



# Clarke County Planning Commission

MINUTES -- Business Meeting

Friday, January 8, 2021 – 9:00 AM

Berryville/Clarke County Government Center - Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓ <b>E</b>	Pearce Hunt (Russell)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Scott Kreider (Buckmarsh)	✓
Matthew Bass (Board of Supervisors)	<b>X</b>	Douglas Kruhm (Buckmarsh)	✓ <b>L</b>
Anne Caldwell (Millwood)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	✓ <sup>1</sup>

**E** – Denotes electronic participation

**L** – Denotes arrived late

<sup>1</sup> – Participated in but did not serve as the Board of Supervisors alternate for this meeting.

**Note:** George L. Ohrstrom, II participated electronically due to health issues related to the current pandemic.

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), and Debbie Bean (Recording Secretary).

## **CALL TO ORDER:**

Mr. Stidham, as Clerk to the Commission, called the meeting to order at 9:02 AM and introduced the annual organizational meeting.

### **1. Approval of Agenda**

The Commission voted 9-0-2 to approve the meeting agenda as presented by Staff.

<b>Motion to Approve the Planning Commission Business Meeting Agenda as presented:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (Moved)</b>	Kreider	<b>AYE (Seconded)</b>
Bass	<b>ABSENT</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

### **2. Organizational Meeting**

#### **A. Election of officers: Chair and Vice-Chair**

Mr. Stidham opened the floor for nominations for Chair to the Planning Commission for 2021. Commissioner Caldwell nominated George Ohrstrom, II. There were no further nominations. The Commission voted 9-0-2 to elect George Ohrstrom, II to continue serving as Chair of the Planning Commission for 2021.

<b>Motion to elect George Ohrstrom, II as Chair to the Planning Commission for 2021:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>ABSENT</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE (Seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

Chair Ohrstrom asked for nominations for Vice-Chair to the Planning Commission. Commissioner Lee nominated Randy Buckley. There were no further nominations. The Commission voted 9-0-2 to elect Randy Buckley to continue serving as Vice-Chair of the Planning Commission for 2021.

<b>Motion to elect Randy Buckley as Vice-Chair to the Planning Commission for 2021:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>ABSENT</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Seconded)</b>
Glover	<b>AYE</b>		

#### B. 2021 Committees and Member Assignments

Chair Ohrstrom asked the Planning Commission if they are comfortable continuing with the current committee assignments and the members agreed by consensus to do so. He said that no motion is necessary.

#### C. Review and Adoption of 2021 Meeting Schedule

Mr. Stidham reviewed the draft meeting schedule for 2021. He said the only change is on November 2, 2021 which is the Election Day Holiday so the Planning Commission Work Session will be moved to Wednesday, November 3, 2021. The Commission voted 9-0-2 to adopt the meeting schedule for 2021 as presented.

<b>Motion to adopt the meeting schedule for 2021 as presented :</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>ABSENT</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Moved)</b>
Glover	<b>AYE</b>		

Commissioner Doug Kruhm entered the meeting at 9:05 AM.

D. Review and Adoption of 2021 By-Laws

Mr. Stidham said that a few meetings ago the Commission adopted a conditional approval policy. He said that the Commission wanted a place where it would be easy to find and decided to include it into the By-Laws. He said it is under new Article 9 (Operating Policies).

The Commission voted 10-0-1 to adopt the 2021 By-Laws as presented.

<b>Motion to adopt the meeting schedule for 2021 as presented :</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (Moved)</b>
Bass	<b>ABSENT</b>	Kruhm	<b>AYE (Seconded)</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

E. 2021 Project Priorities

Mr. Stidham stated that on page 14 of 49 is the 2021 Project Priorities. He said that the top priority is completing the long overdue Zoning & Subdivision Ordinances project. He stated that on page 17 of 49 is the revised timeline summary for this project. He said that Bob Mitchell (County Attorney) has given him a commitment to have the Subdivision Ordinance legal review done by the end of January. He said that his entire timeline is predicated on Mr. Mitchell making that deadline. He said presuming that this takes place we will work with him to complete a version of the Subdivision Ordinance that is ready for your review as well as completing the Zoning Ordinance and Definitions update. He said that Mr. Camp brought to his attention that we have another mandated review of our Flood Plain District regulations of which he was not aware. He stated that Staff has been working to overhaul these regulations which are rather extensive. He said that this is a change that the Commission has not seen previously. He said that our goal will be to present the final version of all of our drafts to you at the May 4, 2021 Planning Commission meeting. He said that there will be a two-month review time for the public hearing process and then the public hearing could be scheduled for June and the Commission can take action on the ordinances in July. He stated that if these milestones are met then we can move this on to the Board of Supervisors for their July meeting to set public hearing for August and then take action at their September meeting. He asked the Commission if they have any questions about the work plan assuming the legal work is done.

Chair Ohrstrom asked Commissioners if they are comfortable with getting this on May 4<sup>th</sup> Work Session agenda. He said that we would have two full months to look at this before we voted to present it to the Board of Supervisors. Mr. Stidham said when it is finalized he will send it out to the full Commission so that everybody will have a copy of the draft. Chair Ohrstrom said that is an excellent idea.

Commissioner Caldwell stated that there are a number of new members in the Commission that have probably have not been through the workshop process. She said that this is an enormous amount of material to review and it might be helpful to have a special meeting just devoted to the

presentation Mr. Stidham did which was excellent. She said that we could have one meeting focused just on that and it would help people to review it in more detail. Mr. Stidham said when the first drafts come up which will be the first versions you have seen since those joint workshops, each Ordinance will have a table of changes.

Mr. Stidham said that the second priority is the five year review of the Comprehensive Plan and he would like by the end of the year for the Commission to have completed the initial draft but it will be heavily dependent on our general workload. He stated that we also have five-year review resolutions due for Waterloo and Double Tollgate Area Plans and the Comprehensive Plan Committee will be looking at those and they are due in December. He said that the Berryville Area Plan update five year review is due this year and the Berryville Area Development Authority will be working on that and the deadline is May. He said at the end of this year we will also have preliminary work for the Agricultural Land Plan resolution and that will be due in February 2022.

Chair Ohrstrom said that every time we look at these reviews he noticed that we have not done the Mountain Land Plan since the adoption date which was over fifteen years ago. He said that he knows it was a very contentious process to go through all that. He said it has not been reviewed on the five year schedule and it strikes him that if anyone wanted to challenge Clarke County from a mountain based prospective and the fact that we have not updated this implementing component plan, we might have a big problem.

Mr. Stidham said that before going into that question he said Items 5 and 6 are all of the tasks for the remaining projects that we need to do with the component plans. He said that we have adopted the five year review resolutions for the Transportation Plan and the Economic Development Strategic Plan. He said that Item 6 is where he has mentioned the Mountain Land Plan update and the task to develop a new Village Component Plan, noting that he had dropped those from previous priority lists because we had other project priorities. He stated that he had included them this year to drive in the point that we need to get through the five-year update of the Comprehensive Plan and use any changes we make to the Comprehensive Plan to inform all the processes for all of the Component Plans that we still have on deck. He said that the Mountain Land Plan has been for the most part fully implemented through ordinance changes over the years and we would be looking at potentially a new re-write of the plan. He said setting the stage for that and considering merging the Mountain Land Plan with the Agricultural Land Plan is something we can discuss and as we go through the Comprehensive Plan update.

In regards to Chair Ohrstrom's question about would this open up legal concerns for Clarke County, Mr. Stidham said he thinks we should be more concerned about the Comprehensive Plan and making sure it is up to date. He stated that Component Plans are part of the Comprehensive Plan and it is not mandated in every County. He said it is something we do in Clarke County as long as we are keeping the base Comprehensive Plan updated and on a five-year review schedule he thinks it is the most important thing to making sure our plan is legally defensible.

Chair Ohrstrom said he understands and he is comfortable with what Mr. Stidham said.

Mr. Stidham asked the Commission if they are comfortable with the 2021 Project Priorities and if so there needs to be a motion. Chair Ohrstrom called for a motion for approval of the 2021 Project

Priorities as presented. The Commission voted 10-0-1 to approve the 2021 Project Priorities as presented.

<b>Motion to approve the 2021 Project Priorities as presented:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (Moved)</b>
Bass	<b>ABSENT</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Seconded)</b>
Glover	<b>AYE</b>		

**3. Approval of Minutes**

A. December 1, 2020 Work Session Minutes

The Commission voted 10-0-1 to approve the December 1, 2020 Work Session minutes as presented.

<b>Motion to approve the December 1, 2020 Work Session minutes as presented:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>ABSENT</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE (Seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

B. December 4, 2020 Business Meeting Minutes

The Commission voted 10-0-1 to approve the December 4, 2020 Business Meeting minutes as presented.

<b>Motion to approve the December 4, 2020 Business Minutes as presented:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>ABSENT</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Seconded)</b>
Glover	<b>AYE</b>		

**Schedule Public Hearing Item**

**4. TA-21-01, Manufactured Homes**

Mr. Stidham presented the Staff report for this item. He said that this text amendment proposal is to amend the current supplementary regulations for manufactured homes and the definition of “manufactured home” that are currently in our Ordinance. He said that in order to bring the Zoning

Ordinance into compliance with Code of Virginia requirements, the County Attorney has recommended replacing the current definition of “manufactured home” with language that tracks the Code of Virginia definition. He added that the 19-foot minimum width requirement would be deleted from the applicable supplementary regulation. He said that Staff has no outstanding concerns with the adoption of the text amendment. He said we are asking the Commission to set public hearing on this and noted that there is one nuance we are recommending that the Planning Commission do with future text amendments. He stated that as part of the action to set public hearing we are also asking the Commission to state that they are initiating consideration of the text amendment. He said that when we were going through the Zoning Ordinance it was noted that text amendments have to be formally initiated by the Planning Commission or the Board of Supervisors. He said that as a matter of practice when we are getting to the point to set a public hearing on a text amendment to take the extra step in the motion to say we are going to initiate consideration of this text amendment. Mr. Stidham asked if anyone has any questions.

Commissioner Lee asked what the width of a normal single wide mobile home is. Mr. Stidham said he imagines that the newer ones are about 12 or 14 feet.

Commissioner Kruhm asked if the County has had any experience with the trend of the tiny homes. He said that people build the houses on an axle frame and they can be towed around and set up out in a field. He said that they have chemical toilets in them. He said he was curious to know if this would have an impact on these tiny homes like the mobile homes. Mr. Stidham stated that we have had some inquiries about these tiny homes in general. He said that the last time Staff had a discussion about this, the Building Official noted that there are minimum requirements you have to have in a stick built constructed homes. He said the Building Official also noted that those requirements may exceed the tiny home threshold that people are looking at which is about 400 square feet. Commissioner Kruhm said that they look like a cross between a manufactured home and a recreational vehicle. Chair Ohrstrom said that there are some really nice ones and they are actually called tiny houses. He said it is a good questions because technically they are under 600 square feet so they really would not need a DUR. Mr. Stidham said if they are placed on the property as the primary structure it would use a DUR.

Commissioner Glover said it would be good to have a statement that these manufactured homes cannot stay along the river forever. Mr. Stidham stated that the new Flood Plain District regulations will have extensive requirements for manufactured homes.

Commissioner Lee said that if a mobile home is not maintained properly it can become derelict quite quickly. He said he would discourage the overall use of trailers and or trailer parks. He asked how many trailers would be allowed if there were five DURs on the property and would they have to follow the current County septic regulations. Mr. Stidham said that we would still not allow manufactured trailer parks as that would be a separate use that we do not allow. He said that the two that are in the County now are grandfathered.

A motion was adopted 10-0-1 to initiate consideration of this text amendment as presented and to set public hearing for the February 5 Business Meeting.

<b>Motion to initiate consideration of the text amendment as presented and to set public hearing for the February 5 Business Meeting:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>ABSENT</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Seconded)</b>
Glover	<b>AYE (Moved)</b>		

**Discussion Items**

**5. Discussion, Short-Term Residential Rentals Text Amendment**

Mr. Stidham said that this is a continued discussion of the short-term residential rentals text amendment. He stated that after the Commission’s December 1 discussion, Planning Staff provided an update to the Board of Supervisors at their December 7 Work Session meeting. He said that the Board of Supervisors indicated that the new approach is an improvement and they expressed no concerns with the text amendment. He said that Staff is now looking for direction from the Commission on whether to move forward. He asked if there are any comments.

Chair Ohrstrom said this whole thing give still gives him heartburn. He said that the reality is a homeowner can only rent two bedrooms because the owner needs a bedroom too. He stated what this is saying if someone wants to rent out more than two bedrooms in their house we are forcing them to become a country inn. He asked if anyone from the Commission has concerns about this.

Commissioner Caldwell said she thinks that Chair Ohrstrom’s point is a good one. She said that she is very conflicted with this whole issue. She said she also has another concern that is if we do limit people to just two bedrooms as was pointed out, she is not so sure we will get compliance for this regulation as we hoped. She is concerned that people would take a look at the special exceptions and requirements and say this is ridiculous and I am not doing it. She said she could see four bedrooms and eight people. Chair Ohrstrom said that at the same time if you only had a septic permit for three bedrooms you could not permit for four.

Mr. Stidham said he thinks we have locked down the septic system issue fairly well. He said that people are going to come in regardless of what number the Commission picks and be sent to the Health Department to work out those numbers. He said that we could increase the bed and breakfast occupancy to five bedrooms and 10 people to help with this with this problem. Chair Ohrstrom said that he would be happy with that.

Mr. Stidham wants the Commission to be comfortable with this text amendment and that is why he did not put it on the agenda to set public hearing yet. Commissioner Kreider said he has a problem with ten people in a house that does not seem to be conforming to regulations. Commissioner Lee said that since it is all keyed to the septic system approval for the house he thinks Chair Ohrstrom’s compromise is fine. He said that will limit them as to how many people they can have in the house. He said he agrees with Chair Ohrstrom’s compromise.

Commissioner Glover said he would like to have wording in the text amendment because these limits are put in place because of the septic system and right now someone could see that and they can assume that their place is able to handle it without even knowing about the septic system requirements. He stated that if they read this first they will know what to take to the Health Department.

Mr. Stidham stated that he can bring this to the February Planning Commission Business meeting in a text amendment format and have it as an item on the February Planning Commission Business agenda to set public hearing. Commissioner Kruhm asked what we will be modifying. Mr. Stidham stated that we are modifying the maximum occupancy for a home occupation bed and breakfast from three bedrooms and six people to five bedrooms and ten people. Chair Ohrstrom and Commissioner Glover said that we need to correlate these occupancy limits to the septic system approval by the Virginia Department of Health. Mr. Stidham replied that this is already included and the septic system regulations are covered extensively in all three uses. He added that this will also be included in a section of the proposed Guidance Manual to be developed. He stated he feels it is clear as it needs to be in the Ordinance and we can address the concerns of the Commission through the documents that we will be developing. Vice-Chair Buckley stated that he has a big concern with whether people have a five-bedroom drainfield or not they are essentially putting people in large closets because they have the space. He said that they have no regard for egress or safety.

Chair Ohrstrom asked the Commission what they want to do. Commissioner Kreider said he would like it if we could finalize this next month because we could work on this forever. He said that you cannot make everyone happy and we need to come up with something that works the best for what we have. He stated instead of waiting a few more months we need to figure something else out. Vice-Chair Buckley agreed that we need to finish this.

Mr. Stidham said one other thing he wants the Commission to look at is on page 41 of 49. He said that there are additional changes in this text amendment regarding country inn regulations that we have already agreed to implement in the revised Zoning Ordinance. He said if the Commission thinks any of the changes are too much to include in this text amendment right now to let him know.

Chair Ohrstrom asked what we are going to do. Mr. Stidham said we are doing nothing today. He said it will be on the February 5 Business Meeting agenda. He said that the draft you will see in February will show the changes we have discussed today.

Chair Ohrstrom thanked the Commission for listening to his concerns about this proposed text amendment.

## **6. Board/Committee Reports**

### **A. Board of Supervisors (Matthew Bass)**

Chair Ohrstrom read a report from Commissioner Bass in his absence today. Chair Ohrstrom stated that this is the report for the December 15, 2020 Board of Supervisors meeting. He said that the Board of Supervisors heard a presentation from new CEO of Rappahannock Electric John Hewa.



He stated that they formerly recognized Jeremy Camp as the new Senior Planner/Zoning Administrator. He said that they decided to proceed with the LEOS program (enhanced hazard duty pay) for first responders and they set a public hearing for January 19. He said at the public hearing at 6:30 p.m. for various appropriations they approved funds to provide help to Blue Ridge Volunteer Fire Company. He said they approved end of year bonus payments for full and part time employees. He stated that they allocated \$100,000.00 in CARES funds for non-profit. He said that they adopted the Recreation Component Plan and they denied the Watermelon Pickers Fest Special Event Permit. He said that this was a difficult decision for him personally as he is tied to the music community and loves what Shepherds Ford does for our community. He said that significant safety, logistical and location (next to the Wildlife Sanctuary narrow one way ingress and egress) concerns compelled the denial of the permit as presented. He said that is all he has to report.

B. Board of Septic & Well Appeals (George Ohrstrom, II)

Chair Ohrstrom had nothing to report.

C. Board of Zoning Appeals (Anne Caldwell)

Commissioner Caldwell had nothing to report.

D. Historic Preservation Commission (Doug Kruhm)

Commissioner Kruhm had nothing to report.

E. Conservation Easement Authority (George Ohrstrom, II)

Chair Ohrstrom said that we received a couple donations that came in too late to be accepted by December 31, 2020 but the Authority issued preliminary approval and are scheduling site visits. Vice-Chair Buckley stated that Smithfield Farm is pending a public hearing for funding at the County level. He said that it is still in the works and still moving forward.

F. Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham said that the next meeting is scheduled for next Wednesday, January 13 at 2:00 p.m. Commissioner Lawrence said that he has some bad news about Rappahannock Electric. He said that Rappahannock Electric (REC) participated in the FCC broadband auction this past fall and then they were under a quiet period where they could not talk about it. He said the first preliminary results were coming out October 29 when they would begin to negotiate that they were asking for money to put in fiber to the home in their entire service area. He stated that if they were able to get this grant it would require them to do it in seven years' time. He said he thought this would be the Cadillac for Clarke County, the area of the County that is served by REC. He said on October 27, 2020 they were sued in Charlottesville Federal court by a land owner in Culpeper County who said that the state had changed the law to allow telecommunications to go over power line rights of way. He stated that this was a taking of property and violated the Constitution of the United States if there is no just compensation. He said what he thinks happened is with REC running fiber in various areas where they already started to do it they had been in negotiation with this landowner to

run fiber over his property that they were not able to come to an agreement. He said that the state changed the law and then this person wants to make it a class action lawsuit but he sued REC. REC thought it was going to go all the way to the Supreme Court and it would take two to three years to figure out what will happen. He said that they withdrew from the auction and we missed out on the broadband that the County could have had. He said that the good news is that the state and Mark Herring have gotten involved with the lawsuit and hopefully will get it resolved earlier than two to three years. He stated that last month we received a call from Shentel about a new technology they have where they run fiber out into the rural areas and then put up transmitters to bounce it out. He said that next Wednesday he is hoping to find something they can do for the County.

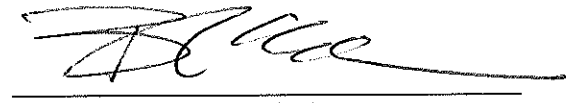
**Other Business**

Commissioner Lee said it is time to get your financial disclosures completed and turned in to the County Administrators office. Everyone should try to get them done before February 1, 2021.

**Adjourn**

Motion to adjourn the meeting at 9:50 AM was approved by consensus.

  
George L. Ohrstrom, II (Chair)

  
Brandon Stidham (Clerk)