

June 21, 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, 2nd Floor, Berryville, Virginia conducted on Tuesday, June 21, 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: None

Staff Present

David Ash, Ryan Fincham, Brandon Stidham, Alison Teetor

Constitutional / State Offices

Julie Aemmer, Barbara Bosserman, Tony Roper

Press

Jim McConville - The Winchester Star

Others Present

Angela Anderson-Spinosa; Randy Buckley; Joshua David; Robert Mitchell; Preston Schultz, - Hecate, Patti Shorr – Hecate, Jeremy Tweedie – Greenway Engineering; Chris Bates, Robina Rich Bouffault, Kathy Frederickson, Joshua David, Keith Dalton, and other citizens

1) Call to Order

Chairman Weiss called the afternoon session to order at 1:01 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	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

3) Citizens Comment Period

Joshua David, Shenandoah River Lane, Shenandoah Farms Sanitary District. Mr. David commented that there were a lot of people here to speak about this matter. He spoke about how the group got to this point and stated that the Board, when it first came about, chose not to take a position; and the POSF, their attorney and the citizens of Warren County filed a petition to have a sanitary district created. That petition had 24 duplicate names, 3 triplicates, 9 non-residents, 10 that were not registered voters, 11 lacked signatures, 94 of the 94 lacked dates, 94 lacked witness signatures, 35 were copied from a different petition, 59 signature pages made no reference to the sanitary district, and 2 were forgeries – one investigated by the Sheriff's Department and the Commonwealth Attorney declined to prosecute. Shenandoah Farms is not a subdivision. It is not a development. It is simply name that Bob Young put on a piece of paper when he submitted some land for subdivision. It is actually five separate subdivisions. There is no legal mechanism that ties any of us together. POSF is not a homeowners association. It is a non-stock corporation that has deeded lot fees of \$15 to \$25 from only 60 lots. So, there is really no connection amongst the lots. But, the sanitary district was passed; and the residents of Shenandoah River Lane went through the trouble of forming a corporation getting ownership of their road, submitting a budget to Mr. Ash in attempting to work with the County to make this thing work, and work well, if it was going to be. My objection has always been not to the sanitary district but to forcing people on the state roads to pay for private roads that they don't use, forcing citizens to become members of a private entity, a club, POSF so they could use facilities, basketball courts and such, and asking residents living on one road to pay for the maintenance of another. There are two houses on Shepherd Lane. It is almost a half a mile straight up the mountain. Those people chose to live there. They bought a house there. They should have known and did know how the road was going to be maintained and funded; and so, it is incredibly unfair of them to go before a judge, and before this Board, and attempt to use the taxing authority of the County government to force us to pay for the maintenance of their roads. I think a fair solution would be for the

people on each road, whether it is through the sanitary district and taxes, or through their own private organization to pay for the road that they live on.

Brenda Brown, Shenandoah River Lane, Shenandoah Farms Sanitary District. Ms. Brown said that we have been working on this process, trying to work with the County, about the sanitary district. We feel like the POSF really brought this on us. We did not ask for this. Property Owners Association Board is basically more Warren County's, all Warren County's citizens and one Clarke County person has a say on that Board. They got the petition developed. They went to an attorney and hired an attorney to do that; then, they did a very sloppy job of getting that process done, legal, illegal, however; but, they finally got it through. We felt like that court hearing was very unfair the day that we went. We felt like it was signed, sealed and delivered before we ever got there. But, I would ask that if the Board did consider funding this sanitary district that any funds collected by the citizens of Shenandoah River Lane come back to Shenandoah River Lane. We don't feel like it is our responsibility for the sanitary district fees to be collected, put in one pot, and then divvied out for everybody else. Again, what Josh said, we did not choose to live on that mountain. There is a reason I don't live on that mountain and we would prefer to have those funds to come back to us. So, we are just asking for funds, if it is, if it does, go forward, we are hoping that's not, but that is where we are today.

Susan David, Shenandoah River Lane, Shenandoah Farms Sanitary District. Mrs. David, mother of Josh David, stated that she agreed with everything her son said.

H.Larry. Garrett, Shenandoah River Lane, Shenandoah Farms Sanitary District. Mr. Garrett stated that he had lived on Shenandoah River Lane for about 17 years and has been at the end of the whip of the POSF. He said that he used to attend meetings. He had to try to convince POSF that we deserved some interest of theirs to help us maintain our road. I was always told that was not going to happen primarily because the money they received came from Warren County. So, pack your bag and go take care of it yourself, which is what we have done for the 17 years that I've been there. Now, I don't necessarily oppose the sanitary district. I see great potential in improving and maintaining the roads in the Clarke County side. However, I support exactly what Josh said. I'm on the Board of the corporation that owns the road and would ask that if you are going to proceed to levy taxes on us, that you are empowered to do under the law, that you consider a scale of the taxes, apportion them in a manner that addresses the delicacy and equality of the required maintenance. We have submitted a budget to pave it. We have discussed with them a possible approach to, not only solve your problem, but solve our problem; and so, I would just like to add my voice to support what David said.

Bob Hobbs, Shenandoah River Lane, Shenandoah Farms Sanitary District. Mr. Hobbs stated that he had lived on Shenandoah River Lane since 1988. He said that we have never gotten anything from Shenandoah Farms, the POSF. They have never done anything for our road. We started taking care of our road on our own. My wife has been collecting the money for the road for the last twenty years. So, we know everything about it moneywise. I invite you all to come down our road and see what it looks like. We have maintained it

ourselves. We clear brush from the sides, never asking for any help from anyone; and now, just because there are some people up on the mountain that need help with their road, they are coming to us. I really don't think that's fair. Again, I invite you all to come drive down our road.

Terry Bolden, Shenandoah River Lane, Shenandoah Farms Sanitary District. Mr. Bolden identified himself as a resident of Shenandoah River Road and expressed his agreement with the rest of the neighbors that live there with him. It seems like, I don't believe, that we should have to take care of the guys up on the hill because they used poor judgement to live up on the hill. The hill did not grow since they moved there. I don't think we should pay taxes to Clarke County and turn them over to Warren to do as they see fit to fix our roads or their roads, whatever. That is my take.

Chairman Weiss thanked those in attendance for taking the time to address the Board. He assured that the Board would be discussing the issue later on the agenda.

4) Clarke County Equine Alliance Economic Development Presentation by Cathy Frederickson

Terri Catlett, member of the Equine Alliance, citing potential conflict moved from the dais to the audience during the presentation and discussion.

Cathy Frederickson, CCEA Board member, provided a brief review of the Equine Alliance report provided to the Board in its June 21, 2016 Regular Meeting Packet.

Chairman Weiss called for question from the Board.

Supervisor Byrd asked if the Equine Alliance was represented throughout the County.

Mrs. Frederickson responded in the affirmative.

Chairman Weiss remarked that if the survey were conducted and it got the anticipated results what steps the County might take different from what it is currently doing.

Mrs. Frederickson responded that that would be up to Weldon Cooper. She stated that Weldon Cooper would provide quantified data and options that the County could use to improve the economic impact through incentives, support for community gatherings of equine enthusiasts and improving communications with the equine community.

Chairman Weiss advised that this type of request would typically be put forward during budget season, January through March. He also expressed concern for funding a private group.

Supervisor Daniel noted that the \$10,000 requested for the survey appeared to be to cover the hourly rate for Weldon Cooper's Dr. Ellis and a research assistant.

Supervisor Byrd stated that over the years the County had seen an increase in breeders, indoor arenas, training, riding rings, shows, eventing, etc. She opined that the equine industry was a large factor in the County's economic development and the survey was needed. She opined that the County should support the equine industry noting its investment in farms, barns, stables, fencing, hay, farriers, veterinarians.

Vice Chairman McKay added that the County must look at agricultural endeavors and what each brought to the County. He opined that, with what they integrate, horses were probably the largest sector of agriculture in the County.

Mrs. Frederickson put forth that updated information the survey would provide was needed to develop strategies.

Supervisor Daniel commented that horses are a serious industry and support other serious industries and providers.

Supervisor Byrd asked that the funding request be referred to the Finance Committee for further review and consideration. She opined that economic development entailed more than just stores downtown.

Chairman Weiss agreed to refer the matter to the Finance Committee for review at its July meeting.

At 1:36 p.m., Supervisor Catlett rejoined the Board on the dais.

- 5) Special Event Permit Application: Long Branch Historic House and Farm Rhythm and Brews Festival Medium Event August 20, 2016, 11 am to 6 pm.

Special Event Permit Application

To: Clarke County Board of Supervisors

Date: June 21, 2016

Name: Rhythm & Brews Festival

Size: Medium [<999 from 11 am to 6 pm]

Location: Long Branch Historic House and Farm (Rt. 624 & 626) 830 Long Branch Lane Millwood, Virginia 2264

Date: August 20, 2016

Applicant / Event Director: Angela Anderson-Spinosa, Director of Development

Event Summary: Single-day beer and music Festival. The Festival will include: tastings from local breweries, local musical entertainment and feature local food vendors. Long Branch estimates the Festival will draw approximately 900 attendees the first year.

06-21-2016: Staff Comment & Recommendation:

Chapter 57 Special Event –

§ 57-2. Definitions. Medium Special Event – Special Events for 150 to 499 persons attending an event with six or more days in a calendar year and Special Events of 500 to 999 persons attending an event.

§ 57.6. Action on applications. For Medium Special Events, the Board shall consider the application and agency comments and shall approve the application, incorporating such reasonable terms and conditions as may be established, deny the application, or set a public hearing on the application for the next regular meeting of the Board. *After a public hearing at the next regular meeting, the Board shall approve the application, incorporating such reasonable terms and conditions as may be established or deny the application.*

All special event application requirements met. Staff recommends approval of this first-time medium event, Rhythm and Brews Festival as presented without public hearing.

David Ash reviewed the Special Event Permit application. He advised that no concerns were expressed by permitting agencies and further noted that the event was much smaller than events previously held at this location.

Vice Chairman McKay stated that Long Branch Historic House and Farm had not held any events in several years. He noted that he was an adjoining property owner and that he, as well as other neighbors with whom he had spoken, supported the event.

Vice Chair McKay moved to approve the first-time medium event without public hearing.

Chairman Weiss opined that Long Branch, with its history of much larger events, should be able to accommodate an event of this size.

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) Set Public Hearing Appeal of Board of Septic Appeals Decision - Steven Soechtig.

David Ash briefed the Board on the appeal request.

Chairman Weiss noted that the applicant was not present.

Ryan Fincham, Senior Planner and Zoning Administrator, presented the request, history and appeal process.

Supervisor Byrd asked questions about the contour of the land and structures close to the property.

Vice Chair McKay moved to set public hearing for Tuesday, July 19, 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

- 7) Set Public Hearing CC-2016-03 Clarke County Code Chapter 40 Voting Districts 40-3. Polling Places established to change Millwood Precinct polling place from Powhatan School 49 Powhatan Lane, Boyce, VA 22620 to VFW Veterans of Foreign War Post 9760 425 South Buckmarsh Street, Berryville VA 22611.

Barbara Bosserman, General Registrar and Director of Elections, provided a summary of the Electoral Boards's recommendation, history and summary of the proposed amendment to County Code.

Supervisor Catlett opined that Mrs. Bosserman had worked diligently to find the best solution.

Supervisor Catlett moved to set public hearing for Tuesday, July 19, 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

- 8) Authorization to Execute Release and Waiver Concluding Dispute on BCCGC

David Ash summarized the request before the Board.

Vice Chair McKay move that the Clarke County Board of Supervisors approve the General Release and Waiver approved by the Berryville Town Council at its June 14, 2016 meeting; and, further, moved to authorize the County Administrator to execute the document on behalf of the County. The County Administrator is authorized, prior to

execution of the General Release and Waiver, to make minor changes to the document after consultation with legal counsel.

Chairman Weiss expressed his support for the proposed action.

Vice Chairman McKay and Supervisor Byrd concurred.

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

9) Approval of Minutes

Supervisor Catlett moved to approve as presented the minutes for:

- May 17, 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

10) Consent Agenda

MOU Northern Shenandoah Valley Substance Abuse Coalition

MEMORANDUM OF UNDERSTANDING
Northern Shenandoah Valley Substance Abuse Coalition
FY 2016 Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program;

On this_ day of , 2016, the undersigned parties did agree to the terms contained in this Memorandum of Understanding ("MOU") between the City of Winchester (hereinafter referred to as the City); Clarke County, Virginia; Frederick County, Virginia; Valley Health System; the Northern Shenandoah Valley Substance Abuse Coalition, (hereinafter referred to as the "NSVSAC"). The foregoing (and undersigned) being hereinafter referred to collectively as "the parties".

RECITALS

1. WHEREAS, at all times herein mentioned, the City of Winchester, Virginia, was and remains a municipal corporation formed and operating under the laws of the Commonwealth of Virginia, and
2. WHEREAS, at all times herein mentioned Frederick County, Virginia and Clarke County, Virginia were and remain Counties formed and operating under the laws of the Commonwealth of Virginia.
3. WHEREAS, the Northern Shenandoah Valley Substance Abuse Coalition is a nonprofit entity formed under the laws of the Commonwealth of Virginia. One of the purposes of the NSVSAC is to facilitate the creation of a regional drug treatment court (hereinafter the "Northwest Regional Adult Drug Treatment Court") in accordance with the provisions of §18.2-254.1 of the Code of Virginia by the following localities: (1) City of Winchester, Virginia; (2) Frederick County, Virginia, and (3) Clarke County, Virginia; and
4. WHEREAS, the NSVSAC desires to compete to receive funding under the FY 2016 Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program: and
5. WHEREAS, said grant is limited to states, state and local courts, counties, units of local government, and federally recognized indicant tribal governments on behalf of a single jurisdiction drug court, and
6. WHEREAS, the NSVSAC has requested that the City of Winchester apply for said grant and stand as fiscal agent for any funds awarded pursuant to said grant: and
7. WHEREAS, Common Council for the City of Winchester has expressed its support for the Drug Court Program and in furtherance thereof, the Manager has agreed to authorize the City's service as fiscal agent for the grant funds provided that no additional financial contribution is required from the City; and
8. WHEREAS, NSVSAC has represented that the grant provisions allow for a nonprofit organization like the NSVSAC to be a sub-recipient of funds received under the grant.

AGREEMENT

The parties understand that participating in this agreement will increase the ability of City of Winchester, Frederick County and Clarke County to promote overall public safety, prevent substance abuse, promote recovery services, and provide the best possible service to the citizens and visitors to those localities; and the parties hereto intend by this memorandum to enter into an understanding for cooperation in the establishment and utilization of such activity, subject to the specific terms and conditions herein. The parties jointly agree with one another as follows:

9. The NSVSAC will act as an umbrella organization to collaborate with community partners in the City of Winchester, Frederick County and Clarke County and take the lead in identifying and developing effective resources to ensure that the necessary continuum of care for substance abuse and addiction services are available to all members of the community.
10. The NSVSAC will promote prevention of substance abuse, treatment of current substance abusers, cooperation between law enforcement, services by treatment providers, the coordination of criminal justice system activity, and support from the medical community and recovery community as well as the community as a whole.

11. The NSVSAC will provide support and staffing to the Northwest Regional Adult Drug Treatment Court.
12. Contingent upon fiscal appropriation from Common Council for the City of Winchester, the City agrees to act as the applicant and fiscal agent for the Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program, which may be appropriated in accordance with performance metrics established by Common Council for the City of Winchester and which shall be consistent with grant requirements.
13. In order to properly administer the funds received from the Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program, Valley Health System will be responsible for hiring an administrator for the Northwest Regional Adult Drug Treatment Court ("NWRADTC") program, and for the payment of substance abuse treatment services for participants in the NWRADTC program. The NSVSAC will provide quarterly invoices to the City of Winchester for the reimbursement of costs incurred for compensation of the drug treatment court administrator and for the payment of substance abuse treatment services, which shall be paid for using funds from the Bureau of Justice Assistance Adult Drug Court Discretionary Grant Program.
14. The collective monetary total of the provided invoices shall not exceed the dollar amount of the awarded grant.
15. The City shall not be required to provide any additional funding other than the awarded grant funds, and shall not receive invoices from NSVSAC outside the scope of the grant funds.
16. The City shall bear no funding responsibility for any services associated with this agreement or the aforementioned grant should the funding not be awarded, rescinded, or otherwise modified from its original expected scope
17. At all times herein mentioned, NSVSAC, the City of Winchester, Virginia; Frederick County, Virginia; Clarke County, Virginia; Valley Health System, their respective employees, agents, and assigns, shall be construed and remain independent entities. Nothing in this Memorandum of Understanding shall be construed to form an employment relationship between any of the parties.
18. This document represents the entire agreement between the parties. All prior or subsequent agreements concerning these matters are hereby deemed to be null and void unless said terms are incorporated into a written Addendum to this MOU signed by all parties.
19. This Memorandum of Understanding shall automatically renew on January 1st of each year following execution for ten (10) years following execution and may be terminated without cause or recourse by the City of Winchester upon thirty (30) days written notice issued to NSVSAC effective upon mailing. This Agreement shall remain in effect despite the expiration of tenure of any of the representatives whose signatures appear hereon.
20. This document shall be construed under the laws of the Commonwealth of Virginia. Any dispute arising from the performance or non-performance of the terms of this MOU shall be litigated solely in the Circuit Court for the City of Winchester, Virginia, or the U.S. District Court in Harrisonburg, Virginia.

By executing this document, the undersigned parties represent that they are authorized to and hereby bind their respective entities to all terms of this MOU:

CITY OF WINCHESTER
Eden Freeman, City Manager

FREDERICK COUNTY, VIRGINIA
Brenda G. Garton, County Administrator

CLARKE COUNTY, VIRGINIA
David L. Ash, County Administrator

NORTHERN SHENANDOAH VALLEY SUBSTANCE ABUSE COALITION
Lauren Cummings, Executive Director

VALLEY HEALTH SYSTEM
Chris Rucker, Vice President, Ambulatory and Wellness Services

Conservation Easement Authority Draft Policy Structural Square Footage

MEMORANDUM

TO: Board of Supervisors, David Ash

FROM: Conservation Easement Authority, Alison Teetor

DATE: May 12, 2016

SUBJECT: draft policy structural square footage

Recently the Authority has become aware of the impact of the collective footprint limits for eased parcels. The collective footprint is the ground area measured in square feet of the buildings and structures. In general the deed template uses a 1% limit for the collective footprint. This works well for larger parcels but may be unreasonably restrictive for smaller parcels. A recent request was to build an indoor riding arena exceeding 14,000 sq. ft. on a 40 acre parcel. That parcel currently has a 5,400 sq. ft. barn, and the potential to build a 4,500 sq. ft. house (footprint 2,300 sq. ft.) allowing nearly 22,000 sq. ft. of collective footprint.

At the regular meeting April 21, 2016 members approved the following square footage allowances:

Collective square footage allowances	
Acres	sq. ft.
<10	10,000
10-15	15,000
15-20	15,000
20-30	15,000
30-40	20,000
40-50	20,000
> 50	1%

Recommendation

Approve the revised collective square footage allowances as presented

Supervisor Byrd 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

11) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through July 2016

06-13-2016 Summary: Due to the unavoidable delay of one of the members of the Personnel Committee, the meeting did not convene; therefore, no recommendations were made.

06-21-2016 Action: Chairman Weiss put forth the following:

- Appoint Brian Ferrell to the Clarke County Industrial Development Authority to serve his first term expiring October 30, 2019. Mr. Ferrell assumes the appointment formerly held by Wayne Armbrust.

Supervisor Byrd moved to approve the appointment 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

B. County Administrator Update on Pay Classification and Pay Plan; FY2017 General Government Salary Adjustments

06-13-2016 Summary: Due to the unavoidable delay of one of the members of the Personnel Committee, the meeting did not convene; therefore, no summary was given.

06-21-2016 Action: No action taken.

12) Board of Supervisors Work Session

A. Rural Broadband Briefing by Sandy Terry

06-13-2016 Summary: Ms. Terry provided the Board members with information regarding the status of rural broadband availability and funding in Virginia and encouraged Board members to continue their interest and activity in securing boardband service in Clarke County.

06-21-2016 Action: Chairman Weiss thanked Supervisor Catlett for her efforts to arrange the presentation by Ms. Terry.

B. Habitat for Humanity Update by Matthew T. Peterson

06-13-2016 Summary: Mr. Peterson provided the Board with a review of Habitat for Humanity's activities and accomplishments in the City of Winchester and Frederick County and expressed an interest in addressing the unmet needs resulting from the dissolution of Help With Housing. Members of the Board encouraged Mr. Peterson's continued interest in providing services to Clarke County.

06-21-2016 Action: No action taken.

C. 2016 FOIA Legislation Update by David Ash

06-13-2016 Summary: Board members were provided with the written document and a summary of the changes recommended for Board policy. This policy change will be set for Board action at the June Board meeting.

06-21-2016 Action: **Vice Chair McKay moved to approve the policy change 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

**General Government Policy: The Rights of Requesters and the Responsibilities of the
County of Clarke under the Virginia Freedom of Information Act**

Record of Revision

<i>Revision No.</i>	<i>Revision Date</i>	<i>Description</i>	<i>Final Approval</i>
New	11/28/2006	New Document	
1	7/15/2008	Change title to Exemptions and add reference to (§ 2.2-3705.3 (10)) and (§ 2.2-3705.7 (2)); Add reference to PD12110-03 General Government Public Records Disclosure and Copy Policy; Info-map and number document.	
2	11/5/2009	Update County Administration contact information. Update FOIA Council email address.	
3	07/01/2016	Add to County of Clarke "General Government Reporting to County Administrator"; Add to The County of Clarke General Government Reporting to the County Administrator Item 4 and Renumber 4 to 5; Costs Add new first bullet; Add Section - Departments, Boards/Committees/Commissions; Add Section - Types of Records; Add Section - Policy regarding Use of Exemptions; Add Section - FOIA Requests for Constitutional Offices / County Agencies Contact Information	

--	--	--	--

Purpose and Scope

The Virginia Freedom of Information Act (FOIA), located § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

Your FOIA Rights

- You have the right to request to inspect or receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.

Making a Request for records from The County of Clarke General Government Reporting to County Administrator

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to state specifically that you are requesting records under FOIA.
 - From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect to not put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we

can identify and locate the records that you are seeking.

- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of the County, nor does it require the County to create a record that does not exist.
- You may choose to receive electronic records in any format used by the County of Clarke in the regular course of business.
 - For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records
- If we have questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

- To request records from County of Clarke you may direct your request to:

Lora B. Walburn, Clarke County Administration
101 Chalmers Court, Suite B
Berryville, VA 22611
Telephone: 540-955-5175; Fax: 540-955-5170
Email: lwalburn@clarkecounty.gov

- You may also contact her with questions you have concerning requesting records from all departments under the direct responsibility of the County Administrator.
- In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted:

E-mail: foiacouncil@dls.virginia.gov
Telephone: (804) 225-3056 or [toll free] 1-866-448-4100

The County of Clarke
General Government
Reporting to the
County Administrator
Responsibilities in
Responding to Your
Request

- The County of Clarke must respond to your request within five working days of receiving it.
 - "Day One" is considered the day after your request is received.
 - The five-day period does not include weekends or holidays.
- The reason behind your request for public records is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow the County to ask you to provide your name and legal address.

- FOIA requires that the County make one of the following responses to

your request within the five-day time period:

1. We provide you with the records that you have requested in their entirety.
 2. We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
 3. We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 4. We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
 5. If it is practically impossible for the County of Clarke to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven [7] additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.

Costs

- A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records.

No public body shall impose any extraneous, intermediary, or surplus

fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body.

Any duplicating fee charged by a public body shall not exceed the actual cost of duplication.

All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia.

- You may have to pay for the records that you request. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
- If we estimate that it will cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, the County of Clarke may require payment of the past-due bill before it will respond to your new FOIA request.

Departments and
Boards / Committees
/ Commissions

The following is a listing of departments and boards, committees, commissions and authorities with records held by Clarke County General Government reporting to the County Administrator :

- Departments:
 - Animal Shelter
 - Building
 - County Administration
 - Emergency Management / Medical Services
 - Geographic Information Systems
 - Information Technology
 - Maintenance
 - Parks and Recreation
 - Planning
 - Zoning

-
- Board / Committees / Commissions
 - Agricultural & Forestal District Advisory Committee
 - BCCGC Joint Building Committee
 - Berryville Area Development Authority
 - Board of Equalization
 - Board of Supervisors
 - Board of Well and Septic Appeals
 - Board of Zoning Appeals
 - Clarke County Historic Preservation Commission
 - Clarke County Industrial Development Authority
 - Conservation Easement Authority
 - Economic Development Advisory Committee
 - Fire & EMS Commission
 - Parks & Recreation Advisory Board
 - Planning Commission
-

Types of Records

The following is a general description of some of the types of records held by the listed departments and boards / committees / commissions:

- Agendas / Packets
 - Animal adoption, intake
 - Certificates of Occupancy
 - Complaints
 - Correspondence
 - Minutes
 - Ordinances / Code of Clarke County, Virginia
 - Permits: Building, Special Event, Special Use, etc.
 - Personnel records
 - Programs
 - Project files
 - Public hearing notices
 - Reports: Annual, Monthly, Incident, Project, etc.
 - Resolutions
 - Site Plans
 - Statement of Economic Interest
 - Work Orders
-

Commonly Used Exemptions

Some requested records could be exempt. The Code of Virginia allows any public body to withhold certain records from public disclosure. Some examples:

- Names, addresses and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints made to a local governing body. (§ 2.2-3705.3 (10))
 - Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
-

-
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
 - Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
 - Vendor proprietary information (§ 2.2-3705.1 (6))
 - Working papers and correspondence of the County Administrator (§ 2.2-3705.7 (2))
-

Policy Regarding the Use of Exemptions

- The general policy is to invoke the personnel records exemption in those instances where it applies in order to protect the privacy of employees and officials of Clarke County general government reporting to the County Administrator.
 - The general policy is to invoke the contract negotiations exemption whenever it applies in order to protect bargaining position and negotiating strategy.
-

FOIA Requests for Constitutional Offices / County Agencies Contact Information

Direct inquiries to:

Clarke County Circuit Court Clerk: Helen Butts
102 North Church Street, 1st Floor, Berryville, VA 22611
[540] 955-5116; hbutts@courts.state.va.us

Clarke County Commissioner of the Revenue: Donna Peake
101 Chalmers Court, Suite B, 1st Floor, Berryville, VA 22611
[540] 955-5187; dpeake@clarkecounty.gov

Clarke County Commonwealth Attorney: Suni Mackall
102 North Church Street, 2nd Floor, Berryville, VA 22611
[540] 955-5120; crhodes@clarkecounty.gov

Clarke County Sheriff's Office: Anthony Roper
100 North Church Street, Berryville, VA 22611
[540] 955-5152; jrose@clarkecounty.gov

Clarke County Treasurer: Sharon Keeler
101 Chalmers Court, Suite B, 1st Floor, Berryville, VA 22611
[540] 955-5187; treasurer@clarkecounty.gov

Clarke County General District Court: Melanie Hoffman
104 North Church Street, 1st Floor, Berryville, VA 22611
[540] 955-5128

Clarke County Juvenile & Domestic Relations Court: Sherri Allen
104 North Church Street, 2nd Floor, Berryville, VA 22611
[540] 955-5136

Clarke County Public Schools: Chuck Bishop
309 West Main Street, Berryville, VA 22611
[540] 955-6100; weirr@clarke.k12.va.us

Clarke County Department of Social Services: Angie Jones
311 East Main Street, Berryville, VA 22611
[540] 955-3700

General Registrar and Director of Elections: Barbara Bosserman
101 Chalmers Court Suite B, 2nd Floor, Berryville, VA 22611
[540] 955-5168; vote@clarkecounty.gov

Joint Administrative Services [Accounts, Purchasing, Clarke County
Sanitary Authority]: Thomas Judge
524 Westwood Road, Berryville, VA 22611
[540] 955-6172; tjudge@clarkecounty.gov

Related Documents

- PD12110-03 General Government Public Records Disclosure and Copy Policy

End of document.

D. Reminder: Statements of Economic Interest for the period November 1, 2016 thru April 30, 2016 due in County Administration by close of business Wednesday, June 15, 2016.

06-13-2016 Summary: Board members were reminded of the June 15 deadline for submission of Statements of Economic Interest documents.

06-21-2016 Action: All filings received by the June 15, 2016 deadline.

E. Closed Session Pursuant to §2.2-3711-A5 Discussion of unannounced business location and §2.2-3711-A7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel – consultation with Robert Mitchell, County Attorney

06-13-2016 Summary: **Supervisor Byrd moved to convene into Closed Session pursuant to §2.2-3711-A5 and §2.2-3711-A7. 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 Catlett 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 subsequent to the Closed Session.

13) Board of Supervisors Finance Items

1. Acceptance of Bills and Claims

06-13-2016 Summary: The Finance Committee did not meet.

06-21-2016 Action: No action taken.

14) Shenandoah Farms Sanitary District Discussion

Chairman Weiss stated that the Board has been reviewing the matter since it was ordered by the judge in October 2015. He noted that Supervisors McKay and Catlett were working with David Ash and legal counsel.

Vice Chair McKay provided a status update:

- He has visited the area in question numerous times.
- A few people with whom he has spoken have expressed support for the sanitary district.
- An enormous number of people that he has spoken to say it is unreasonable to tax the people that live on a state-maintained road or people that own their own road – Shenandoah River Lane that the residents have maintained and kept in good condition, to support those that live on the mountain.
- Supervisor Catlett, David Ash and he met with the County attorney several times.

Vice Chairman McKay opined that he could not figure out a way to be fair and equitable and treat everyone in manner that even remotely borders on a fair system.

Supervisor Catlett agreed with Supervisor McKay commenting that there were numerous, continuous complaints and conversations about Shenandoah Farms Sanitary District. She put forth that she had come to realize that Shenandoah Farms has many divisions besides just the line that divides it into two counties and there is no unified set of conditions. Supervisor Catlett noted that the Shenandoah Farms residents that spoke during the Citizen Comment Period had made known some of those divisions.

Vice Chairman McKay commented that Shenandoah Farms subdivision was not approved by the County because it pre-dated County zoning ordinance. He stated that the approved nothing beyond anything beyond five-acre lots; and the County did not demand, require or approve roads, which is now a requirement.

Supervisor Daniel noted that the County was not a party nor was there a provision by law for the County to be a party to the creation of a sanitary district. She opined that the Board had been exercised caution in its review of the matter. She stated that she was not convinced a situation where spending money through the public coffers was going to improve the entire community or even part of the community. She remarked that it was expensive to maintain a road and there was only so much that can be done collectively without exorbitant cost and time. Supervisor Daniel expressed appreciation for the time and effort invested by the County Administrator.

Supervisor Byrd commented that she had questioned this from the beginning. She opined that the petition submit to the court was very questionable, figuring out how to be fair to everyone difficult and anything the Board did would not make anyone happy in this particular ill-conceived piece of land.

Chairman Weiss remarked that he had been troubled throughout the process with how to generate enough money equitably in order to actually accomplish anything. He stated that the County was not asked its opinion prior to creation of the sanitary district but the Supervisors were charged with trying to carry out the court order in an equitable way.

David Ash distributed a draft resolution prepared by Robert Mitchell, county attorney.

Vice Chair McKay moved to approve the following resolution:

**Resolution to Abolish Shenandoah Farms Sanitary District
2016-09R**

WHEREAS, by Order entered on October 21, 2015, the Circuit Court of Clarke County established a Sanitary District composed of all of the property in Shenandoah Farms subdivision located in Clarke County; and

WHEREAS, the purposes of the Sanitary District as set forth by the Court are primarily to maintain and improve the private roads and also to maintain, operate, and improve the common areas and recreational facilities, of which there are few in the Clarke County portion of Shenandoah Farms; and

WHEREAS, the Board of Supervisors has undertaken to study and review what would be required to fulfill the purposes of the Sanitary District and what revenue would need to be generated by an annual tax upon property in the Sanitary District to fulfill these purposes; and

WHEREAS, thirty nine percent {39%} of the lots (seventy-seven (77) lots) in Shenandoah Farms are located on public roads (Howellsville Road, Manor Road, and Old Oak Lane), which roads are maintained by the Virginia Department of Transportation (VDOT); and

WHEREAS, no portion of Sanitary District taxes collected would need to be expended for maintenance and improvements on the public roads on which the 77 lots are located; and

WHEREAS, the 77 lots on public roads would receive little benefit from any Sanitary District taxes assessed on said lots; and

WHEREAS, an assessment of Sanitary District taxes on all lots in Shenandoah Farms would result in the lots on private roads receiving a disproportionate benefit as compared to lots on public roads; and

WHEREAS, most of the funds which would be generated by an annual tax on the lots in Shenandoah Farms would need to be expended for the maintenance and improvements of the private roads; and

WHEREAS, the Board finds that it would be inequitable to tax properties on the public roads for the primary purpose of maintaining and improving the private roads; and

WHEREAS, the Board finds that if properties on the public roads are not taxed, the tax rate which would be necessary for the remaining properties in Shenandoah Farms on private roads would be impractical; and

WHEREAS, the Board finds that the purposes for which the Sanitary District was created are impractical of accomplishment; and

WHEREAS, no obligations have been incurred to date by the Sanitary District, other than a premium for a liability policy, the cost of which has been advanced by the County.

NOW, THEREFORE, the Board resolves that a petition be filed with the Circuit Court of Clarke County, pursuant to Va. Code §21-117.1, to abolish said Sanitary District as impractical of accomplishment, and hereby authorizes and directs its attorney to prepare and file such petition.

Chairman Weiss stated that the Board would provide the petition to the judge for consideration; however, should the judge not agree with the Supervisors, the Board would have to deal with the matter.

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

15) Government Projects Update

David Ash provided the monthly project update.

- Two projects out for bid:
 - Insurance coverage for volunteer fire companies – due back next month. .
 - Pre-bid conference this Thursday for ballfield lighting. Bids due back July 7.
- County engineers instructed to move forward with convenience center once the ballfield lighting project is underway.

16) Miscellaneous Items

SUP-16-01/SP-16-01, Hecate Energy LLC Update by Brandon Stidham

Brandon Stidham provided the following update:

- Applicant clarified the name of the entity to be listed as the applicant and the entity responsible for project development and operation. Bob Mitchell reviewed and has no concerns correcting name of applicant to Hecate Energy Clarke County LLC.
- Condition No. 1 Non-transferability of special use permit: Added language that a new entity / LLC would not be unreasonably withheld as long as it agreed to all special use conditions and all the terms of the approval and the Board would not use this as an opportunity to enclose more conditions or deny the special use permit.
- Condition No. 3 Provides access to staff for inspections: Amended to include language to provide 24-hour notice before on-site inspection.
- Condition No. 6 Removal of debris: Noted that prior to issuance of certificate of occupancy the County shall be provided with evidence that debris has been properly disposed offsite at an approved facility. Debris includes landscaping, wooden pallets, concrete with rebar remnants and other types of construction debris.
- Karst monitoring condition: Added language that if the County requires additional karst studies to be done after development Hecate must provide a report and reimburse the County for the reasonable cost of review by the County's engineer.
- At the public hearing, staff will recommend approval of the special use permit subject to the conditions listed in Supplementary Staff Report No. 2.

- Applicant is still working with VDOT on entrance approval. There may be some minor changes to the plan sheet to accommodate VDOT's approval. Planning staff is requesting additional approval of the site plan to empower staff to finish that segment of review.
- DEQ has completed its stormwater management review and issued approval.
- Staff distributed copies of the latest site plan.

17) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Add Equine Alliance funding request to July Finance Committee agenda.	David L. Ash
2.	Send notice of special event permit approval.	Lora B. Walburn
3.	Process and advertise public hearings	Lora B. Walburn
4.	Process approved minutes.	Lora B. Walburn
5.	Process MOU.	David L. Ash
6.	Continue to work with attorney on outstanding matters.	David L. Ash
7.	Update appointment database and process notice of appointment.	Lora B. Walburn
8.	Process resolution 2016-09R.	David L. Ash

18) Board Member Committee Status Reports

Supervisor Mary L.C. Daniel

- Library Advisory Council: Good event at the beginning of the month.
- Planning Commission: Did not meet in June.

Vice Chairman Beverly McKay

- Sanitary Authority: Did not attend – did not receive notice.
- NSVRC: Spring dinner at last meeting. Will try to schedule an update to the Board from the new director.

Supervisor Terri Catlett

- Parks and Recreation Advisory Board: Did not meet.
- School Board: Presentation made on band tower. Due to expense, the School Board and the Town of Berryville declined to participate in the Safe Sidewalk project.

Supervisor Barbara J. Byrd

- Board of Social Services: Due to retirements, there will soon be two openings on the Board.
- Litter Committee: May need to reconstitute this committee.
- Town of Berryville: Many issues before Council. Three new members join July 1.
- Clarke County Humane Foundation: Hiring a lawyer to pursue encroachment issue.
- NW Juvenile Detention Center: Meets next week.
- Regional Jail Authority: Meets quarterly.
- Northern Shenandoah Substance Abuse Coalition: Has not yet attended a meeting. Our area is seen as a leader in dealing with the drug issues. .

Chairman David S. Weiss

- Fire and EMS Commission:
 - Continues to work through issues
 - Response time improving.
 - Fail times improving.
 - Working on unified policies.
 - Frank Davis tendered his resignation effective August 31.
- Conservation Easement Authority: Held annual dinner.

19) Closed Session Pursuant to 2.2-3711-A1 Specific Employees or Appointees of the Board

At 2:42 p.m., **Supervisor Daniel moved that the Clarke County Board of Supervisors enter Closed Session pursuant to Section 2.2-3711-A-1 Code of Virginia re Special employees or appointees of the Board. 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 2:59 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, **Vice Chair McKay 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

Vice Chair McKay 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

No action was taken on matters discussed in closed session.

Chairman Weiss recessed the meeting at 3:00 p.m.

Chairman Weiss called the evening session to order at 6:30 p.m.

20) Citizen Comment Period

Chris Bates, Route 522, expressed concern about shoulders on Route 522. He described an accident that had occurred just this morning when a vehicle ran through his fence after blowing a tire that occurred after going over an eight-inch drop in the shoulder of the road. He offered the following facts:

1. RT 522 is a high speed, high traffic primary road with over 22,000 vehicle trips per day through the Clarke portion. The State police have nearly daily speed traps writing about five tickets an hour but have not slowed the speeds. Clarke Sheriff patrols relatively little on the road but has written over 50 tickets in the last year. The road was constructed out of compliance with state standards being too narrow and without suitable shoulders for recovery. The fake shoulders erode quickly creating drop offs of as much as a foot. Once off the main roadway vehicles are out of control, frequently rolling or careening across the median and other lanes of traffic. The combination of speed and poor condition makes this road really dangerous. Although it is obvious that some speed reduction would be beneficial VDOT has refused all previous requests and has only made limited, mostly cosmetic, improvements to the road
2. At the entrance to Lake Frederick is a traffic control light that blinks yellow over the 4 through lanes and red in the turning lanes on 522. The Lake Frederick side always blinks red. There is frequently mass confusion when someone stops on 522 in anticipation of the light turning red or when drivers just don't stop before turning. The cars, construction vehicles and buses leaving Lake Frederick face a real challenge in safely negotiating the intersection especially at peak times of the day.

The following remedies are suggested:

1. Immediately turn the lights on to operate as designed and mark the intersection with appropriate turning lanes. In conjunction with this, the speed limit should be reduced to 45 mph 600 yards before the light with a notice of speed reduction 300 yards before that.
2. Immediately request that VDOT begin to construct appropriate shoulders that will not erode and establish a plan for maintaining them.
3. As a longer term solution, the Virginia Surface Transportation Board should be asked to immediately survey the road (a partnership with Warren County might be

appropriate) The Board should then get the road brought up to standards through the Governor's "Smart" roads initiative.

Thank you all for your attention to this matter and for your continued service.

Bev McKay related his personal eyewitness account of an accident at that intersection and urged VDOT to activate the traffic light at Lake Frederick.

Public Hearing Notices

PH 16-15

The Virginia Department of Transportation and the Board of Supervisors of Clarke County, in accordance with Section 33.1-70.01 of the Code of Virginia, will conduct a joint public hearing in the Berryville Clarke County Government Center Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, VA, on Tuesday, June 21, 2016 at 6:30 pm.

PH 16-15: The purpose of this public hearing is to receive public comment on the proposed Secondary Six-Year Plan for 2016/2017 - 2021/2022 in Clarke County, and on the Secondary System Construction Budget for Fiscal Year 2017. Copies of the proposed Plan and Budget may be reviewed at the Edinburg Residency Office of the Virginia Department of Transportation, located at 14031 Old Valley Pike Edinburg, Virginia or at the Clarke County offices located at 101 Chalmers Court, Suite B, Berryville, Virginia. All projects in the Secondary Six-Year Plan that are eligible for federal funds will be included in the Statewide Transportation Improvement Program (STIP), which documents how Virginia will obligate federal transportation funds.

Persons requiring special assistance to attend and participate in this hearing should contact the Virginia Department of Transportation at 1-800-367-7623. Any person who wishes to speak on this item is invited to attend the hearing.

David L. Ash - County Administrator

PH 16-16 & PH 16-17

The Clarke County Board of Supervisors will hold public hearing on Tuesday, June 21, 2016, at 6:30 PM, or as soon thereafter as the matter may be heard, in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia to consider the following matters:

PH 16-16: RZ-16-01, Shenandoah Retreat Land Corporation (owner) and Philip Jones (applicant). Request the rezoning of a 2,223 square foot portion of a 14,165 square foot proposed adjusted parcel from Forestal-Open-Space Conservation (FOC) to Rural Residential (RR). The purpose of the request is to rezone all of the subject property to the RR District to avoid having a split-zoned parcel. The subject properties are located at or near 609 Laurel Lane, Buckmarsh Electoral District, and are referenced as Tax Map Parcel 17A1-8-100 & 100A, 17A1-8-31, & 17A1-A-1.

PH 16-17: 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. The property is identified as Tax Map #27-A-5, located on the north side of Lord Fairfax Highway (U.S. 340) with frontage on the west side of Gun Barrel Road (Rt. 644), north side of Double Tollgate Road (Rt. 670), north side of Highland Corners Road (Rt. 669), and east side of Stonewall Jackson Highway (U.S. 522) in the White Post Election District.

Pertinent information in connection with the above matter is available to the public in Clarke County Administration during regular working hours. Any person desiring to be heard regarding the above matters should appear at the appointed time and place. Written copies of statements at public hearings are requested but not required.

David L. Ash - County Administrator

21) PH 16-15 VDOT Secondary Six-Year Plan Review

Ed Carter, Assistant Residency Administrator appeared before the Board to provide the monthly update and to conduct the Secondary Six-Year Plan for 2016/2017 - 2021/2022 in Clarke County and the Secondary System Construction Budget for Fiscal Year 2017.

Maintenance:

- Completed mowing on the following routes – 340 from Berryville to Double Toll Gate; secondary's east of 340, south of 7 and west of the river; secondary's south of 50 from Double Toll Gate to the river;
- Will continue with mowing operations on secondary's east of the river from Rt. 50 to Rt. 7 and north of Rt. 7 from Frederick Co. to Loudon Co.
- Performed pipe replacement on Rt. 723 west of Rt. 655, and Rt. 761 east of Rt. 659;
- Used pipe flusher on Rt. 623 and Rt. 7 east of Rt. 606;
- Conducted patching operations on Rt. 640 from Rt. 632 to WVa. Line, and Rt. 659 from Rt. 632 to Rt. 55;
- Continue with patching on routes 627, 628, 658, 644, 642, 646 and 655;

- Conduct plant mix leveling on Rt. 761;
- Performed brush cutting to raise canopy on Rt. 50 west bound from Rt. 723 to Rt. 255;
- Removed hazardous tree on Rt. 50 west bound opposite Blandy Farm.

Projects:

- Allen Road: Phase 1 R/R – Start on July 5. Rain delayed original spring project start.

Board issues:

- Parking Issues at Appalachian Trail: Currently preparing estimate for enlarging existing parking area.
- Millwood speeding issue: VDOT set up speed trailer as traffic calming measure. Unfortunately, it did not record the speeds because of program issues. VDOT received a new program and it is being loaded. As soon as it is complete, VDOT will set trailer back in Millwood.

Vice Chair McKay

- Halfway between Route 50 bridge where it turns into asphalt: Culvert stopped up and water is running over top the road.
- River Road: Potholes require repair.

Supervisor Catlett

- Millwood Trucks:
 - Latest sign has improved the truck situation.
 - Requesting removal of GPS sign.
 - VDOT requested crosswalk painting this summer.
- Janeville Road: Road is incredibly dusty. Ed Carter advised that affected residents could report to VDOT and it will provide road treatment with a salt solution.

Supervisor Daniel:

- Moose Road: Speed concerns. VDOT is reviewing. VDOT does not place speed bumps on roadways because they are difficult to maintain, impossible to push snow over and, due to braking, increase rear-end collisions.

Public Hearing

Ed Carter reviewed the proposed Secondary Six-Year Plan for 2016/2017 - 2021/2022 in Clarke County and the Secondary System Construction Budget for Fiscal Year 2017.

Chairman Weiss called for question from the Board. The Board offered no comment; and at 6:49 pm, Chairman Weiss opened the public comment portion of the public hearing. With no persons desiring to comment, the Chair closed the public hearing.

Chairman Weiss called for comment from the Board.

Supervisor Byrd asked questions about Old Charlestown Road bridge replacement. Ed Carter explained that the bridge is part of an historical area and VDOT must be very cognizant of anything it might disturb. Mr. Carter added that an emergency repair earlier this year would keep the bridge usable until 2018 when it is anticipated that funds will become available. The bridge will be a two-lane with guardrails.

Ed Carter drew the Board's attention to the estimated allocations and provided the following comment:

- In 2021/2022 approximately \$136,000 is currently allocated to Clarke County.
- In 2021 HB1887 goes into effect that changes the secondary formula upon which the current estimates are based.
- Allocation will no longer be given to individual counties.
- Individual counties will compete for secondary project funds with the other counties within the district.

Supervisor Byrd asked about funding for the Allen Road paving project. Ed Carter noted that the second phase of the paving project would begin receiving funds in 2017/2018 and opined that the project should remain funded given the amount of funding in place prior to the effective date of the new funding structure.

Supervisor Byrd moved to adopt the Secondary Six-Year Plan for 2016/2017 - 2021/2022 in Clarke County and the Secondary System Construction Budget for Fiscal Year 2017 as presented. The motion was approved 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

Secondary Six-Year Plan for 2016/2017 - 2021/2022 in Clarke County and the Secondary System Construction Budget for Fiscal Year 2017

Resolution 2016-11R

At a regular meeting of the Board of Supervisors of the County of Clarke, Virginia, held in the Main Meeting Room, Second Floor, at the Berryville / Clarke County Government Center, on Tuesday, June 21, 2016 at 6:30 p.m.

Present: Barbara J. Byrd; Terri T. Catlett; Mary L.C. Daniel, Beverly B. McKay; David S. Weiss

On motion by Supervisor Barbara J. Byrd and carried unanimously:

WHEREAS, Section 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan;

WHEREAS, this Board has previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2016/2017 through 2021/2022), as well as the Secondary System Construction Budget for Fiscal Year 2017 on Tuesday, June 21, 2016 at 6:30 p.m. after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Construction Budget;

WHEREAS, Ed Carter, Six-Year Plan Programs and Enhancement, Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (2016/2017 through 2021/2022) and the Construction Budget (FY2017) for Clarke County;

NOW, THEREFORE BE IT RESOLVED that since said Plan appears to be in the best interests of the Secondary Road System in Clarke County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2016/2017 through 2021/22) and Construction Budget (FY2017) are hereby approved as presented at the public hearing.

ATTEST: June 21, 2016

David L. Ash, Clerk
Clarke County Board of Supervisors

Secondary System
Clarke County
Construction Program
Estimated Allocations

Fund	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	Total
CTB Formula - Unpaved State	\$74,451	\$87,791	\$100,989	\$97,058	\$0	\$0	\$360,289
Secondary Unpaved Roads	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TeleFee	\$31,394	\$31,394	\$31,394	\$31,394	\$31,394	\$31,394	\$188,364
Residue Parcels	\$0	\$0	\$0	\$0	\$0	\$0	\$0
STP Converted from IM	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP - Bond Match	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Formula STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
MG Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
BR Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other State Match	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
District Grant - Unpaved	\$0	\$0	\$0	\$0	\$136,278	\$136,278	\$272,556
Total	\$105,845	\$119,185	\$132,383	\$128,452	\$167,672	\$167,672	\$821,209

District: Staunton
County: Clarke County
Board Approval Date:

SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

2017-18 through 2021-22

Route PPMS ID Accomplishment Type of Funds Type of Project Priority #	Road Name Project # Description FROM TO Length Ad Date	Estimated Cost	Previous Funding SSYP Funding Other Funding Total	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count Scope of Work FHWA # Comments
					2016-17	2017-18	2018-19	2019-20	2020-21	2021-22		
Rt.0723 64818 STATE FORCESHIRED EQUIPMENT S No Plan 0001.03	MILLWOOD ROAD 0723021 RTE 723 - BRIDGE REHAB 0.62 to Route 255 1.35 to Route 340 0.1	PE \$0 RW \$0 CON \$0 Total \$0	\$0 \$71,011 \$108,399 \$179,410	\$0 (\$179,410)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	1400 Bridge Rehab w/o Added Capacity 16014 Complete schedule & estimate required.
Rt.0638 104351 RAAP CONTRACT No Plan 0004.01	Westwood Road 0638021723 Rt. 638 Westwood Road Improvements Rt 7 Business Ramsburg Lane 0.4 9/30/2021	PE \$250,000 RW \$0 CON \$2,250,000 Total \$2,500,000	\$0 \$205,376 \$0 \$205,376	\$2,294,624	\$0	\$0	\$0	\$0	\$0	\$0	\$2,294,624	750 Reconstruction w/ Added Capacity 13003
Rt.0638 105008 STATE FORCESHIRED EQUIPMENT S No Plan 0004.04	Allen Road 0638021729 Allen Rd - Secondary Unpaved Road Project Phase I Rt. 611 - Summit Point Road 1.1 MI W Rt. 611 - Summit Point Road 1.1 4/30/2018	PE \$10,000 RW \$0 CON \$195,000 Total \$205,000	\$0 \$202,216 \$0 \$202,216	\$2,784	\$74,451	\$31,161	\$0	\$0	\$0	\$0	\$0	170 Reconstruction w/o Added Capacity 16004 (\$102,788)
Rt.0621 106051 STATE FORCESHIRED EQUIPMENT S No Plan 0004.05	Lockes Mill Road 0621021730 Lockes Mill Road - Secondary Unpaved Road Project 2.09 MI E Rt. 608 (Parshall Rd) 1.09 MI E Rt. 608 (Parshall Rd) 1.0 4/30/2022	PE \$5,000 RW \$0 CON \$300,000 Total \$305,000	\$0 \$0 \$0 \$305,000	\$305,000	\$0	\$56,690	\$100,989	\$97,058	\$50,263	\$0	\$0	120 Reconstruction w/o Added Capacity 16004
Rt.0638 -18120 STATE FORCESHIRED EQUIPMENT S State forces/hired equip ON Only 0004.06	Allen Road 0638021734 Allen Rd - Secondary Unpaved Road Project Phase II 1.1 MI W Rt. 611 - Summit Point Road Crums Church Road Rt 632 1.5 7/25/2022	PE \$0 RW \$0 CON \$469,700 Total \$469,700	\$0 \$0 \$0 \$469,700	\$469,700	\$0	\$0	\$0	\$0	\$86,015	\$136,278	\$0	180 Reconstruction w/o Added Capacity 16004 \$247,407

SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

District: Staunton County: Clarke County		2017-18 through 2021-22										Balance to complete	Traffic Count Scope of Work FHWA # Comments
Route	Road Name	Estimated Cost	Previous Funding	Additional Funding Required	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22			
Board Approval Date:	Project # Description FROM TO Length	Ad Date	SSYP Funding Other Funding Total										
Ri.4003 100135 S 9999.99	1204003 COUNTYWIDE RURAL ADDITIONS VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	3/1/2011	PE \$0 RW \$0 CON \$250,000 Total \$250,000	\$28 \$0 \$28	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$249,972	0 Reconstruction w/o Added Capacity 10004 RURAL ADDITIONS - SECTION 33.1 72:1. ROLLOVER OF FUNDS CAN BE FOR FIVE YEARS.	
Ri.4007 100148 S 9999.99	1204007 COUNTYWIDE TRAFFIC SERVICES VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	3/1/2020	PE \$0 RW \$0 CON \$250,000 Total \$250,000	\$13,184 \$0 \$13,184	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$236,816	0 Safety 10021 TRAFFIC SERVICES INCLUDE SECONDARY SPEED ZONES, SPEED STUDIES, OTHER NEW SECONDARY SIGNS	
Ri.4005 100204 S 9999.99	1204005 COUNTYWIDE ENGINEERING & SURVEY VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	3/1/2011	PE \$0 RW \$0 CON \$250,000 Total \$250,000	\$116,423 \$0 \$116,423	\$133,577	\$31,394 \$0 \$31,394	\$31,394 \$0 \$31,394	\$31,394 \$0 \$31,394	\$4,713 \$0 \$4,713	\$31,394 \$0 \$31,394	\$31,394 \$0 \$31,394	(\$28,106)	0 Preliminary Engineering 18015 MINOR SURVEY & PRELIMINARY ENGINEERING FOR BUDGET ITEMS AND INCIDENTAL TYPE WORK.
Ri.4006 100300 S 9999.99	1204006 COUNTYWIDE FERTILIZATION & SEEDING VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	3/1/2011	PE \$0 RW \$0 CON \$250,000 Total \$250,000	\$1,000 \$0 \$1,000	\$249,000	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$249,000	0 Preliminary Engineering 18015 FERTILIZATION AND SEEDING TO IMPROVE SLOPE STABILIZATION ON SECONDARY SYSTEM
Ri.4008 100352 S 9999.99	1204008 COUNTYWIDE RIGHT OF WAY ENGR. VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	1/30/2011	PE \$0 RW \$0 CON \$250,000 Total \$250,000	\$5,000 \$0 \$5,000	\$245,000	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$26,681 \$0 \$26,681	\$0 \$0 \$0	\$0 \$0 \$0	\$218,319	0 Right of Way 18016 USE WHEN IMPARTIAL TO OPEN A PROJECT. ATTORNEY FEES and ACQUISITION COST.

22) PH 16-16 RZ-16-01, Shenandoah Retreat Land Corporation/Philip Jones

Purpose of Request: Shenandoah Retreat Land Corporation (Owner) and Philip Jones (Applicant) are requesting the rezoning of a 2,223 square foot portion of the subject property from the FOC District to the RR District in order to complete a Boundary Line Adjustment needed to provide satisfactory area for an existing structure currently resting on two separate parcels with different zoning classification and with separate ownership. The boundary line adjustment ordinance does not permit an adjustment that would alter a property line coincident with a zoning district boundary.

Staff Recommendation: Approve the rezoning request for a 2,223 square foot portion of the property identified as Tax Map #17A1-A-1, located west of 609 Laurel Lane in the Buckmarsh Election District, from Forestal-Open- Space Conservation (FOC) to Rural Residential (RR).

Ryan Fincham, Senior Planner and Zoning Administrator, reviewed the rezoning request advising that there were no outstanding concerns. He informed the Board that the applicant was present.

At 7:03 pm, Chairman Weiss called for questions from the Board, being none; he opened the public comment portion of the public hearing. With no persons desiring to comment, the Chair closed the public hearing.

Vice Chairman McKay moved to Approve the rezoning request for a 2,223 square foot portion of the property identified as Tax Map #17A1-A-1, located west of 609 Laurel Lane in the Buckmarsh Election District, from Forestal-Open- Space Conservation (FOC) to Rural Residential (RR). The motion was approved 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

23) PH 16-17 SUP-16-01/SP-16-01, Hecate Energy LLC

Request: 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.

Staff Recommendation:

- Staff recommends approval of the Special Use Permit (SUP) subject to the list of recommended conditions included in this Staff Report.
- Staff recommends approval of the Site Plan conditioned upon Staff approval of any minor modifications needed to accommodate the Virginia Department of Transportation's (VDOT) approval of the property entrance.

Brandon Stidham provided the Board with a PowerPoint presentation on the special use and site plan application.

Hecate Energy's Preston Schultz, Director Development, and Patti Shorr, VP Project Development, provided a PowerPoint presentation including project history, economic development, benefit package and company overview. At the conclusion of their presentation, they thanked Brandon Stidham, Planning staff, as well as Greenway Engineering for their assistance.

Chairman Weiss expressed appreciation for the corporation's financial offer and its good faith effort.

At 8:12 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.

Chairman Weiss opined that the project would have a positive impact on Clarke County.

Vice Chair McKay moved to approve Special Use Permit SUP-16-01, Hecate Energy Clarke County LLC, subject to the list of conditions in Staff Report No. 2 as recommended by Staff.

SPECIAL USE PERMIT CONDITIONS
SUP-16-01/SP-16-01 Hecate Energy Clarke County LLC

1. **Special Use Permit purpose; nontransferable.** This Special Use Permit is issued for the subject property for operation of a “solar power plant, large photovoltaic” solely by the Applicant, Hecate Energy Clarke County LLC. The Special Use Permit shall not be transferable to any other person or entity without prior approval of the Board of Supervisors as an amendment to the approved Special Use Permit conditions, such approval not to be unreasonably withheld.
2. **Applicant and Property Owner (“Owner”) to sign list of adopted permit conditions.** The Applicant and the Owner shall sign the list of adopted conditions to indicate receipt of the conditions and the intention to comply fully with the conditions for the life of the special use permit. A signed copy of the conditions shall be provided to Planning Department Staff (“Staff”) within thirty (30) days of the Applicant’s and Owner’s receipt of the adopted conditions.
2. **Access for inspections required.** Staff and other County officials shall have access to the property with 24-hour notice to the Applicant in order to conduct periodic compliance inspections of the facility and the subject property throughout the life of the permit.
3. **Ongoing maintenance of site features.** The following site features shall be properly maintained throughout the life of the permit:
 - Property entrance shall be maintained consistent with VDOT regulations.
 - Vegetated property buffer including existing trees and shrubs and supplemental plantings as depicted on the approved landscaping plan per Zoning Ordinance requirements.
 - Fences and gates.
 - Outdoor lighting fixtures to ensure compliance with Zoning Ordinance requirements.
 - Warning signage.
 - Knox box for fire, emergency services, and law enforcement access.
5. **Decommissioning of facility.** The following condition shall set forth required provisions for decommissioning the facility either at the end of its lifespan or in the event of inactivity for more than two consecutive years.

- **Notice of inactivity.** The Applicant or Owner shall be responsible for notifying the Zoning Administrator within 30 days of the facility becoming inactive and no longer producing electric power. Notification shall be provided in writing and shall include the date that the facility ceased producing power. Failure to return the facility to an active status and producing electric power for two consecutive years shall constitute grounds for special use permit revocation.
 - **Decommissioning process.** Upon completion of the facility's lifespan or following revocation of the special use permit, the facility shall be decommissioned including removal of all equipment, panels, racking systems, wiring (including underground wiring), fencing, steel skids, concrete pads, and other above-ground features. All wetland protections, natural vegetation, erosion control, and stormwater features shall remain in place. The Applicant or Owner shall provide a decommissioning plan to Staff and applicable State agencies and obtain all required permits prior to conducting decommissioning activities. All decommissioning activities shall be completed within six months of providing notice of inactivity unless a longer time period is approved by the Zoning Administrator.
6. **Removal of debris.** All existing trash and debris shall be removed from the property and disposed of at an approved waste management facility prior to issuance of a certificate of occupancy. No trash, debris, or construction materials shall be buried or burned on site. Prior to issuance of a certificate of occupancy, the County shall be provided with written evidence, such as tipping receipts, of disposal of the debris at an approved waste management facility.
7. **Abandonment of existing well.** The existing well on the subject property as identified in the Applicant's environmental reconnaissance survey shall be abandoned in accordance with State and County ordinances prior to issuance of a certificate of occupancy.
8. **Blasting prohibited.** No blasting shall be allowed on the subject property.
9. **Fire & EMS coordination and training.** The Applicant will work proactively with the Director of Fire & Emergency Services to develop an agreed-upon set of procedures and protocols for managing risk of fire and for responding in the event of a fire or other emergency at the facility. These procedures and protocols shall be in the form of a Fire & Emergency Services Manual for Clarke County that shall be completed by the Applicant and accepted by the Director of Fire & Emergency Services or Staff prior to issuance of a certificate of occupancy to begin producing electric power. The Manual will specify the roles of responsible parties in the event of a fire or other emergency at the site. The plan will include at a minimum:
- Clear statements on the responsibility for fire response decision making.
 - Related emergency communications direction as well as emergency phone numbers and key points of contact.

- Special training for fire and emergency services personnel and a tour of the site to ensure upfront awareness of the site and equipment as well as points of ingress/egress.
 - Designated shutoff procedure and location for equipment shutoff.
 - Maps outlining location of key equipment including:
 - Location of lock box (or if desired the Director of Fire & Emergency Services will be provided with a key to the facility in advance)
 - Inverters
 - Transformers
 - System/electrical cut-off switches
 - Points of ingress/egress at the facility
 - Cleared access around the site
- 10. Noise.** The following condition shall apply to noise generated during the construction of the facility and the facility's ongoing operation.
- **Construction noise.** All construction activities shall be limited to 7:00AM to 7:00PM in order to limit noise impacts on adjacent and nearby properties.
 - **Facility equipment.** Prior to issuance of a building permit, the Applicant shall provide technical documentation for all facility equipment that may generate noise to verify that the manufacturer's noise specifications do not exceed Zoning Ordinance requirements.
- 11. Entrance requirements.** The following conditions shall apply to the property entrance.
- **VDOT permitting required.** The Applicant shall obtain all required permits from VDOT and complete all required improvements to the property entrance prior to issuance of a building permit.
 - **Potential damage to adjoining properties.** In the event that there is damage to adjoining properties as a result of ingress/egress of construction vehicles, the Applicant shall remedy all damage in full prior to issuance of a certificate of occupancy.
- 12. State and Federal permits.** The Applicant shall provide copies of all applicable State and Federal permits to Staff prior to issuance of a building permit.
- 13. Karst monitoring.** Ongoing inspections for Karst activity shall be conducted by the Applicant according to the following schedule and requirements:
- Initial Inspection Period. Site inspections shall be performed annually by the Applicant's engineer beginning one year from the completion of Phase 1. This Initial Inspection Period shall continue until five years from the date of completion of Phase 2.

- Ten-Year Inspection Period. If no solution activity is identified during the Initial Inspection Period, then inspections shall be conducted once every two years for the next ten years.
- Ongoing Inspection Period. If no solution activity is identified during the Ten-Year inspection Period, then inspections shall be conducted once every five years for the remaining life of the project.
- Inspection dates shall coincide with the date of issuance of a certificate of occupancy allowing the facility or Phases of the facility to begin producing electric power.
- Written reports for each inspection shall be provided to Planning Staff according to this schedule. Staff reserves the right to have the reports reviewed by the County's Karst engineer and the Applicant shall be responsible for reimbursing the County for the reasonable cost of engineering review of the report(s).
- The County reserves the right to request intermittent inspections as deemed necessary or if suspected solution activity is reported.
- In the event that an inspection reveals an issue that in the opinion of the County's Karst engineer requires specific remediation activities, the Applicant shall be responsible for completing such activities within a timeframe deemed acceptable by the Zoning Administrator and the County's Karst engineer.

14. Landscaping Plan. The following condition shall govern the installation of landscaping in accordance with the approved plan.

- **Full installation required.** All landscaping shown on the approved landscaping plan shall be installed prior to issuance of a certificate of occupancy to begin producing electric power regardless of the phasing of construction. The landscaping shall be inspected by County Staff one year after issuance of the certificate of occupancy to determine viability of plantings and identify any dead landscaping to be removed. The Applicant shall be responsible for contacting the Department of Planning to schedule this inspection.
- **Minor deviations from approved landscaping plan.** In the event that the Applicant requests a minor deviation from the approved landscaping plan in order to avoid conflicts with the placement of panels that would adversely impact their effectiveness, or to move plantings to more effective locations on the site, such deviation shall be provided on a revised plan sheet for review and approval by Staff. Additionally, Staff may request minor deviations from the approved landscaping plan, including provision of additional plantings, in order to ensure that supplemental landscaping provides effective screening of the facility from adjacent properties. Staff may consult with the Planning Commission's Site Plan Committee to determine whether such minor deviations, requested either by the Applicant or by Staff, is consistent with the special use permit and site plan approvals.

15. Payment Agreement. Prior to the issuance of a land disturbance permit, the Applicant shall enter into a written agreement with the County providing for payments to the County in addition to real estate taxes, and compliance with said agreement shall be a condition of this Special Use Permit.

The motion was approved 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 Daniel move to approve Site Plan SP-16-01, Hecate Energy LLC, as recommended by Staff conditioned upon Staff approval of minor modifications needed to accommodate VDOT' s approval of the property entrance. The motion was approved 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

24) Adjournment

At 8:15 pm, being no further business, Chairman Weiss adjourned the meeting.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, July 19, 2016 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: June 21, 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