

February 18, 2014

Clarke County Board Of Supervisors
Regular Meeting
Main Meeting Room

1:00 p.m.

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Berryville Clarke County Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia conducted on Tuesday, February 18, 2014.

Board Members Present

Barbara Byrd; J. Michael Hobert; Bev McKay; John Staelin; David Weiss

Board Members Absent

None

Staff Present

David Ash; Tom Judge; Sheriff Tony Roper; Brandon Stidham; Lora B. Walburn

Others Present

Robina Rich Bouffault; Randy Buckley; Bryan Conrad; A.R. Dunning, Jr.; Chuyen Kochinsky; Kenneth Liggins; Gina Schaecher; Chip Schutte; Gem Bingol; Val Van Meter and other citizens and members of the press.

1) Call to Order

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

2) Adoption of Agenda

By consensus, the Board adopted the agenda as presented.

3) Citizens Comment Period

Clyde V. Coswell, Jr., 994 Crums Church Road: read the following prepared statement:

Thank you for this opportunity. I am Clyde Croswell, and I live up on Crums Church Road. I am here to speak about the next Clarke County Comprehensive Plan and to encourage the present and future Board of Supervisors, the Board-appointed Planning Commission, and the newly constituted School Board to adopt a more collaborative and co-creative attitude toward educating and developing the future citizens of our community. We can develop a brighter future for all of our community's citizens, and I am willing to work with anybody else who is interested in continuing in moving our community forward into its fullest potential.

The first step in improving the current conversation about education and human development in our community is to stop having the kind of unofficial and official conversations we are having right now. Historically our plans for education are too short term, too divisive, and less mindful of a large portion of the Code of Virginia, that portion that sets forth responsibility and accountability of local jurisdictions for planning for future needs and developing and promoting human and community values, harmonious development, and the quality of life for all in our community. Let's simply remind ourselves, as elected and appointed officials and concerned citizens, that the Code of Virginia, Section 15.2-2223, requires local jurisdictions to adopt comprehensive plans which include "a coordinated, adjusted, and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities." And the same Code also requires localities to "protect and enhance the quality of life and sense of community valued by the people who have chosen to live and work here."

Meeting our future citizens' needs requires a long-term plan for implementing and funding education operations. A more comprehensive Education Plan is vital to the future of our community and improving both the specific effectiveness and efficiency of local decision-making. Where we annually invest the largest portion of locally generated tax revenues, our community needs to better plan, sustain, focus, and develop an Education Plan in order to more mindfully preserve our hard-earned incomes and improve the quality of life for all. Excluding education plans and operations from the Clarke County Comprehensive Plan is too short-sighted, myopic, and self-limiting, and it fails to meet the spirit and law of local self-governance. Let's begin right now in cocreating and enacting an Education Plan in future Clarke County Comprehensive Plans.

Thank you for your time and service in developing our community's most precious and valued assets -our people, our land, our natural resources, and our whole sense of community.

Recommendation: It is respectfully requested that the Board of Supervisors appoint a bipartisan, ad hoc education committee for the purpose of serving as a cross-functional team that will co-create a dynamic Education Plan for the future learning and development of a whole sense of community for citizens working and/or living in our community. The dynamically co-emerging process and outcome will be fully coordinated through timely communication updates to the Board of Supervisors, School Board and Planning Commission so as to generate an integrative effort between community citizens, elected and appointed officials, and CCPS administration efforts in order to optimize inclusion of the Education Plan in the next Clarke County Comprehensive Plan.

4) VDOT

Maintenance – January:

- Majority of VDOT's time has been consumed dealing with multiple weather events, averaging two a week.
- VDOT was able to do limited work on Rt. 639, 621 and 605. This consisted primarily of spreading stone and back dragging the worst spots with a backhoe bucket. A heavy grader cannot be put on the roads in their current condition without doing significant damage because of the freezing/thawing effect.
- VDOT has addressed numerous potholes as they were reported.

Maintenance – February:

- Long-range forecast shows VDOT continuing in this multiple event pattern, including the possibility of another significant storm next week.
- If the weather does break, VDOT plans to haul stone and address the worst spots on the non-hard surfaced roads.
- VDOT will address potholes as they are reported and would like to cut brush on the east end of Rt. 7.

Projects:

- All project status is unchanged

Supervisor Comments:

Supervisor Bev McKay:

- Swift Shoals Road: During the recent storm, operators did not plow the center of the road.
- Route 522 Northbound Camp 7 side: shoulders are lower than the road in some sections.

Supervisor Barbara Byrd

- Allen Road: many thanks for the improvements.
- Triple J Road: needs to be resurfaced.

5) Clarke County School Board Update

Supervisors Questions:

- *Current status on the School Board's recent approvals of contract modifications on the current DG Cooley PK-3 Band Room and Cafeteria change orders.*
- *Schools Special Education Program Presentation.*

School Board member Chuyen Kochinsky appeared before the Board and distributed copies of a package to Board members. Mrs. Kochinsky raised questions regarding the appearance of the School Superintendent and School Board members at the Supervisors regular meetings. Chairman Hobert explained that the Supervisors, with the School Board and its prior and current Chair, had agreed upon a methodology where by the Supervisors would communicate to the School Board issues about which it would like to hear and give the Schools the opportunity to speak to those issues at the Supervisors regular meeting. He advised that for this meeting the issues to be addressed were special education, at the request of the Schools; and, the status of the renovation, at the request of the Supervisors. Chairman Hobert, with Vice Chairman Weiss, requested that Mrs. Kochinsky limit her remarks to the agreed upon agenda.

Renovation: Mrs. Kochinsky introduced Charles Hydorn – CCPS Clerk of the Works

- Mrs. Kochinsky:
 - Invited the Supervisors to make an appointment to tour the facility.
 - \$105,000 for new carpet, new floor tile, new ceiling tile and grid, new energy efficient lights, new paint. This amount includes demolition of the old and removal of items stored in the band room. There will be an RMM for design services to be less than \$3,000.
 - Contractor requested change orders have been minimal.
 - The Division has authorized several change orders from the construction surplus including the band room, cafeteria, and restrooms for approximately \$122,000.
 - Replacement of the HVAC in the band room will be approximately \$75,000.
 - All items were on the "To Do List" if funds were available.
- Charles [Chuck] Hydorn
 - Difficult winter but construction is on schedule.
 - Running 7 to 10 days behind on Area D addition.
 - Contractor has been working at his own expense to try to make up the schedule.
 - Lost time should be made up once inclement weather is past and should be ready for the June completion date.
 - In the renovated building, there is an approximate 72,210 square foot area that will be used; and 12,696 square feet in the new addition.

- Bathrooms: 20 in renovation; 9 in new addition; 4 in the gym area that will not be renovated.
- 24 total classrooms: 8 in the new addition; 16 in the renovation.
- 25 requests for changes: 5 required by the review process conducted by Gary Pope, Code Official; 4 had no cost attached; Unforeseen issues including the band room and cafeteria totals \$208,050;
- Invited the Supervisors to tour the facility during the 3 pm Friday walk through.
- Tom Judge confirmed that the change order charges [\$208,000] would come from the contingency fund.

Special Education:

Ms. Kochinsky provided a PowerPoint presentation. Highlights include:

- Special Education employees work with ALL students through prevention and intervention.
- Virginia's special education laws and Individuals with Disabilities Education Act (IDEA) enacted July 07, 2009 require all schools to ensure that all identified children with disabilities have the right to a free appropriate public education (FAPE).
- There are 13 special education categories in which students can be identified.
- While the total number of students has decreased from 2,245 in 2006 to 2,033 in 2013, the number of special education students has risen from 166 in 2006 to 218 in 2013. Mrs. Kochinsky stated that this was due to the increase of children identified with health impairment and autism.
- CCPS anticipates an increase in special education students in the following years.
 - Clarke, at 10.9%, is below the State average of 12.7%
 - The number of students with autism has risen from 8 in 2006 to 34 in 2013.
 - The number of students with other health disorders has risen from 16 in 2006 to 54 in 2013.
 - In 2013 due to the increase in special education students, there are 19 full-time special education teachers, 24 special education instructional assistants and 7 part-time instructional assistants.
- In some cases, the "extreme" needs of students go beyond our ability to provide effective and efficient services within Clarke's schools and must be outplaced.
 - The number of outplaced students has decreased from 12 in 2006 to 3 in 2013 due to increased staffing.
 - Residential outplacement students have decreased from 6 in 2006 to 3 in 2013. Day placement students have decreased from 6 in 2006 to 0 in 2013.

Mrs. Kochinsky asked the Supervisors if the budget surplus in Social Services was due to the decrease in outplacated and what plans they had for this surplus.

Chairman Hobert said that he believed it was a \$50,000 surplus.

Supervisor Staelin explained that due to the fluctuating nature of needs the Supervisors had set up a fund balance item.

Tom Judge affirmed that there is a fund balance item. He added that the \$50,000 reduction referred to by the Chair was the result of conservative budgeting by the Social Services Director in an effort to establish a contingency within the fund. Mr. Judge stated that he did not know if the surplus was attributable to the education component of the fund.

Supervisor Byrd commented that the Department of Social Services is working with less staffing while handling a greater caseload.

6) Set Public Hearing: Shenandoah University SUP Revocation

Brandon Stidham reviewed the request for special use revocation from Shenandoah University.

Supervisor Byrd moved to set public hearing for Tuesday, March 18, 2014 at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

7) Set Public Hearing: TA-14-01, Revocation of Special Use Permits

Brandon Stidham reviewed the text amendment proposed in response to concerns raised by the Board of Supervisors.

Supervisor Byrd moved to set public hearing for Tuesday, March 18, 2014 at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye

John R. Staelin - Aye
David S. Weiss - Aye

8) Approval of Minutes

Supervisor Byrd requested that her comment regarding textbooks be included on Book 21 Page 665 School Board Update.

- *Supervisor Byrd asked Dr. Leffel if she could research how many textbooks this amount of funding could purchase.*

Supervisor McKay moved to approve the minutes for:

- **January 15, 2014 Organizational Meeting and Work Session, as presented**
- **January 23, 2014 Regular Meeting, as modified**
- **February 3, 2014 FY2015 Budget Work Session, as presented**

The motion carried by the following vote:

Barbara J. Byrd - Aye
J. Michael Hobert - Aye
Beverly B. McKay - Aye
John R. Staelin - Aye
David S. Weiss - Aye

9) Consent Agenda

Resolution in Appreciation of Thomas T. Gilpin for service to The Clarke County Historic Preservation Commission 2014-02R

**Resolution in Appreciation of Thomas T. Gilpin for service to The Clarke County Historic Preservation Commission
2014-02R**

WHEREAS, Thomas T. Gilpin was appointed to the Clarke County Historic Preservation Commission in June of 1987, serving as Vice-Chairman the Board until 2013 when he succeeded John Bieschke as Chairman, and throughout his tenure demonstrating the character of a true leader, as he helped to guide the Commission with energetic enthusiasm;

WHEREAS, Mr. Gilpin exhibited strong support for the work of the Commission with a calm, fair, and common sense approach as he worked to protect and preserve historic structures in the County;

WHEREAS, during his time with the Historic Preservation Commission, he successfully brought 5 rural historic districts to the National Register, totaling 46,815 acres or 41% of the County; and

WHEREAS, during his tenure, the Historic Preservation Commission developed annual Historic Preservation Awards, for presentation to citizens of Clarke County who made distinctive efforts to preserve and maintain the historic structures and places of the County, essential to defining our unique cultural identity.

NOW THEREFORE BE IT RESOLVED, the Clarke County Board of Supervisors recognizes and congratulates Thomas T. Gilpin for his lengthy and important service to the community on the Clarke County Historic Preservation Commission and for the impact this service has made on Clarke County;

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

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the members of the Clarke County Board of Supervisors assembled in regular session on the 18th day of February 2014.

Attest:

J. Michael Hobert, Chairman

Proclamation Northern Shenandoah Valley disAbility Awareness Week 2014-01P

**Proclamation Northern Shenandoah Valley disAbility Awareness Week
2014-01P**

WHEREAS, the United States Congress enacted the Americans with Disabilities Act in 1990, prohibiting discrimination against people with disabilities in employment, public accommodations, transportation and telecommunications; and

WHEREAS, the Commonwealth of Virginia enacted the Virginians with Disabilities Act in 1985 to assure equal opportunity to persons with disabilities in the Commonwealth, and it is the policy of this Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and to engage in remunerative employment; and

WHEREAS, people with disabilities often overcome common misunderstandings about their circumstances and make valuable contributions to their families and communities; and

WHEREAS, disability is a natural part of the human experience, and individuals with disabilities deserve the same rights as their peers to live independently, enjoy self-determination, make choices, contribute to society and participate fully in the American experience; and

WHEREAS, the community plays a central role in enhancing the lives of people with disabilities, and people with disabilities benefit from having a network of supportive friends and family, accommodating employers and community leaders who are aware of the needs and abilities of people with disabilities; and

WHEREAS, millions of people in the United States have disabilities and we all must make a conscious effort to discover their functional abilities and to remove the barriers met in their effort to acquire independence; and

WHEREAS, it is the goal of Access Independence, Inc. to involve the community in all aspects of disAbility Awareness Week and establish an atmosphere that supports awareness and education of on-going initiatives to enhance public understanding of, and appreciation for, abilities possessed by those of us who experience life with disabilities.

NOW, THEREFORE the Clarke County Board of Supervisors does hereby proclaim April 12-18, 2014 as Northern Shenandoah Valley disAbility Awareness Week 2014, and we call this observance to the attention of all of those people who live in Clarke County to work together to raise awareness and understanding of the abilities of people with disabilities.

IN WITNESS THEREOF, I have set my hand and caused the seal of Clarke County, Virginia to be affixed this 18th February 2014.

Attest:

J. Michael Hobert, Chair

Conservation Easement - Application for DUR Purchase – Susan Bailey Tax Map# 23-((A))-37A

MEMORANDUM

TO: Board of Supervisors, David Ash
FROM: Conservation Easement Authority, Alison Teetor
DATE: February 7, 2014
SUBJECT: Application for DUR Purchase – Susan Bailey
Tax Map# 23-((A))-37A

The Clarke County Easement Authority has approved the following easement for DUR purchase. The Authority requests the Board of Supervisors to authorize the Chairman of the Board of Supervisors to execute deeds, easements, and other documents necessary to the transactions, subject to the property owners and lenders signing the Deed prior to the Chair. The applicant has accepted the Authority purchase offer is \$69,600 for retirement of 3 DURs. The Virginia Department of Agriculture and Consumer Services (VDACS) will provide ½ the funding (\$34,800) and the County share is (\$34,800).

Susan Bailey has applied to the easement authority for approval of a DUR Purchase. The property located on the west side of Springsbury Rd., 2.3 miles south of the Berryville at 2386

Springsbury Rd. The property consists of 58.68 acres has an existing house and 3 additional DURs.

The parcel is zoned AOC and is in use value taxation, in accord with the Commissioner of Revenue's requirements, therefore a donation may be considered if at least two of the following four guidelines are met:

Easement Purchase

If the parcel is currently in or eligible for use value taxation, in accord with the Commissioner of Revenue's requirements, then a purchase 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 parcel meets all of the 4 criteria. The property resource score was 59.72, points were given for being adjacent to an existing easement (Hahn), a Lewis Run, a perennial stream runs through the property, and it has been owned by Ms. Bailey for more than 30 years. The property is over 40 acres, and the applicant wishes to retire all three of the remaining DURs.

Vice Chairman Weiss moved to approve the items on the Consent Agenda. The motion carried by the following vote:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

10) Personnel Committee Items

A. Expiration of Term for appointments expiring through April 2014.

2/10/2014: The Personnel Committee made the following recommendations for appointment.

- Michelle Jones Conservation Easement Authority for a term expiring December 31, 2016.
- Laurie Volk recommend to the Clarke County Circuit Court reappointment to the Board of Zoning Appeals for a term expiring February 15, 2019.

02/18/2014 Summary: **Supervisor Staelin moved to approve the recommends of the Personnel Committee as presented. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

B. Procurement Personnel Policy Update by David Ash

02/10/2014 Summary: David Ash advised that he had been in touch with Springsted and forwarded copies of the existing and draft proposed personnel policies.

11) Board of Supervisors Work Session

A. Closed Session §2.2-3711-A7 Consultation with Legal Counsel Re Advise on Legal Requirements Pertaining to Public Hearing PH 14-01

Supervisor Byrd moved to convene into Closed Session pursuant to §2.2-3711-A7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. The motion carried as follows:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

Robert Mitchell joined the Supervisors in Closed Session.

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, **Supervisor Staelin moved to reconvene in open session. The motion carried as follows:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye

David S. Weiss - Aye

Supervisor Staelin further moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

The motion was approved by the following roll-call vote:

Barbara J. Byrd - Aye
J. Michael Hobert - Aye
Beverly B. McKay - Aye
John R. Staelin - Aye
David S. Weiss - Aye

No action was taken on matters discussed in Closed Session.

B. Fire and Emergency Services [EMS] Work Group Recommendation Review and Discussion

02/10/2014 Summary: The Board discussed the work groups' final report at length and asked the County Administrator and Planning Director to draft specific actionable plans for the Board's review and consideration.

C. Clarke County Humane Foundation, Inc. Amendment to Agreement Discussion

02/10/2014 Summary: Following discussion, **Supervisor Staelin moved to forward the proposed amendment to the Clarke County Humane Foundation, Inc. for its consideration and approval. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

02/18/2014 Summary: Supervisor Byrd informed the Board that the Humane Foundation amended the agreement increasing the number of times the grounds were to be brush hogged from two to three times per year.

D. ERP Update by Tom Judge

02/10/2014 Summary: The Joint Administrative Services Board voted to proceed to contract negotiations with Tyler Technologies for provision of an ERP system (*minutes attached*). The Board agreed to pursue a software-as-a-service agreement, provided that the cost of this vendor hosted solution was reasonable in comparison to a licensed, locally hosted solution. The School Board has since approved of these actions by the JAS Board.

The Board of Supervisors is asked to approve the following resolution: "Be it resolved that the action of the Joint Administrative Services Board to proceed with contract negotiations with Tyler Technologies for provision of an ERP system is hereby approved, and that a software-as-a-service delivery of this software is accepted provided that the cost of this delivery method is reasonable."

Action: Following discussion, **Vice Chairman Weiss moved to adopt the recommended resolution. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

E. Identify CCPS Discussion Issues:

02/10/2014 Summary: The Board members directed the County Administrator to confirm the Board's request that the members be brought current on the School Board's recent approvals of contract modifications on the current DG Cooley PK-3 Band Room and Cafeteria change orders and to confirm Ms. Kochinsky's intent to provide the Board with information on the School's special education program.

12) Finance Committee Items

1. FY 14 Supplemental Appropriation

02/10/2014 Summary: Over the term of the County's lease agreement with Comcast for provision of the fiber optic network, the Information Technology department has requested invoices for the maintenance of these lines to no avail. However, with the renegotiation of the lease it is expected that the County will be invoiced for the entire \$36,000 Comcast has previously failed to invoice. *"Be it resolved that FY 14 Information Technology budgeted expenditure and appropriations be increased \$36,000, and that the fund balance designation for Government Savings be reduced in the same amount. "* Action: The Finance Committee recommends postponement pending receipt of invoice.

2. FY2014 Transfers

02/10/2014 Summary: The Finance Committee recommends approval of this action. "Be it resolved that \$3,150 be transferred from the Contingency for Minor Capital as follows:

General District Court	200 Water Cooler
General District Court	500 Metal Shelving
Parks Swimming Pool	700 Rescue backboards
Parks Recreation Center	200 Hand Cart
Commonwealth's Attorney	1,550 Furniture
<i>Total</i>	<i>3,150</i>

02/18/2014 Action: **Supervisor Staelin moved to approve the Finance Committee recommendation. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

3. FY2015 Budget Deliberations

02/10/2014 Summary: The documents distributed to the Board at its Feb 3 work session were discussed by the Finance Committee. Regional organization requests, minor capital requests, personnel requests, the Capital budget, and clarification of the real estate tax estimate were further discussed by the Finance Committee on February 13. An update on these further discussions will be provided to the Board of Supervisors at their Regular meeting.

4. Acceptance of Bills and Claims

02/10/2014 Summary: The Finance Committee recommends acceptance.

02/18/2014 Action: **Vice Chairman Weiss moved to accept the January bills and claims. The motion carried by the following vote:**

Barbara J. Byrd	-	Aye
J. Michael Hobert	-	Aye
Beverly B. McKay	-	Aye
John R. Staelin	-	Aye
David S. Weiss	-	Aye

5. Standing Reports

FY2014 General Fund Balance, Reconciliation of Appropriations; General Government Expenditure Summary, Conservation Easement Authority General Government Capital Projects

13) Joint Administrative Services Board Update

Tom Judge summarized the items of interest under review by the Joint Administrative Services Board.

- J. Michael Hobert selected as 2014 chair at the January 27 organizational meeting.
- 2014 meeting calendar adopted.
- Reviewed ERP and recommended pursuing software-as-a-service.
- Agreed to recommend moving forward with Tyler Munis contract.
- Director evaluation accepted.

14) Government Projects Update

David Ash provided the monthly project update. Highlights include:

- 100 Church Street – Sheriff's Office
 - o Architect review continues.
- 101 Chalmers Court – HVAC Retrofit
 - o Responses are being reviewed.
- Personnel Policy and Compensation Study

- Materials forwarded to contractor.

15) Miscellaneous Items

Closed Session

Supervisor Staelin moved to convene into Closed Session pursuant to §2.2-3711-A 5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community. The motion carried as follows:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, **Supervisor Byrd moved to reconvene in open session. The motion carried as follows:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

Supervisor Byrd further moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge,

(i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

The motion was approved by the following roll-call vote:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

The Board took no action on matters discussed in Closed Session.

Recommendation to the Planning Commission

Supervisor Staelin asked the Board to consider requesting the Planning Commission investigate the concept of changing County regulations to remove kennels from special use permits in AOC / FOC and moving it to highway commercial as a by right or special use and return to the Board its recommendation.

Supervisors Staelin moved to request the Planning Commission to investigate the concept of changing County regulations removing kennels from special use permits in AOC / FOC and moving it to highway commercial as a by right or special use and return its recommendation to the Board of Supervisors.

Brandon Stidham recommended including review of kennels, breeding kennels, animal shelters and veterinary centers.

Upon recommendation, **Supervisor Staelin amended his motion to include the additional areas. The motion carried by the following vote:**

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

16) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
Board of Supervisors Meeting Minutes For February 18, 2014 – Regular Meeting		

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Coordinate tour of elementary renovation.	David Ash
2.	Modify and process approved minutes.	Lora B. Walburn
3.	Draft and process public hearing notice for Shenandoah University special use revocation.	Lora B. Walburn
4.	Draft and process public hearing notice for TA-14-01.	Lora B. Walburn
5.	Process 2014-02R.	Lora B. Walburn
6.	Process 2014-01P.	Lora B. Walburn
7.	Process appointments and update database.	Lora B. Walburn
8.	Execute notices of appointment.	J. Michael Hobert
9.	Inform the Planning Commission of the Supervisors request to investigate the concept of changing County regulations removing kennels from special use permits in AOC / FOC and moving it to highway commercial as a by right or special use and return its recommendation to the Board of Supervisors.	Brandon Stidham
10.	Coordinate site visit for Happy Tails Development.	David Ash, Brandon Stidham

17) Board Member Committee Status Reports

Supervisor Barbara Byrd:

- School Board: Meeting was very even.
- Social Services: Meets next week.
- Town of Berryville: Council voted down chickens.
- Humane Foundation: Planning a fundraising event for the fall.

Vice Chairman Weiss:

- Conservation Easement Authority: Will be seeking a replacement for Kate Petranech, who has announced that she will be terminating her services this spring.

Supervisor McKay:

- NSVRC: Working on developing plans for bicycle events.

Supervisor Staelin:

- Economic Development: Continue to review economic development plan.
- Clarke County Sanitary Authority: expressed concern in terms of sewer cost and reduction in chemical use.
- Planning Commission: Reviewing text amendments.

Chairman Hobert recessed the meeting at 2:26 pm.

Chairman Hobert reconvened the meeting at 6:30 pm. He provided summarized the public hearing procedure.

18) Citizens Comment Period

A.R. Dunning, Jr., former White Post District Supervisor and Boyce resident: requested an extension of the three-minute limit for constituents whose lives and property would be negatively impacted by the proposed special use.

Kenneth Liggins, Berryville: objected to the three-minute time limit opining that freedom of speech should not be limited.

19) PH 14-01 SUP-13-02/SP-13-08, Gina Schaecher (Happy Tails Development LLC)

Brandon Stidham provided an overview of the proposed special use application.

Supervisor Byrd asked how liquids would be gathered in the run areas.

Mr. Stidham responded that liquids would drain into a trench system that would lead to a liquid dog waste holding tanks. He noted that the drains would not be connected to the domestic on-site septic system serving the kennel building.

Supervisor McKay asked whether the waste would be trenched or piped.

Mr. Stidham responded that it was his understanding that it would be trenched in the runs leading into the hold tank eventually going into a piping system to the holding tank.

Gina Schaecher provided a presentation, a copy of which is included in the February 18, 2014 meeting packet.

Supervisor Byrd asked how much Mrs. Schaecher charged to adopt a dog.

Gina Schaecher responded that it depended on the specific rescue organization; generally for the rescues with whom she works most closely, Lost Dog Rescue and Appalachian Great Pyrenees Rescue, it is between \$300 and \$375 depending on whether the dog is an adult or a puppy. She stated that she wanted to be clear that this was not money to her business and she did not get any funds from adoptions; it was money to the rescue.

Supervisor Byrd commented that this would not affect the County's Animal Shelter for it only charges \$25.

Gina Schaecher added that her business was merely here to assist with special cases and did not get any revenue from adoptions. She said that she hoped they would be able to help the local shelter if they had a special case that needed assistance.

Supervisor Byrd asked if the dogs adopted were spayed and neutered.

Gina Schaecher responded they require all dogs, adoptees or any dog in their facility, be spayed or neutered.

Supervisor McKay asked how many of the 40 would be rescue dogs.

Gina Schaecher responded that they proposed keeping 2 to 3 spots available for a couple of rescues that are in need; so, always 4 to 6 spots for rescue dogs out of 20 runs. She stated that she wanted to make one thing clear that she was asking for 20 runs with a possible maximum of 40. She said that 40 dogs for them at any one time was highly unlikely adding that they would have to put 2 dogs in the same run and they would be okay with that.

Supervisor McKay recapped that they would have out of the 40 allowable 3 rescues.

Gina Schaecher corrected him stating that they would keep between 8 and 10 spots available for rescue. She said that they provided services for dogs that were adopted from a rescue that were having specific issues and needed a place to board.

Supervisor McKay asked if this would be a commercial use rather than a rehab.

Gina Schaecher responded that the paid services provided to the owners funds the rescue efforts allowing them to provide rescue services.

Supervisor McKay asked if the majority of the dogs would be rescue dogs.

Gina Schaecher responded that she was saying that they would have 20 runs and 8 to 10 spots, 8 to 10 out of the 20, would be held for rescue dogs.

Supervisor McKay asked for clarification restating that the application provided for up to 40 dogs.

Gina Schaecher responded that having 40 dogs was highly unlikely.

Supervisor McKay clarified that they would have the capability of 40 dogs in 20 runs and asked if they would keep 8 to 10 runs for rescue dogs or 8 to 10 spots out of the 40.

Gina Schaecher responded 8 to 10 runs for rescue dogs.

Supervisor McKay asked it that would be 20 rescue dogs.

Gina Schaecher responded that they would have 20 runs, 10 for boarding or training, and the other spots would be held for rescue dogs that needed help.

Supervisor McKay clarified that they could have 20 rescue dogs and 20 non-rescue dogs.

Gina Schaecher responded that they could if they were somehow able to keep 40 dogs.

Supervisor McKay clarified that the application is for 40 dogs.

Gina Schaecher responded that 40 is the maximum they have asked to be allowed but it is highly unlikely.

Supervisor McKay commented that he was looking at maximums rather than minimums.

Gina Schaecher responded that she was telling the reality of her operations.

Vice Chairman Weiss clarified that the answer was assuming they could keep two dogs in a run.

Gina Schaecher responded that he was correct.

Vice Chairman Weiss reiterated there would be a possibility of 40 dogs.

Gina Schaecher responded that he was correct.

Supervisor McKay asked how many rescue dogs out of the 40 would she have at the facility.

Gina Schaecher responded that it could change at any given time. She continued that they would always like to be able to provide at least 3 or 4 spots for Appalachian Great Pyrenees Rescue, 3 or 4 spots for Lost Dog Rescue, a potential spot available for a local Shelter or

ASPCA, and the others filled with dogs that need services. She said it would fluctuate based on the need.

Vice Chairman Weiss asked if that would be roughly 50%.

Gina Schaecher confirmed this accurately described what their model would be, yes.

Supervisor Byrd commented that in the County Animal Shelter they washed down all the runs and used bleach to disinfect for viruses. She asked if the proposed kennel would be inspected by an agency such as State Board of Inspections.

Gina Schaecher responded that she believed they would be regulated just like any other kennel. Therefore, if there were regulations that apply to a kennel, then they would apply to them as well. She commented that they were working in conjunction with a rescue to provide services.

Supervisor Byrd asked if they had a veterinarian or someone to inspect the facility and to see if it is properly sanitized and so on.

Gina Schaecher responded that, no, they would be like any other kennel in that regard; and they did not have a veterinarian that would inspect unless they wanted to privately retain one to do so. She noted that her experience was from running rescue kennels; so, being a member of the board, they discussed those issues of sanitation, numbers, and what is necessary to keep hygiene.

Gina Schaecher introduced Kevin Miller, Acoustic Engineer, of Miller, Beam, and Paganelli, consultants in acoustics, vibration and design, that provided a report at the Planning Commission level. Mr. Miller addressed sound issues. Highlights include:

- In the business for over 40 years; has testified before boards and courts; qualified as an expert witness; has worked with one to two dozen kennels; and his company has been in business for 25 years.
- Did not have an opportunity to review in great depth the rebuttal report by Professor James Sabatier, National Center for Physical Acoustics, University of Mississippi but did wish to respond to some key points:
 - Dr. Sabatier is a professor and using his theoretical knowledge.
 - Second paragraph refers to barking of dogs for nighttime noise and notes that nighttime will vary depending on time of year. However, generally speaking, technically in our field and in most related, nighttime is a very defined entity; and government entities, like HUD, and almost all noise ordinances define nighttime as 10 pm to 7 am. So, nighttime does not vary with the setting of the sun and the rising of the moon by technical terms.
 - In reference to one of Dr. Sabatier's next major points, he took issue with Mr. Miller's report statement that when you double the number of sources the level

goes up 3 db. He cited a fundamental acoustic statement where it should be 6 db. Unfortunately, his statement is a nice theoretical treatise; the problem is that it is based on what is called coherent sound. Normal sound, as we know it today, says two sources are 3 db. Normal sources, aircraft noise, highway noise, all use 3 dB for doubling sources.

- Wind and atmospheric have a play in sound; but, usually, it is over great distances. Usually, when you begin addressing wind effect and atmospheric [humidity, rain] effect, they are generally applied to sounds at distances half a mile to many miles away. Under those conditions, yes, wind does play a role; but, interestingly enough, Dr. Sabatier only gave the one role, mentioning how it can reinforce sound. It can and it can also decrease it. It can be of equal factor and can go either way. Turbulence can break up sound and also it can bend it up or down. So, generally speaking, those are all factors when you are dealing with great distances; but in a case like this, 600 to 800 feet to the closest property lines, it is not really a meaningful factor.
- Dr. Sabatier concludes, incorrectly because of the misapplication of the doubling of sound, that the levels Mr. Miller calculated would be in fact 10 to 15 dB higher, which would be quite high if it were the case. Also, this would be all 40 dogs barking outdoors and Dr. Sabatier is applying to nighttime. The dogs will be indoors at night time; and Dr. Sabatier did not mention at all the fact that the enclosure is going to provide a significant sound reduction of 30 dB, likely more. Again, the levels at the property line at nighttime are going to be way down compared to what could happen during daytime; but that, again, assumes that all the dogs are barking simultaneously. In his experience, this does happen; but usually it is indoors when the dogs are fed. In his experience and from what he has been told, usually, when outdoors under care of personnel, the barking is substantially depressed.
- A final point, and probably the one that is most relevant, what would have far more consideration, he went back to a veterinary facility in Montgomery County that he designed, close in nature to the proposed facility; but under much more demanding circumstances in a much more densely populated residential area. This is an indoor facility with outdoor runs that can board 20 to 40 animals. He requested information on the situation. Mr. Miller read and provided a copy of an endorsement from Dr. Michael Scott, Potomac Animal Hospital, for inclusion in the February 18, 2014 meeting packet.

Gina Schaecher confirmed that her presentation to the Board was complete.

At 7:55 pm, Chairman Hobert opened the public comment portion of the public hearing.

Phil Jones, 735 Morning Star Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited quality of life, restrictive covenants, VOF easements, AOC zoning, etc. He provided a copy of his written comments for inclusion in the February 18, 2014 meeting packet.

Matt Hoff, 278 Ginns Road, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited noise, increased traffic, road safety and maintenance issues, property devaluation, potential contamination of water, commercial business in AOC, etc. He provided a copy of his written comments for inclusion in the February 18, 2014 meeting packet.

Diane Senyitko, 918 Morning Star Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. She cited placement of a commercial business in AOC.

Suzanne Boag, 204 Hermitage Boulevard, Berryville: spoke in opposition to the special use permit application and urged the Board to deny. She cited placement of a commercial business in AOC and preservation of agricultural open space.

Donna Matthews Peake, Commissioner of the Revenue: At the public hearing, Mr. Dunning read a letter from Mrs. Peake to the Board of Supervisors and presented a copy for the record. The letter cites a 15% to 25% reduction in property value should the kennel be placed in this location.

A.R. Dunning, Jr., 1253 Ginns Road, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited denial of a similar application in 2000, property devaluation, noise, scenic easement, placement of a commercial business in AOC, etc.

Robert Sell, 1431 Old Winchester Road, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited placement of a commercial business in AOC, loss of pastureland, potential contamination of water, potential to exceed septage allowance, safety, noise, potential danger to livestock, etc. He provided a copy of his written comments for inclusion in the February 18, 2014 meeting packet.

Susan Harrison, 1437 Old Winchester Road, Boyce: signed up to speak but left before called.

Elizabeth Kay Sell, 1431 Old Winchester Road, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. She cited preservation of agricultural, forestal and open space land, quality of life, placement of a commercial business in AOC, easement, etc. She stated that her family had applied for a permit to build a greenhouse to produce bedding plants, floral baskets and fresh cut flowers on their property in AOC, *horticulture being a by right use*; and the permit contained an affidavit stating that the owner could not use the structure as a residence, commercial, mercantile business, educational or for assembly uses. She provided a copy of her written comments for inclusion in the February 18, 2014 meeting packet.

Michelle Anderson 278 Ginns Road, Boyce for Bob & Carol Yanniello, 1308 Old Winchester Road: Ms. Anderson provided an email on February 17, 2014 that is included in the February 18, 2014 meeting packet.

At the public hearing, Ms. Anderson read a prepared statement from the Yanniello's, whose health prevented them from attending the public hearing. In support of their opposition, they cited placement of a commercial business in AOC, noise, increased traffic, impact on wildlife, etc. A copy of their written comments was provided for inclusion in the February 18, 2014 meeting packet.

Kenneth Liggins, 206 Josephine Street, Berryville: spoke in support of the special use permit application. He said that government relies on conduct and character of its officials. He provided cites from the Code of Virginia specific to Conflict of Interest. He concluded his remarks by submitting on behalf of the NAACP, for which he identified himself as the legal redress chairman, a document titled, "2/8/2014 Winchester/Frederick/Clarke Counties Petition for 3 Dog Kennel" and a document titled, "To: The Clarke County Board of Supervisors 1/13/2014 A Petition For We the below signature do herby support the Happy Tail Development, LLC Rescue Kennel project" for inclusion in the February 18, 2014 meeting packet.

Gwen Walker, 538 Fair Lane, Winchester: signed up to speak but did not appear when called.

Alexis Buckles, Ashburn: spoke in support. She identified herself as a rescue dog owner and noted the benefits of rescues, the effectiveness of the program, and that her neighbors on either side of her town home have never heard her dog bark.

Giel Millner, 121 Kennel Road across from the Blue Ridge Hunt Kennel: spoke in support of the special use permit application and urged the Board to approve. He said that he had no problem with animals. In support, he noted that he did have a problem with over restriction in the County; the applicant had met every obligation and made every best effort to comply with the regulations.

Bruce Welch, DVM, 1430 Old Winchester Road, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited inconsistencies and misrepresentations of the nature and scope of the project, scenic easements, noise issues, property devaluation, placement of a commercial business in AOC, etc. He provided a copy of his written comments with supporting material for inclusion in the February 18, 2014 meeting packet.

Teresa Miller, 1430 Old Winchester Road, Boyce: spoke in opposition of the special use permit application and urged the Board to deny. She cited up to 40 dogs kept outside from 6 am to 9 pm daily, noise, OSHA criteria for noise, 50 families and Boyce

Elementary School located within a mile of the proposed kennel, impact on the scenic byway, etc. She provided a copy of her written comments for inclusion in the February 18, 2014 meeting packet.

Eleanor Welsh, 1430 Old Winchester Road, Boyce: spoke in opposition of the special use permit application. She cited noise, increased traffic, placement of a commercial business in AOC, etc. She provided a copy of her written comments for inclusion in the February 18, 2014 meeting packet.

Madalyn Welsh: 1430 Old Winchester Road, Boyce: spoke in opposition to the special use permit application. She cited increased traffic, road safety, inconsistencies in applicant statements, etc. She provided a copy of her written comments for inclusion in the February 18, 2014 meeting packet.

Gregory Peck, Agricultural Scientist Extension Specialist with Virginia Polytechnic, 196 Bellevue Lane, Boyce: spoke in opposition of the special use permit application and urged the Board to deny. He cited noise, increased traffic, road safety and maintenance issues, environmental damage, potential contamination of water, property devaluation, use inconsistent with the Comprehensive Plan, placement of a commercial business in AOC, up to 40 dogs kept outside from 6 am to 9 pm daily, etc.

Kathi Colin Peck, 196 Bellevue Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. She cited the Planning Commission denial of the application, quality of life, use inconsistent with the Comprehensive Plan, up to 40 dogs kept outside from 6 am to 9 pm daily, noise, property devaluation, increased traffic, road safety and maintenance issues, placement of a commercial business in AOC, etc. She provided a copy of her written comments for inclusion in the February 18, 2014 meeting packet.

Alain Borel, 692 Old Winchester Road, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited noise, placement of a commercial business in AOC, increased traffic, road safety, property devaluation, scenic easement, etc.

Rod DeArment, 409 Bellevue Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited noise, placement of a commercial business in AOC, increased traffic, road safety, environmental hazards, etc. He provided a copy of his written comments, with a copy of a letter from Professor James Sabatier, PhD, National Center for Physical Acoustics Sound Study / Comments Acoustical Analysis by Miller, Beam & Paganelli, Inc., for inclusion in the February 18, 2014 meeting packet.

AnnMarie DeArment, 409 Bellevue Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. She cited use inconsistent with the Comprehensive Plan, preservation of agricultural, forestal and open space land,

placement of a commercial business in AOC, increased traffic, road safety and maintenance issues, noise, environmental hazards, potential contamination of water, applicant is a limited liability corporation; vandalism, theft and/or destruction of signs and flyers in opposition to the kennel, legal action taken by the applicant against the Planning Commission representative for the district, etc. She provided a copy of her written comments for inclusion in the February 18, 2014 meeting packet.

Susan Molden Harman, 1 Morning Star Lane: signed up to speak but left before called.

Tim Harmon, 1 Morning Star Lane: signed up to speak but left before called.

Danielle Donohue, 165 Bellevue Lane: spoke in opposition to the special use permit application and urged the Board to deny. She cited increased traffic, road safety and maintenance issues, noise, inconsistencies and misrepresentations of the nature and scope of the project; vandalism, theft and/or destruction of signs and flyers in opposition to the kennel, violation of covenants, use inconsistent with the Comprehensive Plan, etc. She provided a copy of her written comments for inclusion in the February 18, 2014 meeting packet.

Ron Light, 146 Morning Star Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He stated that he was a 30-year veteran, Environmental Engineer with the US Army, who moved to Clarke County at his retirement to live a life of general peace and quiet. He cited noise, potential contamination of water, quality of life, health and safety, property devaluation, etc. A copy of his email is included in the February 18, 2014 meeting packet.

Julien Lacace, 2423 Crums Church Road, Berryville: Hunter Merck spoke on behalf of Mr. Lacace.

Hunter Merck, 2423 Crums Church Road: spoke in support Gina Schaecher and her development plan and encouraged the Board to approve. She said that she and Julien had done a lot of work with Gina Schaecher in the past. She has worked with two of Mrs. Schaecher's rescue dogs that she described as amazing. Julien Lacace adopted a puppy last year that goes to work with him every day and she does not bark and is very well behaved. She opined that the work Mrs. Schaecher does is amazing and she is a great person. She concluded that this development plan would only make Mrs. Schaecher's efforts to help these animals that much easier.

Carl Hale, 241 Providence Lane, Bluemont and one of the owners of the parcel of land under question: spoke in support of the special use permit application and urged the Supervisors to approve. He stated that the property had been on the market for a number of years. He said that he appreciated the neighbor's concerns but felt them unfounded. He said that the dogs would be housed in an enclosed barn constructed of concrete walls and covered with wood siding; none of the dogs will be allowed outside without a handler present; one handler per eight dogs; all dogs arriving or departing the

facility will be on lead. He stated that every instance cited for barking dogs was for dogs running loose, unattended, not in a kennel, not on a lead. He said that this was not a typical kennel because it is not open to the public and is by invitation only therefore there would not be the same amount of traffic as a typical boarding kennel. He opined that it would not create any more traffic than a typical farm with a four-occupant residence, a manager's cottage and the normal farm hands and equipment coming and going to the property. The facility, being a barn, will blend into the countryside. The facility will take up 3 of the 91 acres and the remaining acres will be farmland.

Terence Donohue, 165 Bellevue Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. He cited inconsistencies and misrepresentations of the nature and scope of the project; threat of legal action by the applicant used to intimidate, noise, increased traffic, variance to existing statutory regulations, road safety and maintenance, use inconsistent with the Comprehensive Plan, etc. He concluded by stating that the kennel offered the County no real benefit that would offset the negative effects of developing our open spaces.

Rachel Lockwood, 181 Mill Lane, Boyce: spoke in support of 3 Dog Farm. She identified herself as a 4-H leader in the County. She also told the Board that she and her husband do volunteer transport for rescue dogs in the southern part of the county; and during the past two years, they have transported over 400 dogs from small counties like Clarke to safer rescues up north. She said that Clarke has a great shelter but one thing lacking in Clarke is a way for dogs to get adopted that have behavioral issues. She said that this would allow someone to open up a facility that could be a great benefit to residents by providing learning opportunities to children and by making a place for more animals to be adoptable. She did state that she felt for her neighbors because she was new to the discussion and she did understand their concerns. She said that as a community they should try to resolve the issues a little better. She noted that a commercial business is necessary to cover the cost of dog rescue.

Niki Shipe, Shenandoah County and former Clarke County resident; spoke in support. Identified herself as the owner of a small rescue and said that her business did not have all the benefits of this application noting that her closest neighbor was only 60 feet away. She said that she had been in the business for 10 years and currently has 10 dogs that are not confined except in an acre and a half fenced in yard. She said that in all her years of operation, she had never received a noise complaint about her dogs but she has had three complaints in four weeks on her horse. She also noted that her neighbors did not complain about smell nor did they worry about where the dogs "do their thing." She said that she owed her life to the dogs for she had a disease and without them to care for she would be dead. She asked the Board to consider letting Gina Schaecher continue her good work to help other people like her.

Lowell Smith with Alyce and Mica, the service dog, 2528 Crums Church Road: spoke in opposition to the special use permit application and urged the Board to deny. He cited

preservation of agricultural, forestal and open space land, impact on conservation easements, placement of a commercial business in AOC, etc. He provided a copy of his written comments for inclusion in the February 18, 2014 meeting packet.

Betsy Hill, 1776 Old Winchester Road: spoke in opposition to the special use permit application and urged the Board to deny. She stated that she when she lived near a dog sanctuary in Boyce she had heard a lot of barking and that facility had been downhill from her home. She cited preservation of agricultural, forestal and open space land, placement of a commercial business in AOC, noise, potential water contamination, environmental hazards, increased traffic, road safety and maintenance issues, scenic byway, etc.

Barry Lewis 537 Old Winchester Road: spoke in opposition to the special use permit application and urged the Board to deny. He cited inconsistencies and misrepresentations of the nature and scope of the project, noise, environmental hazards, potential water contamination, open trenches for sewage, placement of a commercial business in AOC, etc. He stated that his rescue Great Pyrenees bark a lot, are loud and when one barks both bark. He cautioned that farmers with livestock are allowed by law to shoot dogs bothering their livestock.

Alex Bryan, Ayrshire Farm: signed up to speak but did not respond when called.

Linda Halle, Berryville: spoke in favor of the rescue. She stated that she did believe that it was a rescue enterprise and she believed that some boarding was necessary to pay for the rescue. She said she understood that people do not like change but she did not see a lot of difference between cows standing in creeks and muddy cow holes draining into the water supply. She continued that she thought there was a lot of compassion; it's almost like "gosh, we don't really like dogs." She said she would like to find out how many dogs were pets in this area because they raised cattle to kill them but dogs that bonded with people throughout history, to treat them this way, is kind of a reflection on the way you would treat a person. She continued that it is going to cost too much to help them so let's just do away with them. They have to go somewhere and putting them in a residential area would less She said she believed there was an exaggeration that we keep going to 40 but they have a capacity of 40 but that is if you get a bunch of puppies or a mother and puppies. She said that you can't place two dogs that have been abused and stick them in one and it is very unlikely that they will have 20 or 22 dogs. She said that she doubted that there had ever been a barn built that had ever had this much consideration for silence and drainage. Everything out there is on a septic field, which have problems; and to say that this will be exclusive, just doesn't compare. She said that the applicant has put a tremendous amount of money up front to make this happen and this is not a high profit enterprise at all.

Micklos Szentirmai: 370 Rose Airy Lane, Millwood: spoke in opposition to the special use permit application and urged the Board to deny. He opined that he and his neighbors need to be afraid that a similar project could be approved in their vicinity, which would

adversely affect the value of their property, and the peacefulness of the vicinity. Decreasing property values decreases the County's tax base. The strain on County services from such a facility will adversely affect its citizens. His email dated December 11, 2013 is included in the December 17, 2013 meeting packet.

Cindy Anderson, 2246 Springsbury Road, Berryville: spoke in favor of the group. She stated that she had lots of time to work with them in lots of venues that they have chosen. She said that she was at the public hearing as a Clarke citizen and not their realtor. She said that the Clarke County she knew supports people that try to do good, embrace change, and support and help them. They don't stand and just say "I don't like it." From her business, she knows that when passions run high people tend to skew numbers and facts and people tend to hear what they want to hear. She said that she had heard repeatedly that they weren't living on the property but they are. Mike and Gina are not living on the property but Bob and Mary will be; and Mary is a Clarke County citizen and will be relocating to the property to live there. She said she had heard that there would be one or two that were to be rescues; but Gina intends to have at least 50% or more. It is unreasonable to think that there will be 40 dogs barking all the time; but, even if there were, how often do you get to choose what your neighbors do. She asked what happened to helping people and why there had to be constant bickering. She urged the Board to support these people and embrace this change because it is good. Gina Schaecher is a good person, they are caring about the dogs, and most people would benefit from massage and dogs do too.

Sarah Lieser, 589 Bellevue Lane, Boyce: spoke in opposition to the special use permit application and urged the Board to deny. She cited the covenants on the property, road maintenance issues, increased traffic, preservation of agricultural, forestal and open space land, placement of a commercial business in AOC, etc.

Eric Lieser 589 Bellevue Lane, Boyce: spoke in opposition to the special use permit concurring with his wife, Sarah.

Page Allen, 64 Salem Church Road: spoke in opposition to the special use permit application and urged the Board to deny. She cited inconsistencies and misrepresentations of the nature and scope of the project.

Mary Joe Walpole, Loudoun County: spoke in support. She identified herself as being retired law enforcement and her husband veteran. She said that one thing they wanted to do was to move to the country and they have four horses, two are all track thoroughbreds, and three rescue dogs. She also serves on a search and rescue. She stated that Gina Schaecher lived next door to them and they share approximately 300 feet of adjoining fence line. She said that she had not wanted to live next door to this when she was first told that a rescue with a lot of dogs was next door and feared that the dogs would chase her horses. She stated that they have had no problems with the dogs getting loose, chasing her horses, or problem barking for the nearly three years she has lived beside Mrs. Schaecher. She did state that the dogs do bark but it has not

been a problem. She also noted that the Schaechers kept the dogs in at night and they did not hear them at all.

Chairman Hobert noted that he had called all persons that had signed up to speak. He asked if any others that had not had an opportunity to comment would care to speak.

Michael Williams, Purcellville: He stated that he had listed to what everyone had to say and what he heard over and over was great cause, not in my back yard. Ten people must have said it, love rescue dogs, great cause, not in my block, not in my street. I don't think that is fair. I don't have a right to tell my neighbors what to do on their property when they are within the laws that is the way it should in Loudoun County and my new property in Clarke County. I firmly believe that I will not go to any of my neighbors and say no you can't do that. If it is permitted, I can move; or if somebody wants to do what they want to do with that property, then, they could have bought it. But, they didn't; we did. We have made every effort to satisfy the requirements. I have heard many people say this doesn't belong here. We are not asking for a variance. A kennel, as you know, is a permitted use in this zoning. We are not asking for variance. We have offered to fulfill any requirement that is put upon us. I think that we have been open to the neighbors. We have had them over. Our narrative has been out there from Day One. It has not changed. It has always been the same. This talk about this moving target that is not us. It may be people's perception that may be what they are seeing I don't doubt there may be some changing stories; but, it is not from us. We put it in black and white six months ago when we first submitted this application what we want to do. This property is zoned for kennels. The staff recommends approval of this kennel because we met all the technical requirements. We did not fight anything. We said, "let us know what we need to do." We showed up here, Day One, before the application and asked what would we have to do to get this approved; and they told us. So, we followed every direction; and we committed a lot of money to this project based on what the County told us we could do. We expect that if we uphold our half of the bargain that the County will too. I mean \$50,000 of engineering, site planners, sound acoustic engineers, septic and soil engineers – we paid for that all up front; and we expect to be able to continue with the project based on our deal that we made with the County representatives when we spoke with them. I think that it is unfair. There are no noise complaints about dog kennels in this county. Why ours would be so much louder than any other kennel, I have no idea. The neighbors are ignoring the fact that they are right under the landing, they are in the flight path of Winchester Airport. We were out there with a sound engineer and the loudest thing we heard was airplanes going over – 80 to 100 times a day. They say they are in a quiet neighborhood and we are going to disrupt their quiet. Our dogs are not going to be nearly as loud as the airplanes that are allowed to come over 24 hours a day. They are going to be in a concrete building. Ashby Gap has no tanks. They let their dogs pee on the ground and they pick up what is inside. There is no risk of pollution from overflows from our tanks. If there is a remote chance that our tank would overflow compare that to the horses and the cows in the neighborhood peeing on the ground. We have no karst conditions. We have done

the engineering and that is not an issue. So, all the issues with the crazy pump and haul fears, the noise fears, the property value fears are completely unfounded.

Bill Anderson, Springsbury Road: spoke in support. Stated that he had been watching this unfold from the beginning and understands what they are trying to do with the agricultural, open conservancy area. He said this invites livestock such as pigs, sheep, and cows and the applicant is trying to put in a more domesticated animal inside a soundproof building with a controlled waste system. He said he did not understand how that was worse than what everyone was saying about the open space. Everything brought to their attention as far as sound and waste management, the applicant has addressed. He said it was up to the Supervisors to look at the notes, check the decibel levels, and see that it meets and greets.

Michael Flagg, Millwood: spoke in opposition. Stated that it was not a matter of what the applicant wanted to do, or the purpose, or if the venture was a good thing, the item before the Board was to place a commercial enterprise in AOC. He opined that if the application were approved it would set a precedent for future decisions giving the idea that such a venture might be approved. He opined that a commercial enterprise in a farming AOC area should not have stepped to the Board level.

Vice Chairman Weiss responded that a kennel is a permitted use under a special use permit like other existing commercial kennels within the county. He said that he was not expressing his opinion either for or against but pointing out that it was not a variance or a precedent but a use that was permitted under the special use program subject to Board review and determination.

Cat Walters, Loudoun County: spoke in support. Identified herself as a student from Smartsville Middle School that was featured in Mrs. Schaecher's presentation. She told the Board that she helped raise and helped to adopt puppies at the Schaecher business in Loudoun County. She said that the commercial was necessary to pay for the rescue.

Grace Lewis, 537 Old Winchester Road: identified herself as a neighbor and noted that the applicant had never contacted her. She told the Supervisors that after the death of her Great Pyrenees she wanted to adopt another from a Pyrenees rescue but was turned down because she lived in an area that a dog could be shot. She opined that the best comment she had heard was that the applicant was a limited liability company.

Chairman Hobert called for Supervisor questions.

Supervisor McKay, noting confusion, asked the Chair to explain the zoning for the area.

Chairman Hobert explained that the property was not zoned for kennels but a kennel is permissible by special use permit, meaning that it was contemplated when the ordinance was passed that there could be a kennel in AOC.

Supervisor Byrd asked the applicant to clarify there would be one handler for eight dogs and whether all eight dogs would be on leashes or running free.

Gina Schaecher responded that when dogs come to them, if possible, they are socialized into groups. Those groups go through stations so there may be dogs working on obedience in one station and working on rally in one station through the kennel yards. Then, the dogs go into rest period, snack period, whatever. If the socialized group is, for instance, five to six dogs, they are not on leashes when they are working amongst each other.

Supervisor Byrd asked for clarification that the dogs would be at liberty.

Gina Schaecher added that the dogs would be within the confines of the fenced exercise area or within the confines of the building with a handler at all times.

Supervisor Staelin asked about the size of the outdoor covered exercise area.

Gina Schaecher responded that they were proposing to have some covered exercise area in case the weather was bad so that dogs could go outside that would be within the exercise yards. She said that she thought they would determine which yard it would be in and the size. She said that she did not think it was specific on the site plan but they could specify.

Supervisor Byrd asked if the dogs in the exercise yards would be on leashes or would they be loose.

Gina Schaecher responded that when the dogs were outside in the exercise yards they would not be on lead but would be with a handler at all times so the dogs would be working with a handler and rotate in and outside of the building.

Supervisor Staelin, noting that the kennel was to be closed to the general public, asked what steps would be taken to ensure this condition.

Gina Schaecher responded that they have had this issue with rescue in general in her 11 years of experience; and if people come, they are told that they are not open to the public, that it is by appointment and invitation only. So, people are turned away. Further, what they would state in their advertising is that they have to have an appointment.

Vice Chairman Weiss stated that it was within the issue that there would be dogs within an agricultural community noting that generally dogs that attack sheep are not feral dogs but people's dogs. He asked what precautions have been taken to prevent an escape of Pyrenees or any dog.

Gina Schaecher responded that what she has done on her own farm and what would be implemented in this rescue would be invisible fence along the bottom of a hard, six-foot fence that would define exercise areas with another four-foot fence that forms another boundary. So, if for some reason a dog had tunneled or climbed over, which would be unlikely because the dogs will be with a handler all the time, but, if it would occur, there would be another boundary fence beyond the exercise yard. At her own farm, she has been tested with Great Pyrenees and has run invisible fence along the bottom of the fence; and dogs that are prone to dig are given collars. She said they have also had to use wire on top of a fence. She restated that these dogs would not be left alone ever.

Vice Chairman Weiss stated that he believed the idea of rescue was great but the idea of rescue also equates to problems that are serious to persons with livestock. He also noted the liability that in the County policy if a dog attacks livestock the farmer is recompensed by the County.

Gina Schaecher responded that they first of all do an assessment and they can't take a dog that is going to be a danger or a threat from their assessment. Therefore, if they had a dog that was high risk for flight, it would not be taken. She opined that with a six-foot fence, an additional fence, and the dogs with a handler at all times it would be virtually impossible to escape. She said that she had a lot of Great Pyrenees and did a lot of work with Great Pyrenees so she works with dogs that have been around livestock all the time. She said that part of what she does is training and has to test and determine temperament. She put forth that the assessment process would be the first line of defense; and unlike a shelter that must take all dogs, they have the luxury of being able to make a determine based on their assessment.

Supervisor Staelin asked if dogs being boarded and trained would be allowed outside of fenced area or building.

Gina Schaecher responded that she believed that the condition she read required that the dogs be escorted on lead into the building facility and into the fenced area; but the plan would be that the dogs would be maintained within the facility.

Supervisor Staelin clarified that no dogs should be out in the area that is to be farmed.

Gina Schaecher responded that beyond the exercise yard was correct.

Phil Jones asked where the dogs would be during events.

Supervisor Staelin asked if the only time the dogs would be allowed outside the exercise yard would be for events and what events the applicant planned.

Gina Schaecher responded that dogs would be allowed outside for events.

Gina Schaecher responded that she would like to have an opening for people to come see the facility. She said that traditionally they have had one large event as a fundraiser for rescue organizations. As an example, she informed the Board of Canine Carnival that was given as a benefit for Lost Dog and Cat Rescue and stations were set up with a hot dog bob, races, pluck a duck from a pond, and other games.

Supervisor Staelin asked if she was talking about one event per year.

Gina Schaecher said that she thought in their application they had asked for the ability to do two to three events per year.

Supervisor Staelin asked if this would be for her personal fund raising or does this include events for any other group.

Gina Schaecher said that what has been done in the past, and how she would foresee them working in the future, would be that they would be events to benefit charitable organizations.

Supervisor Staelin asked if she was limiting them to a small number.

Gina Schaecher responded that what she has done in the past was either by invitation only.

Supervisor Staelin interjected that he was talking about number of events.

Gina Schacher responded in the affirmative.

Supervisor Staelin asked how many dogs and people would be there.

Gina Schaecher responded that in the past for a large event with an events permit they have had 100 plus people that would be the carnival held on their own farm conducted annually.

Supervisor Byrd asked how many dogs attended.

Gina Schaecher responded that she believed that it may have been about 90 to 100 dogs throughout the day. She added that the dogs were not all there at the same time but over the whole period from 11:00 am to 5:00 pm. She stated that the dogs were on lead with only one off leash area near the pond.

Supervisor Staelin asked how many dogs would be in the day care.

Gina Schaecher responded that she thought, as she understood how it would work, that they would never, ever, be allowed to have more than 40 dogs total; so, if there were 10 dogs boarding, they could have 10 day care dogs but could never have more than a total of 40 at any one time.

Supervisor Staelin asked what the dogs would do during day care.

Gina Schaecher responded that it would be similar to their boarding service in that the dogs would be assessed; accepted into the program; if social, placed in a social group; rotated through exercise and work stations throughout the day, as well as provided a rest period and a snack period.

Supervisor Staelin asked if all dogs in day care would be picked up and dropped off by Happy Tails' vehicles.

Gina Schaecher responded that generally how it has worked for them as they were testing with this model. She said that they would like to arrange pick up and drop off points in conjunction with local businesses. She said that she found this to work very well.

Supervisor Staelin asked the applicant to describe rehabilitation, which is referenced in the applicant's material.

Gina Schaecher responded that in the 11 years she has worked with rescue she has seen a lot of shy dogs and a lot of dogs that act out because they have not been given enough exercise or training. She opined that those were the big issues; so, when she talks about rehabilitation, it is in a general sense in developing an individual plan for that dog from their assessment and work on the identified particulars.

Supervisor Byrd asked if shy dogs became fear biters.

Gina Schaecher responded that it was a potential for a shy dog. She used the term fear aggression and opined that without a training program and rehabilitation it is potential, which is part of why they want to provide this service.

Supervisor Byrd asked if they would be mature dogs that have socializing problems.

Gina Schaecher responded that they would be working with dogs of all ages; so, if it were puppies, they would train puppies. If a rescue got puppies in and wanted them to help, they would do it; but, in her experience, the majority of dogs come into rescue between the ages of one to three, which is a prime time to be working with them. She noted that the more mature the dog the more difficult the case and dogs that don't find value with humans or other resources are much more difficult.

Supervisor Byrd commented that these more difficult dogs that will attack humans are put down.

Gina Schaecher responded in the affirmative advising that if a dog has done something unsafe to humans or they saw those tendencies they would make those recommendations to the rescue and refuse the animal to be allowed in their facility.

Noting the hour, Chairman Hobert called for Board comment reminding that a Supervisors' meeting could not go beyond 10:00 pm without consent of the Board.

Vice Chairman Weiss stated that the Board had heard the concerns expressed by the public and requested closure of the public hearing.

Supervisor McKay concurred.

Supervisor Byrd concurred with Supervisors Weiss and McKay.

At 10:03 pm, Chairman Hobert closed the public hearing. He advised that the Board would take additional comment in the form of written input. He expressed his appreciation to all those that presented and provided the Supervisors with written statements. He encouraged those present to submit additional statements should they wish to do so.

Supervisor McKay moved to postpone consideration of the matter.

Vice Chairman Weiss asked how many more questions Supervisor Staelin had for the applicant.

Supervisor Staelin responded that he had three more pages of questions.

Vice Chairman Weiss stated that he would like to visit the site.

Supervisors McKay and Byrd concurred.

Chairman Hobert noted that a motion had been made postponing the matter to what he assumed would be the Supervisors' next meeting.

Supervisor McKay asked that the matter be taken up at 6:30 pm, March 18.

Supervisor Staelin responded that the Comprehensive Plan and the Transportation Plan were set for public hearing at 6:30 pm March 18.

Chairman Hobert said that he wanted to set a date certain suggesting the March 10 Work Session, or March 18 Regular Meeting, or a special meeting.

Supervisor McKay stated that he would prefer not to do it at the March Regular Meeting.

Chairman Hobert asked if Supervisor McKay would prefer to call a special meeting.

Supervisor McKay responded that a special meeting would be fine.

Chairman Hobert suggested recessing the February 18 meeting unto such a date as the Board could all agree upon.

Supervisor Byrd asked that the Board discuss during the day.

Chairman Hobert asked if the Board had a preferred date to set the continued discussion.

Supervisor Byrd asked the date of the March Work Session.

The Deputy Clerk supplied March 10.

Vice Chairman Weiss said that the Board should probably set a date for it considering all the budget issues.

Supervisor Staelin reminded that the Supervisors would be discussing the FY2015 Budget at the March 10 Work Session and suggested the next regular meeting instead of the Work Session.

Supervisor McKay added to his motion postponing the matter to the March 18, 2014 regular meeting at 1 pm or to such a time as can be determined where best to insert into the agenda. The motion carried by the following vote:

Barbara J. Byrd	- Aye
J. Michael Hobert	- Aye
Beverly B. McKay	- Aye
John R. Staelin	- Aye
David S. Weiss	- Aye

A member of the audience asked if the meeting would be open to the public.

Supervisor Staelin responded that all meetings of the Board were open.

Chairman Hobert said that the Supervisors had asked to visit the property. He asked Mrs. Schaecher if it would be possible.

Gina Schaecher responded, "absolutely."

Chairman Hobert asked David Ash and Brandon Stidham to coordinate a site visit.

Supervisor Byrd asked if this could be done as a group.

Chairman Hobert responded visiting at a group could not be done without a meeting and would have to be advertised. He opined that it might be easier to have two or three visits of different groups of less than three.

Supervisor Staelin suggested recessing the March 10 Work Session and reconvening on the site.

Supervisor Byrd voiced her support for recessing the March 10 Work Session noting that the Board could visit before further discussing the matter.

Vice Chairman Weiss voiced his support for recessing the March 10 Work Session and reconvening on the site.

Chairman Hobert asked David Ash and Brandon Stidham to coordinate the site visit with the applicant.

Chairman Hobert thanked those in attendance for their contributions and patience noting that it had been a very long meeting; and a meeting where there were a lot of emotional feelings, which the Board understood and appreciated. He asked the audience to stay tuned, to wait awhile longer, and invited them to attend any of the Board's public meetings where they would be discussing the matter.

20) Adjournment

There being no further business to be brought before the Board at 10:10 pm Chairman Hobert adjourned the Board of Supervisors meeting.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday March 18, 2014 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: February 18, 2014

J. Michael Hobert, Chair

David L. Ash, County Administrator

Minutes Recorded and Transcribed by:
Lora B. Walburn
Deputy Clerk, Board of Supervisors