

July 16, 2024

Clarke County Board of Supervisors  
Regular Meeting  
Main Meeting Room

1:00 pm

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Berryville Clarke County Government Center, 101 Chalmers Court, 2<sup>nd</sup> Floor, Berryville, Virginia, conducted on Tuesday, July 16, 2024, at 1:00 pm.

Board Members Present: (Afternoon & Evening Sessions)

Douglas Shaffer - Berryville District  
Terri T. Catlett - Millwood/Pine Grove District  
Doug Lawrence - Russell District  
David S. Weiss - Buckmarsh/Blue Ridge District

Board Members Absent: (Afternoon & Evening Sessions)

Beverly B. McKay - White Post District

County Staff Present:

(Afternoon Session) Chris Boies, Catherine Marsten, Brandon Stidham, Lorien Lemmon, Brenda Bennett, Wayne Whetsell, Indea Ford, Pamela Hess, Rebecca White, Janine Rose, Alexander Hamilton, Jequita Carter, Amy Knipe, Beth Marple

(Evening Session) Chris Boies, Brandon Stidham

Constitutional Officers / State Offices / Other Agencies Present:

(Afternoon Session) Sheriff Travis Sumption, Chief Deputy Patricia Putnam, Wayne Tapscott, Darin Simpson

(Evening Session) None

Press:

(Afternoon & Evening Sessions) Mickey Powell, Winchester Star

Others Present:

(Afternoon Session) Charles Snead, Alex Lee, Jean Lee, Nathan Stalvey, Randy Buckley, Jeff Hinson, Hunter Dickinson, various other citizens

(Evening Session) Frank Lee

1) *Call to Order*

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

Chairman Weiss shared that the community’s thoughts and prayers are with the former president, the family of slain audience member Corey Comperatore, and those who were injured in a shooting at a campaign rally in Butler, Pennsylvania over the weekend. The Board encourages rhetoric to be tempered and appreciates the citizens of Clarke County for being able to remain respectful and cooperative following vigorous debate, especially in this historic and trying time.

The Board, staff, and audience stood and recited the Pledge of Allegiance.

2) *Adoption of Agenda*

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

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

3) *Citizen’s Comment Period*

Charles Snead of Millwood

I am sorry I missed the meeting where they approved the bumps in the road in Millwood. I have a problem with these things. Every time my wife goes over these, at any speed, she gets a sharp pain in her upper back. It’s hard to watch. Personally, I go from Millwood to Ellerslie, where I keep horses, as much as eighteen times in one day. It is usually not that much because a lot of times I go a different route, but it is possible that I’m going over these things eighteen times a day. I am paying for somebody else’s sins. I don’t speed through Millwood. I got two tickets a long time ago and I didn’t go fast through Millwood after that. I have no alternatives. I am being forced to pay for someone else’s sins. I don’t like that. Personally, I can’t think of any reason why anybody that lives in Millwood would ask VDOT to put bumps in a road that they travel daily. It’s unfathomable to me and I don’t understand it. Having VDOT take bumps out of the road, I understand that. I have said all along the

way to cure the problem of people coming down Bishop Meade is to vigorously support the Clarke County Sheriff's Office. That's all you have to do.

Alex Lee of Millwood

I am speaking in my own personal capacity, but I am here with my colleagues who were intimately involved in the Millwood Community Association's community effort to bring the speed tables. We put in the speed tables because VDOT did not authorize probably what would have been the best thing – a three-way stop at the T-junction – because we did not have enough folks going through. Even though in a week, approximately 18,000 cars zip through Millwood. We had a process in which over 200 people signed support for the speed tables. We explained the speed tables, we had one public meeting, we put stuff on the billboard in Millwood, and we sent out at least a half dozen descriptions to all the members of the Millwood Community Association. We were very pleased that the speed tables have been put up. I live right in front of one of the speed tables. Anecdotally, I have a really good vision of what happens to the one in front of Millwood. The first day, VDOT did not put a sign announcing that these speed tables were up. So lots of people were surprised, but there is learned behavior. People who do not normally respect the 25mph speed limit learn to behave from a physical structure that will slow them down and that is safe to go over at 25mph. After all, I'm told, they have speed tables in the Kentucky Horse Park and their business is the transportation of horses from one stable to another. So, there was a distinct and clear minority of folks in Millwood that did not support speed tables. We more than passed VDOT's requirement for 50% documented support. I am willing to bet anyone in this room that, when VDOT does its study on whether these things slow traffic, it will be clear that they do. They do it safely for people that respect a 25mph speed limit. To the point of the gentleman before, Sheriff Sumption has made clear that he lacks the manpower to ticket people into compliance with speed limits, even on the most egregious level on Route 7. Millwood does not really compare to Route 7. Speed tables work, there is learned behavior, and we will see how effective they are.

Nathan Stalvey of Tannery Lane in Millwood

As the Director of the Historical Association who owns and operates the Burwell-Morgan Mill right beside the speed tables, I can tell you that the installation of the speed tables has shown an immediate impact in slowing down traffic. This past Saturday, we had one of our largest events. On Colonial Kids Day, where hundreds of kids were crossing the street between Locke's Store and businesses throughout Millwood, there were no cars trying to speed by. One thing I noticed immediately once those speed tables came up is that it has made the area much, much safer for all the people who come to visit Locke's Store, the antique store, and the Mill. It has really done the job and I want to commend VDOT for the work they've done. I think

the speed tables have worked excellent. It is nice to be working at the mill and not hear cars and motorcycles and trucks fly through Millwood at ungodly speeds, because now they can't. I just want to say they're working great and I want to thank everybody involved: Millwood Community Association, Board of Supervisors, and VDOT, for making this happen. The dividends have been paid immediately.

Hunter Dickinson of East Main Street in Berryville

I actually did not come to talk today, but I will after hearing everyone talk about the speed tables. I drove over them for the first time this past weekend. The first thought that came to mind when I drove over them was that they felt more like massive bumps and not really like speed tables. I was in a big F-250 with my fiancé, but I remember thinking that, if I had a car that was low to the ground, it would scrape the underbelly of it. There's a racetrack not too far from here and there are a lot of low-to-the-ground cars nearby so I just wanted to throw that into the mix. There may be a decision that needs to be made here. Maybe flatten them out just a little bit more so we could help out that elderly gentleman's wife. That made me a little sad, as someone who has been in a really bad car wreck and just understands spinal pain. It is not very enjoyable.

4) *Employee of the Quarter Award – 2<sup>nd</sup> Quarter 2024*

Chairman Weiss read the following statement aloud:

Janine Rose with the Sheriff's Office is our Employee of the Quarter. Janine has been a dedicated employee of the Sheriff's Office since 2008, serving as the Office Manager. Her commitment and loyalty to the team are unparalleled. While listing every task she handles would be impossible due to her extensive responsibilities, I want to highlight her exceptional contributions to the accreditation process. Janine has been instrumental from the outset, ensuring that the office not only achieved Accreditation but also has been successfully re-accredited on three occasions. This achievement is no small feat, involving compliance with 191 standards and over 550 specific requirements annually. These standards encompass finances, property and evidence management, patrol, investigation, training, and personnel issues. In addition to maintaining the office's accredited status, Janine extends her expertise to other agencies. She is a certified assessor with the Virginia Law Enforcement Professional Standards Commission, evaluating other agencies for accreditation three to four times a year. The Sheriff's Office notes they are incredibly fortunate and proud to have Janine as a vital part of their team.

## 5) VDOT Update

Wayne Tapscott advised the following maintenance activities were completed during the month of July:

- Pipe installations on Shepherds Mill Road (Route 612)
- First spring mowing cycle on secondary routes
- Dust control on non-hard surface routes
- Tree trimming on Route 340 from Smallwood Lane to Bishop Meade Road
- Patching on Chilly Hollow Road (Route 621)
- Spot litter pickup on primary routes
- Potholes repairs as needed & dead animal removal
- The contractor finished the shoulder widening on Route 7 as a part of the district safety project.
- The speed tables have been installed in Millwood and are waiting on permanent signs to be delivered and installed.

Mr. Tapscott advised the following items are currently in progress:

- Primary shoulder cut mowing and litter pick up (contractor)
- Tree trimming on Route 340 from Smallwood Lane to Bishop Meade Road (contractor)
- Pipe installations on Shepherds Mill Road (Route 612)
- Shoulder repairs and ditching on Route 340 and Route 7

### Supervisor Shaffer

- Shared that he got caught in the traffic on Shepherds Mill Road during one of the pipe replacements and the VDOT worker on-site immediately came to the car to explain how long the delay would be and suggest alternative routes. The gentleman did the same thing for every car that pulled up behind, which was an impressive level of service and care.

### Vice Chair Catlett

- Advised that the markings at the intersection of Route 601 and Route 7, particularly the stop bars and middle lines, are badly faded and need to be refreshed. Visual reminders are critically important at that intersection.

VDOT Staunton District Traffic Engineer, Darin Simpson, shared the following regarding the speed tables in Millwood:

- There is still some work to be done to tweak the pavement markings and signage but, overall, the speed tables are what was asked for.

### Supervisor Lawrence

- Observed that the installations in Millwood seem to be more like speed humps than speed tables.
  - Mr. Simpson advised that speed tables are generally made with stamped concrete or brick, which makes it easier to define a flat top area. These were constructed with asphalt and that is more difficult. They also had to be located where they would not interfere with driveways and where people would not be able to drive around them. Regardless, they are installed and are a feature that will physically slow people down.
- Further observed that the speed tables were presented to the Board as something that could be safely traveled over at 25mph and these cannot be, they have more aggressive height and less of a flat top than other examples of speed tables.
  - Darin Simpson responded that the length of the tables was something that they needed to adjust due to driveway locations. The primary reason that VDOT did not recommend a three-way stop was that they felt that drivers would just increase their speeds after the stop, so it would not provide any benefit.
  - Mr. Simpson also stated that VDOT will put in an advisory speed of 15mph near the tables and will investigate options to flatten out the tops of the speed tables and reduce their height.

### Vice Chair Catlett

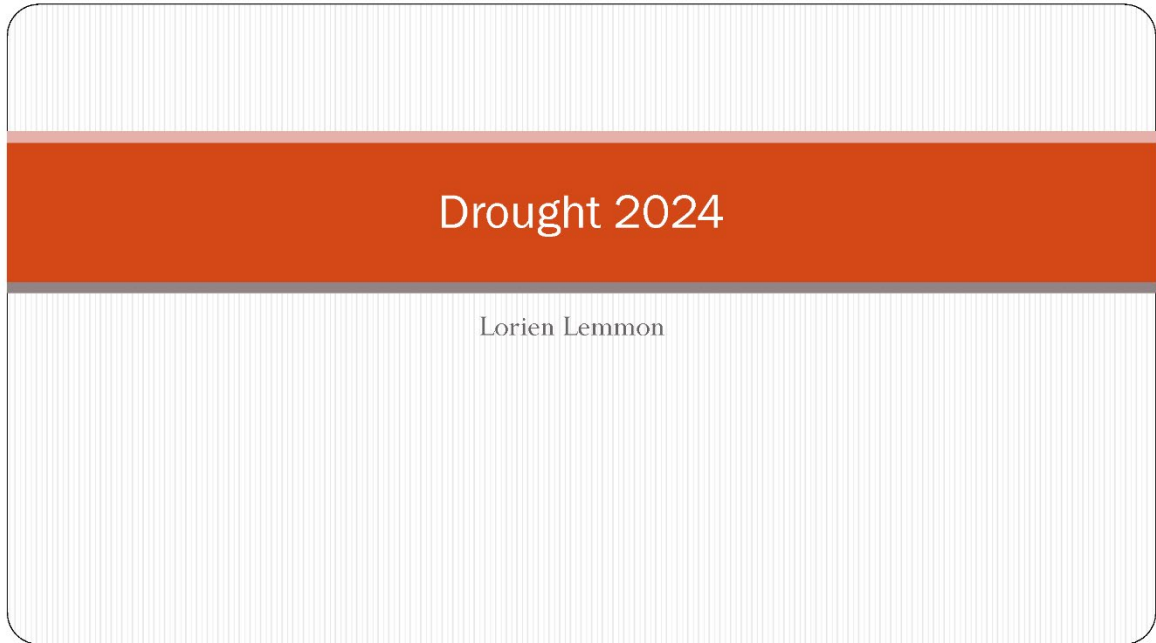
- Commented that the signs VDOT put up called them speed humps and not speed tables.
- Further stated that the goal was to get people to travel at 25mph through Millwood and it is not advisable to drive over them at 25mph, which adds to the confusion.

### Chairman Weiss

- Advised that, while the Board agreed with the concept and the general placement areas, the Board and citizens understood the speed tables to be something that could be safely navigated at 25mph. The Board had no idea that drivers would lose bumpers or gouge the asphalt by trying to drive over them at 25mph and the speed tables need to be more in alliance with what was presented to the Board originally.
  - Darin Simpson responded that VDOT would see what options are available to modify the speed tables and they will continue to make adjustments.

6) *Drought Monitoring Update*

Conservation Planner Lorien Lemmon presented the following:



## Overview

### Resources

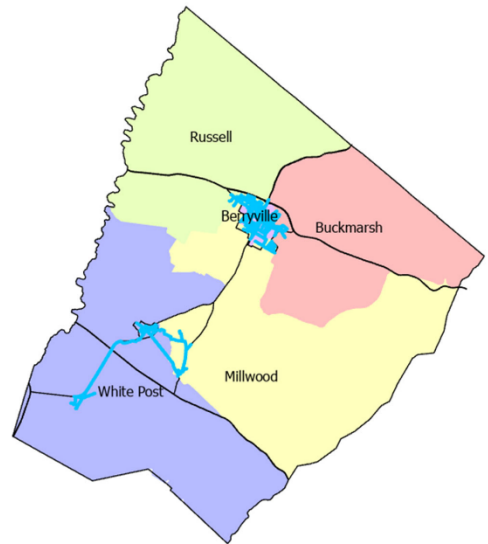
- Chapter 180 Water and Wastewater, Article X - Code of Clarke County
- Regional Drought Response and Contingency Plan - Northern Shenandoah Valley Regional Commission
  - Drought Plan for: City of Winchester and Counties of Clarke, Frederick, Page, Shenandoah, and Warren

### Presentation Goals

- Prepare for coordinated drought response and local cooperation
- Public Education

## Target audience

- Board of Supervisors
- All Clarke County residents and businesses which are served by private well water.
  - NOT residents or businesses serviced by public water by the Town of Berryville or the Clarke County Sanitary Authority



## Regional Drought Plan Outline

- Drought Stages
  - How severe is the drought?
- Locality Declaration
  - Are selected local triggers activated?
- Actions in Response to Drought Stage
  - What happens at various stages?



## Drought Stages

State regulations stipulate a minimum of three drought stages be included in the Water Supply Drought Response Sections. The Northern Shenandoah Valley Regional Water Supply Plan's Drought Response Section includes these three graduated stages of a drought:

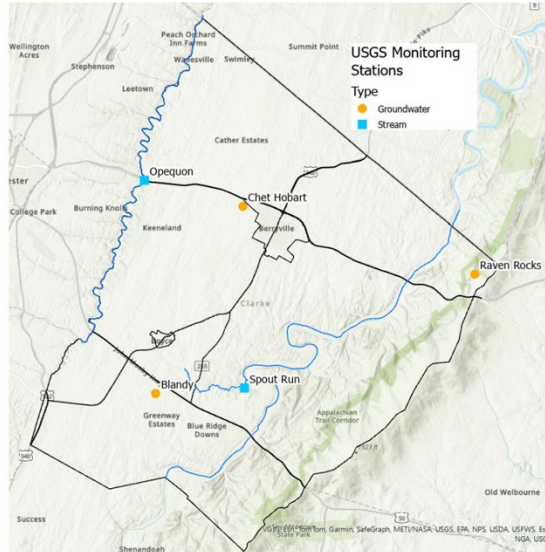
Drought Stage	Description	Action
Watch	Drought potential if conditions persist	Increase water conservation awareness; voluntary actions by citizens
Warning	Onset of drought is imminent	Water conservation awareness; precautionary measures voluntary but encouraged by localities
Emergency	Significant drought or low water event	Mandatory responses for water conservation by localities and public

## Clarke Drought Indicators and Triggers

Drought Trigger Table for the Northern Shenandoah Region:

Locality	Drought or Low Water Stage	Groundwater/ Spring	Surface Water/ Reservoir	Quarry	Location of Triggers & Other Information
Clarke County	Watch	GW levels fall between the 10 <sup>th</sup> & 25 <sup>th</sup> percentile and the DEQ Drought website Watch stage	Stream flows fall between the 10 <sup>th</sup> and 25 <sup>th</sup> percentile		Declaration of a drought / low water stage when two or more indicate low water. The resources will include the County monitoring well network; the DEQ Drought Website page; Spout Run USGS gage; and Main Stem Millville USGS gage
	Warning	GW levels fall between the 5 <sup>th</sup> & 10 <sup>th</sup> percentile and the DEQ Drought website Warning stage	Stream flows fall between the 5 <sup>th</sup> & 10 <sup>th</sup> percentile		
	Emergency	GW levels fall below the 5 <sup>th</sup> percentile and the DEQ Drought website Emergency stage	Stream flows fall below the 5 <sup>th</sup> percentile		

## Clarke County USGS Monitoring Stations



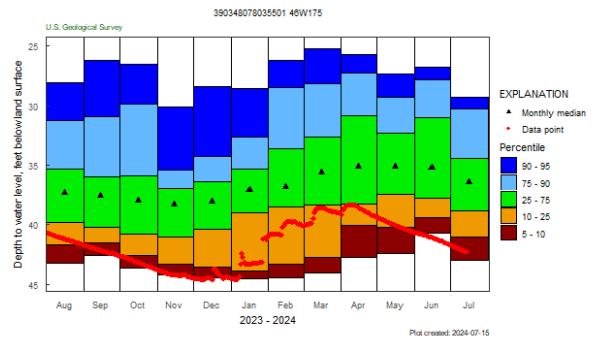
## Blandy Groundwater well

- Water-level measurements are evaluated within a monthly statistical framework.
- Percentiles: a value on a scale of 0 to 100 that indicates the cumulative percentage of a distribution that is equal to or below that value.

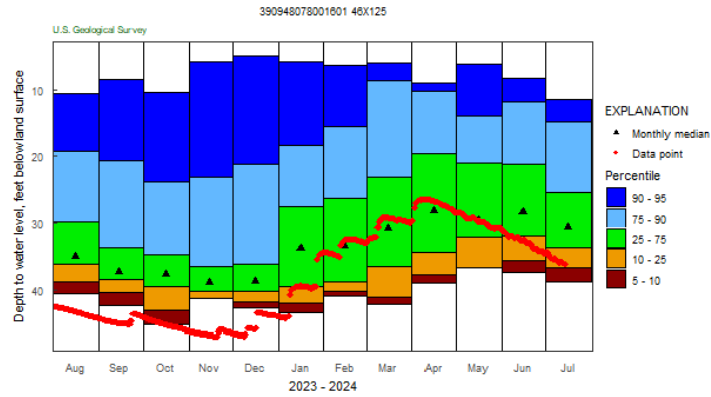
Example: Blandy gauge measurement at 42.3 feet below land surface (date July 14, 2024)  
 Water-level Percentile Classification for July: 5<sup>th</sup>-10<sup>th</sup> percentile or “Much below normal”

Explanation: The current water-level is between 5-10% of the July median groundwater levels over the period of record for the Blandy well (29 years of data).

July Lowest Median = 44.5 ft below land surface (2002)  
 July Highest Median = 29.0 ft below land surface (2018)  
 Since 1995

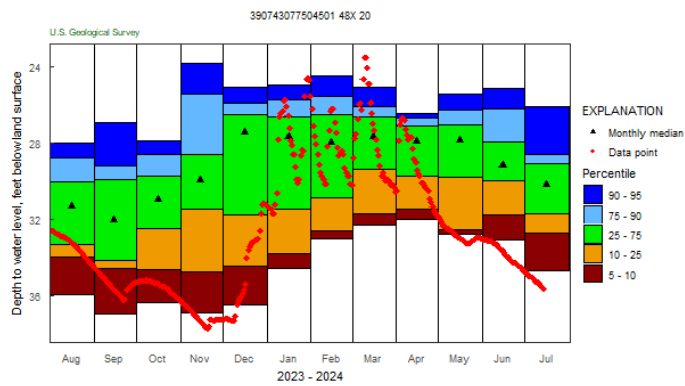


### Chet Hobart Groundwater Well

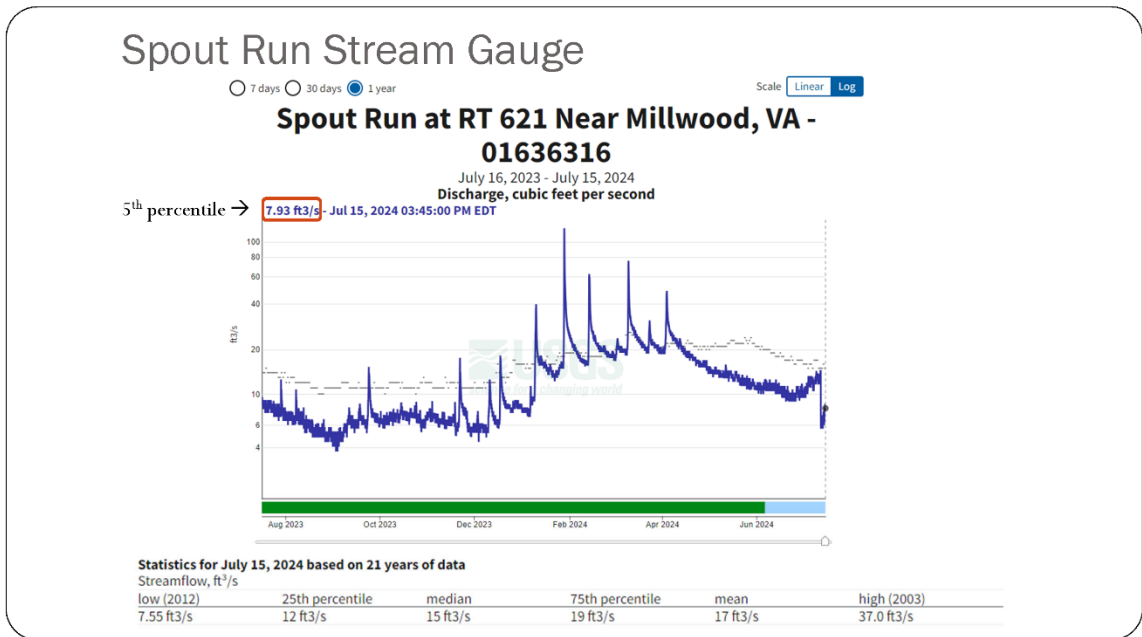
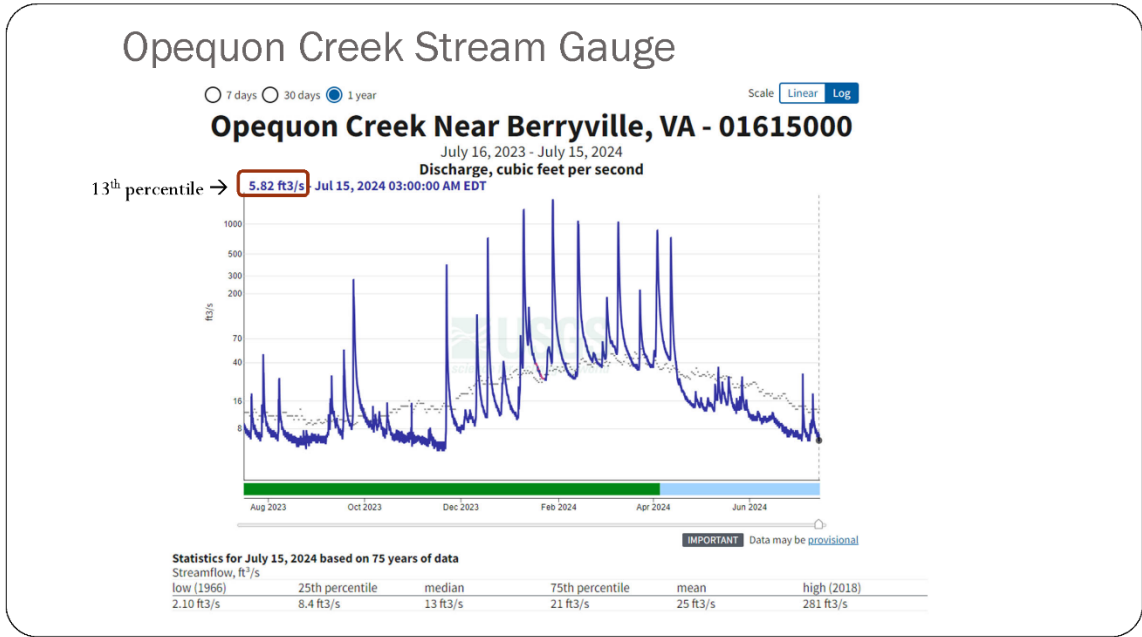


Most Recent Measurement: 36.2 feet below land surface (July 14, 2024)  
 Water-level Percentile Classification for July: 10<sup>th</sup>-25<sup>th</sup> percentile  
 "Below normal"  
 July Lowest Median = 38.9 ft below land surface  
 July Highest Median = 11.3 ft below land surface  
 Since 2004

### Raven Rocks Groundwater Well



Most Recent Measurement: 35.6 feet below land surface (July 14, 2024)  
 Water-level Percentile Classification for July: <5<sup>th</sup> percentile "Low"  
 July Lowest Median = 34.8 ft below land surface  
 July Highest Median = 25.9 ft below land surface  
 Since 2004



# U.S. Drought Monitor Map

## Virginia

[Home](#) / [Virginia](#)

Map released: Thurs. July 11, 2024

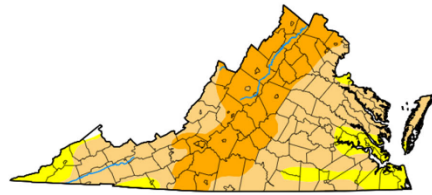
Data valid: July 9, 2024 at 8 a.m. EDT

### Intensity

- None
- D0 (Abnormally Dry)
- D1 (Moderate Drought)
- D2 (Severe Drought)
- D3 (Extreme Drought)
- D4 (Exceptional Drought)
- No Data

### Authors

United States and Puerto Rico Author(s):  
[Brian Fuchs](#), National Drought Mitigation Center



IIS Drought Monitor – Standardized Precipitation Index (SPI)

# Drought Map Comparison

July 11, 2023

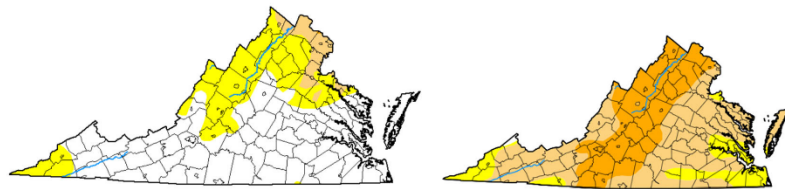
Map released: Thurs. July 11, 2024

Data valid: July 9, 2024 at 8 a.m. EDT

### Intensity

- None
- D0 (Abnormally Dry)
- D1 (Moderate Drought)
- D2 (Severe Drought)
- D3 (Extreme Drought)
- D4 (Exceptional Drought)
- No Data

### Authors



July 2023 we were in a "Moderate Drought"  
July 2024 we are in a "Severe Drought"

### Clarke Indicator Summary

Drought or Low Water Stage	Groundwater/ Spring	Surface Water/ Reservoir
Watch	GW levels fall between the 10 <sup>th</sup> & 25 <sup>th</sup> percentile and the DEQ Drought website Watch stage	Stream flows fall between the 10 <sup>th</sup> and 25 <sup>th</sup> percentile
Warning	GW levels fall between the 5 <sup>th</sup> & 10 <sup>th</sup> percentile and the DEQ Drought website Warning stage	Stream flows fall between the 5 <sup>th</sup> & 10 <sup>th</sup> percentile
Emergency	GW levels fall below the 5 <sup>th</sup> percentile and the DEQ Drought website Emergency stage	Stream flows fall below the 5 <sup>th</sup> percentile

Gauge	Percentile	Designation
Chet Hobart	10-25	Watch
Blandy	5-10	Warning
Raven Rocks	>5	Emergency
Opequon	10-25	Watch
Spout Run	5-10	Warning

### Drought Response – Warning (County)

- A Drought Warning notification shall be publicized through the general news media
- Localities will notify the Northern Shenandoah Valley Regional Commission office when a Drought Warning stage is implemented
- Localities will include water conservation information on their website
- Locality staff will continue to monitor drought triggers monthly to indicate levels and report significant changes to local officials
- All local government offices and institutions should consider the reduction of non-essential water uses with the goal of reducing water usage by 5 to 10%
- All citizens, including private well users, will be encouraged to voluntarily reduce or eliminate non-essential water uses and follow the water conservation actions

## Drought Response – Warning (Citizens) Voluntary Water Conservation Actions

### Indoors:

- Avoid using the garbage disposal
- Use dishwasher and washing machines only when load is full
- Limit showers to 5-10 min per day per person

### Outdoors:

- Do not plant new landscaping or grass
- Mow lawns to 2 inches or more
- Use mulch to reduce evaporation
- Avoid over fertilizing your lawn
- Place rain barrels under gutter downspouts to collect water for plants, car washing, or general cleaning projects
- Use a broom instead of a hose to clean driveways, walks and patios
- Do not wash hard surfaces or buildings
- Turn off ornamental fountains or other such structures, unless water is recycled – exception for fountains supporting aquatic life
- Reduce vegetable garden watering by watering only when needed, between the hours of 9pm and 10am
- Apply water directly to plants by using soil-soakers or drip irrigation
- Reduce lawn watering to no more than 2 times a week, between 9pm and 10am
- Avoid use of sprinklers

## Drought Response – Emergency Mandatory

### County - in addition to those actions described under "Warning"

- All local government offices and institutions will initiate the mandatory non-essential water use restrictions listed below with the goal of reducing water usage by 10 to 15%
- Localities authorized to adopt local ordinances to enforce the mandatory non-essential water use restrictions and to establish, collect, and retain fees for violations of these restrictions (no more than \$500 but no less than \$100 – Ch. 180)

### Residents – the Water Conservation Actions described under "Warning" are now mandatory

#### Additional restrictions (with exceptions):

- Gardens, bedding plants, trees, shrubs, and other landscape materials may be watered with handheld container not to exceed 3 gallons
- Washing paved surfaces such as parking areas, tennis courts, or patios must be done by hand (3 gallon container)
- Cleaning automobiles, trucks, trailers, and boats by hand or at car washes that utilize reclaimed water as part of the wash process
- Restrictions on filling and topping off outdoor swimming pools

**NOTE: Water use restrictions shall not apply to agricultural production of food or fiber, the maintenance of livestock including poultry, nor the commercial production of plant materials so long as best management practices are applied to assure the minimum amount of water is utilized**

## Actions we've taken

- Press release of the DEQ drought designation
- Communication with the Town of Berryville and the Clarke County Sanitation Authority
- Facebook post and update on the “Drought and Environmental Water” page
- Reached out to the Health Department for reports of dried up wells/permits to drill deeper wells
- In communication with the Northern Shenandoah Valley Regional Commission and DEQ

### Vice Chair Catlett

- Asked what the Health Department has reported about wells.
  - Lorien Lemmon answered that one permit has been issued to dig a well deeper, that particular well had dried up last year.
- Further asked if one person’s water usage could affect their neighbors’ wells.
  - Mrs. Lemmon responded yes, because of the karst geology.

### Supervisor Lawrence

- Observed that Town of Berryville workers have been watering new plantings and landscaping in the middle of the day, which seems inconsistent when the Board and the Town Council are asking citizens to conserve water.

### Chairman Weiss

- Shared that the county will maintain communication with the Cooperative Extension, so that the Board can be ready to take action to comply with any disaster programs when necessary.
- Thanked Mrs. Lemmon for her presentation and recognized that drought is a serious problem for farmers and the community.



7) *Approval of Minutes*

**Vice Chair Catlett moved to approve the minutes of the June 18, 2024 regular meeting as presented. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

8) *Consent Agenda*

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

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

- Resolution of Recognition & Appreciation for Anne Williams (2024-11R)

Chairman Weiss read the resolution aloud and presented a framed copy to Anne Williams, adding that it has been a privilege to serve and work with her.

Anne Williams thanked the Board for their support and shared that it has been a pleasure to serve Clarke County.



### Clarke County Board of Supervisors

<b>Berryville Voting District</b> Douglas Shaffer (540) 955-7158	<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 of Recognition and Appreciation for Anne Williams 2024-11R

**WHEREAS** Anne M. Williams was originally hired as an Assistant Commonwealth’s Attorney in August 2012 and succeeded Suzanne “Sunni” Mackall as Commonwealth’s Attorney for Clarke County in April 2017; and

**WHEREAS** Mrs. Williams was first elected Commonwealth’s Attorney in a special election in 2017 and was re-elected to two subsequent terms; and

**WHEREAS** she was appointed by the General Assembly to be a judge in the General District Court for the 26<sup>th</sup> Judicial Circuit of Virginia, requiring her resignation from her current office; and

**WHEREAS** during her tenure as Clarke County Commonwealth’s Attorney, Anne M. Williams prosecuted and secured convictions for perpetrators of the county’s most serious crimes; and

**WHEREAS** she has promoted a culture of truth and justice in her practice of the law and has been a dutiful advocate for victims; and

**WHEREAS** she is an exceptional attorney, a dedicated public servant, and a consummate professional; and

**WHEREAS** the county is exceedingly grateful for her diligent support and steadfast commitment to the safety and well-being of its citizens.

**NOW, THEREFORE, BE IT RESOLVED** by the Clarke County Board of Supervisors that Anne Williams be recognized and congratulated for her service to the citizens of Clarke County.

**APPROVED AND ORDERED ENTERED** in the official records by the unanimous vote of the Clarke County Board of Supervisors assembled on the 16<sup>th</sup> day of July, 2024.

ATTEST 2024-11R

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



– Resolution of Recognition & Appreciation for Pamela Hess (2024-12R)

Chairman Weiss read the resolution aloud and presented a framed copy to Pamela Hess, adding that she has had a remarkable career and the Board is glad to have been a part of it. Pamela Hess thanked the Board and congratulated her successor, Becky White.



**Clarke County Board of Supervisors**

<b>Berryville Voting District</b> Douglas Shaffer (540) 955-7158	<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 of Recognition and Appreciation for  
Pamela Hess  
2024-12R**

**WHEREAS** Pamela Hess was hired as a Dispatcher by Clarke County on April 18, 1987 and promoted to Chief Dispatcher in 1992, a position that transformed to Emergency Communications Director and that she held until her retirement on July 31, 2024; and

**WHEREAS** Mrs. Hess earned numerous certifications to perform her job exceptionally, maintained positive working relationships with other local jurisdictions, and pursued countless opportunities to learn and continue her education; and

**WHEREAS** as Director, she ensured that the ECC was staffed 24 hours a day, 7 days a week to provide dispatch for the Clarke County Sheriff’s Office, the Berryville Police Department, three predominately volunteer fire & rescue companies and two mutual aid companies, and to handle after-hours animal control, social services, and public works emergencies; and

**WHEREAS** during her career, she oversaw major projects such as radio upgrades, moving the entire Emergency Communications Center into the Sheriff’s Office, and implementing new systems, phones, and consoles; and

**WHEREAS** her staff describes her as a tremendous team player who was always very thoughtful and considerate, who always made herself available and jumped in to help wherever needed, spending countless nights, weekends, and holidays working in the dispatch center; and

**WHEREAS** Mrs. Hess’ career was defined by her outstanding leadership, her genuine passion for the profession, and her dedication to helping people in their greatest times of need.

**NOW, THEREFORE, BE IT RESOLVED** by the Clarke County Board of Supervisors that Pamela Hess be recognized and congratulated for her service and dedication to the citizens of Clarke County.

**APPROVED AND ORDERED ENTERED** in the official records by the unanimous vote of the Clarke County Board of Supervisors assembled on the 16<sup>th</sup> day of July, 2024.

ATTEST 2024-12R



David S. Weiss, Chair

– Abstract of Votes: June 2024 US Senate Republican Primary

Chairman Weiss remarked that the election ran smoothly thanks, as always, to the great work of the Voter Registrar and elections staff.

**ABSTRACT of VOTES**

Cast in CLARKE COUNTY, VIRGINIA  
at the 2024 June Republican Primary held on June 18, 2024 for,

**Member, United States Senate**

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Hung Cao - Republican	584
Edward C. "Eddie" Garcia Jr. - Republican	90
Jonathan W. Emord - Republican	47
C. L. "Chuck" Smith, Jr. - Republican	34
Scott Thomas Parkinson - Republican	47
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on June 18, 2024, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Member, United States Senate.

Given under our hands this 24<sup>th</sup> day of JUNE, 2024



Carol S. Gherard, Chairman  
 \_\_\_\_\_, Vice Chairman  
R. C. [Signature], Acting Secretary  
R. C. [Signature], Acting Secretary  
 \_\_\_\_\_, Attestation

9) *Proposed Changes to County User Fee Schedule*

Planning Director Brandon Stidham presented the following:

- Staff recently completed the procurement process for professional engineering services and have renewed the county’s contract with Hurt & Proffitt for third party, professional review consulting.
- During that process, Hurt & Proffitt requested an increase for certain pass-through fees charged for reviews of site plans, major subdivisions, and erosion & sediment control plans.

Vice Chair Catlett

- Asked when these fees were last increased.
  - o Mr. Stidham answered three years ago, during the last procurement process.

Chairman Weiss

- Reiterated that these are pass-through fees where the county charges for the exact cost incurred.
  - o Mr. Stidham clarified that the erosion & sediment control plan review fee is not charged when an erosion & sediment control plan is incorporated into a site plan or major subdivision application.

**Supervisor Lawrence moved to approve changes to the professional review fees on the master fee schedule as presented. The motion carried by the following vote:**

- |                  |   |        |
|------------------|---|--------|
| Douglas Shaffer  | - | Aye    |
| Terri T. Catlett | - | Aye    |
| Doug M. Lawrence | - | Aye    |
| Beverly B. McKay | - | Absent |
| David S. Weiss   | - | Aye    |

**PROFESSIONAL REVIEW FEES**

Applicants shall be responsible for the professional review of application materials by the County’s technical review consultants – **Engineering Consultant, Karst Consultant** (for applications requiring Karst Plan review or resistivity testing for onsite sewage disposal permits), and **Telecommunications Consultant** (for wireless communication facility applications).

The **County Engineering Consultant** review fees are based on the fixed fee schedule listed below. The fixed fee shall be paid to the County upon filing the application and includes the cost of the initial review and review of one resubmission. Additional fees noted below will be charged for the third review and for each subsequent review and shall be paid to the County upon filing a resubmitted application.

<b>County Engineering Consultant</b>	
Site Development Plan/Site Development Plan Amendment (First and Second Reviews)	<del>\$2500</del> <del>1500</del> base fee + \$250/acre or fraction of
Major Subdivision (First and Second Reviews)	<del>\$2750</del> <del>1500</del> base fee + \$250/acre or fraction of
Third and Subsequent Reviews of Site Development Plan, Site Development Plan Amendment, or Major Subdivision	\$750 per review
Erosion & Sediment Control Plan (First and Second Reviews)	<del>\$1600</del> <del>500</del> base fee + \$250/acre or fraction of and/or each complex control measure*
* Examples of a complex control measure include temporary and permanent sediment basins	
Third and Subsequent Reviews of Erosion & Sediment Control Plan	<del>\$600</del> <del>500</del> per review

10) *Board of Supervisors Personnel Committee Items from July 8, 2024*

A. Expiration of Term for Appointments Expiring through September 2024

2024-07-08 Summary: Following review, the Personnel Committee recommends the following:

- Appoint Jesse Russell to the Historic Preservation Commission to replace Betsy Arnett for a four-year term expiring May 31, 2028.
- Reappoint Betsy Pritchard to the Economic Development Advisory Committee for a four-year term expiring August 31, 2028.

2024-07-16 Action: Chris Boies reviewed the above summary.

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

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

B. Social Services Structure

2024-07-08 Summary: The Personnel Committee reviewed the current structure and role of the Board of Social Services.

2024-07-16 Action: Chris Boies reviewed the above summary:

- No decisions were made or action taken.
- The Personnel Committee directed staff to discuss an advisory board versus an administrative board at the next Board of Social Services meeting and to report their responses back to the Personnel Committee.

Chairman Weiss

- Advised that social services is an exceptionally complicated system and requires a lot of compliance with state regulations and it may have evolved to a point where an advisory board would be better suited. The Board of Supervisors wants to encourage citizen participation at all levels, and sometimes such a complex system and heavy responsibilities can dissuade

volunteers. The Board of Supervisors is grateful to the Board of Social Services that is currently serving and has no desire to undermine them.

11) *Board of Supervisors Finance Committee Items from July 8, 2024*

- A. FY25 Barns of Rose Hill Supplemental Appropriation Request: During the FY25 budget process, the Finance Committee received a request to contribute \$5,000 to the Barns of Rose Hill endowment fund as a matching grant for the Eugene B. Casey Foundation. This request was not included as part of the FY25 budget process and is being presented at this time.

2024-07-08 Summary: Following review, the Finance Committee recommends, “Be it resolved that FY25 Barns of Rose Hill budgeted expenditure and appropriation be increased \$5,000 and that the designation for Government Savings be reduced in the same amount, all for the purpose of making a contribution to the Barns of Rose Hill Endowment Fund to be matched by the Eugene B. Casey Foundation.”

2024-07-16 Action: Brenda Bennett reviewed the above summary.

**Supervisor Lawrence moved, be it resolved, that FY25 Barns of Rose Hill budgeted expenditure and appropriation be increased \$5,000 and that the designation for Government Savings be reduced in the same amount, all for the purpose of making a contribution to the Barns of Rose Hill Endowment Fund to be matched by the Eugene B. Casey Foundation. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

- B. Resolution for Multistate Opioid Settlement with Kroger: Clarke County has received notification that Virginia has reached a multistate opioid settlement with the retail pharmacy chain Kroger. In order to opt into this settlement distribution, the Board of Supervisors will need to adopt the attached resolution, which approves the County’s participation in the proposed settlement of opioid-related claims against Kroger and its related corporate entities. The amount of funding we will receive is dependent on the number of Virginia localities that elect to participate.

2024-07-08 Summary: Following review, the Finance Committee recommends adopting 2024-10R: A Resolution Approving the County’s Participation in the Proposed Settlement of Opioid-Related Claims Against Kroger and its Related Corporate Entities and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the Settlement.

2024-07-16 Action: Brenda Bennett reviewed the above summary.

- Settlement funds received are based on the number of Virginia localities that participate.
- The county has opted in to several of these settlements previously.

Chairman Weiss

- Clarified that no additional funds are being requested so there is no impact to the county’s bottom line.

Supervisor Shaffer

- Asked if any localities have opted out of this settlement.
  - Chris Boies responded that 100% of Virginia localities participated in previous settlements and none have declined so far.

**Vice Chair Catlett moved to adopt 2024-10R: A Resolution Approving the County’s Participation in the Proposed Settlement of Opioid-Related Claims Against Kroger and its Related Corporate Entities and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the Settlement. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye



## Clarke County Board of Supervisors



**Berryville Voting District**  
Douglas Shaffer  
(540) 955-7158

**Millwood Voting District**  
Terri T. Catlett – Vice Chair  
(540) 837-2328

**Russell Voting District**  
Doug Lawrence  
(540) 955-2144

**Buckmarsh Voting District**  
David S. Weiss – Chair  
(540) 955-2151

**White Post Voting District**  
Bev B. McKay  
(540) 837-1331

**County Administrator**  
Chris Boies  
(540) 955-5175

### **Resolution Approving the County’s Participation in the Proposed Settlement of Opioid-Related Claims Against Kroger and its Related Corporate Entities and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the Settlement** **2024-10R**

**WHEREAS** the opioid epidemic that has cost thousands of human lives across the country also impacts the Commonwealth of Virginia and its counties and cities, including the County of Clarke, by adversely impacting the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services by Clarke County’s various departments and agencies; and

**WHEREAS** the Commonwealth of Virginia and its counties and cities, including Clarke County, have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of the Commonwealth and Clarke County; and

**WHEREAS** a settlement proposal has been negotiated that will cause Kroger to pay over a billion dollars nationwide to resolve opioid-related claims against it; and

**WHEREAS** the County has approved and adopted the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (the “Virginia MOU”), and affirms that this pending settlement with Kroger shall be considered a “Settlement” that is subject to the Virginia MOU, and shall be administered and allocated in the same manner as the opioid settlements entered into previously with opioid distributors McKesson, Cardinal Health, and AmerisourceBergen, opioid manufacturers Janssen Pharmaceuticals, Teva Pharmaceuticals, and Allergan, and retail pharmacy chains CVS, Walgreens, and Walmart; and

**WHEREAS** County staff has reviewed the available information about the proposed settlement and has recommended that the County participate in the settlement in order to recover its share of the funds that the settlement would provide;

**NOW, THEREFORE, BE IT RESOLVED** that the Clarke County Board of Supervisors, this 16<sup>th</sup> day of July, 2024, approves of the County’s participation in the proposed settlement of opioid-related claims against Kroger and its related corporate entities, and directs the County Administrator to execute the documents necessary to effectuate the County’s participation in the settlement, including the required release of claims against Kroger.

**APPROVED AND ORDERED ENTERED** in the official records by the unanimous vote of the Clarke County Board of Supervisors’ members assembled on the 16<sup>th</sup> day of July, 2024.

ATTEST 2024-XXR

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

- C. Clarke County Department of Social Services FY25 Supplemental Appropriation Request: The CCDSS is requesting an FY25 supplemental appropriation of \$21,234 to their operating budget. This request is to carryforward unspent FY24 ARPA funds into FY25. These funds will be used for Adult Protective Services and need to be spent or returned by October 1, 2024. There are no local funds required.

2024-07-08 Summary: Following review, the Finance Committee recommends, “Be it resolved that the FY25 Clarke County Department of Social Services budgeted expenditure and appropriation be increased \$21,234, and that federal revenue in the same amount be budgeted and appropriated, all for the purpose of receiving federal ARPA funds to be spent for Adult Protective Services.”

2024-07-16 Action: Brenda Bennett reviewed the above summary:

- DSS is working to determine the best uses for those funds within Adult Protective Services.
- One idea is to hire a temporary part-time position to do outreach work, particularly in locations that generate frequent calls for Fire & EMS services.

**Supervisor Shaffer moved, be it resolved, that the FY25 Clarke County Department of Social Services budgeted expenditure and appropriation be increased \$21,234, and that federal revenue in the same amount be budgeted and appropriated, all for the purpose of receiving federal ARPA funds to be spent for Adult Protective Services. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

- D. Economic Development Office Request for FY25 Supplemental Appropriation: The Clarke County Economic Development Office has received a VTC DMO (Virginia Tourism Corporation, Designated Marketing Organization) grant in the amount of \$16,000 and is requesting an FY25 supplemental appropriation for that amount. This grant will be used for the new county tourism website.

2024-07-08 Summary: Following review, the Finance Committee recommends, “Be it resolved that the FY25 Clarke County Economic Development Office budgeted expenditure and appropriation be increased \$16,000, and that state

revenue in the same amount be budgeted and appropriated, all for the purpose of receiving a VTC DMO grant to be used for the new county tourism website.”

2024-07-16 Action: Brenda Bennett reviewed the above summary.

**Supervisor Lawrence moved, be it resolved, that the FY25 Clarke County Economic Development Office budgeted expenditure and appropriation be increased \$16,000, and that state revenue in the same amount be budgeted and appropriated, all for the purpose of receiving a VTC DMO grant to be used for the new county tourism website. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

- E. Discussion Regarding DHR Funds Flowing Through Clarke County to the Clarke County Historical Association for Dam and Mill Restoration at Millwood: The Clarke County Historical Association has received a one-time, special appropriation from the Commonwealth for the Burwell-Morgan Mill Preservation Project. This project includes critical dam repairs as well as restoration work on the water wheel at the Mill. The \$850,000 appropriation will flow through the County to the Historical Association. The budget amendment needed to accomplish this transfer will require a public hearing to be held in August because the amendment exceeds one percent of the total approved FY25 budget.

2024-07-08 Summary: Following review, the Finance Committee recommends authorizing a public hearing on the proposed county participation with the Clarke County Historical Association for a grant award of \$850,000 from the Virginia Department of Historic Resources for the dam and mill restoration at Millwood.

2024-07-16 Action: Chris Boies reviewed the above summary:

- A Memorandum of Understanding between the Department of Historic Resources, Clarke County, and the Clarke County Historical Association as well as a separate MOU between the County and the Historical Association spells out responsibilities and obligations and establishes that the county will not be financially liable after the funds are given to CCHA.

**Vice Chair Catlett moved to set a public hearing for August 20, 2024, at 6:30 p.m. or as soon thereafter as the matter may be heard, to receive public comment on the proposed county participation with the Clarke County Historical Association for a grant award of \$850,000 from the Virginia Department of Historic Resources for the dam and mill restoration at Millwood. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

F. Clarke County Public Schools Supplemental Appropriation Request: The School Division has been awarded a School Security Officer Grant from the Virginia Department of Criminal Justice Services for FY25. The grant includes state funds of \$39,293 and a local match of \$59,732 for a total award amount of \$99,025. This grant will be used to cover a portion of the SSO salary expenses already budgeted and appropriated during the FY25 budget process. Supplemental revenue budget and appropriation of \$39,293 is being requested to recognize the additional grant revenue for easier tracking in the accounting system.

2024-07-08 Summary: Following review, the Finance Committee recommends, "Be it resolved that the FY25 Clarke County Public Schools operating revenue budget and appropriation be increased \$39,293, for the purpose of receiving state revenue of the same amount from the Virginia Department of Criminal Justice Services for a School Security Officer grant."

2024-07-16 Action: Brenda Bennett reviewed the above summary.

**Supervisor Shaffer moved, be it resolved, that the FY25 Clarke County Public Schools operating revenue budget and appropriation be increased \$39,293, for the purpose of receiving state revenue of the same amount from the Virginia Department of Criminal Justice Services for a School Security Officer grant. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

G. Bills and Claims

2024-07-08 Summary: Following review, the Finance Committee recommends approving the June 2024 Invoice History report.

2024-07-16 Action: Brenda Bennett reviewed the above summary.

**Vice Chair Catlett moved to approve the June 2024 Invoice History Report as presented. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

H. Standing Reports

- a. Year to Date Budget Report
- b. Reconciliation of Appropriations
- c. Capital Projects Report

2024-07-16 Action: Information Only.

12) *Joint Administrative Services Board Update*

Brenda Bennett advised the following:

- The JAS Board met on June 24 and heard an update on the ongoing issues with the county’s previous self-funded insurance administrator; those issues have since been resolved.
- The JAS Board voted to make some settings changes within the schools’ accounting software that will allow for more budget transparency and review.
- JAS staff is extremely busy wrapping up FY24 and starting FY25, in addition to VRS changes, contracts, and multiple payroll and leave accrual processes.
- Auditors were on site the week of June 17 for preliminary audit work, they will be back in October for final audit fieldwork.

Chairman Weiss

- Advised that JAS staff worked exceptionally hard for more than a year to recoup as many funds as possible from the issues with the previous insurance provider. It was a very difficult process and the Board is grateful for staff's perseverance.

13) *Government Projects Update*

Chris Boies provided the following update:

- Thanks are due to the Board for approving the pool improvements project last year. From the pool opening on May 25 until June 30, revenues from daily admissions are up 175% compared to the same time last year. Pool passes are up 135%, and concessions are up 128%. The hot and dry weather has certainly helped, but the pool improvements have been a big hit. Total pool revenue has increased over \$40,000 from last year and staff have done a great job accommodating the increased volume.
- Construction contracts and notices to proceed have been issued for the Double Tollgate and Crooked Run sewer projects. All easements for the Crooked Run project have been acquired and they are close to having all that they need for the Double Tollgate project; the last few easements are necessary for construction to begin on the Double Tollgate project. Frederick Water has been great in providing updates on the progress of these projects.
- The capital budget that the Board approved to be effective July 1 included additional parking in Chet Hobert Park for Little League and shelter patrons. The Maintenance Director has issued a contract for that work and hopes it can be completed in the next few months.
- The regional jail was awarded \$235,000 from the Virginia Opioid Abatement Authority for programs the Superintendent proposed to help inmates with medication-assisted treatment. Clarke was technically a part of that grant because of the county's involvement with the jail; however, those funds will flow directly to Frederick County, as they are the fiscal agent for the jail. There was no local match required. The Jail Superintendent takes a proactive approach to combating recidivism, which is appreciated.
- The temperature is over 100 degrees today, so it is important to recognize and thank county staff that performs vital work outside. Fire & rescue personnel, maintenance staff, building inspections, sheriff's deputies, parks & recreation, and others who are often outside and working very hard. Public safety calls have been higher than normal over the past few weeks and we thank them all, as well as volunteers, for their dedication.

- Staff is excited to announce that the application process for the 2024-2025 Clarke County Citizen’s Academy is open. The program runs on the third Friday of every month, September to June, and educates citizens on different aspects of the county government. There is a short application on the county website and applications are accepted through August 15. This will be the fourth year for this program.

Chairman Weiss

- Complimented Chris Boies for implementing the Citizen’s Academy program and continuing to offer it, as there has been tremendous positive feedback about it.

14) *Miscellaneous Items*

None presented.

15) *Summary of Required Action*

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process and post approved minutes	Catherine Marsten
2.	Process Employee of the Quarter award	Catherine Marsten
3.	Monitor the drought status and provide updates as needed.	Lorien Lemmon
4.	Execute appointment letters	David Weiss
5.	Process approved personnel appointments	Catherine Marsten
3.	Execute approved resolutions	David Weiss
4.	Process approved resolutions	Catherine Marsten
5.	Process approved finance actions	Brenda Bennett
6.	Process bills & claims	Brenda Bennett

## 16) Board Member Committee Status Reports

### Supervisor Doug Lawrence

#### Board of Social Services

- Meets July 17.
- Discussing deviating versus non-deviating, which refers to how closely the department follows state HR policies, and potentially applying to follow more of the local policies instead.
- These discussions are somewhat related to the matter of having an administrative versus an advisory Board of Social Services. If moving towards deviation, it would be helpful to have an advisory board so that the work involved would fall on County Administration rather than the local board.

#### School Board

- Clarke's athletes are ranked #1 in the Bull Run District.
- Dr. John Lamanna is the interim superintendent while the School Board navigates the hiring process.

#### Regional Jail Authority

- The jail uses the fees (approx. \$500,000 last fiscal year) collected for inmate telephone/internet use to help provide rehabilitation assistance to inmates, rather than to balance the jail budget.

### Vice Chair Terri Catlett

#### Career and Technical Education

- Did not meet.

#### Clarke County Humane Foundation

- Welcomed a new board member, Sarah Ramsey.

#### Village of Millwood

- Already heard an update on the speed tables.

#### Planning Commission

- Will present three potential public hearings next month.

#### Community Policy & Management Team

- Looking at policy and a transition to next year's leadership team.

### Supervisor Douglas Shaffer

#### Library Advisory Council

- Did not meet.

#### Litter Committee

- Next meeting is July 16.



Josephine School Community Museum Board

- Did not meet.

Legislative Updates

- Nothing to report.

Northwestern Regional Adult Drug Treatment Court Advisory Committee

- Met June 28.
- Decided that referrals from outside jurisdiction should not be accepted, due to large volume.
- A review of FY23 statistics shows that this program is outperforming many others in the state, across multiple categories.
- Effective July 1, the program was renamed from “Drug Court” to “Recovery Court”.

Northwestern Regional Juvenile Detention Center Commission

- Nothing to report.

Sheriff’s Office

- Did not meet.

Town of Berryville

- Heard a presentation from Shentel on July 9 about bringing GloFiber to the Town of Berryville at no cost to the Town. If Shentel could get the authorization from the Town within the next 6 months, the service could be available within 24 months. Shentel would use both existing poles and existing underground utility easements. The Town Manager will meet with Shentel and report to the Council.

Parks and Recreation Advisory Board

- July 10 meeting rescheduled to August 21.

Chairman David Weiss

Berryville-Clarke County Joint Committee on Economic Development & Tourism

- Did not meet.

Board of Septic and Well Appeals

- Did not meet.

Historic Preservation Commission

- Did not meet.

Industrial Development Authority

- Will meet with the Board of Supervisors on July 25 at the Camp 7 property to discuss development possibilities.

At 2:46 pm, Chairman Weiss recessed the meeting.

At 6:30 pm, Chairman Weiss reconvened the meeting.

17) *Citizen's Comment Period*

No persons appeared to address the Board.

18) *Public Hearing: Cesspools and Other Unpermitted Onsite Sewage Disposal Systems Text Amendment (PH2024-10: TA-24-01)*

Planning Director Brandon Stidham presented the following:

**TA-24-01, Cesspools and Other Unpermitted Onsite Sewage Disposal Systems**

- Proposed text amendment to amend Section 4.5.6E of the Subdivision Ordinance.
- Purpose is to require any existing cesspool or unpermitted onsite sewage disposal system to be replaced or upgraded to a Virginia Department of Health (VDH) approved system prior to final approval of a subdivision plat.

**Background**

- For subdivisions of lots containing an existing dwelling, Subdivision Ordinance Section 4.5.6E requires the plat to show either:
  - The location of an existing approved standard septic system that is currently serving the existing dwelling as shown by VDH record and a 100% reserve drainfield area, OR
  - The location of a new primary system and a 100% reserve drainfield area to serve the existing dwelling as approved by VDH
- Section 4.5.6E only requires this information to be shown on the plat – the section does not require the applicant to construct any new systems or modify/upgrade any existing systems.

**Background (cont.)**

- Cesspools have never been an approved method of onsite sewage disposal.
- Systems for which no records exist may have been installed illegally and likely do not conform to current regulations.
- Both cesspools and unpermitted systems pose risks to groundwater contamination when they fail and should be modified or replaced before failures occur.

### Proposed Text Amendment

---

- Text amendment would require existing cesspools and unpermitted onsite sewage disposal systems to be replaced or upgraded to a VDH-approved system before final approval of a subdivision plat.
- Staff would recommend that applicants have modifications or upgrades approved by VDH and install them before filing for subdivision plat review - this would prevent delays in final plat approval for recordation.
- Text amendment also would remove the word "standard" from Subsection E - the term is unnecessary and could be interpreted as allowing only "conventional" onsite sewage disposal systems.

### Planning Commission Recommendation

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- Following a duly advertised public hearing on June 7, 2024, the Commission voted 9-0-2 (Hunt, King absent) to recommend adoption of the text amendment to the Board of Supervisors.
- There were no speakers at the Commission's public hearing.

### Staff Recommendation

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- Staff has no outstanding concerns with the adoption of the text amendment.
- Conduct advertised public hearing and take action on the text amendment.

Chairman Weiss opened the public hearing at 6:34 pm.

#### Frank Lee of Swan Avenue in Berryville

I am a member of the Planning Commission and I voted to approve this item. In fact, I brought it up. I'm currently working on an application for a subdivision that has been pending for a while. I have been working on this particular subdivision for about two years. I have had some difficulties. Some of the people involved do not live locally, so we have had to have some conference calls back and forth, and I have also had some problems getting an approved site. I have three sites approved by the Health Department, two of which were turned down for resistivity testing. I am not saying anything against resistivity testing, per se, but one of them was questionable in my opinion. But that does not matter. We have an approved site and approved resistivity testing for that site. We have a two-lot

subdivision out of one parcel; each of them will have their own separate drainfield and 100% reserve that meets the current requirements. I just would like to request that the Board think about, perhaps allowing people who have a pending application that was submitted under the old rules to not have to meet the new rules. The reason being that it is not fair to change the rules during the process. This application is just about finished and will be finished very shortly. At this time, I would propose that this new regulation should not affect current applications. All future applications, I agree with. But, somebody who has been working with an application for a long time should go by the old rules, the ones that applied at the time when their application was put in. Both lots have approved applications. One of them has an old house on it, at the present time, that does have a system but there are no records of it. It appears that it is working but there is no way to tell. There is only one gentleman who lives on the property in the old house and it will be torn down when he leaves. In such time as anyone proposes to replace that house, they would have to put in the new system and meet the requirements at the time. I am asking the Board now to waive the new regulations for existing, pending applications that were put in prior to this regulation coming about.

Vice Chair Catlett

- Asked if the property in question was presented to the Planning Commission.
  - Mr. Lee responded no, he did not feel it was proper for him to bring it up in front of the Planning Commission, as it is up to the Board of Supervisors to make the final decision and he was the one who brought the issue to the Planning Commission in the first place.
  - Mr. Lee added that he feels it is only fair that any pending applications meet the requirements that were in effect at the time the application was submitted.

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

Chairman Weiss

- Requested staff's input on Mr. Lee's request.
  - Brandon Stidham advised that one way to address Mr. Lee's request would be to delay the implementation of the ordinance instead of granting a waiver.

Supervisor Shaffer

- Asked how many pending applications would be affected by this ordinance change.
  - Mr. Stidham responded only one, the one Mr. Lee referenced.

Supervisor Lawrence

- Asked if there were any applications in the past few years where this change would present a financial hardship for the applicant.
  - o Brandon Stidham answered that there have been none but that it is something the Planning Commission discussed. Many times, people are subdividing to settle an estate or because they are trying to sell off a portion of land to help with financial difficulties. In those cases, the additional cost of a new system should be weighed against eliminating a system that was never legal in the first place (a cesspool) or potentially repairing or replacing a system that is undocumented and illegal. An older system that the Health Department has some record of would be considered non-conforming but legal and the ordinance requirement would not apply.

Chairman Weiss

- Observed that, in theory, a functional and up-to-date system would cost the applicant money but it would also make the property more valuable.

Vice Chair Catlett

- Added that the overall goal is protecting groundwater.

**Supervisor Lawrence moved to approve the proposed Cesspools and Other Unpermitted Onsite Sewage Disposal Systems Text Amendment as presented, effective November 1, 2024. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

**19) Public Hearing: Minor Commercial Public Assembly Use – Country Inns Text Amendment (PH2024-11: TA-24-02)**

Planning Director Brandon Stidham presented the following:

**TA-24-02, Minor Commercial Public Assembly Accessory Use – Country Inns**

- Proposed text amendment to amend the “country inn” use per Section 5.2C (Uses, Definitions, and Use Regulations – Business Uses) of the Zoning Ordinance.
- Purpose is to eliminate minor commercial public assembly as an allowable accessory use and to clarify that the sale of meals or prepared food is limited to overnight guests only.
- Also deletes reference to Code of Clarke County Chapter 57 (Special Events).

**Background**

- “Country inns” are allowed by special use permit and site development plan approval in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts, and by-right with site development plan approval in the Neighborhood Commercial (CN) District.
- Minor commercial public assembly – rental of a facility for events such as weddings, conferences, and parties – is allowed as an accessory use to a country inn with a maximum total occupancy of 149 people during events.
- Minor commercial public assembly is also a standalone use that is allowed by special use permit and site development plan approval in the AOC and FOC Districts.
- Some commissioners expressed concerns about allowing minor commercial public assembly activities in conjunction with a country inn approval.

**Proposed Text Amendment**

- Text amendment would eliminate minor commercial public assembly as an accessory use to a country inn (use regulation 3).
- Applicants would have to apply for a separate special use permit for this use in addition to the country inn special use permit.
- Would allow the impacts of a minor commercial public assembly use to be evaluated separately from the impacts of the country inn.
- Use regulation 8 would be deleted which references required compliance with County Code Chapter 57 for Special Events – intent is to limit the presumption that country inns are appropriate locations to hold special events.
- Language is also added to use regulation 2 to clarify that meal service may be provided only to the overnight guests of the country inn and not to general visitors.

**Planning Commission Recommendation**

- Following a duly advertised public hearing on June 7, 2024, the Commission voted 9-0-2 (Hunt, King absent) to recommend adoption of the text amendment to the Board of Supervisors.
- There were no speakers at the Commission’s public hearing.

**Staff Recommendation**

- Staff has no outstanding concerns with the adoption of the text amendment.
- Conduct advertised public hearing and take action on the text amendment.

**Supervisor Shaffer**

- Commented that many structures over fifty years of age have gone through restorations and additions and asked if the fifty-year-old rule in Use Regulation #3 applies to the original structure or to the most recent renovation or addition.
  - Brandon Stidham responded that this issue has not come up before, but it is something to consider for the future. The rule would apply to the structure as a whole.

Chairman Weiss opened the public hearing at 6:54 pm.

No persons appeared to address the Board.

Chairman Weiss closed the public hearing at 6:55 pm.

**Supervisor Lawrence moved to approve the proposed Minor Commercial Public Assembly Use – Country Inns Text Amendment as presented. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

20) *Public Hearing: Helicopter Landing Area Use and Prohibition of Private and Public Airstrips and Airports Text Amendment (PH2024-12: TA-24-03)*

Planning Director Brandon Stidham presented the following:

**TA-24-03, Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports**

- Proposed text amendment to add "helicopter landing area" as a new special use in the AOC and FOC Districts per Section 5.2E of the Zoning Ordinance.
- Purpose is to require a special use permit for departures and landings of non-commercial helicopters for personal use.
- Use regulations are proposed for the protection or benefit of owners and occupants of neighboring lots including a prohibition on takeoffs and landings between the hours of 10:00PM and 6:00AM.
- Also clarifies that helicopter landing areas for commercial use and private or public airstrips or airports for aircraft other than helicopters are prohibited.

**Background**

- Code of Virginia Section 15.2-2293.2:
  - Prohibits local zoning ordinances from banning departures and landings of non-commercial helicopters for personal use
  - Allows repetitive landings/departures on the same lot to be regulated by special use permit
  - Also allows "reasonable" use regulations to be established for the protection or benefit of neighboring landowners including requiring compliance with Federal Aviation Administration (FAA) regulations

**Background (cont.)**

- Zoning Ordinance Section 5.1.2A - If a proposed use does not meet the definition of any use listed in Section 5, then it is a prohibited use.
- Helicopter landing areas are not a currently defined use in the Zoning Ordinance and would be considered a prohibited use.
- Since localities cannot prohibit repetitive non-commercial landings/ departures of helicopters on the same lot, argument can be made that the Zoning Ordinance does not regulate the use and it is allowed by-right and not subject to any permitting requirements or zoning regulations.



**Proposed Text Amendment**

- *“Helicopter landing area” – New use defined as, “An area designated exclusively for the takeoff and landing of helicopters for the personal use by the property owner and their guests.”*
- Allowable by special use permit in the AOC and FOC Districts
- Site development plan approval would not be required – use is intended to be low-impact

**Proposed Text Amendment (cont.)**

- **Proposed use regulations:**
  - Minimum lot size – 50 acres
  - Setbacks:
    - From all property lines and overhead utility lines – 300 feet
    - From structures on the same lot – 100 feet
    - From residences on adjacent lots – 500 feet
  - Cannot be used for commercial purposes
  - Shall conform to all State and Federal regulations
  - Landing areas may be hard surfaced and, at a minimum, shall be stabilized with grass or gravel
  - Improvements limited to markings, lighting, and other equipment required by State or Federal law
  - Use of required lighting shall be limited to takeoffs and landings; all lights to be turned off when the landing area is not in use.
  - Takeoffs and landings are prohibited between the hours of 10:00PM and 6:00AM.

**Proposed Text Amendment (cont.)**

- Private and public airstrips and airports are not defined uses in the Zoning Ordinance and are considered to be prohibited uses
- Use regulation #3 notes that helicopter landing areas do not include private and public airstrips and reinforces that these are prohibited uses.

**Planning Commission Recommendation**

- Following a duly advertised public hearing on June 7, 2024, the Commission voted 9-0-2 (Hunt, King absent) to recommend adoption of the text amendment to the Board of Supervisors.
- There were no speakers at the Commission’s public hearing.

**Staff Recommendation**

- Staff has no outstanding concerns with the adoption of the text amendment.
- Conduct advertised public hearing and take action on the text amendment.

Vice Chair Catlett

- Stated that members of the public who are concerned that helicopter landing would be allowed in AOC or FOC zoning districts because of the risk to livestock or horses would still be protected by the fact that a special use permit process is still required.
  - Mr. Stidham added that stricter limitations or conditions could be imposed during the special use permit approval process, if necessary, to protect neighboring livestock or citizens.

Chairman Weiss opened the public hearing at 7:03 pm.

No persons appeared to address the Board.

Chairman Weiss closed the public hearing at 7:04 pm.

**Supervisor Shaffer moved to approve the proposed Helicopter Landing Area Use and Prohibition of Private and Public Airstrips and Airports Text Amendment as presented. The motion carried by the following vote:**

Douglas Shaffer	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

*21) Adjournment*

Chairman Weiss adjourned the meeting at 7:06 pm.

*22) Next Regular Meeting Date*

The next regular meeting of the Board of Supervisors will be held on Tuesday, August 20, 2024, at 1:00 pm in the Berryville Clarke County Government Center, Main Meeting Room, at 101 Chalmers Court, Berryville, Virginia.

Approved August 20, 2024

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ATTEST: July 16, 2024

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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