING OFFICIAL FEES (cont'd)

regarding to Building Inspections fees approval, they anticipated an increase of approximately \$63,000 and Community Development fees approval would provide an increase of approximately \$25,000.

Mr. Pyles' comments:

I wouldn't want to go forward with any increases. I appreciate what Mr. Fitzgerald said. I appreciate what the dollars could be but for \$80,000, I don't know that we want to do that.

The reason is that I hear it costs that much to send somebody out to a place, but a lot of times people don't have much interaction with this building and they come in and it's a new language with going to Community Development listing requirements that they have.

The costs just aren't what those fees are, but there are other things that are required to go along with what is being requested of folks. The costs keeps going up. I just think that we have an obligation, generally, for the public—if this is for the good of the community, that the buildings are well-constructed and the firewalls are good and all that and we have a better place for it, there's a cost to that. I just don't think that we have to make money on fees. I know Timmy is looking at Parks and Rec are doing better than we are, but people are getting something voluntarily there. If they want to use the Day Care, they use it. If they want to go on a trip, they pay it. This other stuff is mandated. Just for me, I wouldn't propose any changes.

Mr. Karaffa's comments:

As somebody who has a family and recently (and still am) trying to get an addition on a house on a budget, it is always appreciated that the fees are under control and encourage folks to continue developing here in Augusta County because of the spirit behind the fees that we have. I understand that it does cost the County to have somebody go out there, but I agree that it is for the public that our community is good that we have these inspections. I would agree with Mr. Pyles that we use the current fee schedule.

Mr. Shull's comments:

When I first saw these fees here, some of these fees are doubled and almost tripled. You hear complaints from the citizens and things when they come in here of the fees and it is like the well and septic, you know, that's really increased over the past few years. It went from several hundred dollars to about \$800 for a well and septic permit, now. We will get some of our money back if we encourage people to build homes and do things through taxes and things. I just feel like we need to hold it at the same right now and, maybe, look at a lower rate of increase in the future rather than this amount that we have right now. We talk about the costs of inspecting fees and things. These Building inspectors, we're paying them a salary, so really the only thing it costs us is a vehicle and gas to go out and do an inspection. Really, for the inspectors to go out, it's not costing us anymore because we are already paying their salaries.

Ms. Bragg's comments:

In looking at these, and I understand what they're saying and I do think there are some areas where some of the fees might be a little low, but I'm concerned about some great leaps, also. Just looking at rezoning, it's going from \$150 to \$600; I think that that is a big leap. That would concern me. I think we really need to go back and really look at the study and rethink them just a little bit.

Chairman Wills' comments:

A couple of things that I would make comments on would be in reference to, particularly, with these rezonings and stuff, is the cost we have in advertising. That is a cost that we cannot control. The cost that we have out there for the rezonings do not cover our current costs of advertising. Building Permit fees and stuff like that, again, particularly the ones that I think of that, to me, ought to be higher than what we have is the re-inspection fees. A lot of times the re-inspection fee is not the fault of our people but the fault of the developer or the builder. Re-inspection fee, to me, makes sense. The ones

May 28, 2014, at 7:00 p.m.

COMMUNITY DEVELOPMENT AND BUILDING OFFICIAL FEES (cont'd)

I'm really concerned with is where we have to advertise. I think what staff has asked for is reasonable on that level. I will adhere to what the wishes of the Board are, but I just think that we really need to think about where our costs are and I don't believe our general public should be paying the costs of a developer coming in to request a rezoning, or request site plans and things of this nature.

Mr. Karaffa suggest that something be included in the Legislative Package to offer an alternative route for advertising. Chairman Wills said this was included in the package.

Mr. Pyles felt that the advertising costs should be borne by the general public because it is not benefiting the person who is asking to rezone; it is to alert every one of a rezoning being proposed and asking for public input.

It was the consensus of the Board to refer this item to the Ordinance Committee for further consideration.

\* \* \* \* \*

WAIVERS/VARIANCES

The Board considered the fire flow waiver request for Tax Map 68-52L, Bradley Land (Wayne District).

Mr. Fitzgerald displayed property, outlined in blue, and noted that it was discussed at the Staff Briefing on Tuesday. The property owners are present to answer questions. He stated that Mr. Bradley had gotten a Special Use Permit to construct a 60x120 building for a flea market/auction-house type-setting. Because of it being zoned Business, it requires a site plan. During the site plan process, it was determined that the required fire flow was 2,000 gpm. Based on the Service Authority data, there is 500 gpm available; therefore, a fire flow waiver is needed in order to proceed. The owner has agreed to the following:

1. Install fire walls between the office area and open storage area of his proposed building.
2. The Dooms Volunteer Fire Company is less than 0.5 miles south of the proposed building site.
3. The County has a tanker strike team which is available to respond if needed.
4. This property is located just outside of the City/County Corporate limits and the County has a mutual aid agreement with the City for automatic response.

Tom Shumate, Jr., applicant, was available to answer questions. He noted that this structure is located near the Eastside Speedway.

Mr. Moore moved, seconded by Mr. Shull, that the Board approve the request.

Vote was as follows:           Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

CONSENT AGENDA

Chairman Wills noted that the minutes were revised because of a typo.

Mr. Karaffa moved, seconded by Mr. Shull, that the Board approve the consent agenda as follows:

May 28, 2014, at 7:00 p.m.

CONSENT AGENDA (cont'd)  
MINUTES

Approved minutes of the following meetings:

- Regular Meeting, Wednesday, May 14, 2014, as revised

VIRGINIA RETIREMENT SYSTEM

Adopted resolution regarding election of Employer Retirement Contribution Rate at VRS certified rate of 12.55%.

STREETLIGHT REQUEST

Consider request for the installation of the following streetlights and creation of committee to evaluate request and report recommendations back to the Board (committee to consist of the appropriate supervisor, VDOT representative, power company representative and staff (Pasture District):

Hidy Street (3); Railroad Avenue; 109 Oak Street; 34 First Street; 15 Adam Street; Fourth Avenue (4); and 400 N. Hancock Street

Vote was as follows:           Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

MATTERS TO BE PRESENTED BY THE BOARD

The Board discussed the following issues:

Mr. Karaffa:           Fire Flow Waiver Request – noticed that the list indicates the need of reviewing what has been identified as Urban Service Area (USA). He felt it to be an undue burden to citizens in the USA. Mr. Fitzgerald said that staff is in the middle of the Comp Plan review process and will be looking at land use mapping. He reminded the Board that the Comp Plan is a 20-year plan and that it needs to be determined where the growth should be. He noted that an update is required every five years. Discussion will occur in the near future. Chairman Wills noted that most of these areas are already developed with water but does not have adequate fire flow. Mr. Shull reminded the Board the reason for having a tanker strike force to provide adequate water supply when needed. Mr. Pyles reminded the Board that this problem is “ISO-related”. He noted that, during these particular discussions, they do find ways to improve protection. He added that when the Comp Plan is being updated, these issues are discussed. “A real example of the problem makes it easier to consider.” Mr. Moore, from a Service Authority standpoint, stated that this has been discussed. He felt that fire flow is a County issue, not a Service Authority issue. As the Service Authority prioritizes the areas that need improvements, additional funding should be considered. Mr. Karaffa did not feel that these requests were “uniform” in looking at the safety standards. He felt the process was inconsistent as to safety issues.

\* \* \*

May 28, 2014, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE BOARD (cont'd)

Mr. Pyles: Hens - Asked if the Ordinance Committee was reviewing the question of hens. Mr. Karaffa said it was on the list to review.

Mr. Pattie:

1. Richmond Times Dispatch article discussing Conservation Water Monitoring (Grants) – Asked that staff review.
2. State Shortfall – Revenue down \$300 million (2 to 3% cut from State) – asked that staff provide contingencies, especially, with the possible shutdown on July 1<sup>st</sup>.

Mr. Shull: Graduation Parties – Asked that students be mindful of safety.

Mr. Karaffa: Mentioned an accident occurring on Dam Town Road today.

\* \* \* \* \*

MATTERS TO BE PRESENTED BY STAFF

Staff discussed the following issues:

1. Budget – Board approved in May. Board process began in March; Staff began in December, which is a full 18 months before the Fiscal Year. Estimates were made in January based upon information provided. He felt “99% certain three out of four budget years what our revenues will be”. During the reassessment year, he always has doubts. When estimates are made in January, not all land use applications are known; the elderly and handicapped applications are still pending along with Veteran Disability applications. More participation means less revenue. The Board of Equalization hearings are still in process. During this process, changes are made resulting in less taxes owed. Tax appeals may occur. “For newer Board members, I’m just confessing. It bothers Jennifer when something changes. The message is that it is not a perfect process, but we do have a great staff and an excellent process. All our Department Heads, not just Finance, work the budget and it is a good 18-month process from start to finish. We look at Expenditures, Revenues and we come back to the Board quarterly to give updates. We are closely monitoring. I’ve been here for 24 years and we have always had a balanced budget. I have tricks that we haven’t ever used. I don’t want to ever use them.” He informed the Board that the State is having a telephone conference Thursday going over the State Budget issues. He noted that if the State Budget is not approved by June 30<sup>th</sup>, some of our expected State revenues may be delayed. The Treasurer is on standby. Ms. Whetzel reported that she had a report that indicated what was collected in State revenue last July and August (approximately \$11-\$12 million, including the Schools and Jail). “Hopefully, if we did have to expend funds, we would get those paid back to us retroactively.”

\* \* \* \* \*

CLOSED SESSION

On motion of Mr. Shull, seconded by Mr. Karaffa, the Board went into closed session pursuant to:

- (1) **the personnel exemption under Virginia Code § 2.2-3711(A)(1)**  
[discussion, consideration or interviews of (a) prospective candidates for employment, or (b) assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific employees]:
  - A) Boards and Commissions
  - B) Board Appointees/Staff Compensation

May 28, 2014, at 7:00 p.m.

CLOSED SESSION (cont'd)

**(2) the real property exemption under Virginia Code § 2.2-3711(A)(3)**  
[discussion of the acquisition for a public purpose, or disposition, of real property]:

- A) Ladd Elementary
- B) Government Center

**(3) the economic development exemption under Virginia Code § 2.2-3711(A)(5)**  
[discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of its interest in locating or expanding its facilities in the county]:

- A) Pending Economic Development prospect(s)

On motion of Mr. Shull, seconded by Mr. Pattie, the Board came out of Closed Session and adjourned subject to the call of the Chairman.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

The Chairman advised that each member is required to certify that to the best of their knowledge during the closed session only the following was discussed:

1. Public business matters lawfully exempted from statutory open meeting requirements, and
2. Only such public business matters identified in the motion to convene the executive session.

The Chairman asked if there is any Board member who cannot so certify.

Hearing none, the Chairman called upon the County Administrator/ Clerk of the Board to call the roll noting members of the Board who approve the certification shall answer AYE and those who cannot shall answer NAY.

Roll Call Vote was as follows:

AYE: Pattie, Karaffa, Wills, Moore, Shull, Bragg and Pyles  
NAY: None

The Chairman authorized the County Administrator/Clerk of the Board to record this certification in the minutes.

\* \* \* \* \*

SHENANDOAH VALLEY ADVISORY BOARD - REAPPOINTMENT

Mr. Shull moved, seconded by Mr. Pyles, that the Board reappoint Hansford Johnson to serve another 4-year term on the Shenandoah Valley Advisory Board, effective July 1, 2014, to expire June 30, 2018.

May 28, 2014, at 7:00 p.m.

SHENANDOAH VALLEY ADVISORY BOARD – REAPPOINTMENT (cont'd)

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles  
Nays: None

Motion carried.

\* \* \* \* \*

CENTRAL SHENANDOAH PLANNING DISTRICT COMMISSION - REAPPOINTMENT

Mr. Shull moved, seconded by Mr. Pyles, that the Board reappoint Becky Earhart to serve a 3-year term on the Central Shenandoah Planning District Commission, effective July 1, 2014, to expire June 30, 2017.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles  
Nays: None

Motion carried.

\* \* \* \* \*

VALLEY COMMUNITY SERVICES BOARD - REAPPOINTMENT

Mr. Shull moved, seconded by Mr. Pyles, that the Board reappoint Doug Cochran to serve another 3-year term on the Valley Community Services Board, effective July 1, 2014, to expire June 30, 2017.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles  
Nays: None

Motion carried.

\* \* \* \* \*

AUGUSTA COUNTY LIBRARY BOARD - REAPPOINTMENT

Ms. Bragg moved, seconded by Mr. Moore, that the Board reappoint Doran Stegura to serve a 2-year term on the Augusta County Library Board, effective July 1, 2014, to expire June 30, 2016.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles  
Nays: None

Motion carried.

\* \* \* \* \*

Chairman Wills noted that, based on lack of pending "Agenda items, the Board will consider cancellation of July 9<sup>th</sup> meeting.

\* \* \* \* \*

ADJOURNMENT

There being no other business to come before the Board, Mr. Shull moved, seconded by Mr. Pattie, the Board adjourned subject to call of the Chairman.

Vote was as follows: Yeas: Pattie, Karaffa, Shull, Wills, Moore, Bragg and Pyles

Nays: None

Motion carried.

\* \* \* \* \*

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
County Administrator