

February 16, 2016

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 16, 2016.

Board Members Present

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

Board Members Absent

Afternoon Session: Terri T. Catlett

Evening Session: None

Staff Present

Afternoon Session: David Ash, Barbara Bosserman, Frank Davis, Tom Judge, Brandon Stidham, Travis Sumption

Evening Session: David Ash, Brandon Stidham

Constitutional Offices

Suni Mackall, Tony Roper

Others Present

Afternoon Session: Robina Rich Bouffault, Joshua David; Val Van Meter and other citizens

Evening Session: Chuck Bishop, Trevor Creany

1) Call to Order

Chairman Weiss called the afternoon session to order at 1:06 p.m.

2) Adoption of Agenda

Miscellaneous: CC-2016-01 - Potential Changes in Language to Item 23

Vice Chairman McKay moved to adopt the agenda as amended. The motion carried by the following vote:

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

3) Citizens Comment Period

No citizens appeared to address the Board.

4) VDOT

Clif Balderson, Residency Administrator, appeared before the Board to provide the monthly update.

Maintenance:

- Conducted grading operations on various non-hard surfaced roads in the County;
- Performed several pothole repairs and removed hazard trees on routes 340 and 606;
- The remainder of the month and part of February was spent dealing with a major snow event and the resulting flooding.
- VDOT had several equipment repair issues following the storm.
- This month we will continue with tree and brush removal along Rt. 7 east of Rt. 606,
- Pothole repairs and grading of non-hard surfaced roads.
- VDOT will conduct some ditching operations on various routes depending on the weather.

Projects:

- Rural Rustic Allen Road: Waiting on environmental clearances for Allen Rd.

Board issues:

- Signage along Rt. 340 south from the West Virginia line to Berryville:
- Millwood:
 - Truck Restrictions: Waiting on signs to come in for installations.
 - Meeting with Millwood citizens on Monday the 22nd to discuss traffic issues.
- Rt. 642/Frederick/Clarke County: Speed study on Rt. 642 in Frederick/Clarke County was completed with recommendations for 55MPH posting and curve warning signs.

Vice Chairman McKay

- Route 522 Intersection with flashing lights at Lake Frederick: Mr. Balderson advised that the light does not meet the warrants for activation following signal analysis.

Supervisor Byrd

- Summit Point Road: Pot holes and shoulder issues.

Chairman Weiss

- Large Snow January 22-23: Good job considering the conditions. Responding to Board inquiry, Clif Balderson stated that VDOT had approximately twelve snow removal contractors on call.

5) Fire & EMS Commission Update / Report by Frank Davis, Director Fire & EMS

Highlights include:

- Fee for Service:
 - On budget for approximately \$30,000 per month.
 - Collecting 80% of bills, which is 30% better than some neighboring jurisdictions.
- Volunteer departments working to improve the 9% fail rate – failure to respond within ten minutes.
- Staff completed second day of training for the recently approved grant program.
- The City of Winchester submit a regional grant to rebuild a training center and included Clarke. Hope to find funding to help support. The training center would enable localities to train volunteers locally.

- Young volunteer programs active in the Boyce and Enders volunteer fire and rescue departments.
- Snow Storm: still in recovery stage. Paperwork submit for approximately \$44,000. Clarke opened a small emergency operations center, which eased the workload on E911. Code Red messages sent to citizens in advance of the storm.

Chairman Weiss expressed the Board’s appreciation and ongoing support of Mr. Davis’ activities and his efforts to coordinate programs and services with volunteer stations.

6) Approval of Minutes

Supervisor Byrd requested correction to Book 22 Page 434 Change Adult to Juvenile Detention Center.

Supervisor Byrd moved to approve the minutes for January 19, 2016 Regular Meeting as presented and February 8, 2016 FY2017 Budget Work Session as corrected. The motion carried by the following vote:

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

7) Consent Agenda

16-01P Proclamation Northern Shenandoah Valley disAbility Awareness Week April 9-15, 2016

**Proclamation Northern Shenandoah Valley disAbility Awareness Week April 9-15, 2016
2016-01P**

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 9-15, 2016 as Northern Shenandoah Valley disAbility Awareness Week 2016, and we call this observance to the attention of all of those people who live in the Clarke County to work together to raise awareness and understanding of the abilities of people with disabilities.

Adopted this 16th day of February 2016.

ATTEST:

David S. Weiss, Chair

2016-01R Resolution Congratulating Clarke County High School Football Team

**Resolution Congratulating Clarke County High School Football Team
2016-01R**

Team Roster:

- | | |
|---------------------|-----------------------|
| 1 Hunter Rogers | 14 Julius Palmer |
| 2 Gregory Shippa | 20 Nathaniel Barb |
| 3 Patrick Cleary | 21 Brett McDonald |
| 4 Jacob Parrott | 22 Joseph Davidson |
| 5 Jaxon Ottobre | 25 Jordon Turner |
| 6 Christopher Davis | 28 Robert Pryor |
| 7 Michael Fields | 32 Richard Nappi |
| 8 Matthew Dang | 37 James Martin |
| 10 Cole Lawson | 39 Zach Flynn |
| 12 Edward Buzalsky | 40 Daniel Braithwaite |
| 13 Zach Poole | 44 Lucas Rogers |
| | 46 Jack Benner |

50 Kaleb Langley
 51 William McLean
 52 Julius Grant
 53 Christian Camacho
 55 Joshua Wallace
 56 Cameron Marshall
 58 Zachary Melusen
 59 Lee Louthan
 60 Bryan Wallace
 61 Evan Whirley
 64 Nolan Hall
 66 Jacob Peace
 67 William Spalding, Jr.
 69 Daniel Roberts
 70 Kyle Anderson
 71 Hugh Kiser
 72 Johnny Fens
 73 Michael Shepherd
 75 Jesse Carroll
 76 Samuel White
 77 Dylan Thompson

80 Benjamin Sprouse
 81 Dalton Crandall
 83 Dietrich Tilley
 85 Andrew Bonett
 86 William Roper
 89 Stephen Clapp

Head Coach:
 Chris Parker
 Assistant Coaches:
 Casey Childs
 Brent Emmart
 Andre Kidrick
 Rick Sjostrom
 Matt Ernst
 Jon Novick
 Jesse Hudson
 Trainer:
 Lindsay Griego

WHEREAS, the Clarke County High School football team participated in the Group 2A state championship on Saturday, December 12, 2015; and,

WHEREAS, it is the first time in school history the Eagles football team participated in the final Virginia High School League game.

NOW, THEREFORE, BE IT RESOLVED that the Clarke County Board of Supervisors commends your accomplishment and acknowledges the dedicated efforts of the coaches and the superb skill of the athletes, as well as the support of the parents that took the Clarke County High School Football Team to the Group 2A State Championship final game.

Adopted this 16^h day of February 2016

ATTEST:

 David S. Weiss, Chair

2016-02R Resolution Congratulating Clarke County High School Zero Robotics Team

**Resolution Congratulating Clarke County High School Zero Robotics Team
 2016-02R**

WHEREAS, on January 25, 2016, the Clarke County High School Zero Robotics Team competed in the worldwide Zero Robotics High School Tournament 2015 ISS (International Space Station) Finals held aboard the Space Station with participants watching via a live broadcast at Massachusetts Institute of Technology [MIT]; and,

WHEREAS, Clarke’s Zero Robotics Team, Source Code;, competed individually through the preliminary rounds, then as part of an alliance with teams from California and Germany in the final rounds writing code to program robots, known as SPHERES, housed aboard the International Space Station; and,

WHEREAS, Clarke’s Zero Robotics Team finished in the top five teams internationally.

NOW, THEREFORE, BE IT RESOLVED that the Clarke County Board of Supervisors commends your accomplishment and acknowledges the stellar abilities of the team members: Ben Butler, Richard Catlett, Jackson Darman, Dakota Fletcher, Tyler Hardy, Caleb Jacobs, Julia Thompson, John Ulbrich, and Mark Ulbrich; the dedicated efforts of the mentors: Debbie Biggs, Phillip Facemire, Scott Hall, and Valerie Ulbrich, as well as the support of the parents.

Adopted this 16h day of February 2016

ATTEST:

David S. Weiss, Chair

CEA requests the BoS to authorize the BoS Chair to execute deeds, easements, and other documents necessary to complete the transactions: Request for Easement Donation – Larry and Linda Tavenner; Request for Easement DUR Purchase – William Tavenner

MEMORANDUM

TO: Board of Supervisors, David Ash

FROM: Alison Teetor

DATE: February 9, 2016

SUBJECT: Request for Easement Donation – Larry and Linda Tavenner

Request for Easement DUR Purchase – William Tavenner

The Clarke County Easement Authority has approved the following easements for purchase and donation. The Authority requests the Board of Supervisors to authorize the Chairman to execute deeds, easements, and other documents necessary to complete the transactions.

Easement Donation/DUR purchase

The Tavenners have applied to place 2 parcels in conservation easement for the purpose of selling a DUR and completing a boundary line adjustment to create two 10 ½ acre parcels (See attached map). The purpose of the Boundary Line Adjustment is for the brothers to own equal parts of land that they had inherited.

William Tavenner owns a 16-acre parcel that has 2 DURs. The parcel is identified as tax map# 22-((A))-15 and is located in the 200 block of Annefield Rd. It is vacant and has 2 DUR’s. He would like to retire one of the DURs through a DUR purchase, to be approved on the Finance agenda item. The property is within the groundwater

recharge area, and fronts on Annefield Road, a state designated scenic byway. The parcel has been in the Tavenner family for between 30 and 50 years.

The parcel is zoned AOC is in use value taxation, in accord with the Commissioner of Revenue's requirements, therefore a DUR 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 property meets 2 of the 4 criteria. The property resource score is 54.44, and 1 DUR is being retired. It is not next to an existing easement and it is under 40 acres. The second parcel is owned by Larry and Linda Tavenner, and is identified by Tax Map# 22-(A)-15A, consists of 5 acres with an existing house that was built in 1992. There are no remaining DUR's.

The parcel is zoned AOC and is not eligible for use value taxation, in accord with the Commissioner of Revenue, therefore a donation may be considered if it meets at three of the four following criteria:

- 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) it is adjacent to another easement;
- 4) the parcel offers protection of a locally significant natural or historic feature, as determined by the Easement Authority.

The property currently meets one of the criteria as the property resource score was over 35. The score was 48.49, with points being given for frontage on a state designated scenic byway (Annefield Rd.) and a primary highway (Route 340). A small section is within the groundwater recharge area, and it has been owned by the Tavenners since 1976 (nearly 40 years). The property will meet a second criteria when the adjacent property described above is placed in easement. A third criteria that could be considered is the prominent location of being on the corner of a scenic byway and a primary highway,

The Easement Authority has given final approval for both easements.

Recommendation: Approve the proposed easement donation and DUR Purchase as presented.

Supervisor Daniel moved to approve the Consent Agenda as presented. The motion carried by the following vote:

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

8) Set Public Hearing: TA-16-01, Public Outdoor Recreation Facility Lighting

Proposed text amendment to amend §6-H-11, Outdoor Lighting Standards, of the Zoning Ordinance. The purpose of the amendment is to establish a new category for public outdoor recreation facility lighting including new lighting plan submission and design criteria requirements.

Brandon Stidham provided a brief summary of the proposed text amendment and an explanation of the event hours segment.

Supervisor Byrd moved to set public hearing for March 15, 2016 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
Terri T. Catlett	- Absent
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

9) Set Public Hearing: TA-16-02, Streambank Protection Regulations

Proposed text amendment to §3-E-1, Flood Plain District (FP), and §3-E-5, Stream Protection Overlay District, of the Zoning Ordinance. The purpose of the amendment is to establish to construction standards and regulations for the siting of boat landings, boat ramps, docks, decks, stairs, and similar structures along perennial streams including the Shenandoah River. The amendment also clarifies current ordinance language including referencing County Septic Ordinance regulations for the siting of portable privies and linking of complementary provisions in both sections.

Brandon Stidham reviewed the proposed amendment.

- Warren County has something similar in place.
- The amendment covers the Opequon.
- Staff is discussion means of public notification.

Supervisor Daniel moved to set public hearing for March 15, 2016 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
Terri T. Catlett	- Absent
Mary L.C. Daniel	- Aye
Beverly B. McKay	- Aye
David S. Weiss	- Aye

10) Set Public Hearing: 2015 Berryville Area Plan

With the completion of the BADA's work, the next step is for the Board of Supervisors and Town Council to hold formal Public Hearings and to take formal action to adopt the revised Plan. As of the drafting of this report, Town Council intends to hold a work session to discuss the revised Plan before scheduling a formal Public Hearing. Town and County Staff have also discussed the possibility of scheduling a Joint Public Hearing on the revised Plan between the Board and Town Council.

The Board may want to consider scheduling a similar work session prior to setting a Public Hearing date. You may also want to consider delegating authority to Staff to establish the Public Hearing date in the event that Town Council may be interested in coordinating a Joint Public Hearing. It should be noted that identical actions must be taken by the Board and Town Council in order to adopt the revised Plan so coordination and discussion of any concerns raised among the memberships will be important.

Brandon Stidham provided an overview of the proposed changes and briefed the Board on next steps for review and final adoption of the 2015 Berryville Area Plan.

Overview of Proposed Changes: The primary tasks that were undertaken in the update process are as follows:

- Improve the document's overall organization and readability. Over the years, Staff received many comments that the current Plan is difficult for the average person to read and comprehend due to excessive use of technical jargon and organizational issues. The revised Plan document has been rewritten throughout in plain language and is condensed from the current eight chapters to four clearly organized chapters – Introduction (Chapter I); Berryville Area Plan Sub-Areas (Chapter II); Goals, Objectives, and Policies (Chapter III); and Plan Implementation and Conclusion (Chapter IV).
- Update demographics and current public infrastructure conditions. Staff has provided updated demographic information on population and employment from the 2010 Census, Weldon-Cooper Center projections, Virginia Employment Commission, and other resources. We have also included updated background information on public

infrastructure in the Annexation Area including public water and sewer, transportation network, schools, and recreation resources.

- Provide background information on annexation and the shared approach to land use decision-making. The revised Plan includes a section on the creation and scope of the Town-County Annexation Area Agreement, the creation of the Berryville Area Plan and BADA, and an overview of the land use application review responsibilities between the Town and County. These are new elements that are not in the current Plan.
- Review and update the Plan's Goals and Objectives. Chapter III of the revised Plan contains an updated list of Goals and Objectives to account for current and future projected development and needs. The current Plan does not contain a clear, concise Goals statement so a new one was developed in the revised Plan. The revised Objectives address eight subject areas – Environment, Transportation, Housing, Land Use, Public Facilities, Economic Development, Urban Design, and Implementation.
- Update the current development patterns in the descriptions of the Sub-Areas and the Future Land Use and Projected Development Yields Table. The current Table includes development information dating back to the 1992 Plan adoption with only minor updates from previous Plan amendments. Maximum development capacity information was also provided by the original Plan consultant without the benefit of a Geographic Information System (GIS). The revised Table makes use of the more accurate data from the County GIS and identifies current levels of build-out and remaining “unused” dwelling units from the Plan's original allocation. There are no recommendations for increasing the overall number of dwelling units in this Plan update.
- Evaluate the need for any changes to the Sub-Area descriptions and boundaries. The BADA and Staff updated each Sub-Area description to include current development patterns and build-out as well as to add new descriptive titles. Some Sub-Areas that have reached maximum build-out or have no future development potential are recommended for removal from the Plan. Where applicable, some Sub-Area boundaries have been modified to reflect the limits of existing development.
- Identify adjacent County areas that may be considered for potential future inclusion as new annexation areas and Sub-Areas. The revised Plan includes a new section that identifies three “potential future growth areas” – areas of land adjacent to the Annexation Area that could be considered for future inclusion as an Annexation Area with Sub-Area designations. These are noted as general areas to be studied as short or long-term priorities and include potential recommended use types and development constraints. Language is also included that outlines a process for developing a potential future growth area into an annexation area.
- Provide recommendations on the impact of plan implementation. A new section is included in Chapter IV of the revised Plan to address the type and scope of developer funded improvements, capital project contributions, and other proffered contributions to public infrastructure in the Annexation Area. This section is intended to guide

developers, public officials, and Staff in the evaluation of new development applications.

- Address regularly-scheduled reviews of the Plan and the procedure for evaluating interim amendments to the Plan. The revised Plan also contains procedures for conducting periodic reviews and considering Plan amendments. It is recommended that the governing bodies conduct a regularly-scheduled review of the Plan once every five years to determine whether the Plan needs to be updated and to what degree. Separate processes are recommended to address interim Plan amendments that are initiated by the governing bodies and amendments that are requested by citizens and other stakeholders.

By consensus, the Board agreed to continue discussion of the Plan at its March 7, 2016 10:00 am Work Session.

The Board did not set the matter for public hearing.

11) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through May 2016

02-08-2016 Summary: The Personnel Committee recommended the following:

- Howard Means, Board of Zoning Appeals, letter to Circuit Court recommending reappointment to a term expiring February 15, 2021.
- Douglas Kruhm reappoint as the Planning Commission representative on the Historic Preservation Commission to a term expiring April 30, 2017.
- Review relational information in appointment database and correct as necessary.

02-16-2016 Action: David Ash reviewed the Personnel Committee recommendations.

Vice Chairman McKay moved to approve the Personnel Committee recommendations. The motion carried by the following vote:

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

12) Board of Supervisors Work Session and FY2017 Budget Work Session

For summary of action, see February 8, 2016 Board of Supervisors FY2017 Work Session Minutes.

A. CCPS Update by Chuck Bishop, Division Superintendent CCPS

02-08-2016 Summary: Chuck Bishop, with Chuyen Kochinsky, Dennis Graham, Tom Parker, provided an update on the School's strategic plan.

B. FY2017 Budget by Tom Judge, Director Joint Administrative Services

02-08-2016 Summary: See 2016-02-08 Board of Supervisors FY2017 Budget Work Session Minutes.

13) Board of Supervisors Finance Items

1. FY 16 Supplemental Appropriations.

02-08-2016 Summary: Action: The following appropriation action is recommended by the Finance Committee: "Be it resolved that FY 2016 Conservation Easement be amended to increase expenditures by \$40,000, to appropriate the same, to recognize revenue from the Commonwealth of \$20,000, and to utilize fund balance of the Conservation Easement fund in the amount of \$20,000."

02-16-2016 Action: Tom Judge reviewed the proposed action.

Supervisor Byrd moved approval "Be it resolved that FY 2016 Conservation Easement be amended to increase expenditures by \$40,000, to appropriate the same, to recognize revenue from the Commonwealth of \$20,000, and to utilize fund balance of the Conservation Easement fund in the amount of \$20,000." The motion carried by the following vote:

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

2. Acceptance of Bills and Claims

Supervisor Daniel moved to accept the January 2016 Bills and Claims. The motion carried by the following vote:

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

3. Standing Reports

Reconciliation of Appropriations, General Fund Balance, Expenditure Summary/YTD Budget Reports, Capital Projects

14) Joint Administrative Services Update

Highlights of Tom Judge's review include:

- Board did not meet in January. Next meeting is February 22.
- Munis Update
 - o Payroll and HR: implementation completed.
 - o General Billing and Accounts Receivable:
 - Activating programs today.
 - o Code Enforcement Module:
 - IT staff pulled together a complex central property file.
 - o Utility Billing:
 - Set up in progress.

15) FY2017 Budget Work Session – Direction to County Administrator

Tom Judge distributed the February 16, 2016 FY2017 Budget Process document.

Former Supervisor and long-term Finance Committee member John Staelin joined the meeting via telephone. Highlights of his comments include:

- FY2017 is based on the FY2016 budget so you want to ensure that the figures in the current year budget are on target.
- Three important numbers in FY2016 Budget:
 - o Real Estate Revenue: FY2015 \$14.4MM forecast; FY2016 \$14.2MM forecast – so FY2016 revenues should be higher than forecast, which is positive news.

- Personal Property Revenue: Positive forecast.
- Fee-for-Service: No historical data available to create the forecasted number.
- Deficit: Budgeted -\$509,062 but guessing that in FY2016 the County will come in flat or even positive and this amount will not be drawn from the fund balance.
- FY2017:
 - Real Estate: \$14.6MM estimate but a more nearly accurate number should be forthcoming from the Commissioner of the Revenue.
 - Machinery and Tools: Berryville Graphics while having added new equipment it removed a lot of old equipment leaving the net relatively flat. May have equipment from the proposed solar facility by end of FY2017.
 - Fee-for-Service: \$325,000 estimated.
- Capital Projects: \$4.9MM for the Convenience Center [\$500,000] & Primary[\$3.5MM]
- Remainder of the budget is approximately \$900,000 out of balance; however, revenue should be higher reducing the deficit to \$500,000 to \$600,000. Next year, the County will save \$500,000 in interest payments; so the deficit for FY2017 should only be a “one-year” problem.

At 2:31 pm, John Staelin disconnected.

Following the telephonic communication, highlights of Board review include:

- Shenandoah Farms Sanitary District added at \$20,000 revenue and expenditure.
 - David Ash advised that this must be set up as a separate fund and cannot be included in the general fund. Tom Judge agreed to set it out and to set it up as a separate fund.
 - Funds for the SFSD will come from additional taxes collected from the persons that reside within the sanitary district.
 - David Ash further advised that no specific budget had been developed for the SFSD.
- Workers Comp renewal rate rose considerably based on claims over the past several years.
- Health insurance renewal came in at 8.1%, below the budgeted 10% estimate.
- Convenience Center / Recycling Center on Quarry Road: \$42,000 estimated operating cost based on start date of October 1.
- Capital Budget:
 - Sheriff Requests:

- \$9,000 for tasers and the Finance Committee recommended that the funds come from the drug enforcement fund, which currently has a balance of \$200,000.
- \$100,000 remaining in the current year budget in the Sheriff's capital fund from the renovation project. These funds could be used to purchase requested repeaters and a time-sync server.
- Eliminated double budget for museum floor.
- Added the convenience center at \$500,000 and reduced the fund balance designation.
- Parks:
 - Kohn study reduced to \$20,000 for development of a park master plan that includes park uses and maintenance. This item was removed from the FY2016 budget but the Parks and Recreation Advisory Board believes it should be included in the FY2017 budget.
 - Park Fencing: Taking a year off from the annual \$10,000 budgeted for this item.
 - Adjusted credit card fees.
- CCSA deficit was increased from \$150,000 to \$207,000.
- School budget request added including monies in the fund balance for Schools capital debt at \$1.250MM.
- Regional Juvenile Detention Center was reduced by \$22,595.
- Joint Administrative Services budget request is scheduled for review on February 22.
- Commissioner of the Revenue is closer than she was but still does not have real estate figures.
- Drug task force: have not yet received funding request.
- Minor Capital:
 - Registrar:
 - Cargo trailer: Registrar asked to research rentals.
 - Vote scanner: Sufficient funds in current year to obtain.
 - Circuit Court: \$500 for Judge's chair from current year
 - Commonwealth Attorney: \$700 for filing cabinet from current year.
 - Parks: \$1,175 for tables and chairs from current year.
 - Computer-related Items: Gordon Russell asked to review requests.

- Security modifications for GDC & JD&R: \$60,000 to \$70,000 currently budgeted for a variety of maintenance issues. Based on estimates received, it seems there should be sufficient funds in the budget to accommodate security concerns.
- Finance Committee will review personnel requests and regional organizations at its next meeting.
- CCPS Primary Renovation:
 - \$4MM is architect's estimate from preliminary schematic - project has not gone out to bid.
 - Tom Judge suggested a way to fund the entire project from the fund balance.
 - School Board has not provided comment.
- Energy Efficiency: \$50,000 – funds set aside to make modifications to existing facilities to make them more energy efficient.
- Property Acquisition: \$265,000 – funds set aside to make critical purchases of land for government use.
- Finance Committee meeting with the Schools Finance Committee at 9 am February 17 at 309 West Main Street.
- Finance Committee meeting with the Commonwealth Attorney and Circuit Court Clerk at 11 am at 102 North Church Street.

Beth Marple, Victim Witness Coordinator, with Suni MacKall, Commonwealth Attorney, distributed to a funding request for the Victim Witness program. Highlights of review include:

- Provided a brief explanation of duties and responsibilities.
- Drug cases have increased caseload.
- In a prior fiscal year, the Sheriff's Office covered training expense.
- Effective December 10, 2015, the VA Criminal Justice Services Board approved recommendations to increase current FY16 (July 1, 2015 through June 30, 2016) Victim Witness Program grants by 15% for the period January 1 - June 30, 2016. The Clarke County Victim Witness Program is allocated to receive an additional \$6,029.00 in funding.
- At this time, it is not known whether 15% increase will be included in the State's FY2017 budget.
- Salary increase requested at \$4,802 includes FICA.
- Board discussion and review highlights:

- Chairman Weiss informed Mrs. Marple and the Board that the Finance Committee would review the request in March and make recommendation to the Board.
- He noted that the County helps fund shortfalls in the Victim Witness Program through the Commonwealth Attorney's office.
- The Victim Witness program is funded through two separate grants.
- Victim Witness is a separate line item in the budget.
- In 2011, Victim Witness expenses were under funded \$6,024; 2012 underfunded \$509; 2013 underfunded \$1,400; 2014 underfunded \$1,800; 2015 ahead \$387; 2016 YTD almost completely funded.
- Chairman Weiss clarified that the Victim Witness program is a grant-funded program and sometimes the State fulfills its funding obligation; however, when the State does not fulfill its funding obligation, the County back-fills the grant.
- Tom Judge added that when the Victim Witness program started approximately fifteen years ago it was on the basis that it would cover its own costs. The position started as part-time with no benefits paying for its own travel, office supplies, etc. Over the years, the position became full time with benefits, participating in the position classifications, participating in County salary increases; now, the gap between the revenue and expenditures is wider.

Further discussion highlights include:

- Board of Equalization: would like to conclude its duties before March 1.
- By consensus, the Board instructed the Finance Committee to continue to trim the budget, to get better numbers from the Commissioner of the Revenue, and to work on the premise that a tax increase is only to neutralize revenue.

16) Government Projects Update

David Ash provided the monthly project update. Highlights include:

- Chet Hobert Park lighting project: Working with engineer
- Convenience Center: Estimate returned to engineer with request to include site plan.

17) Miscellaneous Items

Correction to CC-2016-01 – Chapter 48, Agricultural & Forestal District

Brandon Stidham distributed and reviewed the following memorandum.

TO: Board of Supervisors

FROM: Brandon Stidham, Planning Director
 SUBJECT: Correction to CC-2016-01 - Chapter 48, Agricultural & Forestal District
 DATE: February 16, 2016

The purpose of this memo is to advise you of a technical correction that will need to be made to the proposed text amendment to Chapter 48, Agricultural & Forestal District. The affected section of the text amendment is §48-4(A)(4)(a) which lists the types of special use permits that are allowable on properties in the District. The current section lists "farm wineries" as an allowable special use and Staff incorrectly recommended adding the recently-adopted "farm breweries" use to this list. Both "farm wineries" and "farm breweries" are permitted uses and should not be included in this list of allowable special uses. "Farm wineries" were previously a special use until 2009 when the Zoning Ordinance was amended to make them a permitted use in accordance with State law.

The corrected version of this section should read as follows:

(4) Special use permits.

- (a) A special use permit shall not be granted for any parcel within the **District** other than special use permits for ~~commercial stables, farm wineries,~~ livestock auction markets, ~~livestock processing facilities,~~ small-scale processing of specialty fruits and vegetables, and veterinary services, animal hospitals and *breeding* kennels.

Staff recommends adoption of the County Code text amendment with this additional change and we apologize for the confusion. Since this is a minor technical correction that does not propose a more intensive application, the Public Hearing scheduled for this evening may proceed as advertised.

If you have any questions or concerns in advance of the meeting, please do not hesitate to contact me.

18) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Correct and Process approved minutes.	Lora B. Walburn
2.	Process 16-01P.	Lora B. Walburn
3.	Advertise public hearings for TA-16-01, TA-16-02	Lora B. Walburn
4.	Schedule BAP Review for March 7 Work Session and allow for extended session.	David Ash

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
5.	Update appointment database and process appointments.	Lora B. Walburn
6.	Request for per capita budget for Substance Abuse Coalition.	Tom Judge
7.	Update County Code Chapter 48	Lora B. Walburn
8.	Send notice of approval for Pasture Palooza to applicant and adjoining property owners.	Lora B. Walburn
9.	Proceed with insurance pool for Shenandoah Farms Sanitary District.	David Ash

19) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Berryville Town Council: Reviewing issue with burnt house in Berryville
- Humane Foundation: Reviewing funding efforts.
- Regional Adult Detention Center: Elected officers at last meeting. New Chair - Brenda Garton, Frederick County Administrator.

Supervisor Mary L.C. Daniel

- Library Board: Met first Monday of the month.

Vice Chairman Beverly B. McKay

- NSVRC: Hired Brandon Davis as the new director.

20) Closed Session

No Closed Session called.

At 3:22 pm, Chairman Weiss adjourned the afternoon session.

At 6:34 pm, Chairman Weiss convened the evening session.

21) Citizens Comment Period

No citizens appeared to address the Board.

22) Presentations to Clarke County Public Schools 2016-01R and 2016-02R

Clarke County High School football coaches and team members joined the Supervisors for presentation of Resolution Congratulating Clarke County High School Football Team 2016-01R. *[See Consent Agenda]*

Clarke County High School mentors, coaches and team members joined the Supervisors for presentation of Resolution Congratulating Clarke County High School Zero Robotics Team 2016-02R. *[See Consent Agenda]*

23) PH 16-02: Renewal of the Clarke County Agricultural & Forestal District

Brandon Stidham summarized the renewal and required actions in a PowerPoint presentation.

At 6:55 pm, Chairman Weiss called for question. Hearing none, he opened the public comment portion of the public hearing. Being no persons desiring the address the Board, he closed the public hearing.

Vice Chairman McKay moved to approve the renewal of the Clarke County Agricultural & Forestal District:

- **For an additional six-year term beginning at the conclusion of the current District term on March 16, 2016, and**
- **To include acceptance of the Sheehey-Jones property, 22.64 acres located at Tax Map #29-A-35A, into the District.**

The motion carried by the following vote:

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

24) PH 16-03: Chapter 48 – Agricultural & Forestal District County Code Text Amendment (CC-2016-01)

At 6:57 pm, Chairman Weiss called for question. Hearing none, he opened the public comment portion of the public hearing. Being no persons desiring the address the Board, he closed the public hearing.

Vice Chairman McKay moved to adopt the proposed text amendment to County Code Chapter 48, Agricultural & Forestal District, as presented by staff. The motion carried by the following vote:

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

At 6:58 pm, Chairman Weiss called for question. Hearing none, he opened the public comment portion of the public hearing. Being no persons desiring the address the Board, he closed the public hearing.

Vice Chairman move to adopt annual review process as presented by staff. The motion carried by the following vote:

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

**COUNTY CODE TEXT AMENDMENT (CC-2016-01)
Chapter 48 – Agricultural & Forestal District
(Adopted by the Board of Supervisors on February 16, 2016)**

[HISTORY: Adopted by the Board of Supervisors of Clarke County 3-17-1992. Amendments noted where applicable.]

General References State Code 15.2-4300 thru 4314

§ 48-1. Renewal. The Clarke County Agricultural and Forestal **District**, is modified and renewed in accordance with the provisions of § 15.2-4300 Agricultural and Forestal Districts Act of the Code of Virginia: *
§15.2 –4300 thru 4314

A. Only lands currently zoned Agricultural-Open Space-Conservation (AOC) and Forestal Open-Space Conservation (FOC) shall be included in the **District**.

B. Land situated within incorporated town limits shall not be included in the *D*istrict.

§ 48-2. Addition of lands to *D*istrict. [Amended 98-03-17]

~~A. Only lands currently zoned Agricultural-Open Space Conservation (AOC) and Forestal-Open Space Conservation (FOC) shall be included in the district.~~

~~B. Land situated within incorporated town limits shall not be included in the district.~~

A. Addition of lands to the District:

(1) At the time of District review. Qualifying lands may be added to the District at the time of District review in accordance with the procedures set forth in the Agricultural and Forestal Districts Act of the Code of Virginia (§15.2-4300 thru 4314).

(2) During the District term. Qualifying lands may be added to the District during the District term in accordance with the procedures set forth in the Agricultural and Forestal Districts Act of the Code of Virginia (§15.2-4300 thru 4314). Applications to add qualifying lands to the District during the District term shall be considered on an annual basis subject to procedures established by the Board of Supervisors.

CB. Qualifying lands. The Land Evaluation and Site Assessment (LESA) System shall be employed as the dominant decision-making tool as to the ~~constitution of~~ **qualification for land the *D*istrict as follows except for land considered as open space. **Though referred to generically as LESA, there are two separate scoring systems -- one for agricultural parcels and another for forestal parcels. The difference in the two systems is the indicator species used to classify productive soils.** ~~Criteria for open space qualification are set forth in County Code Section 48-2(E).~~**

(1) ~~Farms zoned AOC~~ *Parcels* having a composite LESA score of 72 or higher for parcels less than 40 acres, a LESA score of 68 or higher for parcels between 40 and 129.99 acres or a LESA score of 64 or higher for parcels 130 acres or greater shall ~~be included~~ **qualify for inclusion in the District.**

(2) ~~Farms~~ *Parcels* having a composite LESA score of lower

than 60 shall ~~be excluded~~ **not be qualified for inclusion in the District** unless they qualify as described in Subsection D below.

~~DC.~~ Other qualifying lands. Tracts ~~zoned AOC~~ which are adjacent to and operated contiguously with farming **or forestry units properties** qualifying as in Subsection ~~CB~~(1) above and which are owned by one or more individuals who also own the qualifying farming ~~unit property~~; **shall be qualified for inclusion** provided that the adjacent tract does not lie within the corporate ~~fringes limits~~ of Berryville or Boyce ~~as described in Subsection C(3) above~~; **shall be included.**

~~ED.~~ Qualifying open space lands. Parcels proposing to be included in the **District** as open space shall meet the following criteria:

- 1) The parcel shall not contain any commercial use except that which is allowed as a Principal Use and/or Structures by the County Zoning Ordinance.
- 2) The parcel shall consist of a minimum of 5 acres.
 - a. The Board may make an exception to 5 acre minimum upon recommendations from the Advisory Committee and Planning Commission if the parcel is **approximate adjacent** to a perpetual conservation easement, historical easement and/or is considered an environmentally sensitive area as determined by the County Natural Resource Planner or a County approved environmental or historical professional.
- 3) The parcel shall contain at least one unused dwelling unit right.
- 4) The parcel shall not use or transfer the dwelling unit right(s) during the term of the **District**.

§ 48-3. Term of **District**. The term of the Clarke County Agricultural and Forestal District shall be 6 years.

§ 48-4. Effects on land use. A. Within the **District**.
(1) Subdivisions. A minor subdivision that creates no more than one additional lot shall be permitted for any parcel within the **District** during the term of the **District** except for property requesting inclusion to the **District** as open space. Requirements for open space is set forth in Section 48-2 (E) of this code.

(2) Boundary Line Adjustments:

(a) Involving District parcels. Boundary line adjustments between parcels within the district shall be permitted.

(b) Involving District and non-district parcels. Boundary line adjustments between parcels where one of the parcels is not in the **D**istrict shall be permitted if the parcel in the **D**istrict is receiving land. If the **D**istrict parcel is transferring land either with or without a dwelling unit right then the **D**istrict parcel shall be limited to only one such boundary line adjustment during the term of the **D**istrict and such boundary line adjustment shall be in lieu of the **D**istrict parcel's subdivision right as set forth in Chapter 48-4 (A)(1).

(3) Rezoning. No parcel within the **D**istrict shall be rezoned to other than an Agricultural-Open Space-Conservation (AOC) and/or Forestal Open-Space Conservation (FOC) zoning category.

(4) Special use permits.

(a) A special use permit shall not be granted for any parcel within the **D**istrict other than special use permits for ~~commercial stables, farm wineries,~~ livestock auction markets, ~~livestock processing facilities,~~ small-scale processing of specialty fruits and vegetables, and veterinary services, animal hospitals and **breeding** kennels.

(b) All other principal uses and structures and accessory uses and structures, as set forth in the Schedule of District Regulations, AOC and FOC District, of Chapter 188, Zoning, shall be permitted by right of parcels within the **D**istrict.

B. Adjacent to the **D**istrict. The establishment and existence of the **D**istrict shall not subject any adjacent tracts to restrictions and/or regulations other than those already applicable through Chapter 188, Zoning, and Chapter 161, Subdivision of Land, and other land use ordinances and plans in effect. The LESA System shall be employed as a primary tool in the decision making process with respect to proposed rezonings and other proposed changes in land use for tracts adjacent to the **D**istrict, including evaluating any applications for including additional

lands in the **District**.

§ 48-5. Withdrawal from **District**.
[Amended 98-03-17]

A. During the term of the **District**, withdrawals for good and reasonable cause shall be permitted as follows:

(1) For financial hardship approaching confiscation of property, such hardship to be documented in writing. In the case where a portion of the enrolled land is proposed to be subdivided and would not meet criteria for enrollment in the **District**, all minor subdivisions (1 or 2 lots) will be withdrawn during the Clarke County Agricultural and Forestal District regular renewal period. For all major subdivisions (3 or more lots), those proposed lots not meeting the District requirements for inclusion into the Agricultural and Forestal District, must be withdrawn from the District prior to subdivision approval by the approving authority.

(2) Upon death of a landowner of record, no less than an entire tract of record as it existed on the date of renewal of the **District** may be withdrawn.

B. At the end of the term. At the expiration of the term, but prior to renewal, each landowner shall be allowed to withdraw from the district, for any reason, upon written application stating such reasons.

§ 48-6. Notification to prospective purchaser.

The owner of property in the District is advised to notify a prospective purchaser of the property that the property is located in the District. ~~Formal notification of the existence of the district to a prospective purchaser of land within the district should be strongly encouraged. At a minimum, formal notification of the renewal of the district shall be made by the posting of a notice in the Circuit Court House.~~

§ 48-7. List of parcels^{1F}

The Clarke County Agricultural and Forestal District shall include the list of parcels, a copy of which is on file in the County Planning Department.

Amendments
Chapter 48

1992-03-17

Adopted by the Board of Supervisors of Clarke County

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- 1998-03-17 § 48-2. Addition of lands to **D**istrict. Remove 2-C-(3); Add to § 48-5-A-(1) subdivision requirements.
- 2004-03-16 Clarke County Agricultural renamed Clarke County Agricultural and Forestal District and add FOC throughout Chapter.
- 2010-03-16 County Code amended to include open space category with criteria for acceptance, criteria for boundary line adjustments and formal renaming of District from Agricultural District to Agricultural and Forestal District.
- 2016-02-16 Chapter amended throughout technical edits for clarity and consistency purposes; §48-1 Renewal add District; §48-2 Addition of lands to District, §48-4 Effects on land use, §48-6 Notification to prospective purchaser CC-2016-01

25) PH 16-04: Pasture Palooza Music and Arts Festival Special Event Permit Application Large Event

Trevor Creany appeared before the Board to present his application and provided the following responses to questions from the Board.

- Estimating attendance at 1,500 for current permit application that covers the next three years.
- 950 attendees at 2015 event.
- Does not foresee this event growing to be as large as the annual event held at Watermelon Park.
- Upon request, neighbors are given two free event tickets.
- Dust control:
 - Use magnesium chloride for dust control because it is more environmentally friendly.
 - If conditions are the same as last year, more applications may be necessary.
 - Contractor recommended 3.5 tons to cover from Triple J Road to the event property.

At 7:05 pm, Chairman Weiss opened the public comment portion of the public hearing. Being no persons desiring the address the Board, he closed the public hearing.

Supervisor Daniel moved to approve the special event permit request for Pasture Palooza Music and Arts Festival for 2016, 2017 and 2018. The motion carried by the following vote:

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

26) PH 16-05: Rear Yard Setback -- Rural Residential (RR) District Zoning Ordinance Text Amendment (TA-15-03)

Brandon Stidham summarized the proposed text amendment.

At 7:08 pm, Chairman Weiss called for questions. Hearing none, he opened the public comment portion of the public hearing. Being no persons desiring the address the Board, he closed the public hearing.

Supervisor Byrd moved to approve TA-15-03 text amendment to amend §3-A-3-c, Minimum Yard Requirements -- Rural Residential District (RR), of the Zoning Ordinance as presented. The motion carried by the following vote:

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

Zoning Ordinance Amendment Text (proposed changes in bold italics with strikethroughs where necessary):

3-A-3-c Minimum Yard Requirements

	Parcels with less than 15,000 sq. ft.	Parcels with 15,000 sq. ft or more
From the edge of a private access easement	15 feet*	25 feet
From the centerline of a secondary highway	40 feet*	50 feet
From the edge of a primary highway right of way		
-- With less than 5000 trips per day	15 Feet*	25 feet
-- With 5000 or more trips per day	40 feet*	50 feet
* add 10 feet for entrance side of garages, carports, or other structures used to house vehicles		
From side property lines	5 feet	10 feet
From rear property lines (structures 200 sq. ft. or less)	25 feet 5 feet	35 feet 25 feet 10 feet
From intermittent streams	0 feet	25 feet
From perennial streams, springs, & sinkholes	100 feet	100 feet

27) PH 16-06: Board of Zoning Appeals – Code of Virginia Amendments Zoning Ordinance Text Amendment (TA-15-04)

Brandon Stidham summarized the proposed text amendment.

At 7:10 pm, Chairman Weiss called for questions. Hearing none, he opened the public comment portion of the public hearing. Being no persons desiring the address the Board, he closed the public hearing.

Supervisor Catlett moved to adopt TA15-04 text amendment to amend Article 7 (Appeals, Variances, Interpretations, and Modifications) of the Zoning Ordinance as presented. The motion carried by the following vote:

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

ZONING ORDINANCE TEXT AMENDMENT (TA-15-04)
Board of Zoning Appeals – Code of Virginia Amendments
(Adopted by the Board of Supervisors on February 16, 2016)

Zoning Ordinance Amendment Text (proposed changes in bold italics with strikethroughs where necessary):

7 APPEALS, VARIANCES, INTERPRETATIONS, AND MODIFICATIONS

(11/16/04) (7/15/08) (10/18/11)

7-A APPEALS, VARIANCES, INTERPRETATIONS, AND MODIFICATIONS

There shall be established a Board of Zoning Appeals (Board) that shall consider appeals, variances, and zoning map interpretations.

7-A-1-n Hearings – Procedures

1. The non-legal staff of the Board of Supervisors may have ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. The applicant, landowner, or their agent or attorney may have ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as a part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner, or their agent or attorney are all invited. For purposes of this section, “non-legal staff of the Board of Supervisors” shall mean any staff who is not in the office of the attorney for the County, or for the Board, or who is appointed by special law or pursuant to §15.2-1542. Nothing in this section shall preclude the Board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or protection of confidentiality.

2. Any materials relating to the case before the Board, including a staff recommendation or report furnished to a member of the Board, shall be made available without cost to an applicant, appellant, or other person aggrieved under §15.2-2314, as soon as practicable thereafter, but in no event less than three business days of providing such materials to a member of the Board. If the applicant, appellant, or other person aggrieved under §15.2-2314 requests additional documents or materials to be provided by the locality other than those materials provided to the Board, such request shall be made pursuant to §2.2-3704. Any such materials furnished to a member of the Board shall also be made available for public inspection pursuant to Subsection F of §2.2-3707.

3. At a hearing the board shall offer an equal amount of time to the applicant, appellant, any other person aggrieved under §15.2-2314, and the County staff.

7-A-2 Appeals of Administrative Determinations

7-A-2-a The Board shall hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the Zoning Ordinance. The decision on such appeal shall be based on the Board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for their determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider ~~the purpose and intent of~~ any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, "determination" means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the Board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

7-A-3 Variances

7-A-3-d No variance shall be ~~authorized~~ considered except after public notice and hearing as required by Virginia Code §15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.

7-A-3-e Action on Variance Application

1. The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standards for a variance as defined in Va. Code §15.2-2201 and the criteria set out in this section.

2. Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

(a) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

(b) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

(c) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

(d) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

(e) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of §15.2-2309 or the process of modification of a zoning ordinance pursuant to subdivision A4 of §15.2-2286 at the time of the filing of the variance application.

~~7-A-3-f~~ In order to consider granting a variance, the Board must find that the effect of the zoning ordinance on the property under consideration, as it stands, interferes with all reasonable beneficial uses of the property, taken as a whole.

~~7-A-3-g~~ *No variance shall be granted by the Board unless it finds that:*
(12/15/09)
1. ~~The property owner has shown that~~
a. ~~the property was acquired in good faith, and~~
b. ~~the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property because of (i) the exceptional narrowness, shallowness, size, or shape of the property, or (ii) exceptional topographic condition or other extraordinary situation or condition of the piece of property, or (iii) the condition, situation, or development of property immediately adjacent thereto; or~~
2. ~~The Board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant.~~

~~7-A-3-h~~ No variance shall be granted by the Board unless it further finds that:
1. ~~the strict application of the Zoning Ordinance would produce undue hardship relating to the property; and~~
2. ~~the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~
3. ~~the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and~~
4. ~~the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning Ordinance.~~

~~7-A-3-if~~ The concurring vote of a majority of the membership of the Board shall be necessary to approve a variance.

~~7-A-3-jg~~ In ~~approving~~granting a variance the Board shall tailor the variance to provide the minimum variance necessary to alleviate the hardship, and the Board may impose such conditions regarding the location, character, and other features of the proposed structure or use, as it may deem necessary in the public interest. The Board may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

~~7-A-3-kh~~ The Board will not consider substantially the same application within one year of previous Board action.

7-B MODIFICATIONS

7-B-5 The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals as provided in 7-BA-2 of this Ordinance.

28) PH 16-07: Forestal-Open Space-Conservation District (FOC) Development Regulations Zoning and Subdivision Ordinance Text Amendment (TA 15-05)

Brandon Stidham summarized the proposed text amendment. He clarified for Supervisor Byrd that the amendment would apply to the County's valley areas.

At 7:17 pm, Chairman Weiss opened the public comment portion of the public hearing. Being no persons desiring the address the Board, he closed the public hearing.

Supervisor Byrd TA 15-05 as presented. The motion carried by the following vote:

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

**ZONING AND SUBDIVISION ORDINANCE TEXT AMENDMENT (TA-15-05)
Forestal-Open Space-Conservation District (FOC) Development Regulations
(Adopted by the Board of Supervisors on February 16, 2016)**

Proposed Ordinance Amendment Text (New language appears in bold red italics with strikethroughs where applicable):

Subdivision Ordinance Text Amendment Language
(new language in bold italics with strikethroughs where necessary)

4N Applications for Subdivisions in the Forestal-Open Space-Conservation (FOC) District

1. Applicability. To assure compliance with the provisions of §3-A-2-f of the Zoning Ordinance, and to assure that development on subdivision lots in the FOC District result in the least practicable amount of tree and vegetation clearing and in the preservation of the integrity of sensitive slopes, applications for subdivisions in the FOC District, in addition to meeting other requirements of this Article 4, shall meet the requirements of §4N of this Article. Any amendments to approved major or minor subdivision plats after adoption of this Section 4N shall comply with the requirements of this section.

2. Plat requirements. Preliminary and final plats for subdivisions in the FOC District shall include the following, in addition to the other requirements of this Article:

- a. **Topography and elevation.**
 - b. **Slippage soils which are identified as soil type 54C Udorthents in the "Soil Survey of Clarke County" (1982).**
 - c. **Highly erodible soils which are defined as soil types 2C, 3D, 5C, 6C, 7D, 8D, 9D, 11B, 12D, 12E, 13D, 13E, 14C, 17B, 19D, 20D, 22C, 22D, 25B, 26B, 26C, 27B, 28C, 29C, 38C, 39C, 39D2, 41C, 42C, 43C, 47C, and 57D2, as identified in the "Soil Survey of Clarke County (1982)".**
 - d. **Slope categories of 7-15%, 15-25%, and greater than 25%.**
 - e. **Existing woody vegetation.**
 - f. **Location of intermittent and perennial streams and other similar features.**
 - g. **For each proposed lot, the following shall be shown:**
 - (1) **Clearing area dimensions for proposed building site(s)**
 - (2) **Location and dimensions of proposed building envelope(s), drainfield site(s), and reserve area site(s)**
 - (3) **Location and dimensions of proposed access and utility easements**
 - (4) **Location and dimensions of no clear areas consisting of required vegetated perimeter buffers, tree preservation areas, critical root zones, and highly erodible soils/slippage soils**
 - h. **Required plat notes. The plat shall include the following required notes in addition to any notes required by the Zoning Administrator or Planning Commission:**
 - (1) **NOTICE OF DEVELOPMENT REGULATIONS. This subdivision is subject to the buffering and preservation requirements depicted herein. No land disturbance, construction, or clearing shall take place within the delineated buffering and preservation areas without prior inspection and authorization by the County of Clarke.**
 - (2) **AGRICULTURAL AND FORESTAL ACTIVITIES. Clearing for agricultural activities shall not occur prior to the filing of a Farm Management Plan as required by §3-A-2-f-8 of the Zoning Ordinance. Clearing for conservation forestry activities shall not occur without the filing of a Pre-Harvest Plan as required by §3-C-2-k of the Zoning Ordinance.**
3. **Development plan narrative. In addition to providing the Environmental Inventory and Impact Statement as required in subsection 5, a development plan narrative shall be provided that includes the following elements. The narrative shall be a binding part of the conservation plat approval and shall be recorded with the record plat.**
- a. **Description of the type of existing woody vegetation on the subject property including native species to be protected and invasive species and/or dead vegetation to be removed.**
 - b. **Methods to be used to protect no clear areas during site development and construction including a plan for field delineating the no clear areas to guard against future clearing.**

- c. In the event that the applicant proposes clearing for agricultural activities, the narrative shall also include a copy of the proposed Conservation Farm Management Plan.***
- 4. Building site amendments. Building sites depicted on the record plat may be amended with approval by the Planning Commission. A plat of the lot showing the new proposed building site shall be submitted to the Planning Commission for review and shall meet all requirements set forth in subsection 2.***
- 5. Required meetings and inspections. The following meetings and inspections with the Zoning Administrator or their designee shall be conducted:***

 - a. Pre-Application Site Visit. In addition to the Pre-Application Conference required in subsection 4-A, a site visit to the subject property shall be conducted. The purpose of the site visit is to ensure that the applicant, the applicant's engineer or surveyor, and County staff understand the subject property's vegetative and topographic characteristics. This site visit shall be conducted any time before or in conjunction with the Pre-Application Conference.***
 - b. Pre-Construction Site Inspection. Following approval of the plat by the Planning Commission, the Applicant shall be required to schedule a Pre-Construction Site Inspection involving the Zoning Administrator and the County's erosion and sediment control program administrator prior to commencing clearing or land disturbance activities. The purpose of this inspection is to ensure that the developer has marked the no clear areas in the field and has installed protection measures (e.g., safety fencing, permanent delineation markers) in accordance with the approved plat. No building permit or land disturbance permit shall be issued prior to conducting this inspection.***
 - c. Post-Construction Final Inspection. A final inspection shall be conducted by the Zoning Administrator or designee prior to issuance of a certificate of occupancy to ensure that the site has been developed in accordance with the approved plat. In the event that the developer has encroached into no clear areas or otherwise violated the plat requirements, no temporary or permanent certificate of occupancy shall be issued until the violation is remediated according to Zoning Ordinance requirements.***
- 6. Field adjustments prohibited. The Zoning Administrator shall not be authorized to grant field adjustments or administrative variances to the approved plat during the construction process. Any request for adjustments shall be processed as an amendment to the previously approved plat for consideration by the Planning Commission.***

Zoning Ordinance Text Amendment Language
(new language in bold italics with strikethroughs where necessary)

§3-A-2-b, Lot Requirements (FOC)**3. (To be added following the open space parcel area table):**

The residual open space parcel shall not be reduced in size through boundary line adjustment by more than 10% of the total area and the dwelling unit right shall not be transferred to another property. The residual open space parcel may be increased in size through boundary line adjustment or merger without limitation; however no additional dwelling unit rights shall be transferred to the residual open space parcel.

4. *Provision of area with slopes less than 25%. No lot shall be created unless it contains at least one (1) acre of area with slopes less than 25%.***5. *Subdivisions. All minor and major subdivisions in the FOC District shall comply with Section 4N of the Subdivision Ordinance.*****§3-A-2-f, Vegetated Property Buffer and Clearing Limits.****1. *Applicability. The requirements of this subsection shall apply to all parcels except for parcels with a dwelling constructed on or before February 18, 2003, unless a different effective date or minimum parcel size is specified.*****2. *Vegetated buffer required along property lines. Except for those clearing activities listed in section 3-A-2-f-98, existing woody vegetation shall be retained within 25 feet of all property lines on parcels of four acres or more. **Parcels** with a dwelling constructed ~~after 18-February 2003~~ on or before February 18, 2003 shall be exempt from this provision.*****3. *Vegetated buffer required from public rights of way and private access easements. Except for those clearing activities listed in section 3-A-2-f-98, existing woody vegetation shall be retained within 50 feet of the edge of public rights of way or 25 feet of the edge of private access easements on parcels of four acres or more. **Parcels** with a dwelling constructed ~~after 21-June-2005~~ on or before June 21, 2005 shall be exempt from this provision.*****4. *Retain existing vegetation on slopes. Except for those clearing activities listed in section 3-A-2-f-98, existing woody vegetation shall be retained on **all** parcels with:***

a. an average slope (within area to be cleared) from 7% up to 15 % and over the elevation of 800 feet above sea level, except for 2 acres for a house site **for dwellings constructed after June 21, 2005, and.**

b. an average slope (within area to be cleared) from 15% up to 25 % **and over the elevation of 800 feet above sea level**, except for 1 acre for a house site, or 1.5 acres if an erosion and sediment control plan is prepared by a professional engineer and approved by the Zoning Administrator for dwellings constructed after ~~21-June-2005~~ **June 21, 2005.**

c. ~~on~~ slopes of 25% or more, and

- d. ~~on~~ slippage soils.
- e. *For purposes of this section, "house site" is defined as the parcel's buildable area as modified by the regulations enumerated in (a) and (b) above.*
- ~~4. Except for those clearing activities listed in section 3-A-2-f-9, clearing is allowed within 200 feet of the house site area described in the previous section provided:~~
- ~~a. there are no clear-cut openings,~~
- ~~b. the thinning of trees of 2 inches or more in diameter (measured 4.5 feet above ground), is allowed, if randomly spaced with not more than 50% of the crown cover removed within any 10-year period,~~
- ~~c. pruning of branches is limited to the bottom 1/3 of the tree, and~~
- ~~d. this clearing within 200 feet of house site areas shall be done before issuance of final certificate of occupancy.~~
5. **Tree Protection during Construction.** ~~a. Critical Root Zone~~ Tree preservation areas shall be identified on the subdivision plat ~~or and~~ construction plans. ~~A "Critical root zones"~~ (CRZ) shall be delineated on the plans and clearly marked and protected in the field. ~~Field delineation of tree preservation areas and critical root zones shall be inspected by County staff~~ prior to any land disturbance. The CRZ is the area underneath the Tree Drip Line as defined in Section 9-B-180.
- ~~(1) General Requirements~~
- a. Before any land disturbance, suitable protective barriers, such as safety fencing, shall be erected outside of the CRZ of any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. No grade changes or storage of equipment, materials, debris, or fill shall be allowed within the area protected by the barrier. No construction traffic, parking of vehicles, or disposal of liquids is permitted within the CRZ.
- b. Trees likely to die as a result of site disturbance activities within 25 feet of the safety fence, as identified in the tree conservation plan, shall be removed.
6. **Remediation of excessive clearing activities.** Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for maximum cleared area or in required vegetative buffer.
- a. Violations. Any excessive clearing that occurs in violation of the requirements of this ordinance or in violation of any approved subdivision plat, site plan, or construction plan shall be remediated in accordance with this subsection. If a violation is discovered during the land clearing, land disturbance, or construction process, no certificate of occupancy (temporary or permanent) or surety release shall be granted until the violation is remediated and such remediation is inspected and approved by the Zoning Administrator. If a violation is discovered after completion of construction, it shall be remediated within thirty (30) days of the date*

of written notice by the Zoning Administrator. The Zoning Administrator may grant additional time to complete remediation activities if such timeframes will help ensure viability of replacement plantings due to weather or seasonal conditions.

b. Remediation plan. The property owner shall be responsible for providing a written remediation plan with the Zoning Administrator to correct instances of excessive clearing. The remediation plan shall be consistent with the replacement criteria in Subsection c below and with the approved conservation subdivision plat, land disturbance plan, or other approved plan. The property owner shall be responsible for ensuring the viability of all replacement plantings, shall request inspection by the Zoning Administrator or designated agent within two (2) years of planting to confirm viability, and shall replace any trees that may die. Additional fees may be imposed by the County to cover the cost of reviewing the remediation plan and conducting compliance inspections.

ac. Replacement criteria. Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:

- (1) a Virginia native tree species as identified in the Virginia Department of Forestry's Tree Seedling Brochure described by the Virginia Native Plant Society (<http://www.dcr.virginia.gov/dnh/native.htm>);
- (2) be of minimum quality as identified in the American Standard for Nursery Stock (ANSI Z60.1-2004) (as amended);
- (3) planted as described in the American Standard for Nursery Stock ANSI Z60.1-2004 (as amended); by a qualified landscape contractor to insure survival; and a minimum of 4 feet in height with caliper dependent on species.

7. **Permitted clearing for agricultural uses.** Clearing for agricultural uses shall require a Conservation Farm Management Plan approved by either the regional Soil and Water Conservation District or the federal Natural Resources Conservation Service and submitted to the **County** Zoning Administrator. ***Prior to conducting the clearing activity, an affidavit for agricultural clearing shall be completed by the property owner and filed with the Zoning Administrator stating the nature of the agricultural use(s) and affirmation that they will comply with the Conservation Farm Management Plan.***

8. **Other permitted clearing activities.** The following clearing activities shall be allowed in the no-clear areas:

- a. Dead trees and shrubs may be removed.
- b. Invasive alien species may be removed. Invasive alien species shall be those listed by the Virginia Department of Conservation and Recreation.
- c. Forestry activities as described in Section 3-C-2-k.
- d. Clearing for the following activities may occur in the vegetated property buffer, with the written approval of the Zoning Administrator ***and a member of the Planning Commission (preferably a Commission member from the Election District where the***

~~subject property is located~~, provided no more land, trees, or vegetation shall be disturbed than is necessary for construction, use, and maintenance of:

- (1) driveways and access easements of not more than 30 feet wide,
- (2) electric, gas, and telephone utility easements,
- (3) on-site water facilities and sewage disposal systems, if the Planning Commission determines that not allowing such facilities or systems in the buffer would prohibit the practical development of such facilities or systems
- (4) public water and sewer lines (including water and sewer lines constructed by private interests for dedication to public agencies.

~~(5) fences, or~~

~~(6) Forestry activities as described in 3-C-2-k, or~~

~~(7) noncommercial telecommunication antennae, structures less than 12 feet high subject to the sunset provisions in Section 3-C-2-x-8 (vegetation may be cut only within a six foot radius of the structure, but no vegetation removal shall result in land disturbance except as necessary for the structure itself).~~

§3-A-1-f, Vegetated Property Buffer (AOC)

3. The following types of development may be located in the vegetated property buffer, with the written approval of the Zoning Administrator ~~and a member of the Planning Commission (preferably a Commission member from the Election District where the subject property is located)~~, provided no more land, trees, or vegetation shall be disturbed than is necessary for the construction, use, and maintenance of:

§3-C-2-k, Forestry Uses and Structures

~~4. No subdivision application accepted for three years before or after a timber harvest operation.~~

~~5. No Pre-Harvest Plan would be accepted for a property within three years of approved subdivision.~~

Definitions to be Added to Zoning Ordinance Section 9

~~Clear cut -- A harvesting technique which removes all the trees (regardless of size) in an area in one operation but does not involve land disturbance or removal of stumps.~~

~~No-clear areas – Areas designated for the preservation and protection of existing trees and vegetation including but not limited to vegetated buffers, tree preservation areas and critical root zones. Such areas may be depicted on an approved site plan or subdivision plat, or may be generally designated by regulations set forth in this Ordinance.~~

Other Proposed Changes

3-C-2-y **Siting of** Propane Tanks

Propane tanks of 500 gallons or larger shall be placed underground **or shall be completely screened from view of adjoining properties through siting, vegetated screening, fencing, or other methods deemed acceptable by the Zoning Administrator. Screening methods, whether natural or manmade, shall be maintained throughout the life of the propane tank.**

Shenandoah Farms Sanitary District

David Ash raised the issue of retaining general liability and professional liability insurance in the operation of that district now that the Board of Supervisors is the governing board of the Shenandoah Farms Sanitary District [SFSD]. Highlights of his review include:

- Insurance carrier quoted \$304 for the remainder of this fiscal year for the district.
- The district must authorize a spokesperson to sign the documents to become a member of the VACo risk pool.
- Clarke County currently participates as a member of the VACo risk pool.
- The insurance would protect the Board with general liability insurance of \$2MM combined single limit.
- Professional or public liability has a \$1MM limit on each wrongful act.
- Environmental liability is \$1MM limit.
- Cyber risk is \$500,000 limit.
- Attorney Robert Mitchell is advising that the Board immediately secure liability and public officials liability insurance.
- SFSD assets such as facilities, playground equipment, are unknown at this time so premiums next year may have to be adjusted calculated based on an assessment of what needs to be insured once inventoried.

Supervisor McKay moved to accept the recommendation to secure insurance for the new Shenandoah Farms Sanitary District and to authorize County Administrator David Ash to act on behalf of the Board with respect to the adoption of a member agreement to join the Virginia Association of Counties Group Self-Insurance Risk Pool. The motion carried by the following vote:

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

RESOLUTION TO ADOPT THE MEMBER AGREEMENT TO JOIN

**THE VIRGINIA ASSOCIATION OF COUNTIES
GROUP SELF INSURANCE RISK POOL**

WHEREAS, Clarke County Sanitary District desires to protect against liability claims and property losses and to provide for payment of claims or losses for which it may be liable; and

WHEREAS, the Virginia Association of Counties Group Self Insurance Risk Pool, aka VACoRP, has been established pursuant to Chapter 27 (§ 15.2-2700 et seq.) and Title 15.2 of the code of Virginia; and

WHEREAS, it is desirable for Clarke County Sanitary District to join the Virginia Association of Counties Group Self Insurance Risk Pool in order to provide a method of risk sharing for liability, workers' compensation and property losses;

NOW, THEREFORE, BE IT RESOLVED that the governing body of Clarke County Sanitary District hereby agrees to the member agreement entitled "Member Agreement for Virginia Association of Counties Group Self Insurance Risk Pool" which creates a group fund to pay liability and workers' compensation claims and property losses of the counties and other local agencies joining the Group, and we acknowledge we have received a copy of the pertinent Plan and supporting documents.

BE IT FURTHER RESOLVED David Ash is authorized to execute the member agreement to join the Virginia Association of Counties Group Self Insurance Risk Pool and to act on behalf of Clarke County Sanitary District in any other matter relative to the Group.

This the ___ day of _____ 2016.

IN WITNESS WHEREOF, this agreement is executed on behalf of the member named herein and by the Group on behalf of the members collectively, each by a duly authorized representative.

By: David Ash, Authorized Representative
Name: Clarke County Sanitary District, Member Organization Name

VIRGINIA ASSOCIATION OF COUNTIES
GROUP SELF INSURANCE RISK POOL (VACoRP)

29) Adjournment

At 7:25 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, March 15, 2016 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: February 16, 2016

David S. Weiss, Chair

David L. Ash, County Administrator

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