

CLARKE COUNTY BOARD OF SUPERVISORS  
August 19, 2008 Regular Meeting 1:00 p.m.  
Board of Supervisors Meeting Room

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Board of Supervisors' Meeting Room, 2<sup>nd</sup> Floor Circuit Courthouse, 102 N. Church Street, Berryville, Virginia on Tuesday, August 19, 2008.

Board Members Present

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

Staff Present

David Ash, Chuck Johnston, Tom Judge

Others Present

Dr. Michael Murphy, Randy Buckley, Ian Williams, Laura Oleniacz, and other citizens

Call to Order

Chairman Staelin called the meeting to order at 1:05 p.m.

Adoption of Agenda

Supervisor Byrd moved to approve the agenda as modified:

- Delete VDOT. VDOT attended the Work Session and will not be present at the Regular Meeting.
- Add to Finance: Discussion of Employee Mileage Reimbursement
- Add to Finance: Governor's Announcement of Additional Budget Cuts
- Add to Miscellaneous: Status Report on Lift Station Replacement and Boyce Wastewater Treatment Plant Expansion – Mike Legge
- Add to Miscellaneous: Update on Dump Trucks / Dumping

The motion carried by the following vote:

John R. Staelin, Chair	-	Aye
J. Michael Hobert, Vice Chair	-	Aye

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

Supervisor Weiss joined the meeting at 1:07 pm.

### Approval of Minutes

Supervisor Byrd moved to approve the minutes for July 7, 2008 Work Session, July 15, 2008 Regular Meeting, July 28, 2008 Adjourned Meeting as modified.

- Pg 548: Ed Novak from Long Marsh to Russell District
- Pg 556: Remove the word orchard under the VDOT section - Route 340 past Pigeon Hill/Milton Valley
- Pg 558: By consensus, the Supervisors requested that the proposed changes specific to tenant houses which would permit the use of dwelling unit rights for tenant houses without requiring subdivision of a parcel should be further reviewed and a recommendation provided by the Planning Commission.
- Pg 574: Supervisor Weiss moved to approve TA-08-02 as modified. [Deleting ~~get resolution~~]

The motion was approved by the following vote:

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

### Consent Agenda

Northwestern Community Services FY09 Performance Contract

Consolidated Maintenance Agreement

**DRAFT for SB Approval on 7-21-08**  
Consolidated Maintenance Management Agreement  
Between  
Clarke County School Board  
And  
Clarke County Board Of Supervisors

This Agreement made and entered into this \_\_\_\_ day of July 2008, by and between the Clarke County School Board (hereinafter "School") and the Clarke County Board of Supervisors (hereinafter "Government").

**General:**

- A. **Consolidation:** The Government and the School will consolidate all maintenance activities other than school transportation, vehicle maintenance, and custodial duties as specified in Attachment A.
- B. **Director of Maintenance, Scope:** The Government and the School agree that the Maintenance Director for the Government shall supervise the consolidated buildings and grounds maintenance functions for both the Government and the School and shall direct the maintenance activities and capital projects other than construction of new school buildings or extensive renovation of existing school buildings.
- C. **Location:** The Maintenance Director and the Maintenance Office Manager shall relocate to the Maintenance Building offices vacated by the School Maintenance Department and all maintenance activities for schools and government shall be coordinated from that location.
- D. **Use of Vehicles, Tools, and Equipment:** Personal property (tools, tractors, attachments, vehicles and other such equipment) owned by either party will remain the property of that party but may be used in the performance of work requested by either the School or the Government. The Maintenance Director shall keep appropriate records to allocate the value of such property owned by one party and employed to benefit the other. If shared equipment is to be replaced or acquired, the appropriate share shall be agreed upon by the parties prior to replacement or acquisition.
- E. **Supplies:** The Maintenance Director shall ensure that necessary maintenance and custodial supplies for both the School and the Government are ordered and maintained so that distribution of necessary supplies is provided in a timely manner and properly accounted for.
- F. **Liability and Insurance:** Each party agrees to maintain liability, casualty and such other insurance as may be required by law to protect the party from loss or damage and to hold harmless the other party for any loss arising out of this agreement.
- G. **Dispute Resolution:** The parties agree that any dispute as to priorities, assignment of work, or allocation of costs between the parties shall be first referred to a committee consisting of the Joint Administrative Services Director, the School Superintendent, and the County Administrator in an effort to reach a consensus. Should consensus not be reached, the issue will be referred to the Joint Administrative Services Board. If further review is required, the matter will be presented to the respective Governing Bodies.
- H. **Limits of Agreement:** This agreement is intended to cover those maintenance services currently undertaken and funded by the parties to this agreement. Additional facilities and or services may be added to this agreement provided the parties agree.

**Employee Supervision:**

- I. **Supervision of Employees:** The Maintenance Director shall supervise and direct the daily activities of School employees so designated by the school board to operate under his direction.
- J. **Assignment of Costs:** The Maintenance Director shall track the hours and activities of the employees under his direction and shall keep a record of all hours and costs attributable to activities or projects undertaken on behalf of the School or the Government and shall assign hours and costs to the appropriate party.
- K. **Employees and Projects:** The School shall provide a list of employees to be supervised and a list of the capital projects to be completed in the upcoming year.
- L. **Assignment of Work:** The Maintenance Director shall assign work to employees based upon his best judgment of skill and ability in order to meet the priorities established by the School and the Government consistent with the priorities and budgets established by each.
- M. **Means and Methods:** The Maintenance Director shall review the means and methods used to accomplish the work requested by the parties to this agreement and shall inform the parties when, in his opinion, the work requested can be more efficiently achieved by changing the means or method.
- N. **Coordination and Assignment of Employees:** The Parties acknowledge that the employees to be supervised by the maintenance director are employed by different agencies. To the extent possible, employees will be assigned similar work schedules. Should any employee supervised by the maintenance director be required to work on a holiday or other day on which the general cessation of work has been declared by one of the parties, the employee shall be provided an alternate day off or compensated by the employing agency in accordance with that agency's policy.

**Documents and Records:**

- O. **Records:** The allocation of man-hours and costs attributable to each party shall be provided to the Joint Administrative Services Director as required in order to allow the financial reports to be routinely updated. Reports shall be modified or created as necessary to provide necessary accounting information.
- P. **Work Order System:** The Maintenance Director shall establish a work order request system to assign and track maintenance requests made by individuals authorized by the School Board to make such requests.
- Q. **Work Order Authorization:** The School shall provide to the Maintenance Director, the names and/or positions that are authorized to request work or service to be provided.
- R. **Budgetary Compliance:** The Maintenance Director shall review work orders and other requests for service to ensure that work requested falls within the guidelines and budgets established by the School and the Government. Should a question arise as to the authority or the funding to undertake a particular activity, the Maintenance Director shall request approval from the Superintendent or the Administrator as appropriate. If approval is given, the work

shall be completed and the costs attributed in the same manner as other costs. No charges shall be made against the budget assigned to the Maintenance Director without the advance knowledge of the Maintenance Director.

- S. **Recommendations on maintenance or repair:** The Maintenance Director shall periodically survey the physical plant facilities and shall suggest to the School or the Government such repair, maintenance and preventative measures as he may believe to be necessary or advisable, along with his estimate of the probable cost of completing the work and his opinion as to whether the work can be completed with Government or school employees or will require contracted services.
- T. **Cost and Impact Estimates:** The Maintenance Director shall review requests for repair, maintenance, or capital improvements and provide the School and the Government with an estimate of the probable cost of completing the work and with his opinion of the suitability of the proposed work and any impact on future operating, maintenance, or repair costs.
- U. **Budget Preparation:** The Maintenance Director shall assist the School and the Government in defining the scope and in projecting the cost of desired capital, maintenance, and repair projects for budget purposes.
- V. **Extraordinary Cost Assignment:** The Maintenance Director shall make reasonable efforts to operate within the budgets established by the parties and to schedule work so as to minimize cost and disruption. Overtime, premium pay, express delivery charges or other costs incurred in addressing emergency situations or required to perform work not previously scheduled or requested shall be allocated to the requesting party.
- W. **Default Cost Assignment:** The Maintenance Director shall keep the records necessary to allocate hours worked and costs associated with work or projects completed for the School or the Government. To the extent that employee hours or project costs are not accounted for, they shall default to the original agency.

**Work Performed By Others:**

- X. **Other Projects, Authority and Responsibility:** The School shall provide the Maintenance Director a list of any maintenance/custodial duties and/or projects to be performed by, or supervised by other school personnel so that clear lines of authority and responsibility are maintained. No improvements, repairs, additions or modifications shall be performed by others unless approved by the schools and added to the list in advance of work being commenced.

**Custodian Responsibilities\***

Each building administrator may decide duties assigned between day and night custodians.

Frequency of duties are building administrators responsibility.

**Custodial Cleaning Responsibilities:**

- Thoroughly clean and disinfect restrooms and locker rooms daily.

- Restock all supplies in restrooms.
- Wet Mop and disinfect tile floors.
- Clean and sanitize furniture.
- Strip and wax floors.
- Sweep all floors and sidewalks.
- Vacuum all carpet.
- Shampoo and remove stains in carpet.
- Vacuum and dust all furniture, window sills, shelves, baseboards, wall hangings, ledges, hard to reach areas etc...
- Wash windows on interior doors and walls.
- Clean and disinfect phones.
- Clean and disinfect keyboards.
- Clean and disinfect door handles.
- Clean and disinfect water fountains
- Clean and disinfect light switches.
- Wipe down and disinfect **interior and exterior** handrails.
- Pick up trash interior and exterior.
- Empty **interior and exterior** trashcans and replace liners, disinfect when needed.
- Clean light fixtures.
- Clean disinfect damp mop bleachers.
- Wipe down and disinfect lockers.
- Clean vents below 12'.
- Keep cleaning equipment washed and in workable condition all the time.
- Clean and disinfect area where children get sick or injured (**interior and exterior**).
- All other duties assigned by building administrator.

**Custodial Light Maintenance Responsibility:**

- Unlock buildings and trailers beginning everyday.
- Secure building and trailers the end of everyday.
- Put up and take down flags.
- Set up and take down for assembly's lunch, breakfast and any other special events.
- Receive and verify deliveries.
- Move furniture.
- Assemble new furniture when delivered.

- ❑ Replace light bulbs under 12' and date.
- ❑ Remove snow from sidewalks, trailer walks and decks, all emergency exits of building and trailers, ice melt if necessary.
- ❑ Perform routine inspections on alarms, extinguishers, exit lights, emergency lights and keep written records of such.
- ❑ Keep inventory of supplies (cleaning, light bulbs, light maintenance tools, ceiling tiles etc... Advise building administrator when order needs to be placed to maintenance.
- ❑ Replace broken and stained ceiling tiles.
- ❑ Perform light painting.
- ❑ Plunge toilets when necessary.
- ❑ Replace broken paper & soap dispensers.
- ❑ Be familiar with blood borne pathogen requirements.
- ❑ All other duties assigned by building administrator.

\* Maintenance and repair activities on the exterior of the buildings, other than those identified in the above list are assumed to be the responsibility of Maintenance.

#### Resolution of Appreciation of Service 08-19R Mary Crabbe

##### Resolution of Appreciation of Service 08-19R

**WHEREAS**, Mary C. Crabbe for a period of twelve years beginning November 26, 1990 was employed by the County of Clarke to assist in the Office of the Commissioner of the Revenue; and,

**WHEREAS**, Mary C. Crabbe served in the capacity of Deputy Commissioner of the Revenue II, for a period of five years from June 30, 2003 until her retirement effective July 31, 2008.

**NOW THEREFORE BE IT RESOLVED**, by the Clarke County Board of Supervisors that Mary C. Crabbe be recognized and congratulated on attaining seventeen years in service to the citizens of Clarke County and that she be congratulated on her successful career, and on the positive influence she has had on Clarke County;

**BE IT FURTHER RESOLVED**, that her dedication, loyalty, and service to the Citizens of Clarke County be hereby memorialized and that a suitable copy of this resolution be presented to her as a token of the respect and high esteem in which she is held by the Clarke County Board of Supervisors, Constitutional Officers, and the staff of Clarke County.

**APPROVED AND ORDERED ENTERED** in the official records by the unanimous vote of the members of the Clarke County Board of Supervisors assembled in regular session on the 19<sup>th</sup> day of August 2008.

Attest:

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John R. Staelin, Chairman  
Clarke County Board of Supervisors

Proclamation in Memory of Victor Sutherland 08-02P

PROCLAMATION  
IN MEMORY OF  
VICTOR SUTHERLAND  
08-02P

**WHEREAS**, Victor Sutherland was employed by the County of Clarke, Virginia for a period of five years and eight months from December 1, 2002 through August 5, 2008;

**WHEREAS**, during his tenure, Victor Sutherland served in the capacity of Communications Specialist, as well as Court Services Officer;

**WHEREAS**, while an employee in good standing with the County of Clarke, Virginia, Victor Sutherland lost his battle with leukemia on Wednesday, August 6, 2008.

**NOW, THEREFORE BE IT RESOLVED**, the Clarke County Board of Supervisors does hereby issue this proclamation in remembrance of the loyal service to the citizens of the County and extends its condolences to the family of Victor Sutherland.

**IN WITNESS THEREOF**, I have set my hand and caused the seal of the County of Clarke, Virginia to be affixed this 19th day of August 2008.

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John Staelin, Chairman  
Clarke County Board of Supervisors

Proclamation in Memory of Patricia M. Kackley 08-03P

PROCLAMATION  
IN MEMORY OF  
PATRICIA M. KACKLEY  
08-03P

**WHEREAS**, Patricia M. Kackley was originally appointed as the General Registrar for the County of Clarke by the Clarke County Electoral Board on April 1, 1991;

**WHEREAS**, Mrs. Kackley retired from the County effective June 30, 2005, after serving fourteen years; and



**WHEREAS**, on Sunday, August 10, 2008, Mrs. Kackley passed away and the County lost a beloved citizen and public servant.

**NOW, THEREFORE BE IT RESOLVED**, the Clarke County Board of Supervisors does hereby issue this proclamation in remembrance of the loyal service to the citizens of the County and extends its condolences to the family of Patricia M. Kackley.

**IN WITNESS THEREOF**, I have set my hand and caused the seal of the County of Clarke, Virginia to be affixed this 19th day of August 2008.

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John Staelin, Chairman  
Clarke County Board of Supervisors

Proclamation in Memory of Priscilla L. Pancoast 08-04P

PROCLAMATION  
IN MEMORY OF  
PRISCILLA L. PANCOAST  
08-04P

**WHEREAS**, Priscilla L. Pancoast served as the clerk to the Clarke County Sheriff's Office, as well as clerk to the Draft Board;

**WHEREAS**, Mrs. Pancoast retired from the County after providing decades of faithful service under Sheriffs John W. Slater, Albert M. Nicodemus, Jr., and Dale Gardner;

**WHEREAS**, on Saturday, August 9, 2008, Mrs. Pancoast passed away at the age of seventy-nine years.

**NOW, THEREFORE BE IT RESOLVED**, the Clarke County Board of Supervisors does hereby issue this proclamation in remembrance of the loyal service to the citizens of the County and extends its condolences to the family of Priscilla L. Pancoast.

**IN WITNESS THEREOF**, I have set my hand and caused the seal of the County of Clarke, Virginia to be affixed this 19th day of August 2008.

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John Staelin, Chairman  
Clarke County Board of Supervisors

Vice Chairman Hobert moved to accept the items on the Consent Agenda as presented, with the proposed modification to Proclamation 08-03P.

The motion was approved by the following vote:

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

Chairman Staelin instructed David Ash to provide notice to the School Board that the Consolidated Maintenance Agreement has been accepted.

#### Citizens Comment Period

No citizens were present wishing to address the Supervisors.

#### Clarke County Public Schools Update

Dr. Michael Murphy appeared before the Board of Supervisors to provide the monthly update. Supervisor Dunning complimented Dr. Murphy on the aesthetic improvements to D.G. Cooley. Highlights of Dr. Murphy's update include:

- Bob Levi has done an exceptional job of effecting necessary maintenance and repairs.
- This week, licensed staff is back to school.
- Last week, 30 new staff began with CCPS.
- Staffing levels are being established for classrooms.
- Clarity of contracts is to be addressed.
- Soliciting for positions of athletic director and information technology director.
- The Supervisors are invited to the first home game of the season that is scheduled for Friday, August 29.
- The schools are required to provide a free and appropriate education; but there is a responsibility to "give back" on the students that are provided with additional educational opportunities.
- Contributions will be carefully monitored for appropriateness and usefulness.
- In reference to state budget cuts, there is still some trimming that can be done on the budget while still providing a quality education.

#### Special Entertainment Permit: Free Community Concert 9/24/08 Clarke County Parks & Recreation

David Ash and Lisa Cooke, Director Parks and Recreation, appeared before the Supervisors to present their request for a special entertainment permit.

Supervisor Dunning moved to approve the Special Entertainment Permit request for a Free Community Concert September 24, 2008 Clarke County Parks & Recreation.

The motion was approved by the following vote:

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

Committee Action

Personnel

*Appointment to Authorities, Boards and Commissions*

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Mental Health Task Force <i>Ms. Ruffo was appointed to serve a one-year term.</i>	Kathleen Ruffo	8/19/09
Industrial Development Authority <i>Mr. Armbrust was reappointed to serve an additional four-year term.</i>	Wayne Armbrust	10/30/2012
Industrial Development Authority <i>Mr. Pierce was reappointed to serve an additional four-year term.</i>	Rodney Pierce	10/30/2012

Supervisor Byrd moved to approve the appointments as presented.

The motion was approved by the following vote:

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

*Pending Appointment Reminder*

*There are two citizen appointments needed for the Regional Mental Health Task Force. Kathleen Ruffo was suggested to serve on the Regional Mental Health Task Force.*

*There remains a vacancy on the Parks and Recreation Advisory Board. Information regarding an individual who had expressed some interest was provided to Mr. Dunning for his consideration and recommendation.*

#### *Lord Fairfax EMS Council Revision to By-laws—Request to appoint*

*The Lord Fairfax EMS Council has amended its by-laws to change the term of office and to increase membership. A request is made to appoint a paid provider to represent Clarke County. This could be a provider paid by Clarke County, or could be a resident of Clarke County that is a career person employed elsewhere. The Personnel Committee discussed the request and asked that names of potential appointees, that met the membership qualifications, be prepared for their review.*

#### *Compensatory Leave Policy Amendment*

*This item was not discussed by the Personnel Committee due to lack of time.*

#### *Conflict of Interest*

Lora Walburn, Deputy Clerk, provided the Supervisors with an update on changes made to the statement of economic interest forms in the 2008 session of the General Assembly that took effect July 1.

Supervisor Dunning instructed the Deputy Clerk to request the statements of economic interest filed by local state representatives.

#### Work Session

##### *VDOT Route 7 Crossover Closure Review*

*VDOT will be providing information about the sequence and time estimates projected for upgrading intersections on Route 7 and closing or restricting use of remaining unsafe crossovers. The Board met with VDOT to discuss the recommended closures. Members agreed to review the written recommendations and to make individual reviews of the proposed closures prior to taking further action.*

During regular session, the Supervisors further discussed the proposed closures of crossovers on Route 7. By consensus, the Supervisors agreed to individually review each of the proposed locations and report their findings at the September 8 Work Session. Vice Chairman Hobert suggested that David Ash forward the Supervisor's comments to VDOT. Supervisor Dunning suggested that counters should be placed at each crossover for a period of days to determine use.

### *Sanitary District Creation for Home Owners Associations*

*Doug Stanley from Warren County will be available to provide information and answer questions related to the establishment of Sanitary Districts in specified geographic areas served by homeowners associations. Doug Stanley, Warren County Administrator and Larry Mitchell, Warren County Attorney provided the Board with an overview of the process required to create Sanitary Districts that could assist home owners associations in providing the services set forth in various subdivision covenants and agreements.*

During regular session, the Supervisors further discussed the creation of sanitary districts for homeowners associations.

Supervisor Dunning said that while he was amenable to the creation of sanitary districts he would suggest that the Supervisors refrain from involvement; taking no position on the matter.

Supervisor Byrd suggested that the homeowners associations set up their own hierarchy. Supervisors Dunning and Weiss concurred. Supervisor Weiss noted that Warren County contracts back to the homeowners associations. He also stated that homeowners associations have the legal right to create sanitary districts if the court approves.

Vice Chairman Hobert put forth that the Supervisors should do all in their power to ensure the success of the operations. He suggested that the County provide fundamental rules and training. Chairman Staelin added that he believed that Warren County did provide training to the sanitary districts.

Chairman Staelin requested David Ash to seek more examples of homeowner's associations and sanitary districts.

### *Special Event Ordinance Revision Proposal*

*A copy of the proposed ordinance is included for your review. The Board reviewed the proposed ordinance and directed that language in Section 57.4 Application For Permit,*

*pertaining to appeal be stricken and that the amended proposal be placed on the August Agenda to consider setting a public hearing. CC-07-01*

Supervisor Weiss moved to set the matter for public hearing at 6:30 pm on Tuesday, September 16, 2008 or as soon there after as the matter might be heard.

The motion was approved by the following vote:

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

#### Finance Committee

##### *Parks and Recreation Fee Schedule Consent*

*The attached fee schedule has been approved by the Parks and Recreation Advisory Board. BOS approval is requested The Finance Committee recommends the Board approve the proposed fee changes.*

David Ash reviewed the proposed changes to the Parks and Recreation fee schedule.

Vice Chairman Hobert moved to approve the proposed fee changes as recommended by the Parks and Recreation Advisory Board.

The motion was approved by the following vote:

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

##### *Update on State Budget Cuts and proposed budget adjustment*

*Mr. Judge has provided the attached information regarding the actual budget cuts implemented by the Commonwealth. A proposed resolution is included for the committee's consideration. The Finance Committee recommends the Board approve the revised Budget Resolution depicting corrections to the July 31 memorandum.*

Tom Judge reviewed the state funding cuts noting that the Governor had just announced that additional funding cuts were in the works. He recommended that the Supervisors defer action to amend the budget pending presentations by affected offices requesting relief. Responding to questions from the Supervisors, he advised that the state funding cuts had been included in the FY09 budget.

Vice Chairman Hobert suggested that departments be notified and that to the extent possible extreme consideration should be given as to how they are expending their funds in light of future state budget cuts, as well as potential shortfalls in local budgets.

Chairman Staelin requested that David Ash provide written notice to department heads regarding the pending budget situation. Supervisor Dunning suggested that Mr. Ash present this information at the next staff meeting.

*Affirmation of Employer Paid VRS contributions*

*Mr. Judge has asked that the BOS adopt the attached resolution reaffirming the County's decision to pick up the employee contribution to VRS and to meet IRS requirements for doing so. The Finance Committee requested that Mr. Judge be present at the August Board meeting to confirm the nature of the Resolution requested.*

Tom Judge explained the proposed resolution reaffirming the County's decision to pick up employee contribution to VRS and to meet IRS requirements that state that the County pays the member [employee] contribution to VRS.

**Vice Chairman Hobert moved to adopt the resolution to be effective July 1, 2008.**

**The motion was approved by the following vote:**

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

**RESOLUTION**

**Affirmation of Authorization to Pick-up the Employee's Contribution to VRS for Clarke County, 55121 Under 414(h) of the Internal Revenue Code  
08-20R**

**WHEREAS**, the County of Clarke, Virginia provides its employees with tax deferral pursuant to §414(h) of the Internal Revenue Code with respect to their member contributions to the

Virginia Retirement System (referred to as VRS) by picking up member contributions to VRS; and

**WHEREAS**, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS;

**WHEREAS**, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009.

**WHEREAS**, in order to avail itself of the protection given under Notice 2006-43, the County of Clarke, Virginia desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

**NOW, THEREFORE BE IT RESOLVED** that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution, and its is further;

**RESOLVED** that effective the first pay day on or after July 1, 2008, the County of Clarke, Virginia shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further;

**RESOLVED** that such contributions, although designated as member contributions, are to be made by the County of Clarke, Virginia in lieu of member contributions; and it is further;

**RESOLVED** that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further;

**RESOLVED** that member contributions made by the County of Clarke, Virginia under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and it is further;

**RESOLVED** that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the County of Clarke, Virginia directly instead of having them paid to VRS; and it is further;

**RESOLVED** that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the County of Clarke, Virginia shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the County of Clarke, Virginia on behalf of such employee pursuant to the foregoing resolutions.

Adopted in the County of Clarke, Virginia this 19<sup>th</sup> day of August, 2008.

David L. Ash, County Administrator  
Printed Name & Title



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Authorized Signature & Title

### *Animal Control Program*

*The Sheriff has provided a response to the Board's request that he provide information on the methods other County's use for animal control.*

David Ash provided an update on the Animal Control program advising that the Sheriff had provided the requested response.

Supervisor Byrd interjected that the Humane Foundation has been funding a full-time Kennel Attendant position at the Animal Shelter for several years.

The Supervisors discussed the matter at length.

In response to questions posed by Supervisors, David Ash stated that he would not further discuss the matter in public session.

Supervisor Weiss suggested establishing a panel consisting of a member of the Sheriff's Office, Animal Control, a Veterinarian, and a Supervisor to review animal abuse complaints.

Chairman Staelin instructed David Ash to provide the Supervisors with a plan for Animal Control.

### *Discussion of Employee Mileage Reimbursement*

Tom Judge reviewed County policy of reimbursing employees for the use of personal vehicles. He stated that currently the Commonwealth rate is at 58.5 cents per mile. He recommended that the County establish a reimbursement policy tying the County to the Commonwealth rate.

Chairman Staelin requested that a draft policy be presented at the September meeting.

### **Bills And Claims**

Supervisor A.R. Dunning, Jr. stated that he had not reviewed the bills and claims for June 2008 for general government and May 2008 for Clarke County Public Schools carried over from the July 15, 2008 Regular Meeting.

Vice Chairman Hobert reviewed the bills and claims for July 2008 for general government and June 2008 for Clarke County Public Schools. He noted increases in membership fees and dues, as well as a carry over of nearly a million dollars for the Schools. There was considerable discussion regarding the carry over. Chairman Staelin suggested that Supervisor Dunning, as liaison to the Clarke County School Board, discuss with the School Board possible use of these funds.

**Vice Chairman Hobert moved to accept the report for the current month for General Government Bills and Claims for July 2008.**

The motion was approved by the following vote:

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

Chairman Staelin requested that the June Bills and Claims be carried forward to the September 16, 2008 regular meeting.

#### Update On Draft Work Plans for Important County Issues

Tax Base Expansion Project: Chairman Staelin stated that the Economic Development Consultant had been hired for this project.

Reassessment Update: Tom Judge advised that bids have gone out for a reassessment firm.

Energy Efficient County – Government Operations and Public Policy: Vice Chairman Hobert stated that a progress report will be compiled at the next Green Committee meeting.

#### Berryville Clarke County Government Center Update

David Ash provided the monthly update on the Berryville Clarke County Government Center. He stated that the hole for stormwater at the back of the building is complete. He said that the general contractor has stated that he would have the building substantially complete by October 1; however, they have provided no request for an extension.

#### Miscellaneous

Status Report on Lift Station Replacement and Boyce Wastewater Treatment Plant Expansion

Mike Legge, Staff Representative Clarke County Sanitary Authority, appeared before the Supervisors to provide an update on the status of two Sanitary Authority projects, the Lift Station Replacement and Boyce Wastewater Treatment Plant Expansion.

Chairman Staelin suggested that the Sanitary Authority provide regular updates to the Supervisors on pending projects.

Supervisor Dunning put forth that Mr. Legge was an excellent employee and doing a superb job for the Sanitary Authority.

Chairman Staelin instructed the Deputy Clerk to contact each Supervisor to solicit their input on updates from the committees upon which they serve as liaison.

#### Dumping / Dump Truck Traffic

Supervisor Dunning brought forward for review and consideration a situation within the County that was causing issues for Zoning staff, Jesse Russell and Nancy Olin, who have gotten complaints about dump trucks and dumping without permits. He advised that this dump site is on a private road, within a subdivision and dump trucks are accessing the site up to 15 hours per day. Supervisor Dunning stated that more complaints are coming about this dumping that could be as much as 50,000 to 60,000 cubic yards of debris, asphalt and dirt; however, VDOT, one of the agencies dumping at the site, is stating that it is about 5,000 cubic yards. He advised that VDOT had issued the permit but did not request to see permitting from other agencies including the County. Chairman Staelin contributed that VDOT, while they do not have to get local permitting, is responsible to ensure that they follow all local laws.

Chuck Johnston added that the County had become aware that a modest level of fill was being brought in but they had received no complaints over the past year. However, neighbors began to complain when VDOT began dumping debris in May.

Vice Chairman Hobert stated that a meeting with VDOT is necessary to address the matter. Chairman Staelin interjected that Jeff Lineberry has assured that in future the locality will be notified in writing. He stated that the Supervisors must determine what needs to be done now for the affected piece of property, as well as set a future course of action.

Vice Chairman Hobert noted that there were two sets of issues one with the state and the other with the landowner. Supervisor Dunning put forward that the Commonwealth was responsible and should have had someone monitoring / inspecting on site. Chairman Staelin stated that the vendor / contractor is equally wrong for negligence in project oversight.

Vice Chairman Hobert recommended that the matter be investigated and should be referred to the County attorney for consideration and recommendation. Chairman Staelin instructed David Ash to contact the County attorney on the matter.

### Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Process approved minutes.	Lora B. Walburn
2.	Provide notice to the School Board hat the Consolidated Maintenance Agreement has been accepted.	David Ash
3.	Process Resolutions and Proclamations.	Lora B. Walburn
4.	Authorize and forward Northwestern Community Services FY09 Performance Contract.	David Ash
5.	Provide notice of approval to CCPR Free Community Concert on 9/24/08.	Lora B. Walburn
6.	Individually review each of the proposed crossover locations on Route 7 scheduled closure by the September 8 Work Session. Report findings to David Ash for him to compile and forward to VDOT.	Supervisors
7.	Provide notice of appointment.	Lora B. Walburn
8.	Request the statements of economic interest filed by the local state representatives.	Lora B. Walburn
9.	Advertise CC-07-01 Chapter 57 Special Events Ordinance.	Lora B. Walburn
10.	Notify Parks and Recreation of approval to the proposed change in fee schedule.	Lora B. Walburn
11.	Solicit from Board members of list of committee reports / updates that they are prepared to make at the next board meeting.	Lora B. Walburn
12.	Seek more examples of homeowner's associations and sanitary districts.	David Ash
13.	Provide notice to Constitutional Offices and department heads of the pending budget situation referred to in recent budget announcements by Governor.	David Ash
14.	Present a plan for Animal Control.	David Ash
15.	Present a draft policy on County employee mileage reimbursement linking it to the Commonwealth rate.	Tom Judge
16.	Add review of June 2008 Bills and Claims to the September 16, 2008 Agenda.	Lora B. Walburn

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
17.	Take the matter of property set backs to the Planning Commission for review and recommendation.	Chuck Johnston
18.	Contact the County attorney on the matter of dumping and dump trucks brought forward by Supervisor Dunning.	David Ash.

At 4:04 pm Chairman Staelin recessed the meeting until 6:30 pm.

At 6:37 pm Chairman Staelin reconvened the meeting.

#### Citizens Comment Period

Gary Comparetto, Pierce Road, Berryville: addressed the Supervisors regarding set back regulations. He informed the Supervisors that he wished to construct a lean-to for tool storage. However, his preferred location does not meet the proper set back requirements; and he asked if the Supervisors would consider revising the rules.

Chuck Johnston explained set backs stating that they had been revised a few years ago by the Board of Supervisors.

By consensus, the Supervisors agreed to have Chuck Johnston take the matter to the Planning Commission for review and recommendation. Mr. Johnston advised Mr. Comparetto that the process could take several months.

#### Public Hearing PH08-12 TA-08-04

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

Section 3-A-1, Agricultural-Open Space-Conservation District – AOC so as to:

1. delete the requirement that Tenant Houses be occupied by persons employed on site
2. delete from the list of Special Uses: Labor Camps, Livestock Auction Markets, and Livestock Processing and Meat Storage Lockers, Retail Stores and Shops, and Limited Vehicular Repair, and
3. change "Processing of Fruit and Vegetables" to "Processing of Agricultural Products";

Section 3-A-2, Forestal-Open Space-Conservation District – FOC so as to:

1. delete the requirement that Tenant Houses be occupied by persons employed on site,
2. delete from the list of Special Uses: Retail Stores and Shops, Sawmills, and Limited Vehicular Repair, and
3. amend the list of Special Uses to change "Processing of Fruit and Vegetables" to "Processing of Agricultural Products";

Section 3-C, Supplementary Regulations, so as to:

1. establish a six-acre minimum lot size for Summer Camps and an twenty acre minimum lot size for Special Trade Contractors;

2. establish for Retail and Service Businesses a prohibition on outdoor storage and to limit the outdoor display of the business products to 25% of the square footage of the heated area of on-site building(s).
3. delete the regulations for: Fairgrounds (as this use is regulated elsewhere in the ordinance), Labor Camps (as this use is to be deleted), Motor Freight Terminal (as this use is not allowed in the ordinance), and Vehicular Repair (as this use is to be deleted).

Section 9-B, Definitions, so as to:

1. change "Processing of Fruit and Vegetables" to "Processing of Agricultural Products",
2. change the definition of "Retail and Service Businesses" to specifically state such activities must be conducted on-site, and
3. add the term "Agricultural Products" with a definition derived by combining Virginia Codes §3.1-249.27, §3.1-722.1, §3.1-796.137, §13.1-313, and §15.2-4302. TA-08-04

Chuck Johnston reviewed the proposed text amendment that was revised to include the changes suggested by the Supervisors at the July 15, 2008 regular meeting.

The Supervisors and Mr. Johnston discussed the proposed regulation including questions and answers to specific examples of businesses currently operated within the County.

At 7:10 pm Chairman Staelin opened the public comment portion of the public hearing.

Ian Williams, counsel for Phillip Thomas and wife, Patricia – Clarke County property owner: requested that the Supervisors consider deleting retail sales from the proposed changes for both the FOC and AOC districts noting that any regulations that would retard or restrict the uses in the district would have a negative impact on the owner. He suggested that the Supervisors consider certain retail activities that would serve the public interest that would benefit the corridor, the district and the County as a whole. He further suggested that the Planning Commission or staff could look at other activities; and if there were those enterprises that would fit with the County's plan, they should be considered for some retail activity is necessary in the FOC / AOC and should not be abolished.

Randy Buckley, White Post: asked that the Supervisors leave as special uses those uses that were specific to agriculture.

Gary Foltz, no address given: asked the Supervisors to promote agriculture by promoting small businesses that promote agriculture. He opined that the 20-acre limit was onerous. He urged the Supervisors to take a closer look at things that would be an asset to agriculture. He urged the Supervisors to keep an open mind for small business and not make it so difficult to start up a new business.

There being no other persons present wishing to address the Supervisors regarding this matter at 7:21 pm Chairman Staelin closed the public comment portion of the public hearing.

Following extensive discussion, the Supervisors made the following recommendations:

- 6-acre minimum for summer camps. By consensus, the Supervisors agreed to establish a 3-acre minimum.
- 20-acres for business: By consensus, the Supervisors deleted this proposed requirement in 3C2 leaving it as it is currently regulated.
- Livestock Auction Markets. By consensus, the Supervisors agreed to send this back to the Planning Commission to come back with language limiting the location in the regulation and leaving it as a special use.
- Sawmills: By consensus, the Supervisors agreed to send this back to the Planning Commission to come back with language limiting the location in the regulation and leaving it as a special use.
- Retail and Service Businesses: By consensus, the Supervisors agreed to continue to allow it to be available through special use permit.
- Labor Camps: Vice Chairman Hobert said the matter of labor camps would be revisited in two years.

Vice Chairman Hobert moved that the additions and deletions as shown in the public hearing notice PH 08-12 TA 08-04 and amended and modified by the foregoing consensus items, be approved.

The motion was approved by the following vote:

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

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

**WHEREAS**, both the Agricultural-Open Space-Conservation and Forestal-Open Space-Conservation Zoning District are intended for forestal, agricultural, and low activity recreational and service uses that will facilitate the conservation and preservation of forestal, agricultural, open space and mountain lands; the protection of forestal and agricultural uses; the protection of water and clean air sheds; the conservation of water and other natural and ecological resources; the reduction of soil erosion and flood and fire hazards; and the enhancement of the aesthetic value of the district as a whole;

WHEREAS, the list of uses in the AOC and FOC Zoning Districts should conform with this intent; and

NOW THEREFORE BE IT ORDAINED THAT The Clarke County Board of Supervisors approves the amendment of the County Zoning Ordinance:

Section 3-A-1, Agricultural-Open Space-Conservation District – (AOC) so as to:

1. delete the requirement that Tenant Houses be occupied by persons employed on site; and
2. delete from the list of Special Uses: Labor Camps, Livestock Processing and Meat Storage Lockers, and Limited Vehicular Repair;

Section 3-A-2, Forestal-Open Space-Conservation District – (FOC) so as to:

1. delete the requirement that Tenant Houses be occupied by persons employed on site; and
2. delete from the list of Special Uses: Limited Vehicular Repair;

Section 3-C, Supplementary Regulations, so as to:

1. establish a three-acre minimum lot size for Summer Camps and for Private Clubs/Lodges;
2. establish for Retail and Service Businesses a prohibition on outdoor storage and to limit the outdoor display of the business products (excluding living plant material) to 25% of the square footage of the heated area of on-site building(s);
3. delete the regulations for: Fairgrounds (as this use is regulated elsewhere in the ordinance), Labor Camps (as this use is to be deleted), Motor Freight Terminal (as this use is not allowed in the ordinance), and Vehicular Repair (as this use is to be deleted); and

Section 9-B, Definitions, so as to:

1. change the term: “Retail Stores and Shops” to “Retail and Service Businesses” and specifically state such activities must be conducted on-site, and;
2. add the term “Agricultural Products” with a definition derived the Code of Virginia.

Adjournment

There being no further business to be brought before the Board at 8:29 pm. Chairman Staelin adjourned the meeting.



Next Meeting Date

The regular meeting of the Board of Supervisors is set for Tuesday, September 16, 2008 at 1:00 p.m. in the Board of Supervisors Meeting Room.

ATTEST: August 19, 2008

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John Staelin, Chair

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David L. Ash, County Administrator

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