

March 19, 2013 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 Main Meeting Room, 2nd Floor Berryville Clarke County Joint Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia on Tuesday, March 19, 2013.

Board Members Present

Barbara Byrd; J. Michael Hobert; Bev McKay [evening session] John Staelin; David Weiss

Board Members Absent

Beverly McKay [afternoon session]

Staff Present

David Ash; Tom Judge; Brandon Stidham; Alison Teetor; Lora B. Walburn

Others Present

Robina Rich Bouffault; Ed Carter; Charlie Monroe; Stuart Dunn; Keith Dalton; Val Van Meter; and other citizens

1) Call to Order

Chairman Hobert called the afternoon session to order at 1:04 p.m.

2) Adoption of Agenda

Supervisor Staelin requested that the budget discussion be moved to the last item on the agenda evening agenda.

By consensus, the Board adopted the agenda as modified.

3) Citizens Comment Period

No citizens appeared to address the Board.

4) VDOT

Ed Carter, with Charlie Monroe, appeared before the Board to provide the monthly update.

Maintenance – March:

- Repaired shoulder along Rt. 340 N. on the south bound side at the West Virginia. Line;
- Used contractors to remove hazardous trees on Rt. 50 west bound and trim brush on routes 602, 628 and 643;
- Began ditching operations on Rt. 603 and brush removal on Rt. 642;
- Repaired numerous potholes on primary and secondary routes;
- Mobilized and responded to major snow event.

Maintenance – April:

- Continue ditching operations on Routes 601N, 603, 604, 606, 607, 643 and 679;
- Begin spring grading operations on all non-hard surfaced roads;
- Continue pothole repairs as they arise;
- Replace pipe on Rt. 606 off of Rt. 50;
- Begin demobilization of winter equipment and prep mowers and tractors for mowing season.

Projects:

- Turning Lanes Rt. 657/340 [Senseny Road and Route 340]: Awaiting approval.

Supervisor Comments:

Vice Chairman Weiss

- Route 603 Ditching:
 - VDOT plans to remove the boulder in the ditch right before the Bristow Lane area.
 - VDOT will clear as best it can roots exposed in the ditching efforts.
 - Citizens did not expect and are upset by the amount of the right-of-way taken back in the ditching efforts. Vice Chairman Weiss suggested talking with citizens first and offered to assist in those discussions.

- Citizens are concerned that widening the road might increase traffic speed.

Ed Carter informed the Board that ditching to improve water flow, a primary cause of road damage, was part of VDOT's effort to secondary roads maintenance costs.

- VDOT will re-grade the road after ditching is complete.

Supervisor Barbara Byrd:

- Route 611: VDOT will patch the low area on the turn near Stringtown Road once the asphalt plant reopens this spring.
- Allen Road: During the upcoming Secondary Six-Year Plan review, the Board can give VDOT direction on funding for pave in place.

Secondary Six-Year Plan: at the request of VDOT, review of the Secondary Six-Year Plan was added to the April 8 Work Session.

5) Clarke County Public Schools Update

Dr. Mike Murphy, Superintendent, appeared before the Board to provide the monthly update. Highlights include:

- The Supervisors will be receiving an invitation to the Community Kick Off from Valley Health Systems on April 15 at 10 am at the Winchester Medical Center to hear about a community partnership to expand health and medical science courses for high school students.
- VACo developed the following:

NEW REQUIREMENTS ON LOCAL SCHOOLS ADOPTED BY THE 2013 GENERAL ASSEMBLY

HB 2028 (Dudenhefer)/SB 986 (Stuart) Requires increased training for school personnel in CPR and the use of AEDs; requires students to complete training in CPR and AEDs as a condition of graduation; and requiring school-wide CPR drills.

Unfunded- Policy Implications

HB 2068 (LeMunyon)/SB 1171 (Blevins) Requires local school division to provide early reading intervention for students in Grades K-2, and algebra readiness intervention for students in Grades 6-9.

Underfunded -Policy Implications

HB 2098 (Tata)/SB 1189 (Martin) Requires any school board that has requested a release from certain state regulations to provide a description of how such a release is designed to

increase the quality of instruction and improve the achievement of students in the affected school or schools.

Policy Implications

HB 2151 (Bell, R.P.)/SB 1223 (Norment) Requires teachers, assistant principals, and principals to be evaluated every year, either formally or informally, and such evaluations to include student academic progress as a significant component and an overall summative rating.

Unfunded -Policy Implications

HB 2344 (Cole) Requires local school divisions to develop policies and procedures for the establishment of threat assessment teams in each school, to be overseen by a division-level committee.

Underfunded- Policy Implications

HB 2346 (Ransone) Requires each school safety audit committee to conduct a school inspection walk-through using a standardized checklist; requires each school division to designate an emergency manager; and requires each public school to conduct at least two lock-down drills each year.

Unfunded- Policy Implications

SB 1324 (McDougle) Requires certain school that has been denied accreditation be transferred to the state-run Educational Opportunities Institution and remain in the Institution for five years or until the school achieves full accreditation. The bill also requires that the state and local share of Standards of Quality per pupil funding and certain other local school division funds be transferred to the Institution.

Underfunded -Policy Implications

Comments as offered by the Virginia Association of Counties with the assistance of the Virginia Municipal League and the Commission on Local Government. Please note that legislation is not official until signed by the Governor.

Unfunded- Underfunded- Funded- Policy Implications

HB 1350 (Albo) Requires local school divisions to provide math remediation in Grades 6-8 for students who show computational deficiencies.

Underfunded- Policy Implications

HB 1406 (Bell, R.P.) Requires school divisions to provide eating disorder information to parents annually from Grade 5-12, using Department of Education guidelines.

Unfunded- Policy Implications

HB 1420 (Pogge) Requires the Board of Education to develop regulations defining "intervener" as an individual who can communicate to the deaf-blind student what is occurring in the student's educational setting. By adding this definition to the regulations, the service of an intervener could be included in student Individual Education Plans.

Unfunded- Policy Implications

HB 1468 (Greason)/SB 893 (Howell) Requires local school boards to include in policies for the possession and administration of epinephrine, a provision adding any employee of a local governing body or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to administer the drug to any student believed to be having an anaphylactic reaction.

Unfunded- Policy Implications

HB 1871 (McClellan) Requires school boards to adopt anti-bullying policies.

Unfunded- Policy Implications

HB 2019 (LeMunyon) Requires school divisions to post all regulations and policies on the divisions' web sites.

Unfunded- Policy Implications

- School Board held a retreat and developed the following strategic plan

**Clarke County Public Schools Plan on a Page
2013-2015**

MISSION [Corporate]

With the support of our community, we will provide a high quality education for all our children in a safe and secure environment which will prepare them as responsible and productive citizens in their communities.

VISION [Division/School Board/School/Departmental/Individual]

The "vision" paints a picture of what we want individuals, departments, the division to become and what we want them to be; it unifies and aligns.

VALUES & BELIEFS [Corporate]

- We will provide a safe and secure learning environment.
- We will encourage excellence and celebrate accomplishments.
- We will prepare our graduates for work, higher education and life in a global society.
- We endeavor to maximize learning opportunities for all students with available resources.
- We are responsive to our students, staff and take into account the desires of our constituencies.
- We will be transparent, accountable, and good stewards, allocating funds to the areas of greatest need.
- We will promote education as a shared responsibility of students, teachers, parents and our community.

- We will employ qualified, caring, ethical, and competent personnel and provide opportunities for their growth and development.

GOALS *[Division/School Board/School/Departmental/Individual]*

Goal 1 – Improve Student Achievement

Goal 2 - Optimize Resources

Goal 3 - Strengthen Parent Engagement and Community, Business, and Corporate Partnerships

Goal 4 - Provide a Safe and Orderly Learning Environment

Goal 5 - Foster Diversity and Inclusion

GUIDING PHILOSOPHY *[Corporate]*

Continuous Improvement

- School Board developed the following:

“Report Card of the Clarke County School Board”

Our constituents should hold us accountable for:

1. Hiring qualified and competent personnel (e.g., superintendent, staff, and teachers) as measured by academic or certification credentials and performance assessments.
2. Providing opportunities for staff development and training to enhance skills and competencies.
3. Demonstrating excellence in our students as measured by test scores and other performance measures, including graduation rates and success, in individual, group and team competitions.
4. Preparing our graduates to participate as successful students in advanced post-high school) programs and as productive members of the work force.
5. Providing multiple program opportunities for students at all academic levels as measured by the number and success of student enrolled in IB, AP, Dual Enrollment, technical training, certification programs, special needs and other programs.
6. Preparing a needs-based budget and advocating passage of that budget with funding agencies.
7. Communicating the need of the school division and lobbying for the funds necessary to support its programs.
8. Being transparent, accountable, good stewards of available resources and responsive to questions and concerns.
9. Providing facilities that are safe and secure for students, staff, and community members.
10. Reporting our strengths and those areas in need of improvement, including efforts to address identified deficiencies.
11. Planning for the future.

- Elementary Renovations:

- Architects have entered the construction development document phase.
- Looking at a single project called D.G. Cooley Elementary School with one bio-retention filter and a relatively small classroom addition.
- Working through many issues including security cameras, access to accommodate buses and parents, strategic planning to slow traffic, etc.
- No asbestos found in the former high school.
- School Board requested a list of add alternates at its last meeting.
- No renovations are planned for D.G. Cooley and Primary elementary schools.
- Architects and engineers are working with the Planning Commission to set review dates potentially April or May.
- Renovation moving forward quite nicely at this time.
- Architects will be asked to develop plans for replacement entry stairs at Primary.
- Architects have offered to perform a safety and security assessment to identify areas to improvement.
- High School: considering the addition of an outdoor learning lab concept at the high school for students in the agricultural and construction programs.
- Boyce Elementary: contemplating the addition of an outdoor learning lab in the form of a large picnic shelter style pavilion with no accessories.
- School Board member Jim Brinkmeier has requested health and safety assessments at the Annex and Primary.
- Responses to questions posed by Dr. Caldwell at the March 19 public meeting are posted on the School's website and Dr. Murphy will provide to Dr. Caldwell and the Supervisors.
- Dr. Murphy Responses to questions from Chairman Hobert:
 - Replacement windows former high school: Item is a bid alternate and it is believed to be relatively inexpensive to replace the panelized windows.
 - Door replacement: Several doors have will be replaced.
 - Tile replacement: Consider replacement of all tile in the main corridors.
 - Clerk of the Works: This is under consideration by the School Board.
 - Safety and Security: will use existing equipment where possible.
 - Furniture and Equipment: will use existing where possible.
 - The School Board has developed a list.
- Power Outage: Power outage did a great deal of damage across the division with light, door, and ceiling sensors, light ballasts, surge protectors, fuses, copiers and

printers. Johnson Williams Middle School and Clarke County High School suffered the greatest damage. Damage was reported to the insurance company and the Schools are seeking reimbursement.

Chairman Hobert encouraged Dr. Murphy to follow up with Rappahannock Electric for reimbursement of damages resulting from the recent power outage.

- Snow Damage: The insurance carrier declared a total loss of a Maintenance truck damaged during a recent snow. The Schools will keep the truck for potential uses but will be looking for a replacement vehicle.

6) Approval of Minutes

Supervisor Staelin corrected Book 21 Page 325: Add not last sentence paragraph one.

Tim Keiffer, Allen Road resident: opined that Allen Road was a mess year round being dusty, muddy and/or potholed. He asked if the Supervisors and VDOT would consider paving in place. He opined that it was *not* necessary to widen the road.

Supervisor Staelin moved to approve the minutes for February 19, 2013 Regular Meeting as corrected. The motion carried by the following vote:

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

7) Consent Agenda

A. Virginia Housing Development Authority Locality CEO Support Letter

Jim Chandler
Virginia Housing Development Authority
601 South Belvidere Street
Richmond, Virginia 23220

VHDA Tracking Number:	<u>2013-C-42</u>
Development Name:	<u>Orchard Court</u>
Name of Owner Applicant:	<u>TBD</u>

Dear Mr. Chandler:

The construction or rehabilitation of the above-named development and the allocation of federal housing tax credits available under IRC Section 42 for said development will help to meet the housing needs and priorities of Clarke County

Accordingly, Clarke County supports the allocation of federal housing tax credits requested by TBD for this development.

Yours truly,
David L. Ash, County Administrator

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

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

8) Special Event Permit Application Pasture Palooza: Medium, Multi-Year Event June 2013, 2014, 2015

To: Board of Supervisors
Date: March 19, 2013
Special Event Permit Application Pasture Palooza, 339 Minniewood Lane, Berryville
Applicant / Event Director: Trevor Creany
Medium Event: 500 to 999 persons attending
Multi-year: 2013, 2014, 2015
2013 Date: June 28, 29, 30

Recommendation: Approve multi-year application contingent upon receipt of outstanding items below.

Responses Received from:	Outstanding Items:
<ul style="list-style-type: none"> ✓ Building Official ✓ Health Department ✓ Sheriff's Office ✓ Virginia State Police ✓ VDOT [Received 3/19/2013] 	<ul style="list-style-type: none"> ✓ Insurance Endorsement Naming County as Additional Insured ✓ Responses From: <ul style="list-style-type: none"> <input type="radio"/> John H. Enders

Note: The Board conducted public hearing [PH 12-05] on May 15, 2012 to review the Special Event Permit for Pasture Palooza when it transitioned from a small to a medium size event. No objections were raised prior to or during the public hearing. Further, no complaints have been received by County Administration.

§ 57.6. Action on applications. For Medium Special Events, the Board shall consider the application and agency comments and shall approve the application, incorporating such reasonable terms and conditions as may be established, deny the application, or set a public hearing on the application for the next regular meeting of the Board. If a public hearing is set, after the public hearing at the next regular meeting, the Board shall approve the application, incorporating such reasonable terms and conditions as may be established or deny the application.

The Board may approve any number of Special Events for multiple years at the same location.

David Ash reviewed the application. Points raised include:

- VDOT approval was received in Administration this morning.
- No complaints have been received from the three previous events.
- Public hearing was conducted last year when the event transitioned from a small to a medium event.
- The midnight performance end time is in compliance with § 57.7. *Special Event requirements. Event hours. Unless specifically approved by the reviewing entity, no stage presentation, music, dance, or other performance or activity shall take place at a Special Event between the hours of 12:00 a.m. and 7:00 a.m.*

Supervisor Byrd moved to approve the Multi-year Special Event Permit Application for Pasture Palooza contingent upon receipt of outstanding items. The motion carried as follows:

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

9) Special Event Permit Application Full Moon Field Festival June 2013: Medium Event

To: Board of Supervisors
Date: March 19, 2013
Special Event Permit Application Full Moon Field Festival, 1691 Swimley Road, Berryville
Applicant / Event Director: Jennifer Cossette, Event Organizer [Douglas Malick additional contact]
Medium Event: 500 to 999 persons attending
Date: June 14, 15, 16, 2013

Recommendation: Set for public hearing at the April 16, 2013 regular meeting. In 2013, Full Moon Field Festival is transitioning from a small [150 to 499 approved in 2010, 2011, 2012] to a medium [500 to 999] event.

Responses Received from:	Outstanding Items:
<ul style="list-style-type: none"> ✓ Building Official ✓ Health Department ✓ Sheriff's Office ✓ Virginia State Police 	<ul style="list-style-type: none"> ✓ Insurance Endorsement Naming County as Additional Insured ✓ Responses From: <ul style="list-style-type: none"> <input type="radio"/> John H. Enders <input type="radio"/> VDOT

§ 57.6. Action on applications. *For Medium Special Events*, the Board shall consider the application and agency comments and shall approve the application, incorporating such reasonable terms and conditions as may be established, deny the application, or set a public hearing on the application for the next regular meeting of the Board. If a public hearing is set, after the public hearing at the next regular meeting, the Board shall approve the application, incorporating such reasonable terms and conditions as may be established or deny the application.

The Board may approve any number of Special Events for multiple years at the same location.

Chairman Hobert reviewed the application.

David Ash stated that Administration has received no complaints regarding the three prior permitted events.

Supervisor Byrd moved to set the matter for public hearing at the April 16, 2013 Board of Supervisors Regular Meeting beginning at 6:30 pm or as soon thereafter as the matter may be heard at the Clarke County Recreation Center 225 Al Smith Circle
The motion carried by the following vote:

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

10) Set Public Hearing For Lease of:

A. 106 North Church Street

David Ash advised that as instructed by the Board he had negotiated with several individuals interested in leasing this building and was recommending lease to Dunn Land Survey. Highlights of his review include:

- ✓ Rent \$550/month.
- ✓ Utilities are included in the rent since they cannot be separately metered.
- ✓ 3-year lease agreement with an option for an additional three years.

- ✓ Use of two parking spots in the paved lot and allowance for overnight parking in the unpaved areas at the courthouse complex.
- ✓ Exterior signage is allowed subject to approval.

Mr. Ash concluded his review by requesting the matter be set for public hearing.

Chairman Hobert asked staff to check with the County Attorney regarding possible inclusion in the agreement of a statement of fitness noting that the property had no water or sewer

Supervisor Staelin asked questions specific to signage. Stuart Dunn responded that he contemplated a small sign on the door or, if possible, a sign on the brick side of the building facing south. He assured that signage would be in accordance with town ordinance and with approval from the Board of Supervisors.

Supervisor Byrd moved to set the matter for public hearing at the April 16, 2013 Board of Supervisors Regular Meeting beginning at 6:30 pm or as soon thereafter as the matter may be heard at the Clarke County Recreation Center 225 Al Smith Circle The motion carried by the following vote:

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

B. 36 East Main Street

David Ash advised that he had also negotiated with several individuals interested in leasing this building and was recommending lease to Help With Housing, Inc. Highlights of his review include:

- ✓ Lease will include the house area, the front yard and the back area where the modular addition once sat.
- ✓ Lease gives specific permission to sublease to FISH, another non-profit.
- ✓ Rental sum is \$100 per year for 5 years, payable in advance.
- ✓ Lease provides an option to extend for an additional 5 years with ability of the Board of Supervisor to adjust the rate at that time.
- ✓ Help With Housing is given the responsibility to make all improvements to the building that might be necessary and is responsible to maintain the building with the exception of the roof, sidewalls and basement boiler.

- ✓ The County has disclosed to the lessee that it does not believe the basement is appropriate for storage and has acknowledged water infiltration problems in storm conditions.
- ✓ Lease includes three marked parking spaces in gravel lot immediately behind the building for HWH's reserved use.
- ✓ Grassy area behind 36 East Main:
 - HWH has requested use of the grassy area behind building for special events such as the occasional fundraiser.
 - HWH would be responsible for restoring any damage to area;
 - Agreement to be modified to include: *Grassy area use subject to availability and subject to the approval of the County Administrator, who will apply the standards that the Board will from time to time develop.*
- ✓ Exterior signage, permanent and temporary, is permitted subject to restrictions imposed by the Town and subject to approval by the County.
- ✓ Building modifications will be allowed and to specifically disclose, in addition to the basement, a difference of opinion regarding the suitability of the rear porch on the building. The County questions whether the porch should remain and whether it is worth the cost of improving for the value of the enclosed space provided. At this time, HWH believes it is worth improving and repairing to extend the life and increase the space. The County will leave the final decision to HWH as to the utility of the space; and upon the written consent of the lessor, to improve it or remove it at the lessee's expense.
- ✓ The garage is used by County Maintenance for storage and is not part of the lease agreement.

Supervisor Staelin questioned whether FISH would require retail use, as well as office space noting that it stored food for its food bank and sold clothing at its other location.

Chairman Hobert questioned if there could be potential zoning issues.

Vice Chairman Weiss suggested that FISH present a use plan to the Board of Supervisors.

David Ash stated that he would call this to the attention of HWH and FISH.

Supervisor Staelin moved to set the matter as revised by Supervisors' comments at its March 19, 2013 meeting for public hearing at the April 16, 2013 Board of Supervisors Regular Meeting beginning at 6:30 pm or as soon thereafter as the matter may be heard at the Clarke County Recreation Center 225 Al Smith Circle The motion carried by the following vote:

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

11) Set Public Hearing Conservation Easement Purchases

MEMORANDUM

TO: Clarke County Board of Supervisors

FR: Thomas Judge, Director of Joint Administrative Services

DT: March 14, 2013

RE: *Setting of Public Hearing for Conservation Easement Purchases*

There are three Conservation Easement purchases that are near closing: Arkfield, and two Moore and Dorsey properties. The total expenditure for these easements is \$805,282. The local share for the three purchases, \$37,492, is budgeted, along with \$1,811 for the local share of closing costs. It is necessary to increase expenditures and revenue to account for the portion of the purchases associated with funding from Farm and Ranchland Protection, Virginia Land Conservation, Virginia Department of Agriculture and Consumer Services, and the Piedmont Environmental. This will retain an appropriation of \$76,176 of local funds, as a portion of the \$378,872 balance of local amounts in the fund, thereby enabling future matches. To accomplish this, the following action is recommended:

“Be it resolved that a public hearing be set on April 16, at 6:30 pm or as soon as the matter may be heard, for the purpose of amending the FY 13 budget to increase expenditures and appropriations by \$766,079, and to recognize revenue from State, Federal, and private sources in the amount of \$766,079, all for the purpose of purchasing conservation easements on three properties located in the County of Clarke.”

Tom Judge and Alison Teetor appeared before the Board to review the request to set public hearing.

Vice Chairman Weiss moved to set the matter for public hearing at the April 16, 2013 Board of Supervisors Regular Meeting beginning at 6:30 pm or as soon thereafter as the matter may be heard at the Clarke County Recreation Center 225 Al Smith Circle. The motion carried by the following vote:

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

12) Personnel

A. Expiration of Term for appointments expiring through June 2013.

3/11/2013 Summary: The Personnel Committee discussed potential appointments to various boards and:

- Endorsed the recommendation of Supervisor David Weiss to appoint Douglas M. Kruhm to the unexpired term of Richard Thuss, Clarke County Planning Commission Buckmarsh District, effective immediately and expiring April 30, 2014.

3/19/2013 Summary: Vice Chairman Weiss extended best wishes to Mr. Thuss in his new endeavors that prevent his continued service and thanked him for his service on the Planning Commission.

David Weiss moved to approve the appointment of Doug Kruhm. The motion carried by the following vote:

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

- The Personnel Committee recommends the appointment of Ralph M. Welliver to the Clarke County Sanitary Authority to fill the unexpired term of Harry C. Jones appointment expiring June 30, 2016
- The Personnel Committee recommends the re-appointment of George Ohrstrom, II to serve a three-year term on the Berryville Area Development Authority expiring March 31, 2016.

Supervisor Byrd moved to approve the recommendations of the Personnel Committee. The motion carried by the following vote:

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

13) Board of Supervisors Work Session Items

At the Monday, March 11, 2013 Board of Supervisors Work Session, the Board amended the agenda to add Items C and D.

A. Stormwater Management Program Update

3/11/2013 Summary: Brandon Stidham, with representatives from the Center for Watershed Protection, provided an update on the status of the County's stormwater management program. CWP employees complimented the Board on being ahead of the curve but explained that it would be wise to request a one-year extension on the implementation of the plan as many of DEQ's regulations were still in draft form and extra time would allow the County the opportunity to further investigate cost-sharing opportunities with other localities within the planning district. CWP employees agreed to provide information regarding "hot spot" remediation guidance to the Planning Department.

B. Welcome To Clarke County Signage

3/11/2013 Summary: Subsequent to discussing the need for additional signage, the Board directed that the two proposed signs be installed as planned on Route 7 East and Route 50 East and that the cost of installing additional signs be investigated and provided to the Board at their next regular meeting.

C. White Post Dairy Update on Manure Spill

3/11/2013 Summary: Alison Teetor updated the Board on the most recent issue regarding the accidental release of 5,000 to 10,000 gallons of manure from the White Post Dairy operation onto adjacent property. Board members discussed the continuing issues with the White Post Dairy operation and more particularly the apparent unwillingness of DEQ to adequately monitor and enforce operational regulations. Additional information and action by DEQ has been promised by week's end. The Board directed the Natural Resource Planner to update the Board at the regular meeting.

3/19/2013: Alison Teetor provided a PowerPoint presentation including photographs taken by DEQ shortly after the spill occurred. She distributed to the Board email exchanges pertaining to the escape. Highlights of her update include:

- Between 5,000 to 10,000 gallons of liquid manure was spilled.
- Manure ran down a ditch and onto a neighboring property stopping in a marshy area near the beginning of Long Branch Creek.
- Ms. Teetor conducted a site visit on March 5 and saw an area approximately 200 yards long and 20 feet wide where residue remained on the ground.
- Water Sampling:
 - DEQ has indicated that it will not test Long Branch Creek because the flow did not reach that far.

- DEQ has four monitoring wells near White Post Dairy that are tested quarterly; however, DEQ does not test water quality off the property.
 - DEQ will consider water sampling data provided by other parties.
 - Alison Teetor and Karen Anderson, Friends of the Shenandoah River, have worked together to collect and test water samples from Long Branch Creek, Providence Spring, and the Montana Hall Spring, along with the Roberts' well and that of another neighbor to the dairy, Leander McMillen.
 - With no previous testing to provide a baseline, there is no way to tell if nitrate or coliform levels in water sources were the result of the spill.
- DEQ has indicated that a citation will be issued but the amount of the fine has not yet been determined.

Alison Teetor concluded her presentation by recommending additional water sampling at two-week intervals at a cost \$600 per sampling run of the five water sources. She noted that the County had already spent \$1,000 on water samples.

Following discussion, the Board unanimously agreed to conduct two more water samples in the next month for an additional \$2,400.

Chairman Hobert noted that the manure spill occurred on March 3 but clean up did not start until March 8.

The Supervisors asked Ms. Teetor to coordinate an update from DEQ for its April 8 work session on April 8. The Supervisors also agreed to provide DEQ with a list of questions in advance of the meeting.

The Supervisors also commented on previous issues at White Post Dairy.

D. FY2014 Budget Discussion

3/11/2013 Summary: Board members were provided copies of the Finance Committee's work sheets and were briefed on the current status of the budget formulation process.

14) Finance Committee Items

Tom Judge reviewed the Finance Committee recommendations made at its March 11, 2013 meeting.

1. FY 14 Budget Discussion.

03/11/2013 Action: The Committee reviewed the FY 14 budget. The only change made was to reduce the General District Court by \$1,000.

2. Acceptance of Bills and Claims

Supervisor Byrd moved to accept the recommendation of the Finance Committee to approve the February 2013 General Government Bills and Claims as presented. The motion carried by the following vote:

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

3. Standing Reports

General Fund Balance. Reconciliation of Appropriations. Capital Projects Status. General Government Expenditure Summary. Information Only

15) Joint Administrative Services Board Update

Tom Judge provided the following update:

- The JAS Board took action to approve the health insurance rates for FY 14 that has been subsequently approved by the School Board. It is requested that the Board of Supervisors take an affirmative action as follows:

"Be it resolved that the FY 14 Health Insurance rates be approved as presented".

Vice Chairman Weiss moved to approve the FY2014 Health Insurance rates as presented. The motion carried by the following vote:

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

FY 14 Monthly Health Benefit Rates

Effective 7/1/2013

Source: Joint Administrative Services

A. Plan Rates	<u>Cost</u>	<u>Employer</u>	<u>Employee</u>	<u>Employer FY 14 Share</u>	<u>Employer FY 13 Share</u>
KA 250 Plan Option					
<i>Regular Full Time</i>					
Single	536.00	456.65	79.35	85%	85%
Dual	992.00	498.02	493.98	50%	50%
Family	1,447.00	727.34	719.66	50%	50%
<i>Transportation, Food Service & Other</i>					
Single	536.00	385.31	150.69	72%	72%
Dual	992.00	420.22	571.78	42%	42%
Family	1,447.00	613.72	833.28	42%	42%
KA 500 Plan Option					
<i>Regular Full Time</i>					
Single	497.00	456.65	40.35	92%	92%
Dual	919.00	498.02	420.98	54%	54%
Family	1,342.00	727.34	614.66	54%	54%
<i>Transportation, Food Service & Other</i>					
Single	497.00	385.31	111.69	78%	78%
Dual	919.00	420.22	498.78	46%	46%
Family	1,342.00	613.72	728.28	46%	46%
TLC High Deductible					
<i>Regular Full Time</i>					
Single	409.00	409.00	.00	100%	100%
Dual	757.00	465.25	291.75	61%	61%
Family	1,104.00	677.56	426.44	61%	61%
<i>Transportation, Food Service & Other</i>					
Single	409.00	345.11	63.89	84%	84%
Dual	757.00	382.57	364.43	52%	52%
Family	1,104.00	571.71	532.29	52%	52%
B. Account Contributions					
<i>Regular Full Time</i>					
TLC Health Savings Account Contribution (single)		47.65			
TLC Health Savings Account Contribution (dual)		32.77			
TLC Health Savings Account Contribution (family)		49.79			
<i>Transportation, Food Service & Other</i>					
TLC Health Savings Account Contribution (single)		40.20			
TLC Health Savings Account Contribution (dual)		27.65			
TLC Health Savings Account Contribution (family)		42.01			

Highlights from Mr. Judge's Joint Administrative Service Board update include:

- Researched the creation of a fraud hotline but no action was taken to implement.
- Reviewed health care reform issues. Of note, employees working an average of 30 or more hours per week will become eligible for health insurance.

Following discussion, by consensus, the Board instructed Tom Judge to write a letter to federal delegates concerning the reduction of Build America Funds.

16) FY2014 Budget Discussion

By consensus of the Board, FY2014 Budget discussion was moved to the final item on the evening session agenda.

17) Government Projects Update

The monthly project update was provided by David Ash. Highlights include:

- 100 North Church Street
 - o Preliminary cost received last week.
 - o Have a budget of \$325,000 and over \$500,000 of identified repairs including HVAC replacement that would have a rapid pay back.
 - o Meeting this week to discuss needs and what can be done with Maintenance and Sheriff's department staff.
- 101 Chalmers Court
 - o HVAC repairs underway
 - o Currently working on 1st floor of the Town Wing
 - o April meeting will be held in the multi-purpose room at Parks and Recreation. Anticipate will be working in the meeting room wing.
 - o Anticipate completion by mid-June including balancing.
 - o Payment discussions are occurring simultaneously with repairs.
- 225 Al Smith Circle – Senior Center
 - o Project is complete.

18) Miscellaneous Items

No items were put forward for inclusion on the agenda.

19) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Add review of the Secondary Six-Year Plan to April 8 Work Session.	David Ash
2.	Correct and process approved minutes.	Lora Walburn

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
3.	Execute and forward Virginia Housing Development Authority Locality CEO Support Letter.	David Ash
4.	Send notice of approval for Pasture Palooza.	Lora Walburn
5.	Develop and process public hearing notice for Full Moon Field Festival.	Lora Walburn
6.	Provide notice of public hearing to applicant for Full Moon Field Festival.	Lora Walburn
7.	Revise agreement on 36 East Main; allow them to use customary use; clarify use of grassy area.	Archana McLoughlin
8.	Check with the County Attorney to on the suitability of including a statement of fitness noting that the property had no water or sewer for 106 North Church agreement.	David Ash
9.	Develop and process public hearing notice for 106 North Church and 36 East Main.	Lora Walburn
10.	Develop and process public hearing for conservation easement purchases.	Lora Walburn
11.	Update appointments database and process appointments.	Lora Walburn
12.	Execute individual notice of appointment letters.	J. Michael Hobert
13.	Invite DEQ to the April 8 Work Session to provide an update on the White Post Dairy March 2013 accidental manure spill.	Alison Teetor
14.	Draft a letter to federal delegates concerning the reduction of Build America Funds.	Tom Judge
15.	Develop and process FY2014 budget and tax rate public hearing notice.	Tom Judge
16.	Process Resolution To Approve RZ-12-012013-05R.	Lora B. Walburn
17.	Execute Resolution To Approve RZ-12-012013-05R.	Lora B. Walburn

20) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Social Services: hope to name replacements for Board of Social Services members at its March 20 meeting.

- Northwestern Juvenile Detention Center: looking for new director;
- Northwestern Regional Adult Detention Center: The Director has been approved as permanent. Opening of an additional pod was removed from the budget but with a clear understanding that while the budget changed the conditions that would necessitate opening the pod remain the same; therefore, the Northwestern Regional Jail Authority has instructed the Director to contact other jails and try to negotiate agreements to relocate inmates.
- Clarke County Humane Foundation: Received a check in the amount of \$1,400 from Clarke County Horse to be used to set up a special fund to aid horses that are rescued and brought to the Clarke County Animal Shelter for care.
- Clarke County Library Advisory Board: Looking for members to fill vacancies.

Supervisor John R. Staelin

- Sanitary Authority: Continuing to make progress on the water agreement.
- Planning Commission:
 - Brandon Stidham advised that work continues on the Comp Plan.
 - Developing the next process phase with Milt Herd that will include targeted round table discussions focusing on industry specific topics.

Vice Chairman Weiss:

- Easement Authority: Continues to receive applications for review and potential easement.

21) Closed Session

No Closed Session was conducted at the March 19, 2013 regular meeting.

At 3:22 pm Chairman Hobert recessed the meeting.

At 6:34 pm Chairman Hobert reconvened the meeting.

22) Citizen's Comment Period

No citizens appeared to address the Board.

23) PH 13-04: Public Schools Carryover

Consider Clarke County School Board request to increase budgeted expenditures and appropriations from prior year unspent funds: a) \$108,200 to the School Operating Fund for the purchase of textbooks and teacher evaluation technology; and b) \$272,118 to the School Capital Projects Fund for the purchase of smart boards, a fleet radio system, and an ERP system.

Tom Judge summarized the School Board’s request for carry over funds. He explained that the items purchased with the carry over funds are one-time expenditures.

Dr. Murphy provided the following:

- Explained that teacher evaluation technology expenditure was to purchase IPADS for paperless teacher evaluations.
- The Schools are planning to use the requested \$108,200 to purchase textbooks and are planning to purchase FY2014 text books in FY2013.
- The Schools would like to develop a prioritized list to present to the Board of Supervisors for the use of any FY2013 carry over funds.

At 6:39 pm, Chairman Hobert opened the public comment portion of the public hearing. There being no persons desiring to address the matter the Chairman closed the public comment portion of the public hearing.

Supervisor McKay stated that he would like to see the Schools direct more funds to ERP implementation.

Supervisor Staelin added that some jurisdictions have “use it or lose it” policies however Clarke’s policy allows for more thoughtful deliberation of expenditure of funds remaining at the end of a fiscal year.

There being no further comment Chairman Hobert closed the public hearing at 6:45 pm.

Vice Chairman Weiss moved to approve the School Board’s request for FY2012 carry over funds. The motion carried by the following vote:

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

- 24) PH 13-02: Text Amendment - TA-12-05 Proposed text amendment to add a new section, §3-E-3-e-5, Approval Expiration, to the Clarke County Zoning Ordinance

The purpose of the text amendment is to limit the validity of Certificates of Appropriateness issued by the Historic Preservation Commission to five years and to establish a process for certificate holders to request reasonable time extensions based on established criteria. The new process would mirror the current process for approval expiration of site plans.

Brandon Stidham reviewed the proposed text amendment TA-12-05.

At 6:47 pm, Chairman Hobert opened the public comment portion of the public hearing. There being no persons desiring to address the matter the Chairman closed the public comment portion of the public hearing.

Chairman Hobert noted that the Planning Commission unanimously recommended approval.

Supervisor Staelin moved to approve text amendment TA-12-05 as presented. The motion carried by the following vote:

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

Amendment Text (new or amended language in bold italics):

3-E-3-e-5 Approval Expiration

Unless a final Certificate of Occupancy has been issued for the structure or structures described in the Certificate of Appropriateness, an approved Certificate shall no longer be valid after five years from the date of issuance by the Preservation Commission. Upon application of the developer filed before expiration of the Certificate, the Preservation Commission may grant one or more extensions of such approval for additional periods as the Preservation Commission, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:

- 1. Whether a building permit has been issued;***
- 2. Whether substantial construction work has been completed;***
- 3. The size and phasing of the project; and***
- 4. The laws, ordinances, and regulations in effect at the time of application for the extension request.***

25) PH 13-03: Amendment (RZ-12-01)

Mahlon A. Jones (D&B Management Services, Inc., property owner) requests a conditional rezoning from Agricultural-Open Space-Conservation (AOC) to Highway Commercial (CH), and approval of a Site Plan for a convenience store with gasoline sales. Property is located at 3355 Lord Fairfax Highway (US 340), Buckmarsh Electoral District, and is referenced as Tax Map Parcel #8-1-2.

Brandon Stidham summarized the request for conditional rezoning RZ-12-01. He provided a PowerPoint presentation including color photographs of the subject property.

At 7:34 pm Chairman Hobert opened the public comment portion of the public hearing. Being no persons present desiring to address the Board, the Chairman closed the public comment portion of the public hearing.

Evan A. Wyatt, AICP – Greenway Engineering, provided a presentation to the Supervisors including an historical overview of the project. Mr. Wyatt stated that with the latest plan revision he hoped his client, Mahlon Jones, had addressed the concerns expressed during the public meetings included lighting and road safety improvement. Highlights of his presentation include:

- Adjoining property was purchased to improve the proposed turn lane.
- Buildings close to the right of way will be removed.
- Evergreens, shrubs, and deciduous trees will be planted for screening.
- Pavement from the front of the property will be removed.
- Lighting:
 - Down-cast lighting will be used so that no light will spill over onto adjacent properties.
 - There will be no illuminated canopy.
 - The store will have no side windows.
- Fuel tank is contained, alarmed, and double-walled with a brine area and is state of the art meeting EPA standards for containment and California standards for earthquake.
- Results from electro-resistivity tests and borings indicate soils are clay, a good liner; with no significant karst in the area.
- Architectural rendering was designed in conjunction with Maral Kalbian, Architectural Historian.

Mr. Wyatt responded to Supervisor Staelin's question about retail sales projections stating that sales, excluding gasoline sales, are estimated at \$200,000 per month including cigarette sales.

Vice Chairman Weiss opined that Mr. Wyatt had provided a thorough presentation of a complex issue that had addressed his concerns, primarily lighting and transportation.

Supervisor McKay commented that the proposed design was attractive and the plan would improve traffic safety and improve lighting systems on the site and are dark-sky compliant.

At 7:37 pm, Chairman Hobert opened the public comment portion of the public hearing. There being no persons desiring to address the matter the Chairman closed the public comment portion of the public hearing.

Supervisor Byrd reminisced about the various establishments conducting business at this site over the years. She opined that the proposed design was attractive and would improve a dangerous road.

Supervisor Staelin stated that the wording of the resolution helped to address his concerns. He explained that in the Planning Commission he had voted against approval because at the time the way it was processed did not make it clear how this site was different from other sites in the county and he had been concerned that approval would establish a precedent. He continued that his primary reason for supporting approval was road safety improvement for it was a very busy store otherwise this location would not generally be where you would place a new business in the County.

Vice Chairman Weiss moved to adopt the Resolution to Approve RZ-12-01. The motion carried by the following vote:

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

Mr. Mahlon Jones thanked the Supervisors for their consideration. He stated that it was his sincere desire to be a good neighbor.

**Resolution To Approve RZ-12-01
2013-05R**

WHEREAS, the applicant's property (Tax Map Parcel #8-1-2) has been used for a number of different commercial purposes since the mid-1950's, prior to the enactment of a zoning ordinance in Clarke County; and

WHEREAS, from time to time since the mid-1950's, a restaurant and pumps for the retail sale of gasoline have been located on the property, in addition to the continuous location of a convenience store on the property; and

WHEREAS, by virtue of §5-B-5 of the zoning ordinance, the property is currently deemed to have a special use permit for a retail and service business use; and

WHEREAS, conditional rezoning from Agricultural-Open Space-Conservation (AOC) to Highway Commercial (CH) is now being requested by the applicant in order for the property to continue to be used as a retail convenience store with the addition of gasoline sales; and

WHEREAS, in order for the property to be used for the proposed use, the applicant has voluntarily provided substantial proffers to govern the site development and to ensure quality improvements in the site's appearance, safety, and environmental integrity; and

WHEREAS, the applicant's development plan would consist of razing existing structures and redeveloping the site with new structures, parking, and other site features that would be in full compliance with the County's Zoning Ordinance; and

WHEREAS, the property currently possesses a uniquely unsafe and nonconforming ingress/egress that has produced many vehicular crashes over the years and has been described by the Virginia Department of Transportation (VDOT) as "extremely dangerous" in a comment letter from VDOT land development engineer Arthur Boyce dated October 18, 2012; and

WHEREAS, the current nonconforming ingress/egress has serious sight distance issues due to a continuous paved frontage in excess of 300 feet containing no turn lane and taper; an existing hill and curve that greatly impairs the view of drivers attempting to leave the property as well as the view of drivers traveling northbound on U.S. 340; and unmarked parking in front of the existing building and close to the edge of U.S. 340 that compounds the sight distance problem; and

WHEREAS, the current business does not have direct access to a median crossover, resulting in direct impacts to two nearby median crossovers -- both lacking VDOT-standard turn lanes and tapers -- that are utilized by patrons making U-turns to travel northbound to reach the business and to exit the property southbound on U.S. 340; and

WHEREAS, the applicant has proffered substantial improvements that would replace the uniquely unsafe ingress/egress with a new VDOT-standard commercial entrance, a new turn lane at the property entrance, a new turn lane at one nearby median crossover, and a new turn lane or other conditional improvements at a separate median crossover resulting in the significant public benefit of improved traffic safety for users of the site and travelers on U.S. 340; and

WHEREAS, the approval of this conditional rezoning application by the Board of Supervisors would be consistent with prior rezoning actions in which the Board reviewed each request on a case-by-case basis and evaluated the unique factual elements of each proposal before rezoning the properties to conform to the long-standing non-conforming commercial uses located on them.

THEREFORE, IT IS HEREBY DETERMINED BY THE BOARD that the requested conditional rezoning of this property satisfactorily addresses the following factors:

- The request satisfies all 17 conditional rezoning evaluation criteria as set forth in §8-E-3 of the Zoning Ordinance
- The request is in general accord with the Clarke County Comprehensive Plan.
- The resultant redevelopment project would be in full compliance with all requirements of the Clarke County Zoning Ordinance and would eliminate all existing nonconforming site features including structures, parking, and outdoor lighting.
- Substantial proffered improvements are provided by the applicant to improve a uniquely

unsafe nonconforming ingress/egress at the property entrance that is described by VDOT as "extremely dangerous" and has a long history of accidents due to the unsafe condition.

- Off-site proffered improvements to two nearby median crossovers are also provided that, in conjunction with the proffered entrance improvements, would provide a significant public benefit to users of the property and U.S. 340 travelers in the form of improved traffic safety.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors hereby approves rezoning application RZ-12-01 to conditionally rezone the subject property located at 3355 Lord Fairfax Highway (US 340) (Tax Map Parcel #8-1-2) from Agricultural-Open Space-Conservation (AOC) to Highway Commercial (CH), subject to the applicant's signed proffered conditions, attached hereto.

340 Fuel Depot Rezoning

August 24, 2012
Revised December 12, 2012
Revised December 19, 2012
Revised January 25, 2013
Revised March 11, 2013

1

PROPOSED PROFFER STATEMENT

REZONING:	RZ #: _____
PROPERTY:	_____ 5.74 ± Acres Tax Map Parcel: <u>8-1-2</u>
RECORD OWNER:	<u>D & B Management Services, LLC</u>
APPLICANT:	<u>Mahlon A. Jones</u>
PROJECT NAME:	<u>340 Fuel Depot</u>
ORIGINAL DATE OF PROFFERS:	<u>August 24, 2012</u>
REVISION DATE(S):	December 12, 2012; December 19, 2012; January 25, 2013; March 11, 2013

The applicant hereby proffers that the use and development of the subject property ("Property"), as identified above, shall be in strict conformance with the following conditions, which shall supersede all other proffers that may have been made prior hereto. In the event that the above referenced rezoning is not granted as applied for by the applicant ("Applicant"), these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Property with "final rezoning" defined as that rezoning which is in effect on the day following that last day upon which the Clarke County Board of Supervisors' ("Board") decision granting the rezoning may be contested in the appropriate court. If the Board's decision is contested, and the Applicant elects not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning to be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Property adjacent to or including the improvement or other proffered requirement unless otherwise specified herein. The term "Applicant" as referenced herein shall include within its meaning all future owners and successors in interest. The Applicant hereby proffers as follows:

PROFFER STATEMENT

The Applicant proposes to conditionally zone the 5.74± acre Property to the Highway Commercial (CH) District, which shall require approval by the Clarke County Board of Supervisors. The Applicant voluntarily offers the following Proffer Statement for approval by the Clarke County Board of Supervisors to establish specific land use, architecture, site, and transportation standards as set forth below, which will enhance the development of the Property.

A. Land Use

1. The Applicant hereby proffers that the Property will be limited to retail and service business with fuel sales and their appropriate accessory uses. All other permitted land uses within the Highway Commercial (CH) District shall not be developed on the Property.
2. The Applicant hereby proffers that the development of the Property will prohibit truck stops and will incorporate “No Overnight Parking” signs as a component of the final Site Plan, which will be installed and maintained by the Applicant. The property owner will be responsible for enforcement of this proffered condition.
3. The Applicant hereby proffers to limit the size of the retail and service business to a maximum of 10,000 square feet, which represents a 33% reduction in the maximum structural footprint allowance in the Highway Commercial (CH) District. The Applicant will be required to amend the current Site Plan prior to any future expansion activity, which will be reviewed and approved by the County to ensure compliance with the proffered conditions for the project.

B. Architectural Standards

1. The Applicant hereby proffers to construct the retail and service business and fuel sales canopy areas in substantial conformity to the 340 Fuel Depot architectural rendering prepared by Main Street Architecture, P.C., dated August 22, 2012. Once constructed, the structures shall remain in substantial conformance with the architectural renderings unless modified and approved by the County as an amendment to the proffered conditions.
2. The Applicant hereby proffers to utilize high quality building materials for the proffered retail and service business and fuel canopy to include, but not be limited to, brick, stone, false stone, wood, glass, and dimensional shingle or standing seam metal roofing.

3. The Applicant hereby proffers to limit the maximum height of the retail and service business to thirty (30) feet, which represents a 25% reduction in the maximum height allowance in the Highway Commercial (CH) District. Furthermore, the Applicant proffers to limit the maximum height of the fuel canopy to eighteen (18) feet.

C. Site Development Standards

1. The Applicant hereby proffers to submit the final Site Plan and structural design plans of the retail and service business and fueling areas and apply for a Building Permit within 12 months of final non-appealable rezoning approval.
2. The Applicant hereby proffers to remove the existing retail and service business, and the existing residential structures (exclusive of the mobile home residence) and outbuildings located on the Property prior to the issuance of a final Certificate of Occupancy Permit for the new retail and service business and fueling areas.
3. The Applicant hereby proffers to relocate the existing mobile home residence from the Property prior to the removal of the existing retail and service business. In no case shall the existing mobile home residence be allowed to remain on the Property past December 31, 2013.
4. The Applicant hereby proffers to consolidate the two parcels that comprise the 5.74± acre Property prior to the issuance of a Building Permit for the new retail and service business and fueling areas.
5. The Applicant hereby proffers to construct and maintain oil and fuel trench collection facilities in conjunction with all fuel sales areas.
6. The Applicant hereby proffers to implement and maintain stormwater quality and quantity measures in conjunction with the impervious areas of the Property to include filtera collection facilities, grass swales, and a detention basin.
7. The Applicant hereby proffers to implement and maintain a lighting plan for the parking lot and fuel sales canopy areas that is dark-sky compliant and utilizes shielded LED downcast fixtures to prevent light spillover onto adjoining properties and the Route 340 right-of-way.

8. The Applicant hereby proffers to implement and maintain a landscape buffering plan to minimize visual impacts to adjoining properties that is in substantial conformity to the Site Plan for the Property prepared by Greenway Engineering, Inc., dated January 25, 2013.

D. Transportation Enhancements

1. The Applicant hereby proffers to limit access to the Property to one commercial entrance that includes a right turn and taper lane on Route 340, which shall be approved by VDOT. The new commercial entrance shall be located on the southern portion of the Property frontage to enhance safety for the traveling public. The new commercial entrance and right turn and taper lane shall be in substantial conformity to the Site Plan for the Property prepared by Greenway Engineering, Inc., dated January 25, 2013, and shall be completed and inspected by VDOT prior to the issuance of a final Certificate of Occupancy Permit for the new retail and service business and fueling areas.
2. The Applicant hereby proffers to acquire the necessary right-of-way and extend the right turn and taper lane to meet VDOT minimum standards on Route 340 in conjunction with the first Site Plan that expands upon the use of the property subsequent to the initial Site Plan approval. The extension of the right turn and taper lane shall be reviewed and approved by VDOT. The requirements of this proffer are binding on future owners of the property.
3. The Applicant hereby proffers to remove all existing pavement on the Property that ties into Route 340 located north of the new commercial entrance and right turn and taper lane. The Applicant further proffers to convert these previously paved areas into greenspace to include street trees, which shall be in substantial conformity to the Site Plan for the Property prepared by Greenway Engineering, Inc., dated January 25, 2013, and shall be completed and inspected by VDOT prior to the issuance of a final Certificate of Occupancy Permit for the new retail and service business and fueling areas.
4. The Applicant hereby proffers to provide internal site access for the existing mobile home residence that will allow safe ingress and egress at the new commercial entrance serving the property. The Applicant shall remove the internal site access at the time that the mobile home residence is removed from the Property, which shall occur prior to December 31, 2013.

5. The Applicant hereby proffers to provide VDOT with a future right-of-way reservation strip along the Property frontage that is 15 feet in width to facilitate the future widening of Route 340 by others. This future right-of-way reservation strip shall be identified on the consolidation plat for the Property described above in Section C.3 of the Proffer Statement, and shall be made available to VDOT subsequent to an approved road improvement plan for Route 340 along the Property frontage.
6. The Applicant hereby proffers to extend the left turn and taper lane serving the existing Route 340 median crossing located immediately south of the Property. The Applicant shall prepare the improvement plan design for review and approval by VDOT and fund the construction of the left turn and taper lane extension that meets VDOT minimum standards. The construction of the left turn lane and taper extension shall occur in conjunction with the development of the Property and shall be completed and inspected by VDOT prior to the issuance of a final Certificate of Occupancy Permit for the new retail and service business and fueling areas.
7. The Applicant hereby proffers to conduct traffic counts at the existing Route 340 median crossing located immediately north of the Property within six months of the issuance of a final Certificate of Occupancy Permit for the new retail and service business and fueling areas. The traffic counts will be provided to VDOT to determine if warrants are met for left turn and taper lane improvements at this median crossing. If warrants are not met with the initial traffic counts, the Applicant will continue to conduct traffic counts annually for a five-year period from the date of Certificate of Occupancy issuance to determine if warrants are met during that time. If VDOT determines that warrants are met, VDOT will determine if the County desires to extend the left turn and taper lane or close the median crossing. The Applicant will be responsible for preparing the design plan and paying for the construction of the improvements that either extend the left turn and taper lane or close the median crossing at that time. Additionally, the Applicant will conduct traffic counts in conjunction with the first Site Plan that expands upon the use of the property. The traffic counts will be provided to VDOT to determine if warrants are met for left turn and taper lane improvements at this median crossing subsequent to the approval of that Site Plan. The requirements of this proffer are binding on future owners of the property.

E. Alternative Onsite Septic System (AOSS)

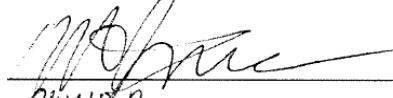
1. The Applicant hereby proffers to execute a contract with an AOSS operator who is licensed or certified to operate, monitor and maintain the onsite septic system approved by the Virginia Department of Health (VDH) for the Property. The property owner shall maintain a contract with the AOSS operator for the lifespan of the onsite septic system and comply with all performance standards required by the VDH. The property owner will have the AOSS operator inspect the onsite septic system and take samples within 180 days of issuance of an operation permit and submit the results to the VDH and the County. The property owner will then have the AOSS operator conduct inspections, take samples, and provide results to VDH and the County annually. The property owner shall maintain a copy of the operation permit, operation and maintenance manual, and inspection log and shall have the septic tank pumped a minimum of every five years with verification provided to the VDH and the County.

OWNER SIGNATURE ON FOLLOWING PAGE

OWNER SIGNATURE

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Applicants and owners. In the event the Clarke County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Clarke County Code.

Respectfully Submitted,

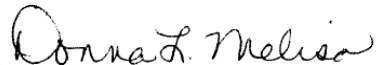
By: 
OWNER

Date: 3/15/13

Commonwealth of Virginia,

City/County of Frederick To Wit:

The foregoing instrument was acknowledged before me this 15th day of March
2013 by Mahlon A. Jones, owner


Notary Public

My Commission Expires Feb. 29, 2016
Registration # 296106



Attest

David L. Ash - Clerk, Board of
Supervisors of Clarke County,
Virginia

FY2014 Budget Discussion

Tom Judge reviewed the most recent changes to the proposed budget. He advised that the tax rates were unchanged for FY2014.

Chairman Hobert stated that Supervisor Staelin had expressed concern about some of the reductions to agencies and had asked that the Finance Committee review. He advised that the Finance Committee had reviewed and was satisfied with the adjustments.

Supervisor Staelin thanked the Finance Committee for its efforts. He stated that he did wish to offer two amendments that he believed would be improvements. He briefly described the services offer by Our Health, Concern Hot Line; Northwestern Works; Access Independence, Help With Housing; Small Business Development Center; Blandy Farm; and Friends of the Shenandoah River. He noted that the current budget proposed a 50% funding cut for these groups and he proposed restoring funding for a total increase of approximately \$14,180. He opined that funding signifies that the County supports the efforts of these agencies and appreciates what they do for citizens.

Supervisor Staelin moved to amend the budget to restore funding to the original level for:

- 1. Access Independence (serves the disabled) (500) 500**
- 2. Blandy Experimental Farm (2,000) 2,000**
- 3. Concern Hotline (500) 500**
- 4. Friends of the Shenandoah (2,000) 2,000**
- 5. Help With Housing (3,600) 3,600**
- 6. Northwestern Works (500) 500**
- 7. Our Health (3,250) 3,250**
- 8. Small Business Development Center (1,000) 1,000**

Vice Chairman Weiss put forth that the Committee was tasked with coming up with a budget that did not raise taxes and to do so in a manner that was fair to all the groups. He stated that the Finance Committee had reviewed and determined the core elements of government and had funded as close to the requested amount as it could. He reported that the Finance Committee had reviewed every department budget down to the postage level and every budget had been cut. He noted requested items that had not been funded such as a new vehicle for the Sheriff's Department and more clerical hours in the Commonwealth Attorney's Office.

Vice Chairman Weiss put forth that each cut would have resulting effect, some consequence; and that there would be negatives to varying degrees. He concurred that

the agencies set forth by Supervisor Staelin for funding restoration were good agencies. He expressed concern that by restoring these funds, while small amounts, other items that were equally valid would not be restored. He stated that he did not support restoration.

Vice Chairman Weiss commented that he did not see that the future holds very good prospects for more revenue and that the Supervisors had used fund balance the last two years without replenishing to any great degree. He opined that keeping these agencies in the budget conveyed to them that the Board believed in them, that this is the reality of what the Board is facing now and in the future, and that agencies should adjust their budgets accordingly to be able to survive. He concluded that he did not support the amendment but supported the causes and the spirit.

Supervisor Byrd opined everyone was having a difficult time; and as people find it more difficult to make ends, the organizations Supervisor Staelin wished to restore funding too would be much busier taking care of people struggling in the economy. She stated that she was not for increasing funding but would like to see the County hold funding steady for these agencies. She concurred with Vice Chairman Weiss that she did not see the economic situation improving greatly in the near future.

Supervisor McKay commented that while these agencies were very valid and do a very good job, he had a difficult time raising taxes on citizens, as well as having the Board attempting to determine which departments or agencies were the most deserving of having more tax money. He put forth that the new reality is that tax payer money cannot fund nationwide, countywide, statewide all the things that government would like to fund.

Supervisor Byrd put forth that citizens were finding it difficult to fund these organizations from their own pockets.

Chairman Hobert expressed appreciation for the work done by David Weiss on the Finance Committee. He explained that the Finance Committee was faced with nearly a \$2MM deficit and the initial step in reduction was cutting back any requested increases except health insurance. Following those adjustments, to bring the budget down further, the Finance Committee began its evaluation down to the postage stamp level. He said that with further adjustments the budget was brought into acceptable parameters without a tax increase; therefore, he would vote in favor of Supervisor Staelin's amendment for he believed these agencies were important and cutting funding by 50% sent the wrong message.

Supervisor Byrd suggested a compromise that restored only half of the funding.

Vice Chairman Weiss added that while the amounts suggested for restoration were small the Supervisors must remember what it did not give to the Sheriff, the Schools and every other department. He asked the Supervisors how the County could ask its department heads to sacrifice year after year only to have the Supervisors deem other agencies more

important. He stated that to fully restore funding to these agencies was against the method used and against the message sent to other department heads.

Chairman Hobert said that it was accurate to note that general government departments did not receive requested increases and their budgets had been cut.

Supervisor Byrd commented that unlike these agencies general government departments cannot fundraise to get budgets back up to pre-cut levels.

Supervisor Byrd added that last evening School Board member Jim Brinkmeier commented that change is necessary for the manner in which the Schools manage money is not working.

Supervisor Staelin moved to amend his previous motion to restore funding to the following agencies at a 25% level at an increase of \$7,425:

- 1. Access Independence (serves the disabled) (500) 500**
- 2. Blandy Experimental Farm (2,000) 2,000**
- 3. Concern Hotline (500) 500**
- 4. Friends of the Shenandoah (2,000) 2,000**
- 5. Help With Housing (3,600) 3,600**
- 6. Northwestern Works (500) 500**
- 7. Our Health (3,250) 3,250**
- 8. Small Business Development Center (1,000) 1,000**

Supervisor McKay pointed out that the proposed lease of the former library building to Help With Housing and FISH was a very sweet deal and the County was not totally abandoning the non-profits.

Supervisor Staelin interjected that in some respects it was a favor to the County to have these agencies take over the cost of repair and maintenance for this building.

Following discussion, Chairman Hobert called for a vote on the amended motion.

The amended motion carried by the following vote:

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

Supervisor Staelin put forth for consideration restoration of funding for the water quality monitoring study. He pointed out that it had been reduced from \$37,000 to \$30,000 and requested a \$4,000 funding restoration. He opined that the County had invested a great deal in water quality over the years and had become the “water conscience” of the Valley.

Supervisor Staelin moved to amend Water Quality Monitoring adjusting its proposed FY2014 Budget from \$30,000 to \$34,000.

Chairman Hobert reported that it cost approximately \$60,000 a year to monitor 5 wells, \$37,544 from the County with a \$22,750 match from USGS. He stated that this was ongoing monitoring and he was not exactly sure what was being received for the contribution the County was making.

Supervisor Staelin concurred that the Board was not receiving regular reports however he asked the Board to remember that to get more nearly accurate data water studies had to be conducted over an extended period of time. He listed several things that had been determined such as the recharge area in the County, water age, water quality, etc.

Supervisor Byrd noted that Chairman Hobert had been requesting reports since 2002. She agreed with Supervisor Staelin that much had already been learned from the water monitoring program and that there was still so much more to learn.

Chairman Hobert stated that he hoped USGS would communicate with the County about any reprioritizations before making program cuts.

Supervisor McKay reminded the Board that the County was still funding at \$30,000 so no one could get the idea that the County wasn't spending any money on water studies. He opined that the water studies were very important but the funding reduction was just part of the new reality.

Following discussion, Chairman Hobert called for a vote on the motion.

The motion failed by the following vote:

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

Supervisors McKay and Byrd extended their appreciation to Finance Committee members J. Michael Hobert, David Weiss, David Ash and Tom Judge.

Tom Judge confirmed that the deficit was \$7,425 following the Board's actions and that the pay-as-you-go number could be adjusted for a zero balance or it could be left as a marker.

Following discussion, by consensus, the Board agreed to adjust the fund balance by \$7,425 for a balanced budget.

Supervisor Byrd moved to advertise PH 13-05 FY2014 Budget Public Hearing and PH 13-06 FY2014 Tax Rate Public Hearing for public hearing on April 10, 2013 beginning at 7:30 pm or as soon thereafter as the matter may be heard at the Berryville Clarke County Government Center 101 Chalmers Court, 2nd Floor, Main Meeting Room. The motion carried by the following vote:

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

26) Adjournment

There being no further business to be brought before the Board at 8:19 pm Chairman Hobert adjourned the Board of Supervisors meeting.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, April 16, 2013 at 1:00 p.m. in the Multi-purpose Room, 225 Al Smith Circle, Berryville, Virginia.

ATTEST: March 19, 2013

J. Michael Hobert, Chair

David L. Ash, County Administrator

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