

May 17, 2016

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, 2<sup>nd</sup> Floor, Berryville, Virginia conducted on Tuesday, May 17, 2016.

Board Members Present

Mary L.C. Daniel – Berryville District; David S. Weiss - Buckmarsh / Blue Ridge District;  
Terri T. Catlett - Millwood / Pine Grove District; Barbara J. Byrd – Russell District; Bev B.  
McKay – White Post District

Board Members Absent

Afternoon Session: None

Evening Session: Mary L.C. Daniel

Staff Present

David Ash, Barbara Bosserman; Tom Judge, Brandon Stidham

Constitutional Offices

Tony Roper

Press

Jim McConville - The Winchester Star

Others Present

Anne Chisholm, Jean Lee; Jim Klencar, Robert Mitchell; Jeremy Tweedie – Greenway  
Engineering; Betsy Arnett, Robina Rich Bouffault, Joshua David, Keith Dalton; Roger  
Riggins and Iggy, and other citizens

1) Call to Order

Chairman Weiss called the afternoon session to order at 1:04 p.m.

2) Adoption of Agenda

**Vice Chair McKay moved to adopt the agenda as presented. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Absent
Beverly B. McKay	- Aye
David S. Weiss	- Aye

3) Citizens Comment Period

Josh David, Boyce – Shenandoah Farms resident: read the following statement:

*“There may be a misconception that I personally, as a citizen, oppose the idea of a Sanitary District. That is not the case. What I opposed and continue to oppose is the objectionable manner in which it was formed and the unfair way in which it's proponents, not the county, have proposed the district be structured and effected.*

*My opposition and that of my neighbors is directed at three specific issues.*

- *Taxpayer funding of privately owned facilities that few people use.*
- *Taxpayer funding of private road maintenance by other than those who live and use those roads.*
- *The inclusion of properties along the state maintained highway in the Sanitary District for the purpose of maintaining private roads.*

*While I may have oppose the district on some of these issues I also understand that the court has issued an order and the county has created a Sanitary District. By code the courts authority is limited to the prescribing of metes and bounds and all other powers and duties rest with the governing body.*

*Throughout Virginia there are Sanitary Districts that fund operations based on user fees. The largest Sanitary District in Virginia, Hampton Roads, bases fees on sewer and water usage. THOSE homes not on the public water and sewer do not pay the fees and those that are pay based on use. Even in Henrico County sanitary district fees include a special fee for streetlights ONLY if a property borders a street with such lights. The governing body has the authority to assess fees based on service provided.*

*I sincerely believe the board can balance the objections of citizens with the courts order creating the district. It can be done without running afoul of the constitutional prohibition against special legislation and the statues language and precedent concerning what is a public use.*

*In order to work effectively and efficiently with the county and to solve some of questions regarding Shenandoah River Lane, the property owners established a non-stock corporation to provide for local ownership, rights of use, and proper maintenance of the road.*

*As you may not be aware, the title to Shenandoah River Lane has been with the original developers and their heirs, the Flynn's since 1959.*

*In March of this year, Shenandoah River Lane Property Owners lawfully obtained title and deed to the road from the original owners.*

*We intend and hope to cooperate with the County and operate within the framework of the newly created Sanitary District.*

*In order to assist the County Administrator, we have already provided the County a modest budget for grading, stone, repairs, snow removal, and other costs associated with properly maintaining the road.*

*Property owners on our road have been maintaining it for over 30 years.*

*We are continuing to collected funds from our property owners on a voluntary basis. We have already contracted for and begun grading and road repairs and have laid over \$2,000 worth of needed stone in addition to repairing culverts and roadside drainage.*

*As chairman of Shenandoah River Lane Property Owners, I am asking the board to allow us to work with the County Administrator.*

*In partnership the county can provide for an effective and efficient means to collect road maintenance funds and the Owners can relieve the county and staff of the burden of reinventing the wheel with regards to road maintenance and improvement.*

*On Shenandoah River Lane, we are ready right now to help get the Sanitary District moving forward.”*

Supervisor Daniel joined the meeting at 1:07 p.m.

Vice Chair McKay opined that Manor Lane and the roads coming off were the problem area in Shenandoah Farms. He asked Mr. David to give consideration on how best to address the issues.

Chairman Weiss commented that legal counsel is reviewing the matter; and once clarity is reached, the Board would discuss the issues with Mr. David and others.

Dirck Holscher, Oak Lane, Berryville and appointed member on the Clarke County Library Advisory Council: thanked the Board of Supervisors and Clarke County for their support of the library in both funding and in other ways. He stated that he was very happy about the ways things were going with the library. He opined that the County was going in the right direction and added that libraries were very important to a community in some not so obvious ways such as economic development helping entrepreneurs and companies.

#### 4) VDOT

Ed Carter, Assistant Residency Administrator, and Charlie Monroe, appeared before the Board to provide the monthly update.

##### Maintenance:

- Completed Shoulder repairs on Rt. 7, all primary's and Rt. 672;
- Removed hazardous trees on Rt. 50 West bound at Rt. 600;
- Conducted tree/brush removal on Rt. 7 east of Rt. 606 and trimmed brush around signs at various locations on primary's and secondary's for site distance;
- Repaired potholes on primary's;
- VDOT will begin ditching and patching operations in preparation for resurfacing on routes 651, 621, 622, 624 and 626;
- Perform patching on routes 659 and 640 and plant mix leveling on Rt. 761;
- Mowing operations started this week with Rt. 340 Berryville to Boyce and Rt. 255 first;
- Four-lane primary's will begin in July, allowing time for Plant Growth Retardant application to work;
- VDOT will also be conducting grading and stone application operations on non-hard surfaced routes.

##### Projects:

- Allen Road: Will begin as soon as surface treatment is complete.

Board issues:

- Parking Issues at Appalachian Trail: WVDOT met with stakeholders and reached consensus that most solutions will require funding. VDOT is researching existing R/W at Rt. 7 and 679 to look at feasibility of limited expansion.

Supervisor Byrd

- Allen Road diversion of funds from another project: Mr. Carter responded that funding was set for the year showing the Lockes Mill Road project ahead of the completion of the Allen Road project; however, VDOT plans to reverse these projects to complete Allen Road.
- Allen Road Grading: Constituent is complaining that VDOT, when grading, leaves a hump of gravel in front of his driveway and is asking that it be removed.
- Saving Monarch Butterflies / Honey Bees: Mr. Carter responded that VDOT will continue to mow as needed to maintain roadways in a safe manner but it was working with groups interested in protecting butterflies and bees.

Vice Chair McKay

- Route 50 between Millwood and Mountain View Motel: VDOT will check on shoulder.
- Route 522: Another wreck caused by a vehicle going off the shoulder.

Supervisor Catlett

- Appalachian Trail Parking: Expressed thanks to VDOT for working on this project. She opined that safe parking encourages visitors to come to Clarke.

Chairman Weiss

- Mowing: Continue working on safety and sight distance issues at intersections.

HB2 Briefing:

Mr. Carter provided the following information pertaining to House Bill 2 [HB2].

- HB2 passed in 2014.
- Legislation provides project weighting based on certain criteria including safety, congestion mitigation, accessibility, environmental quality, economic development and population.

- Commonwealth Transportation Board funding decisions will be made based on ranking.
- VDOT projects will be fully funded.
- District funding will replace secondary road funds with each locality competing for funds allocated to the district.

## CHAPTER 726

*An Act to amend the Code of Virginia by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:5, relating to prioritization of projects funded by the Commonwealth Transportation Board.*

[HB2]

Approved April 6, 2014

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:5 as follows:

*§ 33.1-23.5:5. Statewide prioritization process for project selection.*

*A. The General Assembly declares it to be in the public interest that a prioritization process for projects funded by the Commonwealth Transportation Board be developed and implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, environmental quality, and economic development in the Commonwealth.*

*B. Subject to the limitations in subsection C, the Commonwealth Transportation Board shall develop, in accordance with federal transportation requirements, and in cooperation with metropolitan planning organizations wholly within the Commonwealth and with the Northern Virginia Transportation Authority, a statewide prioritization process for the use of funds allocated pursuant to § 33.1-23.1 or apportioned pursuant to 23 U.S.C. § 104. Such prioritization process shall be used for the development of the Six-Year Improvement Program pursuant to § 33.1-12 and shall consider, at a minimum, highway, transit, rail, roadway, technology operational improvements, and transportation demand management strategies.*

- 1. The prioritization process shall be based on an objective and quantifiable analysis that considers, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, and environmental quality.*

- 2. Prior to the analysis in subdivision 1, candidate projects and strategies shall be screened by the Commonwealth*

*Transportation Board to determine whether they are consistent with the assessment of capacity needs for all for corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1, undertaken in the Statewide Transportation Plan in accordance with § 33.1-23.03.*

- 3. The Commonwealth Transportation Board shall weight the factors used in subdivision 1 for each of the state's highway construction districts. The Commonwealth Transportation Board may assign different weights to the factors, within each highway construction district, based on the unique needs and qualities of each highway construction district.*
  - 4. The Commonwealth Transportation Board shall solicit input from localities, metropolitan planning organizations, transit authorities, transportation authorities, and other stakeholders in its development of the prioritization process pursuant to this section. Further, the Board shall explicitly consider input provided by an applicable metropolitan planning organization or the Northern Virginia Transportation Authority when developing the weighting of factors pursuant to subdivision 3 for a metropolitan planning area with a population over 200,000 individuals.*
- C. The prioritization process developed under subsection B shall not apply to the following: projects or activities undertaken pursuant to § 33.1-23.02; projects funded by the Congestion Mitigation Air Quality funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(4) and state matching funds; projects funded by the Highway Safety Improvement Program funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(3) and state matching funds; projects funded by the Transportation Alternatives funds set-aside pursuant to 23 U.S.C. § 213 and state matching funds; projects pursuant to subdivisions B 2 and 3 of § 33.1-23.1; projects funded by the revenue-sharing program pursuant to § 33.1-23.05; and projects funded by federal programs established by the federal government after June 30, 2014, with specific rules that restrict the types of projects that may be funded, excluding restrictions on the location of projects with regard to highway functional classification. The Commonwealth Transportation Board may, at its discretion, develop a prioritization process for any of the funds covered by this subsection, subject to planning and funding requirements of federal law. However, the Board shall defer to individual local governments for projects funded pursuant to subdivisions B 2 and 3 of § 33.1-23.1.*
- D. The Commonwealth Transportation Board shall make public, in an accessible format, the results of the screening and analysis of candidate projects and strategies under subsection B, including the weighting of factors, in a timely fashion.*

2. That the Commonwealth Transportation Board shall select projects for funding pursuant to the provisions of this act beginning July 1, 2016.
3. That, at the discretion of the Board, a project fully funded in the Six-Year Improvement Program that has completed the state environmental review process or the review process required by the National Environmental Policy Act may be exempt from the provisions of this act.
4. That the prioritization process developed pursuant to § 33.1-23.5:5 of the Code of Virginia, as created by this act, shall not apply to funds allocated to the Northern Virginia Transportation Authority Fund established pursuant to § 15.2-4838.01 of the Code of Virginia, the Hampton Roads Transportation Fund established pursuant to § 33.1-23.5:4 of the Code of Virginia, or federal funds subject to 23 U.S.C. 133(d)(1)(A)(i).
5. That the Commonwealth Transportation Board in implementing § 33.1-23.5:5 as created by this act shall comply with the allocation of funds pursuant to § 33.1-23.1.
6. That, for Northern Virginia and Hampton Roads highway construction districts, the Commonwealth Transportation Board, pursuant to subdivision B 3 of § 33.1-23.5:5 as created by this act, shall ensure that congestion mitigation, consistent with § 33.1-13.03:1 of the Code of Virginia, is weighted highest among the factors in the prioritization process. For metropolitan planning areas with a population over 200,000, the prioritization process shall also include a factor based on the quantifiable and achievable goals pursuant to subsection B of § 33.1-23.03 of the Code of Virginia.
7. That notwithstanding § 33.1-23.5:5 as created by this act, the Commonwealth Transportation Board shall ensure that no project shall be undertaken primarily for economic development purposes.
8. That if any portion of this act shall be adjudged unconstitutional in any court of competent jurisdiction, the remaining portions of this act shall remain in effect.

– HB1887

- Individual localities will compete for funds by district based on HB2 criteria.
- Under the new legislation, VDOT cannot make application but will be available to assist localities draft application.

#### CHAPTER 684

An Act to amend and reenact §§33.2-200, 33.2-214, 33.2-214.1, 33.2-221, 33.2-228, 33.2-232, 33.2-318, 33.2-319, 33.2-328, 33.2-331, 33.2-337, 33.2-338, 33.2-349, 33.2-352, 33.2-357 through 33.2-360, 33.2-363, 33.2-365, 33.2-366, 33.2-1501, 33.2-1502, 33.2-1503, 33.2-1505, 33.2-1510, 33.2-1526, 33.2-1529, 33.2-1530, 33.2-1531, 33.2-2400, 58.1-638, 58.1-815.4, 58.1-1741, and 58.1-2289 of the Code of Virginia; to amend the Code of



Virginia by adding in Article 5 of Chapter 3 of Title 33.2 sections numbered 33.2-369, 33.2-370, and 33.2-371 and by adding in Article 5 of Chapter 15 of Title 33.2 a section numbered 33.2-1529.1; and to repeal §§33.2-348, 33.2-361, 33.2-362, and 33.2-364 and Article 2 (§33.2-1508) of Chapter 15 of Title 33.2 of the Code of Virginia, relating to the Commonwealth Transportation Board and transportation funding. [H 1887] Approved March 27, 2015

Summary: Transportation funding; formula, reporting, and allocations. Removes the Executive Director of the Virginia Port Authority from the Commonwealth Transportation Board (CTB) and makes the members of the CTB subject to removal by the Governor for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflicts of interest, failure to carry out the policies of the Commonwealth, or refusal to carry out a lawful directive of the Governor. Both provisions would become effective July 1, 2016. The bill updates the required content for the annual report of the Commissioner of Highways made to the Governor and the General Assembly and adds that such report be submitted to the Joint Legislative Audit and Review Commission and the CTB. The report must include the condition of existing transportation assets; the methodology used to determine maintenance and state of good repair needs; performance targets and outcomes; a listing of prioritized pavement and bridge projects based on the priority ranking system; VDOT strategies for improving the safety, security, and operations of highways; and a review of VDOT's collaboration with the private sector in delivering services. The bill requires the CTB to develop a priority ranking system for structurally deficient bridges and deteriorated pavements. The bill replaces the current \$500 million annual allocation made by the CTB and its corresponding formula and the old 40-30-30 allocation formula to the primary, secondary, and urban highways with a new formula that allocates 45% of funds to the newly established state of good repair purposes, 27.5% to the newly established high-priority projects program, and 27.5% to the highway construction district grant programs. The new formula will take effect beginning in fiscal year 2021 but some unallocated dollars will flow through the new formula during a transition period before 2020. The bill reallocates the interest, dividends, and appreciation that currently accrue to the Transportation Trust Fund and Highway Maintenance and Operating Fund: two-thirds of such current accruals to the Virginia Transportation Infrastructure Bank and one-third of such accruals to the Transportation Partnership Opportunity Fund. The bill also excludes grants from other financing, thereby removing the ability of a governmental entity to apply for a grant. The bill allows the CTB to make transfers from the Toll Facilities Revolving Account to the Virginia Transportation Infrastructure Bank. Further, the bill reallocates recordation tax revenues from the Highway Maintenance and Operating Fund to the Commonwealth Transit Capital Fund and reallocates 3.7% of fuels tax revenues from the Transportation Trust Fund and divides it between the Commonwealth Mass Transit Fund and the Commonwealth Transit Capital Fund. These provisions become effective July 1, 2016, and would revert if Virginia began collecting sales tax from remote retailers pursuant to Congress's passage of the Marketplace Fairness Act. The bill authorizes the

Department of Rail and Public Transportation to enter into agreements not to exceed 20 years under the Public-Private Transportation Act to improve passenger rail service with private entities that finance improvements in return for annual payments.

Supervisor Byrd commented that the new formula appeared to be weighted to more populated localities.

Supervisor Daniel remarked that the intent is clear and logical but it did appear that the County would need an employee knowledgeable in drafting a road proposal.

Vice Chairman McKay inquired about the source for maintenance funds. Mr. Carter responded that 47.5% in HB2 must go to "state of good repair" of existing road system including bridges, pavements, shoulder work, etc.

Chairman Weiss instructed staff to schedule the matter for further review at the June Work Session.

5) Closed Session Pursuant to 2.2-3711 A1 Specific Employees or Appointees of the Board with James Klencar

At 1:34 p.m., **Supervisor Catlett moved that the Clarke County Board of Supervisors enter Closed Session pursuant to Section 2.2-3711-A-1 Code of Virginia, in order to discuss a business that is considering locating in Berryville. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

At 2:19 p.m., 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
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

**Supervisor Daniel 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
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

No action was taken on matters discussed in closed session.

**6) Historic Preservation Commission Annual Report**

Betsy Arnett, Chair Historic Preservation Commission, provided the first annual report to the Clarke County Board of Supervisors summarized in a PowerPoint presentation.

Alison Teetor offered to research two Byrd properties containing Revolutionary War structures.

Supervisor Daniel requested information on historic district designation.

**7) Clarke County Library Update**

Laurine Kennedy, Director Clarke County Library, and John Huddy, Director Handley Regional Library System, expressed appreciation for Board support over the past few years. Highlights of update and discussion include:

- Operating hours added to Friday and Saturday. As of next week, the Library will add operating hours on Thursday afternoons. Over the past decade, operating hours have more than doubled.
- Double-digit increase in library card registration, as well as increases in circulation.
- Clarke Library is a great space and in a good location.
- Clarke Library staff provides excellent customer services.
- Staff and Council members conducting community outreach at the Farmers' Market.
- A financial literacy series is planned and an elder care series is under development.
- Development of a teen space is under consideration.
- Plans to revamp the children's room with rugs, games and play items.
- Clarke will continue to be a 21<sup>st</sup> century library providing for digital needs and will continue to be friendly, small, welcoming and to provide books.
- Increased staff is a greater need than additional space.
- On June 4 collaborating with the Barns on the first annual Charles Burwell event.
- Will add to the Library Advisory Council agenda consideration of an event honoring John Friant.

8) Set Public Hearing SUP-16-01/SP-16-01, Hecate Energy LLC

Request approval of a Special Use Permit (SUP) and Site Plan to construct a 20MW solar power plant, large photovoltaic, in the Agricultural-Open Space-Conservation (AOC) District per §3-A-1-a-3(s) of the Zoning Ordinance.

Brandon Stidham summarized the special use and site plan application by Hecate Energy LLC.

**Vice Chair McKay moved to set public hearing for Tuesday, June 21, 2016 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 |
| Terri T. Catlett | - Aye |
| Mary L.C. Daniel | - Aye |
| Beverly B. McKay | - Aye |

David S. Weiss - Aye

Chairman Weiss complimented staff on the comprehensive report.

9) Set Public Hearing RZ-16-01, Shenandoah Retreat Land Corporation/Philip Jones

Ryan Fincham provided an update for the Board on the rezoning request. He advised that there were no outstanding concerns.

**Vice Chair McKay moved to set public hearing for Tuesday, June 21, 2016 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
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

10) 2015 Revised Berryville Area Plan

Brandon Stidham reported that at its May 10, 2015 meeting Berryville Town Council voted to adopt Version 5 of the 2015 Berryville Area Plan as presented by staff with no additional changes or corrections to the draft.

**Vice Chair McKay moved to adopt the 2015 Berryville Area Plan Version 5 as presented by Staff and as adopted by Berryville Town Council at its May 10, 2016 meeting.**

Supervisor Daniel commented that the plan revision had been a long, arduous process; and while the plan was not perfect, it was the result of a great number of people working long and hard to review and revise. She opined that it was important for citizens to remember that this was the Berryville Area Plan, not the Berryville Comprehensive Plan, and should not be viewed as a stand-alone document but as part of a much bigger plan comprehensively for the Town and the County.

Supervisor Byrd remarked that it was time to move forward.

Chairman Weiss stated that he supported the plan. He agreed with Supervisor Daniel that it was not a perfect plan but it was a better plan that will lead in the right direction. He drew attention to II 2-7 outlining new approaches to facilitate flexible housing options opining that this section is critical to the work that has been done laying out a better plan, a more concise plan and gives developers a better sense of what the County wants and how

to go about developing. Chairman Weiss commented that a great addition to the plan was the ability to update annually.

Chairman Weiss complimented members of the Berryville Area Development Authority and staff for all their work.

**The motion carried by the following vote:**

Barbara J. Byrd	-	Aye
Terri T. Catlett	-	Aye
Mary L.C. Daniel	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

11) Approval of Minutes

**Supervisor Byrd moved to approve as presented the minutes for:**

- **April 5, 2016 FY2017 Budget and CY2016 Tax Rate Public Hearing**
- **April 12, 2016 FY2017 Budget Work Session**
- **April 12, 2016 Board of Supervisors and Berryville Town Council Joint Meeting**
- **April 19, 2016 Regular Meeting**

**The motion carried by the following vote:**

Barbara J. Byrd	-	Aye
Terri T. Catlett	-	Aye
Mary L.C. Daniel	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

12) Consent Agenda

Berryville Town Council and Clarke County Board of Supervisors Joint Resolution in Recognition and Appreciation

**Berryville Town Council and Clarke County Board of Supervisors  
Joint Resolution in Recognition and Appreciation**

**WHEREAS** on October 10, 2006, the Berryville Town Council and the Clarke County Board of Supervisors entered into an agreement to construct and equip a new joint administrative complex; and,

**WHEREAS** Phyllis Nee, owner Interior Expressions, was selected to create the interior design in the shared areas of the Berryville Clarke County Government Center, and in pursuit of her vision, she actively solicited artwork from local artists; and,

**WHEREAS** in response to Ms. Nee’s solicitation, Matthew Klein, Steve Lee, John Lewis, Maral Kalbian and the Clarke County Historical Association provided a variety of images for display in the Government Center.

**NOW THEREFORE BE IT RESOLVED**, that the Berryville Town Council and the Clarke County Board of Supervisors recognize and express appreciation for the vision, talent and efforts of Phyllis Nee, Matthew Klein, Steve Lee, John Lewis, Maral Kalbian and the Clarke County Historical Association.

**APPROVED AND ORDERED ENTERED** in the official records by the unanimous vote of the members of the Berryville Town Council on May 10, 2016 and the Clarke County Board of Supervisors on May 17, 2016.

Berryville Town Council

Attest: \_\_\_\_\_  
Ann Phillips, Clerk

\_\_\_\_\_

Wilson Kirby, Mayor

Clarke County Board of Supervisors

Attest: \_\_\_\_\_  
David L. Ash, Clerk

\_\_\_\_\_

David S. Weiss, Chair

Abstract of Votes May 3, 2016

### ABSTRACT of VOTES

Cast in the Town of BERRYVILLE in CLARKE COUNTY, VIRGINIA  
at the 2016 May Town General Election held on May 03, 2016 for,

#### Mayor

District: BERRYVILLE

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Patricia B. Dickinson	537
Harry L. "Jay" Arnold, Jr	422
Total Write-In votes [From Write-Ins Certification(s)] [Valid Write-Ins + Invalid Write_Ins = Total Write In Votes]	1
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on May 03, 2016, do hereby certify that the above is a true and correct Abstract of Votes at the said election and do, therefore, determine and declare that the following person(s) has received the greatest number of votes cast for the Mayor .

Patricia B. Dickinson

Given under our hands this 4<sup>th</sup> day of May, 2016



Gonald W. Harsen , Chairman  
[Signature] , Vice Chairman  
[Signature] , Secretary  
Carol S. Lockwell , Secretary, Electoral Board



### ABSTRACT of VOTES

Cast in the Town of BERRYVILLE in CLARKE COUNTY, VIRGINIA  
at the 2016 May Town General Election held on May 03, 2016 for,

#### Member Town Council - Ward 1

District: BERRYVILLE

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Donna Marie McDonald	530
William M. Steinmetz	404
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_Ins = Total Write In Votes]	4
Total Number of Overvotes for Office	0

We the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on May 03, 2016, do hereby certify that the above is a true and correct Abstract of Votes at the said election and do, therefore, determine and declare that the following person(s) has received the greatest number of votes cast for the Member Town Council - Ward 1.

Donna Marie McDonald

Given under our hands this 4<sup>th</sup> day of MAY, 2016

Donald W. Haven, Chairman

[Signature], Vice Chairman

Paul S. Hester, Secretary

Paul S. Hester, Secretary, Electoral Board



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### ABSTRACT of VOTES

Cast in the Town of BERRYVILLE in CLARKE COUNTY, VIRGINIA  
at the 2016 May Town General Election held on: May 03, 2016 for,

#### Member Town Council - Ward 3

District BERRYVILLE

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Erecka L. Gibson	370
Matthew E. "Matt" Bess	324
J. Bryant Condrey	259
Total Write-In votes [From Write-In Certifications] [Valid Write-Ins + Invalid Write-ins = Total Write In Votes]	1
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on May 03, 2016, do hereby certify that the above is a true and correct Abstract of Votes at the said election and do, therefore, determine and declare that the following person(s) has received the greatest number of votes cast for the Member Town Council - Ward 3.

Erecka L. Gibson

Given our hands this 4<sup>th</sup> day of MAY, 2016



Donald W. Harman, Chairman  
[Signature], Vice Chairman  
Carol S. Hesterwell, Secretary  
Carol S. Hesterwell, Secretary, Electoral Board

**Supervisors Catlett moved to approve the items on the Consent Agenda as presented. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

13) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through July 2016

05-09-2016 Summary: The Committee discussed appointments coming due through May 31. No recommendations were made at the time of the Committee meeting.

05-17-2016 Action: David Ash advised that subsequent to the Personnel Committee meeting Supervisor Byrd had verified that Shelley Daisley was willing to serve an additional four-year term.

- Reappoint Shelley Daisley to the Clarke County Library Advisory Council to serve a four-year term on expiring April 15, 2020.

**Supervisor Byrd moved to approve the reappointment of Shelley Daisley to the Clarke County Library Advisory Council. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

B. Authorization to Hire Code Enforcement Officer/Inspector Position

05-09-2016 Summary: Following discussion, the Supervisors approved the job description subject to clarification of permit or building office responsibilities.

05-17-2016 Action: Information only.

14) Board of Supervisors Work Session

A. VDOT Secondary Six-Year Plan Review

05-09-2016 Summary: Clif Balderson reviewed the draft Secondary Six-Year Plan with the Board. Following discussion, the Board agreed to act at the regular meeting to set public hearing on the SSYP for Tuesday, June 21, 2016 at 6:30 pm. The Board also requested additional information regarding House Bill No. 2 be provided at the May 17, 2016 regular meeting.

05-17-2016 Action: **Supervisor Byrd moved to set public hearing for Tuesday, June 21, 2016 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
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

B. Economic Development Activity Update by Len Capelli

05-09-2016 Summary: Len Capelli provided an update on his activities.

05-17-2016 Action: Information only.

C. Closed Session Pursuant to §2.2-3711-A5 Discussion of unannounced business location

05-09-2016 Summary: **Supervisor Catlett moved to convene into Closed Session pursuant to §2.2-3711-A5. The motion carried as follows:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

Citing conflict of interest, Supervisor Byrd recused herself from discussion specific to §2.2-3711-A5.

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
Terri T. Catlett	-	Aye
Mary L.C. Daniel	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

**Supervisor Byrd 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
Terri T. Catlett	-	Aye
Mary L.C. Daniel	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

05-17-2016 Action: Information Only

15) Board of Supervisors Finance Items

1. Minor Rezoning Fee.

05-09-2016 Summary: The Finance Committee recommends adoption of the following resolution: "Be it resolved that a new "Minor Rezoning" fee of \$1,000 be created to be charged in instances where:

1. *It is required in conjunction with a boundary line adjustment between parcels zoned Rural Residential (RR) and either Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC), and;*

- 2. *Does not result in an increase in the development capacity of the subject property, either through subdivision or additional dwelling units, and be it further resolved that this newly created fee be retroactively applied to the recent request of Philip Jones for a rezoning meeting these same criteria."*

**05-17-2016 Action: Supervisor Byrd moved to approve the resolution as proposed. The motion carried by the following vote:**

Barbara J. Byrd	-	Aye
Terri T. Catlett	-	Aye
Mary L.C. Daniel	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

2. Conservation Easement Funding.

05-09-2016 Summary: The Natural Resources Director will research whether the Virginia Department of Agriculture and Consumer Services (VDACS) will accept verification that local match funds are reserved in fund balance instead of verification that such funds have been appropriated.

05-17-2016 Action: Per Tom Judge, there is still no response from VDACS.

3. Sheriff Update on Part-time and Overtime Expenditures.

05-09-2016 Summary: The Sheriff presented an update to the committee on several matters.

05-17-2016 Action: Tom Judge provided an overview. Chairman Weiss added that the Fire & EMS Commission is reviewing the Omnicom Gap Analysis and Recommendations Report performed for the Sheriff's Office.

4. Memorandum of Understanding with Berryville Main Street.

05-09-2016 Summary: The Finance Committee discussed an informal request for reconsideration of the loan terms with Berryville Main Street. This group will be asked to present a formal request from their Board.

05-17-2016 Action: Tom Judge reviewed the Finance Committee discussion. Chairman Weiss instructed staff to reschedule presentation for the June Committee meeting.

5. Cooperative Extension Request for Intern.

05-09-2016 Summary: The Finance Committee was to do some further research, but tentatively recommended: *"Be it resolved that \$1,400 in unused FY 16 Cooperative Extension funds be repurposed for payment to VPI for a summer intern, and that \$1,000 be transferred from the personnel contingency to Cooperative Extension for additional payment to VPI for a summer intern, bringing the total for the summer intern to \$2,400."*

05-17-2016 Action: Tom Judge reviewed the Finance Committee discussion.

**Supervisor Byrd moved to approval "Be it resolved that \$1,400 in unused FY 16 Cooperative Extension funds be repurposed for payment to VPI for a summer intern, and that \$1,000 be transferred from the personnel contingency to Cooperative Extension for additional payment to VPI for a summer intern, bringing the total for the summer intern to \$2,400." The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

6. Acceptance of Bills and Claims

05-09-2016 Summary: The Finance Committee recommends acceptance.

05-17-2016 Action: **Supervisor Daniel moved to accept the April 2016 Bills and Claims as presented. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

7. Victim Witness Coordinator Bonus

05-17-2016 Action: Tom Judge reviewed the request for additional bonus funds.

Bev McKay and Mary Daniel met with Suni Mackall, Beth Marple, Clesta Rhodes and Ann Williams to discuss the bonus and recommend approval of the following resolution: *“Be it resolved that a one-time bonus of \$600 be paid to Beth Marple, Victim Witness Coordinator, with the further clarifications that typical employee payroll taxes must be paid by the employee from this sum, and that this action does not represent a permanent modification of base salary”.*

**Supervisor Catlett moved approval of “Be it resolved that a one-time bonus of \$600 be paid to Beth Marple, Victim Witness Coordinator, with the further clarifications that typical employee payroll taxes must be paid by the employee from this sum, and that this action does not represent a permanent modification of base salary”. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

Chairman Weiss expressed appreciation to Supervisors Daniel and McKay for working with the Victim Witness Coordinator to explain and to resolve questions and issues.

8. Standing Reports

Reconciliation of Appropriations, General Fund Balance, Expenditure Summary/YTD Budget Reports

16) Joint Administrative Services Update

Tom Judge provided an update. No action items were identified.

17) Government Projects Update

David Ash provided the monthly project update. No action items were identified.

18) Miscellaneous Items

Poll Location Change



David Ash distributed a memorandum from the Voter Registrar, Barbara Bosserman, requesting a Code amendment to change the White Post District polling location from Powhatan School, 49 Powhatan Lane, Boyce, to the Veterans of Foreign War Post, 425 South Buckmarsh Street. He advised that the proposed Code amendment would on the Board's June 21, 2016 Regular Meeting Agenda to set public hearing.

Chairman Weiss noted that the memorandum provided detailed information on the request to relocate and asked members to direct any questions to Mrs. Bosserman.

19) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Berryville Main Street: request update at the June Finance Committee.	David Weiss
2.	VDOT: Add discussion on HB2 and Westwood Road to June Work Session.	David Ash
3.	Habitat for Humanity: request an update at a future work session.	David Ash
4.	NSVRC: Schedule update at a future work session.	Brandon Stidham
5.	Process approved minutes.	Lora B. Walburn
6.	Process and advertise public hearings for SUP-16-10/SP-16-01 and RZ-16-01	Lora B. Walburn
7.	Process and coordinate with VDOT public hearing on the SSYP.	Lora B. Walburn
8.	Update appointment database and process notice of appointment.	Lora B. Walburn
9.	Send notice of special event permit approval.	Lora B. Walburn
10.	Update Code CC 2016-02.	Lora B. Walburn

20) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Board of Social Services: Did not have a quorum.
- Litter Committee: Committee continues to be elusive.
- Town of Berryville: Good meeting.

- Clarke County Humane Foundation: Dealing with personnel and encroachment issues.
- Juvenile Detention Center: Meeting in June.
- Regional Adult Detention Center: Moving ahead with security system.
- Conservation Easement Authority: Working on several projects. Social on June 17.

David Ash advised that in response to materials provided by Timothy Coyne the Board needed to take formal action to appoint a Supervisor to participate as of the Northwest Regional Adult Drug Advisory Committee. He noted Supervisor Byrd's active involvement with this group from its inception.

**Supervisor Daniel moved to appoint Supervisor Byrd to serve on the Northwest Regional Adult Drug Treatment Court Advisory Committee. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

Supervisor Terri Catlett

- School Board: Increasing meal prices. Continue to review Berryville Primary project.
- Parks and Recreation Advisory Board: Discussed lights and Kohn property study.
- Blue Ridge Mountain Civic Association Mountain Group: On April 2, members of the group picked up trash on roadways.

Supervisor Mary L.C. Daniel

- Library Advisory Council: Addressed earlier in the meeting.
- Planning Commission: Hecate public hearing one and a half hours long. Delayed action on farm distillery legislation.

Vice Chairman Beverly McKay

- Sanitary Authority: Will perform repairs when weather permits. Machinery is aging and will need to be replaced.
- NSVRC: Inland Port update at last meeting. Dinner scheduled for May 18.

- Well & Septic Board: Scheduled another meeting to discuss an applicant's denial appeal.

Chairman David S. Weiss

- Fire and EMS Commission:
  - o Developing standard operating procedures.
  - o Board of Supervisors may need to provide explanation of Town of Berryville fire and rescue funding.
- Town of Berryville: Dined with mayor elect Patricia Dickinson.

21) Closed Session Pursuant to 2.2-3711 A7 Consultation with Robert Mitchell, County Attorney

At 3:19 p.m., **Supervisor Daniel moved that the Clarke County Board of Supervisors enter Closed Session pursuant to Section 2.2-3711-A-7 Code of Virginia to consult with legal counsel pertaining to actual or probable litigation. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

At 4:12 p.m., 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 Daniel moved to reconvene in open session. The motion carried as follows:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

**Supervisor Daniel further moved to execute the following Certification of Closed Session:**

**CERTIFICATION OF CLOSED SESSION**

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**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
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

No action was taken on matters discussed in closed session.

**Supervisor Daniel moved to recess the afternoon session at 5:27 p.m. The motion was approved by the following roll-call vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

Chairman Weiss called the evening session to order at 6:34 p.m.

22) Citizen Comment Period

No citizens appeared to address the Board.

23) PH 16-13 Hunt Country Cluster [at Historic Long Branch] Large, 3-Year Special Event Permit Application

David Ash summarized the special event permit application for the Hunt Country Cluster.

At 6:36 pm, Chairman Weiss asked the Board for questions; and being none, he opened the public comment portion of the public hearing. Being no persons desiring to address the Board, the Chair closed the public hearing.

**Vice Chairman McKay moved to approve the multi-year Special Event Permit application for 2016, 2017, and 2018 by The Hunt Country Cluster. The motion was approved by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Absent
Beverly B. McKay	- Aye
David S. Weiss	- Aye

24) PH 16-14 Code of Clarke County, Virginia Proposed Amendment CC-2016-02 Chapter 24 Officers and Employees Article IV Employment, licensing and volunteer service; background check

David Ash summarized the proposed Code change.

At 6:40 pm, Chairman Weiss opened the public comment portion of the public hearing. Being no persons desiring to address the Board, the Chair closed the public hearing.

**Supervisor Byrd moved to approve CC-2016-02 Chapter 24 Officers and Employees Article IV Employment, licensing and volunteer service; background check as presented. The motion was approved by the following vote:**

Barbara J. Byrd	- Aye
Terri T. Catlett	- Aye
Mary L.C. Daniel	- Absent
Beverly B. McKay	- Aye
David S. Weiss	- Aye

*Article IV Employment, licensing and volunteer service; background check*

§ 24-6. Employment, licensing and volunteer service background check.     A. *This section is enacted to comply with the provisions of Code Virginia §§ 15.2-1503.1, 15.2-1505.1 and 19.2-389(A)(7), as amended, to be able to access criminal history record information regarding those persons conditionally offered employment in sensitive positions in the County service in order to determine whether the past criminal*

*conduct of such persons would be compatible with the nature of such employment.*

*Further, the provisions of this section are intended to be in addition to, and not in derogation of all other federal and state statutes and County ordinances providing for access to criminal history record information concerning applicants for, and persons offered, positions in the County service.*

- B. An applicant, licensee or volunteer seeking to engage in employment or volunteer service shall submit fingerprints taken by the county sheriff's office to the Central Criminal Records Exchange in Richmond, Virginia, along with the appropriate fees.*
- C. The county shall pay all applicable fees to Central Criminal Records Exchange.*

*The Central Criminal Records Exchange will compare the subject's fingerprints against its criminal file and, if no disqualifying conduct is found therein, submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records.*

*The results of the Federal Bureau of Investigation will be returned to the Central Criminal Records Exchange, which will disseminate the state and national results to the Office of the County Administrator.*

- D. The Office of the County Administrator shall disseminate the results of the criminal background check to the county for fitness determination.*
- E. In rendering a fitness determination, the county will decide whether the record subject has been convicted of or is under pending indictment for:*
  - 1. A crime which bears upon his ability of fitness to serve in that capacity; or*
  - 2. Any felony or a misdemeanor which involved force or threat of force, controlled substances, was a sex-related offense, or a crime involving moral turpitude; or*
  - 3. Has been the subject of a founded child abuse or neglect complaint.*

F. *Any such person will be presumptively disqualified and any such person who is presumptively disqualified will only be permitted to engage in employment or volunteer service if authorized by the County Administrator and County Attorney.*

G. *A record subject denied employment, licensure or service as a volunteer shall be notified that information from the Central Criminal Records Exchange contributed to such denial.*

*Should the record subject seek to amend or correct the record, the subject must contact the Central Criminal Records Exchange for a Virginia record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.*

25) Adjournment

At 6:41 pm, being no further business, Chairman Weiss adjourned the meeting.

At 6:42 p.m., Supervisor Daniel joined the Board.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, June 21, 2016 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: May 17, 2016

\_\_\_\_\_  
David S. Weiss, Chair

\_\_\_\_\_  
David L. Ash, County Administrator

\_\_\_\_\_  
Minutes recorded and transcribed by: Lora B. Walburn, Deputy Clerk to the Board of Supervisors