

CLARKE COUNTY BOARD OF SUPERVISORS
September 15, 2009 Regular Meeting
Main Meeting Room

1:00 p.m.

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Main Meeting Room, 2nd Floor Berryville Clarke County Joint Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia on Tuesday, September 15, 2009.

Board Members Present

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

Staff Present

David Ash, Chuck Johnston, Tom Judge, Alison Teetor, Lora Walburn

Others Present

Dr. Michael Murphy, Robina Rich Bouffault, Janet Alger, Keith Dalton, Christy Dunkle, Gem Bingol, Lauren McKay, Val Van Meter, and other citizens

Call to Order

Chairman Staelin called the meeting to order at 1:03 p.m.

Adoption of Agenda

Vice Chairman Hobert moved to approve the agenda as modified.

- Add to Miscellaneous
 - Remove from Consent Agenda Item C Director Economic Development Job Description.
 - Discussion of Issuance of Passports
 - Representation at Awards Ceremony Sons of American Revolution
- Closed Session Modify to include §2.2.3711-A1, Personnel - Specific Employees or appointees of the Board; -A3, Acquisition or Sale of Property; -A5 Discussion of unannounced business location

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 Robina Rich Bouffault, appeared before the Supervisors to provide the monthly update for the Clarke County Public Schools. Highlights include:

- Met with Student Advisory Committee today focusing on service, community and increasing opportunities.
- Back-to-School Nights being conducted with an open house at Clarke County High School last evening.
- Supplemental appropriation for ARRA funds is set for public hearing this evening.
- The School Board has reviewed expenditure plans for the requested supplemental funds.
- The Schools are being careful with ARRA funds and avoiding staff hiring using these funds.
- Challenges for this school year are: Scheduling; Bus issues; Staffing challenges, especially at the high school.
- Successes include: more staff training than ever in the first month; new staff evaluation process and guidelines for licensed staff have been developed.
- Developing response for H1N1 with other schools within the Lord Fairfax Health District.
- Sports teams are doing well particularly in golf and football attributable to quality students, staff, parents and coaches.
- Preliminary results with sub-surface developments should be available by this Friday.
- Agreement has been reached on sewer easements between the Town and the Schools.
- Supervisor Dunning suggested that an individual be sought to coordinate construction efforts and fill the role performed by the late Reid Everly. Chairman Staelin said he may disagree with the specifics of Supervisor Dunning's comments but agreed with the goal of his statement. Supervisors Byrd and Weiss concurred.

Approval of Minutes

- August 18, 2009 Regular Meeting

Supervisor Dunning moved to approve the minutes of August 18, 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.	-	Aye
David S. Weiss	-	Abstain

Consent Agenda

- A. Personnel Policy Addition: Voluntary Reduced Work Schedule Policy
- B. Helen V. Butts The Clerk of the Circuit Court for the County of Clarke Report on Audit For the Period April 1, 2007 through December 31, 2008

Supervisor Byrd moved to approve the items on the consent agenda.

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

Citizens Comment Period

No citizens appeared to address the Supervisors.

VDOT

Jeff Lineberry, Resident Engineer, with Charlie Monroe, appeared before the Supervisors to provide the monthly update.

- Paving on Route 7 east bound between Routes 608 and 621 is complete and shoulder build up is currently in progress.
- Paving on Route 601 is in process and VDOT has received the remaining delineators. Shoulder work will begin after Route 7 shoulders are complete.

- Sinkhole repaired on east bound Route 7 east of Audley signal.
- Repairs to shoulder and ditches on Route 608. Mr. Monroe advised that repairs included the use of riprap.
- Scraping of various non-hard surface roadways is underway.
- Continue to work with schools on roadways.
- An October 10 meeting has been scheduled to address the Calmes Neck issue.
- The sign prohibiting parking of commercial vehicle has been placed on the mountain.

Set Public Hearing TA-09-01

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

- Sections 3-A-1-a-3 and 3-A-2-a-3, Special Uses in the AOC and FOC Zoning Districts, so as to apply the maximum total 3,000 square feet allowed for Retail and Service Business activities to outdoor activities in addition to indoor activities;
- Section 3-C-2, Supplemental Regulations for Uses in Various Districts, so as to add a section for Retail and Service Businesses that are permitted as special uses, stating that outdoor storage is not permitted and that the total area that can be devoted to business operations, whether indoors or outdoors, can not exceed 3,000 sq ft;
- Section 4-G-3, Uses and Structures Permitted in Required Yards, so as to revise and clarify these regulations;
- Section 9-B, Definitions, so as to modify the definitions of the terms 'Kennel', 'Commercial Boarding Kennel', and 'Commercial Breeding Kennel', so as to replace the references to dogs, cats, or canine/feline animals with the term 'companion animals' and to combine the terms 'Commercial Boarding Kennel', and 'Commercial Breeding Kennel'.

Chuck Johnston reviewed the proposed amendment. Following discussion, by consensus the Supervisors deferred action on Section 4-G-3 pending further review and consideration.

Supervisor Dunning moved to set public hearing for October 20, 2009 at 6:30 pm or as soon thereafter as the matter might be heard on the proposed amendment with the exception of 4-G-3.

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

Referral Of 2009/2010 Agricultural District To Planning Commission

The Clarke County Board of Supervisors will be considering the renewal of the Clarke County Agricultural and Forestal District. This District is enabled by the Code of Virginia to preserve land in agricultural use for six years. The current six-year term of the District expires March, 2010.

Chuck Johnston briefly reviewed the request.

Supervisor Dunning moved to refer to the Planning Commission 2009/2010 Agricultural District.

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

Committee Action

Finance Committee September 8, 2009 Agenda items

Tom Judge appeared before the Supervisors and reviewed the Finance Committee recommendations.

1. *FY 09 Supplemental Appropriations. The following three supplemental requests result from State revenue shortfalls, the cause for which are still being investigated.*
 - o *"Be it resolved that the FY 09 Social Services Fund revenue from the Commonwealth be reduced by \$13,000, that local appropriations be increased by \$13,000, and that the designation for government savings be reduced by \$13,000." Action: Recommendation was in error and withdrawn.*
 - o *"Be it resolved that the FY 09 Comprehensive Services Act Fund revenue from the Commonwealth be reduced by \$6,000, that local appropriations be increased by \$6,000, and that the designation for government savings be reduced by \$6,000." Action: Recommend approval.*
 - o *"Be it resolved that the FY 09 Unemployment Insurance Fund budgeted expenditure be increase \$1,400, and the same appropriated." Action: Recommend approval.*

Supervisor Dunning moved to amend the FY09 Budget:

"Be it resolved that the FY 09 Comprehensive Services Act Fund revenue from the Commonwealth be reduced by \$6,000, that local appropriations be increased by \$6,000, and that the designation for government savings be reduced by \$6,000."

"Be it resolved that the FY 09 Unemployment Insurance Fund budgeted expenditure be increase \$1,400, and the same appropriated."

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

- 2. Commonwealth Attorney request for increase in part-time wage budget. Action: Recommend approval.*

Vice Chairman Hobert moved to approve:

"Be it resolved that FY 10 Commonwealth Attorney PT salary budget expenditure be increased \$3,360, and the same be appropriated, and be it further resolved that the designation for Government savings be reduced by the same amount."

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

- 3. FY 09 Capital Projects Carryover to FY 10. Action on the carryover can be scheduled for October.*
- 4. Conservation Easement Fund Carryover. Action on the carryover can be scheduled for October to carry forward \$1,814,996 expenditure, and \$1,888,865 revenue,*

including \$258,128 General Fund Transfer. Note that rollback taxes in excess of estimate in FY 09 permit funded FY 09 local match requirements, thereby allowing full carryforward of GF transfer.

5. *FY 09 Year-end Fund Balance/Designations & FY 10 Projected Fund Balance. Action: Designations should be considered for action in October.*
6. *Budget Calendar. Action: FYI. Board members are asked to provide County Administrator availability.*

Chairman Staelin advised that he would be unavailable for the Supervisors' February 16, 2010 regular meeting.

Bills And Claims

Supervisor Weiss moved to approve the report for the August 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

David Weiss left the meeting at 3:51 pm.

Government Projects Update

David Ash provided the following highlights:

- A meeting of the Joint Building Committee has been set for Friday, September 16.
 - o HVAC issues have not been resolved.
 - o There continues to be a foul odor in the building.
- Plans for the Courthouse are still under technical review.

Closed Session

Supervisor Byrd moved to convene into Closed Session pursuant to §2.2.3711-:

- A1, Personnel - Specific Employees or appointees of the Board
- A3, Acquisition or Sale of Property
- A5 Discussion of unannounced business location
- A7 Consultation with legal counsel

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

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, **Supervisor Byrd moved to reconvene in open session. The motion carried as follows:**

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

Supervisor Byrd moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

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

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

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed

meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

The motion was approved by the following roll-call vote:

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

Miscellaneous

Appointment to Authorities, Boards and Commissions

David Weiss moved to appoint Richard Thuss, currently serving on the Board of Zoning Appeals, to serve on the Planning Commission to fill the un-expired term of Pat McKelvy.

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

Director Economic Development Job Description.

Supervisor Dunning stated that he did not believe that the County could afford the economic development position at this time. He suggested that the funds instead be appropriated to the Schools to hire a "clerk of the works" to support the new high school construction.

Vice Chairman Hobert suggested that, if the Supervisors agreed, their position should be communicated to the School Board. He reminded that the Supervisors' had no authority in this matter other than to ask questions. He further stated that it would be inappropriate for a volunteer to be made responsible for a multi-million dollar project.

Following discussion, by consensus, Chairman Staelin's suggested that a letter be written to the School Board expressing the Supervisors' concerns regarding project pace, their willingness to support the management of the process and to ask which management

system they will be using. Chairman Staelin stated that he would draft the letter and circulate to the members for their review.

Supervisor Dunning left the meeting at 4:10 pm.

Vice Chairman Hobert moved to approve the Director Economic Development job description and initiate the advertisement process.

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.	-	Absent
David S. Weiss	-	Absent

Discussion of Issuance of Passports

David Ash announced that due to changes in the federal requirements the Clarke County Circuit Court Clerk, Helen Butts, has ceased to issue passports.

Representation at Awards Ceremony of the Sons of American Revolution

David Ash explained that the flag display at the Joint Government Center had won an award from the Sons of the American Revolution. Former Supervisor Raleigh Watson was requesting representation at the awards ceremony tentatively scheduled for Saturday, October 3, at 10 am or the alternate date of Saturday, October 10. Following discussion, it was determined that Michael Hobert and David Weiss were the only Supervisors available on October 3; and for October 10, Barbara Byrd, John Staelin, Michael Hobert and David Weiss.

Keith Dalton advised that October 3 was the Town's preference.

Board of Equalization

Pursuant to notice given by the County Administrator, **Vice Chairman Hobert moved to authorize the Chair to nominate the members of the prior Equalization Board. Pending confirmation of willingness to serve recommend one or more other individuals may be nominated in the event prior members cannot accept the current appointment.**

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.	-	Absent
David S. Weiss	-	Absent

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Update Personnel Policy to add Voluntary Reduced Work Schedule Policy.	Lora B. Walburn
3.	Process public hearing for TA-09-01.	Lora B. Walburn
4.	Review Section 4-G-3 deferred for further action from TA-09-01	Chuck Johnston
5.	Process appointments.	Lora B. Walburn
6.	Draft a letter to the School Board and circulate to the members for their review.	John Staelin
7.	Initiate advertisement process for Director Economic Development position.	David Ash
8.	Contact Equalization Board members to determine willingness to serve.	John Staelin
9.	Update County Code CC-09-05 and CC-09-06.	Lora B. Walburn
10.	Re-advertise for public hearing CC-09-07.	Lora B. Walburn

At 4:22 pm Chairman Staelin recessed the meeting until 6:30 pm.

At 6:37 pm Chairman Staelin reconvened the meeting.

Citizens Comment Period

No citizens appeared to address the Supervisors.

PH 09-18: CC-09-05

Chapter 143 Septic Systems, Article II, Section 143-7 Definitions, so as to change the term 'Subsurface Septic Systems' to 'Standard Septic System' and through out Chapter 143, to change the reference from 'subsurface' to 'soil' or 'septic' when describing absorption systems.

Chuck Johnston introduced the subject matter then turned the presentation over to Alison Teetor, Natural Resources Planner. Ms. Teetor provided a presentation titled "*Current Clarke County Septic Regulations, State Onsite Sewage Disposal Regulations*" followed by a Supervisors' question and answer period.

At 6:50 pm Chairman Staelin opened the public comment portion of the public hearing.

Alex Blackburn, Berryville: soil scientist working within Clarke County and throughout the state and County resident, spoke in opposition to the amendment. He opined that notice of public hearing was inadequate; however, when advised that the notice was published in The Winchester Star, he stated that he did not read that newspaper.

Mr. Blackburn opined that the proposed regulations were confusing. Highlights of his comments include:

- Approximately two thirds of Clarke County is on limestone, and one third on the Blue Ridge. The bedrock and soils are very different and this should be taken into consideration when developing regulations.
- Effluent from alternative systems is relatively clean water going into the ground.
- Set backs force three different types of alternative systems: spray irrigation, mounds, or shallow-placed drips, which, based on data, have the highest failure rates.
- Best septic systems in his opinion are those which use pre-treatment with trenches
- Spoke in opposition to mounds.
- New state laws require maintenance on alternative systems.
- New state regulations make the consultant responsible should systems fail.

Supervisor Dunning stated that the purpose for these regulations was multi-faceted; and for him, it was about protecting ground water.

Supervisor Weiss clarified with Mr. Blackburn that his objections weren't that the proposed regulations were harmful but a matter of economics – system cost.

Mr. Blackburn stated that the regulations prevented development of properties within the County such as his.

Bob Marshall, Berryville: soil scientist with Cloverleaf Environmental working in Clarke County and elsewhere with the design and maintenance of septic systems and County resident. He commented that he had only just been made aware of the public hearing on this matter. Highlights of his comments include:

- Do not know the full impact of what proposed changes on repairs or subdividing existing property.
- Protecting groundwater should be the primary focus.
- Some alternate systems are cleaner than standard septic systems.
- Conventional septic systems are not the direction in which the state wants to move in future.
- Missing opportunities to deal with some issues when real estate is transferred
- Spoke in opposition to mounds.
- Proposed regulations look to favor surface installations.
- Gravity installation can cost approximately \$10,000 while drip installation about \$30,000.
- System maintenance and care depends on pre-treatment systems.
- Recommended pump out for a septic tank is every five to seven years.
- Some alternative systems are as passive as a drain field.
- Believes that he would support bonding
- Suggested scheduling a technical meeting with soil scientists to further discuss the regulations.
- New regulations do not allow consultants to add additional O&M requirements that would cause customers to choose another system.

Alison Teetor explained how the regulations would apply to existing houses and that the current variance system remains in place.

Supervisor Weiss asked for the speakers to address for him how they derived the numbers, set backs to bedrock and why they believed the proposed regulations would not work.

Rob Charnley, Berryville: soil scientist and County resident, commented that he had been given insufficient time to prepare. He suggested that the Board not make any hasty decisions before the state regulations went into affect. He, too, supported formation of a sub-committee of experts, soil scientists, the natural resource planner, health department and others.

Ryan Reed, Bluemont: current president of VA Association of Professional Soil Scientists and County resident, commended Clarke County for continuing to recognize soil scientists noting that they are bound by a code of ethics. He noted that he would not be financially hurt nor benefit from this regulation. Highlights of his comments include:

- Concerned about proposed regulations on a technical basis,
- There is no data to support that the increase in stand off benefits safety and groundwater.

- One benefit of alternate systems is that you know when they are failing. They are equipped with alarms that can alert the homeowner. Conventional systems have a direct conduit into groundwater and do not have alarm systems, which can be more detrimental.
- Alternatives provide greater opportunity to protect groundwater.

Gerard Sossong, Reston and property owner in Clarke County: stated that he was fearful that the property he and his wife owned in Clarke County would be rendered unbuildable with the proposed regulations. He opined that there seemed to be repeated efforts to prevent he and his wife from building on their property and it seemed reasonable that these proposed regulations were another effort to limit development in the County.

Supervisor Byrd asked if Mr. Sossong knew when he bought property that it was unbuildable.

Mr. Sossong stated that when he purchased the property two years ago he did know that he could not install an alternate system but could only build with a conventional system. He further stated that the perk test was performed for an alternate system.

Chairman Staelin stated that the Counties regulations had not changed during that time period and he did not understand how Mr. Sossong's property would become unbuildable by the proposed regulations.

David Weiss clarified that, while the owner may have thought they could place an alternate system on their property, Clarke County has never allowed alternate systems for new construction.

Supervisor Byrd commented that Mr. Sossong should have asked his realtor about use of an alternative system; and if his realtor told him wrong, then he could have gone after him.

Supervisor Dunning remarked that no property owner has the right to pollute a neighbor's groundwater.

Mr. Sossong, speaking as a professional engineer, stated:

- Alternate systems are superior to conventional systems.
- Conventional systems were scarier because maintenance is not required.
- If the issue is maintenance, the County should change its regulations to require maintenance.
- Should an existing structure be replaced, proposed regulations would restrict the ability to expand.
- Opposed to bonding.

Frank Lee, Berryville: soil scientist and County resident: Highlights of his comments include:

- Good time to look at overall septic regulations and ordinances.
- Groundwater protection is extremely important.
- Instead of using modern technology Clarke County is trying to adapt old technology that puts raw effluent into the ground – treated effluent will not have the totally negative effect of untreated waste.
- Valley is vastly different than the mountain and concurred with Pete Dunning that the state treats all the same.
- Valley has higher risk than mountain and may want to review regulations with that in mind.
- Should have a monitoring contract – not a “flush and forget” system.
- All systems need maintenance and the more maintenance the better they will be.
- Broad range of alternatives systems but all systems have a septic tank that captures solids – that transfers to a pretreatment. This is the same thing conventional systems do using soil.
- Comes down to dollars and cents and homeowners will put in what is most affordable to them and not necessarily what is best for the environment.
- Drip does not work well in heavier soils – can use on mountain in lighter soils.
- Encourages use of trenches, go by the state regulations, pretreatment going into a trench to encourage putting in the most ecologically sensitive systems that are less expensive than a pre-treated drip system.
- Not opposed to bonding.

Bob Marshall interjected that he and Mr. Lee prefer the gravel trench of the two available types.

Bob Holmes, Millwood: retired soil scientist and County resident, summarized his efforts over the years to change and strengthen regulations. Highlights of Mr. Holmes comments include:

- Keep septic in the ground.
- Opposed shallow placement drainfield in the valley.
- Opposed the discharge systems and always tried to discourage surface discharge with clients.
- Considers trenches the best treatment method.
- In limestone, spray systems are not feasible.
- Persons with lots should have the right to explore options acknowledging that not all lots are buildable but should have opportunity to explore use of state-approved alternative systems.
- Proposed that set backs should be flexible.
- Supports formation of a sub-committee to review alternative systems.

- Not opposed to bonding.

Chairman Staelin commented that he did not believe that State regulations allowed them to limit to type of alternate systems.

Supervisor Weiss clarified that the proposed depth would economically force persons into those three inferior systems first mentioned by Mr. Blackburn.

Mr. Holmes concurred but said that these systems were not necessarily inferior but the installation would cost less .

Chris Stiles, Berryville: farmer and septic disposal business in another county. commented that he was glad to have this much expertise living within the County. Highlights of his comments include:

- Need to know why the proposed changes are better.
- Need to develop a long-term plan.
- Setbacks can require farmers to use farmland for building lots.
- Alternate systems would allow preservation of farmland.

Shannon Dulaney, Berryville: builder and farmer in county. He stated that the proposed regulations did not affect the land he owned within the County. He concurred with previous speakers regarding the formation of a sub-committee and data collection.

Jean Hess, Shenandoah Reteat: asked questions about drip systems, which Alison Teetor answered.

Mark Timberlake, farmer in the county: asked that the Supervisors listen to recommendations made by the experts prior to making a final decision.

At 8:18 pm, there being no other persons wishing to comment, Chairman Staelin closed the public comment portion of the public hearing.

Supervisor Weiss stated that it seemed reasonable to require all systems to have the same setbacks but it would appear that these regulations could create an adverse impact. He further commented that the regulations required further review.

Supervisor Dunning expressed his appreciation for the comments made by the soil scientists. He commented further that he was more inclined to go the extra distance with the larger set back on limestone. He stated that he did not have a problem with what the proposed regulation. Mr. Dunning asked for comment from Alison Teetor.

Alison Teetor stated that she had the utmost respect for the persons assembled but she stood behind her presentation,. She said that she had no objection to postponing action and establishing a committee to look at the matter further. She did note that the regulations were

meaningless until the state established their regulations. Ms. Teetor expressed her professional opinion that:

- Septic systems should have as much buffer as possible.
- System maintenance is critical.
- Conventional systems also fail.
- There should be as much protection as possible.

Vice Chairman Hobert expressed concern saying that while the proposed regulations might provide additional protection they might drive people to use systems that are not as good.

Supervisor Weiss clarified with the soil scientists their assertions that less soil would be acceptable because the effluent is purer with the alternate systems.

Supervisor Byrd put forward that Clarke County was a special place with very special conditions. She reminded that alternates were not allowed due to system failures and urged caution. She noted comments by the soil scientists on the merits of trench systems and the negative aspects of mound and spray systems. She concluded by stating that she would support staff but would also like additional input from the soil scientists.

Supervisor Dunning moved to approve CC-09-05 as presented.

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.	-	Aye
David S. Weiss	-	Nay

PH 09-19: CC-09-07

Chapter 143 Septic Systems: Article III, Section 143-16 Recordation of Onsite Sewage Disposal Permit Limitations, so as to require recordation of sewer permits prior to issuance of any building permit, Sections 143-16, 17 and 18, so as to delete the reference to the definition and form regarding complete or incomplete sewage disposal records and add a section in Section 143 so as to reference the form defining complete or incomplete sewage disposal permits, and Section 143-18, so as to require the grantee to record the Notice of On-site Sewage Disposal Limitations, if the owner fails to record such Notice prior to property transfer.

Chuck Johnston reviewed the proposed amendment CC-09-07 explaining that what was advertised for public hearing was correct the materials distributed were incorrect. By consensus, the Supervisors deferred the public hearing requesting that the item be re-advertised for the October meeting.

PH 09-20: ARRA Supplemental

Be it resolved that the Board of Supervisors FY 10 School Operating Budget be amended to add expenditure of \$574,038, to appropriate the same, and to recognize revenue from the federal government in the same amount, for the purposes of enhancing special education programs, enhancing pre-school programs, and enhancing educational technology programs.

Tom Judge reviewed the ARRA Supplemental request. Janet Alger, Chair - Clarke County School Board, was present to address any Board concerns.

At 8:38 pm, Chairman Staelin opened the public comment portion of the public hearing. There being no persons present desiring to speak on the matter the public comment portion of the public hearing was closed.

Supervisor Dunning moved to approve the following resolution:

Be it resolved that the Board of Supervisors FY 10 School Operating Budget be amended to add expenditure of \$574,038, to appropriate the same, and to recognize revenue from the federal government in the same amount, for the purposes of enhancing special education programs, enhancing pre-school programs, and enhancing educational technology programs.

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 09-21: CC-09-06 – Chapter 34 Sanitary Authority.

The Clarke County Board of Supervisors will consider the amendment of Chapter 34 Sanitary Authority so to revise membership requirements to reflect changes mandated by State Code and to revise Code of Virginia References.

Chairman Staelin reviewed the proposed amendment.

At 8:40 pm, Chairman Staelin opened the public comment portion of the public hearing. There being no persons present desiring to speak on the matter the public comment portion of the public hearing was closed.

Supervisor Dunning moved to approve code amendment CC-09-06.

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 34 Sanitary Authority

[HISTORY: Adopted by the Board of Supervisors of Clarke County 1-19-1988 as § 2-8 of the 1987 Code. Amendments noted where applicable.]

Code Of Virginia References *§ 15.2-5100. Virginia Water and Waste Authorities Act et seq.* ~~§ 15.1-1239 et seq. Virginia Water and Sewer Authorities Act~~
§ 15.2-5102. One or more localities may create authority ~~§ 15.1-1241. Power to create Authority~~
§ 15.2-5108. ~~§ 15.1-1246.~~ - Issuance of certificate or charter (The Certificate of Incorporation or Charter of the Clarke County Sanitary Authority is on file in the office of the County Administrator.)
§ 15.2-5114. ~~§ 15.1-1250~~ Powers of authority.

§ 34-1. Continuity of Authority actions. Nothing in this Code or the ordinance adopting this Code¹ shall affect any current ordinance, resolution or Articles of Incorporation related to the Clarke County Sanitary Authority, and they are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

§ 34-2. Membership. ~~The Board of Supervisors shall appoint one member of the Authority from each election district and one member from the Town of Boyce, The board of the Authority shall be appointed by the Board of Supervisors and shall be composed of five members, one of whom shall be a resident of the Town of Boyce, each for a term of four years and until his successor is appointed and qualifies except appointments to fill vacancies, which shall be for the remainder of such un-expired term. The Town may submit a nominee or nominees to the Board of Supervisors for its consideration in making the appointment of the Boyce resident member.~~

PH 09-22: TA-09-05 Plan Amendment:

The Berryville Area Development Authority recommends the amendment of the Berryville Area Plan, Chapter V, Planning Area Analysis for Sub-areas 6 and 7, so as to delete the paragraphs in each sub-area section with the following first sentence: "Housing for the elderly is a land-use designation to be

¹ Editor's Note: See Ch. 1, General Provisions, Art. I.

applied to the sub-areas 6 and 7." These paragraphs were added to the Plan in 1995 to enable the development of Mary Hardesty House (which was located on sub-areas 6 and 7) and became redundant by the 1997 Plan amendment, which established Sub-area 6A, specifically for Housing for Older Person uses.

Chuck Johnston reviewed the proposed plan amendment TA-09-05. He advised that the Town of Berryville has set public hearing on the matter.

At 8:42 pm, Chairman Staelin opened the public comment portion of the public hearing. There being no persons present desiring to speak on the matter the public comment portion of the public hearing was closed.

Supervisor Byrd moved to approve the Berryville Area Plan amendment TA-09-05.

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

Appointment to Authorities, Boards and Commissions

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Clarke County Sanitary Authority <i>Mr. Myer is appointed to fill the un-expired term of the late Reid Everly.</i>	Joe Myer	12/31/2011
Handley Regional Library Board <i>Mrs. Myer is appointed to serve her first full four-year term.</i>	Tamara Myer	11/30/2013
Economic Development Advisory Committee <i>Mr. Hillerson is appointed to serve a four-year term.</i>	Jay Hillerson	12/31/2013

Supervisor Dunning moved to confirm the appointments as presented.

The motion was approved as follows:

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

David S. Weiss - Aye

Adjournment

There being no further business to be brought before the Board at 8:47 pm Chairman Staelin adjourned the meeting.

Next Regular Meeting Date

The regular meeting of the Board of Supervisors is set for Tuesday, October 20, 2009 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: September 15, 2009

John Staelin, Chair

David L. Ash, County Administrator

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