

**VIRGINIA:** County of Lee, to-wit:

At the Regular Meeting of the Lee County Board of Supervisors in the Circuit Courtroom of the Lee County Courthouse on June 18, 2013 at 5:00 p.m. thereof.

MEMBERS PRESENT: Jason Crabtree, Chairman  
Carl Bailey  
Larry Mosley  
Tina Rowe  
Charles Slemm, Jr.

MEMBERS ABSENT: None

OTHERS PRESENT: C.M. Callahan, Jr., County Attorney  
Dane Poe, County Administrator  
Jeny Hughes, Administrative Assistant

OTHERS ABSENT: None

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**INVOCATION**

Tim Cradic, Pastor of Pennington Gap Church of God of Prophecy, led in the Invocation.

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**PLEDGE TO THE FLAG**

Tim Cradic led the Pledge to the Flag.

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**MEETING CALLED TO ORDER**

The meeting was called to order at 5:08 p.m.

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**DEPARTMENTAL REPORTS**

**ECONOMIC DEVELOPMENT**

Mike James, Economic Development Director, reported that the Planning Commission has finished the Zoning Ordinance update, and is currently taking public comment on the proposed changes. He stated that the 2012 audit for the IDA is complete and all reports are current. He updated the Board on the status of the cell towers stating that the AT&T site in Gibson Station has broken ground, and added that the Verizon tower in Pennington has upgraded to 4G. Mr. James added that the IDA has been unsuccessful in talks with Wellmont, and the lack of a hospital will make recruiting new business difficult.

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Mr. Slemm asked for a copy of the footnotes on the audit, if the IDA was going to buy the old equipment at the call center, and at what cost.

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Mr. James stated that they had been talking about a price around \$137,000 on a forgivable loan on all the equipment in the building, and it would be more marketable for prospects if it were equipped.

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## **TOURISM**

Joan Minor, Tourism Director, stated that she is promoting existing Lee County events on the state website and is learning how to upload videos. Sue Crockett continues to work with Round the Mountain, The Crooked Road and Heartwood. Kenny Thomas is working on outdoor projects and Charles Slep is serving on the Heart of Appalachia Board. She added she has had some good response on the barn quilts, and once there is group that meets the requirements, they will be added to the Appalachia Quilt Trail. She stated that she has meet with two venues that could possibly be affiliated with the Crooked Road, Legends 2 and Wayne's Place. She stated that she is still working on getting the brochure ready and is moving forward on that. The Tourism Committee is requesting some guidance on what is expected of the committee.

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Ms. Rowe thanked Ms. Minor for following up on the suggestions made by the Board, and asked that some cleanup work be done on out dated information on the websites.

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## **PUBLIC HEARINGS**

### **D & J PROPERTIES REZONING**

The Lee County Board of Supervisors will hold a Public Hearing on June 18, 2013 at 5:00 p.m. in the General District Courtroom of the Lee County Courthouse located in Jonesville, Virginia to solicit input on a Rezoning request. D & J Properties is requesting to rezone 1.5 acres of property from B-2, General Business District, to A-1, Agricultural District. The property is located in the Gibson Station Community on the South side of Route 732, Underpass Road.

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Prior to the public hearing, D & J Properties withdrew their request.

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### **CREMATORY ZONING TEXT AMENDMENT REQUEST**

The Lee County Board of Supervisors held a Public Hearing on June 18, 2013 at 5:00 p.m. in the General District Courtroom of the Lee County Courthouse located in Jonesville, Virginia to solicit input on a proposed Zoning Text Amendment for the following to be added as a permissible use by Special Use Permit in the A-1, Agricultural, B-1, Limited Business, and B-2, General Business Districts:

Crematory or Crematorium – A facility containing a furnace which is designed and licensed by the Commonwealth of Virginia for cremation of dead human remains. Facility shall be allowed, subject to issuance of a Special Use Permit with the following restrictions:

- Minimum setbacks shall be 100 feet from all property lines
- Facility shall be located within an enclosed building
- Facility operator must obtain all required Department of Environmental Quality and/or Environmental Protection Agency permits
- External storage of fuels shall comply with all federal, state and local

- regulations for pollution prevention
- All outdoor fuel storage containers shall be secured within a fence or solid walls
- Facility shall be used solely for the cremation of human corpses and shall not be used for disposition of medical waste or other waste products

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Mike James, Community Development Director, stated that his office had only received one public comment on this matter, from Tracy Garrett, in which she felt this would be okay in the B-1 and B-2 districts but not in A-1. He added that the Planning Commission voted to approve this request.

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Mr. Slemph asked where this would be located.

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Mr. James stated that this is just to add a crematory as a permissible use, it is not for a particular piece of property.

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Ms. Rowe asked if other Counties allow this in agriculture districts.

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Mr. James stated that Virginia is mixed on that, several counties allow it, and several do not. He added that there is a crematory in Big Stone Gap.

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Mr. Crabtree asked if this was a citizen's request or to update the Zoning.

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Mr. James stated that a citizen asked about it, and he has been doing research on it.

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Mr. Crabtree asked if Special Use Permits would be required.

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Mr. James said yes.

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The Chairman opened the floor for public comment.

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Sue Crockett, Caylor, asked if there was going to be an animal crematory at the Veterinary School.

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Kathleen Bost, Flatwoods, stated that it is relevant for the public to know the person wanting to put in the crematory.

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Mr. Crabtree stated that this is just to make it an allowable use.

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Mr. Slemph added that before allowing a crematory, a person would have to appear before the Board for a Special Use Permit.

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Sherry Province stated she requested the crematory to come in and that it is a solid investment.

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Mr. Slemph asked if the same machine is used for animals and humans.

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Ms. Province stated that it is two separate machines. She is wanting to work with local funeral homes only.

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Mr. Crabtree asked if she was associated with a funeral home.

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Ms. Province stated that she works at a funeral home and everyday she is hearing someone say they want to be cremated.

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Ms. Rowe asked how many jobs this would create.

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Ms. Province stated it could potentially be 6 to 8 jobs ant that they are currently doing 5 a month outside of Lee County.

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Bob Bost, Jonesville, asked why the Special Use Permit doesn't include M-1 and M-2 zones.

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Mr. Crabtree stated that M-1 and M-2 are more of noise issues.

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Mr. James stated that the Planning Commission did not feel that this is a manufacturing issue, so it was not included for M-1 and M-2.

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There was no other public comment on this matter.

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The Chairman closed the floor for public comment.

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**ANIMAL CREMATORY ZONING TEXT AMENDMENT REQUEST**

The Lee County Board of Supervisors held a Public Hearing on June 18, 2013 at 5:00 p.m. in the General District Courtroom of the Lee County Courthouse located in Jonesville, Virginia to solicit input on a proposed Zoning Text Amendment for the following to be added as a permissible use by Special Use Permit in the A-1, Agricultural, B-1, Limited Business, and B-2, General Business Districts:

Animal Crematory or Animal Crematorium – A facility containing a furnace which is designed and licensed by the Commonwealth of Virginia for cremation of dead animal remains. Facility shall be allowed, subject to issuance of a Special Use Permit with the following restrictions:

- Minimum setbacks shall be 100 feet from all property lines
- Facility shall be located within an enclosed building
- Facility operator must obtain all required Department of Environmental Quality and/or Environmental Protection Agency permits
- External storage of fuels shall comply with all federal, state and local regulations for pollution prevention
- All outdoor fuel storage containers shall be secured within a fence or solid walls
- Facility shall be used solely for the cremation of human corpses and shall not be used for disposition of medical waste or other waste products

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Mr. James stated that Ms. Province did not request the Animal Crematory, the Planning Commission is requesting this. He stated that his office had only received one public comment on this matter, from Tracy Garrett, in which she felt this would be okay in the B-1 and B-2 districts but not an A-1. He added that the Planning Commission voted to approve this request with a change in the last bullet point from human to animal.

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The Chairman opened the floor for public comment.

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Kathleen Bost, Flatwoods, stated that with the error in advertising, it should be re advertised, and stated that bones are crushed after the cremation process, and that is kind of manufacturing.

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There was no other public comment on this matter.

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The Chairman closed the floor for public comment.

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Mr. Poe stated that there was an error in the newspaper advertisement, and he recommended re-advertising with corrections and holding another public hearing.

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It was the consensus of the Board to re advertise this public hearing.

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**COAL SEVERANCE TAX ORDINANCE**

The Lee County Board of Supervisors held a Public Hearing on Tuesday, June 18, 2012 at 5:00 p.m. in the General District Courtroom of the Lee County Courthouse located in Jonesville, Virginia. The purpose of the Public Hearing is to take public comment on a proposed Ordinance to amend the license tax imposed on coal and gas severance. The proposed ordinance would amend the current ordinance to include legislative changes and requirements adopted by the 2012 General Assembly and effective as of January 1, 2008. A copy of the complete proposed ordinance is available at the Lee County Administrator’s Office, Room 111, Lee County Courthouse, Jonesville, VA.

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Mr. Poe stated that there was an Ordinance adopted last year, and this has been an evolving process between the Commissioners of Revenue of seven surrounding counties, County Attorneys, Lobbyist's Attorneys, and Coal and Gas Attorneys. Even though we adopted an Ordinance last year to comply at that time there have been additional changes. This will cover the coal portion of the Ordinance; they are still working to finalize the Gas portion of the Ordinance.

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The Chairman opened the floor for public comment.

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There was no public comment.

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The Chairman closed the floor for public comment.

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It was moved by Ms. Rowe, seconded by Mr. Slemph, to adopt the Coal Severance Tax Ordinance. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemph

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**ORDINANCE - MINERAL SEVERANCE LICENSE TAX**

**A. Coal Severance License Tax**

- Sec. A-1. - Statutory Authority.
- Sec. A-2. - Effective Date of Amendments.
- Sec. A-3. - Definitions.
- Sec. A-4. - Tax levied.

**B. Gas and Oil Severance License Taxes**

- Sec. B-1. - Statutory Authority.
- Sec. B-2. - Effective Date of Amendments.
- Sec. B-3. - Definitions.

Sec. B-4. - Tax levied.

### **C. General Provisions Applicable to Coal, Gas and Oil Severance License Taxes**

Sec. C-1. - General Definitions.

Sec. C-2. - License generally.

Sec. C-3. - Returns.

Sec. C-4. - Payment of tax; penalty and interest on delinquencies.

Sec. C-5. - Procedure when person engaged in the business of severing coal, oil or gas from the earth fails to make return.

Sec. C-6. - Procedure when person engaged in the business of severing coal, oil or gas from the earth ceases operations.

Sec. C-7. - Maintenance of Records.

Sec. C-8. - Distribution of taxes collected.

Sec. C-9. - Coal and Gas Road Improvement Advisory Committee generally.

Sec. C-10. - Coal and gas road improvement plans.

Sec. C-11. - Use of County funds for coal and gas road improvements in towns or city.

Sec. C-12. - Violations and penalties.

Sec. C-13. - Limitations and extensions of assessments and collections of tax.

Sec. C-14. - Administrative appeals to the Commissioner of Revenue.

Sec. C-15. - Administrative appeal to the Tax Commissioner.

Sec. C-16. - Judicial review of determination of the Tax Commissioner.

Sec. C-17. - Rulings.

Sec. C-18. - Audits.

Sec. C-19. - Severability.

Sec. C-20. - Uniform Provisions of Virginia Code § 58.1-3703.1.

Sec. C-21. - Agreements with Taxpayers.

Secs. C-22 - C-25. - Reserved.

### **A. Coal Severance License Tax**

#### **Sec. A-1. - Statutory Authority.**

The coal severance license tax portions of this ordinance are adopted pursuant to Chapter 37.1 of Title 58.1 of the Code of Virginia (§ 58.1-3740 et seq.) and all other applicable sections of Chapters 37 and 39 of Title 58.1 of the Code of Virginia, as amended, whether or not the specific section is cited herein. Such adoption is by reference and is inclusive, including all tax collection and lien enforcement provisions provided by Virginia law. Any and all additional and applicable sections of Chapters 37, 37.1 and 39 of Title 58.1 of the Code of Virginia, as amended, including but not limited to Virginia Code § 58.1-3703.1, are hereby adopted and incorporated herein by reference. Any

amendments to any applicable sections of Chapter 37, Chapter 37.1, and Chapter 39 of Title 58.1 of the Code of Virginia, as amended, shall be deemed to be incorporated into this ordinance when they become effective as if they were separately adopted.

**Sec. A-2. - Effective Date of Amendments.**

(A) As it applies to coal severance license taxes, this ordinance, including the general provisions in Section C, revises and replaces previous ordinances enacted under authority of Virginia Code §§ 58.1-3712 and 58.1-3713 as applied to persons engaged in the business of severing coal from the earth (“Prior Coal Severance License Tax Statutes”). These amendments are intended to reflect changes in the law set forth in Virginia Code § 58.1-3740 et seq. and associated statutory provisions enacted by the Virginia General Assembly in 2013. Sections A-1 through A-4 shall be effective as of July 1, 2013. Sections A-1 through A-4 of this ordinance are intended to be applied in accordance with the terms herein. Past administrative practices in applying prior ordinances enacted pursuant to Virginia Code §§ 58.1-3712, 58.1-3712.1, 58.1-3713, 58.1-3713.3, and 58.1-3713.4 shall not apply in interpreting such provisions of this ordinance.

(B) All unpaid taxes authorized by the Prior Coal Severance License Tax Statutes shall remain due and payable.

(C) All persons having a valid mineral severance license granted pursuant to the County’s previously enacted ordinances under the Prior Coal Severance License Tax Statutes shall be deemed to have a license pursuant to this ordinance until such time as such licenses must be renewed as provided herein.

(D) The penalties for violations of the County’s previously enacted ordinances under the Prior Coal Severance License Tax Statutes prior to the effective date shall remain applicable and in full force and effect.

(E) All assessments and collections previously made pursuant to the Prior Coal Severance License Tax Statutes prior to the effective date shall remain applicable and are hereby affirmed and ratified pursuant to appropriate statutory authority.

**Sec. A-3. - Coal Definitions.**

The following words, terms, and phrases, when used in this ordinance as applied to coal severance license taxes, shall have the meaning ascribed to them in this section, unless otherwise defined by Virginia law or where the context clearly indicates a different meaning.

*Coal* means and include any mineral deposit composed predominantly of hydrocarbons in a solid state.

*Coal producer* shall have the meaning set forth in Virginia Code § 58.1-3740.

*Economic interest* shall have the meaning set forth in Virginia Code § 58.1-3740.

*Gross receipts* shall have the meaning set forth in Virginia Code § 58.1-3740.

*Non-local coal transportation and processing costs* shall have the meaning set forth in Virginia Code § 58.1-3740.

*Severing, severance, and severed* with regard to coal means the taking of any coal from any land, soil, slag piles, or any other source situated in the County in any manner whatsoever.

*Small mine* shall have the meaning set forth in Virginia Code § 58.1-3740.

*Utilized* or *utilize* means to put to beneficial use for such purposes as making coke, facility heating, power generation, machinery operation, equipment operation, and similar uses.



**Sec. A-4. - Tax levied.**

(A) A license tax is hereby levied and imposed pursuant to Virginia Code § 58.1-3741(A) on every coal producer that sells or utilizes coal severed from the earth within the County. The rate of tax for the sale or utilization of coal from small mines shall be three-fourths of one percent of the gross receipts from the sale or utilization of such coal by the coal producer. The rate of tax for all other coal shall be one percent of the gross receipts from the sale or utilization of such coal by the coal producer.

(B) In addition to the tax imposed in subsection (A), a license tax is hereby levied and imposed pursuant to Virginia Code § 58.1-3741(B) on every coal producer that sells or utilizes coal severed from the earth within the County. The rate of tax for the sale or utilization of coal from small mines shall be three-fourths of one percent of the gross receipts from the sale or utilization of such coal by the coal producer. The rate of tax for all other coal shall be one percent of the gross receipts from the sale or utilization of such coal by the coal producer.

(C) The foregoing taxes are hereby levied and imposed in addition to all other taxes and fees of every kind now imposed by law upon every coal producer.

**B. Gas and Oil Severance License Taxes**

**Sec. B-1. - Statutory Authority.**

The gas and oil severance license tax portions of this ordinance are adopted pursuant to Virginia Code §§ 58.1-3712, 58.1-3712.1, 58.1-3713, 58.1-3713.3, and 58.1-3713.4 (the "Gas Severance License Tax Statutes") and all other applicable sections of Chapters 37 and 39 of Title 58.1 of the Code of Virginia, as amended, whether or not the specific section is cited herein. Such adoption is by reference and is inclusive, including all tax collection and lien enforcement provisions provided by Virginia law. Any and all additional and applicable sections of Chapters 37 and 39 of Title 58.1 of the Code of Virginia, as amended, including but not limited to Virginia Code § 58.1-3703.1, are hereby adopted and incorporated herein by reference. Any amendments to any applicable sections of Chapter 37 and Chapter 39 of Title 58.1 of the Code of Virginia, as amended, shall be deemed to be incorporated into this ordinance when they become effective as if they were separately adopted.

**Sec. B-2. - Effective Date of Amendments.**

(A) As it applies to gas and oil severance license taxes, this ordinance, including the general provisions in Section C, amends the Lee County Coal, Gas and Oil Severance License Tax Ordinance adopted on June 19, 2012, which was enacted under authority of the Severance License Tax Statutes and effective as of January 1, 2008. These amendments shall not alter that prior effective date. This ordinance is intended to be applied in accordance with the terms stated herein. Past administrative practices in applying prior ordinances enacted pursuant to the Gas Severance License Tax Statutes shall not apply in interpreting this ordinance.

(B) All unpaid taxes authorized by the Gas Severance License Tax Statutes shall remain due and payable.

(C) All persons having a valid mineral severance license granted pursuant to the County's previously enacted ordinances under the Gas Severance License Tax Statutes shall be deemed to have a license pursuant to this ordinance until such time as such licenses must be renewed as provided herein.

(D) The penalties for violations of the County's previously enacted ordinances under the Gas Severance License Tax Statutes prior to the effective date shall remain applicable and in full force and effect.

(E) All assessments and collections previously made pursuant to the Gas Severance License Tax Statutes prior to the effective date shall remain applicable and are hereby affirmed and ratified pursuant to appropriate statutory authority.

### **Sec. B-3. – Gas and Oil Definitions.**

The following words, terms, and phrases, when used in this ordinance as applied to gas and oil severance license taxes, shall have the meaning ascribed to them in this section, unless otherwise defined by Virginia law or where the context clearly indicates a different meaning.

*Coalbed methane gas* means occluded natural gas produced from coalbeds and rock strata associated therewith.

*Fair market value* means the following: (1) in circumstances where the gas or oil is sold by arms-length transaction between unrelated persons, the sale price of the gas or oil; (2) in circumstances in which the gas or oil is (i) utilized or (ii) sold in a related party transaction or under other circumstances that indicate that the sale is not an arms-length transaction, the average sale price received by the person engaged in the business of severing oil or gas from the earth in arms-length transactions for the sale of other minerals of comparable quality produced from a comparable area during the same time frame or, if none, the sale price for other such minerals of comparable quality as indicated by either appropriate regional indices or sales by other persons engaged in the severance of similar minerals within the County or neighboring counties.

*Gas* means all natural gas, including, but not limited to, coalbed methane gas, whether hydrocarbon or non-hydrocarbon or any combination or mixture thereof, including hydrocarbons, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casing head gas, and all other fluids not defined as oil herein.

*Gross receipts* means, except in the case of persons engaging in the production and operation of severing gases from the earth in connection with coal mining, the fair market value of the severed oil or gas measured at the time the oil or gas is utilized or sold for utilization in the County or at the time the oil or gas is placed in transit for shipment from the County. When such minerals are placed in transit for shipment from the County, fair market value may be reduced by deducting reasonable costs actually incurred by the person engaged in the business of severing oil or gas from the earth in processing or transporting the mineral after it is placed in transit for shipment from the County prior to sale of the mineral. For persons engaging in the production and operation of severing gases from the earth in connection with coal mining, *gross receipts* means the fair market value of the gas measured at the time it is utilized or sold for utilization in the County or at the time it is placed in transit for shipment from the County, with no deduction or allowance for costs. In all circumstances, *gross receipts* includes the royalty share of the mineral(s) severed and all minerals subject to a royalty obligation.

*Mineral or minerals* means oil or gas.

*Oil* means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well, in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.

*Owner* means the owner of a legal or equitable interest in oil or gas at the time of severance.

*Person* means and includes any individual, firm, partnership, limited liability company, corporation, cooperative, joint venture, association, estate, trust, business trust, trustee, trustee in bankruptcy, any person acting under a declaration of trust, executor, administrator, partner, agent, receiver, syndicate, assignee, or other group or combination acting as a unit, in the plural as well as in the singular number.

*Person engaged [or engaging] in the business of severing oil or gas from the earth* means the following: (1) where the minerals are unleased, the owner(s) of such minerals;

or (2) where the minerals are leased, the lessee of the mineral or the lessee of the right to extract, mine or produce such minerals.

*Placed in transit for shipment from the county* means the point in distribution of the severed mineral at which the mineral is placed in final shipment from the County with no additional treatment, processing, compression, handling, or mechanical manipulation to be performed within the County. Except in cases where gas is produced at the wellhead at sufficient pressure and quality such that it is not treated in any manner or compressed by mechanical compressor within the County, gas is not placed in transit for shipment from the County at the wellhead.

*Severing, severance, and severed* with regard to oil or gas means the taking of any oil or gas from any land, soil, landfill, or any other formation or source situated in the County in any manner whatsoever.

*Severing gases from the earth in connection with coal mining* means producing coalbed methane gas from wells that directly or indirectly remove gas from: (1) units or permitted well areas which include coal seams that have been fractured by current or previous mining activities (“GOB wells”); and (2) units or permitted well areas which include coal seams that have been fractured in the absence of mining (“FRAC wells”) but where all or some of the fractured coal seams are within a permitted mine boundary or within the area projected for mining by the 20-year mine plan map for any coal operator.

*Utilized or utilize* with regard to oil or gas means to put to beneficial use for such purposes as facility heating, power generation, machinery operation, equipment operation, and similar uses. Utilized minerals include oil or gas that is severed from the earth within the County and used by the person engaged in the business of severing oil or gas from the earth (or those acting on his behalf, at his direction, or with his permission or consent) in some beneficial manner, in which case, the severed and utilized mineral shall be deemed to have been sold for the fair market value of such mineral.

#### **Sec. B-4. - Tax levied.**

(A) A license tax is hereby levied and imposed pursuant to § 58.1-3712 of the 1950 Code of Virginia, as amended, on every person engaged in the business of severing gas from the earth. Such tax shall be at a rate of 1% of gross receipts.

(B) In addition to the taxes levied in subsection (A) herein, a license tax is hereby levied and imposed pursuant to § 58.1-3713 of the 1950 Code of Virginia, as amended, on every person engaged in the business of severing gas from the earth. Such tax shall be at a rate of 1% of gross receipts.

(C) In addition to the taxes levied in subsections (A) and (B) herein, a license tax is hereby levied and imposed pursuant to § 58.1-3713.4 of the 1950 Code of Virginia, as amended, on every person engaged in the business of severing gas from the earth. Such tax shall be at a rate of 1% of gross receipts.

(D) A license tax is hereby levied and imposed pursuant to § 58.1-3712.1 of the Code of Virginia, as amended, on every person engaged in the business of severing oil from the earth. Such tax shall be at a rate of one-half of 1% of gross receipts.

(E) The foregoing taxes are hereby levied and imposed in addition to all other taxes and fees of every kind now imposed by law upon every person engaged in the business of severing oil or gas from the earth.

### **C. General Provisions Applicable to Coal, Gas and Oil Severance License Taxes**

#### **Sec. C-1. - General Definitions.**

The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed to them in this section, unless otherwise defined by Virginia law or where the context clearly indicates a different meaning.

*Closely-held corporation* means a corporation not publicly traded and having twenty (20) or fewer shareholders.

*Common carrier* means any person involved in any phase of the transportation of coal, oil, or gas within the County or from the County. This includes, but is not limited to, the receiving, collection, or assembly of coal, oil, or gas for conveyance from one mode of transportation to another or to the same mode of transportation, as well as the actual movement of the coal, oil, or gas in shipment.

*Mining operation* means any act or activity which results in the severing of coal, oil, or gas from the earth.

*Person* means and includes any individual, firm, partnership, limited liability company, corporation, cooperative, joint venture, association, estate, trust, business trust, trustee, trustee in bankruptcy, any person acting under a declaration of trust, executor, administrator, partner, agent, receiver, syndicate, assignee, or other group or combination acting as a unit, in the plural as well as in the singular number.

### **Sec. C-2. - License generally.**

(A) It shall be unlawful for any coal producer or any person to engage in the business of severing coal, oil, or gas from the earth within the County or to cause others to sever coal, oil, or gas from the earth within the County unless the coal producer or person engaging in the business of severing coal, oil, or gas from the earth has first obtained a current license to do so issued by the Commissioner of the Revenue.

(B) Every coal producer and every person engaged in the business of severing oil or gas from the earth shall file with the Commissioner of Revenue an application for a license for each of such coal producer's or such person's mining operations in the County. Every application shall be signed by each such coal producer or person or an authorized representative of such coal producer or person. In connection with any such application, the coal producer or the person engaged in the business of severing oil or gas from the earth shall provide such information as the Commissioner of Revenue may require.

(C) Every coal producer and every person engaged in the business of severing oil or gas from the earth that did not have a license to sever coal, oil, or gas in the County in the previous license tax year shall file an application as provided herein prior to beginning any severance of coal, oil, or gas in the County.

Every coal producer and every person engaged in the business of severing oil or gas from the earth that had a license or licenses to sever coal, oil, or gas in the County in the previous license tax year shall file an application for the renewal of such license or licenses on or before March 1 of the current license tax year. In such case, the existing license shall remain in effect until the new license is issued. Issuance of a new license may be conditioned upon receipt by the Commissioner of Revenue of a written report from the County Treasurer documenting such person's payment of any license taxes due or an arrangement for the payment of any license taxes.

The Commissioner of Revenue may grant an extension of time in which to file an application for a license or renewal thereof, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax. Any such estimated tax is subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of 10 percent of the portion paid after the due date.

(D) When the required application has been made, the Commissioner of Revenue shall issue to each applicant who has met all of the requirements of this ordinance a separate license for each mining operation within the County, which license shall not be transferable.

(E) No license shall be issued or reissued under this section to a person who owns an interest in a mining operation conducted by a person owing delinquent taxes at the time the application is submitted, or to a person who owes delinquent taxes. When such facts are known to the Commissioner of Revenue, he may, at his election, hold the hearing provided for in subsection (f) of this section. An arrangement for payment of delinquent taxes made by the County Treasurer may be treated as payment for the purposes of this section.

(F) Whenever any person fails to comply with any provision of this ordinance, the Commissioner of Revenue may hold a hearing after giving such person ten (10) days' notice, in writing, specifying the time and place of hearing and requiring the person to show cause why his license should not be revoked or suspended or his application for renewal of his license should not be denied. The Commissioner of Revenue may revoke or suspend or deny reissuance of any one or more of the licenses held by such person.

### **Sec. C-3. - Returns.**

Every coal producer and every person engaged in the business of severing oil or gas from the earth required to pay any of the taxes imposed by this ordinance shall, on or before the twentieth day of each month, transmit to the Commissioner of Revenue, upon a form furnished by the Commissioner, a completed return showing such information as the Commissioner of Revenue may require, including (i) the quantities of coal, oil, and gas produced from each mining operation, (ii) the gross receipts from all coal, oil, and gas severed from each mining operation during the immediately preceding calendar month, and (iii) any deductions that have been applied in calculating gross receipts. At the request of the Commissioner of Revenue, coal producers and persons engaging in the business of severing oil or gas shall provide the names and addresses of any owners or other persons participating in each mining operation, any persons who are members of an affiliated group of which the operator is a member and to whom the coal, oil, or gas was sold or placed into transit for shipment from the County, and all persons having an economic interest in the mining operation. In the event that any date on which a return is to be filed falls upon a Saturday, Sunday, legal holiday, or other date on which the County Courthouse is closed, then the time for the filing of such return shall be extended until the next day that the Commissioner of Revenue's office is open for business. This return shall be made under oath and subject to the penalty for perjury. The Commissioner of Revenue shall transmit to the County Treasurer forthwith all records related to the taxes owed by and the payments received from each coal producer and each person engaged in the business of severing gas or oil from the earth.

### **Sec. C-4. - Payment of tax; penalty and interest on delinquencies.**

(A) At the time of transmitting the return required by Sec. C-3 to the Commissioner of Revenue, the coal producer or person engaged in the business of severing oil or gas from the earth shall remit to the County Treasurer therewith the amount of tax due under the applicable provisions of this ordinance. Failure to remit such tax by the deadline for filing the return required by Sec. C-3 shall cause such tax to become delinquent.

(B) A penalty of 10 percent of the tax may be imposed upon the failure to file an application for a license or the failure to pay the required tax by the appropriate due dates set forth in this ordinance. Only the late filing penalty shall be imposed by the Commissioner of the Revenue if both the application and tax payment are late; however, both penalties may be assessed if the Commissioner of the Revenue determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the Commissioner of Revenue, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud or reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the Commissioner of Revenue is not paid within 30 days, the County Treasurer may impose a 10 percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the County Treasurer. In

order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his or her control.

“Acted responsibly” means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

“Events beyond the taxpayer’s control” include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer’s reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer’s business when he provided the erroneous information.

(C) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the Commissioner of Revenue is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. However, no interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later. Interest charged on any late payment or paid on any refund shall be calculated at the same rate charged under Virginia Code § 58.1-3916. No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year.

(D) The County Treasurer and the Commissioner of Revenue shall reconcile their records monthly concerning the identities of taxpayers, amounts received, outstanding taxes due, and, if applicable, any arrangements made by the County Treasurer for payment of delinquent taxes.

**Sec. C-5. - Procedure when coal producer or person engaged in the business of severing oil or gas from the earth fails to make return or makes incorrect or false return.**

In the event any coal producer or person engaged in the business of severing oil or gas from the earth fails to make a return as provided by this ordinance, the Commissioner of Revenue shall give such coal producer or such person 10 days’ notice in writing requiring such coal producer or such person to appear before him, with such books, records, and papers as the Commissioner of Revenue may require relating to the business of such coal producer or such person for such taxable period, and the Commissioner of Revenue may require such coal producer or such person or the agents and employees of such coal producer or such person to give testimony or to answer interrogatories under oath respecting such mining or extracting of coal, oil, or gas or the failure to make a return thereof as provided in this ordinance. If, after being provided with the opportunity to supply such information, such coal producer or such person still fails to make a return or refuses to permit an examination of his or its books, records, or papers, or to appear and answer questions within the scope of such investigation, the Commissioner of Revenue is hereby authorized to make an estimate of gross receipts for all such coal, oil, or gas severed by or at the direction of such coal producer or such person and to assess the appropriate tax, plus penalties and interest in accordance with Sec. C-4, based upon such information as may be available to him. The County Treasurer may issue a warrant for the collection of any such taxes and penalties so found to be due. The assessment so made shall be deemed prima facie correct. In addition, the Commissioner of Revenue

may, upon reasonable notice, assess taxes for such mining operation against any other person liable for the tax.

**Sec. C-6. - Procedure when coal producer or person engaged in the business of severing oil or gas from the earth ceases operations.**

If the holder of a license issued under this ordinance ceases to conduct a mining operation, the license shall thereupon expire, and such license holder shall inform the Commissioner of Revenue in writing within 30 days thereafter that he has ceased to conduct such mining operation. A copy of such report, upon receipt thereof, shall be forwarded to the County Treasurer.

**Sec. C-7. - Maintenance of Records.**

(A) Every person who is assessable with a license tax under this ordinance or who is a common carrier of coal, oil, or gas shall keep sufficient records, including, but not limited to, records showing the source and quantity of, and gross receipts from, the coal, oil, and gas which he has produced or transported, or for which he has received some economic benefit, to enable the Commissioner of Revenue to verify the correctness of the tax paid for the license months or years assessable and to enable the Commissioner of Revenue to ascertain what is the correct amount of tax that was assessable for each of those months or years. All such records, books of accounts, and other information shall be open to inspection and examination by the Commissioner of Revenue in order to allow the Commissioner of Revenue to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the County. The Commissioner of Revenue shall provide such persons with the option to conduct the audit in such person's local business office within the County, if the records are maintained there. In the event the records are maintained outside the County, copies of the appropriate books and records shall be sent to the Commissioner's office upon demand.

(B) Any common carrier involved in the transportation of coal, oil, or gas within or from the County shall submit, upon request, to the Commissioner of Revenue records showing the source and quantity of, and, if purchased, the price paid for, all coal, oil, or gases which the common carrier acquired or transported during the applicable time periods. This information may be made available to any other political subdivision in which the coal, oil, or gas may have been severed.

**Sec. C-8. - Distribution of taxes collected.**

The taxes collected pursuant to this ordinance shall be paid and distributed as provided by Virginia law. Any taxes not distributed according to specific provisions of law shall be paid into the general fund of the County. In the event that a taxpayer is issued a refund of severance license taxes paid pursuant to this ordinance, the recipients of the revenue from such severance license taxes shall be proportionately liable for such refund based on their respective percentages of the original distribution of such revenue. The County Treasurer is hereby authorized to offset such liability for any such refund against any future distribution of severance license tax revenues paid pursuant to this ordinance.

**Sec. C-9. - Coal and Gas Road Improvement Advisory Committee generally.**

Pursuant to Virginia Code § 58.1-3713, there is hereby established a Coal and Gas Road Improvement Advisory Committee to be composed of four (4) members as follows: A member of the Board of Supervisors of the County appointed by the Board of Supervisors; a representative of the Virginia Department of Transportation; and two (2) citizens of the County connected with the coal and gas industries and to be appointed for a term of four years by the chief judge of the circuit court.

**Sec. C-10. - Coal and gas road improvement plans.**

Pursuant to Virginia Code § 58.1-3713, the Coal and Gas Road Improvement Advisory Committee shall develop, on or before July first of each year, a plan for improvement of roads during the following fiscal year. Such plan must have the approval of three

members of the committee and shall be submitted to the Board of Supervisors of the County for approval. The Board of Supervisors may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

**Sec. C-11. - Use of County funds for coal and gas road improvements in towns or city.**

The Board of Supervisors may, in its discretion, and when permitted by applicable state law, elect to improve city and town roads with its funds, if consent of the city or town council is obtained.

**Sec. C-12. - Violations and penalties.**

(A) The following persons shall be guilty of a Class 1 misdemeanor:

(1) Any person who engages in the business of severing coal, oil, or gas from the earth in this County without first obtaining a license or after a license has been suspended or revoked.

(2) Each officer or director of a corporation that engages in the business of severing coal, oil, or gas from the earth in this County without first obtaining a license or after a license has been suspended or revoked, provided that such officer or director had actual or constructive knowledge that the corporation was engaging in the business of severing coal, oil, or gas from the earth in this County without first obtaining a license or after a license had been suspended or revoked.

(3) Each shareholder of a closely-held corporation that engages in the business of severing coal, oil, or gas from the earth in this County without first obtaining a license or after a license has been suspended or revoked, provided that such shareholder had actual or constructive knowledge that the corporation was engaging in the business of severing coal, oil, or gas from the earth in this County without first obtaining a license or after a license had been suspended or revoked.

(4) Any person who violates any provision of this ordinance.

Each day of violation shall constitute a separate offense. No person shall be convicted under the provisions of subsections (2) and (3) of this section who shall have objected to the conduct of the mining operation in writing to the president or secretary of such corporation and forwarded a copy of this objection to the Commissioner of the Revenue.

(B) It shall be unlawful for any person:

(1) To fail to keep the records required by this ordinance or fail to make such records available as herein required; or

(2) Willfully to fail to pay, collect, or truthfully account for and pay any license tax herein imposed; or

(3) Willfully to attempt in any manner to evade or defeat any such license tax or the payment thereof.

Each day of violation shall constitute a separate offense.

(C) Violations under this section shall be Class 1 misdemeanors, and shall be punishable by a fine not to exceed \$2,500.00 for each day of violation and confinement in the County jail for not more than twelve (12) months, either or both in the discretion of the court or jury trying the case. Conviction of a second offense under this section shall, in addition to a fine not to exceed \$2,500.00, require confinement in the County jail for not less than ten (10) days nor more than twelve (12) months.

(D) Any penalty imposed for violation of this section shall be in addition to the civil remedies or penalties provided for by law.



### **Sec. C-13. - Limitations and extensions of assessments and collections of tax.**

(A) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this ordinance, both the Commissioner of Revenue and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(B) Notwithstanding Virginia Code § 58.1-3903, the Commissioner of Revenue shall assess the license tax omitted because of fraud or failure to apply for a license for the current license tax year and the six preceding license tax years.

(C) The period for collecting any local license tax shall not expire prior to the period specified in Virginia Code § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to subsections (B) or (D) of Sec. C-14, or two years after the final decision in a court application pursuant to Virginia Code § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

### **Sec. C-14. - Administrative appeals to the Commissioner of Revenue.**

(A) Definitions for purposes of this section:

*“Amount in dispute”* when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

*“Appealable event”* means an increase in the assessment of a license tax payable by a taxpayer, the denial of a refund, or the assessment of a license tax where none previously was assessed, arising out of the Commissioner of Revenue’s (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

*“Frivolous”* means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

*“Jeopardized by delay”* means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the County; (ii) remove his property from the County; (iii) conceal himself or his property in the County; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(B) *Filing and contents of administrative appeal.* Any person assessed with a license tax as a result of an appealable event as defined in this section may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the Commissioner of the Revenue. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer’s contention. The Commissioner of Revenue may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional

information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The Commissioner of Revenue shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

(C) *Notice of right of appeal and procedures.* Every assessment made by the Commissioner of Revenue pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the County, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for the filing of an appeal.

(D) *Suspension of collection activity during appeal.* Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the Commissioner of Revenue, unless the County Treasurer (i) determines that collection would be jeopardized by delay as defined in subsection (A) of this section; (ii) is advised by the Commissioner of Revenue that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Commissioner of Revenue that the appeal is frivolous as defined in subsection (A) of this section. Interest shall accrue in accordance with the provisions of subsection (C) of Sec. C-4, but no further penalty shall be imposed while the collection action is suspended.

(F) *Procedure in event of nondecision.* Any taxpayer whose administrative appeal to the Commissioner of Revenue pursuant to the provisions of this section has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the Commissioner of Revenue, elect to treat the appeal as denied and appeal the assessment to the Tax Commissioner in accordance with the provisions of Sec. C-15. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this ordinance if he finds that the absence of a final determination on the part of the Commissioner of Revenue was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the Commissioner of Revenue to make his determination.

#### **Sec. C-15. - Administrative appeal to the Tax Commissioner.**

(A) Any person assessed with a local license tax as a result of a determination, upon an administrative appeal to the Commissioner of Revenue pursuant to Sec. C-14, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment to the Tax Commissioner within 90 days of the date of the determination by the Commissioner of Revenue. The appeal shall be in such form as the Tax Commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the Commissioner of Revenue. The Tax Commissioner shall permit the Commissioner of Revenue to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the Taxpayer's application, unless the taxpayer and the Commissioner of Revenue are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to Virginia Code § 58.1-1821, and the Tax Commissioner may issue an order correcting such assessment pursuant to Virginia Code § 58.1-1822.

(B) *Suspension of collection activity during appeal.* On receipt of a notice of intent to file an appeal to the Tax Commissioner pursuant to the provisions of subsection (A) of this section, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the Tax Commissioner, unless the County Treasurer (i) determines that collection would be jeopardized by delay as defined in subsection (A) of Sec. C-14; (ii) is advised by the Commissioner of Revenue, or the Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the Commissioner of Revenue that the appeal is frivolous as defined in subsection (A) of Sec. C-14. Interest shall accrue in accordance with the provisions of subsection (C) of Sec. C-4, but no further penalty

shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to the provisions of subsection (A) of this section is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(C) *Implementation of determination of Tax Commissioner.* Promptly upon receipt of the final determination of the Tax Commissioner with respect to an appeal pursuant to the provisions of subsection (A) of this section, the Commissioner of Revenue shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer and to the County Treasurer in accordance with the provisions of this ordinance.

(1) If the determination of the Tax Commissioner sets forth a specific amount of tax due, the Commissioner of Revenue shall certify the amount to the County Treasurer and the County Treasurer shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this ordinance, within 30 days of the date of the determination of the Tax Commissioner.

(2) If the determination of the Tax Commissioner sets forth a specific amount of refund due, the Commissioner of Revenue shall certify the amount to the County Treasurer and the County Treasurer shall issue a payment to the taxpayer for such amount due together with interest accrued pursuant to this ordinance, within 30 days of the date of the determination of the Tax Commissioner.

(3) If the determination of the Tax Commissioner does not set forth a specific amount of tax due, or otherwise requires the Commissioner of Revenue to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the Commissioner of Revenue shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Commissioner of Revenue shall certify the new assessment to the County Treasurer and the County Treasurer shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any as authorized by this ordinance, within 30 days of the date of the new assessment.

(4) If the determination of the Tax Commissioner does not set forth a specific amount of refund due, or otherwise requires the Commissioner of Revenue to undertake a new or revised assessment that will result in an obligation on the part of the locality to make a refund of taxes previously paid, the Commissioner of Revenue shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The Commissioner of Revenue shall certify the new assessment to the County Treasurer and the County Treasurer shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment.

#### **Sec. C-16. - Judicial review of determination of the Tax Commissioner.**

(A) *Judicial review.* Following the issuance of a final determination of the Tax Commissioner pursuant to subsection (A) of Sec. C-15, the taxpayer or Commissioner of the Revenue may apply to the Circuit Court in the County for judicial review of the determination, or any part thereof, pursuant to Virginia Code § 58.1-3984. In any such proceeding for judicial review of a determination of the Tax Commissioner, the burden shall be on the party challenging the determination of the Tax Commissioner, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be

made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

*(B) Suspension of payment of disputed amount of tax due upon taxpayer's notice intent to initiate judicial review.*

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to Virginia Code § 58.1-3984, of a determination of the Tax Commissioner pursuant to subsection (A) of Sec. C-15 and upon payment of the amount of the tax that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the County Treasurer shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determined that (i) the taxpayer's application for judicial review is frivolous, as defined in subsection (A) of Sec. C-14; (ii) collection would be jeopardized by delay, as defined in subsection (A) of Sec. C-14; or (iii) suspension of collection would cause substantial economic hardship to the County. For purposes of determining whether substantial economic hardship to the County would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the County by different taxpayers that allege common claims or theories of relief.

(2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the County, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

(3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute.

(4) The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Virginia Code § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(5) The suspension of collection activity authorized by this section shall not be applicable to any appeal of a license tax that is initiated by the direct filing of an action pursuant to Virginia Code § 58.1-3984 without prior exhaustion of the appeals provided by Sec. C-14 and Sec. C-15.

*(C) Suspension of payment of disputed amount of refund due upon the County's notice of intent to initiate judicial review.*

(1) Payment of any refund determined to be due pursuant to the determination of the Tax Commissioner of an appeal pursuant to subsection (A) of Sec. C-15 shall be suspended if the County serves upon the taxpayer, within 60 days of the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to Virginia Code § 58.1-3984 and pays the amount of the refund not in dispute including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the County's application for judicial review is frivolous, as defined in subsection (A) of Sec. c-14.

(2) No suspension of refund activity shall be permitted if the County's application for judicial review fails to identify with particularity the amount in dispute.

(3) The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to Virginia Code § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(D) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of subsection (C) of Sec. C-4, but no further penalty shall be imposed while collection action is suspended.

**Sec. C-17. - Rulings.**

Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a license tax to a specific situation from the Commissioner of Revenue. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issues. A written ruling may be revoked or amended prospectively if (1) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (2) the Commissioner of Revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

**Sec. C-18. - Audits.**

The Commissioner of Revenue is authorized to perform any audits in connection with his duty to assess the taxes levied by this ordinance that, in his discretion, are necessary to enable him to verify the correctness of the tax paid for the license months or years assessable and to enable him to ascertain what is the correct amount of tax that was assessable for each of those months or years.

**Sec. C-19 - Severability.**

In the event any provisions of this ordinance or any part, section, subsection, sentence, definition or phrase thereof should be held unconstitutional or otherwise void or invalid on any ground, such provision, part, section, subsection, sentence, or phrase shall be deemed severable and the remainder of this ordinance shall remain in full force and effect.

**Sec. C-20. - Uniform Provisions of Virginia Code § 58.1-3703.1.**

It is the intention of this ordinance to include the uniform ordinance provisions of § 58.1-3703.1, with the exception of subdivisions A1 and A3 of such section. To the extent that any provision of this ordinance is in conflict with the provisions of § 58.1-3703.1 or this ordinance fails to recite or contain provisions substantially similar to those set forth in § 58.1-3703.1, (with the exception of subdivisions A1 and A3 of such section), such provisions of § 58.1-3703.1 are incorporated herein by reference and shall take precedence over any conflicting provisions in this ordinance.

**Sec. C-21. – Agreements with Taxpayers.**

No provision of this ordinance shall be construed or interpreted to change or affect, invalidate, or interfere with any agreement regarding coal, gas, or oil severance license taxes entered into between a taxpayer and the Commissioner of Revenue or other local assessing official of the County.

**Secs. C-22 - C-25. - Reserved.**

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**PROPOSED BUDGET FOR FISCAL YEAR 2013-14**

The Lee County Board of Supervisors held a Public Hearing on the proposed County Budget at 5:00 p.m. on June 18, 2013 in the General District Courtroom of the Lee County

Courthouse in Jonesville, Virginia. Any citizen of the County is welcome to attend and state their views on this proposed budget.

This summary is prepared and published for information and fiscal planning purposes only. Please be aware that inclusion in the Budget of any item does not constitute an obligation or commitment on the part of the Board of Supervisors of Lee County to appropriate any funds for the item or purpose. A Budget for the Fiscal Year commencing July 1, 2013 will be adopted by the Lee County Board of Supervisors no later than June 30, 2013.

**GENERAL COUNTY FUND**  
**ESTIMATED EXPENDITURE**

GENERAL GOVERNMENTAL ADMINISTRATION:

Legislative	146,162
Water & Sewer-Prison	1,118,508
General/Financial Administration	303,642
Legal Services	33,640
Auditing	63,500
Commissioner of the Revenue	332,322
Treasurer	265,142
Board of Elections	184,531
Central Garage	133,731

JUDICIAL ADMINISTRATION:

Courts	645,570
Commonwealth's Attorney	436,440

PUBLIC SAFETY:

Law Enforcement and Traffic Control	3,558,723
Fire and Rescue Services	334,334
Enhanced 911	357,305
Inspections	111,760
Other Protections	240,606
Roads	500

HEALTH AND WELFARE	395,890
EDUCATION-MTN. EMPIRE COMM. COLLEGE	18,700
PARKS, RECREATION, AND TOURISM	83,133
LIBRARY	222,082
COMMUNITY DEVELOPMENT AND PLANNING	267,215
EXTENSION OFFICE	53,111
MAINTENANCE OF BUILDINGS	285,036
DANIEL BOONE SOIL & WATER/RC&D PROGRAM	30,700
MISCELLANEOUS AND CONTINGENCY	50,000

**SUBTOTAL, GENERAL COUNTY FUND EXPENDITURE** 9,672,283

CAPITAL PROJECTS	1,990,000
SOLID WASTE MANAGEMENT	1,592,875

TRANSFERS:

Debt Service	118,290
Local Share - School Fund	4,459,116
Local Share - Public Assistance/Social Services	1,077,062

**GRAND TOTAL GENERAL COUNTY FUND** 18,909,626

PUBLIC SERVICES:

Estimated Social Services Expenditures-State Share	5,978,599
Estimated Headstart Expenditures - Federal	1,353,299

Estimated School Expenditures-Federal, State, & Other	33,039,480
<b>GRAND TOTAL ALL FUND EXPENDITURES</b>	<b>59,281,004</b>
<b><u>GENERAL COUNTY FUND</u></b>	
<b><u>SOURCE OF REVENUE</u></b>	
REAL PROPERTY TAX:	
Current Real Estate Taxes	5,150,000
Delinquent Real Estate Taxes	180,000
Land Redemption	100,000
Mineral Under Development	7,500
PUBLIC SERVICE CORPORATION	440,000
PERSONAL PROPERTY TAX:	
Current Taxes	1,525,000
Delinquent Taxes	71,500
PPTRA Reimbursement	798,646
MOBILE HOME TAX:	
Current Taxes	72,000
Delinquent Taxes	8,300
MACHINERY AND TOOLS	651,500
MERCHANTS CAPITAL	78,000
BUSINESS PROPERTY	225,000
PENALTY AND INTEREST	250,000
SALES TAX	1,295,000
BANK FRANCHISE	28,000
MOTOR VEHICLE TAX	543,500
TAX ON WILLS	2,000
AMUSEMENT TAX	300
HOTEL/MOTEL TAX	2,100
COAL SEVERANCE TAX	90,000
OIL AND GAS SEVERANCE TAX	8,000
ANIMAL LICENSES	1,000
TRANSFER FEES	700
BUILDING PERMITS	14,000
COURT FINES-LOCAL	3,000
RENT-BUILDING	56,136
INTEREST AND EARNINGS	38,000
COMMONWEALTH'S ATTORNEY FEES	2,500
SHERIFF'S FEES	3,800
COURTHOUSE MAINTENANCE FEES	5,500
COURTHOUSE SECURITY FEES	28,000
SALE OF MAPS, SURVEYS	500
ZONING FEES	4,200
CONTRACTOR'S LICENSE FEES	5,800
WATER & SEWER FEES	1,180,820
MISCELLANEOUS REVENUES	148,500
PAYMENT IN LIEU OF TAXES	153,000
MOBILE HOMES TITLING	85,000
ROLLING STOCK	101,000
RECORDATION FEES	25,038
COMMONWEALTH'S ATTORNEY EXP.	377,306
SHERIFF EXP.	1,402,203
VICTIM/WITNESS ADVOCATE GRANT	49,446
DOMESTIC VIOLENCE GRANT	36,056
REGISTRAR EXP.	34,250
COMMISSIONER OF REVENUE EXP.	113,039
TREASURER EXP.	86,709

ELECTORAL BOARD	5,764
CLERK EXPENSES	293,301
UTILITY TAX	453,000
STATE TELECOMMUNICATIONS TAX	460,000
EMERGENCY SERVICES	80,000
CLERK'S FEES	69,000
RENTAL TAX	1,400
OTHER CATEGORICAL AID	10,000
TIPPING FEES	140,000
REIMBURSEMENTS	145,900
<b>TOTAL GENERAL FUND REVENUE</b>	<b>17,140,214</b>
PUBLIC ASSISTANCE-SOCIAL SERVICES	5,978,599
SCHOOL FUND REVENUES (FEDERAL,STATE,OTHER)	33,039,480
HEADSTART	1,353,299
MISCELLANEOUS PROJECT GRANTS	311,830
RURAL DEVELOPMENT LOAN	
PROCEEDS	1,300,000
TRANSFER FROM RESERVE	157,582
<b>GRAND TOTAL ALL REVENUES</b>	<b>59,281,004</b>

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The Chairman opened the floor for public comment.

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Don Williams, Lee County School Board, stated that he realizes the Board of Supervisors have a tough job, and that the School Board is appreciative of the money the Board has given, but it does not ease the School Board's budget problems one bit. He stated that the extra money given will be going toward raises, and the top people will get big raises while the bottom people get little. He stated that he has been approached by nurses that were recently laid off from the hospital and mechanics that were recently laid off from B.J. Motor Company, wanting jobs with the school system. He added that the Boards need to work together to figure something out.

-----

Mr. Bailey asked if the School Board had considered a freeze on the top salaries at the Central Office.

-----

Mr. Williams stated that was a good possibility, but it cannot be put into place before this 2% raise.

-----

Mr. Mosley stated that the School Board just gave the highest paid people 3 days off for the 4th of July, and that costs since those people could have used vacation days which only postpones payments. He stated this allowed them to carry accrued leave time which must be paid upon retirement.

-----

Mr. Williams stated that he has also been bitter over that situation of people taking days off and not being accountable. He stated that the current Board has made progress.



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Mark Carter, School Superintendant, thanked the Board for funding the raises for the non-SOQ positions. He stated that it still does not eliminate short falls for this coming year. The School System has lost \$7,600,000.00 over the past 5 years, during that time the budget has been cut every item that could be cut, and the School Board is working to absorb as many positions as it can. He added that without the help of the Board of Supervisors the School Board would have no choice but to cut positions.

-----  
Mr. Mosley asked if the Board of Supervisors gave \$1,500,000.00 this year, how much would be requested next year.

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Mr. Carter stated that he could not answer that question, if the state and local revenue doesn't increase it could possibly happen again next year.

-----  
Mr. Mosley asked if they had considered going to a 4 day school week.

-----  
Mr. Carter stated that they did look into that and talked to the School systems that had the 4 day weeks, and they are no longer doing that.

-----  
Denise Lambert, Finance Director, stated that this was by far one of the most difficult budgets the School Board has been through. She thanked the Board for the funding they gave, but stated that it does not make up for the funding that was lost. She added that the School Board also has difficulty recruiting new positions because of the salary scale; young teachers are going to other localities that can pay more. She commended the Board of Supervisors for being able to build a reserve fund, and encouraged them to use it to invest in the School System.

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Robin Marcum, Teacher, thanked the Board for funding the 2% salary increase, and stated that teachers work hard, and deserve more than they are getting.

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Sandra Johnson, Lee County Education Association President, stated that she had been talking with other teachers and they do not want to lose their jobs, or support staff. She added that if there were any way possible for the Board to give more it would be appreciated.

-----  
Debbie Jessee, School Board, thanked the Board for the extra money they gave, and stated that any extra time off for twelve-month employees is also given to the secretaries and custodians that do not have high salaries, and that the 4-day week would only save about 5%. She added that anyone going into the Central Office now would be doing so at a reduced salary to help meet the short fall. She added that the School Board has aging buildings and aging buses and asked the Board to consider what type of School System they want for the children.

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Lawrence Freeman, Stickleyville, stated that the School Board makes up 55% of the County's total budget, three schools have closed, teaching positions were eliminated, and everyone wants a raise. The question that the communities are asking is, with all of this, can we keep raising the School Board's budget.

---

Mr. Crabtree stated that the last five years the School Board has been cut \$7,600,000.00, and asked Mr. Carter how that breaks down.

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Mr. Carter stated that state funding was cut \$6,539,123.00, federal funding was cut \$704,813.00 and local required effort was cut \$354,604.00 for a total of \$7,598,540.00.

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Mr. Crabtree stated that the School Board gets money based on the number of students. He added that he understands that there is some staff that cannot be cut but it seems like the majority of their budget goes to salaries. He added that if the Board decided to give what the School Board needs, it could result in a tax increase.

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Mr. Poe stated that it would take a 35% increase in taxes.

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Mr. Crabtree stated that if you look at it that way, we are not fixing the problem.

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Mr. Slempp asked how many more students there are this year.

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Mr. Carter stated that the projection for students this year is 3,150 and there were 3,184 last year.

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Mr. Crabtree stated that the School Board voted to close schools to save money, which was about \$60,000.00 a year, the lottery money was supposed to go to education, and the tax payer's back is broke.

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Mr. Slempp asked how many students came back out of the 145 that left the county.

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Mr. Carter stated that only one family that he knows of returned.

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Mr. Bailey stated that the School Board lost almost \$1,000,000.00 by closing 3 schools. He asked why teachers did not receive step raises when there was healthy money coming in, and why keep hiring more teachers when you cannot take care of the ones they have.

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Ms. Lambert stated that there was not funding for the step raises, and that ARRA funds were used in order to keep 20 to 30 teachers, and if the ARRA funds had of been used to fund the salaries there would have been a big lay off when the funds ran out.

---

Mr. Bailey stated that in order to give the School Board what they fully need, the County reserve would only last 3 years. It is important to have a healthy School System, but we cannot fund what is cut in State and Federal funding. There is no way the County can afford \$2,200,000.00.

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Mr. Mosley stated he would like to see the numbers on the absolute lowest amount the School Board can get by with, and what measures they will take to make changes.

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Mr. Carter stated that the Schools are working on that right now, and he would hate to see the School Board have to eliminate positions or lay off support staff.

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There was no further public comment on this matter.

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The Chairman closed the floor for public comment.

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## **CONSTITUTIONAL OFFICERS**

### **TREASURER'S REPORT**

The Treasurer's Report for the month of May 2013 was submitted as follows:

Revenues	\$ 4,580,542.15
Expenditures	\$ 4,989,267.85
General Fund	\$ 12,240,933.34
Total Assets and Liabilities	\$ 17,905,989.90

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### **PUBLIC EXPRESSION**

The Chairman opened the floor for public comment and advised that each speaker would be limited to a three minute time period for individuals, five minutes for a group.

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Richard Shuler, Dryden, commended the Sheriff's Department on the trash pickups, and the Convenience Center workers for keeping the sites cleaned. He stated concerns that items are being dumped at the centers that should be taken to the Transfer Station, and suggested cameras being installed. He added that he had spoken with Litter Control in Wise County and they are finding illegal dumpsites and trails cannot be constructed and that will hurt tourism. Something needs to be done about the trash laws in the County.

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**APPROVAL OF MINUTES**

It was moved by Mr. Bailey, seconded by Mr. Mosley, to approve the minutes of the May 21, 2013 Regular Meeting, and the May 29, 2013 Recessed Meeting. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**PAYROLL**

The County Administrator reports that payroll warrants have been issued.

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**APPROVAL OF DISBURSEMENTS**

It was moved by Mr. Bailey, seconded by Ms. Rowe, to approve the disbursements for the month of June in the amount of \$146,326.00. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**DELEGATIONS**

**FRIENDS OF SOUTHWEST VIRGINIA HEARTWOOD  
BUDGET PRESENTATION  
DIANA BLACKBURN**

Todd Christensen, Southwest Virginia Cultural Heritage Foundation, presented a power point presentation on the outdoor recreation activities in Southwest Virginia. He added that this region has some of the greatest natural and outdoor recreation assets in the world. He stated that the Foundation is working to connect to the community, adding that 918,000 people went through Cumberland Gap last year.

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Diana Blackburn, Round the Mountain, stated that Round the Mountain is responsible for evaluating the crafts, and that Lee County artisans have had \$3,700.00 in craft sales. She added that right now their biggest project is the development of the Artisan Trails, brochures, and rack card. 10,000 rack cards have been sent to Lee County for disbursement.

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Jack Hinslewood, Crooked Road, stated that we live in the most musical area, and have living breathing musical culture. Mr. Hinslewood stated that the Crooked Road has had a sampler CD on sale with various artisans from the area, which has created \$9,000.00 in royalties. He added that the Crooked Road provides opportunities to schools for the students, and have had a lot of youth music programs so that they can perform in a professional setting. The Crooked Road website is under development and that will help better highlight what is available in the area.

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It was the consensus of the Board to take a 5-minute recess.

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The Chairman called the meeting back to order.  
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**SUPPLEMENTAL APPROPRIATIONS**

Mr. Poe stated that there are changes to the Supplemental Appropriations because the total exceeds \$500,000.00. On page one delete the \$15,000.00 and on page three delete the \$2,544.37, and that will reduce the total to \$499,672.60

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**BOARD OF SUPERVISORS**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$25,000.00 to Fund 001, Miscellaneous, Line Item 4-001-11010-5899. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp  
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**DELINQUENT TAX COLLECTION**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$1,235.00 to Fund 001, Delinquent Tax Collection, Line Item 4-001-12230-3150. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp  
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**SHERIFF DEPARTMENT**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$1,308.48 to Fund 001, Drug Task Force Overtime Grant, Line Item 4-001-31200-1145. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp  
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**SHERIFF DEPARTMENT**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$100.09 to Fund 001, Drug Task Force Fringes, Line Item 4-001-31200-2110. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp  
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**SHERIFF DEPARTMENT**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$2,194.80 to Fund 001, DMV Overtime Grants, Line Item 4-001-31200-1345. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**SHERIFF DEPARTMENT**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$4,230.00 to Fund 001, Donation Fund Expense, Line Item 4-001-31200-5899. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**COURTROOM SECURITY**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$10,987.50 to Fund 001, Salaries, Line Item 4-001-31200-1140. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**SHERIFF DEPARTMENT**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$830.00 to Fund 001, Fica, Line Item 4-001-31200-2100. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**E-911 IMPLEMENTATION**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$6,000.00 to Fund 001, Mapping and Addressing, Line Item 4-001-31400-3160. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**E-911 IMPLEMENTATION**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$4,277.88 to Fund 001, Signage, Line Item 4-001-31400-3170. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**E-911 IMPLEMENTATION**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$1,415.40 to Fund 001, Equipment, Line Item 4-001-31400-3180. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**FIRE AND RESCUE SERVICES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$30,000.00 to Fund 001, Payments to Fire Departments, Line Item 4-001-32100-5460. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**FIRE AND RESCUE SERVICES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$46,479.56 to Fund 001, Fire Programs Funds, Line Item 4-001-32100-5641. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**EMERGENCY SERVICES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$30,000.00 to Fund 001, Payments to Rescue Squads, Line Item 4-001-32300-5642. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**GENERAL EXPENSES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$1,585.74 to Fund 001, General Expenses, Line Item 4-001-91500-5840. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**MISCELLANEOUS EXPENSES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$51.47 to Fund 001, Building Fund Expenses & Refunds, Line Item 4-001-92100-5870. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**DEPARTMENT OF SOCIAL SERVICES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$1,000.00 to Fund 002, Auxiliary Grants, Line Item 4-002-53100-0004. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**DEPARTMENT OF SOCIAL SERVICES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$78,000.00 to Fund 002, Adoption Subsidy, Line Item 4-002-53100-0012. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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### **DEPARTMENT OF SOCIAL SERVICES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$10,000.00 to Fund 002, View Purchase, Line Item 4-002-53100-0253. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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### **HEADSTART**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$142,875.27 to Fund 024, Disbursements Head Start, Line Item 4-024-62170-5860. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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### **IMAGINATION LIBRARY**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$5,000.00 to Fund 25, Imagination Library Expenses, Line Item 4-025-61322-6020. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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### **COAL ROAD IMPROVEMENT**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$223.95 to Fund 027, Gas Severance Tax Disbursements, Line Item 4-027-95100-5860. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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### **AIRPORT EXPENDITURES**

It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$37,290.72 to Fund 051, Perimeter Fence, Line Item 4-051-94100-8116. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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### **AIRPORT EXPENDITURES**



It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve a supplemental appropriation in the amount of \$59,586.74 to Fund 051, Taxiway Connectors, Line Item 4-051-94100-8135. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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### **BUDGET TRANSFERS**

It was moved by Mr. Bailey, seconded by Mr. Mosley, to the following Budget Transfer. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

From:	
Line Item 4-001-91400-5840	\$34,813.05
To:	
Line Item 4-001-12510-4100	\$ 11,300.94
Line Item 4-001-12510-8107	\$ 7,986.44
Line Item 4-001-21100-3160	\$ 1,680.00
Line Item 4-001-32100-5308	\$ 12,813.76
Line Item 4-001-33100-3170	\$ 1,031.91

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### **NEW BUSINESS**

#### **BOARD APPOINTMENTS**

##### **LONESOME PINE OFFICES ON YOUTH**

It was moved by Mr. Crabtree, seconded by Ms. Rowe, to the table this appointment. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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##### **LENOWISCO PDC**

It was moved by Mr. Mosley to appoint Carl Bailey to the Lenowisco PDC.

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Ms. Rowe asked if this was allowed.

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It was consensus of the Board for Mr. Poe to check into the policy and take this matter up at the next meeting.

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##### **LONESOME PINE REGIONAL LIBRARY**

It was moved by Ms. Rowe, seconded by Mr. Slemp, to appoint Ruth Gilliam to a four year term the Lonesome Pine Regional Library Board. Ms. Gilliam's term will expire June 30, 2017. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Ms. Rowe, Mr. Slemp  
VOTING NO: Mr. Mosley

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**MOUNTAIN EMPIRE REGIONAL BUSINESS INCUBATOR**

It was moved by Mr. Crabtree, seconded by Ms. Rowe, to the table this appointment. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**SIX YEAR SECONDARY PLAN APPROVAL**

It was moved by Mr. Bailey, seconded by Mr. Slemp, to approve Resolution 13-019, Six Year Secondary Plan. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**RESOLUTION  
SECONDARY SIX-YEAR ROAD PLAN  
13-019**

**WHEREAS**, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan; and

**WHEREAS**, this Board had previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2013/14 through 2018/19) as well as the Construction Priority List (2013/14) on June 18, 2013, after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and

**WHEREAS**, Allen Sumpter, Wise Residency Administrator, Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (2013/14 through 2018/19) and the Construction Priority List (2013/14) for Lee County, Virginia;

**NOW, THEREFORE, BE IT RESOLVED**, that since said Plan appears to be in the best interests of the Secondary Road System in Lee County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2013/14 through 2018/19) and Construction Priority List (2013/14) are hereby approved as presented at the public hearing.

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**FISCAL AGENT CHANGE FOR PLANNING DISTRICT ONE**

Mr. Poe explained that Wise County is currently serving as fiscal agent for Planning District One. The agency is allowed to serve as their own agent, but they need approval by participating localities to do so.

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It was moved by Ms. Rowe, seconded by Mr. Crabtree, to approve Resolution 13-012, Change in Fiscal Agent for Planning District One Behavioral Health Services. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**RESOLUTION  
13-012**

**Change in Fiscal Agent for Planning District One Behavioral Health Services**

*WHEREAS*, section 37.2-504 Subsection A. 18 of the Code of Virginia states that *In the case of operating boards, have authority, notwithstanding any provision of law to the contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent, when authorized to do so by the governing body of each city or county that established it; and*

*WHEREAS*, the Counties of Lee, Scott, and Wise, and the City of Norton, have joined together to establish the Planning District One Behavioral Health Services; and

*WHEREAS*, Wise County currently acts as Fiscal Agent for Planning District One Behavioral Health Services; and

*WHEREAS*, Planning District One Behavioral Health Services Board is requesting approval from the governing bodies of Lee, Wise, Scott Counties and the City of Norton to act as its own fiscal agent.

*NOW, THEREFORE, BE IT RESOLVED* that the Lee County Board of Supervisors hereby approves the Planning District One Behavioral Health Services' request to act as its own fiscal agent.

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**COMMUNITY GROUP PROPOSAL FOR CLOSED SCHOOL BUILDINGS**

Mr. Poe explained that there are two community groups that would like to take over the closed school buildings. The Sticklelyville group is asking the Board to transfer the property over to that group for the purposes of community use. The Keokee group would like for the Board to include them in any decisions made on that property.

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Ms. Rowe stated that she thought an agreement was going to be drawn up for these groups.

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Mr. Callahan stated that he has not done anything on that yet, and asked what the Board wanted.

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Ms. Rowe stated there needs to be a legal document for each group.

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Mr. Callahan stated that at the previous meeting the Sticklelyville group talked about getting corporation and tax exempt papers.

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Lawrence Freeman stated that the Sticklelyville group has not gotten all of the paperwork filed yet, but have been on the property mowing, and they would like a key to be able to get into the building to clean it up.

-----  
Mr. Poe stated that there needs to be a waiver in place.  
-----

Mr. Callahan stated that he will put two different things into the document, permission to be on the property, and a waiver of liability.  
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Mr. Poe stated that if the entire Board is ready to move forward with the transfer, you could go ahead and make a motion to hold a public hearing on the disposal of these two properties.  
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It was moved by Ms. Rowe, seconded by Mr. Mosley, to hold a public hearing at the July meeting to transfer the properties. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp  
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## **ROSE HILL PLANNING GRANT RESOLUTIONS**

Mr. Poe stated that there are five resolutions, which will need to be adopted for the Rose Hill Planning Grant. They are not actually necessary for the Planning Grant but are required for an actual grant offer to be received by the state. The Resolutions are all standard documents for every Community Development Block Grant award.  
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It was moved by Mr. Mosley, seconded by Mr. Bailey, to adopt Resolutions 13-014, 13-015, 13-016, 13-017, and 13-018 for the Rose Hill Planning Grant. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp  
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## **RESOLUTION**

### **13-014**

#### **LOCAL ANTI-DISPLACEMENT/RELOCATION PLAN**

The County of Lee will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate income dwelling unit as a direct result of activities assisted with funds provided under the *Housing and Community Development Act of 1974*, as amended. All replacement housing will be provided within three (3) years of the commencement of the demolition or rehabilitation relating to conversion.

Before obligating or expending funds that will directly result in such demolition or conversion, the County of Lee will make public and advise the state that it is undertaking such an activity and will submit to the state, in writing, information that identifies:

1. A description of the proposed assisted activity;

2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the housing needs of low- and moderate-income households in the jurisdiction.

The County of Lee will provide relocation assistance to each low/moderate-income household displaced by the demolition of housing or by the direct result of assisted activities. Such assistance shall be that provided under Section 104 (d) of the *Housing and Community Development Act of 1974*, as amended, or the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended.

The County of Lee's project includes the following activities:

- Housing rehabilitation services to eight (8) LMI residential units
- Four (4) residential structures to be demolished
- Provision of new public sewer service to as many as 45 households (with potentially 36 LMI households), via:
  - Installation of 4,700 linear feet of 8" gravity sewer line
  - Installation of 6,300 linear feet of 4" service line
  - Installation of up to 45 residential service connections
  - Installation of related appurtenances

The activities as planned will not cause any displacement from or conversion of occupiable structures. As planned, the project calls for the use of existing right-of-way or easements to be purchased or the acquisition of tracts of land that do not contain housing. The County of Lee will work with the grant management staff, engineers, project area residents, and the Department of Housing and Community Development to insure that any changes in project activities do not cause any displacement from or conversion of occupiable structures.

In all cases, an occupiable structure will be defined as a dwelling that meets local building codes or a dwelling that can be rehabilitated to meet code for \$25,000 or less.

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**RESOLUTION  
13-015**

**Fair Housing Certification**

Compliance with Title VIII of the Civil Rights Act of 1968

**Whereas**, the County of Lee has been offered and intends to accept federal funds authorized under the Housing and Community Development Act of 1974, as amended, and

**Whereas**, recipients of funding under the Act are required to take action to affirmatively further fair housing;

**Therefore**, the County of Lee agrees to take at least one action to affirmatively further fair housing each grant year, during the life of its project funded with Community Development Block Grant funds. The action taken will be selected from a list provided by the Virginia Department of Housing and Community Development.

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**RESOLUTION  
13-016**

*Required under Housing and Urban Development (HUD) Regulations (24 CFR Part 8.53(b))*

**Grievance Procedure**

The County of Lee has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Department of Housing and Urban Development's (HUD) (24 CFR 8.53(b) implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794). Section 504 states, in part, that "no otherwise qualified handicapped individual ... shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. ..."

Complaints should be addressed to: Mr. Dane Poe, Lee County Administrator, PO Box 367, Jonesville VA, (276) 346-7714, who has been designated to coordinate Section 504 compliance efforts.

1. A complaint should be filed in writing or verbally contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
2. A complaint should be filed within ten (10) days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination occurring before this grievance procedure was in place will be considered on a case-by-case basis.)
3. An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by Mr. Dane Poe, Lee County Administrator. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint. Under 24 CFR 8.53(b), the County of Lee need not process complaints from applicants for employment or from applicants for admission to housing.
4. A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by Mr. Dane Poe, Lee County Administrator, and a copy forwarded to the complainant no later than thirty (30) days after its filing.
5. The Section 504 coordinator shall maintain the files and records of the County of Lee relating to the complaints filed.
6. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within ten (10) days to Mr. Dane Poe, Lee County Administrator.

7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the Department of Housing and Urban Development. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
8. These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the County of Lee complies with Section 504 and the HUD regulations.

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**RESOLUTION  
13-017**

1. The Lee County Board of Supervisors designates as its Section 3 Business and Employment Project Area the County of Lee.
2. The Lee County Board of Supervisors, its contractors, and designated third parties shall in utilizing Community Development Block Grant (CDBG) funds utilize businesses and lower income residents of the County in carrying out all activities, to the greatest extent feasible.
3. In awarding contracts for construction, non-construction, materials, and supplies, the County of Lee, its contractors, and designated third parties shall take the following steps to utilize businesses which are located in or owned in substantial part by persons residing in the County:
  - (a) The Lee County Board of Supervisors shall identify the contracts required to conduct the CDBG activities.
  - (b) The Lee County Board of Supervisors shall identify through various and appropriate sources including:
 

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the business concerns within the County which are likely to provide construction contracts, non-construction contracts, materials, and services which will be utilized in the activities funded through the CDBG.

- (c) The identified contractors and suppliers shall be included on bid lists used to obtain bids, quotes or proposals for work or procurement contracts which utilize CDBG funds.
  - (d) To the greatest extent feasible the identified business and any other project area business concerns shall be utilized in activities which are funded with CDBG funds.
4. The Lee County Board of Supervisors and its contractors and subcontractors shall take the following steps to encourage the hiring of lower income persons residing in the County:
  - (a) The Lee County Board of Supervisors, in consultation with its contractors (including design professionals), shall ascertain the types and number of positions for both trainees and employees which are likely to be used to conduct CDBG activities.
  - (b) The Lee County Board of Supervisors shall advertise through the following sources
 

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the availability of such positions with the information on how to apply.

- (c) The Lee County Board of Supervisors, its contractors, and subcontractors shall be required to maintain a record of inquiries and applications by project area residents who respond to advertisements, and shall maintain a record of the status of such inquires and applications.
  - (d) To the greatest extent feasible, the Lee County Board of Supervisors, its contractors, and subcontractors shall hire lower income project area residents in filling training and employment positions necessary for implementing activities funded by the Community Development Block Grant (CDBG).
5. In order to document compliance with the above affirmative actions and Section 3 of the *Housing and Community Development Act of 1974, as amended*, the Lee County Board of Supervisors shall keep, and obtain from its contractors and subcontractors, *Registers of Contractors, Subcontractors and Suppliers* and *Registers of Assigned Employees* for all activities funded by the CDBG. Such listings shall be completed and shall be verified by site visits and employee interviews, crosschecking of payroll reports and invoices, and through audits if necessary.

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**RESOLUTION  
13-018**

Non-Discrimination Policy

The County of Lee or any employee thereof will not discriminate against an employee or applicant for employment because of race, age, handicap, creed, religion, color, sex, or national origin. Administrative and Personnel officials will take affirmative action to insure that this policy shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and selection for training.

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**YEARY'S CHAPEL CHURCH PUMP AND HAUL PERMIT**

Mr. Poe reported that Yearly's Chapel Church has been notified by the Health Department that they do not have adequate land to install the field drain line for a typical septic system. They are requesting a pump and haul permit through the County. We typically require a \$1,000.00 bond or a bank letter of credit to cover any potential damages from failure of the system, and a contract letter from a firm or individual indicating that they will pump the system when required. The church is currently working on both these items, and the permit can be approved contingent on their completion.

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It was moved by Mr. Bailey, seconded by Mr. Crabtree, to approve the pump and haul permit for Yearly's Chapel Church contingent on receipt of the required items. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**EMERGENCY OPERATIONS PLAN**

Mr. Poe stated that each locality in the state is required to adopt and update an Emergency Operations Plan to be used in the event of an emergency in the County. The Emergency Operations Plan provides guidance for implementing emergency response



and recovery actions during an emergency situation. Alan Bailey has been working with state and local officials to complete this document with updated and accurate information. He asked the Board to review the document carefully, and if acceptable, a motion to adopt the Plan would be in order.

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Ms. Rowe stated that on page ESF 14-1 it shows Mount Rogers Planning District and asked if that should be Lenowisco.

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It was the consensus of the Board to review the EOP for accuracy.

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#### **REPORTS AND RECOMMENDATIONS OF THE COUNTY ATTORNEY**

Mr. Callahan stated that the Coal Severance Tax Ordinance had been an ongoing process for the past year and a half, and stated that Chris Jones worked very hard on this.

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#### **REPORTS AND RECOMMENDATIONS OF THE COUNTY ADMINISTRATOR**

##### **GEOCOMM**

Mr. Poe reported that GEOCOMM has been providing the GIS data maintenance for the past 18 months, at a rate of \$1,000.00 per month which is reimbursed by the state. The county is at 92.63% verification right now, and the required rate is 95%. This contract is for a 6 month renewal. Mr. Poe added that he feels that if there were local personnel calling, it may make it easier to reach the 95%.

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It was moved by Mr. Mosley, seconded by Mr. Bailey, to approve the six month contract with GEOCOMM. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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##### **BOAT RAMP GRANTS**

Mr. Poe stated he went out and looked at the sites this past week, and there are issues at both sites. On the Virgil Minor Road site we are dealing with dead-ends, fences on both sides and a gate that opens to a private cemetery. We cannot block the cemetery road with parked vehicles. The grant application states we will provide 5 parking spaces, and it is a fairly steep slope to the river. There is limited capability on that site. At the other site, which is Swinging Bridge Road, the road leads to a swinging bridge and there is uncertainty of who owns the land. He stated he had spoken with VDOT and they do not have any information on this property. There may be a prescriptive right of way but the last survey shows the right of way following the road, and then across the bridge. Department of Game and Inland Fisheries want the money committed by the 21st of this month. He added that he if the Board declines the grants tonight we can look at other areas and reapply.

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It was the consensus of the Board to decline the grants.

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**VACO CONFERENCE**

Mr. Poe reported that the VACO conference will be held at the Homestead November 10, 2013 to November 12, 2013.

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**REPORTS AND RECOMMENDATIONS OF THE BOARD**

**TOURIST KIOSK**

Mr. Mosley stated that the information center in the Western End of the County is on the way out of the County and asked if it could be moved to the other side of the 4-lane.

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Mr. Poe stated that the Heart of Appalachia placed the structure and it may belong to them.

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Mr. Bailey stated we need a visitor's center or welcome center, and there is acre of land that he believes the state owns across the road from current location.

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**TOURISM**

Mr. Slemp stated that there was a limited amount of ideas at the Heart of Appalachia meeting, and he feels that is a problem with the Tourism Committee also. He suggested doing a tour of the Gaps where you can publicize the Gaps and what they have to offer.

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Mr. Poe stated that we do have some history in the County that we need try to promote.

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Mr. Slemp added that there is a lot of history of Daniel Boone in the County that could be marketed.

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**TOURISM COMMITTEE BY-LAWS**

Ms. Rowe asked that By-Laws be established for the Tourism Committee

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**MOWING**

Ms. Rowe asked if the property that the County purchased had been mowed.

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Mr. Poe stated that it would be done by the end of the week.

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**COMMUNICATIONS TOWER**

Mr. Crabtree asked if there is anything new with the communications tower.

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Mr. Poe stated that there is nothing new at this time.

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Mr. Crabtree asked what we are waiting on at this point.

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Mr. Poe stated he would get into contact with the State Police and find out.

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**CLOSED SESSION**

It was moved by Mr. Crabtree, seconded by Ms. Rowe, to enter Closed Session pursuant to Section 2.2-3711 A.1., discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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It was moved by Mr. Mosley, seconded by Mr. Bailey, to come out of Closed Session. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemp

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**CERTIFICATE OF CLOSED SESSION**

It was unanimously agreed as follows.

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

**WHEREAS**, Section 2.2-3711 of the Code of Virginia requires a Certification by this Lee County Board of Supervisors that such Closed Meeting was conducted within Virginia law;

**NOW, THEREFORE, BE IT RESOLVED**, that the Lee County Board of Supervisors hereby certified that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from Closed Meeting in 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 Lee County Board of Supervisors.

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**SCHOOL BOARD**

Mr. Mosley asked what the Board felt about the School Board Budget.

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Mr. Crabtree stated if we give them that money, it still would not be enough.

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Ms. Rowe stated that there is no guarantee they will spend the money where we tell them.

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Mr. Callahan stated that they Board could make a categorical budget.

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**BUILDING OFFICIAL**

It was moved by Mr. Slemm, seconded by Mr. Bailey, to terminate David Fee as Building Official due to failure to obtain state certification and to promote Roger Susong to Building Official at an annual salary of \$29,911.00 with both actions effective immediately. Mr. Susong will be required to obtain state certification within one year. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemm

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It was moved by Mr. Crabtree, seconded by Ms. Rowe, to recess to Wednesday June 26, 2013 at 2:00 p.m. Upon the question being put the vote was as follows.

VOTING AYE: Mr. Bailey, Mr. Crabtree, Mr. Mosley, Ms. Rowe, Mr. Slemm