



(Evening Session) None

1) *Call to Order*

Chairman Weiss called the meeting to order at 1:01 pm.

2) *Adoption of Agenda*

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

Matthew E. Bass	-	Absent
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

At 1:02 pm, Supervisor Bass joined the meeting remotely via telephone, advised that he was at his residence and would like to participate remotely due to illness. No objections were raised.

3) *Citizen's Comment Period*

No persons appeared to address the Board.

4) *VDOT Update*

Residency Administrator Ed Carter provided the following update on VDOT maintenance activities this month:

- Completed fall fence-to-fence mowing on primary routes.
- Began brush-trimming operations on Wrights Mill Road and will continue brush trimming on various routes throughout the winter.
- Began ditching operations on Good Shepherd Road and will begin shoulder repairs on Route 7.

- Cleaned up substantial amounts of storm debris and continuing with residual clean up.
- Mobilized for an ice event and addressed potholes as they arose.

Ed Carter provided the following update on Board issues:

- A draft report for traffic concerns in Millwood is nearing completion, should be scheduling a meeting with Millwood citizens at the Berryville-Clarke County Joint Government Center after the first of the year.
- For repairs on Morgan Mill Road, VDOT is waiting on contractor estimates. Work will start after January 1, if the estimates are within allowable funding range and weather permitting.
- VDOT met with the railroad company on-site about the drainage pipe issues in Boyce. Prior to repair, there will be a lengthy permitting process because it is unclear who owns the pipe underneath the railroad.

Supervisor McKay

- Asked who issues the permits.
  - Ed Carter answered the railroad company requires a permit for any work to be done on their right-of-way, which is where the damaged pipe is located.

Supervisor Lawrence

- Inquired if it was possible the railroad would fix it.
  - Ed Carter replied he is unsure, because it is not clear whether VDOT or the railroad actually owns the pipe. VDOT is willing to absorb it in order to get the repair done.

Ed Carter continued his update:

- Also met with a hydrologic engineer about options to fix flooding issues in the town of Boyce, especially behind Town Hall. If the pipe situation is resolved, the town may be able to tie a drain into VDOT's system, but there is no commitment at this time.
- In March 2023, VDOT will reevaluate the last signal warrants study done in Boyce, particularly the turning movements and volumes at the intersection of Route 723 and Route 340. The last study did not meet enough warrants to justify additional signal. However, with increases in traffic volumes and number of accidents, there is some indication that it may now meet another warrant. If additional signal is warranted, it will require pursuing whatever funding processes are available. Installation would cost \$500,000 to \$1 million.

Vice Chair Catlett

- Questioned if there are line of sight concerns at that intersection.

- Ed Carter responded that line of sight is not as critical because a signal would control traffic. Line of sight is an issue when there is nothing to control the flow of traffic on the main line.

Chairman Weiss

- Advised that, historically, there have been concerns that the hill crest and curvature of the road present sight issues for approaching stopped traffic and queuing.
  - Ed Carter stated that the warrant study completed approximately three years ago did not question that. Regardless of sight distance, VDOT always hesitates to put signals in because driver inattention increases crashes. As well, Route 340 is one of historical significance, so getting approval for a signal would be slow, as it must to go through the Commonwealth Transportation Board (CTB), the Commissioner, and the Secretary. They could also suggest alternative solutions.

Supervisor Lawrence

- Shared a request from a constituent: they would like areas in the immediate vicinity of houses close to the road to be skipped when VDOT installs rumble strips, as vehicles hitting the rumble strips cause disruptive noise.
  - Ed Carter replied that rumble strips decrease the likelihood that a vehicle will leave the roadway and potentially collide with a house near the road, so skipping those areas would defeat the purpose.

5) *FY22 Audit Presentation by Robinson Farmer Cox*

Copies of the FY22 financial audit report were distributed at the meeting. The report is available to reference on the county's website.

Michael E. Lupton of Robinson, Farmer, Cox Associates presented the following:

- Management is responsible for the financial statements as well as for maintaining a system of control conducive to the fair preparation and presentation of the statements.
- Robinson, Farmer, Cox Associates are responsible for performing the audit in accordance with generally accepted auditing standards and for obtaining sufficient audit evidence to render an opinion on the financial statements.
- Generally, all financial statements contain estimates and Clarke County is no an exception to that standard. The depreciation of capital assets, the allowance for uncollectable property tax revenue, and the evaluation and assumptions utilized by actuaries for determination of the net pension OPEB liabilities are significant estimates and, while they do not impact cash flow, they could significantly impact the financial position of the county.

- No significant difficulties were encountered. All proposed adjustments have been posted to the accounting system and have been both reviewed and accepted by management. There were no disagreements with management in performing the audit and, ultimately, no other significant matters to address at this time.
- On Page 1, the Independent Auditors’ report begins with the auditors’ unmodified opinion that the financial statements, as presented, are materially correct in accordance with generally accepted accounting principles.
- Management’s Discussion and Analysis starts on page 5 and is a brief and concise overview of the year’s financial happenings.
- There are two sets of financial statements. Full accrual statements report the long-term assets and liabilities of the county, while modified accrual statements use a more short-term basis of accounting.
- Page 15 is a balance sheet showing total assets of the county to be approximately \$39.8 million, total liabilities of \$4.7 million, total deferred inflows of resources of \$16.6 million, and total fund balances of \$18.4 million.
- The Statement of Revenues, Expenditures, and Changes in Fund Balances starts on page 17 shows an excess of revenues over expenditures of approximately \$3.1 million.
- Beginning on page 24, Notes to Financial Statements provides details and context.
- A table at the bottom of Page 57 shows the sensitivity of the reported pension asset and liability figures. Actuaries used a discount rate of 6.75%. Those figures could fluctuate dramatically if that rate were to change by a mere 1%.

Chairman Weiss

- Observed that pensions were not included in the past.
  - Michael Lupton affirmed, adding that FY16 was the first year that net pension liability was required to be presented.
- Further asked how Clarke County’s position relate to other governments.
  - Michael Lupton answered that it is very similar, because the plan is administered by the state. The employer contribution rate is set by the state, so the only controllable variable for localities is whether or not they meet the set rate.
  - Mr. Lupton clarified that the Government Accounting Standards Board determined that pension liability must be included because local governments are responsible for making contributions to the Virginia Retirement System (VRS) pension plan and therefore also for the resultant net pension liability.

Vice Chair Catlett

- Posited that local governments are ultimately liable for something that only contribute to and do not really manage.

- Michael Lupton advised that VRS manages the plan investments and sets the standard contributions across the state.

#### Supervisor Lawrence

- Queried if the state legislature ever contributes to that plan.
  - Mr. Lupton answered yes, the state made a contribution in the past year that will take effect for the FY23 reporting.

Michael Lupton continued the presentation:

- Exhibit 12 on page 97 presents a summary of budgeted versus actual expenditures and revenues. Total revenues were under-budget by \$410,628 and total expenditures were under-budget by about \$4.6 million. This resulted in an excess \$4.2 million of revenues over expenditures, from a budgetary perspective and an increase of about \$3.1 million in the general fund.
  - Chris Boies added that the revenues included \$2.8 million of ARPA funds, which was deferred so it skewed the total. Revenues were actually higher than budget projections.

#### Chairman Weiss

- Inquired if most localities have issues forecasting revenues, considering the amount of state and federal funds flowing in and out during the Covid years.
  - Mr. Lupton replied yes, there have been multiple questions about recognizing that revenue from an actual accounting perspective versus a budgetary perspective and there seems to be a disconnect.

Michael Lupton continued:

- A more detailed budget-to-actual presentation of revenues starts on page 146 and the same for expenditures begins on page 155. These include all government funds and also the component unit – school board.
- The statistical section of the report begins on page 162 and provides context in the form of financial and demographic information from the past 10 years.
- Page 176 begins a report on internal controls, which notes that no significant weaknesses or material deficiencies were found.
- A report on compliance required by the Uniform Guidance starts on 178. The federal program chosen for single audit was the child nutrition cluster, and no instances of non-compliance were noted.
- The staff and team at Joint Administrative Services were very helpful, forthcoming, and timely in providing information throughout the audit process.

#### Chairman Weiss

- Echoed the auditors' appreciation to staff and noted that the audit report's cover page incorrectly identifies the Board of Supervisors Vice Chairman as Beverly B. McKay. Terri T. Catlett was elected Vice Chair on January 11, 2022.
- Asked if Clarke's fund balance was high in comparison to other counties.

- Michael Lupton replied that looking at the other and unassigned fund balance as a percentage of the total governmental fund expenditures gives an approximate means of comparison. Many governments try to maintain 10%-35%. Clarke’s is approximately 50%, which is a good position to be in.
- Further added that Clarke tries to plan and save to pay for projects as much as possible, so that number can get skewed. It may appear that the county is hoarding money when it is in fact saving for projects.
  - Chris Boies added that a result of this approach is that there is only one piece of debt – for the joint government center building – on the general government side. The county’s debt service ratio is very good.

6) *Approval of Minutes*

**Vice Chair Catlett moved to approve the minutes of the November 22, 2022 Regular Meeting as presented. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

7) *Set 2023 Board of Supervisors Organizational Meeting Date, Time, and Location*

**Supervisor McKay moved to set the 2023 Board of Supervisors Organizational Meeting for Monday, January 9, 2023, at 9:30 am in the Main Meeting Room of the Berryville Clarke County Government Center. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

8) *Consent Agenda*

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

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

- 2022-18R Resolution Designating and Publicly Identifying an Additional Freedom of Information Act Officer for the Clarke County Board of Supervisors





### Clarke County Board of Supervisors

<b>Berryville Voting District</b> Matthew E. Bass (540) 955-5175	<b>Millwood Voting District</b> Terri T. Catlett – Vice Chair (540) 837-2328	<b>Russell Voting District</b> Doug Lawrence (540) 955-2144
<b>Buckmarsh Voting District</b> David S. Weiss – Chair (540) 955-2151	<b>White Post Voting District</b> Bev B. McKay (540) 837-1331	<b>County Administrator</b> Chris Boies (540) 955-5175

#### Resolution Designating and Publicly Identifying an Additional Freedom of Information Officer for the Clarke County Board of Supervisors 2022-18R

**WHEREAS**, the Code of Virginia sets forth in Chapter 37 Freedom of Information Act § 2.2-3704.2. Public bodies to designate FOIA officer:

- A. All state public bodies, including state authorities, that are subject to the provisions of this chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of this chapter.
- C. For such local public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body's place of business, posting on its official public government website, or including such information in its publications.
- E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council (the Council) or through an online course offered by the Council. Any such training shall document that the training required by this subsection has been fulfilled.
- F. The name and contact information of a FOIA officer trained by legal counsel of a public body shall be (i) submitted to the Council by July 1 of each year on a form developed by the Council for that purpose and (ii) updated in a timely manner in the event of any changes to such information.

**NOW, THEREFORE, BE IT RESOLVED**, the Clarke County Board of Supervisors:

- 1) Names Indea Ford as an additional Freedom of Information Officer to the Clarke County Board of Supervisors.
- 2) Orders contact information for Indea Ford be made publicly available and PD-121101-04 General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act be updated accordingly on its website, [www.clarkecounty.gov](http://www.clarkecounty.gov), and the revised document distributed to all general government department heads.
- 3) Acknowledges that Indea Ford has successfully completed DLS – Freedom of Information Act – FOIA training and holds a certificate of completion.
- 4) Instructs staff to submit on the appropriate form notice of its action to Freedom of Information Advisory Council of its public designation of Indea Ford.

**ADOPTED AND ORDERED ENTERED** in the official records by the unanimous vote of the Clarke County Board of Supervisors' members assembled on the 20<sup>th</sup> day of December 2022.

Attest 2022-18R

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

[www.clarkecounty.gov](http://www.clarkecounty.gov)

101 Chalmers Court, Suite B  
Berryville, VA 22611

Telephone: [540] 955-5175

– Application for Easement Donation – Philip & Victoria Hughes

MEMORANDUM

TO: Board of Supervisors  
FROM: Alison Teetor  
DATE: December 3, 2022  
SUBJECT: Application for easement donation – Philip & Victoria Hughes

Philip and Victoria Hughes have applied to the easement authority for approval of an easement donation. The property is located at 2374 Millwood Road approximately 7/10ths of a mile east of the intersection with Bishop Meade Road. The property is identified by Tax Map# 30-A-37. It consists of 15.26 acres with an existing pre-1980 house (built in 1950) and 2 DURs. The property consists of approximately 12 acres of forested land with the front 3 acres in residential use. The applicant proposes to retire the remaining DURs.

The parcel is zoned AOC and is not currently in use value taxation, but is eligible, in accord with the Commissioner of Revenue's requirements, then a donation may be considered if at least two of the following four guidelines are met:

- 1) the parcel's Property Resource Score is at least 35;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) the parcel is adjacent to a parcel already under permanent conservation easement;
- 4) the property has a minimum area of 40 acres.

The property meets 3 of the 4 criteria. The property resource score is 52.8. The applicant is retiring 2 DURs. It is next to an existing easements and it is less than 40 acres. Points were given for retiring 2 DURs, having frontage on Millwood Road, a state scenic byway.

The applicant would like to record the easement prior to the end of the year for tax purposes. The CEA has completed a site visit of the property and staff is requesting both preliminary and final approval for the easement donation at their December 9<sup>th</sup> meeting.

**Recommendation**

Approve the easement donation of Philip and Victoria Hughes for the property is identified as Tax Map# 30-A-37.



9) *Board of Supervisors Personnel Committee Items from December 12, 2022:*

A. Expiration of Term for Appointments Expiring through February 2023:

2022-12-12 Summary: Following review, the Personnel Committee recommends the following:

- Appoint Rachael Selman to replace Michael Austin as the Department of Social Services Alternate on the Community Policy and Management Team for a three-year term expiring December 31, 2025.
- Reappoint Frank Moore as the CCPS Representative on the Community Policy and Management Team for a three-year term expiring on December 31, 2025.

2022-12-20 Action: Chris Boies reviewed the above summary.

**Supervisor McKay moved to approve the Personnel Committee recommendations as presented. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

11) *Board of Supervisors Work Session Items from December 12, 2022*

Board of Supervisors Work Session Items  
Berryville/Clarke County Government Center, 2nd Floor  
101 Chalmers Court, Berryville, Virginia 22611  
December 12, 2022, 10:00 AM, Meeting Room AB

Board Members Present: David S. Weiss, Matthew E. Bass, Terri T. Catlett, Beverly B. McKay, Doug M. Lawrence

Board Members Absent: None

Officer / Staff Present: Chris Boies, Brandon Stidham, Catherine Marsten, Cathy Kuehner

Others Present: None

Press Present: Mickey Powell, The Winchester Star

2022-12-12 Summary: At 10:00 am, Chairman Weiss called the meeting to order.

- A. Closed Session Pursuant to §2.2-3711(A)(3) – At 10:01 am, Supervisor McKay moved to enter closed session as permitted by VA Code §2.2-3711(A)(3), to

discuss the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board of Supervisors. The motion carried unanimously.

At 10:36 am, with the members of the Board of Supervisors being assembled in the designated meeting place with open doors and in the presence of members of the public and/or the media desiring to attend, Supervisor Bass moved to reconvene in open session. The motion carried unanimously.

Supervisor Bass 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 December 12, 2022, 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 this 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:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

- B. 2022 Double Toll Gate Area Plan – Staff presented proposed alternative language for the 2022 Double Toll Gate Area Plan. The Board asked questions and discussed

the proposed language, which offers more flexible guidance in regards to Sub Area C. By consensus, the Board agreed to consider setting a public hearing at the December 20 Regular Meeting.

At 10:42 am, Chairman Weiss adjourned the meeting.

2022-12-20 Action: Chris Boies reviewed the above summary:

- A full meeting schedule 2023 has not yet been set. If the Board plans to keep to their regular schedule, the public hearing could be set for January 17.

Supervisor Lawrence

- Requested a minor wording change for Objective 1, Strategy A of the 2022 Double Tollgate Area Plan (page 25). Change “...extend public water and public sewer to Clarke County to serve the Plan Area” to read “...extend public water and public sewer to serve the Double Tollgate Plan Area in Clarke County”.
- Added that previous Boards have been averse to any water and sewer coming into the county, so it seems a good idea to make it clear only the plan area is involved. No objections were raised.
  - Chris Boies responded that this is not a substantial change to the plan, so the Board is still able to set public hearing for January.

**Supervisor McKay moved to set public hearing PH2023-01: 2022 Double Tollgate Area Plan for Tuesday, January 17, 2023, at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

12) *Board of Supervisors Finance Committee Items from December 12, 2022*

- A. Supplemental Appropriation Request for “Clarke County, Virginia: History through Architecture” book: The Board of Supervisors previously approved this grant project and appropriation in FY22. However, the book was not completed during FY22. It is expected that the book will be completed and printed during the current fiscal year and since there is no budget in the current fiscal year (FY23), a supplemental appropriation is being requested to cover the remaining costs of the project.

2022-12-12 Summary: Following review, the Finance Committee recommends, “Be it resolved that FY23 Historic Preservation Commission budgeted expenditure and appropriation be increased \$24,505, federal revenue budget and appropriation be increased \$19,005, and General Government Savings designation be decreased \$5,500, for the purpose of receiving the project grant funds and completing the ‘Clarke County, Virginia: History through Architecture’ book”.

2022-12-20 Action: Brenda Bennett reviewed the above summary:

- The expenditure appropriation and revenue appropriation requests are different because more revenue (including some local) than the expenditure came in last year and sat in fund balance.
- By the end of the project, expenditures and revenue will match. There is no new money involved.
- The book is expected to be completed and published by the end of FY23.

**Vice Chair Catlett moved, be it resolved that FY23 Historic Preservation Commission budgeted expenditure and appropriation be increased \$24,505, federal revenue budget and appropriation be increased \$19,005, and General Government Savings designation be decreased \$5,500, for the purpose of receiving the project grant funds and completing the ‘Clarke County, Virginia: History through Architecture’ book. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Abstain
David S. Weiss	-	Aye

- B. Supplemental Appropriation Request for VACorp Insurance Claim: Clarke County received \$17,917 for an auto insurance claim submitted on behalf of the Sheriff’s Office, for a cruiser that was totaled. The Sheriff’s Office is requesting the \$17,917 be appropriated to the Sheriff’s Vehicle expense line item in the Capital Projects fund. The claim amount, added to the current available budget of \$34,000, would give the Sheriff’s Office \$51,992 in appropriation, which would enable the purchase of a replacement cruiser and equipment.

2022-12-12 Summary: Following review, the Finance Committee recommends: “Be it resolved FY23 Capital Projects Fund budget and expenditure appropriation in the Sheriff’s Vehicles line be increased in the amount of

\$17,917, and that budgeted revenue and revenue appropriation in the Capital Projects Fund be increased and revenue from VACorp be recognized, for the purpose of purchasing a replacement cruiser for the Sheriff’s Office”.

2022-12-20 Action: Brenda Bennett reviewed the above summary.

**Supervisor Lawrence moved, be it resolved that the FY23 Capital Projects Fund budget and expenditure appropriation in the Sheriff’s Vehicles line be increased in the amount of \$17,917, and that budgeted revenue and revenue appropriation in the Capital Projects Fund be increased and revenue from VACorp be recognized, for the purpose of purchasing a replacement cruiser for the Sheriff’s Office. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

C. USTA Grant

2022-12-12 Summary: The Finance Committee heard about a \$10,000 grant received from the United States Tennis Association for the tennis courts at the park. No action was taken.

2022-12-20 Action: Brenda Bennett reviewed the above summary:

- The Director of Parks & Recreation pursued this grant to help with the tennis court repairs and resurfacing.

D. FY22 Opioid Funds

2022-12-12 Summary: The Finance Committee heard an update that the Auditor of Public Accounts has determined the first payment of Opioid Settlement Funds will be accrued back to FY22, which slightly increases the fund balance. No action was taken.

2022-12-20 Action: Brenda Bennett reviewed the above summary.

- On December 6, staff was made aware that some of the opioid settlement funds already en route to the county (\$5,083) needed to be accrued back to FY22.



- The funds were received in July and included as FY23 revenue, but the Auditor of Public Accounts requires it be accrued back to FY22.

E. Bills and Claims

2022-12-12 Summary: Following review, the Finance Committee recommends approving the November 2022 Invoice History report.

2022-12-20 Action: Brenda Bennett reviewed the above summary.

Supervisor Lawrence

- Inquired if there were county policies in place regarding employees reimbursing the county for school and training expenses if they leave within a certain timeframe.
  - o Chris Boies answered that there are no countywide policies currently in place, but both Fire EMS and the Sheriff’s Office are planning to propose policies in the future.

**Vice Chair Catlett moved to approve the bills and claims as presented. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

F. Standing Reports

- Year to Date Budget Report
- Reconciliation of Appropriations
- Capital Projects Report

2022-12-20 Action: Information Only.

13) *Joint Administrative Services Board Update*

Brenda Bennett provided the following update:

- The Joint Administrative Services Board (JAS) met in both November and December.
- The JAS discussed encouraging employees to opt-in to accepting digital W-2s, which would reduce costs and require less staff time.
- Required year-end reporting for the Affordable Care Act involves generating and distributing approximately 500 forms. Previously the insurance carrier handled this, but the county's current insurer does not provide this service.
- The JAS Board approved outsourcing this process to Innovative Insurance Services this year. There are harsh penalties for missing the February 28 deadline.
- Employees affected by the Virginia Retirement System contribution auto-escalation in January have been notified.
- Joint Administrative Services remains very busy and performs hands-on work with many different departments and employees, especially during this time of year and the audit process.
- The JAS Board discussed ongoing reconciliation process with Benefit Plan Administrators (BPA). Staff is expecting to receive specific answers and information shortly.

Chairman Weiss

- Added that more aggressive measures will be taken if information is not available for the JAS Board meeting in January.

14) *Government Projects Update*

Chris Boies provided the following update:

- I am excited to announce that Katrina Carroll will be our new animal shelter manager. Katrina has been working at our shelter part-time for several months and has extensive experience in the animal profession. She will be taking over as the full-time manager on January 1 and will be working with our other full-time employee, Jared Schneck, who had done tremendous work over the past couple months keeping all of our animals cared for.
- I want to give a shout out to our recycling citizen Christi McMullen. She is the person collecting glass at our convenience center site and crushing it so that it does not end up in the landfill. As of the end of November, she collected over 35,512 bottles since May. This is 27,595.5 pounds of glass. Using different models, this may have saved 3.61 metric tons of CO2 from entering the atmosphere. She is our superstar and we appreciate her efforts.
- I have reached out to some local organizations who have monuments in an effort to see if there are any local monument experts who would come out

and look at the concerns that have been raised. I am still waiting to hear back but I hope to have an update in January.

- I would like to thank Catherine and Brandon for working so well together this past year. Tonight, the Board will be holding the 20th, 21st, and 22nd public hearings of the year. Many of those were related to Planning Commission items and the process has been very smooth for all of them because of their coordination and communication.
- Finally, I would like to thank Brenda and the Joint Administrative Services team for their excellent work with the audit. The auditors reported that Clarke received the cleanest, highest-level report possible, which is a testament to the great work done by staff.

15) *Miscellaneous Items*

None presented.

16) *Summary of Required Actions*

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Post audit on website.	Cathy Kuehner
2.	Post notice of the Board’s organizational meeting time.	Cathy Kuehner
3.	Schedule All Points presentation.	Chris Boies
4.	Process and post approved minutes.	Catherine Marsten
5.	Execute appointment letters.	David Weiss
6.	Process appointments and update database.	Catherine Marsten
7.	Process application for easement donation.	Alison Teetor
8.	Advertise public hearing PH2023-01.	Catherine Marsten
9.	Process approved budget requests and action items.	Brenda Bennett
10.	Process bills and claims.	Brenda Bennett

17) *Board Member Committee Status Reports*

Supervisor Matthew Bass

Board of Septic and Well Appeals

- Has not met.

Library Advisory Council

- Discussing potential candidates to fill Walker Thomas' seat.

Planning Commission

- Has been working consistently and effectively all year.

Josephine School Community Museum Board

- Nothing to report.

Legislative Updates

- Governor just released proposed budget amendments; Clarke County was included for the Double Tollgate prison property.

Northwestern Regional Adult Drug Treatment Court Advisory Committee

- Has not met.

Northwestern Regional Juvenile Detention Center Commission

- Meeting pushed to January due to inclement weather.

Sheriff's Office

- New dispatch program utilizing real-time video links will be tested.

Town of Berryville

- William Steinmetz appointed to fill Donna McDonald's seat.
- Ryan Tibbens was elected to replace Kara Rodriguez, who just had her final meeting on Town Council.

Supervisor Bev McKay

Berryville-Clarke County Joint Building Committee

- Next meets on January 11.

Northern Shenandoah Valley Regional Commission

- This month's meeting was canceled.

Town of Boyce

- Hosted Santa Claus on their fire truck, which was phenomenally successful, this is a great thing for the fire companies.

– Sanitary Authority

- Put a lien on Locke Store for amounts owed. An interceptor/grease trap system was installed and a recent test showed a grease level slightly under the allowable limit.

Vice Chair Terri Catlett

Career and Technical Education

- Has not met.

Clarke County Historic Preservation Commission

- Discussed completion of history through architecture book.

Clarke County Humane Foundation

- Discussed upcoming transition for animal shelter.

- Considering starting a website to help with fundraising efforts.
- Still working on the strategic plan.

Conservation Easement Authority

- Continued discussing building envelopes, which will come to the Board.
- Will hold annual award lunch in January.

Parks & Recreation Advisory Board

- Has not met.

School Board

- Presented information on testing results and student benchmarks.
- Public speaker commented on difficulties with asynchronous learning and IEPs.
- Mr. McDonald proposed hiring a third party to conduct an independent review of entire CCHS culture.

Supervisor Doug Lawrence

Berryville-Clarke County Joint Committee on Economic Development & Tourism

- Meets next month.

Board of Social Services

- Strategic Plan was included in this packet. The action items gives Director clear blueprint, which is very helpful and could be translated to other departments.

Regional Jail Authority

- Has not met.

Chairman David Weiss

Industrial Development Authority

- Next meeting in January.

Fire & EMS Commission

- Working on the budget, should endorse their budget committee's recommendation at their January meeting.

At 3:04 pm, Chairman Weiss recessed the meeting.

At 6:35 pm, Chairman Weiss reconvened the meeting.

18) *Citizen's Comment Period*

No persons appeared to address the Board.

19) *PH2022-20: TA22-05 Waterworks & Sewerage System & Treatment Works Regulations*

Planning Director Brandon Stidham presented the following:

**TA-22-05, Waterworks and Sewerage System and Treatment Works Regulations**

**Proposed text amendment to amend Code of Clarke County Chapter 200:**

- **Zoning Ordinance (Article I) Sections:**
  - 7.4.5 (Waterworks and Sewerage System and Treatment Works)
  - 7.5 (RR District Design Standards and Development Regulations)
  - 7.2.3B (Public Water and Public Sewer Systems)
- **Subdivision Ordinance (Article II) Sections:**
  - 4.5.4A (Public Utilities)
  - 4.5.6 (Private Wells and Onsite Sewage Disposal Systems)

**TA-22-05, Waterworks and Sewerage System and Treatment Works Regulations**

- **Primary purpose is to remove the prohibition on the use of a waterworks or a sewerage system and treatment works for uses in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts.**
- **Additional changes include:**
  - Prohibiting uses and new subdivisions from being served by public water and public sewer without approval by the Board of Supervisors
  - Clarifying that private wells and onsite sewage disposal systems shall be designed in accordance with Chapter 184 (Wells), Chapter 143 (Septic Systems), Virginia Department of Health regulations, and any other applicable regulations
  - Requiring all public water distribution and public sewer collection systems to be designed to meet or exceed the regulations and specifications of the Clarke County Sanitary Authority and/or any other applicable federal, state, or local agency.

### Background

- **Zoning Ordinance Section 7.4.5 prohibits the use of a waterworks or a sewerage system and treatment works in the AOC and FOC Districts**
- **Waterworks – System that serves piped drinking water for drinking/domestic use for:**
  - The public, OR
  - At least 15 connections, OR
  - An average of 25 individuals for at least 60 days out of the year
- **Sewerage system – Infrastructure used to collect/convey sewage to a treatment works or point of ultimate disposal**
- **Treatment works – Any device/system used in the storage, treatment, disposal, or reclamation of sewage; does NOT include subsurface drainfields smaller than mass drainfields (e.g., typical single-family residential onsite sewage disposal systems)**

### Background (cont.)

- **Prohibition was added in 1997 likely to:**
  - Prevent AOC/FOC uses from connecting to public water/sewer
  - Limit the scope of some AOC/FOC uses by capping the volume of usage for a private well and by capping the maximum size of an onsite sewage disposal system – including preventing use of a mass drainfield
  - Prevent development of new privately-owned/operated water systems (e.g., Shenandoah Retreat water system) and new privately owned/operated sewage treatment systems for AOC/FOC uses
- **Section 7.4.5 was initially evaluated to address concerns that it could prevent AOC uses from being served by future public water/sewer from Frederick County in the Double Tollgate area**
- **Scope of the review was expanded to address related issues including need for zoning regulations with recent updates to the Septic Ordinance (County Code Chapter 143)**

### Background (cont.)

- **Current prohibition may also impact certain AOC/FOC uses that customarily serve water to the public**
- **Farm wineries/breweries/distilleries were exempted from Section 7.4.5 in 2016**
- **Additional uses that may serve water to the public:**
  - Home occupation bed-and-breakfast
  - Retail business, wholesale or retail sale of agricultural products
  - Community services facility, community center
  - Minor commercial public assembly
  - Country inn
  - Day care center
  - Campground, summer camp
  - Churches
  - Private club
- **Virginia Department of Health (VDH) requires a waterworks permit for uses that provide water to the public – current uses with VDH waterworks permits include:**
  - Berryville Moose Lodge
  - Calcagnini Contemplative Center/Georgetown University
  - Grafton School
  - L'Auberge Provencale
  - Northern Virginia Lions Youth Camp
  - Watermelon Park campground
  - Private water systems – Shenandoah Retreat, River Park

### **Proposed Text Amendment**

#### **Section 7.4.5:**

- Prohibition on waterworks and sewerage system and treatment works would be eliminated
- Any AOC/FOC use served by a waterworks would be regulated by VDH and would have to maintain the VDH permit in good standing
- AOC/FOC uses would not be allowed to use mass drainfields per the Septic Ordinance (Chapter 143)
- Language added stating that private wells and onsite sewage disposal systems shall be designed in accordance with the Septic Ordinance (Chapter 143), Well Ordinance (Chapter 184), VDH regulations, and any other applicable regulations
- AOC and FOC uses would not be allowed to be served by public water/public sewer without approval by the Board of Supervisors

### **Proposed Text Amendment (cont.)**

- Same rules proposed for Rural Residential (RR) District uses (Section 7.5):
  - Private wells and onsite sewage disposal systems shall be designed in accordance with the Septic Ordinance (Chapter 143), Well Ordinance (Chapter 184), Virginia Department of Health (VDH) regulations, and any other applicable regulations
  - RR District uses would not be allowed to be served by public water/public sewer without approval by the Board of Supervisors
  - If served by a waterworks, a permit shall be obtained from VDH and maintained in good standing for the life of the use
- Site development plan regulations (Section 7.2.3) would prevent commercial uses from being served by public water/sewer systems which are not authorized by the Board of Supervisors to provide service
- Changes to Section 7.2.3 would also require all public water distribution and public sewer collection systems to be designed to meet/exceed the regulations/specifications of the Clarke County Sanitary Authority and/or any other applicable Federal, State, or local agency



### **Proposed Text Amendment (cont.)**

#### **Subdivision Ordinance – Section 4.5.4:**

- No new subdivision (approved after text amendment adoption date) can be served by a waterworks or by a sewerage system and treatment works that is not owned/operated by a governmental entity authorized to provide service by the Board of Supervisors
- Would allow for existing private waterworks to continue serving existing lots
- Changes to Section 4.5.6B and C would require private wells and onsite sewage disposal systems serving subdivisions to be constructed in accordance with Chapter 184, VDH regulations, and any other applicable regulations

### **Planning Commission Recommendation**

- Planning Commission voted unanimously to initiate consideration of the text amendment at their October 7 meeting.
- Commission voted 9-0-2 to recommend adoption following a duly-advertised public hearing on November 4.
- No one spoke for or against the text amendment at the public hearing.

### **Staff Recommendation**

- Staff has no outstanding concerns with the adoption of this text amendment.

Supervisor Lawrence

- Asked what kind of system Mackintosh Fruit Farm installed.
  - Brandon Stidham answered it was a conventional drain field system to support their food preparation area. It has multiple tanks and is not a mass drain field.

Chairman Weiss opened the public hearing at 6:38 pm.

No persons appeared to address the Board.

Chairman Weiss closed the public hearing at 6:38 pm.

**Supervisor Lawrence moved to adopt the proposed Zoning Ordinance text amendment TA22-05 as presented. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

20) *PH2022-21: CC2022-08 Chapter 184 Wells*

Planning Director Brandon Stidham presented the following:

**CC-22-08, Chapter 184 (Wells)**

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- Proposed text amendment to amend Code of Clarke County Chapter 184 (Wells), Sections 184-9 (Location of Water Supplies) and 184-15 (Appeals and Variances).
- **Purpose:**
  - To require all wells to be located within the boundaries of the lot that they are intended to serve unless a variance is obtained from the Board of Septic and Well Appeals.
  - To incorporate detailed language regarding the review of appeals and variances which is currently referenced in the appeals and variances section of Chapter 143 (Septic Systems).

**CC-22-08, Chapter 184 (Wells)**

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- Current Section 184-9 limits new wells from being used to serve structures on a different lot.
- Proposed text amendment would delete the word “new,” requiring new and existing wells to be located on the same lot as the structures they serve.
- Policy justification is to ensure that the water source for structures is under the full control of the lot owners who use it.
- Language would be added to state that an easement for use of an off-site well may be approved if a variance to Section 184-9 is approved by the Board of Septic and Well Appeals.

**CC-22-08, Chapter 184 (Wells)**

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- More detailed language regarding the review of appeals and variances by the Board of Septic and Well Appeals would be added to Section 184-15.
- Section 184-15 currently directs to the appeals and variances section of the Septic Ordinance (Chapter 143).
- This language would be modified to address Well Ordinance appeals and variances and incorporated into Section 184-15.

**Staff Recommendation**

- **Staff has no outstanding concerns with the adoption of this text amendment.**

Supervisor Lawrence

- Asked if this chapter applies to agricultural wells.
  - Brandon Stidham answered that, in the chain of definitions, the code section refers to wells that are part of a public water or water distribution system and not those intended to provide water for livestock.
- Further asked if the county requires an agricultural well to be grouted.
  - Brandon Stidham replied that the standards for agricultural wells have changed and now are the same as for a basic residential well.

Chairman Weiss opened the public hearing at 6:40 pm.

No persons appeared to address the Board.

Chairman Weiss closed the public hearing at 6:40 pm.

**Vice Chair Catlett moved to adopt proposed Code of Clarke County text amendment CC2022-08 as presented. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

21) PH2022-22: TA22-06 Structures or Portions of Structures Permitted in Setback Areas

Planning Director Brandon Stidham presented the following:

**TA-22-06, Structures or Portions of Structures Permitted in Required Setback Areas**

- Proposed text amendment to amend Code of Clarke County Chapter 200, Zoning Ordinance (Article I) Section 7.1.2C (Uses and Structures Permitted in Required Setback Areas).
- **Purpose:**
  - To specify the types of “architectural features” and “mechanical equipment” which may be located in a setback area
  - To remove “swimming pools (above or in ground)” from the list of building elements that may be located within a setback area by up to 50%.

**Background**

- Section 7.1.2C allows certain structures and building features to be located in a setback area subject to or without restriction
- **Without restriction:**
  - Driveways/patios no more than 24” above grade
  - Fences/walls up to 7 feet in height (over 7 feet requires building permit)
  - Hedges
- **Special limitation – Gasoline pump canopies no closer than 10 feet from property line or right of way**
- **Up to 50% of required setback:**
  - Porches/balconies/decks without roofs and not more than 36 square feet in area
  - Steps without roofs
  - Bay/bow windows
  - Projecting roof elements without columns
  - Chimneys
  - Eaves
  - Mechanical equipment
  - Architectural features
  - Swimming pools (above ground or in ground)

**Background (cont.)**

- **Mechanical equipment** – Not defined, can apply to any of a building’s mechanical systems located in close proximity to the building:
  - Heating/cooling (e.g., outdoor heat pump or window A/C unit)
  - Electrical (e.g., transformer box)
  - Water (e.g., well head, meter)
  - Sewer/sewage disposal (e.g., above-ground septic system equipment)
  - Telecommunications (e.g., telephone pedestal)
- Could be applied to mechanical equipment located away from the building it serves, e.g., freestanding solar panels, outdoor wood furnace
- Could also be applied to above-ground well and septic system equipment, electrical or telecommunications equipment – Staff has not interpreted these features to be subject to setback requirements

**Proposed Text Amendment**

- New proposed language:
  - Mechanical equipment essential to a building’s heating, cooling, electrical, water or sewer/sewage disposal systems **except for** mechanical equipment housed within or supported on a separate, freestanding structure
  - **Allowed in Setback Without Restriction:**
    - Freestanding structures associated with a private well or onsite sewage disposal system may be located within a setback area subject to compliance with any other State or local ordinance requirements which govern installation of such features
    - Structures owned/provided by a public utility company or telecommunications service provider for operation of an electrical, telephone, or internet system (e.g., transformer, equipment box, meter, dish antenna, utility pole) may be located within a setback area subject to compliance with any other State or local ordinance requirements which govern installation of such features -- does not apply to wireless communication facilities (WCFs)

**Proposed Text Amendment (cont.)**

- **Architectural features** – Not defined, interpreted to mean parts of a building that are purely decorative in nature and not required structural elements
- Interpretation is consistent with other features on the list of “building elements”
- Concern – with no definition, term could be interpreted more broadly by applicants or future Staff
- **Proposed change** – *“Decorative architectural features which are not required structural elements of the building”*

### **Proposed Text Amendment (cont.)**

- **Swimming pools (above or in ground) – proposed for deletion**
- **A swimming pool is not a “building element” but a separate structure**
- **Can be located a significant distance from and with no connection to the main building and have a greater visual impact depending on size, decking, and mechanical equipment**
- **Swimming pools would be required to be located fully within the required setback area – applicant may be eligible to apply for a variance**

### **Proposed Text Amendment (cont.)**

- **Other minor changes:**
  - **Section title is modified to clarify that the section applies to structures/portions of and not to uses**
  - **Add “freestanding” to “walls” to clarify that the section does not apply to the walls of a building**
  - **Delete “hedges”**
    - **Only context in the Zoning Ordinance in which “hedges” are specifically regulated**
    - **Could conflict with Section 7.1.1F which prohibits allowing any vegetation (including hedges) to cause a sight distance impediment**
    - **Hedges are not considered “structures” and would be allowed in setback areas (subject to Section 7.1.1F) regardless of whether they are referenced in Section 7.1.2C**

### **Planning Commission Recommendation**

- **Planning Commission voted unanimously to initiate consideration of the text amendment at their October 7 meeting.**
- **Commission voted 9-0-2 to recommend adoption following a duly-advertised public hearing on November 4.**
- **No one spoke for or against the text amendment at the public hearing.**

**Staff Recommendation**

- **Staff has no outstanding concerns with the adoption of this text amendment.**

Supervisor Lawrence

- Inquired if an outdoor wood furnace is considered mechanical equipment.
  - Brandon Stidham answered yes, that is one of the things they wanted to address directly. If it is mechanical equipment housed in its own freestanding building, it would not be subject to the 50% setback reduction and would have to observe the regular setback for an accessory building.

Chairman Weiss opened the public hearing at 6:41 pm.

No persons appeared to address the Board.

Chairman Weiss closed the public hearing at 6:41 pm.

**Vice Chair Catlett moved to adopt the proposed Zoning Ordinance text amendment TA22-06 as presented. The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

*22) Adjournment*



Chairman Weiss adjourned the meeting at 6:44 pm.

23) *Next Regular Meeting Date-*

The date of the next regular meeting of the Board of Supervisors will be determined at the January 9<sup>th</sup> Organizational Meeting.

ATTEST: December 20, 2022

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David S. Weiss, Chairman

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Chris Boies, County Administrator

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Recorded and Transcribed by Catherine D. Marsten