

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY
VIRGINIA, HELD IN THE COUNTY ADMINISTRATION BUILDING,
150 SOUTH MAIN STREET LEXINGTON, VIRGINIA,
ON TUESDAY, MAY 27, 2014, AT 4:30 P.M.

PRESENT: CHAIRMAN J.M.HIGGINS
MEMBERS: R.R.CAMPBELL, R.S.FORD, A.W.LEWIS, JR., D.W.HINTY, JR.
CLERK TO BOARD: SPENCER H. SUTER
COUNTY ATTORNEY: VICKIE L. HUFFMAN
FISCAL DIRECTOR: STEVEN BOLSTER
STAFF: BRANDY FLINT, SAM CRICKENBERGER, BRANDY WHITTEN
EDA MEMBERS: CHAIRMAN LYNN JONES, JR., ROBBIE FAULKNER,
JANIE HARRIS, GENE TILLES, STEPHEN BECK,
GERRY LOCHER, JR., JOHN WHITESELL

Call to order

Chairman Higgins called the Work Session to order at 4:30 p.m. He then gave the Economic Development Authority (EDA) opportunity to call their meeting to order and conduct business.

Chairman of the EDA, Mr. Lynn Jones, welcomed Mrs. Janie Harris, who was recently appointed to the EDA, succeeding Carl "Pickle" Newcomer.

The EDA then conducted business on election of officers, approval of minutes, a financial report, and project updates.

The first project update was related to Z&T Sales. Director of Community Development Sam Crickenberger explained that, under the current performance agreement with Z & T Sales, Z&T has leased the old bowling alley facility as well as the area across from the parking lot; he noted that this additional area could be used for further development in association with another project. He stated that Cocoa Mill would like to keep their retail presence in Lexington and expand their chocolate

manufacturing in the County; Cocoa Mill is currently looking in other areas as well. Z & T Sales has agreed to a boundary line adjustment to allow Cocoa Mill to locate here, under the following conditions: extend the current performance agreement for an additional two years; continuance of payment of rent Z&T are currently paying on the property for an additional two years; and get a current appraisal of the property to lock in the price. Mr. Crickenberger asked for consensus by the Board of Supervisors and the EDA to extend the performance agreement for an additional two years under the proposed conditions and to lock in a currently appraised value of the property. He stated that under the current agreement, it is up to Z & T Sales to pay for the appraisal; however, he stated that he would support sharing that cost with them, with consensus of the Board and EDA.

Mr. Beck suggested that the EDA order the appraisal - thereby taking ownership - and that Z & T Sales pay full cost for the appraisal.

County Administrator Spencer Suter clarified that the current performance agreement expires in August of 2015. Should the Board and EDA authorize extending this agreement an additional two years, the extended agreement would expire in 2017.

Supervisor Lewis thanked the EDA for their comments. He asked Mr. Crickenberger to be sure the employment commitment has been reached. He agreed that, if that commitment has achieved, this is a good deal.

The EDA unanimously agreed to move forward with negotiation of a revised performance agreement.

Supervisor Lewis moved to endorse the EDA's action to proceed.

Supervisor Ford provided the second, and the motion carried by unanimous roll call vote by the Board.

AYES: Lewis, Ford, Campbell, Hinty, Higgins
NAYES: None
ABSENT: None

Virginia Horse Center Discussion

County Administrator Spencer Suter provided the Board with an Agenda Item. He then reviewed this material as follows:

General Overview/Update

- April 22- Official request for 1% increase in local lodging tax received from VHC
- May 17- Response to VHC, containing specific questions, remitted by Chairman Higgins
- May 21- Response to Board questions remitted back to Chairman Higgins

Other Actions

- City of Lexington Approved a 1% increase effective July 1:
 - o To be distributed in the form of a grant
 - o Contingent upon performance agreement
 - o 2 year performance period (draft provided to City Council)
 - o Contingent upon the County taking similar action
- A similar draft agreement has been adapted for Board consideration.
- Board members met with Tourism Industry representatives, who agreed with the increase.

- An ordinance has been prepared.

Current Status

- Joint meeting with EDA (tonight)
- Considerations to include:
 - o Move ahead?
 - o What additions/amendments would you like to see in the performance agreement?

Potential Actions

- If in favor of moving ahead:
 - o Advertise ordinance for public hearing on June 23
 - o Move ahead with discussions with the VHC and EDA on a performance agreement, with contents similar to the draft MOU posted by the City of Lexington

Following Mr. Suter's general review of the agenda item, he explained that the annual debt service payment was \$604,000. He stated that Lexington brought in \$82,000 of lodging tax and that the County brought in \$419,000 - a combined total of \$501,000 in FY14. He stated that not all of the lodging tax collected went toward the debt service payment, but that some went toward arrearage from the previous year, so that a total of \$103,000 was still owed for the current year. He stated that there is still arrearage owed in the amount of \$137,000. He further stated that the basic idea behind increasing the lodging tax by 1% is to catch the \$137,000 shortfall up and then stay current with USDA. He stated that, should the exact same amount of lodging tax be collected this year as was last year, the debt service payment could be caught up as early as August

2015, and after being caught up, around \$12,000 additional will be generated each month. He noted that the amended request from the VHC [as presented by Messrs Oare, Derrick, Petty, and Clarke] was not just for assisting with the debt service payment, but also for capital maintenance of the facility. Mr. Suter indicated that he had received an email from Mr. Clarke asking to tweak the request related to capital maintenance to an arrangement whereby capital improvements would be predicated on requirements demanded by the USDA. Mr. Clarke noted that the Deed of Trust with the USDA requires that the facilities be maintained in a manner consistent with requests by the government.

Chairman Higgins stated that the County made payments to the USDA in February each year, whereas Lexington made their payments twice each year. He understood that the USDA is now asking for payments to be received on a monthly basis instead.

EDA member Robbie Faulkner asked for a financial update from VHC relating to the current fiscal year.

Chairman Higgins noted that the VHC fiscal year ends June 30th.

Tom Clarke, Treasurer of the Virginia Horse Center, stated that Dave Hawkins has conducted audits in the past, and that the last, qualified, audit applied to the year ended June 30, 2013; he expects an unqualified audit will come in after June 30, 2014. He noted that an additional auditor was hired and to date has found no problems that money "is not going where it should." He stated that, based on the fiscal trend so far this year, operational costs will break even by June 30th, 2014.

Mr. Faulkner stated that he would like to present to the community that increasing the lodging tax 1% will take care of the debt service. He asked whether, once the debt service is caught up, the operational costs and maintenance could be sustained from revenues.

Mr. Clarke advised that there are several million dollars of capital improvements that have not been made over the last 20 years, such as repair to the stalls' flooring, replacement of light fixtures, and a remedy for drainage issues.

Mr. Beck asked whether the lodging tax was originally intended to cover maintenance.

Mr. Clarke replied that the lodging tax was specifically meant to service the debt that occurred prior to 2004.

Supervisor Lewis clarified that the lodging tax currently in place has a different purpose than the 1% increase that the VHC is requesting. He specified that the 1% increase will initially cover the debt service payments, but it may also be used for any other purpose related to promoting tourism.

Mr. Beck indicated that the VHC is not going to be able to justify any stall rate increase with substandard facilities, so ideally all improvements should be completed at one time by borrowing the funds.

Mr. Clarke agreed with Mr. Beck's statement. He shared that there will be a group going to Washington with Congressman Goodlatte's help to request that the USDA reduce the interest rate.

Mr. Beck asked if there is a "Plan B" should the interest rate not be reduced.

Mr. Clarke expressed confidence that the interest rate would be reduced, but that should it not be, there are other options.

Mr. Beck asked if there are any local candidates selected for the VHC Board.

Mr. Clarke indicated that several names have been mentioned.

The question arose as to why a County Supervisor was not a member on the VHC Board.

Chairman Higgins indicated that a Board member currently attends the VHC Board meetings and reports back to the Board of Supervisors.

Supervisor Campbell stated that the offer has been made; however the Board of Supervisors have not decided whether they want to appoint a Supervisor to the VHC Board or just continue having a Board member attend VHC Board meetings as a liaison.

EDA member Janie Harris indicated that there could be a conflict if the Board is going to be charged with providing funding for the VHC while a Board member is serving on the VHC Board. She noted that that a Board member might not be able to vote on any financial issues related to the Horse Center.

Mr. Beck noted that the Horse Center situation would not have gotten this bad if there had been better business acumen applied to its management.

Chairman Higgins indicated that, over the last several months, the Board of Supervisors have asked many questions which the Horse Center has not been able to answer. He shared that, since Mr. Clarke has become a member of the VHC, he takes his time to be sure to respond accurately to the Board's questions. Chairman Higgins suggested that the lack of answers to some of the Board's questions is due to improper record keeping. He stated that he does not mind helping with the debt because he does hear a lot of positive things about the Horse Center, but that he does have problems with helping on maintenance expenses. He stated that the VHC should ramp up its fundraising and get the "Blue Ribbon Committee" active soon. He stated that the VHC is expected to spend around \$200,000 for higher level management and that they have already raised \$70,000 to go toward this cost. He indicated that, should these actions fail in the long-run, the Board of Supervisors will need to face citizens to let them know that they tried to help but it isn't going to work out.

EDA member Mr. Gene Tilles asked what the timeline is for moving forward.

Mr. Suter explained that, should the Board and EDA chose to move forward, the first step will be to advertise a public hearing on the ordinance for June 23rd for consideration of adoption. He stated that, simultaneously, a memorandum of understanding or performance agreement with the VHC would need to be considered.

Chairman Higgins asked County Attorney Vickie Huffman to explain the process of the way the 1% increase will be used associated with the EDA and tourism.

Ms. Huffman indicated that the 1% will go to the Board of Supervisors and be funneled through the EDA in support of the VHC.

Supervisor Ford asked Ms. Huffman if this would mean that the part of the 1% that would be applied to the debt payment will also be funneled through the EDA.

Ms. Huffman stated that this is what is being recommended.

Chairman Higgins closed the Work Session at 5:34 p.m. based on the following roll call vote:

AYES: Hinty, Lewis, Ford, Campbell, Higgins
NAYES: None
ABSENT: None

The Economic Development Authority continued their meeting.

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY
VIRGINIA, HELD IN THE COUNTY ADMINISTRATION BUILDING,
150 SOUTH MAIN STREET LEXINGTON, VIRGINIA,
ON TUESDAY, MAY 27, 2014, AT 5:30 P.M.

PRESENT: CHAIRMAN J.M.HIGGINS
MEMBERS: R.R.CAMPBELL, R.S.FORD, A.W.LEWIS, JR., D.W.HINTY, JR.
CLERK TO BOARD: SPENCER H. SUTER
COUNTY ATTORNEY: VICKIE L. HUFFMAN
FISCAL DIRECTOR: STEVEN BOLSTER
STAFF: BRANDY FLINT, SAM CRICKENBERGER, CHRIS SLAYDON,
PAUL OWEN, ROBERT FORESMAN, JEREMY GARRETT,
BRANDY WHITTEN

Call to Order

A Work Session convened at 4:30 p.m. and concluded at 5:35 p.m.
Chairman Higgins called an eight minute break and called the regular
meeting to order at 5:43 p.m.

Supervisor Lewis delivered the invocation. He then led in the Pledge
of Allegiance.

Recognitions/Presentations

Chairman Higgins called for recognitions and presentations. There
were none.

Citizen Comments

Chairman Higgins called for citizen comments.

Mr. Chris Green of the Kerrs Creek Magisterial District provided the
Board with a handout detailing the number of citizens who are subsidized

by Medicaid. He stated that in FY13, Rockbridge County had 3,100 recipients of the Virginia Medicaid Medical Services. Attached to the handout was a resolution urging the Governor of Virginia and the Virginia General Assembly to pass a clean budget in a timely manner. He asked the Board to pass the resolution and have it sent to the Governor and the General Assembly.

Items to be added to the Agenda

Supervisor Ford added a discussion of tuition fees from the City of Lexington School Board for Rockbridge County High School, assessed by the Rockbridge County School Board.

County Administrator Spencer Suter added an update on a recent Tourism Zone Application.

Supervisor Campbell added the consideration of a resolution previously mentioned during citizen comments by Mr. Green.

Approval of Minutes

Supervisor Ford moved to approve the May 12, 2014 Minutes as presented. Supervisor Campbell provided the second, and the motion carried by unanimous roll call vote.

AYES: Ford, Campbell, Lewis, Hinty, Higgins
NAYES: None
ABSENT: None

VRS Retirement Contribution Rate

Fiscal Services Director Steven Bolster read aloud the Agenda Item: "Language in the 2013 Appropriations Act, Item 468(H), allowed localities to make an election regarding their employer contribution rate every biennium. The Board of Supervisors has the opportunity again this year to select which employer contribution rate Rockbridge County will pay, beginning July 1, 2014. The intent of the legislative language was to provide local governments and school divisions some budget relief for the upcoming fiscal year related to their retirement contribution level. The opportunity to select an alternative rate does not change the VRS Board-certified rate. The employer retirement contribution rate election options for the defined benefit retirement plan in the biennium beginning July 1, 2014 are as follows:

- 1) 14.11% - the rate certified by the VRS Board of Trustees for the FY 2015-2016 biennium; or
- 2) 11.29% - the alternate rate, which is the higher of the rate certified by the VRS Board for FY 2012 or 80 percent of the VRS Board -certified rate for FY 2015-2016.

VRS must receive our formal signed resolution for the employer retirement contribution rate election no later than July 10, 2014. The staff recommendation is to select the rate certified by the VRS Board of Trustees for the FY 2015-2016 biennium, which is 14.11%. Acceptance of this recommendation will avoid having fewer assets available for benefits and a lower funded ratio for the next actuarial valuation."

Supervisor Hinty moved to approve the resolution. A second was provided by Supervisor Ford, and the resolution was adopted by unanimous roll call vote by the Board.

AYES: Hinty, Ford, Campbell, Lewis, Higgins
NAYES: None
ABSENT: None

*** The following resolution has been executed and filed in the office of the Clerk to the Board of Supervisors. ***

Employer Contribution Rates for Counties, Cities,
Towns, School Divisions and Other Political Subdivisions
(In accordance with the 2014 Appropriation Act Item 467(I))

Resolution

BE IT RESOLVED, that the County of Rockbridge [55181] does hereby acknowledge that its contribution rates effective July 1, 2014 shall be based on the higher of a) the contribution rate in effect for FY 2012, or b) eighty percent of the results of the June 30, 2013 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2014-16 biennium (the "Alternate Rate") provided that, at its option, the contribution rate may be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to Virginia Code § 51.1-145(I) resulting from the June 30, 2013 actuarial value of assets and liabilities (the "Certified Rate"); and

BE IT ALSO RESOLVED, that the County of Rockbridge [55181] does hereby certify to the Virginia Retirement System Board of Trustees that it elects to pay the following contribution rate effective July 1, 2014:

(Check only one box)

The Certified Rate of 14.11% The Alternate Rate of 11.29%; and

BE IT ALSO RESOLVED, that the County of Rockbridge [55181] does hereby certify to the Virginia Retirement System Board of Trustees that it has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of any election made under the provisions of this resolution; and

NOW, THEREFORE, the officers of the County of Rockbridge [55181] are hereby authorized and directed in the name of the County of Rockbridge to carry out the provisions of this resolution, and said officers of the County of Rockbridge are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the County of Rockbridge for this purpose.

John M. Higgins, Chairman

CERTIFICATE

I, Spencer H. Suter, Clerk of the County of Rockbridge, certify that the foregoing is a true and correct copy of a resolution passed at a lawfully organized meeting of the County of Rockbridge held at Lexington, Virginia at five-thirty P.M. on May 27, 2014. Given under my hand and seal of the County of Rockbridge this 27th day of May, 2014.

Spencer H. Suter, Clerk

RECORDED VOTE:

AYES:

NAYS:

ABSTAIN:

ABSENT:

Presentation of Solid Waste Development Plan Proposal

Director of Solid Waste and Transportation Jeremy Garrett briefly reviewed the Agenda Item: "Staff published a request for proposals for RFP# 2014-02-001: 'Outside Agency Production of Solid Waste Development Plan', with a closing date of April 3, 2014 at 2:00 p.m. The County received three qualifying proposals, and the Solid Waste Subcommittee convened on two occasions to score the submissions. Based on the published criteria, SCS Engineers was selected for an initial interview and negotiations by the subcommittee on April 29, 2014. Due to the complex nature of the study being requested, it was determined that it was necessary to allow SCS Engineers to use the information gathered during the April 29th interview to further refine their proposal and provide detailed cost information. SCS Engineers responded on May 14, 2014, with a revised proposal as requested that meets or exceeds the agreed upon scope set forth by the subcommittee. Total cost for the comprehensive Solid Waste Development Plan and reporting is not to exceed \$38,000. Funding of \$15,000 was approved in the current FY 13-14 budget for this

project. Additional funding of \$23,000 has been identified under FY 13-14 "Contracted Services" line 11-42030-3001, due to better management of the contract and the closure of the "Old Drive-In" dumpster site on Rt. 501. If approved, the funds would be transferred during the current fiscal year and carried over to FY 14-15 as necessary to continue funding the project to completion. If so directed, the Solid Waste Subcommittee will continue with contract negotiations and the development of a contract. The goal is to bring this contract to the Board for approval at the June 9, 2014 Board meeting."

Supervisor Ford asked how much the County has saved from the closure of the 501 dumpster site.

Mr. Garrett stated that the amount saved exceeds the \$23,000 shortfall.

Mr. Bolster confirmed an overall savings of approximately \$88,000.

County Administrator Spencer Suter noted that the \$88,000 savings is not entirely from closure of the 501 site, but also from better general management of the budgeted funds and contracted services.

Supervisor Campbell stated that the Solid Waste Subcommittee decided to go with a more detailed study which ultimately costs more, but is better suited for the County's long-term interests.

Supervisor Campbell moved to use additional funds and begin negotiations. Supervisor Ford provided the second, and the motion carried by unanimous roll call vote by the Board.

AYES: Campbell, Ford, Lewis, Hinty, Higgins

NAYES: None
ABSENT: None

Items to be added to the Agenda

Update on a Tourism Zone Application

Director of Community Development Sam Crickenberger stated that he had received the County's first Tourism Zone application, submitted by The Natural Bridge. He stated that he would need to further review the application and make a recommendation to the County Administrator, who will have the final approval. He noted that, should the application be denied, the Board of Supervisors will be the appeal agency. Mr. Crickenberger also noted that, based on his brief review of the application, certain criteria have already been met, conditionally qualifying Natural Bridge under the Tourism Zone Ordinance. These included: investment of \$250,000 and the creation of at least five (5) jobs. He stated that it appears that the Natural Bridge, to date, far exceeds these criteria. He reminded the Board that, should the application be approved, 50% of the Business License fee and 50% of the fees associated with building and zoning approval will be returned to the applicant as a reimbursement from the County.

Mr. Suter indicated that the County continues to receive excellent reports from The Natural Bridge and its success thus far, and that it made sense for them to take advantage of the program. Mr. Suter indicated that he had briefly reviewed the application and agreed that all of the criteria have been far exceeded.

Supervisor Ford asked if the reimbursements would be applicable to other fees from construction and demolition that is ongoing at The Natural Bridge.

Mr. Crickenberger stated that those fees would be related to the building permit process and thus would qualify .

Supervisor Hinty indicated that he had recently visited The Natural Bridge and stated it has been cleaned up and is nice and inviting. He thanked Mr. Clarke for his hard work.

Public Hearings

Zoning Ordinance Amendment- Special Events by Special Exception in A-1, A-2, and A-T

Assistant Director of Community Development Chris Slaydon briefly reviewed the agenda item: The Planning Commission has been working on an amendment to the Land Development Regulations that would allow for special events such as weddings and receptions on agricultural properties to be conducted as a business. We currently consider this type of activity as accessory to permitted lodges, resorts and vineyards and, of course, we do not regulate private events not conducted as a business. Following a public hearing earlier this month, the Planning Commission has recommended approval of the enclosed amendment. The current draft has been simplified so as not to conflict with the County Code that allows for outdoor music festivals per an annual event application approved by the Board.

He then reviewed the definition of a special event as follows:
"Weddings, receptions and reunions which are advertised or marked in any form including, but not limited to posters, business cards, internet, and media outlets; that serve an entrepreneurial purpose; that include fees/charges for goods/services; and/or whenever there is an admission fee or leasing fee. This definition does not include private parties or private functions that do not meet the above stated criteria and are considered an accessory use to lodges or resorts, farm wineries and farm breweries. Events regulated under Chapter 4, Article II of the County Code do not fall under this definition or associated requirements; and a special event for which a special exception use permit has been issued under these Regulations shall be exempt from Chapter 4, Article 2 of the County Code."

Mr. Crickenberger confirmed that the County Code will not be in conflict with music festivals, which involve case-by-case applications.

Chairman Higgins opened the public hearing at 6:03 p.m. With there being no public comments, Chairman Higgins closed the public hearing.

Supervisor Ford asked whether the proposed ordinance included reunions.

Mr. Crickenberger stated that reunions had been listed originally and had eventually been removed, but he felt that a reunion is very similar to a reception and therefore added it back to the definition of a special event.

Supervisor Campbell moved to approve the ordinance to amend the Rockbridge County Land Development Regulations. Supervisor Hinty provided

the second, and the ordinance was adopted by unanimous roll call vote by the Board.

AYES: Campbell, Hinty, Ford, Lewis, Higgins
NAYES: None
ABSENT: None

*** The following ordinance has been executed and filed in the office of the Clerk to the Board of Supervisors. ***

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY, VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON TUESDAY, MAY 27, 2014

Ordinance to Amend the Rockbridge County Land Development Regulations by adding Section 302.191a – Special Events to Section 302.00 - Specific Definitions of Article 3 – Definitions, and to Amend Section 602.00 - Agricultural and Limited Uses District (A-1), Section 603.00 - Agricultural and General Uses District (A-2), and Section 603B.00 - Agricultural Transitional District (A-T) by Adding Sections 602.03-13, 603.03-24, and 603.03B-20 to Allow Special Events as a Use by Special Exception Permit in Each District

WHEREAS, the Rockbridge County Planning Commission held a public hearing on this amendment to the Land Development Regulations on May 14, 2014, and recommended approval to the Board; and,

WHEREAS, the Rockbridge County Board of Supervisors held a public hearing on this amendment on May 27, 2014; and,

WHEREAS, legal notice has been provided in accordance with Section 15.2-2204 of the Code of Virginia (1950, as amended) and Section 802.04 of the County of Rockbridge Land Development Regulations; and,

WHEREAS, the Board of Supervisors of Rockbridge County, Virginia, has determined that the provisions of this ordinance promote the health, safety and general welfare of the public, that the amendment is required by good zoning practice and accomplishes the objectives set forth in Va. Code Section 15.2-2200, and that the amendment serves one or more of the purposes set forth in Va. Code Section 15.2-2283 of the Code of Virginia.

NOW, THEREFORE, BE IT ORDAINED by the Rockbridge County Board of Supervisors:

1. That Section 302.00 – Specific Definitions of Article 3 – Definitions of the Rockbridge County Land Development Regulations be amended to add Section 302.191a as follows:

**ARTICLE 3
DEFINITIONS**

302.00 SPECIFIC DEFINITIONS

When used in this Ordinance the following words and phrases shall have the meaning given in this Section:

302.191a Special Events. Weddings, receptions and reunions which are advertised or marketed in any form including, but not limited to posters, business cards, internet, and media outlets; serves an entrepreneurial purpose; includes fees/charges for goods/services; and/or whenever there is an admission fee or leasing fee. This definition does not include private parties or private functions that do not meet the above stated criteria and is considered an accessory use to lodges or resorts, farm wineries and farm breweries. Events regulated under Chapter 4, Article II of the County Code do not fall under this definition or associated requirements, and a special event for which a special exception use permit has been issued under these Regulations shall be exempt from Chapter 4, Article 2 of the County Code.

2. That Article 6 - Uses in Districts of the Rockbridge County Land Development Regulations be amended to add the following:

**ARTICLE 6
USES IN DISTRICTS**

602.00 AGRICULTURAL AND LIMITED USES DISTRICT - A-1

602.03 Special Exceptions. In the A-1 District, special exception use permits may be granted for one or more of the following uses:

602.03-13 Special Events

603.00 AGRICULTURAL AND GENERAL USES DISTRICT - A-2

603.03 Special Exceptions. In the A-2 District, Special Exceptions may be issued for one or more of the following uses:

603.03-24 Special Events.

603B.00 AGRICULTURAL TRANSITIONAL DISTRICT - A-T

603B.03 Special Exceptions. In the A-T District, Special Exceptions may be issued for one or more of the following uses:

603.03B-20 Special Events.

- 2. That this ordinance shall be in full force and effect on and from the date of its adoption.

Adopted this ____ day of May, 2014.

Recorded Vote:

AYES:

NAYES:

ABSENT:

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman

Attest: _____
Spencer H. Suter, Clerk

Special Exception- James Powers- Special Events Venue in A-2

Assistant Director of Community Development Chris Slaydon briefly reviewed the agenda item: "James Powers has applied for a special exception permit per the above amendment to be an event venue in A-2. His property is located off of Big Spring Drive adjacent to Highland Belle. Some neighbors have objected due to noise and traffic. As a result, the Planning Commission has recommended approval of this application subject to the following conditions:

- events will be limited to weddings and receptions with a maximum of 300 attendees.
- All site activities will be concluded by 11:00 p.m.
- Adequate sanitation facilities for the numbers of guests (two port-a-johns per 100 guests).
- Adequate off-street parking facilities and traffic controls with no more than 120 vehicles. No parking allowed on Big Spring Drive.
- Required license for alcohol and not self-served per ABC regulations
- All trash shall be taken directly to the landfill and not a collection center.
- Approval contingent on VDOT's and the Building Department's approval.

Chairman Higgins opened the public hearing at 6:08 p.m.

John Schoultz of the Kerrs Creek Magisterial District indicated that Supervisor Lewis, as owner of The Jefferson Florist, may benefit from services provided for an event and therefore he should abstain from all voting matters related to this event. He noted that The Jefferson is one of the florists featured on the Big Spring Farm website.

Janet Larrabee of the Kerrs Creek Magisterial District indicated that the subject property and her property are separated by a creek. She stated that she had horses which will be spooked by the noise and lighting from the proposed events. She also shared her concern of how narrow Big Springs Drive is and how dangerous it will become if substantial event traffic is generated.

Applicant James Powers showed another route he plans to have vehicles use in order to avoid using Big Springs Drive. He stated that Fredericksburg Drive is the proposed roadway to be used during the time of special events. He also stated that all amplified music will be inside an enclosed tent or inside the enclosed barn and therefore noise should not be an issue. He confirmed that lighting should not be an issue due to the use of low lighting such as "tiki torches" along the water and walking paths.

Mr. Slaydon was asked by Chairman Higgins to show the right-of-way from Fredericksburg Road on a digital map.

Steve Rawls, Director of Young Life at Rockbridge Alum Springs, spoke in favor of Mr. Powers and expressed how grateful he was to have Mr. Powers in Rockbridge County.

Mr. Crickenberger shared his appreciation of Mr. Powers taking the right steps in officially requesting and applying for permission to host special events.

Chairman Higgins closed the public hearing at 6:21 p.m.

Supervisor Ford stated that he and Mr. Crickenberger had visited the proposed site and that all concerns has been addressed in the proposed conditions; he added that his interpretation of an enclosed structure for amplified music meant the barn. He further noted that V-DOT had declined to approve the proposed entrance on Big Spring Drive due to insufficient sightlines.

Supervisor Ford moved to approve the ordinance granting a Special Exception Permit application by James Powers for special events on Big Spring property, further identified as tax map number 47-A-50A in the A-2 Zoning District. Supervisor Hinty provided the second, and the motion carried by the following roll call vote by the Board, with Supervisor Lewis abstaining:

AYES: Ford, Hinty, Campbell, Higgins
NAYES: None
ABSENT: None
ABSTAIN: Lewis

*** The following ordinance has been executed and filed in the office of the Clerk to the Board of Supervisors. ***

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY, VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATION CENTER ON TUESDAY, MAY 27, 2014

Ordinance Granting a Special Exception Permit To James Powers for Special Events on Property in the Agricultural General District (A-2), Located on the North Side of Big Spring Drive at 1824 Big Spring Drive (Tax Map No. 47-A-50A) in the Kerrs Creek Magisterial District

WHEREAS, James Powers, the applicant, is the lessee and operator of a special event destination business, Big Spring Events, LLC, on property owned by Special Friends of Virginia, LLC, and known as Big Spring, consisting of 36.72 acres of land, designated as Tax Map #47-A-50A, lying on the north side of Big Spring Drive, east of its intersection with West Midland Trail (Route 60), in the Kerrs Creek Magisterial District of Rockbridge County; and,

WHEREAS, the subject property is located in the Agricultural General (A-2) zoning district, and special events are a use requiring a special exception permit; and,

WHEREAS, the Planning Commission held a public hearing on this application on May 14, 2014, and recommended approval with specified conditions to the Board of Supervisors; and,

WHEREAS, the Board of Supervisors of Rockbridge County, Virginia, held a public hearing on this matter on May 27, 2014; and,

WHEREAS, legal notice has been provided in accordance with §15.2-2204 of the Code of Virginia (1950, as amended) and in accordance with the Rockbridge County Land Development Regulations; and,

WHEREAS, the Board of Supervisors has given due consideration to the factors set forth in Section 802.03-5 of the Rockbridge County Land Regulations, for issuance of a special exception permit.

NOW, THEREFORE, **BE IT ORDAINED** by the Board of Supervisors of Rockbridge County, Virginia, as follows:

1. That the Board of Supervisors finds that the granting of a special exception permit to James Powers for operation of a special event destination business on the property known as Big Spring, at 1824 Big Spring Drive in the Kerrs Creek Magisterial District, identified on the Rockbridge County Land Records as Tax Map #47-A-50A, is substantially in accord with the Comprehensive Plan of the County adopted pursuant to the provisions of Section 15.2-2232 of the Code of Virginia (1950, as amended), and said special exception permit is hereby granted and approved with and subject to the conditions set forth on Exhibit A attached hereto and incorporated herein by reference.

2. That this ordinance shall be effective on the date of its adoption. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Adopted this ____ day of May, 2014.

Recorded Vote:

AYES:

NAYES:

ABSENT:

ABSTAIN:

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman

Attest: _____
Spencer H. Suter, Clerk

EXHIBIT A

SPECIAL EXCEPTION PERMIT CONDITIONS

JAMES POWERS d/b/a Big Spring Events LLC

1. Events will be limited to weddings and receptions with a maximum of 300 attendees.
2. All site activities will be concluded by 11:00 p.m.
3. Adequate sanitation facilities for the numbers of guests (two port-a-johns per 100 guests).
4. Adequate off-street parking facilities and traffic controls with no more than 120 vehicles. No parking allowed on Big Spring Drive.
5. Required license for alcohol per ABC regulations and alcoholic beverages will not be self-served.
6. All trash shall be taken directly to the landfill and not a collection center or green box site.
7. Any amplified music must be within an enclosed structure.
8. Approval is contingent on VDOT's and the Building Department's approval.

Renewal of the Fancy Hill Ag/Forestal District

Assistant Director of Community Development Chris Slaydon briefly reviewed the agenda item: the Fancy Hill Ag/Forestal District is up for renewal. The Farm and Forest Committee and the Planning Commission have recommended approval for another seven years.

Mr. Slaydon commended Hank Leech in the GIS Department for assisting with mapping.

Supervisor Lewis asked if someone with a conservation easement could join an Ag/Forestal District.

Mr. Slaydon responded that they could if the land goes through the proper removal process and then is placed in a conservation easement. He then stated that in the past, landowners had withdrawn their land from an Ag/Forest Overlay District and placed the property into a conservation easement. In some cases the land was later put back into the Ag/Forest Overlay District. At issue was the voluntary transfer of development rights and obtaining full tax credits.

Supervisor Ford confirmed Mr. Slaydon's correct response.

Chairman Higgins opened the public hearing at 6:28 p.m. With there being no comments, the public hearing was closed.

Supervisor Ford moved to adopt the ordinance to re-create and establish the Fancy Hill Ag and Forestal Overlay District for a period of seven (7) years. Supervisor Lewis provided the second, and the ordinance was adopted by unanimous roll call vote by the Board.

AYES: Ford, Lewis, Campbell, Hinty Higgins
NAYES: None
ABSENT: None

*** The following ordinance has been executed and filed in the office of the Clerk to the Board of Supervisors. ***

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE
OFFICES ON TUESDAY, MAY 27, 2014

ORDINANCE TO RE-CREATE AND ESTABLISH THE FANCY HILL AGRICULTURAL
AND FORESTAL OVERLAY DISTRICT FOR A PERIOD OF SEVEN (7) YEARS

WHEREAS, the previously established Fancy Hill Agricultural and Forestal Overlay District ("Fancy Hill District"), created pursuant to the Rockbridge County Land Development Regulations, §§610.00, et seq., and Virginia Code §§ 15.2-4300, et seq., expired on May 14, 2014; and,

WHEREAS, a majority of the property owners of land parcels in the original overlay district have petitioned for renewal of the Fancy Hill District for a period of seven (7) years, and the minimum core of 200 contiguous acres has been established; and,

WHEREAS, the petition has been reviewed by the Agricultural and Forestal Districts Advisory Committee, which has recommended re-creating and establishing the Fancy Hill District to the Planning Commission; and,

WHEREAS, the Rockbridge County Planning Commission reviewed the application on May 14, 2014, and recommended to the Board of Supervisors that the Fancy Hill District be re-established for a period of seven (7) years; and,

WHEREAS, legal notice and advertisement has been provided in accordance with §15.2-2204 of the Code of Virginia (1950, as amended) and in accordance with the Rockbridge County Land Development Regulations; and,

WHEREAS, the Board of Supervisors has held a public hearing on this matter on May 27, 2014; and,

WHEREAS, the Board of Supervisors has determined that the proposed rezoning would generally promote the health, safety, convenience and general welfare of the public, that the rezoning is warranted as good zoning practice, that it accomplishes one or more of the objectives set forth in §15.2-2200 of the Code of Virginia (1950, as amended), and that it serves one or more of the purposes set forth in Land Development Regulation §610.01, namely to: (i) to conserve, protect and encourage the development and improvement of agricultural and forestal lands for the production of food and other agricultural and forestal products, (ii) to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, and aesthetic purposes, (iii) to provide a means for the mutual undertaking by landowners and local governments to protect and enhance agricultural and forestal land as a viable segment of the economy and an economic and environmental resource of major importance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Rockbridge County, Virginia, as follows:

1. That the Fancy Hill Agricultural and Forestal Overlay District, totaling 1800.091 acres of land, more or less, is hereby re-created and established for a period of seven (7) years, pursuant to the Rockbridge County Land Development Regulations, §§610.00, et seq., and Virginia Code §§ 15.2-4300, et seq., and shall consist of and be applicable to the following:

| TAX MAP # | NAME | ACRES |
|------------------|--|--------------|
| 97-4-2 | BISAILLON DONALD J & KAREN M O | 21.41 |
| 97-6-10 | BISAILLON DONALD J & KAREN M O | 31.69 |
| 97-4-2E | BISAILLON KAREN M O | 22.275 |
| 98-A-15 | BROWN PRESTON H AND LESLIE B | 57.1 |
| 87-A-20 | BROWNING JOSEPH W AND ELIZABETH M & PATRICIA A | 218.111 |
| 96-6-6E | BROWNING JOSEPH W AND ELIZABETH M & PATRICIA A | 22.78 |
| 86-8-1E | BROWNING JOSEPH W AND ELIZABETH M & PATRICIA A | 1.68 |
| 97-1-8 | COOPER ELIZABETH & CLYDE N | 20.2 |
| 87-11-A | COPELAND DAVID AND TOWNSEND IRENE | 28.307 |
| 87-11-B | COPELAND DAVID AND TOWNSEND IRENE | pt. 28.307 |
| 87-6-2B1 | COPELAND DAVID L & TOWNSEND IRENE | 5.977 |
| 87-6-2B4 | COPELAND DAVID L & TOWNSEND IRENE | 3.28 |
| 96-7-1 | CORREIA KATHLEEN NOWACKI | 20.339 |
| 97-1-9 | CROCKETT ROGER A AND ANNA Z | 20.21 |
| 97-6-K | EICHELBERGER ERIC AND REBECCA | 2.8 |
| 97-6-8 | EICHELBERGER STANLEY A AND KATHY Y | 46.94 |
| 97-A-5A | FAULKNER ROBERT L & KATHY C | 64.66 |

| | | |
|---------|---|-------------|
| 96-7-2 | HARER JOHN L | 20.372 |
| 97-1-5 | HARER JOHN L AND SHINE ANNE | 20.14 |
| 96-7-3 | HOLLADAY LEWIS III & PHEBE G | 20.13 |
| 97-A-2 | HOLLADAY LEWIS III & PHEBE G | 6.75 |
| 96-A-3 | LEWIS JOHN R JR | 134.52 |
| 96-A-4E | LEWIS JOHN R JR | 2 |
| 97-1-11 | PANTAZE BEDE A R | 20.1 |
| 98-25-B | POWELL INGEBORG R & FRANK | 181 |
| 98-25-A | REIFF HENRY E & REIFF ERIC H & LENDERS JENNIFER | 60 |
| 97-1-10 | REULEIN WILLIAM F AND DOROTHY | 20.01 |
| 96-7-4 | RUSSELL MARGARET M | 20.03 |
| 96-18-A | SCHNETZLER ROBERT E | 18.84 |
| 98-A-16 | SECKER TERRANCE A AND CYNTHIA M | 20.01 |
| 98-10-8 | SECKER TERRANCE A AND CYNTHIA M | 97.76 |
| 97-A-5 | SOUTHLEX CATTLE COMPANY, LLC | 86.04 |
| 97-A-1 | THE HUNT INC C/O WILLIAM REULEIN | 427.03 |
| 97-1-14 | THE HUNT INC C/O WILLIAM REULEIN | 20.2 |
| 97-6-4 | WILLIAMS JOSEPH C AND MARY C TRS | <u>37.4</u> |

Total acres
1800.091

2. That this ordinance shall be effective on the date of its adoption. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. The Zoning Administrator is directed to amend the zoning district map to reflect the changes in zoning classification authorized by this ordinance.

Adopted this ____ day of May, 2014.

Recorded Vote:
AYES:
NAYES:
ABSENT:

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman

Attest: _____
Spencer H. Suter, Clerk

Stormwater Management Ordinance

Erosion and Sediment Technician Paul Owen reviewed the agenda item:
"At its regular meeting on April 28th, the Board reviewed a draft Stormwater Management Program Ordinance and authorized advertisement for public hearing. The ordinance was subsequently advertized in the News Gazette on May 14th and 21st. To date, no public comments have been received. You may recall a related, parallel process involving Request for Proposals for 3rd party commercial plan reviews. This process resulted in ranking of Joyce Engineering as the top proposer for this service. Staff has subsequently negotiated a fee schedule with Joyce Engineering and is in the process of working toward a final contract for presentation at the Board's regular June 9 meeting. The Board has expressed an interest in trying to ensure that fees assessed to an applicant do no more than cover the basic cost of the process, in the interest of promoting economic development. Thus you'll note that the fee schedule in the attached ordinance has been revised slightly downward from the structure originally

approved for advertisement. This is due to the fact that when the Board originally considered the ordinance, the final cost/fee schedule for 3rd party reviews had not been negotiated. Now that costs are known (subject to final contract approval), staff can more accurately advise the Board as to the proper fee schedule. Please be aware that the suggested fees include the 28% administrative fee assessed by the Commonwealth.”

Chairman Higgins opened the public hearing at 6:31 p.m. With there being no public comments, the public hearing was closed.

County Administrator Spencer Suter indicated that the County is currently working on a contract with Joyce Engineering and should negotiations with Joyce Engineering fail, the second ranked proposer would then be contacted to begin negotiations. He noted that, should this occur the fees may need to increase, resulting in a requested change in the ordinance.

Supervisor Ford stated that a benefit from locally managing stormwater regulations is that a more timely response could be given to developers. He asked Mr. Suter if the contract with Joyce Engineering will include that language.

Mr. Suter confirmed noting that this was staff's intention.

Mr. Owen indicated that a response should be given to developers within 20 days.

Supervisor Campbell moved to adopt the Stormwater Management Ordinance. A second was provided by Supervisor Ford, and the ordinance was adopted by unanimous roll call vote by the Board.

AYES: Campbell, Ford, Lewis, Hinty, Higgins
NAYES: None
ABSENT: None

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROCKBRIDGE COUNTY,
VIRGINIA, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON TUESDAY,
MAY 27, 2014

An Ordinance to Enact a New Chapter 27—Stormwater Management, of the Rockbridge County Code, to Establish a Virginia Stormwater Management Program (VSMP), Including Procedures, Permitting and Fees to Administer and Enforce State Requirements Related to Water Quality and Quantity, as Mandated by the Commonwealth of Virginia in Va. Code §62.1-44.15:27, et seq., and Regulations Promulgated by the Virginia Department of Environmental Quality (DEQ)

BE IT ENACTED by the Rockbridge County Board of Supervisors that:

1. Chapter 27 – Stormwater Management is hereby enacted and adopted as follows:

ROCKBRIDGE COUNTY CODE

Chapter 27

STORMWATER MANAGEMENT

Section 27-1. Purpose and authority.

A. The purpose of this Chapter is to ensure the general health, safety, and welfare of the citizens of Rockbridge County, including the towns located within the County, and to protect the quality and quantity of State waters from the potential harm of unmanaged stormwater, including protection from a land-disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.

B. This Chapter is adopted pursuant to Virginia Code §62.1-44.15:27.

Section 27-2. Definitions.

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

“Administrator” means the Erosion and Sediment Control/Stormwater Administrator, which is part of the Rockbridge County Building Department, who will serve as the Virginia Stormwater Management Program (VSMP) authority.

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

“Applicant” means any person submitting an application for a permit or requesting issuance of a permit under this Chapter.

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

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

“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.

“Department” means the Department of Environmental Quality.

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

“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.

“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 27-3 of this Chapter.

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

“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 Chapter.

“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 Chapter, and which may only be issued after evidence of general permit coverage has been provided by the Department.

“Permittee” means the person to whom the VSMP Authority Permit is issued.

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

“Regulations” means the VSMP Permit Regulations, 9VAC25-870, as amended.

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

“State” means the Commonwealth of Virginia.

“State Board” means the State Water Control Board

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

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

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

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

“Stormwater management plan” means a document(s) containing material describing methods for complying with the requirements of Section 27-6 of this Chapter.

“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 Chapter. In addition, the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

“Subdivision” means the same as defined in Sections 302.207, 302.207-1, 302.207-2, and 302.207-3 of the Rockbridge County Land Development Regulations.

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

“Virginia 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 Chapter, and evaluation consistent with the requirements of this Chapter 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 VSMP.

Sec. 27-3. Stormwater permit requirement; exemptions.

A. Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this Chapter. A person shall not conduct any land-disturbing activity until he has submitted a permit application to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required.

B. Where the land-disturbing activity results from the construction of a single-family residence within or outside of a common plan of development, an “agreement in lieu of a plan” may be substituted for a Stormwater Management plan if executed by the plan-approving authority. Neither a registration statement nor payment of the Department’s portion of the statewide permit fee established pursuant to that subdivision shall 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, but must adhere to the requirements of the general permit.

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

- (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this

exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100, et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of §10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

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

Sec. 27-4. Stormwater management program established; submission and approval of plans; prohibitions.

A. Pursuant to §62.1-44.15:27 of the Code of Virginia, Rockbridge County hereby establishes a 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 Section 27-1 of this Chapter. The County of Rockbridge hereby designates the Erosion and Sediment Control/Stormwater Administrator or their designee as the Administrator of the stormwater management program.

B. No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:

- (1) A permit application that includes a general permit registration statement;
- (2) An erosion and sediment control plan approved in accordance with Section 12-6 of Rockbridge County Code Chapter 12 - Erosion and Sediment Control; and,
- (3) A stormwater management plan that meets the requirements of Section 27-6 of this Chapter.
- (4) A stormwater pollution prevention plan that meets the requirements of Section 27-5 of this Chapter.

C. No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.

D. No VSMP authority permit shall be issued until the fees required to be paid, pursuant to Section 27-15, are received, and a reasonable performance bond required pursuant to Section 27-16 of this Chapter has been submitted.

E. No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.

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

Sec. 27-5. Stormwater pollution prevention plan; contents of plans.

A. The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and shall include an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land disturbing activities, and a description of any additional control measures necessary to address a TMDL, and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II [stormwater pollution

prevention plan] of the general permit.

B. The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to State waters which is not addressed by the existing SWPPP.

C. The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

Sec. 27-6. Stormwater management plan; contents of plan.

A. The Stormwater Management Plan, required in Section 27-4 of this Chapter, must apply the stormwater management technical criteria set forth in Section 27-9 of this Chapter to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. 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. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:

Required SWM plan elements

- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged, including surface waters or karst features, if present, and the predevelopment and post development drainage areas;
- (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
- (3) A narrative that includes a description of current site conditions and final site conditions or, if allowed by the VSMP authority, the information provided and documented during the review process that addresses the current 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 Section 27-9 of this Chapter.
- (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. If an operator intends to meet the water quality and/or quantity requirements set forth in Section 27-9 of this Chapter through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by §62.1-44.15:35 of the Code of Virginia.

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

D. A construction record drawing for permanent stormwater management facilities shall be submitted to the VSMP Authority. 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.

Sec. 27-7. Pollution prevention plan; contents of plans.

A. The 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.

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.

Sec. 27-8. Review of stormwater management plan.

A. The Administrator or any duly authorized agent of the Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:

- (1) The Administrator shall determine the completeness of a plan in accordance with Section 27-6 of this Chapter, and shall notify the applicant, in writing, of such determination, within fifteen (15) calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
- (2) The Administrator shall have an additional sixty (60) calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in Subdivision (1), then the plan

shall be deemed complete and the Administrator shall have sixty (60) calendar days from the date of submission to review the plan.

- (3) The Administrator shall review any plan that has been previously disapproved, within forty-five (45) calendar days of the date of resubmission.
- (4) 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 Chapter.
- (5) If a plan meeting all requirements of this Chapter is submitted and no action is taken within the time provided above in Subdivision (2) for review, the plan shall be deemed approved.

B. Approved stormwater plans may be modified as follows:

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

C. The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 27-10 (B).

Sec. 27-9. 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 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25870-72 [design storms

and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; 9VAC25-870-85 [stormwater management impoundment structures or facilities]; 9VAC25-870-92 [comprehensive stormwater management plan]; and Part II C of the Regulations, as amended, expressly to include 9VAC25-870-93 [definitions]; 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 (water shed) stormwater management plans], which shall apply to all land-disturbing activities regulated pursuant to this Chapter, except as expressly set forth in Subsection (B) of this Section.

B. Any land disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to Part II C technical criteria of the VSMP Regulation provided:

- (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the County to be equivalent thereto: (i) was approved by the County prior to July 1, 2012; (ii) provided a layout as defined in 9VAC25-870-10; (iii) will comply with the Part II C technical criteria of this Chapter; and, (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
- (2) A state permit has not been issued prior to July 1, 2014; and,
- (3) Land disturbance did not commence prior to July 1, 2014.

C County, State, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of this Chapter provided:

- (1) There has been an obligation of County, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012.
- (2) A State permit has not been issued prior to July 1, 2014; and,
- (3) Land disturbance did not commence prior to July 1, 2014.

D. Land disturbing activities grandfathered under Subsections A and B of this Section shall remain subject to the Part II C technical criteria of this Chapter for one additional State permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the Board.

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

F. 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 Chapter of County Code 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 Chapter.

- (1) Exceptions to the requirement that the land-disturbing activity obtain the 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.

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

Sec. 27-10. Long-term maintenance of permanent stormwater facilities.

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

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

- (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and,
- (5) Be enforceable by all appropriate governmental parties.

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

C. If a recorded instrument is not required pursuant to Subsection 27-10(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 or his designee.

Sec. 27-11. Monitoring and inspections.

- A. The Administrator shall inspect the land-disturbing activity during construction for:
- (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved stormwater management plan;
 - (3) Development, updating, and implementation of a pollution prevention plan; and,
 - (4) Development and implementation of any additional control measures necessary to address a TMDL.

B. The Administrator 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 Chapter.

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 Chapter, 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 Chapter.

E. Post-construction inspections of stormwater management facilities required by the provisions of this Chapter shall be conducted by the Administrator pursuant to the County's adopted and State Board approved inspection program as set forth in the Rockbridge County Stormwater Policies and Procedures Manual, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 27-10.

Sec. 27-12. Hearings.

A. Any permit applicant or permittee, or person subject to the requirements of this Chapter, aggrieved by any action or inaction of Rockbridge County or its agent taken without a formal hearing, may demand in writing a formal hearing by the County, provided a petition requesting such hearing is filed with the Administrator within thirty (30) days after notice of such action is given by the Administrator.

B. The hearings held under this Section shall be conducted by the Rockbridge County Board of Supervisors at a regular or special meeting of the Board of Supervisors, or by at least one member of the Board of Supervisors designated by the Chairman to conduct such hearings on behalf of the Board of Supervisors at any other time and place authorized by the Board of Supervisors.

C. A verbatim record of the proceedings of such hearings shall be taken and filed with the Rockbridge County Board of Supervisors. Depositions may be taken and read as in actions at law.

D. The Rockbridge County Board of Supervisors or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

E. The decision of the Board of Supervisors or its designated member, after consideration of the evidence and opinion presented by the aggrieved applicant and agent, shall be final.

Sec. 27-13. Appeals.

Final decisions of the County under Section 27-12 of this Chapter shall be subject to review by the Rockbridge County Circuit Court, provided an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

Sec. 27-14. 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 be issued in accordance with Rockbridge County Stormwater Policies and Procedures Manual. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 27-14 (C).

B. In addition to any other remedy provided by this Chapter, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Chapter, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with this Chapter.

C. Any person violating or failing, neglecting, or refusing to obey any rule, regulation, Ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in Circuit Court of Rockbridge County by the County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

D. Any person who violates any provision of this Chapter or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed thirty-two thousand five hundred dollars (\$32,500.00) 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 9VAC-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 County shall be paid to the Treasurer of the County of Rockbridge to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the County 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 Chapter, 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 twelve (12) months or a fine of not less than two thousand five hundred dollars (\$2,500.00) nor more than thirty-two thousand five hundred dollars (\$32,500.00), or both.

Sec. 27-15. Fees.

A. Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with Table 1. When a site or sites have been purchased for development within a previously permitted common plan of development or sale, the Applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance

| Fee type | Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable) | Department portion of “total fee to be paid by Applicant” (based on 28% of total fee paid*) |
|---|---|---|
| Single Family home construction (an agreement in lieu of a plan within or outside a common plan of development)* | \$209 | \$0 |
| General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.) | \$1,080 | \$81 |
| 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) <i>[single family home construction]</i> | \$1,080 | \$756 |
| General / Stormwater Management - Small | \$2,900 | \$756 |

| | | |
|--|-----------------|----------------|
| 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) | | |
| 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) <i>[single family home construction]</i> | \$1,080 | \$952 |
| 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) | \$4,015 | \$952 |
| 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] | \$6,030 | \$1,260 |
| 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) | \$8,955 | \$1,708 |
| 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) | \$12,160 | \$2,688 |

*Agreement in lieu of plans may be issued at the discretion of the VSMP Authority as defined in section 27-2 of this chapter.

B. Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with Table 2. If the general permit modifications result in

changes to stormwater management plans that require additional review by Rockbridge 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 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 |
|---|------------|
| General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre) | 1. \$20 |
| 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) | 2. \$200 |
| 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. \$250 |
| 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. \$300 |
| 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) | 5. \$450 |
| 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) | 6. \$700 |

C. 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 |
|---|-------------|
| General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre) | 7. \$50 |
| 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) | 8. \$50 |
| 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) | 9. \$400 |
| 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) | 10. \$500 |
| 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) | 11. \$650 |
| 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) | 12. \$1,400 |

General permit coverage maintenance fees shall be paid annually to the Rockbridge County Treasurer, 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.

D. The fees set forth in Subsections (A) through (C) 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 statement for coverage under a general permit.
- (3) Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater From Construction Activities.
- (4) Permit and permit coverage maintenance fees outlined under Section 27-15 (C) may apply to each general permit holder.

E. No general permit application fees will be assessed to:

- (1) Permittees who request minor modifications to general permits as defined in Section 27-2 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 general permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

F. All incomplete payments will be deemed as nonpayment, 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 ten percent (10%) late payment fee shall be charged to any delinquent (over ninety (90) days past due) account. The County of Rockbridge shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

27-16. Performance Bond.

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Attorney for the County of Rockbridge, to ensure that measures could be taken by the

County of Rockbridge at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the County of Rockbridge takes such action upon such failure by the Applicant, the Locality may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within sixty (60) days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

2. This Ordinance shall be effective on and from July 1, 2014.

Adopted this 27th day of May, 2014.

Recorded Vote:

AYES:

NAYES:

ABSENT:

ROCKBRIDGE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman

Attest: _____
Spencer H. Suter, Clerk

Joint Meeting with the Economic Development Authority (EDA) to discuss terms of an Agreement with the Virginia Horse Center

Chairman Higgins provided a review of the discussion held during the 4:30 p.m. Work Session. He indicated that the County Attorney had already reviewed the tourism tax, how it works, and how the EDA is involved. He asked if there were any questions from the EDA.

The Chairman of the EDA indicated that he as well as the other EDA members would like to have more time to study the draft Performance Agreement.

Chairman Higgins informed them that there would be a couple of weeks for the EDA to review the agreement and to provide feedback.

County Attorney Vickie Huffman advised that the only action to be taken during this meeting would be to schedule a public hearing for June 23rd on the Taxation Ordinance to increase the lodging tax 1%.

Supervisor Ford recommended an annual review, versus every two years as approved by the City of Lexington.

Ms. Huffman indicated that this could be added to the language in the agreement.

Supervisor Campbell moved to schedule a public hearing on the Taxation Ordinance on June 23, 2014. Supervisor Lewis provided the second, and the public hearing was schedule by unanimous roll call vote.

AYES: Campbell, Lewis, Ford, Hinty, Higgins
NAYES: None
ABSENT: None

Mr. Suter asked for direction by the Board to meet with the EDA to further discuss the agreement. He also asked the Board what they would like to see in the agreement.

Chairman Higgins asked the EDA to work with the Board via email to draft an agreement instead of scheduling a meeting.

Mr. Suter stated that, if the Board is moving ahead with assisting the Horse Center, they should move ahead with the process quickly.

Chairman Higgins thanked the EDA for their participation and for helping the Board in such a short period of time.

EDA member Ms. Janie Harris asked Mr. Crickenberger how soon implementation of the tax increase would be.

Mr. Suter responded August 1, 2014.

Joint Meeting with the Economic Development Authority to discuss Rockbridge Middle School Proposals

Mr. Crickenberger briefly reviewed the agenda item: "As per previous discussions and Board direction, staff, in cooperation with the Cardinal Committee, issued a request for proposals for re-purposing the now vacant Rockbridge Middle School building and surrounding property. The RFP was published online and in newspapers covering the Rockbridge, Staunton/Augusta and Roanoke areas. Two proposals were received, as noted below.

1. BJB Properties has offered \$250,000 for the property and proposes to consider a benevolent transfer of portions of the property to The Rick Mast Foundation to develop outdoor recreation facilities. The school building is proposed to be used for office space required for BJB Properties as well as to lease space to other users, to operate a salvage business of items recovered from truck accidents, to operate

a food service industry from the cafeteria to serve convenience stores and athletic events on the property, and to offer the gymnasium space for community events.

2. The South Augusta Bambino Baseball League has not made a cash offer and proposes to use the building and property for community services such as athletics for all ages and genders, Health Care, vocational training, education, jobs skills development, rehabilitation, meals programs, performing arts, artisan products, EMS and fitness training. They would operate as a non-profit and ask for tax exemption for all of the property.

Members of the Cardinal Committee independently ranked the proposals, using pre-established criteria per the attached scoring sheet. Individual scores were aggregated and resulted in the following ranking:

BJB Properties - 44.1

South Augusta Bambino Baseball League - 25.75

Both proposals would require, at minimum, a use by special exception permit. The BJB project, as proposed would also require rezoning."

Supervisor Campbell indicated that he was very impressed with both proposers but felt like BJB Properties was the top choice.

Supervisor Ford agreed with Supervisor Campbell, adding that the Bambino's or any other recreation group should be allowed to use the facility.

Supervisor Campbell moved to authorize staff to negotiate the sale of Rockbridge Middle School, to include a Performance Agreement, with the

highest ranked proposer. Supervisor Lewis provided the second, and the motion carried by unanimous roll call vote by the Board.

AYES: Campbell, Lewis, Ford, Hinty, Higgins
NAYES: None
ABSENT: None

Items to be added to the Agenda

Resolution related to adoption of a State Budget

Supervisor Campbell added this item in result of comments made by Mr. Green during the Citizen Comment period. Supervisor Campbell indicated that he had received a similar resolution approximately a month ago by email and that, at that time, did not consider bringing it forward because it was not from our local House of Delegates representative. Because the resolution had now been brought forth by a citizen, Supervisor Campbell indicated that he would like the Board to consider adopting the resolution.

Supervisor Ford indicated that he could not support what seems to be a partisan issue.

Supervisor Lewis agreed with Supervisor Ford.

Supervisor Campbell moved to adopt the resolution. The motion failed due to a lack of a second.

Tuition Fees between Lexington and Rockbridge County

Supervisor Ford indicated that the Lexington and Rockbridge County School Boards are trying to negotiate a new tuition agreement for Lexington students to attend Rockbridge County High School. He stated that the County School Board has produced a formula showing an increase in the rate that was agreed upon in previous years. He noted that the agreement includes both School Boards as well as Lexington City Council and the Board of Supervisors. He recalled that, in January of this year, the Board of Supervisors agreed to allow the Rockbridge County School Board to undertake contract negotiations; thus far, the two School Boards have not been able to come to an agreement. He asked that the Board discuss how this matter might be resolved before the end of the fiscal year.

Chairman Higgins indicated that he and Mr. Suter have attended the meetings pertaining to tuition fees based on a new formula. He stated that he has looked at the County School Board minutes to review those meetings and has not seen evidence of any discussion of this matter. He stated that this issue may have not been discussed in a public setting. He shared his hopes that the two school boards can come to an agreement soon.

Supervisor Hinty asked Chairman Higgins what the future formula is.

Chairman Higgins indicated that Lexington has always just paid the bill, but when reviewing the new bill, there was a shock because of the

33% increase in the rate; Lexington felt that the timing for this procedure was off because there was no way to budget the additional funds this fiscal year. He added that the School Board was very fortunate this year as the County budgeted for them to have level funding. He stated that, based on projections, the State will also be increasing funding for the county schools by well over \$1.5 million.

Supervisor Campbell stated if the Board of Supervisors takes sides with Lexington on this issue then the County will have to make up the difference of the increase.

Chairman Higgins stated that, during a previous School Board Meeting, he made it clear that the County will not cover Lexington's debt.

Supervisor Lewis indicated that Lexington has accepted the formula but failed to have enough money budgeted to cover the bill. He confirmed that the County School Board is working politely with Lexington to work through this problem.

Supervisor Ford stated that in previous years, Lexington students were educated at the High School at a lower rate negotiated by the Lexington and Rockbridge school superintendents. Now we have a new Superintendent of County Schools, the rate has been increased very late in the budget process, and Lexington is expected to pay no matter what the increase.

Supervisor Lewis again mentioned that Lexington has accepted the formula but just doesn't want to pay it this year.

Supervisor Campbell suggested a deferment of part of the payment to get Lexington through the upcoming year.

Mr. Suter added that, based on his understating, the formula was not fully set prior to the City considering a budget for the upcoming fiscal year.

Supervisor Ford thanked the Board for an enlightening and collegial discussion on a very difficult matter.

Supervisor Hinty thanked the EDA for being present.

Closed Meeting as Permitted by Virginia Code §2.2-3711(A)(3), discussion or consideration of a matter involving disposition of publicly held real property where discussion in open meeting would adversely affect the County's bargaining position or negotiating strategy.

Supervisor Hinty moved to enter into a Closed Meeting as Permitted by Virginia Code Section 2.2-3711(A)(3), discussion or consideration of a matter involving, disposition of publicly held real property, where discussion in open meeting would adversely affect the County's bargaining position or negotiating strategy. Supervisor Campbell provided the second, and the motion was approved by unanimous roll call vote.

AYES: Hinty, Campbell, Ford, Lewis, Higgins
NAYES: None
ABSENT: None

Supervisor Hinty moved to reconvene in open session, seconded by Supervisor Campbell, and the motion was approved by unanimous roll call vote by the Board.

AYES: Hinty, Campbell, Lewis, Ford, Higgins
NAYES: None
ABSENT: None

Supervisor Campbell moved that the Board certify that, in the closed meeting just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be so discussed under the provisions of the Virginia Freedom of Information Act cited in that motion. A second was provided by Supervisor Ford, and the motion carried by unanimous roll call vote by the Board.

AYES: Campbell, Ford, Lewis, Hinty, Higgins
NAYES: None
ABSENT: None

Adjourn

With no further business to discuss, the meeting was adjourned by unanimous vote by the Board.