

**BOARD OF SUPERVISORS
REGULAR MEETING
OCTOBER 10, 2017**

At a regular meeting of the Board of Supervisors of Floyd County, Virginia, held on Tuesday, October 10, 2017 at 8:30 a.m. in the Board Room of the County Administration Building thereof;

PRESENT: Case C. Clinger, Chairman; Joe D. Turman, Vice Chairman; J. Fred Gerald, Linda DeVito Kuchenbuch, Lauren D. Yoder, Board Members; Terri W. Morris, County Administrator; Cynthia Ryan, Assistant County Administrator.

Chairman Case Clinger called the meeting to order at 8:30 a.m. with the reading of the handicapping statement.

Agenda Item 2. – Opening Prayer.

The Opening Prayer was led by Supervisor Gerald.

Agenda Item 3. – Pledge of Allegiance.

Supervisor Yoder led in the Pledge of Allegiance.

Agenda Item 4. – Approval of minutes of September 12, 2017 and September 26, 2017.

On a motion of Supervisor Gerald, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve the minutes of September 12, 2017 as amended and September 26, 2017 as presented with a change of names from Frank Reynolds to Randall Sutphin on page 12 of the September 12 minutes.

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

Agenda Item 5. – Approval of October 2017 monthly disbursements.

On a motion of Supervisor Gerald, seconded by Supervisor Turman, and carried, it was resolved to approve the October 2017 monthly disbursements as presented.

Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Gerald – yes
Supervisor Turman – abstain
Supervisor Clinger – yes

Agenda Item 6.c. – Ms. Tracie Brewster, Social Services Director.

Ms. Brewster introduced the Comprehensive Services Act (CSA) Coordinator, Ms. Stephanie Pfeil. Ms. Brewster also provided the caseload statistics for September, 2017. Instead of reading these to you, I thought I would share them with you and answer any questions you might have. But I would like to take this opportunity to introduce Stephanie [Pfeil] to you and go over the changes we made with CSA and talk about our upcoming audit.

We had originally received a letter from DCS that they would be auditing in 2018. When we received that letter we thought they literally meant 2018, but come to find out we received an email from their auditor that they meant FY18. We will be audited in November. We had originally planned to do the whole self-assessment workbook and be ahead of schedule. But we don't have enough time to do that. Stephanie (Pfeil) and I have worked really hard to go through that workbook and pick out some things, little minor things, that we are missing like a Code of Ethics that needs to be signed by both teams. There are a few minor things that need to be done. Stephanie [Pfeil] has worked really hard since she has been with the CSA team for over a year now in rewriting policy, putting together brochures for families, packets for families that explain our program better. I wanted to give you an update on all of that and to share some of that information with the Board of Supervisors.

Ms. Pfeil stated that she took over last October for CSA. Up until that point my only exposure was as a social worker with Social Services bringing cases to Family Assessment and Planning Team (FAPT) which is just one small aspect of CSA as I have learned. This past year has really been remodeling our program and trying to get it up to par to where it needs to be. I met with two other local CSA coordinators in the New River Valley and did a lot of research and reading to find out what could best meet Floyd's needs for our program. I did create this brochure because while I was learning about it – I had been in this field for twelve years and I still don't know everything about CSA – I thought how scary it might be for the families we work with coming to a group of people and having to share some pretty negative things that happened up to that point. I wanted to make it more of a resource than a barrier and try to educate them on what CSA is, who will be at the table, and who will be helping. The brochure, in my mind, is meant as an introduction to families on CSA. If they met criteria and came to the FAPT team, the actual information booklet goes into more detail of who will be at the table and maybe some questions to ask. If we make a decision as a team and they don't agree with it, it tells them what their rights are to appeal. I am trying to empower the family more to understand and know the process and be part of the process because that is the whole purpose of this – to be a collaboration.

I also worked on updating the forms with CSA and created some new ones that flow better and to make them more user friendly. I reorganized the case files to make it flow better and be able to pull out things as needed. Like Tracie [Brewster] said, we broke down the old policy and tried to update it and make it easier to read and follow. That was brought to CPMT in August and adopted September 1. I tried to immerse myself with the CSA Coordinators' population. I joined the steering committee which is Southwest CSA Coordinators. I've been attending state meetings and participated in local vendor fairs to try to involve Floyd with that and bring information back to us in order to better our program. Like Tracie [Brewster] said, we have the audit next month. It is scary because it is an audit. But at the same time I am really

excited to show them where we were last year compared to now and get their feedback in order to keep bettering the program.

Ms. Brewster stated she is really proud of the work that Stephanie [Pfeil] has done. We've come a long way. The Department of Social Services doesn't have to have a strategic plan but we developed one within our agency and CSA was part of that. A lot of the work Stephanie [Pfeil] has done has been part of the two year strategic plan. She has been able to get it all done in a six-month timeframe and definitely within that year timeframe. A lot of it was stuff our auditor last year pointed out to us that they felt we were lacking. A big chunk of that was the policy. Our policy was very outdated. It lacked some of the stuff that OCS (Office of Children's Services) at the state level felt was necessary and needed. Stephanie [Pfeil] has worked tremendously hard getting all of that in there. We are definitely at a better place than we were last year when we had our audit. Our files have also come a long, long way in regards to organization even from when I started three years ago when the auditor for the county pointed out that we long ways to go. We have come a long way since then. A lot of it is thanks to Stephanie [Pfeil] and her organization skills and her being in tune to what we needed and also being part of the steering committee. It puts Floyd on the map. It makes us stay involved in the changing dynamics in OCS and the State. That is something that we need to be ever mindful of.

As you know this is a conversation that we've had over and over about CSA. We saved a tremendous amount of money with CSA when I first came onboard. It was because we were really looking at the services, our foster care numbers went down drastically. Since then we've seen a rise in foster care numbers. As we kept having those conversations, I kept warning everybody that we could see a rise in CSA costs and we have this year. We've seen that amount go up. In CPMT at the last meeting we had a conversation that the amount of money that we were allotted this year, that we will be close to that. And we may be coming back in the spring and saying we might need more money if we continue to get foster care kids coming in. This is something that the Board needs to be aware of. We are constantly as a FAPT team and as CPMT watching that money and making sure that we are not misspending. We make sure we are using Medicaid services. We make sure we are being diligent with our spending. I wanted you to have the opportunity to meet Stephanie [Pfeil] and know the great work she is doing. I also have packets so if families approach you, you can explain the process to them.

Supervisor Yoder thanked them for the good work they are doing. It is such a big part of our budget and very important to our community. I really appreciate your hard work and progress you've made.

Chairman Clinger said I know we grumble about the audits that come, but they always turn over things that we haven't seen before. It is good to find out whether there are deficiencies in our policy and address them before they become a major problem.

Ms. Brewster agreed.

Agenda Item 6.a. – Constitutional Officers reports.

Sheriff Brian Craig provided data on part-time and overtime expenditures for mental transports. The state of affairs in the State of Virginia is out-of-control, at least for smaller

jurisdictions. To give you an idea I am four personnel down, actually now that Chase [Vaughn] has graduated once he gets off FTO I'll be three personnel down. My main priority is to keep this community safe. I've already used over half of my overtime money for the entire year and we're not even into the fourth month yet. But getting onto these Emergency Custody Orders (ECOs), as you see here we have been very fortunate that we have a grant that has helped cover. It gets increasingly tough to call individuals out. There is a lot going on in today's world, whether it is family trips or vacations or what have you. It is very difficult for folks to come out on their days off. But like I said we had this grant that paid \$25.00 an hour to come out and make these Temporary Detention Order (TDO) transports. So what I am looking at is this money will run out at the end of this month. They only gave us about three weeks' notice on when this money is going to run out.

It will significantly impact the safety of this community because we have two people per shift. If I can't call someone out to take that TDO, it leaves one person per shift to cover 384 square miles because I will not have any way to pay anyone I call out. Whereas now I call out and utilize the grant funds. You see the Reimbursement Overview of the Temporary Detention Order funds. You have to remember that there are two steps to a TDO. You start off with an ECO, then it goes to the TDO. With a TDO we may sit on someone for six hours and there is no way for me to pay anyone overtime on that. That is just six hours that our officer is away from this county and my other officer is here by himself, unless I call somebody out and pay them out of my part-time funds. In 2016 we didn't understand exactly how those funds worked so we didn't utilize them like we should have. In 2017 we used \$4,775.00 of those funds. I took an average of those hours and an average of that cost and estimated what it would cost through the end of June.

You will see that there were TDOs in Williamsburg, Petersburg and all those I really want two people to go for safety. Due to not having the funds and not having the ability to call folks out and get them there, I only had one person. So you are looking at a 4-, 6-, 8-hour transports and only having one officer. What if you are looking at a flat tire? Or somebody needs to use the restroom? Food break? Those are the reasons why I've added those extra funds. It is just to try to consider safety, not only for my law enforcement officer but for the person we are transporting. It is my job to make sure I keep them safe. You will see a memo from Patrick Halpern saying we are in dire straits and it is only going to get worse. It is only going to get worse.

The sheet I just gave you basically shows you that in 2014 the Floyd County Sheriff's Office transported 83% of the folks locally to Marion, St. Albans. In FY17 through June, only 38% of our folks are local. Everybody else has been spread throughout the State. We went from a whole year of 2014 of 3,400 miles to just the first eight months of 2017 of over 9,000 miles. That means I have to request more cars from you. We went from an average of 68 miles. You can see how each year it is increasing. It is only getting worse for us. Like I said, for 2017 that is only through August. Here we have already exceeded 2016 and we are only in August. I have a presentation I would like to email you that the mental health folks have given to me. It is very interesting. The statistics are actually kind of scary when you look at it – the mere fact of how much time our folks here will spend away from this county. These folks need help and we are required to give them help. I'm going to do everything I can to make sure that they are safe and that my officers are safe when they transport

They are working on things. I hate to say this – but it is state government, who knows if anything will ever happen. Like usual, they always put the burden back on the county. Until I see something from them, I've got to come to you and ask for some help.

Supervisor Kuchenbuch asked if the New River Valley Crisis Intervention Team and the Virginia Coalition CIT are working on things?

Sheriff Craig responded, correct. [Joseph] Yost, [Nick] Rush, [David] Suetterlein and one more government official attended our last mental health meeting. I was unable to make that one due to some other stuff going on here. They all attended that and the emails we are receiving that we are in dire straits, he continues to let them know. I do know that Suetterlein and Rush, our two folks here, know the importance of this. They understand the importance of this. They told me they are going to do what they can to try to help the mental health in this community and throughout the state. But once again it is one of those things where there is nothing local anymore. Unfortunately, like I said, every time something comes in and it is in the evening there are two officers and one has to go for 12-, 14-, 16-, 18-hours, it doesn't keep this community safe. I'm either working myself or Justin [Coleman] is staying over or Bruce [Turner] is staying over, somebody is staying over or I am calling somebody out. I hate to even come for this, but right now the state doesn't appear to be helping us out. The further east you go, the less of a problem it is. They have more manpower. I guarantee it is still a burden on them. But it is nothing like it is on a department with 20 folks. I am also looking at having our communications folks travel with our officers long distance just to have someone help keep them awake, somebody to talk to on those long distance travels, somebody to be there in case of a bathroom break. I have a few bullet points for the overtime money.

1. Safety issues during transports sending one compared to two;
2. Reduced manpower in the county;
3. Safety issues due to officers have no back up – because their backup is transporting to Petersburg, Williamsburg, or wherever;
4. Safety issues to officers and patients due to travel time/wait time;
5. Response times are extended due to lack of man power – when I only have one officer on duty in the county I have to call someone else out of bed
6. Comp time and overtime issues – it just keeps swirling right back as soon as I give somebody comp time I have to give them off another day so then I have to figure out how to fill that day to give somebody else comp time. It is a very ugly cycle.
7. Morale issues – every time somebody is off on a weekend, I call them up and say you are not going to enjoy your weekend. I have to ship you to Petersburg or Marion;
8. Decreased visibility due to only one officer being on patrol;
9. Must utilize investigators to work patrol, less time on cases solving break-ins and drug work.

Hopefully I have provided information that you can look at. I've got two hired in the three positions. Both of those will have to be trained. We had another officer leave us. I will have to open that position up. That will be in the newspaper on Thursday. We will be taking applications again. Most likely that person will have to go to the academy. Once again, I am still three positions short, which is trying to fill in the holes on shifts that only have two and three

people per shift. I am still in the same boat. Those folks will not get out of the Academy until July. As you can see everything ends in July and who knows if the state will help us out.

Going back looking at funds with those positions being open, it is right around \$9,200.00. Those are funds we did not use because we did not have those positions filled. I don't know if that will help in figuring out how we can find these funds, but we did not utilize those funds because we did not have officers.

Vice Chairman Turman said that Melanie on the Community Services Board is looking – you know the state keeps cutting facilities and closing beds and that is what is making a lot of the wait time. That is the reason you have to go so far. You can't find a bed like you used to. She is working on that. I don't know if she has contacted you.

Sheriff Craig replied, no, Patrick [Halpern] is our liaison and we go through him a lot. She may work directly with Patrick [Halpern]. I believe she is the lady who works with him. Just to give you an idea on the loopholes if you will, I hate to use that term, but in my opinion it is a loophole. We take an individual to a hospital to see if they need to go out on a TDO. They go and the clinician does whatever they are supposed to do and says this person needs to go. They issue a TDO with Marion. Just last week they handed the TDO to Deputy King and said here is a TDO to Marion but you can't take him because Marion is full. So what they did is we were a few minutes away from basically being able to legally release the person. They go ahead and fill out the TDO and say here is your paperwork, but you can't go there so you have to wait until we find a bed. So they go ahead and issue the paperwork knowing I have to sit there with this individual as long as they need me to until they find a bed. Thirty minutes later they came back and said it looks like you are going to Falls Church. Immediately he calls me and I get on the phone, Justin [Coleman] gets on the phone, and we raise a little Cain. Somehow, magically a bed at Lewis-Gale opens up. That has probably been one of the closest ones we've had in weeks. But that is what we deal with now. The entire time [Deputy] King is over there – 7 hours not even on the TDO side, the ECO side where I have to supply my personnel because I didn't have this grant funding – our County has one person working. That is the scary part when you look at it.

These bigger areas...like I said [Joseph] Yost, Nick Rush, all those folks know because they are from southwest Virginia. They know how tough it is on Galax, Carroll County, Tazwell, Smyth, Lee. But for those places where there are 1000-2000 officers, they may have 15 ECOs at one time. But it is becoming very difficult and a huge burden on this county and my ability to keep everybody safe. Without being able to call people out, like I said I've already utilized over half of my overtime and we are not even three months into this budget year. That won't get any better because I will still be three officers short through July.

Vice Chairman Turman asked if a deal could be worked out with the hospitals where their security could sit with the person until you are ready for the TDO?

Sheriff Craig said they have gotten away from that because of what happened in Montgomery County. They are mandating that we must sit there. Keep in mind that this has nothing to do with our prisoner transports. That is a whole different ballgame. Both of which we are required to do. Just last week we had somebody who had a medical issue and we had to

take them from court and go over to the hospital and sit with them for a couple of hours until the jail could get there. Thank goodness our setup is that way. Once the jail got there we were able to come back. Those don't happen that often. We do transports about every court day. We are very fortunate because it is 30 minutes there and 30 minutes back when we are going to Southwestern Regional or Patrick County, somewhere fairly close on those transports. Those are basically of minimal impact, plus it is during court when you have investigators working and me working, all of us and we can help cover calls. People ask why I wear a vest to work all the time and it is because I help cover calls. At any given time I will take a call just like anybody else in our department.

Chairman Clinger asked if you were at full staff, do you have any idea of how much overtime you would still have for ECOs and TDOs?

Sheriff Craig replied when I get to full staff – now you have to remember I have been here almost two years now and I have never had a full staff – if I get to that, I will have two shifts with three personnel. That will make a significant difference on that impact. Once again you have to remember I will have two if not three people in the Academy until mid-July. We have two shifts with two people and two shifts with three people at full staff. I would love to see our department have three people on all four shifts.

Chairman Clinger said that is what I am getting at if at budget time we need to look at adding more personnel.

Sheriff Craig responded that will come, with statistics to back it up.

Chairman Clinger said you need four people right now, but at a minimum two.

Sheriff Craig agreed, correct. If we are at full staff two additional personnel will give us three on each shift and then you have the patrol supervisor who is there to cover people's vacations and things like that if need be.

Chairman Clinger said I empathize for you and am sorry that you have all of these headaches.

Sheriff Craig said I know it is difficult on you. Everyone comes to you needing something and there is not a doubt in my mind that anything that is approached with you is needed in this community. And we have a great community. It is through the hard work of you all and all the citizens in the county. All we can do is throw ideas out to you and you have to figure out what you need to do. I imagine it is tougher in your spot than mine.

Chairman Clinger said at budget time we will talk about extra personnel and with that will come extra vehicles.

Sheriff Craig said it is a nasty cycle, hopefully I can get that all laid out.

Chairman Clinger said right now we have your request for a \$7,000.00 transfer.

Supervisor Yoder asked if there was a possibility to transfer within the Sheriff's Office? Is that what you are suggesting?

Sheriff Craig explained that the Animal Control position was vacant for two months and two slots weren't filled that were County funded. I want to say that the number Fran [Weddle] came up with was \$9,000.00 that we didn't utilize because those positions weren't filled.

Ms. Morris pointed out that Animal Control is not in the Sheriff's budget.

Sheriff Craig concurred, Animal Control is not in my budget. I think that was only \$800.00-\$900.00 anyway.

Supervisor Kuchenbuch asked did you say \$9,200.00?

Sheriff Craig looked up the financial information and stated that Animal Control saved \$3,900.00. In July and August for the other County positions was about \$5,200.00. The total for both was \$9,269.63.

Supervisor Yoder asked would it be better to take this out of fund balance?

Sheriff Craig said I don't know where Animal Control came in on its budget of renovations. I don't want to take money from one and all of a sudden need it for fixing Animal Control.

Supervisor Kuchenbuch said there was \$5,200.00 saved on payroll.

Ms. Morris suggested transferring \$5,200.00 from the salary line items and at the end of the year see how much extra money is needed, hopefully not all \$7,000.00 estimated is needed.

On a motion of Supervisor Yoder, seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to approve that \$5,200.00 be moved from the Sheriff's Office salary line items to the Overtime ECO/TDO line in the FY18 Floyd County budget.

Supervisor Yoder – yes
Supervisor Kuchenbuch – yes
Supervisor Gerald – yes
Supervisor Turman – yes
Supervisor Clinger – yes

Agenda Item 6.b. – Public Comment Period.

Chairman Clinger called for the Public Comment Period.

Ms. Mara Robbins, Locust Grove District – I feel like I am sort of standing here in proxy for Mary Freday who is working and who is very, very sorry to be missing this meeting. She is Preserve Floyd's Energy Group Coordinator. She was in Washington, D.C. marching back in the spring when Preserve Floyd held a climate action demonstration in solidarity with the

People's Climate March. When she came back, she had a seriously relentless urgency and commitment to effectively address climate chaos in our community.

So Mary [Freday] along with Preserve Floyd's Co-Chair, J. L. Fogo, and others created a petition and got 117 citizens of Floyd to sign it and was on the agenda for the June Town Council meeting. It was strongly suggested that Mayor Griffin stand in solidarity with other Climate Mayors across the country. The Town Council unanimously agreed to support this initiative. Mayor Griffin signed on July 21 of this year stating, "The greatest resources we have in Floyd County are our people and our land." Considering that, how can preserving our climate ever be a partisan issue? Like all things it should never be more than right versus wrong. Doing what we can to preserve our quality of life should be the goal for all of us and we can't put it off on future generations. Four days later we presented you guys with a draft of a Solutions Project Community Choice Agreement. It was accompanied by a petition with over 200 signatures and simultaneously, as I am sure you all remember, Archer Berzins addressed the Board with a request that the high school replace the coal-fired furnace with roof top solar.

Mary Freday and I attended the next School Board meeting to address this specific request. Here is part of her presentation: "Our kids deserve a safe and rational future. We have to move as quickly as we possibly can to deliver that to them. What I can do is to implore you to bump this up to the top of your agenda. This issue is bigger than economics. It is bigger than the bottom line. In fact it is the only bottom line that really matters. There is not a single person in this room that doesn't understand the magnitude of this project. Solarizing the school system is a massive proposition. We really don't think you all should have to do this alone. The public schools belong to all of us and though we have elected you to be their stewards, the time has come for those citizens who are able and willing to step up and work with you to help make the changes that we need to make. We represent hundreds of citizens of this County who are invested, educated, knowledgeable and ready to assist."

We were pleased to hear that the School Board did indeed place this on their agenda last night. We are pleased to be here today with SustainFloyd to be in active collaboration with them and with the Partnership for Floyd. And we are so, so pleased that you asked to learn more and that we could help to facilitate a more robust, collaborative conversation on how we can all cooperate and learn from each other as we move from planning into doing because that is what we need to do. We need to start doing. The storms are going to get stronger. The fires are going to get more frequent. The climate does not discriminate. Emergency situations are unavoidable. It is our most vulnerable who deserves our protection and our commitment to this crucial transition. Because if not us, who? And if not now, when? Thank you for your commitment to effectively addressing the climate crisis in our community. I look forward to learning more alongside you about solar energy later on this morning.

Mr. Billy Weitzenfeld, Courthouse District – I am President of SustainFloyd. Thank you Mara [Robbins]. I support everything you said. I want to invite the Board to attend a SustainFloyd event on November 1. It is called "Dine for a Cause." It is an annual thing that we have been doing for several years. This year we have an expert speaker. She is an author. Her name is Chris Bolgiano. She is an expert on sustainable forestry, which is certainly an important issue worldwide and very relevant to Floyd County. Mark your calendars, November 1. It is at the Eco-Village. Eat beans and rice. We are going all out. It should be a great opportunity to

talk to people and learn something about forestry. We are excited about our presentation today at 11:00 a.m. because of all the reasons Mara [Robbins] stated. Thank you very much.

Supervisor Yoder asked the time of the event?

Mr. Weitzenfeld replied I think it is at 6:00 p.m. You may want to check.

Ms. Jane Cundiff, Little River District – I am here to support both Preserve Floyd and SustainFloyd. I am from Partnership for Floyd. We are all working together to try to help our community preserve our environment here in Floyd. I want to let you know we really appreciate you getting involved in the solarizing of our high school. That is so exciting for us all – to keep our environment healthy and our students healthy and to have them learn the right ways to do things. The world is changing very fast. Here in Floyd I think we are going to get hit by it in ways that we don't think about. We've already got climate refugees here. Just this weekend I met a couple who moved off of an island that was damaged by the hurricane and they moved to Floyd because their place was destroyed there. They are going to be coming here. This is a really special place and we need to take care of it.

I really hope you come to the November 1 event, "Dine for a Cause," because it is about forests. I am working with Fred First to get some people together, especially on helping to preserve old forests here in Floyd because they are seed areas for biodiversity. Any new forests growing up needs those seeds, so the better we can protect old forests... A couple of things we plan on doing and hope to do is have some community open free workshops over the winter to have people learn about non timber forest products. Things like mushrooms that you can grow in an old forest. Different kinds of things can be used without having to cut down the old forest. Those are the things we hope to work on. We need your input. That is going to be a particular group. We are really going to have a lot of people there willing to work for you and who are going to help us preserve forests because they are major things to do for climate change, a major thing to do for protection. And we've got it right here, right here in our own community. It is a very special place in the world actually. We want to keep it that way. As people are starting to move in faster and faster we might have to make some rules about how to keep it that way.

Also just as a sideline, I want to support Brian Craig and say as a community member and not a very rich one, I am willing to pay more taxes to help our community stay safe and have a good environment. Thank you.

Ms. Becky Howell, Burks Fork District – I am here representing Virginia's Blue Ridge Music Festival. Our purpose is to promote classical music in Floyd. We are working right now on a program that is going to be on Saturday, October 21 at 2:00 p.m. at the Floyd Event Center. It is the Washington Toho Koto Society which will be performing. I am really excited because they have agreed to do three free performances at the high school – two for the high school students and one for the Floyd Elementary students. We hope that you all will come out. I am here to say to you that if you will send me your name and tell me that you are going to attend, you won't have to pay the \$15.00. Thank you.

Sheriff Brian Craig, Burks Fork District – I forgot to give you an update on the beard. For those of you who don't know, my department has kind of been hounding me about a beard

policy. I'm an old Army guy so I would not allow it. Finally, I gave in. We're allowing it for three months through the end of the year, but they had to donate money to Angel Tree Kids. Right now with the folks in the department we are at \$1,380.00. If you are seeing beards out on officers, that is why. They are getting a taste of their beard policy, but they are donating back to our youth here in Floyd County. So far we are pretty excited about that. The ones who can't or don't want to grow a beard or the ladies in the department, they have got some other perks that they have. They've joined in also.

Supervisor Gerald asked if they wanted the Board to grow a beard also?

Sheriff Craig said if you want to buy \$60.00 of stuff for kids off the Angel Tree we would be glad to have you. We are thinking about doing best beard. I've been talking to Wanda Combs about that down toward the end there. I don't know what we will do for that person. Let the County judge on who they think. Thank you.

After no further comments from the audience, the Chairman declared the Public Comment Period closed.

Agenda Item 6.d. – Mr. Chris Price, Virginia Department of Transportation.

Chairman Clinger said I just noticed one of your trucks going through with a snow blade on the front.

Mr. Price responded we are getting ready. You can never be too ready. Actually this week what they are probably doing, we have a thing called dry run where we get all the equipment together to check it. I think Floyd is this week. I think we are doing Christiansburg today. When I pulled in today, everybody had all of their trucks cleaned up and their lights flashing and it looks like they are getting ready for a parade. We've started working on all the equipment and checking it and getting it ready. Hopefully we won't need it for a while.

I will get started with some maintenance issues and address some of the things we did in the last month. As you guys know my two area headquarters made a list of things they've done. I'll be happy to pass this along. Talking to them and looking at what they've done, we are still doing some patching on several roads. On Indian Valley Road we did some pothole patching and some chip seal patching. White Rock Road, Alum Ridge Road and a lot of major secondary roads we are trying to address...Rt. 799, Conner Grove Road. We are finishing up a project on Black Ridge Road where we replaced the pipe. They are pouring the concrete for the head walls this week. They poured some of them I think late last week and they are doing the other side now. Hopefully we will be finishing up that project this week. We've got a couple of pipe replacements. On Shooting Creek Road we replaced a pipe and on Rt. 661, Smartsview Road we replaced a pipe over there.

We had a few tree issues with this last little rain. We had to work on those for a couple of days. We've taken down several trees on several routes. We are looking at hazardous trees. We are keeping an eye on that. Over the last few years we've tried to get ahead of some of these hazardous trees and are cutting more trees than we used to. We are trying to keep the hazards from falling in the road.

We are still doing some mowing on secondary routes. We've done some of that in the last month. We will continue that and try to finish it up. I'm not sure if there is another mowing on the primaries. I haven't really looked at them, but if there is we can address those. We always keep in mind the sight distance issues. We've talked to our crews about making sure those look good for the winter if we have to mow those one more time.

A couple of things that we have been working on at the residency, we have the painting of the crosswalks in town. I think there are some issues just out of town of getting some crosswalks painted. We will have all those repainted. We have it scheduled. We were actually hoping to get it done before the meeting, but I talked to our guys in Salem today and they have not gotten to it. We are going to try to re-stripe everything before winter.

We are working on Route 808, Diamond Knob Road. We are doing a lot of grading out there to improve some sight distance. We are trying to beat the weather. We are trying to get that completed before winter. Our plan is if the weather were to catch us and we can't get it done, then we are looking at November 1 or the middle of November. It is all weather dependent. If it catches us, I think what we are going to do is put down a layer of base stone and maybe chip seal one shot on it to hold it through the winter. But we will keep you guys advised if we decide to do that. Once we put the one shot on it, the prime seal just to hold it, you may get some calls saying this is not what I expected. We're chasing it. Our guys have been working 10 hours a day and even on a lot of Saturdays. They have really been working very hard on it. We pulled in another crew. We really don't want a winter project. It is a pain for us. They are working hard and we'll see how it goes. But we will let you know if we don't make it.

There are a couple of projects that I want to talk about. I have a meeting this week on the Downtown Floyd Pedestrian Improvement Project. We are going to meet Thursday. I've got a group together, the designers. We are going to talk about schedule. We have a preliminary schedule in mind, but we are going to work that out this week. I know you saw some activity with a survey. We got that done. We may see a little more activity through the fall. To be honest once the survey is done, once we have that completed and we have something down that we can look at, this week we are going to start moving on it. The kickoff meeting is this week. We have an idea of when we want to get it advertised, but we'll figure that out these first couple of weeks.

New Haven Road is going to advertisement in November. We have it ready. We are submitting it at the end of this month to our central office in Richmond to put together a contract. It will be submitted and go out in November and be awarded in January. It will probably have a delay notice to proceed on when they can start. Obviously nobody is starting in January. We have also scheduled a survey for Moles Road. That will probably be the next one we start working on. We will shoot for an advertisement about this time next year. You may see some activity out there or hear of some. Surveyors will be out there looking at it. That is our plan as of now. Route 750 I think it is supposed to go to advertisement in November as well, or December. You have a lot of construction here. We had a good season this year as far as laying miles. Vaughns Mill Road as far as a small project it is the biggest one I've ever done, probably the biggest one that I'll do. I could have split that into three different projects. That is about all I have. Our guys will be working on the snow preparation this week getting all of that ready.

Supervisor Gerald expressed his appreciation of paving, pothole patching, mowing, and painting lines on the roads in my district, especially Indian Valley Road. You've got it in good shape and I appreciate it. If I was running again, I would probably get elected.

Mr. Price said when you were talking about the lines. I know there were some issues on Route 221 about some passing zones. They have identified the mistakes that were made on the line marking. I talked to the project engineer, the construction manager on it this morning. They have not gotten to it yet. But they have two passing zones that were marked double yellow that they are going to put back. We also had some issues and some things come up at Smith's Store. They extended the passing zone. We've looked at it and we talked to the store owner and some people and we are going to look at maybe backing that passing zone to start beyond the store. We could put it back to the way it was and you would have to do it in one skip less, but still the passing zone hits about where the pumps are. Anybody pulling out of the one closest to Floyd, when you pull out there is a chance someone will pass. I think when they come back we are going to put in the two passing zones that they took out and I think we are going to double line that just to the edge of the parking lot to make that a little safer.

Supervisor Kuchenbuch said the painting of the lines, I know it is hard to coordinate everything but Franklin Pike needs some line painting on it. As I mentioned to David [Clarke], the shoulder gravel is marvelous and looks beautiful. I appreciate your work on Laurel Creek Road. That road gets a lot of traffic and that may be one we eventually put in. There is a lot of traffic and it is paved up to a point. It is right on the line between Lauren [Supervisor Yoder] and my district. Starbuck Road at the end of the county which leads from the Parkway is in need of some work. You keep it really good, but it has a couple of buses that go on it. My folks at Sunny Ridge Road always say please come and look at the road before winter and make sure that everything is fine. I really appreciate the work on the crosswalk. I cross that street all the time. Having crosswalks would be nice again. I am going to reiterate the speed study around the Pine Tavern on Route 221 and around the new Dollar General Store. I can't implore you guys enough to try to do some speed studies to decrease the speed. If Route 8 can be decreased all over the place in Montgomery County around Riner, I would think that the safety of Floyd citizens is just as important as the safety of Floyd citizens who run through Montgomery County.

Vice Chairman Turman said thank you again for Vaughns Mill Road. The people who drive it they mention your name. They said you were really nice coming up and talking to them. Thank you for patching Route 750. The only thing I have is people on Turnip Patch Road, they still want that brush cut. Hollymolly bushes are about to take that road over. They are really worried about the visibility for the school buses. If we get any major ice storms it will be impassable.

Supervisor Yoder said thank you for the flashing lights on Route 221 in Check. I've had a few people who kind of joked about it, but I really do think that it is going to help. I've followed trucks that come down that hill and just having a flashing light you can see people putting on the brakes because it's not just a regular sign. I think that was one of the worse intersections in the county. If that will even save one or two wrecks over 20 years, it is worth it. I've always been worried about that intersection. Thank you for that. It looks great. You did a

good job there. I still get people calling about the pipe on Hummingbird Lane. It has been patched over several times. It is a fairly new pipe but it just keeps sinking. It jars you pretty bad.

Chairman Clinger said the only think I have is one pothole on East Oxford Street by the funeral home. I appreciate you still moving forward on the downtown project. I think that definitely needs to be done before next year.

Supervisor Yoder added thank you for taking seriously the crosswalks. We've had a lot of people talk about that.

Mr. Price said that has been scheduled. I was hoping it would be done by now. We recognize the pedestrian traffic and the needs here.

Agenda Item 6.e. – Dr. John Wheeler, Superintendent Floyd County Public Schools.

Dr. Wheeler said thank you for having me. We have the capital improvement request with three items. One of them was a new bus lift. We kind of looked to see what the main areas were, especially with OSHA, which we needed to evaluate. Paul Robertson did a good job and this bus lift is pushing 70 years old, was modified once in the 1960s, has no safety mechanisms at all, it's hydraulic and it has a leak underground. Fortunately there are good options out now that major bus providers do have. Paul [Robertson] went and looked at Blacksburg Transit's. This was a bus lift and had two different inspectors inspect this. We had two different people from two different companies just to make sure and they put a fail on it. They have been doing without it since the beginning of August when we just shut it down completely. The guy said you are living on borrowed time.

Chairman Clinger said at least we didn't have any injuries with it before then.

Dr. Wheeler agreed that was a good thing, with hydraulics underground you never know what is under there. Both proposals for the study were approved by the School Board last night. Those funds are being requested. I sent it to Ms. Morris for a balance and upkeep on our capital improvement fund. We are going to try to tread lightly on that for the rest of the year.

One of the other – which we are not bringing to you now, and I will touch base on the two studies here in a second – we are moving forward with the tennis courts too, but we are looking at a grant through the United States Tennis Association to supplement the other money that was donated for \$88,000.00. To redo the courts is \$105,000.00 and if we can get this grant then we will look at doing the lights and some other nice features. They can't start on that until the spring.

For the two studies I emailed Mark Fought at Thompson Litton this morning just to get procedures in place. I think both of those studies are 45 days. We are looking forward to seeing what the results are, which we will share with you. It will be a lot of information to put on the table.

Chairman Clinger stated this is something we need to make solid plans for going forward.

Dr. Wheeler agreed, it will be a lot of information for the Innovation Center and what we can do there and obviously the HVAC system. Like I told you before, this could time up beautifully because there are some pretty old HVAC burners there and other systems and piping that would be included in their study. It could time up very nicely. Timmy Cox [Maintenance Supervisor] is doing a great job. We met this morning and went through the studies and emailed Mark Fought to make sure we have the procedures in place for when their groups come to our schools and to let the principals know so they can go without a hitch. I told Timmy [Cox] to hold it together until this is finished and buy a bunch more duct tape and see what you can do. One of the things we talked about last night was the inquiries coming that we would want as part of this study and any other information that you need from our buildings that you want to get from them. I guess we have a 45 day window. It is what they put on there so if you have any questions you can send them directly to Mark [Fought] or email them to me. We will get exactly what we need out of it.

Chairman Clinger said if we email Mark [Fought] we will copy you as well so we are all on the same page.

Dr. Wheeler said that would be fine. This is an informational finding so as much as you think of, please do it. The studies are paid for so we want to get our money's worth.

Vice Chairman Turman said I have a question about another topic than this – the School Farm on Route 221?

Dr. Wheeler replied Barry [Hollandsworth] and I met with Mr. Shelor at the end of last year. Mr. Shelor wants to put in some facilities and a classroom. They have to build it a certain way, so that is still in the works of having our students do that and maintain, because of the historical classification the farm has because of its location. That is where we are now – looking at getting a bathroom facility and a nice classroom open space, not just for us but also for him to use to make it more of a historical opportunity for learning. Hopefully our students will be able to do that and go by the requirements he has when he puts anything on that land.

Vice Chairman Turman said he is a little jealous of Carroll County when I pass theirs. He asked a person in the audience, Ms. Erica Largen, if she had anything to do with the agriculture part? I think you have a background in FFA (Future Farmers of America) and everything?

Ms. Largen confirmed that she did.

Vice Chairman Turman said maybe she can help you out when you get started.

Dr. Wheeler said this is part of extending our classes and our offerings. This is an area we are looking at. Right now we are looking at continuing with Mr. Shelor and doing what we can do.

Vice Chairman said perhaps I am prejudiced for farmers. I want to see them get started.

Dr. Wheeler replied Mr. Hollandsworth knows and he is keeping that on the front burner.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Gerald, and unanimously carried, it was resolved to approve that \$85,290.00 be moved from the Capital Improvement Fund to the Transportation category in the amount of \$25,190.00 for replacing the existing hydraulic bus lift at the bus garage and to the Facilities category in the amount of \$60,100.00 for the Innovation Center proposal (\$21,800.00) and the coal boiler replacement and new HVAC systems proposal (\$38,300.00) in the FY18 Floyd County School Board budget.

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

Agenda Item 6.f. – Closed Session – Personnel 2.2-3711 A.1.; Real Property 2.2-3711 A.3.; and Consultation with Legal Counsel 2.2-3711 A. 7.

On a motion made by Supervisor Turman and seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph 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; Section 2.2-3711, Paragraph A. 3., Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and under Section 2.2-3711, Paragraph A. 7., Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultations or briefings in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

Supervisor Kuchenbuch – yes
Supervisor Gerald – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

On a motion of Supervisor Yoder, seconded by Supervisor Kuchenbuch, and carried, it was resolved to come out of closed session.

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

On a motion of Supervisor Gerald, seconded by Supervisor Turman, and unanimously carried, it was resolved to adopt the following certification resolution:

CERTIFICATION RESOLUTION CLOSED MEETING

WHEREAS, this Board convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss Personnel in accordance with Section 2.2-3711, Paragraph A.1; Real Property in accordance with Section 2.2-3711, Paragraph A.3; and Consultation with Legal Counsel in accordance with Section 2.2-3711, Paragraph A.7 of the Virginia Freedom of Information Act;

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

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby certifies that, to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Supervisor Kuchenbuch – yes

Supervisor Yoder – yes

Supervisor Gerald – yes

Supervisor Turman – yes

Supervisor Clinger – yes

Agenda Item 6.g. – Presentation by SustainFloyd on solar power.

Mr. Billy Weitzenfeld, President of SustainFloyd, stated that it is really appropriate that on the day the Clean Power Plan rule is being eliminated that SustainFloyd has put together a presentation on solar. We really appreciate the interest of the Board to learn more and be better educated about this. We appreciate it a lot. We appreciate that some of the School Board members are here. We have two local contractors who are going to do the presentations for you. Rick Brown with SolShine Energy Alternatives, LLC and David Wall with Affordable Energy Concepts. Mr. Rick Brown will start.

Mr. Rick Brown, Locust Grove District, my company SolShine Energy Alternatives, LLC is an electrical solar contractor. I've been doing this for eight years now, working in the solar industry. Prior to that, I was an electrical engineer for about 30 years. Mr. Brown presented a Powerpoint slide show (Appendix A) which is incorporated into these minutes.

Solar Electricity Today – as prices have dropped the use of solar has skyrocketed. Back in the mid-1970s the price of a solar panel was \$101.05 per watt. Today the cost of a solar panel is close to \$.50 per watt. Installations in the mid-1970s were next to nothing. Going to solar is not just for the environment there are economic advantages as well. In five years solar capacity is expected to double.

Solar Electric Basics – Mr. Brown passed around a solar panel and other components and explained a cell is the basic building block. We are converting photon energy into electrical

energy, which is DC or direct current, the same type of voltage that comes out of a battery. Cells are combined to form a module. Multiple modules become a panel. Multiple panels become an array. Array strings are connected to an inverter which converts the direct current into alternating current which is what houses use. It goes into a distribution panel so you are producing energy during the day and the excess energy will be exported to the utility meter and back out to the grid. It goes to your nearest neighbor, not back to the power plant. A grid-tie PV (photovoltaic) system is the least costly to install, but if the power goes out the system shuts down so that people working on the line won't be exposed to high voltages. An alternative is having the excess electricity go to a grid-tie with battery backup. In event of an outage you can draw from your batteries and run your critical loads. The advantage is you can still have some power during outages, but the downside is that it is a little more costly and more complex to install. The most complex and most costly is the off-grid PV system where you are your own power company.

Mounting Installation can be either roof-top or ground-mount. For a roof-top with asphalt shingles the solar is mounted with flashing with lag screws. For a flat roof the mount can be ballasted or structurally attached. For a metal ribbed roof the mount is with a lag Screw with sealant. Typical ground-mount applications are pole-mount, ground-mount, or ballasted.

Right now module prices are typically in the \$.50-\$0.60 per watt range. An average residential grid-tie cost for an installed system is about \$2.50-\$3.00 per watt. A lot of that depends on the condition of the roof. This pricing is for roof-top mount and hooked to grid, which is the least expensive. Ground mounts are more costly because of trenching and cement and extra wiring. The utility bill is about \$100.00 month. This results in a \$17,500.00 (7kW) installed cost, which is \$12,500.00 after a 30% federal tax credit. This results in less than a 10 year payback. Warranties on these systems are 20+ years. There are systems installed in Floyd 25 years ago that are still operating.

Net metering is the billing arrangement with your utility that allows you to receive credit for excess renewable electricity delivered to the grid. A 'net meter' tracks both the electricity consumed onsite and the electricity exported by the solar electric system.

Mr. David Wall, with Affordable Energy Concepts, Inc. I also have an office here in Floyd. I have been doing solar since 2008. We have 30 years of experience with the team at Affordable Energy Concepts. We are licensed in Virginia, North Carolina, and South Carolina. Mr. Wall presented a Powerpoint slide show (Appendix B) which is incorporated into these minutes. We have installed 500Kw worth of residential solar over the last eight years. Last year we worked with a local cooperative and did the largest community solar project in Lexington.

We are in the process of doing the largest school system solar school system project with Bath County Public Schools, which is a small county kind of like Floyd. They only have three schools in the County and we are putting solar on every school. On October 25 the Governor will be coming to have a groundbreaking ceremony.

We are putting on micro inverters, 3-phase 480 volt, which is a system that actually provides rapid shutdown. When we talk about solar for schools, safety is on the top of the list. When we started the design phase in Bath County we looked at a roofing report. We brought in

a third-party roofing inspector to make sure we had good roofs to work with. We did structural engineering. We went through a holistic approach to electrical engineering. The code of Virginia does not require rapid shutdown, but when it comes to safety in schools obviously you want to go above and beyond. These inverters shut down in case of any kind of emergency. It gives you that capability. When you've got DC flowing to AC and you got old systems flowing DC through a building to a tie-in point we don't have that issue anymore. It shuts down right on the roof so if the fire department shows up and they have something they need to deal with, they don't have to worry about electricity flowing from the solar arrays. They are also easier to install. They are also easier to monitor. In Bath County the utility company came to us and said they want to put solar on the schools. We are working through Barc Electric Cooperative.

With Floyd County we would be working with APCO, which would be a totally different structural agreement to make solar work for the school system here in Floyd. In Bath they are paying a monthly bill to the cooperative. They have a special solar tariff the school system pays for. We used our software to show you what solar would look like in Floyd. If we installed roof mount solar on all five schools in Floyd County it would be a 1.49MW system. When you go solar you want to go big because it drives the cost down. That is the attraction for us as a company. We can buy bulk and we get better pricing from our vendors and labor goes down. The returns for a larger scale system can be better than it is for residential. We haven't done anything besides putting this on a computer. We haven't vetted your roofs or looked at your power bills. But this is a possibility of what Floyd County could do without going to a ground mount. In Floyd County the systems would be ballasted. It is the most affordable way and easy to move as other energy improvements are made in the schools. It is a maintenance friendly system.

For schools we want to reduce the risk and make it an affordable option to where the schools and the county save money. There is a great environmental incentive to do solar, but at the end of the day we want to see savings. The way you do that in general when you do commercial solar you have that 30% federal tax credit like you do with residential, but you are also allowed to depreciate the system because you are a business. Floyd County does not pay taxes. So what happens is to reduce risk, investors, typically community banks, we provide you with an agreement that allows someone else to own the system. They have to do the maintenance. They have to operate it and you pay for the service. You have no risk involved with that system. You have zero investment. Floyd County does not have to come up with the money. You secure a discounted utility rate by going solar. I haven't seen your power bills. I don't know your rate schedule. I don't know your demand charges. When we get into design, I will look at all of those to see what you will save off of energy, how much demand we are able to capture and save you on demand, to analyze true savings for Floyd County. That is really important to know before you move forward.

Even with APCO's rate schedule, if you are in a municipality rate schedule, AEP (Appalachian Power Company) may not let you have a net meter, which means we have to interject energy management and storage to make sure we don't send voltage onto the grid because you do not have a meter that allows you to do that. Now there are other tariff rates. APCO is not that hard to deal with, but we have to work with them and not work against them.

Typically we enter into a maintenance contract with a developer and take care of maintenance. Rick [Brown] and I have talked about it through the life of this system, you won't be doing maintenance. Rick [Brown] is local. We are local. It provides local jobs too. The maintenance is actually covered under that agreement. You don't pay any maintenance. If lightening hits an array and it goes down, you pay for the energy. If it is not producing, you don't pay for it. There are early buyback options in this agreement at year six when the tax equity is gone and the investors want to get out. They usually give you an attractive option, but that adds risk. There is no requirement to buy at any time.

To move forward with solar energy, we have to analyze your power bill. We need to look at your load and analyze demand savings. We need to look at locations. We look at optimal equipment to make sure we get rapid shutdown. You have so many big roofs up there it is possible a string line inverter would work on your roofs and be more affordable. We have to look at all of those things to drive cost down so that at the end of the day when we came to a final proposal Floyd County would be saving money in the thousands of dollars. We know it can happen. Bath County is saving at a minimum \$11,000.00- \$12,000.00 per year by not spending with their utility by going solar. We will work with a team to develop a structural agreement that actually meets all the regulations. For APCO, purchase power agreements are not legal for schools, but for higher education they are but you do not fall within that. We have to develop an agreement that actually works with what AEP has on the books, unless you want to go to court and fight it. I don't want to do that. I would rather out an agreement that works for all parties involved, including the utility. There are ways to do it.

Obviously we have to do a cost analysis in order to come up with an agreement that works for the County. We have built training facilities on solar power. We do a lot of things in the community to teach solar in general.

Typically rates are locked in for five years. Basically they are getting a loan, they are loaning themselves money, and at the end of five years it is just like any loan they base your rate off of market interest rates. There are clauses in there that allows them to increase the agreement cost if market rates go up. They also have a buyout clause that is agreed on when we sign the contract. For school systems, that is not an attractive part because you would be taking on some risks. It is capped at your APCO rate. You basically can't lose money, but you have to let them increase to that cap.

If you look at your power bill it is probably \$0.095, only about \$.05 is energy. You are being charged for demand and other fees which are based on kilowatt hour. We capture those and save on the kilowatt hour with solar. We have software that will model it. We will be honest with you and say you are paying \$.04 out of that \$.09 for demand, and with solar we are going to capture \$.015 so we are only saving you \$.075. That is typical. We do need to make sure we capture that demand. I need to look at your load and see when your peak is. With the energy management storage what happens is a partner comes in and sets up energy management storage. They sell demand response to PJM which is the owner of the grid. It is above AEP. Everybody buys power from PJM. They sell us services to capture your demand when we need to. It is bundled in the package along with the tax equity. If we can't have a net metering agreement with APCO we look at energy management. There are a lot of things we can do to manage your energy to maintain that savings for you.

Agenda Item 6.f. – Closed Session – Real Property 2.2-3711 A.3.; and Consultation with Legal Counsel 2.2-3711 A. 7.

On a motion made by Supervisor Yoder and seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph A. 3., Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and under Section 2.2-3711, Paragraph A. 7., Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultations or briefings in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

On a motion of Supervisor Yoder, seconded by Supervisor Kuchenbuch, and carried, it was resolved to come out of closed session.

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Turman, and unanimously carried, it was resolved to adopt the following certification resolution:

**CERTIFICATION RESOLUTION
CLOSED MEETING**

WHEREAS, this Board convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss Real Property in accordance with Section 2.2-3711, Paragraph A.3; and Consultation with Legal Counsel in accordance with Section 2.2-3711, Paragraph A.7 of the Virginia Freedom of Information Act;

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

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby certifies that, to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies; and (2) only such public

business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Supervisor Kuchenbuch – yes

Supervisor Yoder – yes

Supervisor Gerald – yes

Supervisor Turman – yes

Supervisor Clinger – yes

Agenda Item 6.h. – Presentation by Stephen Durbin on conflict of interest.

Chairman Clinger stated it is almost time for us to fill out the conflict-of-interest forms so we asked Mr. Stephen Durbin to hold a workshop for us on the Conflict of Interest Act. Mr. Durbin presented a Powerpoint slide show (Appendix C) which is incorporated into these minutes.

I want to make you aware of the most common issues that cause problems for public officials and anticipate issues before they become problems. The Conflict of Interest Act is complicated. It includes complicated definitions. It is non-intuitive. There are some significant penalties. When in doubt abstain, disqualify yourself. If you see an issue coming up, seek me out, the Commonwealth Attorney, or the Conflict of Interest Advisory Council.

You cannot have a personal interest in a transaction. It requires disclosure of certain types of interest annually and before certain votes by elected and some appointed officials. The Conflict of Interest Act regulates financial interests only. The public often thinks it covers things that it does not. One of the key definitions is personal interest. Immediate family is defined as a spouse or any other person who resides in the same household and is a dependent. Transaction is defined as any action that comes before your board. If you have a personal interest in a transaction that is coming before a body, it is not enough to not participate. The act requires you to disclose the conflict for the record. You cannot vote on the issue and you must not participate in the discussion of the matter too. The disclosure and disclaimer has to be made either at the time the matter is being considered or within the next business day. You would make it to the County Administrator and it needs to be kept on file.

If a disclosure is made of conflict of interest, the quorum number is reduced by the number of people who made that disclosure. It reduces the number of votes needed to take official action on that particular issue.

Disclosure forms are required by members of every governing body and school board of counties and cities, and towns with a population over 3,500. The filing dates and frequency of required filing have changed three times over the past three years. If you are already filing a long form then you don't have to file a shorter form. The Act addresses what gifts must be disclosed and what items are not considered gifts. The Act identifies prohibited contracts and General Prohibitions.

As of January 1, 2017, knowing and intentional misstatement on the Statement of Economic Interests is a Class 5 Felony. Violations of the Act constitute malfeasance in office.

Virginia Code 2.2-3121 provides that no officer or employee shall be prosecuted if their actions were made in good faith in reliance upon the written opinion issued by either the Commonwealth's Attorney or the Conflicts of Interests and Ethics Advisory Council.

Agenda Item 8.a. – Subdivision plats as approved by Agent for September 2017.

Ms. Morris stated if you have any questions on the plat report I will take them back to Ms. Martin for you. Business is still good.

Agenda Item 8.b. – September 2017 Department of Inspections Report.

Ms. Morris reported that permits are down a little bit this month but up some overall from last year.

Agenda Item 8.c. – Amendments to Section -2, Family Subdivisions, of the Floyd County, Virginia Subdivision Ordinance.

Ms. Morris reported that last month you requested that we delay the vote on these amendments until this meeting so that changes could be incorporated.

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Yoder, and carried, it was resolved to approve the amendments to Section 2, Family Subdivisions of the Floyd County Virginia Subdivision Ordinance as presented (Document File Number 943).

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – no
Supervisor Clinger – yes

Agenda Item 8.e. – Voting credentials for VACo annual meeting.

Ms. Morris reported that the next item on the agenda is your voting credentials for the VACo annual meeting. You need a voting delegate and an alternate.

On a motion of Supervisor Yoder, seconded by Supervisor Kuchenbuch, and carried, it was resolved to name Vice Chairman Turman as the voting delegate and Supervisor Kuchenbuch as the alternate.

Supervisor Kuchenbuch – yes
Supervisor Gerald – yes
Supervisor Yoder – yes
Supervisor Turman – abstain
Supervisor Clinger – yes

Agenda Item 8.f. – Change of road name – Cross Creek Lane to Cross Creek Road.

Ms. Morris stated the last item is the changing of a road name from Cross Creek Lane to Cross Creek Road. You originally approved Cross Creek Lane but after months of dealing with

the Park Service on getting the sign, they changed the name to Road on their sign. The road intersects on both ends with the Parkway. We don't think it would violate our ordinance. We just usually name private roads as lanes.

On a motion of Supervisor Kuchenbuch and seconded by Supervisor Turman, and unanimously carried, it was resolved to approve the renaming of Cross Creek Lane to Cross Creek Road.

Supervisor Yoder – yes
Supervisor Kuchenbuch – yes
Supervisor Gerald – yes
Supervisor Turman – yes
Supervisor Clinger – yes

Agenda Item 9. – Old/New Business.

Ms. Morris reminded the Board they usually cancel the second meetings in November and December.

The consensus of the Board was to ask Ms. Morris to prepare resolutions to hold the November meeting on November 21 and to cancel the second meeting and to cancel the second December meeting.

Ms. Morris stated that she talked to the Commissioner of Revenue and as of Friday they had 29 short-term rentals that paid the \$50.00 fee to be on the short-term rental registry. Eighteen more have sent their documentation in. Three short-term rentals decided to close because of the \$50.00 registration fee.

Chairman Clinger said he has a request to amend the agenda to go back into closed session under Personnel 2.2-3711 A.1.

On a motion made by Supervisor Turman and seconded by Supervisor Yoder and unanimously carried to amend the agenda to go into closed session under Personnel 2.2-3711 A.1.

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

On a motion made by Supervisor Turman and seconded by Supervisor Kuchenbuch, and unanimously carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph 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.

Supervisor Kuchenbuch – yes
Supervisor Gerald – yes
Supervisor Yoder – yes

Supervisor Turman – yes
Supervisor Clinger – yes

On a motion of Supervisor Gerald, seconded by Supervisor Kuchenbuch, and carried, it was resolved to come out of closed session.

Supervisor Gerald – yes
Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Turman – yes
Supervisor Clinger – yes

On a motion of Supervisor Kuchenbuch, seconded by Supervisor Turman, and unanimously carried, it was resolved to adopt the following certification resolution:

CERTIFICATION RESOLUTION CLOSED MEETING

WHEREAS, this Board convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss Personnel in accordance with Section 2.2-3711, Paragraph A.1 of the Virginia Freedom of Information Act;

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

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby certifies that, to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Supervisor Kuchenbuch – yes
Supervisor Yoder – yes
Supervisor Gerald – yes
Supervisor Turman – yes
Supervisor Clinger – yes

Agenda Item 8.d. – Appointment to the Floyd County Planning Commission from the Burks Fork District, four year term.

Chairman Clinger said this item will be tabled until the next night meeting. We have such great candidates that we don't want to say no to either one. We will continue working on this.

Agenda Item 10. – Adjournment.

On a motion of Supervisor Gerald, seconded by Supervisor Turman, and carried, it was resolved to adjourn to Tuesday, October 24, 2017 at 7:00 p.m.

Terri W Morris

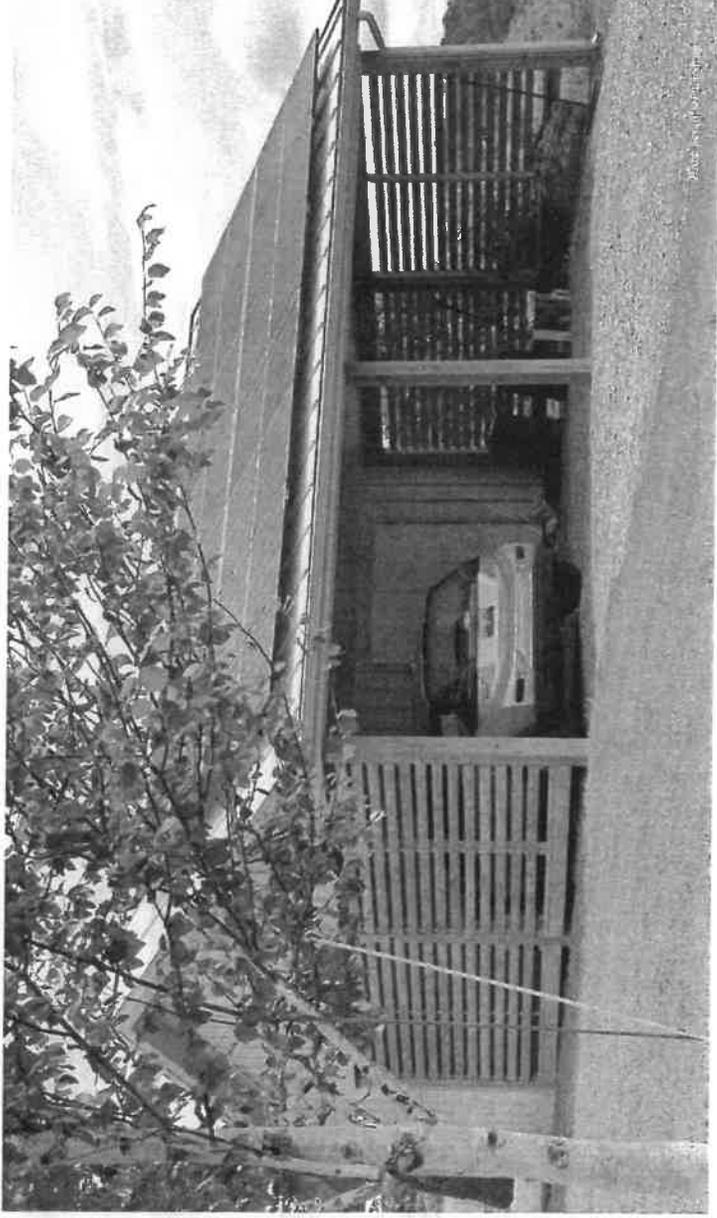
Terri W. Morris, County Administrator

~~*[Signature]*~~
Case C. Clinger, Chairman, Board of Supervisors

Solar Electric Fundamentals

Just the basics, please.

By Rick Brown, SolShine Energy Alternatives, LLC



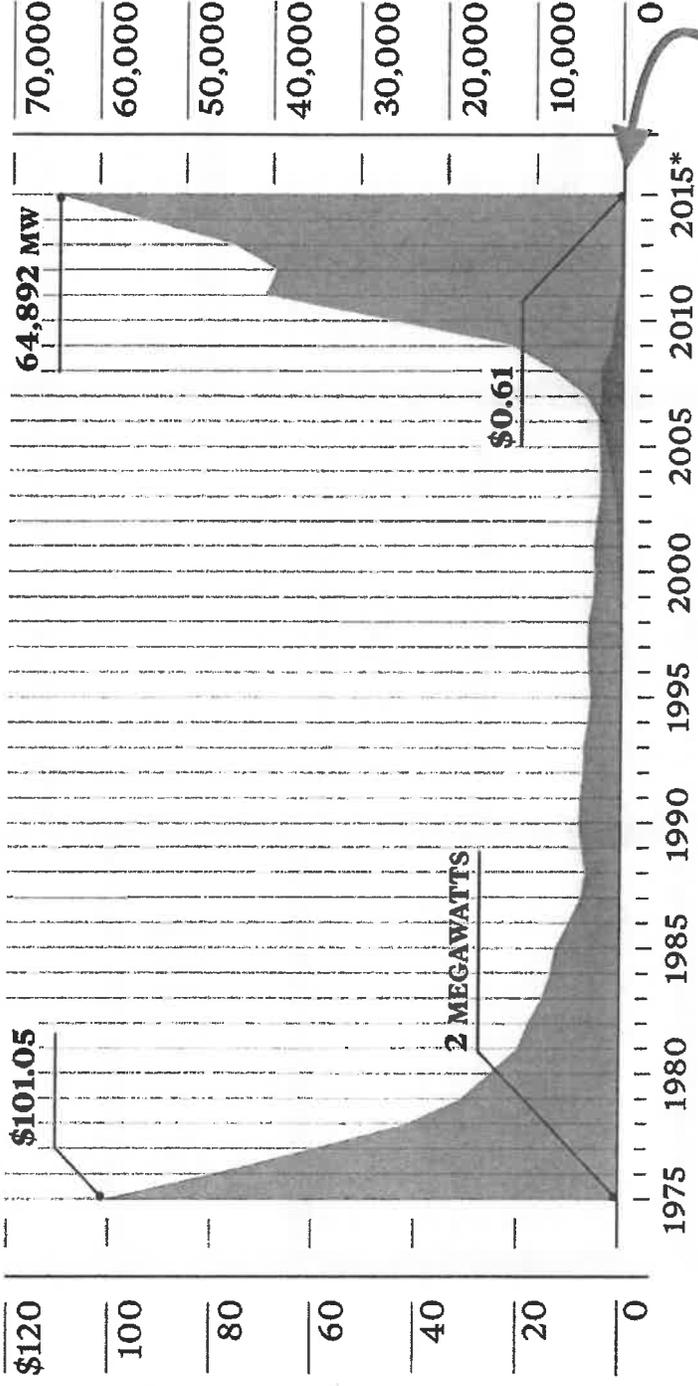
Agenda

- Solar Electricity (PV) Today
- Solar Electric Basics
- Typical Installation Types
 - \$Cost\$
 - Net Metering
 - Q&A

Solar on Fire

As prices have dropped, installations have skyrocketed.

Price of a solar panel per watt



Global solar panel installations

*Estimate. Sources: Bloomberg, Earth Policy Institute, www.earth-policy.org

Down to \$0.447 in August 2016

A Steep-walled Canyon!

SOLAR DATA

cheat sheet

Amount of Solar Currently Installed in the U.S.

44.7 GW

State Ranking by Cumulative Solar Capacity

- 1 California - 18,963 MW
- 2 North Carolina - 3,287 MW
- 3 Arizona - 3,151 MW
- 4 Nevada - 2,269 MW
- 5 New Jersey - 2,113 MW
- 6 Massachusetts - 1,592 MW
- 7 Utah - 1,527 MW
- 8 Georgia - 1,478 MW
- 9 Texas - 1,228 MW
- 10 New York - 1,012 MW

Number of Solar Businesses in the U.S.³

9,000

In 2016, a new solar project was installed every

84 seconds

Solar PV prices have fallen by 19% over the last year, and by

63% over the last 5 years

Number of People Employed by the Solar Industry⁴; more than

260,000

Largest Solar Power Plants in Operation

- Solar Star CA - 579 MW
- Topaz Solar Farm, CA - 550 MW
- Desert Sunlight, CA - 550 MW
- Ivanpah, CA - 392 MW
- StateLine Solar, NV - 300 MW

Number of Solar Energy Systems Installed in the U.S.

1,356,000

Carbon emissions reduced:

55 million

metric tons annually, equivalent to:

-taking **11.6 million vehicles** off the road

-**6.2 billion gallons** of gas not used

-planting over **1.4 billion trees**

16 coal-fired power plants -shuttering

For the first time ever, solar was the top source of new capacity, representing

39%

of installed electric capacity in 2016

Value of the U.S. Solar Market in 2016

\$23 BILLION

In 2016, the U.S. installed

15 GW

of solar capacity, an increase of

100%

over 2015

Top Corporate Solar Users²

1. Target - 147.5 MW
2. Walmart - 145 MW
3. Prologis - 107.8 MW
4. Apple - 93.9 MW
5. Costco - 50.7 MW
6. Kohl's - 50.2 MW
7. IKEA - 44 MW
8. Macy's - 38.9 MW
9. General Growth Properties - 30.2 MW
10. Hartz Mountain - 22.7 MW

Over the last ten years, the solar market has grown by an average of

68%

every year

There is enough solar energy installed in the U.S. to power

8.7 million

households⁴



© 2017 Solar Energy Industries Association®. Cheat Sheet Updated 6/8/2017 from 2017 Q1 data. All data from SEIA/GTM Solar Market Insight report except as otherwise noted. 1. solar.org/smr 2. SEIA.org/solarmarkets 3. SEIA.org/whats-megawatt 4. SEIA.org/whats-megawatt

U.S. SOLAR MARKET INSIGHT

U.S. solar capacity
is expected to

TRIPLE IN SIZE

over the next 6 years



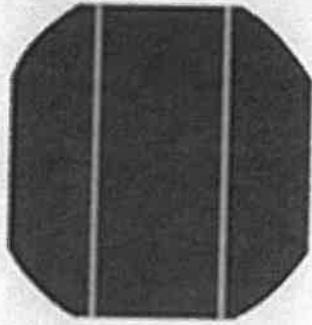
2022

2016

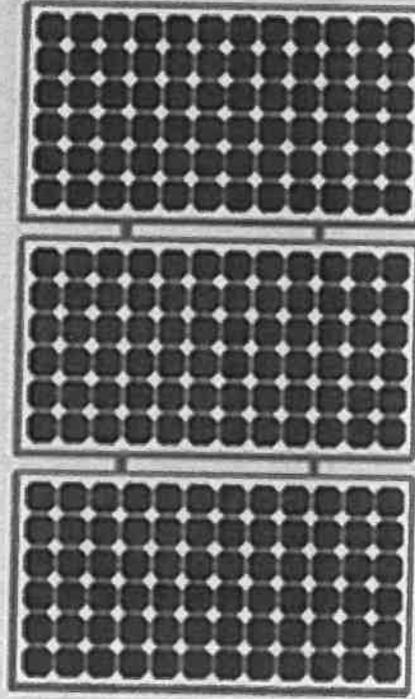
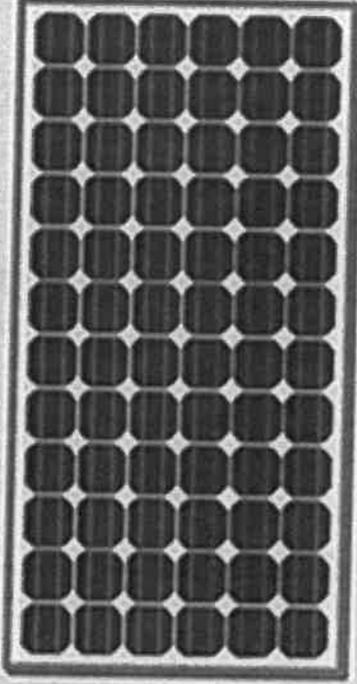


www.seia.org/smi

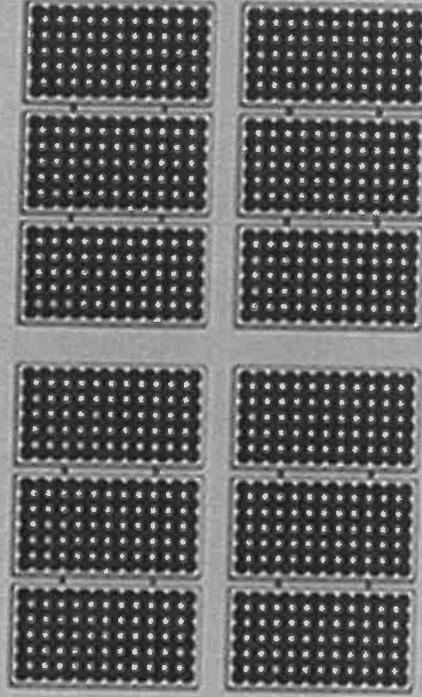
**Photovoltaic (PV)
Cell**



Module

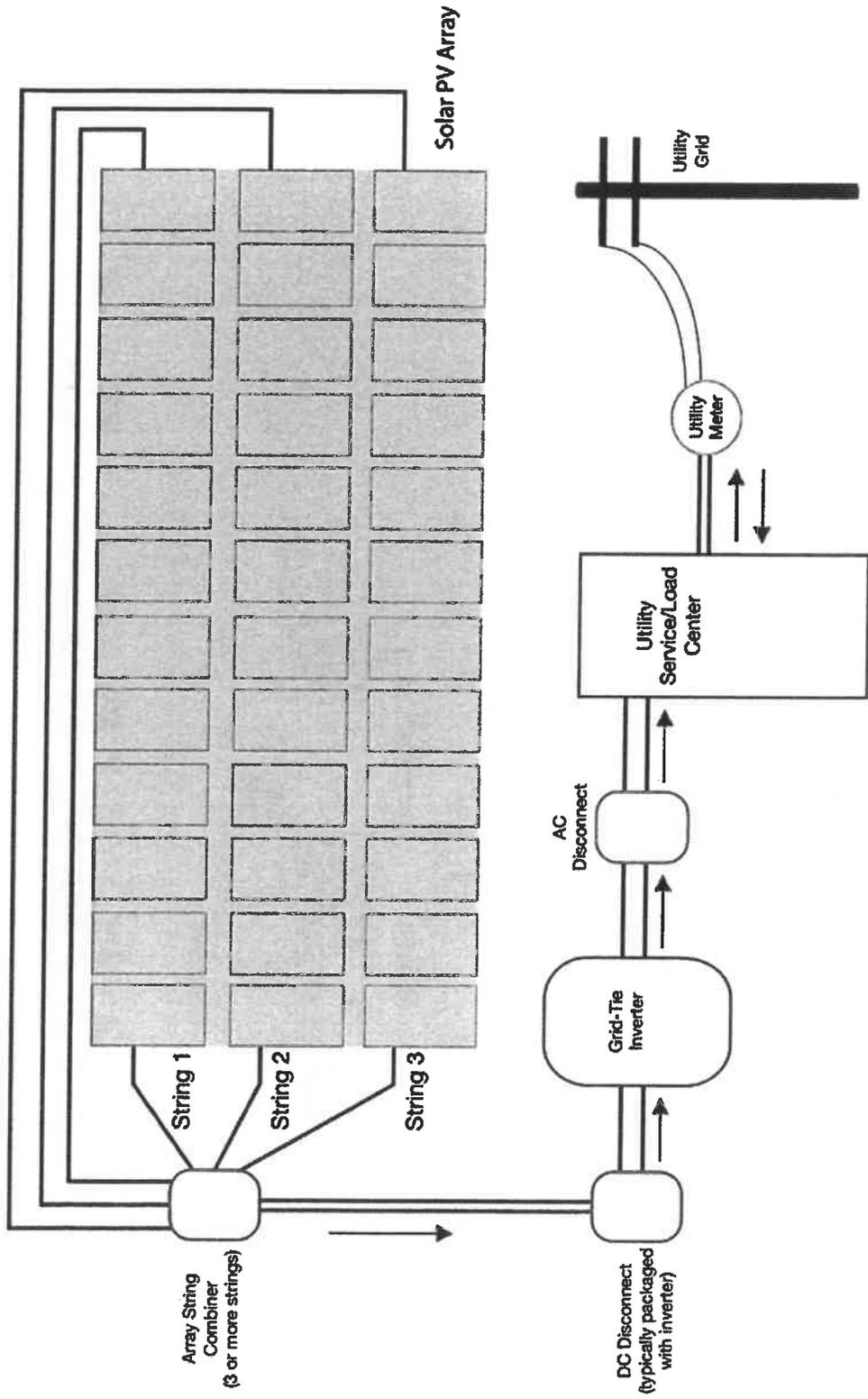


Panel

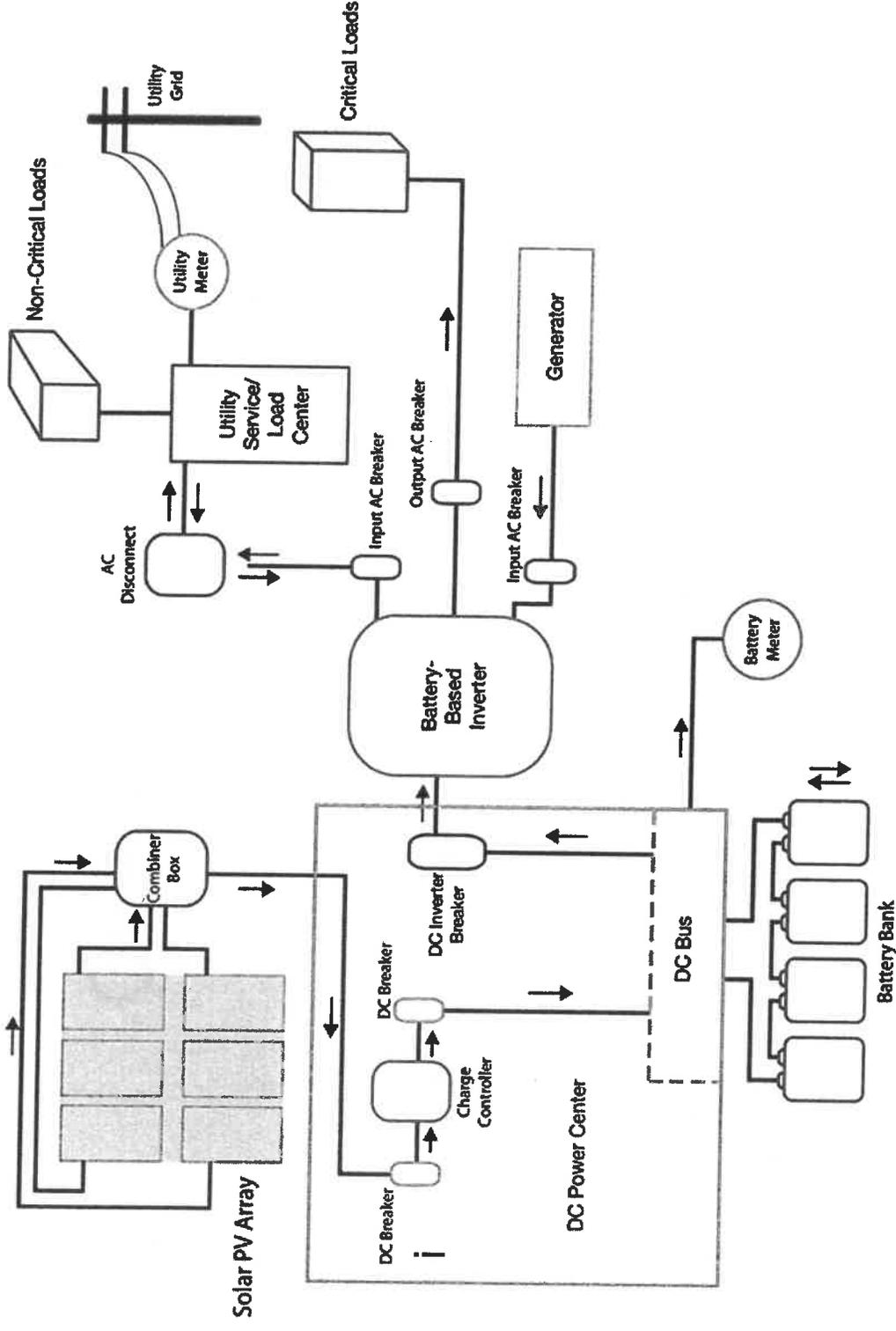


Array

In The Beginning...

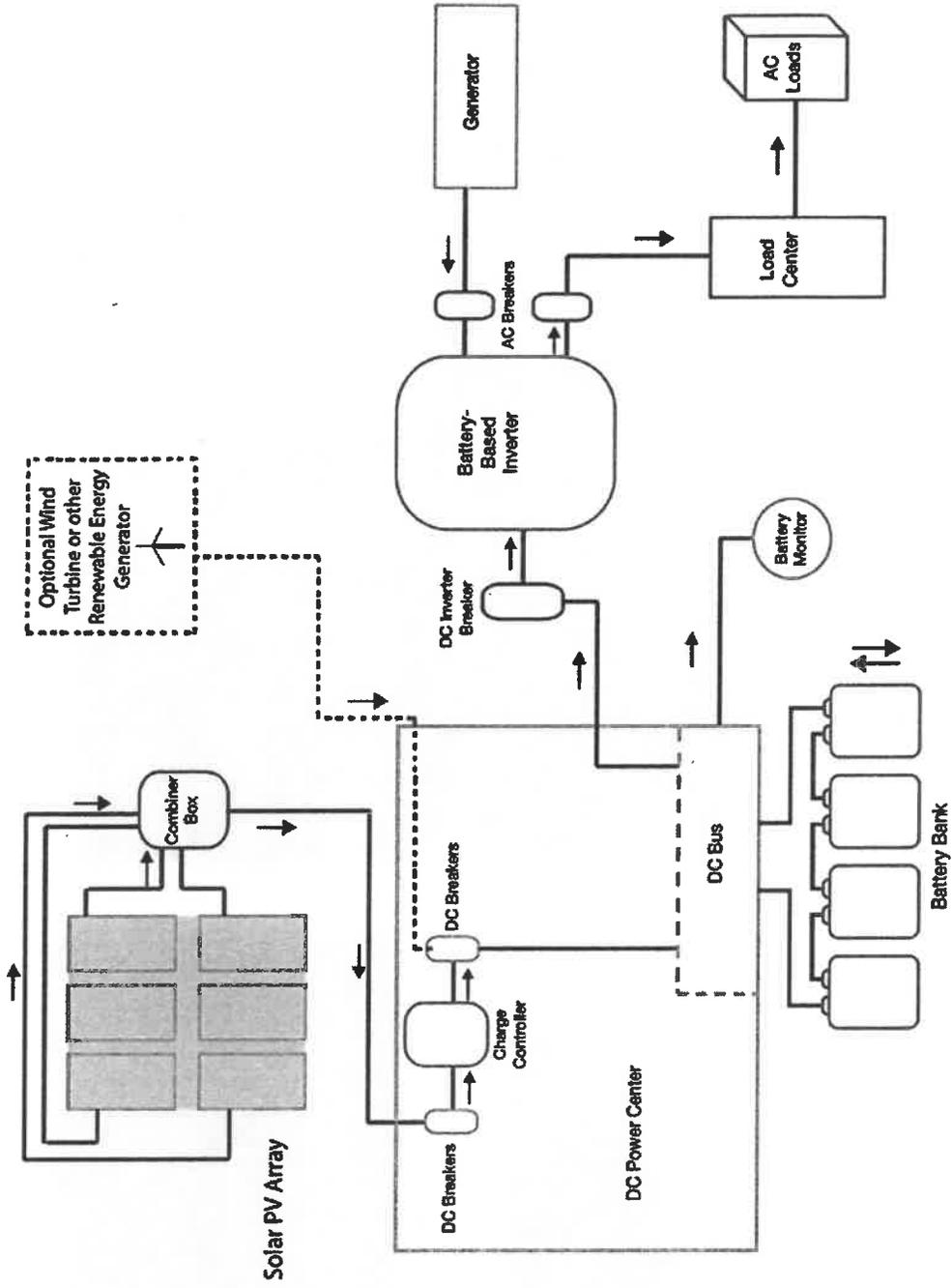


Grid-Tie PV System



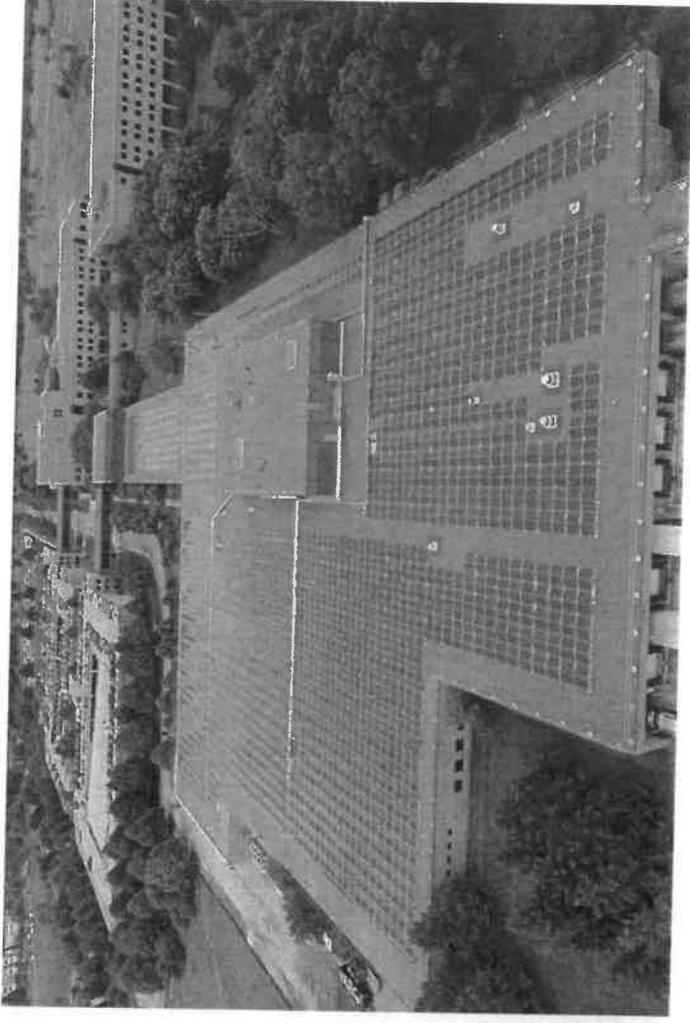
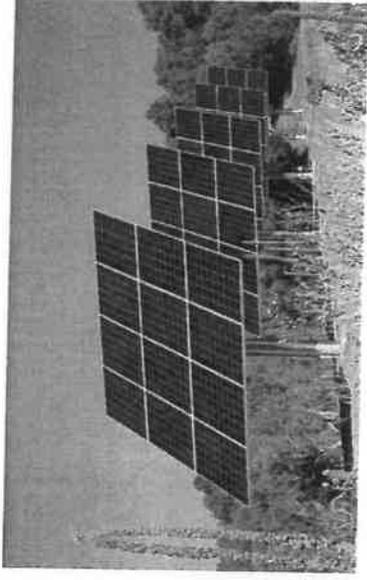
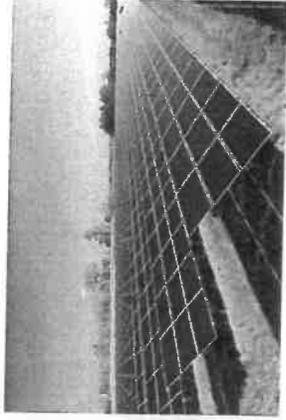
Grid-Tie w/ Battery-Backup

Image Courtesy of AEE Solar

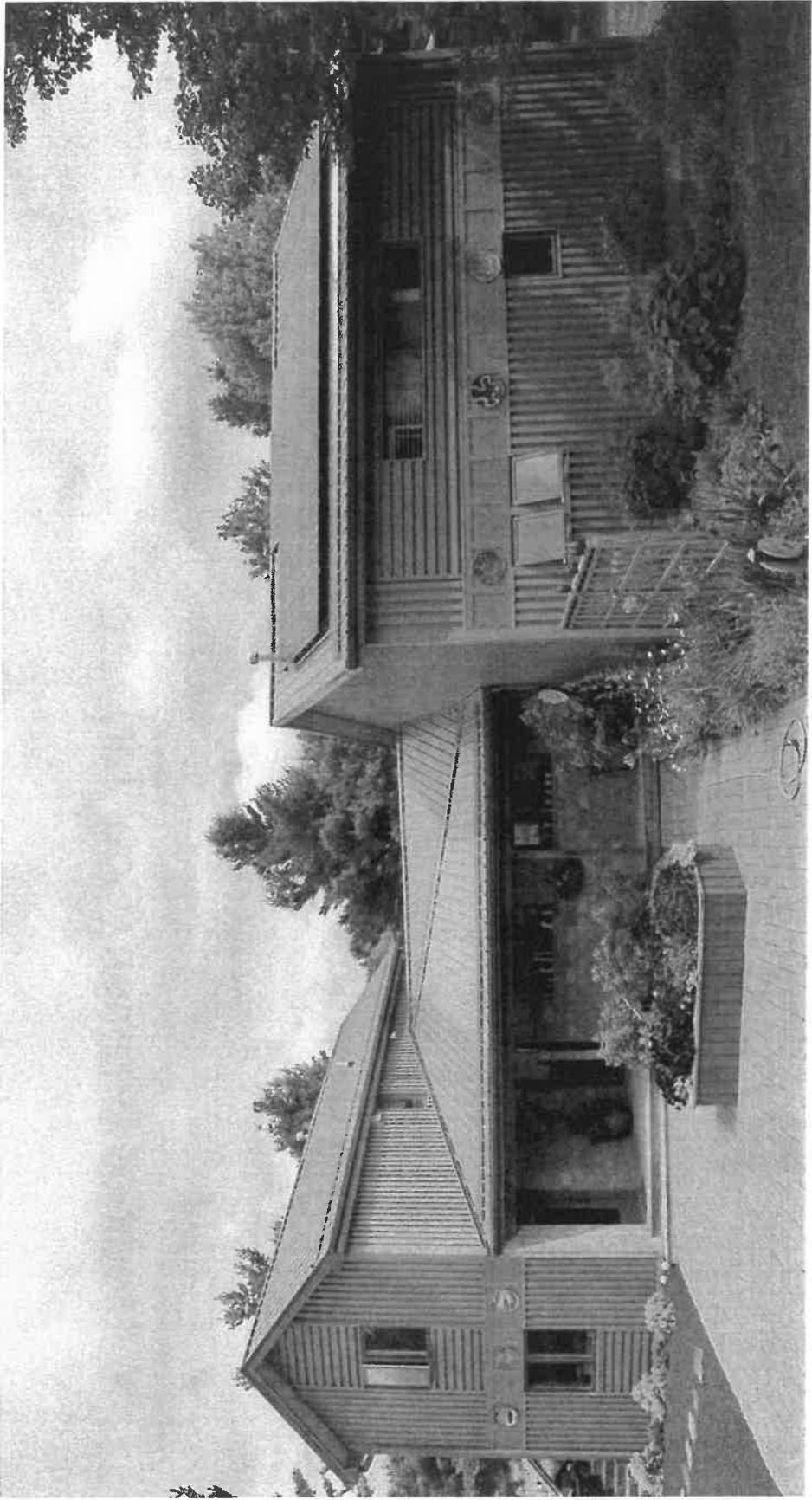


Off-Grid PV System

Mounting Installation Types



Roof-Top Applications

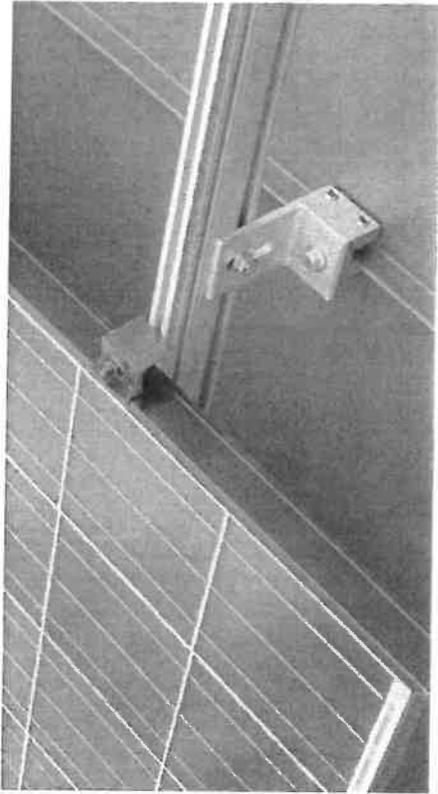


Roof-top Materials

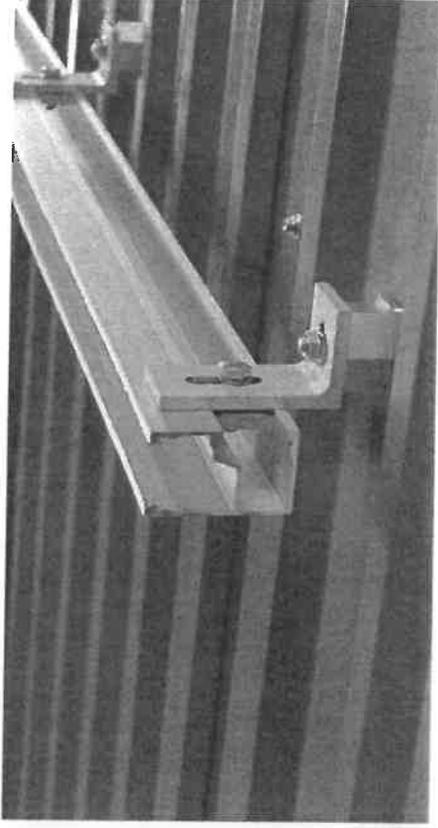
- Types
 - Asphalt Shingle
 - Tile or Slate
 - Standing Seam
 - Metal Ribbed
 - EPDM
 - Modified Bitumen (Coal Tar)

Typical Roof-top Mounting Systems

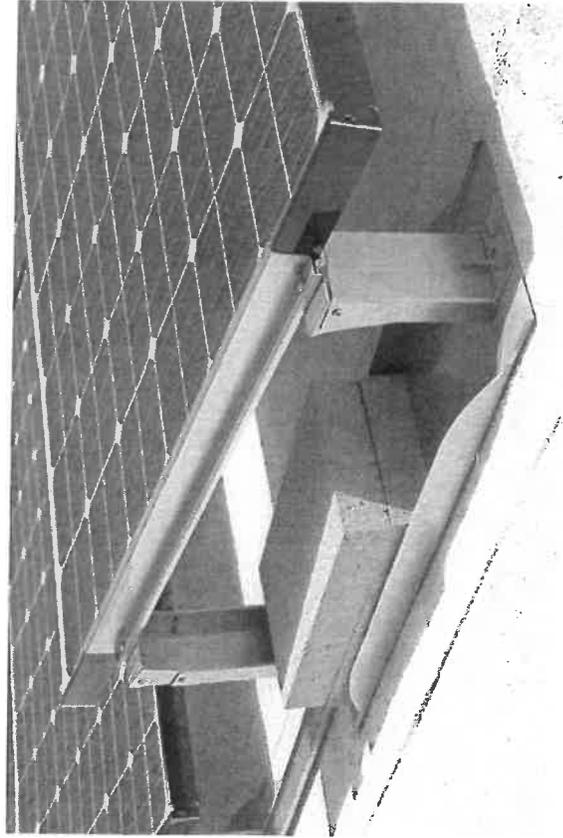
- Asphalt Shingle – Flashing w/ Lag Screw
- Standing Seam – Seam Clamp
- Flat – Ballasted or Structurally Attached
- Metal Ribbed – Lag Screw w/ Sealant



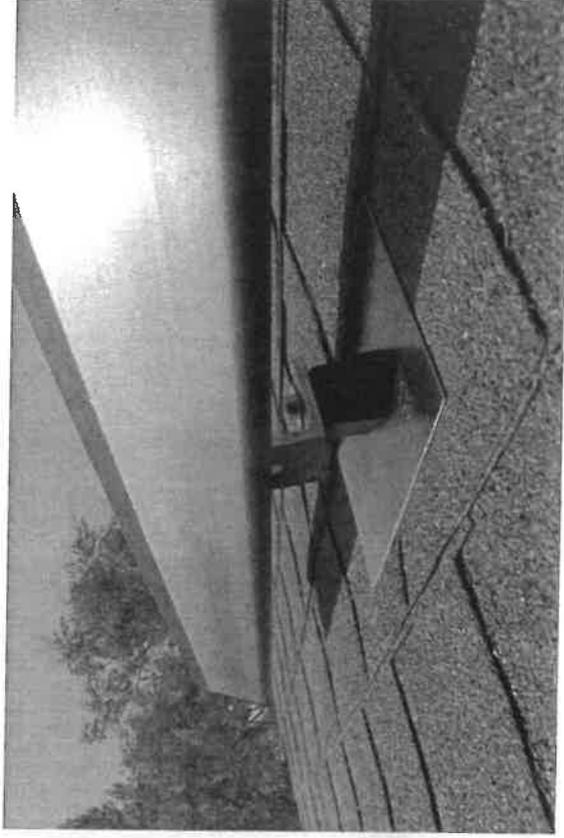
Standing Seam Clamp



Metal Ribbed

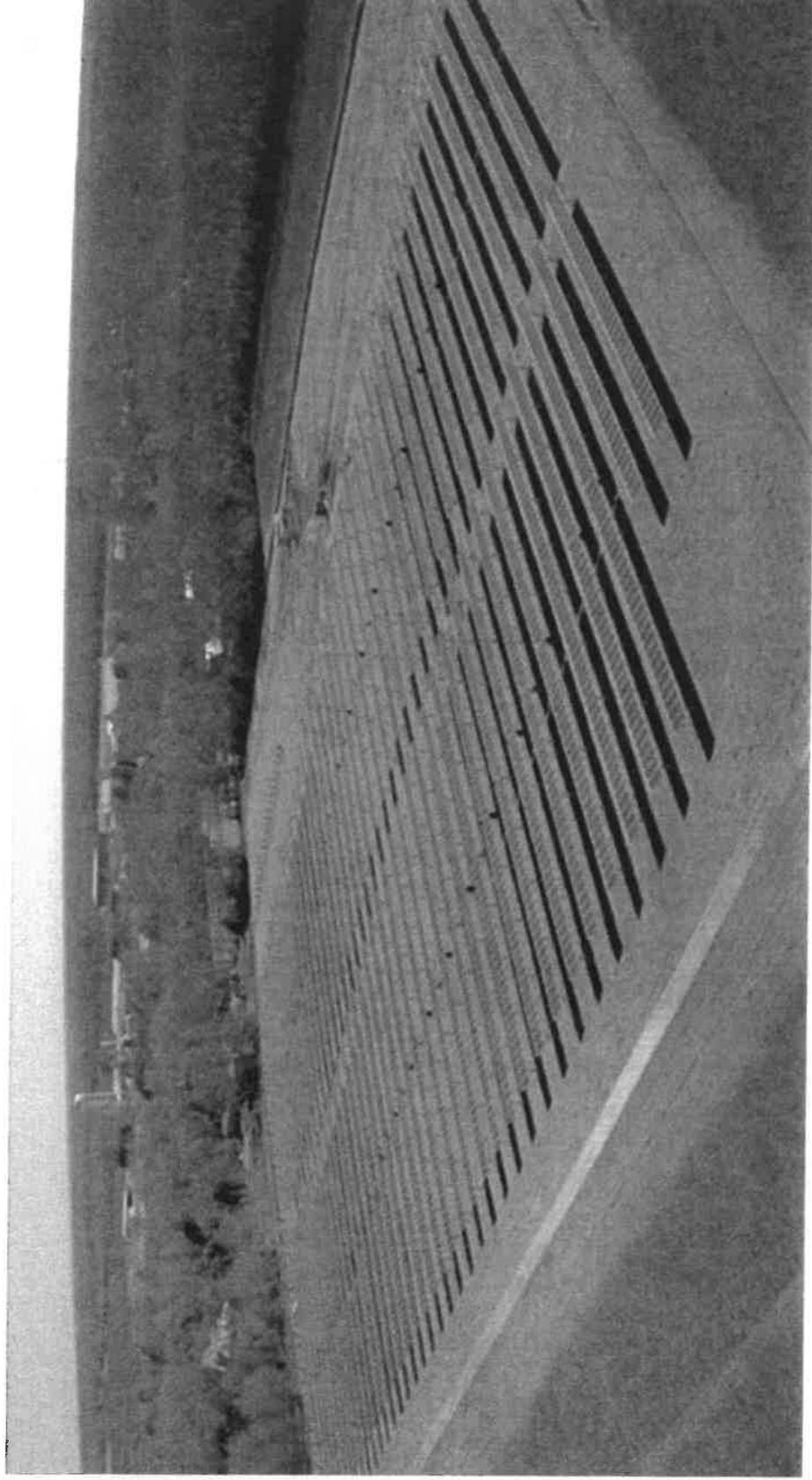


Ballasted



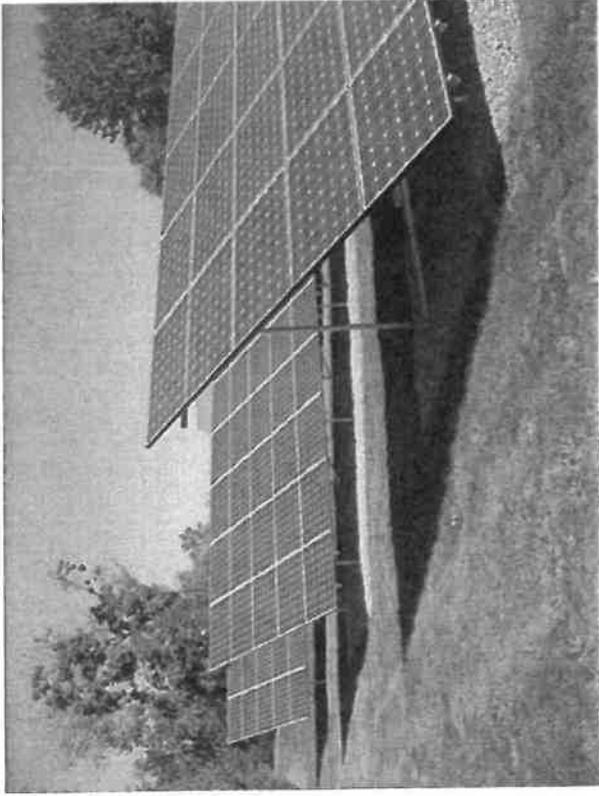
Asphalt Shingle

Ground-mount Applications

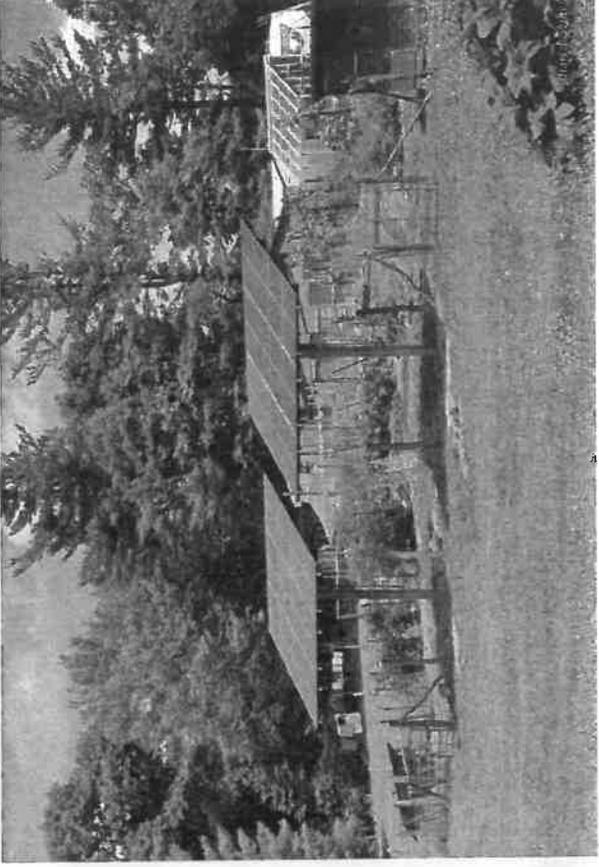


Typical Ground-Mount Applications

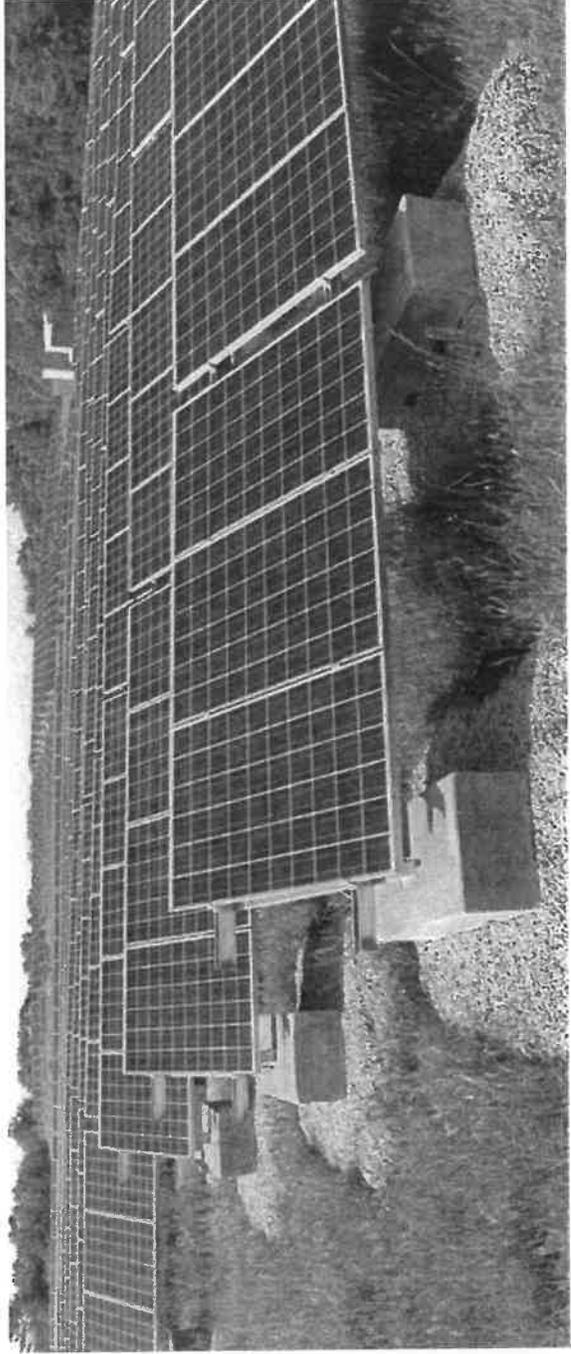
- Pole-Mount
- Ground-Mount
- Ballasted



Ground-Mount



Pole-Mount



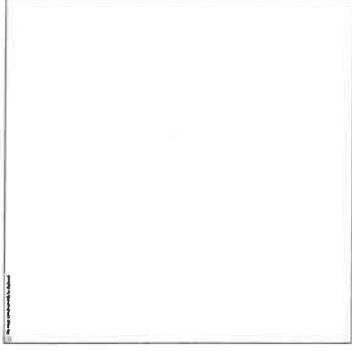
Ballasted

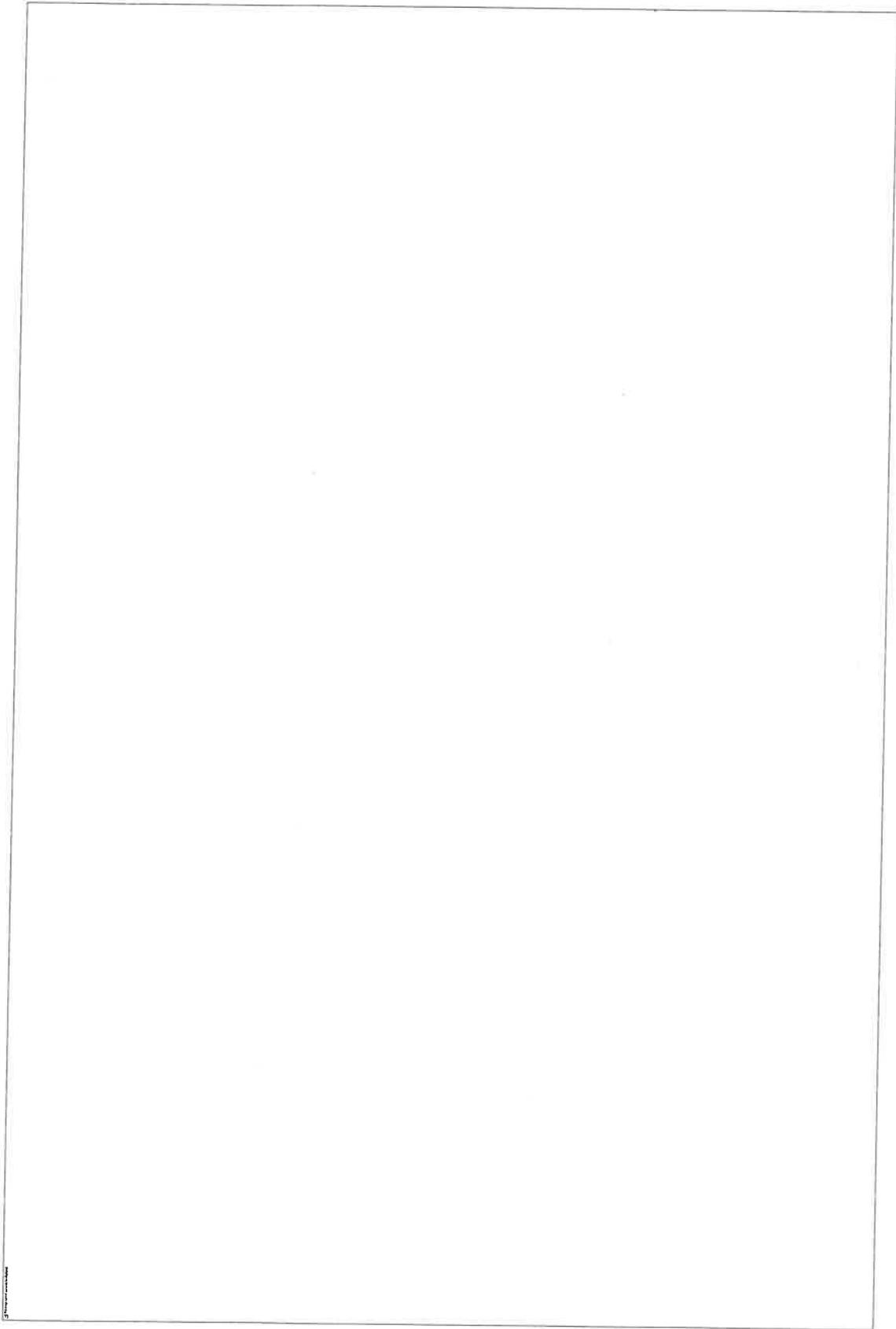
Cost

- **Module Prices ~ \$0.60/Watt**
- **Average Residential Grid-Tie, Roof-Mount Cost = \$2.50 - \$3.00/W**
- **Utility Bill = \$100/month: \$17,500 (7kW) Installed Cost, \$12,500 after 30% Federal Tax Credit**
- **Less than 10 year ROI**

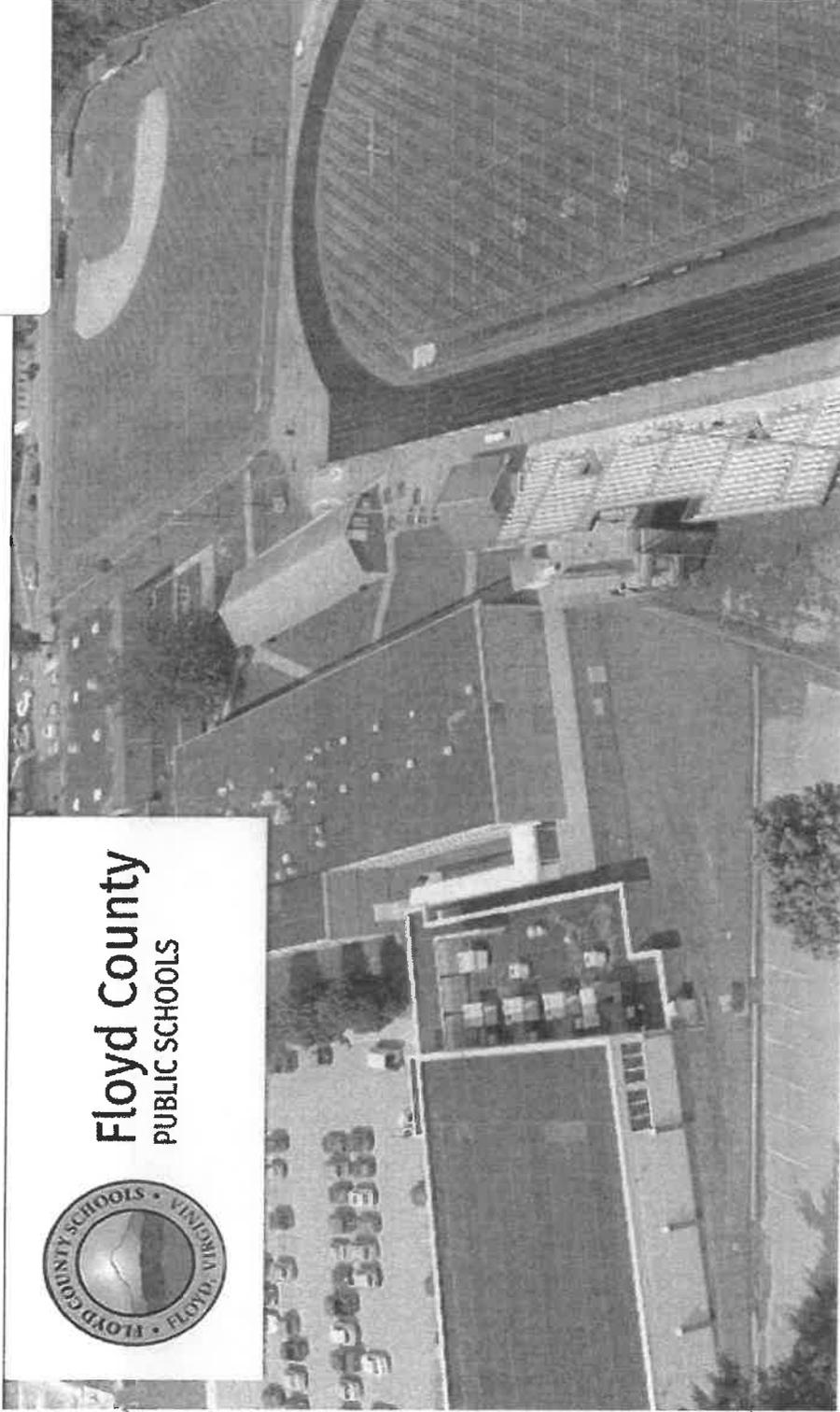
Net Metering

- Net metering is the billing arrangement with your utility that allows you to receive credit for **excess** renewable electricity delivered to the grid. A 'net meter' tracks **both** the electricity consumed onsite and the electricity exported by the solar electric system.





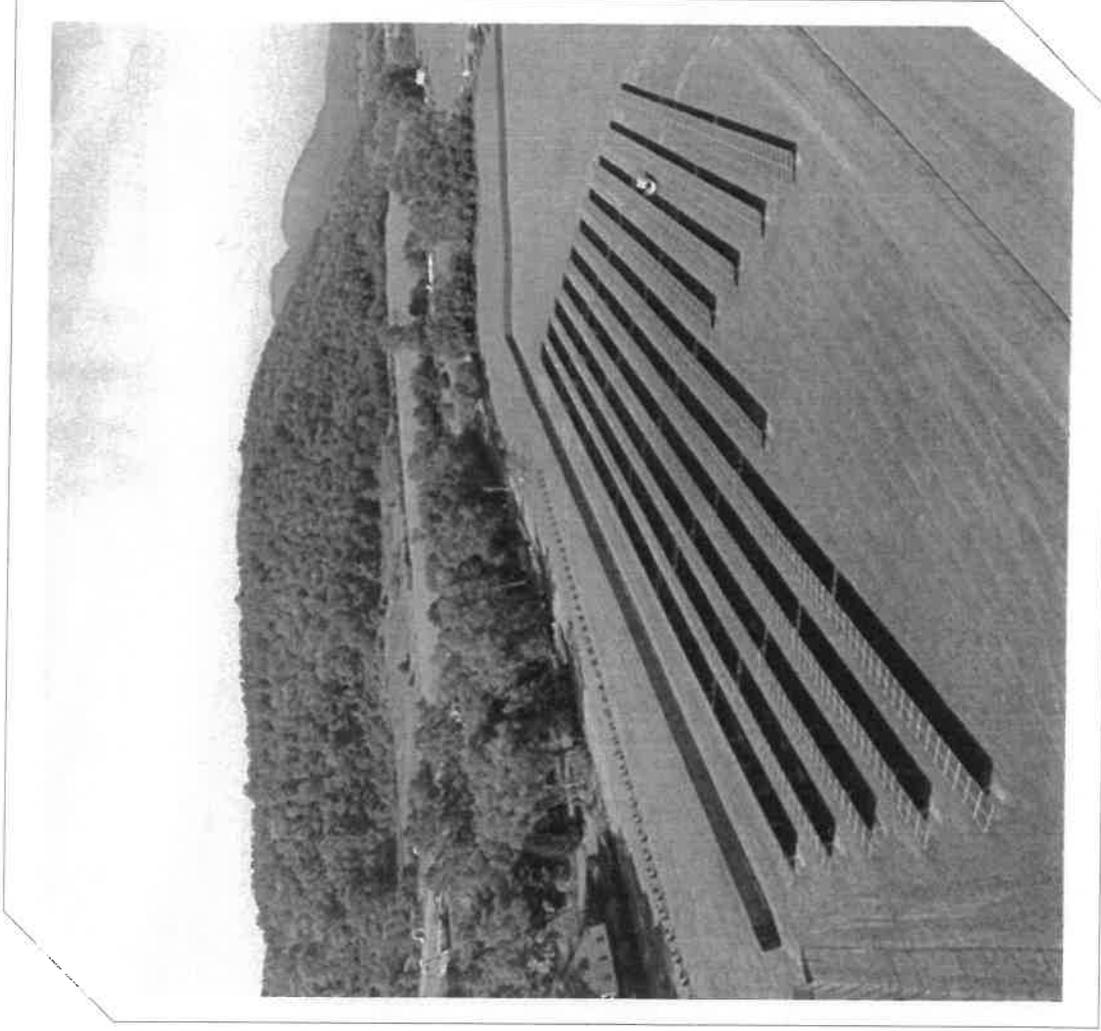
Appendix B

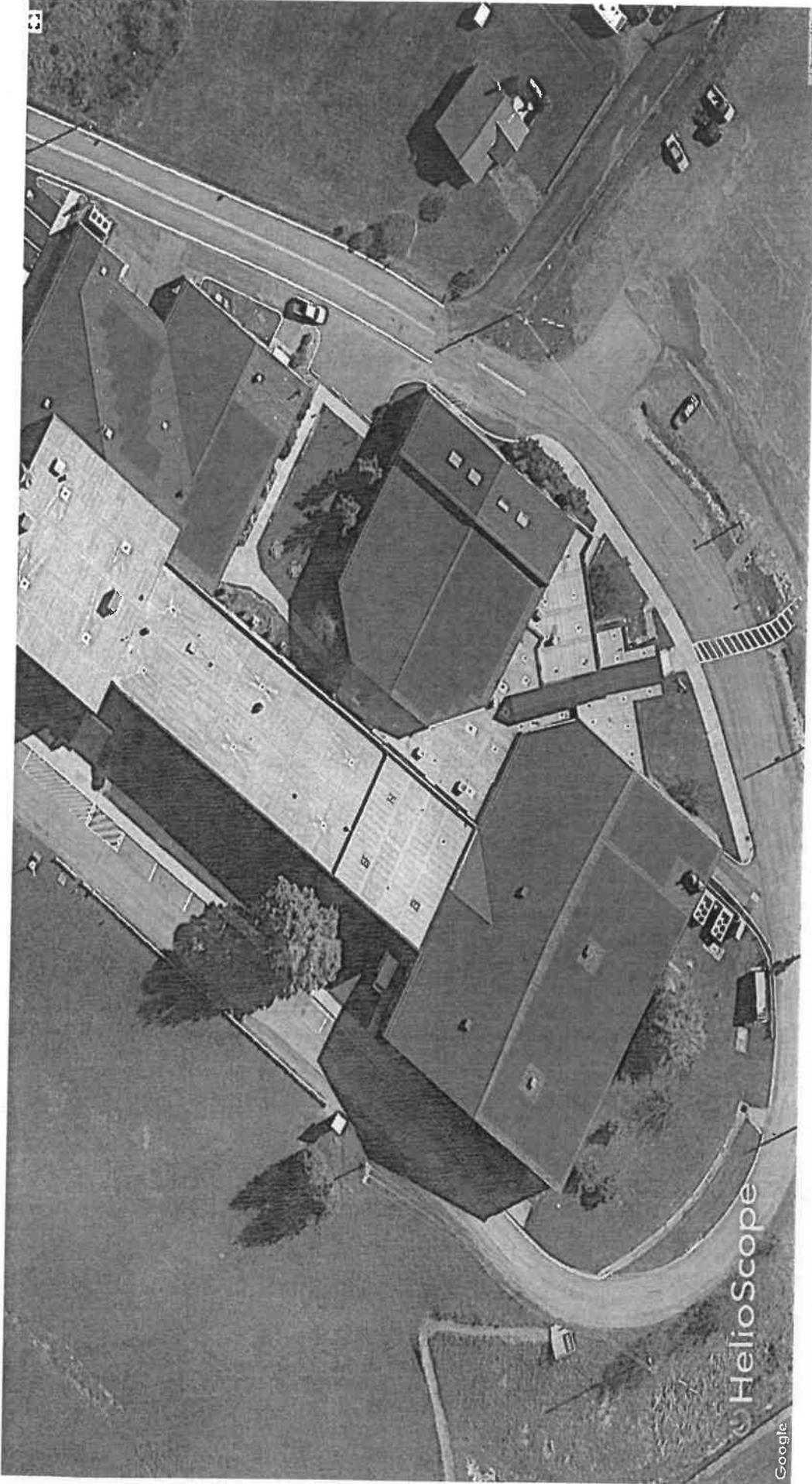


AEC AFFORDABLE
ENERGY
CONCEPTS, Inc.

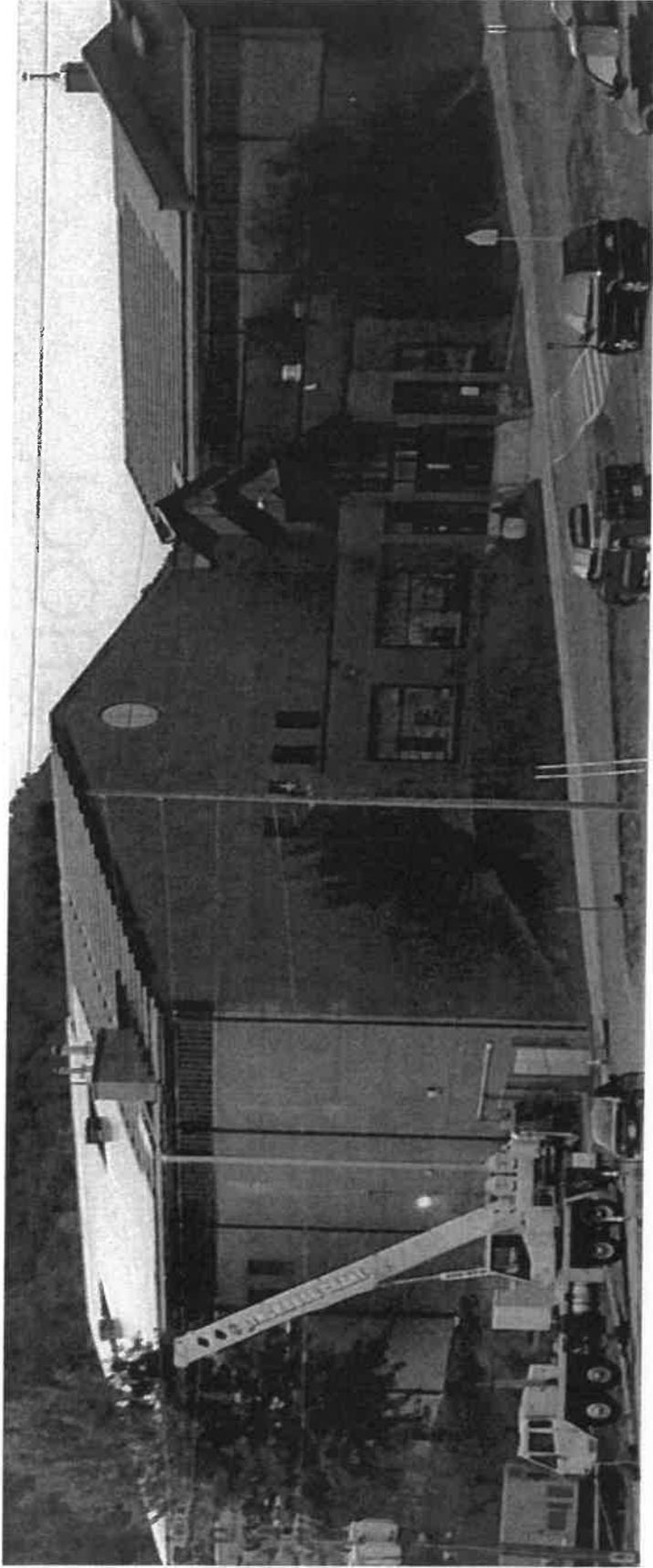
- **Founded in 2010**

- Our team has over 30+ years of solar experience
- Providing Professional Solar installations for Virginia (Also Licensed in North and South Carolina)
- Installed over 500Kw of Residential Solar in the last 8 years
- Installed the first Solar Garden in Virginia, 550kw (Phase 1) in Lexington VA
- Installing Largest School system in the State of Virginia.



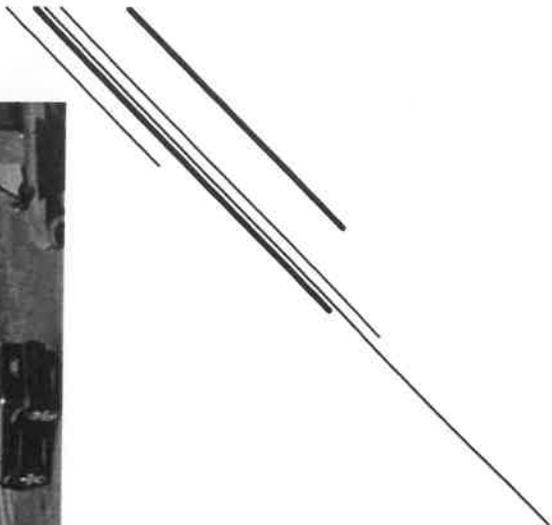


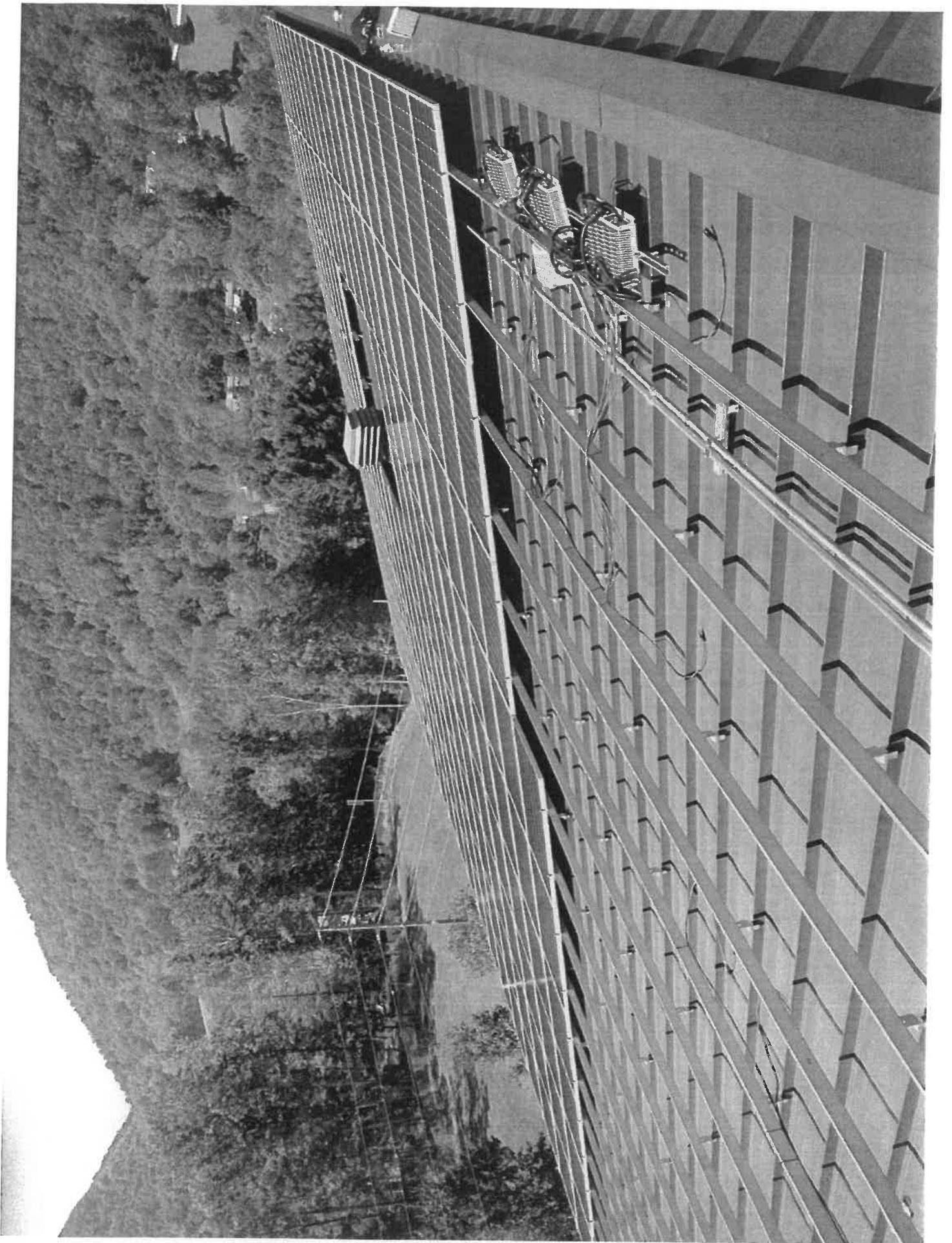
BATH COUNTY HIGH SCHOOL



BATH COUNTY HIGH SCHOOL

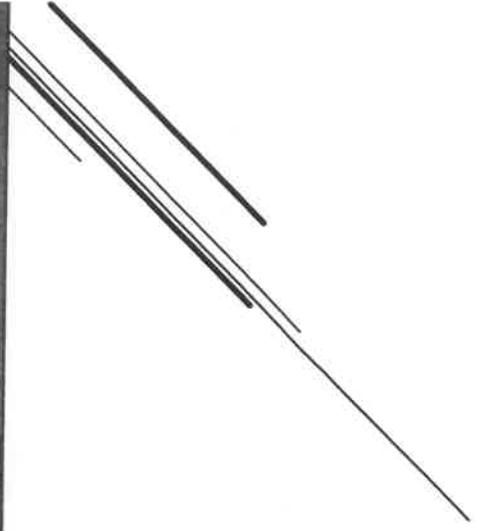
251KW

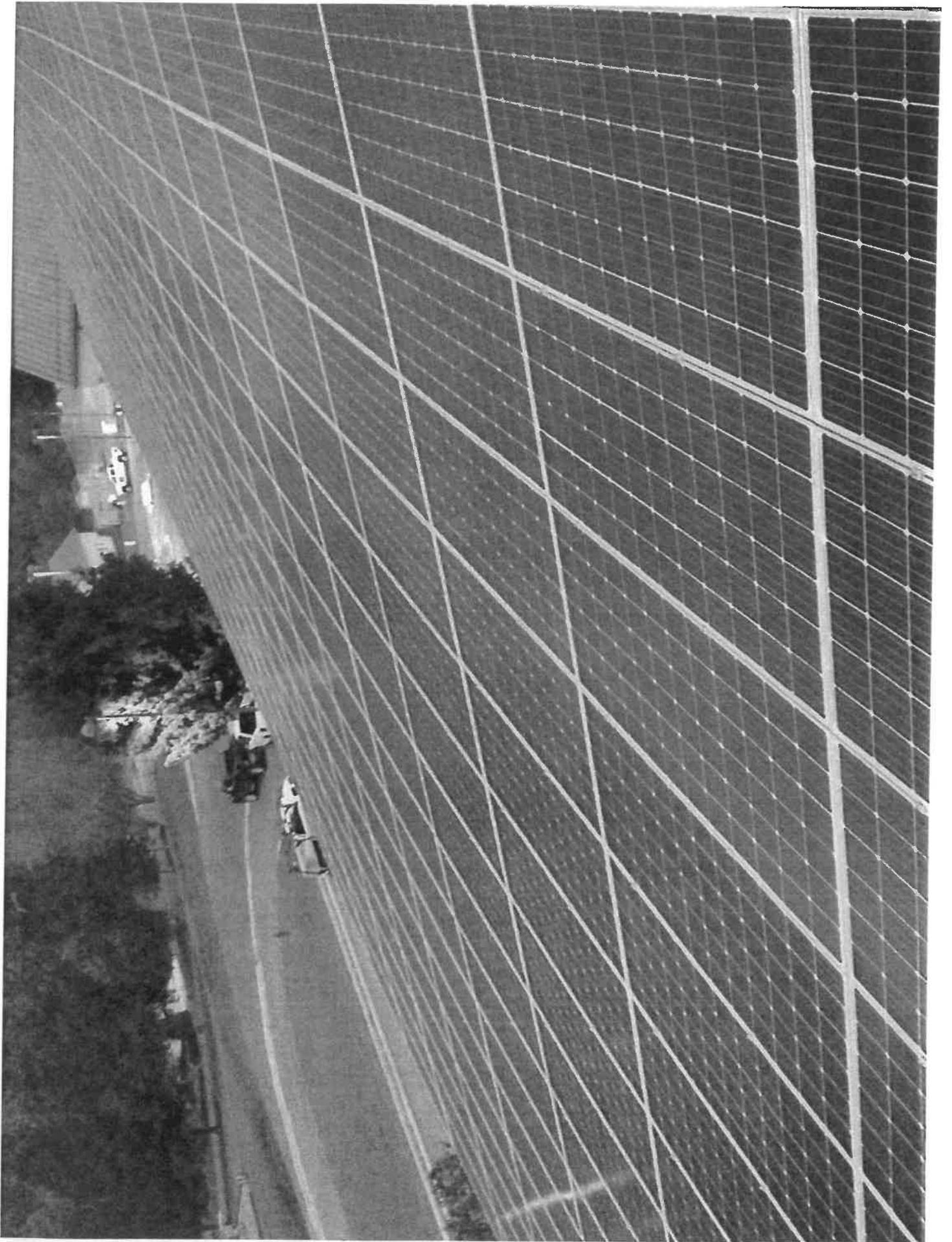






VALLEY ELEMENTARY
BATH COUNTY
621KW



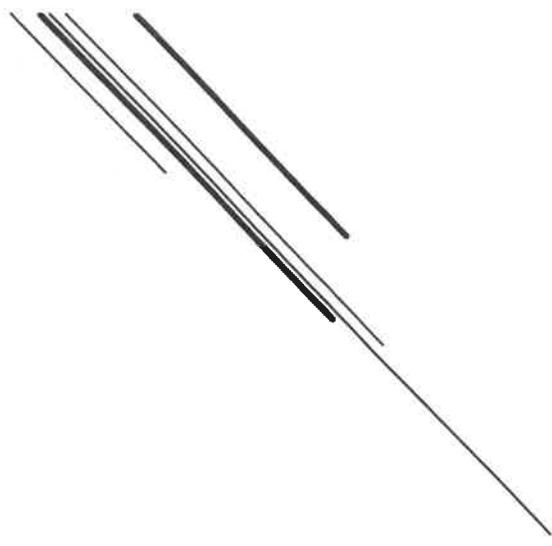




MILLBORO ELEMENTARY
BATH COUNTY
180KW

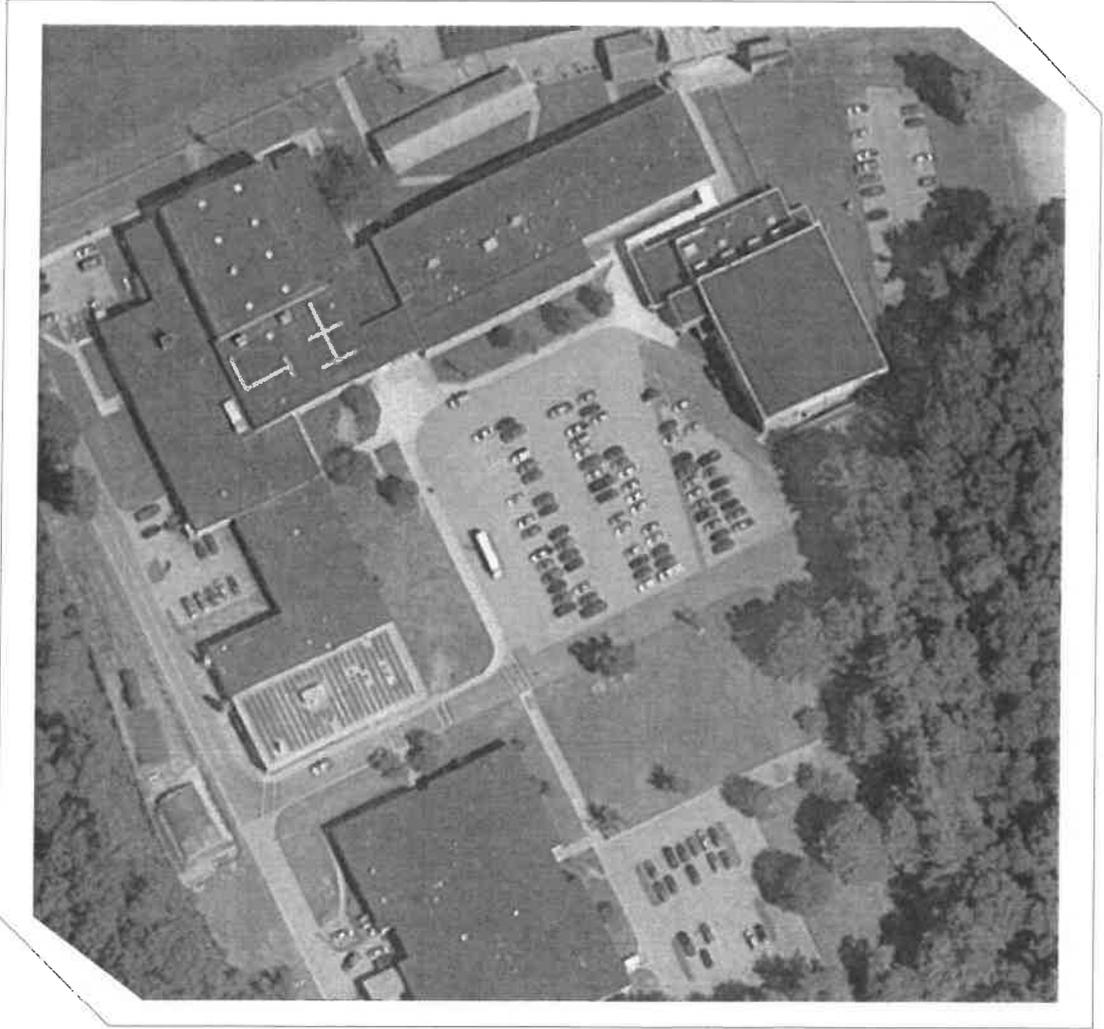
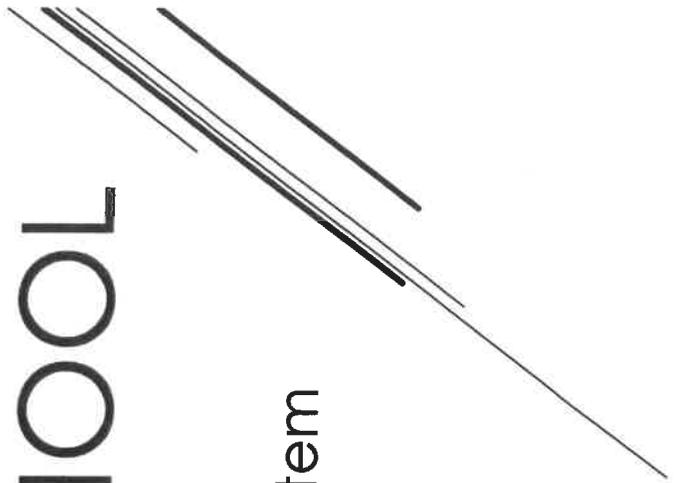
FLOYD COUNTY SCHOOLS 1.490MW ROOF MOUNT ON FIVE SCHOOLS

- **Floyd County High School**
- **Floyd County Elementary**
- **Indian Valley Elementary**
- **Willis Elementary**
- **Check Elementary**



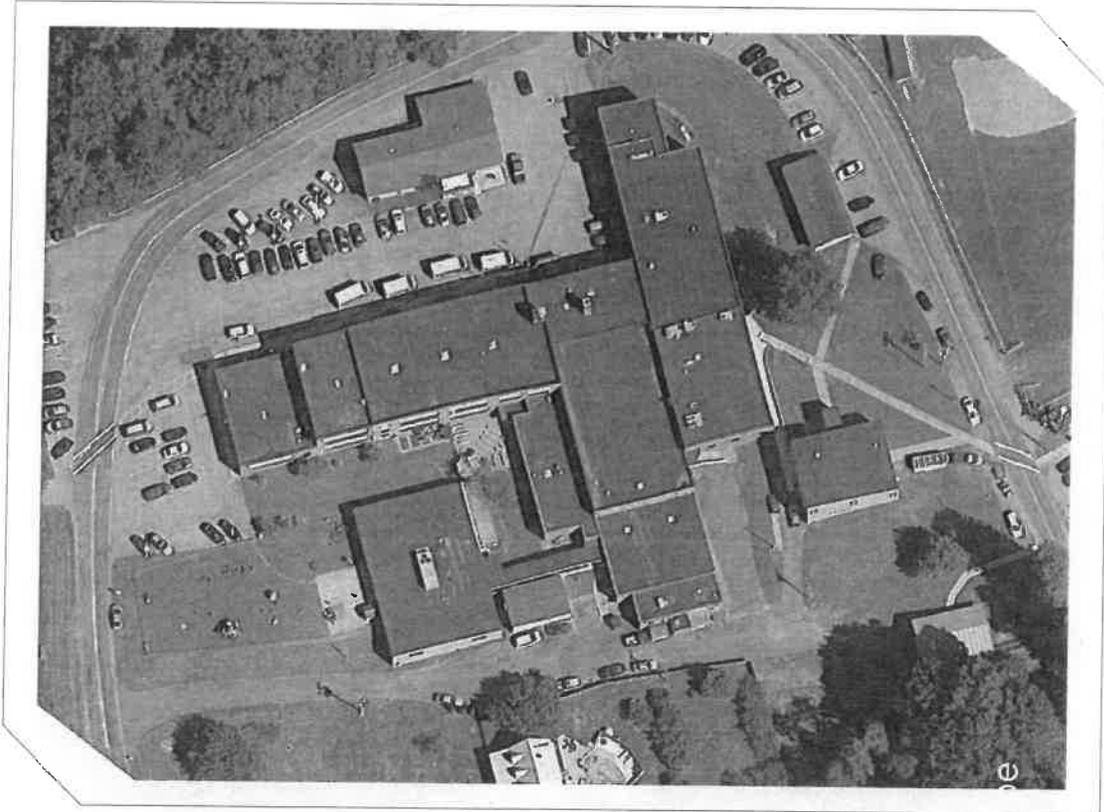
FLOYD COUNTY HIGH SCHOOL

742kW
Solar System



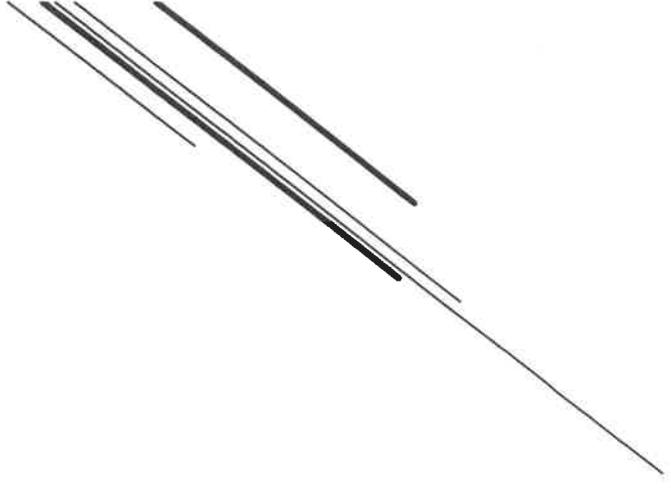
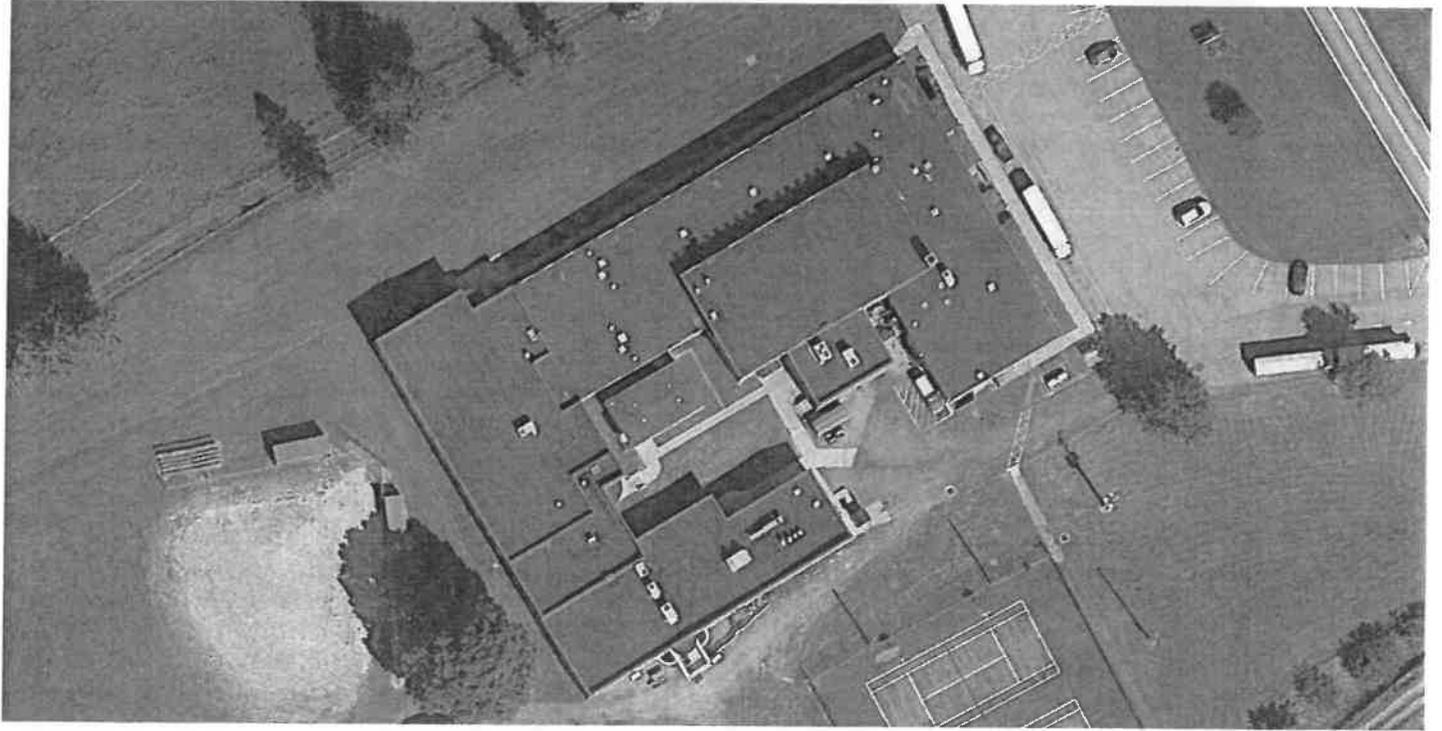
FLOYD ELEMENTARY

274kWS
Solar System



INDIAN VALLEY ELEMENTARY SCHOOL

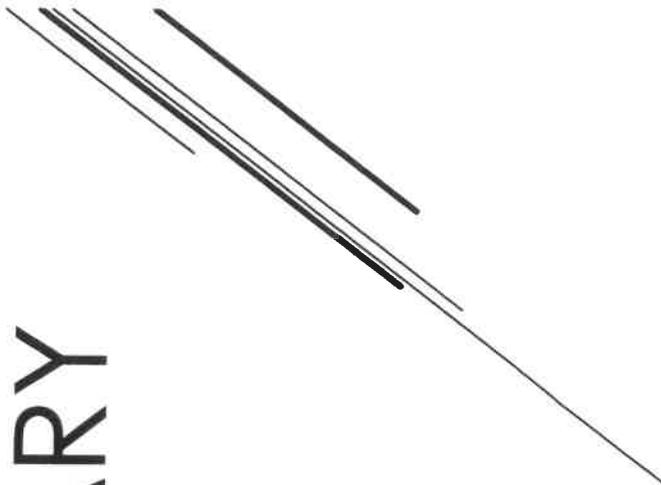
157kW
Solar System

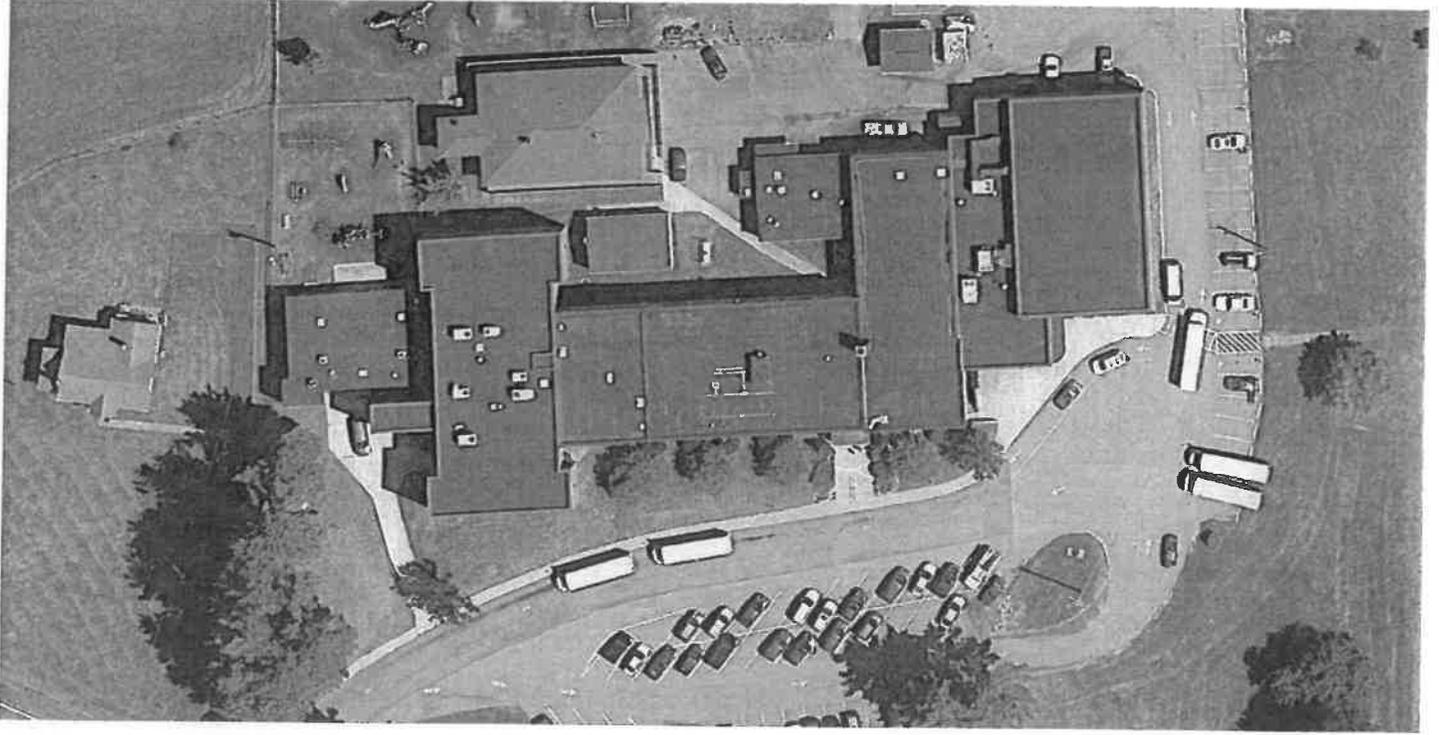




WILLIS ELEMENTARY

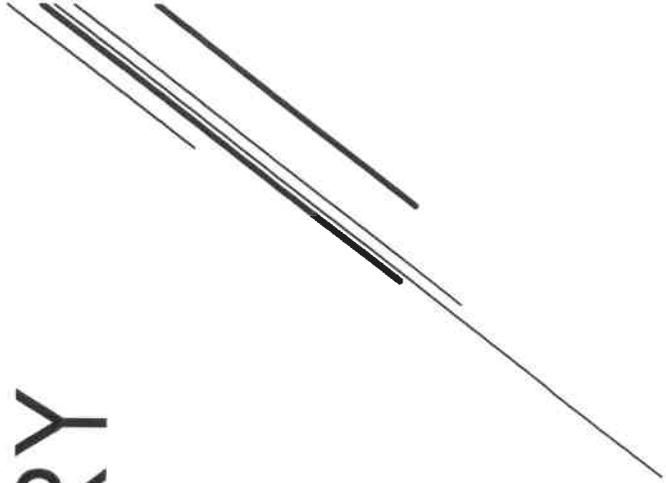
155kW
Solar System





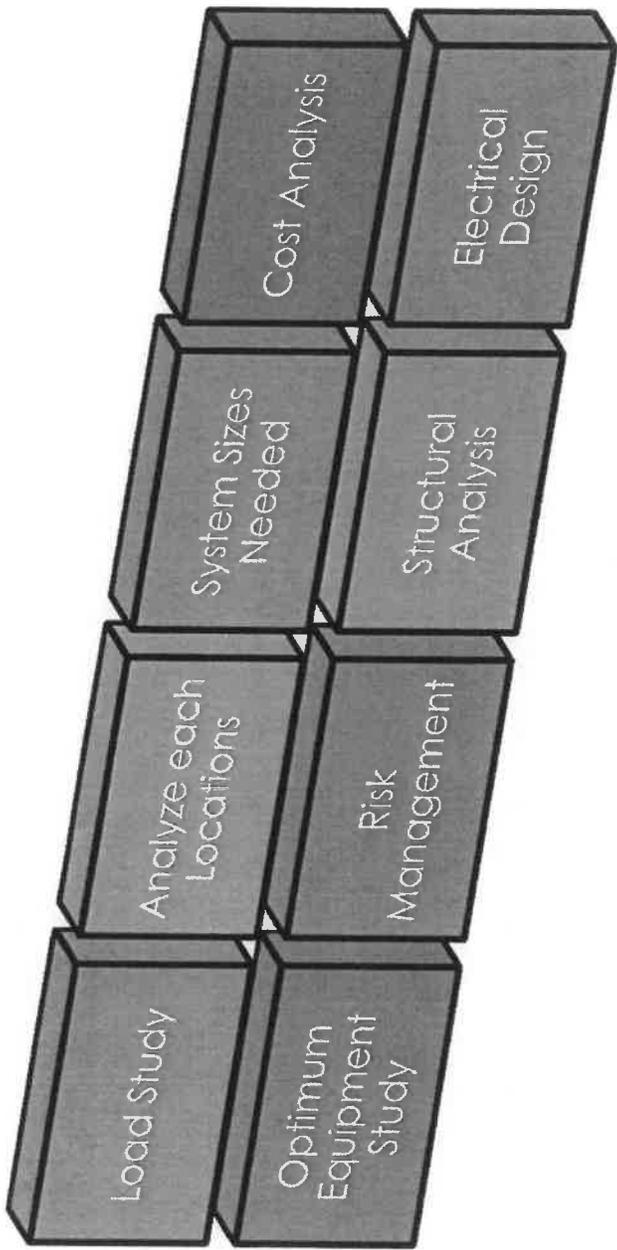
CHECK ELEMENTARY

159kW
Solar System



Solar Financing Made Easy

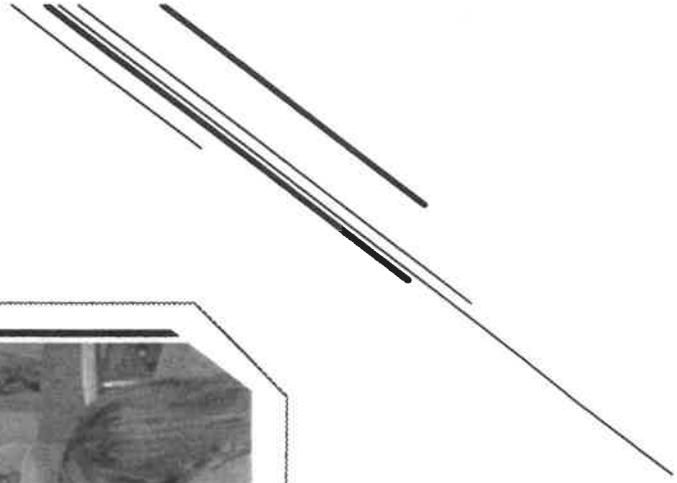
- **Zero investment / No money down**
- **Secure discounted utility rates, paying only for solar energy generated**
- **No maintenance costs over the contract period**
- **No operating risk or system performance**
- **Early Buy-Back options available**
- **Market green energy to your customers**
- **No Tax Credit Hassle**

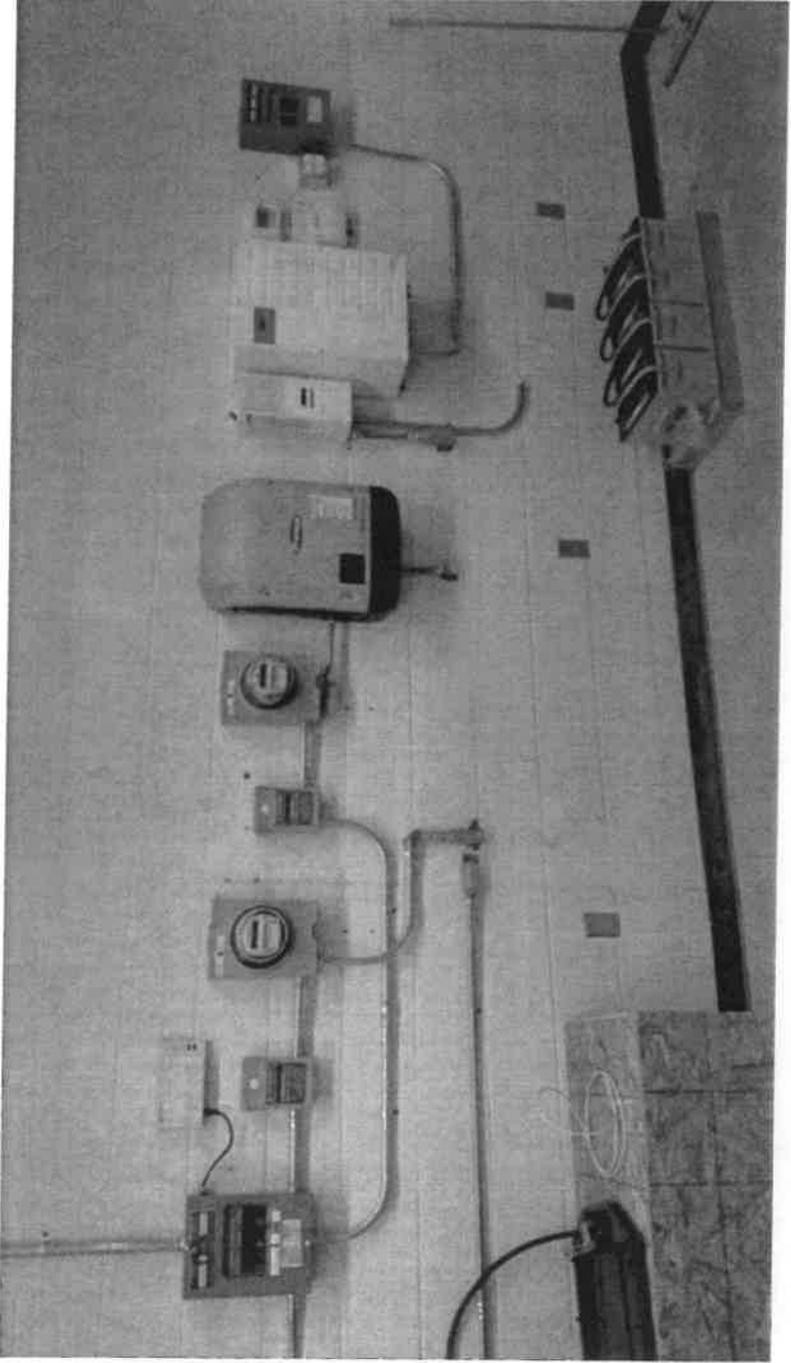


SOLAR TODAY FOR AN
AFFORDABLE TOMORROW

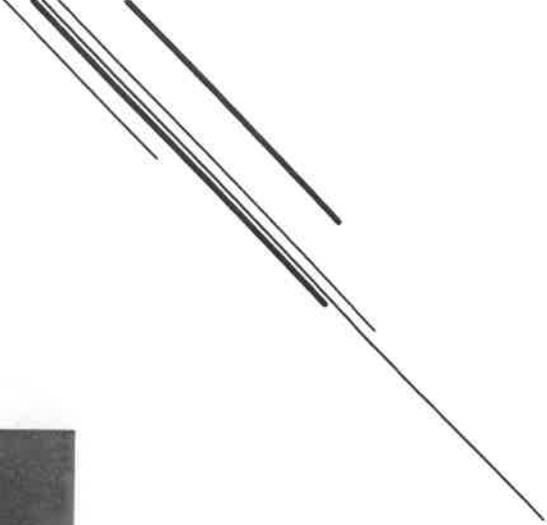


BARC ELECTRIC SOLAR TRAINING CENTER

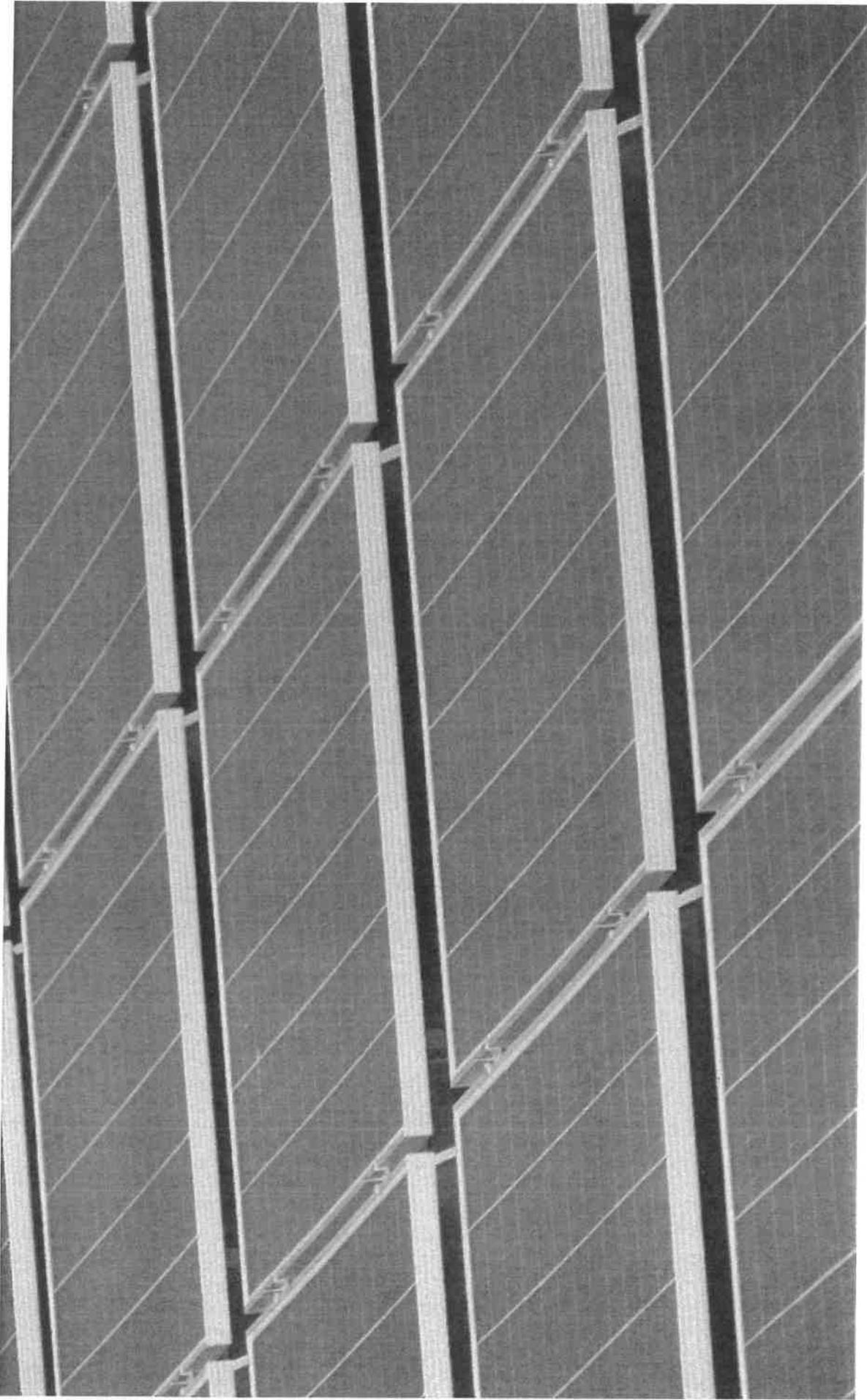




CENTRAL VIRGINIA C.C. SOLAR TRAINING FACILITY



QUESTIONS



COIA Workshop

Floyd County Board of Supervisors
October 10, 2017

Presented by

Stephen V. Durbin, Sands Anderson PC



Conflict of Interests Act

Chapter 31 of Title 2.2 of the Code of Virginia (1950), as amended

**“Almost everyone in politics
nowadays has at least one
conflict of interest.”
— Kenneth Eade, Terror on Wall
Street, a Financial Metafiction
Novel**

Purpose

- General Assembly sought to ensure:
- All levels of government remain untainted by corruption by prohibiting involvement of legislative members in certain activities, contracts or votes wherein their judgment would be clouded by personal interests. No “personal interests” in a “transaction.”
- A common body of law on the subject of conflicts of interests for local and state officers or employees throughout the Commonwealth (Virginia Code § 2.2-3100).
- Disclosure of certain types of interests by elected and some appointed officials, annually and before certain votes.

Generally

- This presentation is general in nature.
- This presentation is NOT a substitution for reading the Act and receiving advice from your attorney or Commonwealth's Attorney or COIA Council.
- This presentation is not a substitute for advice on your specific fact pattern.
- You should read the Virginia State and Local Government Conflict of Interests Act online in various places, including the COIA Council website, which links to the Virginia Legislative Information Services website.
- COIA Council website also has helpful opinions

Generally

- Most prohibitions and requirements regarding involvement in transactions (votes) and in contracts center around whether there is a “personal interest” in the transaction or contract.
- Thus, the Act’s definition of “personal interest” is an important place to start. Generally, it only refers to certain types of **FINANCIAL INTERESTS.**

Definitions

- **“Personal Interest” Defined:**
- A financial benefit or liability accruing to an officer or employee or to a member of his immediate family by virtue of;
- Ownership in a business, or an option to buy in, if the ownership interest exceeds three percent of the total equity of the business, or would result in ownership of real or personal property valued in excess of \$5,000;
- Annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;

Definitions

- **“Personal Interest” (Contd.):**
- A financial benefit or liability accruing to an officer or employee or to a member of his immediate family by virtue of;
- Salary, other compensation, fringe benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually;
- Ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; and/or
- Personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the total equity of the business.

Definitions

- "Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.
- It does NOT mean many people the public may think should not get a financial benefit from your actions.

Transactions

- Official action generally prohibited when personally interested in a transaction, and requires disclosure and often disqualification from consideration of the transaction.
- But... Participation is allowed for certain types of personal interests that (1) affect many people (e.g., business, profession, occupation, industry, groups of 3 or more) or (2) if a party to transaction is client of firm but no personal representation
- After disclosure and disclaimer of 2.2-3115(H).

Transactions

- Disclosure and disclaimer of 2.2-3115(H) mandates either verbal or written filed disclosure and disclaimer of the personal interest in every case.
- Option of complying with other disclosure and disclaimer requirements in writing in advance or, if time does not allow, the next business day. Verbal disclosure is also mandated in large group situation.

Transactions

- Disclosure and disclaimer of 2.2-3115(H) for large groups is a statement of “(i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest.”

Transactions

- Disclosure and disclaimer of 2.2-3115(H) for firm client situation is a statement of “(i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest.”

Definition

- “Transaction” means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.
- Includes votes but also consideration beforehand if official action may be “contemplated.”

The Quorum Exception

- The “Savings Clause” or “Safe Harbor” provisions of 2.2-3112(D) allows the remaining members of a body to constitute a quorum to take action if disqualification under the Act would result in fewer than the number of members required to act.
 - This does require a disqualification under the Act and not a mere absence or even recusal for some other reason.
- Subsection (C) has similar savings clause regarding representing self or immediate family member.

Disclosure Forms (2.2-3115)

- Members of every governing body and school board of counties and cities (and towns over 3,500 population)
- Must file as a condition of assuming office;
- Thereafter, must file annually on or before February 1;
- File the form specified in 2.2-3117 (Statement of Economic Interests) with personal interests and other information required therein;
- Note: These requirements have changed three times over the past three years, changing filing dates and frequency—Stay Tuned!

Disclosure Forms (2.2-3115)

- “Persons occupying such positions of trust” appointed and required by governing bodies to file by ordinance (or appointed and required by school boards by “adopted policy”):
 - Must file as a condition of assuming position;
 - Thereafter, must file annually on or before February 1;
 - File the form specified in 2.2-3117 (Statement of Economic Interests) with personal interests and other information required therein;

Disclosure Forms (2.2-3115)

- **Authorities:** Members of the governing body of local or regional authorities having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year:
 - Must file as condition to assuming office the form set forth in 2.2-3118 (Financial Disclosure Statement—shorter form, less reporting);
 - **UNLESS:** governing body of the locality (BOS or Council) requires the Authority to file the 2.2-3117 Statement of Economic Interests;
 - And thereafter, file on or before Feb. 1st.

Disclosure Forms (2.2-3115)

- Nonsalaried citizen members of local boards, commissions and councils designated by the governing body:
- Must file as condition to assuming office the form set forth in 2.2-3118 (Financial Disclosure Statement;
- Question: “designated by the governing body”; the statute does not say “by ordinance” here.
- And thereafter, file on or before Feb. 1st .

Disclosure Forms (2.2-3115)

Following local officials are required to file the Real Estate Disclosure (counties, cities and in towns over 3500 pop.) per § 2.2-3115 (G):

- Planning commission members
- Members of board of zoning appeals
- Real estate assessors
- County, city, or town managers
- Executive officers

Same reporting dates and deadlines (before taking office/job, and then by Feb. 1st), but form is real estate-focused.

What Must Be Disclosed?

- The forms specifically set out the required disclosures, but among other things, filers generally must disclose:
 - Liabilities (to any one creditor); securities (in any one business); annual salary and wages (from any one employer); and interests in real estate, etc. in excess of \$5,000
 - Payments in the past 6 months for talks, meetings and publications of more than \$100 where designed to educate the person or enhance skills on issues relevant to duties as officer or employee of public body.

What Must Be Disclosed?

(continued...)

- Compensation in excess of \$1,000 for representation of any business before any state governmental agency
- Gifts or entertainment with a value in excess of \$50
- The Virginia COIA Council website has the forms which need to be completed, and instructions on how to do so.
<http://ethics.dls.virginia.gov/conflict-of-interest.asp#officials>

Gifts: Disclosure

- Must disclose gifts to officer/employee (or member of immediate family) if they exceed \$50 and are received from:
 - Registered Lobbyist;
 - Lobbyist's Principal;
 - A person, organization or business who is a party to a contract with the officer/employee's governmental body, or any person seeking such a contract
- If value of a single gift exceeds \$100 in a calendar year, or a combination of gifts from same lobbyist, etc. exceeds \$100 in a calendar year, it is prohibited to accept it.
- If combination of gifts less than \$20 each, it does not count for aggregation to the \$100 limit

Gifts: Exceptions

- Note: the Act does NOT prohibit gifts from family members and friends, and the limits and reporting requirements would not apply unless the gift-giver is a lobbyist, lobbyist's principal, or someone who has or is seeking a contract with your public body
- There have been a number of revisions in the past 3 years. Shifting landscape. Seek assistance of the COIA Council or local government attorney.

Gifts: Exceptions

What is NOT a gift?

- Offers of tickets, admissions, coupons, etc., unless actually used;
- Honorary degrees;
- Athletic, merit, or need based scholarships;
- Campaign contributions already disclosed due to another Act;
- Travel paid for by the federal government or already disclosed due to another Act.

Gifts: Exceptions

What is NOT a gift? (contd.)

- Gifts related to private profession or volunteer service of self or family;
- Food or beverages while attending event in performance of official duties;
- Food, beverages and admission fees – if featured speaker or lecturer;
- Plaques, mementos, trophies (unsolicited);

Gifts: Exceptions

What is NOT a gift? (contd.)

- Travel for official duties;
- Devise or inheritance
- Gifts less than \$20 in value;
- Attendance at reception where food can be conveniently consumed standing and walking
- Additional exceptions

Prohibited Contracts

- An officer or employee of a local government may not have a personal interest in any contract with their own entity (other than their own contract of employment).
- This prohibition extends to contracts where the spouse or family member of the officer or employee has a personal interest of \$5,000 or more in the business. '95 Va. A.G. Op. at 2.
- An officer or employee of a local government may not have a personal interest in a contract with ANY OTHER AGENCY that is a component of the officer's or employee's agency. (Some very specific exceptions)

General Prohibitions

- Officers and employees cannot accept money or other item of value from a private source for doing what they are legally obligated to do by nature of their position as an officer or employee.
- Use of confidential information for the officer or employee's own personal or another's benefit is not permitted.
- Accept money or other thing of value for using influence to obtain a public contract for someone or some entity.

Violations

- In the past, knowingly violating any part of the Act constitutes a Class 1 misdemeanor. (Certain violations constitute Class 3 for local officers) As of January 1, 2017, knowing and intentional misstatements on the Statement of Economic Interests (Long Form) is a **Class 5 Felony!**
- Violations of the Act constitute malfeasance in office.
- Contracts or purchases made in violation of the Act may be declared void and rescinded by the governing body.
- Forfeiture of monies or profits by transactions in violation of the Act.

Violations and Alleged Violations

- Political Fallout
- The largest of most tangible penalty for violations and even alleged violations, in most cases.
- Be aware of this, and if in doubt, over-comply.

What if You Think You Have a Conflict?

- Ask the opinion of the Commonwealth's Attorney or the Conflicts of Interests and Ethics Advisory Council.
- Virginia Code § 2.2-3121 provides that no officer or employee shall be prosecuted if their actions were made in good faith reliance upon the written opinion issued by either.

What if You Think You Have a Conflict?

- Your request must be in writing;
- Opinion issued to you must be in writing;
- Full disclosure of facts;
- Reliance in good faith;
- Any opinion issued will be a public record subject to disclosure under VFOIA.
- Written opinion of local government attorney admissible, but does not confer immunity.

What if You Think You Have a Conflict?

- Even without immunity, the advice of your local government attorney is important, as often your attorney will have insights and best practices in your locality to share.
- COIA is complex, and it is best to ask your counsel (and others named above) early and often.

What if You Think You Have a Conflict?

- Remember that the Conflicts Act is a **MINIMUM STANDARD**, and should not be the end of your consideration of your behavior.
- The public thinks that many things that are **NOT**, in fact, conflicts **ARE** conflicts. Remember that often, perception is reality but for you, perception is almost always a reality.

Questions?

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