

September 17, 2013

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 Berryville Clarke County Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia on Tuesday, September 17, 2013.

Board Members Present

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

Board Members Absent

None

Staff Present

David Ash; Tom Judge; Brandon Stidham; Lora B. Walburn

Others Present

Barbara Bosserman; Robina Rich Bouffault; Cliff Balderson; Charlie Monroe; Ed Carter; Mike Murphy; Lisa Floyd; Randy Trenary; Roger Riggins; Val Van Meter and other citizens

1) Call to Order

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

Chairman Hobert announced that this was National Constitution Day and Citizenship Day.

2) Adoption of Agenda

– Add: Recommendation to appoint Angela Stidham to the Lord Fairfax Emergency Services Council; Patricia James to the Workforce Investment Board

By consensus, the Board adopted the agenda as modified.

3) Citizens Comment Period

No citizens appeared to address the Board.

4) VDOT

Ed Carter, Assistant Residency Administrator, appeared before the Board of Supervisors to present the monthly report.

Maintenance – August:

- Continued with second round of mowing on secondary's;
- Replaced pipe on Rt. 7 business;
- Performed shoulder repair on Rt. 636;
- Seeded shoulder repairs under guardrail along Rt. 7;
- Conducted skin patching on Rt. 606;
- Graded various non-hard surfaced routes in county;
- Addressed several sight distance complaints at various locations;
- Responded to two major traffic incidents including one with hazardous materials spill (hydraulic oil);
- Conducted dry runs with snow removal equipment in preparation for winter.

Maintenance – September:

- Complete second round of secondary mowing;
- Complete remaining skin patching on Rt. 606;
- Continue with grading under guardrails along Rt. 7;
- Perform shoulder repairs on primaries;
- Continue grading on various non-hard surfaced roads;
- Conduct brush removal operations to address site distance issues for school buses.

Projects:

- Stream bank repair Rt. 606 – Still awaiting District decision on contractor pricing.
- Turning Lane Rt. 340/657 – Currently on schedule to advertise this year, pending funding authorization.

- Rt. 636, Westwood Rd. – Based on preliminary scoping discussions with County Administration the current estimate has been reduced from \$5.77 million to \$2.25 million, excluding any R/W or any utility relocation costs. Design work will begin as soon as programming has transferred remaining available funding from the Mosby Rd. project and open it to charges. Anticipate within 30-60 days. Scoping include correcting any vertical/horizontal geometrics, adding turning lanes for old high school and Ramsburg Lane, extending shared use path, widening to two 11' lanes with two 5' shoulders, provide turning lane for elementary school drop off drive and relocate existing school parking to allow for shared use path. Moving of utility poles is not included in the estimate.

Board issues:

- Shoulders on Westwood Rd. – Addressed
- Stone at boat landing entrance Rt. 621 – Addressed; speed limit was not addressed.
- Pedestrian issues at Rt. 7/340 – Waiting on response from Traffic Engineering. Technicians will be on site September 18 to check timing, observe, and inspect the crosswalk.
- Truck Traffic complaints Summit Point Road and Shepherd's Mill Road: neither road is restricted. VDOT could perform a truck restriction study following receipt of resolution by the Board requesting the study subject to attendant costs.

Supervisor Comments:

Supervisor Barbara Byrd:

- Westwood Road: VDOT did an excellent job addressing the shoulders.
- Summit Point Road: Constituents are worried about truck traffic.
- Triple J Road: Ed Carter will ask the traffic department to review and make suggestions on how to deter speeding.

Vice Chairman David Weiss:

- Mowing Secondary Roads: Ed Carter explained that due to budgetary constraints, mowing is performed two times per seasons. He noted that weather and other projects caused delays this season. Charlie Monroe will provide the mowing cost figures.

Supervisor Beverly McKay:

- Route 340, Waterloo Intersection - U-turns to enter Handy-Mart: Clif Balderson stated that the developer has plans to improve the entrance that may alleviate the problem.

Chairman J. Michael Hobert:

- Route 7 Wayside Farm entrance improvement: Ed Carter will check with the Land Development division on the status of the proposed entrance improvement off Route 7.

Supervisor John Staelin

- Route 601: Constituents are appreciative of VDOT's efforts.

5) Clarke County Public Schools Update

Michael Murphy, CCPS Superintendent, with Randy Trenary, Director of Operations; Lisa Floyd, Director of Curriculum and Instruction; Ed Shewbridge, Director of Information Technology; and Nicole Kinsy, local Sodexo Foodservice Manager.

Dr. Murphy thanked David Ash for providing questions in advance.

Supervisors' Question 1. Concern that "fundamental" parts of the high school renovation were left out of specifications and that we are now relying on "estimates" rather than quotes for the cost of doing necessary work.

– Schools' Response:

- Construction cost resulted in a \$531,000 surplus appropriation.
- The School Board used the surplus funds to address its "should do" list that it had been unable to budget for in the original request for proposal.
 - Increased construction contingency by \$100,000 from \$350,000 to \$450,000 creating a "more than adequate pot" to protect the division and the taxpayers against any change orders that may be necessary due to unforeseen complications in the renovation of D.G. Cooley and the former high school.
 - Identified improvements for:
 - Restroom improvements including upgrade to ADA standards and floor tile removal and replacement. The School Board anticipates receipt of the actual cost estimate from RRMM and Caldwell Santmyer by its Monday, September 23 meeting.
 - Foodservice area.

- Additional extensions to the HVAC and the heating plan.
- If the construction contingency is not fully utilized, the remaining funds will be dedicated to furniture, fixtures, equipment, and technology enhancements.

Supervisor Byrd questioned the decision not to include renovation in the original request considering that the facility was being retrofitted from high school to elementary school use.

Dr. Murphy responded that in the process of renovation the Schools chose to build to the money and working diligently to ensure that it does not exceed the allotted \$7.2MM. He said that in the order of magnitude it was the belief of the architect and the School Board that there were many other issues that took precedence over the toilets. He explained that in the Pre-K/1 wing classrooms would have en suite facilities with child-sized fixtures and six more classrooms in the main core were being retrofitted with individual classroom toilets. He further noted that since the toilets located by the cafeteria and gymnasium received a lot of adult use those toilets will be left at adult height.

Supervisors' Question 2: Concern about the policy of allowing children to proceed through the cafeteria line and then publicly taking their lunch because of a deficit in their cafeteria account.

– Schools' Response:

- This issue was recently brought to School Administration's attention by a parent, who feels it is the parent's responsibility to ensure that each child has an appropriate lunch.
- Foodservice is an enterprise fund.
- Clarke County has several challenges with a very different culture as compared to Warren County schools that use the same foodservice provider:
 - Clarke students don't think it is "cool" to eat lunch in the cafeteria.
 - Clarke students bring their lunches in expensive bags; and these lunches, comprised of processed foods, crackers, and expensive beverages, cost more than the school lunch.
 - Approximately 22/23% of the student population is eligible for free or reduced lunch. Boyce is now the "high poverty" school with approximately 25%. Note: Warren County's free or reduced lunch population is approximately 47% to 57%.
 - The Schools believe the biggest challenge is in getting students to eat the nutritious meals not in removing lunches from students from time to time.
 - Per day, approximately 200 of 440 eligible students, approximately 50%, do not eat the free or reduced lunch.

- Last year, the Schools made approximately 100 calls per day to notify parents of insufficient funds in accounts.
- The Schools have a very generous \$5-charge policy (with credit given up to that amount) that applies to any student in the division, as well as staff.
- Parents of students charging lunch from \$0.01 cent to \$5 in excess of the amount available in their account receive a “robo” call the same night and each night for as long as there is a negative balance.
- Upon exceeding or “charging” an amount in excess of \$5, students in arrears are given a school lunch that consists of a cheese or peanut butter sandwich, an apple, a bag of carrots and milk.

Vice Chairman Weiss put forth that what bothered him was that the Schools would physically take the food away from a child in a school lunch line with all the stigma attached to such an action. He opined that the Schools could not justify this behavior.

Dr. Murphy stated that last year the Schools waived its charge policy and provided benevolent lunches for eight days for a total charge of \$132.

Vice Chairman Weiss responded that he was not asking the Schools to provide free lunches but to deal with the matter before the child has gotten his or her food, perhaps at the beginning of the line rather than at the end.

Dr. Murphy said that the Schools had not yet determined a way to deal with this issue before the child gets into the line but it was working on a back-up plan with a benevolent fund to help those children that exceed the \$5 limit.

Randy Trenary contributed that the majority of the cafeterias are understaffed. With the key code at the beginning of the line, staff does not know until the student gets to the register whether the account is in arrears.

Chairman Hobert clarified that lunch is not a flat fee and can vary with the selection of various a la carte choices.

Randy Trenary, responding to Supervisor McKay, provided that a full meal cost \$2.50 at the middle and high schools and \$2.25 at the elementary schools.

Dr. Murphy commented that the lunch prices are significantly higher compared to Warren County. Further, the federal government is requiring schools to raise prices about five cents a year.

Dr. Murphy noted that Clarke made over a \$100,000 in cuts in foodservice staff. He added that “lunch ladies” are only located at Boyce Elementary. He said that the Schools struggle with confidentiality rules and with federal regulations for free or reduced lunch meals. He told the Board that Johnson Williams Middle School had 3

lunch periods with approximately 150 students each with 80 to 90 in line to purchase lunch. He said that one of the biggest complaints is that the lines are too slow and the Schools are trying to speed up the process. He opined that the Schools could do a punch card or something similar but it would not aid in speeding up the process.

Supervisor Staelin commented that he had initially raised the issue before the Board. He asked if the cashier spoke to the student about being in arrears.

Mr. Trenary responded that at the elementary level the student is given a little sticker.

Supervisor Staelin asked how a student over the limit got a meal.

Mr. Trenary responded that the cafeteria worker that took the plate would provide the cheese sandwich and milk; and if the student knew in advance that they were out of funds, they could advance to the cash register and request the meal.

Dr. Murphy said that the Schools have discussed having the student carry home a letter to the parents or guardians; and when over the \$5 limit, there would be a call from a counselor or teacher to the parent or guardian to aid in resolving the arrearage. If the "robo" calls, notes, and first call from a counselor or teacher does not resolve the matter, a second call would be placed to see what type of support the schools could provide the parent or guardian to resolve the arrearage. The final step could be contacting the Department of Social Services.

Supervisor Staelin stated that it was a difficult situation. He opined that the steps outlined would probably result in a higher cost than to pay for the meal.

Dr. Murphy said that the Schools have started a foodservice benevolence fund; and at some point, the Schools would be asking each of the Supervisors to contribute. He added that Schools are working with the PTO's, one of which has already contributed, several churches, and FISH. He said that the Schools recognized that there was a stigma attached and its duty to protect the student. He emphasized the need to make personal contact with the families recognizing that nearly a quarter of the students in the system were at or below poverty level.

Vice Chairman Weiss commented that it sounded as though the Schools were blaming foodservice debt on arrears in student accounts. He noted that the Schools response had taken the matter into a much larger realm than the Supervisors had requested.

Supervisor Byrd contributed that it was very important for children to eat three meals a day; and if the students are properly fueled, the Schools will see improvements in grades. She opined that there must be a reason or reasons why students do not wish to eat cafeteria food. She also asked what happened to students that do not eat lunch.

Dr. Murphy responded that students are not required to eat and it is not the Schools' responsibility to ensure students eat lunch. He opined that adequate, nutritious meals were provided using the same food vendors, using the same management team that prepares and oversees food preparation as Warren County that served five times the students. He repeated that Clarke had a cultural issue. He said that the Schools must communicate to parents the importance of a nutritious meal. He opined that the Schools could not afford the economic impact of giving away lunches.

Vice Chairman Weiss clarified that the Board of Supervisors was not asking the Schools to supply free lunches; and while what the Schools were suggesting seemed good, it seemed odd to have taken such a long time to come up with a plan.

Nicole Kinsy, responding to Supervisor McKay, advised that D.G. Cooley had the highest number of students eating lunch, Clarke County High School has good participation; Johnson Williams is low. She added that the number of students eating school lunches has grown annual and the number of students eating breakfast has grown drastically this year.

Randy Trenary, responding to Supervisor McKay, stated that the Schools planned to conduct a student survey and to discuss with student government.

Dr. Murphy invited the Supervisors to join him for lunch, beginning at 11 am, at the high school. He advised that any interested should call his secretary, Nan O'Brien, to schedule.

Supervisor Byrd made several suggestions:

- Work with the PTO's: She said she had been told about one Frederick County PTO that has a special fund to cover lunches.
- Work with middle and high school students: meet with them to find out what is wrong with the program, lunches, etc.
- Work with the teachers: they need to be involved to ensure the success of the individual student.

Dr. Murphy concluded that the Schools would continue to work on creative ideas including linking payment to a student's ability to participate in sports.

STEM Career Fair

Supervisor Byrd advised that she had received a letter from Congressman Frank Wolf about a special STEM Career Fair with the National Science Foundation to be held on September 27 and 28 and asked Dr. Murphy if any students would be attending the fair.

Dr. Murphy responded that the schools were excited about Debbie Biggs coming to work for Clarke County bringing over 20 year experience with NASA and the Houston Space Center, Cape Kennedy and Cape Canaveral. He said that a team would be attending the fair.

Lisa Floyd commented that 2 teachers would be attending with a group of up to 50 high school students for a one-day trip, Friday, September 27.

Supervisors' Question 3: An update on the status of the SOL results.

– Schools' Response:

- Dr. Murphy introduced Ed Shewbridge, Director of Testing and Director of Information Technology, and Lisa Floyd, Director of Curriculum and Instruction. Mr. Shewbridge distributed and reviewed the following documents. He and Dr. Floyd responded to questions from the Board.
 - Accountability and Virginia Public Schools
 - Virginia Department of Education Clarke County High State Accreditation for All Students
 - Virginia Department of Education Johnson-Williams Middle State Accreditation for All Students
 - Virginia Department of Education Boyce Elementary State Accreditation for All Students
 - Virginia Department of Education D.G. Cooley Elementary State Accreditation for All Students
 - Press Release Clarke County Public Schools Students Make Gains on Mathematics SOLs

In response to various questions from the Supervisors, Dr. Murphy agreed with Supervisor Staelin's comment that there was a line where the standards change and historic data cannot be compared.

Chairman Hobert requested that the Schools provide comparisons from other jurisdictions.

Chairman Hobert commented that approximately two-thirds of the County's budget went to the Schools and that he believed regular communications between the Board and School District was important. He stated that it would be helpful for future presentations for the Schools to provide the materials in advance and for County staff to provide sub-categories for the agenda.

Supervisor Byrd opined that the presentation was educational for the Supervisors and might lead to improvements with Schools by bringing greater public disclosure.

Supervisor McKay remarked that he felt that providing the questions in advance had helped to keep the conversation focused. He said that he had difficulty understanding the information however it appeared as though the Schools were achieving as well as they should.

Supervisor Staelin stated that he had found the presentation helpful. For better time management, he suggested setting an allotted amount of time.

Supervisor McKay asked if the Supervisors should invite the School Board to meeting with them to discuss testing and other issues.

By consensus, the Supervisors agreed it was best to begin by asking staff questions to gain better understanding of the issues.

Chairman Hobert noted the Board of Supervisors was not the School Board and its ultimate responsibility was the budget, not the curriculum.

Vice Chairman Weiss rejoined that he liked the briefings and today's in particular because it this particular issue touched a spot. He reiterated Chairman Hobert's statement that the Supervisors are not the School Board and testing issues are inherent to a system that was attempting to keep track of something that has become another bureaucratic system that doesn't particularly keep track of anything but itself.

Chairman Hobert suggested passing to David Ash or him any specific questions or matters the members might wanted addressed and they would work together to focus in on the issue and make it part of agenda.

Vice Chairman Weiss concluded the segment by stating that he believed that briefing or presentations should be solution-oriented.

6) Approval of Minutes

Supervisor Staelin moved to approve the minutes for the August 20, 2013 Regular Meeting as modified. 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. 2013-15R Resolution Adopting Revised Emergency Operations Plan

**Resolution Adopting Revised Emergency Operations Plan
2013-15R**

WHEREAS, the Board of Supervisors of Clarke County, Virginia recognizes the need to prepare for, respond to, and recover from natural and manmade disasters; and

WHEREAS, Clarke County, Virginia has a responsibility to provide for the safety and well-being of its citizens and visitors; and

WHEREAS, Clarke County, Virginia has established and appointed a Director and Coordinator of Emergency Management;

NOW, THEREFORE, BE IT RESOLVED by the Clarke County Board of Supervisors, this Emergency Operations Plan as revised is officially adopted, and,

IT IS FURTHER RESOLVED AND ORDERED that the County Administrator / Emergency Management Coordinator, or his/her designee, is tasked and authorized to maintain and revise as necessary this document during the next four (4) year period or until such time it be ordered to come before this board.

Adopted this 17th day of September 2013.

Attest:

J. Michael Hobert, Chair

David L. Ash, Clerk

B. VACo 2013 Voting Credentials

VACo 2013 Annual Meeting
Voting Credentials Form
Form may be returned by mail or fax (804-788-0083)

Voting Delegate:
(Supervisor)
Name J. Michael Hobert
Title Chair - Board of Supervisors
Locality Clarke County

Alternate Delegate:
(Supervisor)
Name John Staelin
Title Supervisor - Millwood District
Locality Clarke County

Certified by:
(Clerk of the Board)
Name David L. Ash
Title County Administrator / Clerk to the Board of Supervisors
Locality Clarke County

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 - Aye
Beverly B. McKay - Aye
John R. Staelin - Aye
David S. Weiss - Aye

8) Personnel Committee Items

A. Expiration of Term for appointments expiring through December 2013.

09/09/2013 Summary: Review of appointments expiring through December.

09/09/2013 Action: The Committee discussed several potential appointments citing a need to confirm willingness to serve prior to making the appointments. Staff has been directed to follow up on those contacts.

Further, the Personnel Committee recommends the following appointments:

- ✓ Reappoint Mark Cochran to serve a four-year term on the Clarke County Industrial Development Authority expiring 10/30/2017

- ✓ Reappoint Allan Frederickson to serve a four-year term on the Clarke County Industrial Development Authority expiring 10/30/2017

09/17/2013 Action: **Supervisor Byrd moved to approve the following appointments:**

- ✓ **Reappoint Mark Cochran to serve a four-year term on the Clarke County Industrial Development Authority expiring 10/30/2017**
- ✓ **Reappoint Allan Frederickson to serve a four-year term on the Clarke County Industrial Development Authority expiring 10/30/2017**
- ✓ **Appoint Angela Stidham to serve a three-year term on the Lord Fairfax Emergency Services Council replacing Julie Wagaman. Term expires June 30, 2016.**
- ✓ **Appoint Patricia James to serve a four-year term on the Shenandoah Valley Workforce Investment Board. Term expires June 30, 2017.**

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. Closed Session re: §2.2-3711-A1 Specific individual under consideration for appointments and positions.

09/09/2013 Action: Time did not permit a closed session.

C. BCCGC Flag Status and Mourning Drape Usage

09/09/2013 Summary: As requested at the August 12 meeting, David Ash placed this item on the September 4, 2013 BCCGC Joint Building Committee Agenda for discussion. The BCCGC JBC unanimously adopted the following amendment to PD-121101-12 Berryville Clarke County Government Center – Operating Agreement adding iii. Half-staff / Use of Funeral Drape to Section 16.

16. Flag Display

- iii. Half-staff / Use of Funeral Drape

1. United States and Virginia Flags: Shall be adjusted according to its respective flag code.
2. Local Government Flags, Town of Berryville and Clarke County: will be lowered to half-staff upon order of the Berryville Mayor [or designee] or Chair of the Clarke County Board of Supervisors [or designee] respectively.

Said order will specify the length of time the flag is to remain at half-staff.

3. A funeral drape will be placed on the front of the building, above and around the Main Entrance, upon order of the Berryville Mayor [or designee] or Chair of the Clarke County Board of Supervisors [or designee] respectively.

Drape may be displayed in honor of currently serving elected and appointed officials, as well as employees upon their death.

Further, drape may be displayed upon the death of past elected and appointed officials, and employees to honor those who have served their respective jurisdiction with distinction.

Said display will normally last no more than five [5] work days.

In specific instances, the Mayor or Chair may direct the drape to be displayed longer than five [5] work days but in no instance will the drape be displayed for more than fourteen [14] work days for any single person.

09/09/2013 Follow Up Items: A) Item 3. Paragraph 3 above revised to read as adopted by the BCCGC Joint Building Committee. B) The Joint Building Committee operates in accordance with the October 10, 2006 Agreement between the Town of Berryville and Clarke County re Berryville Clarke County Government Center Construction and Operation, which does not require review or consent by the governing bodies unless the Committee is unable to resolve a dispute.

D. Personnel Policy Draft Review

09/09/2013 Summary: As requested by the Committee, the August 14, 2013 revision of the draft Personnel Policy is included in the packet.

Time did not permit review or discussion. At the Committee meeting, members requested any comments that Board members might have on the draft to date.

9) Work Session Items

A. White Post Dairy Update

09/09/2013 Summary: DEQ's September 9, 2013 Progress Report is provided for Board review.

The Board directed staff to prepare a letter to DEQ requesting that DEQ take steps to resolve the ongoing issues at White Post Dairy and to resolve the outstanding issues between White Post Dairy and neighboring land owners upon which a portion of the dairy operation has been placed. DEQ is further requested to not agree to further extensions in meeting permit requirements.

09/17/2013 Action: Chairman Hobert informed the Board he was waiting on a response to the letter sent to David Paylor, DEQ Director.

September 13, 2013

David K. Paylor
Director, Virginia Department of Environmental Quality (DEQ)
629 East Main Street
P.O. Box 1105
Richmond, VA 23218

Dear Mr. Paylor:

On behalf of the Clarke County Board of Supervisors, I want to bring to your attention our concerns regarding the handling of an enforcement action that your agency is processing in our jurisdiction.

On March 3, 2013, a significant manure spill occurred at the White Post Dairy due to worker negligence resulting in approximately 10,000 gallons of liquid manure escaping containment and impacting adjoining properties and waterways. DEQ staff commenced an enforcement action shortly after the incident and met with us on April 8, 2013 to discuss the required corrective actions. They also agreed to provide us with written reports and to meet with us on a periodic basis to present updates on the enforcement action. The most recent progress report is enclosed.

At our workshop meeting on September 9, 2013, we received an update via teleconference with Karen Gail Hensley, P.E. (Enforcement Specialist Senior, Valley Regional Office) who reviewed the status of all corrective actions agreed to between the Dairy owners and DEQ. We were particularly concerned to find out that DEQ has granted several time extensions to various aspects of the corrective action agreement. While we understand the need to work cooperatively with the property owners, we have serious reservations with allowing the Dairy to proceed at their own pace towards compliance rather than holding them firmly to their agreed-upon compliance deadlines. The Board of Supervisors has had regulatory concerns with the Dairy since its inception in 2000, and the Dairy has been the subject of variance compliance actions with DEQ as a result of these concerns. We believe that allowing them to have multiple time extensions fails to emphasize the seriousness of their violations. We request that DEQ issue no further extensions of time to comply with this enforcement action and that DEQ take further enforcement steps, including fines or legal action, should future deadlines be missed by the Dairy owners.

We are also very concerned with DEQ's interpretation of how to handle the Dairy's troubled manure storage lagoon, which was partially constructed on the adjoining property, and one of the associated monitoring wells. The adjoining property owner has expressed concerns that she may be held liable for any future issues associated with the lagoon, and she prefers to have all Dairy facilities relocated from her property. The Dairy has been advised by DEQ staff that they can achieve full compliance without having to relocate the lagoon or without having to negotiate an easement or other agreement with the adjoining property owner. In response to our questions, DEQ staff indicated that the encroachment is a private matter between the property owners and outside of the scope of DEQ's enforcement authority. Furthermore, DEQ staff has indicated that if the adjoining property owner took action to remove the encroaching portion of the lagoon or to otherwise modify it, she could be held liable by DEQ for causing an environmental hazard to occur. The adjoining property owner is neither affiliated with the Dairy nor holds any DEQ permit for this facility.

The County views this interpretation as confusing and counterintuitive. DEQ should be ensuring that all required mitigation facilities are under the Dairy's complete control either by being located entirely on the facility property or under easement or other lease agreement with the adjoining property owner. Absent this requirement, DEQ cannot guarantee that the Dairy owners will be able to access the encroaching portion of the facility to maintain it or that it would not be modified or removed by the adjoining property owner. DEQ staff has indicated that the regulations do not give the agency the authority to impose this as a requirement. However, we believe that this authority is, at the very least, implied as a necessary element to achieve regulatory compliance. We respectfully request that DEQ evaluate this interpretation, determine whether it is in error as applied to the White Post Dairy case, and provide us with a written response containing your agency's findings.

We appreciate your attention to this serious matter, as well as your agency's continued cooperative efforts on this matter and in keeping us informed.

Sincerely,
J. Michael Hobert
Chairman, Board of Supervisors

Cc: Senator Jill Vogel; Delegate Joe May; Delegate J. Randy Minchew; Gary Flory, DEQ
Karen Hensley, DEQ; Clarke County Board of Supervisors; David Ash, County
Administrator; William Call, White Post Dairy

Attachment: DEQ Status Report, White Post Dairy

B. Sewer Easement Crossing Boyce Elementary School

09/09/2013 Summary: Review draft letter to Ian Williams, Chair - Clarke County Sanitary Authority, regarding the proposed extension of a wastewater sewer line across the back of Boyce Elementary School.

By consensus, the Board authorized the Chair to sign the letter as presented.

09/17/2013 Action: Chairman Hobert informed the Board that the letter had been sent.

September 10, 2013

Ian Williams, Chair
Clarke County Sanitary Authority
129 Ramsburg Lane
Berryville, Virginia 22611

Re: Sewer Easement Crossing Boyce Elementary School Property

Dear Ian,

The Board of Supervisors has learned that a developer is proposing to extend a Boyce wastewater sewer line across the back of the Boyce Elementary School. As the County owns the Boyce Wastewater Treatment System and also has interest in the school property, my Board requests that the Board of Supervisors review and approve any sewer easement crossing the Boyce school land before the Sanitary Authority accepts any such easement into the County-owned system.

Please be aware that the Supervisors are not trying to stop the developer's project. We only want to make sure that the school property, which is owned by the citizens of Clarke County, is not encumbered in a way that will unduly restrict the future use of the property.

Sincerely,
Michael Hobert

Copy: Dr. Elizabeth Leffel, Chair Clarke County School Board

10) Finance Committee Items

1. FY 13 Year End Supplementals (draft only).

The following is a draft of the supplemental appropriation actions that will be requested in October when final numbers are established:

Account	Expenditure	Appropriation	Revenue	Transfer	Explanation
Circuit Court	1,199	1,199			Court ordered juries
General District Court	770			770 from Legal Contingency	?
Clerk of the Circuit Court	2,629				PT salaries for Supreme Court mandated additions to web access system; 3 computers
Sheriff	15,927	927		15,000 personnel contingency	Leave payout for Chief Deputy
Criminal Justice Training Center	300	300			Estimation Error
Emergency Medical Services	1,237			1,237 from Animal Control PT Salaries	Additional PT salaries to cover for FT sick leave
Regional Jail	44	44			Minor variance
Sanitation (FCSA)	2,477			2,477 Professional Services Contingency	Rate increase in excess of budget.
Board of Zoning Appeals	2,185			2,185 from Legal Contingency	Perry Quarry Appeal
Office of Economic Development	1,933			1,933 from Legal Contingency	Waterloo Water/Sewer Connection Fee Legal Assistance
School Capital	11,160	11,160	11,160		IEP Software Grant

2. FY2013 Conservation Easement Supplemental Appropriation.

09/09/2013 Summary: Reconciliation of the Conservation Easement Fund appropriations, in light of several purchases in the near future, revealed that the Buckley easement, which took place in July 2012 did not have an appropriation specifically associated with it, although that fund did contain sufficient overall appropriations to accommodate the purchase. The following action, which was not reviewed by the Finance Committee, and which does not trigger the need for a public hearing, corrects this:

"Be it resolved that FY 13 Conservation Easement Fund Budgeted expenditures be increased \$241,307, and the same appropriated, and be it further resolved that that revenue from Farm and Ranchland Protection Program, the Piedmont Environmental Council, and the Virginia Department of Agricultural and Consumer Services be recognized in the same amount, all for the purchase of a Conservation Easement. "

09/17/2013 Action: **Supervisor Staelin moved to approve the resolution 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

3. FY 14 Supplemental Appropriation and Transfer Requests.

09/09/2013 Summary: The following actions taken together would not trigger the need for a public hearing if they were adopted. The Finance Committee recommends adoption of the following actions:

- a. Voting Equipment. Action: "Be it resolved that FY 14 Electoral Board expenditures be increased \$3,644, and the same appropriated, by recognizing \$1,000 revenue from the Commonwealth, and by transferring \$2,644 from the minor capital contingency, all for the purpose of providing handicapped accessible optical scan equipment."

09/17/2013 Action: Tom Judge advised that due to successful negotiations by Barbara Bosserman, Voter Registrar, training costs were reduced by \$1,500 changing expenditures from \$3,644 to \$2,144 and transfers from \$2,644 to \$1,184.

- b. Compensation Plan update. Action: "Be it resolved that \$7,500 be transferred from the Personnel contingency to County Administrator Purchased Services, for the purpose of updating the Government pay and classification plan."
- c. FCWA Septage Agreement. This budget will require an additional \$500 by year end based on the O&M factor calculated by FCWA at the outset of the fiscal year. Action: "Be it resolved that \$500 be transferred from the General Fund contingency for professional services to the Sanitation account. "
- d. Historic Preservation Grant. The Chapel Hill Historic District and Josephine City projects were not completed by June 30, so it is necessary to carry over the grant as follows: Action: "Be it resolved that FY 14 expenditures of the Historic Preservation Commission be increased \$9,000, and the same appropriated, and that revenue from the Commonwealth be increased in the same amount, all for the purpose of completing certain historic preservation projects."
- e. Gang Task Force Grant. The Gang Task Force Grant has received an extension of time for expenditure of their allotment, thereby enabling more expenditure in the grant: Action: "Be it resolved that \$15,000 be transferred from Sheriff salary

and benefits, to Gang Task Force salary and benefits, and that estimated revenue from the federal government be increased by the same amount."

- f. Economic Development. Action: "Be it resolved that \$1,750 be transferred from the contingency for minor capital to the Economic Development accounts for the purpose of purchasing two 'Welcome to Clarke County' signs."
- g. Water Quality Testing. Action: "Be it resolved that FY 14 Water Quality Management expenditures be increased by \$12,000, the same appropriated, and revenue from the Chesapeake Bay Restoration Fund recognized in the same amount, all for the purpose of conducting water quality testing."
- h. Conservation Easement Fund Grant. Action: "Be it resolved that FY 14 budgeted expenditure for the Conservation Easement Fund be increased \$21,250, the same appropriated, and revenue from the Farm and Ranchland Protection Program recognized in the same amount, all for the purpose of providing conservation easements on certain Clarke County properties. "
- i. National Fish and Wildlife Grant. Action: "Be it resolved that the FY 14 General Government Capital Projects Fund be amended to increase expenditure by \$141,603, to appropriate the same, and to recognize revenue from the Fish and Wildlife Foundation in the same amount, all for the purpose of watershed improvements to C-Spout Run, and be it further resolved that these funds be disbursed only to the extent that all documents necessary to ensure federal fund compliance, including proof of match, timesheets, and receipts, have been received from sub-grantee agencies."

09/17/2013: Supervisor Staelin clarified that C-Spout Run is the project name and Spout Run is the stream name

Chairman Hobert requested progress updates and documentation between landowners and the Soil & Water Conservation Board, as well as other agreements between non-profits. Alison Teetor was instructed to follow up and provide update at the October 7, 2013 Work Session.

Vice Chairman Weiss asked for consideration of 10- to 15-foot vegetative buffers when developing an "attractive" riparian buffer program to begin vegetating setbacks in residential areas.

09/17/2013 Action: **Supervisor Staelin moved to approve the recommendations of the Finance Committee (A through I) as modified for Item A and Item I changing "C-Spout Run" to "Spout Run". 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

Supervisor McKay left the meeting at 3:45 pm.

4. Conservation Easement Purchase Set Public Hearing.

09/09/2013 Summary: The Chapman Conservation Easement purchase is a total of \$420,000 of which \$97,500 is already appropriated. Therefore additional appropriation of \$322,500 is required. This amount, when added to FY 14 year to date supplementals will require a public hearing in October on the following action: "Be it resolved that FY 14 budgeted expenditure for the Conservation Easement Fund be increased \$322,500, and the same appropriated, and be it further resolved that combined revenue from the Piedmont Environmental Council, the Virginia Department of Agricultural and Consumer Services, and the Virginia Land Conservation Fund be recognized in the same amount, all for the purchase of Conservation Easements."

09/17/2013 Action: **Supervisor Byrd moved to set public hearing for Tuesday, October 15, 2013 at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:**

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

5. Conservation Easement Fund checking account.

09/09/2013 Summary: The Conservation Easement Authority has been utilizing a checking account for eight or more years with donations as the source of funds for this account. The existence of this account was not known to the Treasurer or JAS, and has therefore not been subject to audit. The following actions are recommended:

- a) The account should be audited for FY 13.
- b) The checking account should be closed, and the balance merged with that of the Conservation Easement Fund so all expenditure and revenue can be tracked in one system of accounts.

The Finance Committee recommends that this account be included in the FY2013 Audit, and that the Joint Administrative Services Director propose to the Conservation Easement Authority the merger of this account with County's Conservation Easement Fund.

09/17/2013 Action: **Supervisor Staelin moved to approve 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	- Absent
John R. Staelin	- Aye
David S. Weiss	- Aye

6. Parks and Recreation Field Lighting Project.

09/09/2013 Summary: The Parks and Recreation Advisory Committee is supporting the purchase and installation of ball field lighting at the Chet Hobert Park. The Committee continues to work to secure 100% of the funding for this project, but uncertainties such as rock removal costs, will likely lead them to request in October that the Board of Supervisors put at their disposal \$25,000 of funds currently budgeted for Parks Westside Improvements.

The Finance Committee requested answers to questions concerning project management, budget, and operations. The Parks Director, Maintenance Director, and Joint Administrative Services Director will respond to these questions in October.

7. Acceptance of Bills and Claims

09/17/2013 Action: **Vice Chairman Weiss moved to accept the recommendation of the Finance Committee to approve the August 2013 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	- Absent
John R. Staelin	- Aye
David S. Weiss	- Aye

8. Standing Reports

Capital Projects (FY 13). Reconciliation of Appropriations (FY 14). General Government Expenditure Summary (August).

09/09/2013 Summary. The final FY 13 General Government Expenditure Summary will be presented in October.

9/17/2013 Comment: Tom Judge advised that his goal was to have Year-end 2013 for review at the Board's regular meeting in October.

11) Joint Administrative Services Board Update

Tom Judge summarized the items of interest under review by the Joint Administrative Services Board including the Enterprise Resource Planning [ERP] Project and VaCorp/VRS Local Disability Program.

12) Government Projects Update

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

- 100 North Church Street
 - A meeting is scheduled for Friday, September 20, with Mike Legge, Alison Teetor, David Weiss, Bobby Levi, Tony Roper and David Ash to discuss how much is needed from the energy savings account for building upgrades.
- 101 Chalmers Court – HVAC Retrofit
 - Retrofit is almost complete.
 - Attempting to identify where 1,250 feet of air is being lost.
 - Need to arrange a meeting with Bob Mitchell.

13) Miscellaneous Items

No miscellaneous items were identified by the Board.

14) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Work with Chair to limit outline and prioritize questions to the School Board	David Ash
2.	Remind School Superintendent of the Board's request for SOL comparisons to other jurisdictions.	David Ash
3.	Process approved minutes and post to website.	Lora B. Walburn
4.	Process approved resolution 2013-15R and provide executed resolution to VDEM.	Lora B. Walburn

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
5.	Process and forward VACo 2013 Voting Credentials to VACo.	Lora B. Walburn
6.	Update appointment database and send notice of appointment.	Lora B. Walburn
7.	Execute notices of appointment.	J. Michael Hobert
8.	Develop notice and advertise public hearing for Conservation Easement purchase.	Lora B. Walburn
9.	Provide update on Spout Run project at the October Work Session.	Alison Teetor
10.	Send notice of special event approval to applicant and adjoining property owners.	Lora B. Walburn

15) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Board of Social Services: Meets tomorrow.
- Humane Foundation: A rabies clinic is scheduled for October. The event will include pony rides, agility, tours, and free barbeque.
- County-owned property on Westwood Road: The eight acres of County-owned property by Joint Administrative Services and Maintenance is overgrown and the fence is in disrepair.

Supervisor John R. Staelin:

- Sanitary Authority: Confirmed for the developer it had the capacity to provide water and sewer to the proposed subdivision in Boyce.
- Planning Commission: The Comp Plan is scheduled for public hearing on October 17.
- Biosolids: While attending a recent meeting in Richmond, he learned that rules on biosolids are being tightened: Alison Teetor will be providing a report.

Vice Chairman Weiss:

- Fire and Emergency Medical Services Workgroup: Conducted its initial meeting Wednesday, September 11.

16) Closed Session

A closed session was not convened.

At 4:06, Chairman Hobert recessed the afternoon session.

At 6:30 pm, Chairman Hobert called the evening session to order. Supervisor McKay did not attend the evening session.

17) Citizens Comment Period

No citizens appeared to address the Board.

18) PH 13-13: Special Event Permit Application: Hunt Country Cluster at Historic Long Branch

September 27, 28, 29, 2013; Large Event; 3-Year Application 2013, 2014, 2015. Applicant: Roger K. Riggins, HCC Director of Show Operations for Warrenton Kennel Club, Inc., and Old Dominion Kennel Club of Northern VA., Inc.; Large Event: 7,130 persons attending over 3 days.

David Ash reviewed the special event permit application advising that the applicant had conditions

At 7:35 pm, Chairman Hobert opened the public comment portion of the hearing.

Roger Riggins, HCC Director of Show Operations for Warrenton Kennel Club, Inc., and Old Dominion Kennel Club of Northern VA., Inc., stated that he was hoping for good weather.

Being no other persons desiring to speak, at 7:36 pm, Chairman Hobert closed the public comment portion of the public hearing.

Supervisor Staelin apologized for the delay in application processing caused by the slow response from some required entities.

Vice Chairman Weiss commented that Supervisor McKay was unable to attend the evening session but was in support of the application. He further expressed his wishes for a successful event.

Supervisor Staelin moved to approve the application. The motion carried by the following vote:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye

Beverly B. McKay	- Absent
John R. Staelin	- Aye
David S. Weiss	- Aye

19) PH 13-14: Blue Ridge Wildlife Center SUP-13-01/SP-13-07

Applicant(s): Blue Ridge Wildlife Center - Belinda Burwell, Agent; Request: Approval of a Special Use and Site Plan for Veterinarian Services and Community Services (Educational) per §3-A-1-a-3(g) and (u) of the Zoning Ordinance. The property is identified as Tax Map 31-A-3, located at 930 Tilthammer Mill Road in the Millwood Election District, and is zoned Agricultural Open-Space Conservation (AOC); Parcel Size: 239.00 acres; Site Size: 17.552.

Planning Commission recommends approval of the proposed special use permit and site plan to the Board of Supervisors for the Blue Ridge Wildlife Center Veterinary Clinic and Visitor Center on condition that:

- 1) The Veterinary Clinic shall not be open to the general public for household pets or farm animals.
- 2) The clinic shall be used specifically for the Blue Ridge Wildlife Center and the special use permit shall not transferable to another entity without prior approval of the Board of Supervisors.

Waiver: The subject site is heavily wooded and currently exceeds the county landscaping requirements. The proposed clinic and required parking area is not visible to adjacent properties. The Planning Commission has recommended to the Board of Supervisors to waive all landscaping requirements.

Brandon Stidham summarized the Special Use Permit and Site Plan request.

At 6:49 pm, Chairman Hobert opened the public comment portion of the public hearing.

Belinda Burwell, applicant, commented that Mr. Stidham’s presentation was wonderful and, to the best of her knowledge, almost everything was addressed.

Being no further comment, at 6:50 pm, Chairman Hobert closed the public hearing.

Supervisor Staelin moved to approve the Special Use Permit SUP-13-01 subject to the following conditions:

- 1) The Veterinary Clinic shall not be open to the general public for household pets or farm animals.**
- 2) The clinic shall be used specifically for the Blue Ridge Wildlife Center and the special use permit shall not transferable to another entity without prior approval of the Board of Supervisors.**

The motion carried by the following vote:

Barbara J. Byrd	- Aye
-----------------	-------

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

Supervisor Staelin moved to approve the Site Plan SP 13-07 subject to:

Waiver: The subject site is heavily wooded and currently exceeds the county landscaping requirements. The proposed clinic and required parking area is not visible to adjacent properties. The Planning Commission has recommended to the Board of Supervisors to waive all landscaping requirements.

And other conditions recommended by staff:

Location and Access: The Property is located at 930 Tilthammer Mill Road approximately ½ mile from the intersection of Millwood Road. The access for the property has been approved by VDOT but must be upgraded to a minor commercial entrance standard. Site distance can be obtained with removal of some trees on the opposite side of the road. The property owners, Belinda Burwell and Jim Klenkar, have provided a sight distance easement agreement to both VDOT and the Wildlife Center/Burwell Foundation.

Stormwater: It would appear that the amount of stormwater to be released as a result of the veterinarian center and parking lot will be far less than is required by State and County regulations for any additional stormwater management other than the proposed sheet flow to an intermittent stream.

Water and Septic: The Health Department has approved the proposed drainfield and reserve area and well site.

Lighting and Signage: The exterior lighting will be limited to one typical household light bulb at the entrance to the clinic. Signage is limited to the existing sign that meets county ordinance sign regulations along with one small directional sign on the private access easement near the turnoff to the clinic.

Parking: The required parking is 6 spaces plus one handicapped space. The applicant has provided 13 spaces and 1 handicapped space.

The motion carried by the following vote:

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

Announcement

Vice Chairman Weiss invited the Board to the Farm Bureau's annual dinner at Clermont on Tuesday, September 24 with social hour beginning at 5:30 pm and dinner at 6:00 pm.

20) Adjournment

There being no further business to be brought before the Board at 6:55 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, October 15, 2013 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: September 17, 2013

J. Michael Hobert, Chair

David L. Ash, County Administrator

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