

November 23, 2021 Clarke County Board of Supervisors 1:00 pm
Regular Meeting
Main Meeting Room

At a regular meeting of the Board of Supervisors of Clarke County, Virginia, held in the Berryville Clarke County Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia, conducted on Tuesday, November 23, 2021, at 1:00 pm.

Board Members

Present Afternoon & Evening Session: Matthew E. Bass – Berryville District (participated via phone in the evening session due to travel for the holiday); Doug Lawrence – Russell District; David S. Weiss – Buckmarsh / Blue Ridge District; Terri T. Catlett - Millwood / Pine Grove District; Bev B. McKay – White Post District Absent Afternoon & Evening Session: None

County Staff Present

Brenda Bennett, Chris Boies, Jeremy Camp, Felicia Hart, Cathy Kuehner, Brandon Stidham, Alison Teetor

Constitutional / State Offices / Other Agencies

Ed Carter, Robert Mitchell, Sheriff Anthony “Tony” Roper,

Press

Mickey Powell – The Winchester Star

Others Present

Barbara Byrd

1) Call to Order

Chair Weiss called the afternoon session to order at 1:00 pm.

2) Adoption of Agenda

Supervisor Lawrence moved to amend the agenda to move the second and third consent agenda items:

- **2021-21R: A Resolution of the Clarke County Board of Supervisors Approving of the County’s Participation in the Proposed Settlement of Opioid-Related Claims Against Mckesson, Cardinal Health, AmerisourceBergen, Janssen, and their Related Corporate Entities, and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the Settlements.**
- **2021-22R: A Resolution of the Clarke County Board of Supervisors Approving of the County’s Participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (MOU) and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the MOU.**

**To be discussed after item 9: Frederick-Winchester Service Authority Agreement.
The motion carried by the following vote:**

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Absent
David S. Weiss	-	Aye

3) Citizens Comment Period

No persons addressed the Board.

4) VDOT

Ed Carter, Residency Administrator, provided the following update:

Maintenance

- Began primary mowing and hope to complete this month, weather permitting.
- Performed patching operations on Rt. 601 and pothole patching on various other routes and will continue addressing the potholes as they are reported.
- Used additional funds from Central Office to remove hazard trees and will continue this month.
- Conducted pipe-cleaning operations on various routes and will continue this month.
- Performed shoulder repairs on Rt. 7 Mountain and we will be doing brush cutting and tree trimming this month.

Board Issues

- Awaiting speed study results on Howellsville road.
- Truck traffic Gun Barrel Rd.- The majority of the trucks are coming from the Rt. 340 end are associated with the gas line work. They have posted a bond for any repairs when they are completed.

Supervisor Lawrence

- Thanked VDOT for the quick response on Swift Shoals Road issue.
- Thanked Ed Carter and explained that the pipe cleaning technique depends on the situation of the pipe; if it is just the ends that are stopped, then the ends are cleaned if it is throughout the whole pipe, then a pipe flusher is used to clean the entire pipe.

Chair Weiss

- The intersection of Springsbury and Lockes Mill; Ed Carter explained that traffic engineers visited the intersection, and because of sight distance, they feel like the stop signs are in the appropriate locations. He added that it is a free flow movement and the stop sign from the west is sufficient.

Chris Boies

- Had a citizen complain about the centerline painting on River Road. Ed Carter stated that he would look at the centerline painting and that they are behind on painting because a truck has broken down.

Vice-Chair McKay entered the meeting room at 1:15 pm.

5) Cooperative Extension Update

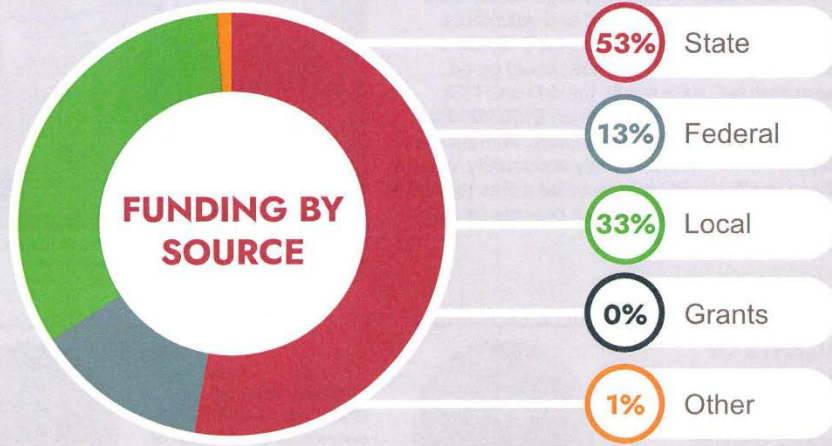
Claudia Lefevre, Unit Coordinator, 4-H Extension Agent, 4-H Youth Development, presented the following:

- For the last two (2) years, Covid-19 has affected everyone.
- Proud to say that Clarke County is one of the few counties that did not lose 4-H members; we actually increased enrollment. This is a great testament to the community and the families in Clarke.
- Highlights of what the kids have been doing this past year:
 - Had seven (7) 4-H members earn their Virginia 4-H All-Star- this is the highest honor that a 4-H member can receive. Clarke was the highest member recipient in Virginia for this award.

- Had two (2) Clarke Dairy Club members serve on the Virginia 4-H Dairy Quiz Bowl Team, the team competed in Nationals and are the National Champions.
- Have one member on the State Livestock judging team the received Reserve Champion and High Team Overall.
- The State 4-H Office has developed a new Team Leadership Council, and one of our members is serving as the Northern District Representative.
- Had a fantastic Fair this year; the kids brought in over \$206K with their livestock.
- Last year, with Covid-19, the community came together, and Clarke was one (1) of three (3) Counties that had a Junior Livestock show and auction and brought in \$156K with the livestock projects. If we did not have this show, we would have seen a decline in membership, and the 4-H'ers would not have been able to recuperate the money that they had put into their livestock projects.
- Had 4-H members participate in Virginia 4-H Congress, Clarke-Warren Junior Camp, State Fair, and North American International Livestock Exhibition in Louisville, Kentucky, both for showing and judging contest.
- Have two (2) members going to represent Clarke County in the National 4-H Congress later this week.
- Working closely with Parks & Recreation to get information out about the programs. This past year, we did a Fun with Foods Camp and many sewing workshops. Working on doing food preserving and canning camp in the future.
- With the schools, were able to provide materials and incubators for the embryology program at the Elementary Schools, doing the financial planning programs virtually for both the Middle and High schools.
- Did the annual water clinic for Clarke residents and surrounding areas; had a large turnout.
- Spotted Lantern Fly is a huge topic, and Mark Sutphin has been helping answer all of those questions.
- The Food and Nutrition Agent has been developing newsletters for seniors that are available at the Clarke County Senior Center.

CLARKE COUNTY BY THE NUMBERS

TOTAL FUNDING: \$173,618



CLARKE POSITIONS

Claudia Lefevre
Extension Agent
4-H Youth Development



RETURN ON INVESTMENT FOR EVERY
DOLLAR INVESTED BY THE COUNTY
IN CLARKE COUNTY

\$58,376

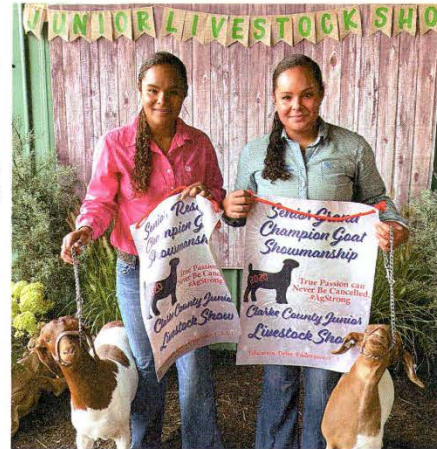
VALUE OF EXTENSION
VOLUNTEER HOURS IN
CLARKE COUNTY



Virginia Cooperative Extension programs and employment are open to all, regardless of age, color, disability, gender, gender identity, gender expression, national origin, political affiliation, race, religion, sexual orientation, genetic information, veteran status, or any other basis protected by law. An equal opportunity/affirmative action employer. Issued in furtherance of Cooperative Extension work, Virginia Polytechnic Institute and State University, Virginia State University, and the U.S. Department of Agriculture cooperating. Edwin J. Jones, Director, Virginia Cooperative Extension, Virginia Tech, Blacksburg; M. Ray McKinnie, Administrator, 1890 Extension Program, Virginia State University, Petersburg

STORIES OF IMPACT

The Clarke County 4-H program had a successful year, with 4-H members participating in a variety of virtual contests at the state and national levels. One such program that received overwhelming support from the community during the COVID-19 pandemic was the Clarke County Junior Livestock Show and Sale. Community organizers, local businesses, private donors, and volunteers banded together and raised over \$16,000 in donations to ensure the show would go on as scheduled. As a result, the 4-H and FFA exhibitors brought in more than \$156,000 for the sale of their livestock projects. Without the support of the Clarke County community, most of these youth would have incurred a loss that could have impacted their livestock projects for 2021.



Twin sisters Kiley and Dana take home Senior Grand Champion and Senior Reserve Champion Goat Showmanship.

AGENTS OF POSITIVE CHANGE

"We are working with farmers, residents, commercial industries, and local government to educate, raise awareness, and help manage spotted lanternfly — an invasive insect to agriculture, the forest industry, and general commerce — as well as a nuisance in the home landscape. The pest was first identified in the U.S. in Clarke County in 2019 and in Berryville in 2020."



Mark Sutphin
Extension Agent
Agriculture and Natural Resources, Horticulture

COMMUNITY VOICES

"This year was quite a challenge. Investing in show animals before COVID-19 and then not getting to show was very discouraging, but due to my son's dedication and love for showing, he decided to proceed. Clarke supporters made sure they were able to show. The pandemic had many teachable moments!"



Leea Shirley
Parent and Volunteer
4-H Youth Development

GET IN TOUCH

524 Westwood Road, Berryville, VA 22611
clarke.ext.vt.edu | 540-955-5164



Supervisor Catlett asked how one is enrolled in the 4-H program. Claudia Lefevre explained that much of the membership enrollment is by word of mouth from the community. She further explained that in the past, prior to Covid-19, she would attend

back-to-school nights to give information to families; she looks forward to when that can happen again.

Supervisor Catlett asked where the camps/programs are held. Claudia Lefevé stated that the programs are held at the office; it has been great having the space and a kitchen, so many different programs can be held.

Supervisor Lawrence questioned, and Claudia Lefevé explained that the agency still administers the commercial and private pesticide applications and exams.

Vice-Chair McKay asked, and Claudia Lefevé stated that many of the programs run after school and on weekends; it depends on the kid's interest area. She added that there are many programs, so if citizens ask, just have them contact the office.

Chair Weiss asked if Claudia Lefevé would reach out next year for the Annual Awards Dinner so that the Board could attend. He stated the program has been very successful.

6) Consent Agenda

Vice-Chair McKay moved to adopt the agenda as amended. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

Supervisor Catlett

– Commented that the Abstract of Votes reminded her to compliment how the election in Clarke County went smoothly; the polls were open from September 17 to November 2; it was a change, and it was handled well. The Board thanked Barbara Bosserman and all of the election personnel for all of the hard work

A. Abstract of Votes: 2021 November General Election: Governor, Lieutenant Governor, Attorney General, Member House of Delegates District 010, Member House of Delegates District 033, Mayor District Boyce, Member Town Council District Boyce, Recorder District Boyce.

ABSTRACT of VOTES

Cast in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,
Governor

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Glenn A. Youngkin - Republican	4642
Terry R. McAuliffe - Democratic	2739
Princess L. Blanding - Liberation	34
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	7
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Governor.

Given under our hands this 5TH day of NOVEMBER, 2021



[Signature], Chairman

Darryl D. Stearns, Vice Chairman

Carol S. Heston, Secretary

Carol S. Heston, Acting Secretary

ABSTRACT of VOTES

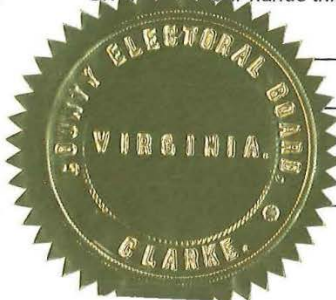
Cast in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,

Lieutenant Governor

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Winsome E. Sears - Republican	4611
Hala S. Ayala - Democratic	2772
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write-ins = Total Write In Votes]	9
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Lieutenant Governor.

Given under our hands this 5TH day of NOVEMBER, 2021



[Signature], Chairman

[Signature] Vice Chairman

[Signature] Secretary

[Signature] Acting Secretary

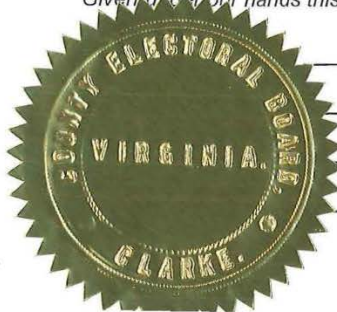
ABSTRACT of VOTES

Cast in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,
Attorney General

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Jason S. Miyares - Republican	4538
Mark R. Herring - Democratic	2838
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	6
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Attorney General.

Given under our hands this 5TH day of NOVEMBER, 2021



[Signature], Chairman

Daryl W. Slomney, Vice Chairman

Carolee Hester, Secretary

Carolee Hester, Acting Secretary

ABSTRACT of VOTES

Cast in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,

Member House of Delegates

District: 010

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Nicholas S. "Nick" Clemente - Republican	1427
Wendy W. Gooditis - Democratic	907
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	2
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Member House of Delegates.


Given our hands this 5TH day of NOVEMBER, 2021

[Signature], Chairman

Daryl W. Blumley, Vice Chairman

[Signature], Secretary

[Signature], Acting Secretary



ABSTRACT of VOTES

Cast in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,

Member House of Delegates

District: 033

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Dave A. LaRock - Republican	3162
Paul W. Siker - Democratic	1891
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	6
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes cast at said election for the Member House of Delegates.

Given under our hands this 5TH day of NOVEMBER, 2021



[Signature], Chairman

[Signature] Vice Chairman

[Signature] Secretary

[Signature] Acting Secretary

ABSTRACT of VOTES

Cast in the Town of BOYCE in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,

Mayor

District: BOYCE

<i>NAMES OF CANDIDATES ON THE BALLOT</i>	<i>TOTAL VOTES RECEIVED (IN FIGURES)</i>
Zachary B. Hudson	220
David Ferreira	95
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	5
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes at the said election and do, therefore, determine and declare that the following person(s) has received the greatest number of votes cast for the Mayor .

Zachary B. Hudson

Given to our hands this 5TH day of NOVEMBER, 2021



[Signature], Chairman
Ray W. Stennney, Vice Chairman
Carl S. Westbrook, Secretary
Carl S. Westbrook, Acting Secretary

ABSTRACT of VOTES

Cast in the Town of BOYCE in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,

Member Town Council

District: BOYCE

<i>NAMES OF CANDIDATES ON THE BALLOT</i>	<i>TOTAL VOTES RECEIVED (IN FIGURES)</i>
Carol L. Coffelt	244
Dennis S. Hall	154
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	8
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes at the said election and do, therefore, determine and declare that the following person(s) has received the greatest number of votes cast for the Member Town Council.

1. Carol L. Coffelt
2. Dennis S. Hall

Given under our hands this 5TH day of NOVEMBER, 2021



[Signature], Chairman
Daryl W. Slawney, Vice Chairman
Carol L. Coffelt, Secretary
Carol L. Coffelt, Acting Secretary

ABSTRACT of VOTES

Cast in the Town of BOYCE in CLARKE COUNTY, VIRGINIA
at the 2021 November General Election held on November 02, 2021 for,

Recorder
District: BOYCE

NAMES OF CANDIDATES ON THE BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
Whitney L. Maddox	185
Carli A. Pope	114
Total Write-In votes [From Write-Ins Certifications] [Valid Write-Ins + Invalid Write_ins = Total Write In Votes]	3
Total Number of Overvotes for Office	0

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 02, 2021, do hereby certify that the above is a true and correct Abstract of Votes at the said election and do, therefore, determine and declare that the following person(s) has received the greatest number of votes cast for the Recorder .

Whitney L. Maddox


Given in our hands this 5TH day of NOVEMBER, 2021

[Signature], Chairman

Daryl W. Slonney, Vice Chairman

Carli A. Pope, Secretary

Carli A. Pope, Acting Secretary



B. FY2022 Agreement Between the Virginia Department of Health and the Clarke County Board of Supervisors for Funding and Services of the Clarke County Health Department.

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Electronic Signature Agreement Page

**STATEMENT OF AGREEMENT TO
PROCESS NEEDED SIGNATURES OF
THE VIRGINIA DEPARTMENT OF
HEALTH (VDH) LOCAL
GOVERNMENT AGREEMENT
ELECTRONICALLY**

VDH and The Clarke County Board of Supervisors agree to use electronic signatures, as authorized in Title 59.1, Chapter 42.1 Uniform Electronic Transactions Act of the Code of Virginia.

Chris Boies, County Administrator
Authorizing officer printed name and title

Authorizing officer signature

Parham Jaber, MD, MPH
Chief Deputy Commissioner for Community Health Services
Virginia Department of Health

Parham Jaber, MD
Authorizing signature

LGA-Revised October 2021

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AGREEMENT BETWEEN THE VIRGINIA DEPARTMENT OF HEALTH AND THE CLARKE COUNTY BOARD OF SUPERVISORS FOR FUNDING AND SERVICES OF THE CLARKE COUNTY HEALTH DEPARTMENT

This agreement ("Agreement") for the services to be provided by the Clarke County Health Department and the funding therefore is by and between the Virginia Department of Health ("VDH") and Clarke County Board of Supervisors (collectively "the Parties").

The Agreement is created in satisfaction of the requirements of § 32.1-31 of the Code of Virginia (1950), as amended, in order to operate the Clarke County Health Department under the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements in this Agreement, the sufficiency of which is acknowledged, the Parties agree as follows.

§ 1. VDH, over the course of one fiscal year, will pay an amount not to exceed \$297,655.00, from the state general fund to support the cooperative budget in accordance with, and dependent upon, appropriations by the General Assembly, and in like time frame, the Board of Supervisors of Clarke County will provide by appropriation and in equal quarterly payments a sum of \$187,367.00 local matching funds and \$5,000.00 one-hundred percent local funds for a total of \$192,367.00 local funds for this fiscal year.

LB
11.04.21

In addition, the Board of Supervisors has approved the Clarke County Health Department to carry forward \$23,000.00 in local matching funds for a total of \$210,367.00 matching funds and an additional \$63,637.00 in one-hundred percent local funds from the prior fiscal year closing locality balance.

These joint funds will be distributed in timely installments, as services are rendered in the operation of the Clarke County Health Department, which shall perform public health services in Clarke County as indicated in Attachment A(1.), and will perform services required by local ordinances as indicated in Attachment A(2.). Payments from the local government are due on the third Monday of each fiscal quarter.

§ 2. The term of the agreement begins July 1, 2022. This Agreement will be automatically extended on a state fiscal year to year renewal basis under the existing terms and conditions of the Agreement unless timely written notice of termination is provided by either party. Such written notice shall be given at least 60 days prior to the beginning of the fiscal year in which the termination is to be effective.

§ 3. The Commonwealth of Virginia ("Commonwealth") and VDH shall be responsible for providing liability insurance coverage and will provide legal defense for state employees of the local health department for acts or occurrences arising from performance of activities conducted pursuant to state statutes and regulations.

- A. The responsibility of the Commonwealth and VDH to provide liability insurance coverage shall be limited to and governed by the Commonwealth of Virginia Public Liability Risk Management Plan, established under § 2.2-1837 of the Code of Virginia (1950), as amended. Such insurance coverage shall extend to the services specified in Attachments A(1.) and A(2.), unless the locality has opted to provide coverage for the employee under the Public Officials Liability Self-Insurance Plan, established under § 2.2-1839 of the Code of Virginia (1950), as amended, or under a policy procured by the locality.
- B. The Commonwealth and VDH will be responsible for providing legal defense for those acts or occurrences arising from the performance of those services listed in Attachment A(1.), conducted in the performance of this contract, as provided for under the Code of Virginia and as provided for under the terms and conditions of the Commonwealth of Virginia Public Liability Risk Management Plan.

LGA-Revised October 2021

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- C. Services listed in Attachment A(2.), any services performed pursuant to a local ordinance, and any services authorized solely by Title 15.2 of the Code of Virginia (1950), as amended, when performed by a state employee, are herewith expressly exempted from any requirements of legal defense or representation by the Attorney General or the Commonwealth. For purposes of assuring the eligibility of a state employee performing such services for liability coverage under the Commonwealth of Virginia Public Liability Risk Management Plan, the Attorney General has approved, pursuant to § 2.2-507 of the Code of Virginia (1950), as amended, and the Commonwealth of Virginia Public Liability Risk Management Plan, the legal representation of said employee by the city or county attorney, and, the Board of Supervisors of Clarke County hereby expressly agrees to provide the legal defense or representation at its sole expense in such cases by its local attorney.
- D. In no event shall the Commonwealth or VDH be responsible for providing legal defense or insurance coverage for local government employees.

§ 4. Title to equipment purchased with funds appropriated by the local government and transferred to the Commonwealth, either as match for state dollars or as a purchase under appropriated funds expressly allocated to support the activities of the local health department, will be retained by the Commonwealth and will be entered into the Virginia Fixed Asset Accounting and Control System. Local appropriations for equipment to be locally owned and controlled should not be remitted to the Commonwealth, and the local government's procurement procedures shall apply in the purchase. The locality assumes the responsibility to maintain the equipment and all records thereon.

§ 5. This Agreement may only be amended or otherwise modified by an instrument in writing signed by the Parties.

Parham Jaber, MD, MPH
Chief Deputy Commissioner
Community Health Services
Virginia Department of Health

Date

Local authorizing officer signature

Chris Boies
Authorizing officer printed name

County Administrator
Authorizing officer title

Date

Colin M. Greene, MD
District Health Director
Lord Fairfax Health District

Date

Approved as to form by the Office of the Attorney General on July 23, 2018

Attachments: Local Government Agreement, Attachment A(1.)
Local Government Agreement, Attachment A(2.)

LGA-Revised October 2021

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CLARKE COUNTY LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

FIPS: 043

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT ([32.1-11](#))

For Each Service Provided, Check Block for Highest Income Level Served			
COLLABORATIVE COMMUNITY HEALTH IMPROVEMENT PROCESS	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Assure that ongoing collaborative community health assessment and strategic health improvement planning processes are established. To include public health, health care systems and community partners. As provided for in §32.1-122.03 Code Link- 32.1-122.03 ; State Health Plan Link Virginia Plan for Well-Being 2016-2020			X
COMMUNICABLE DISEASE SERVICES	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Immunization of patients against certain diseases, including Childhood Immunizations As provided for in 32.1-46 Code Link- 32.1-46			X
Sexually transmitted disease screening, diagnosis, treatment, and surveillance 32.1-57. Districts may provide counseling Code Link- 32.1-57			X
Surveillance and investigation of disease 32.1-35 and 32.1-39 Code Links- 32.1-35 , 32.1-39 , 32.1-43			X
HIV/AIDS surveillance, investigation, and sero prevalence survey 32.1-36, 32.1-36.1, 32.1-39 Code Links- 32.1-36 , 32.1-36.1 , 32.1-39			X
Tuberculosis control screening, diagnosis, treatment, and surveillance 32.1-49, 32.1-50.1, and 32.1-54 Code Links- 32.1-49 , 32.1-50 , 32.1-50.1			X
FAMILY PLANING SERVICES	Income A only	Defined by Federal Regulations	All
Clinic services including drugs and Contraceptive supplies Family Planning Population Research Act of 1970, Title X Code Link- 32.1-77 , 42 U.S.C 300 et seq., and 42 CFR Part 59		X	
Pregnancy testing and counseling Family Planning Population Research Act of 1970, Title X Code Link- 32.1-77 , 42 U.S.C. 300 et seq., and 42 CFR Part 59\		X	

Revised 10/2019

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LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT ([32.1-11](#))

CHILD HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Children Specialty Services: diagnosis, treatment, follow-up, and parent teaching 32.1-77, 32.1-89 and 32.1-90 Code Links 32.1-77 , 32.1-89 , 32.1-90			X
Screening for genetic traits and inborn errors of metabolism, and provision of dietary supplements Code Links 32.1-65 , 32.1-67 , 32.1-68			X
Well child care up to age 19 Board of Health Code Link 32.1-77			X
WIC : Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link 42 U.S.C. § 1786; 7 C.F.R. Part 26		X	
EPSDT: DMAS MOA Social Security Act section 1905(r) (5) Code Link 32.1-11			
Blood lead level testing Code Link 32.1-46.1 , 32.1-46.2			X
Outreach, Patient and Community Health Education Code Link 32.1-11 , 32.1-11.3			X
Community Education Code Link 32.1-11 , 32.1-23			X
Pre-school Physicals for school entry Code Link 22.1-270			X
Services for Children with Special health care needs Title V, Social Security Act Code Link 32.1-77			X
Child restraints in motor vehicles Code Link 46.2-1095 , 46.2-1097		X	
Babycare, Child: DMAS MOA		X	
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Prenatal and post partum care for low risk and intermediate risk women, Title V, Social Security Act Code Link 32.1-77		X	
Babycare, Maternal: DMAS MOA		X	
WIC: Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link 42 U.S.C §1786 and 7CFR Part 26		X	

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LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES
BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

<p>The following services performed in accordance with the provisions of the Code of Virginia, the regulation of the Board of Health and/or VDH agreements with other state or federal agencies and VDH policies. Data regarding the below services shall be entered in, or exported to, the statewide environmental health database for all available data fields. Local health department staff shall be responsible for responding to all complaints, constituent responses, media inquiries, and Freedom of Information Act request related to the following services.</p>	
<p>Investigation of communicable diseases: Pursuant to §§ 32.1-35 and 32.1-39 of the Code of Virginia, the local health director and local staff are responsible for investigating any outbreak or unusual occurrence of a preventable disease that the Board of Health requires to be reported. Code Links-32.1-35, 32.1-39</p>	X
<p>Marinas: Pursuant to § 32.1-246 of the Code of Virginia, local health department staff are responsible for permitting marinas and other places where boats are moored and is responsible for inspecting them to ensure that their sanitary fixtures and sewage disposal facilities are in compliance with the Marina Regulations (12VAC5-570-10 et seq.) Code Link-32.1-246</p>	
<p>Migrant labor camps: Pursuant to §§ 32.1-203-32.1-211 of the Code of Virginia, local health departments are responsible for issuing, denying, suspending and revoking permits to operate migrant labor camps. Local health departments also must inspect migrant labor camps and ensure that the construction, operation and maintenance of such camps are in compliance with the Rules and Regulations Governing Migrant Labor Camps (12VAC5-501-10 et seq.). Code Links-32.1 Chapter 6 Article 6</p>	X
<p>Milk: Pursuant to §§ 3.2-5206, 3.2-5208 of the Code of Virginia and the agency's MOA with VDACS, the local health department is responsible for issuing, denying, suspending and revoking permits for Grade "A" milk processing plants which offer milk and or milk products for sale in Virginia. Local health departments are also responsible for the inspection of Grade "A" milk plants for compliance with the Regulations Governing Grade "A" Milk (2VAC5-490-10). Code Links- 3.2-5206, 3.2-5208</p>	
<p>Alternative discharging sewage systems: Pursuant to § 32.1-164(A) of the Code of Virginia, local health departments are responsible for issuing, denying and revoking construction and operation permits for alternative discharging systems serving individual family dwellings with flows less than or equal to 1,000 gallons per day on a monthly average. Local health departments are also required to conduct regular inspections of alternative discharging systems in order to ensure that their construction and operation are in compliance with the Alternative Discharging Sewage Treatment Regulations for Individual Family Dwellings (12VAC5-640-10 et seq.). Code Link-32.1-164</p>	
<p>Onsite sewage systems: Pursuant to § 32.1-163 et seq. of the Code of Virginia, local health department staff is responsible for reviewing and processing site evaluations and designs of onsite sewage systems in accordance with applicable state regulations and may perform such evaluations and designs as allowed. Local health department staff is also responsible for issuing, denying and revoking construction and operation permits for conventional and alternative onsite sewage systems. Local health department staff are responsible for assuring that onsite sewage systems are inspected at time of construction for compliance with the Sewage Handling and Disposal Regulations (12VAC5-610-20 et seq.; "SHDR") and the Alternative Onsite Sewage System Regulations (12VAC5-613-10 et seq.; "AOSS Regulations"); local health department staff may perform such inspections as required. Local health department staff is also responsible for assuring the performance, operation, and maintenance of onsite sewage systems are in compliance with the SHDR and AOSS Regulations. Code Link-32.1-163</p>	X
<p>Rabies: Pursuant to § 3.2-6500 et seq. of the Code of Virginia, the local health department is responsible for investigating complaints and reports of suspected rabid animals exposing a person, companion animal, or livestock to rabies. Code Link- 3.2-6500</p>	X

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LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

<p>Restaurants/eating establishments: Pursuant to § 35.1-14 of the Code of Virginia, local health departments are responsible for issuing, denying, renewing, revoking and suspending permits to operate food establishments. In addition, local health departments are required to conduct at least one annual inspection of each food establishment to ensure compliance with the requirements of the Food Regulations (12VAC5-421-10 et seq.). These regulations include requirements and standards for the safe preparation, handling, protection, and preservation of food; the sanitary maintenance and use of equipment and physical facilities; the safe and sanitary supply of water and disposal of waste and employee hygiene standards. Code Link- 35.1-14</p>	X
<p>Hotels/Motels: In accordance with § 35.1-13 of the Code of Virginia, local health department staff is responsible for issuing, denying, revoking and suspending permits to operate hotels. The local health department is responsible for conducting inspections of hotels to ensure compliance with the Hotel Regulations (12VAC5-431-10 et seq.). These regulations include requirements and standards for physical plant sanitation; safe and sanitary housekeeping and maintenance practices; safe and sanitary water supply and sewage disposal and vector and pest control. Code Link-35.1-13</p>	X
<p>Wells: Pursuant to § 32.1-176.4, and the resulting authority provided by the Board, local health departments are responsible for issuing, denying and revoking construction permits and inspection statements for private wells. Local health departments are also responsible for inspecting private wells to ensure that their construction and location are in compliance with the Private Well Regulations. (12VAC5-630-10 et seq.) Code Link-32.1-176.4</p>	X
<p>Homes for adults: The local health department, at the request of the Department of Social Services (DSS), will inspect DSS-permitted homes for adults to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))</p>	X
<p>Juvenile Justice Institutions: Pursuant to § 35.1-23 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of juvenile justice institutions in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link-35.1-23</p>	X
<p>Jail Inspections: Pursuant to § 53.1-68 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of correction facilities in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link-53.1-68</p>	X
<p>Daycare centers: At the request of DSS will inspect DSS-permitted daycare centers to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))</p>	X
<p>Radon Pursuant to § 32.1-229, local health department may assist VDH Central Office with Radon testing and analysis. Code Link-32.1-229.</p>	X
<p>Summer camps/ Campgrounds: Pursuant to §§ 35.1-16 and 35.1-17 of the Code of Virginia and the corresponding regulations, local health departments are responsible for issuing, denying, and revoking permits to operate summer camps and campgrounds. The local health department is responsible for conducting inspections of summer camps and campgrounds not less than annually to ensure that their construction, operation and maintenance are in compliance with the Regulations for Summer Camps (12VAC5-440-10 et seq.) and the Rules and Regulations Governing Campgrounds (12VAC5-450-10 et seq.). Code Links-35.1-16, 35.1-17</p>	X

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LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OTHER PUBLIC HEALTH SERVICES
BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS

The following services performed in accordance with the provisions of the Code of Virginia, the regulations of the Board of Health and/or the policies and procedures of the State Department of Health	
Pre-Admission Screenings (PAS) DMAS MOA Code Link- 32.1-330	X
Comprehensive Services Act Community Policy and Management Teams (CPMT) 2.2-5201-2.2-5211 Code Link- 2.2-5201 , 2.2-5211	X
Interagency Coordinating Council (Infants/Toddlers) Early Intervention Services Code Link- 2.2-5305 , 2.2-5306	
Vital Records Code Link- 32.1-254 , 32.1-255 , 32.1-272	X
Immunizations for maternity and post-partum patients Code Link- 32.1-11 , 32.1-325 , 54.1-3408 .	X
AIDS Drug Assistance Program (ADAP) Code Link- 32.1-11 .	X
Emergency Preparedness and Response Code Link- 32.1-42 , 32.1-43 et seq., 32.1-229 ,	X
HIV Counseling, Testing and Referral Code Link- 32.1-37.2	X

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LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
	Income A only	Defined by Federal Regulations	All
COMMUNICABLE DISEASE SERVICES			
Foreign Travel Immunizations			X
Other:			
CHILD HEALTH SERVICES			
Disabled disability Waiver Screenings DMAS MOA Code Link: 32.1-330 Other:			
Other: Community Education			X
Other: EDCD Waiver			X
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Other: Community Education			X
FAMILY PLANNING SERVICES	Income A only	Defined by Federal Regulations	All
Nutrition Education		X	
Preventive Health Services		X	
Pre-Conception Health Care		X	
Other: Community Education			X
MEDICAL SERVICES - Please identify services	Income A only	Defined by Federal Regulations	All
Community Education			X
Pharmacy services-Alternate Drug Delivery Site			X
Hypertension screening, referral, and counseling			X
Other			

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LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served

SPECIALTY CLINIC SERVICES - Please identify services	Income A only	Defined by Federal Regulations	All
N/A			
DENTAL HEALTH SERVICES - Please identify services	Income A only	Defined by Federal Regulations	All
WIC Dental Varnish		X	

7) Approval of Minutes

Supervisor Catlett moved to approve the October 19, 2021, Regular Meeting minutes as presented. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

- 8) Set Public Hearing, PH 2021-15, TA-21-03 Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn for December 21, 2021, at 6:30 pm or as soon thereafter as the matter may be heard.

Brandon Stidham explained the following staff report:

ZONING ORDINANCE TEXT AMENDMENT (TA-21-03)
Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn
November 23, 2021 Board of Supervisors Meeting – SET PUBLIC HEARING
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend Section 5.2B (Residential Uses) and Section 5.2C (Business Uses) of the Clarke County Zoning Ordinance (Chapter 200, Article I). The purpose is to establish a new “short-term residential rental” use in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space Conservation (FOC) Districts, and to amend the use regulations for home occupation bed and breakfast uses and country inns.

The short-term residential rental use would create new regulations for the rental of a room or rooms within a single-family dwelling by the owner of the dwelling to one or more transient renters for lodging purposes for a period of fewer than 30 consecutive days in exchange for a charge. Maximum occupancy for all structures on a lot housing a short-term residential rental use would be 10 transient renters and residents of the lot subject to compliance with building code requirements and confirmation that onsite sewage disposal systems can support the proposed maximum occupancy. Additional proposed changes include but are not limited to:

- Increasing the maximum occupancy for home occupation bed and breakfast operations to five bedrooms and ten transient guests and residents of the lot during rental periods.
- Establishing the maximum occupancy period for a short-term residential rental, home occupation bed and breakfast, and country inn as fewer than 30 consecutive days.
- Amending the use regulations for home occupation bed and breakfast operations and country inns to require compliance with building code requirements and confirmation that onsite sewage disposal systems can support proposed maximum occupancies.

Requested Action:

Schedule Public Hearing for the Board’s December 21, 2021 Regular Meeting.

Background:

Short-term residential rentals are not currently defined or regulated in the Zoning Ordinance. Staff historically has considered a short-term residential rental to be the rental of a portion of a dwelling (one or more rooms), or the rental of an entire dwelling, to a single paying customer for a period of less than 30 days. A single paying customer can be one person or can be a group of people that are renting together. If a property owner is operating a short-term residential rental within these parameters, then no zoning approval is required because the activity is not regulated by the Zoning Ordinance.

If a property owner is renting to two or more separate paying customers at a time, then the activity is regulated by the Zoning Ordinance either as a home occupation bed and breakfast operation, a country inn, or a hotel depending upon how it is being operated.

Concerns were raised regarding the absence of regulations for short-term residential rentals due their apparent proliferation in the County via websites such as AirBNB. The Planning Commission began studying this issue in July 2019 and delegated work to the Commission's Policy & Transportation Committee. This text amendment was developed over numerous meetings and included solicitation of informal feedback on regulations and process from the Board of Supervisors. The primary issue of concern identified is the potential adverse impacts that unregulated short-term residential rental activities may have on onsite sewage disposal systems and groundwater quality. Additional issues of concern are ensuring compliance with the requirements of the Virginia Uniform Statewide Building Code, creating regulations that establish a "level playing field" for all commercial lodging establishments, and developing these regulations within the existing ordinance framework.

Prior to finalizing the proposed text amendment, Staff provided a series of policy questions for the Commission to address. These questions and the Commission's conclusions are listed below and provide insight into the development of this text amendment:

- 1. Should maximum occupancy of a short-term residential rental be determined based solely on onsite sewage disposal system requirements (VDH) and the Virginia Uniform Statewide Building Code requirements (County Building Department) or should zoning regulations be included to cap maximum occupancy?**

While onsite sewage disposal system and building code requirements should be used to identify the maximum potential occupancy during rental periods, the Commission decided to establish a cap of ten (10) persons during rental periods to include transient guests and residents of the lot. The purpose of this cap is to quantify and distinguish the intensity of a short-term residential rental activity -- which is a residential use -- from a more intensive business use such as a country inn.

- 2. Should maximum occupancy of a short-term residential rental be applied individually to each conforming rental structure on a property (main dwelling, minor dwelling, tenant house) or should there be a cap on the maximum number of occupants on the entire lot during rental periods?**

The Commission recommends applying the maximum occupancy of ten persons **per lot** regardless of whether the property has additional accessory dwellings and onsite sewage disposal system capacity to accommodate more than ten persons during rental periods. Operators who wish to have more than ten persons on the lot during rental periods can apply for a special use permit and site development plan for a country inn.

3. Is it necessary to require owner occupancy for a short-term residential rental use?

The Commission did not include a requirement that the property owner be present on the lot during a short-term residential rental activity. Such a requirement would adversely impact operators who rent their homes while they are on vacation (“homeshares”) or who may have the rental structure on a lot that does not contain their primary residence. This requirement could also adversely affect operators who have the ability to accommodate ten guests but would be limited by having to remain on the property during rental periods.

4. Should short-term residential rentals be prohibited in the Rural Residential (RR) District?

The Commission does not recommend allowing short-term residential rentals in the RR District. RR-zoned lots are typically small compared to AOC and FOC-zoned lots and are mostly found in the villages of Millwood and White Post and in Shenandoah Retreat. With residences being located closer together in RR-zoned communities, the potential for adverse impacts on neighboring properties with transient renters in a non-owner-occupied rental situation is increased. Property owners would still be able to operate a home occupation bed and breakfast in the RR District which requires owner occupancy during rental periods.

5. Should the proposed list of prohibited activities be included in the short-term residential rentals use regulations?

The Commission agreed with Staff’s recommendation to include the following list of prohibited activities:

- Provision of meals to transient renters.
- Commercial public assembly activities such as special events, live music, weddings, meetings, conferences, and reunions.
- Other gatherings of persons that are not transient renters or residents of the rental structure or lot.

The first two prohibited activities may be approvable with other regulatory approvals. Provision of meals can be allowed with a home occupation bed and breakfast use zoning permit or country inn special use permit and site development plan. Commercial public assembly activities can be allowed with an agritourism activity zoning permit (if accessory to an agricultural operation on the lot), with a special use permit and site development plan approval for a country inn or minor commercial public assembly use, or potentially with a special event permit. Such approvals would be reviewed to ensure that there is no conflict between the assembly and rental activities.

The prohibition on gatherings of persons who are not transient renters or residents of the rental structure or lot is designed to ensure that the maximum occupancy level is not exceeded during rental periods. This will help protect the integrity of the onsite sewage disposal system and ensure compliance with the occupancy limitation per building code requirements.

6. Should maximum occupancy for home occupation bed and breakfast uses be increased to five bedrooms and ten occupants?

Yes – the Planning Commission agreed to support this change to establish consistency across use regulations for rental uses. Proposed maximum occupancy of a home occupation bed and breakfast use would also be reviewed against the onsite sewage disposal system capacity and building code requirements.

7. Should any new regulations that are adopted apply retroactively to existing short-term residential rental operations?

The Commission recommends applying the proposed regulations (if adopted) retroactively to existing short-term residential rental operations subject to the County’s complaint-basis enforcement practice (see discussion later in this report). The proposed review of onsite sewage disposal system capacity and building code requirements would help to ensure life safety and protect the integrity of the County’s groundwater resources. The Commission believes that these are evaluations that should be performed on all County rental operations regardless of whether they are existing or proposed.

Summary of Proposed Text Amendment:

The proposed text amendment includes the creation of a new “short-term residential rental” use in the AOC and FOC Zoning Districts. The use is defined as follows:

The rental of a room within or a portion of a single-family dwelling, minor dwelling, or tenant house; or the rental of an entire single-family dwelling, minor dwelling, or tenant house; by the owner to one or more transient renters for lodging purposes for a period of fewer than 30 consecutive days in exchange for a charge.

Any short-term rental of a single-family dwelling, minor dwelling, or tenant house for a period of less than 30 consecutive days would require issuance of a zoning permit and compliance with the following use regulations:

- Maximum occupancy of ten persons on a lot housing a short-term residential rental use which includes transient renters and residents of the lot. The maximum occupancy requirement applies at any point in time during rental periods.
- Maximum proposed occupancy may be further limited by:
 - The maximum occupancy for the structure or structures proposed for rental use as allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). This issue is discussed in greater detail below.
 - The maximum occupancy for the structure or structures proposed for rental use as permitted by the Virginia Uniform Statewide Building Code.
- A short-term residential rental may be operated in a single-family dwelling, minor dwelling, or tenant house subject to total maximum occupancy limits for the structure and

the lot. No rental occupancies are permitted in other permanent or temporary structures on the lot such as accessory structures, tents, or recreational vehicles.

- Owner occupancy is not required for a short-term residential rental as this use is not considered to be a home occupation.
- Issuance of a business license by the Office of the Commissioner of the Revenue is required and such license must be maintained in good standing throughout the life of the use as a condition of zoning permit approval.
- The following activities are prohibited:
 - Provision of meals to transient renters.
 - Commercial public assembly activities such as special events, live music, weddings, meetings, conferences, and reunions.
 - Other gatherings of persons that are not transient renters or residents of the rental structure or lot.

Short-term residential rentals would not be allowed on lots in the Rural Residential (RR) District. Rental uses in the RR District could still be operated under the regulations for home occupation bed and breakfast operations.

The following changes to the home occupation bed and breakfast use are also proposed to provide consistency with the proposed short-term residential rental use:

- Maximum occupancy would be increased from three guest rooms and five transient guests to a maximum of five bedrooms and ten occupants including transient guests and residents of the lot. The maximum occupancy requirement applies at any point in time during rental periods.
- Maximum proposed occupancy may be further limited by:
 - The maximum occupancy for the structure or structures proposed for rental use as allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). This issue is discussed in greater detail below.
 - The maximum occupancy for the structure or structures proposed for rental use as permitted by the Virginia Uniform Statewide Building Code.
- A home occupation bed and breakfast may be operated in a single-family dwelling, minor dwelling, or tenant house. No rental occupancies are permitted in other permanent or temporary structures on the lot such as accessory structures, tents, or recreational vehicles.
- Issuance of a business license is required and such license must be maintained in good standing throughout the life of the use as a condition of zoning permit approval.

The following changes to the country inn use are also proposed:

- Maximum proposed occupancy of a country inn would remain unchanged at 15 rooms but may be further limited by:
 - The maximum occupancy for the structure or structures proposed for rental use as allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). This issue is discussed in greater detail below.
 - The maximum occupancy for the structure or structures proposed for rental use as permitted by the Virginia Uniform Statewide Building Code.
- The maximum occupancy period would be increased to less than 30 consecutive days to establish consistency with the occupancy periods for short-term residential rentals and home occupation bed and breakfast uses.

Regulation of onsite sewage disposal systems

A central issue of concern is to ensure that rental occupancies do not exceed the capacity of the dwelling's onsite sewage disposal system. Currently there is no required process for a proposed short-term residential rental or home occupation bed and breakfast use to verify onsite sewage disposal system capacity against approvals on record with the Virginia Department of Health (VDH). Onsite sewage disposal system capacities for country inns are verified through the site development plan process. A rental operation that exceeds the maximum occupancy of the onsite sewage disposal system can cause that system to fail resulting in groundwater contamination and potential harm to nearby drinking water wells.

To address this issue, language is proposed to require review and confirmation by VDH as a condition of approval for short-term residential rentals, home occupation bed and breakfast operations, and country inns. This review is required because many rental activities are operated in existing dwellings with septic systems designed to accommodate the number of bedrooms in the dwelling. Older dwellings may have septic systems that were approved many years ago under outdated regulations and even older dwellings may have systems that pre-date onsite sewage disposal system regulation. In order to ensure that an existing system can handle the sewage volume of a short-term residential rental use and the owner's residential occupancy, VDH review of the onsite sewage disposal system is necessary.

Planning Staff held discussions with VDH Staff regarding possible approaches to review rental applications under this proposed text amendment. VDH Staff agreed to provide "File Reviews" for applications as a County-initiated request for comments on zoning permit applications. This process would be similar to the process currently used to obtain VDH comments on site plan applications. Planning Staff will submit completed zoning permit application forms along with a comment request letter and any other pertinent information to VDH. VDH then will review the materials on file for the subject property and provide comments based on the file contents, application, and supporting materials. VDH will not make site visits in conjunction with a "File Review" request so their comments would be based on the written materials on file and documents provided by the applicant. Additionally, VDH will not issue a written "approval" of

the proposed use – their comment letter would confirm whether or not the existing onsite sewage disposal system will meet the capacity of the maximum proposed occupancy.

The “File Review” process would likely be sufficient to confirm the validity of more recent VDH permits and their compliance with current regulations. VDH would review the current permit on file and compare it with the maximum occupancy that the applicant lists on the application form. If VDH comments that the existing system has the capacity to support the stated use, then no further action or expense is required by the applicant. If VDH cannot confirm that the capacity for the proposed occupancy is compliant, then zoning approval could not be granted. The applicant then would have two options:

- Re-file the zoning permit application with a lower proposed occupancy that conforms to the existing system’s capacity and can be confirmed by VDH.
- Work directly with VDH through their application processes to make changes, modify, or expand the existing system to support the proposed maximum occupancy. This would require the applicant to incur costs of designing and installing the necessary system modifications according to current State and County septic system regulations. Once the modifications have been installed and approved by VDH, the applicant can re-file the zoning permit application.

New language is proposed in the text amendment for short-term residential rentals, home occupation bed and breakfast operations, and country inns to address this requirement as well as to require an onsite sewage disposal system to be maintained for the life of the use. If a system falls out of compliance with VDH regulations, the Zoning Administrator may issue a notice of violation to cease operation of the rental use until the system is repaired and brought into compliance as verified by VDH.

Application and Enforcement:

As previously noted, short-term residential rentals of a portion of a dwelling (one or more rooms), or the rental of an entire dwelling, to a single paying customer or group for a period of less than 30 days are not currently regulated by the Zoning Ordinance. In recent years, some rental operators have obtained business licenses for their short-term residential rental activities through the Commissioner of the Revenue Office. Business licenses require zoning review and action by the Planning Department as a condition of approval. In reviewing short-term residential rentals as described above, Planning Staff has typically written on the zoning approval portion of the business license application that no zoning approval is required for the use. If new proposed short-term residential rental regulations are adopted, the question was raised as to whether these regulations could be applied to existing operators with business licenses.

Following discussions with the County Attorney, it was determined that any short-term residential rental operator with a valid County business license stating that no zoning approval was required would still be required to comply with the new use regulations for short-term residential rentals. This would include compliance with the proposed onsite sewage disposal system requirements. Rental operators who did not obtain a business license for their use, or who do not have a written determination from the zoning administrator that the use does not

require zoning approval, would have to comply with all new regulations including applicable permitting requirements. Any operator who has prior County zoning approval in the form of a zoning permit, zoning determination letter, or business license review indicating that they have zoning approval for their rental activity (as opposed to no zoning approval required) would be considered nonconforming and would not have to comply with the new regulations.

Regarding application and enforcement of the proposed regulations, Staff has recommended continuing with the complaint-basis enforcement practice. Since there potentially is a significant number of existing rental operators who would have to comply with the new regulations, Planning Staff would work with other departments to publicize the new regulations if they are ultimately adopted. Staff would prefer to work with existing operators to achieve voluntary compliance rather than responding to complaints about noncompliant short-term residential rental operations.

To assist with achieving voluntary compliance, the Commission and Staff recommend delaying the effective date of the regulations by six months. This would create a “grace period” and allow existing operators to work with Staff on compliance with the regulations without being immediately in a state of noncompliance. Staff also recommends waiving the zoning permit fee during this six month grace period. This fee would be \$100 unless the Board wishes to establish a different fee.

If the Board supports a delayed implementation of six months and waiver of the zoning permit fee during the “grace period,” the Board can include these directives in a motion to adopt the proposed text amendment.

Citizen Comments:

Six people spoke at the Planning Commission’s November 5, 2021 Public Hearing. Two speakers were concerned about short-term residential rental activities occurring in their neighborhoods (Shenandoah Retreat and Calmes Neck) and their impact on common facilities and surrounding residences. Four of the speakers are current AirBNB operators – three spoke in favor of the proposed regulations and the benefits of short-term residential rentals to the County. One spoke about avoiding over-regulation and unintended consequences.

Some of the speakers who commented at the Public Hearing provided written comments during the text amendment development process. Copies of these written comments and comments from others are provided for your reference.

Planning Commission Recommendation:

Following a duly-advertised Public Hearing on November 5, 2021, the Planning Commission voted 10-0-1 (Kruhm absent) to recommend adoption of the proposed text amendment subject to the following motion:

Move to recommend adoption of proposed text amendment TA-21-03 (Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn) to the Board of Supervisors. This motion includes a recommendation to the Board to consider delaying the effective date of this text amendment for a period of six (6) months. The

purpose is to provide a “grace period” for existing operators to work with Planning Department staff to comply with the proposed regulations.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of this text amendment.

Vice-Chair McKay asked, and Brandon Stidham affirmed that if someone has 250-acres and three (3) tenant houses that there could only be ten (10) renting customers as long as the septic system can support that. Brandon Stidham explained that if someone wants to go over that level, then they could apply for a Special Use Permit to be a Country Inn.

Supervisor Catlett

- Asked if there were any current Airbnbs in the rural residential districts. Brandon Stidham said he would have to confirm that information; he did know of one Home Occupancy Bed & Breakfast in the rural residential district. He added that the rural residential district is primarily located in the Villages of White Post and Millwood and in the Shenandoah Retreat lots.

Supervisor Bass

- Thanked Staff and colleagues on the Planning Commission, stating this process began before joining the Planning Commission. Supervisor Bass assured the Board that it was subject to vigorous discussion. The primary concern was safety for the operator and the environment with respect to septic systems and the potential for groundwater contamination. Speaking as the Planning Commission liaison to the Board, the Planning Commission feels very strongly that this was an important issue for the County to take some control over. Commended Staff and the Planning Commission for all of their hard work.

Supervisor Lawrence

- Stated that the rental list that was circulating around the County made it seem like many of them were renting a high load without having the building permits. He applauded Staff and the Planning Commission for working on this.

Chair Weiss

- Asked if there have been any official complaints about Airbnbs. Brandon Stidham explained that a complaint was received about a year and a half ago from a resident in Millwood, mainly the concern about Transient Occupancies with the small lots. He added that there had been operators of lodging establishments saying that localities should be regulating Airbnbs since they had to go through similar regulations to get their approvals.
- Asked, and Brandon Stidham explained that there are no regulations for long-term rentals (over thirty (30) days) and no zoning regulations for family gatherings.
- Conveyed that currently, if you have an issue in your home, you call the Sheriff's Office. If you have a septic system issue, you call the Health Department; if there is a building issue, you call the Building Department. Personally believes the County is trying to regulate something because of noise made, and there are already ways to regulate these issues; I have no objection to a public hearing, but it can be

detrimental to have ordinances that you cannot enforce because of staff time and ambiguity.

Vice-Chair McKay

- Expressed that if this is approved, there should be an effort to enforce it.

Supervisor Lawrence moved to Set Public Hearing, PH 2021-15, TA-21-03 Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn for December 21, 2021, at 6:30 pm or as soon thereafter as the matter may be heard. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

9) Frederick-Winchester Service Authority Agreement.

Chris Boies explained the following:

- This is an extension to the existing agreement with Frederick-Winchester Service Authority, which allows Clarke to send septage through haulers to the Opequon Water Reclamation facility.
- The existing agreement was approved on May 28, 2009, and expires in December of this year.
- Have been working with the Service Authority throughout the year of this extension, the proposed language is included in the packet.
- Most of the terms of the previous agreement stay the same; they have updated their pricing in accordance with the agreement; they actually reserved the right to look at pricing each year but have not done that in a number of years.
- As Alison Teetor has worked on the Voluntary Septic Pump-out efforts, it is critical that the County has a place for the haulers to take the waste.
- One bad thing is that in the new agreement, they state that they do not intend to extend this agreement beyond December 31, 2026, which means the County will have to find a new facility to handle this waste in the future.

Supervisor Lawrence

- Suggested that this process starts within the next year so it can be figured out well in advance of the expiration of this agreement.

Chair Weiss

- Thanked Alison Teetor and Chris Boies for working on this agreement and thanked Frederick County for extending this agreement.

Supervisor Catlett moved to approve the Frederick-Winchester Service Authority Agreement. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

6) Consent Agenda Resumed

- C. 2021-21R: A Resolution of the Clarke County Board of Supervisors Approving of the County's Participation in the Proposed Settlement of Opioid-Related Claims Against Mckesson, Cardinal Health, AmerisourceBergen, Janssen, and their Related Corporate Entities, and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the Settlements.

Clarke County Board of Supervisors



Berryville Voting District
Matthew E. Bass
(540) 955-5175

Millwood Voting District
Terri T. Catlett
(540) 837-2328

Russell Voting District
Doug Lawrence
(540) 955-2144

Buckmarsh Voting District
David S. Weiss – Chair
(540) 955-2151

White Post Voting District
Bev B. McKay – Vice Chair
(540) 837-1331

County Administrator
Chris Boies
(540) 955-5175

**A RESOLUTION OF THE CLARKE COUNTY BOARD OF SUPERVISORS APPROVING OF THE COUNTY’S PARTICIPATION IN THE PROPOSED SETTLEMENT OF OPIOID-RELATED CLAIMS AGAINST MCKESSON, CARDINAL HEALTH, AMERISOURCEBERGEN, JANSSEN, AND THEIR RELATED CORPORATE ENTITIES, AND DIRECTING THE COUNTY ADMINISTRATOR TO EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY’S PARTICIPATION IN THE SETTLEMENTS
2021-21R**

WHEREAS, the opioid epidemic that has cost thousands of human lives across the Country also impacts the Commonwealth of Virginia and its cities and counties by adversely impacting, amongst other things, the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services; and

WHEREAS, the Commonwealth of Virginia and its cities and counties have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Virginia; and

WHEREAS, settlement proposals have been negotiated that will cause McKesson, Cardinal Health, AmerisourceBergen, and Janssen to pay up to \$26 billion nationwide to resolve opioid-related claims against them;

NOW, THEREFORE, BE IT RESOLVED that the Clarke County Board of Supervisors, this 23rd day of November 2021, approves of the County’s participation in the proposed settlement of opioid-related claims against McKesson, Cardinal Health, AmerisourceBergen, Janssen, and their related corporate entities, and directs the County Administrator to execute the documents necessary to effectuate the County’s participation in the settlements, including the required release of claims against settling entities.

ATTEST 2021-21R

David S. Weiss, Chair

www.clarkccounty.gov

101 Chalmers Court, Suite B
Berryville, VA 22611

Telephone: [540] 955-5175

Chris Boies explained the following:

- This MOU allows participation of Clarke County and other Virginia Counties in these settlement agreements that have been reached with companies in the opioid markets.
 - The Attorney General asked to get as many locations to participate in this resolution as possible. We were recently invited to participate in the settlement, and there is a financial incentive that increases in dollar amount as the number of localities participating increases.
 - The funds can be used for many different costs the county will incur related to the opioid crisis, including things like; drug prevention, education, purchasing equipment, and supplies for emergency responders, training, and adult treatment. It is a long-term settlement agreement.
 - The purpose of the Resolution is to go through litigation just once, not individually.
- D. 2021-22R: A Resolution of the Clarke County Board of Supervisors Approving of the County’s Participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (MOU) and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the MOU.

Clarke County Board of Supervisors



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Bev B. McKay – Vice Chair
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County Administrator
Chris Boies
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A RESOLUTION OF THE CLARKE COUNTY BOARD OF SUPERVISORS APPROVING OF THE COUNTY’S PARTICIPATION IN THE VIRGINIA OPIOID ABATEMENT FUND AND SETTLEMENT ALLOCATION MEMORANDUM OF UNDERSTANDING (MOU) AND DIRECTING THE COUNTY ADMINISTRATOR TO EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY’S PARTICIPATION IN THE MOU 2021-22R

WHEREAS, the opioid epidemic that has cost thousands of human lives across the Country also impacts the Commonwealth of Virginia and its cities and counties by adversely impacting, amongst other things, the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services; and

WHEREAS, the Commonwealth of Virginia and its cities and counties have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Virginia; and

WHEREAS, in order to advance their common interests, Virginia local governments and the Commonwealth of Virginia, through counsel, have extensively negotiated the terms of a memorandum of understanding relating to the allocation and use of litigation recoveries relating to the opioid epidemic;

NOW, THEREFORE, BE IT RESOLVED that the Clarke County Board of Supervisors, this 23rd day of November 2021, hereby authorizes and approves of the Virginia Abatement Fund and Settlement Allocation Memorandum of Understanding (MOU) attached hereto and incorporated by reference as Exhibit “A”, and directs the County Administrator to execute the MOU.

ATTEST 2021-22R

David S. Weiss, Chair

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Berryville, VA 22611

Telephone: [540] 955-5175

**VIRGINIA OPIOID ABATEMENT FUND AND
SETTLEMENT ALLOCATION MEMORANDUM OF UNDERSTANDING**

WHEREAS, the people of the Commonwealth of Virginia and its communities have been harmed through the national and statewide epidemic caused by licit and illicit opioid use and distribution within the Commonwealth of Virginia;

WHEREAS, the Commonwealth of Virginia, through the Office of Attorney General Mark R. Herring, and certain Political Subdivisions, through their elected representatives and counsel, are separately engaged in litigation seeking to hold those entities in the Pharmaceutical Supply Chain accountable for the damage caused;

WHEREAS, the Commonwealth of Virginia and its Political Subdivisions share a common desire to abate and alleviate the impacts of the opioid epidemic throughout Virginia; and now

THEREFORE, the Commonwealth of Virginia and certain of its Political Subdivisions, subject to completing formal documents effectuating the Parties' agreements, enter into this Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of any Settlements as described herein.

A. Definitions

As used in this Virginia Term Sheet:

1. "The Commonwealth" shall mean the Commonwealth of Virginia acting through its Attorney General.
2. "Political Subdivision(s)" shall mean the Virginia counties and independent cities represented by Counsel.
3. "Participating Political Subdivisions" shall mean the Political Subdivisions, along with all Virginia counties and independent cities who agree to become signatories to this MOU and to be bound by the terms of future Settlements.

4. "Counsel" shall mean the undersigned private attorneys representing the Political Subdivisions.
5. "The Parties" shall mean the Commonwealth of Virginia, the Political Subdivisions, and Counsel.
6. "Negotiating Committee" shall mean a three-member representative group of the Parties. The Commonwealth shall be represented by the Virginia Attorney General or his designees. The Political Subdivisions and Counsel shall be represented by W. Edgar Spivey of Kaufman & Canoles, P.C. or his designee, and J. Burton LeBlanc of Baron & Budd, P.C. or his designee.
7. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant named in Complaints filed by all the Political Subdivisions in court on or before April 30, 2020 when that resolution has been jointly entered into by the Commonwealth, the Political Subdivisions, and Counsel. "Settlement" also shall include the approval by a United States Bankruptcy Court of a plan of reorganization or liquidation of a Pharmaceutical Supply Chain Participant, or any other determination, ruling, or decision by a United States Bankruptcy Court, in which legal or equitable claims against the Pharmaceutical Supply Chain Participant by the Commonwealth and the Political Subdivisions are settled, adjudicated, released, or otherwise resolved.
8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.
9. "Approved Abatement Purposes" shall mean efforts to treat, prevent, or reduce opioid use disorder or the misuse of opioids or to otherwise abate or remediate the

opioid epidemic, including but not limited to those efforts described in Section C(4)(a) through (j) of this MOU. In addition, "Approved Abatement Purposes" shall include the types of efforts approved for funding by the Authority that is defined in Section C(1). "Approved Abatement Purposes" also shall include any other abatement or remediation purposes to the extent such purposes are described in a Settlement.

10. "Pharmaceutical Supply Chain" shall mean the process and channels through which opioids or opioid products are manufactured, marketed, promoted, distributed or dispensed.
11. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in or has engaged in the manufacture, marketing, promotion, distribution, or dispensing of an opioid analgesic.

B. Allocation of Settlement Proceeds

1. All Opioid Funds shall be initially divided with fifteen percent (15%) going to the Participating Political Subdivisions ("Subdivision Share"), seventy percent (70%) going to the Virginia Opioid Abatement Fund and to other Approved Abatement Purposes as further described herein ("Opioid Abatement Share"), and fifteen percent (15%) going to the Commonwealth of Virginia ("Commonwealth Share").
2. The Subdivision Share shall be allocated and paid to the Participating Political Subdivisions in accordance with the division of proceeds referenced in the schedule attached hereto as Exhibit A. The shares of Virginia counties and independent cities who elect not to become Participating Political Subdivisions, if any, shall be reallocated ratably to the Participating Political Subdivisions.

3. In the event a Participating Political Subdivision merges, dissolves, or ceases to exist, the allocation percentage for that Participating Political Subdivision shall be redistributed equitably based on the composition of the successor subdivision.
4. The Commonwealth Share shall be deposited to the Attorney General's Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund with moneys transferred to the Commonwealth's General Fund as provided by law. To the extent a Settlement requires that all Opioid Funds be used only for abatement or similar purposes, then the Commonwealth Share shall be deposited and distributed accordingly.
5. The Opioid Abatement Share of 70% of the Opioid Funds shall be allocated and paid as follows:
 - a. Fifty-five percent (55%) of the Opioid Funds shall be allocated and paid to the Virginia Opioid Abatement Fund ("Fund").
 - b. Fifteen percent (15%) of the Opioid Funds shall be allocated and paid to the Participating Political Subdivisions and shall be used for Approved Abatement Purposes ("Direct Subdivision Abatement Share"). Upon request, a Participating Political Subdivision shall make publicly available information showing the purposes for which the Participating Political Subdivision used Direct Subdivision Abatement Share funds. The Direct Subdivision Abatement Share shall be allocated and paid to the Participating Political Subdivisions in accordance with the division of proceeds referenced in the schedule attached hereto as Exhibit A. The shares of Virginia counties and independent cities who

elect not to become Participating Political Subdivisions, if any, shall be reallocated ratably to the Participating Political Subdivisions.

6. To the extent a Settlement requires that all Opioid Funds be used only for abatement or similar purposes, then the Subdivision Share and the Commonwealth Share shall be used for Approved Abatement Purposes.
7. To receive funds allocated under this MOU from any Settlement, the Commonwealth and the Participating Political Subdivisions will comply with the terms of any such Settlement, including, among other things, any reporting requirements or restrictions on the use of funds for administrative purposes.

C. Virginia Opioid Abatement Fund and Virginia Opioid Abatement Authority

1. The Parties have sought creation of a Virginia Opioid Abatement Authority (“Authority”) through legislation submitted to the Virginia General Assembly, which passed in the form attached hereto as Exhibit B. The Authority shall administer the Fund, which also shall be created through the legislation. The Authority shall seek to abate and remediate the opioid epidemic in Virginia through financial support from the Fund in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in Virginia.
2. The Authority shall be governed by a Board of Directors consisting of 11 members as follows: (i) the Secretary of Health and Human Resources, or his designee; (ii) the Chair of the Senate Committee on Finance and Appropriations or his designee and the Chair of the House Committee on Appropriations or his designee; (iii) an elected member of the governing body of a Participating Political Subdivision, to

be selected from a list of three submitted jointly by the Virginia Association of Counties and the Virginia Municipal League; (iv) one representative of a community services board or behavioral health authority of an urban or suburban region containing Participating Political Subdivisions and one representative of a community services board or behavioral health authority of a rural region containing Participating Political Subdivisions, each to be selected from lists of three submitted by the Virginia Association of Community Services Boards; (v) one sheriff of a Participating Political Subdivision, to be selected from a list of three submitted by the Virginia Sheriffs' Association; (vi) one licensed, practicing City or County Attorney of a Participating Political Subdivision, to be selected from a list of three submitted by the Local Government Attorneys of Virginia; (vii) two medical professionals with expertise in public and behavioral health administration or opioid use disorders and their treatment; and (viii) one representative of the addiction and recovery community.

- a. The members appointed pursuant to clause (i) shall serve ex officio, and the members appointed pursuant to clauses (iii) through (viii) shall be appointed by the Governor.
- b. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Ex officio members shall serve terms coincident with their terms of office.

- c. The Board shall elect annually a chairman and vice-chairman from among its membership. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Board shall meet annually or more frequently at the call of the chairman.
3. The Authority shall establish specific criteria and procedures for awards from the Fund; establish requirements for the submission of funding requests; evaluate funding requests in accordance with the criteria established by the Authority; make awards from the Fund in a manner that distributes funds equitably among all community services board regions of the Commonwealth, including the establishment of minimum percentages of funds that must be awarded to each Participating Political Subdivision; and evaluate the implementation and results of all efforts receiving support from the Authority.
4. The Authority may make grants and disbursements from the Fund that support efforts to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic. Such efforts may include but shall not be limited to the following:
 - a. Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies.
 - b. Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

- c. Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
- d. Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved, or are at risk of becoming involved, in the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;
- e. Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;
- f. Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions, and the needs of their families, including babies with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;
- g. Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed methods, programs, or strategies;
- h. Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;

- i. Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and
 - j. Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services.
5. The Authority shall provide financial support only for efforts that satisfy the following conditions:
- a. The efforts shall be conducted or managed by a Virginia state agency or Participating Political Subdivision;
 - b. No support provided by the Authority shall be used by the recipient to supplant funding for an existing program or continue funding an existing program at its current amount of funding;
 - c. No support provided by the Authority shall be used by the recipient for indirect costs incurred in the administration of the financial support or for any other purpose proscribed by the Authority; and
 - d. Recipients of support provided by the Authority shall agree to provide the Authority with such information regarding the implementation of the effort and allow such monitoring and review of the effort as may be required by the Authority to ensure compliance with the terms under which the support is provided.
6. The Authority shall give priority to applications for financial support for efforts that:

- a. Collaborate with an existing program or organization that has an established record of success treating, preventing or reducing opioid use disorder or the misuse of opioids;
 - b. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a community with a high incidence of opioid use disorder or opioid death rate relative to population;
 - c. Treat, prevent or reduce opioid use disorder or the misuse of opioids in a historically economically disadvantaged community, as that term is defined in Va. Code § 56-576; or
 - d. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount.
7. For every deposit to the Fund, the Authority shall allocate a portion to the following purposes:
- a. Fifteen percent (15%) shall be restricted for use by state agencies;
 - b. Fifteen percent (15%) shall be restricted for use by Participating Political Subdivisions with these funds distributed in accordance with the division of proceeds referenced in the schedule attached hereto as Exhibit A. The shares of Virginia counties and independent cities who elect not to become Participating Political Subdivisions, if any, shall be reallocated ratably to the Participating Political Subdivisions.
 - c. Thirty-five percent (35%) shall be restricted for use for regional efforts (a partnership of at least two Participating Political Subdivisions within a community services board region); and

d. Thirty-five percent (35%) shall be unrestricted and may be used to fund the Authority's staffing and administrative costs and may be distributed for use by state agencies, by the Participating Political Subdivisions, or for regional efforts in addition to the amounts set forth in subparagraphs 7(a)-(c), provided that the Authority shall ensure that such funds are used to accomplish the purposes described above or invested as described immediately below.

8. In distributing money from the Fund, the Authority shall balance immediate and anticipated needs with projected receipts of funds in order to best accomplish the purposes for which the Authority is established.
9. The Board may designate any amount from the Fund to be invested, reinvested, and managed by the Board of the Virginia Retirement System.

D. Payment of Counsel and Litigation Expenses

1. The Parties anticipate that any national Settlement will provide for payment of all or a portion of the attorneys' fees and litigation expenses of named plaintiff Participating Political Subdivisions. Counsel for any named plaintiff Participating Political Subdivision that seeks to recover attorneys' fees and litigation expenses from Settlement funds shall first seek to recover such fees and expenses from any national Settlement fund established to pay such fees and expenses. For such purposes, the Parties agree that the monetary recoveries obtained via Settlement are attributable to the Commonwealth and the Political Subdivisions 50% each.
2. In addition, the Parties agree that a supplemental attorneys' fees and costs fund (the "Deficiency Fund") will be created; provided, however, that such Deficiency Fund may not violate the terms of any national Settlement. In such event, the Parties

agree to exert diligent efforts to accomplish an alternate arrangement that preserves the payment of counsel and litigation expenses outlined hereunder. Administration of the Deficiency Fund shall be the responsibility of the Political Subdivisions, and the costs of administration may be paid out of the Deficiency Fund.

3. The Deficiency Fund is to be used to compensate counsel for the Participating Political Subdivisions that filed suit on or prior to April 30, 2020. Eligible contingent fee contracts shall have been executed on or before April 30, 2020.
4. The Deficiency Fund shall be funded as follows: from any national Settlement, the funds deposited in the Deficiency Fund shall be 25% of the Subdivision Share and 25% of the Direct Subdivision Abatement Share of each payment (annual or otherwise) that is allocated to the Commonwealth of Virginia (including its political subdivisions) for that Settlement. These funds shall be deposited to the Deficiency Fund prior to distribution to the Participating Political Subdivisions. No portion of the Deficiency Fund shall be drawn from the Commonwealth Share or the Fund.
5. The maximum percentage of any contingency fee agreement permitted for compensation shall be 25% of the portion of the Subdivision Share and the Direct Subdivision Abatement Share attributable to the named plaintiff Participating Political Subdivision that is a party to the contingency fee agreement, plus expenses attributable to that named plaintiff Participating Political Subdivision. Under no circumstances may counsel collect more for its work on behalf of a named plaintiff Participating Political Subdivision than it would under its contingency agreement with that named plaintiff Participating Political Subdivision.

6. To the extent that funds available in the designated amounts or percentages set forth in this Section D are inadequate to fully pay amounts due under contingent fee contracts, funds shall be distributed to private counsel for named plaintiff Participating Political Subdivisions who filed suit and entered into contingent fee contracts prior to April 30, 2020 on a pro rata basis based on the percentage of the total population of named plaintiff Participating Political Subdivisions contained in the named plaintiff Participating Political Subdivision that private counsel represents.
7. Any funds remaining in the Deficiency Fund in excess of the amounts needed to cover private counsel's representation agreements shall revert to the Participating Political Subdivisions and be allocated to the sources from which they derived.
8. Any attorneys' fees related to representation of the Commonwealth of Virginia shall not be paid from the Subdivision Share, the Direct Subdivision Abatement Share, or the Fund but shall be drawn directly from the Commonwealth Share or through other sources. Any payments of attorneys' fees related to representation of the Commonwealth of Virginia from such other sources shall not be deemed Opioid Funds subject to allocation under this MOU.

E. Settlement Negotiations

1. The Negotiating Committee members agree to inform each other in advance of any negotiations relating to any Virginia-only Settlement with a Pharmaceutical Supply Chain Participant that includes both the Commonwealth and its Political Subdivisions and shall provide each other the opportunity to participate in such negotiations.

2. The Parties further agree to keep each other reasonably informed of all other global settlement negotiations with Pharmaceutical Supply Chain Participants. Neither this provision, nor any other, shall be construed to state or imply that the Commonwealth or the Political Subdivisions are unauthorized to engage in settlement negotiations with Pharmaceutical Supply Chain Participants without prior consent or contemporaneous participation of the other, or that either party is entitled to participate as an active or direct participant in settlement negotiations with the other. Rather, while the Commonwealth's and the Political Subdivisions' efforts to achieve worthwhile settlements are to be collaborative, incremental stages need not be so.
3. As this is a Virginia-specific effort, the Negotiating Committee shall be chaired by the Attorney General or his designee.
4. The Commonwealth of Virginia, the Political Subdivisions, or Counsel may withdraw from coordinated Settlement discussions detailed in this Section upon 5 days' written notice to the remaining Committee Members and counsel for any affected Pharmaceutical Supply Chain Participant. The withdrawal of any Member releases the remaining Committee Members from the restrictions and obligations in this Section E.
5. The obligations in this Section E shall not affect any Party's right to proceed with trial or, within 30 days of the date upon which a trial involving that Party's claims against a specific Pharmaceutical Supply Chain Participant is scheduled to begin, reach a case-specific resolution with that particular Pharmaceutical Supply Chain Participant.

6. Nothing in this MOU alters or changes the right of the Commonwealth or any Political Subdivision to pursue its own claim. The intent of this MOU is to join the Parties to reach a Settlement or Settlements.

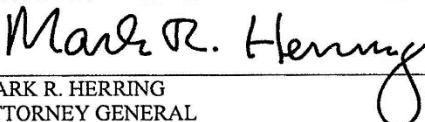
Acknowledgment of Agreement

We, the undersigned, have participated in the drafting of the above MOU, including comments solicited from client Political Subdivisions. This document has been collaboratively drafted to maintain all individual claims while allowing the Commonwealth and its Political Subdivisions to cooperate in exploring all possible means of resolution. Nothing in this agreement binds any party to any specific outcome. Any resolution under this document will require acceptance by the Commonwealth of Virginia and the Participating Political Subdivisions.

We, the undersigned, hereby accept the VIRGINIA OPIOID ABATEMENT FUND AND SETTLEMENT ALLOCATION MEMORANDUM OF UNDERSTANDING. We understand that the purpose of this MOU is to permit collaboration between the Commonwealth of Virginia and Political Subdivisions to explore and potentially effectuate earlier resolution of the Opioid Litigation against Pharmaceutical Supply Chain Participants. We also understand that an additional purpose is to create an effective means of distributing any potential Settlement funds obtained under this MOU between the Commonwealth of Virginia and the Participating Political Subdivisions in a manner that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Virginia.

Executed this 20th day of August, 2021.

FOR THE COMMONWEALTH OF VIRGINIA:



MARK R. HERRING
ATTORNEY GENERAL

Executed this 20th day of August, 2021

Signature:  _____

Printed Name: W. Edgar Spivey

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Executed this 20th day of August, 2021

Signature: 

Printed Name: Aaron L. Harrah

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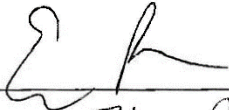
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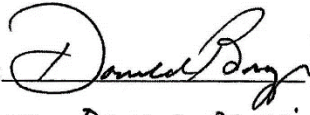
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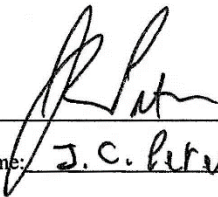
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EXHIBIT A



Table 1: Opioid Settlement Allocations to Counties and Independent Cities

Location	%	Location	%	Location	%
Accomack	0.348%	Franklin City	0.079%	Norton City	0.110%
Albemarle	0.863%	Frederick	1.277%	Nottoway	0.133%
Alexandria City	1.162%	Fredericksburg City	0.524%	Orange	0.638%
Alleghany	0.213%	Galax City	0.139%	Page	0.410%
Amelia	0.100%	Giles	0.409%	Patrick	0.329%
Amherst	0.299%	Gloucester	0.424%	Petersburg City	0.395%
Appomattox	0.133%	Goochland	0.225%	Pittsylvania	0.750%
Arlington	1.378%	Grayson	0.224%	Poquoson City	0.186%
Augusta	0.835%	Greene	0.178%	Portsmouth City	1.937%
Bath	0.037%	Greensville	0.124%	Powhatan	0.262%
Bedford	0.777%	Halifax	0.353%	Prince Edward	0.190%
Bland	0.147%	Hampton City	1.538%	Prince George	0.351%
Botetourt	0.362%	Hanover	1.079%	Prince William	3.556%
Bristol City	0.434%	Harrisonburg City	0.523%	Pulaski	1.061%
Brunswick	0.107%	Henrico	4.473%	Radford City	0.247%
Buchanan	0.929%	Henry	1.220%	Rappahannock	0.091%
Buckingham	0.127%	Highland	0.023%	Richmond	0.084%
Buena Vista City	0.078%	Hopewell City	0.344%	Richmond City	4.225%
Campbell	0.456%	Isle of Wight	0.356%	Roanoke	1.498%
Caroline	0.318%	James City	0.612%	Roanoke City	1.859%
Carroll	0.440%	King George	0.306%	Rockbridge	0.235%
Charles City	0.073%	King William	0.178%	Rockingham	0.614%
Charlotte	0.138%	King and Queen	0.072%	Russell	1.064%
Charlottesville City	0.463%	Lancaster	0.135%	Salem City	0.786%
Chesapeake City	2.912%	Lee	0.556%	Scott	0.421%
Chesterfield	4.088%	Lexington City	0.093%	Shenandoah	0.660%
Clarke	0.125%	Loudoun	2.567%	Smyth	0.592%
Colonial Heights City	0.283%	Louisa	0.449%	Southampton	0.137%
Covington City	0.100%	Lunenburg	0.088%	Spotsylvania	1.417%
Craig	0.070%	Lynchburg City	0.816%	Stafford	1.443%
Culpeper	0.790%	Madison	0.163%	Staunton City	0.440%
Cumberland	0.100%	Manassas City	0.452%	Suffolk City	0.710%
Danville City	0.637%	Manassas Park City	0.095%	Surry	0.058%
Dickenson	0.948%	Martinsville City	0.494%	Sussex	0.081%
Dinwiddie	0.196%	Mathews	0.088%	Tazewell	1.606%
Emporia City	0.050%	Mecklenburg	0.344%	Virginia Beach City	4.859%
Essex	0.101%	Middlesex	0.108%	Warren	0.766%
Fairfax	8.672%	Montgomery	1.205%	Washington	0.996%

Fairfax City	0.269%	Nelson	0.147%	Waynesboro City	0.363%
Falls Church City	0.102%	New Kent	0.156%	Westmoreland	0.223%
Fauquier	1.210%	Newport News City	2.047%	Williamsburg City	0.086%
Floyd	0.182%	Norfolk City	3.388%	Winchester City	0.649%
Fluvanna	0.194%	Northampton	0.122%	Wise	1.756%
Franklin	0.954%	Northumberland	0.129%	Wythe	0.642%
				York	0.561%

EXHIBIT B

Va. Code Ann. § 2.2-2365

Current through the 2021 Regular Session and Special Session I of the General Assembly

VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT > SUBTITLE 1. ORGANIZATION OF STATE GOVERNMENT > PART D. STATE AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES > CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY

§ 2.2-2365. Definitions

As used in this article, unless the context requires a different meaning:

"*Authority*" means the Opioid Abatement Authority.

"*Board*" means the board of directors of the Authority.

"*Community services board region*" means a region as determined by the Department of Behavioral Health and Developmental Services for purposes of administering Chapter 5 (§ 37.2-500 et seq.) of Title 37.2.

"*Fund*" means the Opioid Abatement Fund.

"*Historically economically disadvantaged community*" means the same as such term is defined in § 56-576.

"*Local apportionment formula*" means any formula submitted to the Attorney General by participating localities pursuant to the provisions of subsection B of § 2.2-507.3.

"*Participating locality*" means any county or independent city that agrees to be bound by the terms of a settlement agreement entered into by the Attorney General relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and that releases its own such claims.

"*Regional effort*" means any effort involving a partnership of at least two participating localities within a community services board region.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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§ 2.2-2366. Opioid Abatement Authority established

The Opioid Abatement Authority is established as an independent body. The purpose of the Authority is to abate and remediate the opioid epidemic in the Commonwealth through financial support from the Fund, in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in the Commonwealth. The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2367

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§ 2.2-2367. Board of directors; members

A.The Authority shall be governed by a board of directors consisting of 11 members as follows: (i) the Secretary of Health and Human Resources or his designee; (ii) the Chair of the Senate Committee on Finance and Appropriations or his designee and the Chair of the House Committee on Appropriations or his designee; (iii) an elected member of the governing body of a participating locality, to be selected from a list of three submitted jointly by the Virginia Association of Counties and the Virginia Municipal League; (iv) one representative of a community services board or behavioral health authority serving an urban or suburban region containing participating localities and one representative of a community services board or behavioral health authority serving a rural region containing participating localities, each to be selected from lists of three submitted by the Virginia Association of Community Services Boards; (v) one sheriff of a participating locality, to be selected from a list of three submitted by the Virginia Sheriffs' Association; (vi) one licensed, practicing county or city attorney of a participating locality, to be selected from a list of three submitted by the Local Government Attorneys of Virginia; (vii) two medical professionals with expertise in public and behavioral health administration or opioid use disorders and their treatment; and (viii) one representative of the addiction and recovery community.

The member appointed pursuant to clause (i) shall serve ex officio, and the members appointed pursuant to clauses (iii) through (viii) shall be appointed by the Governor. If the term of the office to which a member appointed pursuant to clause (iii) or (v) was elected expires prior to the expiration of his term as a member of the board, the Governor may authorize such member to complete the remainder of his term as a member or may appoint a new member who satisfies the criteria of clause (iii) or (v), as applicable, to complete the remainder of the term.

B.1. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms.

2. Ex officio members shall serve terms coincident with their terms of office.

C.The Board shall elect annually a chairman and vice-chairman from among its membership. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board.

D.A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business.

E.The Board shall meet annually or more frequently at the call of the chairman.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Va. Code Ann. § 2.2-2367

Notes

EDITOR'S NOTE. --

Acts 2021, Sp. Sess. I, cc. 306 and 307, cl. 2 provides: "That the initial appointments of nonlegislative citizen members to the board of directors of the Opioid Abatement Authority shall be staggered as follows: (i) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of one year, (ii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of two years, (iii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of three years, and (iv) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of four years. For purposes of this enactment, "nonlegislative citizen member" means any member identified in clauses (ii) through (vii) of § 2.2-2367 of the Code of Virginia, as created by this act. Any nonlegislative citizen member appointed to an initial term of less than four years shall be eligible to serve two additional full four-year terms."

EFFECTIVE DATE. --

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§ 2.2-2368. Duties of the Authority

The Authority shall:

1. Establish specific criteria and procedures for awards from the Fund;
2. Establish requirements for the submission of funding requests;
3. Evaluate funding requests in accordance with the criteria established by the Authority and the provisions of this article;
4. Make awards from the Fund in a manner that distributes funds equitably among all community services board regions of the Commonwealth, including the establishment of mandatory minimum percentages of funds to be awarded from the Commonwealth to each participating locality;
5. Evaluate the implementation and results of all efforts receiving support from the Authority; and
6. Administer the Fund in accordance with the provisions of this article.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

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§ 2.2-2369. Powers of the Authority

In order to carry out its purposes, the Authority may:

1. Make grants and disbursements from the Fund that support efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids or otherwise abate or remediate the opioid epidemic;
2. Pay expenditures from the Fund that are necessary to carry out the purposes of this article;
3. Contract for the services of consultants to assist in the evaluation of the efforts funded by the Authority;
4. Contract for other professional services to assist the Authority in the performance of its duties and responsibilities;
5. Accept, hold, administer, and solicit gifts, grants, bequests, contributions, or other assistance from federal agencies, the Commonwealth, or any other public or private source to carry out the purposes of this article;
6. Enter into any agreement or contract relating to the acceptance or use of any grant, assistance, or support provided by or to the Authority or otherwise in furtherance of the purposes of this article;
7. Perform any lawful acts necessary or appropriate to carry out the purposes of the Authority; and
8. Employ such staff as is necessary to perform the Authority's duties. The Authority may determine the duties of such staff and fix the salaries and compensation of such staff, which shall be paid from the Fund. Staff of the Authority shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees. Staff of the Authority shall not be subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

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§ 2.2-2370. Conditions and restrictions on financial assistance

- A. The Authority shall provide financial support only for efforts that satisfy the following conditions:
 1. The efforts shall be designed to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic, which may include efforts to:
 - a. Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - b. Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - c. Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - d. Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved in, or are at risk of becoming involved in, the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;
 - e. Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;
 - f. Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions and the needs of their families, including infants with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;
 - g. Support efforts to prevent overprescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed methods, programs, or strategies;
 - h. Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;
 - i. Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and
 - j. Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services;
 2. The efforts shall be conducted or managed by any agency of the Commonwealth or participating locality;
 3. No support provided by the Authority shall be used by the recipient to supplant funding for an existing program or continue funding an existing program at its current amount of funding;
 4. No support provided by the Authority shall be used by the recipient for indirect costs incurred in the administration of the financial support or for any other purpose proscribed by the Authority; and

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5. Recipients of support provided by the Authority shall agree to provide the Authority with such information regarding the implementation of the effort and allow such monitoring and review of the effort as may be required by the Authority to ensure compliance with the terms under which the support is provided.

B. The Authority shall give priority to applications for financial support for efforts that:

1. Collaborate with an existing program or organization that has an established record of success treating, preventing, or reducing opioid use disorder or the misuse of opioids;
2. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a community with a high incidence of opioid use disorder or opioid death rate, relative to population;
3. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a historically economically disadvantaged community; or
4. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. —

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§ 2.2-2371. Cooperation with other agencies

All agencies of the Commonwealth shall cooperate with the Authority and, upon request, assist the Authority in the performance of its duties and responsibilities.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

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§ 2.2-2372. Form and audit of accounts and records

A.The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

B.The accounts and records of the Authority are subject to an annual audit by the Auditor of Public Accounts or his legal representative.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

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§ 2.2-2373. Annual report

The Authority shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Authority no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. The executive summary shall include information regarding efforts supported by the Authority and expenditures from the Fund.

History

2021 Sp. Sess. I, cc. 306, 307.

Annotations

Notes

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Va. Code Ann. § 2.2-2374

Current through the 2021 Regular Session and Special Session I of the General Assembly

VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT > SUBTITLE I. ORGANIZATION OF STATE GOVERNMENT > PART D. STATE AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES > CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY

§ 2.2-2374. Opioid Abatement Fund

A. There is hereby created in the state treasury a special, nonreverting fund to be known as the Opioid Abatement Fund, referred to in this section as "the Fund," to be administered by the Authority. All funds appropriated to the Fund, all funds designated by the Attorney General under § 2.2-507.3 from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be authorized by majority vote of the Board.

B. Moneys in the Fund shall be used to provide grants and loans to any agency of the Commonwealth or participating locality for the purposes determined by the Authority in accordance with this article and in consultation with the Office of the Attorney General. The Authority shall develop guidelines, procedures, and criteria for the application for and award of grants or loans in consultation with the Office of the Attorney General. Such guidelines, procedures, and criteria shall comply with the terms of any applicable settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities.

C. The Authority shall fund all staffing and administrative costs from the Fund. Its expenditures for staffing and administration shall be limited to those that are reasonable for carrying out the purposes of this article.

D. For every deposit to the Fund, the Authority shall allocate a portion to the following purposes:

1. Fifteen percent shall be restricted for use by state agencies;
2. Fifteen percent shall be restricted for use by participating localities, provided that if the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, require this portion to be distributed according to a local apportionment formula, this portion shall be distributed in accordance with such formula;
3. Thirty-five percent shall be restricted for use for regional efforts; and
4. Thirty-five percent shall be unrestricted. Unrestricted funds may be used to fund the Authority's staffing and administrative costs and may be distributed for use by state agencies, by participating localities, or for regional efforts in addition to the amounts set forth in subdivisions 1, 2, and 3, provided that the Authority shall ensure that such funds are used to accomplish the purposes of this article or invested under subsection F.

E. In distributing money from the Fund under subsection D, the Authority shall balance immediate and anticipated needs with projected receipts of funds to best accomplish the purposes for which the Authority is established.

Va. Code Ann. § 2.2-2374

F.The Board may designate any amount from the Fund to be invested, reinvested, and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.40. The State Treasurer is not liable for losses suffered by the Virginia Retirement System on investments made under the authority of this section.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. –

This section is effective July 1, 2021.

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Va. Code Ann. § 2.2-2375

Current through the 2021 Regular Session and Special Session I of the General Assembly

VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT > SUBTITLE I. ORGANIZATION OF STATE GOVERNMENT > PART D. STATE AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES > CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY

§ 2.2-2375. Exemption from taxes or assessments

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on tangible personal property used in the operations of the Authority, and shall at all times be free from state and local taxation. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2376

Current through the 2021 Regular Session and Special Session I of the General Assembly

VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT > SUBTITLE I. ORGANIZATION OF STATE GOVERNMENT > PART D. STATE AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES > CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY

§ 2.2-2376. Exemption of Authority from personnel and procurement procedures

The provisions of the Virginia Personnel Act ([§ 2.2-2900](#) et seq.) and the Virginia Public Procurement Act ([§ 2.2-4300](#) et seq.) shall not apply to the Authority in the exercise of any power conferred under this article.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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- Chair Weiss asked, and Chris Boies confirmed that without these agreements, Clarke County would not be party to any of the information described.

Supervisor Bass moved to approve Resolution 2021-21R: A Resolution of the Clarke County Board of Supervisors Approving of the County’s Participation in the Proposed Settlement of Opioid-Related Claims Against Mckesson, Cardinal Health, AmerisourceBergen, Janssen, and their Related Corporate Entities, and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the Settlements. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Abstain
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

Supervisor Bass moved to approve Resolution 2021-22R: A Resolution of the Clarke County Board of Supervisors Approving of the County’s Participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (MOU) and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County’s Participation in the MOU.

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Abstain
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

10) Board of Supervisors Personnel Committee Items

A. Expiration of Term for appointments expiring through January 2022.

2021-11-8 Summary: The Personnel Committee recommends the following:

- Reappoint Peter Cook to the Barns of Rose Hill Board of Directors to a three-year term expiring December 31, 2024.
- Reappoint Leea Shirley to the Community Policy Management Team, transitioning to the Virginia Department of Health Representative, for a three-year term expiring December 31, 2024.
- Reappoint Dr. Colin Greene to the Community Policy Management Team, transitioning to the Virginia Department of Health Alternate, for a three-year term expiring December 31, 2024.

- Reappoint Denise Acker to the Community Policy Management Team, as the Northwestern Community Services Representative for a three-year term expiring December 31, 2024.
- Reappoint Walker Thomas to the Conservation Easement Authority for a three-year term expiring December 31, 2024.
- Reappoint Peter Engel to the Conservation Easement Authority for a three-year term expiring December 31, 2024.
- Reappoint Reid Dodson to the Economic Development Advisory Committee for a four-year term expiring December 31, 2025.
- Reappoint Tracy Smith to the Parks and Recreation Advisory Board to a four-year term expiring December 31, 2025.

2021-11-23 Action: Chris Boies reviewed the Personnel Committee recommendations.

Vice-Chair McKay moved to accept the appointments. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

B. Discussion on Federal Vaccine Mandate

2021-11-08 Summary: The Personnel Committee recommends Staff develop a plan in compliance with the Federal Vaccine Mandate, which includes who will pay for the testing.

Chair Weiss recapped this mandate is to either get vaccinated or get tested. The County does not anticipate anyone leaving their jobs over this issue. Clarifying the County will work through it and with people, so everyone stays employed and healthy.

Supervisor Lawrence

- Thanked Staff for setting up the booster clinic.

11) Board of Supervisors Work Session Items

Board of Supervisors Work Session Agenda

Berryville/Clarke County Government Center, 2nd Floor
101 Chalmers Court, Berryville, Virginia 22611

November 8, 2021, 10:00 AM, Meeting Room AB

Board Members Present: Matthew E. Bass, Terri T. Catlett, Doug M. Lawrence,
Beverly B. McKay, David S. Weiss

Board Members Absent: None

Officers / Staff Present: Chris Boies, Jeremy Camp, Brandon Stidham, Brianna
Taylor

Others Present: Frank Lee, Robert Mitchell

Press Present: Mickey Powell

2021-11-08 Summary: At 10:01 am, Chair Weiss called the meeting to order.

- A. Closed Session Pursuant to §2.2-3711-A7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body and §2.2-3711- A8 Consultation with legal counsel regarding specific legal matter(s).

At 10:02 am, Supervisor Bass moved to enter closed session pursuant to §2.2-3711- A7 Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body and §2.2-3711- A8 Consultation with legal counsel regarding specific legal matter(s). The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

At 10:54 am, the members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, Supervisor Bass moved to; reconvene in open session. The motion carried as follows:

Matthew E. Bass - Aye
Terri T. Catlett - Aye
Doug M. Lawrence - Aye
Beverly B. McKay - Aye
David S. Weiss - Aye

Supervisor Bass further moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

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

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

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

Matthew E. Bass - Aye
Terri T. Catlett - Aye
Doug M. Lawrence - Aye
Beverly B. McKay - Aye
David S. Weiss - Aye

No action was taken following the closed session.

B. Proposed Revisions to the Septic Ordinance

County Code Text Amendment (CC-2021-07) Chapter 143 Septic Systems Clarke County Virginia

Alison Teetor
Natural Resource Planner
November 8, 2021
Board of Supervisors Worksession

Outline

- ▶ **Background**
 - ▶ Septic Ordinance originally adopted in 1987
 - ▶ Types of geology
 - ▶ Types of onsite systems
- ▶ **Purpose of Amendment**
- ▶ **Reviewers**
- ▶ **Proposed changes**
 - ▶ Added language from Loudoun Co. Septic Ordinance
 - ▶ Deleted sections that were obsolete
 - ▶ Reorganized

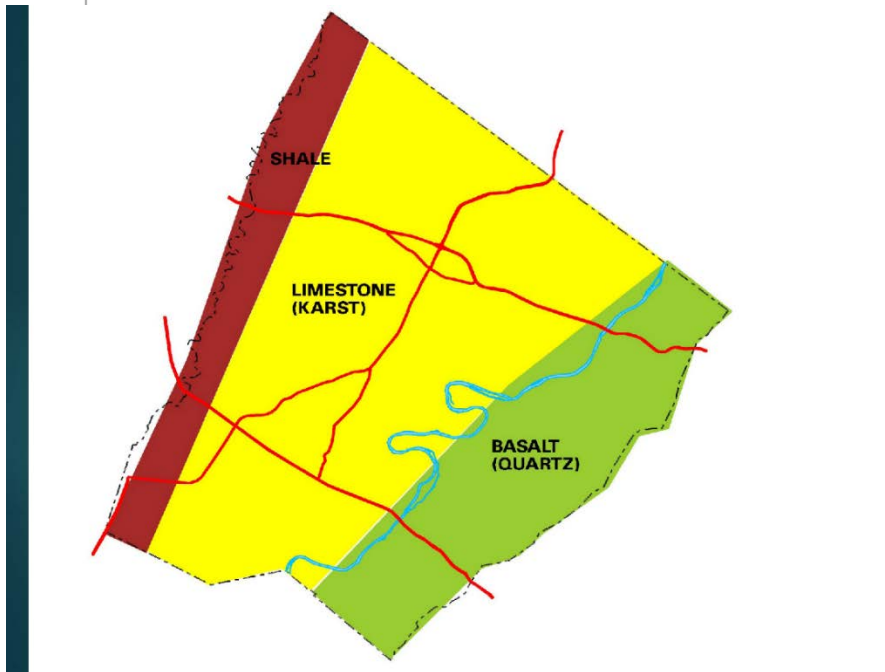
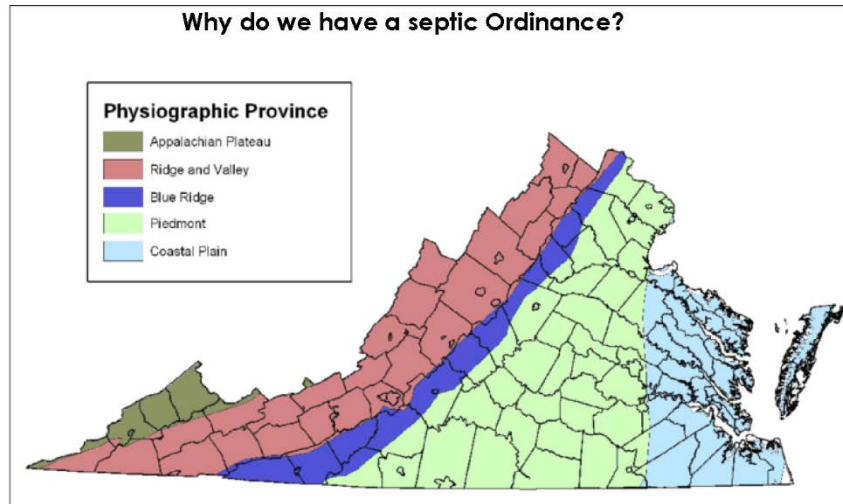
GROUNDWATER PROTECTION PLAN

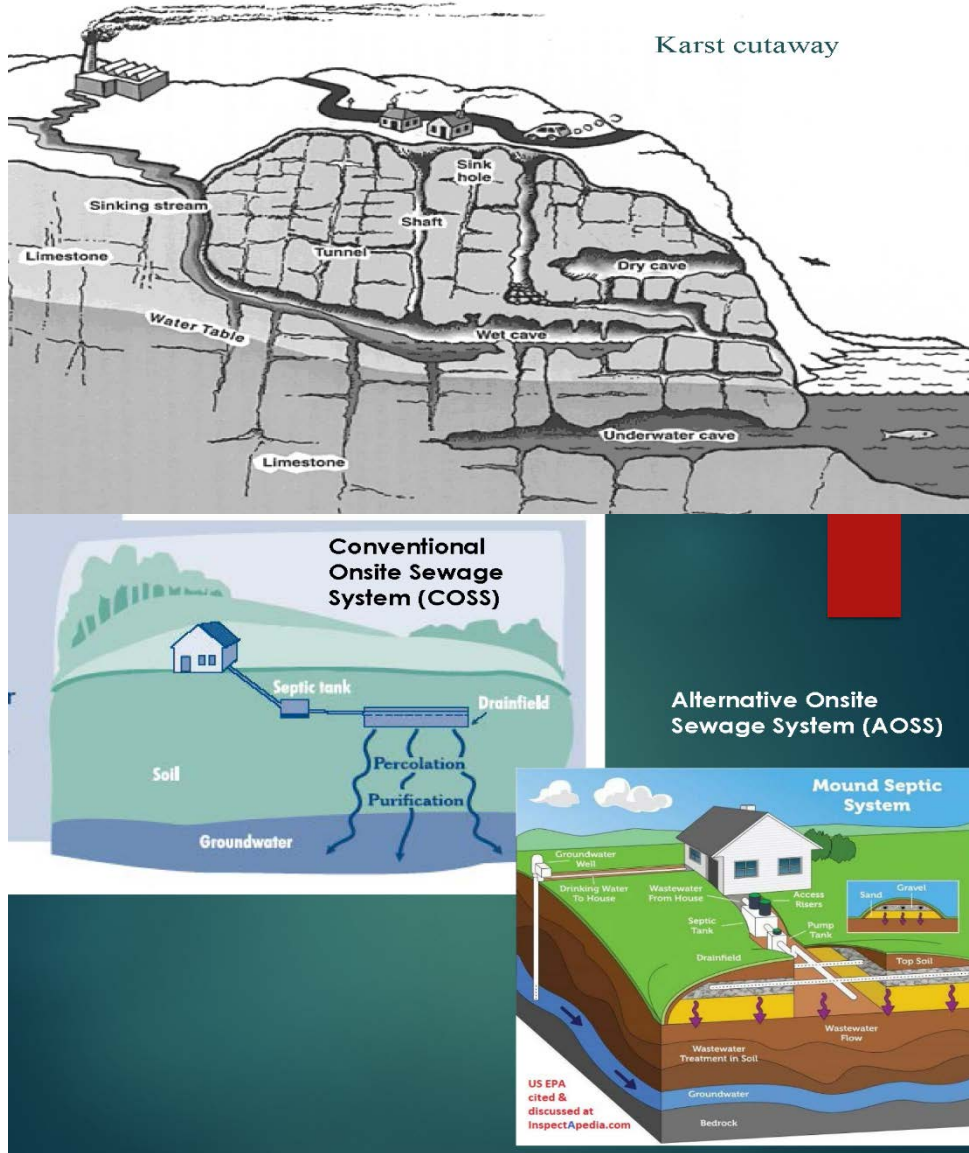
Adoption:

- 1987 Septic Ordinance
- 1987 Sinkhole Ordinance
- 1991 Well Ordinance

**Enabling legislation: Virginia Code Section 15.2-1200 –
General Powers of Counties**

“Any county may adopt such measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants...and the adoption of regulations for the prevention of the pollution to water...”



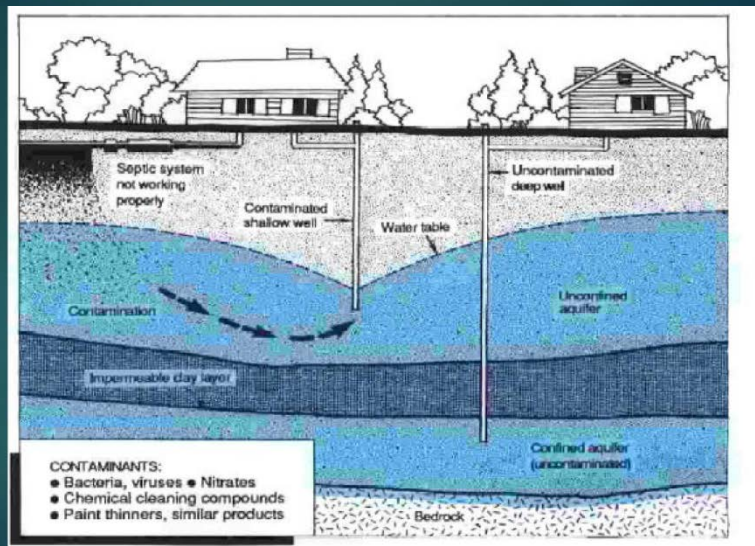


Alternative Onsite Sewage System



"alternative" onsite treatment technologies are more complex than conventional systems and incorporate pumps, recirculation piping, aeration, and other features (e.g., greater generation of residuals) that **require ongoing or periodic monitoring and maintenance.**

Onsite Wastewater Treatment Systems Manual
EPA/625/R-00/008, February 2002



Purpose of Amendment:

- ❖ Update the septic ordinance requirements based on changes to technology and issues identified by staff and the Health Department
- ❖ Last major amendment in 2010 when state required localities to allow use of alternative systems

Review Process

- ▶ **Jerry Franklin, retired Loudoun County Senior Environmental Health Specialist**
- ▶ **Jim Davis, Clarke County Senior Environmental Health Specialist**
- ▶ **Robert "Bob" Denton, Senior Geologist, Terracon**
- ▶ **Ryan Fincham, former Clarke County Health Department, current Loudoun County Health Dept.**
- ▶ **Mason Allen, District Environmental Health Manager**
- ▶ **Carter Neiswander, Environmental Health Specialist, Clarke County Health Department**

THANK YOU!!!

Review Process (cont.)

- ▶ **Met with Health Department personnel July 9th to go over proposed draft**
- ▶ **All Onsite Soil Evaluators (OSE's) were sent copy of draft ordinance**
- ▶ **Meeting held August 13th – all OSE's invited**
- ▶ **In attendance - Health Department, Evan McCarthy, Piedmont Environmental Council, Frank Lee, Onsite Soil Evaluator (OSE), Rob Charnley, OSE, Cloverleaf Environmental, and Ryan Fincham**
- ▶ **Went though draft revisions made changes based on comments received.**
- ▶ **All OSE's provided with final draft – no additional comments received**

Review Process (cont.)

- ▶ Health Department supports changes – will attend Public Hearing to answer technical questions
- ▶ No legal objections

Proposed changes

- ▶ Changes in technology
- ▶ Add sections from Loudoun County Ordinance
- ▶ Delete sections impractical to enforce
- ▶ Reorganize sections – intent first – conversion chart included in packet describes
- ▶ No adverse impact to property owners

Changes by Section

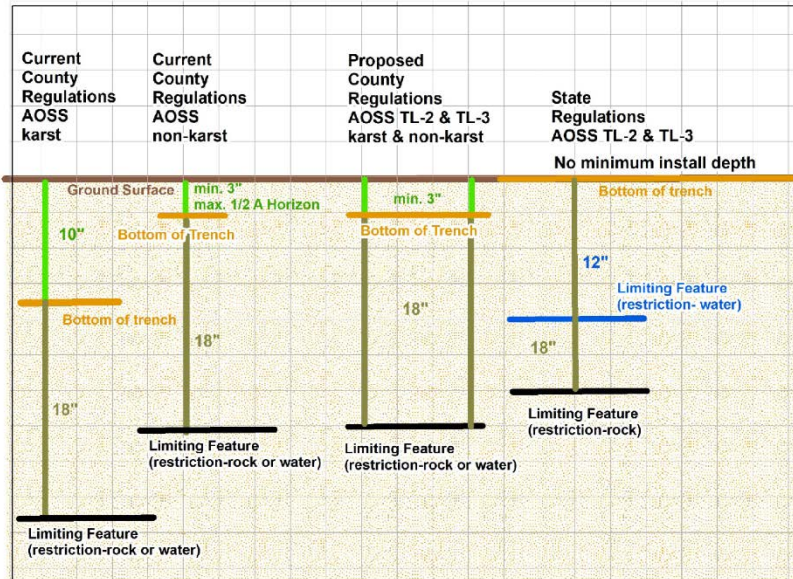
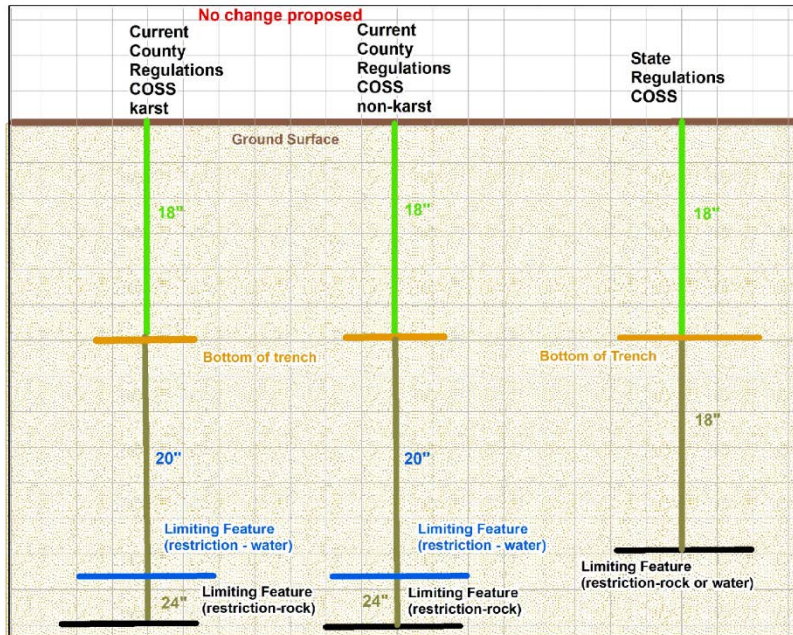
- ▶ 143-1 - moved intent to beginning of Ordinance, added language from Loudoun and paragraph 2 as recommended by Bob Mitchell
- ▶ 143-2 Definitions – added from Loudoun's ordinance, updates from Bob Denton related to resistivity testing
- ▶ 143-3 Approved method of Sewage Disposal from Loudoun, added language prohibiting Alternative discharge systems and mass drainfields
- ▶ 143-4 Permit for Installation – deleted outdated sections
- ▶ 143-5 License requirements for Installers. Updated, rephrased Disposition of Sludge paragraph

Changes by Section

- ▶ 143-6 Inspections of Existing Systems – New – requires 100% inspection of all component replacements – considered maintenance by state
- ▶ 143-7 Responsibility of Owner of System from Loudoun County
- ▶ 143-8 Inspection of New Systems – requires of 100% all new systems – was being done pre-covid – will resume as a Site and Soil Verification so that time limits for permit approvals aren't compromised. Deleted sections no longer relevant
- ▶ 143-9 – Soil Evaluation criteria updated

Changes by Section

- ▶ 143-10 Determining suitability of soil/sites – new section from Loudoun – Describes what needs to be included on permit application
- ▶ 143-11 System Siting – added item A. Spring Overlay District, replaced text with Table 1 setbacks in trenches



Changes by Section

- ▶ 143-11 System Siting (cont.) – added setback to driveways, minimum dispersal area
- ▶ 143-11 deleted expansions from encroaching on minimum separation distances
- ▶ 143-12 Subsurface Investigations (resistivity) changes added by Bob Denton
- ▶ 143-13 Design and Installation (apologize mislabelled as a second 12)
 - ▶ Design and Installation – require removal of all woody vegetation from soil absorption area
 - ▶ Delete section on Privies
 - ▶ Delete section on Pump and Haul

Changes by Section

- ▶ 143-14 Reutilization of Existing Systems – added definition of substantial modification for clarity
- ▶ 143-15 Appeals and Variances – changed composition of Board to allow more flexibility
 - ▶ changed criteria from habitable structure (hard to define) to existing single family dwelling or structure serving an existing business

Summary of Septic Pumpout Initiative

Groundwater Protection Plan

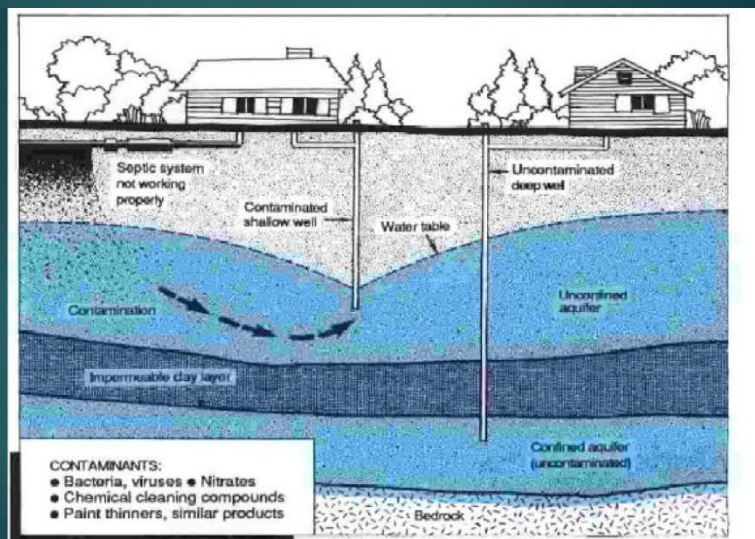
- ▶ Mentioned earlier as foundation for well & septic Ord.
- ▶ Written in 1987 – 34 years ago

“The most critical components of on-site wastewater treatment system management are 1) Installation and 2) Maintenance

Phase I is aimed at improving the installation of new systems

Phase II is a proposal for a maintenance program”

“Management of the individual septic system has traditionally been the responsibility of the property owner. In some cases, property owners may mismanage their systems and cause a properly installed system to fail, impacting themselves and neighboring wells and springs... continued deterioration of groundwater quality may lead to a requirement for the implementation of Phase II”



Summary of Septic Pumpout Initiative

- ▶ March 8th worksession discussed with Board
 - ▶ Encourage voluntary pumpout to protect groundwater
- ▶ Background as a reminder
 - ▶ County has contract with Frederick-Winchester Service Authority to dispose of septage at the Opequon Treatment Plant
 - ▶ Every month since 2012 FWSA sends spreadsheets with addresses based on a source form provided by the haulers
 - ▶ I verify that the address is in Clarke
 - ▶ Anyone not on a spreadsheet got a letter
- ▶ Sent a total of 1,767 letters – 6 mailings over a 6 month period as detailed in staff report
- ▶ Asked persons to contact me if the letter was received in error – septic tank was pumped, etc.
- ▶ Received 188+ responses (~10%)

Reason for call	Count of responses
educate	1
house vacant	6
Inspected (alternative system)	10
new house built w/in last 10 years	10
Newly installed system	4
Respondent saw no need to pump	3
no existing septic system	1
pumped due to letter	7
Pumped within last 10 years	135
pumped easement newsletter	1
pumped when house was purchased	10
Grand Total	188

Summary of Initiative

- ▶ Made two assumptions
 - ▶ 1) all Clarke septage is taken to the Opequon Plant
 - ▶ 2) spreadsheets accurately indicate who has been pumped
- ▶ Neither assumption was correct
- ▶ Identified additional haulers
- ▶ Forms not filled out completely
- ▶ Based on survey rough estimate is that 41% residents aren't maintaining system

Purpose of Initiative

- ▶ Encourage septic pumpout
- ▶ Determine if mandatory pumpout is warranted
- ▶ Based on results – not recommending mandatory
- ▶ County needs accurate accessible database of septic systems and to develop a system for accurate maintenance tracking
- ▶ One option is a program called Online RME

The screenshot shows the 'Site Details' page in the Online RME system. The site information includes:

- SITE NAME:** Parcel ID: 890
- SITE ADDRESS:** 939 SALEM CHURCH RD, BOYCE VA
- OWNER:** TEETOR ALISON
- MANAGER:**

The 'Site Details' form contains the following fields and options:

- Parcel ID:** 890
- Tax/Assessor Number:** 11 A 5A
- Street:** 939 SALEM CHURCH RD
- City:** BOYCE
- State:** Virginia
- County:** Clarke County
- Use Type:** Residential
- Classification:** Single Family
- Discharge Type:** Septic System
- Water System Type:** Private Well

At the bottom of the form, there is a table listing entities associated with the site:

Edit	ID	Entity	Entity Type	Delete
	2445231	OnlineRME		
	890	Clarke County Health Dept	SEPTIC Regulator	

Below the table, there is a field for 'Property/System ID' and a button to 'Add Property/System ID'.

Online RME

- ▶ Benefits
 - ▶ cloud based so accessible by Health Department, County, septic haulers, onsite soil evaluators, and the public
 - ▶ Used by Loudoun County and many others
 - ▶ Free to start up
 - ▶ Haulers pay \$3/record to enter maintenance records
 - ▶ Can link to GIS

Supervisor Catlett moved to Set Public Hearing, PH 2021-16, CC-2021-07 Chapter 143 Septic Systems for December 21, 2021, or as soon thereafter as the matter may be heard.

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

C. Update on Battlefield Study

Jeremy Camp, Zoning Administrator, provided the following update to the Board:

- The Clarke County Historic Preservation Commission (HPC) was approved for the grant in 2020 consisting of a little over \$38,000.00
- Information, located on page 284 of the Board packet, goes over what the project entails, a PowerPoint presentation of the recent meeting where the consultants provided a preliminary report, and a map that shows the historic districts in Clarke County. This includes nine (9) state and natural historic districts, not including the Battle of Berryville.
- The goal was established in the 2018 Historic Resources Plan to pursue the grant.
- The secondary goal of the project is to potentially have the Historic District nominated into a State or National register.
- The Local designation includes White Post, Millwood, and Berryville, which are separate and include some zoning regulations on the design of buildings and things of that nature which requires a permit from the HPC.

- The Grant was awarded to Richard Grubb & Associates, who gave a preliminary report on October 14, 2021, via a Zoom meeting which was attended by a good number of people.
- Some concerns, from Jeremy Camp's perspective, were the potential development Impact this could have on citizens' properties.
- There was some confusion with regulations of adopting a local historic district.
- The map has been uploaded to the County website, and Staff has been sharing that information with citizens.
- The Battle of Berryville is designated as one of the more significant battles of the Civil War and has been a part of the goal to research that.
- The final report and presentation are expected from the consultants in January or February of 2022.

Supervisor Lawrence

- The presentation by the consultants mentioned two (2) record places closed because of COVID-19. Have they been able to get into those places yet because they seem to be significant to the research?
 - Jeremy Camp stated the HPC members were also concerned about that, and the consultants are going to make sure a visit there takes place before the final report is presented.
- One consultant said he did a "windshield study." Suggest if he returns, and Supervisor Lawrence would be happy to walk with him and work with landowners to gain permission to enter their properties.
- Felt the majority of the citizens at the meeting were not in favor of the project, mainly because of the education part, felt the wording of Historic Overlay District needs to be consistent throughout the report to avoid any confusion.
- Noted that Russell District is not included in this, which is where a large portion of the battle took place. As a County, we need to recognize the entire battle, not just the pristine areas.

Supervisor Catlett

- Did COVID-19 impact the consultant's ability to visit properties in the County?
 - Jeremy Camp explained the consultants sent letters requesting permission to enter properties. Those who granted permission were visited. Many people, unfortunately, did not respond. COVID-19 may have been a factor, and it certainly was a factor delaying the process.
- Wants people to know a lot of good work has been done with Historic Overlay Districts and emphasized that people need to understand the decision is not misconstrued.

Chair Weiss

- Reminds citizens there is no intent to restrict development. The County has nine (9) other districts and when the Chapel Historic District was established is because it allows our citizens to take advantage of federal tax credits in order to restore their properties.
- Asked, and Jeremy Camp confirmed that before anything takes place, it would need to come to the Board, and there would be costs associated with it.

D. FY2023 Budget Direction to Staff

Chris Boies

- Pointed out there was not enough time at the finance meeting to discuss this topic. Asked if there was any direction the Board had to staff on the FY23 Budget, clarifying this is high-level goals as the budget development process is started.
- Finance Director Brenda Bennett and Chris Boies will be meeting with department heads and Constitutional Officers in the coming weeks and want to be able to communicate any goals the Board has to those folks.
- Last year staff was asked to focus on new revenue sources available, and the Board ended up adopting the Cigarette Tax, the Meals Tax and increasing the Transient Occupancy Tax (TOT).

Supervisor Lawrence

- The Cigarette Tax stamps were bought in bulk, so the numbers are a bit askew. Chris Boies clarified that all stores had to buy stamps in the very first month for their existing inventory, so that amount of income cannot be expected every time.
- We are starting to see a trend in the three (3) months since then of roughly \$18K.

Chair Weiss

- Salaries are important for attracting and keeping employees, feels that is something the Board should consider.
- Last year's discussion included an incremental increase of those over time, understanding the inflation pressures and other pressures people are facing now.

Supervisor Catlett

- In regards to salaries, felt it was important, for discussion purposes, to look at the different variables.
- From hearing about the Frederick/Winchester Service Agreement, is that something the Board should think about in budget discussions?

E. 2022 Legislative Priorities

Chris Boies explained

- Based on feedback received, the following topics are the top points of discussion:
 1. Land Conversion for Nutrient Credit Program
 - This was the top priority of last year's meeting. Staff left it as the number one (1) priority for the upcoming year.
 - Note: A DEQ-led study is currently underway, and a report will be issued to the General Assembly on this topic. Clarke County participated in the one-day work group meeting and is waiting to hear, but we do not yet know what the study will say.
 2. Education
 - Combined the request from Superintendent Dr. Bishop into this category.
 - There is a nationwide teacher shortage; Dr. Bishop would like to see more flexibility in the process.
 - Supports the elimination of the Support Staff Cap, which was implemented during the Great Recession as a means to cut costs and has remained in place since that time, and has resulted in less State money coming to Clarke County for those positions.
 - Fully fund the Commonwealth the Standards of Quality.
 - Support a freeze in the revision of the Local Composite Index as school divisions and communities recover from the pandemic.
 - Support a significant investment in funds earmarked for teacher salary increases.
 3. Mental Health Reform
 - This issue has been brought to the attention by numerous departments and partners and would ask for support for comprehensive reform of the Commonwealth's mental health system. This includes the reopening of state adult mental hospitals for new admissions.
 - Five (5) locations are currently not taking any new admissions. This creates a burden for the Sheriff's Department, but it creates a crisis for the person that is seeking mental health help.
 4. State Responsible Inmate Population
 - Support the state transferring state-responsible inmates from the Northwestern Regional Adult Detention Center to state prisons and/or increasing the \$12 a day currently paid to the regional adult detention center by the state to house these state-responsible inmates.

Supervisor Catlett

- Noted, it is important because it costs the locality money when the state does not step up and take these people, but the other thing is they are impacting the outcomes of the people who are supposed to go to the other institution which offers programs, training, etc.

- Chris Boies further added the Citizens Academy visited the Jail recently and learned about the programing and how it prevents the repeat "customers" from coming back. The programs they have to reintroduce them to the workforce and to get the job skills, resumes, etc., are not at the local levels. Adding the state recently transferred 40 inmates from that center to the state prisons, but we were at roughly 35-40% of the total population was state responsible inmates.
- 5. Public Notice Requirements
 - Support legislation that allows localities to use their websites and social media accounts instead of print media to post legally required advertising for public hearing notices, procurement solicitations, and similar items requiring advertisement in a local newspaper.
- Other Issues of Importance
 - 1. Utility-Scale Renewable Energy Generation and Energy Storage
 - We support maintaining local authority to address all impacts and all choices associated with utility-scale installations of solar power, wind power, and energy storage facilities. Specifically, we request the continued ability to regulate the siting of these facilities through zoning. We strongly oppose any reduction in local zoning authority.
 - 2. JLARC Study of Spotted Lantern Fly Response
 - Ask the Joint Legislative Audit & Review Commission (JLARC) to study the Commonwealth's response to the arrival of the spotted lantern fly to determine if a different response is necessary the next time an invasive species arrives in our region.
 - 3. Route VA 7 Pedestrian Bridge
 - The number of people attempting to cross VA 7 on foot at the top of the mountain, near the Clarke County and Loudoun County boundary, continues to increase. This location is very dangerous for pedestrians to cross because of the topography, along with the speed and volume of vehicular traffic. A pedestrian footbridge would provide a safe crossing for hikers and others who frequent this area.
 - 4. Availability/Quality and Quality of Water Resources
 - Availability / Quantity: Clarke supports proactive state action in reviewing and establishing regulations and programs to ensure that locality's water sources are protected, and that water quantity, as well as quality, be protected.
 - Clarke supports the Commonwealth, allowing localities to regulate quantity.
 - Clarke believes that protecting water availability for residents and local businesses should be a priority by ensuring that future large

water users are required to demonstrate through scientific research, and water availability studies adequate water supply for the proposed use.

- Quality: Clarke supports cost-effective measures aimed at reducing loadings of pollutants in state waters from both point and non-point sources but urges the Commonwealth to consider the impacts such measures will have on both local governments and agriculture.
 - Clarke believes reliable forms of financial and technical assistance will be required to help localities and agriculture meet the Commonwealth's goals with regard to water quality and quantity.
5. Funding for State Mandated Positions and Jails
- Clarke urges the Commonwealth to meet its full funding obligations for Constitutional Officers, and their state-mandated positions.
 - In addition, Clarke requests that the state budget be amended to fund local and regional jails based on actual costs as determined by the Annual Jail Cost Report, published by the Compensation Board.
6. Land Conservation
- Clarke County supports the Purchase of Development Rights program, the Tax Credit program for the donation of easements, the transferability of tax credits.

Vice-Chair McKay

- Feels Land Conversion for Nutrient Credit Program should stay listed as the top priority. Chair Weiss agreed.

Supervisor Catlett

- Inquired if the Marcus Response should be included in the comments on mental health reform and if it would impact Clarke County at all.
 - Chris Boies clarified Chief Deputy Travis Sumption has been working on and if language should be included in the topic of mental health reform related to that legislation.
 - Sheriff Rooper indicated it would be a good opportunity to bring up the conversation. The Sheriff Department is more concerned with how that would be implemented and noted their department still does not have clear guidance.
- Suggested an ongoing discussion on the impact that by-right breweries and agrotourism create.
 - Chair Weiss asked Staff if agrotourism is currently viewed as agriculture in all aspects and if building permits were not required, even if buildings are built for people rather than livestock. Chris Boies stated he was unsure of the changes to the state code at that moment.

- Vice-Chair McKay noted a woman out of Albermal County has a proposal with VACo to study and require that ag buildings meet basic local code requirements such as lit exit signs and panic bars on the doors specifically targeting wineries and breweries that are built-in ag buildings that do not have to meet any building and zoning requirements. Adding he agrees with the concept but is not sure it will accurately work on a specific ag building.
 - Supervisor Lawrence agreed, adding that there should be separate agrotourism regulations to help protect the people visiting.
- Chris Boies suggested adding a sixth bullet to state that the County wants to maintain the ability to define what agriculture is and what agrotourism is.

Supervisor Lawrence

- Would like to see State Funding for Jails moved up on the list adding this year was a record surplus, and if they are going to increase it in any yea, this would be the year to do that. Adding while there is money to move around, fully paying constitutional offices and positions should be a priority.
 - Supervisor Bass agreed adding an unintended consequence of taking away sentencing by jury has been a burden on jury trials. Where larger jurisdictions can absorb that easily because of staffing, Clarke County does not have the same luxury.

Chris Boies

- Suggested creating one (1) topic on funding to cover unfunded mandates. The Board agreed to move this to the number one (1) issue and move the rest down one.

12) Board of Supervisors Finance Committee Items

A. FY 2021 General Fund Transfers: (See Attached)

2021-11-08 Summary: The Finance Committee recommends approval of the FY2021 General Fund Transfers as presented.

2021-11-23 Action: Brenda Bennett explained that at the end of the fiscal year, if there are negative balances where a department has overdrawn its original budget, the way Clarke County advertises its budget is required by our audit and our financial statement to cover the negatives. Adding that, there needs to be a transfer of budget from underdrawn accounts to cover overdrawn accounts. This is done on a function or department level. What will happen is a transfer will occur to cover any item that has a negative available budget Brenda Bennett

went over the overdrawn accounts, noting that her department will go back and try to figure out why the account is in the negative.

Supervisor Lawrence asked about the line item regarding tax relief for the elderly and if nothing was spent. Brenda Bennett clarified this report was done before receiving the audit adjusted entries which were received on November 22 in the amount of \$174K. This number was received less than 24-hours ago. Chris Boies added this is an adjustment by the auditors, so it was done after the fact.

- o Chris Boies further clarified the Board of Equalization was budgeted in FY2020, but because of COVID-19, the Board put off their meetings, so the budget was correct, but because of COVID-19, it was pushed back a year.

Supervisor Bass moved to approve the FY2021 General Fund transfers as presented. The motion carried by the following vote.

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

B. Discussion of 2022-27 Five Year Capital Improvement Plan

2021-11-08 Summary: The Finance Committee recommends approval of the FY 2022-27 Five Year Capital Improvement Plan as presented. This request also comes with a recommendation from the Planning Commission, which is attached.

2021-11-23 Action: Chris Boies went over the highlights of the five-year plan and noted that the Board is not obligated to spend any of these items, but year one (1) items flow into requests for the upcoming budget cycle.

Supervisor Lawrence moved to approve the FY2022-27 Five Year Capital Improvement Plan as presented. The motion carried by the following vote.

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

C. Review FY22 1st Quarter Cigarette & Meals Tax revenue report

2021-11-08 Summary: Information only.

2021-11-23 Action: Brenda Bennett went over the tax revenue earned from the Cigarette Tax as of 7/1/21, clarifying that the first quarter numbers are inflated because stores had to purchase stamps for their existing products, so those numbers cannot be expected each quarter. The average is roughly \$18K. The estimated revenue was set at \$100K, and the County has already received a little more than \$105K.

Brenda Bennett next went over the revenue earned from the Meals Tax, pointing out the revenue is collected the month after its collection. The average is roughly \$15K.

Supervisor Bass inquired into whether Staff had heard anything from business owners who were concerned about this tax. Chair Weiss stated he had not heard anything.

Supervisor Lawrence suggested sometime in the next couple of years, it would be nice to use some of the funds to make it easier for these businesses to remit their payments online. Vice-Chair McKay agreed online.

Chair Weiss commended the Treasurer and Commissioner of Revenue offices for helping enact the collection of these taxes and agreed that whatever can be done to make it easier is worth the effort.

D. Review 1st Quarter FY22 General Fund Revenue Report

2021-11-08 Summary: Information only.

2021-11-23 Action: Brenda Bennett reviewed the report noting there was no sign of any significant concerns, and it will be examined in more detail in December when all the adjusting entries are received.

E. Review 1st Quarter FY22 General Fund Balance Designation

2021-11-08 Summary: Information Only

2021-11-23 Action: Went over the report explaining, for the most part, everything looked reasonable. There were no significant items of note.

Chair Weiss explained that it had been County policy to receive a formal request for funds from the different groups to be paid. The Finance Committee recommends to Staff to do away with the formal request and simply send the check as opposed to waiting for the request to come in.

Supervisor Lawrence pointed out the County should send a bill to Clermont Farm and the Clarke County Historical Association for the funds they pledged for the research into the Battle of Berryville. Brenda Bennett agreed that should be done. Chris Boies asked to be notified before that was sent out so he could let them know to expect it.

F. FY21 Year-End Fund Balance Designation

2021-11-08 Summary: No action; to be discussed at a future meeting.

2021-11-16 Summary: The Finance Committee, after holding a special meeting on November 16, 2021, recommends approval of the attached FY 21 Year-End Fund Balance Designation.

2021-11-23 Action: Went over the following spreadsheet in detail.

11/8/2021
Title: General Fund Balance FY21
Source: Clarke County Joint Administrative Services

	Fiscal Year End 2020 Prior Year Designations	06/30/21 Fund Balance	
	12,415,005	14,621,727	
<u>Designations</u>			
Liquidity Designation@ 12% of FY 22 Budgeted Operating Revenue	(3,657,626.64)	(3,684,742.56)	
Stabilization Designation @ 3% of FY 22 Budgeted Operating Revenue	(914,406.66)	(921,185.64)	
Continuing Local GF Appropriations for Capital Projects	(1,864,759.00)	(1,079,151.00)	
Conservation Easements from Government Savings	(150,000)	(150,000)	
School Operating Savings	-	-	
Comprehensive Services Act Shortfall	(400,000)	(400,000)	
Parks Master Plan	(230,000)	(230,000)	
Fire & Rescue	(350,000)	(350,000)	general use
Government Savings (GenGov, JAS, DSS)	(500,000)	(500,000)	general use
Data and Communications Technology	(600,000)	(600,000)	Final phase of communications upgrade
Leave Liability	(250,000)	(250,000)	
Community Facilities	(725,000)	(1,098,000)	General use for new opportunities
Economic Development	(150,000)	(150,000)	General use for new opportunities
Jack Enders Blvd Project	(102,434)	(102,434)	From Business Park sale proceeds
County Courthouse Green Project		(100,000)	
Human Services space	(875,000)	(875,000)	DSS, NWCS, VDH
School Construction	(100,000)	(100,000)	BES pr JWMS
Real Estate Assessment Software	(30,000)	(30,000)	
Self Funded Health Insurance Account	(500,000)	(500,000)	
Broadband (All Points Broadband/VATI)		(2,700,000)	
Government Capital Projects	(346,605)	(346,605)	
FY22 Original Budget Surplus (Deficit)	(156,689)	(25,379)	
TOTAL Designations	(11,902,520)	(14,192,497)	
Undesignated - Prior to FY22 Supplementals	512,484	429,230	
FY 22 YTD Expenditure Supplemental		(4,954,474)	
FY 22 YTD Revenue Supplemental		4,825,422	
Undesignated		300,178	
<u>Changes to Designations FY22</u>			
Registrar Salary Increase		7,695	Jul-21
Conservation Easement - Lizzie Moon		40,357	Jul-21
Conservation Easement -Smithfield Farm		76,000	Jul-21
Barns of Rose Hill Endowment Fund		5,000	Jul-21

Brenda Bennett pointed out the School's Carry Forward of \$1,372,000 is included in this fund balance. Chair Weiss asked, and Brenda Bennett confirmed the County's Carry Forward is about \$1.3M. Chair Weiss further explained those funds were taken and divvied up as described above, with the largest portion going to Broadband efforts. In addition, historically, \$300-500K is kept in the undesignated fund balance for unforeseen expenses.

Supervisor Lawrence asked if the line item for the Human Services space was for something specific, and Chair Weiss stated it is for a future Social Services/Health Department previously discussed.

Vice-Chair McKay asked if the State pays for any of the Human Services space? Chair Weiss clarified they pay rent on the building, adding it is depreciated out so then they won't pay anymore. Chair Weiss added that this is for improving the community at large.

Vice-Chair McKay moved to approve the FY2021 Year-End Fund Balance Designation as presented. The motion carried by the following vote.

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

G. Request for replacement glass for the front counters at the Commissioner of Revenue and Treasurer's Office:

2021-11-08 Summary: County staff will work to remove the existing glass and install a temporary barrier which will be re-evaluated after the tax collection cycle has concluded.

2021-11-23 Action: Brenda Bennett explained the issue with the glass installed at the beginning of COVID=19 is there is only one (1) speaker in the middle, making it very difficult to hear a customer when everyone is wearing masks. The current glass cannot be modified, so a new piece of glass would need to be installed with additional speakers to make it more functional. Chris Boies further explained after additional conversations; the plan is to leave the current glass in place until COVID-19 goes away then go back to no glass. Chair Weiss asked if there was still a concern with only being able to accommodate one person at a time. Chris Boies pointed out there is the ability to serve a second person at a side window in the interior hallway, which already has glass installed. Vice-Chair asked if there was a way to install a speaker to amplify what was being said? Chris Boies explained what is there is supposed to do that but is unsure of how well it is working.

Chair Weiss took a moment to recognize the School Board and the contribution of their carryover of \$1.3M back to the County to aid in the Broadband efforts. Their help and contribution are appreciated.

H. Bills and Claims:

2021-11-08 Summary: Following review, the Finance Committee recommends approval of the October Invoice History Report.

2021-11-23 Action:

Supervisor Lawrence asked if the line item referencing Blue Ridge was for the Volunteer Fire Company or was that a vendor? Chris Boies explained it is a vendor's name and does not pertain to the volunteer fire company.

Supervisor Lawrence moved to approve the October 2021 Invoice History Report. The motion carried by the following vote.

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

I. Standing Reports

- Year to Date Budget Report
- Reconciliation of Appropriations
- Capital Projects Report

2021-11-23 Action: Information Only

13) Joint Administrative Services Board Update

Brenda Bennett explained that the Joint Administrative Services Board met on October 25, 2021. The focus of that meeting was on medical health insurance, and at that point in time, there was a discussion where the committee members looked at plan costs from surrounding counties and school districts to compare to what Clarke has. Believes Clarke needs to become more competitive, according to the Board members, so they are looking at that issue.

At the same time, the Board voted to post a Request for Proposals (RFP) to solicit quotes for Medical, Dental, and Vision plans. As a part of that discussion and the RFP, there will be a request for five (5) tiers for the medical adding employee + child and employee + children to the plans. These are due back on December 14.

Chair Weiss pointed out that this was done because though the County just switched over to be self-insured, we felt it was good to make BPA work for our business, and it never hurts to have others come in and see what they offer.

14) Government Projects Update

Chris Boies provided the monthly project update:

- The two design firms for the courthouse green project are able to interview on December 13th, I had told them early afternoon, but I think there is some flexibility. If we had the Personnel and Finance committee meetings first, we could then do the interviews as the work session. How does this work for everyone’s schedule?
- Board members may not be aware, but we receive proceeds from DMV through the Animal-Friendly license plate program. These funds can be used for sterilization programs for dogs and cats. The funding this year will be \$450 from this program. The more Clarke residents that register for these plates, the more proceeds we receive.
- We were informed this morning we will be receiving \$7,981 from DEQ for our Litter Prevention and Recycling Program activities. This will be good seed money for the new Litter Committee, which had its first meeting last week.
- Jeffrey Feaga (Figi) has been hired as the new Natural Resource Planner, replacing Alison Teetor, who retires in December. Dr. Feaga has a Ph.D. in wildlife science, a master’s degree in bio-resource engineering, and a BS in environmental science. He has various work experiences, including working as a wildlife biologist, soil conservationist, community restoration coordinator with Frederick County, Maryland, and most recently, has been working as a contract land steward for the Rolling Ridge Foundation. Jeffrey may begin some part-time work in December and will come on board full-time in January.
- In this week of Thanksgiving, I would like to thank the Board for their leadership and direction and to all of our employees for the work they do each and every day. I think at times we are probably a little hard on ourselves, which is the only way to keep getting better, but when I talk to people regionally, they often comment that they wish their locality did some of the things we do here in Clarke.

15) Miscellaneous Items

None added to the November 23 meeting.

16) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
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1. Execute 2021-21R: A Resolution of the Clarke County Board of Supervisors Approving of the County's Participation in the Proposed Settlement of Opioid-Related Claims Against Mckesson, Cardinal Health, AmerisourceBergen, Janssen, and their Related Corporate Entities, and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the Settlements David S. Weiss

2. Process 2021-21R: A Resolution of the Clarke County Board of Supervisors Approving of the County's Participation in the Proposed Settlement of Opioid-Related Claims Against Mckesson, Cardinal Health, AmerisourceBergen, Janssen, and their Related Corporate Entities, and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the Settlements Chris Boies

3. Execute 2021-22R: A Resolution of the Clarke County Board of Supervisors Approving of the County's Participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (MOU) and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the MOU David S. Weiss

4. Process 2021-22R: A Resolution of the Clarke County Board of Supervisors Approving of the County's Participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (MOU) and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the MOU Chris Boies

5. Execute FY2022 Agreement Between the Virginia Department of Health and the Clarke County Board of Supervisors for Funding and Services of the Clarke County Health Department Chris Boies

- | | | |
|-----|--|-------------------|
| 6. | Process FY2022 Agreement Between the Virginia Department of Health and the Clarke County Board of Supervisors for Funding and Services of the Clarke County Health Department | Chris Boies |
| 7. | Process approved minutes for October 19, 2021, Regular Meeting Minutes | Brianna R. Taylor |
| 8. | Advertise the Public Hearing Notice PH 2021-15: TA-21-03 Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn | Brianna R. Taylor |
| 9. | Frederick-Winchester Service Authority Agreement | Chris Boies |
| 10. | Execute notice of appointments | David S. Weiss |
| 11. | Process appointments and update the database | Brianna R. Taylor |
| 12. | Advertise the Public Hearing Notice PH-2021-16, CC-2021-07 Chapter 143 Septic Systems | Brianna R. Taylor |
| 13. | Legislative Priorities | Chris Boies |
| 14. | Process the FY2021 General Fund Transfers | Brenda Bennett |
| 15. | Process the 2022-27 Five Year Capital Improvement Plan | Chris Boies |
| 16. | Process the FY21 Year-End Fund Balance Designation | Brenda Bennett |
| 17. | Process Bills and Claims | Brenda Bennett |
| 18. | Process PH 2021-14: SUP-21-01/SP-21-01 Crown Castle International LLC (Tower Owner) and Network Building and Constructing, Inc. (Project Consultant), on behalf of AT&T (Service Provider) | Jeremy Camp |

17) Board Member Committee Status Reports

None discussed

18) Closed Session Pursuant to §2.2-3711-A6: Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

At 3:50 pm, Supervisor Bass moved to enter closed session pursuant to §2.2-3711-A6 Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected. The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-.	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

Supervisor Lawrence left before the Closed Session had ended.

At 4:45 pm, the members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, Vice-Chair McKay moved to; reconvene in open session. The motion carried as follows:

Matthew E. Bass	-	Aye
Terri T. Catlett	-.	Aye
Doug M. Lawrence	-	Aye (affirmed during the evening session when he returned)
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

Supervisor Bass further moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

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

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

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification

resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia. The motion was approved by the following roll-call vote:

Matthew E. Bass - Aye
Terri T. Catlett - Aye
Doug M. Lawrence - Aye (affirmed during the evening session when he returned)
Beverly B. McKay - Aye
David S. Weiss - Aye

At 4:46 pm, Chair Weiss recessed the meeting.

At 6:16 pm, Chair Weiss reconvened the meeting.

19) Citizen's Comment Period

Barbara Byrd, Berryville: appeared to address the Board on the Battlefield. She presented the following:

Battle of Berryville Statement
at November 23, 2021 Meeting of Board of Supervisors

My name is Barbara Byrd and I live on and own property in the area that could be listed on the National Register, including land that is not currently listed. My family and I are not looking to change how our farm is currently zoned and we are not trying to develop our farmland. We do not take issue with the existing comprehensive plan or the county's sliding scale zoning. **At the same time**, we do not want the county—or anyone else—placing additional restrictions on our property. I would like to make three points.

First, listing on the National Register can serve as a significant limitation on the use of private property.

Claims have been made that listing on the National Register is a benign act, but that is not wholly true. In fact, listing on the National Register, even being determined eligible for listing, can serve as a significant limitation on the use of property, and on the development of public infrastructure, and is sufficient to trigger a "106 Review" under the National Historic Preservation Act whenever a federal permit is required for a project (and this is often needed). This is a costly and time consuming process that is essentially without defined standards. The landowner is at the mercy of those who would "preserve" history without paying to do so.

The second point I want to make is that achieving a national historic district designation for this area is step one in the county's effort to significantly limit and restrict what can be done with this private property.

Some of you may be asking, why is a National Register designation sought for this part of the county?

Is it to document a part of our county's history? Perhaps. But first consider three things:

FIRST, according to the map on page 309 of the Board's meeting packet, a large chunk of the land at issue is already designated as part of the Long Marsh District on the National Register and if preservation is what is sought, it has been achieved.

SECOND, think for a moment about why, in this time of reevaluation of the Civil War itself, we continue to set aside land (for which no one pays) to commemorate it?

THIRD and perhaps most importantly, if you look at the rough map of the possible area affected by this designation, if this designation is about documenting our county's history, why is a significant area within the circle on page 304 excluded from the designation?

So, again, I ask why is a National Register designation sought for this large area of our county?

Well, there is no reason to speculate. The project narrative on page 280 of the Board's meeting packet states in plain language what this designation is really about. Achieving a National Register designation for this area is step one in the county's effort to significantly limit and restrict what can be done with this private property.

Page 280 of the Board's packet is crystal clear that this designation is the first step to protect the designated area comprised of private property from further development. It states in relevant part:

[QUOTE] "Residential development continues to threaten land along the Route 7 and 340 corridors. . . . However, there are large areas of the Battlefield that have not been developed and are still in pristine condition.

"The proposed project will address the above threats by identifying specific historic resources relating to the Battle of Berryville, which would be impacted by development or

transportation enhancement projects. . . . The culmination of the two-phase project, of which this is the first, will be a National Register nomination, an accurate place-related description of the battle, and maps delineating the boundaries. . . .

“ . . . in preparation for embedding appropriate protections for the battlefield in Clarke County planning documents. These events will also raise awareness about the future of the battlefield and its relationship to land-use decisions by private parties and local government. . . .” [END QUOTE]

This third and final point is that since this designation has a tremendous impact on private property rights, it is critical that the county be completely transparent and communicate to affected landowners the process and timeline moving forward.

Today, the process moving forward is unclear to me. For instance, how many more meetings will the Board of Supervisors have before anything is submitted to the DHR and what is the anticipated time period for that process? It seems to me that there should be at least **three** more meetings for public comment.

First, there should be a meeting when Grubb and Associates reveals its preliminary report. At this time it is unclear what the actual boundaries are and what tax parcels are included and which ones are excluded. Indeed, the presentation by Grubb and Associates on October 14th suggested that their work was incomplete and that additional research was needed. Therefore, there should be plenty of time for affected residents to provide comment to the Board of Supervisors after receiving a copy of the preliminary report.

There should be another meeting after Grubb and Associates unveils its final report so that residents can ask questions and express concerns.

Finally, the Board of Supervisors should have a third meeting where the public can be present when it decides whether or not to submit the necessary forms and information to the DHR in support of this designation.

Accordingly, I would ask the Board to explain to all residents the process moving forward.

Project Narrative

A. Preservation Opportunity

The Battle of Berryville occurred on September 3-4, 1864, at the opening of the Valley Campaign, when forces under Gen. Philip Sheridan (USA) and Gen. Jubal Early (CSA) met west of Berryville (map included in the other attachment forms). The Federal Advisory Commission on Civil War Sites, commissioned by Congress to identify the principal battlefields of the American Civil War and their present condition, lists the Battle of Berryville as one of the 384 most significant battles of that War. An estimated total of 11,000 men fought, with about 500 casualties, with the action occurring over about 7,000 acres mostly west of U.S. Route 340 in Clarke County, Virginia. The battle was a draw, but was the immediate precursor to the Third Battle of Winchester, the largest battle fought in the Shenandoah Valley, which occurred two weeks later on September 19 and was a victory for Union forces.

The Berryville Battlefield Study Area is located in and around the town of Berryville, in Clarke County, Virginia, at the nexus of Routes 340 and 7. Residential development continues to threaten land along the Route 7 and 340 corridors. New subdivisions exist just south and north of Berryville. The newly constructed Clarke County High School and surrounding single-family homes on the outskirts of Berryville have already destroyed an area important to the battle known as Beemer's Woods. In early September 1864, General Jubal Early sent Kershaw's division east to Berryville from Winchester. Right outside Berryville, Kershaw's division encountered General Philip Sheridan's army in Beemer's Woods. In addition, Routes 7 and 340 are integral to understanding the battlefields as troops consistently used them as avenues of approach and retreat. In the past ten years, the population within the town of Berryville and Frederick County, surrounding Winchester, have grown significantly, creating a demand for more services along these routes. The Frederick County comprehensive plan shows increases in new housing east of Winchester, threatening the western extent of the battlefield and the integrity of the Jubal Early's retreat routes. However, there are large areas of the Battlefield that have not been developed and are still in pristine condition.

The proposed project will address the above threats by identifying specific historic resources relating to the Battle of Berryville, which would be impacted by development or transportation enhancement projects. Currently, there is no recognition of Berryville Battlefield as a historic resource by Clarke County or the Town of Berryville and as such, there are no plans in place to consider impacts to this resource. The culmination of the two-phase project, of which this is the first, will be a National Register nomination, an accurate place-related description of the battle, and maps delineating its boundaries.

Many people in the county are unaware that there were two significant Civil War battles fought here (Cool Spring and Berryville) and what properties were included in those battlefields. A National Register nomination, both in process and result, will provide an anchor for engaging the public and Clarke County and Berryville Town government. Through a series of public meetings, community members and local government will be brought together to discuss historic research about this battlefield, in preparation for embedding appropriate protections for the battlefield in Clarke County planning documents. These events will also raise awareness about the future of the battlefield and its relationship to land-use decisions by private parties and local government. A public Information meeting was held in late September of 2019. The consensus among citizens was to pursue more information regarding the Battle of Berryville with the ultimate goal of National Register listing.

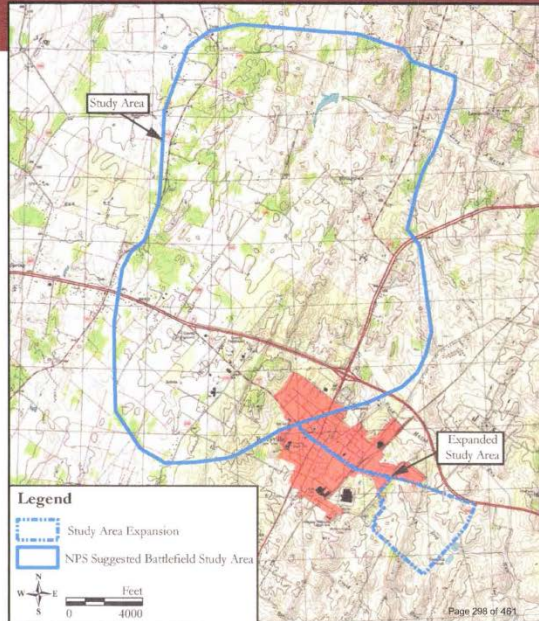


RICHARD GRUBB & ASSOCIATES
DRI-WBE/SBE Certified

Study Area Expansion

- Utilized NPS Study Area as a Guide
- Based on the Historic Context Development and Archaeological Research, the Study Area was Expanded to the Southeast

November 23, 2021, Clarke County Board of Supervisors Regular Meeting Packet



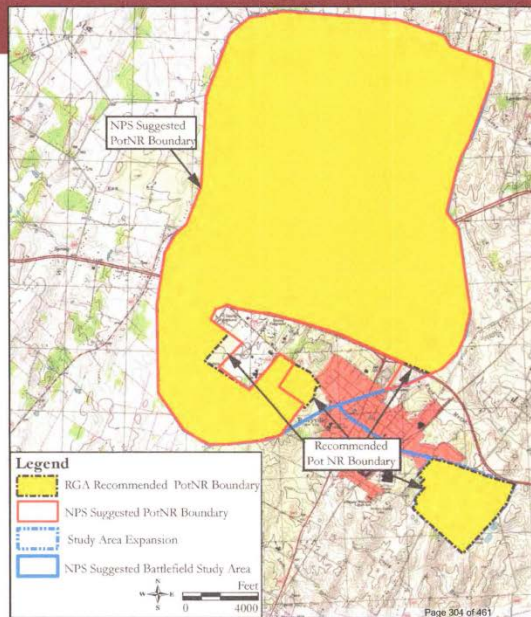
RICHARD GRUBB & ASSOCIATES
DRI-WBE/SBE Certified

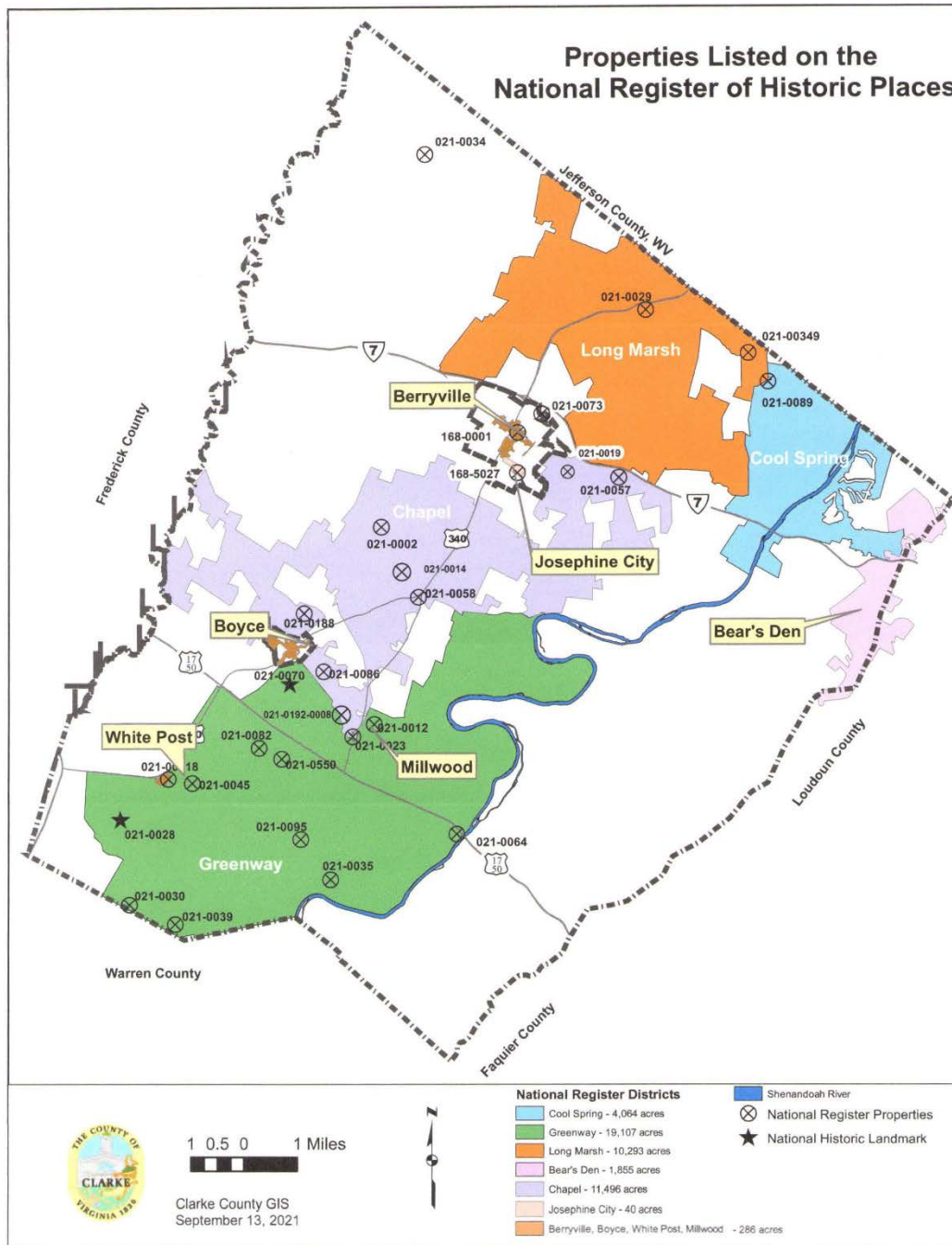
Battlefield Integrity and Potential National Register Boundary

Criteria:

- Excludes Modern Development Areas
- Includes Areas of Potential Archaeological Sensitivity
- Includes Areas of Defining Features
- Includes Areas that Retain Integrity of Place, Feeling, and Association During the Battle

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Supervisor Bass called into the meeting at 6:25 pm.

- 20) PH 2021-14: SUP-21-01/SP-21-01 Crown Castle International LLC (Tower Owner) and Network Building and Constructing, Inc. (Project Consultant), on behalf of AT&T (Service Provider).

Jeremy Camp presented the following:

Clarke County, VA

BOARD OF SUPERVISORS

Special Use Permit (SUP-21-01) Site Plan (SP-21-01)

APPLICANT

Crown Castle International LLC and Network
Building and Constructing, Inc., on behalf of AT&T

OWNER

Stuary M. Perry Inc.



November 23, 2021 Public Hearing

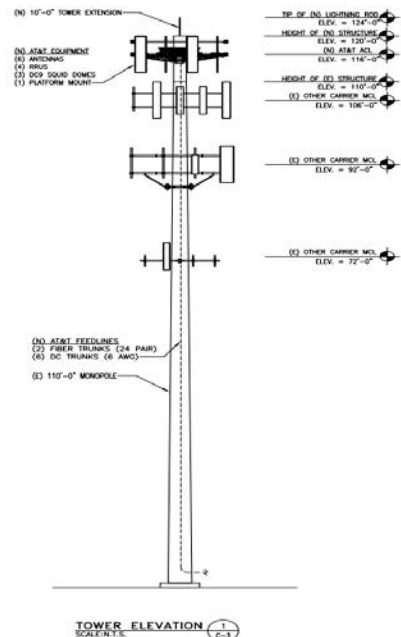
REQUEST

To amend an existing Special Use Permit and Site Plan to allow for an increase in height of an existing WCF.

The existing tower is 110 feet. It was approved to be 95 feet by the original SUP and SP applications, approved on March 17, 2003. The County Code allows for towers to increase in height a specific amount above what was approved. The existing tower does not qualify for any additional increase in height because it has already been increased.

The proposed height is 120 feet. It would remain a Class III WCF as classified by the County Code. The increase would accommodate a new carrier (AT&T).

Staff Note: This application was submitted prior to the adoption of the updated Zoning Ordinance and therefore references in the Staff Report are of the old ordinance which they are subject to based on their submission date.



GENERAL INFORMATION

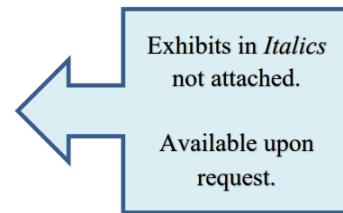
- TM# 16-A-33
- 149 Acres
- 4,900 SF Compound Area
- Zoned AOC
- Quarry Property
- Existing Special Use Permit #SUP-02-02
- Existing Site Plan #SP-02-09





APPLICATION PACKAGE

- **Application Form**
- **Letter from Emily O’Grady**
- **Exhibit A - Site Plan with construction details**
- **Exhibit B - Site Plan with survey**
- *Exhibit C - Structural analysis*
- *Exhibit D - Removal Bond Estimate*
- *Exhibit E - Mount Analysis*
- *Exhibit F - Ground Lease*
- *Exhibit G - Map - Topography*
- *Exhibit H - Map - Floodplain*
- *Exhibit I - Map – proximity to nearest School*



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APPLICATION DETAILS

- **Site Plan** – Consultant recommends approval. Report is attached.
- **Setbacks** – Tower setbacks meet code requirements. 111’ required / 400+ provided
- **Landscaping** – Existing conditions meet buffering requirements
- **Access** – No changes proposed
- **Erosion & Sediment Control / Stormwater** – No new land disturbance proposed
- **Water Supply and Waste Water Disposal** – Not proposed
- **Karst Plan** – Not required due to no land disturbance
- **Lighting and Signage** – No new lighting or signage proposed
- **Parking** – No changes
- **Removal Bond** - \$125,000 + 25% required (\$156,250)

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RECOMMENDATION

On October 1st, the Planning Commission recommended approval of Special Use Permit Application #SUP-21-01, with the 5 conditions in the Staff Report; AND conditional approval of Site Plan Application #SP-21-01, subject to SUP approval by the Board of Supervisors.

Following the advertised Public Hearing, and after consideration of any public input received, **Staff Recommends that the Board of Supervisors approve SUP-21-01 with the 5 conditions noted in the Staff Report, as recommended by the Planning Commission.**

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At 6:32 pm, Chair Weiss opened the public hearing.

No persons addressed the Board.

At 6:32 pm, Chair Weiss closed the public hearing.

Chair Weiss questioned, and Jeremy Camp confirmed that for this Special Use there was a one-time By-Right increase on the original application, so if there needs to be a height increase in the future a new special use application will need to be completed.

Vice-Chair McKay moved to approve PH 2021-14: SUP-21-01/SP-21-01 Crown Castle International LLC (Tower Owner) and Network Building and Constructing, Inc. (Project Consultant), on behalf of AT&T (Service Provider). The motion carried by the following vote:

Matthew E. Bass	-	Aye
Terri T. Catlett	-	Aye
Doug M. Lawrence	-	Aye
Beverly B. McKay	-	Aye
David S. Weiss	-	Aye

21) Adjournment

At 6:35 pm, Chair Weiss adjourned the meeting.

22) Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, December 21, 2021, at 1:00 pm in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: November 23, 2021

David S. Weiss, Chair

Chris Boies, County Administrator

Recorded by Chris Boies and Transcribed by Brianna R. Taylor & Tiffany R. Kemp