

September 19, 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, September 19, 2017.

Board Members

Present Afternoon Session: 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 Session: None

County Staff Present

David Ash, Brian Lichty, Brandon Stidham, Lora Walburn

Constitutional / State Offices

Anthony "Tony" Roper

Press

Cathy Kuehner - The Winchester Star

Others Present

Ed Carter, Charlie Monroe, Keith Dalton, Phyllis Nee, and other citizens

1) Call to Order

Chairman Weiss called the afternoon session to order at 1:00 p.m.

2) Adoption of Agenda

David Ash requested the following changes:

- Closed Session Change from 2.2-3711 A7 to A3
- Miscellaneous: Add Sesquicentennial Update by David Ash

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	- Aye
David S. Weiss	- Aye

3) Citizens Comment Period

No citizens addressed the Board.

4) VDOT Update

Ed Carter, Assistant Residency Administrator, provided the following update:

Maintenance

- Completed second round of mowing on secondary routes;
- VDOT will begin second round of mowing on primary routes to coincide with butterfly restrictions;
- Conducted grading operations on non-hard surfaced routes and will continue next month;
- Repaired wash outs on Rt. 605 and repaired potholes on various non-hard surfaced routes;
- Removed dangerous trees on Rt. 611 and will continue on various other routes throughout the County;
- Sprayed brush on routes 340 and 50;
- VDOT will be patching along routes 628, 642,646 and 658 and grading the shoulder under guardrail on Rt.50;
- VDOT will also plant the remaining area of the pollinator project at the Park and Ride on Rt. 50.

Projects:

- Allen Road: VDOT completed the drainage and shaping work on Allen Road including priming and sealing the driveway entrances. The contractor is scheduled to start priming and sealing the travel lanes within the next two weeks.

Board Issues:

- Appalachian Trail Parking Rt. 7: The work permits have been issued for the clearing/brush cutting at the Appalachian Trail parking area on Rt. 7.
 - Supervisor Catlett thanked VDOT for its continued work on the Appalachian Trail parking lot.
 - To preserve bat habitat, restricted from removing limbs and branches over a certain size until after a certain date. VDOT provided an estimate; however, the County is allowed to find another contractor.
 - VDOT's position is that the County would control the parking area.

- Supervisor Byrd
 - Route 340 Cigarette Store: Parking issues appear to be resolved.
 - Medians: Ed Carter advised that to preserve butterfly habitat VDOT now only mows the first 18 feet.
 - Red Fescue: Obstructing view on Route 340.
 - Johnson Grass: VDOT will mow.

- Vice Chairman McKay
 - Johnson Grass: Thanked VDOT for removing Johnson Grass in his district.
 - Shenandoah Farms: Review 35 MPH zone.
 - Bethel Lane: Remove dead tree.

- Supervisor Daniel
 - Traffic calming options that don't involve signs and speed limits: VDOT has a dedicated division for this purpose. Ed Carter will provide information to David Ash.
 - Hermitage School Crossing: Contractor will soon place ADA ramps.

5) Review of Proposed Convenience Center Special Use Permit and Site Development Plan application (SUP-17-03/SP-17-01)

Brandon Stidham provided an update on the review.

- Three items affecting review:
 - o Received VDOT general comments and approval.
 - o Hurtt and Profitt working with DEQ.
 - o Project engineer completed the karst study and provided to the Planning Department. Planning forwarded the study to the County's engineer, Dan Rom, Piedmont Environmental, for review.
 - o Deadline requirements should be met by the October 6 Planning Commission meeting.

David Weiss asked the County Administrator to include in the public hearing presentation a brief history of the site search.

Supervisor Byrd moved to rescheduled public hearing on SUP-17-03 / SP-17-01 to 6:30 pm on October 17, 2017, or as soon thereafter as the matter may be heard contingent upon meeting Planning Commission requirements by its October 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

6) Set Public Hearing TA-17 -03, Off-Street Parking Requirements for Certain Properties in Millwood

Brandon Stidham provided a brief history of the proposed text amendment including a map of the affected properties referenced by tax map number and street address. Mr. Stidham advised that the text amendment would exempt these businesses from the County's parking regulations but it would not correct the parking issues that exist in this historic area.

Supervisor Daniel commented that this is an ordinance that addresses what can be done right now and is a piece of a larger issue. It acknowledges what is there but does not put forward a corrective plan.

Supervisor Byrd put forth that she hoped that the area residents agreed with the proposed change.

Vice Chairman McKay assured that residents were in agreement with the proposed text amendment.

Brandon Stidham added that "by-right" uses for these parcels are very clear.

Vice Chair McKay moved to set TA-17-03, Off-Street Parking Requirements for Certain Properties in Millwood for public hearing at 6:30 pm October 17, 2017, 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-2017-01, Erosion & Sediment Control Ordinance

Brandon Stidham briefed the Board on the proposed County Code that models the current State standards.

Supervisor Catlett moved to set CC-2017-01 for public hearing at 6:30 pm October 17, 2017 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) Approval of Minutes

Supervisor Daniel: Book 23 Page 67 missing the word "not" in third to last line: *"She stated the old courthouse was historic, fabulous; but it was **not** designed for current security concerns. She opined that one way to fix the issue was to move court cases to a different courthouse."*

Supervisor Byrd moved to approve the minutes for August 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

9) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through November 2017

09/11/2017 Summary: The Personnel Committee recommends appointment:

- Alan Melusen, Board of Social Services, to serve the unexpired term of Ralph Edwin Pierce. Term of office expires July 15, 2018.

09/18/2017 Action: **Supervisor Byrd moved to approve the recommendation for appointment. The motion carried by the following vote:**

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

Chairman Weiss thanked Mr. Pierce for serving and asked staff to prepare a letter of appreciation.

B. FLSA Exemption Review for CCSO

Note: Stephanie Smith, Administrative Assistant / Employee Support Coordinator, is scheduled to participate on Tuesday, September 26, 2017 – 10:00 a.m. Central, in a webinar on the subject of FLSA Exemption Status.

09/11/2017 Summary: David Ash provided update to the Committee.

09/18/2017 Action: David Ash advised that he had just been provided legal opinion and had not had an opportunity to review.

C. Assistant Director of Communications

09/11/2017 Summary: Sheriff Roper requested Personnel Committee review and recommendation for an upgrade to this title and grade.

09/18/2017 Action: Mr. Ash noted that Sheriff felt there was a need to increase staffing for the position of Assistant Director of Communications. Also, Sheriff Roper advised that his current budget could handle any pay rise.

David Weiss added that with the Sheriff hoped the change would improve employee, supervisor ratio.

10) Board of Supervisors Work Session Items

A. Closed Session

09-11-2017 Summary: Supervisor McKay moved that the Clarke County Board of Supervisors enter Closed Session pursuant to 2.2-3711 A7 Briefing by County Administrator David Ash 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	-	Aye
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, 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	-	Aye
David S. Weiss	-	Aye

No action taken following Closed Session.

B. Convenience Center Update by David Ash

At the request of Supervisor McKay, Board members observed a moment of silence in remembrance of the victims of the terrorist on this date in 2001.

09/11/2017 Summary: David Ash reviewed the engineer's timeline and noted that adherence to the deadlines established therein would meet the Planning Commission's submission requirements as confirmed by Brandon Stidham.

09/18/2017 Action: David Ash reviewed. See Item 5.

C. Tax Relief for the Elderly and Disabled Additional Information by Supervisor Byrd

09/11/2017 Summary: Following extended discussion, **Supervisor McKay moved to accept the Finance Committee's recommendation to leave the ordinance as is at this time. The motion carried by the following vote:**

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

09/18/2017 Action: No action taken at the regular meeting.

D. Courthouse Benches Update by Supervisor Byrd

09/11/2017 Summary: Supervisor Byrd was asked to continue her follow up with Juvenile and Domestic Court Judge Kim Athey. County Administrator Ash was instructed to forward the request for benches to the Maintenance Director for consideration in the FY2018 budget.

09/18/2017 Action: Supervisor Byrd is awaiting response from the Juvenile and Domestic Relations Court.

E. Other Business

09/11/2017 Summary: Chairman Weiss directed the County Administrator to review the Rules of Procedure and recommend considerations of limitations of items added after agenda publication

09/18/2017 Action: No action taken at the regular meeting.

11) Finance Committee

A. FY2018 Supplemental Appropriations. Blue Ridge Hospice Donation

09/11/2017 Summary: The Finance Committee recommends: *"Be it resolved that the Sheriffs FY2018 expenditure and appropriation be increased \$1,389, and that revenue from a private source be recognized in the same amount, all for the purpose of making a donation to the Blue Ridge Hospice on behalf of an indigent citizen."*

09/18/2017 Action: David Ash briefly reviewed. **Supervisor Byrd moved to approve "Be it resolved that the Sheriffs FY2018 expenditure and appropriation be increased \$1,389, and that revenue from a private source be recognized in the same amount, all for the purpose of making a donation to the Blue Ridge Hospice on behalf of an indigent citizen."** 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. Bills and Claims

09/11/2017 Summary: The Finance Committee recommends approval of the August 2017 Invoice History Report

09/18/2017 Action: **Supervisor Catlett moved to accept the August 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

C. Standing Reports

FYI: Reconciliation of Appropriation, Expenditure Summary, Capital Projects Status

12) Government Projects Update

David Ash provided the monthly project update.

– Convenience Center:

- Executive summary of the karst report indicates nothing present that would preclude the County from moving forward with the project as designed.
- Ed Carter was instrumental in moving VDOT review through the process.
- Mike Legge has drafted a proposal for well development.
- The County should be out to bid in late fall or early December.

- Primary School: Joint Administrative Services is moving into building today.
- Pavilion at Park: Subject to several delays. Lisa Cooke indicates that it is due for erection late September to early October.

13) Miscellaneous Items

Sesquicentennial Final Report

David Ash informed the Board that this week Bob Stieg, Chair of the Sesquicentennial Committee, had provided him the following:

- Final Report of the Clarke County Committee on the Sesquicentennial of the American Civil War and Emancipation 2010-2015
- Framed commendation from the Senate and the House of Delegates expressing sincerest gratitude to the Clarke County Sesquicentennial Committee.

Chairman Weiss asked staff to verify that letters of appreciation were sent to members of the Sesquicentennial Committee.

14) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Letter of appreciation to Edwin Pierce	Lora B. Walburn
3.	Compile notice of appointment and update database.	Lora B. Walburn
4.	Execute notice of appointment.	David Weiss
5.	Verify that letters of appreciation were sent to members of the Sesquicentennial Committee.	David Ash
6.	Check Frederick County tax rate to verify accuracy of rate reported in SAAA report.	David Ash

15) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Berryville Town Council:
 - Attendance down over the last two meetings.
 - Discussed storage facility on Cattlemen's Lane.

- CEA: Scheduled for Thursday.
- Substance Abuse Coalition:
 - Meeting held at hospital conference center.
 - Representatives from law enforcement and jails attended the meeting.
 - Drug court has had a good success rate.
 - Researching ways to re-educate.
 - Discussed:
 - Persons affected by addiction.
 - Types of drugs used in the area.
 - Funding and alternate methods.
 - Prevention, treatment, and recovery.
- Humane Foundation: Proceeding with caution. Getting answers prior to removing pets from disaster areas.

Supervisor Terri T. Catlett

- Parks and Recreation: Did not meet.
- Clarke County School Board:
 - Met on August 28.
 - Discussed Superintendent's goals.
 - Unable to attend the first meeting of the Strategic Plan Committee scheduled for September 28. David Weiss volunteered to attend in her absence.
 - Adding health and wellness to goals.
- Millwood: See Agenda Item 6.
- Boyce: Will be discussing the town plan.
- SAAA Report: Provides good information. Check Frederick County tax rate.

Supervisor Mary L.C. Daniel

- Planning Commission:
 - Reviewed Convenience Center and Millwood Parking.
 - Planning Commission will be reviewing deadlines.
 - Will be responsible for providing the Planning Commission with a monthly update from the Broadband Implementation Committee.

- Library Advisory Council: Did not meet.
- Broadband Implementation Committee by Supervisors Daniel and McKay:
 - Due to scheduling conflicts, only WISP providers were able to attend the meeting.
 - Winchester Star article today covers the meeting.
 - Recent ordinance modifications meet provider requirements.
 - Ashburn is a primary data storage area.
 - WISPs are rapidly expanding service areas.
 - Supervisors Daniel and McKay are opposed sending letters to every household in the County.
 - Robina Rich Bouffault checked with the Schools regarding letters to all student parents.
 - Letters will be sent to business license holders.

Vice Chair Bev B. McKay

- Joint Building Committee: Voted to relocate drop boxes for the Library, County, and Town.
- Sanitary Authority: Discussed writing off fees owed by a church that is in foreclosure.
- NSVRC: Did not meet.

Chairman David S. Weiss

- Economic Development Advisory Committee: Meetings tomorrow.
- Fire & EMS Commission: Meets Thursday.
- MOU Committee: Meets in October.

16) Closed Session Pursuant to §2.2-3711-A3

At 2:55 pm, Supervisor Byrd moved that the Clarke County Board of Supervisors enter Closed Session pursuant to §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.

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 3:19 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:

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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.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, October 17, 2017, at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

17) Adjournment

At 3:20 pm, being no further business, Chairman Weiss adjourned the meeting.

ATTEST: September 19, 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