



## Clarke County Planning Commission

**MINUTES -- Business Meeting**

**Friday, April 2, 2021 – 9:00 AM**

**Berryville/Clarke County Government Center - Main Meeting Room**

<b>ATTENDANCE:</b>			
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)	✓	Douglas Kruhm (Buckmarsh)	✓
Anne Caldwell (Millwood)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	<b>X</b>

**E** – Denotes electronic participation

**L** – Denotes arrived late

**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.

### **CALL TO ORDER:**

Chair Ohrstrom called the meeting to order at 9:02AM.

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

The Commission voted unanimously to approve the meeting agenda as presented by Staff.

<b>Motion to approve the April 2 Business Meeting agenda as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>		

### **2. Approval of March 5, 2021 Business Meeting Minutes**

The commission voted unanimously to approve the March 5, 2021 Business Meeting minutes as presented by Staff.

<b>Motion to approve the March 5, 2021 Business Meeting minutes as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSTAINED</b>
Caldwell	<b>AYE (moved)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>		

**Discussion Items**

**3. Zoning and Subdivision Ordinance Update Project**

Mr. Stidham gave a Powerpoint presentation on changes that have been made to the draft Zoning Ordinance, Subdivision Ordinance, and Definitions Article since the fall 2019 joint workshops with the Board of Supervisors.

Regarding the proposed agricultural building use, Chair Ohrstrom asked if a pre-harvest plan has a minimum acreage requirement. Mr. Stidham replied that he did not know off the top of his head and that he did not think that the Zoning Ordinance has a minimum acreage requirement.

Regarding commercial boarding kennels, Chair Ohrstrom asked if it is correct that we no longer allow this use in the AOC and FOC Districts. Mr. Stidham replied yes and that the use was removed from those districts a few years ago following a controversial boarding kennel special use permit case. He added that the text amendment did not change the regulations for commercial breeding kennels.

Mr. Stidham reviewed the proposed next steps in having the Commission accept the draft Ordinances and schedule Public Hearing. Chair Ohrstrom asked whether the Commission would accept the Ordinances after the Public Hearing is held. Mr. Stidham replied that the Commission would be accepting the Ordinances as the drafts to be taken to Public Hearing, not the final drafts that the Commission would recommend the Board of Supervisors to adopt.

Following the conclusion of Mr. Stidham’s presentation, Chair Ohrstrom said that it might be better to start an “open house” style public comment session with the Staff presentation so that people can formulate their questions for the informal comment portion and the formal Public Hearing held later. Commissioner Glover asked the other Commissioners how much public comment we expect to receive on a project like this as he was not on the Commission when the Comprehensive Plan was last updated. Commissioner Caldwell said that the Mountain Land Plan update generated a huge amount of public participation. She added that they held several workshops and had an extensive informal presentation. She also said that this project may generate a reasonable amount of input but also noted that it is very complicated and hard to digest. She said that it might be best to have the informal public comment session and then wait a month to conduct the Public Hearing to give people time to think about it and form questions. Chair Ohrstrom said that posting to the County website and Facebook page are important to inform the public and make the project available to them. Commissioner Caldwell suggested having Cathy Kuehner write articles on the project for the Winchester Star to print. Mr. Stidham said that in the outreach materials and public

hearing advertisement, he also plans to emphasize what is not being changed in the revised Ordinances to help people better understand the scope of the project. He added that he thinks the feedback that will be received will be on stakeholders' very specific issues and how changes to specific sections of the Ordinances will impact their issues. Commissioner Kreider said that he agrees with having the Staff presentation first but does not agree with the open house approach as it does not allow for a record to be kept of the questions people are asking. Commissioners agreed that this is a good point. Commissioner Bass noted that public information should include the draft Guidance Manual as most people will probably end up referencing it first before reading the Ordinances. Commissioner Hunt agreed and said that it helps him a lot as a new Commissioner.

In response to Commissioners' comments, Mr. Stidham suggested having a special meeting in June with the Public Hearing to be held at 7:00PM and advertise the Staff presentation with question-and-answer period to begin at 6:00PM. Chair Ohrstrom replied that it does not appear to give people enough time to think about the issues and speak at the Public Hearing. Mr. Stidham noted that if you do not have the Public Hearing on the same night as the question-and-answer session, the Commission may end up having a back and forth discussion with citizens without being in a formal Public Hearing. Vice-Chair Buckley said that this format could also be burdensome to citizens by asking them to come out to multiple meetings if they have an issue. Chair Ohrstrom said that he was trying to maximize opportunities for public participation but this could definitely be an issue. Mr. Stidham suggested deferring the Public Hearing to July if the Commission receives lots of questions in June and Commissioners liked this idea. Mr. Stidham asked if the Public Hearing should be a special meeting or held in conjunction with the June Business Meeting. Chair Ohrstrom said it should be a special meeting held in the evening to maximize participation. Mr. Stidham recommended the evening of the June 1 Work Session for this special meeting and Commissioners agreed. Mr. Stidham said that he would write all of this up and present it in May for the Commission's action.

Chair Ohrstrom asked if Commissioners had additional comments. Commissioner Caldwell said that she had some minor edits of a non-substantive nature that she would discuss with Mr. Stidham. Chair Ohrstrom said that he had concerns with the Zoning Administrator having the power to delegate their authority without limitation. He added that there should be some guideline regarding to whom this authority can be delegated. Mr. Stidham said that changes to State code adopted several years ago makes any written determination issued by the Zoning Administrator binding on the County. He noted that historically, Planning Department technical staff members have been required to be sworn in as a "zoning administrator." The new Ordinance language clarifies that there is only one Zoning Administrator for State code purposes and that this person can delegate review and approval authority to other staff members as necessary to manage the department workload. He added that the Zoning Administrator will not be able to delegate their authority outside of the department.

Commissioner Kruhm asked when the draft Ordinances would be made available to the public as he was approached by two realtors interested in learning more about the County's Zoning and Subdivision Ordinances. Mr. Stidham said that May will be the Commission's first opportunity to decide whether to accept the draft Ordinances and schedule Public Hearing. He said that the draft Ordinances and other outreach materials would be made available to the public after the Commission has formally scheduled the Public Hearing. He also noted to Commissioner Kruhm

that the realtors who approached him should probably bring their questions to Staff as the current Ordinances will remain in effect for several months until the revised Ordinances are adopted. Commissioner Kruhm asked if they would be able to attend work sessions and Mr. Stidham replied yes and that all Commission meetings are open to the public.

Regarding the Guidance Manual, Chair Ohrstrom said that this will be a valuable resource to help interested parties learn how Clarke County's regulations differ from other counties. He also asked Mr. Stidham how the concept was developed and whether other counties use guidance manuals. Mr. Stidham replied that he picked this up from a consulting firm that recommended using a guidance manual as a way of decluttering your ordinance and moving administrative items to a separate document. Chair Ohrstrom said that Staff did an excellent job on developing the Guidance Manual. Commissioner Bass asked if a personnel directory of all County staff could be included and Mr. Stidham said yes. Commissioner Bass also suggested including an index in the back and charts similar to the ones developed for the short-term residential rental discussion. Mr. Stidham replied that once the text amendment is resolved, he will include the charts and new information in that section of the Guidance Manual. Commissioner Bass also asked about the statement that the County's well and septic system requirements are more stringent than State minimum requirements. Mr. Stidham replied that he thinks our current regulations are in compliance with State code requirements, adding that the limits on alternative septic systems and biosolids land application that have been previously removed are the only provisions he is aware of that were not consistent with State code requirements.

Mr. Stidham said that moving forward if Commissioners have any questions to contact either him or Mr. Camp. He added that the goal is for the Commission to accept the drafts in May and schedule Public Hearing but that the timeline can certainly be extended if there are additional concerns to be addressed.

Mr. Camp gave a Powerpoint presentation on the State-mandated revisions to the Flood Plain (FP) Overlay District regulations. Regarding the special flood hazard areas, Chair Ohrstrom asked if the documents are on the County website. Mr. Camp said that the official maps can be downloaded from the Federal Emergency Management Agency (FEMA) website. Mr. Stidham added that the flood plain areas are included in Mapsonline and Mr. Camp added that they are in the County GIS as a layer.

Commissioner Glover asked how boat ramps for personal use are addressed in these regulations and suggested that they should be in the prohibited use category. Mr. Stidham noted that a text amendment to the Stream Protection Overlay District was adopted a few years ago to allow boat ramps and similar structures to be constructed with permit approval from the Planning Department subject to use of best management practices. He added that most people do not go through this process and build the structures without County approval.

Commissioner Glover asked how the base flood elevation is determined and Mr. Camp replied that FEMA determines this when they update the flood maps. Commissioner Glover asked if this is the 100-year flood plain. Mr. Camp said that the floodway varies based on the presence of bridges and the lay of the land so it is not always consistent.

Commissioner Kruhm asked how septic systems in the flood plain are addressed. Mr. Camp replied that you can have a drainfield in a flood plain but it has to be designed differently to be flood-proofed. Commissioner Kruhm asked who makes the determination of whether a drainfield can be located in a flood plain and the design requirements. Mr. Camp replied that this is the Virginia Department of Health's (VDH) responsibility. Commissioner Lee noted that State regulations allow drainfield in flood plains so long as the area is not inundated for more than 48 hours. He said VDH will strongly discourage and most often deny requests for drainfields in the flood plain in Clarke County. He added that no drainfield can go in the 10-year flood plain and that you have to show cause as to why a drainfield has to be located in the 100-year flood plain. Commissioner Glover said we are fortunate because we do not have the problem of developers trying to find new ways to build in the flood plain. He asked Mr. Camp how Clarke County's regulations compare to Front Royal and Warren County's regulations. Mr. Camp replied that Clarke County restricts more uses than those jurisdictions do and that Front Royal has a lot of development in the flood plain.

Regarding transient recreational uses, Commissioner Bass said he envisions a traveling carnival and asked about whether these regulations are geared towards activities at Watermelon Park. Mr. Camp replied that Watermelon Park has a special use permit and some grandfathered elements but that transient recreational use provisions would apply to some of their accessory activities. Commissioner Glover asked if they have a dump station for the RVs. Mr. Stidham said that he does not know but added that they redid their septic system a few years ago. Chair Ohrstrom noted that their grandfathered status likely prevents them from having to comply with all current septic system requirements. He asked if a change in use would require full compliance with all regulations and Mr. Stidham replied yes. Commissioner Glover asked if eliminating the tent camping and going to RVs only was a change in use and Mr. Stidham replied no. Commissioner Glover said that what they have now is more intensive. Mr. Stidham replied that their 1999 special use permit approval allows for a significant number of campsites. Mr. Camp added that they are approved for 60 RV sites and 600 tent sites.

#### **4. Board/Committee Reports**

##### Board of Supervisors

Commissioner Bass said that the Public Hearing on the budget is scheduled for next Tuesday at 6:30PM. He added that the hot topics include the proposed 2% meals tax, proposed increase of the transient occupancy tax to 3.5%, and the proposed cigarette tax of 40 cents per pack applicable only to businesses in the County. He said he has received limited comments from his constituency on the budget. He said that John Staelin recently provided a final report on the work of the Monument Committee. He also said the Board adopted the manufactured home text amendment recommended by the Commission.

##### Board of Septic & Well Appeals (BSA)

Chair Ohrstrom said that there have been no applications for the BSA.

##### Board of Zoning Appeals (BZA)

Commissioner Caldwell said that the BZA will be meeting on April 19 at 10:00AM to review a variance application for the garage in White Post. She said she has not seen the actual application.

Historic Preservation Commission (HPC)

Commissioner Kruhm said that he thought he had been replaced on the HPC. Mr. Stidham said that he did not know this and would check on it.

Conservation Easement Authority

Chair Ohrstrom said that the Authority has had a lot going on. He said there have been accusations of possible problems with County-held easements and that he will keep the Commission updated as the Authority works through these issues.

Broadband Implementation Committee

Mr. Stidham said that the Committee's next meeting has been rescheduled to Wednesday, April 21 at 2:00PM.

Regarding his comments on the proposed budget, Commissioner Bass elaborated that the Board's goal is to diversify revenue for the County and to help lower the real estate tax rate.

Chair Ohrstrom asked about the process if there is a Commissioner that wants to change their assignment to a committee that is not a Commission standing committee. Mr. Stidham said that those committees are appointed by the Board of Supervisors and the Board would look to the Commission for a recommendation for an appointee.

**Other Business**

Chair Ohrstrom noted that today is Debbie Bean's last official Planning Commission meeting. He said that he wants to personally want to thank her for her service and friendship and her good-natured approachability. He also wanted to thank her on a professional basis, noting that she often had to take minutes under difficult circumstances and did an excellent job. Commissioners gave Ms. Bean a round of applause.

**Adjourn**

The meeting was adjourned by consensus at 10:28AM.



George L. Ohrstrom, II (Chair)



Brandon Stidham (Clerk)