

By consensus, the Board adopted the agenda as modified.

3) Citizens Comment Period

No citizens appeared to address the Board.

4) VDOT

Ed Carter appeared before the Board to provide the monthly update.

Maintenance – April:

- Performed ditching on Rt. 603;
- Graded routes 605, 606 and 621;
- Performed street sweeping on Rt. 340 and Rt.7 through Berryville;
- Demobilized snow equipment;
- Continuing this month with ditching on Rt. 606 and street sweeping through Boyce and bridges;
- Conduct litter pick up on primary roads.

Maintenance – May:

- Conduct ditching operations on Rt. 601, 604, 643 and 649;
- Continue grading various non-hard surfaced roads;
- Perform hazardous tree removal in various locations.

Projects:

- Rt. 340/Senseny Rd.:
 - Turning lanes – awaiting funding approval.
 - Speed limit should remain 45 MPH.
 - Flashing lights will remain in place.

Supervisor Comments:

Supervisor Barbara Byrd:

- Route 611:
 - VDOT did a great job ditching this road.

- o Route has some deep drop offs. Ed Carter will check options with the Maintenance Operations Manager.

5) Clarke County Public Schools Update

David Ash provided a copy of the email sent from Nan O'Brien for Dr. Murphy:

Dave, in order to meet the school board's stated goals, Dr. Murphy will be working with administrative staff re-purposing the school board budget. He, therefore, will not be attending today's BOS meeting. Please extend his regrets. Thank you.

6) Approval of Minutes

Supervisor Staelin corrected Book 21 Page 368 first paragraph as follows:

Supervisor Staelin said that he found the presentation helpful. He put forth that he also believed the Schools understood the position the Supervisors faced, noting that the Schools had mentioned earlier that many parents had told them they could not afford to pay the cost of pre-school programs. He stated that the Supervisors would have to increase taxes on those same parents if the proposed School budget was adopted without change. Supervisor Staelin pointed out that those parents are just as adverse to higher taxes as they are to the cost pre-school programs. He concluded his remarks by stating that we all want things and we must work together to do what we can.

Supervisor Staelin moved to approve the minutes for March 5, 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. Proclamation Powertalk 21® Day 2013-02P

**PROCLAMATION POWERTALK 21® DAY
2013-02 P**

WHEREAS the County of Clarke recognizes the importance of parents talking with their teens about alcohol; and

WHEREAS, high school students who use alcohol or other substances are five times more likely to drop out of school or believe good grades are not important; and

WHEREAS, teen alcohol use kills about 5,000 people each year, more than all other illegal drugs combined; and

WHEREAS, the majority of kids say their parents are their primary influence when it comes to decisions about drinking alcohol; and

WHEREAS, PowerTalk 21® day is established on April 21, 2013, to encourage parents and caregivers to embrace their important role in influencing America's youth and their decisions about drinking alcohol; and

WHEREAS, to equip parents to talk with their teens about alcohol, Mothers Against Drunk Driving® (MADD) offers free community parent workshops to give parents the tools in a parent handbook to effectively talk to their teens about alcohol; and

WHEREAS, these local parent workshops, also replicated across the country, will offer parents a research-based parent handbook to help them talk with their teens about alcohol and encourage adults to consider creating a safer community by becoming involved in reducing underage drinking; and

WHEREAS, we urge all citizens to join in the local and national efforts to raise awareness of the importance of parents and teens talking together about alcohol in order to reduce the risks and dangers posed to teens and communities; and

NOW, THEREFORE, the Clarke County Board of Supervisors does hereby proclaim Sunday, April 21st to be:

PowerTalk 21® Day

IN WITNESS THEREOF, I have set my hand and caused the seal of Clarke County, Virginia to be affixed this 16th day of April 2013.

Attest:

J. Michael Hobert, Chair

Supervisor Staelin moved to adopt 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 - Aye
John R. Staelin - Aye
David S. Weiss - Aye

8) Personnel

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

4/08/2013 Summary: The Personnel Committee recommends the following appointments:

- Anne Caldwell to the Clarke County Historic Preservation Commission filling the unexpired term of John Bieschke. Term expires May 31, 2013.
- Douglas Kruhm to the Clarke County Historic Preservation Commission filling the unexpired term of Cliff Nelson, Planning Commission Representative. Term expires April 30, 2014.
- Robert Ferree to the Clarke County Board of Social Services filling the unexpired term of William Overbey. Term expires July 15, 2016.
- Dwight Brown to the Clarke County Board of Social Services to a four-year term expiring July 15, 2017.
- Lynn Gray to the Board of Social Services filling the unexpired term J. Lyndon Willingham. Term Expires July 15, 2014.
- Dirck Holscher to the Clarke County Library Advisory Council to a full four-year term expiring April 15, 2017.
- Christopher Curran to the Clarke County Library Advisory Council to a four-year term expiring April 15, 2017.
- Clifford Nelson to the Clarke County Planning Commission to a four-year term expiring April 30, 2017.
- Anne Caldwell to the Clarke County Planning Commission to a four-year term expiring April 30, 2017.
- George Ohrstrom, II to the Conservation Easement Authority to a three-year term expiring April 30, 2016.
- Diane Shipe to Our Health to a three-year term expiring March 15, 2016.
- Supervisor Byrd advised that Peter Meeks tendered his resignation on the Library Advisory Committee. Another candidate is being considered.

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 - Aye
John R. Staelin - Aye
David S. Weiss - Aye

B. Closed Session

04/08/2013 Summary: Closed Session pursuant §2.2-3711-A1 Specific Employees or appointees of the Board was not held during the April 8, 2013 meeting.

9) Board of Supervisors Work Session Items

A. VDOT Review by Ed Carter

1. *Preliminary review of the Secondary Six-Year Plan*

4/8/2013 Work Session Summary: Ed Carter appeared before the Board to provide an update on potential funding for the 2014 Secondary Six-Year Plan. Mr. Carter apologized for a lack of written information noting that he had received the information on Friday, April 5.

According to Mr. Carter, it is possible that as much as \$375,000 may be available for secondary roads over the next six years.

He stated that the reconstruction of the bridge on Route 723 would be advertised in 2014 and would be funded separately from the SSYP.

He also noted that approximately \$400,000 remained from the Mosby Boulevard project; however, federal regulations may require that all or a part of those funds be spent on "eligible" projects. It was also noted that due to budget concerns a significant portion of that project intended for Westwood Road had been eliminated.

Mr. Carter also indicated that the new transportation funding package, recently approved by the General Assembly, was projected to provide additional revenue beginning 2017.

He reported that five of the County's unpaved roads were eligible for rural rustic paving and funding; the Supervisors select which road/roads.

Mr. Carter agreed to provide the Board with written information and recommendations prior to the regular Board meeting and requested the Board set public hearing for the regular meeting in May 2013 provided an acceptable plan was developed at the May 13 Work Session.

Chairman Hobert asked Board members to email any priorities or recommendations to the County Administrator.

April 16, 2013 Regular Meeting Summary:

Ed Carter appeared before the Supervisors at its regular meeting to review the 2013/2014 – 2018/2019 Secondary Six-Year Program for Clarke County. Highlights review and discussion include:

- Telefees: proportionate funds from telecommunications taxes.
- Ebenezer Road Funds:
 - Use \$125K of the remaining funds to repair the washout on Route 606 River Road.
 - Use \$250K for intersection improvements on Route 612 at Route 340.
 - Route 612 Shepherds Mill Road:
 - Is not eligible for CTB funds.
 - 1,400 vehicles trips per day.
 - Easement acquisition is just one of the challenges.
 - VDOT prorates traffic studies using current populations.
 - 170 vehicle trips per day.
 - 9 crashes in the last five years: 5 personal injury; 4 property damage.
 - Use secondary unpaved roads funds under the Rural Rustic concept.
- Route 639 Allen Road:
 - VDOT prorates traffic studies using current populations.
 - 170 vehicle trips per day.
 - Use secondary unpaved roads funds under the Rural Rustic concept.
 - VDOT will include the list of unpaved roads.
- Route 621 Lockes Mill Road:
 - Only qualifying road for CTB formula in Clarke County with 200 vehicle trips per days.
 - VDOT will reassign unused funds.
 - Vice Chairman opined that paving in place could increase speeds; and suggested using funds to maintain gravel roads and safety improvements.

- Carryover Funds: can be used only if the secondary road served by the cross over is improved.
- Route 636 Westwood Road:
 - Apply Mosby Project left over funds, approximately \$400,000, to Westwood Road improvements.
 - Improvements have not yet been scoped. Scoping and estimation will take approximately 4 to 6 months. Ed Carter will look for prior scoping studies.
 - Scope without curb and guttering.
 - Westwood is not eligible for CTB funds.
- Schedule additional plan review for the May 13 Work Session.
- Supervisors' priorities:
 - Westwood Road
 - Shepherds Mill Road
 - Chilly Hollow Road: Nalls and Doodle Shepherd intersections

Supervisor Staelin moved to set the matter for public hearing at the May 21, 2013 Board of Supervisors Regular Meeting for such time as VDOT is available either the afternoon or evening session at the Berryville Clarke County Government Center. 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

2. *Route 612 Bridge*

04/08/2013 Summary: Mr. Carter reported that VDOT had developed a plan to replace the Route 612 bridge and to incorporate the historic components of the bridge in a nearby monument and historical marker. Members of the Board noted that the bridge was acting as a traffic calming device and recommended the bridge not be replaced unless or until other effective means of slowing traffic had been developed and constructed.

B. White Post Dairy Update on March 2013 Manure Spill

4/08/2013 Summary: DEQ's Gary Flory, made a presentation to the Board in response to the April 3, 2013 letter from the Chair to Bob Peer, DEQ, who was also in attendance. Mr. Flory stressed that DEQ was working with the White Post Dairy to resolve the most recent release of untreated manure onto adjacent property owners and to identify the cause of the spike in nitrate concentrations appearing in nearby wells.

Mr. Flory indicated that a no-discharge permit was first issued in 1976; the permit allowing more than 300 cows and requiring the first lagoon was issued in 1998; and the first lagoon was completed in 2004.

Board members responded with concerns of frequent violations during this period and DEQ's apparent inability or unwillingness to mandate and enforce an acceptable operations program.

One Board member expressed grave concern that this facility had been operating for 13 years with numerous permit and operational problems. He asked when, if ever, DEQ would require compliance or revoke the facility's permit? Mr. Flory responded that not all facets of the operation were subject to the DEQ regulatory process at this time; but that most, if not all, of the regulatory process would be shifted to DEQ this coming July. Both Mr. Flory and Mr. Donnelly, Farm Manager - White Post Dairy, promised to rectify the current situation and to make every effort to ensure that the facility remains in compliance in future.

04/16/2013 Summary: Following discussion, by consensus, the Supervisors agreed to request written updates every 30 days with quarterly updates in person at a Supervisors' meeting.

Vice Chairman Weiss suggested having Alison Teetor clarify specific requirements and recommendations by DEQ.

Supervisor Byrd requested an update on water testing reports.

John Staelin requested an update from DEQ at the June Work Session or Regular Meeting

C. Participation in 2013 Volunteer Recruitment Assistance Program

4/08/2013 Summary: Following review, **Supervisor McKay moved to authorize participation in the 2013 Volunteer Recruitment Assistance [VWS] program in conjunction with The Virginia Fire Chiefs Association and the Virginia Volunteer Workforce Solutions [VWS] program and the Chairman to execute the document. 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

4/16/2013 Summary: The Chair instructed David Ash to notify him of meeting date upon receipt of notice.

10) Finance Committee Items

Tom Judge reviewed the Finance Committee recommendations made at its April 8, 2013 meeting.

1. Supplemental Appropriations.

The Finance Committee recommends approval of the following two supplemental appropriations:

a. *Sheriff Grant. Earlier this fiscal year it was determined that the grant for the E-911 Phone System (\$117,024) was not sufficient to cover the cost (\$172,696) and the Sheriff was directed to take funds from other capital projects under his management to make up the difference. He accomplished this by taking \$15,580 from "Sheriff Mobile Radios" and \$39,769 from "Sheriff Vehicles". However, the Sheriff recently received a supplemental grant for the E-911 Phone System in the amount of \$55,350, thereby permitting the return of funds to these two capital accounts.*

"Be it resolved that the FY 13 General Government Capital Projects Fund budgeted expenditure and appropriation be increased \$55,350, and revenue from the Commonwealth recognized in the same amount."

b. *Parks Donations. See the Parks Director Request attached. Funds raised for swimming are proposed for purchase of lap lane flags and picnic tables.*

"Be it resolved that the FY 13 General Fund Capital Projects Fund budgeted expenditure and appropriation be increased \$2,686, and revenue from the Parks Construction Fund recognized in the same amount."

April 16, 2013 Summary: Following review, **Supervisor Byrd moved to approve the supplemental appropriations 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

2. Historic Preservation Commission Driving Tour Brochure.

April 8, 2013 Summary: Please find a request from the Historic Preservation Commission for funding of a Driving Tour Brochure. The Finance Committee directed the Planning Director to: 1) Provide more detailed information on the adequacy of the current brochure and the proposed improvements of the new brochure, and 2) To make progress on the new brochure only to the extent that funds remain available in the \$6,000 annual allocation to the Historic Preservation Commission for ad hoc professional services.

3. Dog Park Financial Statement.

April 8, 2013 Summary: The Committee reviewed the final statement of revenue and expenditure for the Dog Park.

4. Acceptance of Bills and Claims

April 16, 2013 Summary: **Vice Chairman Weiss moved to accept the recommendation of the Finance Committee to approve the March 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

5. Standing Reports

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

6. Budget Presentation.

The Committee discussed the format of a presentation on the budget prior to the public hearing scheduled for Wednesday.

Chairman Hobert asked the County Administrator distribute the packet for the FY2014 Budget Work Session scheduled for April 17, 2013.

Tom Judge provided the following points:

- V-Stop Funding: federal law reauthorized, no final word on funding amount, but seems reasonable to restore to current level by adding revenue from the federal government of \$16,503.
- Board of Elections Funding: reduce estimate by \$4,830. Previous estimate included commonwealth funding of equipment not projected to be expended in FY 14.
- Juvenile Detention Facility confirmed that their requested number remains unchanged.
- Sales Tax adjustment. The additional two months of data show collections of 3% and 4% above the same period last year, and tend to support the proposed budget amount.
- Pay-as-you-go capital adjustment: the calculation of the Paygo shares was off by \$9,360 and has been corrected.

11) Government Projects Update

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

- 100 North Church Street
 - Only project still underway.
 - Met with architect and engineer and made some choices on proposal.
 - None of original proposal included HVAC repairs or upgrades.
 - Use of energy saving funds was suggested.
- 101 Chalmers Court
 - HVAC retrofit is ahead of schedule.
 - The Town wing is operating on the new system but has not been balanced.
 - The final step in the retrofit will be an air balance to determine if the system is bringing in the proper amount of air and proper temperature.
 - Working with Bob Mitchell to provide documentation to the attorneys for the architect and engineer.
 - Expecting a budget report from Tom Judge.
- 36 East Main Street

- Chairman Hobert requested a copy of the agreement between Help With Housing and FISH.
- Include review of the agreement between Help with Housing and FISH in the approval process.

12) Miscellaneous Items

Blue Ridge Legal Services Grant Request

Chairman Hobert reviewed the email request made by Martha Shickle, Northern Shenandoah Valley Regional Commission [NSCRC] Director:

The State has changed the application requirements and process this year for organizations wishing to apply for Emergency Solutions funding (ESG)- a block grant like HOME, CDBG and HOPWA that is federal HUD money administered by the VA Department of Housing and Community Development. This year, the application is coordinated to occur at the regional (Continuum of Care) level and include all agencies applying. You may have already responded to requests for sign off from agencies like the AIDS Response Effort, Harmony Place, etc. We need just one more signed form to complete the application materials.

We are requesting your signature of approval of Blue Ridge Legal Services' proposed homelessness prevention services funded through the Emergency Solutions Grant program. This certification is required as part of the application. BLRS has been a valuable partner in the Northern Shenandoah Valley in preventing homelessness by providing legal checkups and counsel to individuals at risk of homelessness. NSVRC partnered with BRLS in 2011 on a state funded grant for homeless prevention and enjoyed the partnership.

If you have any questions or concerns, please contact me. We are asking you to consider completing and signing the attached form and returning ASAP- Wednesday April 13, 2013 if possible. I apologize for the short notice, but we just learned of this requirement for a regional application.

Below is additional information that describes the BLRS proposed activities:

Blue Ridge Legal Services (BRLS) will offer prevention services throughout the CoC by providing legal representation in the defense of eviction proceedings brought against eligible tenants threatened with eviction and who are at risk of homelessness. The common assessment tool utilized in the centralized intake system will provide an initial screening of those eligible clients who are facing court eviction proceedings and are at risk of homelessness as defined by HUD regulations. Those clients will be referred to BRLS. Using its staff in its Harrisonburg and Winchester offices, which provide coverage to the entire CoC service area, BRLS will conduct an in-depth screening and legal assessment of those referred clients as well as self-referred tenants threatened with eviction and at risk of homelessness to determine whether there are meritorious legal defenses available that can be raised to quash the eviction process and allow the tenant to continue to reside in their current home. For those tenants who lack any meritorious defenses, BRLS attorneys will provide legal advice to tenant

as to their rights and responsibilities, their options and expected outcomes. (This legal assistance will not be charged to the grant.) BRLS will then refer those tenants back to the centralized intake system for other services. For those eligible tenants who have meritorious defenses that would allow them to retain possession of their homes, BRLS will provide representation under this grant. At an average cost of \$1500 per eviction defense case, BRLS projects that it will provide representation in eviction proceedings for 20 tenants facing eviction who are at risk of homelessness. Based on past performance and outcome measurements, we project that the evictions will be completely dismissed in approximately 2/3's of the cases in which BRLS provides representation, allowing at least 13 tenants to remain in their homes, while affording the remaining 7 tenants with additional time to find alternative housing or shelter and avoid homelessness.

Vice Chairman Weiss moved to approve and authorize the Chair or County Administrator to execute on behalf of the County. 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

**CERTIFICATION OF LOCAL GOVERNMENT APPROVAL
FOR NONPROFIT ORGANIZATIONS
RECEIVING ESG FUNDS FROM STATE SUBRECIPIENTS**

I, David L. Ash, County Administrator, duly authorized to act on behalf of the County of Clarke Virginia, hereby approve the following homelessness prevention activities proposed by **Blue Ridge Legal Services, Inc.**, which are to be located in the Northern Shenandoah Valley Region:

By: _____
Signature and Date
David L. Ash
Typed or Written Name of Signatory Local Official
County Administrator
Title

Note: This certification does NOT need to be completed annually for the same emergency shelter activities funded the previous year. The State only needs to document that it has offered the local government the opportunity to withdraw its previous approval.

13) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
Board of Supervisors Meeting Minutes For April 16, 2013 – Regular Meeting		

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Correct and process minutes.	Lora B. Walburn
2.	Process 2013-02P.	Lora B. Walburn
3.	Execute 2013-02P.	J. Michael Hobert
4.	Update database and process appointments.	Lora B. Walburn
5.	Execute letters of appointment.	J. Michael Hobert
6.	Add SSYP review to May 13 Work Session.	David Ash
7.	Coordinate SSYP public hearing advertisement	Ed Carter, Lora Walburn
8.	Send letter of request to DEQ on White Post Dairy update schedule.	J. Michael Hobert
9.	Notify Chair of meeting date for 2013 Volunteer Recruitment Assistance Program.	David Ash
10.	Execute and forward Certification Of Local Government Approval For Nonprofit Organizations Receiving ESG Funds From State Sub-recipients.	David Ash
11.	Send notice of conditional approval to Full Moon.	David Ash
12.	Execute lease agreement for 106 North Church Street.	David Ash
13.	Execute lease agreement for 36 East Main Street subject to receipt of a signed agreement between FISH and Help with Housing.	David Ash

14) Board Member Committee Status Reports

Supervisor Barbara J. Byrd

- Board of Social Services: meets tomorrow; lunch at the Battletown Inn is planned for all staff.
- Northwestern Juvenile Detention Center: The search for a superintendent continues; the assistant superintendent is covering these duties in the interim.
- Northwestern Regional Adult Detention Center: Meets this week.
- Clarke County Humane Foundation: Planning for fund raisers, making some changes.

Supervisor John R. Staelin

- Sanitary Authority: met this morning;

- Industrial Development Authority: meets next week to further discuss water and sewer. Bob Mitchell has prepared a contract draft.
- Planning Commission: Comp Plan review continues; next week round-table discussions will be held.
- Economic Development Advisory Committee: meeting canceled to accommodate round table discussions.

Supervisor Beverly B. McKay:

- NSVRC; met last week; reviewing insurance options; working to get State to address biosolid application; voted on glass grinder surface at the landfill; talked about the spring dinner.

Vice Chairman Weiss:

- Easement Authority: Meets tomorrow; working on other easements.
- Access Independence: presented Supervisors proclamation for DisAbilities Awareness week at a 5k event sponsored by Access Independence.

15) Closed Session

No Closed Session was conducted at the April 16, 2013 regular meeting.

At 2:55 pm Chairman Hobert recessed the meeting.

At 6:30 pm Chairman Hobert reconvened the meeting.

16) Citizen's Comment Period

Melissa Dunning, 151 Concert Lane, provided the following prepared statement:

My Name is Melissa Dunning. My husband Peter and I live at 151 Concert Lane, here in eastern Clarke County. We are here to ask your help in the matter of quarry mining operation as it affects adjoining landowners.

In 1984, we bought our home and property from the Minnick family. In the ensuing 30 years, we have raised our family in this house; our three daughters were born and grew up there. In 2002, we finally paid off our mortgage.

In 1984, the Stuart Perry Quarry operation was a distant neighbor along our easternmost boundary. Then as now, we consider the Quarry to be a "good neighbor."

However we were not aware of recent plans for a massive expansion of Quarry operations and regret that we now find ourselves parties to a lawsuit here in Clarke County, attempting to clarify County zoning regulations and challenging the construction of huge berms within 25 feet of our property line.

We did not wait to question the construction and location of the berms. Like most people in the county (including the Zoning Department) we had no idea what the actual distance was between the berms and the property lines. In 2010, the berm construction began from Route 7 approaching our property along the western property line.

On recommendation from the zoning office and counsel, we hired Dunn Land Surveys in July 2010 to do a boundary survey of our property and to determine that the Quarry earth berms under construction were indeed 25 feet (not 300 feet) from our property line. The Dunn survey confirmed that the berms were 25-40 feet from the Dunning property line.

A point of clarification: We did not contest the construction of the berms; we simply and repeatedly asked the zoning office:

- what were the set back regulations governing Quarry operations regarding adjacent landowners, and*
- whether the quarry was in full compliance with the Special Use Permit and Site Plan approved by the County in October 1995.*

Over a period of 18 months, we got conflicting answers.

After receiving such conflicting answers from the zoning administrator, we felt compelled to appeal the Zoning Administrator's 2.17.12 official compliance determination ruling to the BZA. After a hearing in May 2012, the BZA ruled in our favor, overturning the Zoning Administrator's compliance determination and interpreting the ordinance and conditions to prohibit the berms within 300 feet of our shared property line.

The quarry appealed this decision to the Circuit Court where Peter and I found ourselves defending a county ordinance.

The court after a hearing and rehearing on the interpretation of the ordinance, ruled in March and April 2013 to overturn the BZA decision and further that the quarry could construct its berms up to within 25 feet of our property line. The result of the court's ruling was to render the Special Use Permit conditions imposed in 1995 by the Board of Supervisors a complete nullity.

Under the regulations that existed prior to 1995, the quarry could not conduct mining operations including construction of its berms any closer than 25 feet to our property. The 1995 negotiated Special use Permit conditions increase that setback from 25 feet to 300 feet. The court however ruled that the quarry could construct its berms within that 300 foot setback area. In doing so, the Court completely frustrated and defeated the SUP conditions that had been so carefully worked out in 1995 to protect the residents, such as us, who owned property next to the quarry.

All along, we have felt that it is the county's responsibility to defend its own ordinances. We have already been significantly damaged by the construction and presence of these huge

berms outside our bedroom window and within 25 feet of our property line. Our property will never be worth what it was before these berms were constructed.

Now, we are faced with the additional burden of having to pay the costs of the judicial review of the ordinances in effort to determine what the Board of Supervisors intended in 1995.

It would seem to us that when there is an argument over what this Board intended by the language used in its ordinances, and the argument is taking place in the Courthouse down the street, this Board should take an active part in the discussion. It should not be the expense and burden of a taxpayer to defend the ordinances adopted by the Board.

It is clear from the language of the conditions that they were imposed on the quarry to protect the neighboring properties. Based upon the court's ruling, those properties, including ours, now receive no protection from the 1995 conditions. That was not the intent of the Board of Supervisors then and we doubt seriously that it is now.

We are noting our appeal to the State Supreme Court tomorrow. The Board of Supervisors is already a party to the case and the appeal. We think it is incumbent on the Board of Supervisors to join us in appealing the court's decision which is clearly erroneous, and to help clarify the ordinance. The Board of Supervisors of this County could not possibly have intended this. We have included pictures of the berm construction as it affects our home with this statement.

We urge you to participate in the appeal and help us secure the intended protection of the Special Use Permit Conditions that were adopted by the Board of Supervisors in 1995. Thank you for your consideration.

*Presented at the Clarke county Board of Supervisor's meeting
On Tuesday April 16, 2013 in Berryville, Virginia*

- 17) PH 13-07: Special Event Permit Application Full Moon Field Festival; 1691 Swimley Road, Berryville; June 14, 15, 16, 2013: Medium Event 500 to 999 persons; Applicant Jennifer Cossette, Property Owner

To: Board of Supervisors
Date: April 16, 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: Approve medium event application contingent upon receipt of outstanding items below.

Responses Received from:	Outstanding Items:
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<ul style="list-style-type: none"> ✓ Building Official ✓ Health Department ✓ Sheriff's Office ✓ VDOT ✓ Virginia State Police 	<ul style="list-style-type: none"> ✓ Insurance Endorsement Naming County as Additional Insured ✓ Responses From: <ul style="list-style-type: none"> ○ John H. Enders
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David Ash advised that he had previously approved four small event permit applications for this location; and due to the success of the previous events, the applicant was seeking permit for a medium special event.

Jennifer Cossette said that the aim of this family-oriented event is to help the County and provide a good, safe time for families; and in future, she hopes to include fundraising opportunities for local non-profits.

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 Byrd moved to approve the Special Event Permit Application for Full Moon Field Festival subject to receipt of outstanding items. The motion carried as follows:

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

18) PH 13-08: Lease of Public Property at 106 North Church Street, Berryville Virginia

Chairman Hobert summarized the proposed lease agreement.

David Ash informed the Board that the contract had been modified to include an acknowledgement of the lack of water and sewer in the building.

At 6:43 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.

Vice Chairman Weiss moved to accept the lease agreement and to authorize the Chair or the County Administrator to execute the agreement. The motion carried by the following vote:

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

19) PH 13-09: Lease of Public Property at 36 East Main Street, Berryville Virginia

David Ash do not believe that both proposed tenets have agreed but contingent upon being supplied a copy of the sub-lease agreement.

At 6:45 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.

Glen Patrick, Chair, FISH Board: advised that the sublease between Help With Housing, Inc. and FISH should be complete in the near future. He thanked the Supervisors for the opportunity.

Mary Veilleux, FISH Board member: said, "*Hallelujah.*"

Chris Daniels, Chair Help with Housing, Inc. Board: thanked the Supervisors.

Chairman Hobert thanked FISH and Help With Housing, Inc. for their work in serve and community support.

Being no further comment Chairman Hobert closed the public hearing at 6:47 pm.

Supervisors Byrd moved to approve the lease agreement subject to receipt of a signed agreement between FISH and Help with Housing and to authorize the Chair or the County Administrator to execute the agreement. The motion carried by the following vote:

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

20) PH 13-10: Amend 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 provided a brief summary of the funding request.

At 6:48 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.

Vice Chairman Weiss moved to amend 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. The motion carried by the following vote:

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

21) Adjournment

There being no further business to be brought before the Board at 6:49 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, May 21, 2013 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: April 16, 2013

J. Michael Hobert, Chair

David L. Ash, County Administrator

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