

May 18, 2010
CLARKE COUNTY BOARD OF SUPERVISORS
Regular Meeting
Main Meeting Room
1:00 p.m.

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Main Meeting Room, 2nd Floor Berryville Clarke County Joint Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia on Tuesday, May 18, 2010.

Board Members Present

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

Staff Present

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

Others Present

Robina Rich Bouffault, Dr. Michael Murphy, Keith Dalton, Jerry Copp, Ed Carter, James, Heffernan, Becky Layne, and other citizens

Call to Order

Chairman Hobert called the meeting to order at 1:06 p.m.

Adoption of Agenda

Supervisor Byrd moved to approve the agenda as modified.

- Add to Consent Agenda: Ratification of Notice of Participation as Respondent – Application of Verizon Virginia Inc. for Review and Correction of the Equalized Assessment of the Value of Property Subject to Local Taxation Tax Year 2009
- Add to Miscellaneous: Discussion – Request by Town of Berryville for Right of Way through Agricultural District
- Add Closed Session: Acquisition of Property and Consultation with Legal Counsel

The motion carried by the following vote:

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

Clarke County Public Schools Update

Dr. Michael Murphy, Superintendent, and Robina Rich Bouffault, School Board Chair, appeared before the Supervisors to provide the monthly update for the Clarke County Public Schools. Highlights include:

- SOL scores are very good this year.
- Blandy Academic Awards Ceremony recognizing education excellence will be held this Sunday.
- Jessica Tavenner was voted Teacher of the Year.
- Nancy Specht, high school coach, is an inductee into the VHSL Hall of Fame.
- First Annual Feltner Basketball Tournament was held Saturday.
- Staff is keeping focused on instruction.
- ADM is 2,140 - down from projections.
- The Concerned Citizens for Clarke County Education held a fundraiser in support of IB staff development and student fees was held on May 15. A second fundraiser was held by CCEF [Faculty Basketball Tournament] on May 15 as well.
- Bidders conference for food service held last week.
- Seeking teachers for EMT and Fire program.
- School Board and staff are collaborating with the Farm Bureau on the agricultural programs.
- Special Education continues to be a challenge.
- Supervisor Byrd praised Dr. Murphy for teaching community responsibility and in particular those students that raised \$1,000 for the local Animal Shelter last weekend.
- High School Construction Update with Robina Rich Bouffault:
 - o Project out to bid last Tuesday.
 - o Ten general contractors have requested the documents and more are expressing interest.
 - o Some bidders have asked for additional time.
 - o The School Board approved the fire flow agreement last night and it is hoped that the Town will approve next week.
 - o Continue to work on easements.
 - o Believes the estimates are still valid.

- Potential West Side Sewer Upgrade project
 - Chairman Hobert thanked Chairwoman Bouffault for the School Board’s response to the County’s letter regarding the potential West Side Sewer Upgrade project.
 - Supervisor Staelin asked Keith Dalton to clarify his conceptual concerns with the route expressed in his response for the Town.
 - Mr. Dalton stated that the Town supported the concept of the upgrade and was interested in working with the Supervisors on the project but wanted to alert the Supervisors so that they might look at certain issues raised.
 - Problem with the force main releasing in the manhole in front of the school that could result in an odor problem. However, Mr. Dalton believed this problem could be eliminated with major line relocation. He suggested going down Main Street to take advantage of the gravity.
 - The currently proposed location for the line could be in considerable rock.
 - Robina Rich Bouffault responded that the Schools would have a problem with a major redesign.
 - The Schools have an approved site plan
 - More easements on the property are not possible. Some of the easements include: Town water line, utilities, VDOT, walking trail, etc.
 - Easement for Town water line is in place and a sewer line cannot be placed beside it. Keith Dalton agreed that there were separation requirements for water and sewer.

Approval of Minutes

Supervisor Staelin moved to approve the minutes of April 15, 2010 Special Meeting and May 3, 2010 Budget Work Session as presented. April 20, 2010 Regular Meeting as modified:

- √ Page 233: Revise for clarity first sentence last paragraph.
- √ Page 234: Revise grammatical error second sentence fourth paragraph.
- √ Page 242: Correct motion PH 10-14 “as presented in the proposed Code amendment CC-10-03” and add specific code change.
- √ Page 244: Add first partial sentence no violations of conservation “easement”.

The motion was approved by the following vote:

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

Consent Agenda

Resolution of Appreciation of Service

Resolution in Appreciation of Service
Clarke County Planning Commission
Harry Lee "Jay" Arnold
10-13R

WHEREAS, Harry Lee "Jay" Arnold was first appointed to the Planning Commission by the Clarke County Board of Supervisors on July 19, 1996;

WHEREAS, Mr. Arnold has served as one of the Berryville district representatives on the Planning Commission for a period fourteen years; and,

WHEREAS, throughout the years, Mr. Arnold has consistently attended meetings, demonstrated a respectful demeanor, provided thoughtful insight, and added a unique perspective with regards to fire protection and emergency services.

NOW THEREFORE BE IT RESOLVED, by the Clarke County Board of Supervisors that Jay Arnold be recognized and congratulated for his service on the Clarke County Planning Commission 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. Arnold 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 18th day of May 2010.

Attest:

J. Michael Hobert, Chairman

Execute Agreement of the Clarke County Humane Foundation, Inc. to Fund a Position[s] at the Clarke County Animal Shelter

AGREEMENT OF THE CLARKE COUNTY HUMANE FOUNDATION, INC. TO FUND
A POSITIONS AT THE CLARKE COUNTY ANIMAL SHELTER

THIS AGREEMENT made this 18th day of June 2010, by and between the Board of Supervisors of Clarke County, Virginia (hereinafter "County") and the Clarke County Humane Foundation, Inc. (hereinafter "Humane Foundation"), seeks to achieve more effective operation and management of the Clarke County Animal Shelter.

RECITALS

The County is solely responsible for the operation and management of the Clarke County Animal Shelter (hereinafter "Animal Shelter"). The Humane Foundation seeks to support the County in the effective operation and management of the Animal Shelter in order to achieve humane treatment of the animals impounded there. Both the County and the Humane Foundation acknowledge that sufficient staffing of the Animal Shelter is necessary to provide adequate care for the impounded animals.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Source of Funding. The Humane Foundation in support of the Animal Shelter offers funding in the amount of \$ 125,000.00 to offset the cost of funding staff at the Animal Shelter, to be disbursed as described below.
2. Requirements of Funding. The Humane Foundation requires that the funds contributed by the Foundation be used to offset actual expenditures by the County to employ, equip, and train an individual to manage the Animal Shelter, work with the Humane Foundation to encourage volunteers and charitable donations, and to care for and seek permanent homes for the animals that come into custody of the Shelter. Expenditures shall include all amounts paid in salary, fringe benefits, training or other expenses attributable to performing the duties of Animal Control Officer and Animal Shelter Manager.
3. Method of Reimbursement. By May 1 of each year, the County shall present the Clarke County Humane Foundation with an invoice or request for payment, documenting expenditures made by the County for the above agreed upon activities during the current fiscal year. Within 30 days of receiving the invoice or request, the Humane Foundation shall reimburse the County for the amount of the invoice or request, not to exceed \$25,000.00 in any one year. Reimbursement shall be in the form of a direct payment from the Humane Foundation to the County Treasurer.
4. Staffing and Supervision. The County shall be responsible for staffing the Animal Shelter with sufficient personnel to provide adequate and humane care for impounded animals.
 - a. Notwithstanding this funding Agreement, all compensated Animal Shelter personnel shall be considered employees of the County, which shall be responsible for the payment of all wages, salaries, and benefits.
 - b. Compensated personnel shall be subject to all policies and procedures of the County, including, but not limited to, any personnel policy, travel, pay, grievance, performance evaluation, and disciplinary procedures of the County.
5. Maintenance and Inspection.

The County shall be responsible for maintenance of the Animal Shelter. Representatives of the Humane Foundation shall be authorized to conduct a yearly inspection and "walk through"

in January or February to evaluate maintenance needs and submit recommendations to the County Board of Supervisors for approval and inclusion in the County budget.

6. Term and Effective Period.

This Agreement shall be in effect from the date of its execution applying to the current fiscal year and shall remain in effect until terminated pursuant to Part Seven (7), below.

7. Termination of Agreement.

- a. This Agreement may be terminated at any time by agreement in writing by both parties.
- b. This Agreement may be terminated unilaterally at the end of a fiscal year (July 1 to June 30) by a party upon written notice to the other by March 1 of that fiscal year.
- c. Unless otherwise terminated as provided for above, this Agreement shall automatically terminate at the time the payments made by the Humane Foundation to the County equal or exceed \$125,000.00

8. Entire Agreement. This Agreement expresses the entire understanding and all agreements between the parties in regard to the funding of positions at the Animal Shelter and supersedes any prior written or oral agreements inconsistent herewith. Notwithstanding anything herein to the contrary, it is the intent of both the County and the Humane Foundation that this Agreement shall be construed liberally in order for the parties to realize effective operation and management of the Clarke County Animal Shelter. Accordingly, it is understood that all provisions of this Agreement shall be construed in a manner that will allow the parties to achieve such purpose and intent.

9. Notices. Any notices required to be given pursuant to this Agreement, and any invoices, payments, or communications associated with the performance of this Agreement shall be deemed made, if mailed or hand-delivered to the parties hereto at the addresses of each, as follows:

To County: Clarke County, Virginia
Attention: David Ash, County Administrator
101 Chalmers Court
Berryville, VA 22611

To Humane
Foundation: The Clarke County Humane Foundation, Inc.
Attention: George L. Ohrstrom II, Vice-President
Post Office Box 713
Berryville, VA 22611

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by their duly authorized representatives as of the date first written above.

Michael Hobert, Chairman
Board of Supervisors of Clarke County, Virginia

George L. Ohrstrom II, Vice-President
Clarke County Humane Foundation, Inc.

Request for Easement Approval Wyatt, Unger

MEMORANDUM

TO: Board of Supervisors, David Ash
FROM: Alison Teetor
DATE: April 29, 2010
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.

DUR PURCHASE

Wyatt: 31-((A))-8A The parcel is 15.18 acres located on Calmes Neck. In reviewing the parcel three of the four criteria have been met. The Property Resource Score is 49.09, the one remaining DURs would be extinguished, leaving an existing house built in 1983. The parcel is less than 40 acres but is adjacent to an existing easement, also owned by the Wyatt's. The parcel is wooded.

Purchase offer \$30,400, County - \$15,200, VDACS - \$15,200

PURCHASE RATIFICATION

Unger: 3-((A))-11A The parcel is 38.09 acres located on the north side of Swimley Road (Route 672), 1.1 miles north of the intersection with Old Charlestown Road (Route 761). In reviewing the parcel two of the four criteria have been met. The Property Resource Score is 61.12, both of the two remaining DURs will be extinguished, leaving an existing house built in 1852. The parcel is less than 40 acres and is not next to an existing easement. The property is primarily open pasture. The Deed of Easement was recorded April 29, 2010.

VDOT SYIP 2011-2016 Clarke County Priorities

Programming Director - Virginia Department of Transportation
1401 East Broad Street, Richmond, VA 22207

The Clarke County Board of Supervisors has reviewed its priorities for primary road improvements in the County and requests the Commonwealth Transportation Board to allocate available funds accordingly. The following list of projects has been put before the CTB for many years. We realize that the Commonwealth's transportation improvements are being made within severe financial limitations; nevertheless, we feel that these projects are of significant benefit to the Commonwealth as well as Clarke County.

Waterloo Intersection (Rts. 17/50 [John Mosby Highway] and Rt. 340 [Lord Fairfax Highway])

This project was first put on our priority list in 1992. Partial funding for engineering design has been approved and we ask for full funding to complete the design phase of this project.

The County's priorities for future projects are:

1. *Rt. 7 Business (West Main Street)/ Rt. 636 (Westwood Rd) intersection and Rt. T-1035 (Mosby Boulevard) extension on west side of Berryville*
This project is the most important component of priority 5 below, as it will serve two schools.
2. *Rt. 340 (Lord Fairfax Highway) and Rt. 657 (Senseny Road) intersection .5 miles south of Berryville*
This project has been on our list of priorities since 1998. This continues to be a very unsafe intersection.
3. *Rt. 7 (Harry Byrd Highway) and Rt. 612 (Shepherds Mill Road) intersection 3 miles east of Berryville*
This intersection is unsafe due to sight distance and increases volume of traffic
4. *Double Tollgate (Intersection of Rts. 277, 340, and 522)*
This project has been a priority since 1997; traffic volumes on Rt. 522 increased 31% from 2001 to 2008.
5. *Rt. 7 Business on the west side of Berryville (approx. 1.2 miles of Primary Highway)*
This project has been on our list of priorities since 1992.
6. *Rt. 340 Drainage in the Town of Boyce*
This project has been on our list of priorities since 2003.
7. *Rt. 7 Business on east side of Berryville (approximately .94 miles of Primary Highway)*
This project has been on our list of priorities since 1995.
8. *Park and Ride lot near intersection of Rts 7, Bypass and Business 1 mile west of Berryville*
Commuter traffic on Rt. 7 increased 53% from 2001 to 2008; alternatives to SOVs must be provided.

Attached is the Transportation Component of the County Comprehensive Plan, containing a more detailed description of each project. Again, we appreciate any assistance you can provide.

Regards,
Michael Hobert, Chairman

Copy: Dr. James A. Davis, Virginia Commonwealth Transportation Board

Ratification of Notice of Participation as Respondent – Application of Verizon Virginia Inc. for Review and Correction of the Equalized Assessment of the Value of Property Subject to Local Taxation Tax Year 2009

Supervisor Staelin moved to approve the items on the Consent Agenda with a request that the Chair send a letter of thanks to the Humane Foundation.

The motion carried by the following vote:

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

Citizens Comment Period

Richard Marks, Blue Ridge Mountain Road: reading from a prepared statement, spoke in opposition to approval of the settlement agreement with Georgetown University Special Use Permit litigation. He specifically expressed concern with inconsistency with the comprehensive plan, resident opposition, noise and use of facility by alumni.

Doug Whitehouse, mountain-area resident: reading from a prepared statement, spoke in opposition to approval of the settlement agreement with Georgetown University Special Use Permit litigation. He specifically referenced concerns for allowed use by any alumni association, inconsistency with the comprehensive plan and resident opposition.

Frank Cefalu, Loudoun County mountain resident for over 30 years: spoke in support of approval of the settlement agreement with Georgetown University Special Use Permit litigation. He opined that this would be a wonderful thing for the mountain and the county.

Linda Martz, mountain-area resident: reading from a prepared statement, spoke in opposition to approval of the settlement agreement with Georgetown University Special Use Permit litigation. She opined that a housing development would be better than the proposed facility.

Carole Haynes, mountain-area resident: reading from a prepared statement, spoke in opposition of approval of the settlement agreement with Georgetown University Special Use Permit litigation. She stated that the massive construction was unsuitable for the top of the mountain.

Noel Grove, Paris Heights Lane - President of Blue Ridge Mountain Civic Association: reading from a prepared statement, spoke in opposition of approval of the settlement agreement with Georgetown University Special Use Permit litigation. He stated that the association voted five to three in opposition of the proposed contemplative center. He specifically referenced increased noise, traffic and setting a dangerous precedent

by approving the application. He referenced poor road maintenance by VDOT, as well as road erosion, deep ditches, and poor snow removal.

Mary Ruos, Paris Heights Lane: spoke in opposition of approval of the settlement agreement with Georgetown University Special Use Permit litigation. She specifically referenced the increased traffic. She put forth that a request from another camp on the mountain for a new entrance, if approved, would also increase traffic flow.

VDOT

Jerry Copp – Maintenance and Operations Items and Residency Administrator and Ed Carter – Six-Year Plan Programs and Enhancement, Recreational Access, with Charlie Monroe – Area Maintenance Superintendent, appeared before the Supervisors to provide the monthly update.

- Cleaned drainage pipes on Route 601.
- Asphalt patched on 602.
- Swept streets in the Towns of Berryville and Boyce.
- Working on sign replacement.
- Paving spots Route 340 north.
- Mill and paving spots on Route 340 in Boyce.
- Pipe replacements off Route 50, north of 649 and new pipe Route 604 and Route 679.
- Mowing of primary begins May 24.
- Boyce Traffic Light – no funding has been allotted in the Six-Year Plan. VDOT is looking at alternative funding and hopes to provide this information to County Administration by the end of next week.
- Chairman Hobert thanked Mr. Carter for meeting with David Ash and him.
- Jerry Copp expressed his desire to meet with each Supervisor to discuss their district priorities and asked the Supervisors to list and prioritize specific issues and roads.
- Supervisor Weiss expressed concern with Route 608 – deep ditches / low shoulders
- Supervisor Dunning expressed concern with Salem Church Road – deep ditches / low shoulders.
- Mr. Copp and Mr. Carter agreed to ride with Supervisor Byrd to observe road conditions in her area.
- Chairman Hobert instructed David Ash to:
 - Facilitate written documentation of priorities in each district.
 - Follow up on alternate funding of Boyce traffic light.

Special Event Permit Application – Elysian Fields, 3-Year Application for 2010, 2011, 2012 [2010 Event August 6 thru 8]

David Ash briefed the Supervisors on the three-year application for Elysian Fields. Lee Carter and Clay Schutte were present and answered numerous questions posed by the Board.

In response to queries regarding land in conservation easement, Alison Teetor responded that the planned event was not located on land in conservation easement.

Following discussion, **Supervisor Dunning moved to set the matter for public hearing for June 15, 2010 at 6:30 pm or as soon thereafter as the matter might be heard. The motion carried by the following vote:**

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

Special Event Permit Application – Hunt Country Cluster [Dog Show] at Historic Long Branch 3-Year Application for 2010, 2011, 2012 [2010 Event October 1 thru 3]

David Ash reviewed the three-year application of the previously approved Hunt Country Cluster.

Supervisor Dunning moved to set the matter for public hearing for June 15, 2010 at 6:30 pm or as soon thereafter as the matter might be heard. The motion carried by the following vote:

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

Supervisor Staelin requested that the multi-year fee be requested up front; and if the fee schedule was changed within the next six-months, the applicant shall be reimbursed.

By consensus, it was decided that the permit application fee is non-refundable should the event be canceled.

Supervisor Staelin moved to confirm following the current fee schedule. The motion carried by the following vote:

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

Set Public Hearing: People Inc. – Request for Approval Microenterprise Development Program Application

David Ash briefed the Supervisor on the request. Bryan Phipps appeared before the Supervisors to answer questions. He advised that People Inc. would coordinate the public hearing with County staff.

Supervisor Dunning moved to set the matter for public hearing for June 15, 2010 at 6:30 pm or as soon thereafter as the matter might be heard. The motion was approved by the following vote:

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

Set Public Hearing: TA-10-02

CornerStone Power Development LLC (Nicholas Bullinger, agent) requests approval of the following amendments to the County Zoning Ordinance:

- Section 3-A-1-a-3, Special Uses in the Agricultural-Open Space-Conservation (AOC) Zoning District, so as to add "Large Photovoltaic Solar Power Plant" as a Special Use;
- Section 3-C-2, Supplementary Regulations for Uses in Various Districts, so as to add regulations for "Large Photovoltaic Solar Power Plant";
- Section 9-B, Definitions, so as to add a definition of the use: "Large Photovoltaic Solar Power Plant".

Chuck Johnston presented the request to the Board.

At the request of Supervisor Byrd, Chuck Johnston will arrange a walk over of the property.

Supervisor Staelin asked questions regarding the one-mile buffer zone. Chuck Johnston advised that a reduction to a half-mile would exclude this property.

Chairman Hobert asked Chuck Johnston to investigate comments made by the Commissioner of the Revenue and request a break down, depreciation and how that office would deal with subsequent years. He was further instructed to investigate replacement of panels and frames.

Vice Chairman Weiss asked for a legal opinion regarding the suitability of this use with the comprehensive plan noting that this was a new use for land in the County. He commented that he did not see the difference between this application and placing light industrial in AOC.

Chuck Johnston put forth that the applicant has stated that this facility would make the region more energy efficient on its own, reduces need to import power, and is part of an overall movement to address escalating rates.

Supervisor Byrd expressed concern regarding use of agricultural land for this purpose.

Vice Chairman Weiss asked if there was independent verification that this venture would be economically viable. Supervisor Dunning put forth economic viability was a matter for the investors and financial institutions.

Supervisor Byrd asked Chuck Johnston to research the success rate of these ventures over the past two years.

Supervisor Dunning moved to set the matter for public hearing for June 15, 2010 at 6:30 pm or as soon thereafter as the matter might be heard. The motion was approved by the following vote:

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

Set Public Hearing: CC-10-04

The Clarke County Board of Supervisors will consider the following Code amendments:

- Chapter 180, Water and Wastewater, so as to delete Section 180-5 Subsurface conventional septic tank and drainfield systems, required; alternative systems; and
- Chapter 143, Septic Systems, so as to establish standards for the siting and installation of alternative onsite sewage systems.

Chuck Johnston summarized the proposed change.

Alison Teetor presented the proposed amendment of Chapter 180 and Chapter 143 that included revised state legislation, various alternate systems, limiting features, soil restrictions, and soil depths. She introduced Frank Lee and Robert Holmes, who were present to address any technical questions, as well as Ryan Fincham, Clarke County Health Department.

Supervisor Byrd asked Ms. Teetor to review fencing requirements for the prohibition of human traffic.

There was discussion regarding types of alternative systems and issues specific to mound systems.

Vice Chairman Weiss commented that the proposed 100% reserve requirement might force the use of alternate systems in new construction.

There was discussion regarding cost of installation, maintenance and monitoring of alternate systems.

The soil scientists present affirmed their general support of the proposed amendment.

Supervisor Dunning, with the concurrence of Robert Mitchell, requested the record reflect that during review with legal counsel of enforcement issues it was confirmed that should the Board come to the conclusion it would help the County, reasonable amendments could be made without advertising or conducting additional public hearing.

Vice Chairman Weiss moved to set the matter for public hearing for June 15, 2010 at 6:30 pm or as soon thereafter as the matter might be heard. The motion was approved by the following vote:

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

Supervisor Dunning left the meeting at 3:35 pm.

Approval of Planning Application Fees Amendment

Chuck Johnston updated the Supervisors on the amendments made to the Planning Application Fees subsequent to review and direct by the Board at the April 20 Regular meeting.

Vice Chairman Weiss moved to approve the amendment of the Planning Application Fees. The motion was approved by the following vote:

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

Clarke County Planning Department Application Fees

<u>Zoning Map Amendment</u>	\$ 4000 per acre or portion of
Amendment to less intense district	½ Zoning Map Amendment Fee
<u>Amendment to Rezoning Proffers</u>	½ Zoning Map Amendment Fee
<u>Text Amendment</u>	\$ 6000
(Comprehensive Plan; Zng Ord; Subd Ord)	
<u>Appeals to Board of Supervisors</u>	\$ 2500
Special Use Permit	
for property zoned commercial/industrial	\$ 2500 for each disturbed acre or portion thereof + Site Plan Fees
for property zoned AOC, FOC, residential	\$ 2500 + Site Plan Fees
Amendment	½ Regular Fee
<u>Site Development Plan</u>	
for property zoned commercial/industrial	\$ 5000 + \$ 250 /required parking space
for property zoned AOC, FOC, or residential or for non-profit uses	\$ 2500 + \$ 250 /required parking space
Amendment by Planning Commission	½ Regular Fee
by Zoning Administrator	¼ Regular Fee
<u>Major Subdivision</u> (3 or more new lots)	\$ 4000/lot, plus \$ 300 for each road sign & pole set as needed
<u>Minor Subdivision</u> (one or two new lots)	\$ 4000 plus \$ 300 for each road sign & pole set as needed
<u>Boundary Line Adjustment</u>	\$ 500 plus \$ 2750 for each DUR transferred
<u>Maximum Lot Size Exception</u>	\$ 1500
requiring Planning Commission approval	
<u>Subdivision Ordinance Waiver</u>	\$ 1250
<u>Vacation of Plat</u>	\$ 1825
<u>Board of Zoning Appeals</u>	\$ 750 (fee refunded if appeal upheld)
<u>Board of Septic & Well Appeals</u>	\$ 750
Review of blasting plans	\$1250
Septic and Well Applications	
Sewage Disposal Application	\$ 270 (plus VDH fee: \$ 355) = \$ 625, all paid to VDH
Well Water Supply Application	\$ 185 (plus VDH fee: \$ 205) = \$ 390, all paid to VDH
Walkover Fee	\$ 80 paid to VDH

<u>Sign Permit</u>	\$ 20 per sq/ft	
<u>Zoning Determination Letter</u> (identification of property zoning and permitted uses requiring interpretation of county regulations)	\$ 150	
<u>Zoning Certification Letter</u> (identification of property zoning and permitted uses)	\$ 100	
<u>Certificate of Appropriateness</u> for property zoned commercial or industrial	\$ 100	
for property zoned AOC/FOC/Residential or for non-profit uses	\$ 50	
<u>Land Disturbance Permits</u>		
Erosion & Sediment Control Plan	\$ 500 per plan + \$ 100/acre of disturbed area for site plans, major subdivisions, or non-residential land disturbances of 10,000 sq ft or more (not including agricultural activities)	
Agreement in lieu of Erosion & Sediment Control Plan	\$ 250 per plan for residential land disturbances of 10,000 sq ft or more	
E&S compliance inspection of either of above plans	1 st visit: \$125; 2 nd : \$250; 3 rd : \$500; 4 th : \$1000; etc.	
Minor Land Disturbance Permit	\$ 50 for any disturbance of less than 10,000 sq ft	
<u>Zoning Permit</u>		
Structure not requiring a building permit Residential Structure	\$ 100	
New principal structure	\$ 300	
Accessory structure or heated addition	\$ 200	
Unheated additions (porches/decks)	\$ 100	
Initial review of Home Occupation / Business License	\$ 100	
<u>Commercial Structure</u>		
New principal structure or any addition with sq ft increase of 15% or more	\$ 750	
Accessory structure or any addition with sq ft increase of less than 15%	\$ 500	
Stream Buffer Mitigation Plan	\$ 150	
<u>Land Evaluation & Site Assessment (LESA)</u>	\$ 250	
<u>New Structure Addresses</u>	\$ 130	

Acreage, square foot, or parking space numbers are rounded to next whole number for determination of fee.

Fee Discount: The Planning Application Fees shall be 25% of the stated fees for a Retail Business in the AOC and FOC Zoning Districts that is limited to the sale of: (1) fresh fruit and vegetables, (2) apiary products, (3) food items that are processed or baked, (4) dairy products, (5) egg, fish, and meat items, (6) cut plants and flowers, and/or (7) gallon size or smaller container plants, where all such products are raised, grown, processed, and/or baked in Clarke County or counties adjoining Clarke County.

Fee Waiver: The Board of Supervisors may waive fees in whole or in part for hardship or other unique reasons justifying relief. The Board of Supervisors or Planning Commission, at no cost to the landowner, may initiate zoning Ordinance Amendments. The Board of Supervisors has granted waivers for the following circumstances:

1. Zoning Application for housing for low/moderate income elderly citizens developed by a non-profit entity;
2. Zoning Applications for volunteer emergency service provider uses;
3. Zoning Applications for municipal water storage uses;
4. Zoning Applications for County-owned recreational uses; and
5. Special Use Permit/Site Plan Applications for nursery, day care, or pre-school uses operated by a non-profit entity in an existing structure.

Collection and Expense Reimbursement: Payment of all applicant fees and charges shall be made to the Treasurer of Clarke County at the time of application for actions pertaining to zoning and subdivision matters. Fees and expenses for professional review of application materials by county consultants shall be reimbursed to the County at cost. An administrative fee of \$30 shall be charged for reimbursements not received within 30 days of first payment notice (VA Code §58.1-3958). The County may require a deposit for professional consulting service fees to be paid at application submittal.

Refund: Withdrawal of application before Planning Commission (or other review bd.) sets public hearing on request = 50% refund

Withdrawal of application before Board of Supervisors sets public hearing on request = 25% refund

Republication Costs: If the County has published a request in accord with public notice requirements and the applicant fails to meet their obligation for providing notice by posting signs and/or sending legal notice to adjoining property owners, the additional costs of republishing the request shall be paid by the applicant in addition to standard fees paid.

Supervisor Dunning rejoined the meeting at 3:39 pm.

Consideration of Settlement Agreement Georgetown University Special Use Permit Litigation

Robert Mitchell addressed the Supervisors regarding the pending litigation brought against the County by Georgetown University. He summarized the history of the special use application followed by review of the Amended Conditions To Special Use Permit listed as Exhibit A of the Settlement Agreement that, if approved, would be entered as part of the court order. Mr. Mitchell concluded his review by recommending acceptance of the proposed settlement agreement that was distributed and included with the May 18, 2010 Board of Supervisors packet material.

There was discussion regarding the location of the drainfield, caretaker's cottage, limitation of area for contemplative center activity, guest limits that exclude caretaker and service personnel, preservation of Hohenheim House, traffic impact, and other points of interest.

Mr. Mitchell provided that the restrictive covenants shall pertain to the 7-acre contemplative center parcel and the conservation easement shall apply to the rest of the property.

Following presentation and discussion, **Supervisor Dunning moved to approve the Settlement Agreement.**

Subsequent to Supervisor Dunning's motion, Supervisor Byrd moved to amend the motion to approve subject to adding the requirement to enhance fencing along the entire perimeter.

Vice Chairman Weiss stated, and Chuck Johnston demonstrated, that the topography of some areas of the property did not lend themselves to fencing.

Robert Mitchell clarified for the Supervisors that the action before them was to accept or decline the proposal.

Supervisor Byrd moved to amend the motion to approve the Settlement Agreement to provide for fencing the entire perimeter of the property.

The motion failed by the following vote:

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

Supervisor Byrd expressed her objection to approval of the proposed settlement agreement.

Supervisor Staelin expressed his objection to approval of the proposed settlement agreement and provided written comment that is included with the materials for the May 18, 2010 meeting.

Vice Chairman Weiss stated he had previously objected to this special use permit application. He noted that this is an allowed use and whether the use was too intense was debatable. He stated that the restrictions put in place in the settlement agreement satisfy many of his concerns. Vice Chairman Weiss opined that if Supervisors were opposed to such a use they should address this quickly and decisively countywide. He concluded by

expressing his belief that the major issues had been mitigated; and further, this was the best way out of a difficult situation.

Supervisor Dunning's motion to approve Georgetown University Settlement Agreement was approved by the following vote:

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

Committee Action

Personnel

Appointment to Authorities, Boards and Commissions

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Parks and Recreation Advisory Board <i>Mr. Sheetz is reappointed to serve an additional four-year term.</i>	Daniel Sheetz	12/31/2013
Clarke County Historic Preservation Commission <i>Mr. Gilpin is reappointed to serve an additional four-year term.</i>	Thomas Gilpin	5/31/2014
Board of Social Services <i>Ms. Willingham is reappointed to serve his first full four-year term.</i>	J. Lyndon Willingham	7/15/2014

Supervisor Byrd moved to confirm the appointments as presented.

The motion was approved as follows:

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

Supervisor Dunning stated that he would fill the Planning Commission position for his district at the June regular meeting.

Appointment of Representative to People Inc.

Chairman Hobert instructed the Supervisors to provide appointment suggestions to David Ash for review at the next meeting.

Work Session

Task Order for West End Force Main and Pump Station upgrade and relocation.

May 10 Work Session Summary: The Board authorized the proposed task order contingent upon preparation of a letter to both the Town of Berryville and the Clarke County School Board, explaining the desire of the Board of Supervisors to take advantage of the proposed school and road construction and easements in order to reduce the cost of the relocation and upgrade of the force main and pump station now serving the area located West of Berryville so that the relocated lines and reconstructed pump station meet the standards for inclusion in the Town system. Should either the Town or the Schools be adverse to consideration of this project, an immediate response is requested.

Supervisor Byrd moved to approve directing David Ash to proceed with initiating the task order.

The motion was approved as follows:

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

Chairman Hobert asked for assurances from Keith Dalton in reference to earlier comments regarding odor. Keith Dalton stated that odor is not insurmountable and there are ways to address the problem.

Finance

Supplemental Appropriations

"Be it resolved that the FY10 Budget in the amount of \$38,035 be transferred from various line items in the Sheriff's budget, to the purchased services line item in the Communications account to provide for payment of prior year Verizon maintenance contract charges for which the county was not previously invoiced."

The Finance Committee recommends approval.

Supervisor Byrd moved to approve. The motion was approved as follows:

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

FY10 Compensation Board Furlough

The Finance Committee recommends no furlough.

Supervisor Staelin moved to approve. The motion was approved as follows:

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

Late Invoice

The Finance Committee recommends payment of \$750 to the High Growth Coalition for 2009 along with a letter explaining the reduced payment and requesting that future invoices be mailed.

Supervisor Staelin moved recommend payment approve. The motion was approved as follows:

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

Standing Reports

The Finance Committee recommends approval of the Bills & Claims and the Expenditure Summary

Supervisor Staelin moved to approve the Finance Committee recommendations. The motion was approved as follows:

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

Miscellaneous Items:

Request by Town of Berryville for Right of Way through Agricultural District - Berryville Outfall Line

Keith Dalton updated the Supervisors on the progress of the outfall line project advising that some portion of the proposed path would traverse agricultural land.

Vice Chairman Weiss, who rents the property in question, recused himself from the discussion, as well as any action of the Agricultural Review Committee on which he serves as Board liaison.

Supervisor Staelin moved to refer the matter to the Planning Commission and the Agricultural Review Committee in accordance with the appropriate statutes.

The motion was approved as follows:

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

Closed Session Pursuant to §2.2.3711-(A)(3) Acquisition of Property 2.2-3711-(A)(7) Probable Litigation

Supervisor Dunning moved to convene into Closed Session pursuant to §2.2.3711-A3 and A7 for the purpose of consultation with legal counsel and discussion regarding acquisition of real estate and consultation with legal counsel regarding pending litigation.

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

Supervisor Dunning left the meeting at 5:17 pm.

Vice Chairman Weiss left the meeting at 5:20 pm.

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 Staelin moved to reconvene in open session. The motion carried as follows:**

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

Supervisor Staelin 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:

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

No action was taken on matters discussed in closed session.

Government Projects Update

Due to time constraints, the monthly update was not provided.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Correct, where applicable, and process approved minutes.	Lora B. Walburn
2.	Process and coordinate presentation 10-13R.	Lora B. Walburn
3.	Execute Agreement of the Clarke County Humane Foundation, Inc. to Fund a Position[s] at the Clarke County Animal Shelter	J. Michael Hobert
4.	Forward executed agreement to Clarke County Humane Foundation, Inc.	Lora B. Walburn
5.	Execute and forward letter of thanks to Clarke County Humane Foundation, Inc.	J. Michael Hobert / Lora B. Walburn
6.	Execute and forward VDOT SYIP 2011-2016 Clarke County Priorities.	J. Michael Hobert / Lora B. Walburn
7.	Facilitate written documentation of priorities in each district.	David Ash
8.	Follow up on alternate funding for Boyce traffic light.	David Ash
9.	Advertise for public hearing Special Event Permit Application – Elysian Fields, 3-Year Application for 2010, 2011, 2012 [2010 Event August 6 thru 8]	Lora B. Walburn
10.	Advertise for public hearing Special Event Permit Application – Hunt Country Cluster [Dog Show] at Historic Long Branch 3-Year Application for 2010, 2011, 2012 [2010 Event October 1 thru 3]	Lora B. Walburn
11.	Bryan Phipps to coordinate People Inc. public hearing with County staff.	People Inc.
12.	Advertise for public hearing TA-10-02.	Lora B. Walburn
13.	Arrange a walk over of the CornerStone property.	Chuck Johnston
14.	Investigate comments made by the Commissioner of the Revenue and request a break down, depreciation and how that office would deal with subsequent years.	Chuck Johnston
15.	Investigate replacement of panels and frames.	Chuck Johnston
16.	Seek legal opinion regarding the suitability of use for the CornerStone application.	Chuck Johnston

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
17.	Research the success rate solar power ventures over the past two years.	Chuck Johnston
18.	Review fencing requirements for the prohibition of human traffic over sewer systems.	Alison Teetor
19.	Advertise for public hearing CC-10-04	Lora B. Walburn
20.	Update appointment database and provide notice of appointment.	Lora B. Walburn
21.	Provide suggestions for appointment to the People, Inc. board to David Ash for review at the June 15 meeting.	Supervisors
22.	Proceed with initiating the task order for West End Force Main and Pump Station upgrade and relocation.	David Ash
23.	Provide notice to the Planning Commission and the Agricultural Review Committee in accordance with the appropriate statutes re Berryville Outfall Line.	Chuck Johnston

Adjournment

There being no further business to be brought before the Board at 5:27 pm Chairman Hobert adjourned the meeting.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, May 18, 2010 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: May 18, 2010

J. Michael Hobert, Chair

David L. Ash, County Administrator

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