

November 17, 2015

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, 2<sup>nd</sup> Floor, Berryville, Virginia conducted on Tuesday, November 17, 2015.

Board Members Present

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

Board Members Absent

None

Board Members Elect Present

Terri Catlett; Mary L. Costello Daniel

State Legislators

Senator Jill Vogel with Legislative Assistant Tricia Stiles; Delegate Randy Minchew;  
Delegate Dave LaRock

Staff Present

David Ash; Brandon Stidham; Lora B. Walburn

Others Present

Alton Echols; Val Van Meter and other citizens

1) Call to Order

Chairman Weiss called the afternoon session to order at 1:05 p.m.

2) Adoption of Agenda

- Add Miscellaneous: Visitor Center Signs on Route 7

**Supervisor Staelin moved to adopt the agenda as amended. 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) 2016 Legislative Priorities Discussion with State and Local Legislators: Senator Vogel, Delegate Minchew, Delegate LaRock

Chairman Weiss invited Supervisors Elect Catlett and Costello Daniel to join the Supervisors at the table.

- Senator Vogel, 27th District, highlights
  - Budget will be the focus of this General Assembly Session. This is Governor McAuliffe’s first budget.
  - Last year’s short six-week session produced 2,776 bills.
  - All 140 members of the legislature were just up for election.
  - This Thursday and Friday the full senate will meet in Chesapeake for briefing including economic forecast, policy, education, judiciary, criminal justice, etc.
  - House also meets on Thursday and Friday.
  - Localities are reporting many of the same issues.
  - Grateful that localities take the time to develop legislative priorities.
  - Urged the Board to submit to her any legislation by December 5.
  
- Delegate Minchew, 10th District, highlights:
  - This General Assembly Session will be a long session focused on the budget.
  - Governor McAuliffe and his staff are currently developing the draft budget.
  - While the economy is still slow, Virginia is still in the top favored locations.
  - Securing funding for community colleges is a focus.

- Senator Vogel and he continue to work toward broadband solutions.
- Encouraged the Board to communicate with him during the session.
  
- Delegate LaRock, 33rd District, highlights
  - Still on a learning curve.
  - Interested in finding out Clarke's priorities, identifying its uniqueness and similarities.
  - Focused on unfunded mandates.
  - Supports a free market approach to address broadband issues.
  - If needed, legislative services can draft legislation.

Topics of specific focus include:

- Education
  - Re-benchmarking for schools reduced the surplus.
  - Extra funding for education is good for localities.
  - Local tax structure, heavily dependent on real estate tax, is not built for this level of financial support.
  - Current funding is less than in 2005.
  - It is difficult to pay teachers what they think they should be paid with real estate tax.
  - Many unfilled positions are in the STEM program and need to explore ways to encourage college entrance in these fields.
  - Need to focus on education all the way through from K12 through college
  - Testing that sets artificial boundaries is placing crushing pressures on academia.
  - Schools are a tremendous driver of the economy.
  
- Broadband
  - The FCC is exploring options.
  - Localities require broadband to remain economically competitive.
  - Lack of access can negatively affect home values.

- Alternative solutions are being sought because internet providers likely will not expand their coverage areas.
- Electric companies and cooperatives may be a potential source to address the issue but one possible problem is the rent they could charge to run broadband lines.
- Local ordinances might be an impediment to getting broadband but legislators must be sensitive about limiting the impact of towers on rural communities.
  
- Heroin Epidemic:
  - Supervisor John Staelin briefly covered the heroin epidemic in the Northern Shenandoah Valley that has spawned action groups that are developing pilot programs.
  - Supervisor Barbara Byrd told Vogel that the area’s efforts to get help for drug users should be looked at as a possible model for the state.
  - Drug courts could be beneficial in meeting the challenges.
  
- Conflict of Interest Reporting
  - Stricter reporting requirements directly impact the ability to get citizens to serve on local boards.
  
- Unfunded Mandates:
  - Unfunded mandates are the bane of Clarke’s existence.
  - To house state prisoners, localities have burgeoning jail populations.
  - State pays local jails \$12 per day per inmate to house its inmates.
  - Need to address shifting the tax burden to localities.

Issue: Education

Clarke County supports full funding of Virginia’s Standards of Quality as recommended by the Board of Education. The Commonwealth should shoulder its share of the true cost of K-12 public education without reducing other parts of the budget affecting local government or shifting costs from the Commonwealth to localities.

In addition to meeting its obligations to fund fully instructional staff, Clarke County believes the Commonwealth should meet its obligation to fund fully the support side of K-12. Full restoration should be made of the cuts made in since 2009 in areas related to support staff funding including the elimination of

the funding cap on support positions, reinstatement of the Cost of Competing funds for support staff, etc.

Clarke County supports legislation to adjust the calculation of the local Composite Index to base its Real Estate value calculations on use-value instead of true value in localities that have adopted use-value taxation.

Issue: Wireless and Broadband Access

Widespread deployment of broadband should be a top priority for the Commonwealth to ensure economic advantages, educational opportunities, the expansion of telemedicine and other modern initiatives. It is clear that Verizon Wireless, AT&T and the other internet, broadband and cellular providers will not provide wireless communication broadband service to rural areas unless they are given incentives or a mandate to do so. Clarke County asks that the Commonwealth take steps to encourage or require rural access to modern broadband and cellular technology to rural areas just as was done years ago when electrical and telephone service became important technologies.

Issue: State Tax Reform, Cost and Revenue Shifting and State Year-end Surplus Funds

Clarke County calls upon the Commonwealth to restructure state income, sales and use taxes to address anachronistic tax policies. Tax reform is required to help buttress the Commonwealth's General Fund that finances most core government functions and must be stabilized to meet current and foreseeable core service demands. Failure to address this need has resulted in the unfair gradual shifting of costs and the outright reduction in aid to localities to balance the state budget. With each passing year Clarke County has been required to raise real estate taxes in order to incrementally subsidize a variety of traditionally state funded (or state shared) costs (Compensation Board, Registrar, Cooperative Extension, Line of Duty, Social Services and the court system for example). This cost shifting places a tremendous burden on a regressive real estate tax system. Cost shifting must stop and the tax system must be reformed to reduce the burden on the real estate tax. Action must be taken to restore "Aid to Localities".

At a minimum tax reform should meet the following criteria:

- Reduction of local dependence on the real estate tax.
- Address fairness in taxing structures and "level the playing

field” to eliminate unequal treatment; for example, ensuring the collection of sales tax from internet sales thereby promoting uniformity and fairness in the tax treatment of businesses selling goods in the Commonwealth.

- Offset any change that reduces or eliminates an existing local funding source by a new or expanded source. Clarke County opposes repeal of the machinery and tools tax or the BPOL tax unless such offset is guaranteed.
- Ensure equal taxing authority to towns, cities and counties.
- Protection of the commonwealth’s general fund and preservation for core government functions such as public education, health and human services, public safety, natural resources and environmental services. Transportation maintenance and improvements should be paid by user fees.

Issue: Funding for State Mandated Positions and Jails

Clarke County urges the Commonwealth to meet its full funding obligations for Constitutional Officers and their state mandated positions. In addition, Clarke requests that the FY2015 state budget be amended to fund local and regional jails based on actual costs as determined by the Annual Jail Cost Report, published by the Compensation Board.

Issue: Water Quality

Clarke County supports cost effective measures aimed at reducing loadings of pollutants in state waters from both point and non-point sources but urges the Commonwealth to consider the impacts of such measures will have on both local governments and agriculture. Further, Clarke believes reliable forms of financial and technical assistance will be required to help localities and agriculture meet the Commonwealth’s goals with regard to water quality.

Issue: Land Conservation

Clarke County supports the Purchase of Development Rights program, the Tax Credit program for the donation of easements, the transferability of tax credits.

Issue: Local Ordinance Violations

Clarke County requests the repeal of budget language enacted by the 2012 General Assembly that required the deposit of local ordinance violation collections from General District Courts, Juvenile and Domestic Relations Courts, Combined District

Courts and the Magistrate System to the State Treasury. This legislative action removed a source of local revenue for many localities. For other jurisdictions, it is added state bureaucracy that is unnecessary but results in localities and law enforcement spending extra time checking to make sure the funds that are destined for the locality are properly returned from Richmond and credited.

Issue: Ethics Rules

Clarke welcomes a review of the Commonwealth's Ethics Rules but believes that the rules that affect local jurisdictions and their Boards, Commissions, Authorities and Committees are strong enough today. Clarke cautions that any increase to the ethics rules affecting localities could prove detrimental to getting people to serve in local government positions. On the State level, Clarke supports the idea of recording the votes of individual members of the General Assembly at all subcommittee meetings.

4) Citizens Comment Period

Alton Echols, 400 Custer Court, Berryville, distributed a handout titled Support Senior Housing. He asked that the Supervisors start the process to catch up with the Town so that by January or February, when the BADA finished its revision of the Area Plan, both the Town Council and the Board of Supervisors would be ready to address the matter at the same time. He informed the Board of the planned amenities for the facility including two bedroom units, 100% handicap facilities, an occupational aide, wellness program and in conjunction with Lord Fairfax, use as a training facility.

Chairman Weiss commented that the Board supports senior housing and stands by its position that it is eagerly awaiting the BADA's final draft of the revised area plan.

Joshua David, Shenandoah River Lane, provided to David Ash a "Petition to Clarke County Board of Supervisors for establishment of Shenandoah Farms Sanitary Tax District Advisory Committee" with 79 signatures. Highlights of Mr. David's comments include:

- In his professional capacity as a police detective for the largest department in the Commonwealth, he was shocked by things he saw at the hearing and in the petition to the Circuit Court.
- Two persons listed in the petition were counted as qualified voters by the Court. Both are adult children of the residents of 68 Farms Ridge Road and no longer live at that address.

- The name is spelled wrong in one of the signatures on the petition.
- Filing an appeal with the Circuit Court would cost between \$15,000 and \$20,000 because it must be appealed to the Supreme Court.
- A citizen of Clarke County should not be required to spend their money to appeal a court decision when a felony might have been committed.
- The Tollers:
  - Signed a petition in 2012 after allegedly being told that they needed a sanitary tax district in order to get a mortgage or to sell their home.
  - Afterward, they learned that this was incorrect.
  - When asked to sign a newer petition for the creation of a sanitary district, they refused.
  - Their signature from 2012, along with 20 other signatures was attached to the petition that was forwarded to the Circuit Court.
- He has asked his attorney to contact the Clarke County Commonwealth Attorney and ask for an investigation into signatures on the petition that went to the Circuit Court.
- Citizens were discouraged from testifying.
- Petitioners were the Property Owners of Shenandoah Farms, Inc. with 2,800 properties in Warren County and 90% of its Board are Warren County residents.
- Only 60 properties in Clarke County have a deeded lot fee.
- The roads in Clarke County are not owned by POSF, Inc.
- POSF, Inc. is not an homeowners association in Clarke County and has no ties to Clarke County.
- Citizens of Clarke living in Shenandoah Farms do not want to be excluded from the budget and administration process.
- Citizens of Clarke living in Shenandoah Farms would like the Board of Supervisors to create an advisory panel of Clarke County citizens to develop priorities and uses.

Chairman Weiss put forth that the Board was in the infancy of development and was learning as it goes. He advised that the Board was going slowly and in consultation with its attorney. He told Mr. David that he would be kept informed of the Board's progress. He stated the Court had instructed the Board to create but the Board would proceed in a way that was fair.



Supervisor Byrd asked if Mr. David had spoken with Commonwealth Attorney Suni Mackall.

Mr. David responded that his attorney sent Ms. Mackall a letter and called her. He added that he had relayed the issues with the Circuit Court petition to the Commonwealth Attorney, the County Administrator, his state delegate, his state senator, the State Attorney General, and the State Corporation Commission.

To facilitate future communication, Supervisor Hobert suggested making available to the County the email addresses of the signers of his current petition.

Vice Chairman remarked that he was concerned about fairly assessing the tax. He opined that he did not want to create a district fee that would be half as much or even more than the real estate tax on the property.

David Joshua referenced a memorandum prepared for the Supervisors by John Friant in 1983 that details the development of that section of Clarke County.

Eleanor and Claude Toller, Shenandoah River Lane: informed the Board that they were the couple referenced by Mr. David. Mrs. Toller stated that she and her husband did not understand what they were signing for they were told that they would have trouble selling their property without a sanitary district. She also did not understand that the funds would not really be used on their road. She concluded that she wanted to be on record that they had signed the petition but they did not mean to sign. She further explained that they signed the first one in 2012; but with more information, when they were asked to sign this year, her husband refused to sign. She was not home at the time the persons came with the second petition but she would not have signed.

Claude Toller interjected that he and his wife's signature on the 2012 petition was counted as valid.

Vice Chairman McKay added that it was his understanding that there were no dates on the petition to the Circuit Court.

Chairman Weiss expressed the Board's appreciation to the Toller's for appearing and assured them that the Board was reviewing.

Vice Chairman McKay introduced himself as the Supervisor for the Shenandoah Farms and advised that Mr. David had his contact information should they want to contact him.

5) VDOT

Ed Carter, Assistant Residency Administrator, due to scheduling constraints was unable to remain at the meeting after two o'clock. He did provide a written report as follows:

Maintenance:

- Repaired/replaced three pipes along Rt. 601 and cleaned remaining pipes from Rt. 50 to Rt. 605;
- Started mowing Primary's (Rt.340) fence to fence and will continue rest primary's this month;
- Cut brush on Rt. 7 east and Rt. 606;
- Continue with brush cutting in area 4;
- VDOT will be performing shoulder repairs on Rt. 7 from Rt. 606 to Rt. 643;
- Conduct ditching operations in White post area 5 and grading on non-hard surfaced routes.

Board issues:

- Pipe replacement on Business 7 is complete.
- Met with VSP on traffic issues.
- Allen Road – Awaiting on environmental.

6) Budget and Appropriation Adjustment to the Conservation Easement Fund

TO: Tom Judge

FROM: Alison Teetor

DATE: November 9, 2015

SUBJECT: Budget and Appropriation Adjustment to the Conservation Easement Fund

I am duplicating the verbage used last year for the Pitta and Masters easement purchases. I was wondering if it would be possible to skip the finance committee agenda meeting and place this on the November Board of Supervisors meeting. The hope is to close on this before the end of the year and I am concerned if we wait until the December meetings I won't have enough time.

The Board has approved a conservation easement purchase in October (attached). Execution of these agreements is now in process, and adjustment of the FY 16 budget and appropriation is required to complete the execution of this agreement. The Board is therefore asked to consider the following resolution:

"Be it resolved that FY 16 Conservation Easement Fund budgeted expenditure and appropriation be increased in the amount of \$200,000, that \$100,000 of Conservation Easement Fund Balance

be recognized, and that \$100,000 of VDACS revenue from the Commonwealth be recognized all for the purpose of purchasing conservation easements on the property of George Greenhalgh."

**MEMORANDUM**

*TO: Board of Supervisors, David Ash*

*FROM: Conservation Easement Authority, Alison Teetor*

*DATE: October 13, 2015*

*SUBJECT: Item for Consent Agenda*

*The Clarke County Easement Authority has approved the following actions. 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.*

**Easement Donation**

*Jay Taylor has applied to the easement authority for approval of an easement donation. The property (TM# 28-((A))-45) is vacant and located on the east side of the railroad on Rock Gate Lane approximately ¾ mile south of White Post off White Post Road. The property is 22.6 acres, wooded, with 2 DURs.*

*The property meets 3 of the 4 of the criteria. The parcel score is over 35 (64.6), points were given for retiring 2 DUR's, being next to an existing easement, and being in the same ownership for more than 50 years. The applicant would like to retire both of the remaining DUR's, it is adjacent to an existing easement, and it is not more than 40 acres. The parcel will be sold to an adjacent property owner following the easement recordation.*

**Easement Donation**

*Linda Armbrust has applied to the easement authority for approval of an easement donation. The parcel (TM# 21-((A))-4) consists of 10 acres located on the north side of Pyletown Road (Route 620) at 1886 Pyletown Road approximately 1.8 miles west of the intersection of Pyletown Road and Route 340.*

*The property has one (1) unused Dwelling Unit Right (DUR), and one (1) Exception/Exemption. The applicant would like to retire the remaining DUR. In reviewing the parcel, at three of 4 criteria have been met. The Property Resource Score is 76.98, one DUR is being extinguished, it is next to an existing easement, it is less than 40 acres in size.*

*The parcel is open pasture with the existing residence and associated out buildings. It is within the groundwater recharge area and the Prospect Hill Spring drainage. The parcel has frontage on Pyletown Road, a State scenic byway for 600'. The parcel is within the Chapel Rural Historic District and the house, built in 1886, is a contributing structure.*

**Easement Donation**

*At the November 2011 meeting the Authority reviewed an application for easement donation submitted by Ken Bell. Mr. Bell owns 4 parcels consisting of a total of 51.72 acres, located at the end of Greenstone Lane (Carefree Acres). Members gave preliminary approval for the donation. A site visit was conducted November 21st. In 2014 Mr. Bell has acquired the 4th parcel consisting of 5.86 acres with an existing house.*

<i>Tax Map#</i>	<i>Acres</i>	<i>Score</i>	<i>#DURs</i>	<i># Houses</i>
<i>38-((A))-44</i>	<i>14.5</i>	<i>42.18</i>	<i>1</i>	<i>1</i>
<i>38-((A))-45</i>	<i>25.0</i>	<i>47.01</i>	<i>2</i>	<i>0</i>
<i>38-((A))-47</i>	<i>6.36</i>	<i>37.27</i>	<i>0</i>	<i>1</i>
<i>38-((A))-48</i>	<i>5.86</i>	<i>32.45</i>	<i>0</i>	<i>1</i>

*There is a small pond and intermittent stream on the property. The applicant would like to place all 4 parcels in easement. Parcels 44 & 45 meet 2 of the 4 criteria by scoring over 35 and retiring a DUR. Parcel 47 has a score over 35 and would meet if the adjoin parcel was in easement. Parcel 48 does not currently meet the criteria, but Mr. Bell may tear the existing house down and then retire the resulting DUR and it would be next to an existing easement.*

**Easement DUR Purchase**

*George Greenhalgh has applied to the easement authority for approval of a DUR purchase. The properties (TM#'s 22-((A))-123 & 22-((A))-123A) are located on the north side of Ellerslie Road at the intersection with Clay Hill Road. There are 2 parcels, 94 acres with 4 DURs, and 41 acres with 3 DURs, for a total of 135 acres and 7 remaining DURs. The applicant would like to retire 5 of the remaining 7 DUR's leaving 1 DUR per parcel. The parcels are as follows:*

<i>County Tax Map#</i>	<i>Acres</i>	<i>DUR's</i>	<i>Property Score</i>
<i>22-((A))-123</i>	<i>94</i>	<i>4</i>	<i>81.93</i>
<i>22-((A))-123A</i>	<i>41</i>	<i>3</i>	<i>74.63</i>
<b><i>Total 135 acres 7 DUR's</i></b>			

*The applicant has requested consideration for retiring 5 DURs leaving a total of 1 DUR on each of the parcels.*

*Both parcels meet all 4 criteria. The property resource scores are over 35, they are each giving up at least 1 DUR, they are over 40 acres, and adjacent to existing*

*easements. The parcels are vacant but within the Greenway Historic District. Additional points were given for retiring DURs, being adjacent to existing easements, being a family farm. The Authority approved a DUR purchase price of \$40,000/DUR retired for a total of \$200,000. VDACS will pay 50% of the purchase price.*

**Supervisor Hobert moved to approve the item on the Consent Agenda as presented. The motion carried by the following vote:**

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

Alison Teetor reviewed the request from the Conservation Easement Authority.

**Vice Chairman McKay moved to approve "Be it resolved that FY 16 Conservation Easement Fund budgeted expenditure and appropriation be increased in the amount of \$200,000, that \$100,000 of Conservation Easement Fund Balance be recognized, and that \$100,000 of VDACS revenue from the Commonwealth be recognized all for the purpose of purchasing conservation easements on the property of George Greenhalgh." The motion carried by the following vote:**

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

7) Approval of Minutes

**Supervisor Staelin moved to approve the minutes for October 20, 2015 Regular Meeting 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

8) Consent Agenda

Acceptance Abstract of Votes November 3, 2015 Election

**Supervisor Byrd moved to approve the item on the Consent Agenda 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) Personnel Committee Items

A. Expiration of Term for appointments expiring through January 2015

11-05-2015 Summary: The Personnel Committee recommends approval:

Clarke County Fire and Rescue Association recommendations for appointment to the Fire and EMS Commission:

- Matthew Hoff to a term expiring August 31, 2016 [reappoint for a second term]
- Van Armacost, Jr. to a term expiring August 31, 2016 [first term replaces Jacob White] [*The Clarke County Fire and Rescue Association also recommends this appointment be extended for an additional year and that the term for Association recommended appointees be staggered.*]

Appoint Audrey Brown to the Northwestern Community Services Board for the unexpired term of Norma Slattery expiring December 31, 2017.

Reappoint Lucille Harris to the Northwestern Community Services Board for a three-year term expiring December 31, 2018.

Reappoint Walker Thomas to the Conservation Easement Authority for a three-year term expiring December 31, 2018.

Reappoint Peter Engel to the Conservation Easement Authority for a three-year term expiring December 31, 2018.

Reappoint Sheriff Anthony "Tony" Roper to terms coterminous with the term of office as Sheriff of Clarke County, Virginia:

- Fire and EMS Commission
- Northwestern Regional Jail Authority

Reappoint Jimmy Wyatt to the Northwestern Regional Jail Authority for a four-year term expiring December 31, 2019.

Reappoint Emily Rhodes to the Clarke County Parks and Recreation Advisory Board for a four-year term expiring December 31, 2019.

Reappoint Joseph Myer to the Clarke County Sanitary Authority for a four-year term expiring January 5, 2020.

Notify Berryville Town Council of the willingness of Ronnie Huff to continue to serve on the Clarke County Parks and Recreation Advisory Board. Mr. Huff's term expires December 31, 2015.

Notify Berryville Town Council of the December 31, 2015 expiration of Christy Dunkle's current appointment to the Economic Development Advisory Committee and seek recommendation for appointment to a four-year term expiring December 31, 2019.

**11-17-2015 Action: Vice Chairman McKay moved to approve the Personnel Committee recommendations. 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) Board of Supervisors Work Session Items

- A. Closed Session Pursuant to §2.2-3711-A3 Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body in the matter of transfer of public property.

**11-05-2015 Summary: Supervisor Hobert moved to convene into Closed Session pursuant to §2.2-3711-A3 to discuss transfer of public property. 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, Vice Chairman McKay 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

**Vice Chairman McKay 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.

11-17-2015 Action: David Ash informed that Board that a letter.

**B. Shenandoah Farms Sanitary District Update**



11-05-2015 Summary: Board members were updated on the action creating the district and ongoing discussions with Warren County and Shenandoah Farms residents from Clarke County.

11-17-2015 Action: The Board heard issues raised by residents during the Citizen Comment Period.

David Ash provided the Supervisors with a draft outline of required action for establishment of the Shenandoah Farms Sanitary District.

Chairman Weiss assured Board members that the County was working closely with County attorney Robert Mitchell. He further stated that the Board was taking no affirmative action on physically touching the area.

Supervisor Byrd commented, "If it is true, if Suni Perka looks at it and finds that these signatures were not in accordance with good rules, not honestly written, does this negate something? Does this start a backwards . . .?"

Supervisor Hobert responded that the Board would be getting an opinion from Mr. Mitchell on this matter and he presumed the matter of signatures would be addressed as well.

Supervisor Byrd continued, "As far as the judge's decision on this, would this do something to the judge's decision?"

Supervisor Hobert responded, "it is conceivable that some action could be brought to address it either by people who were adversely affected or the County itself. It might be in the nature of a new action but I think we are past the point of a request for a reconsideration or an appeal.

Supervisor Byrd asked, "And, we have 30 days?"

Supervisor Hobert responded, "Well, we weren't really a party; so, I really can't speak to the issue of whether we could bring a new, independent action based upon these allegations. But, that is something Mr. Mitchell will be able to address."

Vice Chairman McKay opined that he believed it unfair to spend what could be a great deal of tax payer money from the whole county to benefit a few and it might be quite costly to determine who actually owns some of the roads.

Supervisor Byrd commented that she wanted to wait for a ruling from Mr. Mitchell and that staff should not spend any more time until it was known whether this was a legal thing or not.

Chairman Weiss and Vice Chairman McKay assured Supervisor Byrd that the Board was waiting for legal advice.

C. Real Estate Reassessment Update

11-05-2015 Summary: The County Administrator informed the Board that the reassessment contractor had returned home site size estimates on large parcels to the original numbers.

11-17-2015 Action: David Ash briefly reviewed.

D. 2016 Board of Supervisors Goals and Priorities

11-05-2015 Summary: The Board members discussed the goals and priorities list. The Board added review dates for the listed items and added to Future Considerations wellness center / multi-use pool.

11-17-2015 Action: See discussion under Item 3.

E. Conflict of Interest Update

11-05-2015 Summary: The Board discussed generally.

1. Monday, November 2, Conflict of Interest packet mailed to appointees and employees required to file for period 11-01-2014 through October 31, 2015.
2. Monday, November 2, Conflict of Interest packet delivered to elected officials required to file for the period of May 1, 2015 through October 31, 2015. Board of Supervisors individual packet distributed with Committee Packet.
3. 2015 Changes: SB1424 [Passed 04-17-2015] Summary

State and Local Government Conflict of Interests Act, General Assembly Conflicts of Interests Act, and Virginia Conflict of Interest and Ethics Advisory Council; certain gifts prohibited; approvals required for certain travel.

Removes the distinction between tangible and intangible gifts and prohibits any state or local officer or employee, member of the General Assembly, and certain candidates from soliciting, accepting, or receiving within any calendar year a single gift with a value exceeding \$100 or a combination of gifts with a value exceeding \$100 from certain persons; however, such prohibition does not apply to gifts from personal friends. The bill also prohibits the immediate family of such officers, employees, members, or candidates from soliciting, accepting, or receiving such gifts.

The bill provides an exception for gifts received at widely attended events, which are those events at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event.

The bill requires disclosure of any single gift or entertainment, or any combination of gifts or entertainment, with a value exceeding \$50.

The bill also requires persons subject to the Conflict of Interest Acts to request approval from the Virginia Conflict of Interest and Ethics Advisory Council (the Council) and receive the approval of the Council prior to accepting or receiving any travel-related transportation, lodging, meal, hospitality, or other thing of value provided by certain third parties that has a value exceeding \$100.

The bill modifies the current composition of the Council, reducing the number of members from 15 to 9 and requires that there be bipartisan balance of the General Assembly members appointed to the Council.

The bill requires electronic filing of disclosure forms with the Council and provides that local officers and employees will file disclosure forms locally instead of with the Council.

The bill provides that the making of a knowing and intentional false statement on a disclosure form is punishable as a Class 5 felony.

The bill also prohibits the Governor, his campaign committee, and any political action committee established on his behalf from knowingly soliciting or accepting a contribution, gift, or other item with a value greater than \$100 from persons and entities seeking loans or grants from the Commonwealth's Development Opportunity Fund, restricts such gifts and contributions from persons and entities seeking loans or grants from the Fund, and provides that any violation shall result in a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater.

The bill has a delayed effective date of January 1, 2016, except the provisions of the bill related to the Council and its duties become effective July 1, 2015.

**§ 2.2-3124. (Effective January 1, 2016) Civil penalty from violation of this chapter.**

- A. In addition to any other fine or penalty provided by law, an officer or employee who knowingly violates any provision of §§ 2.2-3103 through 2.2-3112 shall be subject to a civil penalty in an amount equal to the amount of money or thing of value received as a result of such violation. If the thing of value received by the officer or employee in violation of §§ 2.2-3103 through 2.2-3112 increases in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of the civil penalty. Further, all money or other things of value received as a result of such violation shall be forfeited in accordance with the provisions of § 19.2-386.33.
- B. An officer or employee required to file the disclosure form prescribed by § 2.2-3117 who fails to file such form within the time period prescribed shall be assessed a civil penalty in an amount equal to \$250. The Council shall notify the Attorney General of any state officer's or employee's failure to file the required form and the Attorney General shall assess and collect the civil penalty. The clerk of the school board or the clerk of the governing body of the county, city, or town shall notify the attorney for the Commonwealth for the locality in which the officer or employee was elected or is employed of any local officer's or employee's failure to file the required form and the attorney for the

Commonwealth shall assess and collect the civil penalty. The Council shall notify the Attorney General and the clerk shall notify the attorney for the Commonwealth within 30 days of the deadline for filing. All civil penalties collected pursuant to this subsection shall be deposited into the general fund and used exclusively to fund the Council.

11-17-2015 Summary: David Ash briefly reviewed.

11) Board of Supervisors Finance Items

1. Parks Item.

11-05-2015 Summary: The Finance Committee recommends adoption of the following resolution: *"Be it resolved that the Parks Director, working with the County Administrator and Purchasing Director, be authorized to proceed with the construction and equipping of the Shelter as proposed, utilizing the \$86K currently appropriated for this purpose, and be it further resolved that when the Rotary Club meets its fund raising goal and presents its funds, that an action for further supplemental appropriation to the Shelter project be presented to the Board."*

11-17-2015 Action: **Supervisor Hobert moved to approve, "Be it resolved that the Parks Director, working with the County Administrator and Purchasing Director, be authorized to proceed with the construction and equipping of the Shelter as proposed, utilizing the \$86K currently appropriated for this purpose, and be it further resolved that when the Rotary Club meets its fund raising goal and presents its funds, that an action for further supplemental appropriation to the Shelter project be presented to the Board."** 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

Chairman Weiss thanked the Rotary for making this project possible and the Parks and Recreation Advisory board for working out the details.

2. Sheriff Holiday Pay.

11-05-2015 Summary: The Sheriff's Department has prepared an analysis. This has been discussed with the County Administrator. The Sheriff is considering whether to make a proposal regarding this policy.

11-17-2015 Summary: Tom Judge briefed the Board on the matter.

Chairman Weiss added that this matter was part of the ongoing personnel policy review and the matter of holiday pay affected only the Sheriff's Office.

3. FY2015 Fund Balance Designations.

11-05-2015 Summary: The FY 15 audit will list the fund balance designations determined by the board this month. The Finance Committee recommends the attached.

11-17-2015 Action: Tom Judge reviewed the proposed designations and answered questions from the Board.

Chairman Weiss commented that according to his instructions Tom Judge did speak with Mike Legge, staff representative to the Clarke County Sanitary Authority, about making every effort to reduce costs.

**Supervisor Hobert moved acceptance of 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

*Title: General Fund Balance**Source: Clarke County Joint Administrative Services*

<u>Prior Titles</u>	<u>Prior</u>	<u>Current</u>
General Fund Balance Year End FY 13 / FY 14	15,574,543	13,636,042
Expenditure FY 14 /15	(28,099,645)	(27,155,570)
Revenue FY 14 / 15	26,161,144	27,118,433
General Fund Balance Year End FY 14 /15	13,636,042	13,598,905

Designations

Liquidity Designation @ 12% of FY 15/16 Budgeted Operating Revenue	(\$3,188,575)	(\$3,278,655)
Stabilization Designation @ 3% of FY 15/16 Budgeted Operating Revenue	(797,144)	(819,664)
Continuing Local GF Appropriations for Capital Projects	(3,043,265)	(2,497,453)
School Capital/Debt	(1,250,000)	(1,250,000)
Government Construction/Debt	(600,578)	(600,578)
Property Acquisition	(265,000)	(265,000)
Conservation Easements from Government Savings	(153,462)	(153,462)
Community Facilities	(\$156,000)	(\$156,000)
Comprehensive Services Act Shortfall	(250,000)	(240,724)
Parks Master Plan	(100,000)	(100,000)
School Operating Carryover	(7,933)	(1,102,936)
Government Carryover Requests from Government Savings	(440,889)	(500,000)
Energy Efficiency	(50,000)	(50,000)
Data and Communications Technology	(200,000)	(128,000)
Recycling and Convenience Center	(444,183)	(814,336)
Regional Jail Capital Needs	(100,000)	(100,000)
Vehicle Replacements	(100,000)	(59,000)
Voting Equipment Upgrades	(50,000)	
Landfill costs	(50,000)	(50,000)
Pay and Classification Plan Implementation	(40,000)	
Leave Liability	(75,000)	(75,000)
Economic Development		(200,000)
CCSA Sewer Fund Shortfall		(150,000)
FY 15 / 16 Original Budget Surplus (Deficit)	(1,329,062)	(503,716)
TOTAL Designations	(12,691,091)	(13,094,524)
FY 15 16 Expenditure Supplemental	(1,014,973)	(90,346)
FY 15 16 Revenue Supplemental	520,022	85,965
Undesignated	450,000	500,000

4. Animal License and Business License modules.

11-05-2015 Summary: The fund balance designations should be decided in November after final adjustments are made during the audit. The attached gives a reasonable estimate for use in considering over the next month what designations should be made.

During contract negotiations with Tyler it was determined that Animal Licenses and Business Licenses were simply a matter of sending out renewal notices once a year and waiting for declarations, and that therefore the General Billing module would be deemed sufficient. It has since become clear that these modules could track information on an ongoing basis that would save on data entry, and would, in the case of Business Licenses, assist with economic development. The Finance Committee recommends implementation of these modules. The quoted costs are as follows:

Module	Annual Cost	Implementation	Total
Animal License	1221	1175	2396
Business License	2257	4700	6957

The following issues should be considered:

1. Business License implementation can probably be negotiated with Tyler from 4, 700 down to 1,175 because our license is a flat fee. This would decrease the total to 5,828 for both modules.
2. Recommendation for cost split with schools: government covers implementation cost. Annual cost split 50/50 going forward based on prior agreement.
3. There are 1,275 animal licenses (spay/neuter at \$5, others at \$10; kennel fees are \$30 for the 13 small, and \$40 for the 4 large), and 715 business licenses at \$30. According to the Virginia Code Sections below, the only fee adjustment possible to recoup the costs of these modules is to increase the fee for spay/neutered dogs, and/or kennels.

**§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority.**

- A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed \$100 for any locality with a population greater than 50,000, \$50 for any locality with a population of 25,000 but no more than 50,000 and \$30 for any locality with a population smaller than 25,000. For purposes of this section, population may be based on the most current final population estimates of the Weldon Cooper Center for Public Service of the University of Virginia. Such governing body may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations in (i) subsection C and (ii) subsection A of § 58.1-3706, provided such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount

not to exceed \$50 by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

**B. § 3.2-6528. Amount of license tax.**

The governing body of each county or city shall impose by ordinance a license tax on the ownership of dogs within its jurisdiction. The governing body of any locality that has adopted an ordinance pursuant to subsection B of § 3.2-6524 shall impose by ordinance a license tax on the ownership of cats within its jurisdiction. The governing body may establish different rates of taxation for ownership of female dogs, male dogs, spayed or neutered dogs, female cats, male cats, and spayed or neutered cats. The tax for each dog or cat shall not be less than \$1 and not more than \$10 for each year. If the dog or cat has been spayed, the tax shall not exceed the tax provided for a male dog or cat. Any ordinance may provide for a license tax for kennels of 10, 20, 30, 40, or 50 dogs or cats not to exceed \$50 for any one such block of kennels. No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person, or that is trained and serves as a service dog for a mobility-impaired or otherwise disabled person.

11-17-2015 Action: Tom Judge advised that he had spoken to Tyler Technologies and they believed they could reduce the cost to around \$2,300. He stated that the County would not be charged for unused additional implementation days.

**Supervisor Hobert moved to authorize Tom Judge to proceed. 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. Acceptance of Bills and Claims

11-05-2015 Summary: The Finance Committee recommends acceptance.

11-17-2015 Action: **Supervisor Hobert moved to accept the October 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

6. Standing Reports

Reconciliation of Appropriations, Expenditure Summary

12) Joint Administrative Services Update

Highlights of Tom Judge's review include:

- Met on October 26
- Conducted budget training on October 29.
- Will be conducting meetings on job applications and payroll.
- Payroll module went “live” last month.
  - Minor problems were fixed the next day.
  - Employees received new type of pay advice. Some concerns expressed by CCPS about a required password to open the pay advise document. This will not appear on the November pay.
- Reviewed permit module set up.
  - Chairman Weiss advised that he attended a portion of the overview on the building permit module. He said that he was impressed that Tyler does seem to be willing to create the system the County asks them to create. He opined that it behooved all the department heads to determine what that system is and it seems that we are masters of our own destiny if we put in the appropriate information. He encouraged all departments to work with Tyler noting that the process would be time consuming and frustrating but it could, should and will be done.
  - Tom Judge advised that he had to keep nipping at the heels of the contractor to get the work done. He opined that he had to follow up on punch list items to end up with good product.
  - Chairman Weiss noted that there were complaints about timing of training and he knew that Mr. Judge was addressing with Tyler. He stated that the Supervisors wanted Mr. Judge to continue to push Tyler to try to adjust those training sessions for County staff, which may require costs with part-time help or utilization of Frederick County to cover the Building Department.
  - Tom Judge stated that Tyler is willing to train in half-days for the first week of December to accommodate the Building Department scheduled.
  - Chairman Weiss added that his comments were not intended to over simplify and reminded that Tyler works for the County.

- Treasurer setting up accounts receivable.
- Treasurer will soon have animal license and business license
- 50/50 split between the Schools and General Government was decided by the Boards early in the process. General Government will pick up the implementation cost of business and animal license modules. Ongoing costs should be subject to the 50/50 split.
- Next meeting is set for November 23.

### 13) Government Projects Update

David Ash provided the monthly project update. Highlights include:

- Chet Hobert Park lighting project:
  - o The Engineer is working to create a set of plans for bidding and the necessary site plan for the Planning Department.
  - o The Engineer is familiar with dark sky code requirements.
- Convenience Center:
  - o Working with engineer and VDOT to review design to ensure that the plan will meet standards and size requirements.
  - o Updated cost estimate should be ready by the first of the year.
- Shenandoah Farms Sanitary District:
  - o Provide information to Robert Mitchell.
  - o Mr. Mitchell intends to meet with John Friant, who prepared a lengthy document for the Board of Supervisors in 1983 outlining various issues.
  - o Vice Chairman McKay instructed staff to provide the 1983 Friant memorandum to all Board members.
- BCCGC:
  - o No movement on this building;
  - o Chairman Weiss instructed staff to communicate with Mr. Mitchell the need to resolve the matter as quickly as possible. He further instructed staff to schedule a briefing to the Board in January or February.

### 14) Miscellaneous Items

Visitor Center Signs on Route 7

Highlights of Supervisor Staelin's comments include:

- Joint Economic Development Committee [Jay Arnold, Christy Dunkle, Brandon Stidham and he] received a report on signs along Route 7 and Route 340.
- Route 7 signs: approximately \$9,200.
- Route 340 signs: approximately \$6,000
- The Town of Berryville approved a \$3,000 proposal. It is willing to reconsider after final cost is known.
- From a tax standpoint, the Town will benefit more than the County.
- The annual cost is unknown at this time.
- The Supervisors approved in a prior resolution \$4,000 for implementation cost and \$2,000 annually.
- Signs on Route 7 could be possible if the County increases its commitment to \$6,000.
- State wants assurance that the locality will cover the expense before they begin work.
- Still waiting on final numbers from VDOT.
- More will be known in December.
- Signs on Route 340 will be a second step later with additional cost.

Supervisor Hobert remarked that the proposed split establishes a one-third Town and two-thirds County relationship. He opined that these types of signs are fundamental advertisement for a community with "a big bang for the buck."

Supervisor Byrd, Chairman Weiss and Vice Chairman McKay expressed support for the sign project.

**Supervisor Staelin moved that the Board agree to fund the visitor center signs for up to \$6,000 and that more nearly accurate numbers will be available as the Committee continues its work on the signage.**

Chairman Weiss encouraged the Town to make signage on Route 340 a priority.

**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

15) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Update appointments database and draft letters of appointment.	Lora B. Walburn
3.	Execute letters of appointment.	David Weiss
4.	Provide 1983 Friant memorandum re Shenandoah Farms Sanitary District to all Board members.	Lora B. Walburn
5.	Contact Robert Mitchell re BCCGC resolution.	David Ash
6.	Schedule Robert Mitchell to update the Board in January or February.	David Ash
7.	Draft letter to Governor, with copies to local legislators, re state prisoner population in local jails.	David Ash

16) Board Member Committee Status Reports

Supervisor J. Michael Hobert:

- Parks and Recreation Advisory Board: Reviewed Park proposal that was provided to the Board in the November packet.
- Conservation Easement Authority:
  - o Meets this week.
  - o At special meeting, reviewed structure placement.
  - o Believe the CEA will approve, with limits, placement of an horse arena on land in easement in the Waterloo area.

Vice Chairman Bev McKay:

- NSVRC:
  - o Meets Thursday
  - o Director Martha Shickle resigned to take a position in Richmond.

- Career and Technical Committee:
  - Making progress.
  - Developed criteria for placement of students in job shadowing.
  - Lined up interested businesses.

Chairman David Weiss:

- Fire and EMS Commission:
  - Working on strategic plan implementation.
  - Budget Committee is working through fee-for-service ideas and is reviewing transfer of insurance for the three volunteer companies to the County.
  - Communications Committee: Tony Roper, who is taking the lead, is working with the Commissioner.
- Meeting with School Board Chair, School Superintendent, BoS Chair and County Administrator:
  - The Schools methodology used to work through issues is impressive.
  - All were in accord with how to utilize carry-over funds.

Supervisor Barbara Byrd

- Social Services: Meets this week.
- Regional Jail: Meets this week.
- Finance Committee Jail:
  - Security system replacement will cost approximately \$2MM.
  - Currently house 85 “out-of-compliance” / state inmates.
  - Cost of housing is \$80 per day and the state reimburses at \$12 per day.
  - Cost to house current state inmates is an estimated \$2MM per year.
  - **Supervisor Byrd moved to direct the County Administrator to draft a letter to the Governor, with copies to local legislators, regarding the state prisoner population at the local jail; she further moved to authorize the Chair to execute the letter. 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

- Humane Foundation: Meets this week.
- School Board: Meets next week.

Supervisor John Staelin

- CCSA:
  - Met this morning.
  - Currently working on new tower electronics.
  - Expect to put the new tower in use next week.
  - Will begin old tower tear down around the first part of December.
  - Working to save trees around the site that sustained root damage during construction.
  - Hope to sell space on the new tower for cellular communications.
- Planning Commission: working on cell tower issues.
- Economic Development Advisory Committee: working on website and social media issues.

17) Closed Session

No Closed Session was held.

18) Adjournment

At 3:43 pm, being no further business, Chairman Weiss adjourned the meeting.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, December 15, 2015 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: November 17, 2015

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

\_\_\_\_\_  
David L. Ash, County Administrator

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