

January 15, 2019

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 15, 2019.

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 L. Ash, Cathy Kuehner, Brian Lichty, Brandon Stidham, Brianna R. Taylor, Lora B. Walburn

Constitutional / State Offices / Other Agencies

Tony Roper, Travis Sumption, Tom Judge

Press

Mickey Powell – The Winchester Star

Others Present

Scott Alexander, Robina Rich Bouffault, Jeff Hinson, Pete Maynard; Sam Creany, Joyce Fiddler

1) Call to Order

Chairman Weiss called the afternoon session to order at 1:01 pm

2) Adoption of Agenda

Supervisor Daniel 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	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

3) Citizens Comment Period

No citizens appeared to address the Board.

4) Virginia Department of Transportation [VDOT]

Scott Alexander, Assistant Residency Administrator, with Ed Carter, Residency Administrator, provided the following update:

Maintenance:

- VDT completed mowing on the primaries and performed brush cutting on various routes with contractors.
- This month VDOT will continue on secondaries with VDOT crews. VDOT has continued with catch up grading on secondaries and this month we will be cleaning ditches and pipes at various locations throughout the county.
- VDOT took extra precaution this last snow event on Rt. 7 by upping the mobilization level and staging a wrecker on the mountain at the beginning of the storm.

Vice Chair McKay joined the Supervisors at 1:06 pm.

Board Issues:

- "Be Prepared to Stop" signs have been added to "One Lane Bridge" signpost on Route 612.
 - o Chairman Weiss expressed concern that this signage might be confusing. Mr. Alexander will follow up on alternates.
- "Turn/Curve" warning signs with advisory speed plates have been added on Route 603.
- Panhandling - Discussion with Board

- No easy answer.
- VDOT policy treats as traffic violation / traffic impediment and responsibility for enforcement rests with public safety.
- Ed Carter has dealt with this issue for many years in several localities. He provided an example of an ordinance that failed legal appeal.
- Instruct the County Attorney to research and draft an ordinance for the Board to review and determine how it wishes to proceed.
- Sheriff Roper added that with the way state law is currently written the Commonwealth Attorney is reticent to prosecute such cases.
- Sheriff Roper informed the Supervisors that his office was working on developing an ordinance.
- Route 7 Safety Audit - Traffic Engineering has agreed to move forward.
 - Multi-jurisdiction audit.
 - Audit will take several months.
 - Ed Carter assured Supervisor Catlett that the deceleration lane to Ebenezer Road would be included in the audit.

Supervisor Comments:

- Supervisor Byrd:
 - Road Treatment: Thanked VDOT for treating the roads before last weekend's weather event.
- Chairman Weiss:
 - Tree cutting: Still waiting for VDOT to cut the identified trees.
- Supervisor Catlett:
 - Morgan Mill Road: Mr. Alexander thanked Supervisor Catlett for attending the meeting. Supervisor Catlett noted that federal government shutdown has slowed down discussion.

5) Set Public Hearing Antenna Support Structures Zoning Ordinance Text Amendment TA-18-01

Brandon Stidham provided the Supervisors an overview of the proposed text amendment.

Vice Chair McKay moved to set public hearing for Tuesday, February 19, 2019, at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:

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

Chairman Weiss thanked the Planning Commission for its work on the proposed amendment.

6) Approval of Minutes

Supervisor Daniel requested the following corrections:

- Book 23 Page 537: Change from Fuller-Corn to Filler-Corn 2019 House of Delegates Minority Leader.
- Book 23 Page 537: Change from unearned to earned tax credits"
- Book 23 Page 537, 538: Change from Conor to Canon Cochran

Supervisor Catlett requested the following corrections:

- Book 23 Page 529: Change from acceleration to deceleration

Vice Chair McKay moved to approve the minutes for December 11, 2018, and December 18, 2018, 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

7) Consent Agenda

A. FY2020 Budget Calendar

FY 20 BUDGET CALENDAR

Draft

<i>Date</i>	<i>Time</i>	<i>Location</i>	<i>Event</i>
Wednesday, January 09, 2019	08:30 AM	317 West Main	Finance Committee: School Finance Invitation
Tuesday, January 22, 2019	09:30 AM	JGC	Staff Revenue Review
Thursday, January 24, 2019	05:30 PM	JGC	Finance Committee: Revenue Review
Monday, February 11, 2019	10:00 AM	JGC	Budget Worksession: presentation by County Administrator
Monday, February 11, 2019	05:30 PM	JGC	Finance Committee: Agency presentations
Wednesday, February 13, 2019	08:30 AM	317 West Main	Finance Committee: School Finance Invitation
Thursday, February 14, 2019	05:00 PM	JGC	Finance Committee: Agency presentations
Tuesday, February 19, 2019	06:30 PM	JGC	BOS Regular: Direction to County Administrator
Thursday, February 21, 2019	05:30 PM	JGC	Finance Committee
Thursday, February 28, 2019	05:30 PM	JGC	Finance Committee
Monday, March 04, 2019	07:00 PM	JGC	BOS Worksession: SB presentation (Special)
Thursday, March 07, 2019	05:30 PM	JGC	Finance Committee
Monday, March 11, 2019	10:00 AM	JGC	BOS Worksession until Final Number
Thursday, March 14, 2019	05:30 PM	JGC	Finance Committee
Tuesday, March 19, 2019	NA	Winchester Star	Advertise in newspaper (if needed)
Tuesday, March 26, 2019	NA	Winchester Star	Advertise in newspaper
Tuesday, April 02, 2019	07:30 PM	TBD	Public Hearing (Jointly with School Board)
Tuesday, April 16, 2019	06:30 PM	JGC	BOS Worksession until final numbers; recess, then adopt budget and Appropriations Resolutions.

Supervisor Daniel requested clarification regarding the budget public hearing start time of 7:30 pm noting that it was an hour later than the Board typically conducts its public hearings.

Tom Judge stated that this is an historic artifact when it was believed that more citizens would participate if held later in the evening.

By consensus, the Board agreed to move April 2 Public Hearing change start time from 7:30 pm to 7:00 pm.

Supervisor Byrd stated that she would be unable to attend the March 4 meeting.

Supervisor Byrd moved to adopt the Consent Agenda 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

Chairman Weiss asked David Ash to forward a copy of the revised calendar to John Staelin.

8) Board of Supervisors Personnel Item

A. Expiration of Term for appointments expiring through March 2019

2019-01-07 Summary: The Personnel Committee recommended reappointment of:

- John Milleson, Clarke County Economic Development Advisory Committee, to a term expiring December 31, 2022
- Brandon Stidham, Northern Shenandoah Valley Regional Commission, to a term expiring January 31, 2022

2019-01-15 Action: David Ash summarized the Committee's recommendation.

Supervisor Catlett moved to approve the Personnel Committee recommendations. 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

9) Board of Supervisors Work Session Items

A. Organizational Items:

2019-01-07-Summary:

Board Members Present: Barbara Byrd, Terri Catlett, Mary Daniel, Beverly McKay, David Weiss

Officers / Staff Present: David Ash, Barbara Bosserman, Tom Judge, Cathy Kuehner, Brian Lichty, Tony Roper, Brandon Stidham, Lora B. Walburn

Press Present: Mickey Powell – The Winchester Star

At 10:07 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 2019 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 2019 Chair David Weiss.

- Elect Vice Chair

Chairman Weiss called for nominations for 2019 Vice Chair.

Supervisor Daniel nominated and moved to elect Supervisor Bev McKay to serve as 2019 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

Vice Chair McKay moved to adopt the 2019 Board of Supervisors Meeting Schedule 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

- Adopt Rules of Procedure

Supervisor Byrd moved to adopt Rules of Procedure 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 Chair Appointments Review

2019-01-07 Summary: The Board reviewed the 2018 appointments and agreed that alternates were needed to serve on the Conservation Easement Authority and the Fire and Emergency Medical Services Commission.

Supervisor Catlett offered to act as alternate to Supervisor Byrd on the Conservation Easement Authority.

The Board deferred action to the January 15, 2019, Regular Meeting.

At 10:18 am, the Organizational Meeting was completed and the Supervisors entered its regular Work Session.

2019-01-15 Action: By consensus, the Supervisors accepted the 2019 Chair Assignments with the addition of:

- Conservation Easement Authority: Supervisor Terry T. Catlett – Alternate
- Fire & EMS Commission: Supervisor Mary L.C. Daniel - Alternate

– 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*

B. Distribution and Selection of New Clarke County Wordmark Logo

2019-01-07 Summary: Cathy Kuehner, Public Information Officer, joined the Board to review her proposed designs. Following review and discussion, the Board requested some modified examples for review and selection.

In a related matter, the Board:

- Discussed its expectations and provided direction on updating and operating the existing websites and progress on the creation of a new, expanded government website.

- Directed that the existing websites be reviewed for current information, accuracy, and the Public Information Officer assume responsibility for update and management of all County websites under the jurisdiction of the Board.

The direction to assume management and update is not to be construed as removing the authority of the various departments to update and revise those web pages belonging to them when needed.

Further, the Board directed the County Administrator to notify all departments maintaining web pages to cooperate with and support this effort.

2019-01-15 Action:

Chairman Weiss informed those present that Cathy Kuehner continues to work on the development of a logo for Clarke County; and, while he hoped review of a viable choice would be scheduled for the February Work Session, he assured that there was no rush on the matter.

10) Board of Supervisors Finance Committee Items

A. Sheriff's FY2020 Budget Request

2019-01-07 Summary: Sheriff Roper presented the department FY 20 budget request. A copy of this presentation is available on request.

2019-01-15 Action: No action taken.

B. 106 North Church Lease Agreement

2019-01-07 Summary: Discussion of this matter is deferred to a later date.

2019-01-15 Action: No action taken.

C. Bank Reconciliation Update

2019-01-07 Summary: Clarke staff and an outside accounting firm have reconciled the general ledger for FY2017 and FY2018 to the bank, by identifying and booking differences to within a range deemed immaterial by Robinson, Fanner, and Cox. The final report on this from Mary Earhart is forthcoming.

2019-01-15 Action: No action taken.

D. FY2018 Fund Balance Designation Adjustment

2019-01-07 Summary: The Finance Committee recommends adoption "Be it resolved that the FY2018 year-end fund balance designations be established per the attached document."

	Finance Comm		
	PRIOR	PROPOSED	
General Fund Balance	11,006,186	11,556,252	
<u>Designations</u>			
Liquidity Designation @ 12% of FY 19 Budgeted Operating Revenue	(\$3,518,828)	(\$3,518,828)	
Stabilization Designation @ 3% of FY 19 Budgeted Operating Revenue	(879,707)	(879,707)	
Continuing Local GF Appropriations for Capital Projects	(3,347,526)	(3,347,526)	
Conservation Easements from Government Savings	(150,000)	(167,938)	(\$17,938)
School Operating Transfer	(305,887)	(392,979)	(\$87,092)
Comprehensive Services Act Shortfall	(300,000)	(300,000)	
Parks Master Plan	(130,000)	(130,000)	
Emergency Vehicles	(50,000)	(75,000)	(\$25,000)
Government Savings (GenGov, JAS, DSS)	(500,000)	(500,000)	
Data and Communications Technology	(150,000)	(600,000)	(\$450,000)
Leave Liability	(300,000)	(300,000)	
Community Facilities	(300,000)	(350,000)	(\$50,000)
Economic Development	(100,000)	(150,000)	(\$50,000)
FY 18/19 Original Budget Surplus (Deficit)	(339,590)	(339,590)	
TOTAL Designations	(10,371,538)	(11,051,568)	
FY 18/19 Supplemental Expenditure	(336,614)		
FY 18/19 Supplemental Revenue	185,233		
Undesignated With FY 19 Supplementals	483,267	504,684	On June 30, 2018

2019-01-15 Action: Tom Judge, with Chairman Weiss and David Ash, reviewed the fund balance designations and answered questions posed by members of the Board.

Supervisor Daniel moved to adopt the fiscal year fund balance designations as established from the attached document from our materials. 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. School Supplemental

2019-01-07 Action: The Finance Committee recommends setting public hearing for February 19, 2019, at 6:30 pm or as soon thereafter as the matter may be heard on, *"Be it resolved that FY2019 School Capital Projects budgeted expenditure and appropriation be increased \$287,758, and be it further resolved that the designation of general fund balance for School Operating carryover be decreased in the same amount, all for the purpose of funding the capital projects request approved by the School Board at their December meeting. "*

**School Carryover Request
Carryover from FY18 to FY19**

Account Number	Re-allocation Amount from FY18 Fund Balance	Notes
30201110/Furniture	\$25,000	Furniture replacements and additions in each building.
30201140/Athletics	\$18,758	Equipment reconditioning, stadium improvements
30203500/Bus	\$49,000	Replacement bus
30203700/Vehicles	\$25,000	Purchase of a van for daily transportation needs and an equipment trailer
30205100/Food Service	\$15,000	Repair and replacement of equipment when needed
30206223/Fencing	\$25,000	Repair and replace fencing as needed
30206250/Fields and Playgrounds	\$50,000	Feltner stadium field work and playground equipment
30206616/HVAC	\$60,000	Continuing to repair HVAC equipment throughout the division. Begin planning for building automation system implementation.
30206645/Security	\$20,000	Funds to purchase crisis management equipment, repair and replace cameras, radio replacements
	\$287,758	

2019-01-15 Summary: Tom Judge reviewed the School Board's request.

Chairman Weiss stated that the Schools were asking for less than its carry-over funds and actually returning funds to the County's coffers.

Supervisor Catlett opined that the practice of returning carry-over funds allows the Schools greater flexibility while encouraging fiscal responsibility.

Tom Judge agreed to have Dr. Bishop contact Supervisor Byrd to explain the request.

Supervisor Catlett moved to set public hearing for Tuesday, February 19, 2019, at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:

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

F. Bills and Claims

2019-01-07 Summary: The Finance Committee recommends approval of the December 2018 Invoice History Report.

2019-01-15 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

G. Standing Reports

FYI: Reconciliation of Appropriation, Capital Projects

11) Joint Administrative Services Board

Highlights of the update by Tom Judge include:

- Taxation system implemented.
- Board will met at the end of the month to hear the final update.
- This will be the last ERP implementation; and while more might be done, it would most likely be in the form of reports, training, etc.
- Determined not to move forward with GIS mapping in Munis system.
- Chairman Weiss thanked all the staff for going through the last go live event particularly the Commissioner of the Revenue's and the Treasurer's offices.

- Supervisor Daniel asked whether tax payments could be established. David Ash responded that due to time constraints with the implementation the Treasurer was unable to research the answer.

12) Government Projects Update

David Ash provided the monthly project update.

- Kohn Property: David Ash and Bev McKay will schedule a time to walk over the property.
- Convenience Center:
 - o Saturday: Approximately 90 vehicles.
 - o Sunday: Closed early due to snow.
 - o Additional Hours: Would suggest adopting operating hours of 9 am to 3 pm when ready to expand operations.
 - o Chairman Weiss thanked David Ash, Joe Braithwaite, and Mike Legge for all their hard work and dedication.
- Berryville-Clarke County Government Center:
 - o Expediting gutter repair.
 - o Veteran's plaque:
 - Has not yet been ordered / received.
 - Joint Building Committee reviewed the matter but did not arrive at a consensus.
 - The Supervisors concur that the plaque should be in a readily accessible area close to the Veteran's Memorial.

13) Miscellaneous Items

No miscellaneous items identified.

14) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Have Chuck Bishop contact Supervisor Byrd to explain the School's carry-over fund request.	Tom Judge
2.	Coordinate / develop public hearing notice and advertise.	Lora B. Walburn
3.	Process and post approved minutes.	Lora B. Walburn

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
4.	Provide revised FY2020 budget calendar to John Staelin.	David Ash
5.	Coordinate time change for budget public hearing on County calendars.	Lora B. Walburn
6.	Provide notice of special event approval to applicant and adjoining property owners.	Lora B. Walburn

15) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Clarke County Humane Foundation:
 - o Meets January 23.
 - o Mary Shockey resigned from the Board.
- Conservation Easement Authority: Meeting at 11 am January 17 with annual awards ceremony.
- Northwest Regional Adult Drug Treatment Court Advisory Committee: Meets January 25.
- Northwestern Regional Jail Authority: Meets on January 17.
- Northwestern Regional Juvenile Detention Center Commission:
- Town of Berryville:
 - o Recycling:
 - Cost will be increasing.
 - Glass is no longer recycled resulting in greater weight in trash receptacles.
- Board of Social Services:
 - o Working on replacement of Bonnie Peery, Administrative Services Manager.
 - o Board training session scheduled for January 31.

Supervisor Terri T. Catlett

- School Board:
 - o Discussed goals at its work session.
 - o Discussed ways to integrate technology in the classrooms.
- Career and Technical: Has not met.
- Historic Preservation Commission: Meets this week.

- Village of Millwood: Has not met.

Supervisor Mary L.C. Daniel

- Josephine Community School Museum: Preparing for January reading contest.
- Planning Commission:
 - George Ohrstom Chair
 - Randy Buckley Vice Chair
 - 2019 Goals:
 - Complete zoning and subdivision ordinance update.
 - Begin five-year reviews of the transportation, comprehensive and economic development strategic plans.
 - Approved a minor subdivision at the January regular meeting.
 - No movement on the Waterloo property.
- Broadband Implementation Committee: Set text amendment for public hearing earlier in the Supervisor's meeting.
- Sheriff's Department:
 - Discussed budget.
 - Encouraged Supervisors to review the report provided by Sheriff Roper.
- Clarke County Library: Did not meet.
- Legislative Liaison / Coalition for High Growth:
 - Watching bill 1143 re proffer legislation, which will be read this afternoon.
 - Impact fees are under review with two readings thus far.
 - Inland port receiving economic development grants.

Vice Chair Bev B. McKay

- Sanitary Authority:
 - Have nitrogen and phosphorus credits.
 - Department of Environmental Quality issued a fine, which is still under discussion.
 - Membrane replacement is needed at a cost of \$182,000.
 - Several leaks identified and repaired.
- Northern Shenandoah Valley Regional Commission: Meeting cancelled.
- White Post: Asked Supervisors to check the white post at night now that it is illuminated.

Chairman David S. Weiss

- Fire & EMS Commission:
 - o Budget:
 - Commission refining budget recommendations.
 - Commission agreed to increase staffing request from 3 to 5 providing 12-hour staffing 7 days per week – one person at Blue Ridge and one person at Boyce.
 - Volunteer activity has stepped up.
- Industrial Development Authority: Quarterly meeting set for January 24.

16) Closed Session Pursuant to §2.2-3711-A3 Acquisition / Disposal of Property

At 2:57 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 The motion carried by the following vote:

Brandon Stidham, Director of Planning, joined the Board in closed session.

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

At 3:25 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, Vice Chair McKay 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

Vice Chair McKay further moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

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

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

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

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

No action was taken on items discussed in closed session.

At 3:26 pm, Chairman Weiss recessed the meeting.

At 6:30 pm, Chairman Weiss reconvened the meeting.

17) Citizens Comment Period

No citizens appeared to address the Board.

18) PH 19-01: Pasture Palooza Music and Arts Festival Special Event Permit Application

Medium Event [750 – 999] at 339 Minniewood Lane, Berryville for years 2019, 2020, and 2021.
Applicant / Event Director: The Lot Presents, LLC / Samuel Creany

David Ash summarized the medium-sized special event permit application for Pasture Palooza Music and Arts Festival noting that this was a large-event application for 2016, 2017, and 2018. Sam Creany, event organizer, was downsizing the event and was present to address questions from the Board.

Sam Creany answered questions from the Board including:

- VDOT identified no additional measures required on Triple J Road or Route 7.
- Dust control:
 - Annually arrange for dust control.
 - Manually spread chloride, a chemical used to reduce dust, on the road using a grass-seed spreader.
 - Chemical treatment is supposed to last up to a week or longer.
 - Extra treatment is available if dust becomes an issue.
- Downsizing permit for 2019 through 2021 reducing attendance thus reducing traffic.
- Tentative 2019 event dates are September 14 and 15.
- Prior years, event conducted in July. Hope that moving to the fall will decrease heat-related issues and improve the experience.

At 6:35 pm, Chairman Weiss opened the public comment portion of the public hearing.

Joyce Fiddler, 210 Minniewood Lane, Berryville: provided written comment for the record.

January 15, 2019

Thank you Mr. Chairman and Board Members for inviting the community to ask questions and voice their opinions on the Pasture Palooza permit.

My name is Joy Fiddler and my husband Bob is here with me. In June 2014, we moved to our new home on Minniewood Lane and we have been there for 5 Paloozas. **We have had concerns that have not been taken care of by the Owners of the Lot over these years.**

Mr. Sam Creany's letter of December 7, 2018, to the Minniewood Lane Residents advised all adjoining property owners that a multiple year special event application was being forwarded to the County of Clarke, VA, that day for the Pasture Palooza Music and Arts Festival to be conducted on three days at 339 Minniewood Lane, Berryville, VA.

Minniewood Lane is a private lane, has been maintained by families who live in seven residences there, a private one-lane right-of-way to the homes and DEFINITELY NOT SUITABLE for an event of this

magnitude for traffic and inconveniences, and a lane not maintained by the County where a business for a music and arts festival and a campground, is being allowed and held on a lot at the end of the lane.

??? Can the Board tell us why the County has issued the multiple year permits allowing a business of the magnitude of the Music and Arts Festival Palooza and a campground, adjoining 7 residences and using the right-of-way, Minniewood Lane, allowing the excessive traffic on the private lane, and also causing many inconveniences to the residents for years????

WE VOICE OUR OBJECTION FOR APPROVAL OF THE PERMIT FOR ANY NUMBER OF YEARS FOR THE EVENT TO BE HELD ON THIS PRIVATE LANE, A NEIGHBORHOOD AND PRIVATE LANE THAT IS NOT ADEQUATE FOR THIS OR ANY EVENT THAT PRODUCES THIS AMOUNT OF EXCESSIVE TRAFFIC AND INCONVENIENCES FOR THE RESIDENTS, AND A LANE WHERE THE OWNERS OF THE PALOOZA HAVE NOT PARTICIPATED IN THE REPAIR AND MAINTENANCE OF THE LANE.

WE VOICE OBJECTION AS STATED AND ASK THAT ANY PERMIT BE DISAPPROVED AND THE "LOT" OWNERS SEEK AN **ADEQUATE** PLACE IN CLARKE COUNTY TO HOLD THIS EVENT FOR THIS YEAR AND ALL FUTURE YEARS. Event traffic is more than 3 days as stated in Mr. Creany's letter. **ADD ON ANOTHER WEEK OF TRAFFIC** for setting up and exiting the area, consisting of Vehicle Traffic for -

1,000 patrons with multiple trips for each vehicle in and out – day and all night

Numerous workers, vendors, bands - all with vehicles and trailers

Trucks and trailers hauling equipment, portable toilets, trash, etc.

As stated in Mr. Sam Creany's letter to the Minniewood Lane residents that "No homes are visible or within a quarter mile of the event area," these 7 homes **ARE** in direct contact to the excessive amount of vehicles passing by each home on the lane for one quarter of a mile, causing the dust, excessive speeds, the amplified music, the music after the 12 a.m. cut off time, and other concerns. Our home and others are in a no-buffered area where the loudness of the music and PA is excessive and we have no control for this inconvenience. This excessive loudness can be heard inside our home with windows closed, TV on, and A/C working. We have a few other residents on Minniewood that have witnessed the loudness of

the music in the open area at our home, and we have been told by neighbors OUTSIDE the subdivision that they also can hear the amplified music and are also subjected to the excessive Palooza traffic on Triple J Road. A visit by any one or all of the Board of Supervisors would be appreciated to be present for a time on Friday or Saturday evening to check the noise level of the amplified music heard in the area of a no-buffered zone on Minniewood, and observe the concerns mentioned this evening, and others not stated from past years. We welcome them to visit our residence at 210 Minniewood Lane during the event.

There are other areas of concern for:

1) Speed on the lane, 3) Dust control, 4) Safety on Rt 632, Triple J Road

On July 18, 2017, during my time on the podium in front of the Board during the Citizens Open Session, I presented some of our concerns regarding the previous weekend event Mr. Chairman, if I heard correctly, Mr. Ash was to review the permit and provide a written report of his findings. We are curious as to whether that report is available for us to receive a copy.

During our 5 Palooza's, dust control has been a major issue from the gravel lane because of the amount of added traffic. In 2015, the dust was uncontrollable. The woods as you enter Minniewood Lane was covered with a rather thick layer of dust, along with the roof of the homes, furniture and shrubbery. A member of the Board was asked to stop by the Palooza and did observe the dust that had accumulated from the traffic dust. A water truck was promised by the landowner in 2014 and also by Trevor Creany in July 2017 for dust control but has never been seen on Minniewood. Instead, chemicals were applied by a small yard spreader, pulled by a cart, for the past two years for a quarter of a mile.

In Mr. Trevor Creany's letter dated July 2, 2015, the company stated they would repair the potholes created before and after the event. We are not the only residents that believe no road repair or upkeep to the lane has been provided before or after the event by the Palooza for 9 years.

Traffic speed has been a major problem on the lane that is free of turns in the road. This vehicle speed is one of the causes for the need for dust control and the other is the excessive traffic. Temporary speed limit signs have been posted by the company and the residents but to no avail.

In the past two years, the Sheriffs Office provided a contact name and immediate phone number where he/she can be notified for assistance for concerns and correcting any problems encountered. We would appreciate that service again, along with the drug and alcohol control at the event,

and we thank the Sheriffs Office and the Fire and Rescue Company again for the service.

Due to the amount of heavy traffic now on Route 632, Triple J Road, it is requested that the County make available the appropriate signs visible from Route 7 and from Senseny Road to Minniewood. Access from Triple J Road to Minniewood Lane from Rt 7 contains several turns in the roadway and a rise in the road at the Minniewood entrance. This would provide safety to all persons traveling on Triple J Road, a heavily travelled road to and from Winchester.

Thank you Mr. Chairman and Board Members.

At the direction of Chairman Weiss, David Ash provided the following comments:

- Prior to the adoption of the ordinance, there were no regulations on these types of events. The ordinance is intended to minimize but not eliminate problems that may develop.
- Board of Supervisors' approval is based on approvals, permits, and/or inspections of various agencies on whether the event poses threat to public health and safety and any identified issues or permits must be cleared to the satisfaction of the approving / permitting agencies including:
 - o Clarke County Building Department
 - o Clarke County Fire and Rescue
 - o Clarke County Sheriff's Office
 - o Virginia Department of Health
 - o Virginia State Police
 - o Virginia Department of Transportation
- The ordinance [Code of Clarke County Chapter 57 Special Events] limits the number of events per year and the number of event days. Anything beyond the set number of events or event days requires a special use permit, a separate process through Clarke County's Planning and Zoning Department with review and approval by the Clarke County Planning Commission and the Board of Supervisors.
- The ordinance is not intended to forbid these activities but to limit to a certain timeframe that is not an excessive burden on neighbors.
- The current application meets the requirements.

Chairman Weiss, in response to Mrs. Fiddler's comment that the event was accessed via private gravel lane in a small, residential area, stated that from the County's perspective, it is a lane and accesses a property utilizing it for this event; and, the property owner has a right to utilize the lane.

Mrs. Fiddler commented that it wasn't that they did not have a right to use the lane but rather the event was more than three days of traffic and inconveniences and the traffic was more than car vehicles.

Chairman Weiss responded that this is a use that is permitted in the County for use within the parameters described by David Ash. He further pointed out that if the land was used for another purpose there could be a similar or larger amount of traffic throughout the year than this property generates using it for this annual event. He opined that there is always a property rights balance. The Board is trying to protect this property owner's rights by allowing him to conduct this event and the neighbor's property rights by placing regulations on such events. He opined that in the end not everyone is always happy at all times; however, the Board adopted the ordinance ten plus years ago prior to which there were no such regulations. He informed those present that a citizen committee was formed to create the ordinance, which took a great deal of time and effort to make it fair to the event organizers and the surrounding property owners. He concluded by noting only one event was held, a few days out of the year, on this property.

Chairman Weiss stated that the Board was sensitive to neighbors' concerns and took these matters seriously.

Supervisor Byrd provided Mrs. Fiddler with the packet materials specific to the special event permit application that included the staff report with event history.

At 6:55, Chairman Weiss closed the public comment portion of the public hearing.

Supervisor Catlett confirmed that the application contained a list of adjoining property owners and all received notice of the proposed three-year, medium event application.

Sam Creany confirmed that he mailed notice to all properties on the list the same day he presented his application to County Administration. He added that he had included on the list of properties to receive notice properties, such as the Fiddlers, that did not adjoin his property but were affected by the event.

Supervisor Byrd asked Mr. Creany to do his utmost to ensure dust control for these events with either water or chemical application.

Sam Creany assured Supervisor Byrd that he could do this and further offered to use a temporary speed bump to help slow speeds and reduce dust.

Supervisor Byrd asked about the rule on noise volume.

David Ash responded that the Noise Ordinance [Code of Clarke County Chapter 120 Noise] established the limit at 70 decibels at the property line.

Supervisor Daniel interjected that the ordinance also established a time limitation.

Chairman Weiss explained that from the beginning, it was never intended to make the sound of these events inaudible but whether they were bothersome, which is a subjective call. He stated that noise is difficult to monitor and moderate, which has always been a point. He noted that the applicant was aware of the issue and asked Mr. Creany what steps he planned to take to mitigate the problem.

Sam Creany responded that the amplified system is shut down at midnight, the established time limit for special events; and, music does not start before noon. He added that they had conducted decibel tests at the property line, which did not detect sound in excess of the established limit.

Vice Chair McKay commented that the Board was seeing improvements and the organizers were trying their best to make it less offensive. He informed those present that he lived across from a venue that conducts multiple events per year. He stated that he could hear the music but took it in stride as what happens with neighbors and was glad that people could do things that were different. He opined that while these things might upset some people he believed there was long-term good. He expressed support for placement of temporary speed bump to control dust and slow traffic.

Supervisor Catlett added that she would be interested in seeing the impact of the change in size at the venue.

Supervisor Byrd asked for 2018 attendance noting that it was down.

Sam Creany responded that 350 tickets were sold and, including staff, there were no more than 500.

Mrs. Fiddler asked for clarification on where noise should stop asserting that she thought she had heard it was to stop at the property line.

Chairman Weiss responded that the sound from the event should not be above 70 decibel points at property line, which is the established as a "reasonable" limit. He said that he could not tell how sound would affect her property noting such limits are arbitrary and reminded that the limit is not set so that neighbors cannot hear noise just that noise does not exceed 70 decibels at the property line.

Mrs. Fiddler stated that she could hear music inside her house.

Chairman Weiss stated that the Board understood that Mrs. Fiddler had issues with the music and the noise and would take it under advisement as it tried to meet everyone's needs. He stated that he did not wish to be rude; however, he did not wish to set a precedent by allowing Mrs. Fiddler to continue to talk and ask questions beyond the established time limit for persons addressing the Board during public comment periods.

Mrs. Fiddler continued her comments asking the Board to come to her home while the event was being held.

Chairman Weiss responded that the Board had heard and that Mrs. Fiddler had made her point.

Vice Chair McKay added that he had looked up on the internet what 70 decibels was and he read some examples: telephone dial tone 80 decibels; normal conversation at 3 to 5 feet 70 decibels; city traffic inside a car is 85 decibels.

Supervisor Catlett added that measurement was taken at the applicant's property line, which does not take into consideration wind or the way sound travels.

Supervisor Byrd added that she has heard from residents on Triple J Road and Senseny Road that say they also hear the music noting that wind, moisture, geography can affect how sound travels. She suggested to Mrs. Fiddler that if the music was too loud on the first night she contact Sheriff Roper and ask them to conduct decibel tests.

David Ash responded that it was not a simple test noting that there were established protocols for taking measurements that included background noise and other considerations. He opined that what is too loud or objectionable to some is not to others.

Chairman Weiss noted that in the past with other events the Board's criteria for re-approval has been if there are significant complaints, has the applicant attempted to mitigate and has the applicant continued to meet the criteria set forth in the ordinance.

Supervisor Byrd provided an example of a wedding event in Town where the police shut down the band due to noise complaints from neighbors.

Supervisor Catlett opined that, given the criteria, the applicant was addressing concerns and continuing to seek solutions.

Supervisor Byrd stated that all would be well if Mr. Creany did as he promised; and, if not, he would be back before the Board next year.

At 7:10 pm, Chairman Weiss called for vote.

Supervisor Catlett moved to approve subject to the following conditions:

- 1. Submission of \$450 application fees.**
- 2. Provide notice to County Administration 90 days in advance of the "To Be Determined" event dates and particulars as set forth in Code of Clarke County Chapter 57 Special Events.**
- 3. Submission of Building Department and Virginia Department of Health response / approval.**

- 4. Annual notification of event date[s] to County Administration.
- 5. Annual submission for each event insurance endorsement naming Clarke County as additional insured.

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

19) Adjournment

Chairman Weiss adjourned the meeting at 7:11 pm.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, February 19, 2019, at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: January 15, 2019

David S. Weiss, Chair

David L. Ash, County Administrator

Recorded and transcribed by Lora B. Walburn, Deputy Clerk to the Board of Supervisors