

July 18, 2017

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, July 18, 2017.

Board Members

Present Afternoon and Evening Sessions: 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

Absent Afternoon and Evening Sessions: None

County Staff Present

David Ash, Tom Judge, Brian Lichty, Brandon Stidham, Stephanie Smith, Lora Walburn

Constitutional / State Offices

Travis Sumption

Press

Cathy Kuehner - The Winchester Star

Others Present

Joyce Fiddler, Ed Carter, Charlie Monroe, Thomas Chandler Kleine, Patti Shorr, Pat McKelvy, Laure Wallace, Robert Mitchell, and other citizens

1) Call to Order

Chairman Weiss called the afternoon session to order at 1:01 p.m.

2) Adoption of Agenda

David Ash requested the following changes:

- Consent Agenda to Follow Handley Regional Library Update
- Closed Session to Follow Consent Agenda
- Divide Public Hearing PH17-08 into:
 - A) Public Hearing
 - B) Economic Benefits Discussion

Supervisor Byrd requested addition of County Entertainment discussion to Miscellaneous.

Supervisor Daniel moved to adopt the agenda as amended. The motion carried by the following vote:

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

3) Citizens Comment Period

Joyce Fiddler, Minniewood Lane: Addressed the Board regarding the Pasture Palooza permitted special event. Mrs. Fiddler read from a prepared statement, which is included in the regular meeting packet material.

4) VDOT Update

Ed Carter, Assistant Residency Administrator, provided the monthly update.

Maintenance

- Graded buildup under guardrails along Rt. 50 from Frederick County line east and west and will continue this month along with shoulder repairs;
- Completed first round of mowing on secondary roadways;
- VDOT will begin first round of primary mowing and second round of secondary mowing this month;
- Removed old chain link fence on Rt. 50 at R/R bridge to correct drainage issues and snow removal operations;
- Performed grading operations on Rt. 621 from Chilly Hollow to Rt. 613 and Rt. 652 and applied dust control to both;

- VDOT will continue with grading operations and dust control as needed;
- Performed tree clean up from storms and trimmed brush around signs;
- Performed large trash removal from primaries;
- VDOT will be conducting patching on routes 627 and 628 this month.

Board Concerns:

- Rt. 612 Shepherds Mill Road: Traffic Engineering is reviewing. They did a field review and are agreeable to restricting through trucks to certain lengths. They are less enthusiastic about changing any speed limits or passing zones without official study.
- Appalachian Trail Parking Rt. 7: Met with stakeholders on June 27. ADA from Staunton District is researching plans to verify R/W limits. VDOT suggested reducing size of expansion to reduce cost and eliminate environmental issues with creek. VDOT estimated cost for large tree removal is \$3,000. It was suggested that local resources be used for cleaning out undergrowth and small saplings and VDOT can issue a permit for working on its R/W. There is probably enough material on site to provide leveling for the reduced footprint. VDOT suggests closing the entrance during inclement weather (primarily winter operations).
 - Chairman Weiss expressed appreciation for VDOT's efforts. By consensus, the Board agreed to continue to pursue the matter.
- West Entrance to Business 7: We looked at this with Traffic Engineering again last week. VDOT has had the yield sign on both routes several times. The current location seems to be the safest. If VDOT moves back to the EB off ramp, VDOT is concerned that traffic speeds exiting 7 Bypass will risk rear-end crashes. It cost significant funds to redesign the entire intersection and there have been no recordable accidents in the last 10 years.
 - Yield sign used to keep traffic from backing up on Route 7.
 - Current set up is believed to be an improvement.
 - Flat rumble strips are difficult on equipment during routine maintenance and snow removal operations.
- Allen Road: All environmental clearances received this week.

Vice Chair McKay joined the Supervisors at 1:29 pm.

- Supervisor Catlett:

- Route 723: Charlie Monroe will address the pothole between Millwood and Powhatan by Foxy Kitchen.

- Supervisor Byrd
 - Old Charlestown Road Low-water Bridge: VDOT will check status.
 - Triple J Road: Thanked VDOT for placement of speed trailer. Asked VDOT to place the trailer in the opposition direction. VDOT advised that it would place subject to availability.
 - Mowing Primaries: Trash trees and thistles are abundant.
 - Fairgrounds Entrance Traffic Back Up on Route 7 During Events: Asked for VDOT to discuss logistics with the Ruritan Traffic Chair.

5) Handley Regional Library Update by John Huddy and Laurine Kennedy

John Huddy, Director – Handley Regional Library, and Laurine Kennedy, Director – Clarke County Library, joined the Supervisors. Highlights include:

- Thanked the Supervisors for increasing library funding.
- Increased hours of operation to Monday through Thursday 10 to 8 and Friday through Sunday 10 to 5.
- Provided employees with a 2% salary increase.
- Laurine Kennedy comments:
 - Assisting with STEM programs.
 - Participation in the summer programs is exceeding prior record.
 - Conducting a garden talk series with approximately thirty to forty attendees per show.
 - Extended hours and increased staff aids increased use.
 - The Virginia Employment Commission conducts a monthly disability outreach program.
 - United States Representative Barbara Comstock representatives occasionally meet constituents at the library.
 - Plan to redesign the children's room and to create a teen space.
- Supervisors Daniel and Byrd attributed the improvements to the enthusiasm and teamwork of Laurine Kennedy and John Huddy.

6) Consent Agenda

2017-08R Resolution of Appreciation and Recognition of Service Pat McKelvy

WHEREAS, Pat McKelvy served on the Clarke County Board of Zoning Appeals in the position of Alternate At Large from December 17, 2013, until May 5, 2017 when she reluctantly moved from her beloved Clarke County; and

WHEREAS, Ms. McKelvy also served on the Clarke County Planning Commission from November 2002 through September 2009, and on the Conservation Easement Authority from May 2003 through December 2012.

NOW THEREFORE BE IT RESOLVED, by the Clarke County Board of Supervisors that Pat McKelvy be recognized and congratulated on her years of service to the citizens of Clarke County in these appointed positions, that she be congratulated on her successful career, and on the positive influence she has had on Clarke County;

BE IT FURTHER RESOLVED, that her dedication, loyalty, and service to the citizens of Clarke be hereby memorialized and that a suitable copy of this resolution be presented to Ms. McKelvy as a token of the respect and high esteem in which she is held by the Clarke County Board of Supervisors, Constitutional Officers, and the staff of Clarke County.

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the members of the Clarke County Board of Supervisors assembled in regular session on the Eighteenth day of July 2017.

Attest:

David S. Weiss, Chairman

Chairman Weiss presented the resolution to Pat McKelvy commenting that it was a particular honor for him to present for he had served with Ms. McKelvy on all the appointed bodies.

Pat McKelvy stated that she was very touched and expressed her appreciation for the Board's recognition. She put forth that she had lived in other places throughout her life; but, the first time she came into Clarke County it was the first time in her life she was "at home."

2017-09R Resolution of Appreciation and Recognition of Service Laure Wallace

WHEREAS, Laure Wallace served from August 2014 until February 2017 on the Clarke County Fire and Emergency Services Commission in the position of Citizen At Large, as well as serving a term as Chair. She also served as Chair on the Fire and Emergency Services (EMS) Workgroup from its organization in September

2013 through August 2014 when it was disbanded and the Fire and Emergency Services Commission created;

WHEREAS, Mrs. Wallace also served on Conservation Easement Authority from October 2011 through July 2017. She also served on the Green Advisory Committee for its duration from July 2008 through December 2009.

NOW THEREFORE BE IT RESOLVED, by the Clarke County Board of Supervisors that Laure Wallace be recognized and congratulated on her years of service to the citizens of Clarke County in these appointed positions, that she be congratulated on her successful career, and on the positive influence she has had on Clarke County;

BE IT FURTHER RESOLVED, that her dedication, loyalty, and service to the citizens of Clarke be hereby memorialized and that a suitable copy of this resolution be presented to Mrs. Wallace as a token of the respect and high esteem in which she is held by the Clarke County Board of Supervisors, Constitutional Officers, and the staff of Clarke County.

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the members of the Clarke County Board of Supervisors assembled in regular session on the Eighteenth day of July 2017.

Attest:

David S. Weiss, Chairman

Chairman Weiss stated that he had worked with all three women being recognized, Pat McKelvy, Laure Wallace, and Beth Leffel; and he had watched them work through and utilize their intellect to help the County. He continued stating that more importantly he witnessed their compassion, love for their neighbors, wit, and laughter that had made it a joy to work on these committees.

Laure Wallace commented that the recognition was most appreciated and unexpected. She noted that she and her husband loved Clarke County; and it had been such a privilege for them for they hold that there are three important things to do: One is to vote; one is to speak up; and one is to serve. She thanked the Supervisors for the opportunity to serve.

Vice Chairman McKay thanked the Pat McKelvy, Laure Wallace, and Beth Leffel for their time and service. He noted that he had served on the Planning Commission with Pat McKelvy and had learned a lot from her.

Supervisor Daniel remarked that Pat McKelvy was instrumental in her training when she was first appointed to the Planning Commission.

Supervisor Byrd noted that the most important thing for Clarke County from these ladies is what they had accomplished for the present and future. She thanked them for their talents and keeping the County on the right path.

Supervisor Catlett thanked the ladies. She noted that Laure Wallace had been particularly supportive.

Chairman Weiss concluded commenting that the Board could not say thank you enough.

2017-10R Resolution of Appreciation and Recognition of Service Beth Leffel

WHEREAS, Elizabeth "Beth" Leffel served from August 2014 until July 2017 on the Clarke County Fire and Emergency Services Commission in the position of Citizen At Large, as well as Chair; and,

WHEREAS, Dr. Leffel also served on the Fire and Emergency Services (EMS) Workgroup from its organization in September 2013 through August 2014 when it was disbanded and the Fire and Emergency Services Commission created; and she served on the Lord Fairfax Emergency Medical Services Council from April 2002 through June 2004.

NOW THEREFORE BE IT RESOLVED, by the Clarke County Board of Supervisors that Beth Leffel be recognized and congratulated on her years of service to the citizens of Clarke County in these appointed positions, that she be congratulated on her successful career, and on the positive influence she has had on Clarke County;

BE IT FURTHER RESOLVED, that her dedication, loyalty, and service to the citizens of Clarke be hereby memorialized and that a suitable copy of this resolution be presented to Dr. Leffel as a token of the respect and high esteem in which she is held by the Clarke County Board of Supervisors, Constitutional Officers, and the staff of Clarke County.

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the members of the Clarke County Board of Supervisors assembled in regular session on the Eighteenth day of July 2017.

Attest:

David S. Weiss, Chairman

Supervisor Daniel moved to approve the Consent Agenda. 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) Closed Session

Robert Mitchell joined the Board of Supervisors for Closed Session.

At 2:00 pm, **Supervisor Daniel moved that the Clarke County Board of Supervisors enter Closed Session pursuant to Section 2.2-3711-A5 Discussion of unannounced business location; and 2.2-3711-A3 Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; 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. 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 2:33 pm, **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

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	-	Absent
David S. Weiss	-	Aye

No action taken following Closed Session.

8) SUP-17-03/SP-17-01 Clarke County Board of Supervisors Convenience Center Special Use Permit

Staff recommends that the Board schedule Public Hearing for the September 19 Regular Meeting contingent upon the Commission forwarding a formal recommendation to the Board following their September 1 Public Hearing

Ryan Fincham reviewed the Special Use Plan SUP-17-03 / SP-17-01. Highlights include:

- Vice Chair McKay asked about automatic timer switches on lighting.
- Supervisor Byrd asked about ginko biloba trees that are prohibited.
- Chairman Weiss asked about citizen concerns with traffic backup on Route 7.
- For the special use permit, Supervisors are asked to establish operating parameters not actual hours of operation.

Supervisor Daniel moved to set SUP-17-03 / SP-17-01 for public hearing at 6:30 pm September 19, 2017, contingent upon the Planning Commission forwarding a formal

recommendation to the Board of Supervisors followings its September 1 Public Hearing. 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) Draft Wireless Infrastructure Bill by Brandon Stidham

Brandon Stidham summarized salient points of the draft bill currently under evaluation by the General Assembly's Committee on Wireless Communication Infrastructure. Recommendations are:

- The Broadband Implementation Committee recommends that the Board formally oppose this draft legislation and communicate its opposition to its State delegation.
- Staff recommends that if the Board decides to take such action, a letter should be drafted that expresses its specific concerns with the legislation and how it could adversely impact our County.
- This letter should also be sent to VACo staff and the members of the Committee on Wireless Communication Infrastructure.
- Staff also recommends that this letter be sent as soon as possible and this issue monitored up to and throughout the next General Assembly session to ensure that our concerns are addressed.

With concurrence of the Board, Chairman Weiss expressed the Supervisors strong opposition to the proposed legislation and directed staff to draft a letter of opposition as soon as possible.

10) Conservation Easement Purchase: Fairfield Farm Tax Map# 9-3-1B

The Clarke County Conservation Easement Authority recommends: "Be it resolved that the FY2018 Conservation Easement Fund budgeted expenditures and appropriations be increased \$80,000, that \$40,000 revenue from the Commonwealth be recognized, and that existing fund balance in the Conservation Easement Fund be utilized for the local share, all for the purpose of purchasing conservation easements on the Fairfield property. Further, that the Board of Supervisors authorize Chairman Weiss to execute deeds, easements, and other documents necessary to the transactions."

Alison Teetor briefed the Supervisors on the Conservation Easement Authority's request.

Supervisor Byrd moved "Be it resolved that the FY2018 Conservation Easement Fund budgeted expenditures and appropriations be increased \$80,000, that \$40,000 revenue from

the Commonwealth be recognized, and that existing fund balance in the Conservation Easement Fund be utilized for the local share, all for the purpose of purchasing conservation easements on the Fairfield property. Further, that the Board of Supervisors authorize Chairman Weiss to execute deeds, easements, and other documents necessary to the transactions." 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

Vice Chair McKay Book 23 Page 27 Change Route 34 to Route 340.

Supervisor Catlett Book 23 Page 40 Change from Annual dinner tomorrow evening at Chairman Ohrstrom’s home. RSVP required.” Change To “Annual dinner Saturday at Ohrstrom’s Barns at Camden.”

Supervisor Daniel Book 23 Page 23 Add “Requested VDOT be more creative in finding traffic calming options.”

Supervisor Catlett moved to approve the minutes for June 20, 2017, Board of Supervisors Regular Meeting as amended. 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) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through September 2017

David Ash informed the Board that he had not received any recommendations.

B. Community Policy and Management Team [CPMT] & Family Assessment and Planning Team [FAPT] – Appointment & Status Update

A. CPMT:

- Laura Obradovic, Private Provider Representative, and Audrey Brown, Parent Representative, have completed all requirements for appointment.

B. FAPT:

- Chris Rosseau – Private Provider Representative: Still waiting on:
 - Oath of Office – Circuit Court
 - Copy of Oath for County Administration
 - Statement of Economic Interest
- Vacant - Parent Representative – Oath of Office and SOEI Filing Required Prior to Assuming Appointment. *Composition not compliant with 2.2-5207 until position filled.*

C. Length of Term for Appointed Members CPMT & FAPT. Staff Recommends: one (1) year, two (2) years, and three (3) years and thereafter for four (4) year terms as follows:

CPMT

Name	First Name	Proposed Expiration	Position
Acker	Denise	12/31/2018	Northwestern Community Services
Bauserman	Ellen	12/31/2019	CCPS Director Pupil Svcs
Brown	Audrey	12/31/2020	Parent Representative
Byrd	Barbara J.	12/31/2018	BoS - Appointed Member
Jenkins	April	12/31/2018	Lord Fairfax Health District
Jones	Angie	12/31/2019	Director Clarke County DSS
Legrys	Mark	12/31/2019	Court Services Unit Supervisor
Obradovic	Laura	12/31/2020	Private Provider - Grafton School

FAPT

Name	First Name	Term Length	Position
Allen	Gay	12/31/2018	DSS - Foster Care Worker
Normoyle	Vicki	12/31/2018	Northwestern Community Svcs
Opoku-Achampong	Kista	12/31/2019	26th District Court Svcs Unit
Thompson	Christine	12/31/2019	CCPS - Social Worker
Rosseau	Chris	12/31/2020	Private Provider - Intensive Supervisor & Counseling

Name	First Name	Term Length	Position
Vacant	Position	12/31/2020	Parent Representative

Supervisor Daniel moved that the expiration dates of the appointments be extended to the term lengths recommended by staff. 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

- D. Process for its vacancy notification to the Board of Supervisors for FAPT and CPMT board members, as well as CPMT's recommendation for appointment to FAPT.

By consensus, instructed David Ash to send a letter to Angie Jones regarding vacancy notification.

13) Board of Supervisors Work Session

Other Matters Not On The Agenda

2017-07-10 Summary: Supervisor Byrd provided brief comments on the following three items:

- Benches at the General District Court
- Enforcement at Pasture Palooza
- Potential Zoning Issues

07/18/2017 Action: No action taken at the regular meeting.

- A. 2017-07R Resolution to cover Volunteer Fire/EMS for Workers' Compensation

Pursuant to the Code of Virginia 65.2-101, the Workers' Compensation Act does not automatically provide coverage for volunteer members of fire and rescue departments serving public entities. If coverage is desired for these volunteers, a resolution defining them as employees for the purposes of workers' compensation coverage must be adopted by the governing body. A sample resolution is provided below.

Please note that workers' compensation benefits only extend to work-related accidents that are within the scope of their volunteer duties.

Sample Resolution: BE IT RESOLVED that the volunteer members of the fire departments and rescue squads of Blue Ridge Volunteer Fire and Rescue Company, Boyce Volunteer Fire and Rescue Company, John H. Enders Fire Company and Rescue Squad are hereby authorized to be included as employees for the purposes of the Workers' Compensation Act of the Commonwealth of Virginia and are entitled to coverage provided under said Act.

07-10-2017 Summary: **Supervisor Byrd moved "BE IT RESOLVED that the volunteer members of the fire departments and rescue squads of Blue Ridge Volunteer Fire and Rescue Company, Boyce Volunteer Fire and Rescue Company, John H. Enders Fire Company and Rescue Squad are hereby authorized to be included as employees for the purposes of the Workers' Compensation Act of the Commonwealth of Virginia and are entitled to coverage provided under said Act." 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

07/18/2017 Action: No action taken at the regular meeting.

B. Closed Session Pursuant to §2.2-3711-A3 Acquisition of Real Property

07/10/2017 Summary: **Supervisor Byrd moved that the Clarke County Board of Supervisors enter Closed Session pursuant to § 2.2-3711. Closed meetings authorized for certain limited purposes. A. Public bodies may hold closed meetings only for the following purposes: 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. 1. Discussion, consideration, . . . specific . . . employees of any public body - individual compensatory and annual leave balances. 7. 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. 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

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 - Absent
- Beverly B. McKay - Aye
- David S. Weiss - Aye

Vice Chair McKay further moved to execute the following Certification of Closed Session:

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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 taken following Closed Session.

07/18/2017 Action: No action taken at the regular meeting.

14) Finance Committee

1. Wireless Communication Facility Application Fees

Brandon Stidham reviewed the proposed application fees. He noted that other localities have similar fees as those proposed for Clarke.

Vice Chair McKay moved to approve the fees 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 |

New Wireless Communication Facility (WCF) Application Fees

New Base Application Fees

- Class 1 WCF site development plan (maximum height of 50 feet) -- \$500
 - Covers staff review time
- Class 2 WCF site development plan (maximum height of 80 feet) -- \$1,500
 - Covers staff review time, review by the Planning Commission, and public hearing expenses
- Class 3 WCF (maximum height of 120 feet) and Class 4 WCF (maximum height of 199 feet) site development plan -- \$1,500
 - Covers staff review time, review by the Planning Commission and Board of Supervisors, and public hearing expenses
 - Does not include separate fee for special use permit (\$825 for AOC/FOC zoning, \$2,500 for commercial zoning)
- Class 5 WCF site development plan (Amateur radio antennas) -- \$100
 - Covers staff review time
- Co-location of antennas and equipment, site development plan -- \$500
 - Covers staff review time

- Replace/upgrade/maintain antennas and equipment, site development plan -- \$500
 - Covers staff review time

New Consultant Review Fees

- Class 1 WCF (maximum height of 50 feet) -- \$2,000 (if required by Zoning Administrator)
- Class 2 WCF (maximum height of 80 feet) -- \$2,500 (mandatory review)
- Class 3 WCF (maximum height of 120 feet) and Class 4 WCF (maximum height of 199 feet) -- \$3,200 (mandatory review)
- Class 5 WCF (Amateur radio antennas) -- \$100 (if required by Zoning Administrator)
- Co-location of antennas and equipment -- \$1,000 (if required by Zoning Administrator)
- Replace/upgrade/maintain antennas and equipment -- \$850 (if required by Zoning Administrator)

Summary Chart

Class	Application Fees	Telecommunications Consultant Fee*	Telecommunications Consultant Review Required?
1 (50' max)	\$500	\$2,000	At zoning administrator's discretion
2 (80' max)	\$1,500	\$2,500	Yes
3 (120' max)	SUP fee** + Site Plan fee (\$1,500)	\$3,200	Yes
4 (199' max)	SUP fee** + Site Plan fee (\$1,500)	\$3,200	Yes
5 (amat. radio)	\$100	\$100	At zoning administrator's discretion
Co-location	\$500	\$1,000	At zoning administrator's discretion
Upgrade/ Maint.	\$500	\$850	At zoning administrator's discretion

* County engineering review will be required – in addition to the telecommunications consultant review – for new Class 3 and 4 WCFs and for any other WCFs that require erosion and sediment control plans.

** Special Use Permit (SUP) fee remains unchanged -- \$2,500 per each disturbed acre for commercial-zoned properties; \$825 for AOC and FOC-zoned properties

2. Bills and Claims

**Supervisor Catlett moved to accept the June invoice history report 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. Standing Reports

The following reports were provided: Expenditure Summary, Capital Projects Status.

15) Government Projects Update

David Ash provided the monthly project update.

- BCCGC:
 - o Painting begins next month.
 - o Employee entrance door replacement under consideration.
 - o Public Works has grounds keeping on its schedule.
- Convenience Center: Engineers continue to work.
- Primary School:
 - o Superintendent Bishop advised Mr. Ash that the contractor has assured him that the project will be done on time.
 - o Seeking bids for roof replacement on current administrative offices following Primary School renovation.

16) Miscellaneous Items

County Entertainment

In response to complaints raised by Joyce Fiddler, Supervisor Byrd requested discussion on Chapter 120 Noise, Chapter 57 Special Events, and the approved Special Event Permit for Pasture Palooza Music and Arts Festival July 2016, 2017, 2018 at 339 Minniewood Lane. Following discussion, the Supervisors directed staff to:

- 1) Review Chapter 120 Noise and Chapter 57 Special Events and provide recommendation.

- 2) Review Special Event Permit for Pasture Palooza Music and Arts Festival July 2016, 2017, 2018 at 339 Minniewood Lane and provide findings to the Board.

17) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Provide Angie Jones with vacancy notification requirements for CPMT and FAPT.	David Ash
3.	Provide letter to legislators re draft wireless infrastructure bill.	Brandon Stidham
4.	Draft public hearing notice for SUP-17-03/SP-17-01	Lora B. Walburn
5.	Review Chapter 120 Noise and Chapter 57 Special Events and provide recommendation to the Board.	David Ash
6.	Review Special Event Permit for Pasture Palooza Music and Arts Festival July 2016, 2017, 2018 at 339 Minniewood Lane and provide findings to the Board.	David Ash

18) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Berryville Town Council:
 - VDOT, Town of Berryville and CCPS will pay for flashing lights at crosswalks.
 - Still discussing painting Berryville on the side of the water tank. Estimated cost to paint tank is \$9,000.
 - Precautions during the planned maintenance to Need filled tanker truck on stand by and have fire company on alert because it leaves the Town a water source down.
- Humane Foundation: Performed grounds cleanup at the Shelter.
- Social Services:
 - Looking for two new members.
 - Regional Jail: Meeting set for this Thursday. David Ash and Tony Roper are unable to attend the schedule meeting.
 - CEA: Meeting scheduled at the same time as regional jail meeting; and with David Ash and Tony Roper unable to attend that meeting, Supervisor Byrd is unable to attend the Conservation Easement Authority meeting.

- Northwest Regional Adult Drug Treatment Court Advisory Committee: Interesting meeting. Committee members include a judge and several Commonwealth Attorneys.
- VACo Region 6 Meeting: August 10 Clarke hosting Region 6 district meeting at John H. Enders. Region 6 includes Clarke, Frederick, Greene, Madison, Page, Shenandoah, Warren Counties. CPMT: Attended first meeting yesterday during which the group completed a government survey.

Supervisor Terri T. Catlett

- Parks and Recreation:
 - Waiting to erect new pavilion.
 - Partnered with Berryville for concert in Rose Hill Park.
 - A summer concert is scheduled at Chet Hobert Park.
 - All is well with the swimming pool this summer.
 - Still brainstorming uses for the Kohn property.
 - An apple pie contest is scheduled for July 29; proceeds go to the Laurel Center
- Clarke County School Board:
 - Discussed pedestrian crosswalks for students.
 - Following a retreat at the Clarke County High School, the School Board also attended a retreat in Charlottesville.
 - Board working on internet availability.
- Millwood: Due to a scheduling conflict, unable to attend the community picnic held two weeks ago.

Supervisor Mary L.C. Daniel

- Planning Commission: Brandon Stidham reviewed earlier in the session.
- Library Advisory Council: Laurine Kennedy and John Huddy reviewed earlier in the session.
- Broadband Implementation Committee: Brandon Stidham reviewed earlier in the session.

Vice Chair Bev B. McKay:

- Sanitary Authority: Met this morning and discussed:
 - Lightning strike.

- Development of an alternate water supply for Prospect Hill Spring as requested by the state. An engineering firm has identified potential sites.
- Grinder pump station replaced in Millwood.
- NSVRC: Attended the meeting. Discussed recent purchases.
- BCCGC: Discussed moving library drop boxes to the hill in an effort to reduce confusion at the back of the building.

Chairman David S. Weiss

- Fire and EMS Commission:
 - Did not meet in June.
 - Brian Lichty drafting policy at the direction of the Commission.
- MOU: Need to schedule meeting.
- IDA: Meets next week.
- EDAC:
 - Meets tomorrow.
 - John Milleson would like to coordinate a real estate seminar for elected and appointed bodies.
 - By consensus, the Board agreed that the Economic Development Director should continue providing weekly reports.

David Ash introduced Stephanie Smith, Administrative Assistant – County Administration, who joined County Administration on Monday, June 26, 2017.

Chairman Weiss recessed the meeting at 4:16 p.m.

Chairman Weiss reconvened the meeting at 6:32 p.m.

19) Citizens Comment Period

No citizens addressed the Board.

20) PH 17-08: SUP-17-01, Hecate Energy Clarke County LLC and Hecate Energy LLC.
Request amendment of special use permit (SUP) SUP-16-01

Brandon Stidham, Clarke County Planning Director, summarized the amendment to the special use permit including revised conditions, as well as staff recommendations. Patti Shorr - Hecate VP Project Development, and Thomas Chandler Kleine – Troutman Sanders, Dominion counsel, and other applicant agents were in attendance. Response to Supervisor questions include:

- Inspection scheduled to determine compliance with conditions specific to property damage. This condition deals with damage that has occurred from truck traffic along the frontage of the property and not power washing homes.
- Property will not be divided and will be taxed as one parcel. Site plan includes the physical line delineating phase 1 and phase 2.
- Karst engineer, Dan Rom – Piedmont Engineering, advised that because of the number of sink holes on the property and other karst features he did not see any issues that needed to be mitigated at this time; but, he did recommend that staff establish an ongoing monitoring. The applicants has agreed to provide karst testing and the County will provide that report to Dan Rom for review.

Chairman Weiss granted the applicant opportunity to address the Board:

Highlights of comment by Patti Shorr, include:

- Thanked the Supervisors for the expedited schedule.
- Presented a video short showing an aerial view of Phase 1.
- A portion of the Gibson property does go into Frederick County but this project does not enter Frederick County.
- Contacted homeowners about power washing. One neighbor was provided funds to power wash her home at her convenience.
- DEPCOM Construction has tried to be respectful, accommodating during this massive construction project.
- Dominion and Hecate will continue to be good neighbors.
- Mailboxes knocked over during construction have been replaced; and to the extent that it knows of problems, DEPCOM has worked diligent to address neighbor's concerns.
- Weeds around fencing will be addressed when completing the site stabilization work.

At 6:52 pm, Chairman Weiss opened the public hearing.

Brian Smith, lives about a quarter mile from facility: stated that he supported the facility and opined that Hecate was a good neighbor. He noted that the recent dry spell damaged the newly-planted trees.

Brandon Stidham responded that the County has a condition in place that one year from planting date Hecate is to call for an inspection and trees will be replaced at point or earlier at the applicant's discretion.

Martha Freeman: lives next door to the property: Provided the following:

- When Hecate first started the project, they were going through her property to get onto the project site. Her real concern is that they went through her property without her consent. Mr. Gibson has been using the gate to access his property for years; and in fact, for years, she believed this property belonged to Mr. Gibson. However, after she had the property surveyed, she found that the property belonged to her.
- The boss man on the site, whose name she could not remember, promised her that when they finished the project they were going to power wash all the houses.
- The solar farm is nice.
- She also noted the dead trees.

Chairman Weiss asked Mrs. Freeman if there was property damage besides dust.

Mrs. Freeman responded that there was no property damage.

Mr. Stidham added that early in the project Hecate was proposing to use Mrs. Freeman's entrance until the issued came up that her property comes to a point almost in the center of the entrance, which is why the entrance was relocated further down the road so as not to encroach on her property. Further, to his recollection, Hecate relocated its entrance prior to DEPCOM beginning construction on the site. He speculated that Mr. Gibson or Washington Gas might have used Mrs. Freeman's entrance after Hecate relocated its construction entrance.

Highlights of Patti Shorr's response include:

- Prosperity Landscaping is aware of problem with the trees. She noted that tens of thousands of dollars have been spent watering the trees with trucked in water. The landscaper, who has the obligation to replace the trees, suggested waiting until spring to make a determination.
- The entrance was moved so as not to encroach on Mrs. Freeman's property.
- If DEPCOM said that it would provide power washing, it will provide funds.

Being no one other persons present desiring to speak, Chairman Weiss closed the public hearing at 7:01 pm.

Vice Chair McKay moved to approve the amendment of Special Use Permit SUP 16-01 approved by the Board of Supervisors on June 21, 2016, to construct a 20MW solar power plant, large photovoltaic. The purpose of the request is to divide the SUP into two separate permits to allow for separate ownership and development of "Phase 1" and "Phase 2" of the facility as depicted on the approved site development plan (SP-16-01 as amended).

Chairman Weiss expressed the Board's appreciation for completion of Phase 1 opining that the project was good for all involved.

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

Economic Benefit Discussion

David Weiss briefed the Board on the requested action.

Vice Chair McKay moved to approve the First Amendment to Economic Benefits Agreement. 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

First Amendment To Economic Benefits Agreement

This first Amendment to Economic Benefits Agreement (the "first Amendment") is entered into as of this 18th day of July, 2017 (the "Effective Date"), by and between the BOARD OF SUPERVISORS OF CLARKE COUNTY, VIRGINIA (the "County"), HECATE ENERGY CLARKE COUNTY LLC, a Delaware limited liability company, its successors or assigns ("Hecate Clarke"), and HECATE ENERGY LLC, a Delaware limited liability company, its successors or assigns ("Hecate Parent", and together with County and Hecate Clarke, the "Parties").

Recitals:

WHEREAS, County and Hecate Clarke are parties to that certain Economic Benefits Agreement, dated September 29, 2016 (the "Original Agreement"), whereby, in connection with the approval of Special Use Permit SUP-16-01 (the "Original SUP"), Hecate Clarke agreed to make certain contributions to the County associated with the development of a 20 Mw solar project (the "Project") on a certain parcel of land located in Clarke County, Virginia, identified as Tax Map# 27-A-5 (the "Parcel");

WHEREAS, the Original Agreement contemplated that the Project would be developed over time in two phases, identified as Phase I and Phase II, and that certain contributions to the County would occur with the development of each phase.

WHEREAS, the County has amended the Original SUP, such that the Phase I portion of the Project is authorized under SUP-17-01 and the Phase II portion is authorized under SUP-17-02.

WHEREAS, Phase I and Phase II are more particularly described in the amended SUPs and more particularly shown on Site Plan SP-16-01, approved by the County on June 21, 2016 with the approval of the Original SUP;

WHEREAS, SUP-17-01 obligates Hecate Clarke to comply with the Original Agreement in connection with the development of Phase I and SUP-17-02 obligates Hecate Parent to comply with the Original Agreement in connection with the development of Phase II; and

WHEREAS, the Parties desire to clarify certain terms and conditions of the Original Agreement to specify the obligations applicable to each of Phase I and Phase II Amendment:

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants contained herein and in the Original Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Defined Terms.** Unless otherwise defined herein, all capitalized terms used in this First Amendment shall have the meanings ascribed to them in the Original Agreement.
2. **Phase I and Phase II Payments.** Notwithstanding anything contained in the Original Agreement to the contrary, the annual payments associated with Phase I of the Project, described in Section 3 of the Original Agreement, shall remain the responsibility of Hecate Clarke (unless otherwise assigned) and Hecate Parent, the owner of Phase II, shall be responsible for: (i) the "good neighbor" payment due and payable prior to the issuance of the second land disturbance permit pursuant to Section 2 of the Original Agreement, and (ii) the annual payments described in Section 4 of the Original Agreement (items (i) and (ii), collectively, the "Phase II Payments"). Hecate Clarke shall have no liability or responsibility for the Phase II Payments.
3. **Prior Payments.** The Parties acknowledge and agree that (i) all Roll-back Taxes due and payable pursuant to Section 1 of the Original Agreement, and (ii) the "good neighbor" payment applicable to Phase I, have both been paid in full prior to the Effective Date of this First Amendment.

4. Ratification. Except as expressly amended hereby, the Original Agreement and all of the terms, conditions and covenants of the Original Agreement are hereby ratified and confirmed and shall remain and continue in full force and effect.

5. References to Agreement. All references in the Original Agreement and in this First Amendment to the "Agreement" shall hereafter be deemed to refer to the Original Agreement, as amended by this First Amendment.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have executed this First Amendment under seal as of the Effective Date.

County: Board Of Supervisors Of Clarke County, Virginia

	By:	Name:	Title:
Hecate Clarke:	Hecate Energy Clarke County LLC, a Delaware Limited Liability company		
	By:	Name:	Title:
Hecate Parent:	Hecate Energy LLC, A Delaware Limited Liability Company		
	By:	Name:	Title:

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, August 15, 2017, at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

21) Adjournment

At 7:04 pm, being no further business, Chairman Weiss adjourned the meeting.

ATTEST: July 18, 2017

David S. Weiss, Chair

David L. Ash, County Administrator

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