

October 17, 2019

Clarke County Board of Supervisors
Special Meeting

12:00 p.m.

At a special meeting of the Board of Supervisors of Clarke County, Virginia, with the Virginia state and local legislators, held in the Lone Oak Tavern, 12696 Lord Fairfax Hwy, Boyce, Virginia conducted on Thursday, October 17, 2019, at 12 noon.

Supervisors: Present: Mary L.C. Daniel – Berryville District; David S. Weiss – Buckmarsh / Blue Ridge District; Terri T. Catlett - Millwood / Pine Grove District; Barbara J. Byrd – Russell District; Bev B. McKay – White Post District; Absent: None

State Representatives Present: Chris Collins – 29th District House Delegate; Wendy Gooditis - 10th District House Delegate; Truman Braslaw – 10th District Chief of Staff; Dave LaRock - 33rd District House Delegate; Daniel Davies - 33rd District Legislative Assistant; Jenna Moon – 27th District Senate Legislative Assistant for Senator Jill Holtzman Vogel

Other Local Officials Present: Pat Dickinson, Mayor – Town of Berryville; Monica Singh-Smith, Chair - Clarke County School Board

Staff Present: David Ash – County Administrator; Chuck Bishop – Superintendent, Clarke County Public Schools; Cathy Kuehner – Public Information; Brianna Taylor – County Administration; Lora B. Walburn – County Administration

Press: None

Others Present: William Houck, Doug Lawrence

1) Call to Order

At 12:19 am, Chairman Weiss called the 2020 Legislative Priorities meeting to order.

2) 2020 Legislative Priorities

Chairman Weiss stated that the Clarke County Board of Supervisors was conducting its legislative priorities review earlier to accommodate better the schedule of its state representatives as requested. Further, the Board's 2020 Priorities were listed in order of priority.

Following the Chair's opening comments, there was a brief introduction period for those in attendance.

Transient Occupancy Tax Increase

Pursuant to Code of Virginia Title 58.1. Taxation, Chapter 38. Miscellaneous Taxes, Article 6. Transient Occupancy Tax § 58.1-3819. Transient occupancy tax, Clarke requests it be added to the list of counties that are currently authorized to impose the transient occupancy tax at a maximum rate of five [5] percent.

Revenues from the portion of tax in excess of two percent are required to be used solely for tourism or marketing of tourism. Under current law, any county may impose a transient occupancy tax at a maximum rate of two [2] percent upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. Clarke adopted two [2] percent on April 16, 1996.

Clarke understands that the revenues for the portion of the tax over two [2] percent must be designated and spent solely for tourism, marketing of tourism, or initiatives that attract travelers to the locality and generate tourism revenues in the locality

Highlights of review include:

- Delegate Gooditis: No objection to the proposed increase.
- Delegate Collins: Frederick County added to the legislation last year.
- Supervisor Byrd: If working for other local jurisdictions, Clarke should also be included.
- Supervisor Catlett: Tourism is good for Clarke.
- Supervisor Daniel:
 - If a tax must be imposed, she would prefer it to come from outsiders.
 - Local business owners support the proposed increase.

Land Conversion for Nutrient Credits

Clarke prefers that credits be available only from within the HUC unit that credits are needed and not from adjacent HUC units.

Clarke believes that additional research is necessary to determine the unintended consequence of permanent removal of agricultural production on areas identified as important farmland soils by the Natural Resource Conservation Service (NRCS).

The Department of Environmental Quality adopted a post-construction water quality and quantity program requiring everything built after July 1, 2014, be nutrient neutral. Nutrient / phosphorous credits can be purchased and point sources and municipal systems can “true up” on an annual basis and buy term credits. However, to make the “math work” on new development, only permanent credits can be purchased, which cannot be renewed year after year. Rules require that the credits must be purchased within the eight-digit hydrologic unit or an adjacent eight-digit hydrologic unit hub. Clarke is adjacent to five out of seven of the Potomac River hubs; so, developments in those areas can buy nutrient credits in Clarke.

The program specifically seeks agricultural property to remove from production and, typically, trees are planted and maintained in perpetuity

Highlights of review include:

- Supervisor Catlett:
 - While it protects the Chesapeake Bay and water quality, adjacent areas may purchase credits in Clarke to convert to forest.
- Albemarle County has expressed similar concerns that the nutrient bank unintended consequences be addressed.
- Chairman Weiss:
 - Clarke is adjacent to five of the seven Potomac River hubs.
 - While he supports the initiative, he would prefer Clarke credits remain with Clarke.
 - Clarke is the third smallest county in Virginia, credits of 1,500 acres are considerable in a county the size of Clarke.
 - Representative that presented to the Supervisors seemed to be unaware of the unintended consequences.
 - The Farm Bureau raised the issue of nutrient credits last year.
- Supervisor Byrd: Many that have received the credit are planting pine trees.
- Vice Chair McKay:
 - Trees may be harvested, but must be replanted.
 - One of the first conversions was on property he sold, but he was unaware of the intent of the buyers to participate in the program.
- Delegate Gooditis:
 - Has been researching this matter for six to seven months.
 - Bettina Ring is the Secretary of Agriculture.
 - Matter is further research.
 - Fauquier County raised the same concerns about credits being used by other localities.
 - Could consider implementing a cap on percentage.
 - Large metropolitan areas are not close to much farmland.
 - Fewer credits are given for conversion to hay than conversion to forest.
- Delegate LaRock:
 - Could try to carve out Clarke so that it is not allowable.
 - Consider other characteristics that could apply to Clarke to aid in legislative effort.

- Could consider applying a unique tax.
- Supervisor Daniel: Suggested legislation for jurisdictions with less than 120,000 acres.
- Could consider legislation allowing right of approval by the local Board of Supervisors.
- Chairman Weiss: Uncomfortable with making a decision on a private land sale.
- Delegate Collins:
 - Frederick County does not have as much farmland as Clarke, which may not present the same effect.
 - He will check with Warren County.

Broadband

Clarke urges the Commonwealth and Federal Government to assist communities in their efforts to deploy universal, affordable access to broadband for all areas, particularly in under-served and rural areas.

Clarke opposes mandates that limit or restrict local use authority for the siting of telecommunications infrastructure or result in a negative fiscal impact to county budgets.

Clarke supports economic development policies and programs that bolster local and regional development efforts by maintaining state funding and granting additional funding and authority to promote local and regional initiatives.

Highlights of review include:

- Vice Chair McKay:
 - Agriculture needs internet to access programs to make equipment function.
 - Just as it was with electricity in the 20th century, states must act to do something to provide access.
 - Currently expanding broadband in the White Post district through a VATI grant.
 - Cable or fiber optics is preferred.
 - Towers are more cellphone, hot spot driven.
- Supervisor Daniel:
 - Community development needs to be looked at for it will drive the process.
 - Needed for education and public services.
 - CCPS conducted a survey of the number of households that do not have internet access.

- Dr. Bishop:
 - CCPS survey revealed 180 homes, 300 students.
 - CCPS partnered with the Educational Foundation for mobile hot spots, but these do not work in all locations.
 - Areas with the least coverage are in the Russell and White Post districts.
 - Berryville students have access.
- Chairman Weiss
 - Broadband and traffic are the community's top priorities.
 - Clarke did contract with a consultant to perform a study.
 - Consultant mapped 11 locations for tower placement.
 - Clarke is amendable to partnering with providers.
 - Clarke is open to all options.
- Delegate LaRock:
 - Some localities have created their own broadband network.
 - Clarke may wish to consider pre-approved sites, incentives.
 - Supervisor Daniel:
 - Clarke recently changed its regulations on the type of allowable towers.
 - Clarke chose not to pre-approve.
 - Localities are not permitted to ask providers / applicants information on internet speed, coverage, or customers service.
 - Recognizes that it is a cost decision, but Clarke may want to consider ways to make more attractive to providers.
 - May wish to consider crediting fees that could apply as a contribution for VATI grant funds.
 - Some electric co-ops allow telecommunications to co-locate on polls.
 - General Assembly is able to deem existing easements to allow internet infrastructure.
 - He is working with the utilities industry to determine what they would get in return for the government taking/quasi-condemnation.
- Delegate Collins:
 - Clarke may wish to consider establishing its own internet.
 - A public, private partnership could be used for this purpose.
 - Other localities have established internet service.

- Delegate Gooditis:
 - Some localities have not experienced success when implementing their own internet.
 - Need to avoid legislation that makes areas more unattractive to providers.

Education

Clarke supports full funding of Virginia's Standards of Quality as recommended by the Board of Education. The Commonwealth should fund its share of the true cost of K-12 public education without reducing other parts of the budget affecting local government or shifting costs from the Commonwealth to localities. In addition to meeting its obligations to fund fully instructional staff, Clarke County believes the Commonwealth should meet its obligation to fund fully the support side of K-12. Full restoration should be made of the cuts made in since 2009 in areas related to support staff funding including the elimination of the funding cap on support positions, reinstatement of the Cost of Competing funds for support staff, etc.

Highlights of review include:

- Chuck Bishop:
 - Top priorities for CCPS:
 - Standards of quality
 - Delegate Gooditis: May see a lot of progress with the new proposal for SOQ's.
 - Unfunded mandates, particularly recent change to the number of counselors per student.
 - Composite Index:
 - Clarke punished for keeping the locality rural.
 - Composite index higher than Loudoun County.
 - Using real value instead of land use value.
 - Delegate Gooditis:
 - ▲ Truman Braslaw and she will be working on the composite index, which needs review.
 - ▲ It is unfair to compare agricultural land to residential.
 - Teacher recruitment and retention
 - Need to come up with ways to make it easier to achieve licensure.
 - Need to address cost to compete with Northern Virginia.
 - Delegate Collins:

- ▲ Working to improve reciprocity from other states.
- ▲ Working to truncate and streamline the process.
- Expressed appreciation for legislation allowing school security funds to be used for “bricks and mortar” improvements.
 - Delegate Gooditis noted that Delegate Collins helped get the legislation passed.

At 1:30 pm, Superintendent Bishop and Delegate Collins left the meeting.

Other Issues

Chairman Weiss asked the state legislators to peruse at their leisure the remaining items on its 2020 Legislative Priorities noting that many had been on the list for a long time.

Delegate Gooditis asked about the struggle with Frederick County over water use from the Opequon stream.

- Group of deeply concerned citizens are closely monitoring.
- It does not appear that Frederick County plans water usage.
- Clarke's water plan covers the next 50 years.
- In future, there will be competition for potable water.

Mayor Dickinson stated that the Town of Berryville is planning updates to its water plant, sewer plant upgrades, and addressing long-overdue stormwater issues, particularly in the downtown area.

Delegate Gooditis asked about the stormwater issues.

Mayor Dickinson responses:

- Stormwater has not been fixed.
- A 1991 report noted that stormwater drains were undersized.
- Stormwater in the Town Run area, the older part of Town, is difficult to get out of the area.
- Stormwater in new developments is not an issue.
- Berryville is seeking grants to address these major, high-dollar issues.

Jenna Moon stated that she looked forward to working with Senator Vogel and Clarke on matters raised. She asked local legislators to contact Senator Vogel with their concerns.

Supervisor Byrd, Board of Supervisors liaison to the Northwestern Regional Jail Authority,

brought up the matter of the Northwestern Regional Jail.

- Cost to house an inmate is \$81/day. The state pays \$12/day for its inmates housed at the jail.
- Jail has a good work program in place sending inmates to work in care homes, cemeteries, animal shelters, etc.
- Work program helps reduce recidivism.
- Delegate Gooditis commented that the House is exploring ways to reduce inmate population including decriminalization for small amounts of marijuana.

Delegate LaRock provided the following comments:

- The direction of Virginia depends on the upcoming election.
- Virginia was voted the best state to do business, which can be attributed to many years of good decisions.
- Virginia's "Green New Deal" will create change.

Delegate Gooditis observed that while Virginia may be at the top of the list for businesses, it was at the bottom for living wage, accessibility, affordable health care, and workforce.

Chairman Weiss thanked all those that attended the meeting.

3) Adjournment

Chairman Weiss adjourned the Board of Supervisors meeting at 1:45 pm.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, November 19, 2019, at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: October 17, 2019

David S. Weiss, Chair

David L. Ash, County Administrator

Recorded and transcribed by Lora B. Walburn, Deputy Clerk to the Board of Supervisors