

CLARKE COUNTY BOARD OF SUPERVISORS
October 20, 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, October 20, 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, Christy Dunkle, Gem Bingol, Val Van Meter, and other citizens

Call to Order

Chairman Staelin called the meeting to order at 1:05 p.m.

Adoption of Agenda

Vice Chairman Hobert moved to approve the agenda as presented.

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	- Absent

David Weiss joined the meeting at 1:25 pm.

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:

- Kids
 - Clarke County on-time graduation rate improves to 95.3%.
 - Dr. Murphy agreed to provide the Supervisors a break down of diplomas by type.
 - The blended schools of Cooley and Primary are doing great:
 - Lighting and improvements effected during the summer by Bobby Levi has provided a new look and a new face.
 - New leadership is performing well.
 - Perception is changing.
 - H1N1 issues are presenting challenges, but absences are still under 20% on average.
 - Permission slips for shots are due today.
 - Shot clinic dates to be announced soon.
 - Staff shortages may be a possibility.
- Staff
 - Football season has begun and doing well.
 - Moving forward with a Leadership Cadre and Master Teacher's Cohort for next year so that we can "grow" our own leaders for future school and administrative assignments. School staff is excited!
- Budget
 - CCEF and CCCC [Concerned Citizens for Clarke County] have provided financial support of AP and IB Scholarships and Staff Training.
 - Appropriate and careful use of ARRA funds.
 - Some "stuff" including a new 60-passenger special education school bus.
 - Capacity building via staff development for special education and title programs.
 - Carry-over funds – preliminary discussion with staff and Tom Judge on the best uses of these funds in what are indeed unprecedented times.
 - Budget planning process: draft calendar to be reviewed by the Finance Committee in November.
 - Chairman Staelin noted that the Sheriff's Department was working on implementation of a citizen alert system and encouraged Dr. Murphy to speak with Sheriff Roper to coordinate systems.
- Educational Program
 - Working on master schedule and staffing issues for next year.

- Formalized employee evaluation process with forms and procedures implemented this month.
- No new programs – focus is on improving what we have and ensuring that we can be the best at what we do.
- New High School
 - New consensus on the conditions for the Special Use Permit. The 19 conditions placed on the special use permit by the Town of Berryville were reviewed at the Monday, October 19, School Board meeting.
 - Have requested a joint Town/School Board meeting to come to agreement possibly meeting next Monday or Tuesday.
 - 30% review in process – time to sharpen the saw and refine the costs. The presentation of the estimate was also made at the Monday night School Board meeting.
 - Supervisor Byrd distributed copies of the Construction Management Plan and the Project Estimate Worksheet provided at the Monday meeting.
 - Tom Judge distributed and reviewed Updated Project Costs 10-20-2009. Highlights include:
 - \$8,740,350 in additional funds are needed.
 - Responding to Supervisor Dunning's query, Tom Judge responded that \$2.9 million had been spent up on the former School Board's Salvation Army project.
 - Dr. Murphy presented and reviewed a schematic of the new high school including a green house that has been approved but not included in the base plan, add alternates for wrestling and weight rooms, agricultural technology lab and team dressing rooms.
 - 51 to 52 teaching spaces planned.
 - 42 classrooms planned.
 - 12-foot hallways.
 - Lockers will be imbedded in the walls – flush with the end walls.
 - Music and drama area is to be redrawn.
 - Special Ed suites are planned for both floors.
 - The plan includes one elevators and a ramp to access the stage.
 - There was discussion of the functionality of the library including suggestions that some concession be made to accommodate the agricultural technology lab with the library. Dr. Murphy advised that the School Board had decided to leave voc-ag at the old high school that is adjacent to fields.
 - In consideration of the current economy, Supervisor Dunning requested that everyone should be focusing on prioritizing the high school project, as well as every capital project and spending in general to what is most needed.

Approval of Minutes

- September 15, 2009 Regular Meeting

Supervisor Byrd moved to approve the minutes of September 15, 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	-	Ay

Consent Agenda

- A. Resolution of Support Honoring Lord Fairfax Emergency Medical Services Council, Inc. 09-25R

Resolution of Support Honoring
Lord Fairfax Emergency Medical Services Council, Inc.
09-25R

WHEREAS the Lord Fairfax Emergency Medical Services Council, Inc. has served Clarke County since 1978 as a non-profit organization providing services, training, and support to the EMS providers and agencies; and

WHEREAS the Vision Statement of the Council is to establish and maintain a comprehensive and effective regional EMS system for the Northern Shenandoah Valley that provides for the health and safety of its citizens and visitors; and

WHEREAS the mission of the Council is to promote a regional community-based emergency medical services (EMS) network that reduces premature death and disability from acute illness and injury through the coordination of local EMS resources and will be accomplished through teamwork, dedication, customer-friendly staff, quality training, and by efficient and cost-effective operations; and,

WHEREAS the Council accomplishes its mission by providing planning, coordination, collaboration, and support for the regional EMS system while continuing to develop and foster meaningful regional partnerships, providing high quality EMS training, participating in state level EMS activities representing the local EMS providers, and disseminating valuable knowledge and information to the agencies it serves;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Clarke County, Virginia, does hereby express its appreciation and support to the Lord Fairfax Emergency Medical Services Council, Inc. for its continued service and assistance.

Adopted this 20th day of October 2009

Attest:

David L. Ash, Clerk
Clarke County Board of Supervisors

B. Board of Supervisors Recommendations to the Clarke County Circuit Court for Board of Equalization Appointees

1. Joe Blatz
340 Bishop Meade Rd.
Millwood, VA 22646
2. Greg Canterbury
301 S. Church St.
Berryville, VA 22611
3. Thomas Dame
P. O. Box 334
Millwood, VA 22646
4. Lindsay Hope
389 Kimble Road
Berryville, VA 22611
5. Sid Stern
P. O. Box 155
Millwood, VA 22611

C. Resolution of Appreciation of Service 09-26R

Resolution of Appreciation of Service
09-26R

WHEREAS, James Coumes was employed as a Deputy in the Sheriff's office of Clarke County on January 1, 1972 and served in that capacity until his retirement in 2009.

NOW THEREFORE BE IT RESOLVED, by the Clarke County Board of Supervisors that Deputy Coumes be recognized and congratulated on achieving thirty-seven years and ten months of continued service to the citizens of Clarke County and that he be congratulated on his successful career, and on the positive influence he has had on Clarke County;

BE IT FURTHER RESOLVED, that his dedication, loyalty, and service to the Citizens of Clarke County be hereby memorialized and that a suitable copy of this resolution be presented to Mr. Coumes as a token of the respect and high esteem in which he is held by the Clarke County Board of Supervisors, Constitutional Officers, and the staff of Clarke County.

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the members of the Clarke County Board of Supervisors assembled in regular session on the 20th day of October 2009.

Attest:

John R. Staelin, Chairman

D. Conservation Easement Donation Approval

TO: Board of Supervisors
FROM: Alison Teetor
DATE: October 5, 2009
SUBJECT: Request for Easement Approval

The Easement Authority has preliminarily approved the following easements for acceptance. The Authority requests the Board of Supervisors to authorize the Chairman of the Board of Supervisors to execute deeds, easements, and other documents necessary to the transactions.

DONATIONS

Beth Clarke – Tax Map# 3-((A))-3 & 3-((A))-3A, 95.9 acres

The parcel consists of two properties 92.9 acres with 4 DURs and 2.9 acres with 1 DUR located on the north side of Wadesville Road. Ms. Clarke would retire 4 of the 5 DURs, thus leaving the 2.9 acres with 0 DURs and the 92+ acres with 1 DUR. There are no existing houses. In reviewing the parcel, it is zoned AOC and currently in land use, and three of 4 criteria have been met. The Property Resource Score is 82.8, four of the five remaining DUR's are being extinguished, the parcel is larger than 40 acres in size, and it is not adjacent to an existing easement.

The property is primarily open pasture, with some woodland adjacent to the Opequon Creek. This property has large pond, frontage on the Opequon and an unnamed perennial stream, and two mapped sinkholes. It is in land use. There is no lien on the property. It has been in the family for more than 50 years. The applicant would retire 4 DURs with no subdivision.

E. Approval Of Letter To Virginia Department Of Health Regarding Emergency Regulations Alternative Onsite Sewage Systems

Allen L. Knapp
Director, Division of Onsite Sewage
Water Supplies, Environmental Engineering, and Marina Programs
109 Governor Street, 5th Floor
Richmond, VA 23219

RE: Comment on Emergency Regulations Alternative Onsite Septic Systems (AOSS)

Dear Mr. Knapp:

As you may know, Clarke County is one of several counties in Virginia that has adopted a local septic ordinance and placed limits on the installation of alternative septic systems. The County has taken these steps in an effort to protect our ground-water resources. Seventy percent of the County is underlain by karst terrain, which has been scientifically proven to be more susceptible to contamination than other geologic regions in the State.

The County strongly opposed the approval of HB1788 and has several concerns and questions regarding the proposed Emergency Regulations for AOSS.

- 1) Who is responsible for ensuring and enforcing the licensing of septic installers?
- 2) How will mandatory inspections and maintenance be administered at the local level to insure compliance with the proposed regulations?
- 3) Part 2: Performance Requirements page 9 line 1 - How is groundwater protected if only a 6" separation to a limiting condition in the naturally-occurring soil below the soil treatment area is provided and the system fails?
- 4) Performance requirements- laboratory sampling and monitoring page 11 line 32 - It appears problematic to require the homeowner to take samples – if an "Operator" is responsible for inspection, why not require the "Operator" to collect grab samples?
- 5) Part 3 Operations and Maintenance line 17 - require all sample results and inspection logs be provided to the local Health Department, not just upon request. These logs could be used to generate summary reports detailing compliance, sampling results, and other statistical data related to the overall performance of these systems that would otherwise be unavailable.
- 6) Page 14 line 35 – Why shouldn't local septic ordinances in karst areas have required compliance as stated for local septic ordinances adopted pursuant to the Chesapeake Bay Preservation Act (§10.1-2100 et. seq.) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 et. seq.) when an AOSS is located within a Chesapeake Bay Preservation Area, as we are within the Chesapeake Bay Watershed.
- 7) Horizontal setback requirements Page 18 lines 5-11 – will local ordinance setback requirements be permitted?
- 8) Will the local health department cover the added workload required to administer these programs? And if so, will the state be providing the additional funds required to do so?
- 9) Will the County be permitted to require bonding of septic installers?

These are a few of the questions and concerns the County has regarding the proposed regulations. After further review we will undoubtedly have more. I look forward to your response to these concerns.

Sincerely,
John Staelin
Chair, Clarke County Board of Supervisors

F. VACo 2009 Voting Credentials

Voting Delegate: John Staelin, Chair
Alternate Delegate: J. Michael Hobert

Vice Chairman Hobert 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.

- Completing shoulder work on Route 340 from the Berryville limits to Double Tollgate.
- Completing shoulder work on Route 601.
- Completed equipment dry run in preparation for the upcoming winter season
- Picking up deer from roadways.
- Completed transaction on Calmes Neck Subdivision.
- Concluded review of the TIA and the preliminary site plan for the new high school; and in the opinion of VDOT, the project can move forward with continued public hearing.
- Still awaiting on comments back on proposed passing zone on Route 601 and two-multi-way stop signs.
- Supervisor Byrd put forth that funds for the Westwood Road and completion of Mosby project would not be available until 2016.
 - Jeff Lineberry stated that VDOT would continue review of those figures and continue to evaluate under the current scope because the funds must be available before proceeding with the project.

- Supervisor Byrd expressed her concerns regarding the need for traffic calming measures associated with this project.
- Jeff Lineberry said that VDOT will be looking at identifying how they might best meet basic needs.
- Mr. Lineberry assured that interested parties are encouraged to attend the scoping meeting.
- Supervisor Byrd requested closure of Neil Road presenting research, including photographs, for consideration. She advised that Frederick County has already closed their portion of the road. Jeff Lineberry briefly reviewed the abandonment process, which is Supervisor Byrd's preferred action. He advised that he would begin the field process and provide update to the Board.
- Supervisor Dunning relayed problems created by a disable vehicle blocking the Double Tollgate intersection on Route 340 the previous evening.

People Incorporated of Virginia Presentation

Robert G. Goldsmith appeared before the Supervisors to update them on his efforts to address Board requests discussed at the August 2009 meeting. Highlights include the following:

- Letters of support from NSVRC, Our Health and Help With Housing were sought and provided.
- It is not there intention to duplicate services provided by other agencies such as the Head Start program.
- Over the next year, it is intended that the micro enterprise development person would work approximately 50% of their time in Frederick, Warren, and Clarke counties making small business loans.
 - Loans are at prime rate plus three percent.
 - Average loan made is \$17,000.
 - If business defaults, collateral is seized.
- Intend to pursue community-housing block grants.
- Supervisor Weiss informed the Supervisors that the Housing Consortium supports People Incorporated. He stated that he has heard nothing but positive comments about this organization. He further noted that the County does have a need for the services they provide.

At 2:56 Supervisor Dunning stepped out of the meeting room.

Vice Chairman Hobert moved to approve the resolution of support.

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	- Aye

Resolution Designating People Incorporated As Clarke County's Community Action Agency
09-28R

WHEREAS, the Clarke County Board of Supervisors desires that the citizens of Clarke County have access to opportunities to reach their goals to enhance their lives; and

WHEREAS, People Incorporated of Virginia, a Community Action Agency, has experience in developing and providing services that provide opportunities for housing development, human development, and community economic development that do not currently exist in Clarke County; and

WHEREAS, People Incorporated desires to develop and offer services to the citizens of Clarke County, as the county's Community Action Agency.

NOW THEREFORE BE IT RESOLVED, that the Clarke County Board of Supervisors does hereby designate People Incorporated of Virginia as Clarke County's Community Action Agency.

Adopted by the Clarke County Board of Supervisors this 20th day of October 2009.

Attest:

David L. Ash

Establish Alternate Date for November Committee Meetings

By consensus, the Supervisors agreed to set the Committee meetings for Friday, November 13, 2009 at the regular times.

Supervisor Dunning rejoined the meeting at 3:02 pm.

Discussion of 2010 Legislative Issues

The Supervisors discussed the proposed changes, additions and deletions:

- Legislation to ensure that a potential buyer of real property be informed of the type of wastewater on the property at the time of sale as part of the contract.
- Legislation to ensure that a potential buyer of real property be informed of the number of bedrooms on the property at the time of sale as part of the contract.

- Use VACo's growth management statement.
- Follow up with Chuck Johnston regarding continuing need to carry museum grant request.

Chairman Staelin volunteered to revise the draft as agreed and provide a copy to Board members prior to the November 5 Legislative Luncheon.

Chesapeake Bay Reauthorization Program

Supervisor Weiss asked for consideration of a resolution by the Supervisors supporting the Farm Bureau in response to an alert distributed by the Virginia and federal Farm Bureau recommending support of the Chesapeake Bay clean up efforts but opposition of the proposed legislation that expands federal authority and places a significant share of the responsibility for Bay pollution on farming.

By consensus, Supervisor Weiss was asked to draft a resolution for Board review.

Housing Forum November 5, 2009

Chuck Johnston distributed and reviewed the Regional Housing Forum scheduled for November 5, 2009 advising that David Weiss and he would be attending.

Housing and Community Services Policy Board

Chuck Johnston provided a brief review of the efforts to consolidate two regional boards in the hope of creating better focus.

Zoning Ordinance Text Amendment – Set Public Hearing TA-09-01A

Set public hearing was held over from the afternoon to the evening session.

The Clarke County Board of Supervisors will consider the amendment of the County Zoning Ordinance: Section 4-G-3, Uses and Structures Permitted in Required Yards, so as to revise and clarify these regulations.

Chuck Johnston reviewed the proposed text amendment. Following discussion, by consensus it was agreed to remove 4-G-3-b "hedges, fences or walls up to 7 feet."

Vice Chairman Hobert moved to set public hearing for November 17, 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.	- Absent
David S. Weiss	- Aye

Zoning Ordinance Text Amendment – Set Public Hearing TA-09-02

Set public hearing was held over from the afternoon to the evening session.

The Clarke County Board of Supervisors will consider the amendment of the County Zoning Ordinance:

- Section 4-I-9-b, Definition of the term “Area of Sign”, so as to be more comprehensive to determining the signage area and calculating signage area;
- Section 4-J, Off-street Parking, so as to provide for compact car parking spaces, establish a formula to reduce the number of parking spaces for multiple on-site uses, establish a maximum number of parking spaces (150% of the minimum required number of spaces), and reduce the number of required parking spaces for certain uses based on contemporary smart code standards for rural/ suburban development.

Chuck Johnston reviewed the proposed text amendment.

Supervisor Weiss moved to set public hearing for November 17, 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.	- Absent
David S. Weiss	- Aye

Zoning Ordinance Text Amendment – Set Public Hearing TA-09-03

Set public hearing was held over from the afternoon to the evening session.

The Clarke County Board of Supervisors will consider the amendment of the County Zoning Ordinance:

- Section 3-A-1-a, Permitted Uses in the AOC Zoning District, so as to delete ‘Farm Wineries’ as a Special Use and add it as a Principal Use;

- Section 3-A-2-a, Permitted Uses in the FOC Zoning District, so as to delete 'Farm Wineries' as a Special Use and add it as a Principal Use;
- Section 3-C-2-ii, Supplementary Regulation for Farm Winery so as to establish a description and standards for Farm Winery activities in conformance with Virginia Code Section 15.2-2288.3,
- Section 9-B-193, Definition of the term 'Farm Winery' so that the definition conforms to Virginia Code Section 4.1-100

Chuck Johnston reviewed the proposed text amendment.

Supervisor Weiss moved to set public hearing for November 17, 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.	- Absent
David S. Weiss	- Aye

County Code Amendment Set Public Hearing CC-09-08

The Clarke County Board of Supervisors will consider the amendment of Chapter 72 Conservation Easement Purchase Program:

- Section 72-5 Selection Criteria, so as to add reference to the Property Resource Score,
- Section 72-7 Procedures and 72-8 Duties of the Authority, so as to reference and reflect the proposed purchase policy,
- Section 72-12 Five Year Review, so as to provide a summary of the Authority's accomplishments to the Board every five years. CC-09-08

Alison Teetor summarized the proposed amendment to Chapter 72 of the County Code requesting that public hearing be set on attorney Robert Mitchell's recommended changes.

Supervisor Dunning moved to set public hearing for November 17, 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

Committee Action

Appointment to Authorities, Boards and Commissions

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Conservation Easement Authority	George Ohrstrom	10/31/2010
<i>At the recommendation of the Planning Commission, George Ohrstrom replaces Pat McKelvy as the Planning Commission representative on the Authority.</i>		

Supervisor Byrd moved to confirm the appointment 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

Finance Committee

1 Supplemental Appropriations

Following review, Vice Chairman Hobert moved to adopt "Be it resolved that the FY09 School Capital Projects Fund expenditures be increased by \$36,024, the same appropriated, and the same recognized, all regarding an insurance claim."

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

2 Capital Projects Carryover

Following review, Supervisor Dunning moved to adopt “Be it resolved that the amounts shown in the available balance column of the two capital projects fund carryover reports be accepted as continuing appropriations for FY10” and approve distribution of written notification of Constitutional Offices, agencies and departments.

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

In response to the recently announced reductions in state funding, the Board of Supervisors has directed that all capital projects and purchases for which a purchase order has not yet been issued and for which the County is not already obligated be held in abeyance until such time as the full impact of the reductions in state funding can be accurately assessed and necessary budget transfers made.

All proposals for capital project expenditures should be reviewed at the department level to insure that the project is necessary and the cost minimized. If, after that review, the department head determines the project to be necessary, a request for release of funds is to be forwarded to the Finance Committee for recommendation and subsequent approval by the Board.

Emergency repairs and/or replacements must be documented in accordance with current Fiscal Policy and will be submitted to the Finance Committee for review after the fact.

Until such time as the announced reductions are calculated and the impact determined, everyone is asked to conserve and to limit discretionary expenditures whenever possible.

3 Conservation Easement Fund Carryover

Following review, Supervisor Dunning moved to adopt “Be it resolved that \$1,814,996 expenditures, and \$1,888,865 revenue be carried forward into FY10 for the Conservation Easement Fund.

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

4 FY09 Year-end Fund Balance Designations and FY10 Projected Fund Balance

Following review, Vice Chairman Hobert moved to adopt "Be it resolved that the designations shown on the fund balance designation document be approved."

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

5 Sheriff's Grants

Following review, Supervisor Weiss moved to adopt:

"Be it resolved that the FY10 General Fund be amended to increase budgeted expenditures by \$23,338, to appropriate the same, and to recognize federal revenue in the same amount for the purpose of increasing part-time salaries in the Sheriff's Department."

"Be it resolved that the FY10 Capital Projects fund be amended to increase budgeted expenditure by \$190,950, to appropriate the same, and to recognize federal revenue in the same amount for the purchase of laptops for Sheriff's vehicles."

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

6 Commonwealth Cuts

Tom Judge reviewed the funding cuts proposed by the Commonwealth of Virginia amounting to a total of \$209,000. Chairman Staelin reviewed the proposed notification to Constitutional Officers and agencies.

The attached table details FY 10 Commonwealth budget cuts that the Governor ordered in September, in addition to changes made by the Compensation Board after Clarke County's budget was adopted in April.

The Board of Supervisors requests that affected agencies develop plans for offsetting these cuts either by finding replacement revenue, or identifying expenditure reductions.

If an affected agency is unable to offset these cuts in their entirety, a special request for relief may be made to the Finance Committee of the Board of Supervisors. Such requests should be forwarded to the County Administrator, with a copy to the Director of Joint Administrative Services.

*FY 10 Commonwealth Fall Budget Cuts
Source: Joint Administrative Services*

10/22/09

	FY 10 Original Revenue	FY 10 Current Revenue	Revenue Reduction	Notes
Commissioner of Revenue	94,296	91,239	-3,057	
Treasurer	104,338	96,863	-7,475	
Circuit Court Clerks	6,481	12,179	5,698	Fringe Contribution doubled, then Kaine cut
Commonwealth's Attorney	188,814	184,167	-4,647	
Sheriff	780,095	724,380	-55,715	
Registrar & Electoral Board	48,521	45,788	-2,733	
Litter Control	6,337	5,125	-1,212	Expended \$7,506 in FY 09
Social Services	na	na	-1,000	Programs will be scaled back.
Schools	na	na	-139,703	School Board is awaiting ADM estimate to consider action.
TOTAL STATE CUT			-209,844	

7 FY10 CSA Supplemental

Following review, Supervisor Byrd moved to adopt "Be it resolved that the FY10 CSA budgeted expenditure be increased \$374,884 and the same appropriated, and that revenue from the Commonwealth of \$221,453 be estimated, and that the general fund balance designation for CSA shortfalls be decreased by \$153,431."

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

School Board Carry Over and Designated Funds

By consensus, the Supervisors agreed to the issuance of the draft letter read by John Staelin regarding School carry over as presented.

The Board of Supervisors has designated \$1,000,000 of its General Fund balance for School Capital and Debt needs, in anticipation of additional funds needed for the new high school. In addition, the Board approved the designation of \$993,717 of General Fund balance for future School expenditures. This latter amount resulted from unspent local funds from FY 09, and the Division is to be commended for its prudent management of funds during that turbulent fiscal year.

The fiscal future remains uncertain. You are encouraged to request appropriation of these FY 09 funds where necessary to ensure a quality education. However, you are also encouraged to request only as much as you need, and to save the rest against future Commonwealth revenue shortfalls, the cessation of federal stimulus dollars, or unforeseen expenditures.

Please have confidence that these funds have been designated to benefit the School Division and, barring cataclysmic events, will be preserved for its use.

Bills And Claims

Supervisor Dunning put forth the following areas of concern:

- Rising phone bills particularly cell phones
- Purchased water
- Auto repairs
- Travel/Transportation reimbursements
- Public Hearing expense
- Classroom kits.
- Professional services
- Tuition Reimbursement

Tom Judge suggested that the Supervisors conduct their monthly review at the Joint Administrative Services Office so that his staff would be available to answer questions.

Chairman Staelin contributed he focuses on expenditures against budget, looking to identify trends and shortfalls during his reviews of bills and claims.

Tom Judge informed the Supervisors that purchasing polices are currently under revision.

Government Projects Update

David Ash advised that HVAC issues in the Joint Government Center remained unresolved and recommended that further discussion be conducted in closed session.

Closed Session

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

- **A5 Discussion of unannounced business location**
- **A7 Consultation with legal counsel [potential litigation]**

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 Dunning 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 Dunning 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

No action was taken on matters discussed in closed session.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Provide the Supervisors a break down of diplomas by type.	Mike Murphy
2.	Process approved minutes.	Lora B. Walburn
3.	Execute and forward Resolution of Support Honoring Lord Fairfax Emergency Medical Services Council, Inc. 09-25R.	David Ash
4.	Forward Board of Equalization recommendations to the Circuit Court Clerk.	David Ash
5.	Execute and present Resolution of Appreciation of Service 09-26R.	David Ash
6.	Execute and forward letter to VDH regarding emergency regulations alternative onsite sewage systems.	Alison Teetor
7.	Forward VACo 2009 Voting Credentials.	Lora B. Walburn
8.	Execute Resolution Designating People Incorporated As Clarke County's Community Action Agency.	David Ash
9.	Jeff Lineberry to begin the field process for abandonment of Neil Road.	VDOT

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
10.	Revise draft 2009 Legislative Priorities and provide to Board prior to the November 4 Legislative Luncheon.	John Staelin
11.	Draft resolution in support of the Farm Bureau's position on the Chesapeake Bay clean up efforts.	David Weiss
12.	Update calendar for November Committee meetings from November 9 to November 13.	Lora B. Walburn
13.	Set Public Hearings: TA-09-01A, TA-09-02, TA-09-03, CC-09-08	Lora B. Walburn
14.	Forward Capital Projects and Un-issued Purchase Orders – Abeyance Notice to constitutional offices, agencies and department heads.	David Ash
15.	Forward notice of Commonwealth cuts requesting that affected agencies develop plans for offsetting these cuts either by finding replacement revenue, or identifying expenditure reductions.	David Ash
16.	Forward to the School Board notice of Carry Over and Designated Funds.	David Ash
17.	Update County Code CC-09-07.	Lora B. Walburn
18.	Green Committee Report and Recommendations: Supervisor comment by mid November.	Supervisors
19.	Green Committee Report and Recommendations: County Administrator comment by the December Work Session.	David Ash
20.	Green Committee Report and Recommendations: Full review for the December meeting.	Supervisors

At 5:07 pm Chairman Staelin recessed the meeting until 6:30 pm.

At 6:35 pm Chairman Staelin reconvened the meeting.

Citizens Comment Period

No citizens appeared to address the Supervisors.

PH 09-19: CC-09-07

The Clarke County Board of Supervisors will consider the amendment of the County Code, Chapter 143, Septic Systems Article III: *[Readvertised]*

- 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 143-17, 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 explained that due to a typographical error this item had been held over from the September meeting and re-advertised for public hearing. He then reviewed the proposed amendments to Chapter 143 of the County Code as amended.

At 6:38 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 Code amendment CC-09-07 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

Article III Recordation of Onsite Sewage Disposal Permit Limitations
[Adopted 05/15/07; Amended 11/20/07]

143-16 Certificate of Use and Occupancy.
[Amended 07-11-20]

Any applicant requesting a Certificate of Use and Occupancy from the Clarke County Building Department, for a structure to be served by an onsite sewage disposal system, which is either new construction or the conversion of an existing structure to an occupied structure, or the addition to an existing structure so as to increase the number of bedrooms or to change the use of the structure so as to increase the gallons per day, shall record in the Circuit Court land records a Notice of Onsite Sewage Disposal Limitations, setting forth the limitations on the structure to be served by the approved onsite sewage disposal system, with a copy of the Operation Permit for that structure attached, and shall file with the building department a photocopy of the recorded Notice of Onsite Sewage Disposal Limitations, showing the Clerk's recording stamp. No such Certificate of Use and Occupancy shall be issued unless such a Notice of Onsite Sewage Disposal Limitations has been recorded for the structure. ~~The Notice of Onsite Sewage Disposal Limitations shall be on a form prepared by and available in the Clarke County Department of Planning.~~

143-17 Building Permits
[Amended 07-11-20]

Any application for a building permit for the addition to or alteration of an existing structure, not requiring a certificate of occupancy when completed, which is served by an onsite sewage disposal system, shall comply with either A. or B.:

- A. Notice of Onsite Sewage Disposal Limitations not previously recorded
Record in the Circuit Court land records a Notice of Onsite Sewage Disposal Limitations for the structure, with a copy of the Operations Permit attached for each such structure on the property. If an Operation Permit has not been issued then a copy of the onsite sewage disposal system permit ("Sewer Permit") ~~should~~ **shall** be attached. ~~Sewer Permits shall be identified on the Notice of Onsite Sewage Disposal Limitations as complete or incomplete.~~ A photocopy of the recorded Notice of Onsite Sewage Disposal Limitations and Sewer Permit, showing the Clerk's recording stamp, shall be filed with the building permit application; or
- B. Notice of Onsite Sewage Disposal Limitations previously recorded
The applicant shall file with the application a photocopy of the previously recorded Notice Onsite Sewage Disposal Limitations with a copy of the Operations Permit attached for each such structure on the property. If an Operation Permit has not been issued then a copy of the Sewer Permit, showing the Clerk's recording stamp, ~~should~~ **shall** be attached. ~~Sewer Permits shall be identified on the Notice of Onsite Sewage Disposal Limitations as complete or incomplete.~~ A photocopy of the recorded Notice of Onsite Sewage Disposal Limitations and Sewer Permit, showing the Clerk's recording stamp, shall be filed with the building permit application.

No building permit, except for emergency repairs as described below, shall be issued unless a Notice of Onsite Sewage Disposal Limitations has been recorded for the structure. ~~The Notice of Onsite Sewage Disposal Limitations shall be on a form prepared by and available in the Clarke County Department of Planning. The Definition of Complete and Incomplete Onsite Sewage Disposal Records shall also be prepared by and available in the Clarke County Department of Planning.~~

Emergency Repairs. If the application for a building permit is for repairs that must be performed in an emergency situation, as determined by the building official, the Notice of Onsite Sewage Disposal Limitations shall be submitted to the building official within 5 working business days of issuance of the building permit.

143-18 Existing Systems.
[Amended 07-11-20]

Prior to the sale or transfer of any interest in any real property on which is located a structure or structures served by an onsite sewer disposal system, if a Notice of Onsite Sewage Disposal Limitations has not previously been recorded for each structure on the property, the owner of the property, prior to the recordation of the deed transferring ownership, shall record in the Circuit Court land records a Notice of Onsite Sewage

Disposal Limitations for each structure on the property for which a Notice of Onsite Sewage Disposal Limitations has not previously been recorded, with a copy of the Operations Permit attached for each such structure on the property. ***If the owner of the property fails to record the Notice of Onsite Sewage Disposal Limitations prior to recordation of the deed transferring ownership, the grantee under the deed shall record a Notice of Onsite Sewage Disposal Limitations, with a copy of the Operations Permit attached, within thirty (30) days of recordation of the deed.*** If an Operation Permit has not been issued then a copy of the Sewer Permit ~~should~~ **shall** be attached. ~~If a Sewer Permits is attached, it shall be identified on the Notice of Onsite Sewage Disposal Limitations as complete or incomplete. The Notice of Onsite Sewage Disposal Limitations shall be on a form prepared by and available in the Clarke County Department of Planning. The Definition of Complete and Incomplete Onsite Sewage Disposal Records shall also be prepared by and available in the Clarke County Department of Planning.~~

143-19 No Sewer Permit Available.
[Amended 07-11-20]

If an owner of property is unable to obtain a copy of a Sewer Permit after completing a VDH "File Search of Records" with the VDH, then in lieu of the recordation of the Notice of Onsite Sewage Disposal Limitations required under Sections 143-16 and 143-17, owner shall record in the Clarke County Circuit Court land records a Notice of No Sewer Permit Availability, with a signed VDH "File Search of Records" form attached, indicating that a copy of a Sewer Permit for the property is not available. ~~The Notice of No Sewer Permit Availability shall be on a form prepared by and available in the Clarke County Department of Planning.~~ The File Search of Records form is available from the Clarke County Health Department. Under the foregoing circumstances, the recordation of the Notice of No Sewer Permit Availability shall satisfy the requirements of Sections 143-16 and 143-17 for the recordation of a Notice of Onsite Sewage Disposal Limitations.

143-20 Sewer Permits

If a Sewer Permit is attached to a Notice of Onsite Sewage Disposal Limitations pursuant to 143-17 or 143-18, above, it shall be identified on this Notice of Onsite Sewage Disposal Limitations as complete or incomplete. A definition of complete or incomplete Sewer Permits for the purposes of this Article is available in the Clarke County Department of Planning.

143-21 Violations
[Amended 07-11-20]

Any person violating the provisions of this Article shall be subject to a fine of \$100.00. Each day the violation continues shall constitute a separate offense.

PH 09-23: TA-09-01

The Clarke County Board of Supervisors 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 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 provided an overview of the proposed amendment to County Zoning Ordinance.

There followed lengthy discussion on the 3,000 square foot limit that is the existing limit for indoor business that is now being proposed for the combined indoor and outdoor limit.

At 6:58 pm Chairman Staelin opened the public comment portion of the public hearing.

Mark Lynch, Clarke County resident and farmer: spoke in opposition to the proposed limits to retail and service business noting that the County would require an applicant to follow the special use process and to put more restrictions on something that is already restricted is redundant.

At 7:00 pm, there being no other persons wishing to comment, Chairman Staelin closed the public comment portion of the public hearing.

Chuck Johnston reviewed the proposed amendments to Section 9-B Definitions specific to kennels advising that the proposed change was put forward to address inconsistencies. There followed lengthy discussion regarding this proposed changes.

Supervisor Dunning moved to deny amendments to Section 9-B, Definitions:

- *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'.*

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 - Nay

Vice Chairman Hobert moved to deny amendments to various Sections 3-A through Sections 3-C-2:

- *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;*

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.	-	Nay
David S. Weiss	-	Nay

Chairman Staelin encouraged Mr. Johnston to pursue less restrictive changes for these items.

Green Advisory Committee Final Report

Alison Teetor, appearing before the Supervisors in her capacity as staff representative for the Green Advisory Committee, introduced the members of the Committee present in the audience.

Ed Novak presented the final report prepared by the GAC.

Supervisor Byrd asked for an explanation of non-renewable energy sources. Mr. Novak stated that any of the fossil fuels and nuclear are non-renewable.

Supervisor Byrd reminded those present of the problems with the TAC energy reduction program implemented by the Schools that was extremely expensive and was a failure. Several members mentioned programs available that would reduce risk and provide better results.

Chairman Staelin observed that the presentation represented a huge amount of work and he commended the Committee members for their efforts.

Mr. Staelin stated that he had not had sufficient time to perform an in-depth review of the detailed report. He noted that there were recommendations to change such things as the

comprehensive plan, restricting the size of a lawn, vehicle replacement, which may or may not be legal or possible. Mr. Staelin stated he was uncomfortable with some of the suggested wording and requested additional time for review.

Alison Teetor put forward that there were some non-matching grant opportunities to fund green initiatives.

Supervisor Weiss expressed his appreciation for the work done by the Committee. He, too, requested additional time to review the report and recommendations noting that he was not aware that it was anticipated that the Supervisors would be adopting policy statement at this meeting.

Supervisor Dunning suggested that the next step be receipt of comments and questions from the Supervisors once they have been given sufficient time to review.

Vice Chairman Hobert put forward two suggestions to conduct further review at a Work Session or to charge the County Administrator with that review and recommendation. Supervisor Dunning countered that the Supervisors need to review further.

Supervisor Weiss said that he would like some feedback from David Ash regarding feasibility opining that it was important to have the opinions of the County Administrator.

Supervisor Dunning left the meeting at 7:58 pm.

Chairman Staelin asked Chuck Johnston's that the matter would not be referred to the Planning Commission until the Supervisors made a recommendation.

The Supervisors set goals of providing:

- Supervisor comment by mid November.
- County Administrator comment by the December Work Session.
- Full review for the December meeting.

Adjournment

There being no further business to be brought before the Board at 8:25 pm Chairman Staelin adjourned the meeting.

Next Regular Meeting Date

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

ATTEST: October 20, 2009

John Staelin, Chair

David L. Ash, County Administrator

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