

May 28, 2008

The Rockingham County Board of Supervisors and Rockingham County Planning Commission held a joint work session on Wednesday, May 28, 2008, at 3:00 p.m., with all members present, to receive an update on the zoning ordinance rewrite.

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, May 28, 2008, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
FREDERICK E. EBERLY, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
THOMAS H. MILLER, JR., County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
WARREN G. HEIDT, Director of Public Works
WILLIAM L. VAUGHN, Director of Community Development
RHONDA HENDERSON, Director of Planning
DIANA C. STULTZ, Zoning Administrator
JOHN MECK, Development Review Manager
WILLIE THOMPSON, Planner
TAMELA S. GRAY, Deputy Clerk
DONALD F. KOMARA, Residency Administrator
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION.

Chairman Floyd called the meeting to order at 6:00 p.m.

Boy Scout Troop #124 led the Pledge of Allegiance. Supervisor Breeden gave the Invocation.

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APPROVAL OF MINUTES.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 4 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – ABSTAIN; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the regular meeting of May 14, 2008.

Vice Chairman Eberly abstained from voting on approval of the minutes because he did not attend the May 14, 2008 meeting.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

- Route 42 (North Main Street) in Bridgewater is moving along well and crews are working at night to minimize disruption, and work should be completed at the end of September.
- Route 644 (Resort Drive) paving should be completed by the end of July.
- A right-turn lane will be extended and deceleration lane connected on Route 996 (McGaheysville Road), near the Thunderbird Restaurant, in the next month.
- Willow Run Road (Route 767) is expected to be completed August 1, 2008.
- Duck Run (Route 674) should be finished by the end of June.
- Rock is being removed at the intersection of 753 (Wengers Mill Road) and 783 (John Brock Road) to improve sight distance.
- Paving will be finished on Route 42 North (Harpine Highway) this week.
- Two more signatures are needed to complete the right-of-way on Route 805 (Beacon Hill Road).

Supervisor Kyger said some of the internal side streets off Pin Oak Drive and Nutmeg Court in Belmont, specifically Sugar Maple Lane and Quince Drive, are showing wear and tear and require patching. Mr. Komara will follow up.

In response to a question from Supervisor Eberly, Mr. Komara said asphalt prices have increased from approximately \$55 to \$65 a ton last year to \$68 to \$78 per ton this year. The Virginia Department of Transportation receives federal reimbursement dollars for roads which meet certain criteria.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

Administrator Paxton did not have a written report. He informed the Board there will be a vacancy on the Community Criminal Justice Administrative Advisory Board for a Circuit Court Judge due to the retirement of Judge John J. McGrath, Jr.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board recommended that Judge James V. Lane succeed Judge McGrath on this Board, and will inform the Harrisonburg City Council of this recommendation.

Administrator Paxton noted that Annette Pierce and Nancy Shickel's second terms on the Community Service Board will expire on June 30, 2008. He will contact Charlotte McNulty to determine if they are willing to serve a third term.

Administrator Paxton also indicated there will be two vacancies on the Harrisonburg/Rockingham Local Emergency Planning Committee because Wes Jordan is retiring and Ian Bennett is terminating employment. Mr. Paxton will ask Sheriff Don Farley and Chief Robbie Symons for recommendations to fill these vacancies.

Administrator Paxton reviewed a transportation resolution:

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution regarding transportation funding, which will be sent to all General Assembly members:

R E S O L U T I O N

Whereas, an efficient transportation network is critical to sustain economic growth in the Commonwealth, provide for a cleaner environment, enhanced public safety and a high quality of life; and

Whereas, the Commonwealth faces a funding shortfall, including a road maintenance deficit, that has resulted in the Commonwealth Transportation Board proposing to eliminate and reduce programmed projects totaling \$1.1 billion in the new six-year transportation program; and

Whereas, the Virginia Department of Transportation is transferring almost \$400 million in Fiscal Year 2008 from funds earmarked for road construction to support road maintenance activities; and

Whereas, the delayed, stalled and eliminated projects include roads in the primary, urban, and secondary system, with proposed reductions of up to 44% in construction funding for the regions and localities in the Commonwealth for Fiscal Year 2009; and

Whereas, funding for new highway and bridge construction is also diminished as the annual road maintenance shortfall continues to escalate, with the estimate to repair the Commonwealth's 1,700 deficient bridges totaling more than \$3 billion; and

Whereas, regions of economic importance to the Commonwealth, including Hampton Roads and Northern Virginia, confront major transportation funding challenges in addition to those shared by all other areas of the Commonwealth; and

Whereas, transferring State General Fund dollars to the Transportation Fund neither adequately supports documented and recurring transportation infrastructure investment needs, nor serves to protect the Commonwealth's responsibility to fund the other core services including public education, health care, mental health and retardation, and public safety; and

Whereas, since 2006 the Commonwealth and its localities have worked together to enact significant improvements in the coordination of transportation and local land-use planning;

Now, Therefore, Be It Resolved, that the County of Rockingham calls upon the Governor of the Commonwealth and the Virginia General Assembly during the forthcoming transportation special session to work together to enact a significant transportation funding package to address the Commonwealth's long-term transportation infrastructure needs.

And, Be It Further Resolved, that the Governor and the General Assembly are strongly urged to provide a long-term, sustained funding solution, which eliminates the road maintenance shortfall; adequately funds interstate and primary highways, urban and secondary roads, and transit projects; and addresses the unique transportation challenges in specific regions of the Commonwealth including initially Hampton Roads and Northern Virginia, without jeopardizing the critical level of funding for the other core services provided by the Commonwealth.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Miller's staff report dated May 22, 2008.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

Mr. King did not have a written report.

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FINANCE DIRECTOR'S STAFF REPORT.

Mr. Allmendinger did not have a written report.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Heidt's staff report dated May 28, 2008, which stated the following:

- Penn Laird Drive and Water Tower Road Sewer –The final inspection was held May 28, 2008;
- McGaheysville Sewer Line – Staff continues to work on easement and property acquisition aspects of this project;
- Phase III/IV of landfill expansion – The final remaining regulatory requirement is the installation of a proper wheel washing system for trucks leaving the landfill;
- Pleasant Run Sewer Interceptor and Water Supply Line –The water line is 100% complete and the sewer line is 65% complete.
- Belmont Sewage Lift Station – The upgrades will be advertised in June.

In response to a question from Supervisor Breeden, Mr. Heidt stated the final walk-through for the Penn Laird sewer project was May 27, 2008 and over 40 connections have been made in Penn Laird, with 20 remaining.

Mr. Heidt noted that the water line to the Lilly Subdivision will be completed by July 1, 2008.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated May 28, 2008.

Rhonda Henderson presented a summary of Shenandoah County's Old Valley Pike (Route 11) Corridor Overlay District which is a result of the Corridor Plan Shenandoah County adopted in 2003. Per Virginia Code, Shenandoah County notified Rockingham County of this overlay district because this land-use proposal is within a half mile of its border with Rockingham County. Staff reviewed the Corridor Overlay District and did not anticipate a negative impact on Rockingham County.

Administrator Paxton said the Board could provide comments to Shenandoah County regarding the Plan. The Corridor Overlay District appears to be in character with the County's intention to maintain the historical character of Route 11, and only affects property in Shenandoah County.

Ms. Henderson offered to draft a letter stating the County did not oppose the Overlay District. By consensus the Board directed the County Administrator to draft such a letter.

On motion by Supervisor Eberly, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board removed the following special-use request from the table for discussion:

S08-11, Roth Enterprises, Inc., 4915 Auburn Avenue, Suite 206, Bethesda, Maryland requesting a truck stop on property located on the east side of North Valley Pike (Route 11) approximately 6/10 mile north of Windy Knoll Drive (Route 963), Election District #2, zoned B-1. Tax Map #95-(5)-1 & 1A.

Ms. Stultz indicated that staff looked into questions from the Board during the April 9, 2008 public hearing on this special-use permit. She then spoke from the following memorandum:

1. This writing is to summarize several discussions about the proposed truck stop / travel center at the I-81 exit just north of VDOT, on Route 11.
2. **PUBLIC WORKS.** The water allocation for that portion of the County is 500,000 gpd. Current demand is 180,000 gpd. Several neighbors indicated having plans or desires to develop

hotel / motel projects at or near the subject property. Meadowbrook subdivision and the County's technology park are both currently in development and are served by the same allocation. The County Public Works Department counsels caution concerning additional development that would be dependent upon the allocation, before the County is able to supply water to that area from its own system.

3. EMERGENCY CALLS - GREENVILLE TRUCK STOP IN AUGUSTA COUNTY. Using fuel pumps and truck parking spaces as measuring sticks, Greenville is a smaller truck stop than what is proposed.

Specifically at the address of the Greenville facility, not counting any calls to the nearby area, there were a total of 346 emergency and law enforcement calls last year. Of those 346 calls, 97 calls, or 28%, were law enforcement. Follows a breakdown of the law enforcement calls:

- 68 calls involving automobiles
- 9 involving tractor trailers
- 7 hit and runs
- 7 road hazards – which may have involved tractor trailers making u-turns
- 6 disorderly conduct
- 97 total.

Traffic counts at the Greenville facility indicate 2,300 trucks per day. This figure does not include cars.

Ms. Nancy Sorrells, Augusta County Supervisor for the District that includes the Greenville truck stop, is deeply distressed by that facility. She describes the traffic is “a nightmare”, with significant traffic issues at the I-81 exit, multiple accidents involving trucks, some very severe, and one fatality she knows of. Additionally, she reports problems with trash originating at the facility and blowing onto the roads and nearby properties.

4. VDOT AND TRAFFIC CONCERNS.

Traffic counts. Actual traffic counts of trucks only, no cars, taken at Greenville, a smaller facility, indicate approximately 2300 trucks per 24 hour period. In oral presentations before the Board and in meetings with the Zoning Administrator, the applicant indicated that there would be 400 to 450 trucks per day at the

proposed facility in Rockingham County. Yet, in the applicant's TIA, the applicant estimated that the proposed facility would have 10% MORE traffic than Greenville.

The applicant indicated that the critical intersection just north of the travel center currently has an "E" level of service (LOS) rating, before the travel center is taken into account. This is a very low LOS. The applicant suggested that, because of this low rating, the taxpayers of Rockingham County would soon be called upon to install a signal at the intersection. Therefore, the applicant's proffer to install a signal was a benefit to the taxpayers, making the proposed project, at least in part, a benefit.

Actually, the Route 11 portion of the intersection in question has an "A" rating currently. For 15 minutes each weekday morning, from 7:45 a.m. to 8:00 a.m., the left turn movement from the I-81 exit onto Route 11 southbound has an "E" rating.

Significantly, the installation of a signal as proposed by the applicant would REDUCE the LOS for through traffic from an "A" rating to a "B" or "C" rating. Without the proposed truck stop, VDOT signal warrant analysis indicates no need for a signal at the subject intersection.

Stacking Distance. There has been much discussion about stacking distance for trucks waiting on southbound Route 11 to make left turns into the proposed travel center. The Applicant has indicated that up to ten (10) trucks could be waiting to turn into the center.

There are approximately 780 feet shown on the applicant's submitted drawing from the northern bullnose to the southern bullnose of the median that runs from the I-81 intersection to the turn-in for the proposed travel center. A typical tractor-trailer rig requires approximately 75-80 feet of stacking distance.

This 780 feet divided by about 80 feet for each truck is the source of the estimate that ten trucks could wait to enter make the left turn.

Taking a closer look at the 780 feet of Route 11 between the entrance to the travel center at the south end, and the intersection with the I-81 exit at the north end, the 780 foot distance is divided into three segments.

The new left turn lane proposed by the applicant for the southern end of the 780 foot distance is no more than 180 feet in length. That would allow for only two trucks and possibly a single car.

All the rest of the stacking distance claimed by the applicant is on the travel lanes of Route 11.

The 420 feet just north of the 180 foot left turn lane is marked as a single lane on Route 11. The applicant has noted that this single lane is wide, and that is true. However, it is a single lane, and it is illegal in Virginia to pass a vehicle on the right using any part of the shoulder. Passing to the right while staying completely on the pavement may not be illegal, but it is widely considered unsafe. Yet, that is what a through southbound vehicle would be forced to do if a third truck is waiting to turn into the travel center.

The northern most, and remaining 180 feet of the 780 foot distance is comprised of the passing lane on southbound Route 11. Trucks stacked in this lane would effectively make southbound Route 11 a one lane road where it needs to be two lane. Of course, if trucks are stacked this far north, the one lane portion just discussed would be blocked anyway, so traffic could not legally move past the stacked trucks.

Additionally, the ten truck stacking claimed by the applicant assumes tractor-trailer rigs being able to make a much tighter turn as they maneuver from the I-81 exit to Route 11 than they will be able to make.

It should be remembered, the ten truck stacking allows no room for cars.

In summary, there is room for a maximum of two trucks and one car to wait to turn into the travel center without blocking southbound travel lanes.

Internal Traffic Movement. There are abundant concerns about the movement of traffic once on the travel center site. Though the applicant states that the layout shown is not presented as its final proposal, staff nonetheless notes that, as laid out it is difficult to see how truck traffic can utilize the parking places and fuel stations without causing significant backups on the lot, which would in turn slow the process of getting trucks off Route 11.

Additionally, the flow of traffic internal to the travel center appears to be poised to cause significant backups for projected traffic flow to the lot behind the travel center. This otherwise landlocked lot will be dependent on the travel center entryway for public road access. Congestion caused by trucks maneuvering into and out of the travel center will potentially block the way to the dependent lot, eventually creating demand for the County and VDOT to widen the 50 foot right-of-way.

As with the turn from the I-81 exit to the left lane of Route 11 south, the applicant does not appear to take into account sufficient turn radius for trucks making the left turn into the travel center, or the right turn leaving the travel center to proceed north on Route 11 and return to I-81. VDOT has requested an Auto Turn Analysis, but has yet to receive one from the applicant.

Supervisor Eberly asked for input from the other Board members. Supervisor Kyger noted that he would like to review the information and have an opportunity to talk with staff. He was not prepared to vote on this special-use permit. Additional time will give the applicant an opportunity to provide Ms. Stultz with more information, he said. Supervisor Breeden agreed.

On motion by Supervisor Eberly, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S08-11, Roth Enterprises, Inc., 4915 Auburn Avenue, Suite 206, Bethesda, Maryland requesting a truck stop on property located on the east side of North Valley Pike (Route 11) approximately 6/10 mile north of Windy Knoll Drive (Route 963), Election District #2, zoned B-1. Tax Map #95-(5)-1 & 1A.

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PUBLIC HEARING – VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) – SIX-YEAR PLAN.

At 6:35 p.m., Chairman Floyd called a public hearing to receive comment on VDOT's proposed Secondary Six-Year Plan for Fiscal Years 2008-2009 through 2013-2014, and on the Secondary System Construction Budget for Fiscal Year 2008-2009.

VDOT Residency Administrator Komara said VDOT did not add any new projects due to a 40% funding cut. He updated the Board on transportation projects throughout the County during the last year. He reported that items included in the budget for the six-year plan involved roads with poor sight distance, spot widening, re-alignment of curves, reconstruction, surface treatment, bridge work and relocation of an intersection.

Mr. Komara noted that the large projects in the VDOT plan are Route 726 (Stone Spring Road connector from Peach Grove Road to Port Republic Road) and Route 820 (Bergton cut-off road). There are two major bridge projects in VDOT's plan: Route 1421 in Broadway and Route 727 in Mt. Crawford.

Mr. Komara stated that VDOT hopes to install the Route 996 traffic light by the end of the year. Administrator Paxton noted that he thought this project would be completed before school started in September and asked Mr. Komara to let him know if a letter from the County would help move this project along as it is critical because of increased traffic expected with the opening of Cub Run Elementary School.

Supervisor Kyger stated he was in favor of replacing the steel bridge on Route 727 in Mt. Crawford but thought it was important to work on the steel bridge in Broadway first because of overall safety since more traffic, including numerous school buses, travel over the Broadway bridge. This would also allow time to determine if the placement of the Mt. Crawford bridge should be changed. If the Mt. Crawford bridge is moved, Route 727 could be improved to Route 42 and connected to the northern spur by Turner Ashby High School, which would make the Bridgewater bypass a better plan overall, he said. Supervisor Kyger stated that the location of the bridge is critical, and he hopes when the water line is installed to Dynamic Aviation that VDOT can discuss the possibility of a dedicated right-of-way across or near their property to Route 727 so the bridge could be relocated. He realized this would expand the scope of the plan, but he felt it would be better to make the change now than to have alignment problems with the bridge later.

Mr. Komara said both projects are important, but indicated the Broadway bridge is probably a higher priority as it is rated to carry three tons, while the Mt. Crawford bridge is rated for five tons.

At 6:54 p.m., Chairman Floyd closed the public hearing and convened the regular meeting.

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the Secondary Six-Year Improvement Plan for Fiscal Years 2008-2009 through 2013-2014 and the Secondary System Construction Budget for Fiscal Year 2008-2009, as follows:

Secondary System
Rockingham County
Construction Program
Estimated Allocations

Fund	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	Total
Secondary Unpaved Roads	\$243,595	\$226,625	\$242,653	\$178,649	\$186,316	\$136,034	\$1,213,872
TeleFee	\$179,492	\$221,758	\$221,758	\$221,758	\$221,758	\$221,758	\$1,288,282
STP Converted from IM	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP – Bond Match	\$233,749	\$232,014	\$235,748	\$239,542	\$243,397	\$247,315	\$1,431,765
Formula STP	\$68,983	\$21,627	\$20,195	\$18,612	\$16,894	\$14,854	\$161,165
MG Formula	\$133,259	\$132,246	\$129,116	\$162,163	\$153,367	\$155,835	\$865,986
BR Formula	\$134,428	\$0	\$0	\$0	\$0	\$0	\$134,428
Formula STP – Match	\$84,168	\$38,468	\$37,328	\$45,194	\$42,565	\$42,672	\$290,395
State Funds	\$639,884	\$779,813	\$750,614	\$712,675	\$681,487	\$449,811	\$4,014,284
Federal STP	\$934,994	\$928,054	\$942,991	\$958,168	\$973,589	\$989,259	\$5,727,055
Total	\$2,652,552	\$2,580,605	\$2,580,403	\$2,536,761	\$2,519,373	\$2,257,538	\$15,127,232

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COMMITTEE REPORTS.

FINANCE

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following supplemental appropriations recommended by the Finance Committee:

Fire and Rescue

The Fire and Rescue Chief requested a supplemental appropriation in the amount of \$70,406. This amount represents the additional state funding and grant funding received beyond the expected or budgeted amount, and requires no local match.

Supplemental Appropriation: \$70,406

\$9,109	GL Code: 001-03201-900-8001-000	Machinery & Equipment
\$9,109	GL Code: 001-02404-0900	Fire Programs Fund
\$8,530	GL Code: 001-03201-000-8001-000	Machinery & Equipment
\$8,530	GL Code: 001-02404-9900	Other State Funds
\$52,767	GL Code: 001-03203-000-5635-000	Four for Life Funding
\$52,767	GL Code: 001-02404-0200	Emergency Services

Sheriff

A supplemental appropriation is needed in the amount of \$18,000 for overtime and professional development costs associated with a federal methamphetamine grant that was awarded in 2006. No local funds are required.

Supplemental Appropriation: \$18,000

\$ 8,000	GL Code: 001-03103-300-1200-000	Overtime
\$10,000	GL Code: 001-03103-300-5504-000	Professional Development
\$18,000	GL Code: 001-03900-3800	Cops Meth Grant 2006

Sheriff

A supplemental appropriation is needed in the amount of \$4,992 for federal grant funding under the Law Enforcement Terrorism Prevention Program (LETPP) to be used for assistance in detecting, deterring, disrupting and preventing acts of terrorism. No local funds are required.

Supplemental Appropriation: \$4,992

\$4,992	GL Code: 001-03102-100-6016-000	Police Uniforms
\$4,992	GL Code: 001-03900-3700	LETPP Grant

General Fund Revenue

A transfer is needed in the amount of \$997,820 for the purpose of matching the communications tax received from the Commonwealth. Originally, the budget listed the E911 tax and the new communications tax separately. The Commonwealth does not distinguish between the two categories.

Transfer: \$997,820

(\$997,820)	GL Code: 001-01215-0100	E911 Tax
\$997,820	GL Code: 001-01212-0100	Communications Tax

Sheriff

A transfer in the amount of \$33,264 is requested within the RUSH Task Force budget. The State Police received funding for a COPS Meth grant and would reimburse the County for salary expenses incurred for an analyst position.

Approximately six months into the fiscal year, Gary Wilson with the State Police advised the County that their funding had been completely utilized and they would no longer be funding the position. At that point, a COPS federal grant awarded to the

County covered the analyst's salary. Therefore, the remaining budget needs to be transferred from the State Police expenditure codes to the COPS Meth Grant 2005 expenditure codes. The revenue also needs to be transferred from state revenue to federal revenue.

Transfer: \$33,264

From:		
\$ (21,600)	GL Code: 001-03103-100-1100-000	Full-time Salaries
(1,760)	GL Code: 001-03103-100-2100-000	FICA
(2,625)	GL Code: 001-03103-100-2201-000	VRS
(6,968)	GL Code: 001-03103-100-2300-000	Health Insurance
(276)	GL Code: 001-03103-100-2400-000	Group Life
(35)	GL Code: 001-03103-100-2703-000	Workers Compensation
(33,264)	GL Code: 001-02404-3300	Meth Grant from State Police

To:		
\$21,600	GL Code: 001-03103-200-1100-000	Full-time Salaries
1,760	GL Code: 001-03103-200-2100-000	FICA
2,625	GL Code: 001-03103-200-2201-000	VRS
6,968	GL Code: 001-03103-200-2300-000	Health Insurance
276	GL Code: 001-03103-200-2400-000	Group Life
35	GL Code: 001-03103-200-2703-000	Workers Compensation
33,264	GL Code: 001-03900-1250	COPS Meth Grant 2005

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by the following vote: BREEDEN – AYE; CUEVAS – AYE; EBERLY – AYE; FLOYD - AYE; KYGER – AYE; the Board authorized publishing a public notice in the *Daily News Record* for a public hearing on June 11, 2008 at 7:00 p.m. to consider a \$33,327,048 amendment to the Fiscal Year 2007-2008 Adopted Budget.

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RECESS.

At 6:58 p.m., Chairman Floyd recessed the meeting.

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PUBLIC HEARING – REZONINGS.

At 7:05 p.m., Chairman Floyd called a public hearing on the following rezoning requests:

RZ08-02 Midway Body Shop, 7681 Harpine Highway, Linville, to rezone .627 acre from A1 (Prime Agricultural) to B2 (Rural Business Service) on tax parcel 64 (A) L48A. The site is located on the west side of Harpine Highway (Route 42), approximately .5 mile north of Williamsburg Road (Route 782), in Election District #2. The Comprehensive Plan designates this area as Agricultural Reserve. If B2 zoning is granted, the applicant will apply for a Special Use Permit to operate an auto sales lot. In addition, the applicant plans to reopen the grandfathered public garage within the existing building.

Ms. Henderson reviewed the request. The Planning Commission recommended approval, concurring with staff's recommendation for approval, which states:

The Comprehensive Plan states that "land development outside of the defined 2010 phase (north of Harrisonburg) should be very low density, using well and septic systems, and should be clustered, where feasible, to preserve large tracts of open land for continued agricultural uses". The proposed reopening of a public garage and auto sales lot on an existing parcel of land historically used for such purposes would have minimal impact on the surrounding agricultural land uses.

The Comprehensive Plan also states in regards to land uses outside the 2010 phase, "low-impact rural businesses would also be encouraged in this area". If the rezoning is approved, the scale of operation would be addressed during the special-use permitting process. Due to topographic conditions surrounding the property along with the property's proximity to Harpine Highway (Rt. 42), the scale of operation would be substantially limited. These limitations would provide predictability and ensure that the proposed rural business use is minimal in its impact on the surrounding area.

Ms. Henderson informed the Board that if the rezoning request was approved, it would then function under B2 permitted uses and would come back to the Board in the form of a special-use permit request.

William Miller, one of the partners in Midway Body Shop along with Gary Andes, indicated they want to have a body shop, but if work is slow they would also

like to buy vehicles to repair and sell. They will limit the automobiles for sale at any one time to 10-15 as their business will involve mostly restoration work.

There were no additional speakers.

RZ08-05 Titus Crawford, 180 Titus Drive, Penn Laird, to rezone 1.5 acres from A2 (General Agricultural) to B1-C (General Business with Conditions) on tax parcel 126F (A) L121B. The site is located on the west side of Titus Drive, approximately 800 feet south of Spotswood Trail (Route 33), in Election District #3. The Comprehensive Plan designates this area as Community Residential. If B1-C zoning is granted, the applicant plans to construct an addition to the existing assisted living facility for purposes of expanding the facility's dining room. The applicant has submitted proffers limiting the permitted uses to health services and facilities.

Ms. Henderson reviewed the applicant's request. The Planning Commission recommended approval, concurring with staff's recommendation, which states:

The Comprehensive Plan designates this area as Community Residential inside an Urban Growth Area. The existing retirement home is a land use that is compatible with the surrounding area, and the proposed expansion of this use would have a minimal impact in this area. The submitted proffers ensure that the property's land use would remain as a retirement home and no other commercial uses would be permitted.

The applicant was present.

There were no speakers for this request.

At 7:13 p.m., Chairman Floyd closed the public hearing and convened the regular meeting.

On motion by Supervisor Eberly, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ08-02, Midway Body Shop, 7681 Harpine Highway, Linville, to rezone .627 acre from A1 (Prime Agricultural) to B2 (Rural Business Service) on tax parcel 64 (A) L48A.

On behalf of Chairman Floyd, Supervisor Breeden made a motion, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; subject to the following proffer, the Board approved RZ08-05, Titus Crawford, 180 Titus Drive, Penn Laird, to rezone 1.5 acres from A2 (General Agricultural) to B1-C (General Business with Conditions) on tax parcel 126F (A) L121B:

The applicant has proffered to limit the available uses permitted by right on the property to health services or facilities including clinic service.

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ZONING ORDINANCE AMENDMENT.

At 7:15 p.m., Chairman Floyd opened the public hearing to receive public comment on a proposed Stormwater Management Ordinance.

John Meck, Development Review Manager, reviewed the following ordinance change:

- OA08-05 An ordinance enacting Chapter 6-C, Management of Post-Construction Stormwater Runoff. The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction, and protect aquatic resources. This will be achieved by requiring that land development and land conversion activities be conducted in a manner that ensures that the after-development runoff characteristics, as nearly as practicable, emulate the pre-development runoff characteristics, in order to reduce flooding, silt deposition, stream bank erosion, and property damage.

Mr. Meck informed the Board that water quality standards have been a state-wide requirement since January 2005. The state uses phosphorous as the primary keystone pollutant assuming that if phosphorous is reduced, all the other pollutants from construction sites are reduced. This is required when 16% of the area is impervious. The County's Management of Post Construction Stormwater Runoff Ordinance follows the State Stormwater Management Handbook of 1999. The proposed ordinance is based on the Virginia model ordinance which has been updated with information from technical bulletins, and has been reviewed for compliance by the

local Department of Conservation and Recreation (DCR) office. He stated Rockingham County is one of the few local jurisdictions in full compliance with state erosion and sediment control measures, and therefore eligible to adopt an ordinance. Rockingham County is the first local jurisdiction to be in compliance. Currently, plans are submitted to a state clearinghouse for permitting and then are randomly sent to the local DCR office for evaluation. The contractor can be six to ten months into construction before plans are reviewed, then if necessary, the contractor is expected to make changes to ensure compliance. There are some sites that are never reviewed by the State.

If the ordinance is approved, Mr. Meck said the Stormwater Pollution Prevention Plan (SWPPP) will be reviewed internally by the County before a permit is issued for the land disturbance. The water quality review will be done along with the erosion and sediment review. The applicant will still need to submit plans to the State but the review and inspection will be performed by County staff.

A SWPPP is currently made by developers and engineers to show where the stormwater discharge is, but under the new ordinance, this will be reviewed as part of the land disturbance permit. Mr. Meck reviewed the proposed fees for delivering this program.

In response to Supervisor Kyger's question regarding the life expectancy is of a stormwater retention basin, Mr. Meck stated most basins are long-term and maintenance is different for each. The County would need to specify the required maintenance and responsible party to perform that maintenance for each basin.

County Attorney Miller noted that language was added to the model ordinance for residential projects to clarify who is responsible for maintenance because homeowners' associations eventually own the facilities. The ordinance indicates the homeowners' associations will be responsible for maintenance.

Mr. Miller reiterated that the proposed ordinance is based on 1999 regulations required by a 1998 law, which has since been updated. This is a major ordinance and if DCR develops a new model as promised, the County will update the ordinance and will present it to the Board for re-approval.

In response to a question from Supervisor Kyger, Mr. Meck indicated the ordinance would apply to incorporated towns for which the County currently performs erosion and sediment control, which includes all the towns except for Bridgewater because they have an MS-4 designation. Supervisor Kyger said he is aware of a detention basin in Bridgewater which is affecting a local farmer in the County and asked if the County would be able to comment on the inspection process. Mr. Meck indicated if a citizen contacted the County, the County can look at the basin, but the County would have no enforcement jurisdiction and any violations would have to be

referred to the town or the DCR. He noted that under the new ordinance, inspections will be done annually on all stormwater facilities in the County.

In response to a question from Supervisor Breeden regarding whether current stormwater systems would be grandfathered, Mr. Meck said this is a policy decision the County will need to make.

Administrator Paxton stated that the Board needed to provide staff with direction on existing facilities, as to whether they review all existing stormwater retention ponds, or only when a complaint is received. He said if the Board leans toward the conservative side to only review ponds when complaints are received and finds in a year or two that the scope needs to be expanded, an estimate of the cost to expand the program can be provided to the Board for re-evaluation.

Supervisor Breeden noted that older systems need to be cleaned out and some landowners may be upset at the price to clean out stormwater drainage basins. Supervisor Kyger agreed that people who pay property association fees will be particularly surprised when their dues increase because a stormwater basin needs to be repaired. Administrator Paxton suggested that the County work with WHSV to design a public service announcement to inform the public about maintenance of stormwater basins.

In response to a question from Supervisor Eberly regarding how the County measures phosphorous and what is done with the silt, Mr. Meck indicated the County sends the design of the basin to Virginia Tech for evaluation. Virginia Tech builds a model or uses one of their locations to test the system. The hope is that by the time it becomes a stormwater basin no siltation is occurring. Deputy Administrator King noted that systems are designed to hold water for a duration of time so if a certain level of phosphorous were in it, it should drop out.

Kim Sandum thanked the Board for developing this ordinance. She questioned the statement under 6C-4.4 (renumbered as 6C-4.1.A.iv) which states, "The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that ... The County finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site." Ms. Sandum thought that rather than having an exception, it would make more sense to deny building the stormwater system. Mr. Meck stated this is in place is for properties already zoned which allow certain types of development. Ms. Sandum stated that as she reads the ordinance, if the existing characteristics of the site make it unfeasible, a waiver would be granted. Mr. Meck indicated that if the County wanted to issue a waiver, state approval would be needed. He explained that requirements for waivers are extremely stringent and only one waiver has been granted since 2005.

James Realand stated that he attended the DCR Stormwater Management Program last week and understands DCR has a general permit program, which the County may not know about. Mr. Meck said Mr. Realand was referring to the current system where the DCR handles the review. Administrator Paxton said if the County does not enact their own program, it is dependent on the State to review stormwater systems. This often results in delayed responses or no response at all, and the County receives a complaint about a system the County has no responsibility for. Mr. Paxton said the purpose of the ordinance is so the County can be proactive in addressing these issues before they become a problem.

Mr. Realand wanted to confirm that the general permit has to be obtained from the State. Mr. Meck said the County would issue a land disturbance permit but a Virginia Stormwater Management Permit (VSMP) will come from the State.

Casey Armstrong, Acting Stormwater Management Program Administrator for the County, clarified that if the stormwater system cannot meet the minimum criteria on site, the contractor would be required to obtain quality from an existing facility (i.e., purchase credits from another site's retention facility). The quality would need to be met somehow.

At 7:36 p.m., Chairman Floyd closed the public hearing and reconvened the regular meeting.

In response to a question from Administrator Paxton regarding whether a notification period is required before the ordinance becomes effective, Mr. Meck indicated the ordinance becomes effective upon passage because the developer is not required to do anything differently. Mr. Vaughn suggested that the fee structure become effective July 1, 2008. Mr. Miller noted that fees can be set administratively but if the Board approves the fee structure, future changes need to come before the Board as well.

Supervisor Breeden said he wanted to be clear on how this ordinance will affect existing old storm drains in developments where the contractor is no longer around because this may cause problems for homeowners. He also questioned whether the County will check all stormwater drains or only if a complaint is placed. Mr. Paxton recommended performing the examinations by exception until the Board thinks it needs to be done another way. Supervisor Kyger agreed this was the best plan until the County has a better grasp of the drains that currently have issues.

Supervisor Eberly suggested that the Board keep government as slim as possible and not "grow it more." Supervisor Kyger agreed but stated he was involved in a stormwater issue in Chairman Floyd's district (Kyger Funeral Home on Route 33

East), where the County and contractor thought the system was fine, but the DCR became involved at the end and delayed the project several months. Supervisor Kyger said he thought it was better to add a level of local government and not involve state or federal agencies if possible.

On motion by Supervisor Kyger, seconded by Supervisor Eberly and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY – AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following ordinance effective immediately with the fees to be effective July 1, 2008, and existing stormwater basins to be inspected only upon a complaint-driven basis.

**ORDINANCE ENACTING
CHAPTER 6C
OF THE CODE OF ORDINANCES
OF
ROCKINGHAM COUNTY, VIRGINIA**

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA:

That Chapter 6C. Management of Post Construction Stormwater Runoff be and hereby is enacted as follows:

Chapter 6C

Management of Post Construction Stormwater Runoff

Table of Contents:

Article 6C-1. General Provisions
Article 6C-2. Definitions
Article 6C-3. Stormwater Management Program Permit Procedures and Requirements
Article 6C-4. Exceptions to Stormwater Management Requirements
Article 6C-5. General Criteria for Stormwater Management
Article 6C-6. Construction Inspection Provisions
Article 6C-7. Maintenance Inspection and Repair of Stormwater Facilities
Article 6C-8. Enforcement, Violations and Penalties

Introduction

The Board of Supervisors has determined that the lands and waters of Rockingham County are great natural resources; that as a result of intensive land development and other land use conversions, degradation of these resources frequently occurs in the form of water pollution, stream channel erosion, depletion of surface water and

groundwater resources, and more frequent localized flooding; and that it is in the public interest to establish a stormwater management program in Rockingham County.

Article 6C-1. General Provisions

Section 1.1. Statutory Authority

The Virginia Stormwater Management Law (“Law”), Title 10.1, Chapter 6, Article 1.1 of the Code of Virginia, enables localities to adopt, by ordinance, a stormwater management program consistent with state regulations promulgated pursuant to the Law.

Cross References – Rockingham County Erosion & Sediment Control Ordinance Chapter 6B

Section 1.2. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction, and protect aquatic resources. This ordinance seeks to meet that purpose through the following objectives:

- A. Require that land development and land conversion activities maintain the after-development runoff characteristics, as nearly as practicable, as the pre-development runoff characteristics in order to reduce flooding, silt deposition, stream bank erosion, and property damage;
- B. Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff;
- C. Establish minimum design criteria for measures to minimize non-point source pollution from stormwater runoff, which would otherwise degrade water quality;
- D. Establish provisions for the long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;
- E. Establish certain administrative procedures for the submission, review, approval, and disapproval of stormwater plans, and the inspection of approved projects.

Section 1.3. Applicability

This ordinance shall be applicable to all subdivision, site plan, or land use conversion applications, unless eligible for an exception by the County under the specifications of Article 6C-4 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the applicability criteria regardless of phasing schedules.

To prevent the adverse impacts of stormwater runoff, the County has developed a set of performance standards that must be met at new development sites. These standards apply to any land development or land use conversion activity disturbing one (1) acre or more of land.

The following activities are exempt from these stormwater performance criteria:

- A. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- B. Tilling, planting or harvesting of agricultural, horticultural, or forest crops;
- C. Single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures;
- D. Land development projects that disturb less than one acre of land area.
- E. Linear development projects, provided that (i) less than one acre of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point.

When a site development plan is submitted that qualifies as a redevelopment project as defined in Article 6C-2 of this ordinance, decisions on permitting and on-site stormwater requirements shall be governed by the stormwater sizing criteria found in the current Virginia Stormwater Management Handbook. This criterion is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the County.

Section 1.4. Compatibility with Other Permit and Ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Section 1.5. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

Section 1.6. Stormwater Management Handbook

The County will utilize the policy, criteria and information including specifications and standards of the Virginia Stormwater Management Handbook for the proper implementation of the requirements of this ordinance. This Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Handbook may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

Article 6C-2. Definitions:

“Accelerated Erosion” means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

“Act” means Article 1.1, Storm Water Management, (**Section** 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

“Adequate channel” A water course that will convey a chosen frequency storm event without overtopping its banks or causing erosive damage to the bed, banks, and overbank sections of the same. In Rockingham County, the adequacy of channels and pipes shall always be demonstrated by hydraulic analysis utilizing standard engineering methods. The adequacy of channels and pipes shall not be verified by demonstrating that the total drainage area to the point of analysis within the channel is one hundred times greater than the contributing drainage area of the project in question.

“Applicant” means any person submitting a stormwater management plan for approval.

“Aquatic Bench” means a 10- to 15- foot wide bench around the perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

“Average Land Cover Condition” means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16 %.

“Best Management Practice (BMP)” means a structural or nonstructural practice, which is designed to minimize the impacts of development on surface and groundwater systems.

“Bio-retention Basin” means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, and ground cover), planting soil, and sand bed, and into the in-situ material.

“Bio-retention Filter” means a bio-retention basin with the addition of an underdrain with pipe system beneath the planting bed.

“Board” means the Virginia Board of Conservation and Recreation

“Building” means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

“Channel” means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

“Constructed Wetlands” means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

“Dedication” means the deliberate appropriation of property by its owner for general public use.

“Department” means the Virginia Department of Conservation and Recreation.

“Detention” means the temporary storage of stormwater runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

“Detention Facility” means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

“Developer” means a person who undertakes land disturbance activities.

“Development” means Land Development or Land Development Project.

“Drainage Easement” means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

“Erosion and Sediment Control Plan” means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

“Fee in Lieu” means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

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

“Grassed Swale” means an earthen conveyance system, which is broad and shallow with erosion resistant grasses and check dams, engineered to remove pollutants from stormwater runoff by filtration through grass and infiltration into the soil.

“Hotspot” means an area where land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater.

“Hydrologic Soil Group (HSG)” means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

“Impervious Cover” means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

“Industrial Stormwater Permit” means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

“Infiltration” means the process of percolating stormwater into the subsoil.

“Infiltration Facility” means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

“Jurisdictional Wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation.

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

“Land Development” or **“Land Development Project”** means a manmade change to the land surface that potentially changes its runoff characteristics.

“Land Disturbance Activity” means any activity, which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

“Landowner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

“Linear Development Project” means a land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (ii) highway construction projects. A stream restoration project shall not be considered a linear development project.

“Local Stormwater Management Program” or **“Local Program”** means a statement of the various methods adopted pursuant to the Act and implemented by Rockingham

County to manage the runoff from land development projects and shall include an ordinance with provisions to require the control of after-development stormwater runoff rate of flow, water quality, the proper maintenance of stormwater management facilities, and minimum administrative procedures consistent with this chapter.

“Locality” means Rockingham County.

“Maintenance Agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

“Nonpoint Source (NPS) Pollution” means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

“Nonpoint Source Pollutant Runoff Load” or **“Pollutant Discharge”** means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff

“Offset Fee” means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

“Off-Site Facility” means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

“On-Site Facility” means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

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

“Percent Impervious” means the impervious area within the site divided by the area of the site multiplied by 100.

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

“Plan-approving Authority” means the Board, the program authority, or a department of a program authority, responsible for determining the adequacy of a submitted stormwater management plan.

“Planning Area” means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan which must be reviewed and approved by the County. Once established, planning areas shall be applied consistently for all future projects.

“Post-development” refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

“Pre-development” or **“pre-existing”** refers to the conditions that exist at the time that plans for the land development of a tract of land are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.); the existing conditions at the time *prior to* the first item being approved or permitted shall establish pre-development conditions.

“Program Authority” means Rockingham County.

“Recharge” means the replenishment of underground water reserves.

“Redevelopment” means the process of developing land that is or has been previously developed.

“Regional (watershed-wide) Stormwater Management Facility” or **“Regional Facility”** means a facility or series of facilities designed to control stormwater runoff from a specific watershed, although only portions of the watershed may experience development.

“Regional (watershed-wide) Stormwater Management Plan” or **“Regional Plan”** means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

“Riparian buffer” means an area of trees, shrubs, grasses, or a combination thereof, that is (i) at least thirty-five feet in width, (ii) adjacent to state waters, and (iii) managed to maintain the integrity of stream channels and shorelines and (iv) reduces the effects of upland sources of pollution through the infiltration of runoff and filtering of pollutants. A managed lawn adjacent to state waters does not constitute a riparian buffer. The riparian buffer is measured landward (horizontal distance) from the stream bank on both sides of the stream.

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

“Runoff characteristics” means the parameters of stormwater that address but are not limited to velocity, peak flow rate, volume, time of concentration, sinuosity, channel cross-sectional area, and channel slope.

“Sand Filter” means a contained bed of sand, which acts to filter the first flush of runoff. The runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or infiltrated into the in-situ soils.

“Shallow Marsh” means a zone within a stormwater extended detention facility that exists from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area and, therefore requires a reliable source of base flow, groundwater supply, or a sizeable drainage area to maintain the desired water surface elevations to support emergent vegetation.

“Site” means the parcel of land being developed, or a designated planning area in which the land development project is located.

“Site hydrology” means the parameters that impact the movement of water on and off the site, including but not limited to characteristics such as soil types, soil permeability, vegetative cover, seasonal water tables, and slopes.

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

“Stop Work Order” means an order issued which requires that all construction activity on a site be stopped.

“Stormwater Detention Basin” or **“Detention Basin”** means a stormwater management facility, which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility’s design. Since a detention facility impounds runoff only temporarily, it is normally dry during non-rainfall periods.

“Stormwater Extended Detention Basin” or **“Extended Detention Basin”** means a stormwater management facility, which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system for the purpose of water quality enhancement, downstream flood control or stream channel erosion control. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility’s design. Since an extended detention basin impounds runoff only temporarily, it is normally dry during non-rainfall periods.

“Stormwater Extended Detention Basin-Enhanced” or **“Extended Detention Basin-Enhanced”** means an extended detention basin modified to increase pollutant removal by providing a shallow marsh in the lower stage of the basin.

“Stormwater Management Facility” means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

“Stormwater Management” means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

“Stormwater Management Plan” or **“Plan”** means a document containing material for describing how existing runoff characteristics will be affected by a land development project and methods for complying with the requirements of the local program.

“Stormwater Retention Basin I” or **“Retention Basin I”** means a retention basin with the volume of the permanent pool equal to three times the water quality volume.

“Stormwater Retention Basin II” or **“Retention Basin II”** means a retention basin with the volume of the permanent pool equal to four times the water quality volume.

“Stormwater Retention Basin III” or **“Retention Basin III”** means a retention basin with the volume of the permanent pool equal to four times the water quality volume with the addition of an aquatic bench.

“Stormwater Retrofit” means a stormwater management practice designed for an existing development site that previously had either no stormwater management

practice in place or a practice inadequate to meet the stormwater management requirements of the site.

“Stormwater Runoff” means flow on the surface of the ground, resulting from precipitation.

“Stormwater Treatment Practices (STPs)” means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

“Stormwater Management Plan” or **“Plan”** means a document containing material for describing how existing runoff characteristics will be affected by a land development project and methods for complying with the requirements of the County’s ordinances or state law.

“Subdivision” is as defined in Chapter 16 of the Rockingham County Code of Ordinances, pursuant to authority granted in Article 6, Chapter 22, Title 15.2 (Section 15.2-2240, *et seq.*) of the Code of Virginia (1950), as amended.

“Town” means an incorporated town.

“Vegetated Filter Strip” means a densely vegetated section of land engineered to accept runoff as overland sheet flow from upstream development. It shall adopt any vegetated form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal through filtration, sediment deposition, infiltration and absorption, and is dedicated for that purpose.

“Water Quality Volume (WQV)” means the volume equal to the first ½ inch of runoff multiplied by the impervious surface of the land development project.

“Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

“Watershed” means a defined land area drained by a river or stream, karst system, drainage ways, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

Article 6C-3. Stormwater Management Program Permit Procedures and Requirements

Section 3.1. Permit Required

No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Should a land-disturbing activity associated with an approved plan in accordance with this Article not begin during the 180-day period following approval or cease for more than 180 days, the County may evaluate the existing approved erosion and sediment control plan and stormwater management plan to determine whether the plan still

satisfies local program requirements and to verify that all design factors are still valid. If the County finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the resumption of land-disturbing activities.

Section 3.2. Permit Application Requirements

Unless specifically exempted by this ordinance and Rockingham County ordinance Chapter 6B, any landowner or operator desiring a permit for a land disturbance activity shall submit to the County a permit application on a form provided by the County for that purpose.

Unless otherwise exempted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered:

- A. Stormwater management plan in accordance with Section 3.3;
- B. Maintenance agreement in accordance with Section 3.4;
- C. Performance bond in accordance with Section 3.5; and
- D. Permit application and Plan review fee in accordance with Section 3.6.

Section 3.3. Stormwater Management Plan Required

Unless otherwise exempted by this ordinance; no application for land development, land use conversion, or land disturbance will be approved unless it includes a stormwater management plan, as required by this ordinance, detailing how runoff and associated water quality impacts resulting from the activity will be controlled or managed.

No building, grading, or sediment control permit shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the County.

A. Stormwater Management Plan

A stormwater management plan shall be required with all permit applications and will include all information from the submittal checklist to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The stormwater management

plan and the erosion and sediment control plan for a project may be integrated together into a single comprehensive plan.

The plan should be prepared at the time of the preliminary plan of subdivision or other early step in the development process to identify the type of stormwater management measures necessary for the proposed project. To accomplish this goal the following information shall be included in the plan:

3.3.A.i. A map or maps indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. All maps will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required.

3.3.A.ii. Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications of the Virginia Stormwater Management Manual.

3.3.A.iii. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, presence and extent of karst topography, forest cover, topography, wetlands, other native vegetative areas on the site, and presence of rare, threatened or endangered species downstream. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

3.3.A.iv. A written description of the required maintenance burden for any proposed stormwater management facility.

3.3.A.v. The County may also require a plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

3.3.A.vi. The applicant may be required to include within the stormwater plan measures for controlling existing stormwater runoff discharges from development or redevelopment occurring on a

previously developed site in accordance with the standards of this ordinance to the maximum extent practicable.

All stormwater management plans shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Article 1, Chapter 4 of Title 54.1 (**Section** 54.1-400 *et seq.*) of the Code of Virginia and attendant regulations certifying that the plan meets all submittal requirements outlined in this ordinance and is consistent with good engineering practice.

The approved stormwater management plan shall include all of the information required in the Final Stormwater Management Plan checklist found in the Virginia Stormwater Management Manual. This includes:

3.3.A.vii. Contact Information

The name, address, and telephone number of the individual that prepared the plan and all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

3.3.A.viii. Topographic Base Map

A 1 inch = 200 feet topographic base map of the site which extends a minimum of 200 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.

3.3.A.ix. Calculations

Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the specified design storms, and (ix) documentation of sources for all computation methods and field test results.

3.3.A.x. Soils Information

A brief description of the soils on the site giving such information as soil name, mapping unit, erodibility (“K” factor), permeability, depth, texture, soil structure and hydrologic group classification. (See Soil Survey of Rockingham County).

3.3.A.xi. Maintenance Plan

The design and planning of all stormwater management facilities shall include detailed maintenance procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

3.3.A.xii. Landscaping plan

The applicant must present a detailed landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice. The landscaping plan must also describe who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

3.3.A.xiii. Maintenance Easements

The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property. See Section 3.4.

3.3.A.xiv. Maintenance Agreement

The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served

by an on-site stormwater management measure in accordance with the specifications of this ordinance. See Section 3.4.

3.3.A.xv. Erosion and Sediment Control Plans for Construction of Stormwater Management Measures

The applicant must prepare an erosion and sediment control plan in accordance with Rockingham County ordinance Chapter 6B for all construction activities related to implementing any on-site stormwater management practices.

3.3.A.xvi. Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

Section 3.4. Stormwater Facility Maintenance Agreements

Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must sign an agreement to execute a maintenance easement agreement and a formal maintenance covenant that shall be binding on all subsequent owners of land served by the stormwater management facility.

A. Maintenance Easement Agreement

The Maintenance Easement Agreement shall provide for access to the stormwater management facility at reasonable times for periodic inspection by the County, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the owner in land records.

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, the property owner shall grant, after given notice and the opportunity to accompany the inspection, to the County the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred,

and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

B. Maintenance Covenants

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the County and recorded into the land record. The covenant shall identify by name or official title the person(s) responsible for carrying out the maintenance and the maintenance required. Responsibility for the operation and maintenance of stormwater management facilities shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the responsibility to successors in title. These arrangements shall designate for each property owner or other legally established entity to be permanently responsible for maintenance. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and should also include "failure to maintain" provisions.

In the event the project is a residential development, the developer or owner, as appropriate, shall form a perpetual homeowners' association to include the owners of all lots in the development and to which ownership of fee simple of all real estate and personal property necessary for the stormwater management facilities shall be conveyed, and the homeowners' association shall then be the entity responsible for the operation and maintenance of the management facilities. The homeowners' association shall have power to impose and collect assessments as necessary to fund the continual and perpetual operation and maintenance of the management facilities, and shall be subject to suit, injunction and any other remedy or enforcement device available to the County at law or equity. The County shall be a third party beneficiary of the homeowners' association agreement, or covenants, and the agreement or covenants referred to in the preceding paragraph.

In the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the County reserves the authority to perform the work and to recover the costs from the owner.

Section 3.5 Performance Bonds

The County may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or such other acceptable legal arrangement prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The stormwater management plan bonding will be consistent with the provisions outlined in the Rockingham County ordinance Chapter 6B relating to Erosion and Sediment Control. A bonding fee schedule will be provided at the time of application.

Section 3.6. Permit Application Review Fees

Applicants shall submit a permit fee to the County in according with the provisions outlined in the Rockingham County ordinance Chapter 6B relating to Erosion and Sediment Control. A permit fee schedule will be provided at the time of application.

Section 3.7 Permit Application Procedure

- A. Application for a permit must be filed with the County on any regular business day.
- B. Permit applications shall include the following: two copies of the stormwater management plan, one copy of the calculations, one copy of the maintenance agreement, and any required permit fees.
- C. Within 45 calendar days of the receipt of a complete permit application, including all documents as required by this ordinance, the County shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
- D. If the permit application, stormwater management plan or maintenance agreement are disapproved, the County shall communicate the decision to the applicant in writing. The applicant may then revise the stormwater management plan or agreement. If additional information is submitted, the County shall have 30 calendar days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- E. If the permit application, final stormwater management plan and maintenance agreement are approved by the County, the following conditions apply:

3.7.E.i. The applicant shall comply with all applicable requirements of the approved plan and this ordinance and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.

3.7.E.ii. The land development project shall be conducted only within the area specified in the approved plan.

3.7.E.iii. The County shall be allowed, after giving notice to the owner, occupier or operator of the land development project, to conduct periodic inspections of the project.

3.7.E.iv. The person responsible for implementing the approved plan shall conduct monitoring and submit reports as the County may require to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management.

3.7.E.v. No changes may be made to an approved plan without review and written approval by the County.

3.7.E.vi. A certified inspection of all permanent stormwater management practices and structures and as-built drawings will be required at the conclusion of a project.

Article 6C-4. Exceptions to Stormwater Management Requirements

Section 4.1. Exceptions for Providing Stormwater Management

A. Every applicant shall provide for stormwater management, unless they file a written request to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted in writing to the County for approval. An exception from the stormwater management regulations may be granted, provided that: (i) exceptions to the criteria are the minimum necessary to afford relief and (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the law and this ordinance are preserved.

The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

4.1.A.i. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

4.1.A.ii. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the County and that is required to be implemented by local ordinance.

4.1.A.iii. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

4.1.A.iv. The County finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

4.1.A.v. Economic hardship is not sufficient reason to grant an exception from the requirements of this chapter.

B. In instances where one of the conditions above applies, the County may grant a waiver from strict compliance with stormwater management provisions that are not achievable, provided that acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the County that the immediately downstream waterways will not be subject to:

4.1.B.i. Deterioration of existing culvert, bridges, dams, and other structures;

4.1.B.ii. Deterioration of biological functions or habitat;

4.1.B.iii. Accelerated stream bank or streambed erosion or silt deposition;

4.1.B.iv. Increased threat of flood damage to public health, life and property.

Article 6C-5. General Criteria for Stormwater Management

The following technical criteria shall be applied on all applicable land development and land conversion activities:

Section 5.1 General

A. Determination of flooding and channel erosion impacts to receiving streams due to land development projects shall be measured at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.

B. Unless otherwise specified, the specified design storms shall be defined as a 2 and 10-year 24-hour storm using the site-specific rainfall distribution recommended by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS). The permit issuing authority may allow for the use of the Modified Rational (critical storm duration) Method per the guidance provided in the Virginia Stormwater Management Handbook if the drainage area is less than 20 acres.

C. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in good condition (if the lands are pastures, lawns, or parks), with good cover (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation. Cultivated lands must have been in a cultivated state for five (5) years prior to application for the purposes of claiming cultivated pre-developed runoff rates.

D. Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits, such as US Army Corps of Engineers and VA DEQ Wetland Permits, VA DCR or locally adopted program VPDES Permits, etc., shall be presented.

E. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices and performed with methods approved and illustrated in the Virginia Stormwater Management Manual.

F. Outflows from a stormwater management facility shall be discharged to an adequate channel, and velocity dissipaters shall be placed at the outfall of all stormwater management facilities and along the length of any receiving channel as necessary to provide a non-erosive velocity of flow from the basin to a channel.

5.1.F.i. A “Level Spreader” design shall not be used to exempt a facility from the adequate receiving channel requirement.

5.1.F.ii. A karst feature, whether onsite or downstream and offsite may only be considered an adequate receiving channel if design criteria are in compliance with K and L below.

G. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

H. All stormwater management facilities shall have a maintenance plan, which identifies the owner and the responsible party for carrying out the maintenance plan.

I. Construction of stormwater management impoundment structures or facilities within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the maximum extent practicable. When this is demonstrated to be unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations under the National Flood Insurance Program, 44 CFR Part 59 and the Rockingham County Zoning ordinance, Division 10, Floodplain Development.

J. Stormwater management impoundment structures that are not covered by the Impounding Structure Regulations (4VAC50-20) shall be engineered for structural integrity for the 100-year storm event. In no case shall the design standard be less than the 100-year storm event for any stormwater management impoundment structure.

K. Construction of stormwater management impoundment structures or facilities may not occur in a karst area until a geological study of the area has been conducted supporting the compatibility of such structures. Hydrologic modeling in karst areas must follow the recommendations and procedures found in the Virginia Department of Conservation and Recreation’s Technical Bulletin No. 2 titled, *Hydrologic Modeling in Karst*. A karst feature may only be filled or “improved” in accordance with a proper geotechnical design (see VDOT IIM-228).

L. No adverse environmental impacts shall occur to any identified karst features. Discharge of stormwater into a karst feature shall not occur unless in accordance with the pretreatment and water quality criteria provided in this

Article. Increased volumes of stormwater runoff to a karst feature shall not occur.

M. Natural channel characteristics shall be preserved to the maximum extent practicable.

N. Land development projects shall comply with the Virginia Erosion and Sediment Control Law and attendant regulations outlined in Rockingham County ordinance Chapter 6B relating to Erosion and Sediment Control.

O. Non-Structural Stormwater Practices designed to reduce the volume of stormwater runoff are encouraged to reduce the amount of stormwater runoff that must be managed. This will help to minimize the reliance on structural practices, which require ongoing maintenance in order to be effective.

Section 5.2 Structural Stormwater Management Practices

A. Minimum Control Requirements

All stormwater management practices shall be designed so that the specific storm frequency storage volumes (e.g., water quality, channel protection, 10 year, 100 year) as identified in the current Virginia Stormwater Management Handbook are met, unless the County grants the applicant a waiver or the applicant is exempt from such requirements.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the County reserves the right to impose any and all additional requirements deemed necessary to protect downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff.

B. Site Design Feasibility

Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

5.2.B.i. Topography

5.2.B.ii. Maximum Drainage Area

5.2.B.iii. Depth to Water Table

5.2.B.iv. Soils

5.2.B.v. Slopes

5.2.B.vi. Terrain

5.2.B.vii. Hydraulic Head

5.2.B.viii. Location in relation to environmentally sensitive features or ultra-urban areas

5.2.B.ix. Intended or proposed land use

5.2.B.x. Karst features

5.2.B.xi. Depth to Rock

Applicants shall consult the Virginia Stormwater Management Handbook for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

C. Conveyance Issues

All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

5.2.C.i. Maximizing of flow paths from inflow points to outflow points

5.2.C.ii. Protection of inlet and out fall structures

5.2.C.iii. Elimination of erosive flow Velocities

5.2.C.iv. Providing of under-drain systems, where applicable and appropriate

5.2.C.v. Incorporation of appropriate BMP's in consideration of site specific conditions

The Virginia Stormwater Management Manual provides detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.

D. Pretreatment Requirements

Every stormwater treatment practice shall have an acceptable form of water quality pretreatment in accordance with, the pretreatment requirements found in the current Virginia Stormwater Management Handbook. Stormwater infiltration practices are prohibited in Rockingham County unless specifically approved as part of plan review.

E. Treatment/Geometry Conditions

All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the Virginia Stormwater Management Handbook. These specifications will designate the water quality treatment and water quantity criteria that apply to an approved stormwater management practice.

F. Landscaping Plans Required

All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

G. Maintenance Agreements

A legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any occupancy permits for onsite construction. In addition, all stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required for the County to access and inspect the stormwater treatment practices. (See Section 3.4 of this ordinance for specific maintenance provisions).

Section 5.3 Water Quality

Unless judged by the County for a project to be exempt the following criteria shall be addressed for stormwater management at all sites:

A. All stormwater runoff generated from land development and land use conversion activities shall not discharge untreated stormwater runoff directly

into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functions shall be assessed using a method acceptable to the County. In no case shall the impact on functions be any less than allowed by the Army Corp of Engineers or the Department of Environmental Quality.

B. Land development projects shall comply with the water quality Performance-based or Technology-based criteria in accordance with the following:

5.3.B.i. Performance-based criteria. For land development, the calculated post-development non-point source pollutant runoff load shall be compared to the calculated pre-development load based upon the average land cover condition or the existing site condition. A BMP shall be located, designed, and maintained to achieve the target pollutant removal efficiencies specified in Table 1 (ref. Virginia Stormwater Management Manual - 4VAC 3-20-71 -Water Quality) to effectively reduce the pollutant load to the required level based upon the following four applicable land development situations for which the performance criteria apply:

5.3.B.i.a. Situation 1 consists of land development where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover which is less than the average land cover condition.

Requirement: No reduction in the after development pollutant discharge is required.

5.3.B.i.b. Situation 2 consists of land development where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover which is greater than the average land cover condition.

Requirement: The pollutant discharge after development shall not exceed the existing pollutant discharge based on the average land cover condition.

5.3.B.i.c. Situation 3 consists of land development where the existing percent impervious cover is greater than the average land cover condition.

Requirement: The pollutant discharge after development shall not exceed (i) the pollutant discharge based on existing

conditions less 10% or (ii) the pollutant discharge based on the average land cover condition, whichever is greater.

5.3.B.i.d. Situation 4 consists of land development where the existing percent impervious cover is served by an existing stormwater management BMP that addresses water quality.

Requirement: The pollutant discharge after development shall not exceed the existing pollutant discharge based on the existing percent impervious cover while served by the existing BMP. The existing BMP shall be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition.

5.3.B.ii. **Technology-based criteria.** For land development, the post-developed stormwater runoff from the impervious cover shall be treated by an appropriate BMP as required by the post-developed condition percent impervious cover as specified in Table 1 (ref. Virginia Stormwater Management Manual - 4VAC 3-20 -71- Water Quality). The selected BMP shall be located, designed, and maintained to perform at the target pollutant removal efficiency specified in Table 1. Design standards and specifications for the BMPs in Table 1 which meet the required target pollutant removal efficiency shall be consistent with those provided in the Virginia Stormwater Management Handbook.

Table 1

Water Quality BMP	Target Phosphorus Removal Efficiency	Percent Impervious Cover
Vegetated filter strip	10%	16-21%
Grassed swale	15%	
Constructed wetlands	30%	22 -37%
Extended detention (2 x WQ Vol)	35%	
Retention basin I (3 x WQ Vol)	40%	
Bioretention basin	50%	38 -66%
Bioretention filter	50%	
Extended detention-enhanced	50%	
Retention basin II (4 x WQ Vol)	50%	
Infiltration (1 x WQ Vol)	50%	

Sand filter	65%	67 -100%
Infiltration (2 x WQ Vol)	65%	
Retention basin III (4 x WQ Vol with aquatic bench)	65%	

5.3.B.ii.a. Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, impaired streams and tributaries, recreational waters, recharge areas, karst features, water supply reservoirs) may be subject to additional criteria, or may need to utilize or restrict certain stormwater management practices at the discretion of the County.

5.3.B.ii.b. Stormwater discharges from land uses or activities with higher potential pollutant loading, known as “hotspots”, may require the use of specific structural BMPs and pollution prevention practices.

5.3.B.ii.c. Prior to design, applicants are required to consult with the County to determine if they are subject to additional stormwater design requirements.

Section 5.4 Stream Channel Erosion

To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the Virginia Stormwater Management Handbook and Virginia Sediment and Erosion Control regulations.

A. Properties and receiving waterways downstream of any land development project shall be protected from erosion and damage due to increases in volume, velocity and frequency of peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this Section.

B. The plan approving authority shall require compliance with subdivision 19 of 4 VAC 50-30- 40 of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (~10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

C. Ordinarily the 2-year post-development peak rate of runoff from the development shall not exceed the 2-year pre-development peak rate of runoff. However, the County may determine that some watersheds or receiving stream systems require enhanced criteria in order to address the increased frequency of bank-full flow conditions brought on by land development projects. Therefore,

the land development project being considered shall provide 24-hour extended detention of the runoff generated by the 1-year, 24-hour duration storm.

D. Any land disturbing activity shall satisfy the requirements of this subsection if the practices implemented on the site are designed to:

5.4.D.i. Detain the water quality volume and to release it over 48 hours; and

5.4.D.ii. Detain and release over a 24-hour period the expected rainfall resulting from the one year, 24 hour storm; and

5.4.D.iii. Reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming that it was in good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition.

Such land disturbing activity shall further be exempt from any flow rate capacity and velocity requirements for natural or manmade channels as defined in any other subsection of Chapter 6C.

Section 5.5 Flooding

The calculations for determining peak flows as found in the Virginia Stormwater Management Handbook shall be used for sizing all stormwater management practices.

A. Downstream properties and waterways shall be protected from damages from localized flooding due to increases in volume; velocity and peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this Article.

B. The 10-year post-developed peak rate of runoff from the development site shall not exceed the 10-year pre-developed peak rate of runoff.

Section 5.6 Duty to retain or establish riparian/stream buffer

Except for the activities pertaining to the management of a riparian/stream buffer identified in Section 5.9, any land subject to this Article and each stormwater management/BMP plan shall provide for riparian/stream buffers for the purposes of retarding runoff, preventing erosion, filtering nonpoint source pollution from runoff, moderating stream temperature, and providing for the ecological integrity of stream corridors and networks, as provided herein:

A. If the development is located within a development area or an area of infill and redevelopment, riparian/stream buffers shall be retained if present and established where they do not exist on any lands subject to this Article containing perennial or intermittent streams, and/or non-tidal wetlands contiguous to these streams. The riparian/stream buffer shall be no less than thirty-five (35) feet wide on each side of such perennial or intermittent streams and contiguous non-tidal wetlands, measured horizontally from the edge of the non-tidal wetlands, or the top of the stream bank if no wetlands exist.

B. If the development is located within a water supply protection area, riparian/stream buffers shall be retained if present and established where they do not exist on any lands subject to this Article containing perennial or intermittent streams, non-tidal wetlands contiguous to these streams, and flood plains. The riparian/stream buffer shall extend to whichever of the following is wider: (i) fifty (50) feet on each side of perennial or intermittent streams and contiguous non-tidal wetlands, measured horizontally from the edge of the non-tidal wetlands, or the top of the stream bank if no wetlands exist; or (ii) the limits of the flood plain.

C. Each riparian/stream buffer shall be maintained and incorporated into the design of the land development to the fullest extent possible.

Section 5.7 Management of riparian/stream buffer

Each riparian/stream buffer required to be retained or established pursuant to Section 5.6 shall be managed as provided herein:

A. In order to maintain the runoff, erosion, nonpoint source pollution control, stream temperature, and ecological values of the riparian/stream buffer, indigenous vegetation shall be preserved to the maximum extent possible. The target vegetative cover in the riparian/stream buffer shall be an indigenous riparian forest with ground cover, shrub, and tree canopy layers. Removal of vegetation in the riparian/stream buffer shall be allowed only as provided in paragraphs B and C.

B. Within twenty-five (25) feet of the top of the stream bank and on land classified as non-tidal wetland:

5.7.B.i. Indigenous riparian vegetation shall be preserved or allowed to evolve by natural succession where it does not exist;

5.7.B.ii. Dead, diseased, and dying trees may be removed;

5.7.B.iii. Fallen trees that are blocking stream channels, or trees with undermined root systems in imminent danger of falling, may be removed where stream bank erosion is a current or potential problem that outweighs any positive effects the fallen tree or trees may have on the stream ecosystem;

5.7.B.iv. Removal or pruning of invasive shrub and vine species is allowed, provided that such removal or pruning is done in a manner that prevents erosion; and

5.7.B.v. Pathways shall be constructed so as to effectively control erosion; stormwater channels shall be constructed to prevent erosion.

C. Beyond twenty-five (25) feet from the top of the stream bank and outside of non-tidal wetlands:

5.7.C.i. Dead, diseased, and dying trees may be removed;

5.7.C.ii. Silvicultural thinning may be conducted based upon the best available technical advice of a professional forester;

5.7.C.iii. Trees may be pruned or removed as necessary to provide limited sight lines and vistas, provided that if trees are removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff;

5.7.C.iv. Trees six (6) inches in diameter or greater at breast height shall be preserved;

5.7.C.v. Removal or pruning of invasive shrub and vine species shall be allowed, provided that such removal or pruning is done in a manner that prevents erosion; and

5.7.C.vi. Pathways and stormwater channels shall be constructed to effectively control erosion.

Section 5.8 Types of development exempt from duties to retain, establish or manage a stream buffer

The following types of development shall not be required to retain, establish or manage a riparian/stream buffer, provided that the requirements of this Section are satisfied:

A. The construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads, and activities of the Virginia

Department of Transportation, and their appurtenant structures, which are accomplished in compliance with the Erosion and Sediment Control Law or an erosion and sediment control plan approved by the Virginia Soil and Water Conservation Board.

B. The construction, installation, and maintenance by public agencies of water and sewer lines, including water and sewer lines constructed by private interests for dedication to public agencies, provided that:

5.8.B.i. To the extent practical, the location of such water or sewer lines shall be outside of all riparian/stream buffer areas;

5.8.B.ii. No more land shall be disturbed than is necessary to construct, install and maintain the water or sewer lines; and

5.8.B.iii. All such construction, installation, and maintenance of such water or sewer lines shall comply with all applicable federal, state and local requirements and permits and be conducted in a manner that protects water quality.

Section 5.9 Types of development authorized in riparian/stream buffer

If otherwise authorized by the applicable regulations of the zoning ordinance, the following types of development shall be allowed in a riparian/stream buffer, provided that the requirements of this Article are satisfied:

A. A building or structure which existed on the date of adoption of this chapter may continue at such location.

B. On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:

5.9.B.i. To the extent practical, as determined by the program authority, the location of such facilities shall be outside of the riparian/stream buffer;

5.9.B.ii. No more land shall be disturbed than is necessary to provide for construction and maintenance of the facility, as determined by the program authority;

5.9.B.iii. The facilities are designed and constructed so as to minimize impacts to the functional value of the riparian/stream buffer and to protect water quality; and

5.9.B.iv. Facilities located within a flood plain adhere to flood plain regulations of the County and are designed and located, to the extent practical, to maintain their water quantity and/or water quality control value, according the standards of this Article, during flood conditions.

C. Water-dependent facilities; water wells; passive recreation access, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities; provided that all applicable federal, state and local permits are obtained.

Article 6C-6. Construction Inspection Provisions

Stormwater management construction inspection shall utilize the final approved plans and specifications for compliance. In addition, the inspection shall comply with latest version of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (~ 10.1-566) of Chapter 5 of Title 10.1 of the Code of Virginia and Rockingham County ordinance Chapter 6B.

Section 6.1. Notice of Construction Commencement

The applicant must notify the County in advance before the commencement of construction. In addition, the applicant must notify the County in advance of construction of critical components of the SWM facility. Periodic inspections of the stormwater management system construction shall be conducted by the staff of the County or a professional engineer or their designee who has been approved by the jurisdictional stormwater authority. Upon completion, the applicant is responsible for certifying that the completed project is in accordance with the approved plans and specifications (refer to as-built plans in Section 6.2) and shall provide regular inspections sufficient to adequately document compliance. All inspections shall be documented and written reports prepared that contain the following information:

- A. The date and location of the inspection;
- B. Whether construction is in compliance with the approved stormwater management plan;
- C. Variations from the approved construction specifications; and
- D. Any violations that exist.

If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed

until any violations are corrected and all work previously completed has received approval by the County.

In addition, the person responsible for carrying out the plan may be required to provide inspection monitoring and reports to ensure compliance with the approved plan and to determine whether the measures required in the plan provide effective stormwater management.

If the County determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan in accordance with Article C6-8 of this ordinance.

Section 6.2. Post-Construction Plans Final Inspection and As-Built Plans

All applicants are required to submit actual “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the County is required before the release of any performance securities can occur. A certified inspection of all aspects of the BMP construction is required, including surface as-built surveys, and geotechnical inspections during subsurface or back filling, riser & principal spillway installation, bio-retention soil placement and compaction activities.

Article 6C-7. Maintenance Inspection and Repair of Stormwater Facilities

Section 7.1. Maintenance Inspection of Stormwater Facilities

All stormwater management facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation and any repair or replacement of structural features.

At a minimum, the owner shall inspect a stormwater management facility on an annual basis. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the County shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the address specified in the maintenance covenant. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. If the responsible party fails or refuses to meet the requirements of the maintenance covenant, the County, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all

necessary work to place the facility in proper working condition, and recover the costs from the owner.

Section 7.2 Records of Maintenance and Repair Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 5 years. These records shall be made available to the County during inspection of the facility and at other reasonable times upon request.

Article 6C-8. Enforcement, Violations and Penalties

Section 8.1. Violations

Any development activity that is commenced or is conducted contrary to this ordinance or the approved plans and permit, may be subject to the enforcement actions outlined in this Article and the Virginia Stormwater Management Law.

Section 8.2. Notice of Violation

When the County determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation delivered by registered or certified mail to the applicant. The notice of violation shall contain:

- A. The name and address of the applicant;
- B. The address when available or a description of the building, structure or land upon which the violation is occurring;
- C. A statement specifying the nature of the violation;
- D. A description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
- E. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- F. A statement that the determination of violation may be appealed to the County by filing a written notice of appeal within thirty (30) days of service of notice of violation.

Section 8.3. Stop Work Orders

Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the County confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Upon failure to comply within the time specified, the permit may be revoked and the applicant shall be deemed to be in violation of this Chapter and upon conviction shall be subject to the penalties provided by this ordinance - Section 8.4.

Section 8.4. Civil and Criminal Penalties

Any person who violates any provision of a local ordinance or program adopted pursuant to the authority of this Chapter shall be guilty of a Class 1 misdemeanor and shall be subject to a fine not exceeding \$1,000 or up to thirty days imprisonment for each violation or both. In addition the County may pursue the following actions:

- A. The County may apply to the circuit court to enjoin a violation or a threatened violation of the provisions of this ordinance without the necessity of showing that an adequate remedy at law does not exist.
- B. Without limiting the remedies, which may be obtained in this Section, the County may bring a civil action against any person for violation of this ordinance or any condition of a permit. The action may seek the imposition of a civil penalty of not more than \$2,000 against the person for each violation.
- C. With the consent of any person who has violated or failed, neglected or refused to obey this ordinance or any condition of a permit, the County may provide, in an order issued by the County against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subdivision 2 of this Section. Such civil charges shall be instead of any appropriate civil penalty, which could be imposed under subdivision B.

Section 8.5. Restoration of Lands

Any violator may be required to restore land to its undisturbed condition or in accordance with a Notice of Violation, Stop Work Order, or Permit requirements. In the event that restoration is not undertaken within a reasonable time after notice, the County may take necessary corrective action, the cost of which shall be covered by the performance bond, or become a lien upon the property until paid, or both.

Section 8.6. Holds on Occupation Permits

Occupation permits shall not be granted until corrections to all stormwater practices have been made in accordance with the approved plans, Notice of Violation, Stop Work Order, or Permit requirements, and accepted by the County.

This ordinance shall be effective from the 28th day of May, 2008, with the fee structure effective July 1, 2008.

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COMMITTEE REPORTS.

AIRPORT

Administrator Paxton reported that the Shenandoah Valley Airport is one of the few airports not currently charging extra for luggage or fuel.

CENTRAL SHENANDOAH PLANNING DISTRICT COMMISSION

Administrator Paxton noted this Committee has a vacancy for an elected official from any local town, except Bridgewater or Broadway as they already have representation. Supervisor Breeden indicated Elkton has an interest in someone serving on this Committee, and he will bring a recommendation to the next Board meeting.

VACo

Supervisor Kyger reminded Board members that the National Association of Counties meeting is in Kansas City in July, and the VACo Summer Meeting will be held in Charlottesville on August 22, 2008. He asked that as opportunities arise for Board members to speak with legislators between now and June 23rd, they remind legislators that a transportation plan has been submitted by the Governor for their study and review. The Governor, VACo and VML hope that the General Assembly will be prepared to discuss the Governor's plan and adopt a transportation plan after the June 23, 2008 special session.

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CLOSED MEETING.

On motion by Supervisor Eberly, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the Board recessed the meeting from 7:46 p.m. to 8:20 p.m., for a closed meeting pursuant to Section 2.2-3711(A)(7)

for consultation with legal counsel and staff members pertaining to actual or probable litigation and contractual matters.

MOTION: SUPERVISOR EBERLY
SECOND: SUPERVISOR KYGER

RESOLUTION NO: X08-09
MEETING DATE: MAY 28, 2008

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: BREEDEN, CUEVAS, EBERLY, FLOYD, KYGER

NAYS: NONE

ABSENT: NONE

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ADJOURNMENT.

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: BREEDEN - AYE; CUEVAS - AYE; EBERLY - AYE; FLOYD - AYE; KYGER - AYE; the meeting was adjourned at 8:21 p.m.

Chairman