

CLARKE COUNTY BOARD OF SUPERVISORS
February 17, 2009 Regular Meeting 1:00 p.m.
Main Meeting Room

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, February 17, 2009.

Board Members Present

Barbara Byrd; A. R. Dunning, Jr.; J. Michael Hobert; John Staelin; David Weiss

Staff Present

David Ash, Chuck Johnston, Jesse Russell, Alison Teetor, Lora Walburn

Others Present

Dr. Michael Murphy, Robina Rich Bouffault, Jennifer Welliver, Betsy Fields, Christy Dunkle, Laura Oleniacz, Layla Wilder and other citizens

Call to Order

Chairman Staelin called the meeting to order at 1:04 p.m.

Adoption of Agenda

Supervisor Byrd moved to approve the agenda as modified:

- Move From Consent to Miscellaneous
 - o Press Request to Record Sessions in Audio and/or Video

The motion carried by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Aye
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

Clarke County Public Schools Update

Dr. Michael Murphy, with Jennifer Welliver and Robina Rich Bouffault, appeared before the Supervisors to provide the monthly update for the Clarke County Public Schools. Highlights include:

- Read from a prepared statement regarding his commitment to the education and School funding. He stated that he knew that times were tough however he would ask for level funding.
- Distributed and reviewed "*Clarke County Public Schools FY10 Preliminary Budget Reductions*" dated February 13, 2009.
- Middle level athletics reductions are anticipated. It was noted that the loss of the middle school athletic program in Frederick County would impact Clarke.
- Advised that the Schools would continue to work on the budget to bring it into line with decreased funding.
- Reviewed the impact of the federal stimulus, which he advised was still unknown.
- Advised that physical education would continue as mandated regardless of any decision that might be made to cut athletic programs.
- Reviewed the administrative structure and advised that some administrative titles were under review to better align them with current duties.
- Reviewed plans for developing a strategic plan, which could be delayed should funding necessitate.
- Chairman Staelin advised that the County had already increased the FY09 School budget by more than \$700,000 to offset state reductions the prior year.
- Robina Rich Bouffault put forth that it was still early and there was still much work on the Schools budget. She said that the School Board had only just received the budget documents from the Superintendent. She further advised that preliminary review of the financial statements indicated that the Schools had under spent in the current year budget. Dr. Murphy concurred noting that a significant amount of unencumbered cash had been under spent.
- Supervisor Weiss asked that the School Board take seriously the Supervisors direction to cut all department budgets by 6½% to reflect decreased revenues affecting local funding. He opined that he did not wish to have the Schools place the Supervisors in a position to dictate budget cuts or to argue about funding at this critical time opining that this would negatively impact the community. Supervisor Dunning concurred.
- Dr. Murphy assured that he would do all he could to protect core programs.
- Jennifer Welliver commented that the previous administration was focused on accelerating students at the elementary level; and thus, many did not learn enough of the basics. She opined that the problems occurring in the middle school might be a direct result of that

focus. She further stated that she did not believe that there was an adversarial relationship between the new School Board and the Supervisors. She said that she did anticipate displeasure with the budget cuts.

Approval of Minutes

- December 16, 2008 Board of Supervisors Regular Meeting Minutes
 - o Page 697 change second motion from defeated to approved
- January 12, 2009 Board of Supervisors Organizational Meeting & Work Session
- January 16, 2009 Board of Supervisors Public Hearing
 - o Pg 728 modify Supervisor Byrd's statement to read "the landowner did not concur with the modification of the Planning Commission's decision."
- January 20, 2009 Board of Supervisors Regular Meeting

Supervisor Weiss moved to approve the minutes of December 16, 2008 and January 16, 2009 as revised by Supervisor Byrd; and January 12, 2009 and January 20, 2009 as presented.

The motion was approved by the following vote:

John R. Staelin, Chair	- Aye
J. Michael Hobert, Vice Chair	- Aye
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Abstain
David S. Weiss	- Aye

Consent Agenda

- Resolution Petitioning Virginia's Federal Representatives to Sponsor a Grant for Building a Model 21st Century Rail Steel Interstate Service in the I-81 Corridor to demonstrate Fast Rail Freight and Passenger Service Potential to the Nation

Chairman Staelin reviewed the proposed resolution expressing his belief that it represented the Board's historic support of the rail system.

Chairman Staelin explained that the other two items on the Consent Agenda were for informational purposes. He suggested that the Schools, The Barns and the Senior Center look at the website to determine if funding was available.

Supervisor Dunning moved to accept the resolution on the Consent Agenda rewording into the Supervisor's format.

The motion was approved by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Aye
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

A Resolution Petitioning Virginia's Federal Representatives to Sponsor a Grant for Building a Model 21st Century Rail Steel Interstate Service in the I-81 Corridor to demonstrate Fast Rail Freight and Passenger Service Potential to the Nation
09-03R

To the Honorable:

Jim Webb, United States Senator from Virginia
Mark Warner, United States Senator from Virginia
Bob Goodlatte, Member of Congress, VA-6
Rick Boucher, Member of Congress, VA-9
Frank Wolf, Member of Congress, VA-10

WHEREAS Europe approaches numerous 21st Century "Steel Interstate" rail service concepts, no rail service in the United States offers this promise, exposing our nation to greater risk from petroleum depletion, cost increases, supply interruptions and economic competitiveness; and

WHEREAS Steel Interstate rail provides reduced dependence on imported fuel, builds modal redundancy, enhances national security, and – when electrified – offers the U.A. opportunity to employ domestic renewable energy sources and efficiency to drive transportation; and

WHEREAS Steel Interstate rail demonstrates vastly greater transportation throughout productivity over equivalent investment in costly interstate highway expansion; and

WHEREAS Steel Interstate technology offers positive advantages for communities, the Commonwealth, other I-81 states, and the United States relating to cost, safety, economic growth, tourism development, decreased fuel consumption and greenhouse gas emissions, improved air quality and public health, varied freight and passenger service options, reduced financing and carbon cap and trade risk exposure; and

WHEREAS forty-nine Virginia and four Tennessee governing bodies have previously voted support for improved rail service over massive widening of I-81; and

WHEREAS no passenger rail and limited public bus service exists in this Corridor south of Staunton / Clifton Forge, west of Lynchburg / Danville, or north of Atlanta / Birmingham, despite efforts by dozens of local governing bodies and private groups in the Commonwealth to restore passenger rail service through the Trans Dominion Express; and

WHEREAS Congress is considering investments in transportation, energy efficiency, fuel conservation, renewable energy, greenhouse gas abatement, and infrastructure as fiscal stimulus for the nation, and the Steel Interstate offers outstanding opportunity in all these areas;

NOW, THEREFORE BE IT RESOLVED, that we, the Board of Supervisors of the County of Clarke, Virginia, urgently petition our congressional delegation to work in concert with representatives of other I-81 Corridor states to sponsor and secure passage of a Federal transportation demonstration grant to assemble in the I-81 Corridor between Knoxville, Tennessee and Harrisburg, Pennsylvania, the pilot segment of 21st Century rail, the North American Steel Interstate System.

Adopted this 17th Day of February, 2009.

John R. Staelin - Chair
Clarke County, Virginia
Board of Supervisors

Citizens Comment Period

No persons appeared to address the Supervisors.

VDOT

Jeff Lineberry, accompanied by Charlie Monroe, provided the monthly update.

- Brush cutting operations are in progress on Route 617.
- Clean up after the recent wind storm is in progress.
- Shoulder work is being performed north of Boyce on Route 340.
- A status update will be available this week as to the impact of continued revenue shortfalls on VDOT's organizational structure.
- Mid-year adjustments will be made to Secondary Six-Year Plan.
- VDOT policies are under review and it is likely that there will be reductions made in maintenance standards.
- VDOT has developed a list of stimulus projects. Mr. Lineberry advised that paving and bridge repair projects are being reviewed. He noted that the proposed funding does not cover VDOT's potential needs.
- Zero additional money is available for projects after FY09. Mr. Lineberry noted that Westwood Road was the only project with funding; however, those amounts could change should there be further adjustments to revenue forecast. He assured the Supervisors that he would keep them advised of any plan changes.
- Supervisor Byrd thanked VDOT for the signage on Crums Church Road.

- Jeff Lineberry advised that the entire Route 7 corridor is being developed as a designated stimulus project and is currently in the second review phase.

Resolution VDOT Form AM-4.3 Report of Changes in the Secondary System of State Highways

Chuck Johnston reviewed the request. Jeff Lineberry stated that he would provide a sample resolution for Board review at the March meeting.

Update Calmes Neck Intersection Issue Bond

Chairman Staelin asked that Jesse Russell arrange to have Bob Mitchell present at the next meeting of the Supervisor to discuss the Calmes Neck issue.

Update Salem Church Road Rock Issue

Supervisor Dunning stated that he would follow up on the matter and provide an update at the March meeting.

Set Public Hearing SUP-08-01

Georgetown University (Agent: Ron Mislowsky, P.E.) requests approval of a Special Use for an "Institutional Use" and Site Plan for the Calcagnini Contemplative Center, a student/staff educational and religious facility, located at 18715 Blue Ridge Mountain Road, Tax Map #26-((A))-112 & 113, Battletown Magisterial District, zoned Forestal Open-Space Conservation (FOC). SUP-08-01

Chuck Johnston appeared before the Supervisors to review SUP-08-01. Ron Mislowsky, Georgetown University Agent, and adjoining property owners were also present to take questions from the Board.

Michael Hobert asked if the applicant would covenant not to further pursue subdivision in addition to foregoing the DUR's. Michael Hobert requested clarification on the annual 5% tax cap prior to public hearing.

Allen Brangman Georgetown University architect stated that further development of the property is not the intent of the University and documents could be modified to reflect that position. He clarified the 5% tax cap advising that it was his understanding that the University would pay the taxes the same as any other entity up to a maximum of a 5% increase per annum. When questioned by Chairman Staelin as to whether Georgetown would pay a higher rate in year two if taxes went up by more than 5% to get back up to the rate others paid, Mr. Brangman said no.

Brangman put forth that the University would be paying full-service taxes without putting the strain on local services, which he hoped would be seen as a benefit to the County and not a draw back.

Chairman Staelin asked questions about the elimination of dwelling unit rights.

Brangman responded that the discussions with Virginia land trust were not finalized.

There was discussion on determination of assessed value for the proposed structure.

Chuck Johnston offered to conduct the Supervisors on a tour of the proposed site. A site visit was tentatively scheduled for March 9.

Brangman told the Supervisors that the center was to be built to house 84 persons including staff. He said that meals served would include a staff of two, as well as a caretaker on site.

Mr. Brangman offered to review plans with the Supervisor at a work session.

Supervisor Byrd urged Mr. Brangman to reconsider utilizing the existing house on the property.

Supervisor Weiss opined that the project appears to be top quality; however, he struggled with accepting retreats as an appropriate use within the AOC and FOC.

Chuck Johnston recapped the proposed actions for review with Bob Mitchell.

- Modify 8 to say no subdivision.
- Modify 11 referencing Clarke County in addition to the Department of Health.
- Clarify 12 with 5% language.

Supervisor Dunning moved to set the matter for public hearing at 6:30 pm on Tuesday, March 17, 2009 or as soon thereafter as the matter might be heard with the changes reviewed with Allen Brangman, Georgetown University Architect.

The motion was approved by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Aye
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

Set Public Hearing SUP-09-01

Shenandoah Area Agency on Aging and Clarke County Parks and Recreation Department (John C. Lewis, P.E., Agent) requests approval of an amendment to the Special Use and Site Plan for the

facilities at Chet Hobert Park to add a senior center and parks and recreation offices to the Clarke County Recreation Center located on Al Smith Circle, Tax Map #13-((A))-62, Longmarsh Magisterial District, zoned Agricultural-Open Space-Conservation SUP-09-01.

Chuck Johnston and Jesse Russell reviewed the proposed SUP-09-01 for the construction of a senior center at Chet Hobert Park. Michael Hobert requested David Ash to provide an update to the Parks and Recreation Advisory Committee at the Wednesday, February 18, meeting.

Chairman Staelin stated that approximately half of the project funding had been raised but stimulus revenue could become available to complete the project.

Supervisor Byrd moved to set the matter for public hearing at 6:30 pm on Tuesday, March 17, 2009 or as soon thereafter as the matter might be heard.

The motion was approved by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Aye
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

Continued Public Hearing PH 09-01 SUP-08-02 (aka SUP-04-01)

Special Use Request The Town of Berryville requests approval of a Special Use and Site Plan for a Public Utility Facility (outfall line for treated effluent) located generally on the south side of the public right of way for Harry Byrd Highway (Virginia Route 7) from the Berryville Waste Water Treatment Plant (362 Parshall Road) to the Shenandoah River (approximately 800 feet south of the Robert W. Smalley Sr. Bridge at Castleman's Ferry, [Route 7 bridge]), through Tax Map Parcels 15-((A))-8, 11, 13, 17C, 18, 20, 21; 15-((3))-8; 16-((A))-33, 36, 36A, 39, all located in Battletown Magisterial District, zoned Agricultural-Open-Space-Conservation (AOC).

Supervisor Dunning moved to continue action on SUP-08-02.

The motion was approved by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Abstain
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

Board of Supervisors 2009 Committee Appointments

Supervisor Weiss moved to accept the 2009 Committee Appointments as modified:

- A.R. Dunning, Jr. Liaison School Construction.
- Barbara Byrd, Liaison with School Board other than, School Construction issues.

The motion was approved by the following vote:

John R. Staelin, Chair - Aye
 J. Michael Hobert, Vice Chair - Aye
 Barbara J. Byrd - Aye
 A.R. Dunning, Jr. - Aye
 David S. Weiss - Aye

2009 Committee Appointments List

<i>Committee/Board</i>	<i>First Name</i>	<i>Name</i>	<i>Position</i>	<i>CY Appt Date</i>	<i>CY Exp Date</i>
Housing Rehabilitation Board	David L.	Ash	County Administrator	2/17/2009	12/31/2009
Regional Airport Authority	David L.	Ash	County Administrator	2/17/2009	12/31/2009
Northwestern Regional Jail Authority	David L.	Ash	County Administrator	2/17/2009	12/31/2009
Personnel Committee	Barbara J.	Byrd	BOS	2/17/2009	12/31/2009
Finance Committee	Barbara J.	Byrd	BOS - Alternate	2/17/2009	12/31/2009
Clarke County Humane Foundation	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
Towns and Villages: Berryville	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
Clarke County Litter Committee	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
Northern Shenandoah Valley Regional Commission	Barbara J.	Byrd	BOS - Appointed Member	2/17/2009	12/31/2009
Our Health	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
Board of Social Services	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
Clarke County School Board	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
The Barn Projects	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
Regional Mental Health Task Force	Barbara	Byrd	BOS Liaison	2/17/2009	12/31/2009
Regional Airport Authority	Barbara J.	Byrd	BOS Liaison	2/17/2009	12/31/2009
Towns and Villages: Boyce	A.R.	Dunning, Jr.	BOS Liaison	2/17/2009	12/31/2009
Clarke County School Board	A.R.	Dunning, Jr.	BOS Liaison	2/17/2009	12/31/2009
School Construction	A.R.	Dunning, Jr.	BOS Liaison	2/17/2009	12/31/2009
Economic Development Advisory Committee	A.R.	Dunning, Jr.	BOS	2/17/2009	12/31/2009
Board of Well & Septic Appeals	A.R.	Dunning, Jr.	BOS - Appointed Member	2/17/2009	12/31/2009

<i>Committee/Board</i>	<i>First Name</i>	<i>Name</i>	<i>Position</i>	<i>CY Appt Date</i>	<i>CY Exp Date</i>
Towns and Villages: White Post	A.R.	Dunning, Jr.	BOS Liaison	2/17/2009	12/31/2009
Personnel Committee	A.R.	Dunning, Jr.	BOS - Alternate	2/17/2009	12/31/2009
Planning Commission	A.R.	Dunning, Jr.	BOS - Appointed Member	2/17/2009	12/31/2009
ShenAir [NSVRC Subcommittee]	A.R.	Dunning, Jr.	BOS	2/17/2009	12/31/2009
Berryville Area Development Authority	A.R.	Dunning, Jr.	BOS - Appointed Member	12/16/2008	3/31/2011
Water Resources Policy Committee	A.R.	Dunning, Jr.	BOS - Alternate	2/17/2009	12/31/2009
Clarke County Sanitary Authority	A.R.	Dunning, Jr.	BOS - Authority Member	1/17/2006	1/5/2010
Finance Committee	A.R.	Dunning, Jr.	BOS - Alternate	2/17/2009	12/31/2009
Sheriff's Department	A.R.	Dunning, Jr.	BOS Liaison	2/17/2009	12/31/2009
Finance Committee	J. Michael	Hobert	BOS	2/17/2009	12/31/2009
Towns and Villages: Berryville	J. Michael	Hobert	BOS Liaison	2/17/2009	12/31/2009
Clarke County Industrial Development Authority	J. Michael	Hobert	BOS Liaison	2/17/2009	12/31/2009
Parks & Recreation Advisory Board	J. Michael	Hobert	BOS Liaison	2/17/2009	12/31/2009
Economic Development Advisory Committee	J. Michael	Hobert	BOS	2/17/2009	12/31/2009
Conservation Easement Authority	J. Michael	Hobert	BOS	2/17/2009	12/31/2009
Clarke County Library Advisory Board	J. Michael	Hobert	BOS Liaison	2/17/2009	12/31/2009
Clarke County School Board	J. Michael	Hobert	BOS - Alternate	2/17/2009	12/31/2009
Joint Administrative Services Board	J. Michael	Hobert	BOS Liaison - Alternate 1	2/17/2009	12/31/2009
Board of Supervisors	J. Michael	Hobert	Vice Chair	1/12/2009	12/31/2009
Personnel Committee	J. Michael	Hobert	BOS - Alternate	2/17/2009	12/31/2009
NSVRC Disability Services Board	Charles	Johnston	Citizen Representative	1/23/2007	1/23/2010
Northern Shenandoah Valley Regional Commission	Charles	Johnston	Citizen Representative	1/23/2007	1/23/2010
Personnel Committee	John	Staelin	BOS	2/17/2009	12/31/2009
Emergency Services	John	Staelin	BOS Liaison	2/17/2009	12/31/2009
Finance Committee	John	Staelin	BOS	2/17/2009	12/31/2009
Housing Rehabilitation Board	John	Staelin	BOS	2/17/2009	12/31/2009
Technology Committee	John	Staelin	BOS	2/17/2009	12/31/2009
Clarke County Sanitary Authority	John	Staelin	BOS - Alternate	2/17/2009	12/31/2009

<i>Committee/Board</i>	<i>First Name</i>	<i>Name</i>	<i>Position</i>	<i>CY Appt Date</i>	<i>CY Exp Date</i>
Water Resources Policy Committee	John	Staelin	BOS	2/17/2009	12/31/2009
Joint Administrative Services Board	John	Staelin	BOS - Board Member	2/17/2009	12/31/2009
Board of Supervisors	John	Staelin	Chair	1/12/2009	12/31/2009
Towns and Villages: Pine Grove	John	Staelin	BOS Liaison	2/17/2009	12/31/2009
Northern Shenandoah Valley Regional Commission	John	Staelin	BOS - Appointed Member	2/17/2009	12/31/2009
Towns and Villages: Millwood	John	Staelin	BOS Liaison	2/17/2009	12/31/2009
Legislative Liaison and High Growth Coalition	John	Staelin	BOS	2/17/2009	12/31/2009
Personnel Committee	David	Weiss	BOS - Alternate	2/17/2009	12/31/2009
Towns and Villages: Pine Grove	David	Weiss	BOS Liaison	2/17/2009	12/31/2009
Building and Grounds	David	Weiss	BOS	2/17/2009	12/31/2009
Planning Commission	David	Weiss	BOS - Alternate	2/17/2009	12/31/2009
Finance Committee	David	Weiss	BOS - Alternate	2/17/2009	12/31/2009
NSV Home Consortium Advisory Committee	David	Weiss	BOS Liaison	2/17/2009	12/31/2009
Joint Administrative Services Board	David	Weiss	BOS Liaison - Alternate 2	2/17/2009	12/31/2009

Committee Action

Personnel

Appointment to Authorities, Boards and Commissions

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Berryville Area Development Authority <i>Ms. Duncan is reappointed to serve an additional three-year term.</i>	Reagan Duncan	3/31/2012
Clarke County Library Advisory Council <i>Mr. Curran is re-appointed to serve a full four-year term.</i>	Christopher Curran	4/15/2013
Clarke County Library Advisory Council <i>Ms. Gallagher is re-appointed to serve a full four-year term.</i>	Sandra Gallagher	4/15/2013

Supervisor Dunning moved to approve the appointment as presented.

The motion was approved by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Aye
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

Work Session

Agenda Topic: Contractor's Report on Status of Real Estate Market Study Analysis

Description: The Reassessment Contractor and the Commissioner of the Revenue will be present to bring the Board up-to-date on the status of the reassessment activities.

Steve Wampler reported to the board the status of the first sales study conducted in connection with the Reassessment. The summary indicated that residential real estate value was estimated to be down nearly 30% from the previous reassessment and that vacant land values appeared to be slightly below the currently assessed values. These value estimates were made as of February 5, 2009.. The numbers are subject to change as additional information is collected and updated over the next few months. The document supporting this report is on file with the Commissioner of the Revenue.

During review at the regular meeting, David Ash clarified that the re-assessor had revised the document for greater clarification but the revised document did not include the requested corrections.

Agenda Topic: Special Use Permit Text Change Discussion.

Description: At the last Board meeting the Board set public hearing on a proposed change requiring that pre-existing activities be documented when a change is made in special uses permitted. Attached is information providing alternate language intended to implement this process.

Mr. Mitchell met with the Board to discuss the alternatives proposed for amending the Zoning Ordinance to require documentation of special uses that already exist at the time special uses are added to the ordinance. Mr. Mitchell noted that the more restrictive version of the ordinance was advertised giving the board to opt for the alternate language should they choose to do so.

Agenda Topic: Fiscal Year 2009 Budget Issues

Description: The Board will discuss current year revenue shortfall expectations and methods to mitigate the expected revenue reductions. A full Board work session is scheduled for Tuesday at 5:30 pm. However, depending upon the progress made that meeting may be cancelled or postponed.

The Board continued working through revenue estimates, impacts of reduced state funding to operating funds and proposals to reduce capital expenditures. The meeting for 5:30pm on February 10 was confirmed.

Update on SLEAC and Use Value meetings:

Supervisor Staelin and Commissioner Arthur provided the Board with information regarding efforts to review and revise the SLEAC values at the state and regional levels. Efforts are on-going to add uses not currently included in SLEAC values and to check VDAC's production numbers to ensure that the values that are uses are correct.

Finance Committee

There is no separate Finance Committee meeting scheduled for February. The Board of Supervisors will have an opportunity discuss budget issues at the Work Session on Monday, February 9, and will determine at that time the need for and agenda for the meeting currently on the proposed schedule for February 10.

Bills And Claims

Following input from Tom Judge, **Chairman Staelin moved to accept the report for the January 2009 General Government Bills and Claims.**

The motion was approved by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Aye
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

Berryville Clarke County Joint Government Center Update

David Ash advised that the walk through with the architect was scheduled for 1 pm on Wednesday, February 18. He had requested that the architect provide input as to the potential impact of the various construction issues on the County's ability to inhabit the building.

Supervisor Dunning requested that a system check be performed by a qualified, technical person to review the heating and air conditioning system noting that ongoing problems could negatively impact the emergency generators. David Ash responded that they are working with a mechanical engineer. David Weiss asked that the Supervisors give the contractor sufficient time to correct the system before hiring an outsider.

General Assembly Status Update

Vice Chairman Hobert provided an update on bills before the General Assembly.

- Clarke County Treasurer has written in opposition to legislation requiring that 10% of local funds be invested in local banks.
- Loudoun County has been working to resist efforts to allow alternate systems and that would disallow counties to regulate them.

Chairman Staelin played a voice mail message from Senator Vogel assuring that the matter concerning water budget funding would be rectified once out of committee and the funds kept where they belonged.

Chairman Staelin extended the Boards appreciation to Vice Chairman Hobert for his continued monitoring of matters before the General Assembly.

FY10 Budget Discussion

Chairman Staelin distributed revised "FY09 Clarke County Budget Process" dated February 17, 2009. He put forth the following highlights:

- Keep proposed 3-cent tax increase.
- Change personal property tax rate to recuperate all but a \$300,000 budget shortfall.
- The Supervisors should be as specific as possible to all departments and agencies as to the dollar amount by which department budgets will be reduced.
- The historical split with Schools is 66.6/33.3.

The Supervisors explored funding strategies. The prevailing opinion was to conserve funds anticipating continuing economic shortfalls. In conclusion, Chairman Staelin requested Tom Judge to revise the numbers reducing from carry over or rainy day fund and present to the Supervisor to ensure that the math is correct.

Both Robina Rich Bouffault and David Ash assured that their respective organizations would adjust budgets as directed.

David Ash asked to what date would the budget be backed up. He also noted that 66% cut to the School and 34% to general government was not a two thirds / one third split.

Chairman Staelin assured Mr. Ash that the previously identified budget cuts would be incorporated in the proposed budget cut.

Robina Rich Bouffault requested that Tom Judge provide the Schools with the revised budget figure.

Chairman Staelin requested David Ash write a letter to the School Board providing notice of that the budget shortfall of \$1,050,000 would be divided using the historic two-thirds / one-third split.

Miscellaneous

Request to Record Sessions in Audio and/or Video

At the beginning of the regular meeting, TV3 made a request to record the proceedings. In the absence of a policy, Vice Chairman Hobert requested that discussion of this matter be added to the agenda.

Following discussion, Chairman Staelin instructed David Ash to research guidelines and procedures of surrounding jurisdictions.

Budget Work Sessions

Following discussion, the Budget Work Session for Thursday, February 19, was canceled moving review of budget matters to the Work Session scheduled for Tuesday, February 24.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Provide Superintendent with local funding numbers.	David Ash
2.	Revise minutes and process.	Lora B. Walburn
3.	Process Resolution 09-03R.	Lora B. Walburn
4.	Resolution VDOT Form AM-4.3 Report of Changes in the Secondary System of State Highways – provide sample resolution.	Jeff Lineberry.
5.	Have Bob Mitchell present at the next meeting of the Supervisor to discuss the Calmes Neck issue.	Jesse Russell
6.	Update Salem Church Road Rock Issue at March meeting.	A.R. Dunning, Jr.

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
7.	Advertise for Public Hearing SUP-08-01 and SUP-09-01.	Lora B. Walburn
8.	Conduct at tour of the Georgetown site.	Chuck Johnston
9.	Provide update on SUP-09-01 to Parks and Recreation Advisory Board.	David Ash.
10.	Placed on March agenda continued discussion on PH 09-01 SUP-08-02 (aka SUP-04-01).	David Ash
11.	Update 2009 Board of Supervisors Committee Appointments.	Lora B. Walburn
12.	Provide notice of appointment and update database.	Lora B. Walburn
13.	Revise FY10 budget as instructed.	Tom Judge
14.	Research guidelines and procedures of surrounding jurisdictions on televised recordings at meetings.	David Ash
15.	Cancel February 19 Budget Work Session and revise calendar.	Lora B. Walburn
16.	Update County Code CC-09-01, CC-09-02, CC-08-04.	Lora B. Walburn
17.	Update Special Events forms.	Lora B. Walburn

At 4:36 pm Chairman Staelin recessed the meeting until 6:30 pm.

At 6:35 pm Chairman Staelin reconvened the meeting.

Citizens Comment Period

John del Re, Salem Church Road: spoke to the Supervisors regarding the clay extraction planned for the John Paul Riley landfill. He provided before and after photographs of the property prior to the removal of trees on the hedgerow. He opined that the agreement was to minimize the affect on neighbors; however with the removal of the trees, the neighbors are now exposed. He requested that tree removal be ceased. He requested that a 100-foot buffer be left between the road, the old shale pit and the corner. Mr. Del Re said that he and his wife had measured the buffer and it was only 41-feet not 75 feet as required. He requested some manner of official communication, as well as semi-annual meetings with neighbors.

Supervisor Dunning stated that by law the buffer must be maintained. He said that he believed that it was simply a matter of the landfill trying to improve the property making it look cleaner, tidier.

David Ash interjected that it was his understanding that this property was to be rented for agricultural use.

Due to the number of persons present for CC-09-01, Chairman Staelin revised the public hearing order.

PH 09-04: CC-09-01

The Clarke County Board of Supervisors will consider the amendment of Clarke County Code, Chapter 120, Noise, so as to delete the current text in its entirety and adopt new text so as to update and clarify these provisions.

Chuck Johnston reviewed the Code amendment No. CC-09-01 Chapter 120 Noise explaining that the change was to update and clarify the existing ordinance. He explained the process by which 70 decibels was selected as the threshold. He advised that the ordinance does allow for that level to be rebutted with competent evidence. He briefly covered the items specifically exempted by the ordinance.

Mr. Johnston told the Supervisor that he had spoken with Bob Mitchell regarding exempting the Ruritan grounds. Subsequent to that legal review, the Ruritan grounds were exempted; and the revised language was added to the ordinance.

At 6:56 pm, Chairman Staelin opened the public comment portion of the public hearing.

Cindy Perry, Clarke County Young Farmers: spoke on behalf of the Young Farmers, established in 1967, that have been supporting agriculture and charities throughout the county and the region. She challenged the 70 dba level. She asked for exemption for the Ruritan Grounds for fund raising organizations operating between certain hours. She asked that these be used as a guideline that could be revised and used to fit the needs of the community.

Peter Elzer, Bluemont: spoke in support of passage of the ordinance providing an example of a swamp boat used on the river near his home. He said that the judge used as a basis for conviction the fact that E911 received 9 calls in 5 minutes about the noise generated by the boat.

Chuck Johnston suggested the addition of language that would include air transport.

Robert Larson: asked a question about noise in a neighborhood using a child's party as an example and asked if this ordinance could be applied to that type of activity.

Chuck Johnston read from the ordinance and said that something like this would be subject to the ordinance but reason should prevail.

Supervisor Weiss interjected that he hoped citizens would have faith in the Sheriff to exercise good judgment in these matters.

John Rutherford: asked if there was anything that could be done for noise emanating from West Virginia specifically ultra light aircraft that fly near his home.

Chuck Johnston advised that the county could not enforce its ordinances within West Virginia boundaries.

Charles Gray, spoke against passage of the revised ordinance and asked if this would affect businesses in the industrial park advising that noise from these business could be heard on his property.

Chuck Johnston responded that the noise level for the industrial park was currently set at 65 dba.

Lloyd Good, Ruritan member: commented on the new hybrid cars that make no noise.

Barbara Heflin: asked about the requirement for a complainant to appear before a magistrate.

Chuck Johnston explained that the Sheriff's Deputy could start the process if the Deputy was a witness to the violation. He further advised that a resident could act on his or her own without waiting for action by the Sheriff.

Jeff Heflin: asked if a decibel meter was necessary.

Michael Hobert interjected that the decibel meter is only one means of proof.

Chuck Johnston supplied that the County did have a decibel meter, which could be checked out by residents to monitor ongoing issues.

There being no other persons desiring to address the Supervisors regarding this matter at 7:24 pm Chairman Staelin closed the public comment portion of the public hearing.

Chairman Staelin asked about hours of operation noting that activities between 7 a.m. to 10 p.m. were treated differently.

Mr. Milleson put forth that the Ruritan already had a contract that allowed them to operate until 11 pm however they had no objection to changing the end time to 10 pm.

Mrs. Perry concurred that the Young Farmers would be amendable to ceasing their activities at 10 p.m. but preferred not to.

Supervisor Weiss said that he was glad that the Ruritan was being exempted. He also noted that it was not the Young Farmers being exempted but the Ruritan, who must set their rules to remain within the law.

Vice Chairman Hobert moved that the ordinance CC-09-01 be adopted as proposed with modifications under 120-6 h) the language be added " including events at the Clarke County Ruritan Grounds between 7:00 a.m. and 10:00 p.m." and under 120-6 d) add "land or air-based" transportation.

The motion was approved by the following vote:

John R. Staelin, Chair	- Aye
J. Michael Hobert, Vice Chair	- Aye
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Aye
David S. Weiss	- Aye

Chapter 120 Noise
Revision of Code of Clarke County: Chapter 120
All existing text to be deleted – Proposed new text shown

Article I Noise

[Adopted 1-19-1988 as § 8-10 of the 1987 Code]

The Board of Supervisors hereby finds and declares that excessive or unwanted sound is a serious hazard to the public health, safety, welfare, and quality of life, and that the inhabitants of Clarke County have a right to and should be free from an environment of excessive or unwanted sound. Therefore, it is the policy of the County and the purpose and intent of this article to prohibit such excessive or unwanted sound as provided herein.

State law reference—Va. Code § 15.2-1200.

§ 120-1.
Administration and enforcement.

The Sheriff is hereby designated the agent of the Board of Supervisors in the administration and enforcement of this article. Employees of the Building Department, Planning Department, and other officers and employees of the County may assist the Sheriff in the enforcement of this article.

State law reference—Va. Code § 15.2-1200.

§ 120-2.
Applicability.

This article shall apply to sound generated within the County, regardless of whether the complainant or the receiving property is within or without the County. This article shall be in addition to any sound or noise regulations set forth in the County Zoning Ordinance.

State law reference –Va. Code § 15.2-1200.

§ 120-3. Definitions.

The following definitions shall apply to this article. The definitions of any sound related terms not defined herein shall be obtained from the American

National Standard Acoustical Terminology, ANSI S1.1-1994 (ASA 111-1994). Standards Secretariat, Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, if defined therein.

- A. **Emergency operation.** The term “emergency operation” means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.
- B. **Motorcycle.** The term “motorcycle” means any motorized vehicle, whether registered as a motor vehicle or not, designed to travel on not more than three (3) wheels in contact with the ground and any mopeds, self propelled scooters, all-terrain vehicles and off road motorcycles for the purposes of this chapter shall be deemed to be motorcycles.
- C. **Motor vehicle.** The term “motor vehicle” shall mean every vehicle which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle and includes every device in, upon, or by which any person or property is or can be transported or drawn upon a highway, except devices moved by human or animal power and devices used exclusively upon stationary rails or tracks.

State Code reference – Va. Code § 8.01-307

- D. **Noise.** The term “noise” means any sound, which is excessive or unwanted, but does not include any sound, which is exempt pursuant to section 120-6.
- E. **Person.** The term “person” means any natural person, association, partnership, corporation or other legal entity.
- F. **Road.** The term “road” means a public or private thoroughfare, which affords access to abutting property.

State law reference—Va. Code § 15.2-1200.

§ 120-4. Prohibited noises.

It shall be unlawful for any person to create or allow to be created any unreasonably loud, disturbing, raucous or unnecessary noise. Noise of such character, when its intensity and/or duration is detrimental to the life or health of any person, or which unreasonably disturbs or annoys the quiet, comfort or repose of any person, is hereby prohibited. Prohibited noise may include, but is not limited to, noise levels exceeding 70dBA at the property line and such levels shall be prima facie evidence of a violation of this chapter but may be rebutted by competent evidence. A sound level meter shall be used in determining decibel levels.

State law reference—Va. Code § 15.2-1200.

§ 120-5. Prohibited acts enumerated.

The following acts are declared to be unreasonably loud, disturbing, raucous or unnecessary noise prohibited by section 7-104, but this enumeration shall not be deemed to be exclusive:

- a) **Motor vehicle or motorcycle operation.** The operation, or permitting the operation, of any motor vehicle or motorcycle so as to create an unreasonably loud sound resulting from: (i) the removal, alteration or failure to properly maintain its muffler-exhaust or other noise-control equipment; (ii) jackrabbit starts, spinning tires, racing engines, or other operations; or (iii) a refrigeration unit mounted on a motor vehicle.
- b) **Radios, tape players, televisions, musical instruments, sound amplification equipment, and electronic and similar devices.** The operation, or permitting the operation, of any radio, tape player, television, musical instrument, sound amplification equipment, electronic or other similar device in such a manner: (i) as to annoy or disturb the quiet, comfort or repose of any person in a dwelling, hotel or other type of residence; (ii) as to annoy or disturb the quiet, comfort or repose of any person across any real property boundary when such device is operated in or on a motor vehicle which is parked; or (iii) as to be audible by someone of normal hearing, from outside a motor vehicle at a distance of 100 feet or more, when such device is located within a motor vehicle which is parked or is being operated on a road.
- c) **Places of public or private entertainment.** The operation, or permitting the operation, of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound in any place of public entertainment in such a manner as to annoy or disturb the quiet, comfort or repose of any person not within the place of public or private entertainment.
- d) **Noise near institutions.** The creation of any excessive noise on any street adjacent to any school, institution of learning or court, while such institution is in session, or adjacent to any medical related facility which unreasonably interferes with the workings of such institution or disturbs or unduly annoys patients in the medical related facility; provided that conspicuous signs are visible in such streets indicating that such street is a school, medical related facility or court street.
- e) **Sound level exceeding 70 decibels.** The creation of sound which causes seventy (70) dBA in the sound level as measured at the property line of the sound source.

State law reference—Va. Code § 15.2-1200.

§ 120-6. Exempt sounds.

The following sounds shall not be prohibited by this article:

- a) **Emergency operations.** Sound generated in the performance of

emergency operations including, but not limited to, audible signal devices, which are employed as warning or alarm signals in case of fire, collision or imminent danger.

- b) **Silvicultural or agricultural activities.** Sounds generated during lawfully permitted bona fide silvicultural or agricultural activities including, but not limited to, logging activities and sounds caused by livestock.
- c) **Construction, demolition and/or maintenance activities.** Sounds generated from construction, demolition and/or maintenance activities between 7:00 a.m. and 10:00 p.m.
- d) **Transient sounds from transportation.** Transient sounds generated by land or air-based transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit.
- e) **School athletic contests or practices, and other school activities.** Sounds generated from school athletic contests or practices, and other school activities, but only if conditions are imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.
- f) **Parades, fireworks and similar officially sanctioned events.** Sounds generated from parades, fireworks or other similar events, which are officially sanctioned, if required. This exemption shall not apply to private fireworks displays.
- g) **Yard maintenance activities.** Sounds generated from routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing.
- h) **Public facilities.** Sounds generated from the operation of a public facility or public use, including events at the Clarke County Ruritan Grounds between 7:00 a.m. and 10:00 p.m.
- i) **Warning devices.** Sounds generated by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.
- j) **Bells or chimes.** Sounds generated by bells or chimes.
- k) **Firearms.** Sounds generated from the lawful discharge of a firearm for the purposes of hunting, protection, local law enforcement exercises and lawfully permitted sport shooting ranges (as defined in Va. Code Section 15.2-917)
- l) **Protected expression.** Any other lawful activity, which constitutes protected expression pursuant to the First Amendment of the United

States Constitution, but not amplified expression.

State law reference—Va. Code § 15.2-1200.

§ 120-7. Complaints of noise.

No person shall be charged with a violation of the provisions of section 120-4 unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of a police officer, the officer shall have the authority to initiate charges.

State law reference—Va. Code § 15.2-1200.

§ 120-8. Violation and penalty.

Any person who violates any provision of this article and/or creates a noise disturbance, shall be deemed to be guilty of a class 1 misdemeanor. The person operating or controlling a sound source shall be guilty of any violation caused by that source. If the sound source cannot be determined, any owner, tenant or resident physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the sound device. Penalties for such violations shall be in compliance with Virginia Code § 15.2-1429.

State law reference—Va. Code § 15.2-1200.

PH 08-21: CC-08-04

The Clarke County Board of Supervisors will consider the amendment of Clarke County Code, Chapter 148-2-T, Soil Erosion and Sediment Control, Definitions, Land Disturbing Activity, so as to add "ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6 of the Code of Virginia" as an agricultural operation exempt from being considered a land disturbing activity.

Chuck Johnston provided a brief review of CC-08-04.

At 7:34 pm, Chairman Staelin opened the public comment portion of the public hearing. There being no persons desiring to address the Supervisors regarding this matter the public comment portion of the public hearing was closed.

Supervisor Weiss moved to approve CC-08-04.

The motion was approved by the following vote:

John R. Staelin, Chair	- Aye
J. Michael Hobert, Vice Chair	- Aye
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Aye
David S. Weiss	- Aye

Chapter 148 Soil Erosion and Sedimentation Control

County Code Text Amendment

Text to be deleted shown struck through – Text to be added shown in bold Italics

- § 148-2. Definitions. T. **Land-disturbing Activity** means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:
- 1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
 - 2) Individual service connections;
 - 3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
 - 4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 - 5) Surface or deep mining;
 - 6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
 - 7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ***ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6 of the Code of Virginia***, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Sec. 10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;
 - 8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
 - 9) Disturbed land areas of less than 10,000 square feet in size including water wells. However, the Clarke County reserves the right to require all persons to obtain a Minor Land Disturbance permit for land disturbing activities less than 10,000 square feet in area.
 - 10) Installation of fence and signposts or telephone and electric poles

and other kinds of posts or poles;

- 11) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and
- 12) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the Zoning/Code Enforcement Officer.

PH 09-05: CC-09-02:

The Clarke County Board of Supervisors will consider the amendment of Clarke County Code, Chapter 57, Special Events:

- §57-2, Definitions, so as to change the definition of Special Events to include activities that occur 10 or more times in a calendar year,
- §57-3, Permit Required, and §57-4, Application for Permit, so as to clarify the requirements for a permit and the criteria for a permit application, and
- §57-6, Action on Applications, so as to allow the Board of Supervisors and the County Administrator to approve any number of Special Events for multiple years at the same location.

Chuck Johnston reviewed the proposed code change CC-09-02.

At 7:36 pm, Chairman Staelin opened the public comment portion of the public hearing. There being no persons desiring to address the Supervisors regarding this matter the public comment portion of the public hearing was closed.

Supervisor Weiss moved for approval of the Code amendment.

The motion was approved by the following vote:

John R. Staelin, Chair	- Aye
J. Michael Hobert, Vice Chair	- Aye
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Aye
David S. Weiss	- Aye

Revision of Code of Clarke County Chapter 57
Added text shown in bold Italics – Deleted text shown struck through

§ 57-2. Definitions.
[Amended 09-02-17]

Special Event—

- a) Any public assembly, attraction, ceremony, event, festival, gathering, circus, carnival, or show at which rides, games, competitions, attractions, music, dance, or other performing arts are engaged in by participants or provided as entertainment by professional or amateur performers or by prerecorded means,
- 1) Which involves the raising, charging, donating or re-couping of funds,
 - 2) Which is held at any place other than on property owned by the United States Of America, the commonwealth of Virginia, or the County Of Clarke, or in a permanent enclosed structure, to which the public is invited or admitted,
 - 3) Which does not occur in the Town Of Berryville, the Berryville annexation area, or the Town Of Boyce,
 - 4) Which occurs on a parcel of land of six or more acres (a parcel of land of six or more acres may include adjoining parcels with the same owner that have a total area of six or more acres); ~~and~~
 - 5) ~~which is comprised of not more than a total of nine events days in a calendar year.~~

Medium Special Event – Special Events for 150 to 499 persons attending an event with six ~~to nine~~ *or more* days in a calendar year and Special Events of 500 to 999 persons attending an event.

§ 57.3. Permit
required.
[Amended 09-02-17]

- a) No person shall stage, promote, advertise, or hold any Special Event unless a permit has first been obtained from the County or unless ~~such event is regulated as a Home Occupation per County Zoning Ordinance Section 3-C-2 n~~ or excepted from obtaining a permit by other provisions of this ordinance.

§ 57.4. Application for
permit.
[Amended 09-02-17]

- d) No application for a Special Event may be filed more than one year before an Event is to be held or before the first Event Day for applications for multiple Special Event permits, ***except for an application for a Special Event that is substantially the same as a Special Event that been previously approved.***

§ 57.6. Action on applications.
[Amended 09-02-17]

a) Small Special Event. Upon receipt of a complete Small Special Event permit application, the Administrator, or his designee, shall review the application and shall, within 30 calendar days, upon finding that the Special Event would comply with the provisions of this ordinance, approve the permit subject to such reasonable terms and conditions established by the Administrator;

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

b) Medium or Large Special Event. Upon receipt of a complete Medium or Large Special Event permit application,

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

Supervisor Weiss moved to approve the forms and fees as revised to reflect changes from the adoption of CC-09-02.

The motion was approved by the following vote:

John R. Staelin, Chair	- Aye
J. Michael Hobert, Vice Chair	- Aye
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Aye
David S. Weiss	- Aye

PH 09-06: TA-08-09

The Clarke County Planning Commission recommends the amendment of:

The County Zoning Ordinance:

Section 4-K-4-b-5, Change to Another Nonconforming Use, so as to replace the Board of Zoning Appeals with the Board of Supervisors as the entity that decides whether a nonconforming use can be replaced with another nonconforming use;

Section 4-K-6, Uses Eligible for Special Use Permits Not Nonconforming Uses, so as to delete this section;

Section 5-B, Special Use Permit Procedures, so as to state: "A property shall be deemed to have been granted a special use permit for a use if, at the time of the adoption of the ordinance provision permitting that use in the zoning district as a special use, the use was either a permitted use in the district or a legal nonconforming use." and to state that a use that becomes a Special Use by this provision shall submit a site plan of the use.

Section 5-D, Special Use Permit Amendment, so as to state: "A property which has been granted a special use permit for a use, or a property which is deemed to have been granted a special use permit for a use pursuant to section 5-B-5, shall be required to apply for an amended special use permit in the event the use is enlarged or expanded;" and "The procedures for applying for an amended special use permit shall be the same procedures as for special use permit applications as set forth in Section 5-B;"

Section 6-E, Site Plan Procedures, so as to state in part: "A Site Plan shall become null and void if it is not submitted (in a form complying with all conditions established by the Planning Commission or Board of Supervisors) to the Planning Commission or Board of Supervisors Chair and Zoning Administrator for signature within six months from the date of approval by the Planning Commission..." and to state in part that "An approved final site plan shall be valid for not more than five years, if a final certificate of occupancy has not been issued for the structures shown on the Site Plan..."

The County Subdivision Ordinance:

Section 1-C-1, Recordation of Plats, so as to add, to the section that now says: "A Record Plat shall become null and void if it is not submitted to the Clerk of the Circuit Court of Clarke County for recordation within six months from the date evidencing approval by the Planning Commission.", provisions that allows the Planning Commission to grant an additional six months to record a plat and that allows one year (or more if approved by the Planning Commission) for plat recordation when construction of proposed public facilities has commenced or has been bonded. TA-08-09

Chuck Johnston reviewed the proposed text amendment TA-08-09.

At 8:06 pm, Chairman Staelin opened the public comment portion of the public hearing. There being no persons desiring to address the Supervisors regarding this matter the public comment portion of the public hearing was closed.

Supervisor Byrd moved to adopt the County Zoning Ordinance amendments TA-08-09 as modified using revised first B.

The motion was approved by the following vote:

John R. Staelin, Chair	- Aye
J. Michael Hobert, Vice Chair	- Nay
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Nay
David S. Weiss	- Aye

Vice Chairman Hobert expressed concern regarding the manner in which this would be addressed for the hundreds of impacted persons.

ZONING ORDINANCE TEXT AMENDMENT

Text to added showed *in bold Italics* Text to be deleted showed ~~struck through~~

4 GENERAL REGULATIONS

4-K NONCONFORMING LOTS, USES AND STRUCTURES

4-K-4 Nonconforming Uses of Land

4-K-4-b Conditions

5. Change to Another Nonconforming Use: Any nonconforming use of a structure, or

~~structure and premises, may as a special exception be changed to another nonconforming use, provided that the Board of Zoning Appeals Supervisors, upon receiving a recommendation from the Planning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals Supervisors may require appropriate conditions and safeguards in accord with the provisions of this Ordinance. The procedures for review of such change shall be the same procedures set forth in Section 5-B-1 through 5-B-3.~~

~~4 K 6 Uses Eligible for Special Use Permits Not Nonconforming Uses~~

~~Any use that is permissible as a special use in a district under the terms of this Ordinance (other than a change through Board of Zoning Appeals action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.~~

5 SPECIAL USE PERMITS

5-B PROCEDURE

5-B-5 Special Use Deemed Approved

A property shall be deemed to have been approved for a special use if, at the time of the adoption of the ordinance provision permitting that use in the zoning district as a special use, the use was either a permitted use in the district or a legal nonconforming use.

B) The owner of a property, deemed to have been approved for a special use as a result of an amendment to the Zoning Ordinance, shall submit a site plan to the Zoning Administrator documenting the nature and extent of such use within six months of the adoption of the ordinance permitting the use as a special use. Failure to do so shall constitute a violation of the Zoning Ordinance. Such a Site Plan shall address the Specifications and Contents of a Site Plan as listed in Zoning Ordinance Sections 6-F and 6-G. The Zoning Administrator may waive any of these specifications or content items where such waiver is not inconsistent with the intent of Section 6, and the applicant establishes that an undue hardship would result from requiring a specific item or that providing the item is unreasonable.

OR

B. The owner of all properties deemed to have been approved as a special use under this section shall submit to the County within _____ days of the adoption of the section, on a form provided by the Country, information documenting the nature and extent of the special use located on the property.

5-D REQUIRED AMENDMENT

5-D-1 A property which has been granted a special use permit for a use, or a property which is deemed to have been granted a special use permit for a use pursuant to section 5-B-5, shall be required to apply for an amended special use permit in the event the use is enlarged or expanded.

5-D-2 The procedures for applying for an amended special use permit shall be the same procedures as for special use permit applications as set forth in Section 5-B.

6 SITE DEVELOPMENT PLANS

6-E PROCEDURES

6-E-8 A Site Plan shall become null and void if it is not submitted, in a form complying with all conditions established by the Planning Commission or Board of Supervisors, to the Planning Commission or Board of Supervisors Chair and Zoning Administrator for signature within six months from the date of approval by the Planning Commission or Board of Supervisors. The Planning Commission or Board of Supervisors may extend this time limit upon written request of the property owner.

6-E-9 Unless a final Certificate of Occupancy has been issued for the structures shown on the Site Plan, an approved final Site Plan shall not longer be valid after five years from the date the Planning Commission or Board of Supervisors Chair signs a final version of the Site Plan that complies with any conditions set by the Planning Commission or Board of Supervisors in its approval action. Upon application of the developer, filed before expiration of a final Site Plan, the Planning Commission or Board of Supervisors may grant one or more extensions of such approval for additional periods as the Commission or Board, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:

- a. whether a building permit has been issued,*
- b. whether substantial construction work has been completed,*
- c. the size and phasing of the proposed development, and*
- d. the laws, ordinances, and regulations in effect at the time of the request for an extension.*

SUBDIVISION ORDINANCE TEXT AMENDMENT

Text to added showed *in bold Italics* Text to be deleted showed ~~struck through~~

1 PURPOSE, TITLE AND GENERAL PROVISIONS

1-C GENERAL PROVISIONS

1-C-1 Recordation of Plats

1-C-1-(d)A Record Plat shall become null and void if it is not submitted to the Clerk of the Circuit Court of Clarke County for recordation within six months from the date evidencing approval by the Planning Commission. *The Commission may approve a longer period before recordation is required. The owner of the property being subdivided must submit a written request to the Zoning Administrator for such longer period within six months of the date of the Commission's original approval. In any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by Planning Commission, or where the developer has furnished surety to the Planning Commission by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the Planning Commission, whichever is greater.*

Adjournment

There being no further business to be brought before the Board at 8:11 pm Chairman Staelin adjourned the meeting.

Next Meeting Date

The regular meeting of the Board of Supervisors is tentatively set for Tuesday, March 17, 2009 at 1:00 p.m. in the Board of Supervisors / Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: February 17, 2009

John Staelin, Chair

David L. Ash, County Administrator

Minutes Recorded and Transcribed by:
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Deputy Clerk, Board of Supervisors