

CLARKE COUNTY BOARD OF SUPERVISORS
August 17, 2010 Regular Meeting 1:00 p.m.
Main Meeting Room

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Main Meeting Room, 2nd Floor Berryville Clarke County Joint Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia on Tuesday, August 17, 2010.

Board Members Present

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

Staff Present

David Ash, Chuck Johnston, Jesse Russell, Lora B. Walburn

Others Present

Robina Rich Bouffault, Mike Murphy, Philip Shenk, Cliff Nelson, Ed Leonard, Becky Layne and other citizens

Call to Order

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

Adoption of Agenda

David Ash requested that the Supervisors add a closed session to the agenda to discuss legal matters and negotiations.

Supervisor Staelin moved to adopt the agenda as presented. The motion carried 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

Clarke County Public Schools Update

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

- Gannett Fleming was selected to be the commissioning agency charged with design review focusing on design weakness and energy efficiencies.
- School is over 162,000 square feet with 10 HVAC zones.
- Crabtree will be providing estimates for remodeling of the current high school, elementary school and additions to the new high school that range between \$8MM to \$10MM. Meetings will be conducted by the School Board to refine the estimate down given an estimated budget of approximately \$7MM for these capital projects.
- Weldon Cooper did not include demographics for elementary and middle school in their recent high school study.
- D.G. Cooley is approximately 180 students over capacity.
- Once construction is complete, classroom trailers will be sold.
- Vice Chairman Weiss put forth for consideration moving the agricultural labs to the new high school campus. Mrs. Bouffault advised that all agricultural classes would be held on the new campus. Further, the School Board has had many discussions on the matter and determined that moving the labs is cost prohibitive. Also, available acreage on the new site to which it might be moved is a difficult piece of land with limited acreage, storm water issues, and geological challenges. In view of the concerns, however, Mrs. Bouffault will request a ballpark estimate from Crabtree.
- Gannett Fleming has conducted a study of storm water issues. Subsequent to report review, the School Board is looking at modifications.
- The School Board has requested its first change order at the suggestion of the Town of Berryville regarding extending lines under Mosby to be better placed for eventual build-out of the acreage north of the school.
- AYP [Average Yearly Progress] is part of the “no child left behind” initiative and was discussed at the School Board meeting last evening. Mrs. Bouffault opined that AYP has hit a “glass ceiling” for 100% of your students will never be able to pass 100% of the tests. She stated that Clarke County schools have improved SOL scores and are educationally doing better. She advised that statewide superintendents are concerned and shall be meeting to discuss the matter. Further, she will provide DOE comparisons for SOL and SAT scores.
- Will be focusing on advanced programs in the coming school year.
- Lisa Floyd has assumed the duties of Director of Curriculum and Instruction.

Dr. Michael Murphy added the following update:

- Kids...
 - o Adam King – Student School Board Member – doing a great job
 - o Athletes are up and literally running... foot ball practice started this week
 - o Students are excited, and most off our staff seem to be “kids” at heart
 - o 2010 VHSL state writing/photo/design contest finalists announced; winners will be announced in October. Clarke County is a finalist in the following yearbook categories:
 1. Concept Packaging
_____ Clarke County
 2. Student Life Spread
_____ Logan Trask, Downpour, Clarke County
 3. Academics Spread
_____ Meghan Snapp, Outside the Lines, Clarke County
_____ Molly Keesling, Energy Concepts and Designs, Clarke County
 4. Clubs/Organizations Spread
_____ Janet George and Meghan Snapp, Justify, Clarke County
_____ Sara Enger and Sarah Keplinger, Born Country, Clarke County
 5. Sports Spread
_____ Kathryn M. Lese, Changing Tactics, Clarke County
_____ Rebecca York, Striving for Perfection, Clarke County
_____ Bertrand Guerin-Williams, Ripples Turn into Waves, Clarke County
 6. People Spread
_____ Rob Madden and Janet George, Breaking out of the Stereotype, Clarke County
_____ Shannon Dykes and Stephen Nickens, Small Sweet and Practicing Toughness, Clarke County
_____ Logan Trask, Flying High, Clarke County
 7. Feature Photo
_____ Kathryn M. Lese, Testify, Clarke County
_____ Molly S. Keesling, Multiply, Clarke County
_____ Robert S. Madden, Identify, Clarke County
 8. Sports Photo
_____ Kathryn M. Lese, Magnify, Clarke County
_____ Kathryn M. Lese, Intensify, Clarke County
_____ Kathryn M. Lese, Sliding into Home, Clarke County
- Staff...
 - o Sodexo Food Service Manager - Vickie Mueller – Sodexo contract finalized
 - o New Athletic Director at JWMS – Shannon Layton from F&M
 - o Highly Qualified Instructional Assistants – new direction
- Budget...

- In the black... best guess at this time is \$220 to \$250K carry-over – Tom continues to monitor
 - Schneider-Electric (TAC) contract update – fee waived, doing well, finding and fixing issues
 - First review of new budget development timeline took place last night at the SB meeting – timeline is accelerated from the past
 - Additional discussion needed regarding the establishment of a carry-over target (1%)
 - Education jobs bill – one time money is our guess and we will attempt to use it without incurring any annual reoccurring costs
 - FEMA Reimbursement – thanks to Brenda Bennett, about \$6K each for snow removal Education Jobs Funding – looking for more specific VDOE guidance; tentative discussion to use for one-time salary support
- Educational Program...
- Cancelled the Fire program and eliminated Guitar I at CCHS
 - Incentive based "Activities" program being offered at JWMS – 33% staff payment based on goals and student participation; remainder to follow. New model for 1st year positional employees
 - Last year for "traditional" band camp – next year all staff to attend first week of school for teachers
 - Still working on the master schedule – program eliminations, singletons, and staffing challenges continue make scheduling a challenge

Chairman Hobert complimented Dr. Murphy on the thoroughness of his monthly updates to the Supervisors and suggested addition of his report to the Schools' website.

Consent Agenda

Northwestern Community Services FY2011 Performance Contract

10-18R Agricultural Disaster Declaration Request

RESOLUTION REQUESTING DISASTER DESIGNATION AND FEDERAL ASSISTANCE
FOR CLARKE COUNTY
Resolution 10-18R

WHEREAS, drought conditions in Clarke County have progressed through the late spring and summer and are persisting due to lack of adequate rainfall; and

WHEREAS, crop and weather conditions have been continuously monitored over the past six to eight weeks due to the significant lack of rainfall in Clarke County; and

WHEREAS, the Virginia Cooperative Extension officially issued a loss assessment report for Clarke County on July 28, outlining current losses of 35% of the hay crop and 31% of pasture, those losses being in excess of the 30% total crop loss that meets the requirements set forth by USDA to declare a drought; and

WHEREAS, Clarke County farmers need federal assistance in responding to their losses.

NOW, THEREFORE BE IT RESOLVED, by the Clarke County Board of Supervisors on this 17th day of August, 2010, that the Board hereby instructs the County Administrator to submit to the Governor of Virginia the Board's request for assistance in obtaining federal disaster designation for Clarke County and federal assistance for Clarke County farmers who have experienced crop damages/losses because of the on-going drought and weather conditions.

ADOPTED:

J. Michael Hobert, Chairman
Clarke County Board of Supervisors

Mutual Firefighting And Emergency Medical Services Agreement - Frederick County, Virginia

Supervisor Byrd moved to approve the items on the Consent Agenda as presented.

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

Philip Shenk, Farm Bureau, and County resident: spoke in support of the Schools vocational agricultural program. He advised that Robina Rich Bouffault had been invited to the Farm Bureau's annual meeting for review and discussion of relocation of vo-ag labs to the new high school campus. He thanked Mrs. Bouffault and the Supervisors for their continued dedication to the County.

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.

- Maintenance work accomplished since last Board meeting:
 - Cleaned pipes along Rt.601;
 - Performed skin patching on Rt.606 and Rt.649;
 - Conducted A-boom operations on Rt.651 and part of Rt.622;
 - Completed placing calcium chloride on non-surfaced roads;
 - Continued brush trimming around signs countywide;
 - Cleaned up from storm damage week of 7/25 thru 7/30.

- Maintenance work planned for the upcoming month:
 - Continue mowing operations on various routes in County;
 - Continue trimming of brush around signs on various routes in County;
 - Skin patching and repair of low shoulders on various routes;
 - Preparation for solicitation of hired equipment contractors for snow removal;
 - Plant mix resurfacing by contractor on Westbound Rt.7 from East end of the bypass to Rt.632 (Triple J Rd.) and Rt.50 Eastbound from Rt.665 (Park & Ride) to Rt. 638 at the Shenandoah River bridge.

- Other Projects of interest:
 - Rt.604 Ebenezer Rd. - The thirty-day time limit for public posting of proposed work will expire on August 13th. Currently we have received comments from 26 citizens, 25 are in favor and 1 is against. Any additional comments will be updated at the Board meeting. Design of the box culvert to replace the drain tiles is in progress and will be completed once survey information is completed. Letters have been sent to the affected property owners advising them that the survey party will be accessing their property to gather drainage data. The following is a resolution for the Board's consideration should they decide to proceed.

Supervisor Staelin commented that the Supervisors have historically been supportive of the rural rustic road designation for applicable roadways within the County. For clarification, he requested that "be designated as a rural rustic road," be added to the third paragraph following Mountaineer Lane.

**Rural Rustic Road Designation
10-19R**

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held at the Berryville Clarke County Government Center on August 17, 2010. On motion by Supervisor Staelin, the Board of Supervisors (Byrd-Aye; Dunning-Aye, Hobert-Aye, Staelin-Aye, Weiss-Aye) approved the following:

WHEREAS, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1500 vpd; and

WHEREAS, the Board of Supervisors of Clarke County, Virginia ("Board") requests that Route 604, Ebenezer Road, From: Intersection of Route 607 (Sawmill Hill Road) To: .35 mi. south to Mountaineer Lane be designated as a rural rustic road; and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways; and

WHEREAS, the general public and particularly those citizens who own land abutting this road have been made aware that this road may be paved with minimal improvements as is consistent with the development of a rural rustic road project; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics;

NOW, THEREFORE, BE IT RESOLVED, the Board hereby designates this road a Rural Rustic Road, and requests that the Residency Administrator for the Virginia Department of Transportation concur in this designation.

BE IT FURTHER RESOLVED, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

ATTEST:

David L. Ash, Clerk
Clarke County Board of Supervisors

Supervisor Staelin moved to adopt the resolution as modified.

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

- Town of Boyce - VDOT is continuing to explore options for funding the traffic signal at the intersection of Rt.340 & Rt. 723. Upgrades are subject to review and agreement between the Boyce, the Board of Supervisors and VDOT.
- Tree in Berryville – tree was trimmed and all parties satisfied as of noon today.
- Mosby Boulevard Project - Scoping meeting last week. Technical group assembled to review design and to expedite the project, the School Board and Town assigned staff to work with the VDOT group.
- Supervisor Comments and Requests:
 - Vice Chairman Weiss noted lack of speed limit signs on Lockes Mill Road and Chilly Hollow Road. Charlie Monroe will follow up.
 - Vice Chairman Weiss reported that a surveyor was working in the middle of Parshall Road by the sewer plant . Mr. Copp will follow up on safety issue.
 - Vice Chairman Weiss reported that Johnson Grass is growing on Wycliffe Road. Charlie Monroe will follow up during mowing operations.
 - Supervisor Byrd requested updates on Salem Church Road and Senseny Road. Mr. Copp assured that VDOT would continue to work shoulders on these roads.
 - Supervisor Byrd complimented VDOT on the excellent job done on Old Charlestown Road by the low-water bridge.

Reset Public Meeting: CDBG by Request of People Inc.

David Ash advised People Inc. had requested rescheduling of the public meeting to accommodate scheduling difficulties in other affected jurisdictions.

Supervisor Staelin moved to set the matter for public meeting on Tuesday, September 21, 2010 at 1:30 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

Chairman Hobert clarified that People Inc. would be responsible for advertising the public meeting.

Committee Action

Personnel

Expiration of Term for appointments expiring through October 2010.

~~[Attached]~~ is a list of all appointments expiring within the next 90 days along with the complete list of appointees and agencies, boards and committees to which the Board appoints members.

I have informal information regarding the intent of appointees to resign or decline reappointment. No written document is available.

Note that the remainder of the un-expired term for the IDA vacancy is quite short, expiring in October. The committee may wish to make it clear that the recommendation to fill the position is for the ensuing full term as well or simply delay the appointment until the term has expired.

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Lord Fairfax Emergency Medical Services Council <i>Mr. Sours is a new appointee serving a three-year term.</i>	David Sours	06/30/2013
Berryville Area Development Authority <i>Mr. Boyles is appointed to serve the un-expired term of Reagan Duncan.</i>	Jerry Boyles	03/31/2012
Shenandoah Area Agency on Aging, Inc. <i>Mr. Hudson is reappointed to serve his second four-year term.</i>	John Hudson	09/30/2014
People, Inc. Board of Directors <i>Ms. Hillerson is a new appointee serving a full term.</i>	Colleen Hillerson	07/31/2013
Economic Development Advisory Committee <i>Ms. Pritchard is a new appointee serving a full two-year initial term.</i>	Elizabeth Pritchard	08/31/2012

Supervisor Byrd moved to confirm the appointments as presented and to request that the County Administrator prepare the appropriate correspondence to include organizational background material to those persons being appointed for the first time. The motion carried 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

Closed Session Regarding Personnel

Supervisor Byrd moved to convene in closed session pursuant to Section §2.2.3711-A (1) of the Code of Virginia, as amended, to discuss matters involving personnel. The motion was approved as follows:

<i>Chairman Hobert</i>	-	<i>Aye</i>
<i>Supervisor Byrd</i>	-	<i>Aye</i>

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

<i>Chairman Hobert</i>	-	<i>Aye</i>
<i>Supervisor Byrd</i>	-	<i>Aye</i>

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

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Personnel Committee of 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 Committee that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Personnel Committee of the Board of Supervisors of 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 Committee members. The motion was approved by the following roll-call vote:

Chairman Hobert - Aye
Supervisor Byrd - Aye

Summary of Action: The Committee discussed potential appointees to various vacancies. No recommendations were made at the Committee meeting.

The Committee requested a summary description of the appointed positions including frequency of meetings, length of term, residency, disclosure requirements, and other relevant information be prepared.

No action was taken at the regular meeting.

Work Session

Possible Text Amendment--definition of Institutional Use in AOC/FOC

This matter was discussed at the last work session. Attached is a revised draft ordinance incorporating the changes discussed last time. The Board requested the revised draft to insure that the numerous changes discussed were incorporated as each member anticipated. Additional information regarding similar ordinances in nearby localities and an estimate of the number of properties the ordinance would affect is anticipated at the meeting. More discussion is anticipated prior to a recommendation to set public hearing.

The Board discussed the draft ordinance and suggested changes defining passive recreation and museums be drafted and that the matter be returned to the Work Session Agenda in September.

At the regular meeting, Chuck Johnston reviewed the ordinance as modified by the Supervisors at their August work session.

Following discussion, Mr. Johnston was instructed to create a definition for residential special-educational facility and add as one of the permitted uses under community services in neighborhood commercial.

Vice Chairman Weiss moved to refer to the Planning Commission with the further direction to Mr. Johnston to provide additional definition support for community services to include residential educational centers.

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

Chuck Johnston notified the Board that he was working with the Department of Housing and Community Development and the County would be receiving a \$25,000 grant from for sewer service work and other modifications in the Double Tollgate area. He said that a September 30 deadline had been set and the first meeting of the management team was held at 10 am today with representatives from Warren and Frederick Counties. Mr. Johnston stated that a public comment period has been scheduled for Tuesday, August 31, 2010 at 6:30 pm at meeting room at Dinosaur Land.

Update on West Side Sewer Line Status

An update on the status of the Preliminary Engineering Report and the proposed installation will be provided. Additional information regarding flow, possible location, reducing the scope of the proposal and time available to do the work will be discussed.

The Board was informed that the County Administrator had received the draft PER and that a sewer-metering device had been placed in order to verify the estimated flows. Since the service area is unlikely to expand because of topographic limits and reductions in use as the old high school transitions to use as an elementary school with far fewer students, the estimated cost of the project may greatly exceed the benefits to the county. The County Administrator has contacted the Chair of the School Board, and the Project Superintendent for Shocky regarding project timing. VDOT has been asked to comment on use of the VDOT right of way along Mosby in an effort to further reduce the current project scope and cost. That information should be available by the Board Meeting on August 17.

At the regular meeting, David Ash advised that he had spoken with the Schools and VDOT and would discuss further in Closed Session.

Grant Recipient Update for Gang Task Force Funding

There appears that a glitch occurred in the congressional appropriation providing funds for the Regional Gang Task Force in that Clarke County was named as the recipient and fiscal agent. Olivia Meadows, Task Force Analyst and grants manager will be present to explain the why and how and answer any questions the board may have regarding this situation. Requested action is to accept the grant and fiscal agent status on behalf of the Regional Gang Task Force.

The Board asked that written information regarding the grant requirements and the financial responsibility be forwarded to the Board and to Mr. Judge the Finance Director. The Board agreed to review the information provided and make a decision on accepting

responsibility for acting as fiscal agent no later than the September Board of Supervisors Meeting.

No further action was taken at the regular meeting.

Agricultural Disaster Declaration Request

The Cooperative Extension Office has provided the attached information showing that crop damage from drought conditions has reached the threshold required to qualify for a disaster declaration request. A draft resolution and letter asking that the Governor request such a declaration is provided for the Board's consideration.

Supervisor Byrd moved to adopt the Draft Resolution Requesting Disaster Designation And Federal Assistance For Clarke County; to notify the Governor of the Board's support for his request, and to have the matter placed on the consent agenda for ratification by the full Board on August 17, 2010. The motion was approved as follows:

<i>Chairman Hobert</i>	-	<i>Aye</i>
<i>Supervisor Byrd</i>	-	<i>Aye</i>
<i>Supervisor Staelin</i>	-	<i>Aye</i>
<i>Supervisor Dunning</i>	-	<i>Absent</i>
<i>Supervisor Weiss</i>	-	<i>Absent</i>

Given prior approval, no further action was taken at the regular meeting.

Update on Construction Project's

A meeting of the Joint Government Center Committee is scheduled for August 11th at 10:00 am. The facility remains unacceptably humid despite continued adjusting at the direction of, or by the Mechanical Engineer. Portable dehumidifiers are being used to address the most severe areas while a solution to the deficiency is determined. RDA has been notified and has promised to provide me with an update on their take on the contract documents this week.

The architect was unavailable, but a pre pre-construction conference was held to introduce the contractor and county staff that will be working on the Circuit Courthouse project and to provide the contractor with advance information on storage locations and the need to maintain access while renovations are underway. The contractor had the submittals available and was instructed to send them to the architect so that the notice to proceed could be issued immediately upon the architect's return and official pre-construction conference.

The Board asked that information available subsequent to the August 11 meeting be provided at the Board Meeting on August 17.

David Ash stated that update would be provided during Closed Session.

Outdoor Burning Ban

The ban remains in effect. At the time the agenda was prepared there was no cause to consider rescinding the ban. This item will remain on the agenda for consideration until such time as the burning ban is lifted.

No action was taken.

No further action was taken at the regular meeting.

Discussion Regarding the netting of game fish in the Shenandoah

A Board member has requested discussion and subsequent communication with the Department of Game and Inland Fisheries regarding the apparent escalation in the use of nets to take game fish from the Shenandoah River. A draft letter is included for the Board's consideration.

The Board agreed to have the Chair send the proposed letter as revised.

No further action was taken at the regular meeting.

Finance Committee

The Finance Committee did not meet in August.

Government Projects Update

David Ash stated that update would be provided during Closed Session.

Miscellaneous

State Finance Review from VACo

Chairman Hobert presented the PowerPoint program provided by VACo titled "The State Budget "The Train Derailed."" From this information, he postulated that money for schools and constitutional offices would not be forthcoming and any increase in revenue would be mostly used to pay back previously borrowed funds.

Supervisor Dunning left the meeting at 2:55 pm.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Provide DOE comparisons for SOL and SAT scores	Robina Rich Bouffault
2.	Request a ballpark estimate to move vo-ag labs.	Robina Rich Bouffault
3.	Execute and forward FY2011 Northwestern Community Services Performance Contract.	David Ash
4.	Forward executed 10-18R.	Lora B. Walburn
5.	Execute and forward Mutual Firefighting and Emergency Medical Services Agreement.	David Ash
6.	Execute and forward 10-19R Rural Rustic Road.	David Ash
7.	Process notice of public meeting for People Inc.	People Inc.
8.	Update database and provide notice of appointment.	Lora B. Walburn
9.	Prepare the appropriate correspondence to include organizational background material to those persons being appointed for the first time.	David Ash
10.	Provide notice of referral to the Planning Commission.	Chuck Johnston
11.	Process Ordinance for TA-10-04.	Chuck Johnston / Lora B. Walburn
12.	Process Ordinance for TA-10-06.	Chuck Johnston / Lora B. Walburn
13.	Update Code of Clarke County adding chapter 154.	Lora B. Walburn
14.	Process CC-10-05 and update County Code.	Lora B. Walburn

Board Member Committee Status Reports

Economic Development Advisory Committee by John Staelin

- Members met with Gordon Russell the week of August 16 to discuss improvements in web presence.

Closed Session Pursuant to §2.2.3711-A6 Negotiations 2.2-3711-A7 Probable Litigation

Supervisor Byrd moved to convene into Closed Session pursuant to §2.2.3711-A6 Discussion of the investment of public funds where competition or bargaining is involved and A7 for discussion regarding probable litigation.

J. Michael Hobert, Chair	- Aye
David S. Weiss, Vice Chair	- Aye
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Absent
John R. Staelin	- 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 Staelin moved to reconvene in open session. The motion carried as follows:**

J. Michael Hobert, Chair	- Aye
David S. Weiss, Vice Chair	- Aye
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

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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	- Aye
Barbara J. Byrd	- Aye
A.R. Dunning, Jr.	- Absent
John R. Staelin	- Aye

No action was taken on matters discussed in closed session.

At 3:35 pm Chairman Hobert recessed the meeting until 6:30 pm.

At 6:30 pm Chairman Hobert reconvened the meeting.

Citizen Comment Period

No citizens appeared to address the Supervisors.

PH 10-24: TA-10-04

The Clarke County Board of Supervisors shall consider the Planning Commission recommendation to amend the County Zoning Ordinance:

Section 3-A-1-a and 3-A-2-a, Special Uses in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Zoning Districts so as to state that Boarding Kennels shall consist of more than five canine or feline animals, that Breeding Kennels shall consist of more than 10 canine animals, and to delete the adjective 'commercial' when describing 'Breeding Kennels';

Section 9-B, Definitions, so as to modify the definition of 'Commercial Breeding Kennel', so as to delete the adjective 'commercial' and to delete the requirement in the definition of 'Boarding Kennel' or 'Breeding Kennels' shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling so as to shift these requirements to Supplemental Regulations.;

Section 3-C-2-I, Supplementary Regulation for Home Occupations, so as to include in the AOC and FOC Zoning Districts, commercial boarding or breeding kennels as home occupations limiting the size of a Breeding Kennel to 10 canine adult animals and limiting Boarding Kennels to five canine and/or feline adult animals;

Section 3-C-2-gg, Supplementary Regulation for Commercial Boarding Kennels and Breeding Kennels so as to shift use and setback regulations for such uses from the definition section of the Zoning Ordinance to this section.

David Ash reviewed the proposed ordinance amendments recommended by the Planning Commission.

Chuck Johnston, Planning Administrator, and Jesse Russell, Zoning Administrator, were available to answer questions. At the request of Supervisor Staelin, Chuck Johnston summarized similar ordinances in surrounding jurisdictions. He put forth that Loudoun and Warren counties allow a set number of animals and Frederick County defines a commercial breeder as any breeder that sells any animal.

At 6:35 pm Chairman Hobert opened the public comment portion of the public hearing.

Gary Fisher - Clarke County resident: identified himself as a dog breeder for 50 years and involved with humane societies and kennel clubs. He spoke in opposition to the proposed amendment. He asked that the ordinance be dropped immediately.

Alice Harrington – Arlington, Virginia – representing the Virginia Federation of Dog Clubs and Breeders: spoke in opposition to the proposed amendment. Ms. Harrington distributed a written statement that is included in the August 2010 meeting materials. She asked the Board to table the proposal.

Jerry Howse – Clarke County resident: he is a breeder, shows his dogs and is an AKC judge. He spoke in opposition to the proposed ordinance. He put forth issues with older dogs that can no longer be bred placing the breeder over the limit and forcing the breeder to seek a special use permit.

Cathy Mills-Kirby – Clarke County resident: identified herself as a breeder. She spoke in opposition to the proposed amendment. She, too, referenced aging dogs that can no longer be bred and the cost to a breeder of a special use permit.

David Simmons – Boyce resident: identified himself as a breeder and shows his dogs. He spoke in opposition to the proposed amendment. He, too, spoke about aging animals and the cost of a special use permit.

James Lampiere – White Post resident: identified his wife as a breeder that has produced 50 champions and his daughter shows dogs. He spoke in opposition to the proposed amendment. He stated that when you are involved with show dogs you are taught to care for your aging animals. He asked that the Supervisors table the matter.

Susan Markley – Clarke County resident and past president of Shawnee Kennel Club and member of the Planning Commission review subcommittee: spoke in opposition to the proposed amendment. She asked that the Supervisors table the matter.

Sharon Howse – President of the Shawnee Kennel Club: spoke in opposition to the proposed amendment. She distributed an email from the American Kennel Club. She advised that kennel club members could have lived with the ordinance as originally forwarded by the Planning Commission. She advised that five all-bred shows are held in Clarke County.

Michael Wilson - Clarke County resident: spoke in opposition to the proposed amendment. He said previous speakers had covered most of what he planned to say but added that spayed and neutered animals should not be included. He opined that the Supervisors were trying to solve a non-existent problem.

Cliff Nelson - Clarke County resident and Russell District Planning Commissioner and member of subcommittee: he said that the main issues were number of dogs and

noise. He expressed his desire to maintain the number of animals recommended by the Planning Commission. He asked for verification of any allegations.

Being no further comment, at 7:02 pm Chairman Hobert closed the public comment portion of the public hearing.

Chuck Johnston, responding to questions raised, advised that staff had initiated the proposed amendments to create equity between boarding and breeding kennels and to allow smaller kennels to be recognized and set backs enforced. He clarified that all zoning ordinances are future tense therefore all existing businesses are grandfathered.

Supervisor Byrd suggested that the ordinance should be sent back noting that it did not address boarding. She also suggested changing it to read ten canine animals above one year of age and of breeding age.

Supervisor Staelin commented that the proposed ordinance liberalizes some of the current regulations and it allows Clarke County breeders to have more dogs by right than any of our neighboring jurisdictions.

Supervisor Staelin moved to amend the proposed ordinance presented going back to the original definition for kennel commercial boarding with the exception of the word commercial in breeding kennel.

Take out the cross outs and leave in on Section 9-B-102: "A ~~Commercial~~ Breeding Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling."

03 Section – leave all in except commercial that shall be crossed out "A ~~Commercial~~ Breeding Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling."

Vice Chairman Weiss requested clarification that set backs were the same at 200 feet for both operations. Supervisor Staelin affirmed.

Vice Chairman Weiss requested clarification that boarding was still over five animals and breeding over ten. Supervisor Staelin affirmed opining that his amendment targeted keeping the operation closer to the house.

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

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

Vice Chairman Weiss commented that the Planning Commission and the committee had done a good job on a touchy subject and had met the Supervisors more than half way. He remarked that there was a much larger dog community than he had realized. He said he could support the larger number of animals as originally sent from the Planning Commission. Mr. Weiss asked that the Supervisors consider lowering special use permit fees opining that these could be prohibitive. Mr. Weiss opined that more middle ground was needed and the County was overreaching with this amendment.

Chairman Hobert called for clarification on animal age to determine if limits included retired or animals beyond breeding age. Chuck Johnston responded that the only cited age is reference to animals over six-months of age. Mr. Hobert put forward that the amendment specifically references animals for the purpose of breeding opining that if an animal is not being held for that purpose why would it be counted among the ten-animal limit. Mr. Johnston responded that this was a clarification that the Supervisors could make; but from a practical standpoint, it would be difficult to determine and enforce. He stated that the Planning staff would work with any stipulations set by the Board.

Jesse Russell interjected that the State code sets age limits. Mrs. Harrington distributed copies of the referenced code cite – 3.2-6500.

Supervisor Staelin moved to adopt the text amendment as modified with respect to the definitions of kennel commercial boarding and kennel breeding that includes the limitation of ten animals as discussed.

Supervisor Dunning proposed a friendly amendment changing the number of dogs from 10 to 15.

Supervisor Staelin accepted the amendment modifying the text amendment to 15 or fewer canine animals.

Supervisor Staelin expressed support for Vice Chairman Weiss' suggestion to review fees. Chairman Hobert added that this matter would be addressed after staff review.

Supervisor Byrd opined that this ordinance starts the County down a slippery path.

Supervisor Dunning called for question moving to terminate debate on the motion. 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

The motion carried by the following vote:

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

ORDINANCE
10-09ORD

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held at the Town/County Government Center on 2010 August 17 at 6:30 p.m. On motion by Supervisor Staelin, the Board of Supervisors (Byrd-No, Dunning-Yes, Hobert-Yes, Staelin-Yes, Weiss-No) approved the proposed Text Amendment of the Zoning Ordinance.

WHEREAS, the Clarke County Zoning Ordinance is established to protect the health, safety, and welfare of the community;

WHEREAS, boarding kennels and breeding kennels should have generally similar regulations as they both involve keeping multiple canine animals on site; and

WHEREAS, amended kennel regulations would not affect any existing kennel operations, only kennels that started activity after the adoption of this ordinance;

NOW THEREFORE BE IT ORDAINED THAT, the following sections of the County Zoning Ordinance be amended:

Section 3-A-1-a and 3-A-2-a, Special Uses in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Zoning Districts so as to state that Boarding Kennels shall consist of more than five canine or feline animals, that Breeding Kennels shall consist of more than 15 canine animals, and to delete the adjective 'commercial' when describing 'Breeding Kennels';

Section 9-B, Definitions, so as to modify the definition of 'Commercial Breeding Kennel', so as to delete the adjective 'commercial';

Section 3-C-2-I, Supplementary Regulation for Home Occupations, so as to include in the AOC and FOC Zoning Districts, commercial boarding or breeding kennels as home occupations limiting the size of a Breeding Kennel to 15 canine adult animals and limiting Boarding Kennels less than five canine and/or feline adult animals;

Section 3-C-2-gg, Supplementary Regulation for Commercial Boarding Kennels and Breeding Kennels so as to provide for a setback from property lines.

Attest:
TA-10-04

David L. Ash, County Administrator

See the following for specific changes.

ZONING ORDINANCE TEXT AMENDMENT

Text to added showed ***in bold Italics***

Text to be deleted showed **~~struck through~~**

3 DISTRICT REGULATIONS
3-A SCHEDULE OF DISTRICT REGULATIONS

3-A-1 Agricultural-Open Space-Conservation District - AOC

3-A-1-a Permitted Uses and Structures
Special Uses and Structures

- r. Veterinary Services, Animal Hospitals, Commercial Boarding Kennels *of more than five canine or feline animals*, ~~Commercial~~ Breeding Kennels *of more than 15 canine animals*, Animal Shelters

3-A-2 Forestal-Open Space-Conservation District - FOC

3-A-2-a Permitted Uses and Structures

1. Special Uses and Structures

- r. Veterinary Services, Animal Hospitals, Commercial Boarding Kennels *of more than five canine or feline animals*, ~~Commercial~~ Breeding Kennels *of more than 15 canine animals*, Animal Shelters

9 DEFINITIONS

9-B DEFINITIONS

9-B-103 KENNEL, ~~Commercial~~ Breeding:

A place designed or prepared to house or handle ~~more than 20~~ canine animals for the purpose of breeding for sale in return for compensation. A ~~Commercial~~ Breeding Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling.

3-C SUPPLEMENTARY REGULATIONS

3-C-2 Uses in Various Districts

3-C-2-l Home Occupations

12. A Breeding Kennel is allowed as a Home Occupation in the AOC and FOC Zoning Districts when such facility houses 10 or fewer canine animals older than six months. Kennels housing five to 10 animals older than 6 months shall be setback 175 feet from property lines.
13. Commercial Boarding Kennel is allowed as a Home Occupation in the AOC and FOC Zoning Districts when such facility houses less than five canine and/or feline animals older than six months.

3-C-2-gg Veterinary Services, Animal Hospitals, Commercial Boarding Kennels, Commercial Breeding Kennels, Animal Shelters:

1. *Companion animals shall be confined in an enclosed building, which shall be ~~air-conditioned~~ climate controlled and be constructed of sound absorbing materials so as to mitigate animal noise at adjacent property lines. Such an enclosed facility may also include a fenced exercise area. Such enclosed facilities and exercise areas shall be at least 200 feet from any property line. Areas of confinement not fully enclosed (such as dog runs) shall be at least 500 feet from any property line.*

2. The hours of operation for kennels and shelters shall not be earlier than 7:00 a.m. or later than 9:00 p.m. In all cases, companion animals shall be confined in an enclosed building from 9:00 p.m. to 6:00 a.m. In exceptional cases, a companion animal may be briefly escorted outside by kennel staff during the hours of enclosed confinement.
3. *A Breeding Kennel or Commercial Boarding Kennel is allowed only as an accessory use to a Single Family Detached Dwelling. Enclosed facilities and exercise areas shall be at least 200 feet from any property line. Areas of confinement not fully enclosed (such as dog runs) shall be at least 500 feet from any property line.*

Supervisor Dunning left the meeting at 7:30 pm.

PH 10-23: TA-10-06

The Clarke County Board of Supervisors shall consider the Planning Commission recommendation to amend the County Zoning Ordinance: Section 6-H-5, Site Plan, "Curb and Gutter"; Section 6-H-8, Stormwater Management; and Section 6-H-15, Sinkholes and Karst Features; and the County Subdivision Ordinance: Section 8-1, Drainage; and; the County Code so as to add Section 154, Stormwater Management.

Chuck Johnston summarized the proposed amendments to the zoning ordinance and addition to the County Code. He reiterated that the State was in the process of updating its standards.

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

Supervisor Staelin commended staff and Chester Engineers for their work on this amendment. Chuck Johnston added that it took many long hours to work through the complex standards.

Chuck Johnston asked the Chair to hold action on the fee schedule.

Chairman Hobert agreed and requested Mr. Johnston address and recommend fees for a kennel application in conjunction with other pending fee schedule changes.

Being no further discussion, Chairman Hobert closed the public hearing.

Supervisor Staelin moved to adopt the text amendments TA-10-06 as presented. 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. - Absent
John R. Staelin - Aye

ORDINANCE 10-10ORD

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held at the Town/County Government Center on 2010 August 17 at 6:30 p.m. On motion by Supervisor Staelin, the Board of Supervisors (Byrd-No, Dunning-Yes, Hobert-Yes, Staelin-Yes, Weiss-No) approved the proposed Text Amendment of the Zoning Ordinance.

WHEREAS, the Clarke County Zoning and Subdivision Ordinances, as well as the other sections of the County Code, are established to protect the health, safety, and welfare of the community;

WHEREAS, in 2003, as a result of the Governor's Natural Resources Summit (Warner Administration), then Secretary of Natural Resources Tayloe Murphy requested the Director of the Department of Conservation and Recreation to convene an inter-agency Task Force to develop a plan and recommendations to streamline the current storm water management process, improve water quality protection, support sediment and phosphorus reduction goals under Chesapeake Bay tributary strategies, support TMDL reductions in streams impaired by excess sediment and nutrients, and better protect drinking water supplies.

WHEREAS, the key Task Force recommendations were:

1. Consolidate stormwater programs related to construction activities within DCR;
2. Establish a more uniform statewide construction-permitting program;
3. Establish statewide stormwater requirements for projects with land disturbances of 1 acre or greater (with allowance for lower threshold in CBPA);
4. Empower local governments to implement stormwater management programs;
5. Develop a statewide permit fee system; and
6. Encourage low-impact approaches and better site designs by using the "Runoff Reduction" approach.

WHEREAS, In transferring Stormwater Permitting Authority to Localities, the Task Force

1. Developed additional regulatory procedures to delegate responsibilities to localities and address water quality and quantity criteria; and
2. Developed model ordinance.

WHEREAS, on 2009 December 9, the Virginia Soil and Water Conservation Board adopted revisions to the Virginia Stormwater Management Program (VSMP) Permit Regulations Parts I, II, and III (4 VAC 50-60), and that on January 14, 2010 the Board, in response to 25 petitions received during the 30-day final adoption period, suspended the effective date of these regulatory actions indefinitely.

WHEREAS, current Clarke County stormwater regulations were developed almost 20 years ago and merit upgrading, and further, amendments can be made depending on how state regulations evolve.

NOW THEREFORE BE IT ORDAINED THAT,

the following sections of the County Zoning Ordinance be amended:

Section 6-H-5, Site Plan, "Curb and Gutter"; Section 6-H-8, Stormwater Management; and
Section 6-H-15, Sinkholes and Karst Features;

the following section of the County Subdivision Ordinance be amended:

Section 8-1, Drainage; and

the following section be added to the County Code:

Section 154, Stormwater Management.

Attest:
TA-10-06

David L. Ash,
County Administrator

PH 10-22 CC 10-05 Chapter 165 Article IX – Wills and Grants of Administration Tax

The Clarke County Board of Supervisors will consider amending §165-51 to reflect a 2010 change in the Code of Virginia §§ 58.1-1717.1, 58.1-1718, and 58.1-3805 allowing counties to charge a \$25 fee for the filing of a list of heirs or affidavit when a will has not been probated and there has been no grant of administration and to reflect the current minimum estate value.

David Ash reviewed the proposed Code change.

At 7:41 pm Chairman Hobert opened the public comment portion of the public hearing. Being no persons present desiring to address the Supervisors regarding this matter, the public comment portion of the public hearing was closed.

Vice Chairman Weiss moved to adopt CC-10-05 as presented.

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.	- Absent
John R. Staelin	- Aye

Code of Clarke County, Virginia
Chapter 165 - TAXATION

ARTICLE IX. – Wills and Grants of Administration Tax

§165-51 – ~~*Tax on Wills and grants of administration;*~~ *fee in lieu of probate tax.*

- (a) There is hereby imposed a county tax on the probate of every will or grant of administration not exempt by law, including real, personal and mixed property, equal to 1/3 of the tax imposed for state purposes by § 58.1-1712. Levy; rate of tax of the Code of Virginia, provided that the tax imposed by this section shall not apply to estates of decedents of \$ 15,000 or less in value.
- (b) There is hereby charged a \$25 county fee on the recordation of a list of heirs pursuant to Virginia Code § 64.1-134 or an affidavit pursuant to Virginia Code § 64.1-135 unless a will has been probated for the decedent or there has been a grant of administration on the decedent's estate.*

Adjournment

There being no further business to be brought before the Board at 7:42 pm Chairman Hobert adjourned the Board of Supervisors meeting.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, September 21, 2010 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: August 17, 2010

J. Michael Hobert, Chair

David L. Ash, County Administrator

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