

October 17, 2017

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, October 17, 2017.

#### Board Members

Present Afternoon / Evening Session: Mary L.C. Daniel – Berryville District; David S. Weiss - Buckmarsh / Blue Ridge District; Terri T. Catlett - Millwood / Pine Grove District; Barbara J. Byrd – Russell District; Bev B. McKay – White Post District

Absent Afternoon / Evening Session: None

#### County Staff Present

David Ash, Ryan Fincham, Brian Lichty, Brandon Stidham, Alison Teetor, Lora Walburn

#### Constitutional / State Offices

Pam Hess; Anthony "Tony" Roper

#### Press

Cathy Kuehner - The Winchester Star

#### Others Present

Tom Cammack, Ed Carter, Charlie Monroe, Keith Dalton, Bill Johnston, Bud Nagelvoort, Phyllis Nee, John Staelin and other citizens

#### 1) Call to Order

Chairman Weiss called the afternoon session to order at 1:03 p.m.

#### 2) Adoption of Agenda

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

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

3) Citizens Comment Period

No citizens addressed the Board.

Supervisor Daniel Joined the meeting at 1:04 pm

4) VDOT Update

Ed Carter, Assistant Residency Administrator, provided the following update:

Maintenance

- Performed patching operations on routes 620, 634, 644, 655 and 658. VDOT will continue on routes 644 and 646 this month;
- Removed hazardous trees on routes 601 and 654. VDOT will be continuing with removal of hazardous trees on various other routes this month;
- Completed last phase of pollinator project at Rt. 50 Park/Ride;
- Installed ADA ramps for new crosswalks at West Main Street and Hermitage Boulevard and will be installing new pavement markings and signage at this location and at Buckmarsh and Hermitage this month;
- VDOT will begin mowing operations on primary's and grading operations on non-hard surfaced routes;
- VDOT will be cleaning under the guardrails on Rt. 50.

Projects:

- Allen Road: Completed Rural Rustic on Allen Rd.
  - o Supervisor Byrd remarked on the fine job by VDOT.

Board Issues:

- Single-lane Bridge on Rt. 612: Traffic Engineering is reviewing for appropriate signage.
- Speed limits on Rt. 638 Howellsville Road: Traffic Engineering is reviewing.
- Supervisor Daniel
  - o Hermitage School Crossing: Thanked VDOT for the crosswalk installation. VDOT noted that it was still to be painted.

5) Approval of Minutes

Supervisor Byrd requested the following:

- Book 23 Page 71 - change from danger to dangerous trees.
- Book 23 Page 77 – check grammar pay rise or pay raise. *[Note: Proper grammar for either expression. Leave as written.]*

**Supervisor Byrd moved to approve the minutes for September 19, 2017, Board of Supervisors Regular Meeting as amended. 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

6) Consent Agenda

A. Resolution of Appreciation and Recognition of Service Patricia "Pat" Wiley 2017-11R

**Resolution of Appreciation and Recognition of Service  
Patricia "Pat" Wiley  
2017-11R**

**WHEREAS**, Mrs. Pat Wiley began her career with Clarke County January 1, 1990, as Secretary / Assistant Purchasing Agent; and,

**WHEREAS**, during her 28-year tenure, she worked with the various departments in the Clarke County General Government and School



System to purchase needed items, ran the Central Store, managed all cell phones in the system, managed requisitions, purchase orders, and assisted in bid and proposal openings; and,

**WHEREAS**, Mrs. Wiley, Finance Administrative Technician, announced her retirement effective December 31, 2017.

**NOW THEREFORE BE IT RESOLVED**, by the Clarke County Board of Supervisors that Mrs. Pat Wiley be recognized and congratulated on her 28 years of service to the citizens of Clarke County, that she be congratulated on her successful career and on the positive influence she has had on Clarke County;



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

**APPROVED AND ORDERED ENTERED** in the official records by the unanimous vote of the members of the Clarke County Board of Supervisors assembled in regular session on the 17th day of October 2017.

**Attest:**

\_\_\_\_\_  
David S. Weiss, Chairman

B. Acknowledgement of Receipt: State Corporation Commission: 2017 Certified Statements of Assessed Value

**STATE CORPORATION COMMISSION**  
PUBLIC SERVICE TAXATION DIVISION  
SEPTEMBER 2017

Dear Sir or Madam:

We are hereby providing you with the 2017 Certified Statements of Assessed Value for the electric, gas, telecommunications, and water companies for your locality.

Also enclosed is a listing of the Motor Vehicle Carrier companies that were subject to the annual Rolling Stock Tax administered by this office on their vehicles for the 2017 Tax Year. The portion of the collected tax attributable to your jurisdiction was made to your local treasurer in mid-August 2017.

We hope that you will find this useful in preparing your tax bills for the public service companies.

Should you have any questions, please contact this office.

Very truly yours,  
*Robert S. Tucker*  
Robert S. Tucker  
Director

C. 2017 VACo Voting Credentials

**VACo 2017 Annual Meeting  
Voting Credentials Form**  
Form may be returned by mail or fax (804-788-0083)

Voting Delegate:  
(Supervisor)

Name David L. Weiss

Title Chairman - Clarke County Board of Supervisors

Locality Clarke County, Virginia

Alternate Delegate:  
(Supervisor)

Name Barbara J. Byrd

Title Supervisor - Russell Voting Distric

Locality Clarke County, Virginia

Certified by:  
(Clerk of the Board)

Name David L. Ash

Title Clerk - Clarke County Board of Supervisors

Locality Clarke County, Virginia

**VACo 2017 Annual Meeting  
Proxy Statement**

\_\_\_\_\_ County authorizes the following person to cast its vote at the 2017 Annual Meeting of the Virginia Association of Counties on November 14, 2017.

\_\_\_\_\_, a non-elected official of this county.

**-OR-**

\_\_\_\_\_ a supervisor from \_\_\_\_\_ County.

This authorization is:

Uninstructed. The proxy may use his/her discretion to cast \_\_\_\_\_ County's votes on any issue to come before the annual meeting.

Instructed. The proxy is limited in how he/she may cast \_\_\_\_\_ County's votes. The issues on which he/she may cast those votes and how he/she should vote are:  
(List issues and instructions on the back of this form)

Certified by: Name \_\_\_\_\_

Title \_\_\_\_\_

Locality \_\_\_\_\_

D. Conservation Easement Authority: Application for grant Purchase – Opequon Cattle Company, Eric Arkfeld

MEMORANDUM

TO: Board of Supervisors

FROM: Alison Teetor

DATE: October 11, 2017

SUBJECT: Application for grant Purchase – Opequon Cattle Company, Eric Arkfeld

At their June 29, 2017 meeting the Authority gave preliminary approval to the following easement appraisal and is requesting authorization to apply for federal and state grants to fund the purchase. In addition, 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.

Eric Arkfeld, owner Opequon Cattle Company has applied to the easement authority for approval of an easement purchase using grant funds. The property is located at the very northwest tip of the County in the 2,500 block of Swimley Road. The property is identified by Tax Map# 1-A-1. It is vacant and consists of 154 acres with 5 DUR's. The primary use is for grazing and hay production. The applicant proposes to retire 4 of the 5 remaining DURs.

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

- 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 all of the 4 criteria. The property resource score is 68.29. The applicant would retire 4 of the 5 remaining DURs. It is next to 2 existing easements and it is more than 40 acres. Points were given for retiring 4 DURs, and having frontage on the Opequon Creek.

The estimated purchase price is \$400,000. Federal grants from the Natural Resource Conservation Service (NRCS) ALE (formally FRPP) will pay 50%, the property owner is responsible for 25% and County will utilize the state Virginia Land Conservation Fund, Virginia Department of Agriculture and Consumer Services, and local funds for the remaining 25%.

Recommendation

Authorize staff to apply for federal and state grants to fund the easement purchase and authorize David Ash to sign any grant application related documents.

E. Conservation Easement Authority: Application for Donation – Bill Waite

MEMORANDUM

TO: Board of Supervisors, David Ash

FROM: Alison Teetor

DATE: October 11, 2017

SUBJECT: Application for Donation – Bill Waite

At their September 21, 2017, meeting, the Authority gave preliminary approval to the following easement donation. 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 transaction.

Bill Waite has applied to the easement authority for approval of an easement donation. The property is located on the east side of Blue Ridge Mountain Road approximately 2 miles south of the intersection with Harry Byrd Highway (Route 7). The property is identified as Tax Map# 26-A-133, 16.9 acres, that has an existing house constructed in 1900, 18983 Blue Ridge Mtn. Rd., and 2 remaining DURs. The applicant would like to retire the 2 remaining DURs.

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

- 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 55.4. The applicant would retire the two remaining DURs. It is not next to an existing easement and it is less than 40 acres. Points were given for retiring 2 DURs, having frontage on the Blue Ridge Mtn. Rd. a state designated scenic byway, having 4 acres of slope > 25%, and having a house which is a contributing structure in the Bears Den Rural Historic District.

Recommendation

Approve the easement donation and authorize the chair to sign documents associated with the transaction.

**Supervisor Daniel moved to approved the items on the Consent Agenda. 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

7) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through December 2017

10-10-2017 Summary: The Personnel Committee recommends:

- Andrew Nicholson Fire and EMS Commission remainder of the unexpired term of Beth Leffel ending August 31, 2020.
- Mark Cochran, Industrial Development Authority to a four-year term expiring October 30, 2021.
- Staff contact Social Services:
  - o CPMT: Audrey Brown - Parent Representative; Suggestions for replacement, remainder of the unexpired term ending December 31, 2020.
  - o FAPT: Kista Opoku-Achampo - 26th District Court Services; Endorsement of Courtney Phillips – 26<sup>th</sup> District Court Services, remainder of the unexpired term ending December 31, 2019.

10-17-2017 Action: David Ash presented the Personnel Committee's recommendations.

Vice Chair McKay put forth Clay Brumback as a candidate for consideration by the Circuit Court for appointment as Alternate at Large on the Board of Zoning Appeals filling the unexpired term of Pat McKelvy ending February 15, 2019.

**Supervisor Byrd moved to approve the recommendation for appointments. 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

Chairman Weiss thanked the citizens for agreeing to serve.

B. FLSA Exemption Review

10-10-2017: David Ash reviewed the informational material provided in the packet.



10-17-2017 Action: David Ash informed the Board that he had received the requested information from Springsted. In response to Chairman Weiss' request for discussion, Mr. Ash advised that some comments contained in the correspondence were made in direct response to legal opinion.

Chairman Weiss requested discussion of this item be added to Closed Session.

He further requested addition of real estate discussion to Closed Session.

C. Overtime / Compensatory Time Intent Clarification

10-10-2017: The Personnel Committee reviewed and approved the memorandum prepared by David Ash to Tom Judge clarifying the Board's intent on overtime and compensatory time policy.09/11/2017 Summary: Sheriff Roper requested Personnel Committee review and recommendation for an upgrade to this title and grade.



**County of Clarke**  
**David Ash, County Administrator**

To: Tom Judge

Cc: BoS Personnel Committee

Date: October 10, 2017

In reviewing the provisions for overtime and compensatory time in section 3.2.5 of the personnel policy, I believe that an interpretation of the policy that allows the choice for overtime pay to lie solely with the employee or to automatically default to overtime pay is neither correct nor wise.

Read in its entirety, I believe the provisions of that section that spell out the required pay down of compensatory time within the fiscal year and the provision that the payments can be paid more frequently at the discretion of the Agency Personnel Administrator clearly anticipate that compensatory time be considered as a possibility in every overtime event. Individual Agency Personnel Administrators are left to determine the appropriate balance between agency personnel budgets and any emergent circumstances or unanticipated staffing requirements.

Although I believe that Agency Personnel Administrators have great flexibility in determining whether or not to pay overtime, I believe that the policy is clear that it is their responsibility to make the decision on each and every event. While these decisions may be transparent to the employee, they still must be made.

I will review the section with the BoS Personnel Committee to verify my understanding of the intent, as well as get suggestions for any changes to the text that will help to make this position clearer.

Hope this explains my position in the discussion we had today.

10-17-2017 Action: No action was taken at the regular meeting.

8) Finance Committee

A. FY2018 Supplemental Appropriations:

- a) Broadband Implementation: "Be it resolved that FY2018 Planning Department budgeted expenditure and appropriation be increased \$1,386 for the purpose of providing funding for the activities of the Broadband Implementation Committee."

10-17-2017 Action: David Ash briefly reviewed the funding request. **Vice Chair McKay moved to approve "Be it resolved that FY2018 Planning Department budgeted expenditure and appropriation be increased \$1,386 for the purpose of providing funding for the activities of the Broadband Implementation Committee."**

Vice Chair McKay reported:

- Broadband website launched.
- Flyer sent home with Clarke County Public School students.
- Flyer to be sent to all businesses in Clarke.

Supervisor Daniel opined that contrary to popular belief the Supervisors could not force internet providers to serve all residents. She stated that to attract internet providers the Board was doing all it could to remove as many impediments as possible.

Chairman Weiss expressed appreciation for the frugality exercised by Supervisors Daniel and McKay.

**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

- b) HPC: "Developing a Program for Stabilization of Historic Structures". "Be it resolved that FY2018 Historic Preservation Committee budgeted expenditure and appropriation be increased \$6,866 and the revenue from the Commonwealth of

Virginia be recognized in the amount of \$5,366, all for the purpose of developing a program for the stabilization of historic structures. "

10-17-2017 Action: David Ash briefly reviewed the matter.

Supervisor Byrd asked questions about building selection and the funding process.

Alison Teetor responded that funds being sought would provide for program development, including the establishment of the criteria by which the structures would be identified and potential funding sources.

Supervisor Byrd put forth her ideas on some structures that could be stabilized including old bank barns.

Chairman Weiss explained that during the FY2018 budget process the Historic Preservation Committee requested \$10,000 to set up a new fund to help restore properties. He continued that the HPC was tasked with researching program development; and with the help of Alison Teetor and Maral Kalbian, it had found a grant to assist in that endeavor.

Supervisor Catlett put forth that Tom Judge provided the Finance Committee with clarification; however, the Finance Committee was concerned about having a well-defined process and use of tax-payer dollars. She complimented HPC and staff on securing a grant.

Chairman Weiss added that the grant did not require the Supervisors to take the next step once the information was gathered.

Supervisor Daniel remarked that the Supervisors were asked for \$10,000 to stabilize the structures instead it designated funds to help develop the program to identify the structures.

Chairman Weiss asked Tom Judge to clarify the amount set aside in the HPC budget.

Tom Judge responded that to the best of his knowledge \$6,000 was set aside for HPC representing the annual contractual amount for Maral Kalbian's services. He could not confirm if there were additional funds.

Chairman Weiss clarified that the resolution covered new money for HPC.

**Supervisor Daniel moved to approve "Be it resolved that FY2018 Historic Preservation Committee budgeted expenditure and appropriation be increased \$6,866 and the revenue from the Commonwealth of Virginia be recognized in the amount of \$5,366 all for the purpose of developing a**

**program for the stabilization of historic structures." 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

**B. FY2017 Year End**

10-10-2017 Summary: FY2017 Capital Projects Carryover, FY2017 Year End General Fund Balance, and proposed designations will be available later this month. The Finance Committee may schedule a second meeting in October to discuss these actions.

10-17-2017 Action: Tom Judge stated that the Finance Committee agreed to meet later this month to review year-end matters that were not complete by the regular meeting. Finance Committee members agreed to meet on Tuesday, October 24, at 5:30 pm in Meeting Room AB.

**C. Sheriff's Compensation Matters.**

The Sheriff briefed the committee on an annual overtime estimate of \$42,000, and projected difficulties with employee retention based on employee compensation.

10-17-2017 Action: Tom Judge briefly reviewed.

**D. Bills and Claims**

10-10-2017 Summary: The Finance Committee recommends approval of the September 2017 Invoice History Report

10-17-2017 Action: **Supervisor Catlett moved to accept the September invoice history report 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

E. Standing Reports

FYI: Reconciliation of Appropriation, Expenditure Summary

9) Joint Administrative Services Board

Highlights of update by Tom Judge include:

- Main task for JAS is getting the taxation module up and running.
- Taxation training is ongoing.
- Activation planned for the middle of December.

10) Government Projects Update

David Ash provided the monthly project update.

- Convenience Center:
  - o Public hearing scheduled for this evening.
- Primary School:
  - o Wrapping up construction process.
  - o Superintendent Bishop requested preliminary discussion to address potential uses of the former CCPS Administration Building.
  - o Dedication scheduled for October 23 at 5 pm.
- Pavilion at Park: Unexplained delay in erection.
- Kohn Park: Meeting next week to discuss plans.
- General District Courthouse:
  - o Ceiling repaired in August.
  - o Exterior leaks repaired with no recurrence.
  - o Upper floor rearranged.

11) Miscellaneous Items

None identified.

12) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Process 2017-11R.	Lora B. Walburn
3.	Process 2017 VACo Voting Credentials.	Lora B. Walburn
4.	Compile notice of appointment and update database.	Lora B. Walburn
5.	Execute notice of appointment.	David Weiss
6.	Follow-up on pre-school grants for Supervisor Byrd.	David Ash
7.	Update County Code CC-2017-01.	Lora B. Walburn

13) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Berryville Town Council:
  - Sparsely attended.
  - Water watch in effect.
  - Discussed Jackson Pond construction bonds.
  - Town is exploring renovation of the old stables.
  - Requesting VDOT review of a round-a-about at Hermitage Boulevard.
- Social Services:
  - New member is an excellent addition.
  - In the last month, Social Services was picketed by two persons.
- CEA: Must miss the scheduled meeting on Thursday to attend the Jail Board meeting.
- Substance Abuse Coalition:
  - Attended meeting.
  - Large committee.
  - Serving approximately 14 clients.
  - Housing is the most difficult problem for most clients.
- Humane Foundation:
  - No meeting this month.
  - Conducting rabies clinic in October.

- Cleaning up pasture area.
- Addition of a pet cemetery.

Supervisor Terri T. Catlett

- Parks and Recreation:
  - Met last week.
  - Discussed pavilion delay.
  - After-school program
    - Very busy program that has a waiting list.
    - Program is kept to approximately fifty-four children believing that additional participants might result in reduced quality due to staffing constraints.
    - Program staff are required to have specific credentialing / certifications.
  - Parks will review pool operations earlier next season in hopes of avoiding some of the problems encountered this year.
- Clarke County School Board:
  - Attended meeting.
  - No citizens commented.
  - All local schools conducted some form of fundraising for hurricane victims.
  - Supervisor Byrd told the Supervisors that at a recent event the Handley High Schools' swim coach complimented Clarke's swim team and suggested adding a bubble over the swimming pool.
- Boyce Town Council:
  - Approved Comprehensive Plan.
  - Joe Myer, Town of Boyce representative on the Clarke County Sanitary Authority, attended the meeting and answered citizen's questions on CCSA matters.

Supervisor Mary L.C. Daniel

- Planning Commission: In her absence, the alternate, Supervisor Byrd, attended the Briefing and Regular Meeting.
- Library Advisory Council:
  - Starting July 1, all branches of Handley Regional Library have the same hours: 10 am to 8 pm Monday through Thursday and 10 am to 5 pm Friday and Saturday.
  - Attempting to recruit new members that will engage with the community.
  - Library roles and uses are evolving and changing.

- Good working relationship with The Barns of Rose Hill.

Vice Chair Bev B. McKay

- Joint Building Committee: Meets bi-monthly.
- Sanitary Authority: Regularly meeting rescheduled from October 17 to October 24.
- NSVRC:
  - Brandon Stidham attended the scheduled meeting.
  - Spotlight on Lord Fairfax Soil and Water Conservation District this month.
  - In response to information reported in the Washington Post, Wayne Webb conducted independent research on e-coli levels.

Chairman David S. Weiss

- Economic Development Advisory Committee:
  - Meets tomorrow.
  - At the September 20 meeting, the Committee decided to cancel the November meeting.
  - Liz Ryan, new Berryville Main Street Director, was introduced to the Committee at its September 20 meeting.
  - Berryville Main Street continues to do well.
  - Discussed hotels and lodging
  - Len Capelli has drafted a document defining the County's Facebook program.
- IDA: Meets October 26.
- Fire & EMS Commission:
  - Brian Lichty, Director of Fire, EMS and Emergency Operations, now has a new county vehicle.
  - Fire companies creating a capital inventory.
  - Retention and recruitment meeting this Thursday.
- Strategic Plan Committee:
  - Attended initial meeting for Supervisor Catlett.
  - He was struck by employee's passion for the children, a tribute to the leadership of the School Board and Superintendent Bishop.

Supervisor Byrd requested information about grants for pre-school, such as the one recently turned down by the Frederick County Board of Supervisors.



Supervisor Daniel suggested that Supervisor Byrd contact Angie Jones, Director of Social Services.

Chairman Weiss asked David Ash to follow up on pre-school grants for Supervisor Byrd.

14) Closed Session Pursuant to §2.2-3711-A3 and §2.2-3711-A7

At 2:10 pm, Vice Chair McKay moved that the Clarke County Board of Supervisors enter 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; and §2.2-3711-A7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. The motion carried 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 2:44 pm, the members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, Supervisor Daniel moved to reconvene in open session. The motion carried as follows:

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

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

No action taken following Closed Session.

Chairman Weiss recessed the meeting at 2:44 p.m.

*Prior to the beginning of the evening session, a member of the audience requested audio assistance.*

Chairman Weiss reconvened the meeting at 6:30 p.m.

15) Citizens Comment Period

No persons addressed the Board.

16) PH 17-09: SUP-17-03 / SP-17-01 Clarke County Board of Supervisors Citizens' Convenience Center

Request approval of a Special Use Permit (SUP) and Site Development Plan for Public Utility Uses and Structures per §3-A-1-a-3-p of the Zoning Ordinance. The purpose is to construct a County operated citizens' convenience center for drop-off of household waste

and recycling to be located on a 2-acre portion of a 149-acre property. The property is zoned Agricultural-Open Space- Conservation (AOC) District and is identified as Tax Map #16-A-33. The proposed use would be located on the west side of Quarry Road (Rt. 612) approximately 500 feet south of its intersection with Harry Byrd Highway (Rt. 7) in the Buckmarsh Election District.

Ryan Fincham, Zoning Administrator, provided a PowerPoint presentation.

Chairman Weiss called for questions from the Supervisors.

Mr. Fincham, responding to Supervisor Byrd's query about fencing, said he believed a six-foot tall chain link fence was planned. In response to Supervisor Byrd's request for use of black fencing, he replied that, not being a zoning requirement, color choice would be at the applicant's discretion.

At 6:53 pm, Chairman Weiss opened the public comment portion of the public hearing.

John Staelin, Millwood resident and former Millwood / Pine Grove Supervisor: spoke in support. He remarked that in 1998 when he first ran for Supervisor he spoke to more than 1,000 people; and constituents first concern was tax increases and the second, for mountain residents, was the lack of a close place to take trash. He continued that during his 18 years on the Board there were many discussions of potential locations. He also noted that he spearheaded this issue after becoming Chairman of the Board of Supervisors in 2001. Mr. Staelin also recounted competition for funding with various County-wide projects, as well as the hardships faced during the recent recession. He opined that this was a needed facility; and one that had been discussed for so many years, reported in the papers, and campaigned on that it was, obviously, not new to anyone. He complimented Brandon Stidham and Ryan Fincham for their preparation and presentation. He congratulated the Board for going through the same process required of other applicants even though localities are allowed to bypass the process.

Luanne Carey, Millwood resident: spoke in opposition to the location. She opined that maybe the County did need another dump. She asked why the convenience center was within 200 to 300 feet of a house since the quarry was a large site and the center could be moved further away. She continued that the trash compactor would be located 75 feet from the property line. She told the Board that she had spoken to a staff member at the Route 522 convenience center location and was told that a count at that facility reported: 300 to 400 cars per day; semi's five days per week to pick up trash; three more times per week to pick up recycling.

Sumner Carey, Millwood resident: spoke in opposition to the location. He put forth that he had the same concerns expressed by his wife, Luanne Carey. He stated that he was not against a convenience center just not at this location and asked if it could be moved up the road a little bit or further down Route 7. He presented the Supervisors with a petition signed by more than forty persons.

**Petition to Keep Household Waste and Recycling Facilities from being built next to Residential Homes**

<b>Petition summary and background</b>	The Clarke County Board of Supervisors is planning to put a household waste processing facility less than 200 feet from a family home on Quarry Road.
<b>Action petitioned for</b>	We, the undersigned, are concerned citizens who urge our leaders to act now not to build waste processing or recycling drop off facilities near a residential home or area. This is not a precedent we want to see on our books.

Bill Johnston, former member of the Clarke County Litter Committee, Berryville Resident: spoke in support. Mr. Johnston thanked the Board and particularly Chairman David Weiss for moving forward with this long-needed facility. He expressed appreciation for the energy put into the project by the Litter Committee and the Green Team. He opined that the facility would encourage recycling and make it easier for those that already recycle.

Andy Malenkey, Lockes Mill Road resident: spoke in support. He told the Board that he knew a facility was under discussion when he moved in 2002; and during his years in Clarke, he had invested time and travel in transporting his household waste. He continued that while he appreciated comments from the speakers about the impact on the house close to the facility his research of property transactions showed that the most recent transaction was in the summer of 2016, providing plenty of opportunity for anyone in the area to know for years that the facility was on the agenda. He opined that anything that had been on the agenda for that length of time could not come as a surprise to anyone. He concluded by stating that he was in support of a facility at his end of the county.

Michelle Omara, owner of house beside the dump [sic]: spoke in opposition. She stated that the entryway was plowed out and there were a lot of trees that had already been thinned away from the property. She opined that she knew she would be able to see, basically, everything that would go on nearby. She continued that she lived on Quarry Road and saw and heard dump trucks all day long. She said that she just did not understand how it would not depreciate the value of her house on top of the noise from 6 am to 8 pm and guessing it would be Monday through Saturday operations.

Bud Nagelvoort, Parshall Road resident: spoke in support. Mr. Nagelvoort stated that he had been involved in environmental issues for about sixty years. He opined that the convenience center was an important issue for the attractiveness of the county and litter reduction. He noted that the convenience center had been in the plans for a very long time; and it was time – past time – for this facility to be built and available to the citizens of Clarke County especially those on the mountain that have to travel a much greater distance than other County residents. He expressed his appreciation to the Planning Commission and the Board of Supervisors.

Meg Rogue, Chestnut Lane resident: spoke in support. She opined that trash has been an issue for as long as she could remember. She remarked that without a pickup truck she must place the trash in the back of her car and transport it, and her children, to the closest facility, which is about a thirty-minute drive. She opined that it would be so

wonderful to have something closer; and for her, the convenience center would be about a five-minute drive. She concluded that she was very excited about the facility and thanked the Supervisors for noticing that it needed to be done and going to a tremendous amount of effort to make it a reality.

Bill Hagan, 30-year resident of Clarke County: spoke in support. He stated that he lived near the back of Shenandoah Retreat close to West Virginia and it would be a real god-send to have a facility close where they could recycle. He noted that there were bear on the mountain, which was one reason he liked to stay ahead of the garbage. He opined that a facility closer to properties on the mountain would reduce litter and be very convenient. He expressed appreciation for the Board's help and the effort put into the project.

Bob Luber: River Road resident: spoke in support. He stated that he spoke on behalf of all his neighbors; and while they are a very diverse group, all agreed on one common thing - they want the convenience center. He stated that it is a twenty-five to thirty-minute drive to the closest convenience center. He personally signed up with a trash service because his travels do not take him near existing centers. Mr. Luber said that he routinely picks up trash along the river, which he transports in his vehicle. He opined that Quarry Road was the best place to put the center because it concentrated common uses in one area. He expressed appreciation for the time and effort put into the project.

Lizette Turner, Stringtown Road resident: spoke in opposition. She stated that she had a lot of questions surrounding the convenience center as follows:

- Where did people come up with the fact that the valuation of properties would not go down.
- People come to the winery on that road; and personally, if she were sitting behind a stinky dump truck full of trash, it would no longer be as aesthetic or pleasing to go to that winery. Referring to the winery owners, Ms. Turner commented that they weren't at the meeting; but, maybe they had not found out about the convenience center.
- Would commercial trash from Berryville or trash services be accepted or would it be trash from residents with trucks picking it up.
- Based on the hours, she was uncertain if the trash pickup was planned for 6 to 8 in the evening or the lights will be on until 8.
- Who will pick up all the garbage that falls out of people's trucks.
- Who will pay for picking up the garbage from that.
- Will there be a street light [sic] there; because, often on Quarry Road, you have to sit for ten minutes to get across the street to go east or west.
- If a street light [sic] is placed there eventually, how far would the backup be for 300, 400, or however many cars per day.

Ms. Turner opined that on the surface it might seem like a benign area to place this because something ugly to look at was already there; but, the County went through a lot of trouble to make it less malignant making the quarry put up a berm, plant trees, and improve the entrance. However, the quarry hours are just Monday through Friday and they are done at 4 o'clock. She said that the quarry was not open on the weekends and couldn't be heard or seen on weekends. Ms. Turner asked about placing the facility at the County Park or at the water tower.

Ms. Turner put forth that she understood that it would be more convenient to the people on the mountain but there were subdivisions on the mountain that had their own trash situations like Calmes Neck that has its own dumpsters. She opined that she did not understand why, if people were so concerned, that the Shenandoah Retreat and other neighborhoods did not get their own dumpsters.

Being no one other persons present desiring to speak, Chairman Weiss closed the public hearing at 7:15.

Highlights of Chairman Weiss' remarks include:

- The Board of Supervisors worked a very long time on this project and explored many different locations including:
  - The former dog kennel on Parshall Road. Property belonged to the Town of Berryville.
  - Property on Business 7 going west. VDOT rejected for entrance issues.
  - What is now the Park and Ride site on Route 7.
  - After many years of searching, Stuart M. Perry donated site off Route 7.
- The County is meeting the appropriate setback requirements.
- Landscaping for the site is appropriate.
- The County is committed to making the convenience center a show place, not a dump.
- The Supervisors are very sensitive to the homeowner close to the facility and the Board believes it has taken all precautions and will continue to work with the homeowner.
- Hours of Operation:
  - For the purpose of the site plan and special use submission, the hours of operation have been stated as they are; however, hours of operation have not yet been determined.
  - Hours of operation will take into consideration traffic impact.
- Public hearing on the proposed quarry site was held in May 2012
  - Winery owners, Della and Jim Bogaty, attended the public hearing and expressed concern for traffic on Route 7, which is one of the reasons the Supervisors

designed the entrance to address stacking. The Bogaty's have not expressed further concerns to the Board.

Supervisor Byrd comments:

- Established trees, as much as possible to accommodate fencing and the entrance, will remain on the property.
- First served on the Litter Committee in 2000 and a convenience center has been discussed throughout her tenure.
- The recycling center will help keep the County clean.
- Lighting will be downcast.
- The site will be staffed.

Vice Chair McKay comments:

- It is import to preserve the existing trees and vegetation.
- Supports Supervisor Byrd's suggesting on black fencing depending on cost difference.

Supervisor Daniel comments:

- Grew up two miles from an unmanned convenience center; however, once manned, it completely changed.
- Citizens may report problems to the County.
- Berryville trash will not go to the convenience center.
- Berryville constituents will receive no benefit from their tax dollars being spent on the convenience center.
- Convenience center is in a very well planned location.

Supervisor Catlett comments:

- Concurred that constituents on the mountain were very interested in the convenience center.
- Convenience center is an apt name.
- The convenience center will be landscaped.
- The convenience center will also be a recycling center.

David Ash entered the Waste Transfer / Compactor / Recycling Site project timeline for the record:

- 1999: Added to FY2000 10-Year Plan
- 2000: Frederick County Public Works Director, Ed Strawsnyder, provided cost estimates with this comment, *"It has been our experience that finding a suitable*

*location for a compactor site almost carries the same stigma as locating a new landfill. The NIMBY (not in my back yard) and NIMFYE (not in my front yard either) theories are alive and well when attempting to locate a compactor site. Your board needs to be aware of this problem which may be more difficult than finding the funds for the project."*

- 2001: Explored placement near Park & Ride at Route 7 and Route 601; Convenience center at regional landfill enlarged and improved
- 2002: Re-establish recycle-only location at Chet Hobert Park
- 2004: No waste transfer stations in Loudoun County; Entered agreement with Warren County Shenandoah Farms waste transfer station.
- 2006: Litter Committee discussed possible locations
- 2007: Explored placement in Business Park
- 2008: Explored placement in the area of Route 7 and Route 640; BoS acknowledged that finding a location was the most difficult aspect of the project.
- 2009: Explored Stuart M. Perry Quarry site on Route 612 [Quarry Road] off Route 7
- 2010: Entered option agreement with Stuart M. Perry
- 2012: May: Public comment taken on Quarry Road location.  
June: BoS Entered lease option agreement with Stuart M. Perry
- 2013: Discontinue recycling at Chet Hobert Park [*co-mingling of recyclables*]  
October: Convenience Center added to capital budget
- 2015: February: BoS approves Finance Committee recommendation to move the Convenience Center project out to FY2017  
March: County's engineer assigned task order for design and specification work necessary to complete design of the convenience center.  
September: Design review with engineers and VDOT.
- 2016: June: BoS instructs County engineers to move forward after the ballfield lighting project is complete.
- 2017: February: Citing of onsite drain field.  
April: VDH approvals for well and septic  
May: VDOT issues resolved. Well citing continues.  
June: Submit Special Use and Site Plan to Planning Department.  
September: Planning Commission public hearing.

In conclusion, Chairman Weiss added that a convenience center is expensive; but, the Board has saved for this project for many years. He noted other capital projects completed by the County including the new high school, renovations of the elementary schools of DJ Cooley and Primary, renovations of the former high school to an elementary school, as well as the construction of the government center. With all these projects, the Board was still able to lower taxes this spring by one penny.



Supervisor Catlett moved to accept the finding of the Planning Commission that the approximate location, character, and extent of the proposed citizens' convenience center is substantially in accord with the Clarke County Comprehensive Plan per Code of Virginia §15.2-2232. 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

Supervisor Daniel moved to approve the special use permit for the proposed citizen's convenience center subject to conditions listed and conditional approval of the site plan subject to resolution of the administrative items as presented.

**Special Use Permit Conditions:**

1. Special Use Permit purpose; nontransferable. This Special Use Permit is issued for the subject property for operation of a "citizen's convenience center" solely by the Applicant, Clarke County Board of Supervisors. The Special Use Permit shall not be transferable to any other person or entity without prior approval of the Board of Supervisors as an amendment to the approved Special Use Permit conditions, such approval not to be unreasonably withheld.
2. Applicant and Property Owner ("Owner") to sign list of adopted permit conditions. The Applicant and the Owner shall sign the list of adopted conditions to indicate receipt of the conditions and the intention to comply fully with the conditions for the life of the special use permit. A signed copy of the conditions shall be provided to Planning Department Staff ("Staff") within thirty (30) days of the Applicant's and Owner's receipt of the adopted conditions.
3. Access for inspections required. Staff and other County officials shall have access to the property with 24-hour notice to the Applicant in order to conduct periodic compliance inspections of the facility and the subject property throughout the life of the permit
4. Ongoing maintenance of site features. The following site features shall be properly maintained throughout the life of the permit:
  - Property entrance shall be maintained consistent with VDOT regulations.
  - Vegetated property buffer including existing trees and shrubs and supplemental plantings as depicted on the approved landscaping plan per Zoning Ordinance requirements.

- Fences and gates.
  - Outdoor lighting fixtures to ensure compliance with Zoning Ordinance requirements.
  - Signage.
  - Allowable access for emergency service and law enforcement.
5. Entrance requirements. The following conditions shall apply to the property entrance.
- VDOT permitting required. The Applicant shall obtain all required permits from VDOT and complete all required improvements to the property entrance prior to issuance of a building permit.
6. State and Federal permits. The Applicant shall provide copies of all applicable State and Federal permits to Staff prior to issuance of a building permit.
7. Noise. The following condition shall apply to noise generated during the construction of the facility and the facility's ongoing operation.
- Construction noise. All construction activities shall be limited to 7:00AM to 7:00PM in order to limit noise impacts on adjacent and nearby properties.
  - Operating noise. All operational activities shall be limited to 6:00AM to 8:00PM in order to limit noise impacts on adjacent and nearby properties. This shall include emptying, removal, and replacement of dumpsters.
8. Control of refuse and debris; pest management. There shall be no accumulation of refuse or debris on the property except in the properly designed containers for holding refuse and recycling. Pest control measures shall be employed by the Applicant in order to prevent rodents and other vermin from becoming a nuisance.
9. Landscaping Plan. The following condition shall govern the installation of landscaping in accordance with the approved plan.
- Full installation required. All landscaping shown on the approved landscaping plan shall be installed prior to issuance of a certificate of occupancy to operate the facility. The landscaping shall be inspected by County Staff one year after issuance of the certificate of occupancy to determine viability of plantings and identify any dead landscaping to be removed or replaced. The Applicant shall be responsible for contacting the Department of Planning to schedule this inspection.
  - Minor deviations from approved landscaping plan. In the event that the Applicant requests a minor deviation from the approved landscaping plan in order to avoid unforeseen conflicts or to move plantings to more effective locations on the site, such deviation shall be provided on a revised plan

sheet for review and approval by Staff. Additionally, Staff may request minor deviations from the approved landscaping plan, including provision of additional plantings, in order to ensure that supplemental landscaping provides effective screening of the facility from adjacent properties. Staff may consult with the Planning Commission’s Site Plan Committee to determine whether such minor deviations, requested either by the Applicant or by Staff, is consistent with the special use permit and site plan approvals.

10. Lighting. Lighting shall only be utilized during operating hours or in cases of emergencies in order to limit impacts on adjacent and nearby properties.

11. Traffic. The Applicant should utilize the facility driveway or by other means available to prevent stacking of vehicles on Quarry Road.

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

Chairman Weiss thanked the Board and staff for their years of work on this matter.

17) PH 17-10: TA-17-03 Off-Street Parking Exemption for Certain Properties in Millwood.

Proposed text amendment to amend Zoning Ordinance §3-A-12, Neighborhood Commercial District (CN). The purpose is to add a new subsection (e) to exempt permitted uses on specific properties in Millwood that are zoned Neighborhood Commercial (CN) District and Historic (H) District from the off-street parking requirements in §4-J. The exemption is established to preserve the historic character of these properties that lack available lot area to provide conforming off-street parking.

Brandon Stidham provided a PowerPoint presentation of the proposed text amendment.

Supervisor Daniel asked if, in addition to the eight listed properties, could other properties in the area be rezoned to Neighborhood Commercial. Brandon Stidham responded that rezoning would require text amendment.

At 7:36 pm, Chairman Weiss opened the public comment portion of the public hearing. Being no persons present desiring to speak, Chairman Weiss closed the public hearing.

**Vice Chair McKay moved to approve TA-17-03 Off-Street Parking Exemption for Certain Properties in Millwood. 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

**Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):**

3-A-12 Neighborhood Commercial District (CN)

***3-A-12-e Off-Street Parking Exemption for Certain Properties in Millwood***

1. ***Purpose. The following provisions are established to preserve the historic character of certain properties in the village of Millwood that lack available lot area to provide conforming off-street parking in accordance with Section 4-J (Off-Street Parking).***
2. ***Exemption to Off-Street Parking Requirements; applicable properties.***
  - a. ***Permitted uses on the properties listed in subsection (b) shall be exempt from the off-street parking requirements of Section 4-J (Off-Street Parking). Special uses on these properties shall comply with Section 4-J.***
  - b. ***This exemption shall apply exclusively to permitted uses located on the following Neighborhood Commercial (CN) and Historic (H) District-zoned properties:***
    - (1) ***2009 Millwood Road, Tax Map Parcel #30A-A-60***
    - (2) ***2037 Millwood Road, Tax Map Parcel #30A-A-59***
    - (3) ***2038 Millwood Road, Tax Map Parcel #30A-A-28***
    - (4) ***2045 Millwood Road, Tax Map Parcel #30A-A-58***
    - (5) ***2049 Millwood Road, Tax Map Parcel #30A-A-57***
    - (6) ***2053 Millwood Road, Tax Map Parcel #30A-A-56***
    - (7) ***Tax Map Parcel #30A-A-29***
    - (8) ***15 Tannery Lane, Tax Map Parcel #30A-A-30***

18) PH 17-11: CC-2017-01 Chapter 148 – Erosion and Sediment Control Ordinance.

Proposed text amendment to amend Chapter 148, Soil Erosion and Sedimentation Control, of the Code of Clarke County. The purpose of the amendment is to bring the Chapter into conformance with recent changes to State law regarding erosion and sediment control by replacing the current provisions of the Chapter with new provisions.

The proposed new provisions are drafted to be consistent with the Virginia Department of Environmental Quality's Erosion and Sediment Control Model Ordinance (revised December 5, 2014).

Brandon Stidham presented an overview of the proposed amendment to County Code.

At 7:40 pm, Chairman Weiss opened the public comment portion of the public hearing. Being no one present desiring to speak, Chairman Weiss closed the public hearing.

**Supervisor Byrd moved to approve CC-2017-01 Chapter 148 – Erosion and Sediment Control Ordinance. 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-2017-01)  
Chapter 148 – Erosion and Sediment Control Ordinance  
(Adopted by the Board of Supervisors on October 17, 2017)**

**Chapter 148 Erosion and Sediment Control Ordinance of Clarke County**

**§ 148-1. Title Purpose and Authority.**

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of Clarke County." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the Clarke County by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

This Chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4, known as the Virginia Erosion and Sediment Control Law.

**§ 148-2. Definitions.**

As used in the ordinance, unless the context requires a different meaning:

**Agreement in lieu of a plan** means a contract between the County and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the County in lieu of a formal site plan.

**Applicant** means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

**Board** means the Virginia State Water Control Board.

**Certified inspector** means an employee or agent of a Virginia Erosion and Sediment Control Program (VESCP) authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

**Certified plan reviewer** means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia or a professional soil scientist as defined in §54.1-2200 of the Code of Virginia.

**Certified program administrator** means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

**Clearing** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or topsoil removal.

**County** means Clarke County.

**Department** means the Department of Environmental Quality.

**Development** means a parcel of land developed or to be developed as a single unit under single ownership or unified control, which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

**Director** means the Director of the Department of Environmental Quality.

**District or Soil and Water Conservation District** refers to the Lord Fairfax Soil and Water Conservation District.

**Erosion and Sediment Control Plan or Plan** means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the VESCP plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

**Erosion and Sediment Control Sketch Plan** means a plat or drawing of the property indicating the elevation contours and detailing the proposed areas of disturbance, including but not limited to the driveway, house site, and clearing that identifies the location and type of proposed erosion and sediment control practices to be installed prior to any land disturbing activity.

**Erosion Impact Area** means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring

properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes [or to shorelines where the erosion results from wave action or other coastal processes.]

**Excavating** means any digging, scooping or other methods of removing earth materials.

**Filling** means any depositing or stockpiling of earth materials.

**Grading** means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

**Land-disturbing Activity** means any man-made change to the land surface which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

1. Single-family residential land disturbance activities such as home gardens and individual yard landscaping, repairs and maintenance work;
2. Individual service connections;
3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;
6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, de-silting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of §10.1-1163;
7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (Code of Virginia §10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation.

9. Disturbed land areas of less than 10,000 square feet in size including water wells. However, the County reserves the right to require all persons to obtain a Minor Land Disturbance Permit for land disturbing activities less than 10,000 square feet in area.
10. Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;
11. Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and
12. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the Zoning/Code Enforcement Officer.

**Land-disturbing Permit** or Approval means a permit or other form of approval issued by the County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any other land disturbing activity.

**Minor Land Disturbance Permit** means a permit issued by County for any land disturbing activity less than 10,000 square feet in area.

**Natural channel design concepts** means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bank full storm event within its banks and allows larger flows to access its bank full bench and its floodplain.

**Owner** means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

**Peak flow rate** means the maximum instantaneous flow from a given storm condition at a particular location.

**Permittee** means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

**Person** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

**State permit** means an approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state general permit.



**VESCP Plan-approving authority** means the program administrator or their designee as having the responsibility for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

**VESCP Program authority** means the County which has adopted a soil erosion and sediment control program that has been approved by the Board.

**Responsible Land Disturber or RLD** means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved ESC plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the ESC plan or permit as a prerequisite for engaging in land disturbance.

**Runoff volume** means the volume of water that runs off the land development project from a prescribed storm event.

**Single-family residence** means a noncommercial dwelling that is occupied exclusively by one family.

**State waters** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

**Stop Work Order** means a written notice sent to the responsible land disturber or owner or appropriate agent that stops all land disturbing activity on the project for a specified time period.

**Transporting** means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

**Virginia Erosion and Sediment Control Program or VESCP** means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and non-agricultural runoff associated with a land-disturbance activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of this article and its associated regulations.

**Water quality volume** means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

### **§ 148-3. Local Erosion and Sediment Control Program**

Pursuant to §62.1-44.15:54 of the Code of Virginia, the County hereby establishes a VESCP program and adopts the regulations promulgated by the Board (for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream

channels, waters and other natural resources). In accordance with §62.1-44.15:52 of the Code of Virginia, any plan approved prior to July 1, 2014 that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

- A. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified in § 62.1-44.15:28 of the Stormwater Management Act and 9VAC25-870-66 of the Virginia Stormwater Management Program (VSMP) regulations, unless such land-disturbing activities are in accordance with the grandfathering provisions of the Virginia Stormwater Management Program (VSMP) Regulations.
- B. Pursuant to §62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The County's Erosion Control Program shall contain a certified program administrator, a certified plan reviewer, and a certified inspector (who may be the same person.)
- C. The County hereby designates the program administrator as the plan-approving authority.
- D. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the program administrator.

#### **§ 148-4. Submission and Approval of Plans; Contents of Plans**

- A. Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the program administrator an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the County. No approval to begin a land-disturbing activity will be issued unless evidence of state permit coverage is obtained where it is required. Where land-disturbing activities involve lands under the jurisdiction of more than one VESCP, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Department for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the program administrator.
- B. The standards contained within the "Virginia Erosion and Sediment Control Regulations", the Virginia Erosion and Sediment Control Handbook as amended and the Clarke County Erosion and Sediment Control Ordinance are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The program administrator, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.

- C. A person engaging in land disturbing activities shall obtain one of the following permits:
1. A Land Disturbance Permit is required for all land-disturbing activities of 10,000 square feet or greater. Approval of an Erosion and Sediment Control Plan is a prerequisite to approval of a Land Disturbance Permit.
  2. A Minor Land Disturbance Permit is required for all land-disturbing activities of less than 10,000 square feet. An Erosion and Sediment Control Sketch Plan may be required as a prerequisite to approval of a Minor Land Disturbance Permit at the discretion of the program administrator. Construction of non-agricultural ponds less than 10,000 square feet shall require a Minor Land Disturbance Permit.
  3. An Agreement in Lieu of a Plan is required for all land-disturbing activities involving the construction of a single-family residence. An Erosion and Sediment Control Sketch Plan may be required as a prerequisite to the approval of an Agreement in Lieu of a Plan at the discretion of the program administrator.
- D. The VESCP plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of the Erosion and Sediment Control Law and the Board's regulations, and if the person responsible for carrying out the plan certifies that he will properly perform the measures included in the plan and will conform to the provisions of this ordinance. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of the responsible land disturber, to the program authority, as provided by §62.1-44 15:52, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber, prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.
- E. When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- F. The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.
- G. The VESCP Authority may require changes to an approved plan when:
1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
  2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

- H. Variances. The VESCP plan-approving authority may waive or modify any of the standards that are deemed to be inappropriate too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:
1. At the time of plan submission, an applicant may request a variance to become part of the approved Erosion and Sediment Control Plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances that are allowed by the plan-approving authority shall be documented in the plan.
  2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
  3. The VESCP authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- I. In order to prevent further erosion, the County may require approval of a plan for any land identified in the local program as an erosion impact area.
- J. When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an Erosion and Sediment Control Plan shall be the responsibility of the owner.
- K. In accordance with the procedure set forth in §62.1-44.15:55(E) of the Code of Virginia, any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetland mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U. S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the Board for review and approval consistent with guidelines established by the Board. Approval of general erosion and sediment control specifications does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.
- L. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, §62.1-44.15:56.

#### **§ 148-5. Permits; Fees; Security for Performance**

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed and evidence of state permit coverage where it is required.

- B. No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance) and has paid the fees and posted the required bond.
- C. An administrative fee as set by the Board of Supervisors in the Clarke County fee schedule shall be paid to the Clarke County Treasurer at the time of submission of the erosion and sediment control plan. Fees incurred from inspections shall also be paid to the County.
- D. No land-disturbing permit shall be issued until the applicant submits with their application an approved erosion and sediment control plan or agreement in lieu of an approved erosion and sediment control plan and certification that the plan will be followed.
- E. All applicants for permits shall either:
  - 1. sign a statement acknowledging that the Certificate of Occupancy may be withheld for completed portions of projects and/or Building Permits for unconstructed portions of projects should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity, or
  - 2. provide to the County a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the program administrator to ensure that measures could be taken by the County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of them by the approved plan as a result of their land-disturbing activity
    - a. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the County to take such conservation action, the County may collect from the applicant any costs in excess of the amount of the surety held.
    - b. Within sixty (60) days of adequate stabilization, as determined by the program administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

#### **§148-6. Monitoring, Reports, and Inspections**

- A. The responsible land disturber, as provided by §62.1-44.15:32, shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The program administrator may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

- B. The Building Department shall periodically inspect the land-disturbing activity in accordance with 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. Professional fees incurred as a result of the inspections shall be paid by either: the permittee, owner, or person responsible for carrying out the plan. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the program administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

- C. Upon issuance of an inspection report denoting a violation of Code of Virginia §§62.1-44.15:55 -- 44.15:56, the program administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the program administrator may issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the County or permit holder for appropriate relief to the Circuit Court of Clarke County. The County shall serve such order for disturbance without an approved plan or permits upon the owner by mailing with confirmation of delivery to the address specified in the land records. Said order shall be posted on the site where the disturbance is occurring, and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records.

The owner may appeal the issuance of an order to the Circuit Court of Clarke County.

Any person violating or failing, neglecting or refusing to obey an order issued by the program administrator may be compelled in a proceeding instituted in the Circuit Court of Clarke County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the program administrator from taking any other action authorized by this ordinance.

#### **§148-7. Penalties, Injunctions, and Other Legal Actions**

- A. Violators of this ordinance shall be guilty of a Class I misdemeanor
- B. Any person who violates any provision of Code of Virginia §§62.1-44.15:55 -- 44.15:56 shall, upon a finding of the District Court of Clarke County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000, except that a series of violations arising from the commencement of land disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000. Any such civil penalties shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of §62.1-44.15:63
- C. The program administrator, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Clarke County to enjoin a violation or a threatened violation of Code of Virginia §§62.1-44.15:55 -- 44.15:56, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to their property.

- D. In addition to any criminal penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to the County in a civil action for damages.
- E. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. The County may bring a civil action for such violation or failure. Any civil penalties assessed by a court shall be paid to the Treasurer of Clarke County except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

- F. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, or order of the VESCP authority, the County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection E of this section. Such civil charges shall be instead of any appropriate civil penalty, which could be imposed under Subsection B or E.
- G. The Commonwealth's Attorney shall, upon request of the program administrator, take legal action to enforce the provisions of this ordinance.
- H. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

**§148-8. Appeals and Judicial Review**

Final decisions of the County under this ordinance shall be subject to review by the Circuit Court of Clarke County, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

**Next Regular Meeting Date**

The next regular meeting of the Board of Supervisors is set for Tuesday, November 21, 2017, at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

**19) Adjournment**

At 7:41 pm, being no further business, Chairman Weiss adjourned the meeting.

ATTEST: October 17, 2017

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

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

\_\_\_\_\_  
Minutes recorded and transcribed by: Lora B. Walburn, Deputy Clerk to the Board of Supervisors