

CLARKE COUNTY BOARD OF SUPERVISORS
June 21, 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, June 21, 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, Lora B. Walburn

Others Present

John Whitfield; Robina Rich Bouffault; Dr. Michael Murphy; Keith Dalton; Jeanne Abigail Custis Marcy; Becky Lane; Ed Leonard and other citizens

Call to Order

Chairman Hobert called the meeting to order at 1:04 p.m.

Adoption of Agenda

By consensus, the Board of Supervisors adopted the agenda as presented.

Clarke County Public Schools Update

Dr. Michael Murphy, Superintendent Clarke County School Board, appeared before the Supervisors to provide the monthly update from the Clarke County public schools. Highlights include:

- Students...
 - o 64 days until Schools open for the 2011-2012 school year.
- Staff...
 - o Hired new high school principal, Jeff Jackson.
 - o Interviews underway for Primary / Cooley principal.
 - o Considerable transition this year due to advancement, new careers / occupations.
 - o Continue to have staffing challenges with special education, math, science staff.
- Program
 - o Successful SOL testing season.
 - o Using data more than ever before to guide decision making.
 - o “Wellness” focus underway looking at for upcoming year.
 - o Limited conversation about reentering Dowell J. Howard that will likely require giving up student enrollment.
 - o Looking at collaborative effort with Lord Fairfax for technical courses.
 - o Lord Fairfax is exploring the idea of setting up a branch location in the community.
- Operations . . .
 - o Boyce and Cooley are wireless schools.
 - o Hoping to have others upgraded to wireless by the end of summer: Primary, JWMS and current High School.
 - o Moving forward with major technology upgrades for students [laptop carts] and staff [lap tops].
 - o Longitudinal data systems grant, Sungard, special education data system.
 - o Board Docs successfully implemented.
 - o Next focus is transportation routing software upgrade and field trip management.
 - o Ed Line is the new web hosting platform / content management system the Schools will be using for their website.
 - o Planning for renovation for existing high school has slowed down – focus has been on getting the new high school completed.
- Robina Rich Bouffault New High School...
 - o Distributed color photos of the interior and exterior of the new high school.
 - o Construction over 50% complete.
 - o Project is on schedule.
 - o Minimal changes orders to date.
 - o Stormwater is grandfathered under old DEQ regulations; new regulations are more stringent.
 - o Most sections are under roof.

- Distributed drawings of the greenhouse.
- A 6-foot tall, board-on-board fence is planned from Pender Court to Early Drive.
- Some of the rock ledges will be left as landscaping features.

One-time Payment For Clarke County School Employees

Chairman Hobert advised he was in receipt of a letter from the School Board Chair regarding the FY2011 one-time payment to School Board employees and that the communication was substantially responsive to the requests of the Board of Supervisors.

Robina Rich Bouffault, White Post School Board Member, restated that this was a one-time payment and assured that the remainder of the carry-over funds would be held in savings. She asked when the Schools could anticipate receipt of the funds.

Tom Judge responded that the funds would be available by early July.

Blue Ridge Legal Services Presentation

John Whitfield, Executive Director / General Counsel Blue Ridge Legal Services [BRLS], appeared before the Supervisors to provide a presentation. Mr. Whitfield informed the Supervisors that the BRLS service area covered one fifth of Virginia with 80% of funding coming from localities. He advised that Clarke County had been funding for 20 years and was currently funding at \$2,000 per annum.

Vice Chairman Weiss voiced his support for continued funding. He noted Mr. Whitfield's assurance during his presentation that BRLS does not accept cases it deems frivolous.

In response to questions from Supervisor Byrd, Mr. Whitfield stated that BRLS had not been the agency that pursued legal action against local orchardists on behalf of migrant workers.

Chairman Hobert thanked Mr. Whitfield for his dedicated service and expressed his support of his efforts.

Approval of Minutes

Supervisor Byrd moved to approve the May 24, 2011 Regular Meeting minutes as corrected to reflect the vote on Book 20 Page 690 Reconvene into Open Session from Vice Chairman Weiss Absent to Aye and Supervisor A.R. Dunning from Aye to Absent. 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

Verification of May 24, 2011 Closed Session Supervisor Dunning

In the absence of Supervisor Dunning, verification of the May 24, 2011 Closed Session was carried forward to the July 14, 2011 regular meeting agenda.

Consent Agenda

Reschedule July Regular Meeting to Thursday, July 14, 2011 at 1:00 pm

Maral Kalbian, Architectural Historian, 2011 Contract

PURSUANT TO THIS AGREEMENT, made and entered into this 21st day of June of 2011, by and between the Board of Supervisors (hereinafter "Board"), and Maral Kalbian, party of the second part (hereinafter "Contractor"); and in consideration of the benefits to be accrued to the parties hereunder, said parties hereto agree as follows:

1. **WORK:** Contractor agrees that the following projects and duties shall be the focus of work endeavor and services provided pursuant to this Agreement.
 - a. Provide technical advice, support, and training to the Historic Preservation Commission in coordination with the application for Certificate of Appropriateness.
 - b. Assist in the preparation of grant application(s), including those for Certified Local Government projects.
 - c. Attend all Commission meetings barring unavoidable conflicts.
 - d. Provide information and assistance to the County and the general public regarding:
 1. National Register Nominations
 2. Architectural modifications to historic structures
 3. Available federal, state, and local tax incentives
 4. Other historic preservation related issues
 5. Review County related tax project
 - e. Conduct an Architectural Survey for the proposed Chapel Rural Historic District National Register Nomination as specifically referenced in the Certified Local Government Grant Agreement dated the 9th of May of 2011.
2. **HOURLY LIMIT FOR EACH PROPERTY**

For performance of the work described in item (d) above for a specific property, where the advice or support takes less than 30 minutes, the Contractor may provide the services and report the assistance provided to the County Planning Director on a monthly basis.

For such work which requires more than 30 minutes, the Contractor shall obtain the written approval of the County Planning Director after providing him or her with a short written description of the objectives of the work to be performed and the estimated time anticipated to be expended. Such proposed work shall be reviewed by the Planning Director for approval. If approved, it shall specify any limitations or required contribution or participation from the property owner. For additional assistance, the Contractor shall provide the property owner a copy of the list of consultants prepared by the Virginia Department of Historic Resources. The Planning Director shall not authorize the Contractor to allocate more than eight hours to assist a property owner without the concurrent approval of the County Administrator.

3. **COMPENSATION:**
For performance of the work described in items a through d above, the Contractor shall be compensated by the Board at the rate of Fifty-Five Dollars (\$55.00) per hour plus mileage and expenses, not to exceed a total of six thousand dollars (\$6,000). For performance of the work described in item e, the Contractor shall be compensated thirty-five thousand dollars (\$35,000).
3. **MANNER OF PAYMENT:** Contractor shall submit statements itemizing hours spent in performance of work on a monthly basis to the Planning Director. Approved payment shall be made to Contractor with 45 days of receipt of statement.
4. **DURATION:** This Agreement shall remain in full force and effect for the period 2011 July 1 through 2012 June 30.
5. **CONTRACTOR STATUS:** The parties hereto intend that the relation between them created by this Agreement is that of employer— independent contractor. Contractor is not an employee of the County of Clarke nor of the Board and is not entitled to the benefits provided by the County to its employees, including but not limited to worker's compensation, unemployment insurance, group health insurance, V.S.R.S. or F.I.C.A. contributions. Contractor will be solely and entirely responsible for her acts during the performance of this Agreement.
6. **OWNERSHIP RIGHTS:** Clarke County shall retain ownership rights to any materials or work produced by Contractor pursuant to this Agreement and may use said material or work products as the County may see fit. This shall not affect Contractor's right also to use said material or work products as she may wish. The Contractor may not convey, sell, or assign rights to said material without the approval of the Supervisors.
7. **RIGHT OF INSPECTION:** The work contemplated herein must meet the approval of the Board's designated agent and shall be subject to such agent's general right of inspection to secure the satisfactory completion thereof. Contractor agrees to comply with all federal, state and local laws, rules and regulations applicable to Contractor and to operations covered by this Agreement or accruing out of the performance of such operations.
8. **IDEMNIFICATION:** Contractor shall indemnify the Board and/or the County of Clarke against all liability and loss in connection with, and shall assume full responsibility for,

payment of all federal, state and local taxes or contributions imposed or required under social security and income tax laws.

9. **ASSIGNMENT:** The Contractor shall not assign This Agreement without the express written consent of the Board.
10. **TERMINATION:** The County may terminate this Agreement at any time at its discretion.

WITNESS the following signatures:

CLARKE COUNTY BOARD OF SUPERVISORS
By _____
Michael Hobert, Chairman

CONTRACTOR

Maral Kalbian

Greenway National Register Historic District

Archie Fox, Chair
Warren County Board of Supervisors
220 N. Commerce Ave Suite 100
Front Royal, VA 22630

Dear Chairman Fox,

The Clarke County Board of Supervisors would like to encourage the Warren County Board of Supervisors to support the expansion of the Greenway National Register Historic District. This District was listed in the Virginia Landmarks Register and the National Register of Historic Places in 1995 and encompasses roughly 19,000 acres in southern Clarke. In 2009 the Virginia Department of Historic Resources determined that an additional 10,000 acres in Warren County, south of the current boundaries, was eligible to be included in an expansion of the Greenway Historic District.

This District recognizes an area that retains an historic character that developed because it was part of the early land grants owned by Thomas Lord Fairfax. These land holdings encompassed both the southern portion of Clarke and the northern part of Warren. The similarities between the two areas are reflected in the types of dwellings, the size of the parcels, the geographic topography, and the remarkable integrity of the land holdings. In addition, both counties were part of Frederick County and this year share the 175th anniversary of their establishment. The extension of the Greenway Historic District into Warren County enhances the significance of the original nominated district by telling a more complete story of the area's growth and development.

When the nomination was written in 1995, the boundaries were drawn to include only properties associated with Lord Fairfax's land holdings in Clarke, stopping at the historically

arbitrary line that divides the counties. These portions of Clarke and Warren are linked historically and share the same topography and settlement patterns, both of which are remarkably intact.

Clarke County has nearly 50,000 acres listed in state and national historic districts. We have found this to be a very effective tool in fostering a deeper appreciation and sense of pride in our county's history, without limiting property owners' rights in any manner.

We hope that you will see this as a worthwhile project and recommend that the Warren County Board of Supervisors support the efforts of its constituents in this expansion.

Regards,
J. Michael Hobert, Chair

Supervisor Staelin moved to approve the items on the Consent 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

VDOT

Edwin Carter, Program Manager, appeared before the Supervisors to provide the monthly update. Mr. Carter introduced Cliff Balderson the new VDOT Residency Maintenance Administrator.

- Maintenance work completed in May/June:
 - o Completed mowing operations on primaries and secondaries;
 - o Conducted patching operations along Route 604;
 - o Replaced numerous pipes and cleaned and flushed pipes along Rte. 606;
 - o Performed additional pipe cleaning and flushing operations along Routes 602, 604 and 605;
 - o Began shoulder repair operations along primaries;
 - o Performed asphalt patching on Routes. 604, 606, 607, 657, 659, 661, 672 and 761; Conducted letter pick up on primaries and select secondaries.
- Maintenance work planned for June/July:
 - o Continue with shoulder repair on primaries;

- Continue with patching operations on Routes 601, 606, 607, 643 and 679 in preparation for next years surface treatment operations;
- Conduct A-Boom operations along guardrails and brush trimming around signs; Sweep bridges on primaries.
- Other Projects:
 - Route 636 - Mosby Road - Status unchanged, project is funded and continuing on schedule.
 - Route 604 - Ebenezer Road - Still in negotiations for drainage easement on the East side.
 - Page Street - Town of Berryville - Revenue Sharing Project - The Town is interested in proceeding with this project. A rescoping meeting will be scheduled as soon as possible to begin design. VDOT will meet with the Town of Berryville Council later this month to continue discussions and answer questions on the maintenance transition process.
- Supervisor Comments and Requests:
 - Supervisor Weiss reported shoulder breakdowns on Route 608 Parshall Road. Problem worse south of Hill and Dale Grocery.
 - Ed Carter advised that he was in receipt of Supervisor Staelin's concerns and assured that they would be addressed.
 - Supervisor Byrd reported that some constituents have suggested painting one line instead of two as a cost-saving measure.
 - Supervisor Byrd said that the spot improvement on Senseny Road was excellent.
 - Ed Carter:
 - Will check to see if additional improvements to Westwood Road are planned past the intersection.
 - Updated the Supervisors on the guardrails on Route 7 advising that there had been no progress due to unresolved issues with VDOT's traffic department.
 - Roadside memorials are not allowed by VDOT but they are not policed. VDOT does have a memorial program that allows families to purchase a sign that can stay in place for a period of two years and families can extend through reapplication for an additional two-year period.

Modification To Proposed Detour Route 723 Old Winchester Road Bridge Replacement

Ed Carter advised that VDOT's traffic department had reviewed both proposed detour routes and are recommending using Opequon Road as the detour route. The schedule for replacement is unchanged. VDOT will publish the detour route when

advertising the project for public hearing making unnecessary for the Board of Supervisors to address possible issues at this time.

Supervisor Staelin requested that this being Supervisor Dunning's jurisdiction he be consulted on this matter.

Notice Railroad Bridge Deck Replacement Over Route 255 at Old Chapel

Ed Carter advised the Supervisor that VDOT believed that this project could be completed in one day and that they would be sending notice of restriction.

Chairman Hobert instructed staff to add the VDOT notice to the County website when received.

Citizens Comment Period

Jeanne Abigail Custis Marcy, resident South Church Street Berryville and Stringtown Road; addressed the Supervisors regarding speeding on Stringtown Road and suggested that the Board of Supervisors consider adding speed bumps or speed humps as a traffic calming measure.

Supervisor Byrd put forth that the speed limit on this road had been lowered several years ago and she suggested that Mrs. Custis Marcy contact the Sheriff regarding the matter.

Chairman Hobert added Mrs. Custis Marcy's suggestion would be for VDOT to consider.

Line of Duty Approval of Revised Resolution

David Ash provided an update to the Board on the Line of Duty Act. He notified the Supervisors that VACo was seeking clarification of VRS requirements. He advised that last month the Supervisors had approved a resolution; however, the Virginia Retirement System determined that previously adopted resolutions did not meet their requirements and were now requiring all localities to adopt the VRS resolution. Mr. Ash stated that Bob Mitchell had prepared the preface resolution and the Virginia Association of Counties staff attorney had prepared the transmittal letter that were before the Board for action

David Ash advised that listing the Sheriff's Department in the resolution was not required.

Supervisor Staelin moved to adopt the preface resolution and Resolution 2011-13R Irrevocable Election Not to Participate in Line of Duty Act Fund and the implicit approval of the transmittal letter to Susan Keith at VRS. 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

Susan M. Keith
Employer Representative Program Manager
Virginia Retirement System
P.O. Box 2500
Richmond, VA 23219

RE: Irrevocable Election Not to Participate in Line of Duty Act Fund

Dear Ms. Keith:

Please accept the enclosed Resolution as our entity's election to opt out of the Line of Duty Act Fund, effective July 1, 2011.

While we have adopted the Resolution required by the VRS Board of Trustees, we reserve any and all rights we may have in law or in equity to contest its contents at any time in the future. Specifically, we disagree that Item 258 of the 2011 Budget Bill requires us to repay payments made from the Fund or any corresponding administrative fees for FY 2011. We submit this form solely because the VRS has made it clear that this is the only Resolution that will be recognized as an official opt out.

Thank you for your attention to this matter. Should you have any questions or comments, please feel free to contact me directly.

Regards,
David Ash

WHEREAS, in 1995 the Commonwealth of Virginia, by Line of Duty Act (Virginia Code §9.1-400, et. seq.), established a fund for payments to certain employees and family of those employees performing services for the state -and its local governments; and

WHEREAS, the Line of Duty Act is administered by the Commonwealth of Virginia; and

WHEREAS, the Line of Duty Act provides that benefits will be paid in full out of the state treasury; and

WHEREAS, by Item 258 of the 2011 Appropriations Act, the General Assembly undertook to shift the funding of the Line of Duty Act from the state to the employers of the employees subject to the Line of Duty Act;

WHEREAS, the Appropriations Act provides for a locality to opt out of the state administration of the Line of Duty Act fund; and

WHEREAS, the Board of Supervisors has determined that the cost of meeting required Line of Duty Act benefits will be less to the County if it opts out of the state administration of the fund; and

WHEREAS, the VRS Board has taken the position that it will only accept an opt-out resolution in a form prescribed by it, which includes provisions for the County to repay payments made from the fund for Fiscal Year 2011 and corresponding administrative fees for Fiscal Year 2011; and

WHEREAS, the Board of Supervisors disagrees that the Appropriations Act requires those repayments; and

WHEREAS, in order to assure that the County has exercised its opt-out option , the Board desires to adopt the opt-out resolution in the form required by VRS, but reserving any and all rights it may have to contest its contents at any time in the future.

NOW, THEREFORE, in accordance with the foregoing the Board hereby adopts the following resolution:

Irrevocable Election Not to Participate in Line of Duty Act Fund
RESOLUTION 2011-13R

WHEREAS, pursuant to Item 258 of the Appropriations Act, paragraph B, the Virginia General Assembly has established the Line of Duty Act Fund (the "Fund") for the payment of benefits prescribed by and administered under the Line of Duty Act (Va. Code § 9.1-400 et seq.); and

WHEREAS, for purposes of administration of the Fund, a political subdivision with covered employees (including volunteers pursuant to paragraph B2 of Item 258 of the Appropriations Act) may make an irrevocable election on or before July 1, 2012, to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and

WHEREAS, it is the intent of Clarke County Board of Supervisors to make this irrevocable election to be a non-participating employer with respect to the Fund;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Clarke County Board of Supervisors hereby elects to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and it is further

RESOLVED that the following entities,

- Blue Ridge Volunteer Fire and Rescue Company

- Boyce Volunteer Fire and Rescue Company;
- John H. Enders Volunteer Fire and Rescue Company;
- Shenandoah Farms Volunteer Fire and Rescue Company;

to the best of the knowledge of the Clarke County Board of Supervisors, constitute the population of its past and present covered employees under the Line of Duty Act; and it is further

RESOLVED that, as a non-participating employer, Clarke County agrees that it will be responsible for, and reimburse the State Comptroller for, all Line of Duty Act benefit payments (relating to existing, pending or prospective claims) approved and made by the State Comptroller on behalf of Clarke County on or after July 1, 2010; and it is further

RESOLVED that, as a non-participating employer, Clarke County agrees that it will reimburse the State Comptroller an amount representing reasonable costs incurred and associated, directly and indirectly, with the administration, management and investment of the Fund; and it is further

RESOLVED that Clarke County shall reimburse the State Comptroller on no more than a monthly basis from documentation provided to it from the State Comptroller.

Adopted in Clarke County, Virginia this 21st day of June, 2011.

Attest

David L. Ash, Clerk
Clarke County Board of Supervisors

Board of Supervisors Personnel Committee

Expiration of Term for appointments expiring through September 2011

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Clarke County Historic Preservation Commission <i>Ms. Hiatt is reappointed to serve a four-year term.</i>	Marty Hiatt	5/31/2015

Vice Chairman David Weiss moved to approve the appointment. 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

Board of Supervisors Finance

Acceptance of May Bills and Claims.

Tom Judge appeared before the Supervisors to review the May Bills and Claims. During discussion, these follow-up items were identified:

- Tom Judge will check on Shenandoah Farms Refuse Disposal.
- John Staelin emphasized the need for better understanding of biosolids funding.

Supervisor Staelin moved to approve the May General Government Bills and Claims as presented. The motion carried 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

Tom Judge advised that the General Fund Balance report included the one-time salary payout. He stated that he would be meeting with the Schools tomorrow and that they had decided upon a flat amount to each employee.

Mr. Judge said the he had advised Social Services that the one-time salary pay out for general government employees had been deferred to the Board of Supervisors Personnel Committee.

Government Projects Update

Highlights of the monthly project update provided by David Ash included:

Circuit Courthouse:

- Essentially complete.
- Commonwealth Attorney, Sheriff's Deputies and Court Security have moved into their respective office spaces.

- Circuit Court judge pleased with the renovation.
- David Weiss complimented David Ash on his management of this project, as well as Bobby Levi, Tony Roper and Mike Legge.
- Supervisor Staelin was given a tour of the renovated facility; and for those interested, another tour can be arranged.

Commonwealth Attorney Building:

- Office building is now vacant.
- Use as the local Legislative Office was suggested.

Sheriff's Office / 911 Building:

- Ready to begin renovation phase of this building.

Convenience Center:

- RFP's for the convenience center received June 17.
- Review by David Ash and David Weiss pending.

Berryville Clarke County Government Center:

- Ongoing negotiations that shall be discussed further in Closed Session.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved, corrected minutes.	Lora B. Walburn
2.	Move verification of Closed Session forward to the July agenda.	Lora B. Walburn
3.	Reschedule regular meeting to July 14 at 1 pm.	Susanne Vaughan
4.	Process 2011 Contract for Maral Kalbian, Architectural Historian.	Lora B. Walburn
5.	Process Greenway National Register Historic District.	Lora B. Walburn
6.	Add VDOT Notice Railroad Bridge Deck Replacement Over Route 255 at Old Chapel to County website when received.	Lora B. Walburn
7.	Process and forward LODA documents to VRS and VACo.	David Ash
8.	Provide notice of reappointment and update database.	Lora B. Walburn
9.	Check on Shenandoah Farms Refuse Disposal.	Tom Judge

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
10.	Develop employee bonus plan for review by the Personnel Committee.	David Ash / Tom Judge
11.	Execute The Agreement Regarding the Proposed Clarke County Active Living Center and the Clarke County Active Living Center Joint Use Agreement and forward.	J. Michael Hobert / David Ash
12.	Upon receipt of the signed Assignment of Contract with Main Street Architecture, P.C. document from the Shenandoah Area Agency on Aging, to execute the Assignment of the Contract with Main Street Architecture, P.C. document on behalf of the County; and further subsequent to the execution of that document, authorize the Chairman and/or the County Administrator to execute the AIA design and construction oversight agreement titled Clarke County Recreation Center Additions [consisting of documents B209 and B102 with the same project identification] with Main Street Architecture and authorize Main Street Architecture to commence work as set forth in that agreement.	J. Michael Hobert / David Ash
13.	Scan and forward to the Supervisors the 4H brochure provided by Supervisor Byrd.	Lora B. Walburn

Board Member Committee Status Reports

Clarke County Social Services by Barbara Byrd

- o Funding cuts by the State are creating waiting lists for assistance.
- o Would like an HR officer and suggested Archana McLoughlin. David Ash reminded that the local Social Services office was part of the state system not the County and that only a very few offices operated outside of the state system. He acknowledged that Archana McLoughlin had provided assistance on specific issues.

Clarke County Humane Foundation by Barbara Byrd

- o Procedures and guidelines for reporting cruelty to animals were produced and distributed to the community.

Economic Development Advisory Committee by John Staelin

- o Several members attended a recent agri-tourism conference.
- o Chuck Johnston and Jesse Russell were asked to explore zoning regulations specific to agri-business such as corn mazes, agri day camps, pick your own, etc.
- o Barbara Byrd distributed a 4-H brochure produced by the oldest 4-H group in the County. Chairman Hobert instructed staff to scan the brochure and forward to the Board.

Conservation Easement Authority by David Weiss

- o Attended benefactors awards dinner.

Northern Shenandoah Valley Regional Commission by David Wiess

- o Martha Shickle is the new NSVRC Director.

Internet / Broadband Efforts by J. Michael Hobert

- o Jesse Russell is investigating other communities and monopolies for broadband use and will bring updates to the Board of Supervisors.

Parks & Recreation Advisory Council by J. Michael Hobert

- o There is continuing community interest in raising funds for a pool that could be used year round.

Closed Session

Supervisor Staelin moved to convene into Closed Session pursuant to:

- §2.2-3711 A1 Specific Employees or appointees of the Board;
- §2.2-3711 A6 Discussion of the investment of public funds where competition or bargaining is involved;
- §2.2-3711 A7 Briefing by staff on legal issues;
- §2.2-3711 A29 Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

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, **Vice Chairman Weiss 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

Vice Chairman Weiss moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

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

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

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

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

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

Following discussion in Closed Session, **Supervisor Byrd moved to authorize the Chair and/or the County Administrator to execute The Agreement Regarding the Proposed Clarke County Active Living Center and the Clarke County Active Living Center Joint Use Agreement; and further authorized the Chairman and/or the County Administrator, upon receipt of the signed Assignment of Contract with Main Street Architecture, P.C. document from the Shenandoah Area Agency on Aging, to execute the Assignment of the Contract with Main Street Architecture, P/C/ document on behalf of the County; and further subsequent to the execution of that document, authorize the Chairman and/or the County Administrator to execute the AIA design and construction oversight agreement titled Clarke County Recreation Center Additions [consisting of documents B209 and B102 with the same project identification] with Main Street Architecture and authorize Main Street Architecture to commence work as set forth in that agreement.**

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

**AGREEMENT REGARDING
THE PROPOSED CLARKE COUNTY ACTIVE LIVING CENTER**

THIS AGREEMENT, dated the 4th day of April 2011 by and between the County of Clarke, Virginia ("County") and the Shenandoah Area Agency on Aging ("SAAA"), provides as follows:

WHEREAS, the County and the SAAA desire to have an Active Living Center ("ALC") constructed in Clarke County; and

WHEREAS, the SAAA has engaged in fund raising for the ALC and has collected and is holding contributed funds; and

WHEREAS, the County has also collected and is holding contributed funds for the ALC; and

WHEREAS, under the will of Ruby L. Urban there was devised to the SAAA real estate, with improvements thereon, located on Route 601 in Clarke County, Virginia, identified as Tax Parcel No. 40-1-2 ("Urban Property"), which was devised to the SAAA exclusively for the benefit and use of a senior center; and

WHEREAS, the SAAA currently has the Urban Property leased, with the net rental income being held by the SAAA for the ALC; and

WHEREAS, the Board of Supervisors of the County has determined that, with the collected contributions for the ALC and anticipated funds from a sale of the Urban Property, it may be prepared to go forward with a bidding process for the construction of the ALC; and

WHEREAS, the ALC will be located in the County Park and will be constructed as a part of an ALC and Park Office project; and

WHEREAS, the County will be bidding the project and will be financially responsible for the cost of the construction of the ALC; and

WHEREAS, the SAAA has contracted with Main Street Architecture, PC, under which contract Main Street Architecture, PC has designed the ALC and Park Office project; and

WHEREAS, the County and the SAAA desire to enter into this Agreement to provide for all contributed funds for the ALC and all proceeds from the sale of the Urban Property to be available to the County to be used toward the construction cost of the ALC, and to provide for the assignment to the County of SAAA's contract with the architect and the architectural plans prepared by the architect.

NOW, THEREFORE, in consideration of the mutual benefits herein set forth, the County and the SAAA agree as follows:

1. Upon the County awarding a contract for the construction of the ALC and Park Office, the SAAA shall pay over to the County all contributed Clarke County ALC Capital Campaign funds it is holding at the time for the ALC property, which funds shall not be less than \$200,000.00.
2. The SAAA shall pay over to the County, upon collection by the SAAA, all contributed Clarke County ALC Capital Campaign funds it receives after the County has awarded a contract for the construction of the ALC.
3. Clarke County ALC Capital Campaign pledges, when collected by the SAAA, the County, or the capital campaign committee, shall be subject to the provisions of Paragraphs 1 and 2, above.
4. The SAAA agrees to forthwith list the Urban Property for sale at an asking price mutually agreed upon by the County and the SAAA, and that no contract for the sale of the Urban Property shall be executed by the SAAA without approval of the contract by the SAAA and the County. The listing agreement for the property shall provide for its termination upon the property being conveyed to the County pursuant to Paragraph 6, below.
5. Upon a sale of the Urban Property by the SAAA prior to the County awarding a contract for the construction of the ALC, the proceeds of sale will be held by the SAAA, along with the contributed Clarke County ALC Capital Campaign funds held by the SAAA, subject to the provisions of Paragraph 1, above.
6. If a sale of the Urban Property has not been completed prior to the County awarding a contract for the construction of the ALC, the SAAA shall convey the Urban Property to the County within five (5) business days of the awarding of the contract, by deed of gift prepared by the County.
7. The SAAA shall maintain insurance on the structure on the Urban Property until sold or until conveyed to the County, whichever first occurs.
8. Upon request by the County, conditioned upon the approval of Main Street Architecture, P.E. ("MSA"), the SAAA agrees to assign to the County its rights and obligations under its contract with MSA and the architectural plans prepared. The County shall be responsible for preparation of the assignment documents, and shall obtain a mutual release from MSA of all obligations under the contract between MSA and SAAA.
9. The County agrees that all funds received from the SAAA under this Agreement, all funds now held by the County for the ALC or hereafter received by the County from third parties, and any funds received by the County from its sale of the Urban Property shall be used exclusively for the construction and equipping of the ALC.

10. The County agrees that its solicitation of bids and awarding of a contract for the ALC and Park Office project shall be structured so that the construction costs for the ALC and the construction costs for the Park Office may be separately allocated; provided, the County and the SAAA specifically agree that the cost of constructing a new parking area adjacent to the ALC shall be allocated as a part of the construction costs for the ALC.
11. The County and the SAAA agree that they will enter into a Joint Use Agreement, to be effective upon the completion of the construction of the ALC and the issuance by the County of a Certificate of Occupancy, which Agreement shall be in substantially the form of the draft Joint Use Agreement attached to this Agreement as Exhibit A.
12. This Agreement shall remain in effect until the County's awarding of a contract for the construction of the ALC, the transfer by the SAAA of all funds to the County pursuant to Paragraphs 1, 2, and 3 of this Agreement, and the sale of the Urban Property or its conveyance to the County. The failure of the County to award a contract in response to a specific bidding process shall not affect this Agreement or effect a termination thereof.

[Signatures on following page]

COUNTY OF CLARKE, VIRGINIA

SHENANDOAH AREA AGENCY

Exhibit A

CLARKE COUNTY ACTIVE LIVING CENTER JOINT USE AGREEMENT

THIS JOINT USE AGREEMENT ("Agreement"), dated the 4th Day Of April, 2011, by and between the County of Clarke, Virginia ("County") and the Shenandoah Area Agency on Aging ("SAAA"), provides as follows :

WHEREAS, the County intends to construct a facility , to be available for use for programs for senior citizens, as an addition to the Clarke County Recreation Center ("Recreation Center"); and

WHEREAS, the facility shall be known as the Clarke County Active Living Center ("ALC")- and

WHEREAS, the ALC will be available for use by the SAAA for SAAA congregate meals and SAAA programs, and for use by Clarke County Parks and Recreation ("CCPR"), a department of the County, for CCPR programs; and

WHEREAS, the County and the SAAA desire to enter into this Agreement to provide for the terms of the joint use of the ALC.

Therefore, consideration of the mutual benefits as set forth herein, the parties agree as follows:

1. USE.

- A. The SAAA shall have priority use of the ALC on Tuesday through Friday of each week, from 7:30 a.m. to 3:00 p.m., for SAAA congregate meals and SAAA programs.
- B. CCPR shall have priority use of the ALC on other days and other times.

2. MAINTENANCE:

- A. The SAAA shall be responsible for daily maintenance and cleanup following its programs.
- B. CCPR will be responsible for daily maintenance following its programs, including selling up the main room for the SAAA so that the room is ready for operation when the SAAA arrives in the morning.
- C. CCPR will provide all ordinary building and floor maintenance; provided, however, the cost of any extraordinary maintenance and repair caused by the SAAA or the CCPR shall be borne by the responsible party.
- D. CCPR shall endeavor to schedule annual maintenance of the ALC so as to not interfere with the regular schedule of the SAAA. However, in the event the ALC needs to be closed for maintenance or repairs, other than emergency maintenance or repairs, CCPR shall give the SAAA seven (7) days advance notice of such closing.
- E. CCPR will provide snow removal of the parking lots and roads serving the ALC and the Recreation Center pursuant to the County's usual snow removal schedule.
- F. CCPR will provide dumpsters and pick-ups for trash disposal by CCPR and the SAAA. Any special disposal equipment or services required by the SAAA use or programs shall be the responsibility and at the cost of the SAAA.

3. UTILITIES.

Utilities to the ALC shall be provided by the County; provided, however, any telephone and/or internet service for the exclusive use of the SAAA shall be the responsibility and at the cost of the SAAA. The SAAA shall also pay the cost of long distance telephone charges attributable to the SAAA use of the County telephone lines.

4. MAINTENANCE AND UTILITY COSTS:

- A. The SAAA shall be responsible for its proportionate share of the maintenance and utility costs of the ALC. In consideration of the SAAA's efforts in raising funds for the construction of the ALC, the County agrees to accept the sum of Five Hundred Dollars (\$500.00) per month as the SAAA's proportionate share for the first five (5) years of the initial term under this Agreement.
- B. After the first five years, SAAA's proportionate share of the maintenance and utility costs for the parks building shall be established annually based upon the average

actual cost of maintenance and utilities to the parks building over the prior three (3) years, subject to the following adjustments:

- (1) the square footage of the ALC as a percentage of the total square footage of the parks building, including the ALC (except utility charges shall not be subject to the square footage proration to the extent the utility is separately metered for the ALC), and
- (2) the time that the SAAA has the use of the ALC as a percentage of the total time the ALC is used. The maintenance and utility costs shall include repair and maintenance costs, maintenance salaries, maintenance contracts, pest control costs, and utility costs (electric, gas, water and sewer).

C. The SAAA's proportionate share shall be payable to the County on a monthly basis on the first day of each month, beginning with the month following the month when the SAAA commences use of the ALC.

5. KITCHEN USE:

- A. The SAAA shall have the use of the kitchen and the kitchen appliances, equipment, and furnishings for the SAAA programs. A cabinet or cabinets, or a closet, or other area, with a lock, shall be provided to SAAA for the secure storage of consumables, small appliances, and equipment provided by and owned by SAAA, which items shall not be used by CCPR. CCPR shall be provided with a key to such storage area for security purposes only.
- B. The CCPR shall have the use of the kitchen and kitchen appliances, equipment, and furnishings for CCPR programs. In using the kitchen, the CCPR will not use consumables of the SAAA, and will leave the kitchen and all equipment and furnishings used, including utensils, in a clean condition for use by the SAAA.

6. SIGNS:

Subject to approval of the County as to design, size, and location, SAAA shall have the right (i) to place in the interior of the ALC a plaque recognizing the donors to the Clarke County ALC Capital Campaign, and (ii) to place on the exterior of the ALC a sign with SAAA's logo with the script "Shenandoah Area Agency on Aging's Clarke County Active Living Center".

7. INSURANCE:

- A. The County will maintain insurance on the ALC building.
- B. The SAAA shall maintain liability insurance with limits of at least One Million Dollars (\$1,000,000.00), with an insurance company licensed to do business in Virginia with an A.M. Best Company financial rating of A- or better, with the County, its departments, employees, and officers as additional insureds.
- C. The SAAA shall also maintain workers' compensation insurance for its employees, if required by state law.

D. The SAAA will be responsible to insure its property located in the ALC.

8. INDEMNITY:

The SAAA shall indemnify the County and its agents, representatives, and employees from and against any and all claims, suits, losses, liabilities, fines, expenses, penalties, costs, judgments, and other damages, including, without limitation, attorney's fees, incurred or sustained by the County or its agents, representatives, or employees by reason of (a) the use of the ALC by the SAAA, (b) failure of the SAAA to comply with any of the provisions of this Agreement or (c) any bodily injury, death, personal injury, or property damage occurring in or about the ALC during such time that the SAAA shall be conducting its programs, unless such claims, suits, losses, liabilities, fines, expenses, penalties, costs, judgments, or other damages are the result of the negligence or willful misconduct of the County, its agents, representatives, or employees. In case the County shall, without fault on its part, be made a party to any litigation commenced by or against the SAAA, then the SAAA shall protect and hold the County harmless, and shall pay all costs, expenses, and attorney's fees incurred or paid by the County in connection with such litigation. The provisions of this paragraph shall survive the termination of this Agreement for a period of two (2) years from the date of termination.

9. GENERAL:

- A. The SAAA shall be responsible for the conduct of its employees, participants, agents, and volunteers and their compliance with all laws and ordinances and all regulations governing the use of the County Park.
- B. The SAAA may appoint, and is encouraged to appoint, a non-voting liaison to the Clarke County Park Advisory Board.
- C. If the SAAA wishes to use the Recreation Center or Park facilities for activities other than those co-sponsored with CCPR, the SAAA shall be responsible to pay the applicable non-profit rate; provided, however, the SAAA shall have the right to reserve and use the ALC, without further costs or fees, for official SAAA and/or ALC fundraising events, limited to no more than one per quarter, during times other than the times specified in Paragraph I.A.
- D. The SAAA shall obtain prior written consent and approval of the County, or its designated representative, to any modification of the ALC building, the installation or placement of any fixtures or equipment, and the placement of any signs, posters, wall hangings, or displays, except temporary signage for use during SAAA programs.
- E. This Agreement constitutes the entire agreement between the parties, and may be amended only by a written document signed by the parties.
- F. This Agreement shall become effective upon the completion of the construction of the ALC and the issuance by the County of a Certificate of Occupancy.

G. This Agreement shall be in effect for an initial term of twenty (20) years from the effective date hereof, and may be extended for additional terms by mutual agreement of the parties. This Agreement may be terminated by the SAAA by six (6) months written notice to the County. This Agreement may be terminated by the County for a material breach of this Agreement by the SAAA, not remedied within thirty (30) days of written notice to SAAA of the breach. The parties agree to review the terms of this Agreement annually to discuss any issues arising during the preceding year.

[Signatures on following page]

COUNTY OF CLARKE, VIRGINIA

SHENANDOAH AREA AGENCY ON AGING

Adjournment

There being no further business to be brought before the Board at 4:06 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 Thursday, July 14, 2011 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: June 21, 2011

J. Michael Hobert, Chair

David L. Ash, County Administrator

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