

CLARKE COUNTY BOARD OF SUPERVISORS
October 21, 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, October 21, 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, Lora Walburn

Others Present

Robina Rich Bouffault, Dr. Michael Murphy, Keith Dalton, Gem Bingol, Jeanne Abigail Custis Marcy, Linwood Outlaw III, Laura Oleniacz, Dennis Cox and other citizens

Call to Order

Chairman Staelin called the meeting to order at 1:03 p.m.

Adoption of Agenda

Supervisor Weiss moved to approve the agenda as modified:

- Miscellaneous:
 - o Add Discussion of Mandatory Water Restrictions in the Town of Front Royal
 - o Add Gary Comparetto Request to the Planning Commission for Exception
 - o Add Discussion of Waterloo Handy Mart
- Modify to change order placing:
 - o Schools before Approval of Minutes

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, accompanied by Dr. Michael Murphy, appeared before the Board of Supervisors to provide the monthly update. Highlights of the Schools update included:

- The School Board is hopeful that the contract with the architect will be finalized by their next meeting.
- Legal counsel for the School Board has responded to the lawsuit lodged in the Clarke County Circuit Court by the former architect.
- Gannett Fleming is finalizing the construction management plan.
- The Chair has consulted with the Clarke County Planning Director and Town of Berryville Planner regarding permit requirements. Chuck Johnston, Planning Director, agreed to provide a memorandum of steps, with time estimates, to be given to Gannett Fleming for inclusion in the master plan.
- April 2009 is the target for bids for new high school construction.
- There was discussion regarding the grading system used in Clarke County Schools.
- The joint maintenance effort is going well.
- The job description for the proposed IT position is being developed.

Approval of Minutes

Vice Chairman Hobert moved to approve the minutes for September 16, 2008 Regular Meeting as modified.

- **Page 612 – Change Augustus to Gustafson.**

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

Lord Fairfax Health District 2008-2009 Locality Agreement

David Ash provided an overview of the proposed 2008-2009 Locality Agreement and distributed the attachment that was not included with the original copies provided by the Lord Fairfax Health District.

Supervisor Byrd 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

Citizens Comment Period

No persons were present wishing to address the Supervisors.

VDOT

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

- Studies of residencies are in process with a 30% reduction target.
- Contractors are completing primary mowing.
- Patching is being completed in various locations on Church Street near Southgate.
- Grading non-surface roadways
- Brush cutting in progress.
- Route 50 shoulders completed.
- Conducting dry runs for winter operations.
- Chairman Staelin requested an update on Calmes Neck. Jeff Lineberry indicated that a letter had been sent and he was awaiting reply. He advised that the next steps were to determine where to use the posted bond funds - approximately \$70,000. He stated that they might be able to pave further back but were not certain who owned the land. He noted that the developer moved on without making the improvements and that the project was based on getting easements from homeowners that were not particularly interested in giving easements.

- Vice Chairman Hobert requested an update on painting of crosswalks. Jeff Lineberry advised that a request was in place to repaint crosswalks in Berryville.
- Supervisor Byrd asked if a guardrail could be installed at the Cave Road crossover. Jeff Lineberry advised that they could not put in a guardrail and suggested a delineator. He reminded that closure of this crossover had been recommended to the Supervisors at the September 16, 2008 Regular Meeting. He advised that the crossover was a contributing factor in the accidents occurring in this area. Further, accident history of all crossovers indicated that they were contributing factors and closure would add to the safety of the corridor. Chairman Staelin requested that VDOT work with David Ash and Barbara Byrd on Route 7 Corridor safety improvements.
- David Ash provided an update on the Dennis property issue. DCR has provided a response stating that they did not have the authority or the responsibility to correct the problem. Garrett Moore, VDOT, has provided acknowledgment of receipt and has indicated that a response would be provided. Supervisor Dunning contributed that he was pursuing supporting photography and asked the Supervisors to delay action until more information was available. Chairman Staelin instructed Mr. Ash to provide copies of the DCR letter and the VDOT acknowledgement to Senator Vogel and Delegate May.
- Supervisor Weiss asked for review of Retreat Road for safety improvement. Supervisor Dunning suggested installation of rumble strips where traffic comes off Retreat Road. Bob Childress suggested turn lane improvements.
- Supervisor Byrd requested additional information on VDOT signs advertising local attractions, businesses.

Text Amendment – Set Public Hearing TA-08-06

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. amend the list of Accessory Uses to delete the acreage requirement for Tenant Houses;
2. amend the list of Special Uses to change "Processing of Fruit and Vegetables" to "Processing of Agricultural Products not produced in Clarke County";

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

1. amend the list of Accessory Uses to delete the acreage requirement for Tenant Houses;
2. amend the list of Special Uses to change "Processing of Fruit and Vegetables" to "Processing of Agricultural Products not produced in Clarke County";

Section 3-C, Supplementary Regulations, so as to establish regulations for:

1. Processing of Agricultural Products produced in Clarke County: A proposal for the Processing of Agricultural Products produced in Clarke County shall submit a site plan, per Section 6 of this Ordinance, subject to administrative approval by the Zoning Administrator. Any facilities used for such processing shall be set back at least 500 feet from incorporated town limits, the

Berryville Annexation Area, the Rural Residential Zoning District, and parcels less than six acres in area;" and

2. Tenant Houses, requiring such structures comply with Zoning and Subdivision Ordinance and the requirements of the Virginia Department of Transportation;

Section 4-K-6, Nonconforming Lots, Uses and Structures, Uses Eligible for Special Use Permits Not Nonconforming Uses, so as to clarify the status of nonconforming uses that becoming conforming uses after a text amendment;

Section 5, Special Use Permits, so as to require the approval by the Planning Commission of a Site Plan for Special Uses that have ceased operation for more than 24 months before such uses can be restarted.

Section 9-B, Definitions, so as to amend the definition of the term "Agriculture": The use of land devoted to the production of agricultural products and the processing of such agricultural products that are produced in Clarke County." TA-08-06

Chuck Johnston provided a synopsis of the proposed Zoning Ordinance text amendments TA-08-06.

Vice Chairman Hobert suggested a language change under Special Use Permits to read "either or" and to modify the last phrase to read, "commence or recommence" operations.

By consensus, the matter was held over for additional review at the November 12, 2008 Work Session.

Text Amendment – Set Public Hearing TA-08-07

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

Sections 3-A-1-a, 3-A-2-a, 3-A-3-a, 3-A-12-a, and 3-A-13-a, Permitted and Special Uses and Structures in the AOC, FOC, Rural Residential, Neighborhood Commercial, and Highway Commercial Zoning Districts so as to add Small Wind Turbines that are 100 feet or less in height as a Accessory Use and such turbines taller than 100 feet as a Special Use;

Section 3-C-2, Supplementary Regulations, so as to add regulations for Small Wind Energy Systems; and Section 9-B-2, Definitions, so as to add the definitions for Small Wind Energy Systems and Wind Turbines. TA-08-07

Chuck Johnston reviewed the proposed Zoning Ordinance text amendment TA-08-07. Mr. Johnston stated that he had been told that the county does not have sufficient wind to power large wind turbines but there would be sufficient wind for small wind turbines that could provide a secondary or back up source of power. He also told the Supervisors that large turbines must be located immediately adjacent to high voltage power lines, which are not available in the county.

Chairman Staelin requested that staff have pictures of turbines available at the public hearing.

Supervisor Dunning moved to set the matter for public hearing at 6:30 pm on Tuesday, November 18, 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

Committee Action

Personnel

Appointment to Authorities, Boards and Commissions

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Historic Preservation Commission	Mia Franklin	5/31/2012
<i>Ms. Franklin is appointed to serve a four-year term on the Historic Preservation Commission.</i>		
Adjustment of the expiration of term for Sharon Wine, Lord Fairfax Emergency Services Council from 7/30/2009 to 6/30/2009 in order to coincide with recently revised council by-laws.		

There remains a vacancy in the Lord Fairfax Emergency Medical Services Council for the remainder of an unexpired term ending 6/30/2010. David Ash requested delayed action on the proposed appointment advising that there was a potential residence issue.

Supervisor Byrd moved to approve the appointments as amended.

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

Work Session

1. *Energy Conservation (Green) Committee Interim Report.*

The Energy Efficiency and Conservation Committee made its interim report to the Board of Supervisors, outlining its work to date, and suggested that the Board not wait until the final report to set goals and direct changes in policy and procedures that would reduce energy consumption or effect savings where the changes are readily apparent and easy to implement.

Requested Action: Discuss Committee Recommendations

Chairman Staelin suggested the formation of an energy management team including Alison Teetor, Bobby Levi, Mike Legge, and Tom Judge. Supervisor Weiss opined that there was a limit to the amount of work and number of projects that could be placed upon staff. Alison Teetor put forward that she saw the energy manager function as more a coordination of efforts and helping employees change habits.

Supervisor Byrd suggested including the Litter Committee in the discussion noting that they have been working on recycling for years.

David Ash contributed that inclusion of staff such as Bobby Levi and Tom Judge in decisions and information gathering was necessary; but to assign someone to the task of energy manager required the courtesy of discussing it first with the department supervisors.

Following discussion, the Supervisors instructed David Ash to provide a report on the implementation of Green Committee recommendations at the November Regular Meeting. Supervisor Weiss noted that the County is currently doing most of the suggested items including in the memorandum titled "*Recommendations form Green Committee "Low Hanging Fruit"*".

2. *Town of Berryville Sewage Outfall Line Discussion*

The Town of Berryville updated the Board on the plans to construct an effluent line from the sewage treatment plant to the Shenandoah River. This matter is scheduled for public hearing at the next Board of Supervisors meeting.

Chuck Johnston provided revised language for public hearing PH 08-14 and requested that the Supervisors continue the public hearing pending additional review by the Planning Commission to ensure compliance with the Comprehensive Plan.

3. *Legislative Priority Discussion.*

Requested Action: Discussion of 10/15/08 Draft

The Priority List has been revised for discussion at the October 21, 2008 Board of Supervisors meeting.

By consensus, several modifications to wording were approved. Chairman Staelin instructed staff to forward the revised priorities to Senator Vogel and Delegate May prior to the Thursday, October 23, Legislative Luncheon.

4. *Joint School/General Government Technology Discussion*

The Board was updated on the status of efforts to coordinate and cooperate with the schools on IT matters and purchases.

Requested Action: None

5. *Committee or Liaison Reports to be placed on Board Agenda.*

No action taken.

Requested Action: None

Finance Committee

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

1. *Capital Projects Carryover.*

Government and school capital carryover from FY 08 to FY 09. "Move that the FY 08 capital projects carryover be approved as itemized."

Requested Action: Approve Committee Recommendations

Vice Chairman Hobert moved to approve the committee recommendation for capital projects carryover.

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. *Conservation Easement Carryover.*

"Move that the FY 08 Conservation Easement Carryover be approved in the amount of \$9,434".

Requested Action: Approve Committee Recommendations

Supervisor Dunning moved to affirm that the left over amount in conservation Easement be carried over in FY09.

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

3. *Vendor Payment Descriptions.*

This item was presented to update the committee on previously requested changes. Those changes are being pursued.

Requested Action: None

4. *Reassessment.*

This was an update on current activities. There is a possibility that a recommendation will be made to the Board at its October meeting.

Requested Action: None

5. *Dispatcher Vacancies.*

The Sheriff requested the committee's concurrence in filling the two Communications Officers positions recently vacated. Both have been vacant for approximately one month. The committee recommends the Sheriff replace one immediately and wait until November to replace the position subject to compensation board funding restrictions.

Requested Action: Approve Committee Recommendations

Vice Chairman Hobert stated that the Finance Committee had not recommended but rather expressed support for the Sheriff's proposed staffing plan.

6. *1st Quarter Revenue Review.*

The committee reviewed the projected revenues and requested several changes that have been included in the revised documents provided for the Board Agenda Packet.

Requested Action: Review Revised Documents.

Tom Judge reviewed with the Supervisors the revised 1st Quarter FY09 Revenue documents. He verified that the revised documents included state reductions.

7. *FY09 Reconciliation of Appropriations.*

This report provided for information only.

Requested Action: None

8. *FY09 Fund Balance Estimate.*

This document is provided for discussion purposes. The decision on Fund Balance Designations is anticipated to take place in November.

Requested Action: Discussion.

Chairman Staelin requested that the Supervisors consider priorities of fund balance designations for final decision at the regular meeting in November. He instructed Tom Judge to provide any revised data prior to the meeting.

Bills And Claims

Supervisor Weiss moved to approve the report for the September 2008 General Government Bills and Claims.

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

Chairman Staelin advised the Supervisors that prior to striking internet / broadband from the list he had requested David Ash follow up with Mark Seder, who is working toward securing county-wide coverage.

Berryville Clarke County Government Center Update

David Ash provided the monthly progress report for the new joint government center.

- The parking lot is moving forward.
- It is anticipated that the date for substantial completion will be changed at the October 22 at the project meeting. He reminded that October 21 was the latest of the revised completion dates given by the contractor.
- There is further construction delay due to a change in the Planning Department design plan.

Miscellaneous

Gary Comparetto Request to the Planning Commission for Exception

Supervisor Byrd presented a request by her constituent Gary Comparetto asking the Planning Commission to make a ruling on the placement of a 12 x 12 storage shed that he wanted to locate ten feet from the back of his lot.

Chuck Johnston put forward that the placement on the Comparetto property was for aesthetic purposes, not hardship, and would require a text amendment. He stated that the Planning Commission did conduct an informal review of this request and were not inclined to initiate a text amendment that would necessitate an exception.

Following discussion, the Supervisors instructed David Ash to respond to Mr. Comparetto advising that neither the Supervisors nor the Planning Commission desire to initiate a text amendment.

Mandatory Water Restrictions in Front Royal

Alison Teetor advised that Clarke County was at normal levels for this time of year. She provided additional insight regarding the recent mandatory water restrictions enacted by the Town of Front Royal noting that Front Royal's action was forced on them by their permit. The river is low at their intake so they are required to reduce usage. Chairman Staelin expounded further on water fluctuations in the valley.

Waterloo Handy Mart

Supervisor Dunning updated the Supervisors on the progress of the Handy Mart construction project in Waterloo. He advised that the County will eventually own the water and sewer lines in that area and the long-term plan for these lines was as of yet unknown.

Mr. Dunning asked for direction from the Supervisors as to who should pay for monitoring the construction of these lines to ensure compliance with specifications. David Ash asserted that the Code Official did not have the equipment to properly test the sewer lines. David Weiss interjected that at this time the developer did not intend to turn over the sewer system to the County. David Ash stated that he believed the County could require that the lines be tested.

Chuck Johnston reviewed the plans presented by Handy Mart.

Following discussion, Supervisor Dunning stated that he would recommend to the Sanitary Authority that they make system testing during construction a condition of acceptance.

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Correct, process and upload September 16, 2008 minutes.	Lora B. Walburn
2.	Secure signature and forward executed copies of the Lord Fairfax Health District 2008-2009 Locality Agreement	Lora B. Walburn
3.	Develop plan for Route 7 Corridor improvements with VDOT.	David Ash, Barbara Byrd
4.	Provide copies of the DCR letter and the VDOT acknowledgement to Senator Vogel and Delegate May.	David Ash
5.	Place review of TA-08-06 on the November 12, 2008 Work Session Agenda.	David Ash
6.	Advertise for public hearing TA-08-07.	Lora B. Walburn

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
7.	Have pictures of turbines available at the public hearing.	Chuck Johnston
8.	Provide notice of appointment and update database.	Lora B. Walburn
9.	Confirm residency of proposed appointment to the Lord Fairfax Emergency Medical Services Council.	David Ash
10.	Provide a report on the implementation of Green Committee recommendations at the November Regular Meeting.	David Ash
11.	Forward the revised priorities to Senator Vogel and Delegate May prior to the Thursday, October 23, Legislative Luncheon.	Lora B. Walburn
12.	Respond to Mr. Comparetto advising that neither the Supervisors nor the Planning Commission desire to initiate a text amendment.	David Ash
13.	Provide adjustments to prior year Capital budget report to the Supervisors prior to the November 18 meeting.	Tom Judge

At 4:31 pm Chairman Staelin recessed the meeting until 6:30 pm.

At 6:35 pm Chairman Staelin reconvened the meeting.

Citizens Comment Period

No citizens appeared to address the Supervisors.

PH 08-14 SUP-08-02 (aka SUP-04-01) Special Use / Site Plan – 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)

Vice Chairman Hobert left the room prior to discussion.

Chuck Johnston presented the request by the Town of Berryville for a special use / site plan for a public utility facility for the Berryville Waste Water Treatment Plant. He advised that there were representatives from the Town of Berryville that were present and prepared to answer any questions.

Mr. Johnston advised that a step in the process had been inadvertently missed. He stated that the Supervisors could proceed with the public hearing but recommended that action be delayed until after the Planning Commission meeting. He stated that the Planning Commission would hear the matter at their November 7, 2008 at 9 am in the Board of Supervisors Meeting Room.

Dean Westman at Whitman, Requardt & Associates, LLP provided a PowerPoint presentation of the proposed special use. The presentation included a general description, location advantages, and a list of various alternates. He stated that the proposed line crossed 13 properties. He also provided a timeline for completion.

At 6:49 pm Chairman Staelin opened the public comment portion of the public hearing.

Dexter S. Odin, Legal counsel for Grace Ritzenberg, an affected property owner: appeared before the Supervisors to express his client's concern and opposition to the outfall line crossing her property. He advised that there was a conservation easement on the property and that the property owner was not empowered to consent under the terms of the easement. He advanced issues with the easement opining that easements used in this manner would discourage persons from putting their land in easement.

Mr. Odin asked that should the Town proceed with this plan that they pay for the land, as well as damages. He advised that state law had not been followed. He put forth that the statement that there was no impact on historic property was improper for the land was clearly historical. Reminding that there were 10 alternates, Mr. Odin asked that the County consider other options before approving the use of property with a conservation easement. He opined that to consider further burdening this property was not in the Board's best interest for it would discourage other property owners from donating land for conservation easement.

Mr. Odin opined that force mains were very valuable to developers and that as a discharge it could not serve his client or the affected property owners. He put forth that the Planning Commission could find that going through any conservation easement might compromise the comprehensive plan.

He questioned the actions of the Town and concluded by stating that this proposal had a stench to it that was not caused by the sewage.

Abbe Kennedy, Virginia Outdoors Foundation: appeared before the Supervisors to express concern. She stated that while VOF recognized and appreciated the need and the work done by the Town there were concerns about the impact on open space easements. She advised that VOF had provided a list of comments to the Town of Berryville but had waited from May until October to receive response. She stated that at this point she could not offer assurances that VOF could approve the proposed action. She requested that the Supervisors defer action until studies and questions had been addressed.

Keith Dalton, Town Manager, stated that this was not something that the Town took lightly. He said that all ten options had been considered and on all of these routes landowners had issues with the location. He opined that only option 7 had a better hydraulic position than option 10.

Mr. Dalton explained that this was a treated effluent line that the landowners could only access for agricultural use. He stated that DEQ had set stringent requirements and very high standards for the disposal of the effluent. He noted that the line currently being used was originally a water line. He said that the Town was trying to get the capacity that they needed to meet the requirements set by DEQ.

He concluded by stating that the Town was desirous of working with the landowners and did recognize that this is not what a landowner would want across their property.

Dean Westman responded to Supervisors questions regarding option 7. He told the Supervisors that the depth of the line would be four and a half to five feet.

Keith Dalton contributed that the Town of Berryville had not finalized any easements at this time.

Mr. Dalton and David Tyrrell provided response to the various questions posed by Supervisor Dunning.

Dean Westman advised that GeoMatrix had conducted soil borings on all but the Ritzenberg property.

Supervisor Dunning stated that the County requires resistivity testing for all drain fields.

Supervisor Dunning stated for the record that the Town of Berryville had received money from the Education Foundation, money that they had received from Betty Casey, a property owner bitterly opposed to the location of the outfall line across her land, which had been under consideration.

Keith Dalton clarified that the Town of Berryville, as a condition of the proposed gifting of land donated by Betty Casey to the Salvation Army and to be gifted to the Clarke County Public Schools through the Education Foundation, had entered into the agreement with the Education Foundation only to secure the proposed gifting of land for the proposed construction of a high school. Mr. Dalton stated that this agreement and the payment of \$270,000 to the Town to relocate the line was not a secret. He said that the Town had been placed in a position where they had to work with the community to build a new high school, and had been told that the land would not be donated if the effluent line went across the Betty Casey property.

Mr. Dalton stated DEQ would not allow the Town to go directly into Dog Run. He said that for the growth area to develop a new wastewater treatment plant was necessary as was the effluent line.

Dean Westman stated that running the effluent line across the Casey property would impact more wetlands and trees.

David Weiss stated that he, too, was concerned; but he knew that there was a need. He expressed agreement with Supervisor Dunning about crossing scenic easements. Chairman Staelin interjected that the sewer lines in Millwood do cross properties in easement.

David Terrell put forth for consideration current permit requirements noting that, if the outfall line were changed, DEQ would require daily sampling at the discharge point.

Ms. Kennedy advised that the Town could not condemn VOF land. She said that the VOF was willing to work with the Town. However, she noted that there were many unresolved issues and VOF was not comfortable providing the required approval in the current state.

Keith Dalton put forth that he did understand the concerns of the affected property owners and that the Town was willing to work with them to resolve issues.

Supervisor Dunning stated that VOF was there to protect the owner, owners who had allowed the conservation easements on their land. He delineated an alternate path for the necessary outfall line. Keith Dalton, noting the suggestion, asked if Supervisor Dunning would support this proposed alternate. Supervisor Dunning responded in the affirmative.

Supervisor Byrd asked Mr. Odin if Ms. Ritzenberg would support relocation of the line on her property. Mr. Odin said that he could not make that statement without consulting with his client; however, it would be considered.

Supervisor Weiss asked that the Town adjust the final leg of the line so that it was not so intrusive.

There being no other persons desiring to speak on this matter, Chairman Staelin closed the public comment portion of the public hearing at 7:56 pm.

Supervisor Weiss moved to hold the matter over until the November meeting.

The motion was approved by the following vote:

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

At 7:57 J. Michael Hobert rejoined the Supervisors.

PH 08-15 TA-08-03 Zoning Ordinance Text Amendment – 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 appeared before the Supervisors to present the proposed Zoning Ordinance Text Amendment TA-08-03.

At 7:59 Chairman Staelin opened the public comment portion of the public hearing.

Abigail Marcy, Berryville: asked if the definition of a structure would include everything such as tool sheds and barns?

Chuck Johnston affirmed that it would include these and the purpose of the proposed amendment was to define structures.

She inquired further if these could be taxed if defined as a structure.

David Weiss and Chuck Johnston advised that these were already taxed.

There being no persons present wishing to address the matter the public comment portion of the hearing was closed at 8:01.

David Weiss stated that he believed that it was appropriate to have height limit structures.

Supervisor Weiss moved for approval of the text amendment TA-08-03 to the Zoning Ordinance.

The motion was approved by the following vote:

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

ZONING ORDINANCE

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

4-H-3 Height Limitations

4-H-3-a Exceptions:

1. ~~In general, farm structures used for a~~ ***Agricultural structures*** shall not exceed 50 feet in height, ~~and~~ ***(except for silos, which*** shall not exceed 100 feet in height). ~~However,~~ ***in no event shall*** the height of such agricultural structures ~~shall not~~ exceed the distance from the structure to the nearest lot line.
2. ***Flagpoles may exceed the maximum height limit established in each zoning district by 50%, but shall not exceed the distance from the nearest lot line.***
3. Water tanks shall not exceed in height the distance from the nearest lot line.

9-B DEFINITIONS

9-B-165 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, except utility poles, ***and shall include, without limitation, chimneys, cupolas, flagpoles, smokestacks, spires, or towers.***

Adjournment

There being no further business to be brought before the Board at 8:04 pm. Chairman Staelin adjourned the meeting.

Next Meeting Date

The regular meeting of the Board of Supervisors is set for Tuesday, November 18, 2008 at 1:00 p.m. in the Board of Supervisors Meeting Room.

ATTEST: October 21, 2008

John Staelin, Chair

David L. Ash, County Administrator

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