

CLARKE COUNTY BOARD OF SUPERVISORS
October 18, 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, October 18, 2011.

Board Members Present

Barbara Byrd; A.R. Dunning, Jr. [*left 1:21pm*]; J. Michael Hobert; John Staelin [*left 6:55pm*]; David Weiss

Staff Present

David Ash, Tom Judge, Jesse Russell, Susanne Vaughan, Lora B. Walburn

Others Present

Anne Caldwell; Barbara Lee; Robina Rich Bouffault; Michael Murphy; Lisa Floyd; Ed Shewbridge; Keith Dalton; Gem Bingol; Val Van Meter; Ed Leonard and other citizens

1. Call to Order

Chairman Hobert called the meeting to order at 1:02 p.m.

2. Adoption of Agenda

- Add to Miscellaneous: DEQ Report on J&J Corner Store gas leak.
- Add to Miscellaneous: November Regular Meeting Date Review

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

3. Clarke County Public Schools Update

Barbara Lee, Chair - Clarke County School Board, appeared before the Board for the monthly update from the Schools. Highlights include:

- Expressed thanks to the Supervisors for working with the School Board.
- Expressed thanks to the Supervisors for living up to all that had been asked of them by the School Board.
- Expressed appreciation for everything that the Supervisors have given to the Schools.
- Noted funding problems are on the state and federal level.
- The School Board sent a resolution to the governor asking for restoration of funding cuts.
- Expressed thanks for 10 years on the Lord Fairfax Community College [LFCC] Board as the Clarke County representative.
- Requested a career coach for at least half day from LFCC.
- Since Clarke County's Board of Supervisors did not fully fund LFCC this year, LFCC reduced Clarke County by one \$1,300 scholarship.
- John Staelin verified that, by percentage, Clarke County has typically been one of the larger contributors.
- Chairman Hobert expressed appreciation for Mrs. Lee's service on the boards of the Clarke County Public Schools and Lord Fairfax Community College.

Dr. Michael Murphy, Superintendent - Clarke County Public Schools, joined by Lisa Floyd, Director of Curriculum and Instruction, and Ed Shewbridge, Testing Coordinator, appeared before the Supervisors to provide the monthly update for Clarke County public schools. Highlights include:

- On time graduation rate is 99.5% - up from 96.1% last year.
- Reviewed and answered questions pertaining to a handout he distributed titled ESEA Update October 14, 2011.
- Dr. Murphy supports a national common core of standards that is high and rigorous.
- Clarke County has no schools meeting the definition of struggling or failing schools.
- Reviewed and answered questions pertaining to a handout on bullying.
- The School Board will be adopting a legislative platform this year.

Supervisor Dunning left the meeting at 1:21 p.m.

Robina Rich Bouffault, White Post Member - Clarke County School Board New High School:

- Rock ledges on site have been removed.
- Landscaping around edges is progressing.

- 16 Screening trees by tank.
- 32 Trees along Mosby.
- Greenhouse will be finished within three weeks.
- Terrazzo is being used for many of the floors that last longer than most types of flooring.
- Wood floors on gym and stage are being finalized.
- Elevator is finalized and will be inspected.
- Painting throughout ongoing.
- Tile is finished with touch up work ongoing.
- Blue Ridge glass to be finished end of next week.
- Roofing done end of next week.
- Casework [installed cabinets] finalizing end of two weeks.
- Hanging ceiling grids and should be mainly finished next week.
- Administration walls and ceilings are being done this week
- Duct work to be finished by next week.
- Plumbing ongoing throughout building.
- Electricians installing light fixtures throughout the building, roughing in greenhouse.
- Nothing behind schedule.
- No change orders in at this time but expecting a change order for the cut under Main Street.
- Supervisor Byrd relayed constituent complaints as follows:
 - End of Early Drive: Constituents on that street have expressed concern about the steep fall into drainage area and are requesting a fence or gate to keep cars from falling over embankment.
 - Mrs. Bouffault advised that the Schools had planned to have a gate but VDOT advised that it must remain open.
 - Mr. Balderson stated that VDOT would check into the matter.
 - Will trees planted along the fence that are not doing well be replaced?
 - Ms. Bouffault advised that the trees were guaranteed and would be replaced.
 - Residents are worried about mosquitoes drawn to the water retention pond that appears to drain slowly.
 - Ms. Bouffault advised that Shockey has been treating the pond and that the stormwater pond has not been finalized.

- Keith Dalton added that during the construction phase the retention pond serves a different purpose than it will serve once the project is complete. When the site is stabilized, landscaped, and the grass is growing, the Schools contractor will change the sediment basin into a detention pond.

Robina Rich Bouffault, White Post Member - Clarke County School Board, School Renovations

- Supervisor Staelin commented that he had read in the newspaper about conversion of the current high school into an elementary school where it was being put forth that it was less than ideal. He stated that the Supervisors, as well as County residents had been told for the past 10 years that the current high school was ideal for an elementary school. He expressed concern about the public perception should the Schools change position on this now.
- Robina Rich Bouffault responded that regulations are changing and larger spaces are now required for elementary schools. She stated that all plans were extremely preliminary and that an architect and an engineer were needed.
- Dr. Murphy contributed that classroom guidelines have been around a long time and assured that he intend to do as much due diligence as possible.
- Vice Chairman Weiss put forth that the Schools should be able to figure out what they need, as well as what they can afford. He expressed concern about hiring and architect, as well as a project manager.
- Chairman Hobert noted that he had the same concerns as Vice Chairman Weiss opining that it might be imprudent to hire before the project is defined.
- Robina Rich Bouffault offered to help develop a program to find a direction with Grif Carmichael so that the Schools could begin to make certain assumptions and analyze education requirements.

Ed Shewbridge, Testing Coordinator, provided a PowerPoint presentation on AYP / Adequate Yearly Progress. Highlights include:

- Explained AMO's / Annual Measurable Objectives.
- Clarke County missed AYP by 3 AMO's this year.
- Reviewed AMOs by school
- Reviewed AYP improvements over last year.
- Reviewed areas of need: English students with disabilities; Math all students; Math students with disabilities.
- Reviewed aggregate pass rates by subject.
- Reviewed pass rates for the all Clarke County schools.
- News standards for math were passed requiring math teachers to teach to two sets of curriculum.

- New history standards were taught along with brand new SOL tests for 2010-2011.
- Science and English standards have changed.
- The change in standards could be the reason for declining grades statewide
- On time graduation rate has improved from 96.1 to 99.5
- Drop out rate is .5%
- Correction action includes: improvements in middle school math; K-8 math; greater emphasis on Algebra II.

4. Approval of Minutes

- Page 750 – Correct Board Members Absent Remove A.R. Dunning, Jr. and Add to Board Members Present

Supervisor Byrd moved to approve the September 27, 2011 Regular Meeting minutes subject to amended. 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

5. Consent Agenda

A. Approve Revision to Easement Application Criteria as Presented

MEMORANDUM

To: Board of Supervisors, David Ash
From: Conservation Easement Authority, Alison Teetor
Re: Revision Easement Application Criteria
Date: October 6, 2011

When an application is received for easement purchase or donation staff determines if the parcel is eligible for acceptance based on criteria established by the Authority. Earlier this year, several properties were considered for easement purchase that met the Authority's criteria, but were not in land use. Placing a property in easement automatically qualifies the parcel for land use under the open space category thus reducing the amount taxes the county collects from the property.

The Virginia Department of Agriculture and Consumer Services (VDACS) provides funding to the Easement Authority for easement purchases. In order to be eligible for funding, current

VDACS criteria requires that the property be considered working farm or forestland (eligible for land use) as determined by the Commissioner of Revenue. In addition, the Board of Supervisors has questioned the purchase of easements on parcels that would not otherwise qualify for land use.

As a result of these concerns, the Easement Authority considered revising the application evaluation criteria. Over the course of several meetings the Easement Authority discussed various options such as accepting applications only for parcels in land use, or subtracting points from the Property Resource Score for those parcels not in land use. As some properties may have conservation values worthy of protection that are not in land use, such as those with historic structures, the Authority decided to review past applications and scores to determine what impact-subtracting points from the score of properties not in land use would have on the parcels eligibility.

Scores of twenty-two properties were evaluated. Staff determined that if the score was reduced by 15 points, 11 of the 22 parcels would have been ineligible. The proposed amendment to the Property Evaluation Criteria raises the minimum acceptable score from 35 to 50 for properties being considered for easement purchase that are not in land use. The purpose of the amendment is to require parcels not in land use to meet a higher standard (additional conservation values) in order to qualify for purchase consideration. At their August meeting, on motion of Mr. Weiss, seconded by Mr. Engel, the Authority unanimously recommended the proposed amendment to the Board of Supervisors for adoption.

Recommendation:

Approve the proposed amendment to the Property Evaluation Criteria as recommended by the Conservation Easement Authority.

Clarke County
Conservation Easement Authority
Property Evaluation Criteria
June 2002, amended May 2007

The Authority evaluates parcel(s) proposed for conservation easement based on the following criteria:

In order to be eligible for Easement donation or purchase the parcel must be located in the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) zoning district.

Easement Donation

If the parcel is currently in or eligible for use value taxation, in accord with the Commissioner of Revenue's requirements, then a donation or purchase may be considered if at least two of the following four guidelines are met:

- 1) the parcel's Property Resource Score is at least 35;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) the parcel is adjacent to a parcel already under permanent conservation easement;
- 4) the property has a minimum area of 40 acres.

If the parcel is not eligible for use value taxation, then a donation or purchase may be considered if it meets at three of the four following criteria:

- 1) the parcel's Property Resource Score is at least 35;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) it is adjacent to another easement;
- 4) the parcel offers protection of a locally significant natural or historic feature, as determined by the Easement Authority.

Easement Purchase

If the parcel is currently in or eligible for use value taxation, in accord with the Commissioner of Revenue's requirements, then a ~~donation or~~ purchase may be considered if at least two of the following four guidelines are met:

- 1) *the parcel's Property Resource Score is at least 35;*
- 2) *at least one dwelling unit right is extinguished by the conservation easement;*
- 3) *the parcel is adjacent to a parcel already under permanent conservation easement;*
- 4) *the property has a minimum area of 40 acres.*

If the parcel is not eligible for use value taxation, then a donation or purchase may be considered if it meets at least three of the four following criteria:

- 1) *the parcel's Property Resource Score is at least ~~35~~ 50;*
- 2) *at least one dwelling unit right is extinguished by the conservation easement;*
- 3) *it is adjacent to another easement;*
- 4) *the parcel offers protection of a locally significant natural or historic feature, as determined by the Easement Authority.*

Vice Chairman Weiss moved to approve Item A Revision to Easement Application Criteria 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

6. Citizens Comment Period

No citizens appeared to address the Supervisors.

7. VDOT

Cliff Balderson, Residency Maintenance Administrator, appeared before the Supervisors to provide the monthly update.

- Maintenance work completed in September/August:
 - Completed the mowing on the South end of the County and have begun moving North from Senseny Road. If the mowing appears to be taking longer, it is because the guidelines have provided greater flexibility and we are cutting farther from edge of pavement.
 - Have a grader working on various non hard surfaced routes including Routes 603, 604, 605 and 639.

- Maintenance work planned for October/November:
 - Shoulder repair on Route 611.
 - Continue to address those issues raised by the Board at the last meeting.
 - Preparing for “Dry Runs” that is getting equipment and attachments ready for winter.

- Projects:
 - Route 636 Mosby Road – Mosby Road – The pre-advertisement conference was held at VDOT and at the County. Those comments/details are being addressed and the project is proceeding on schedule.
 - Route 604 - Ebenezer Road- All Right of Way/Easements are secure the box culvert is scheduled before bad weather.
 - Route 723 Bridge - The PFI meeting is scheduled for November 9th at the District office.
 - Route 7 Crossovers - Waiting on advertisement.
 - Traffic engineering performed an analysis of the Issues raised concerning the Tobacco Shop on Rt. 340. The following is there summary.
 - A preliminary traffic review of the tobacco shop site along US 340 in Clarke County has been performed at your request to investigate any potential operational issues with vehicles entering/exiting the roadway. A site visit confirmed that there is limited stopping sight distance due to a vertical curve just before the site. Also it was observed that two sets of warning signs (curve ahead, school bus stop ahead) are posted in advance of the site. A review of the accident history (2007 to 2009) at this location revealed no relevant pattern due to vehicles entering/exiting the roadway. Based on field observations and accident history no remediation's are recommended at this time. A Watch for Turning Vehicles sign was considered but a succession of three warning signs would greatly diminish the effectiveness the sign would have. However it is worth noting that during our site visit I spoke with the owner of the Tobacco shop and he mentioned that he was looking to upgrade his facility with gas pumps and would be open to closing part of his access to

US 340. If this opportunity presents itself it would greatly improve the operation of vehicles entering and exiting the roadway. Please let me know if you have any questions.

- Supervisor Comments:
 - Supervisor Weiss -
 - Route 608 North – at turn where there is pooling of water, about a mile down road across the stream first right-hand turn, paving has kept it from draining.
 - Supervisor Staelin –
 - Corner of Route 651 and Route 255 – paint cans at the corner.
 - Supervisor Byrd –
 - Relayed citizen concerns and suggestions for a 4-way stop at Jackson and Hancock and Mosby or something that would slow down traffic. Residents worried about thru-traffic generated by students and parents once school is completed.
 - Crims Curve – trimmed trees on one side – Mr. Watkins has given permission to trim on his side of the road.
 - Senseny Road and Salem Church Road – tree on south side going up hill – tree looks like it is going to fall.
 - Salem Church Road and Landfill Road – drop offs / shoulders are dangerous.

8. Chesapeake Bay TMDL Local Responsibility Update by Alison Teetor

In her absence, Alison Teetor provided the Supervisors a written update prior to the meeting that was not distributed at the meeting.

9. Active Living Center [aka Senior Center] Status Update

David Ash provided an update. Highlights include:

- Bids are actively under review.
- A budget is being prepared for Board consideration.
- The architect is in the process of vetting the low bidder and verifying unit pricing calculations.
- Urban Property: Pursued a procurement to list the property; however, no bids were received. Therefore, Mike Legge is securing an alternate method to ensure that the property is listed.

10. Board of Supervisors Personnel Committee

1. Closed Session

10/11/2011 Summary: Following Closed Session, the Personnel Committee recommended the following appointment: Mark Cochran, Clarke County Industrial Development Authority, for the remainder of an unexpired term ending 10/30/2013

10/18/2011 Action: Approve recommendation.

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Clarke County Industrial Development Authority	Mark Cochran	10/30/2013
<i>Mr. Cochran is appointed to serve the remainder of the unexpired term of Jay Hillerson.</i>		

Supervisor Byrd 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

2. Expiration of Term for appointments expiring through November 2011

10/11/2011 Summary: The Personnel Committee instructed staff to follow up matters discussed in Closed Session.

10/18/2011 Action: Chairman Hobert encouraged members to review the list for potential appointees.

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Conservation Easement Authority	Laure Wallace	12/31/2013
<i>Ms. Wallace is appointed to serve the remainder of the unexpired term of Jane Radford.</i>		

Supervisor Byrd 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

Chairman Hobert instructed staff to provide immediate notification of appointment to Ms. Wallace in the event that she might be able to attend the Conservation Easement Authority meeting scheduled for Wednesday, October 19.

Chairman Hobert further instructed staff to prepare a resolution of appreciation of service for Jane Radford.

11. Board of Supervisors Work Session

1. SYIP 2013-2018 Primary Highway Plan for the Commonwealth Transportation Board

10/11/2011 Summary: The Board reviewed the prior year's priority statement and agreed to:

- Remove future project No. 1 as Mosby Boulevard is being completed
- Verify the Town of Berryville's continued interest in Priority No. 5 Route 7 Business West
- Verify Item 6 – Route 340 drainage in Boyce.
- Revise language in Item 8 to clarify the Board's support for park and ride lots located as close as possible to the point of commuter origination.

The Board would decide whether or not to attend the November 2 public meeting subsequent to further discussion of the priority list.

10/18/2011 Action: David Ash advised that the Town of Boyce had dropped the drainage issue from its list due to money concerns; however, if funding would become available, they would still consider it a priority. Park and ride language shall reflect the position put forth in the 2035 Transportation Plan.

Supervisor Staelin moved to make the following modifications to the SYIP 2013-2018 Primary Highway Plan for submission to the Commonwealth Transportation Board and to authorize Chairman Hobert to sign the plan when revised.

- Keep Town of Boyce drainage issue on list;
- Remove Rt. 7 Business (West Main Street)/ Rt. 636 (Westwood Rd) intersection and Rt. T-1035 (Mosby Boulevard) extension on west side of Berryville;

– **Modify park and ride language**

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

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

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

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

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

The County's priorities for future projects are:

1. *Rt. 340 (Lord Fairfax Highway) and Rt. 657 (Senseny Road) intersection .5 miles south of Berryville*

This project has been on our list of priorities since 1998. This continues to be a very unsafe intersection.

2. *Rt. 7 (Harry Byrd Highway) and Rt. 612 (Shepherds Mill Road) intersection 3 miles east of Berryville*

This intersection is unsafe due to sight distance and increases volume of traffic

3. *Double Tollgate (Intersection of Rts. 277, 340, and 522)*

This project has been a priority since 1997; traffic volumes on Rt. 522 increased 31% from 2001 to 2008.

4. *Rt. 7 Business on the west side of Berryville (approx. 1.2 miles of Primary Highway)*

This project has been on our list of priorities since 1992.

5. *Rt. 340 Drainage in the Town of Boyce*

This project has been on our list of priorities since 2003.

6. *Rt. 7 Business on east side of Berryville (approximately .94 miles of Primary Highway)*

This project has been on our list of priorities since 1995.

7. *Park and Ride lot VA 7 (Harry Flood Byrd Hwy.) near intersection of Rts 7, Bypass and Business 1 mile west of Berryville.*

Commuter traffic on Rt. 7 increased 53% from 2001 to 2008; alternatives to SOVs must be provided. Park & Ride lots should be located as near as possible to the point of origin of the commuter traffic.

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

Regards,

Michael Hobert, Chairman

Copy: Virginia Commonwealth Transportation Board

2. Discussion of Historical Perspective on Reduction of Commonwealth Funding and Impact Upon Clarke County

10/11/2011 Summary: The Board discussed the impact of the reductions in students and state aid to the School budget. No recommendations were made.

10/18/2011 Action: The Board did not discuss this matter at the regular meeting.

3. Closed Session

10/11/2011 Summary: At the Work Session, the Board of Supervisors convened into Closed Session pursuant:

- a. §2.2-3711-A7 Briefing by staff members on probable litigation re Berryville Clarke County Government Center
- b. §2.2-3711-A7 Briefing by staff members on legal matters re Shenandoah Fire and Rescue Company
- c. §2.2-3711-A4 Privacy of individuals in personal matters.

No action was taken on matters discussed in Closed Session.

10/18/2011 Action: The Board did not discuss this matter at the regular meeting.

12. Board of Supervisors Finance

1. Supplemental Appropriations.

"Be it resolved that the following adjustments be made to FY 11 Expenditure, Appropriations, and Revenue accounts: Criminal Justice Training Center; Economic Development, NSVRC, School Debt Svc Fund, Unemployment Compensation, Government Capital Projects.

10/11/2011 Summary: Recommended Action: Approve Finance Committee recommendation to adopt.

10/18/2011 Action: Tom Judge reviewed the request.

Supervisor Staelin moved "Be it resolved that the following adjustments be made to FY 11 Expenditure, Appropriations, and Revenue accounts: Criminal Justice Training Center; Economic Development, NSVRC, School Debt Svc Fund, Unemployment Compensation, Government Capital Projects." 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

<i>Account</i>	<i>Expenditure</i>	<i>Appropriation</i>	<i>Revenue</i>	<i>Transfer</i>	<i>Explanation</i>
Criminal Justice Training Center	393	393		393	Transfer from Drug Task Force to cover obligation.
Economic Development	188	188		188	Transfer from Contingency for Professional Services
NSVRC	243	243		243	Transfer from Contingency for Professional Services
School Debt Service Fund			-102,182	102,082	Interest on Bond Proceeds revenue fell short. Increase GF Transfer.
Unemployment Compensation	1,648	1,648			Supplemental
Government Capital Projects	1,634	1,634	1,634		Transfer from Parks Construction Fund for final cost of Swim Blocks

2. Capital Projects Carryover from FY 11 to FY12.

"Be it resolved that the unexpended budgeted expenditure and appropriations, as well as revenue estimates, that remained at the end of FY 12 in the Government and School Capital Projects Funds, be carried forward to FY12, as outlined in the tables presented in the Finance Committee packet."

10/11/2011 Summary: Recommended Action: Approve Finance Committee recommendation to adopt.

10/18/2011 Action: Tom Judge reviewed the request.

Supervisor Staelin moved "Be it resolved that the unexpended budgeted expenditure and appropriations, as well as revenue estimates, that remained at the end of FY 12 in the Government and School Capital Projects Funds, be carried forward to FY12, as outlined in the tables presented in the Finance Committee packet." 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

3. Conservation Easement Carryover from FY 11 to FY 12.

"Be it resolved that \$244,667 of unexpended budgeted expenditure and appropriations, as well as revenue estimates, that remained at the end of FY 11 in the Conservation Easement Fund, be carried forward to FY12.

10/11/2011 Summary: Recommended Action: Approve Finance Committee recommendation to adopt.

10/18/2011 Action: Tom Judge reviewed the request.

Supervisor Staelin moved "Be it resolved that \$244,667 of unexpended budgeted expenditure and appropriations, as well as revenue estimates, that remained at the end of FY 11 in the Conservation Easement Fund, be carried forward to FY12." 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

4. FY 11 Year-end Fund Balance Designations.

"Be it resolved that the attached [FY2011 Fund Balance] designations be approved for inclusion in the FY 11 Financial Report".

10/11/2011 Summary: Recommended Action: Approve Finance Committee recommendation to include in the FY11 Financial Report".

10/18/2011 Action: Tom Judge reviewed the request providing explanation for adjustments and designations.

Supervisor Staelin recommended transferring \$100,000 in savings to fund the Park Master Plan pointing out that in general approximately \$100,000 per year has been set aside for this fund and reducing the General Government Carryover request from \$518,733 to \$418,733 adding \$31,715 not the requested \$131,715.

Supervisor Byrd moved to approve "Be it resolved that the attached [FY2011 Fund Balance below] designations be approved for inclusion in the FY 11 Financial Report" with the adjustment recommended by Supervisor Staelin.

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

Title: *General Fund Balance* 10/12/11
Source: *Clarke County Joint Administrative Services*

	<u>Previous</u>	<u>Current</u>	<u>Notes</u>
General Fund Balance Year End FY 2009/2010	14,001,757	14,154,881	
Expenditure FY 11	(24,433,541)	(23,974,664)	
Revenue FY 11	24,586,665	24,907,990	
General Fund Balance (year end FY 11)	14,154,881	15,088,207	

Adjustments and Designations

<u>Designations</u>			
Liquidity Designation @ 12% of FY 11/12 Budgeted Operating Revenue	(\$2,949,252)	(\$2,951,003)	
Stabilization Designation @ 3% of FY 11/12 Budgeted Operating Revenue	(737,313)	(737,751)	
Continuing Local GF Appropriations for Capital Projects	(4,955,633)	(5,127,367)	
School Capital/Debt	(1,500,000)	(1,500,000)	
Government Construction/Debt	(1,000,000)	(941,090)	
Property Acquisition	(265,000)	(265,000)	
Conservation Easements from Government Savings	(153,462)	(153,462)	\$150K from Government Savings moved here
Community Facilities	(\$325,000)	(\$325,000)	
Comprehensive Services Act Shortfall	(262,868)	(262,868)	
Senior Center and Park Office	(400,000)	-	
Parks Master Plan	(100,000)	-	
School Operating Carryover	(343,718)	(186,014)	
Government Carryover Requests from Government Savings	(387,018)	(518,733)	Adds \$131,715 of Government Savings
Energy Efficiency	(200,000)	(200,000)	
Landfill costs	(50,000)	(50,000)	
FY 11/12 Original Budget Surplus (Deficit)	354,405	(1,369,920)	
TOTAL Designations	(13,274,859)	(14,588,208)	
Undesignated Fund Balance Projected June 30	400,744	500,000	
TOTAL	400,744	500,000	
<u>FY 12 Budget Changes</u>			
FY 11/12 Expenditure Budget Adjustments	(675,256)	(50,806)	
FY 11/12 Revenue Budget Adjustments	195,977	2,250	

5. Social Services Request for Payout of Compensatory Leave.

10/11/2011 Summary: Social Services requested re-appropriation of funds for payout of compensatory leave balances. Recommended Action: Finance Committee did not wish to set a precedent and recommends denial at this time.

10/18/2011 Action: Tom Judge reviewed the request.

Vice Chairman Weiss opined that since this issue keeps coming up that it needs to be addressed.

Chairman Hobert put forth that he would like to see this addressed across the board.

Supervisor Staelin added his comments noting that the Governor was dealing with this same issue at the state level.

Supervisor Byrd commented that she would like to see employees dealt with fairly and to see consistent policies for all departments.

By consensus, the matter was referred to the Finance Committee.

6. Acceptance of September 2011 Bills and Claims.

10/11/2011 Summary: Recommended Action: The Finance Committee recommends acceptance.

10/18/2011 Action: Tom Judge provided a brief summary.

Supervisor Staelin moved to accept the September Bills and Claims.

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

7. Standing Reports:

- Reconciliation of Appropriations (FY2011)
- General Fund Balance (FY2011)
- General Fund Expenditure Summary

10/11/2011 Summary: Recommended Action: Information only.

10/18/2011 Information Only – no Board action required

13. Government Projects Update

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

- o Circuit Courthouse: The sound continuation panel that has been repaired and replaced is still grossly unacceptable and further repairs will be made. Bobby Levi is revising minor issues with the concrete.
- o Active Living Center: Should have recommendations on options for Board review at the November meeting.
- o Berryville Clarke County Government Center:
 - The thermostat in the Town wing has been replaced.
 - Replacing glycol in chiller system; and reprogramming thermostats;
 - Sensors have been placed round the building;
 - The window of opportunity to correct heat and humidity issues has been missed.
 - Continuing to work with Roger Catlett and Bob Mitchell
- o Former Library Building: Bobby Levi has been asked to suggest ways to enhance curb appeal at former Library building.

14. Miscellaneous Items

November 15, 2011 Regular Meeting Scheduling Concerns

Following a brief discussion, by consensus, the Supervisors reset the regular meeting date from Tuesday, November 15 to Tuesday, November 22. The 1 pm start time remained unchanged.

Upon return from the afternoon recess, by consensus, the Supervisors changed the meeting date from Tuesday, November 22 to Monday, November 21. The 1 pm start time remained unchanged.

Gas Leak at J&J Corner Store

David Forrer, DEQ, appeared before the Supervisors to address concerns regarding a gas leak detected at J&J Corner Store. Highlights included:

- Tanks installed in 1990 or 1991.
- Mr. Shepard has an automatic tank gauge with a readout inside the store that runs periodic tests on the tanks and lines and will send out an alarm. When the owner detected a potential problem, he contracted a tightness test be performed on the tank by Alton Petroleum and the tank passed.
- After first passing the test, it was assumed that tank gauge was incorrect and the owner replaced the gauge.

- When replaced tank gauge alarmed, a second test on the tank was performed on October 12, 2010; and the tank failed the second test.
- The owner was notified by DEQ that a leak investigation must be performed.
- The owner contracted with Triad Engineering.
- The investigation detected gasoline in monitoring wells – 3 feet in one well and 6 feet in the other.
- The County was notified on November 4, 2010 that the leak test had failed.
- The tank corroded from the inside out.
- Gasoline was removed from what he believed to be a 5,000-gallon tank.
- More recovery wells were drilled.
- Owner sought DEQ permit to allow discharge of treated water into the ground.
- Pulled out 300 gallons of gas during first week; stopped getting gasoline and started to get water so stopped.
- Work on a long-term solution has been started.
- Installed 10 monitoring wells on site.
- Received site characterization in January 2011.
- Ethanol concentration is very high that might be a good sign because the ethanol did not have time to degrade.
- If ethanol remains below certain levels, it will not pose a threat to fish and cattle.
- First time this level of ethanol has been seen in the Commonwealth with a spill.
- Benzene and other containments have been detected in wells on adjoining properties.
- Carbon charcoal filters have been placed in all the affected homes.
- Pilot study has been run to ensure that the treatment system would work however it cannot handle the amount of ethanol at this leak site.
- EPA is diligently monitoring and sampling.
- Remediation:
 - o Triad did pilot study to see if treatment system would pull all containments. Want to create a cone of depression in area of tank basin. Treatment removed all but ethanol [removing some but not all].
 - o Under permit, DEQ will allow a certain amount of ethanol in water discharge but if established limits are exceeded, it would shut down.
 - o No remediation conducted in the spring and DEQ was able to detect rapid movement of plume.

- o Additional remediation removed more contaminants.
- o Made changes to clean up including bio reactors, a new technology that had to be researched.
- o Water is being discharged on to the road shoulder and discharging into creek.
- o Triad is still monitoring and will be making periodic visits.
- Status of neighboring wells:
 - o Four wells impacted. Two belong to the owner and two on adjoining properties.
 - o Spreading slowly to the north and east.
 - o Neighboring wells can be tested and the owner's consultant is being required to conduct testing.
 - o Testing can be expanded.
 - o Chemicals can be smelled at very low concentrations.
 - o Sampling must be conducted within reason.
 - o The most impacted drinking water wells will not be brought up to drinking water standards in his lifetime.
- Alternatives:
 - o Maintain carbon charcoal filters:
 - Would need carbon charcoal filters always.
 - DEQ cannot provide carbon filtration indefinitely.
 - Owner would be responsible for filtration of neighboring wells.
 - Estimated annual cost \$3,000 to \$5,000 per year per well.
 - Two worst wells require quarterly testing and replacement.
 - Will verify costs with headquarters.
 - o Extend municipal water line:
 - If municipal water lines close enough, DEQ covers the cost of extending the lines.
 - Chairman Hobert advised that the County was not interested in extending municipal water.
 - o Drill Deep Wells:
 - Drilling very deep wells is not a trusted option.
 - o Community Well:

- If more wells are impacted, a large-scale source of water must be located possibly through a community well.
- DEQ is limited to \$1MM for clean up. The owner is responsible for the first \$5,000 and all else above that to \$1MM is covered by DEQ. Once this amount is expended, payment becomes the owner's responsibility. Therefore, DEQ tries to spend the money wisely and on those items where it would be best spent.
- There is a vapor risk at the store and the EPA is conducting testing for methane at the store with nothing detected at this time.
- Vice Chairman Weiss commented that he had only received one phone call about this incident.
- Notice of the incident was advertised by DEQ in the paper last winter.
- DEQ can require the owner/consultant to provide notice.
- DEQ has met with many of the neighbors but expressed interest in sending a notice to neighbors as suggested by Supervisor Byrd. Chairman Hobert offered County assistance with mailing addresses and expressed appreciation for DEQ's consideration of expanding the testing area.

15. Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Correct and process approved minutes.	Lora B. Walburn
2.	Provide notice of approval to Alison Teetor of Revision to Easement Application Criteria as Presented.	Lora B. Walburn
3.	Update appointment database and provide notice of appointment.	Lora B. Walburn
4.	Provide immediate notification of appointment to Ms. Wallace in the event that she might be able to attend the Conservation Easement Authority meeting scheduled for Wednesday, October 19.	Lora B. Walburn
5.	Prepare a resolution of service on the CEA for Jane Radford.	Lora B. Walburn
6.	Revise and forward SYIP 2013-2018 Primary Highway Plan.	David Ash
7.	Execute SYIP 2013-2018.	J. Michael Hobert
8.	Add leave discussion to the Finance Committee agenda.	David Ash
9.	Coordinate November regular meeting date change from November 15 to November 21.	Lora B. Walburn

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
10.	Notify Alison Teetor of appointment to replace Chuck Johnston on the NSVRC Board.	Lora B. Walburn

16. Board Member Committee Status Reports

Supervisor Barbara Byrd

- o Library would like to know if there are any storage areas in the BCCGC basement or at the old library. Vice Chairman David Weiss, as the Board representative on the Building Committee, responded that the County has no extra storage space.
- o The Library has planned several events at the Barns of Rose Hill.
- o The Humane Foundation will be conducting a Fall Fling for Furry Friends that includes pony rides, live music, Mr. B's BBQ, a rabies clinic; an agility demonstration by Leslie McLean and much more for Saturday, November 5, 2011 from 12 noon to 3 pm at the Animal Shelter.

Supervisor John Staelin

- o An Economic Development Advisory Committee meeting is scheduled for tomorrow.
- o The brochure initiated by the EDAC has been delayed.

Vice Chairman David Weiss

- o The Conservation Easement Authority is moving forward with several nice opportunities made possible through state and federal money.
- o The Northern Shenandoah Valley Region Commission had good attendance at its first meeting at the new facility.
- o Following discussion of replacing Chuck Johnston, a voting member representing Clarke County on the NSVRC, **Supervisor Staelin moved that if such is required that Alison Teetor shall serve as a voting member to the NSVRC. 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

17. Closed Session

A closed session was not held at the October 18, 2011 Board of Supervisors Regular Meeting.

Chairman Hobert recessed the meeting at 4:30 pm.

Chairman Hobert reconvened the meeting at 6:30 pm.

18. Citizens Comment Period

No citizens appeared to address the Supervisors.

19. PH 11-14 TA-11-05

County Zoning Ordinance:

Sections 3-A-1-a-2, 3-A-2-a-2, 3-A-3-a-2, Accessory Uses in the AOC, FOC, and Rural Residential Zoning Districts, so as to allow 'Structures up to 80 feet high for noncommercial telecommunication antennae';

Section 3-A-1-a-3 and 3-A-2-a-3, Special Uses in the AOC and FOC Zoning Districts, so as to add the adjective 'commercial' when describing telecommunication monopoles over 50 feet in height that are currently allowed as a Special Use in these Zoning Districts;

Sections 3-A-1-f and 3-A-2-f, Vegetated Property Buffer in the AOC and FOC Zoning Districts, so as to allow structures for noncommercial telecommunication antennae in required Vegetative Property Buffers provided that vegetation may be cut only within a six foot radius of the structure, but with no land disturbance;

Section 3-C-2, Supplementary Regulations for Uses in Various Districts, so as establish standards for 'Structures up to 80 feet high for noncommercial telecommunication antennae'.

Jesse Russell, Zoning Administrator, briefed the Supervisors on the proposed amendments to the zoning ordinance TA-11-05.

He put forth that in recognition of the growing necessity of internet access the proposed height was to allow the antennae to get above the tree canopy. The 80-foot maximum is not allowed in the set back area or vegetative buffer area. The six-foot buffer requires easement from the neighbor so as to address the fall zone.

At 6:45 pm Chairman Hobert opened the public comment portion of the public hearing.

Anne Caldwell, Planning Commissioner, urged the Board to approve the proposed amendment. She briefly described her frustration over the difficulties of internet access.

Jesse Russell added that there was a sunset clause of 3 years. Further, if there is 12 months of non-use, the tower must be removed.

Chairman Hobert noted that the Planning Commission had unanimously approved the amendment.

Supervisor Staelin noted that the Planning Commission had established a subcommittee to review the proposed amendment.

Chairman Hobert requested that a letter provided by Richard Thuss, citizen and Planning Commission member, be added to the record:

Dear Board Members:

I was out of town and unable to be present at your September meeting, and unfortunately I will also be out of town for your October meeting. I would like to express in writing my strong support for your approval to the text amendment associated with allowing individuals to erect towers to support their need for Internet service.

Currently, in many of the rural areas of the county, attaining even minimal Internet service is difficult. These areas are not provided service by cable providers or fortunate enough to have other high speed wired service. In some parts of the County, including my own residence, the availability of even dial up service is limited by the age of the landlines, and this problem will get increasingly aggravated as the major carriers pull back and eventually abandon their copper wire based systems in favor of either in ground fiber or wireless systems.

For those residents who cannot access the ground cable, fiber, or landline systems the only available options for Internet service are provided by wireless systems. Those systems include: 1) Satellite-based services using satellites in geosynchronous orbits; 2) Wireless services from the major cell phone carriers; and 3) Services generally known as WISPS using unregulated spectrum for Internet service.

All of these services have their limits, and one of primary limits is that they do not work at all or they can be severely degraded if the house-based unit does not have direct line of sight to the receiver. Heavy foliage in the line of sight to the carriers transmitting and receiving system severely degrade the signal and in many cases can reduce the signal strength to a level where the receivers at each end of the system can not lock on the signal. At my particular location, when my trees leafed out, the non-line of site system I had been using degraded to the point where 97% of the bits I transmitted were in error.

The only real solution to achieve minimal high-speed Internet service for some residents of the county is to be able to place their home based transmit/receive units on a tower in order to get above the tree line and achieve direct line of site to the provider's tower or satellite.

The text amendment calls for a maximum eighty-foot height of the home based towers, and this is based on getting the unit approximately ten feet above a seventy-foot high tree canopy to achieve direct line-of-sight. Because of the cost of these towers, individuals who need service will only erect a tower sufficient to get above the tree canopy.

High speed Internet service is becoming a necessity for living in the changing world. I strongly support this amendment to allow individuals in the county who need that service to be able to get it.

Thank you for your consideration, and if anyone has any need to talk to me on this issue, I can be reached via cell phone on

Richard Thuss

At 6:49 pm Chairman Hobert closed the public comment portion of the public hearing.

Supervisor Staelin moved to approve the text amendment TA-11-05 for a three-year period only beginning October 21, 2011 with a change adding to 3-A-1-f-3g buffer areas "structures less than 12-feet for non-commercial telecommunication antennae" and the same under No. 7 for "structures less than 12-feet". 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

ORDINANCE
2011-03ORD
(Approved October 18, 2011)

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

WHEREAS, improving telecommunication capabilities in rural areas of the County allowing poles up to 80 feet tall would be beneficial to the residents of rural areas of County; and

WHEREAS, such provisions should be allowed with Supplemental Regulations to minimized the negative impacts of such facilities;

NOW THEREFORE BE IT ORDAINED THAT the County Zoning Ordinance be amended:

Sections 3-A-1-a-2, 3-A-2-a-2, 3-A-3-a-2, Accessory Uses in the AOC, FOC, and Rural Residential Zoning Districts, so as to allow 'Structures up to 80 feet high for noncommercial telecommunication antennae';

Section 3-A-1-a-3 and 3-A-2-a-3, Special Uses in the AOC and FOC Zoning Districts, so as to add the adjective 'commercial' when describing telecommunication monopoles over 50 feet in height that are currently allowed as a Special Use in these Zoning Districts;

Sections 3-A-1-f and 3-A-2-f, Vegetated Property Buffer in the AOC and FOC Zoning Districts, so as to allow structures for noncommercial telecommunication antennae in required Vegetative Property Buffers provided that vegetation may be cut only within a six foot radius of the structure, but with no land disturbance;

Section 3-C-2, Supplementary Regulations for Uses in Various Districts, so as establish standards for 'Structures up to 80 feet high for noncommercial telecommunication antennae';

BE IT FURTHER ORDAINED THAT these amendments shall automatically terminate on October 18 of 2014.

See the following for specific changes.

ZONING ORDINANCE TEXT AMENDMENT

Text to be 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

2. Accessory Uses and Structures

Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structure, including:

c. Structures ~~less than 50~~ ***up to 80*** feet high for ~~commercial and~~ noncommercial ***telecommunication antennae***

3. Special Uses and Structures

n. Monopoles greater than 50 feet in height for ***commercial*** telecommunication antennae

3-A-1-f Vegetated Property Buffer

Except for those land uses listed as exempt, existing woody vegetation within 25 feet of all property lines shall be retained on parcels of less than 20 acres recorded after 21 February 2003.

Dead trees and shrubs may be removed.

Invasive alien species may be removed. Invasive alien species shall be those listed by the Virginia Department of Conservation and Recreation.

The following types of development may be located in the vegetated property buffer, with the written approval of the Zoning Administrator and a member of the Planning Commission (preferably a Commission member from the Election District where the subject property is

located), provided no more land, trees, or vegetation shall be disturbed than is necessary for construction, use, and maintenance of:

- a. driveways and access easements of not less than 30 feet,
- b. electric, gas, and telephone utility easements,
- c. on-site water facilities and sewage disposal systems, if the Planning Commission determines that not allowing such facilities or systems in the buffer would prohibit the practical development of such facilities or systems,
- d. public water and sewer lines (including water and sewer lines
- e. constructed by private interests for dedication to public agencies), ~~or~~
- f. fences, *or*
- g. *structures for noncommercial telecommunication antennae (vegetation may be cut only within a six foot radius of the structure, but no vegetation removal shall result in land disturbance except as necessary for the structure itself).***

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

3-A-2-a Permitted Uses and Structures

2. Accessory Uses and Structures

Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structure, including:

- c. Structures ~~less than 50~~ **up to 80 feet** high for ~~commercial~~ and noncommercial *telecommunication antennae*
3. Special Uses and Structures
 - j. Monopoles greater than 50 feet in height for *commercial telecommunication antennae*

3-A-2-f Vegetated Property Buffer

9. The following clearing activities shall be allowed in the no-clear areas:

- a. Dead trees and shrubs may be removed.
- b. Invasive alien species may be removed. Invasive alien species shall be those listed by the Virginia Department of Conservation and Recreation.
- c. The following types of development may be located in the vegetated property buffer, with the written approval of the Zoning Administrator and a member of the Planning Commission (preferably a Commission member from the Election District where the subject property is located), provided no more land, trees, or vegetation shall be disturbed than is necessary for construction, use, and maintenance of:
 1. driveways and access easements of not less than 30 feet,
 2. electric, gas, and telephone utility easements,
 3. on-site water facilities and sewage disposal systems, if the Planning Commission determines that not allowing such facilities or systems in the buffer would prohibit the practical development of such facilities or systems,
 4. public water and sewer lines (including water and sewer lines, constructed by private interests for dedication to public agencies),
 5. fences, *or*
 6. *forestry activities as described in 3-c2-k*
 - 7. *structures for noncommercial telecommunication antennae (vegetation may be cut only within a six foot radius of the structure, but no vegetation removal shall result in land disturbance except as necessary for the structure itself).***

3-A-3 Rural Residential District (RR)

3-A-3-a Permitted Uses and Structures

2. Accessory Uses and Structures

Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structure, including:

d. Structures up to 80 feet high for noncommercial telecommunication antennae

3-C SUPPLEMENTARY REGULATIONS

3-C-2 Uses in Various Districts

3-C-2-**Structures up to 80 feet high for noncommercial telecommunication antennae*

1. *Such structures and any attached antennae or equipment shall not exceed 80 feet in height.*
2. *Such structures shall be setback from all property lines and above ground utility easements a distance equal to the height of the structure or obtain a fall zone easement from adjoining property or easement owners that equals the height of the structure that exceeds the setback provided.*
3. *Such structures shall not be illuminated.*
4. *The visual impact of such structures and any associated facilities (including attachments, security fencing, utilities, and equipment shelters) shall blend with the natural environment of the surrounding area as determined by the Zoning Administrator.*
5. *Only non-commercial telecommunication antennae and /or equipment may be attached to such structures.*
6. *The owner of the structure shall dismantle the structure, and all associated structures, if the attached telecommunication antennae are non-functional for more the 12 consecutive months.*
7. *For the purposes of this section alone, the term 'Commercial' means any activity conducted with the intent of realizing a profit from the sale of goods or services to others; and the term 'Noncommercial' means any activity conducted with the intent of not realizing a profit from the sale of goods or services to others.*

Attest:
TA-11-05

David L. Ash, County Administrator

Supervisor Staelin left the meeting at 6:55 pm.

20. PH 11-12 TA-11-02

County Zoning Ordinance:

Sections 3-A-1-c, 3-A-2-c, 3-A-3-c, Minimum Setback Requirements in the AOC, FOC, and Rural Residential Zoning Districts so as to increase from 150 to 200 sq ft the size of a structure that would be considered an accessory structure with reduced property line setback requirements;

Section 3-E-1-d, Use Regulations in the Flood Plain Overlay District, so as increase the minimum size for a structure allowed in a 100-year flood plain from 150 to 200 square feet;

Section 3-C-2-h, Supplemental Regulations for Dwellings of less than 600 square feet of Heated Area, so that the 600 square foot measurement applies to Living Space (defined in the Building Code as: "Space within a dwelling unit utilized for living, sleeping, eating, cooking bathing, washing and sanitation purposes.") instead of Heated Area, which has no technical definition.

Jesse Russell, Zoning Administrator, briefed the Supervisors on the proposed amendments to the zoning ordinance TA-11-02.

At 7:00 pm Chairman Hobert opened the public comment portion of the public hearing. There being no persons present desiring the address the Supervisors regarding this matter the public comment portion of the public hearing was closed.

Vice Chairman Weiss moved to adopt TA-11-02 as presented. The motion carried as follows:

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

ORDINANCE
2011-04ORD
(Approved October 18, 2011)

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

WHEREAS, there has been a recent change in the International Building Code, which is adopted by the Commonwealth of Virginia for use in all local jurisdictions, to increase the minimum area of a structure not requiring a Building Permit from 150 square feet to 200 square feet.

WHEREAS, the Zoning Ordinance has used the 150 sq ft threshold as the definition of an accessory structure that is eligible for reduced property line setbacks.

WHEREAS, increasing the threshold for such accessory structures to 200 sq ft and would bring the Zoning Ordinance into conformance with the Building Code;

WHEREAS, the 150 sq ft threshold for structures is also used in the Flood Plain Overlay District;

WHEREAS, this overlay district establishes maximum and minimum size standards for the limited types of recreational and accessory structures allowed in the 100-year Flood Plain and a minimum

structure area was established so that a Building Permit would be necessary and the location and use of the structure could be verified;

WHEREAS, the Zoning Ordinance makes provision on parcels of six acres or more for dwellings with less than 600 sq ft as not requiring a Dwelling Unit Right in the AOC and FOC Zoning Districts;

WHEREAS, currently, the Ordinance describes the 600 sq ft as applying to 'Heated Area', which is not specifically defined;

WHEREAS, the Building Code has the term "Living Space which the Code defines as: "Space within a dwelling unit utilized for living, sleeping, eat, cooking bathing, washing and sanitation purposes."

WHEREAS, Having a specific definition in this instance, that is consistent with the Building Code, would aid in the equitable administration of this section.

NOW THEREFORE BE IT ORDAINED THAT, the County Zoning Ordinance is hereby amended, specifically:

Sections 3-A-1-c, 3-A-2-c, 3-A-3-c, Minimum Setback Requirements in the AOC, FOC, and Rural Residential Zoning Districts so as to increase from 150 to 200 sq ft the size of a structure that would be considered an accessory structure with reduced property line setback requirements.

Section 3-E-1-d, Use Regulations in the Flood Plain Overlay District, so as increase the minimum size for a structure allowed in a 100-year flood plain from 150 to 200 square feet.

Section 3-C-2-h, Supplemental Regulations for Dwellings of less than 600 square of Heated Area, so that the 600 square foot measurement applies to Living Space (defined in the Building Code as: "Space within a dwelling unit utilized for living, sleeping, eat, cooking bathing, washing and sanitation purposes.") instead of Heated Area, which has no technical definition.

See the following for specific changes.

ZONING ORDINANCE TEXT AMENDMENT

Text to be 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-c Minimum Setback Requirements

	Parcels with less than 1 acre	Parcels with at least 1 but less than 4 acres	Parcels with at least 4, but less than 20 acres	Parcels with 20 acres and greater
From all property lines (structures 150 <i>200</i> sq. ft. or less)	10 feet 5 feet	25 feet 10 feet	50 feet 50 feet	75 feet 75 feet

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

3-A-2-c Minimum Setback Requirements

	Parcels with less than 1 acre	Parcels with at least 1 but less than 4 acres	Parcels with at least 4, but less than 20 acres	Parcels with 20 acres and greater
From all property lines (structures 150 200 sq. ft. or less)	10 feet 5 feet	25 feet 10 feet	50 feet 50 feet	75 feet 75 feet

3-A-3 Rural Residential District (RR)

3-A-3-c Minimum Setback Requirements

	Parcels with less than 15,000 sq. ft.	Parcels with 15,000 sq. ft. or more
From rear property lines (structures 150 200 sq. ft. or less)	25 feet 5 feet	35 feet 10 feet

3-E SCHEDULE OF OVERLAY DISTRICT REGULATIONS

3-E-1 Flood Plain District (FP)

3-E-1-d Use Regulations in the Flood Plain District

In the flood plain district the following provisions shall apply:

4. The following uses may be permitted, with issuance of a Zoning and/or Building Permit, in the Flood Plain District limited by the regulations imposed by this section, the underlying zoning district, and the Uniform Statewide Building Code:

~~c. Recreational uses limited to parks, playgrounds, golf courses, driving ranges, boat landings, docks, picnic grounds, and transient amusement enterprises, provided such facilities are not usable for human habitation.~~

1. Structures with walls related to such uses shall not exceed an aggregate floor area of five hundred (500) square feet per parcel or have less than ~~one hundred and fifty (150)~~ **two hundred (200)** square feet. Such structures shall be set back at least 100 feet from the Shenandoah River.

2. Structures without walls related to such uses shall not exceed an aggregated floor area of 1500 square feet per parcel or have less than ~~150~~ **200** square feet. Such structures' roof framing shall be at least one foot above the 100-year flood elevation; however, the structures' height shall not be more than 15 feet above grade. Such structures shall be set back at least 500 feet from the Shenandoah River.

d. Accessory structures not more than 500 square feet or less than ~~150~~ **200** square feet in floor area to include roadside and park stands for the sale of food, fruit and vegetables, fishing bait, and boat rental, provided such facilities are not usable for human habitation. However, no structure for such uses shall be allowed within 100 feet of the Shenandoah River.

3-C SUPPLEMENTARY REGULATIONS

Uses in Various Districts

3-C-3 Supplementary Regulations for Development in Annexation Area B

3-C-2-h Dwellings of less than 600 square feet ~~heated area~~ of *Living Space*.

One such dwelling, occupied by not more than two people, is allowed on parcels of six acres or more. Such dwellings shall be on the same parcel as a Single-Family Detached Dwelling Unit with more than 600 square feet of ~~heated area~~ *Living Space*.

For parcels not under permanent conservation easement, such dwellings shall be located within 300 feet of a Single-Family Detached Dwelling Unit with more than 600 square feet of heated area ***Living Space. Living Space is space within a dwelling utilized for living, sleeping, eat, cooking bathing, washing and sanitation purposes.***

Attest:
TA-11-02

David L. Ash, County Administrator

21. PH 11-13 TA-11-03

County Zoning Ordinance;

Section 3-E-3-e, Certificates of Appropriateness (in Historic Overlay Districts), so as to require the review of changes to the roof or windows of contributing buildings (in addition to changes that require a Building Permit) to be reviewed by the full Historic Preservation Commission instead of the Commission's Executive Committee. The changes also edit the sections for clarity, establish a time limit for action, and to specifically state that the public hearing notice requirements shall follow the requirements for all other public hearings, as described in Zoning Ordinance section 10-E;

Section 3-E-3-f, Appeals, which references Virginia Code Section 15.2306, which allows the demolition of an historic structure if it is offered for "a price reasonably related to its fair market value", so as to establish a method to define this price.

Jesse Russell, Zoning Administrator, briefed the Supervisors on the proposed amendments to the zoning ordinance TA-11-03.

Supervisor Byrd expressed concern about the potential infringement of property rights in the proposed text amendment.

In response to Supervisor Byrd's concerns, Jesse Russell and Vice Chairman Weiss assured that the proposed amendment places decisions in these matters before a larger body than is currently responsible for review.

At 7:10 pm Chairman Hobert opened the public comment portion of the public hearing. There being no persons present desiring the address the Supervisors regarding this matter the public comment portion of the public hearing was closed.

Supervisor Byrd moved to approve the zoning ordinance text amendment TA-11-03. 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	- Absent

ORDINANCE
2011-05ORD
(Approved October 18, 2011)

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

WHEREAS, currently, the full Commission reviews applications for Certificates of Appropriateness in these overlay districts for the erection of any building or structure or the major alteration or restoration of a contributing building or structure;

WHEREAS, the Commission's Executive Committee (Chair and Vice-chair) reviews for any degree of alteration or restoration of a non-contributing building or structure, for a minor alteration or restoration of a contributing building or structure, or for the erection of a sign. A minor alteration is defined as something that requires a Building Permit.

WHEREAS, changes or replacements to roofs and windows do not require a Building Permit; however, such changes can significantly alter the character of historic structures;

WHEREAS, it is the consensus of the Historic Preservation Commission that proposals dealing with roofs and windows should also come to the full Commission;

WHEREAS, clarifications are needed regarding the public hearing notice requirements for applications coming to the full Commission so that such applications follow the standard procedure for all other public hearing notices;

WHEREAS, the Appeals Section regarding actions in Historic Overlay Districts references Virginia Code Section 15.2306, which allows the demolition of an historic structure if it is offered for "a price reasonably related to its fair market value";

WHEREAS, there is no specific definition as to the method of determining a price reasonably related to its fair market value;

WHEREAS, a property's assessed value is by state code to be fair market value; and

WHEREAS, providing a 20% range in property value allows for changes in market conditions and addresses the portion of the Virginia Code section that says the price is to be "reasonably related" to fair market value;

NOW THEREFORE BE IT ORDAINED THAT the County Zoning Ordinance be amended:

Section 3-E-3-e, Certificates of Appropriateness (in Historic Overlay Districts), so as to require the review of changes to the roof or windows of contributing buildings (in addition to changes that require a Building Permit) to be reviewed by the full Historic Preservation Commission instead of the Commission's Executive Committee. The changes also edit the sections for clarity and

to specifically state that the public hearing notice requirements shall follow the requirements for all other public hearings, as described in Zoning Ordinance section 10-B.

Section 3-E-3-f, Appeals, which references Virginia Code Section 15.2306, which allows the demolition of an historic structure if it is offered for "a price reasonably related to its fair market value", so as to define this phrase as meaning a price within 20% of the current property value assessed by the Clarke County Commissioner of the Revenue.

See the following for specific changes.

ZONING ORDINANCE TEXT AMENDMENT

Text to be added showed in ***bold Italics*** Text to be deleted showed ~~struck through~~

3-E-3 Historic Districts (H)

3-E-3-e Certificate of Appropriateness

1. Erection, Reconstruction, Alteration, or Restoration in an Historic District

- a. The Preservation Commission shall review a Certificate of Appropriateness before any of the following activities may occur within the boundaries of a Historic District:
 1. the erection of any building or structure; or
 2. major alteration or restoration of a contributing building or structure.
- b. The Executive Committee of the Preservation Commission, ***comprised of the Commission's Chair and the Vice-Chair***, shall ~~approve~~ review a Certificate of Appropriateness before any of the following activities may occur within the boundaries of a Historic District:
 3. any degree of alteration or restoration of a non-contributing building or structure;
 4. minor alteration or restoration of a contributing building or structure, or
 5. the erection of a sign.

Public notice ***per section 3-E-3-(4), Public Notice Required***, is not required before action by the Executive Committee ***prior to issuance of a Certificate of Appropriateness for any of the three activities listed above***. If the Executive Committee finds that the proposed activity is not compatible with the Historic District, as described in section ~~(b) 3-E-3-e-(3)~~ below, ***Criteria for Approval of Certificate of Appropriateness***, the matter shall be referred to the full Preservation Commission for consideration.

- c. A major alteration of a building or structure ***shall include any work that*** requires a building permit, ***or the repair or replacement of windows or roofs***. A minor alteration of a building or structure does not require a building permit ***or does not involve the repair or replacement of windows or roofs***. ~~The Executive Committee of the Preservation Commission shall be comprised of the Chair and the Vice Chair.~~
- d. A decision ***of the Executive Committee*** to approve a Certificate may be appealed to the Preservation Commission ***by any aggrieved party (except as noted below)*** within 10 working days of the decision. A decision of the Preservation Commission may be appealed to the Board of Supervisors ***per section 3-E-3-f, Appeals***. ~~Public notice is required before action by the Preservation Commission and/or Board of Supervisors.~~ The Chair of the Commission shall inform the Historic Preservation Commission of any Executive Committee approval in writing, within five working days ***of the action. A member of the Commission may request, in writing, that the full Commission review an approval of the Executive Committee. Such request for review must be submitted to the Zoning Administrator within five working days of action notification.***

- e. Approval of a Certificate certifies that such erection, reconstruction, alteration or restoration is compatible with the historic landmarks, buildings, or structures within the District, based upon criteria listed in subsection 3-E-3-e-(3). This section shall not be construed as to include normal repairs and maintenance such as repainting, provided such repair and maintenance activity does not include any architectural changes or alterations.
6. Public Notice Required Prior to the issuance of ~~any~~ Certificate of Appropriateness
The Commission shall provide public notice *in accord with section 10-E, Public Hearings of an application for a Certificate of Appropriateness for any activity that is initially heard by the full Commission.* ~~same, which notice shall include the date, time and location of the Commission meeting at which any such application will be considered, as well as a reference to the location and activity for which any such Certificate is sought. Such notice shall appear at least one time in a newspaper having general circulation in Clarke County, and shall appear no less than seven days prior to the date of each such meeting.~~

3-E-3-f Appeals

Any decision made under the provisions of this Section may be appealed to the Board of Supervisors by any party aggrieved by such decision and may be further appealed pursuant to Section 15.2-2306, Code of Virginia (1950), as amended, *which allows demolition if structure is offered for sale at a price reasonably related to its fair market value. Such price is defined as being within 20% of the current property value assessed by the Clarke County Commissioner of the Revenue.*

Attest:
TA-11-03

David L. Ash, County Administrator

22. PH 11-15 TA-11-06

County Zoning Ordinance: Section 6-E, Procedures for Site Plans, so as to change the number and size of site plans submitted with an initial application and after approval, require the submission of digital copies, and establish standards for such digital submissions; and

County Subdivision Ordinance: Section 4, Procedures for Preliminary Subdivision Plat Application and Submission of Record Plat, so as to change the number and size of plats submitted, require the submission of digital copies, and establish standards for such digital submissions.

Jesse Russell, Zoning Administrator, briefed the Supervisors on the proposed amendments to the zoning ordinance TA-11-06 allowing digital submissions.

At 7:19 pm Chairman Hobert opened the public comment portion of the public hearing. There being no persons present desiring the address the Supervisors regarding this matter the public comment portion of the public hearing was closed.

Vice Chairman Weiss moved to adopt zoning ordinance and county subdivision ordinance text amendment TA-11-06. 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	-	Absent

**ORDINANCE
2011-06ORD**

(Approved October 18, 2011)

WHEREAS, the Clarke County Zoning and Subdivision Ordinances are established to protect the health, safety, and welfare of the community;

WHEREAS, changing submittal requirements for Site Plans and Subdivisions so as to increase the number of paper copies because of the number of reviewing agencies, but reducing the size of most of these copies for distribution to the Planning Commission would result in a more effective and efficient review of applications; and

WHEREAS, requiring the submittal of digital copies and establishing specifications for such digital submittal would aid the incorporation of such submittals into the County's database;

NOW THEREFORE BE IT ORDAINED THAT the County Zoning Ordinance and Subdivision Ordinance be amended:

Section 6-E, *Procedures for Site Plans*, so as to change the number and size of site plans submitted with an initial application and after approval, require the submission of digital copies, and establish standards for such digital submissions; and

County Subdivision Ordinance:

Section 4, *Procedures for Preliminary Subdivision Plat Application and Submission of Record Plat*, so as to change the number and size of plats submitted, require the submission of digital copies, and establish standards for such digital submissions.

See the following for specific changes.

ZONING ORDINANCE TEXT AMENDMENT

Text to be added showed in ***bold Italics*** Text to be deleted showed ~~struck through~~

- 6 SITE DEVELOPMENT PLANS
- 6-E PROCEDURES
- 6-E-2 Application
- 6-E-2-a Application for approval of a site development plan shall be made by submitting an application form, ~~45~~ ***paper*** copies of the site plan, ***a digital or electronic copy of the site plan (Portable***

Document Format (PDF), digital files (as described below) and the applicable fee, to the Agent.

1. *A total of 21 paper copies shall be submitted, 15 copies on 11 by 17 inch paper and six copies on 24 by 36 inch paper.*
2. *The digital files shall be provided in one of the following formats:
DXF (AutoCAD ASCII Drawing Exchange File)
ArcGIS shapefile
ArcGis Personal geodatabase*
3. *The digital files shall provide individual layers for the following features:
Site boundary
Parcel lot lines
Lot numbers
Tax Map numbers
Streets and Roads
Road Right of Ways
Road names
Building footprints
Utilities and Lines
Easements*
4. *The digital files shall be submitted in the following projection:
Projected Coordinate System: NAD 1983 State Plane Virginia North FIPS 4501 Feet
Projection: Lambert Conformal Conic
False Easting: 11482916.66666666
False Northing: 6561666.66666667
Central Meridian: -78.50000000
Standard Parallel: 1:38.03333333
Standard Parallel: 2:39.20000000
Latitude Of Origin: 37.66666667
Linear Unit: Foot US
Geographic Coordinate System: GCS North American 1983
Datum: D North American 1983
Prime Meridian: Greenwich
Angular Unit: Degree
A minimum of two property corners shall be identified by xy coordinates in order to "tie to" existing GIS layers.
A Statement indicating the source of the northern meridian and amount of declination used.
The Zoning Administrator may modify the number and size of paper copies or digital copies and may modify the format and features for such digital information based on unique circumstances.*

6-E-4 Compliance with Conditions

A Site Plan shall become null and void if it is not submitted, in a form complying with all conditions established by the Planning Commission or Board of Supervisors, to the Planning Commission or Board of Supervisors Chair and Zoning Administrator for signature within six months from the date of approval by the Planning Commission or Board of Supervisors. The Planning Commission or Board of Supervisors may extend this time limit upon written request of the property owner. *Such submittal shall include six copies on 24 by 36 inch paper, a digital or electronic copy of the site plan (Portable Document Format (PDF), digital files*

(see section 6-E-2-a-2 thru 5 for format, features, and projection). The Zoning Administrator may modify the number of paper copies or digital copies and may modify the format and features for such digital information based on unique circumstances.

SUBDIVISION ORDINANCE TEXT AMENDMENT

Text to be added showed in ***bold Italics*** Text to be deleted showed ~~struck through~~

4 PROCEDURE FOR SUBDIVISION APPROVAL

4-B APPLICATION

4-B-4 Preliminary Plat.

4-B-4-(a) ~~Fifteen~~ ***Twenty-one*** blue line or black line prints (***fifteen copies on 11 by 17 inch paper and six copies on 24 by 36 inch paper***), a digital or electronic copy of the plat (***Portable Document Format (PDF), and digital files (as described below)***) shall be submitted. ***For digital data standard transfer media will be accepted including CD, DVD, email or ftp.***

1. ***The digital files shall be provided in one of the following formats:***

DXF (AutoCAD ASCII Drawing Exchange File)
ArcGIS shapefile

ArcGis Personal geodatabase

2. ***The digital files shall provide individual layers for the following features:***

Site boundary

Parcel lot lines

Lot numbers

Tax Map numbers

Streets and Roads

Road Right of Ways

Road names

Building footprints

Utilities and Lines

Easements

3. ***The digital files shall be submitted in the following projection:***

Projected Coordinate System: NAD 1983 State Plane Virginia North FIPS
4501 Feet

Projection: Lambert Conformal Conic

False Easting: 11482916.66666666

False Northing: 6561666.66666667

Central Meridian: -78.50000000

Standard Parallel: 1:38.03333333

Standard Parallel: 2:39.20000000

Latitude Of Origin: 37.66666667

Linear Unit: Foot US

Geographic Coordinate System: GCS North American 1983

Datum: D North American 1983

Prime Meridian: Greenwich

Angular Unit: Degree

A minimum of two property corners shall be identified by xy coordinates in order to "tie to" existing GIS layers.

A Statement indicating the source of the northern meridian and amount of declination used.

The Zoning Administrator may modify the number of paper prints or digital copies and may modify the format and features for such digital information based on unique circumstances.

4-B-4-(b) *The preliminary plat and all required supporting documents submitted shall conform in all ways with the requirements set forth in Article 7, Section B of this Ordinance.*

4-I SUBMISSION OF RECORD PLAT

4-I-1 After approval of the Preliminary Plat, ~~15~~ *paper* copies, *a digital or electronic copy of the plat (Portable Document Format (PDF), and digital files (See section 4-B-4-(a) 1 thru 4)* of the Record Plat at least four of which shall evidence original signatures for all required certificates and approvals, shall be submitted to the Zoning Administrator not less than 15 days prior to the Commission meeting at which consideration thereon is desired.

1. A total of twenty-one paper copies shall be submitted, fifteen copies on 11 by 15 inch paper and six copies on 18 by 24 inch paper. These six copies shall evidence original signatures for all required certificates and approvals.

2. For digital data standard transfer media will be accepted including CD, DVD, email or ftp.

The Zoning Administrator may modify the number of paper prints or digital copies and may modify the format and features for such digital information based on unique circumstances.

Attest:
TA-11-06

David L. Ash, County Administrator

23. PH 11-16 TA-11-07

County Zoning Ordinance:

Section 1, Authority, Purposes and Intent, Planning Commission, and Zoning Administrator, and Section 7, Appeals, Variance and Zoning Map Interpretations, so as to shift the sections regarding modifications that can be approved by the Zoning Administrator from Section 1 to Section 7;

Sections 3-A-1-d, 3-A-2-d, 3-A-d, Maximum Height of All Structures in the AOC, FOC, and Rural Residential Zoning Districts and Section 4-H-3, Height Regulations Exceptions, so as to shift from Section 4-H-3 to Section 3-A the 25-foot height limit for structures on parcels narrower than 75 feet;

Section 3-C-2, Supplementary Regulations for Uses Various Districts and Section 4-H-3, Height Regulations Exceptions, so as to shift from Section 4-H-3 to Section 3-C-2 the 18 foot, six-inch height limit for Gasoline Pump Canopies;

Section 4-H, Height Regulations Exceptions, so as to shift from Section 4-H-3-c to 4-H-3-a the height exception for parapet walls and to increase the exception by 6 inches to 42 inches to be consistent with the Building Code:

Section 4-J-6, Exception process to requirement that off-street parking be located on the same lot as principal use, so as to change the entity that could approve such an exception from the Board of Zoning Appeals to the Planning Commission when it reviews a property's site plan;

Section 9-B-106, definition of the term 'Livestock', so as to define livestock as hoofed animals and the order of animals that includes ostriches and emus.

Jesse Russell, Zoning Administrator, briefed the Supervisors on the proposed amendments to the zoning ordinance TA-11-07.

At 7:25 pm Chairman Hobert opened the public comment portion of the public hearing. There being no persons present desiring the address the Supervisors regarding this matter the public comment portion of the public hearing was closed.

Supervisor Byrd moved to adopt the amendments to county zoning ordinance TA-11-07 as presented. The motion carried as follows:

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

**ORDINANCE
2011-07ORD
(Approved October 18, 2011)**

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

WHEREAS, shifting the provision that allows the Zoning Administrator to make minor modifications to Zoning Ordinance requirements from the section describing the Zoning Administrator to the section describing other forms of appeals, variances, and interpretations places these provisions with similar provisions would make the ordinance more usable.

WHEREAS, shifting the ordinances related to specific height limit exceptions to more logical locations in the ordinance and to make such standards, in regard to parapets, would be consistent with the current Building Code.

WHEREAS, changing the entity, from the Board of Zoning Appeals to the Planning Commission, which can grant an exception to the requirement that off-street parking be on the same lot as the principal use would allow such decisions to be made in the context of a Site Plan review process.

WHEREAS, changing the definition of livestock from a list of types of animals, some of which are incorrect, to simply hooved animals plus adding the order of animals that includes ostriches and emus would make this definition more accurate and reflective of current practices.

NOW THEREFORE BE IT ORDAINED THAT the County Zoning Ordinance be amended:

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

Section 1, Authority, Purposes and Intent, Planning Commission, and Zoning Administrator, and Section 7, Appeals, Variance and Zoning Map Interpretations, so as to shift the sections regarding modifications that can be approved by the Zoning Administrator from Section 1 to Section 7;

Sections 3-A-1-d, 3-A-2-d, 3-A-d, Maximum Height of All Structures in the AOC, FOC, and Rural Residential Zoning Districts and

Section 4-H-3, Height Regulations Exceptions, so as to shift from Section 4-H-3 to Section 3-A the 25-height limit for structures on parcels narrower than 75 feet;

Section 3-C-2, Supplementary Regulations for Uses Various Districts and

Section 4-H-3, Height Regulations Exceptions, so as to shift from Section 4-H-3 to Section 3-C-2 the 18 foot, six-inch height limit for Gasoline Pump Canopies:

Section 4-H, Height Regulations Exceptions, so as to shift from Section 4-H-3-c to 4-H-3-a the height exception for parapet walls and to increase the exception by 6 inches to 42 inches to be consistent with the Building Code:

Section 4-J-6, Exception process to requirement that off-street parking be located on the same lot as principal use, so as to change the entity that could approve such an exception from the Board of Zoning Appeals to the Planning Commission when it reviews a property's site plan;

Section 9-B-106, definition of the term 'Livestock', so as to define livestock as hooved animals and the order of animals that includes ostriches and emus.

See the following for specific changes.

ZONING ORDINANCE TEXT AMENDMENT

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

Text to be deleted showed ~~struck through~~

1 AUTHORITY, PURPOSES AND INTENT, PLANNING COMMISSION, AND ZONING ADMINISTRATOR

1-D ZONING ADMINISTRATOR

~~1-D-6 Administrative Modification of Zoning Ordinance Provisions by Zoning Administrator~~

7 APPEALS, VARIANCES, AND ZONING MAP INTERPRETATIONS, *AND MODIFICATIONS,*

~~7-A BOARD OF ZONING APPEALS ORGANIZATION AND PROCEDURES~~

8 *APPEALS, VARIANCE, AND ZONING MAP INTERPRETATIONS*

7-A-1 Membership Board of Zoning Appeals – Organization and Procedures

7-A-1-a Membership
and following

~~7-B~~ **7-A-2** Appeals of Administrative Determinations

~~7-C~~ **7-A-3** Variance

- 7-D **7-A-4** Zoning District Map Interpretations
- 7-E **7-A-5** Not empowered to Rezoning Property
- 7-B **MODIFICATIONS**

3 DISTRICT REGULATIONS

3-A SCHEDULE OF DISTRICT REGULATIONS

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

3-A-1-d Maximum Height of All Structures: 35 feet, except *on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and* as otherwise provided

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

3-A-2-d Maximum Height of All Structures: 35 feet, except *on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and* as otherwise provided

3-A-3 Rural Residential District - RR

3-A-3-f Maximum Height of All Structures: 35 feet, except *on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and* as otherwise provided

3-C SUPPLEMENTARY REGULATIONS

3-C-2 Uses in Various Districts

3-C-2-* Gasoline Pump Canopies: Canopies covering gasoline pumps shall not exceed a height of 18 feet, 6 inches.

4-H HEIGHT REGULATIONS

4-H-3 Height Limitations

4-H-3-a Exceptions:

1. Agricultural structures shall not exceed 50 feet in height, (except for silos, which shall not exceed 100 feet in height). However, in no event shall the height of agricultural structures exceed the distance from the structure to the nearest lot line.
2. Freestanding flagpoles may exceed the maximum height limit established in each zoning district by 50%, but shall not exceed in height the distance from the nearest lot line.
3. Water tanks shall not exceed in height the distance from the nearest lot line.

~~4-H-3-b~~

4. ~~Exceptions:~~ Towers, gables, penthouses, scenery lofts, residential chimneys, cupolas, spires, flagpoles, similar structures, smokestacks, and necessary mechanical appurtenances, may be erected on a building to a height greater than the limit established for the district in which the building is located; provided, that no such exception shall cover at any level more than fifteen percent of the area of the roof on which it is to be erected; and provided, further, that no such exception shall exceed maximum height established in the district by more than forty percent.

5. A parapet wall, cornice, or similar projection may exceed the height limit established for each zoning district by not more than three feet, six inches.

~~4-H-3-c Parapet Walls, Cornices, etc.: A parapet wall, cornice or similar projection may exceed the height limit established for the district by not more than three feet, but shall not extend more than three feet above the roof level of any building.~~

~~4-H-3-d Gasoline Pump Canopies: Canopies covering gasoline pumps shall not exceed a height of 18 feet, 6 inches.~~

~~4-H-3-e Structures in the AOC, FOC, or Rural Residential Zoning District on parcels with a width of less than 75 feet shall not exceed a height of 25 feet.~~

4 GENERAL REGULATIONS

4-J OFF-STREET PARKING

4-J-6 To be Located on Same Lot as Principal Use: Exceptions

4-J-6-a General: Required off-street parking facilities shall be on the same lot with the principal use or structure except as provided below.

4-J-6-b Exceptions: Where it is impractical to provide all or part of required off-street parking *for non-single family uses* on the same lot, exceptions may be permitted by the ~~Board of Zoning Appeals~~ *Planning Commission*. *Such an exception shall be considered only in conjunction with the review of a Site Plan, as described in Section 6* ~~to allow off street parking within the distances indicated in Section 4-J-6c below, as measured by normal pedestrian routes, subject to:~~

1. Buffering and design and improvement standards applying generally to off-street parking;
2. Special conditions and safeguards called for in the circumstances of the case; and
3. Requirements of satisfactory assurance that such required parking will remain available for the use or structure, or that equivalent similarly approved parking will be provided before such parking is diminished in whole or in part.

~~4-J-6-c Distances: The Board of Zoning Appeals may permit off lot parking not more than the indicated distance from the uses served, and in the same district or in a district appearing after said district in the Schedule of District Regulations. Distances shall be measured along pedestrian routes, and from the nearest portion of the off street parking facility to an entrance to the use served.~~

~~Maximum Distance to Off-Site Parking Facility (feet):~~

One and two family	_____	Must be on same lot
Other residential	_____	300
All other uses	_____	600

9 DEFINITIONS

9-B DEFINITIONS

9-B-106 LIVESTOCK: Includes all domestic or domesticated *hoofed animals*; ~~bovine animals, including but not limited to cattle; caprine animals, including but not limited to sheep; equine animals, including but not limited to horses; including but not limited to goats; porcine animals, including but not limited to swine,~~ *and Struthioniformes order of animals (also known as ratite animals), including but not limited to ostriches and emus.*

Attest:

TA-11-07

David L. Ash, County Administrator

24. Adjournment

There being no further business to be brought before the Board at 7:25 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 Monday, November 21, 2011 at 1:00 p.m. in the Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, Virginia.

ATTEST: October 18, 2011

J. Michael Hobert, Chair

David L. Ash, County Administrator

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