

August 21, 2012  
Clarke County Board Of Supervisors  
Regular Meeting  
Main Meeting Room  
1:00 p.m.

At a regular 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 Tuesday, August 21, 2012.

Board Members Present

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

Board Members Absent

None

Staff Present

David Ash; Jesse Russell; Brandon Stidham; Lora B. Walburn

Others Present

David Steigmaier; Cliff Balderson; Ed Carter; Charlie Monroe; Dr. Michael Murphy; Dr. Lisa Floyd; Robina Rich Bouffault; Gem Bingol; Keith Dalton; Val Van Meter; Ed Leonard; and other citizens

1) Call to Order

Chairman Hobert called the afternoon session to order at 1:02 p.m.

2) Adoption of Agenda

- Add to Consent Agenda:
  - Application for Grant Funds – Alison Teetor
- Add to Miscellaneous:
  - Berryville Graphics – John Staelin
  - Zoning, Nuisances and Health Hazards – Supervisor Byrd

By consensus, the Board approved the agenda as modified.

### 3) VDOT

Clif Balderson, Residency Administrator; Ed Carter, Assistant Residency Administrator; and Charlie Monroe, Locality Supervisor, appeared before the Board to provide the monthly update.

#### Maintenance - August:

- Completed first round of mowing and began second round on primary's;
- Performed pipe repair on Rt. 50 and pipe cleaning on Rt. 601;
- Prepared Lincoln Ave. for slurry treatment;
- Installed box culvert on Rt. 644 (Featherbed Road);
- Repaired soft shoulders on Rt. 644 (Stonebridge Road);
- Conducted grading operations on non-hard surfaced routes in County.

#### Maintenance – September:

- Continue second round mowing;
- Apply dust control to non-hard surfaced roads;
- Conduct patching operations on Rt. 606 & 649;
- Repair low shoulders and perform spot leveling on primary's;
- Perform pipe flushing operations on Rt. 605;
- Bucket truck is scheduled for low hanging brush throughout the County.

#### Projects

- Rt. 636, Mosby Boulevard: Construction on Rt. 7 is ready for traffic on new round-a-bout. Temporary pavement markings and signage is installed until evaluations are made to see if any tweaking is necessary. Contractor is striving to complete entire project this construction season ahead of schedule.

VDOT and School staff observed the round-a-bout from 7 am to 8:30 am on the first day of school. VDOT will observe this afternoon and each day for several days to determine if adjustments are needed. Mr. Carter thanked the schools for their cooperation in coordinating this effort.

Contractor is running ahead of schedule and anticipates being complete by the end of construction season this November.

Dr. Murphy indicated that the Schools anticipate gating this entrance from 8 am to 2 pm daily to allow for pedestrian crossing.

- Rt. 604, Ebenezer Road: Stone is being placed this week. VDOT is scheduled to begin surface treating next week.
- Rt. 1014, Paige Street, Town of Berryville: Waiting on utility relocation. Projected construction start is March of 2013.
- Rt. 7 crossovers: Completed
- Turning lanes Rt. 657/340: Awaiting survey results.

Supervisor Comments:

- Supervisor Byrd:
  - Mentioned issues she had addressed via email specific to traffic signals and Allen Road.
- Supervisor McKay:
  - Restrict Trucks on Rt. 624: VDOT has been proactive adding signs, where determined necessary, throughout its residency notifying that truck traffic is not recommended and to disregard GPS routing. This type of signage may be an option for Rt. 624.
- Supervisor Weiss:
  - Johnson Grass and Mowing Plans: Charlie Monroe indicated that Johnson Grass spray treatment is conducted on 91 shoulder miles in the County. Supervisor Weiss stated that Johnson Grass should be sprayed annually in May.
- Supervisor Staelin:
  - Barns of Rose Hill Visitor Center Sign: VDOT indicated that signage for a visitor center is typically handled through Virginia Logo.

#### 4) Clarke County Public Schools Update

Dr. Murphy, Superintendent, and Dr. Lisa Floyd, Director of Curriculum and Instruction, appeared before the Supervisors to provide the monthly School update.

- Dr. Murphy provided an update. Highlights include:
  - Glorious morning at the new Clarke County High School.
    - Round-a-bout working flawlessly.
    - No speeding observed on Jackson.
    - All systems appear to be working with adjustments being made as necessary.
    - Working on traffic with Perry Engineering, VDOT and the Ruritan.

- Right turn into Cooley may need adjustment.
- Approximately 2,074 students at school start.
- Greatest enrollment gain is at the high school level.
- Proficiency gap [new language for SOL's] assessments are being reviewed and alternative formats being considered. As part of the process, the Schools are aggregating data, grouping, pacing and benchmarking.
- Working on a contract with RRM for elementary school renovations. The School Board will meet at 6 pm in the high school auditorium on August 27 to further discuss.
- Chairman Hobert asked for clarification on the elementary school renovation budget. Dr. Murphy stated that \$7.2 million was still the target budget with \$6 million anticipated for construction.
- Supervisor McKay asked if the Schools would consider performing a survey of former students to determine how they have performed and what, if any, further schooling was acquired. Dr. Floyd stated that this is actually done in advance of graduation and surveys of this type are particularly challenging. Dr. Murphy noted that School Administration would agree that such a survey would be beneficial but he concurred that data collection is difficult. He put forth that to gather this information the Alumni Association or Education Foundation might be a good source.

5) Citizens Comment Period

No citizens addressed the Board.

6) Approval of Minutes

**Supervisor McKay moved to approve the minutes for July 17, 2012 as presented. 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

7) Consent Agenda

A. Request for Easement Donation Approval, Thompson and Daviot Properties, LLC

MEMORANDUM

TO: Board of Supervisors, David Ash

FROM: Alison Teetor

DATE: July 17, 2012

SUBJECT: Request for Easement Donation approval

The Clarke County Easement Authority has approved the following easements for donation. The Authority requests the Board of Supervisors to authorize the Chairman of the Board of Supervisors to execute deeds, easements, and other documents necessary to the transactions, subject to the property owners and lenders signing the Deed prior to the Chair.

WR III and Laura Thompson: The parcel (Tax Map# 28-((A))-27) consists of 106.9 acres and is located on the north side of Berry's Ferry Road and southeast of Route 340 just outside the village of White Post. The property resource score is 59.85. Points were given for retiring three of the four remaining DURs, frontage on a scenic road, Berrys Ferry Road, and it is within the groundwater recharge area. The property has an existing house that was built in 2009 and 4 DUR's. The applicant would like to retire 3 of the 4 remaining DURs.

Daviot Properties, LLC, Charlie McIntosh, agent: The property consists of a total of approximately 10.54 acres and is located on the west side of Kennel Road approximately ½ mile south of Route 7. The current configuration is a 5 acre parcel with a house (Tax Map# 30-((A))-50), a vacant 4.6 acre parcel (Tax Map# 30-((A))-49), and a vacant .94 acre parcel (Tax Map# 30-((A))-51). The vacant parcels each have 1 DUR. Immediately following easement recordation, the applicant would like to merge the 3 parcels, retiring 2 DURs and creating one 10.54 acre parcels.

The property resource score is 55.52. Points were given for retiring the remaining DURs, a preservation of a family farm as the McIntosh family has owned the property for over 50 years. The existing house was built in 1956 but is not considered contributing to the Greenway Rural Historic District.

B. Grant Application Summary

MEMORANDUM

TO: David Ash, Board of Supervisors

FROM: Alison Teetor

DATE: August 21, 2012

SUBJECT: Grant application

I have been working on a grant application for a project that will look at water quality of springs in karst. There are two specific questions that the project will try to answer. First, the County is being asked by EPA and the Commonwealth to reduce nutrients in surface waters as part of the Chesapeake Bay, and other local TMDL efforts. Is stream contamination coming from surface runoff during storm events or from groundwater?

Understanding the source of contamination is important when selecting which Best Management Practices (BMPs) will most effectively reduce nutrients. Second, Clarke County has proportionately one of the highest rates of biosolids applications in the Valley. In July 1997 the Board of Supervisors adopted a biosolids ordinance that established increased standards for the application of biosolids in Clarke. The ordinance increased setbacks from sensitive features such as sinkholes and streams in an effort to protect ground and surface water resources in sensitive karst areas. In 2004, the General Assembly repealed counties' ability to regulate biosolid application and allows applications using state standards. Is the water quality of springs in areas of high biosolids application better or worse than in areas where there is little to no biosolids application?

The County is partnering with the Friends of the Shenandoah River to conduct some of the sampling and all of the water quality analysis. Wayne Webb, one of Clarke's Board members on the Lord Fairfax Soil and Water Conservation District will conduct sampling and flow measurements. Ten springs will be sampled once every two months. Six springs are located in Clarke County, five in areas with biosolids applications and 1 in an area without applications. Four springs are located outside of Clarke, two springs in Warren County, one in Shenandoah, and one in Frederick, in areas where little to no biosolids have been applied. The selected springs were chosen if they had been monitored previously by either USGS or DEQ such that there is age dating and flow data that will help by reducing variability among the types of springs sampled.

Total project cost is estimated at \$6,000. Funding sources will include the DEQ Citizens Monitoring Grant, the Chesapeake Bay Restoration Fund, and others. There is no anticipated or reoccurring cost to the County other than staff time coordinating the project and submitting progress and final reports. Currently the project is anticipated to last one year from January 1, 2013 to December 31, 2013. The applications require signature of the County Administrator for submission.

Recommendation: Approve submittal of grant applications to fund the proposed project.

**Supervisor Byrd moved to approve the items on the Consent Agenda. The motion carried by the following vote:**

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

8) Board of Supervisors Personnel Committee Items

A. Expiration of Term for appointments expiring through December 2012.

8/13/2012 Summary: A list of appointments expiring through December 2012 is provided for Committee review. At the meeting, the Personnel Committee made the following recommendation:

- ✓ Appoint Jim Edwards to serve a four-year term expiring September 30, 2016 on the Shenandoah Area Agency on Aging Board of Directors replacing Tony Roper.

08/21/2012 Action: **Supervisor Staelin moved to confirm the recommendations of the Personnel Committee. 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

B. Appointments to Warren/Clarke County Microenterprise Assistance Program Management Team.

8/13/2012 Summary: Clarke County is currently partnering with Warren County on a Microenterprise Assistance Program through a grant provided by the Virginia Department of Housing and Community Development. This program provides business development resources in the form of loans and technical support to low and moderate income individuals. People Incorporated, a nonprofit organization that specializes in small business assistance programs, will be responsible for administering the program in conjunction with Warren and Clarke Counties. One of the program requirements is the establishment of a Program Management Team. Further detail is provided in the August 8, 2012 memorandum from Brandon Stidham included in the packet.

During the meeting, the Personnel Committee discussed those appointments and is seeking recommendations from other Board members. Possible appointees would include bank employees familiar with loan processes, business development, and social program employees. The appointments would be for a fixed term of approximately two years with a limited number of meetings currently anticipated to be conducted quarterly with additional meetings required to process applications.

9) Board of Supervisors Work Session Items

A. Discussion, Double Tollgate Committee Final Report

08/13/2012 Summary: August 13, 2012 work session agenda includes an item to discuss the Double Tollgate Committee's final report. A copy of this report was provided to you at your meeting in July. The Committee wrapped up their work on the report in May and the Planning Commission voted 8-1-2 (Thuss NAY; Brumback, Kreider absent) at their meeting on July 6 to recommend the report for review to the Board of Supervisors.

Committee Chair Anne Caldwell will be present at the work session along with Staff to discuss the report and to answer any questions that you may have. Other members of the Committee may also be attending the work session should you have questions for them as well. Should you have questions or concerns prior to the work session, please do not hesitate to contact me at 955-5130 or via email at [bstidham@clarkecounty.gov](mailto:bstidham@clarkecounty.gov).

At the meeting, the Board determined that they would accept the Planning Commission Committee report and requested that the Planning Director draft a recommendation for reconsideration of the zoning of the Double Tollgate area in conjunction with the revision of the County's Comprehensive Plan and/or implementing components.

8/21/2012 Action: Following review, **Supervisor Staelin moved to accept the report from the Planning Commission with the Supervisors thanks and to accept the additional points listed in the staff the summary titled Follow-up, Double Tollgate Report from Planning Commission August 14, 2012:**

- **Request the Commission to set the review and updating of the Double Tollgate Area Plan (and possibly the Waterloo Area Plan) as a high priority immediately following adoption of the revised Comprehensive Plan.**
- **Authorize Staff to assemble a Request for Proposal (RFP) to hire an economic development consultant to assist in the update of the Comprehensive Plan and Implementing Component Plans.**

**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

The Board concurred that it is contemplated that recommendations will be presented to the Board of Supervisors for review.

Brandon Stidham clarified that the initial draft of the Comprehensive Plan is anticipated by May 2013 with preliminary review set for the September Planning Commission meeting.



Robina Rich Bouffault, Planning Commissioner, contributed that the full Planning Commission will review the Comprehensive Plan. She said that Mr. Stidham was developing the scope of work opining that a well-defined scope is needed.

Chairman Hobert instructed Mr. Stidham to circulate the draft calendar for Comprehensive Plan review.

**B. R2 Investment Properties, L.L.C. Request for Utility Easement Across Berryville Clarke County Government Center Property, 101 Chalmers Court, Berryville.**

08/13/2012 Summary: R2 Investment Properties, L.L.C. is requesting a 10 ft. easement for electricity from the transformer on the government center property to the intersection with the town property and from there a 20 ft. easement for water and electric in order to build an approximately 5,000 square foot building at the back of the R2 property.

Jay Hillerson met with David Weiss and Keith Dalton regarding this matter and this item is anticipated to be on the Berryville Town Council Agenda and public hearing for September. If needed, Mr. Hillerson would like to schedule the public hearing from the county ASAP.

**At the meeting, Supervisor Byrd moved to convene into Closed Session pursuant to §2.2-3711-A6 Discussion of the investment of public funds where competition or bargaining is involved. 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 Byrd 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

**and further moved 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

Following closed session, the Board directed the members of the BCCGC Joint Building Committee to work with the Town's representatives on the Committee to develop an agreement and / or easement acceptable to all parties and to coordinate the required public hearings once the necessary documents are available. The County Administrator was directed to advise Mr. Hillerson of this action.

**C. Discuss Suggestions for 36 East Main Street [former Library, Lloyd Property]**

08/13/2012 Summary: The Building and Grounds liaison is seeking direction from the Board on the disposition of 36 East Main Street.

At the meeting, the Board asked that the Building and Grounds Committee to:

- Seek informal assistance to determine the impact of an easement versus a fee simple reduction in lot size.
- Verify VDOT entrance requirements.
- Seek an appropriate tenant for 106 North Church Street [former Commonwealth Attorney's Office.]

**D. Verizon Wireless Special Use and Site Plan for constructing a monopole on the property located in the 100 block of Mount Carmel Road, Tax Map Parcel 39-A-71, Millwood Election District, zoned Forestal Open-Space Conservation (FOC). SUP-12-01**

8/13/2012 Summary: The Board added this item to the Work Session agenda. Brandon Stidham advised that Verizon may not have the information necessary for the public

hearing scheduled for August 21, 2012. As the hearing was already advertised, the Board agreed to conduct the public hearing as advertised and to continue as may be in the best interest of the Board and the public.

10) Finance Committee:

1. FY12 Supplemental Appropriations.

The Finance Committee recommends approval of the following: *"Be it resolved that FY 12 Unemployment Compensation Fund budgeted expenditures be increased \$13, 769, and the same appropriated, for the purpose of paying unemployment claims."*

At the 8/21/2012 Regular Meeting: Tom Judge briefly reviewed the request. **Supervisor Staelin moved to adopt the recommendation of the Finance Committee as presented. 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

2. Reimbursement of Land Use Fees.

The Finance Committee recommends approval of the following: *"Be it resolved that FY 13 Sanitation budgeted expenditure be increased \$2,000, and the same be appropriated, for the purpose of reimbursing the Clarke County Sanitation Authority for additional costs incurred in negotiating for the right to place a public safety antennae on their water tower"*.

At the 8/21/2012 Regular Meeting: Tom Judge briefly reviewed the request noting that the lease would not be charged to the County. **Supervisor Byrd moved to adopt the recommendation of the Finance Committee with the addition of language that the lease would not be charged to the County. 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

3. Virginia Commission on the Arts Grant.

Information Only.

4. State Reductions in Aid to Localities.

The Finance Committee recommends adoption of the following: *"Be it resolved that the State reductions to aid to localities be implemented based on the prorated calculation provided by the State, and the requisite form be authorized by the County Administrator and forwarded to the State expressing this."*

At the 8/21/2012 Regular Meeting: Tom Judge reviewed the request.

Chairman Hobert stated that at the VACo meeting on Friday the director was instructed to write a letter to the Governor stating that the Commonwealth had a surplus that came on the backs of the localities.

**Supervisor Staelin moved to adopt the recommendation of the Finance Committee as presented. 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

5. Acceptance of July Bills and Claims.

The Finance Committee recommends acceptance.

**08/21/2012 Action: Supervisor Staelin moved to accept the July 2012 General Government Bills and Claims as presented. 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

6. Standing Reports

Reconciliation of Appropriations. General Fund Balance. General Fund Expenditure Summary. Information Only

## 11) Government Projects Update

The monthly project update was provided by David Ash. Highlights include:

- Berryville-Clarke County Government Center
  - During the 30-day monitoring period to establish a baseline, sensors placed throughout the building malfunctioned
  - Gordon Russell is following up with the provider to determine if it is a computer error
- Senior Center/Parks Building
  - Project progressing.
  - Today received gas agreement from Cooley to Senior Center. Installation may not happen by deadline.
  - Progress meeting scheduled for next Thursday.
  - Supervisor Byrd informed the Board that while at the FAA / 4H sale she asked buyers if they would care to donate their purchase and several did opt to donate. Following discussion, it was determined that the project was ahead of schedule and freezer space for the processed product might be problematic. David Ash was asked to follow up.
- Sheriff's Office
  - Chester Engineering proposal under review.
  - Architect has provided a letter indicating a desire to terminate agreement.
- 36 East Main and 106 North Church
  - Vice Chairman Weiss stated that he would provide an update on these properties in Closed Session.

## 12) Miscellaneous Items

### Berryville Graphics

Supervisor Staelin distributed:

- Sample Request For Payment Letter
- Sample Resolution Or Contract Between The Town and County
- Sample Resolution Or Contract Between The Town and IDA

Highlights of Supervisor Staelin's briefing include:

- Robert Mitchell is reviewing the draft contract proposed by the State.
- The State will transfer funds to the Clarke County Industrial Development Authority that will turn the funds over to Berryville Graphics.
- All documentation must be provided to the state by September 30.
- The package should be ready for review and action at the September Supervisors meeting.

Chairman Hobert instructed David Ash to follow up with the Industrial Development Authority and to add the matter to the September Work Session Agenda.

Zoning, Nuisances and Health Hazards

Supervisor Byrd provided the following for Board consideration:

- Johnson Grass and thistles: Constituents have complained and several things have been tried but nothing has been affective.
- Yard Maintenance: Constituents have complained about the lack of yard maintenance of some properties including weeds, junk trees and the resulting vermin. Current legislation is not strong enough in most cases to allow the Sheriff or Health Department to act.
- Hoarding: The Department of Social Services needs assistance in determining ways it can better deal with hoarding of property and animals.

13) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Provide Alison Teetor notice of Board approval of Consent Agenda items.	Lora B. Walburn
3.	Update database and process appointments.	Lora B. Walburn
4.	Execute appointment notice.	J. Michael Hobert
5.	Provide recommendations for appointments to Warren/Clarke County Microenterprise Assistance Program Management Team to the Personnel Committee.	Supervisors
6.	Circulate Comprehensive Plan review calendar to BOS.	Brandon Stidham

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
7.	Request the Commission to set the review and updating of the Double Tollgate Area Plan (and possibly the Waterloo Area Plan) as a high priority immediately following adoption of the revised Comprehensive Plan.	Brandon Stidham
8.	Staff to assemble a Request for Proposal (RFP) to hire an economic development consultant to assist in the update of the Comprehensive Plan and Implementing Component Plans.	Brandon Stidham
9.	Work with Supervisor Byrd on freezer space at Senior Center.	David Ash
10.	Ask Ed Carter to ride Lewisville Road and give his opinion.	David Ash
11.	Provide update on Lewisville Road at Work Session.	David Ash
12.	Berryville Graphics Governor's Development Opportunity Fund Local Grant Performance Agreement - follow up with IDA and place on Work Session Agenda.	David Ash
13.	Update County Code with CC-12-01, distribute and provide notice.	Lora B. Walburn

14) Board Member Committee Status Reports

Supervisor Byrd

- Clarke County Library Advisory Committee: The Board would like to meet the new persons at Berryville Graphics. The Board suggested working with John Staelin.

Supervisor John Staelin

- Barns of Rose Hill:
  - o September 1, Logan Van Meter will begin the duties of Executive Director for the Barns of Rose Hill and The Visitor Center.
  - o Working to secure visitor center signage.
- IDA / EDAC: Will be meeting to continue discussion on development at Waterloo including fees and the economic environment.

Vice Chairman David Weiss

- Conservation Easement Authority:
  - o There is continuing interest.

- Alison Teetor has been very successful in finding grants.
- Building and Grounds: David Ash doing an excellent job with the Berryville Clarke County Government Center and the Senior Center.

### Speed Limit on Lewisville Road

Prior to entering Closed Session two Russell District constituents asked to address the Supervisors on the matter of speeding on Lewisville Road.

Lewisville Road residents Kelli Scarrow and Will Nelson expressed the following concerns:

- Speeding - a consistent problem with WV commuters travelling in both directions and the road is very narrow,
- Pedestrian Safety - danger while crossing road to mail boxes, or while walking or mowing along Lewisville Rd.,
- Vehicle Safety - residents entering Lewisville Rd. from their private driveways with limited visibility,
- Horse/Rider Safety - residents crossing Lewisville Road to gain entrance to Gordonsdale cross country course,
- Horse Van Safety - general public entering and exiting Gordonsdale Farm entrance into speeding traffic, and
- Visibility - at Clifton Road and Mt. Airy Church.

Supervisor Byrd suggested a speed study be conducted on Lewisville Road.

Vice Chair Weiss stated that Shepherds Mill has type of problems and suggested asking Ed Carter, VDOT, to ride the road and give his opinion. He said that it is very difficult to get speed limits lowered opining that VDOT uses an archaic system. Vice Chair Weiss explained that if 80% of the traffic observes the posted speed than the road is determined to be safe.

The Supervisors agreed that a petition from affected residents might be relevant and helpful to their cause, but reiterated the cautions expressed by Mr. Weiss.

Supervisor Byrd put forth that speeds had been lowered on Crums Church, Kimble Road; and Stringtown Roads.

Chairman Hobert asked David Ash to coordinate and provide an update at the next Work Session.



15) Closed Session

At 2:23 pm, **Supervisor Staelin moved to convene into Closed Session pursuant to 2.2-3711-A3 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.**

**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, at 2:53 pm, **Supervisor Byrd 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

**Vice Chairman Weiss moved 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 following the Closed Session.

Chairman Hobert recessed the meeting at 3:54 pm.

Chairman Hobert reconvened the meeting at 6:30 p.m.

16) Citizen Comment Period

No citizens addressed the Board.

- 17) PH 12-07: CC-12-01 an ordinance amending Chapter 106 of the Code of Clarke County, Virginia, entitled "Hunting and Firearms," Article II, Entitled "Firearms," by repealing Section 106-7, consistent with recently amended Virginia code section 18.2-308, which removes the option for a locality to require that an applicant for a concealed handgun permit submit fingerprints as part of the application.

Chairman Hobert summarized the proposed amendment to the Code of Clarke County noting that this was a good example of the Dillon Rule.

David Ash stated that the Sheriff has ceased to request fingerprints in compliance with the new law.

Supervisor Staelin put forth that the General Assembly approval of this amendment to State Code without the knowledge or support of the Sheriff's Association was not a good way to do business.

At 6:34 pm Chairman Hobert opened the public comment portion of the public hearing. Being no persons present desiring to address the matter the public comment portion of the public hearing was closed.

**Supervisor McKay moved to approve Code amendment CC-12-01 as presented. 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

I. BE IT ORDAINED by the Board of Supervisors of Clarke County, Virginia, that Chapter 106, Article II, Section 1 06-7 be repealed as follows:

**Chapter 106**  
**Hunting And Firearms**  
**Article II**  
**Firearms**

- § 106 7. *Fingerprinting Applicant For Concealed Handgun Permits.*
- A. In order to determine the applicant's suitability for a concealed handgun permit, the applicant shall be fingerprinted. The fingerprints and descriptive information shall be forwarded through the Virginia State Police to the FBI for a national criminal history record check.
  - B. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. Upon completion of the criminal records check, the fingerprint cards shall be returned or disposed of as provided for by the Code of Virginia.
  - C. If an applicant possesses a current, valid concealed handgun permit and applies for a renewal of said permit, fingerprints shall not be taken nor required as part of said renewal process.

II. The repeal of this section shall be effective July 1, 2012.

III. The remaining sections and subsections of Chapter 106 of the Code of Clarke County not amended hereby shall remain in effect as previously enacted

18) PH 12-08: Verizon Wireless requests approval of a Special Use and Site Plan for constructing a monopole on the property located in the 100 block of Mount Carmel Road, Tax Map Parcel 39-A-71, Millwood Election District, zoned Forestal Open-Space Conservation (FOC). SUP-12-01

Jesse Russell provided an overview of the Verizon Wireless request for special use and site plan for construction of a monopole. He reviewed and provided suggestions on ways to resolve the “pinch point” issue between the applicant and the adjoining property owner.

Brandon Stidham, Planning Director, provided a presentation to the Board of Supervisors that included graphics detailing the “pinch point” area.

Jesse Russell summarized staff concerns:

- Requested buffer reduction and impact on church property; potential precedent set.
- Stormwater management
- Road construction at “pinch point” – removal of rocks, stabilization of rock face. No blasting will be allowed and a hoe ram will be used as necessary.
- Room for construction equipment to operate at “pinch point.”

Supervisor Byrd asked about stormwater management for the old logging access road; these issues were addressed in Verizon’s presentation.

Vice Chairman Weiss noted that the 25-foot buffer was not often waived in the County.

Supervisor Byrd asked about the availability of the engineer’s report.

Jesse Russell stated that his recommendation was to continue the public hearing until the engineer’s report was available.

At 6:54 pm Chairman Hobert opened the public comment portion of the public hearing.

David Lasso, Verizon attorney, introduced the four Verizon staff members in attendance, as well as the property owners, Mr. and Mrs. Thomas. He proceeded with a prepared presentation covering: an history of current and proposed site location; balloon tests on site; current and improved coverage area; compound entrance; revised access route; church requirements including no blasting and no construction on Sunday; proposed design for vegetative buffer to be planted on church property received this week; and negligible traffic on access road.

Chairman Hobert asked Mr. Lasso how many additional households would be impacted by the coverage area.

Barbara Pivick, Verizon real estate manager, responded noting the importance of the tower and its placement that will provide coverage from Ashby Gap into Berryville. The number of households has not been calculated but Verizon could look at the population in those zip codes and give some calculations. She stated that Verizon’s interest is to expand and to make a more reliable network for mobile customers, as well as interior access.

Supervisor Staelin left the meeting at 7:19 pm.

Supervisor McKay asked Mr. Russell about dwelling unit rights on the Thomas property.

Jesse Russell responded that there were two dwelling unit rights on the property.

Vice Chair Weiss clarified that there was the potential for this road to be an entrance road to two properties, as well as the Verizon facility.

Supervisor McKay commented that while Verizon was asserting it would use the access road once per month if the two dwelling unit rights were developed, using the standard formula, there was a very real possibility of 601 trips per month.

Jesse Russell reminded that the Supervisors did have the right to restrict the roadway for the sole use of Verizon. He clarified that the County driveway standard is 14 feet wide for a residential travel way.

Patsy Gochenour, lives off of Senseny Road; stated that Mt. Carmel Church and Verizon needed to stay focused on the positives and work together. She opined that Verizon must look at the impacts on the citizens both positive and negative.

Jesse Russell asked Pastor Karen Adams, Mt. Carmel Church, if there was any way the church would consider accepting an easement in the rear area of the property and allow Verizon to plant a vegetative buffer or to grant Verizon an easement.

Pastor Adams stated that she had not been asked by Verizon about an easement on the rear part of the property but she would be glad to take that to her Board of Trustees. She informed the Supervisors that the Thomas' held an easement on the lower section of the driveway. Pastor Adams added that the Thomas' had asked for a reciprocal easement; however, the church did not want to grant access through its parking lot. She also noted that Ms. Pivick had told her that the church would be advised if a construction access easement were needed through the parking lot. She expressed her belief that the church would support the plantings.

Vice Chairman Weiss asked if the church would object to granting road access through its parking lot if it were for the sole purpose of accessing the Verizon tower.

Mr. Lasso opined that after many months of discussion with Mt. Carmel Church, Verizon had determined that there would be no resolution on the part of the church regarding access across its property for the following reasons:

- Title issues;
- Objections of some members;

- Proposed location for a future pavilion.

Supervisor Byrd urged fellow Supervisors that have not yet had an opportunity to walk the property to do so before the next regular meeting.

Chairman Hobert stated that it would be helpful if the church trustees could review Verizon's proposal and provide its position to the Supervisors at their September regular meeting.

Reba Lafollette, member Mt. Carmel Church, commented that the church wanted to work with Verizon. She opined that things keep changing. She said that the church just wants the rights to a little piece of land that it crosses to access its property but Verizon will not give an inch. She further noted that from the first meeting with Verizon that this was just tower construction; and now, the church is hearing that houses may be constructed. Ms. Lafollette also advised that the church has consulted an attorney.

Supervisor Byrd commented that while it was known that the Thomas' had granted the church access through their property she asked who originally granted the church access rights. Mrs. Gochenour responded that she believed that access was originally granted by Thomas, Lord Fairfax, the landowner at the time the church was built.

**At 7:48 pm, Vice Chair Weiss moved to continue the public hearing to the next regularly scheduled meeting at 6:30 pm, Tuesday, September 18, 2012. 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

#### 19) Adjournment

There being no further business to be brought before the Board at 7:49 pm Chairman Hobert adjourned the Board of Supervisors meeting.

#### Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, September 18, 2012 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

Approved September 18, 2012

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ATTEST: August 21, 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