

CLARKE COUNTY BOARD OF SUPERVISORS
September 16, 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, 2nd Floor Circuit Courthouse, 102 N. Church Street, Berryville, Virginia on Tuesday, September 16, 2008.

Board Members Present

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

Staff Present

David Ash, Nancy Olin, Gary Pope, Chuck Johnston, Tom Judge, Mike Legge, Lora Walburn

Others Present

Robina Rich Bouffault, Dr. Michael Murphy, Gem Bingol, Rachel Adams, David Jelinek, Kathy Hamlin, Jim Morris, John Schutte, Frazer Watkins, Linwood Outlaw III, Laura Oleniacz, Dennis Cox and other citizens

Call to Order

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

Adoption of Agenda

Vice Chairman Hobert moved to approve the agenda as modified:

- Miscellaneous:
 - o Add Resolution In Recognition Of Liebrecht Family 30th Anniversary At Audley Farm 08-21R
 - o Add VACo 2008 Voting Credentials
 - o Add Closed Session - Personnel Matters, Appointments
- Modify to change order placing:
 - o Clarke County Public Schools Update Before Citizen Comment
 - o VDOT Following CCPS and Before Citizen Comment

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	-	Aye

Clarke County Public Schools Update

Robina Rich Bouffault, with Dr. Michael Murphy, appeared before the Board of Supervisors to provide the monthly update. Highlights of the Schools update included:

- At the School Board meeting last evening, the contract was authorized with Gannett Fleming to act as construction manager.
- It is anticipated that an architect will be selected in October.
- Reviewed construction schedule. Estimated completion date is January 2011.
- Enrollment is approximately 2,188.
- Dr. Murphy met with Region 4 superintendents to strategize and discuss state budget cuts.
- Carryover funds are being earmarked with an emphasis of on building maintenance and a overhaul in technology.

VDOT

Jeff Lineberry, accompanied by Bob Childress and Charlie Monroe, provided the monthly update.

- Completed shoulder work on Route 608 and Route 612.
- Shoulder work is in progress on Route 50.
- Left turn lane improvements have been completed in several locations.
- Flashing warning signs have been put in place on Route 340.
- Business 7 and Route 7 triangle – the current caretaker was having difficulty maintaining the site and came to VDOT seeking assistance. Jeff Lineberry said that that there was an ongoing site issue at the intersection. He stated that VDOT would maintain the triangle from this point forward and would use alternate plantings to keep flowers in bloom throughout the season. Vice Chairman Hobert requested better lines of communicate and expressed appreciation for the plans to create an appealing entrance to the county seat.
- Supervisor Barbara Byrd with Jeff Lineberry will conduct a site review on west bound Route 7 for the possible placement of guardrails to hold cars from entering the cow

- pastures at Maple Hill. Ron Gustafson, owner of the land at Maple Hill, provided additional input.
- Supervisor Dunning requested VDOT address the deep ditch on Route 655 suggesting the use of riprap.
 - Supervisor Weiss requested flashing warning signs on Retreat Road.

Route 7 Crossover Closure Update.

Jeff Lineberry provided an overview of the rationale, as well as the studies conducted by VDOT when developing the list of crossover closures on Route 7. He advised that with the closures they were trying to accomplish safety improvements, reduction of congestion and improvement of performance of existing highways. Of the six closures proposed, there was a daily usage low of 30 to a high of 88 vehicles per day and weekend usage from 18 to 61 vehicles per day. Mr. Lineberry asserted that construction design no longer works well with the use noting that the traffic has tripled in the past 33 years from 8,150 vehicles a day when designed to its current usage of 26,000 vehicles per day.

Mr. Lineberry stated that the Supervisors could act to close the proposed crossovers, which would be chained or taken back to grass. He noted that crossovers that have turn lanes in place are not as likely to create safety hazards. Further, new roadway management requires a half-mile between crossovers.

There was discussion regarding the purchase of a right-of-way.

Bob Childress put forward that it could be years before safety money became available even if the Supervisors should agree to close these crossovers. Bob Childress suggested the Supervisors look at the recently closed crossovers on Route 522 in Warren County.

Citizens Comment Period

Due to the large number of persons desiring to speak on the matter of the proposed crossover closures, at 1:55 pm John Staelin opened the Citizen Comment Period.

Daniel Bradley, Harry Byrd Highway: spoke in opposition to crossover closures on Route 7. He stated that a recent accident occurring in front of his home would not have been fatal had guardrails been in place.

Wade Johnson, Harry Byrd Highway: spoke in opposition to closure of the Honey Lane crossover. He opined that closure would be dangerous for it would force drivers to go to the Triple J intersection. He suggested the addition of turn lanes at the crossovers.

Greg Gunter – Gunter Hunting, Honey Lane / Bee Line Lane: spoke in opposition to closure of the Honey Lane / Bee Line Lane crossovers. He put forth that this would be a safety

hazard for 18-wheel trucks coming to and from his business. He opined that it was the speeds on the road that are the danger not the cross over.

Roynall Crawford Honey Lane: spoke in opposition to the closure of crossovers in general and particularly of Honey Lane. He opined that closure would cause problems and delays for fire and rescue.

Larry Peer, Rutherford Lane: spoke in opposition to the closure of the Cave Road crossover. He put forth that closure would be dangerous and would add an additional 1,400 miles to his travel for an additional 81 gallons of gas.

Maria Zimmerman, Harry Byrd Highway: spoke in opposition to the proposed closures noting that three of the proposed closures are close to her home. She provided personal testimony to how Fire and Rescue had used the Cave Road crossover when responding to a fire at their home.

Paul Long, Harry Byrd Highway: spoke in opposition to the proposed closures. He expressed concern for Fire and Rescue responses and safety for horse trailers using the crossovers. As a former police office, he suggested increased enforcement, lowering speed limits and adding turn lanes.

Gerry Boudreau, Harry Byrd Highway: spoke in opposition to the proposed closures. He expressed concern for safety and highway design. He stated that he was a member of Fire and Rescue and used the Cave Road crossover when responding to emergencies; and closure of Cave Road crossover would add an additional three to four minutes to the response time.

Barbara Collis, Harry Byrd Highway: spoke in opposition to the proposed closures. She expressed concern for safety noting speeding on Route 7.

There being no additional persons desiring to speak Chairman Staelin closed the Citizen Comment period at 2:09 pm.

Chairman Staelin noted for the record that all nineteen persons present were opposed to the proposed closures of crossovers.

Supervisor Weiss contributed that the suggested closure of a crossover in his district was also opposed by everyone that he had encountered. He requested to go on record as being opposed to closure.

Supervisor Dunning concurred noting that it appeared that closure of crossovers posed a safety hazard and suggested that the Supervisors not act at this time.

Supervisor Byrd noted that comments were very enlightening and inquired about funding for the addition of turn lanes. Jeff Lineberry stated that closure was an incidental cost but adding

turn lanes would be quite costly and would not be in accordance with new revised access management guidelines. Bob Childress contributed that it would cost approximately \$5,000 to close a crossover; however, even with no major problems, building a 200-ft turn lane would have a minimum cost of \$30,000 to \$35,000. Supervisor Weiss interjected that the upgrade at Honey Lane was estimated at approximately \$500,000. Bob Childress concluded that VDOT has to fight for every dollar noting that in light of the fact that they must work extremely hard to get funding for turn lanes at intersections how much more so it would be to get funding for a crossover that serves a single home.

Approval of Minutes

Vice Chairman Hobert moved to approve the minutes for August 19, 2008 Regular Meeting as modified.

- Pg 607 – as shown in the public hearing notice PH 08-12 TA 08-04 and amended and modified by the foregoing consensus items, be approved
- Pg 607 - Vice Chairman Hobert said the matter of labor camps would be revisited in two years.

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

Disclosure of Personal Information – Zoning Complaints Policy

INTEROFFICE MEMORANDUM

To: Chuck Johnston, Planning Administrator
From: David Ash, County Administrator
Subject: Disclosure Of Personal Information—Zoning Complaints

Date: September 17, 2008

The Board of Supervisors has determined that a policy and procedure that protects the identity of individuals that request anonymity when providing information with respect to an investigation of individual zoning violations would enhance the ability of the County to appropriately enforce the zoning ordinance. Please make the changes necessary to implement this policy.

Record keeping procedures should be modified to ensure that, when requested, personal data of individuals providing information about zoning violations is not released in response to FOIA requests nor disclosed by staff while investigating the complaint. Files containing such information should be marked in such a way that clerical staff and future employees know that a promise of anonymity has been made. You should instruct staff to maintain the confidential nature of the information and inform other employees and officials of the confidentiality requirement when it is necessary to share this information in order pursue the investigation or prosecution of the violation.

Please discuss any questions that you have regarding this matter with me immediately.

PD-121101-04 General Government Policy: The Rights of Requesters and the Responsibilities of the County of Clarke under the Virginia Freedom of Information Act Revision Date: July 15, 2008

Purpose and Scope	The Virginia Freedom of Information Act (FOIA), located § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.
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A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

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| Your FOIA Rights | <ul style="list-style-type: none"> • You have the right to request to inspect or receive copies of public records, or both. • You have the right to request that any charges for the requested records be estimated in advance. • If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA. |
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| Making a Request for records from The County of Clarke, Office of | <ul style="list-style-type: none"> • You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA. |
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the County
Administrator

- From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect to not put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.
- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of the County, nor does it require the County to create a record that does not exist.
- You may choose to receive electronic records in any format used by the County of Clarke in the regular course of business.
 - For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records
- If we have questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.
- To request records from County of Clarke you may direct your request to Clarke County Administration, Lora B. Walburn. She can be reached at 102 North Church Street, 2nd Floor, Berryville, VA 22611, 540-955-5100, 540-955-4002 Fax, and lwalburn@clarkecounty.gov.
 - You may also contact her with questions you have concerning requesting records from all departments under the direct responsibility of the County Administrator.
 - In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at foiaocouncil@leg.state.va.us, or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.

The County of
Clarke
Responsibilities in
Responding to
Your Request

- The County of Clarke must respond to your request within five working days of receiving it.
 - "Day One" is considered the day after your request is received.
 - The five-day period does not include weekends or holidays.
- The reason behind your request for public records is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow the County to ask you to provide your name and legal address.
- FOIA requires that the County make one of the following responses to your request within the five-day time period:
 1. We provide you with the records that you have requested in their entirety.
 2. We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
 3. We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 4. If it is practically impossible for the County of Clarke to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before

we go to court to ask for more time.

Costs

- You may have to pay for the records that you request. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
- If we estimate that it will cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, the County of Clarke may require payment of the past-due bill before it will respond to your new FOIA request.

Exemptions

Some requested records could be exempt. The Code of Virginia allows any public body to withhold certain records from public disclosure. Some examples:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
 - Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
 - Vendor proprietary information (§ 2.2-3705.1 (6))
 - Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
 - The names, addresses and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints made to a local governing body. (§ 2.2-3705.3 (10))
 - Working papers and correspondence of the County Administrator / Chief Executive Officer (§ 2.2-3705.7 (2))
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Related Documents - PD12110-03 General Government Public Records Disclosure and Copy Policy

Vice Chairman Hobert moved to accept the item on the Consent Agenda 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

Set Date October and November 2008 Committee Meetings

David Ash called the Supervisors attention to the fact that Committee meetings were normally conducted on Monday one week before the third Tuesday of the month posed conflicts in October with Columbus Day on October 13 and for November 10 with the annual VACo meeting.

By consensus, the Supervisors agreed to move the Committee meetings to the following dates:

- Tuesday, October 14, 2008
- Wednesday, November 12, 2008

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>Mr. Dawson is appointed to serve a one-year term on the Regional Mental Health Task Force.</i>	Bill Dawson	8/19/2009
Parks & Recreation Advisory Board <i>Mr. Heflin is appointed to serve as the White Post District representative.</i>	Dennis Heflin	12/31/2012

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Clarke County Library Advisory Council	Joyce Badanes	4/15/2010
<i>Ms. Badanes is appointed to complete the term of John Friant, Sr..</i>		

Chairman Staelin 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

Lord Fairfax Emergency Medical Services Council

The EMS Council has requested that the Board appoint an additional representative that comes from the career EMS profession.

Mr. Hoff has submitted his resignation. There is a need to appoint someone to fill the un-expired term that ends on 4/20/2010.

Potential nominees were identified and an attempt will be made to contact and determine interest prior to the next Board meeting.

Compensatory Leave Policy Modification

Attached is the proposed policy. The Board returned this item to the Personnel Committee for reconsideration

Action on this matter was deferred.

Update on NIMS Compliance

The County has substantially complied with the requirement that specified individuals complete NIMS certification requirements.

Work Session

Chairman Staelin stated that he had been unable to attend the Work Session and requested David Ash to provide an overview of the matters discussed.

1. *Bills and Claims Review Process*

The Joint Administrative Services Director has been asked to review the Expenditure Summary Reports and the Vendor Payments reports to explain the information present and to identify key elements or indicators that the reports contain.

Mr. Judge reviewed the information provided on the financial reports and discussed ways in which the limited data fields can be utilized in order to better describe the transactions.

2. *Erosion and Sediment Control Ordinance Revision*

The Planning Department has drafted a Revised E&S Ordinance for the Board's review and discussion. The draft attempts to correct some deficiencies that came to light in a recent activity. The draft must still be reviewed by DCR. Discussion only is requested at this time. A request to set public hearing will be delayed until such time as the current document has been reviewed by legal counsel.

The Board discussed the ordinance and also requested that similar ordinances from Loudoun, Fauquier and the State's model ordinance be provided for its review.

3. *Animal Control Staffing Plan*

A revised staffing plan for the County Animal Shelter and Control program, incorporating assistance from the Sheriff and Dispatch office and limiting the nature of services provided outside of regular business hours has been prepared for Board Discussion and approval. If the discussion on this matter tends toward the expression of opinions on individual performance those portions of the discussion should be held in closed session.

The Board discussed the plan and directed that it be implemented as soon as possible and that it be modified to include notification of the Supervisor of the district on the initial response of any call alleging cruelty or inhumane treatment of any livestock.

4. *Route 7 Crossover Recommendations*

The members of the Board agreed during the August meeting that they would view the proposed crossover closures and provide any questions or comments for discussion with VDOT by this meeting. Maps depicting the crossovers, the proposed improvements and correspondence received on the issue are available. VDOT has installed counters on the crossovers to determine the level of use, but that information is not available at this time.

The Board discussed the proposed closures. Supervisor Weiss acknowledged receiving complaints on the proposed closure of the crossover identified as number 24 and asked that VDOT be notified of his opposition to closing that crossover as the alternates appeared to be even more dangerous.

5. Committee or Joint Agency Activity Reports

Members of the Board discussed the potential of adding committee reports to the Board Meeting Agenda and directed that I solicit interest/availability of updates prior to preparing the agenda.

The Board members discussed this matter but did not arrive at a recommended action.

Finance Committee

Tom Judge joined the Supervisors to discuss matters reviewed by the Finance Committee

1. Year-end Budget Adjustments

The following resolution is recommended to clean up expenditure accounts at year-end FY 08:

Be it resolved that the following adjustments be made to the FY 08 budget:

- A. Distribute \$11,327 budgeted expenditure from the contingency for professional services to:
 - \$1,131 Data Processing professional services
 - \$ 960 Electoral Board professional services
 - \$4,214 Board of Zoning Appeals professional services
 - \$ 145 Board of Septic Appeals professional services
 - \$4,877 Gypsy Moth professional services
- B. Increase estimated expenditure to electoral board line items by \$6,706, appropriate the same, and recognize an equal amount of revenue from the Commonwealth for the purpose of covering costs associated with the February 18 primary.
- C. Increase estimated expenditure by \$892, and appropriate the same, to Juvenile & Domestic Relations Court to cover office supply purchases.
- D. Increase estimated expenditure to Volunteer Fire Departments by \$23,152, appropriate the same, and recognize revenue in the same amount, to cover additional commonwealth funding received and expended.
- E. Increase estimated expenditure to Litter Control by \$1,196, appropriate the same, and recognize revenue in the same amount, to cover additional commonwealth funding received and expended.

The Committee recommends approval of the above resolution and directs that the J&D Court be cautioned regarding over expenditure of budget.

Following discussion at the September 16, 2008 Regular Meeting, **Vice Chairman Hobert moved to proceed with the budget adjustments as shown and direct Tom Judge to follow up with the Juvenile and Domestic Relationship Court.**

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

2. Discussion of Funding Alternatives for School Capital

The Clarke County School Board has proceeded to purchase the Ketocin site, and will be obtaining more accurate construction estimates. Once these estimates are obtained it can be expected that a supplemental appropriation will be requested, and a commitment of the funds may be needed shortly after that, since no contract for construction can be signed without a commitment for the entire appropriation. However, construction may take 24 months, and it may be best to defer any bond issue until the tail end of the project to minimize interest costs.

Bond Counsel has advised that it would be possible for the Board to take actions necessary to approve a VPSA bond issue, but defer the actual bond issue itself for some period of time. This would allow contracts to be signed while still deferring the date at which interest payments begin.

The Committee recommends conceptual approval of the above proposal with specific approval dependent upon the availability of defined costs and timeframe information.

3. Funding Source for Economic Development Consultant

The FY 09 Budget contains an appropriation of \$60,000 for the Office of Economic Development. Half was to cover consulting fees, and the other half to fund an Economic Development Officer for half year. A contract was recently signed for \$33,000 to employ a consultant. Depending on the date of hire of the Officer, there may be adequate funds to cover the consultant. It is recommended that the consultant remain charged to this account until the hire takes place. If additional funds are required at that time, a transfer from the \$486,132 balance in the capital projects fund resulting from sale of industrial park lots could be utilized.

This information is presented for information.

Supervisor Dunning requested that the record reflect that at this time he believed that hiring an Economic Development position was superfluous.

4. *Mileage Reimbursement Policy and Rate*

The Commonwealth of Virginia revised the rate at which it reimburses for use of personal vehicles on government business from 44.5 cents/mile to 58.5 cents/mile. Past practice has been to follow the lead of the Commonwealth in reimbursing employees in Clarke at the rate established by the Commonwealth. The Finance Committee may wish to formalize this practice by adding to the "Expenditure Accountability" section of the Fiscal Policy: "Employees using personal vehicles for the business of Clarke County shall be reimbursed at the mileage rate established by the Commonwealth of Virginia Department of General Services"

The Committee recommended the inclusion of this statement within the Fiscal Policy and further recommended that County employees be encouraged to use county vehicles when available in order to reduce costs.

Following discussion at the September 16, 2008 Regular Meeting, **Vice Chairman Hobert moved to adopt the change to fiscal policy with the inclusion of the statement "use county-owned vehicle where possible"**.

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

5. *Review of Expenditure Reduction Plans following Commonwealth funding cuts.*

The Board of Supervisors has previously established that it would review, in September, expenditure reduction plans developed by departments pursuant to Commonwealth of Virginia funding cuts, and follow this by providing an opportunity to departments to request, in October, replacement of these funds by the Board of Supervisors. The reduction plans are attached. The plan of the Treasurer is to keep a position vacant until the funding reduction is achieved.

The Committee recommended that the Circuit Clerk be cautioned regarding the apparent reduction in revenues that support the Clerk's office and that other Constitutional Officers and Departments be requested to defer expenditure and employment decisions until the effect of state budget actions and potential local funding shortfalls are determined.

6. *FY 09 Supplemental Appropriation for Rain Barrel Sales.*

From an Alison Teetor email: "This year I was involved in a series of Rain Barrel workshops in cooperation with the Potomac River Basin Commission. We sold 106 barrels for a total cost of \$9,540. Each barrel was sold for \$90, but all but two only cost us \$80. I am sending an invoice to Cathy Pope to pay for \$8,500. This leaves the account with \$1,040 in it. I would like to use this money to purchase rain barrels for use at the park, county offices, and schools, in

addition to purchasing some tools needed for barrel construction." Although this revenue collection spans several fiscal years, the following action is recommended to provide the correct appropriation:

"Be it resolved that the FY 09 Sanitation budget be amended to increase expenditure by \$9,540, to appropriate the same, and recognize revenue in the same amount, all for the purpose of buying and selling rain barrels."

The Committee recommends approval of the proposed resolution but reserves the opportunity to comment on specific expenditure proposals in the future.

Following discussion at the September 16, 2008 Regular Meeting, **Vice Chairman Hobert moved to approve the 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

7. Fiscal Year 2008 General Fund Revenue Preliminary Actual.

Please find attached a statement of the FY 08 actual general fund revenue. These are expected to be very close to the final numbers, but some change might arise during review and audit. The FY 09 first quarter estimate will be presented at the October Finance Committee meeting.

This information was presented for information. Note was made regarding the accuracy of the estimates.

8. Building Department Fee Schedule Adjustment

Attached for the committee's review is a proposal to revise the Building Departments fee schedule so as to increase the revenue, simplify the schedule, and provide for use of an index in order to automatically adjust the schedule in the future on an annual basis.

The resolution to adopt the proposed schedule and to adjust the Planning Department fees to cover the cost of erecting signs would be:

Be it resolved that the Board of Supervisors authorize modifications to the Clarke County Building Permit Fee Schedule so as to adopt the fee changes proposed in the schedule attached hereto dated 8/22/08; to establish a permit fee rate of \$4.50/thousand of calculated new construction value;

- to index all new residential construction values to the Type VB Building Valuation Data as published by the International Code Council Building Safety Journal in July of each year for the ensuing Fiscal Year;

- to index all new commercial construction, inclusive of trade permits to the Type IIB Building Valuation Data as published by the International Code Council Building Safety Journal in July of each year for the ensuing Fiscal Year, and to maintain the existing fee schedule for permits and fees not otherwise addressed by this resolution.

Be it further resolved that the Planning Department Major and Minor Subdivision fee's be modified to change the cost for each road sign and pole set from \$225 each to \$250 each.

Gary Pope, Code Official, appeared before the Board to review the proposed increases and answer questions. He advised that the proposed fee increase reflect the increase in construction costs.

Following discussion at the September 16, 2008 Regular Meeting, **Supervisor Dunning moved to adopt the Building Department fee schedule and the Planning Department Major and Minor Subdivision fees.**

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

9. Sanitary Authority –Moral Obligation Resolution

Bond Counsel has requested that the BOS consider the attached request to provide a moral obligation pledge to secure the financing of the Boyce Sewage Treatment Facility loan from VRA. A draft resolution is provided for your review. The VRA schedule for closing the loan is such that the BOS does not meet again in regular session prior to the proposed closing date.

The Committee requested that Mr. Legge be available at the Board meeting to provide information regarding the project and also asked that bond counsel be asked to confirm that no public hearing is required prior to Board action.

Mike Legge, Sanitary Authority staff representative, appeared before the Board to provide a project update and to review the request by bond council for a resolution pertaining to the moral obligation for a bond pertaining to the Boyce Wastewater Treatment Plant Expansion and the Replacement of two lift stations.

Following discussion at the September 16, 2008 Regular Meeting, **Supervisor Dunning moved to approve the Resolution of the Board of Supervisors of Clarke County, Virginia, Regarding Clarke County Sanitary Authority [08-22R] 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

10. *Standing Reports.*

The reconciliation of appropriations, capital projects status, and fund balance estimate reports will be provided at the October meeting (subsequent to closing of FY 08 books).

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.

Chairman Staelin reviewed the bills and claims for August 2008 for general government and July 2008 for Clarke County Public Schools.

Supervisor Dunning moved to approve the report for the June 2008 General Government Bills and Claims for June 2008 and for the September 2008 for General Government Bills and Claims for August 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

Update On Draft Work Plans for Important County Issues

Broadband: Vice Chairman Hobert stated that representatives from several providers had been approached. However, there were significant drawbacks including the cost of installation and the cost of service.

Berryville Clarke County Government Center Update

There was discussion of the fact that the Board will have to decide what it wants to do with the current library building.

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 22. He advised that moving in would be a process noting there was much to be done once the building was complete such as telephones, computers, furniture removal and set up. He stated that there were delays due to changes in library lighting and flooring, as well as Planning Department changes.

Discussion of 2009 Legislative Issues

Chairman Staelin requested that a meeting be scheduled in November or early December with Senator Jill Vogel and Representative Joe May. He stated that he would be contacting Board members to develop the 2009 Priorities.

Railroads Discussion, i.e., Quiet Zones, Crossings

The Supervisors discussed the presentation by the railroad on regional goods movement and the expansion of train service through the County of Clarke.

No action was taken on this matter.

Special Use / Site Plan – Set Public Hearing

The Town of Berryville requests approval of a Special Use and Site Plan for a Public Utility Facility (outfall line for treated effluent) located generally on the south side of the public right of way for Harry Byrd Highway (Virginia Route 7) from the Berryville Waste Water Treatment Plant (362 Parshall Road) to the Shenandoah River (approximately 800 feet south of the Robert W. Smalley Sr. Bridge at Castleman's Ferry, [Route 7 bridge]), through Tax Map Parcels 15-((A))-8, 11, 13, 17C, 18, 20, 21; 15-((3))-8; 16-((A))-33, 36, 36A, 39, all located in Battletown Magisterial District, zoned Agricultural-Open-Space-Conservation (AOC). SUP-08-02 (aka SUP-04-01)

Chairman Staelin left the room at 4:08 turning the meeting over to Supervisor David Weiss.

Vice Chairman Hobert left the room at 4:08 to avoid potential conflict pertaining to this matter.

Chuck Johnston reviewed the request by the Berryville Waste Water Treatment Plant SUP-08-02.

John Staelin returned to the meeting at 4:12 pm requesting that Supervisor Weiss continue action on the matter.

Supervisor Dunning moved to set the matter for public hearing at 6:30 pm on Tuesday, October 21, 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	-	Abstain
Barbara J. Byrd	-	Aye
A.R. Dunning, Jr.	-	Aye
David S. Weiss	-	Aye

Vice Chairman Hobert returned to the meeting at 4:15 pm

Zoning Ordinance Text Amendment – Set Public Hearing

The Clarke County Planning Commission recommends the amendment of the County Zoning Ordinance so as to amend:

Section 9-B-165, Definition of the term: "Structure", so as to change the definition to read:

"Any man-made object having a stationary location on a parcel, whether or not it is permanently affixed to the ground. All buildings are structures. Structures shall include, without limitation, chimneys, cupolas, flagpoles, monuments, smokestacks, spires, and towers."

Section 4-H-3, Height Regulations, so as to allow the height of freestanding flagpoles to exceed height limits by 50% and add flagpoles to the list of structural elements that may be added on to a structure and exceed height limits.

Section 9-B-166, Definition of the term: "Structure, Portable" so as to change the term to "Structure, Temporary, and to change the definition of the term to read: "A structure, not permanently affixed to the ground, intended to be located on a parcel for not more than 90 days in any 12 month period of time."

Section 4-B-4, Portable Structure, so as to change the term "portable structure" to "temporary structure" wherever it appears in this section. TA-08-03

Chuck Johnston reviewed the request to amend the County Zoning Ordinance TA-08-03.

Supervisor Dunning moved to set the matter for public hearing at 6:30 pm on Tuesday, October 21, 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

Zoning Ordinance Text Amendment – Set Public Hearing

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 delete from the list of Special Uses: Livestock Auction Markets and Retail Stores and Shops;
- Section 3-A-2, Forestal-Open Space-Conservation District – (FOC) so as to delete from the list of Special Uses: Retail Stores and Shops and Sawmills.TA-08-04

Chuck Johnston reviewed the request to amend the County Zoning Ordinance TA-08-04.

After extended discussion, **Supervisor Dunning moved to set the matter for public hearing at 6:30 pm on Tuesday, October 21, 2008 or as soon there after as the matter might be heard.**

The motion was defeated by the following vote:

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

Miscellaneous

Resolution In Recognition of Liebrecht Family 30th Anniversary at Audley Farm 08-21R

Resolution In Recognition Of Liebrecht Family 30th Anniversary At Audley Farm

WHEREAS, Audley Farm, located in Clarke County is a historic landmark, possessed of a rich historical and agricultural heritage,

WHEREAS a part of that heritage is the farm's extensive and historical involvement in Thoroughbred Racing in the United States, serving as home to "Sir Barton" America's first Triple Crown winner, and

WHEREAS Hubertus Liebrecht purchased Audley in 1978 and continued to improve and maintain the farm, causing it to be ranked as one of the top Thoroughbred farms in the state and the nation, and

NOW THEREFORE BE IT RESOLVED that the Clarke County Board of Supervisors congratulates the extended Liebrecht family on the occasion of its thirty-year anniversary at Audley and wish them continued success as one of the premier thoroughbred farms in Virginia.

BE IT FURTHER RESOLVED, that their contributions to the efforts of Clarke County to preserve agriculture and natural resources for future generations be memorialized and that a suitable copy of this resolution be presented as a token of the respect and high esteem in which they are held by the Clarke County Board of Supervisors.

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 16th day of September 2008.

John R. Staelin, Chair
Clarke County Board of Supervisors

Following review, **Supervisor Weiss moved to approve resolution 08-21R.**

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

2008 VACo Voting Credentials.

David Ash stated that the normal order for VACo voting credentials is the Chair as Voting Delegate, Vice Chair Alternate Delegate and County Administrator as non-elected official.

Supervisor Dunning moved to approve the 2008 VACo Voting Credentials as stated.

The motion carried by the following recorded 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

Closed Session

Vice Chairman Hobert moved to convene into Closed Session pursuant to Section §2.2.3711- A4 of the Code of Virginia to discuss personnel matters. 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

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

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

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

CERTIFICATION OF CLOSED SESSION

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

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

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

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

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

No action was taken on matters discussed in closed session.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Correct and process approved minutes.	Lora B. Walburn
2.	Distribute memorandum on Disclosure of Personal Information Zoning Complaints Policy	David Ash
3.	Update calendar with revised meeting dates for October and November 2008.	Lora B. Walburn
4.	Provide notice of appointment.	Lora B. Walburn
5.	Process and forward resolution 08-22R.	Lora B. Walburn
6.	Schedule meeting for November or December 2008 with Senator Vogel and Delegate Joe May.	Lora B. Walburn
7.	Develop list of 2009 Legislative Priorities.	John Staelin
8.	Advertise for public hearing SUP-08-02 (aka SUP-04-01) and TA-08-03.	Lora B. Walburn
9.	Process and forward resolution 08-21R.	Lora B. Walburn
10.	Process and forward 2008 VACO Voting Credentials.	Lora B. Walburn
11.	Update County Code Chapter 57 Special Events CC-07-01.	Lora B. Walburn

At 4:59 pm Chairman Staelin recessed the meeting until 6:30 pm.

At 6:30 pm Chairman Staelin reconvened the meeting.

Citizens Comment Period

No citizens appeared to address the Supervisors.

Public Hearing PH08-13 CC-07-01

Chapter 57 Special Event Ordinance: The Clarke County Board of Supervisors proposes this ordinance be enacted pursuant to Virginia Code §15.2-1200 for the purpose of providing necessary regulation for the holding of outdoor events. The purpose of this ordinance is to promote public safety and to ensure that peace and quiet is maintained in the unincorporated areas of Clarke County. To meet these goals, it is critical that notice of the intent to conduct potentially disruptive events be provided to appropriate County officials and that a management plan sufficient to protect the health and safety of the event participants and prevent unnecessary or unwanted impacts on the residents of the county be prepared and approved. This ordinance shall not be construed in a manner that shall infringe on any person's right to free speech or assembly and shall therefore not affect bona fide protests or picketing.

Chuck Johnston reviewed CC-07-01 Special Event Ordinance deleting the current Chapter 57 Amusements.

At 6:28 Chairman Staelin opened the public comment portion of the public hearing.

Jack Schutte, Summit Point Road, spoke against the ordinance in its current form expressing concern regarding permit fees and opining that the 150-attendee threshold was too low. He opined that there was difficulty trying to apply the ordinance to such varied uses.

Jim Morris, Oak Hill Thoroughbreds, spoke against the ordinance opining that it did not address agriculture and asked that they be eliminated from the ordinance. He requested that the Supervisors defer action the matter and establish a new committee.

Kathy Hamlin, member of Special Events Ordinance Committee, spoke against the ordinance opining that she felt that the attendance limits penalized business owners for doing better.

Harry Stimpson, Long Branch: asked the Supervisors about how applicants seeking to be grandfathered would be asked to verify the number of events they had held in the past.

Rachel Adams, member of Special Events Ordinance Committee, asked what the fee would be for those grandfathered.

Chuck Johnston advised that there would be no fee for those grandfathered.

Dave Jelinek, member of Special Events Ordinance Committee, put forth that the purpose of the ordinance was to protect the county and its citizens against land abuses while attempting to establish regulation that is simple, reasonable way to regulate the more extensive activities involving the gathering of people.

Frazer Watkins, member of Special Events Ordinance Committee, put forth that the ordinance does encompass many types of events but they are all outdoors, held on an irregular basis, and of a certain size.

There being on other persons desiring to address the Board on this matter at 7:19 pm Chairman Staelin closed the public comment portion of the public hearing.

Supervisor Byrd urged consideration for agriculture expressing concern that this new ordinance would prohibit business growth.

Supervisor Weiss urged adoption of the proposed amendment.

Supervisor Dunning expressed concern about the impact on agricultural activity.

Supervisor Weiss moved for adoption of the proposed amendments effective April 1, 2009. Further, events shall be approved under the current ordinance through January 1, 2009.

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.	- Nay
David S. Weiss	- Aye

Complete Revision of Code of Clarke County Chapter 57
With corrections through August 11
Chapter 57 Special Events

§ 57-1. Purpose and intent.

This ordinance is enacted pursuant to Virginia Code §15.2-1200 for the purpose of providing necessary regulation for the holding of outdoor events. The purpose of this ordinance is to promote public safety and to ensure that peace and quiet is maintained in the unincorporated areas of Clarke County. To meet these goals, it is critical that notice of the intent to conduct potentially disruptive events be provided to appropriate County officials and that a management plan sufficient to protect the health and safety of the event participants and prevent unnecessary or unwanted impacts on the residents of the county be prepared and approved. This ordinance shall not be construed in a manner that shall infringe on any person's right to free speech or assembly and shall therefore not affect bona fide protests or picketing.

§ 57-2. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

Administrator — The County Administrator or his/her designee

Board — The Board of Supervisors

Event Day – Any day, or part thereof, during which the activity for which a permit has been issued occurs.

Permanent Enclosed Structure—A building, intended to be permanently located at the site, being fully enclosed by roof and walls, with windows and doors that are constructed and operated during the duration of any event so as to insure that light and sound emanating from the structure do not extend unreasonably beyond the boundaries of the site.

Adjacent Property Owner---The owner of property or properties immediately contiguous to or directly across public rights of way, private access easements, railroad rights of way/easements, any streams, rivers, or lakes, and state or county political boundaries) from the tax map parcel containing the site of the proposed outdoor event.

Public Property—property owned by or under the direct control of the United States, the Commonwealth of Virginia, or any political subdivision or agency thereof.

Special Event—

- a) Any public assembly, attraction, ceremony, event, festival, gathering, circus, carnival, or show at which rides, games, competitions, attractions, music, dance, or other performing arts are engaged in by participants or provided as entertainment by professional or amateur performers or by prerecorded means,
 - 1) which involves the raising, charging, donating or re-couping of funds,
 - 2) which is held at any place other than on property owned by the United States of America, the Commonwealth of Virginia, or the County of Clarke, or in a permanent enclosed structure, to which the public is invited or admitted,
 - 3) which does not occur in the Town of Berryville, the Berryville Annexation Area, or the Town of Boyce,
 - 4) which occurs on a parcel of land of six or more acres (a parcel of land of six or more acres may include adjoining parcels with the same owner that have a total area of six or more acres), and
 - 5) which is comprised of not more than a total of nine events days in a calendar year.
- b) Such an assembly shall not include demonstrations, parades, rallies, marches, or picketing activities.

Small Special Event – Special Events for 150 to 499 persons attending an event with not more than a total of five event days in a calendar year.

Medium Special Event – Special Events for 150 to 499 persons attending an event with six to nine event days in a calendar year and Special Events of 500 to 999 persons

attending an event.

Large Special Event – Special Events of 1000 or more persons attending an event.

Persons Attending an Event – The number of participants and spectators that is the cumulative total number of people entering the site of a Special Event on an Event Day. For Events with multiple consecutive Event Days, the Day with the greatest number of persons attending shall be used to determine whether an Event is Small, Medium, or Large.

§ 57.3. Permit required.

- a) No person shall stage, promote, advertise, or hold any Special Event unless a permit has first been obtained from the County or unless such event is regulated as a Home Occupation per County Zoning Ordinance Section 3-C-2-n or excepted from obtaining a permit by other provisions of this ordinance.
- b) The permit required by this ordinance, or the exemptions provided herein, shall not eliminate or substitute for any requirement for any business license or any other permit(s) which may be required by any federal, state, or local statutes, ordinances, rules, or regulations. Applicants are responsible for insuring that all such permits, licenses, and certificates are obtained from the appropriate authority.
- c) The Administrator shall review applications for Small Special Events.
- d) The Board shall review applications of Medium or Large Special Events.

§ 57.3.1. Special Event not allowed.

An activity that meets the definition of a Special Event, except for the stipulation that it occur on a parcel of six or more acres, is not allowed on a parcel of less than six acres.

§ 57.3.2. Exemptions from permit

A permit shall not be required for an assembly with less than 150 persons attending the event on a parcel of 6 or more acres (or adjoining parcels with the same owner that have a total area of six or more acres).

§ 57.4. Application for permit.

- a) Written application for a Special Event permit shall be made to the Board of Supervisors or its designee. Such application shall contain such information and be on such forms as the Board of Supervisors, or its designee, may from time to time require. No application shall be submitted, or accepted, unless presented on the required

forms along with all additional required plans, documents, approvals, fees, and other material required by this ordinance.

- b) An application for a Small Special Event shall be submitted at least 30 calendar days before the date of the Event to allow for review of the application. An application for a Medium or Large Special event shall be submitted at least 120 calendar days before the date of the Event in order to allow for review of the application. However, such an application may be submitted at least 75 calendar days before the date of the Event if the application contains written approval of all requirements as specified in Section 57.7.
- c) Multiple applications for Special Event permits may be submitted together for a single parcel of property for events to be held during a calendar year.
- d) No application for a Special Event may be filed more than one year before an Event is to be held or before the first Event Day for applications for multiple Special Event permits.
- e) The applicant shall:
 - 1) send a copy of the application to all adjacent property owners by certified mail on the same date as the application is filed with the Administrator. The address for such owners shall be that found in the records of the Commissioner of the Revenue or equivalent source for properties not located in Clarke County.
 - 2) include with the application sent to adjacent property owners a written notice that these owners may contact the Administrator with any comments within 15 calendar days of the date of the mailing of the notice.
- f) The application shall include:
 - 1) A description of the event and the type and nature of the performances, shows, and/or other activities.
 - 2) A schedule of the dates and times of specific performances, shows, and/or other activities.
 - 3) A description, plan, and/or documentation of how the applicant will comply with each of the Special Event requirements set forth in §57. 7.
 - 4) A signed statement from the owner of the property on which the event is to be held to confirm that the owner has given permission for the specific Special Event to be held.
 - 5) A list of all adjacent property owners, with addresses.

- 6) Written proof of the mailing of the certified notices described in section 57.4.f.1., above.
- 7) For Medium or Large Special Events, a scaled drawing depicting the following:
 - (a) The areas for performances or activities and for grandstands or seats, showing the location of all aisles for pedestrian travel and other crowd-control measures.
 - (b) All physical facilities existing or to be constructed on the premises, including, but not limited to, fences, ticket booths, grandstands, and stages.
 - (c) The location, capacity, and nature of all temporary lighting, sound, and public address facilities.
 - (d) The location, capacity, and nature of all temporary water, toilet, and all other public health-related facilities.
 - (e) Vehicle ingress, egress, and parking plan, to include emergency vehicle access.

§ 57.5. Permit Fee.

A permit fee shall be paid at the time of submission of an application for a permit. The Board of Supervisors shall adopt a fee schedule for the various types of Special Events.

§ 57.6. Action on applications.

- a) Small Special Event. Upon receipt of a complete Small Special Event permit application, the Administrator, or his designee, shall review the application and shall, within 30 calendar days, upon finding that the Special Event would comply with the provisions of this ordinance, approve the permit subject to such reasonable terms and conditions established by the Administrator;
 - 1) provided, however, if the applicant requests additional public services or the Administrator has cause to believe that additional public services would be necessary, the Administrator shall forward the application to the public agency or agencies which would provide the additional services for comment and/or agency approval of the additional services. The public agency shall respond with comments and/or agency approval within 15 calendar days. Failure to respond within 15 calendar days shall be deemed approval by the agency. The Administrator shall act upon the permit within 10 calendar days of receipt of the comments and/or agency approval. The Administrator shall consider the

application and agency comments and shall approve the application, incorporating such reasonable terms and conditions as may be established by the Administrator or deny the application. If the Administrator approves multiple events and the conditions established are not followed, the Administrator may reconsider his/her approval action for any events that have not occurred. If the Administrator approves multiple events and the conditions established are determined by the Administrator to be ineffective in protecting the public health, welfare, or safety, the Administrator may modify such conditions. Such modifications shall be provided to the applicant in writing at least 5 calendar days before the next event.

- 2) The Administrator shall send notice of his action to all adjacent property owners by certified mail within 5 calendar days after the decision being rendered.
- b) Medium or Large Special Event. Upon receipt of a complete Medium or Large Special Event permit application, the County Administrator shall forward the completed application to the Clarke County Building Official, the Clarke County Sheriff, the Chief of the Fire and Rescue Company serving the location, and the local offices of the Virginia Departments of Health, State Police, and Transportation for comment and/or agency approval. The public agency shall respond with comments and/or agency approval within 45 calendar days. Failure to respond within 45 calendar days shall be deemed approval by the agency. The Administrator shall forward the application and any agency comments and/or agency approvals to the Board, and shall place the application on the agenda of the first regular meeting of the Board that occurs after 60 days after the submittal of the application. At this meeting:
- 1) for Medium Special Events, the Board shall consider the application and agency comments and shall approve the application, incorporating such reasonable terms and conditions as may be established, deny the application, or set a public hearing on the application for the next regular meeting of the Board. After a public hearing at the next regular meeting, the Board shall approve the application, incorporating such reasonable terms and conditions as may be established or deny the application.
 - 2) for Large Special Events, the Board shall set a public hearing on the application for the next regular meeting of the Board. After a public hearing at the next regular meeting, the Board shall approve the application, incorporating such reasonable terms and conditions as may be established or deny the application.
 - 3) The Board shall send notice of its action to the applicant and all adjacent property owners by certified mail within 10 calendar days after the decision being rendered.
 - 4) The applicant or any adjacent property owner may appeal in writing to the Circuit Court an action of the Board to approve or deny an application. Such appeal shall be filed within 30 calendar days of the date of the Board's decision.

§ 57.7. Special Event requirements.

All Special Events shall comply with the following terms, conditions, and requirements, unless express exception is requested and granted in any permit issued. The Administrator may waive any of the following for Small Special Events based on circumstances unique to the proposed event.

- a) **Event hours.** Unless specifically approved by the reviewing entity, no stage presentation, music, dance, or other performance or activity shall take place at a Special Event between the hours of 12:00 a.m. and 7:00 a.m.
- b) **Admission regulated.** The applicant shall regulate admission by admission ticket or other means acceptable to the County, so as to insure that the number of persons attending an event does not exceed the number allowed by terms of the permit.
- c) **Limits to attendance.** The applicant shall not sell, give, or distribute a greater number of tickets than the number that the permit allows to attend. The applicant shall not admit any persons to an outdoor event if such admission would result in a greater number of persons present than allowed by the permit.
- d) **Water supply.** The applicant shall provide an ample supply of potable water for drinking and sanitation purposes on the premises of the Special Event by providing to the satisfaction of the Health Department the location and type of water facilities.
- e) **Toilet and/or lavatory facilities.** The applicant shall provide adequate toilet and/or lavatory facilities for sanitation purposes on the premises of the Special Event to the satisfaction of the Health Department.
- f) **Waste management.** The applicant shall provide for the pickup and removal of refuse, trash, garbage, and rubbish from the site of the event on a daily basis, or more often if required by providing to the satisfaction of the Health Department the plans for pickup and removal of refuse and to clean up the premises and remove all trash and debris there from within 48 hours after the conclusion of the event.
- g) **Medical facilities.** Adequate on-site medical facilities and emergency medical transport vehicles shall be provided to the satisfaction of the Health Department and the Chief of the Fire and Rescue Company providing service to the location at which the Special Event is to be held.
- h) **Fire protection.** The applicant shall provide for adequate fire protection to the satisfaction of the Chief of the Fire Department providing service to the location at which the Special Event is to be held.

- i) **Traffic and parking control.** The applicant shall provide for adequate ingress and egress and parking for the Special Event to the satisfaction of:
 - a. the Sheriff and State Police with a plan for ingress, egress and adequate parking and
 - b. VDOT with a plan calling for traffic control devices, signage, cones, barricades, or other activities to take place within the public right-of-way.
- j) **Security.** The applicant shall provide adequate on-site security for the entire duration of a Special Event to the satisfaction of the Sheriff with a security plan.
- k) **Food & Beverage.** The applicant shall provide for adequate preparation and provision of any food or beverage for consumption during the Special Event to the satisfaction of the Health Department (and the Virginia Alcohol Beverage Control Board, if alcoholic beverages are to be served) with a plan for preparing and providing food and beverages).
- l) **Illumination.** If outdoor lighting is to be utilized, such lights shall be located, or such shielding devices or other equipment shall be utilized so as to prevent unreasonable glow beyond the property on which the event is located. All necessary building permits shall be obtained before the event occurs.
- m) **Temporary Structures.** All necessary building permits shall be obtained before the event occurs for any temporary structures such as tents or amusement rides.
- n) **Sound.** Sound levels shall comply with the Clarke County Code § 120, which regulates noise.
- o) **Communication system.** If the premises are without adequate communications systems, the applicant shall make arrangements, approved by the County, to provide for substitute, additional, or alternate means of communication with public safety and other government officials.
- p) **Liability insurance.** The applicant shall provide evidence of adequate liability insurance. A certificate of insurance providing coverage in an amount of at least \$1 million dollars, naming the County of Clarke as an additional insured, and showing the date(s) of the event, shall have been received by the Administrator before an application is placed on a Board agenda for action.
- q) **Setbacks.** The approving entity may establish setbacks from property lines, rights of way, and access easements to the site of public assembly or parking for participants or spectators for a Special Event as determined necessary by the approving entity depending on site characteristics, the type of event, the anticipated number of participants and spectators, and the impact on adjacent

property owners.

- r) **Permission for Entry.** The applicant shall provide written permission for the Administrator or designee and all duly constituted law enforcement officers to enter the property at any time during the Special Event to determine compliance with the approved permit and the provisions of this chapter.
- s) **Other laws and rules.** The applicant shall comply with all federal, state and local laws, ordinances and regulations, including zoning ordinance provisions and any special use provisions applicable to the property.
- t) **Necessary Safety Services.** The operator of the Special Event shall provide any services necessary to provide appropriate levels of safety over and above what public agencies determine that they are able to provide.

§ 57.8. Deposit.

As a condition of granting the permit, the Administrator or the Board may require the payment of a deposit to cover anticipated public clean-up costs, law enforcement costs, and/or emergency services costs beyond what is usual and customary. The applicant shall be responsible for such costs in excess of any deposit, and the applicant shall be refunded any portion of a deposit not needed to cover such costs.

§ 57.9. Permit not transferable.

No permit issued under the provisions of this chapter shall be transferable.

§ 57.10. Revocation or suspension of permit.

A permit issued under the provisions of this chapter may be revoked or suspended by the entity that approved the permit. The Sheriff or his/her designee may temporarily suspend the permit pending consideration, by the entity that approved the permit, of action to revoke or suspend a permit. Such action by the approving entity or the Sheriff or designee may be taken for any of the following reasons:

- a) Any violation of one or more of the requirements of this chapter or any violation of one or more of the terms and conditions of a permit issued hereunder.
- b) Any material misrepresentation in the application for a permit.
- c) Any change in the ownership of the location of the permitted event, unless there is provided a signed statement from the new owner to confirm that the new owner has given permission for the specific Special Event to be held.
- d) Any material change in the condition of the facilities or ability of contracted organizations to provide required services or equipment.

- e) Any state of emergency, disaster, hazardous weather condition, or other threat to the public health, safety, and welfare that has been declared or is anticipated to occur such that continuation of the event is deemed to be an undue or unnecessary risk to the participants, general public, or public safety providers.

Upon revocation or suspension of the permit, the permittee shall immediately cancel and/or terminate the event and provide for orderly dispersal of those in attendance.

§ 57.11. Violations and Penalties

Any person or entity that violates any provision of this chapter shall be guilty of a Class 1 misdemeanor. Each violation shall constitute a separate offense, and each day such violation may continue shall constitute a separate offense. The Board may bring suit in the Clarke County Circuit Court to restrain, enjoin, or otherwise prevent a violation of this chapter.

§ 57.12. Effective Date

This ordinance shall be effective as to all Special Events occurring after April 1, 2009, except for:

- a) those events for which a County permit had been approved before January 1, 2009; and
- b) those events for which no County permit was required before the adoption of this ordinance, if based upon documentation provided to the Administrator by the event sponsor, the Administrator finds that before the adoption of this ordinance (1) a date within one year of the adoption of this ordinance for the event had been set, and (2) promotion or planning of the event had been commenced by (i) paid advertising, (ii) dissemination of written materials, (iii) contracting with vendors or service providers, and/or (iv) ticket sales.

Adjournment

There being no further business to be brought before the Board at 8:01 pm. Chairman Staelin adjourned the meeting.

Next Meeting Date

The regular meeting of the Board of Supervisors is set for Tuesday, October 21, 2008 at 1:00 p.m. in the Board of Supervisors Meeting Room.

ATTEST: September 16, 2008

John Staelin, Chair

David L. Ash, County Administrator

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