

## SECTION 19. BEST INTERESTS OF THE COMMONWEALTH

A salient factor prescribed by the Code of Virginia for consideration in annexation issues is the prospective impact of the proposed annexation on the “best interest of the Commonwealth in promoting strong and viable units of government.” The territory proposed for annexation will ultimately be the location of future residential and commercial development that will provide the Town with additional tax resources, and land for growth. Over time, the Town and the County leadership may emerge from the area. Moreover, the proposed annexation will not have major adverse effect upon the revenues of the County, and would not threaten the future viability of the County.

### A. THE ABSOLUTE IMPERATIVE OF ECONOMIC DEVELOPMENT TO KEEPING LOCAL TAXES LOW

Between 2001 and 2011 the County added approximately 2,713 new dwelling units.<sup>152</sup> Further, approximately 2000 new homes were built in the community each decade between 1970 and 2010. These 8000 + homes contributed nothing to the County or the Town to offset their fiscal impact on the community other than taxes paid. In fact, between FY2001 and 2006 the County collected approximately \$192 in voluntary proffers (cash contributions) for each new housing unit built.<sup>153</sup>

New development in the community, combined with aging infrastructure, has placed an enormous burden on existing Town and County residents to maintain current levels of services to its residents and to fund improvements to the community’s essential water and sewer, schools, and transportation network facilities.<sup>154</sup> Moreover, FRLP believes that the fiscal drag of by-right development represents the single biggest threat to keeping the Town and the County taxes and user fees low.

Unlike by-right growth, which does not contribute monetarily to localities to offset its fiscal impact, a rezoning allows the community to collect cash contributions, or proffers, as each house is constructed. While not solving all of the Town or the County’s problems, a rezoning is an alternative way for the community to fund (through proffers) long-term infrastructure improvement projects without raising taxes and user fees. To our knowledge the Town had never approved a rezoning with cash proffers prior to the March 2010 FRLP town rezoning and, more recently, the March 2012 Heptad LLC (Swan Farm) rezoning. With regards to the County, the County approved the following residential rezoning projects in the last 15 years:

1. Blue Ridge Shadows rezoning paid about \$12,000 per unit to the County in proffers in addition to the Town water and sewer tap fees....

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<sup>152</sup> Warren County, Administrators Office, ‘Interstate and Primary Highway Needs’, November 1, 2011, page 1.

<sup>153</sup> U.S. Census and Virginia Commission on Local Government Cash Proffer Survey. W.C. collected a total of \$404,506 in proffers and issued approximately 2,097 building permits. Available Online: <http://bit.ly/MtQa5L>.

<sup>154</sup> Ibid. Page 1.

2. Jackson's Chase rezoning paid approximately \$2,000 per unit to the County in proffers.

Former Town Manager Michael Graham noted in 2010 that,

For individuals who want no growth in Front Royal or the County and they want the quality of life to stay the same, you either have to pay more in taxes or bring in businesses to subsidize so your tax rate is relatively low. He would like the Planning Commissions to think about how to build Front Royal as an economic engine whereas the County benefits from that also. The challenge of both commissions is how we can designate areas to build the economy/business base in the community.<sup>155</sup>

Moreover, over 255 acres of undeveloped acreage planned for business use (zoned I-1 and I-2) currently exist in, and adjacent to, the Happy Creek Technology Park. Moreover, a safe and efficient transportation system, and other supporting infrastructure, is not only key to the quality of life (and safety) of all residents, it is also imperative to attracting business investment to the Happy Creek Technology Park. FRLP notes that, in its 2010-11 annual report, and as a part of its future vision for the community, the Front Royal-Warren County EDA stated that:<sup>156</sup>

- It envisions development of the Leach Run and East-West connector road linking Happy Creek Road and John Marshall Highway (Route 55);
- It hopes to, along with Virginia Department of Transportation, implement an interchange at the intersection of Route 606 (Shenandoah Shores Road) and I-66.
- It will work with the County and Town on comprehensive hiking / biking trail system through and around Front Royal and Warren County; and
- It envisions a comprehensive local transit system connecting residential neighborhoods with the industrial and business sectors of the community.

Further, well-planned compact neighborhoods (in addition to the amenities proposed for the FRLP property) enhance the community's competitive position in attracting businesses, and improve the quality of life of existing and future residents. Indeed, a 2004 study by the Brookings Institute found that,

There is a growing body of literature suggesting that growth management leading to higher density development patterns improve prospects for economic development.

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<sup>155</sup> Ibid.

<sup>156</sup> Front Royal-Warren County Economic Development Authority, 2010-2011 Annual Report, Page 19-20.

Fiscal burdens and economic development may be better served with more compact development patterns...<sup>157</sup>

Further, the principal reason a business locates in a community is proximity to its work force. As such, the housing options offered by the community are inextricably linked to the community's ability to attract new business' and living wage jobs, now and in the future.

In sum, both the County and the Town's ability to maintain services, and fund the capital improvements needed to support existing and future by-right development over the long-term are dependent upon the successful development of both the former Avtex site ("Royal Phoenix"), and the Happy Creek Technology Park. FRLP believes that its proposed boundary adjustment will advance the community's goal of facilitating commercial and industrial development on the over 255 acres of already zoned industrial land in the Town's North-East planning area, inclusive of the Happy Creek Technology Park.

## **B. ENVIRONMENTAL IMPACTS OF DEVELOPMENT**

In addition to its fiscal impacts, development has a significant impact on our natural environment, and specifically on our water systems. FRLP believes it is incumbent upon us all to find more sustainable ways to develop in order to protect our natural resources. Accordingly, FRLP has included the following sections relevant to a consideration of the environmental impacts of development, and how we can best minimize those impacts. Moreover, FRLP believes that it is in the best interests of the Town, the County, and the Commonwealth that we all take this responsibility more seriously.

### **1. Water quantity, water quality, sewage systems considerations**

As previously discussed, the majority of the residential growth in the County over the past two decades has been by-right growth on large lots. Further, this large lot by-right development is almost exclusively served by on site water and/or septic systems. FRLP believes consideration must be given to both the future quantity and quality of the County's groundwater and the provision of public water supplies and that such considerations are of importance not only to the Town and the County, but also to the Commonwealth in promoting strong and viable units of government that are developed in an environmentally sustainable way.<sup>158</sup>

With regard to its groundwater quantity, the Warren County Drought Response Plan, adopted by the Board of Supervisors on December 1, 2009, states in its opening paragraph,

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<sup>157</sup> Brookings Institute, *The Opportunity to Rebuild America*, 2004, page 22.

<sup>158</sup> The Community's environmental resources are vital to future tourism receipts, and thus the future economic viability of both the Town and County.

The water resources of Warren County are key to our quality of life. The County receives an average of 41.8 inches of rainfall annually, spread fairly evenly throughout the year. In most years, rainfall is adequate to maintain and replenish our ground and surface water supplies. However, the occurrence of droughts is a normal part of the weather cycle and should be expected... During droughts, water available from our streams, rivers, springs, and wells can be severely diminished.<sup>159</sup>

With regard to "State of Emergency" conditions, the plan states,

In some cases, the mandatory nonessential water use restrictions may not be sufficient to protect the supplies of public waterworks.

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Rationing water is a more severe measure than merely banning nonessential uses of water. Under rationing, each water user is allotted a given amount of water... Staff will work closely with any entity where water rationing is required to assure that all available Commonwealth resources are effectively used to support these highly stressed water supply systems.<sup>160</sup>

Further, more than 20 wells went dry or had insufficient yield during the 1999-2002 drought in the County, and anecdotal evidence suggests that cessation of flow in streams and springs also was common.<sup>161</sup> In its 2010 study, regarding future groundwater availability in the County, the USGS noted that

Current and projected water-use estimates are a small component of the overall water budgets in these basins and do not exceed the management threshold of 50 percent of average recharge rate for the respective basins. However, consideration of lower percentages of average rates of recharge, which would be indicative of drought conditions, indicate that water use at build-out could be a substantial percentage of recharge; in some basins, this amount of

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<sup>159</sup> Warren County Drought Response Plan, Adopted December 1, 2009, page 1. Available Online: [www.warrencountyva.com](http://www.warrencountyva.com)

<sup>160</sup> Ibid, page 15. Available Online: [www.warrencountyva.com](http://www.warrencountyva.com)

<sup>161</sup> USGS, Preliminary Assessment of the Hydrogeology and Groundwater Availability in the Metamorphic and Siliciclastic Fractured-Rock Aquifer Systems of Warren County, Virginia, Investigations Report 2010-5190, 2010, page 54. Available Online: <http://on.doi.gov/PutDoK>.

water use has been estimated to exceed groundwater recharge.<sup>162</sup>

In conclusion the USGS report states that,

Groundwater flow systems in the county are extremely vulnerable to current meteorological conditions. Successive years of below-average effective recharge cause declines in water levels, spring discharges, and streamflows... Estimated values of annual mean base flow have approached and have been below the average regression-derived recharge rates during a period classified as above-average precipitation. This relation is indicative of groundwater systems with limited storage that are highly responsive to current meteorological conditions. Slight changes in annual amounts of precipitation or timing of the precipitation can affect groundwater recharge.<sup>163</sup>

A 2003 Virginia Tech report assessing residential practices in the County affecting water quality in the Northern Shenandoah Valley found that 56% (of respondents to the survey) likely pump their on-site sewage disposal system as recommended, 13% didn't know how often they pumped, and 31% likely need to pump more often.<sup>164</sup> These findings were generally in-line with those of other jurisdictions within the Northern Shenandoah Valley, although we note that 44% of the County residents either did not pump their septic systems as recommended or did not know how often they should pump their septic systems indicates to FRLP some concern and due consideration is warranted in regard to future groundwater quality.<sup>165</sup> Indeed, septic tanks and cesspools are the largest of all contributors of wastewater to the ground and are the most frequently reported sources of groundwater contamination in the U.S.<sup>166</sup> Further, "in fractured rocks where groundwater flow rates can be high, these bacteria, and viruses may be transported several miles."<sup>167</sup>

Moreover, a 2011 study estimated that approximately 18,000 people in the County, or approximately 50%, were not serviced with residential community water supply (or presumably sewer) and that they consumed approximately 1.40143 million

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<sup>162</sup> Ibid, page 57.

<sup>163</sup> Ibid.

<sup>164</sup> Virginia Cooperative Extension, An Assessment of Residential Practices Affecting Water Quality in the Northern Shenandoah Valley, June 2003, page 10. Survey Precision of + or - 11%.

<sup>165</sup> Maryland recently passed legislation intended to curb the use of septic systems. Counties will have to adopt a "tiered" system of rules to limit new housing developments served by septic systems, especially in areas dominated by farmland and forestland. Governor O'Malley said the limits are needed to curb residential sprawl and reduce the waste that leaches from the developments and pollutes the Chesapeake Bay. Washington Post, 'What Did Pass the Maryland General Assembly', April 10, 2012.

<sup>166</sup> A Ground Water Primer for Virginians, Va. Water Resources Research Center, Va. Polytechnic Institute and State University, DATE? Page 12.

<sup>167</sup> Ibid.

gallons of water a day.<sup>168</sup> If one uses the County's 2005 estimate of a future County population of 65,700 persons in 2025 and assume approximately 50% of those residents will be on private wells and withdraw 75 gallons per day each, the County residents would be withdrawing almost twice as many millions of gallons of water a day from already strained local groundwater sources by 2025. In addition, and more worrisome, the fact that these persons will also be on private septic fields instead of public sewerage facilities, significantly increases the threat to the general health and safety of ever increasing amounts of groundwater pollution from failing septic systems.

### **C. CONTINUING TO PROMOTE LARGE LOT (BY-RIGHT) GROWTH EXCLUSIVELY IS NOT A PART OF A SOLUTION.**

FRLP believes that continuing to grow Virginia's towns and counties exclusively as in the past (by-right growth on large lots) is not a part of the solution (– it is a part of the problem). A Chesapeake Bay Foundation study in 1996 of a rural Va. tract comparing conventional (large lot) and clustered (small lot) suburban development found that clustering would convert 75% less land, create 42% less impervious surface, and produce 41% less storm-water runoff.<sup>169</sup>

If large lot development can have deleterious consequences for localities, "no development" is equally a poor option - population growth may ebb and flow, but in thriving localities it will continue to increase. Further,

A growing body of evidence suggests that the very low-density (suburbs)... have become less healthy than higher-density, mixed-use communities. An emerging body of work is also suggesting that higher - density, mixed-use developments are more economically and fiscally efficient land uses..." And continues, "Planners are the only profession charged with shaping the built environment to preserve public goods, minimize taxpayer exposure, maximize positive land use interactions, distribute the benefits and burdens of change equitably, and elevate the quality of life."<sup>170</sup>

Sound environmental planning at the local land use level, by encouraging small lot development, preserving our natural resources and open spaces, and directing growth into serviceable areas adjacent to existing development, *significantly lessens and minimizes* the impact of new development on our natural environments. Further, all the information available supports the conclusions that low - density development places a significantly greater fiscal burden on local and Commonwealth funds in providing both the services and infrastructure needed to serve new development.

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<sup>168</sup> NSVRC, 2040 Regional Water Supply Plan, Page 86.

<sup>169</sup> EPA, Pollard, 2001.

<sup>170</sup> Arthur Nelson. *Leadership in a New Era*, American Planning Association, Vol. 72, No. 4, Autumn 2006, page 394.