

January 16, 2018

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, January 16, 2018.

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, Brian Lichty, Brandon Stidham, Lora Walburn

Constitutional / State Offices

Travis Sumption, Tony Roper

Press

Jeff Taylor, Cathy Kuehner - The Winchester Star

Others Present

Robina Rich Bouffault, Pete Maynard, Glen Poe, and other citizens

1) Call to Order

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

2) Adoption of Agenda

- Due to preparations for impending inclement weather, VDOT is unable to provide representative for the regular meeting. Ed Carter provided VDOT's report via email.
- Tom Judge, Finance Director, will not be available today for the Finance Committee and Joint Administrative Services updates.
- Supervisors Byrd requested the addition of an item under Miscellaneous.
- David Weiss requested the addition of an item under Miscellaneous.

Vice Chair McKay moved to adopt the agenda 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

3) Citizens Comment Period

Chairman Weiss provided the following prior to inviting citizens to speak:

- Citizen Comment Period is not intended as a public hearing it is a time set forth at each of the Supervisors regular meeting giving citizens the opportunity to comment on items not on the agenda.
- There is a five-minute limit for speakers.
- Citizen Comment Period is not a time of dialogue between speakers and members of the Board of Supervisors.
- Special Use: A zoning term for uses, while potentially appropriate, that must go through a series of public hearing, weighed against 19 criteria, conditions may be placed on the special use, and the Board has the right to turn down the use.
- By-right Use:
 - The County cannot turn down if the appropriate requirements are met for well and septic, provided by the Virginia Department of Health, appropriate setbacks from property lines, intermittent streams, sinkholes, etc.
 - Virginia is a right-to-farm state.
 - Virginia is a Dillon Rule state. *Definition: A rule of judicial interpretation that a municipality may exercise only those powers expressly conferred by statute, necessarily or fairly implied by the expressed power in the statute, or essential and not merely convenient.*
 - If the state determines that a use is an agricultural use, the locality is bound by the states determination; and, if agriculture, it is a by-right use.

Gary Oates, owner representative of Bill Cumberland: VDOT - bridge relocation on Route 761: The owner does not agree with VDOT's plans. Owner has maintained his position since spring of 2012. The property on both sides of the Opequon, Frederick and Clarke County, belongs to the owner. Owner wants to keep bridge in the same location and does not want a total realignment. Owner has no objection to bridge repair / refurbishment. Mr. Oates presented the Board with emails from 2012 and email of November 27, 2017. He asked that it go on record that the owner is not happy with the choices presented other than keeping it in the same location.

Bill Cumberland, owner 14641 Old Charlestown Road – Old Clevenger Farm – 615-acre farm: Owner purchased for the historical value of the house, the oldest Flemish brick house in Frederick County, and to combine acreage 400+ in Frederick and 190+ in Clarke. VDOT presented four designs for realignment that would have a detrimental impact on the property. The road is just a cut through and is not a major byway. Realignment Option 4 would completely change the aura of the enclave. Keeping the bridge where it is would slow traffic. He is working with Maral Kalbian, Architectural Historian. Mr. Cumberland stated that he supported the option keeping the bridge in place.

Chairman Weiss stated that VDOT provided the County with a letter advising that it was placing this project on hold.

David Ash added that Ed Carter, VDOT Assistant Residency Administrator, had informed him that subsequent to the presentation to Frederick County neither the historic preservation clearances nor funding were available. VDOT is looking at replacing or improving the low-water bridge in place. All other options are off the table.

David Ash informed the Supervisors that Pete Maynard's position on the sign-in sheet would be shifted up with the permission from Mr. Braithwaite, Ms. Smart, and Mr. Johnston to speak on their behalf.

Pete Maynard, resident Lander Lane, Berryville: Because he was speaking for more than a dozen people, Mr. Maynard asked the Board for additional time. Mr. Maynard spoke in opposition to a proposed hydroponic greenhouse off Senseny Road. Highlights include:

- An on-line petition has been started.
- Mr. Maynard is one of the affected property owners, who has taken the time to research the proposed project.
- Familiar with County ordinances for by-right use and zoning.
- He disagrees with the County attorney's determination that the proposed facility is a by-right use.

- County attorney labeling this as a by-right use overlooks the fact that technology is overcoming legislation. While he understands that changing legislation starts at a higher level, he would like the Board to consider this when it addresses this matter.
- Suggested using the term “new technology agricultural manufacturing.” Criteria might include:
 - Conducted within a closed facility.
 - Use of artificial light.
 - Mechanical planting, moving, harvesting, packaging.
- Site Plan:
 - Virginia Department of Health was provided plans by the potential buyer for a well permit on proposed property.
 - Plans show well location.
 - Phase one includes a 10-acre building at the rear property line.
 - Circular drive goes behind the building and comes out directly across from Lander Lane.
 - Site-distance for the proposed road is inadequate.
 - Phase 1 and Phase II on conceptual drawings presented during meetings with Washington Gas to determine whether the potential buyer could tap into the 12-inch gas main through the property. Washington Gas has given preliminary approval to tap into the gas line based on the plan load.
 - Phase II is another 10-acre building bringing the total to 20 acres with 16-18 trucks per day.
 - No indication that a Phase III is planned.
- Affected property owners have grave concerns that the project is rapidly moving forward.
- Electricity:
 - Ten to twenty acres inside requiring artificial lighting.
 - Would require a dedicated power line from a high-voltage source two miles away which would mean easements, construction, etc.
 - Washington Gas advised that the potential buyer will have commercial generators on site 24 hours a day, 7 days a week, 365 days a year to generate electricity to run the lights, heat the water, and everything else requiring electricity.
 - Regular electric service will be used for offices.
- Lighting:

- The County ordinance deals with external only and does not address internal lights that are visible through a translucent structure.
- Light can be blocked by adding shading material with the most effective blocking up to 99.9%.
- At a meeting with the potential buyer, Mr. Maynard was told that the company would use the most effective blocking material, which they noted cost three times more than less effective shading material.
- Humboldt County, California has an ordinance in place for artificially-supplemented growing facilities.
- Traffic: The size of the proposed facility could generate 30 tractor trailer trips per day.
- VFT:
 - Potential buyer is a New York company, a Delaware corporation, which has seen several iterations.
 - The company does not have a big depth in background in hydroponics.
 - The company says that it wants to be good neighbors but he does not see an open and honest relationship between them and the neighbors.
 - The company indicates that its offices will be located in Winchester.
 - Office address used on the plans developed by Painter Lewis is a vacant lot.
 - The company uses a virtual office in an extended-stay hotel in Winchester.

The County, to the best of Mr. Maynard's knowledge, is considering allocating tax dollars to assist in some way the planned operation.

Chairman Weiss interrupted Mr. Maynard to advise that his statement was inaccurate for the Board of Supervisors is not considering any offer and no offer has been put forth for the Board to consider. The Board is aware that the State may eventually come up with an economic package and present to the County. However, at this time, the County has not seen it nor discussed it as a Board.

Mr. Maynard noted the correction putting forth that it was his understanding that VDAC's AFID grants are made by the State to the municipality and must be initiated by the municipality.

Chairman Weiss stated that the Board had not initiated any grants.

In conclusion, Mr. Maynard asked that if the Board of Supervisors could not stop the project that no County tax payer funds be put forth in any way to support, promote, help, or move forward this project in any way. Going forward, he hopes to work together with the Board to find appropriate places for such structures / businesses.

Supervisor Byrd asked about water.

Mr. Maynard responded that Valley Drilling is now drilling a well on site. He noted that his well is 880-feet deep yielding 7 gallons per minute. The wells of three bordering properties are between 500 to 600 feet in the 5-gallon-a-minute range. The potential buyer will need 50,000 gallons per day, which may require multiple wells on site.

Bradley Braithwaite, Tyson Drive, Berryville: spoke in opposition to the proposed hydroponic greenhouse facility. He expressed concern for the impact of light projecting from this facility on the night sky. He put forth that some astronomers are projecting that within 30 years the Big Dipper will no longer be visible in the night sky. He urged the Board to consider amending the light ordinance to include restrictions on indoor light emissions. He suggested seeking help from the International Dark Sky Association.

Selena Smart, Boyce: spoke in opposition to the proposed hydroponic greenhouse facility. She informed the Board that she lives three miles from the proposed facility and stated that she concurred with Mr. Maynard. She expressed concern about the light ordinance that addresses exterior lighting only, potential for light pollution, and impact on groundwater of removing 50,000 gallons of water per day.

Timothy Johnson, Shenandoah Retreat: spoke in opposition to the proposed hydroponic greenhouse facility. He told the Board that he had reviewed the legal aspect reviewing case law, legislation, ordinances regarding the right-to-farm act. He called the Board's attention to Virginia's Right to Farm Act specifically "localities may adopt set back requirements, minimum area requirements, and other requirements that apply to land upon which agriculture and silviculture activity occur within the locality that is zoned as an agricultural district classification. No locality shall enact zoning ordinances that would unreasonably restrict or regulate farm structures or farming or forestry practices and agricultural district classification unless such restrictions bear a relationship to the health, safety, and general welfare of its citizens. He urged the Supervisors to adopt reasonable ordinances that require large-scale agricultural businesses to compile with environmental quality measures including water conservation and regular testing to ensure the Shenandoah River and neighbor's wells are not significantly affected and proper waste treatment protocols that are implemented and enforced to protect the river and surrounding environment. He additionally urged the Board of contact the Virginia Department of Environmental Quality Board of Groundwater Management to conduct a groundwater study to ensure that the water supply for the hydroponic farm will not overdraw neighboring wells.

James Balloue, Berryville: spoke in opposition to the proposed hydroponic greenhouse facility commenting that previous speakers had covered everything.

Michelle Gibson, Senseny Road: spoke in opposition to the proposed hydroponic greenhouse facility. She advised that she lived directly across the street from the proposed site on a 51-acre horse farm in conservation easement and her property

contains one of the largest lakes in the County, which she shares with her neighbors. She expressed concern for health - water, public safety – traffic on road, and general welfare noting that several children have recently died on Senseny Road as a result of accidents. She expressed concern for the increase in truck traffic the proposed facility would bring to the area. She asked if the County would be installing a traffic light to deal with a “serious” commercial operation. She concurred with Mr. Maynard that legislation is behind in the definition of by-right farming. Ms. Gibson stated that her well was five--gallons per minute. She expressed concern for the impact on wildlife. She concluded that the by-right rules should be reconsidered before allowing the proposed project to move forward.

Michelle Timberlake, Summerville farm: spoke in opposition to the proposed hydroponic greenhouse facility. She opined that the three farmers on the Board of Supervisors know the concerns about light pollution and water. She stated that she understood that in a sense the Supervisor’s hands were tied but then stated that the Board’s hands were not tied and that the persons opposing the facility were constituents and the Board worked for them and they were asking, practically begging, the Board to do more – to step up, to speak up for the citizens opposing this project. She expressed concern for the impact on the night sky and how scientists could grow, for smart intelligent children, who know what the night sky looks like and know how to point out constellations. She opined that citizens want their children to grow up with healthy farms, healthy property. She expressed concern about the intermittent stream on the property questioning the impact on it habitat by such a huge structure. She concluded by stated that “we expect you to speak for us, to be our voice, and to say we are not approving of this, and we need to make some changes, somehow, as soon as we can.”

Chairman Weiss thanked everyone for coming expressing appreciation for their passion and concerns. He opined that the Board shared their concerns. He further noted that his statements were not intended to indicate that the Supervisors did not care or that it would not try to mitigate issues but to explain that it was very limited in its ability to mitigate. Chairman Weiss commented that any decision that the Board makes will be made in public by Code and by the members own ethics. He reminded that there will not be a physical plan for the Board to approve if this project proceeds. He assured that the Board took their concerns seriously.

4) VDOT Update

Due to preparations for impending inclement weather, no representatives from VDOT were available to attend. Ed Carter, Assistant Residency Administrator, provided the following update via email:

Maintenance

- Began cleaning under guardrail along Rt. 7 and will continue this month as weather permits;
- Performed cleanup operations from recent high winds;
- Conducted Boom Axe operations on Rt. 638 and plan to continue on various route throughout the County;
- Addressed potholes as they were reported and will continue this month.
- With the recent hard freeze and thawing, VDOT anticipates a growing number;
- This month VDOT will be cutting brush along routes 617, 619 and 638;
- VDOT has mobilized and responded to several weather events and expects more of the same this month.

Projects:

- Rt. 671 Bridge Replacement – Environmental requirements and Federal funding timing issues have forced us to abandon a relocation of the bridge and return to replacement in its current alignment. VDOT will be asking to address the Board at a work session to explain the issues in detail.

Supervisor Byrd put forth that it was important for VDOT to speak with Mr. Cumberland about the proposed bridge replacement and suggested notifying Mr. Cumberland of the meeting with VDOT.

Board Issues:

- Rt. 638 Speed Limits – We are ordering the signs to extend the 35mph limit.

Supervisor Comments:

- Supervisor Daniel: Asked David Ash to coordinate with VDOT Board update on the traffic impact of the proposed hydroponic greenhouse facility.

5) Approval Minutes

Supervisor Catlett Change Book 23 Page 130: Correct from tenet to tenant.

Supervisor Byrd: Change Book 23 Page 148 last bullet to read “Resurrect the Clarke County Horse Festival that would take up a weekend using the Blue Ridge Hunt for a trial ride, the Clarke County Ruritan horse facilities (barn/new show ring) for exhibits, shows, clinics and workshops. Several horse farm tours of different disciplines: hunter,

thoroughbred and pony breeding farms / cutting, team penning, combined training, barrel racing, jumping and horse training.”

Supervisor Byrd: Change Book 23 Page 163 B. Fee Study correct spelling from third party to third party.

Supervisor Byrd: Change Book 23 Page 166 Berryville Town Council: Change to read “is considering allowing chickens.”

Vice Chair McKay moved to approve the minutes 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) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through January 2018

01-08-2018 Summary: The Personnel Committee recommends:

- Appoint Bob Glover to the Planning Commission to serve the unexpired term of Jon Turkel. Appointment expires April 30, 2019.
- Reappoint A.R. Dunning, Jr. to the Clarke County Sanitary Authority to a four-year term expiring January 5, 2022.

Planning Commission Appointments Update:

- Elected George Ohrstrom, II 2018 Chair; therefore, he remains on the Board of Septic and Well Appeals.
- Elected Randy Buckley 2018 Vice Chair replacing Anne Caldwell as the Alternate on the Board of Septic and Well Appeals.
- Reappointed Doug Kruhm to serve as the 2018 Planning Commission Representative to the Clarke County Historic Preservation Commission.

01-16-2018 Summary: David Ash presented the Personnel Committee's recommendations.

Supervisor Catlett moved to approve the recommendation for appointment of Bob Glover to the Clarke County Planning Commission. 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 Byrd moved to approve the recommendation for reappointment of A.R. Dunning, Jr. to the Clarke County Sanitary Authority. 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. Circuit Court Request for Part-time to Full-time Employee.

01-08-2018 Summary: David Ash reminded that this Item is slated for discussion at the BoS Finance Committee meeting.

01-16-2018 Summary: David Ash reviewed. No action was taken at the regular meeting.

7) Board of Supervisors Work Session Items

A. Organizational Items:

01-08-2018 Summary: At 10:00 am, David Ash, County Administrator and Clerk to the Board of Supervisors, called the meeting to order.

Elect Chair

Mr. Ash called for nominations for Chair.

Supervisor McKay nominated and moved to elect Supervisor Weiss to serve as 2018 Chair.

Supervisor Byrd moved to close the nominations.

David Ash called for vote.

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

David Ash turned the meeting over to 2018 Chair David Weiss.

Chairman Weiss thanked the Supervisors for their confidence assuring that he would continue to strive to keep the Board moving forward.

Elect Vice Chair

Chairman Weiss called for nominations for 2018 Vice Chair.

Supervisor Catlett nominated and moved to elect Supervisor McKay to serve as 2018 Vice Chair.

Supervisor Byrd moved to close the nominations.

Chairman Weiss called for vote.

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

Set Meeting Date, Time and Location

Supervisor McKay suggested changing the schedule from Committee Meetings to Work Session with start time of 10:00 am.

Supervisor Catlett requested correction of the October Work Session date from October 8 to October 9.

Supervisor Byrd noted that she might not be available for the May regular meeting date.

Vice Chair McKay noted that he might have a conflict with the August 13 meeting date.

Chairman Weiss reminded that historically the Supervisors, like the Planning Commission, did not meet in the month of August.

Vice Chair McKay moved to adopt the 2018 Board of Supervisors Meeting Schedule as amended. 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**

2018 Clarke County Board of Supervisors Meeting Schedule

<i>Meeting Type</i>	<i>Day</i>	<i>Date</i>	<i>Time</i>	<i>Additional Info</i>
Work Session	Monday	January 8	10 am	2018 Organizational Meeting
Regular Meeting	Tuesday	January 16	1 pm	
Work Session	Monday	February 12	10am	
Regular Meeting	Tuesday	February 20	1 pm	
Work Session	Monday	March 12	10 am	
Regular Meeting	Tuesday	March 20	1 pm	
Work Session	Monday	April 9	10 am	
Regular Meeting	Tuesday	April 17	1 pm	
Work Session	Monday	May 7	10 am	
Regular Meeting	Tuesday	May 15	1 pm	
Work Session	Monday	June 11	10 am	
Regular Meeting	Tuesday	June 19	1 pm	
Work Session	Monday	July 9	10 am	
Regular Meeting	Tuesday	July 17	1 pm	
Work Session	Monday	August 13	10 am	
Regular Meeting	Tuesday	August 21	1 pm	
Work Session	Monday	September 10	10 am	
Regular Meeting	Tuesday	September 18	1 pm	
<i>Work Session</i>	<i>Tuesday*</i>	<i>October 9</i>	<i>10 am</i>	<i>Columbus Day Monday Oct 8</i>

<i>Meeting Type</i>	<i>Day</i>	<i>Date</i>	<i>Time</i>	<i>Additional Info</i>
Regular Meeting	Tuesday	October 16	1 pm	
Work Session	Thursday	November 8	10 am	Date set to accommodate 84th VACo Conference November 11 - 13
Regular Meeting	Tuesday	November 20	1 pm	
Work Session	Monday	December 10	10 am	
Regular Meeting	Tuesday	December 18	1 pm	

Unless otherwise noted, Regular Meetings are held in the Main Meeting Room, Work Sessions and Committee Meetings are held in Meeting Room AB in the Berryville Clarke County Government Center, 2nd Floor, 101 Chalmers Court, Berryville, Virginia

Note: Unless otherwise noted, BoS Personnel Committee Meetings typically start at 9:30 am on Work Session days; BoS Finance Committee Meetings typically start immediately after Work Sessions. Work Sessions scheduled for Committee Meeting days on matters for which the Board has deemed additional discussion and/or information necessary.

Agenda Items / Packet Material due by 5 pm on the Monday one week prior to the scheduled meeting.

Revision Date: 01-08-2018

Adopt Rules of Procedure

Following review, Supervisor Daniel moved to adopt changes to Section 4.2 Adoption of Agenda as amended at the meeting to read:

The Agenda for adoption shall be the agenda prepared and delivered as required in Article III.

The Board shall not take action on any matter not identified in the agenda.

The Board shall not approve additions to the published agenda except for matters requiring the immediate action of the Board on official County business, the nature of which demands deliberation and action and for which the Board cannot schedule timely deliberation and action at its next regular meeting or at a specially called session meeting the requirements of § 2.2-3707. Should a matter arise that requires immediate deliberation and action by the Board, the Chair shall, upon determining the matter is not properly identified on the agenda, call for a motion adding the matter to the agenda and identifying need for immediate action, the call for a special

meeting, or directing the matter be placed on the next regular meeting agenda.

This procedure shall not be construed to prohibit the reporting of information by and between Board members and staff or identifying matters requested or recommended for future discussion or decision, or matters of interest to individual members or future meetings of other bodies nor notice of future items or meetings of interest to one or more members of the Board.

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

2017 Chair Appointments Review

The Board reviewed the 2017 appointments. The following changes were requested:

Clarke County Historic Preservation Commission: Add a liaison to this Board-appointed commission. Supervisor Catlett agreed to serve.

Economic Development Advisory Committee: Replace Committee member David Weiss. Supervisor McKay agreed to serve.

Josephine School Community Museum Board: Add a liaison to this citizen group. Supervisor Daniel agreed to serve.

Litter Committee: This citizen group is defunct. Supervisor Byrd expressed hope that the Schools might take up the educational piece that the Litter Committee once provided.

Sheriff Department: The Sheriff asked the Board to appoint a Supervisor as liaison to his office. Supervisor Daniel agreed to serve.

The Board deferred action to the January 16, 2018, Regular Meeting.

01-16-2018 Action: **Vice Chair McKay moved to approve the 2018 Chair Appointments as presented. 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

2018 Board of Supervisors Assignments by Supervisor

David Ash

BCCGC Joint Building Committee	County Administrator
Berryville/Clarke County Joint Committee for Economic Development and Tourism	BoS - Appointed Member
Joint Administrative Services Board	County Administrator
Northwestern Regional Jail Authority	BoS - Appointed Member
Regional Airport Authority	BoS - Alternate

Barbara J. Byrd

Board of Supervisors Finance Committee	BoS - Alternate
Board of Supervisors Personnel Committee	BoS - Alternate
Clarke County Humane Foundation	BoS - Liaison
Clarke County Planning Commission	BoS - Alternate
Clarke County School Board	BoS - Alternate
Community Policy and Management Team	BoS - Appointed Member
Conservation Easement Authority	BoS - Appointed Member
Northwest Regional Adult Drug Treatment Court Advisory Committee	BoS - Appointed Member
Northwestern Regional Jail Authority	BoS - Liaison - Alternate
Northwestern Regional Juvenile Detention Center Commission	BoS - Liaison
Towns and Villages: Berryville	BoS - Liaison

Terri T. Catlett

Board of Supervisors Finance Committee	BoS - Appointed Member
Career and Technical Education Advisory Committee	BoS - Appointed Member
Clarke County Historic Preservation Commission	BoS - Liaison
Clarke County School Board	BoS - Liaison
Parks & Recreation Advisory Board	BoS - Liaison
Strategic Planning Committee	BoS - Appointed Member
Towns and Villages: Boyce	BoS - Liaison - Alternate
Towns and Villages: Millwood	BoS - Liaison
Towns and Villages: Pine Grove	BoS - Liaison

Mary L.C. Daniel

Board of Septic & Well Appeals	BoS - Alternate
Broadband Implementation Committee	BoS - Member

Clarke County Library Advisory Council	BoS - Liaison
Clarke County Planning Commission	BoS - Appointed Member
Clarke County Sheriff's Office	BoS - Liaison
Josephine School Community Museum Board	BoS - Liaison
Legislative Liaison and High Growth Coalition	BoS - Liaison
Northern Shenandoah Valley Regional Commission	BoS - Alternate
Towns and Villages: Berryville	BoS - Liaison - Alternate
Beverly B. McKay	
Agricultural & Forestal District Advisory Committee	BoS - Appointed Member
BCCGC Joint Building Committee	BoS - Appointed Member
Board of Septic & Well Appeals	BoS - Appointed Member Vice Chair
Board of Supervisors	Vice Chair
Board of Supervisors Finance Committee	BoS - Alternate
Board of Supervisors Personnel Committee	BoS - Appointed Member
Broadband Implementation Committee	BoS - Member
Building and Grounds	BoS - Appointed Member
Clarke County Sanitary Authority	BoS - Liaison
Economic Development Advisory Committee	BoS - Member
Housing and Community Services Board	BoS - Appointed Member
Joint Administrative Services Board	BoS - Alternate
Northern Shenandoah Valley Regional Commission	BoS - Appointed Member
Regional Airport Authority	BoS - Alternate
Towns and Villages: Boyce	BoS - Liaison
Towns and Villages: White Post	BoS - Liaison
David S. Weiss	
Berryville/Clarke County Joint Committee for Economic Development and Tourism	BoS - Appointed Member
Board of Supervisors	Chair
Board of Supervisors Finance Committee	BoS - Appointed Member
Board of Supervisors Personnel Committee	BoS - Appointed Member
Building and Grounds	BoS - Alternate
Clarke County Industrial Development Authority	BoS - Liaison
Emergency Services	BoS - Chair
Fire & EMS Commission	BoS - Representative
Joint Administrative Services Board	BoS - Appointed Member
Towns and Villages: Pine Grove	BoS - Liaison

2017 BoS Priorities Review

Highlights of Board review include:

- ERP Implementation: Well on the way
- Personnel Policy: Complete
- Convenience Center: Out to bid
- EMS: Ongoing process. Board adopted the 2017 Emergency Operations Plan at its December 19, 2017, Regular Meeting.
- Kohn Park: Mr. Kohn is ready to convey the property to the County and has signed the Deed of Gift and Termination of Life Estate.
- Economic Development:
 - Include Planning Commission review of economic development plan.
 - Include Subdivision ordinance review
 - Include Waterloo development plan.

The Board deferred action on the 2018 priorities. Board members were asked to provide ideas, suggestions to the County Administrator or the Board Chair.

01-16-2018 Action: During review of Calendar Year 2018 BoS Priorities, the Board agreed to the following:

- ERP – keep on list.
- Personnel Policy – remove from list.
- Convenience Center – keep on list.
- Rural Broadband Improvements – keep on list.
- Fire and EMS Commission and Department Activities – remove from list - active and working department. Include a monthly packet an update from the Director.
- Volunteer Recruitment and Retention – add to list. David Ash will draft the language.
- Kohn Park – keep on list. David Ash will update the language.
- Economic Development:
 - Assign responsibility to Economic Development Director

- Include Planning Commission review of economic development component plan.
- Include subdivision ordinance review.
- Include Waterloo area development plan.
- Instruct Economic Development Director to draft suggestions for changes to the component plan.
- Add review of component plan by Planning Director and Supervisors.
- Chairman Weiss noted that some citizens oppose tourism efforts opining that while they help some they cause problems for others.
- Supervisor Byrd asked the Board to consider developing a brochure similar to one provided by a neighboring jurisdiction.
- Supervisor Daniel suggesting providing the Economic Development Director with a list of priorities.
- Communications – add to list.
- Public Recreational Facilities Improvement – add to list
 - Explore ways to improve public areas
 - Seek land owners willing to allow access
- Miscellaneous Items Not Added to List:
 - Chairman Weiss asked Supervisor Catlett to convey to the Parks and Recreation Advisory Board the Supervisors desire to explore providing more senior programs.
 - Supervisor Byrd will continue working on suggestions, which she will provide to the County Administrator.

Annual Distribution: Information Only

- Code of Virginia Title 2.2. Administration of Government Chapter 37. Virginia Freedom of Information Act
- Code of Virginia Title 42.1. Libraries Chapter 7. Virginia Public Records Act

Reminders:

- 2018 Conflict of Interest mailed Wednesday, December 27, 2017, due in Clarke County Administration by 5 pm, Thursday, February 1, 2018.
- Campaign finance documents due January 16, 2018

At 10:40 am, Chairman Weiss adjourned the 2018 Organizational Meeting and Work Session.

8) Board of Supervisors Finance Committee Items

A. Circuit Court Clerk Part Time Salaries.

01-08-2018 Summary: The Finance Committee seeks further justification for the request before further consideration.

01-16-2018 Action: David Ash and David Weiss briefly summarized.

B. Bills and Claims

01-08-2018 Summary: The Finance Committee recommends approval of the December 2017 Invoice History Report

01-16-2018 Action: **Supervisor Catlett moved to accept the December 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

C. Standing Reports

FYI: Reconciliation of Appropriation, General Fund Balance, Capital Projects, YTD Budget Report

9) Joint Administrative Services Board

Due to a scheduling conflict, Tom Judge was unable to attend the regular meeting. David Ash and David Weiss provided highlights.:

- Health insurance: 18% increase. Tom Judge is proposing use of reserve fund to reduce the increase to 14%.
- Tom Judge indicates that there is still uncertainty about health insurance proposed by the State.

- Conducting training courses on Munis including:
 - Taxation module with Commissioner of the Revenue, Treasurer. County Administration sent its Administrative Assistant – Employee Support to the training session starting this afternoon.
 - Employee timekeeping. Continued difficulty tracking time, attendance, comp hours, and leave hours. Working around most issues; however, these software issues must be addressed and fixed.

10) Government Projects Update

David Ash provided the monthly project update.

- Convenience Center:
 - Out to bid – bid date January 30.
 - Discussing equipment with provider.
- Pavilion at Park:
 - Engineer has recommended changing the foundation.
 - Too late in the winter season to pour cement – must wait until spring.
- Kohn Park: Need to approve master plan. Maintenance Director is seeking gating for the primary site.

11) Miscellaneous Items

Closed Session Item

Supervisor Byrd: "I just wanted a statement for the record. These are my emails on the "lettuce factory" [hydroponic greenhouse]. There is one little area here that had me kind of upset because they are talking about we are suspicious, and all of you [Supervisors] got this email. They are suspicious about the Board meeting in closed session to discuss, which they can do, but, they don't always do it, they are going to meet in closed session they have to say whatever and cite the authority and whatever. Anyway, I think we need to put it in the record that the closed session that we are going into after we finish this, I believe, we will not be talking about the lettuce factory [hydroponic greenhouse]. Can we make that statement please?"

The Chairman commented that he was happy to do that; and, in fact, he had told a citizen that he would not refer to it as the "lettuce factory," but, would use the appropriate name. He reminded that the point of closed session was to protect the negotiating ability of a Board; and, by naming what it could adversely affect the Board's negotiating ability. He clarified that the closed session for the January 16

meeting was not being called in relation to the hydroponic facility. He restated that the Supervisors would not be discussing the hydroponic facility in today's closed session.

Supervisor Byrd thanked Chairman Weiss opining that she hoped this restored some trust from her constituents.

Blue Ridge Volunteer Fire and Rescue Company Request

Chairman Weiss informed the Supervisors of a request by Chief Jason Burns of the Blue Ridge Volunteer Fire and Rescue Company. Highlights include:

- Chief Burns hand delivered a letter to the County's Fire and EMS Department.
- Blue Ridge does not believe it is able to meet the 24/7 response standard.
- To remedy, Blue Ridge submit an official request for five, full-time, paid staff to meet the 24/7 standard.
- Fire and EMS Commission:
 - During its public comment section, Chief Burns informed the Commission that he had passed on his request to the Supervisors.
 - Commission did discuss the request.
 - Chairman Weiss, liaison to the Commission, did advise that the Supervisors had not seen the request; but, he would bring it before the Board of Supervisors at its next regularly scheduled meeting.
 - Chairman Weiss recommended at the Commission meeting was that the Supervisors discuss the matter, work with staff, and discuss further at the February 12 Work Session.
 - Subsequent to discussion, the Supervisors would seek review and advice from the Commission.
- Blue Ridge volunteers respond when they can; and when they cannot respond, the protocol is to roll over the call to another station.
- Chief Burns has stated that Blue Ridge will continue to run calls when it can and the request is its answer to meet the 24/7 standard.
- Brian Lichty, Director Fire, EMS, and Emergency Operations:
 - Confirmed that 80% to 85% of calls in the County are for emergency medical services placing a higher demand on the system.
 - Fire calls and EMS calls requires different training and equipment.
 - EMS training is expensive and lengthy.
 - Due to significant differences, fire and emergency medical services training is not combined.

- o In the process of developing options, solutions to address Blue Ridge's inability to meet standards.
- o Blue Ridge's request is similar to a request received by the Supervisors from Enders Fire and Rescue Company, which resulted in the creation of the Fire and EMS Commission, establishment of the Director of Fire and EMS position and department, fee-for-service, and EMS Billing Coordinator position, etc.

**Blue Ridge Volunteer Fire & Rescue Co.
131 Retreat Road
Bluemont, VA 20135**

Clarke County Board of Supervisors
101 Chalmers Court, Suite B
Berryville, VA 22611

Clarke County Board of Supervisors,

The Blue Ridge Volunteer Fire Department has worked with the Fire and Rescue Commission for several years now. Members of the Commission to include the standards committee have set up response standards that our Fire Department cannot meet. At our Monthly meeting held on January 10, 2018 our membership voted unanimously to request the following staffing from Clarke County. Blue Ridge Fire Department request a total of five personnel to staff the station at all times. This will provide a staffed ambulance and a fire suppression piece 24 hours a day 7 days a week. This will allow for the coverage that is being requested by the Commission that our volunteers cannot provide. The responsibility of providing Fire and Rescue services to the citizens of Clarke is the County's responsibility and the Volunteers of Blue Ridge have done all that they can.

Sincerely yours,



Jason Burns
Fire Chief
Blue Ridge Volunteer Fire & Rescue Co. 8

Vice Chair McKay left the meeting at 3:01 pm and rejoined at 3:06 pm.

12) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Compile notice of appointment and update	Lora B. Walburn

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
	database.	
3.	Execute notice of appointment.	David Weiss
4.	Update 2018 Priorities & Positions.	David Ash
5.	Update Rules of Procedure	Lora B. Walburn
6.	Add Blue Ridge Volunteer Fire and Rescue Company staffing request to the February 12 Work Session agenda.	David Ash
7.	Update County Code CC-2018-01	Lora B. Walburn

13) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Berryville Town Council:
 - Voted to allow chickens.
 - Discussed decals. Landfill checks driver's license.
 - Constituent on Buckmarsh regularly attends meetings to complain about traffic and trucks on Route 340.
- CEA: Meets Thursday at the Millwood Country Club.
- CPMT: Meets next Monday.
- Humane Foundation: Citizens continue to generously support.
- Northwestern Regional Jail Authority: Meets Thursday.
- Social Services:
 - Benches are a small capital project. Angie Jones would like to determine placement.
 - Supports the disadvantaged in conjunction with FISH, SAAA, and Habitat for Humanity. All these groups are experiencing financial difficulties.
 - Difficulty finding housing for displaced families.
- Drug Court Committee: Meets this week in Winchester.
- WWI & WWII: Have not been able to attend these meetings.

Supervisor Terri T. Catlett

- Parks and Recreation: Met last Wednesday but was unable to attend.

- Clarke County School Board: Will be attending the next regular meeting.
- Boyce Town Council: Did not attend.
- HPC: Attends first meeting tomorrow.
- CTE: Chair resigned.
- Millwood: Has not met.

Supervisor Mary L.C. Daniel

- Planning Commission:
 - George Ohrstrom II elected Chair and Randy Buckley elected Vice Chair
 - Briefing Meetings name will change to Work Sessions
 - Regular meetings name shall change to Business meetings.
- Broadband: Meets next week.
- Library Advisory Council: Did not meet.
- Josephine Community School Museum: Last week the Star published an excellent article about Thomas Laws, Clarke County resident and Union spy during the American Civil War.
- CCSO: No meetings have been scheduled at this time.
- Legislative Liaison: A bill to address the composite index, sponsored by Delegate Wendy Gooditis, did not go forward due to lack of support. Tom Judge provided her Clarke's information for her proposal. Hope to get the Farm Bureau on board with composite index; currently, its top priority is rural internet.

Vice Chair Bev B. McKay

- EDAC: Will attend his first meeting tomorrow, January 17.
- NSVRC: Was unable to attend the holiday dinner.
- Sanitary Authority:
 - Discussed new assistant, Mary Meredith, who will be doing more for CCSA.
 - Discussed how to reorganize requirements.
 - Discussed alternate water source.

Chairman David S. Weiss

- IDA: Meets January 25.
- Fire & EMS Commission: Met last Thursday.

14) Closed Session Pursuant to §2.2-3711-A1, §2.2-3711-A3, §2.2-3711-A6

At 3:26 pm, Supervisor Daniel 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-A6 Discussion of the investment of public funds where competition or bargaining is involved. 2.2-3711-A1 Discussion, consideration, or interviews of prospective candidates for employment assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers. 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 4:37 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 4:37 p.m.

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

15) Citizens Comment Period

Daniel Bradley, Harry Byrd Highway: expressed concern about the hydroponic greenhouse. He informed the Board that his well was 700 feet at 8 gallons a minute. He opined that the large amount of water needed to operate the hydroponic greenhouse would local wells. He said that he would appreciate the Board looking into the matter.

Gerald Boudreau: Harry Byrd Highway: expressed concern about the hydroponic greenhouse. He opined that it would be prudent to conduct an environmental impact study on the water issue, as well as light. He commented that he lives across the street from Mr. Bradley and the area is very dry.

Glen Poe, North Buckmarsh Street: spoke concerning Tourism and Economic Development. He said that the reason he wished to speak about tourism and economic development is that it ties back into three issues, including the parking issue scheduled for public hearing, water concerns, and advertising, promoting biking in the County using tax payer money. He opined that a lot of people are concerned with the whole focus on economic development and tourism not seeing the value in this effort nor do they see that it benefits the community. He opined that the issues of parking, hydroponic greenhouse, biking are all tied to economic development and tourism. He said that many would like to see these things stopped. He remarked that today he

received the Economic Development Strategic Plan for Clarke County, Virginia and had not had time to thoroughly review. He asked that efforts be put on hold. Mr. Poe opined that these efforts only support a couple blocks of downtown businesses that are actually being designed and set up for tourists and not the public. He further opined that good business has been driven out of and away from the county – business that would have supported the community. He opined that the general community would not benefit from a brew pub. He stated that the county should not rush forward on this issue and needs more investigation and the zoning regulations on the hydroponic greenhouse proves this. He asked the Board to consider the situation and this is a significant shift in what people moved out to the County for, what it appeared that the county was geared for starting in the 1980's with the zoning that was put in place, which was an admirable effort; but, the taxpayers, in general, are the ones that pay for this life style through subsidy, through land-use taxation, through however you want to look at it, and they are going to pay double if we continue down this road.

Chairman Weiss offered a point of information that the Economic Development Strategic Plan given to Mr. Poe was nearly five years old. The Planning Commission will begin review of this plan in 2018 and public hearings will be conducted, citizen comment taken, and Mr. Poe would then have the opportunity to provide formal comment.

Glen Poe opined this was developing quickly into something and he would ask the Supervisors to set a public hearing in the very near future to let people have an opportunity to really get in front of this because he did not think that people had any idea about tourism. He opined that this seemed a total disconnection of what we have been about for the last forty years. He asked why this was being put on the backs of the tax payers. He asked if we have a moral obligation to support tourism. He asked if the county could just let whatever tourism happens happen; and, when on to ask, do we have to pay for that?

16) PH 18-01: CC-2018-01 Chapter 175 Vehicles and Traffic Article III Stopping, Standing, and Parking

The Clarke County Board of Supervisors shall consider completely revising the Clarke County Code Chapter 175 Article III.

David Ash reviewed the proposal to amend the County ordinance as suggested by Sheriff Tony Roper.

At 6:43 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.

Jennifer Standford, Tennyson Avenue, Winchester: relayed her personal experience with her vehicle, illegally parked in the Lockes Landing area, being towed to Winchester

leaving she and family members stranded. Subsequent to this event, she took her safety concerns to Sheriff Roper. She commented that her family would have gladly paid a ticket for it would have saved time, money, vehicle damage, and reduced personal risk. She opined that the bigger issue was parking availability at water access points.

Bill Novak, Coulson Lane, Bluemont: thanked the Supervisors, Supervisor Catlett in particular, for addressing the issue so quickly. He noted safety concerns on Route 7 near access points to the Appalachian Trail. He opined that the success of the Appalachian Trail Commission's promotional efforts has resulted in the increased number of trail users parking along the highway and creating safety hazards. Mr. Novak asked that signage be placed on both sides of Route 7.

Glen Poe, North Buckmarsh Street: commented that earlier statements supported the principle of unintended consequences. He opined that the community was losing access because of the tourists and was now being asked to pay for these parking issues so tourists could enjoy local attractions. He stated that he supported the Sheriff's efforts opining that it was only a band aid fix to a gaping wound. He suggested adding a right turn lane at Route 601. He concluded that ticketing was preferable to towing.

At 7:07, Chairman Weiss closed the public comment portion of the public hearing.

Supervisors Byrd and Daniel commented on Ms. Stanford's experience.

Supervisor Catlett noted other traffic safety concerns over which the Board had no control, such as drivers back up on a primary highway.

Chairman Weiss remarked that the proposed ordinance change was a good solution. He informed those present that the Supervisors added parking issues in these areas to its 2018 priorities.

Supervisor Catlett moved to amend Chapter 175 as drafted by Bob Mitchell. 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

Chapter 175 Vehicles and Traffic Article III Stopping, Standing and Parking

§ 175-12. Parking vehicles without state license on highway.

Except as otherwise provided by law, it shall be unlawful for any person to park any vehicle having no current state license on any highway in the county.

§ 175-13. Parking on private property.

No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof.

§ 175-14. Parking in No Parking Area

No person shall park a vehicle, except in compliance with directions of a law enforcement officer, in an area on a Commonwealth of Virginia right away posted with a Virginia Department of Transportation "No Parking" sign or sign with the letter "P" enclosed in a circle with a diagonal line going through the "P".

§ 175-15. Issuance of citation for parking violation

Whenever any motor vehicle without driver is found parked, stopped, or standing in violation of any of the provisions of this Article or other ordinances of this County, the law enforcement officer finding such vehicle shall take its registration number, make, and model of the vehicle and any other information displayed on the vehicle which may identify its user and shall conspicuously affix to such vehicle a parking citation for the driver to answer the charge against him within five days, during the hours and at a place specified in the citation. The law enforcement officer shall deliver one copy of such citation to the County Treasurer.

§ 175-16. General penalty for parking violation

Unless otherwise provided, any person violating the provisions of this Article shall be guilty of a traffic infraction and punished as prescribed in section 175-1; provided however, that any such violation may be satisfied, in full, by payment to the County Treasurer of thirty dollars (\$30.00) within five (5) days of such violation. All uncontested parking citations paid under this section shall be accounted for by the County Treasurer.

§175-17. Procedure for delinquent parking citation

The Sheriff shall cause a summons to be issued for delinquent parking citations; provided, however, before any summons shall issue for the prosecution of a violation of this Article or other ordinance or regulation of the County regulating parking, the violator shall have been first notified by mail at his last known address or at the address shown for such violator on the records of the Department of Motor Vehicles that he may pay the fine provided by law for such violation within five (5) days of receipt of such notice, and the Treasurer shall notify the Sheriff if the violator has failed to pay such fine within such time. The notice to the violator, required by the provisions of this section, shall be contained in an envelope bearing the words "Law Enforcement Notice" stamped or printed in the face thereof in type at least one-half inch in height.

§ 175- 18. Presumption in prosecution of parking violation.

In any prosecution charging a violation of any parking regulation contained in this article, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of such regulation, together with proof that the defendant was at the time of such parking violation the registered owner of the vehicle, as required by Title 46.2 Motor Vehicles, Chapter 6 Titling and Registration of Motor Vehicles of the Code of Virginia, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where and for the time during which such violation occurred.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, February 20, 2018, at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

17) Adjournment

At 7:11 pm, being no further business, Chairman Weiss adjourned the meeting.

ATTEST: January 16, 2018

David S. Weiss, Chair

David L. Ash, County Administrator

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