

CLARKE COUNTY BOARD OF SUPERVISORS
February 15, 2011 Regular Meeting 1:00 p.m.
Main Meeting Room

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Main Meeting Room, 2nd Floor Berryville Clarke County Joint Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia on Tuesday, February 15, 2011.

Board Members Present

Barbara Byrd; J. Michael Hobert; John Staelin; David Weiss

Board Members Absent

A. R. Dunning, Jr.

Staff Present

David Ash, Chuck Johnston, Tom Judge, Tony Roper, Lora B. Walburn

Others Present

Barbara Lee, Robina Rich Bouffault, Mike Murphy, Dianne Lasky, Jill Sours, Keith Dalton, Becky Lane, Ed Leonard and other citizens

Call to Order

Chairman Hobert called the meeting to order at 1:00 p.m.

Adoption of Agenda

Supervisor Byrd moved to adopt the agenda as presented. 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 Public Schools Update

Dr. Murphy appeared before the Supervisors to provide the monthly update from the Clarke County public schools. Highlights include:

- Concrete is being poured today on the second floor of the high school.
- Schools have purchased a "sander" to apply sand to government property during inclement weather.
- Introduced Dianne Lasky, Special Education Director, and Jill Sours, Assistant, who shared a presentation titled "Special Education Fast Facts Clarke County Public Schools." Highlights of that presentation include:
 - o Special Education is located in the School Board Annex facility.
 - o Annex staff work with all students through prevention and intervention.
 - o Law requires all schools to ensure that all identified children with disabilities have the right to a free appropriate public education.
 - o Special Education student count is rising. Autism is on the rise, as well as other health impairments.
 - o Increased enrollment has impacted the student to teacher ratio.
 - o Some students need constant and ongoing support.
 - o Some extreme cases go beyond the school's ability to provide effective and efficient service within the schools.
 - o Estimated program cost is nearly \$2 million not including transportation and legal fees.
 - o On behalf of the Board, Chairman Hobert expressed gratitude for the excellent performance by Special Education staff.
 - o Dr. Murphy added that the Schools appreciated the funding.
 - o Some students present too great a challenge to serve and must be sent to other locations but their case management is still performed locally.
 - o Clarke County Public Schools has the second lowest special education population in the state by percentage of total population.
 - o CCPS works with colleges and intern programs to help locate qualified staff.
 - o CCPS has 2.5 nurses on staff.
 - o Every year, legislation is making it easier to identify children with special needs.

- CCPS budget public hearing is scheduled for Thursday evening.
- Dr. Murphy will be a guest speaker at the Ruritan on February 16 at 7pm.

Robina Rich Bouffault, School Board representative, provided the following update on the high school construction project:

- Construction going well.
- Project remains on schedule.
- Work has started on the second floor classroom wing.
- A diagram of the greenhouse location was distributed and reviewed. Final School Board approval of the greenhouse location is at the rear entrance.
- Moving forward with a regular water well – architects are working at putting one in near greenhouse.
- Have looked at solar panels and windmills for “greener” construction but these are not a sure source of energy.
- A major change in the construction budget is reallocation of \$700,000 from contingency and placed in FFE. \$1.8MM was allocated; and after going through the equipment, furniture and technology, the estimated total is closer to \$2.42 million.
- FFE procurement has begun and a timeline established.
- \$1.5 million of the FFE funds are for technology – smart boards, latest computers, etc.
- Unexpended funds will revert to the renovation projects.
- \$500,000 remains in contingency and another million is being held.
- Project is currently \$86,000 under budget.

Chairman Hobert extended its best wishes to the newly selected Clarke County School Board Chair, Barbara Lee; and expressed appreciation for her willingness to assume this considerable responsibility during these challenging times.

Approval of Minutes

Supervisor Byrd requested the following changes:

- Book 20 Page 502 change first vote from A.R. Dunning, Jr. absent to aye.

Supervisor Byrd moved to approve the minutes of January 18, 2011 Regular Meeting as corrected. 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

Consent Agenda

Proclamation In Memory of John Rector Friant, Senior 11-01-P

PROCLAMATION
IN MEMORY OF
John Rector Friant, Senior
December 3, 1919 to January 16, 2011

WHEREAS, John R. Friant, Sr., as a local business owner and employer, contributed to the economic stability of the community;

WHEREAS, Mr. Friant was an active participant in the Clarke County Chamber of Commerce and Ruritan Club. He further served the community on the boards of the Clarke County Library Advisory Council, The Barns of Rose Hill, Grafton School, original member of the Clarke County Industrial Development Authority, member and first Chairman of the Clarke County Planning Commission established in July 1956, and a founding board member of Heritage Child Development Center;

WHEREAS, his initiatives include Clarke County Recreational Center, the Route 7 Triangle Beautification Project, expanding and improving the Library by moving it to the Joint Government Center, Dictionary Project, development of the first County Zoning ordinances during his tenure on the Planning Commission, and the international guest program at the Annual Ruritan County Fair.

WHEREAS, in 1998 Mr. Friant was awarded The Clarke County Citizen of the Year.

NOW, THEREFORE BE IT RESOLVED, the Clarke County Board of Supervisors does hereby issue this proclamation in remembrance of John Rector Friant, Senior, a respected citizen of Clarke County and an active participant in civic affairs and in recognition of his excellent character, citizenship, and dedicated service to the citizens of the County.

IN WITNESS THEREOF, I have set my hand and caused the seal of the County of Clarke, Virginia to be affixed this 15th day of February 2011.

Attest:

J. Michael Hobert, Chair

**Supervisor Staelin moved to approve the item 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.	-	Absent
John R. Staelin	-	Aye

Citizens Comment Period

Van Welton, resident 528 Page Street, Berryville: Pastor of Apple Valley Baptist Church that meets at D.G. Cooley Elementary School on Sunday. He expressed appreciation for being provided the ability to conduct church services in the school facility. He extended to the Board an invitation to attend a community service day that his church was planning.

VDOT

Jerry Copp – Maintenance and Operations Items and Residency Administrator, with Charlie Monroe – Area Maintenance Superintendent; appeared before the Supervisors to provide the monthly update.

- Maintenance work completed in January:
 - Used contractors to conduct pipe cleaning operations on the lower section of Route 605;
 - Performed brush cutting on Route 612 from Route 608 to Route 603;
 - Conducted Boom Ax operations along Route 644 between Route 658 and Route 624;
 - Responded to pot hole repair request along various routes in the County;
 - Conducted routine functions of hazardous tree removal, carcass pickup and responded to winter storms.

- Maintenance work planned for February:
 - Continue brush cutting operations on Route 612 and contractor brush cutting on various other secondary routes in the county;
 - Conduct Boom Ax operations along Route 658 and Route 638;
 - Perform pipe cleaning operations in mountain area;
 - Perform shoulder and pot hole repair on various primary and secondary routes in the County.

- Other Projects:

- Route 636, Mosby Road:
 - All comments have been received from the public hearing and a copy has been forwarded to the County.
 - Response summaries on the comments are being drafted to send to the Chief Engineer.
 - Meetings have been held with the utility companies and the information is being incorporated into the design process.
 - A preliminary estimate has been provided to the County for the addition of street lighting beyond the intersection of the round-a-bout.
- Route 604 Ebenezer Rd: Status unchanged..
- Route 723 Town of Boyce Revenue Sharing Project: Status unchanged.
- Supervisor Comments and Requests:
 - Chairman Hobert asked about bridge projects.
 - Mr. Copp responded that this year VDOT was planning to replace the super structure on Route 603.
 - Route 723 Old Winchester Road bridge is scheduled for repair between June 15 and July 30. He noted that the existing walkway would be left in place. Frederick and Clarke County are being asked to allow VDOT to block for one construction season to facilitate completion of this reconstruction project over the Opequon Creek.
 - Route 622 Swift Shoals - the existing bridge will be replaced with a box culvert.
 - Route 761 Old Charlestown Road – program is probably four to five years out and VDOT intends to use federal funds.
 - Supervisor Byrd requested pothole repair on Summit Point Road.

Special Event Permit Application: Blue Ridge Hunt Point to Point March 12, 2011

David Ash reviewed the special event permit application for Blue Ridge Hunt Point to Point for March 12, 2011. He noted that the Hunt was requesting a multiple year however they had only paid the initial application fee. He recommended that the application be approved for multiple years.

Supervisor Staelin moved to approve the special event permit application of the Blue Ridge Hunt Point to Point for March 12, 2011, as well as subsequent years subject to receipt of payment of fees for additional years within 30 days of notice.

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

Barns of Rose Hill Project Update by Stan Kerns

Stan Kerns thanked the Supervisors for their support on the Barns of Rose Hill Project and offered to provide them a tour of the facility. Highlights of the update included:

- Progress of the project is visible from the meeting room.
- Hope to have the facility closed and inspected by end of the month.
- Roofing in process.
- Expect to start reinstalling original barn siding next week.
- Pleased with the general contractor, H&W.
- Project is on schedule.

Discussion Housing for Seasonal Farm Workers Text Amendment TA-11-01

The Clarke County Board of Supervisors requests the amendment of the County Zoning Ordinance:

- Section 3-A-1, Agricultural-Open Space-Conservation (AOC) Zoning District, so as to add to the list of Special Uses and Structures: 'Housing for Seasonal Farm Workers' and
- Section 3-C, Supplementary Regulations, so as to add regulations for the use 'Housing for Seasonal Farm Workers' stating: "Housing for Seasonal Farm Workers shall be in compliance with all applicable County, State, and Federal regulations (including Occupational Safety and Health Administration (OSHA) standards)."
- Section 9-B, Definitions, so as to change the term 'Labor Camp' to 'Housing for Seasonal Farm Workers'

Chuck Johnston reviewed the proposed text amendment. He stated that the action before the Supervisor was to adopt the resolution to initiate the amendment.

Supervisor Byrd advised that anyone that participates in the guest labor program is subject to federal inspection including housing, food, laundry, etc.

Vice Chairman Weiss moved to adopt the resolution to initiate consideration of the text amendment TA-11-01.

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

**Housing for Seasonal Farm Workers County Zoning Ordinance Text Amendment TA-11-01
2011-02R**

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held at the Town/County Government Center on 2011 February 15. On motion by Vice Chairman David Weiss the Board of Supervisors (Byrd-Aye; Dunning-Absent; Hobert-Aye; Staelin-Aye; Weiss-Aye) approved a Resolution initiating an amendment to the Clarke County Zoning Ordinance.

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

WHEREAS, on 2008 August 19, the Clarke County Board of Supervisors approved an amendment to the Agricultural, Open Space, and Conservation (AOC) Zoning District to delete the use 'Labor Camp';

WHEREAS, Labor Camps have operated in Clarke County in the past, but none are not currently functioning;

WHEREAS, any use, which is not allowed in a zoning district, that is discontinued for more than two years cannot start operation again unless it conforms to current regulations;

WHEREAS, Labor Camps, which provide housing for seasonal farm workers, contribute to agricultural activities in the County;

WHEREAS, the inactive Labor Camps in the County may not have been in conformance with current state and federal rules; and

WHEREAS, reinstating Housing for Seasonal Farm Workers would ensure that the former Labor Camps, as well as new seasonal farm worker housing, would conform to contemporary state and federal standards.

NOW THEREFORE BE IT RESOLVED that the County Zoning Ordinance is proposed to be amended:

- Section 3-A-1, Agricultural-Open Space-Conservation (AOC) Zoning District so as to add to the list of Special Uses and Structures: 'Housing for Seasonal Farm Workers' and
- Section 3-C, Supplementary Regulations, so as to add regulations for the use 'Housing for Seasonal Farm Workers' stating: "Housing for Seasonal Farm Workers shall be in compliance with all applicable County, State, and Federal regulations (including Occupational Safety and Health Administration (OSHA) regulations)."; and

- Section 9-B, Definitions, so as to change the term 'Labor Camp' to 'Housing for Seasonal Farm Workers'.

Adopted this 18th day of January 2011

Attest:

J. Michael Hobert, Chair

Set Public Hearing Chapter 143 Septic Systems CC-11-01

The Clarke County Board of Supervisors will consider the amendment of the Code of Clarke County Chapter 143 Septic Systems so as to allow potable privies to be used in association with government owned facilities.

Chuck Johnston reviewed the proposed Code amendment.

Supervisor Staelin moved to set the matter, as presented, for public hearing on March 15, 2011 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.	- Absent
John R. Staelin	- Aye

Set Public Hearing Chapter 154-4-B Stormwater Management CC-11-02

The Clarke County Board of Supervisors will consider the amendment of the County Code, Chapter 154, Stormwater Management:

- Section 154-4-B Water Quality Criteria Requirements, so as:
- to clarify that the total phosphorus load of a project occurring on prior developed lands not within Urban Development Areas shall be 20% less than the existing load from the site or 0.28 pounds per acre per year, whichever is less stringent and to modify the paragraph headings to more clearly differentiate the regulations for development in and not in urban development areas and
- to state for development on prior developed lands within Urban Development Areas (land subject to County ordinance in the Berryville Annexation Area): The total phosphorus load of a project occurring on prior developed lands shall be 20% less than the existing load from the site or 0.45 pounds per acre per year, whichever is less stringent. CC-11-02

Chuck Johnston reviewed the proposed Code amendment.

Supervisor Byrd moved to set the matter, as presented, for public hearing on March 15, 2011 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.	- Absent
John R. Staelin	- Aye

Set Public Meeting Double Tollgate Capital Grant Application

Set Public Information Meeting on 2011 March 15, 6:30 pm for the Resolution agreeing to apply for Community Development Block Grant funds from the Virginia Department of Housing and Community Development for the first phase of utility facilities for commercial development at the Double Tollgate intersection.

Chuck Johnston provided an update on activities surrounding development of the Double Tollgate area. He advised that notices would be provided to surrounding property owners.

Supervisor Staelin moved to set the matter for public information meeting on March 15, 2011 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.	- Absent
John R. Staelin	- Aye

Committee Action

Personnel Committee

Expiration of Term for appointments expiring through February 2011

February 7, 2011 Summary: The Personnel Committee made no recommendations at the time of the committee meeting.

February 15, 2011: No action was taken at the regular meeting.

Sesquicentennial Committee Appointments

February 7, 2011 Summary: The Personnel Committee recommends the appointment of Vice Chairman Weiss to this committee.

February 15, 2011, Supervisor Byrd moved to confirm the appointment of David Weiss 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.	-	Absent
John R. Staelin	-	Aye

2011 Conflict of Interest Filing

February 7, 2011 Summary: The Personnel Committee expressed appreciation for the timely response of appointees, as well as staff efforts to ensure compliance.

February 15, 2011: No action was taken at the regular meeting.

Appointee Information Feedback Update

February 7, 2011 Summary: The Personnel Committee instructed staff to follow up with non-responsive appointees and to prepare a preliminary analysis for review at the March meeting with highlights of reported issues.

February 15, 2011: David Ash advised that response was approaching 80%.

2011 Board of Supervisors Appointments

February 7, 2011 Summary: Follow-up information only - no action required.

February 15, 2011: No action was taken at the regular meeting.

Work Session

FY2012 Budget Review and Discussion

February 7, 2011 Summary: Tom Judge, Director Joint Administrative Services, reviewed the FY2012 Budget. Subsequent to review, **Supervisor Staelin moved to direct staff to ensure that any proposed budget require no increase in the real estate property tax rate above the current rate. The motion passed by the following vote:**

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

Following the direction given to staff, the Board agreed by consensus to send a letter to the School Board encouraging their fiscal constraint as well.

February 7, 2011

Ms. Barbara Lee, Chairman
Clarke County School Board
309 West Main Street
Berryville, VA 22611

Re: Budget Planning FY 12

Dear Ms. Lee:

As we all work to develop our fiscal year 2012 budgets, I am sure you are aware of the challenges we all face. Our preliminary budget work with Mr. Judge confirms a substantial anticipated budget deficit.

The Supervisors raised taxes over the last several years but have agreed not to do so this year as many of our citizens continue to face reduced incomes due to the Great Recession. The Supervisors do plan to increase local school funding by 4% (\$559,288) to cover the increase in local school debt service, but we do not anticipate any increase in local funding for school operations. We commend you for conserving your carried over funds and request School Board consideration of applying a portion of these funds to any proposed increase to FY 12 capital expenditures.

The Supervisors recognize that all areas of local government (including schools) face state funding cuts and new unfunded mandates. It is also clear that Clarke Schools face the additional challenge of adjusting for the substantial decrease our schools have seen in student enrollment (about 10% in 5 years), which have lowered student/teacher ratios, raised per pupil funding from the Supervisors but resulted in reduced state funding. We also recognize federal "JOBS" funding for education is not expected to be available after FY12 and will cause additional fiscal pressures in FY13.

We respect and appreciate all of the efforts you are making to manage with fewer resources during this period. As we have previously said, we believe our teachers and administration are performing very well under these difficult circumstances and your continuing work in this regard is greatly appreciated. We request you continue to do what you can to fashion a request that meets the above goals for the coming year.

If you have any question or would like to discuss any of these matters further, please don't hesitate to contact me.

Sincerely,
Michael Hobert, Chairman

MH:sm

cc: Dr. Michael Murphy
Clarke County School Board

February 15, 2011: No action was taken at the regular meeting.

Closed Sessions Items:

- A. Berryville Clarke County Government Center Update
- B. Clarke County Courthouse Project Change Order Update
- C. Citizen Convenience Center

February 7, 2011 Summary: Supervisor Byrd moved to convene into Closed Session pursuant to 2.2-3711-(A)(7) for Item 2 – A, B and C pertaining to actual or probable litigation and consultation with staff regarding specific legal matters. Supervisor Byrd also moved to reconvene in open session. Certification of Closed Session was conducted by roll-call vote with all present voting aye.

No action was taken on matter discussed in closed session.

February 15, 2011: No action was taken at the regular meeting.

Labor Camp Text Amendment TA-11-01

February 7, 2011 Summary: By consensus, the Board of Supervisors directed staff to add discussion of this item on the February 15, 2011 Regular Meeting Agenda.

Virginia Cooperative Extension Proposed Restructure

February 7, 2011 Summary: By consensus, the Board of Supervisors instructed the County Administrator to distribute his February 2, 2011 letter in regard to Cooperative Extension restructure to the Supervisors, local Extension Office, local 4-H leaders and the local Farm Bureau.

February 2, 2011

Dean Alan L. Grant
College of Agriculture and Life Sciences
Virginia Tech CALS Administration
104 Hutcheson Hall (0402)
Blacksburg, Virginia 24061

Dear Dean Grant:

The Clarke County Board of Supervisors asked that I contact you and convey its support for your decision to suspend the current restructuring activities involving the Virginia Cooperative Extension program.

The services provided through the Cooperative Extension and 4-H programs are an integral and important part of the services provided to Clarke County's citizens and it is vitally important that we work together to develop an organizational structure that can best meet the needs of our constitutions within the resources available. Simply shifting costs from the state to the localities is certainly doomed to failure.

Clarke County remains an interested and willing partner in this process and looks forward to early and meaningful participation as a stakeholder in any future effort to restructure Extension and continue its success as a beneficial and worthwhile service to our citizens for many years to come.

Please feel free to contact me at any time. I will be happy to distribute any information that you may wish to provide to the Board of Supervisors and urge their participation in the process that you ultimately develop.

Sincerely,
David Ash
County Administrator

February 15, 2011: No action was taken at the regular meeting.

Additional Items added at the 02/07/2011 Work Session Code Changes: Chapter 143 Septic Systems CC-11-01 and Chapter 154-4-B Stormwater Management CC-11-02 – Set Public Hearing

February 7, 2011 Summary: Chuck Johnston reviewed the proposed Code changes with the Board and advised them that additional information, along with a request to set public hearing, would be available at the February 15, 2011 Regular Meeting. By consensus, the Board of Supervisors added these items to the February 15, 2011 Regular Meeting Agenda provided the backup information was available in time.

He further advised the Board that he hopes to have available the information necessary for the Board to consider setting a public meeting on the Double Tollgate Community Development Block Grant Project.

Finance Committee

Tom Judge appeared before the Supervisors to review the Finance Committee recommendations from the February 7, 2011 committee meeting.

Supplemental Appropriations.

February 7, 2011 Summary: The Finance Committee recommends the following supplemental appropriation.

February 15, 2011: Supervisor Byrd moved to accept “Be it resolved that the Victim Witness FY2011 budgeted expenditure be increased \$6,253, and the same appropriated, and be it further resolved that revenue of \$7,301 be recognized.”

The motion carried as follows:

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

FY2012 Budget

February 7, 2011 Summary: The FY2012 budget was reviewed and adjusted.

February 15, 2011: Tom Judge reviewed the adjustments made to the FY2012 budget including general fund, school operating fund, conservation easement, joint administrative services, capital budget, capital projects, etc. He advised that the next Budget Finance Committee meeting was set for February 22 to continue work on the general fund.

Supervisor Staelin instructed Tom Judge to follow up with Jesse Russell on Industrial Development Authority funding. He put forth that approximately 7% of spending was coming from the fund balance. He urged caution noting that this could be done for a short period but could not go on indefinitely. Supervisor Byrd added that Commonwealth fiscal policy recommends keeping 10 to 12 percent in fund balance.

Vice Chairman Weiss called for discussion of the Senior Center Construction Project that is approximately \$400,000. Highlights include:

- Finance Committee, with the assistance of Tom Judge, is reviewing the estimated costs and sources of funding available for the project. The Committee is expected to bring further details for the project and recommendation to the Board.
- Supervisor Staelin put forth that the deficit for the FY2012 budget was estimated currently at \$1.5MM.
- Project could go out to bid; and if they come in low, it is possible that the project could proceed.
- Operating costs for the existing Senior Center are approximately \$1,300 per month.
- Lisa Cooke, Director Parks and Recreation, has developed an operating cost estimate based on the present building and other figures.
- It would be helpful to have range of operating cost figures.
- Need to develop a better overall picture: operating costs, logistics, how the Center will fit in with other operations, whether it will require hiring more staff, how the Center will be run, etc.
- Offsetting revenue is presently a subject of negotiation.
- Part of the real benefit is the joint usage.

Supervisor Staelin moved to confirm the actions taken by the Finance Committee and instruct the County Administrator to prepare a budget ensuring that any proposed budget require no increase in the real estate property tax rate above the current rate. The motion passed by the following vote:

J. Michael Hobert - Aye

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

Acceptance of January Bills and Claims.

February 7, 2011 Summary: The Finance Committee recommends acceptance of the January 2011 Bills and Claims report.

February 15, 2011: Tom Judge provided response to questions raised by Supervisor Staelin during the February 7, 2011 Finance Committee meeting: The Historic Preservation Committee is over expended but they have received a grant that has not yet been recognized. A supplemental appropriation will come forward in March. In regard to Litter Control, the amount that should be charged to the Schools was not set up properly in the original purchase order. This has been corrected and they also got another \$481 in the actual grant as opposed to what had been budgeted – both of these should cover the shortfall and shall also come forward in March.

Supervisor Staelin moved to accept the January Bills and Claims report as presented. The motion passed by the following vote:

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

Standing Reports

February 7, 2011 Summary: Reconciliation of Appropriations; General Fund Balance; General Fund Expenditure Summary were provided for information.

February 15, 2011: In response to questions raised by Ed Leonard, Clarke Daily News, Tom Judge drew his attention to the standing report section of the packet advising that this information is provided as a routine part of the meeting packet and readily available on line.

Government Projects Update

David Ash provided the following highlights:

- Berryville Clarke County Government Center: Engineering firm hired to review has confirmed that the installation has been revised to address specified issues. Robert Mitchell has advised contractor to initiate final pay request.
- Circuit Courthouse: Change order 19 was delivered to RDA in Harrisonburg.
- Citizen's Convenience Center: VDOT has provided counts. Actively exploring possible costs.

Discussion May 2011 Board of Supervisors Regular Meeting Date

Supervisor Staelin asked the Board if they would advise him of their availability on May 24 should they decide to reset the regular meeting date for May.

Miscellaneous

Planning Commission Annual Report

Chuck Johnston noted that the Planning Commission Annual Report had been distributed at the same time as the regular meeting packet. He invited the Supervisors to provide him with any questions or comments regarding content, format and reporting.

Letters of Support for HOME Investment Partnerships Funding

Chuck Johnston informed the Board that two requests for letters of support from Northern Shenandoah Valley Regional Commission Application and Southeast RCAP for HOME Investment Partnerships (HOME) Funding had been received yesterday. He stated that while both were requesting Board approval by the established Friday deadline both requests required follow up and determination as to whether they should be included for Board review at their regular meeting in March.

Rappahannock Electric Service

Following discussion, the Board of Supervisors instructed staff to coordinate an update from Rappahannock Electric Services at their earliest convenience during a regular meeting on service, rates, Energy Board operation, product and equipment.

Chairman Hobert requested staff to provide to Mr. Shipe notification of presentation.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Correct and process approved minutes.	Lora B. Walburn
2.	Process proclamation 11-01P.	Lora B. Walburn
3.	Provide notice of approval for 2011 event to applicant and adjoining property owners re Blue Ridge Hunt Point to Point and notice that subsequent years 2012, 2013 shall be approved upon receipt of required application fees.	Lora B. Walburn
4.	Process resolution for housing for seasonal farm workers.	Lora B. Walburn
5.	Process for advertisement public hearing CC-11-01 local press and website.	Lora B. Walburn
6.	Process for advertisement public hearing CC-11-02 local press and website.	Lora B. Walburn
7.	Process for advertisement public meeting for Set Public Meeting Double Tollgate Capital Grant Application	Chuck Johnston
8.	Provide notice of appointment and update database.	Lora B. Walburn
9.	Prepare a budget for FY2012 ensuring that any proposed budget requires no increase in the real estate property tax rate above the current rate.	David Ash
10.	Provide availability on May 24 to Supervisor Staelin.	Supervisors
11.	Coordinate presentation by REC.	David Ash
12.	Process ordinance for TA-10-05.	Chuck Johnston / Lora B. Walburn

Board Member Committee Status Reports

Clarke County Industrial Development Authority by John Staelin

- Provided funding for small business group.
- Examining the idea of hiring someone to help identify specific areas for economic development.

Economic Development Advisory Committee by John Staelin

- Website is being developed.
 - o Will be compatible with hand held devices.

- Will have a tourism section.
- Tourism brochure is out of date and out of stock. The new brochure will be designed to lead interested persons to the website.

Department of Social Services Board by Barbara Byrd

- Meeting is coming up.

Barns of Rose Hill by Barbara Byrd

- Meeting is coming up.
- Presentation was made today by Stan Kerns

Humane Foundation – Barbara Byrd

- Linda Roberts will be working to gather information for the Humane Foundation.

Conservation Easement Authority by David Weiss

- Meet tomorrow.
- There are plenty of applicants.

Joint Building Committee by David Ash

- Policy recommendation for facility use and ground use will be coming to the Board next month.
- Identified and sorted user groups into four tiers.
- External groups prohibited from using the dais.
- Use by external groups will be limited to weeknights between 6 pm to 10 pm and weekends.

Parks and Recreation Advisory Council by J. Michael Hobert

- Will be meeting this month

Joint Administrative Services Board by J. Michael Hobert

- Emily Rhodes is the 2011 Chair.

- He will be encouraging placement of minutes on the County website.
- Expecting an audit report from GFOA.

At 2:56 pm Chairman Hobert recessed the meeting until 6:30 pm.

At 6:30 pm Chairman Hobert reconvened the meeting.

Citizens Comment Period

No citizens present desired to address the Supervisors.

PH 11-03 TA-10-05

The Clarke County Planning Commission recommends the amendment of the County Zoning Ordinance:

- Section 3-A-1-a, Permitted Uses and Structures in the AOC Zoning District, so as to change the Special Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly (with a maximum seating capacity of 300 people)" and "Historic Structure Museums" as Special Uses;
- Section 3-A-2-a, Permitted Uses and Structures in the FOC Zoning District, so as to change the Special Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly (with a maximum seating capacity of 300 people)" and "Historic Structure Museums" as Special Uses;
- Section 3-A-3-a, Permitted Uses and Structures in the Rural Residential Zoning District, so as to change the Special Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly (with a maximum seating capacity of 300 people)" and "Historic Structure Museums" as Special Uses;
- Section 3-A-12-a, Permitted Uses and Structures in the Neighborhood Commercial Zoning District, so as to change the Principal Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly" as a Principal Use;
- Section 3-A-13-a, Permitted Uses and Structures in the Highway Commercial Zoning District, so as to change the Principal Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly" as a Principal Use;
- Section 9-B, Definitions, so as to change the term: "Institutional Uses" to "Community Services" and revise the definition of this use and to establish a definition for the terms: "Churches and other places of religious assembly", "Museums of Historic Structures", and "Passive Use Public Parks".

Chuck Johnston summarized the proposed text amendment.

At 7:43 pm Chairman Hobert opened the public hearing for public comment.

Magdalene Marks, Bluemont resident: expressed disappointed that the Georgetown special use application had been approved. Asked the Supervisor to carefully consider this text amendment.

Stanley R. Marks, Bluemont resident: stated that he felt strongly that the Board of Supervisors did not protect the neighborhood from the Georgetown Retreat application. Opined that legislation would open up the area up for other objectionable development. Asked the Supervisors to look closely at the legislation before passage.

Doug Whitehouse, Bluemont resident: Read from a prepared statement that was provided for inclusion with the February 2011 Meeting Materials. He urged caution with regard to the language and to be specific providing clear, concise language without ambiguities.

Richard W. Kobetz, mountain resident: provided written authorization for Mr. Frank Cefalo to speak on his behalf.

Frank Cefalo, mountain resident: spoke favorably of the approval of the Georgetown application. He also cautioned the Supervisors to carefully consider the amendment. He advised that some persons on the mountain were actively contemplating donating lands to charitable organizations.

Magalene Marks asked Mr. Cefalo questions about prior owner ship of Mr. Kobetz's property by the Catholic Church. Frank Cefalo responded that the property was owned by an order not the church.

In response to expressed concerns, Chuck Johnston provided clarification regarding groups of men and women living in such accommodations according to common rule.

There being no other persons present desiring to address the Board Chairman Hobert closed the public comment portion of the public hearing at 6:55 pm.

Supervisor Byrd reminded that the vote for Georgetown was not unanimous. She spoke favorably about the proposed increase in the number of rooms for country inns. Mrs. Byrd commented that Clarke was a small county with limited open land.

Supervisor Staelin expressed his support for passage of the proposed amendment that provides better clarification and tightens up loopholes. He noted that the amendment precludes colleges and boarding schools.

Chuck Johnston added that it also addresses retreats and like over-night activities.

Vice Chairman Weiss asked questions of Mr. Johnston regarding infringement of property rights and what uses would be available to properties should this amendment be passed. Following clarification by Mr. Johnston, Mr. Weiss observed that property owners still had

the opportunity to use your property in a variety of ways should the text amendment be approved.

Chairman Hobert concurred with Mr. Whitehouse that a "Charlie Manson" type could apply for a special use permit; and that while yes, there was the possibility of devious things, he had confidence that it would not be approved. He expressed concern that we were discussing what property rights were left to citizens instead of what should be there by right. He went on to state that he did not support the proposed amendment opining that he believed it to be unnecessary legislation. Chairman Hobert expressed his agreement with members of the Planning Commission who believed this type of land use decision should be made on a case-by-case basis taking into consideration the location of the property, the impact upon the surrounding property owners in terms of traffic, frequency and intensity of use, along with standard review criteria, noting that the special use process, currently used for such endeavors, will continue to provide ample opportunity for the acceptance of appropriate proffers, regulations and restrictions. Chairman Hobert also cited examples of community services which have been positive additions to the community, serving residents, providing jobs and adding to the County's vitality, which would no longer be able to locate in the County, specifically noting Grafton School, a longtime contributor to Clarke County would become a non-conforming use after the changes. He also stated that not only would similar residential facilities be unable to locate in the County but also overnight conference center services like those presently provided by Project Hope would be prohibited from locating in the County.

Chairman Hobert stated that even though many historic properties of the County would be purchased and renovated for private homes and use, many are suitable for education and the promotion of shared values like sustainable agriculture, preservation of forestal land and protection of ground water and the Shenandoah River. He noted the arrival of the Casey Tree Foundation as a good example of a committed, community-minded non-profit organization whose mission encompassed education and whose business plan could include overnight accommodations that would not be allowed by the amended ordinance. Chairman Hobert concluded by stating he would be voting against the amendment because it is an example of unnecessary government regulation that could inadvertently bring harm to the County's ability to improve its tax base, make it more difficult to protect historic structures and possibly contribute to the subdivision of farmland or large forestal acreage which has become unsustainable. He urged his fellows to consider revising the amendment to permit such uses if within agreed upon size and density constraints.

Supervisor Staelin, responding to Chairman Hobert's comments, put forth that there were places in the county where business could locate and be a welcomed addition in the proper place. He opined that there was limited water on the mountain; and if a facility had more than 15 people, water and sewer were necessary. He added that the proposed legislation only tightened control on colleges, boarding schools, and the like. Mr. Staelin, noting that he was the former Chair of the Grafton Board, stated that Grafton's wastewater treatment system would not be in compliance if applying today.

Vice Chairman Weiss interjected that sliding scale zoning is based on the premise that an individual still had property rights.

Supervisor Byrd added an historical note about the Salvation Army exploratory team of which she was a part. At that time, they wished to locate a facility close to the river. Surrounding property owners joined together in opposition to the proposed plan maintaining that such a large facility did not belong in that area and the Salvation Army acquiesced. Today, they are growing trees on the property under consideration. She concluded that there are usually many alternate uses for property owners to explore.

There was discussion over clarifying language for communal living accommodations for religious organizations.

Supervisor Staelin moved to adopt the amendment of County Zoning ordinance TA-10-05 Section 3-A-1-a; Section 3-A-2-a; Section 3-A-3-a; Section 3-A-12-a; Section 3-A-13-a; and Section 9-B as modified. The motion was approved by the following vote:

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

**ORDINANCE
2011-01ORD**

(Approved 2011 February 15)

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held at the Town/County Government Center on 2011 February 15 at 6:30 p.m. On motion by Supervisor Staelin, the Board of Supervisors (Byrd- Yes, Dunning- Absent, Hobert- Nay, Staelin- Yes, Weiss- Yes) approved the proposed Text Amendment of the Clarke County Zoning Ordinance.

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

WHEREAS, the intent and purpose of the AOC and FOC zoning districts is for agricultural, forestal, and low activity recreational and service uses that will facilitate the conservation and preservation of agricultural, forestal and open space lands; the protection of water and clean air sheds; the conservation of water and other natural and ecological resources; the reduction of soil erosion and flood and fire hazards; and the enhancement of the aesthetic value of the district as a whole;

WHEREAS, limiting institutional uses in the AOC and FOC Zoning Districts and specifically listing 'churches and other places of religious assembly' (limited to 300 people) in these districts would be consistent with the intent and purpose of the AOC and FOC zoning districts;

WHEREAS, a more specific definition of the term 'schools' and creating definitions for the terms: "Churches and other places of religious assembly", "Museums of Historic Structures", and "Passive Use Public Parks" would be consistent with the intent and purpose of these zoning districts;

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

- Section 3-A-1-a, Permitted Uses and Structures in the AOC Zoning District, so as to change the Special Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly (with a maximum seating capacity of 300 people)" and "Historic Structure Museums" as Special Uses;
- Section 3-A-2-a, Permitted Uses and Structures in the FOC Zoning District, so as to change the Special Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly (with a maximum seating capacity of 300 people)" and "Historic Structure Museums" as Special Uses;
- Section 3-A-3-a, Permitted Uses and Structures in the Rural Residential Zoning District, so as to change the Special Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly (with a maximum seating capacity of 300 people)" and "Historic Structure Museums" as Special Uses;
- Section 3-A-12-a, Permitted Uses and Structures in the Neighborhood Commercial Zoning District, so as to change the Principal Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly" as a Principal Use;
- Section 3-A-13-a, Permitted Uses and Structures in the Highway Commercial Zoning District, so as to change the Principal Use "Institutional Uses" to "Community Services" and to show "Churches and other places of religious assembly" as a Principal Use;
- Section 9-B, Definitions, so as to change the term: "Institutional Uses" to "Community Services" and revise the definition of this use and to establish a definition for the terms: "Churches and other places of religious assembly", "Museums of Historic Structures", and "Passive Use Public Parks".

Attest:
TA-10-05

David L. Ash, County Administrator
See the following for the 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
- 3. Special Uses and Structures
 - **Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)*

- j. Institutional Uses, such as community centers, community operated playgrounds, parks or similar recreational facilities, fire and/or rescue squads, government, schools (public and private), places of worship, libraries, and museums
 - * ***Community Services***
 - * ***Historic Structure Museums***
 - ~~t. Waterworks and Sewage System & Treatment Works (if consistent with provisions of the Clarke County Comprehensive Plan)~~
- 3-A-2 Forestal-Open Space-Conservation District – FOC
- 3-A-2-a Permitted Uses and Structures
- 3. Special Uses and Structures
 - * ***Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)***
 - h. Institutional Uses, such as community centers, community operated playgrounds, parks or similar recreational facilities, fire and/or rescue squads, government, schools (public and private), places of worship, libraries, and museums
 - * ***Community Services***
 - * ***Historic Structure Museums***
 - ~~p. Waterworks and Sewage System & Treatment Works (if consistent with provisions of the Clarke County Comprehensive Plan)~~
- 3-A-3 Rural Residential District (RR)
- 3-A-3-a Permitted Uses and Structures
- 3. Special Uses and Structures
 - * ***Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)***
 - ~~d. Institutional Uses, such as community centers, community operated playgrounds, parks or similar recreational facilities, fire and/or rescue squads, government, schools (public and private), places of worship, libraries, and museums~~
 - * ***Community Services***
 - * ***Historic Structure Museums***
- 3-A-12 Neighborhood Commercial District (CN)
- 3-A-12-a Permitted Uses and Structures
- 1. Principal Uses and Structures
 - * ***Churches and other places of religious assembly***
 - ~~e. Institutional Uses, such as community centers, community operated playgrounds, parks or similar recreational facilities, fire and/or rescue squads, government, schools (public and private), places of worship, libraries, and museums~~
 - * ***Community Services***
- 3-A-13 Highway Commercial District (CH)
- 3-A-13-a Permitted Uses and Structures
- 1. Principal Uses and Structures
 - * ***Churches and other places of religious assembly***
 - ~~i. Institutional Uses, such as community centers, community operated playgrounds, parks or similar recreational facilities, fire and/or rescue squads, government, schools (public and private), places of worship, libraries, and museums~~
 - * ***Community Services***

9 DEFINITIONS

9-B DEFINITIONS

~~9-B-99 INSTITUTIONAL USES COMMUNITY SERVICES:~~ *The following uses that are owned and/or operated by public governmental entities or quasi-public entities that are non-profit or not for profit: such as community centers, fire and/or rescue squads facilities, community-operated governmental activities offices, libraries, museums, passive use parks, playgrounds/parks or similar recreational facilities, schools (private and public) for day students serving grades Pre-K through 12 (including as an accessory use: advanced and continuing education, training, and retraining activities for students and adults), places of worship, and visitor centers. Permanent overnight sleeping facilities may be provided as an accessory activity only for the employees/staff of fire and/or rescue squad facilities. Such sleeping facilities shall not have more than 150 square feet per person.*

9-B-## CHURCHES AND OTHER PLACES OF RELIGIOUS ASSEMBLY: A structure where persons regularly assemble for religious purposes and related social events, which is maintained and controlled by a religious entity, qualified for tax-exempt status under §501(c)(3) of the Internal Revenue Code, that is organized to sustain public worship. This term includes synagogue, temple, mosque, or other such places of worship and religious activities. This term includes the following related facilities: administrative offices, assembly hall, cemeteries, meeting rooms, playgrounds, day-care centers, schools for day students serving grades Pre-K through 12 (including as an accessory use: advanced and continuing education, training, and retraining activities for students and adults), social halls, and communal living accommodations for religious organizations of groups of men or women permanently living in such accommodations in accordance with a common rule and owing obedience to a single superior (i.e. monastery). This term does not include permanent facilities for overnight sleeping except for communal living accommodations for such religions organizations. This use includes as an accessory use one single-family residence for occupancy by clergy, watchman, or caretaker of the church and their family. In the AOC and FOC Zoning Districts, such a residence shall use a dwelling unit right or be a house that existed on the property on October 17, 1980. This use includes cemeteries as an accessory use.

9-B-## PASSIVE USE PUBLIC PARKS: Parks for passive recreation pursuits, which are owned and/or operated by a governmental entity or an entity that is non-profit or not for profit. Such passive recreation pursuits shall include educational and interpretive programs as well as trail systems that take advantage of geological, biological, or scenic resources located within the park and shall not include active recreational facilities such as swimming pools, gyms, or playing fields.

This use includes as an accessory use one single-family residence for occupancy by watchman or caretaker of the park, and their family. In the AOC and FOC Zoning Districts, such a residence shall use a dwelling unit right or be a house that existed on the property on October 17, 1980.

9-B-## HISTORIC STRUCTURE MUSEUMS: Structures listed on the Virginia Landmarks Registry or National Register of Historic Places (individually or as a

contributing structure) that are arranged, intended, and designed to be viewed by the public with or without an admission charged, and which may include retail sales as an accessory and secondary use.

Adjournment

There being no further business to be brought before the Board at 7:15 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, March 15, 2011 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: February 15, 2011

J. Michael Hobert, Chair

David L. Ash, County Administrator

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