

CLARKE COUNTY BOARD OF SUPERVISORS  
March 5, 2012                      Special Meeting                      9:00 a.m.  
Main Meeting Room

At a special meeting of the Board of Supervisors of Clarke County, Virginia, held in the Main Meeting Room, 2<sup>nd</sup> Floor Berryville Clarke County Joint Government Center, 101 Chalmers Court, 2<sup>nd</sup> Floor, Berryville, Virginia on Monday, March 5, 2012.

**Board Members Present**

Barbara Byrd; J. Michael Hobert; Beverly McKay; John Staelin; David Weiss

**Board Members Absent**

None

**Staff Present**

David Ash; Lisa Cooke; Rob Fuller; Tony Roper; Jesse Russell; Alison Teetor; Lora B. Walburn

**Others Present**

Abbot Robert Barnes; Anne Caldwell; Keith Dalton; Jean Hess; Mary Jane Hobert; Scott, Kreider; Bob Stieg; Richard Thuss; Sylvia Wilson; Val Van Meter; Brian Kaufman; Ed Leonard and others

**1) Call to Order**

Chairman Hobert called the meeting to order at 9:05 a.m.

**2) Adoption of Agenda**

The Supervisors proceeded with the agenda as presented.

**3) Discussion Cool Spring Battlefield Park**

Chairman Hobert summarized the intent of the Civil War Trust to purchase 195 acres with a proposal for the Northern Virginia Regional Park Authority to establish and operate a battlefield park. The NVRPA bylaws require annual membership by any participating locality with an annual fee that is calculated on a per capita basis, currently \$65,000, with each participating locality having two voting members on the Authority.

Supervisor Byrd put forth the following points:

- The proposal is a “Win/win” situation that comes down to money.
- Does not want the annual cost to be borne with any new tax dollars from the taxpayer.
- Various offers have been made from multiple entities that would cover the annual NVRPA membership fee for the first three to four years.
- Reasons to become a member of NVRPA:
  - Improved safety on the mountain
  - Protection of the Shenandoah River.
  - Economic development.

Vice Chairman Weiss put forth the following points:

- While there is funding to cover the cost of membership for the first few years, NVRPA membership is required in perpetuity.
- Should this project move forward, public boat access must be addressed for currently planned access could be detrimental to the river.
- Reasons not to support membership in NVRPA:
  - Does not have the majority support of constituents.
  - Proposed park would not be self-sustaining.
  - Economy is bad and is not showing sign of improvement in the near future.
  - Supervisors are tasked with setting funding priorities and this option is a luxury and funding inappropriate at this time.

Supervisor Staelin put forth the following points:

- Good opportunity for historic preservation.
- NVRPA is a good organization however it ties Clarke with communities that have different tax structures and denser populations.
- Reasons not to support membership in NVRPA:
  - Loss of tax revenue from golf course.
  - Per capita participation cost could rise 2% annually.
  - The County would be assuming an unfunded liability.

- Clarke County currently spends more on parks and recreation than other similar jurisdictions.
- Have committed to the 50-acre Kohn park and no County funds have yet been spent on that park.
- Park will not be self-sustaining.
- From an economic development standpoint, the Economic Development Advisory Committee did not opt to endorse the NVRPA proposal.
- To cover the annual membership fee, the County would have to generate approximately \$7MM in retail sales annually.
- Citizens do not want an increase in tax if possible
- No salary increases for county employees in the past four years. Sheriff has issues with salaries and needs to replace communication equipment.
- Community is divided on this issue and there is not a sense that the community is backing the proposal.
- Would like to see a "Plan B" from the Civil War Trust.

Supervisor McKay put forth the following points:

— Many positives including:

- Would improve the composite index.
- Conforms to the Comprehensive Plan.
- Helps with the TMDL for the Chesapeake Bay.

— Reasons not to support membership in NVRPA:

- The community is divided and a plan is needed that is acceptable to all.
- There are many things the County cannot afford and a park seems a luxury in this difficult economy.
- Offers to cover costs for the first few years will eventually run out placing a long-term burden on the taxpayer.
- Would like to see a plan[s] that would raise funds to cover membership fee or address in a manner that would not be a direct cost to the taxpayer.

Chairman Hobert put for the following points in support of membership in the NVRPA:

- The park would be a positive for our identity choosing a path that reflects the County's core.

- The park would be part of the County's infrastructure including agriculture, history, and protection of natural resources.
- Supports the comprehensive plan.
- It is relevant and consistent with the County's identity specific to preservation of historic and natural resources, recreation, education, Chesapeake Bay protection, and conservation easement.
- Combining with other regional groups is necessary to have the battlefield park.
- Would be a publicly accessible easement on this property that would directly benefit citizens.
- Easement would preserve this Civil War site, as well as preserving early peoples in the community dating to the Paleolithic period.
- Cannot discount the economic contribution of the park or the value of the riparian buffer to absorb total maximum daily load (TMDL) river pollution and potential EPA pollution credits for conversion of land from intensive to passive use. The University of Virginia has offered to develop a formula to help the County receive TMDL credits and Shenandoah Riverkeepers has offered to propose to DCR that credit be given to the County.
- Will help local businesses and help market other attractions in the area such as Blandy, Long Branch, Clermont, etc.
- Membership in NVRPA is a long-term commitment but the County makes long-term commitments all the time with regional entities.
- Money is a significant factor but priorities can be viewed in many different ways.
- The park is consistent with the synergy the County has tried to create.

In further discussion, Vice Chairman Weiss stated that the proposed park had many good points; however he did not believe this was a top ranking priority in the list of needs competing for funding. He further opined that the pay back was far too long and the sacrifice asked of other county departments at this time was tone deaf to the current financial situation. He added that while the County is known for making sound long-term decisions this park does not rank to that level of priority such as sliding scale zoning. Mr. Weiss commented that easements are more to protect agriculture and the proposed easement for this property did not protect agriculture. He also noted the long-term concerns expressed by the Shenandoah Retreat community that would have an impact on their lives.

Chairman Hobert acknowledged that valid points had been made and challenged the Supervisors to consider this request against the overall scheme and ask themselves if this was the right decision at this time. He opined that participation in NVRPA was an extension of the County's commitment to the future.

Supervisor Byrd interjected that she had noted concerns raised and that NVRPA representatives had answered these concerns. She restated that the decision came down to money and reminded that the Civil War Trust offered to provide funding to form a fund raising group. She was reminded of other successful fundraising campaigns to build the animal shelter and restoration of the Barns of Rose Hill. Mrs. Byrd put forth that the County could cover the membership fees for the first few years with the funds offered from various groups.

Supervisor Staelin added that constituents, just as Board members, had different points of view on this matter and for him it was a matter of money. He stated that he was not prepared to spend \$65,000 for annual membership when the community was divided. He said that he would like to give employees raises; would like to operate without cuts to law enforcement; believes a convenience center with recycling that helps half the county will have a much better upfront benefit to the community than the proposed park and be of direct value to many people. Mr. Staelin also cautioned that there were still many unknowns with the park project.

Supervisor McKay said that this was a difficult decision. He expressed his belief that there could be another option and encouraged those involved to develop that option and come back with something more suitable. He also expressed support for the proposed convenience center with recycling that would save residents gas and time.

Vice Chairman Weiss added that the County knew that in a bad economy it was facing increased costs in operations with the new school and the Active Living Center and this decision was a matter of priority.

Following brief discussion on timing and development of a resolution, the majority agreed that they did not wish to prolong making a decision for the community or the Board.

**Vice Chairman Weiss moved to decline the offer that was presented to the Supervisors in relation to the 195-acre property on the river in regard to a park and our participation in the Northern Virginia Regional Park Authority. The motion carried by the following vote:**

- Barbara J. Byrd - Nay
- J. Michael Hobert - Nay
- Beverly B. McKay - Aye
- John R. Staelin - Aye
- David S. Weiss - Aye

**Supervisor Staelin moved to send a letter regarding this matter to thank the NVRPA for all their work and effort and convey to them that the County believes they did a good job in developing the proposal. Further, write to the Civil War Battlefield Association that the County has no objection to the concept of a battlefield park but**

**it was this specific proposition that the County could not support. The County would not be opposed to reviewing alternate options. However, if there are no other options, the County understands that it may be losing this opportunity. The motion carried by the following vote:**

Barbara J. Byrd	-	Aye
J. Michael Hobert	-	Aye
Beverly B. McKay	-	Aye
John R. Staelin	-	Aye
David S. Weiss	-	Aye

At 10:08 am Chairman Hobert recessed the meeting.

At 10:47 am Chairman Hobert reconvened the meeting.

#### Closed Session

David Ash advised that five interviews were scheduled over a two-day period.

Supervisor Byrd suggested discussion following each interview and review of notes upon completion of all interviews.

David Ash recommended that the Supervisors make notes on the forms prepared for that purpose and that they give each applicant the opportunity to answer the same questions allowing for the best comparison of applicants.

Supervisor Staelin agreed with Supervisor Byrd regarding review at the end of each interview.

**Supervisor Byrd moved to convene into Closed Session pursuant to §2.2-3711-A7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing 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. And §2.2-3711-A4 Privacy of individuals in personal matters. The motion carried as follows:**

Barbara J. Byrd	-	Aye
J. Michael Hobert	-	Aye
Beverly B. McKay	-	Aye
John R. Staelin	-	Aye
David S. Weiss	-	Aye

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, **Supervisor Staelin moved to reconvene in open session. The motion carried as follows:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

**Supervisor Staelin to execute the following Certification of Closed Session:**

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

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

**The motion was approved by the following roll-call vote:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

No action was taken on matters discussed in Closed Session.

**Adjournment**

There being no further business to be brought before the Board at 5:30 pm Chairman Hobert recessed the Board of Supervisors meeting until 9:00 am, Friday, March 9, 2012.

**Next Special Meeting Date**

The next regular meeting of the Board of Supervisors is set for Tuesday, March 20, 2012 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: March 5, 2012

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J. Michael Hobert, Chair

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David L. Ash, County Administrator

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Minutes Recorded and Transcribed by:  
Lora B. Walburn  
Deputy Clerk, Board of Supervisors