

December 21, 2021

Clarke County Board of Supervisors
Regular Meeting
Main Meeting Room

1:00 pm

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, December 21, 2021, at 1:00 pm.

Board Members Present Afternoon Session

- Matthew E. Bass - Berryville District
- Terri T. Catlett - Millwood / Pine Grove District
- Doug Lawrence - Russell District
- Bev B. McKay - White Post District
- David S. Weiss - Buckmarsh / Blue Ridge District

County Staff Present

Brenda Bennett, Chris Boies, Jeremy Camp, Jeff Feaga, Emily Johnson, Cathy Kuehner, Brandon Stidham, Nancy Warczyglova

Constitutional / State Offices / Other Agencies

Ed Carter, Deputy Lora Nicholson, Jennifer Parker, Sheriff Anthony “Tony” Roper, Deputy Hunter Sams, Deputy Brandon Taylor, Katherine Webster, Deputy Keyshlee Weir, and Deputy Jessica Wyne

Press

None

Others Present

None

- 1) Call to Order

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

- 2) Adoption of Agenda

Supervisor Catlett moved to adopt the agenda 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

3) Citizens Comment Period

No persons addressed the Board.

4) Introduction of New Sheriff Deputies

Sheriff Tony Roper introduced the following new deputies:

- Deputy Lora Nicholson, Deputy Hunter Sams, Deputy Brandon Taylor, Deputy Keyshlee Weir, and Deputy Jessica Wyne
- New Deputies hired but not in meeting attendance:
 - o Deputy Tristan Lutman, Deputy Stoney Nicholson, and Deputy Andrew Stotlemeyer

Supervisor Catlett and Chair Weiss thanked the deputies for coming in and introducing themselves, stating it is nice to put a face to the name.

5) VDOT

Ed Carter, Residency Administrator, provided the following update:

Maintenance

- With the end of the year and Holiday Season upon us, we are working with reduced crews as many of our people are trying to use up vacation leave. As such, we have been primarily doing brush cutting and mowing.
- We have completed primary mowing operations and begun slope mowing and boom-ax operations. This work will continue into 2022.
- Removed hazardous trees on various routes and will continue this month.
- Graded various non-hard surfaced routes and will continue this month.
- Performed pipe cleaning operations on various routes and will begin tree trimming on various routes this month.

- Repaired various potholes as they were reported. Noted the pothole complaint sent into County Administration by the 7/11 on Route 7 has been looked into and is a missing grate. Crews will mark that and research if the problem is a store issue or a VDOT issue.

Board Issues

Supervisor Catlett

- Thanked the crew who mowed at Route 255 and Hwy 50 as it feels much safer now.

Supervisor Lawrence

- Noted the grate issue at 7/11 has been an issue for quite some time, and the grate never sat adequately.
- Wondering if the crews who pick up the dead animal carcasses can also remove signs in the right-of-way. Ed Carter clarified that a contractor does the carcass clean-up, and VDOT crews will remove signage when they mow or receive a complaint. Chair Weiss asked, and Chris Boies confirmed the County has an agreement authorizing us to remove signs.

Bandon Stidham, Director of Planning and Zoning, introduced Jeff Feaga, who will be taking over for Alison Teetor as the Preservation Planner/GIS Coordinator. Jeff has a Ph.D. in Wildlife Science from Virginia Tech, a Master's Degree in Bioresource Engineering, and a Minor in Water Resources Engineering from Oregon State University.

Brenda Bennett introduced Nancy Warczyglowa and Emily Johnson, both employees of Joint Administrative Services who worked the audit this year. Chair Weiss thanked both for their hard work and attending the meeting.

6) Review of FY2021 Financial Report by Robinson, Farmer, Cox Associates

Michael Lupton of Robinson, Farmer, Cox Associates presented the following to the Board:

- A. Governance Letter:



ROBINSON, FARMER, COX ASSOCIATES, PLLC
Certified Public Accountants

Communication with Those Charged with Governance

To the Honorable Members of
the Board of Supervisors
County of Clarke, Virginia

We have audited the financial statements of the governmental activities, the discretely presented component units, each major fund, and the aggregate remaining fund information of the County of Clarke, Virginia for the year ended June 30, 2021. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, *Government Auditing Standards*, and the Uniform Guidance, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated May 19, 2021. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Matters

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the County of Clarke, Virginia are described in Note 1 to the financial statements. As described in Note 1 to the financial statements, County of Clarke, Virginia changed accounting policies by adopting Statement of Governmental Accounting Standards (GASB Statement) No. 84, *Fiduciary Activities*. Accordingly, the cumulative effect of the accounting change as of the beginning of the year is reported in the Statement of Activities. We noted no transactions entered into by the entity during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate(s) affecting the County of Clarke, Virginia's financial statements were:

Management's estimate of the depreciable lives of capital assets is based on historical experience and industry standards. We evaluated the key factors and assumptions used to develop the estimate of depreciable lives of capital assets in determining that it is reasonable in relation to the financial statements taken as a whole.

Management's estimate of the allowance for uncollectible property tax revenue is based on historical experience and standard methods of computing the allowance. We evaluated the key factors and assumptions used to develop the estimate of allowance for uncollectible property tax revenue in determining that it is reasonable in relation to the financial statements taken as a whole.

The financial statement disclosures are neutral, consistent, and clear.

- Communication with Those Charged with Governance -

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated December 7, 2021.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the entity's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the entity's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to management's discussion and analysis and the schedules related to pension and OPEB funding, which are required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI. Our responsibility with respect to the budgetary comparison information, which also supplements the basic financial statements, is to evaluate the presentation of the schedules in relation to the financial statements as a whole and to report on whether it is fairly stated, in all material respects, in relation to the financial statements as a whole.

- Communication with Those Charged with Governance -

Other Matters: (Continued)

We were engaged to report on combining and individual fund financial statements and schedules, supporting schedules, and the schedule of expenditures of federal awards, which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

We were not engaged to report on the other statistical information, which accompany the financial statements but are not RSI. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Restriction on Use

This information is intended solely for the use of the Board of Supervisors and management of the County of Clarke, Virginia and is not intended to be, and should not be, used by anyone other than these specified parties.



Charlottesville, Virginia
December 7, 2021

B. Financial Report

The following page numbers will refer to the *2021-12-21 BoS Regular Packet* available online or in County Administration.

- Page 24 Independent Auditor's Report
 - Details the Auditor's opinion on the financial statement.
 - The opinion is unmodified, meaning it is a clean opinion.
 - Financial Statements are materially correct in accordance with generally accepted accounting principles.
- Page 25, Change in Accounting Principle
 - Related to the GASB 84 Implementation.
 - The opinion is not modified.
- Page 25, Restatement of Beginning Balances
 - The opinion is not modified.
- Page 28, Management's Discussion and Analysis
 - Provides a succinct narrative of the financial happenings in the fiscal year. This is the best place to focus if there is not enough time to read the entire document and provide a good overview of the financial happenings in the last year.
- Page 41, Balance Sheet, Governmental Funds
 - As of June 30, 2021, the General Fund had an ending total fund balance of \$14.6M, and all Governmental funds had an ending

- total fund balance of \$15.3M. Of the amount that was unassigned, ~\$423K. The change in the number of fund balances from a few weeks past to the report was generated. That was a result of the implementation of GASB 84.
- Page 43, Statement of Revenues, Expenditures, and Changes in Fund Balances
 - Total Revenues for FY21 were ~\$34M.
 - Total Expenditures for FY21 were ~\$31M.
 - Net Change in Fund Balance for all governmental funds was an increase of \$2.9M for FY21.
 - \$2.7M was made up in the General Fund as an increase.
 - Page 50, Notes to Financial Statements
 - Goes over in detail information and is excellent if you are looking for a specific detail behind a figure presented in the financial statement.
 - Page 117, General Fund Schedule of Revenues, Expenditures, and Changes In Fund Balance – Budget and Actual for the Year Ended June 30, 2021
 - This shows the budgeted amount compared to the actual figures.
 - Actual revenues were *more* than budgeted revenues by ~\$733K.
 - Actual expenditures were *less* than budgeted expenditures by ~\$2.2M.
 - Page 191, Government-Wide Expenses by Function
 - Shows financial and demographic presented over the last 10-years for Clarke County.
 - This is often a section of the report to get a historical context of the financial figures being presented in the current fiscal year.
 - Page 208 Compliance Section
 - This is the report on internal controls and consideration of internal controls as it relates to its application to the audit.
 - Required to address any significant deficiencies or material weaknesses encountered when performing the audit.
 - No significant deficiencies or material weaknesses were encountered.
 - Page 215, Schedule of Findings and Questioned Costs for the Year Ended June 30, 2021
 - The Special Welfare Bank Account was not an interest-bearing account.
 - This has been resolved, and the funds have been moved to an interest-bearing account.

- The Special Welfare Bank Account maintained by the Department of Social Services did not reconcile with the Special Welfare Bank statement maintained by the County's Treasurer's Office.
 - This has been resolved and will be corrected going forward.
- Page 210, Independent Auditors' Report on Compliance for Each Major Program on Internal Control over Compliance Required by the Uniform Guidance
 - This is the report on single audits.
 - Every organization that has federal expenditures in excess of \$750K is required to undergo a single audit.
 - This year, the Coronavirus Relief Fund and the Education Stabilization Fund underwent a single audit.
 - Considered high risk because of how new they were.
 - There were no non-compliances noted.

Supervisor Lawrence

- Asked if the new rule makes it easier in years past? Mr. Lupton responded that the GASB 84 rule does not cause any significant impact on the audit.

Vice-Chair McKay

- Asked Mr. Lupton if he felt comfortable with the findings. Mr. Lupton confirmed they are comfortable showing the unmodified opinion given. Believes going forward, it will make it easier and more transparent for reporting.

Chair Weiss

- Stated the Board appreciates the extra efforts that went into making the audit process more timely this year.
- Thanked Brenda Bennett and her Staff for the extra, excellent work done.

Chris Boies

- Asked how Clarke County compares to other localities as far as compliance and strength of financial?
 - Mr. Lupton responded, stating that there were no concerns that had not been addressed as it relates to compliance. Further adding, as far as financial strength, as a consistent measure across local governments

is the Unassigned General Fund Balance. Total Fund Balance of the General Fund as compared to the Total General Fund Expenditures. Total Fund Balance in the General Fund was \$14.6M; total expenditures in the General Fund was \$26M making the Fund Balance as it relates to General Balance 50%. A good rule of thumb is to keep that below 15-20%. The percentage measure indicates a strong position of Fund Balance compared to General Fund Expenditures.

- Chair Weiss opined that the high percentage in the General Fund is due to the County's pay-as-you-go savings for projects over the years. Believes it is extenuated this year due to the federal funds that covered other expenditures.

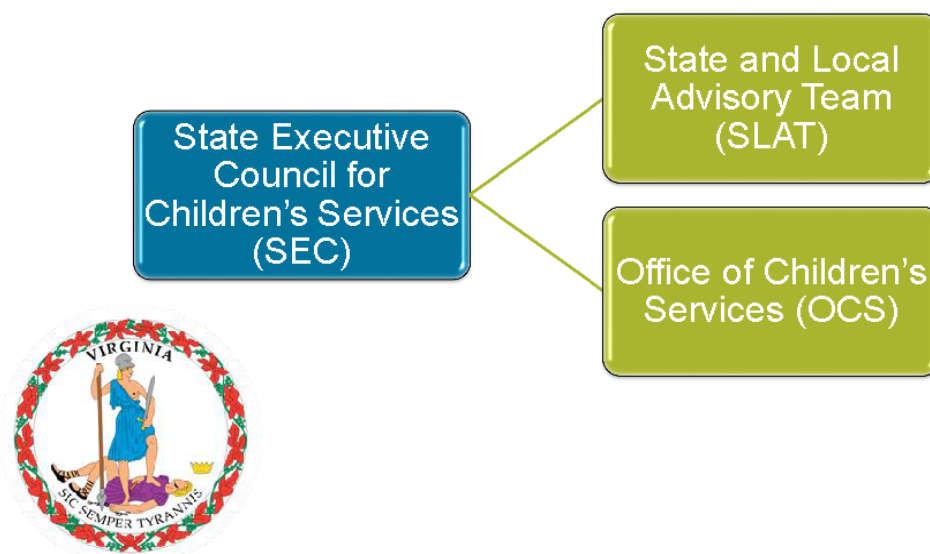
7) Children's Services Act Update

Director of Social Services Jennifer Parker introduced Katherine Webster, Children's Services Act Coordinator.

Katherine Webster, CSA Coordinator, presented the following:



State Structure of CSA





Local Structure of CSA



Review: FAPT Roles & Responsibilities

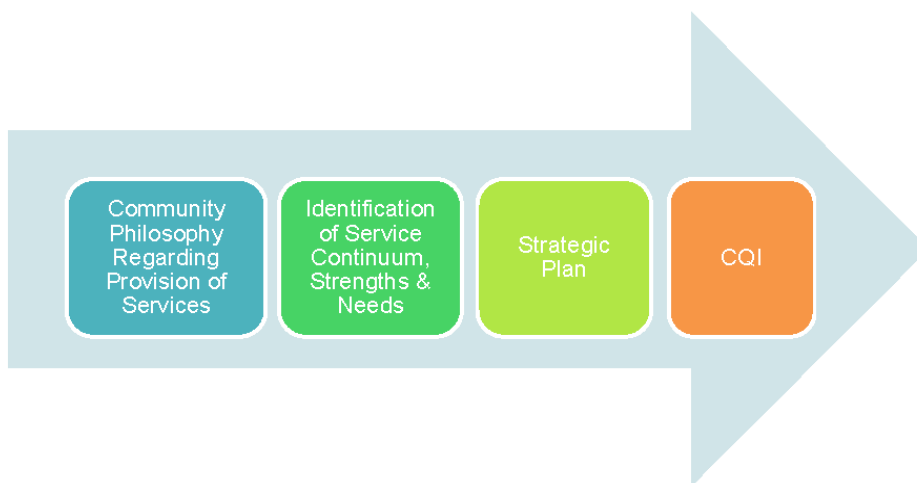




CPMT: Major Areas of Responsibility

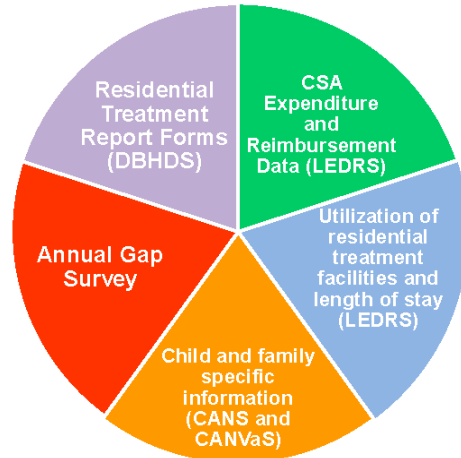


Strategic Planning





Data Collection and Reporting



40



What is the CSA Coordinator's Role?

- Staff to the CPMT and FAPT
 - Administrative role to ensure key functions are fulfilled
 - How many duties are assigned to the CPMT? FAPT?
 - How many can you name?
- Ensure efficient, effective, and proper operation of the entire CSA process from referral to case closure

17

Membership List 2022

FAPT

Name	Role
Michael "Toby" Austin	DSS Representative
Erin Cassaroti	CSU Representative
Chris Rousseau	Private Provider Representative
Lauren Smith	Northwestern CSB Representative
Kerry Desjardins	CCPS Representative
Tracey Smith	Parent Representative

CPMT

Name	Role
Jennifer Parker <i>*chairperson</i>	DSS Representative
Jerry Stollings	CSU Representative
VACANT	Private Provider Representative
Denise Acker	Northwestern CSB Representative
Frank Moore <i>*vice chairperson</i>	CCPS Representative
James Willis	Parent Representative
Terri Catlett	BOS Representative
Leea Shirley	VDH Representaive

Clarke CSA: Statistics Update

	FY19	FY20	FY21	FY22 (4 months)
Total Child Count	19	19	12	10
Total Expenditures	\$139,199	\$217,315	\$105,331	\$4,290
State	\$72,384	\$104,311	\$50,558	\$2,059
Local Match <i>Rate= 47.97%</i>	\$66,815	\$113,004	\$54,773	\$2,231

Where can I go for help?

The Children's Services Act process can seem overwhelming and impersonal. Help is available at every step of the CSA process.

Additional information as well as a list of individuals who may provide assistance is available through the Virginia Office of Children's Services at (804) 662-9815 or visit their website at www.csa.virginia.gov

You should always feel free to contact your child's case manager, CSA staff member, or FAPT member with any questions or concerns.

Clarke County FAPT

Clarke Public Schools
Kerry Desjardins - School Social Worker
(540) 955-6143
desjardnsk@clarke.k12.va.us

Northwestern Community Services Board
Lauren Smith - Supervising Case Manager
540-535-7285
Lauren.Smith@nwcsb.com

20th District Court Service Unit
Erin Casarotti - Juvenile Probation & Parole Officer
(540) 722-7960
erin.casarotti@dij.virginia.gov

Clarke Social Services
Michael "Taby" Austin - Family Services Supervisor
(540) 955-5171
michael.austin@dss.virginia.gov

Parent Representative
Tracy Smith
boycebarr@gmail.com

Private Provider Representative
Chris Rousseau
crhavenmhc@gmail.com

Clarke County CSA

Mailing Address:
311 East Main St
Berryville VA 22611
Fax: (540) 955-3958

CSA Coordinator
Katherine Webster
Phone: (540) 955-5198
E-mail: katherine.webster@dss.virginia.gov

CSA Fiscal Agent - Clarke County
Sharon Keelor, Treasurer
Phone: (540) 955-5161
E-mail: skeelor@clarkecounty.gov



Your child's case manager is:

Name: _____

Phone: _____

E-Mail: _____

CSA
The Children's Services Act

Information for Parents

What is the Children's Services Act?

It is a Virginia law designed to help troubled and at risk youth and their families. State and local agencies, parents and private service providers work together to plan and provide services. In each community, local teams decide how to do this.

The Community Policy and Management Team (CPMT) coordinates agency efforts, manages the available funds, and sees that eligible youth and their families get help.

The Family Assessment and Planning Team (FAPT) looks at the strengths and needs of the individual youth and families, decides what services to provide, and prepares a service plan with input from families. The FAPT includes staff from the community services board, juvenile court, the local department of social services, public schools, a private provider representative, and a parent representative.

Who is eligible for services?

Services under CSA may be available to a child who meets at least one of the following descriptions:

- has serious emotional or behavioral problems, or
- may need residential care or resources beyond normal agency services, or
- needs special education through a private school program, or
- receives foster care services, or
- receives services to prevent foster care placements, or
- is under supervision of the juvenile and domestic relations court, or domestic relations court, or
- is a ward of the Department of Juvenile Justice

Eligibility is determined by various laws (in education, juvenile justice and social services) and by the Community Policy and Management Team. Also, there must be funds available in the community.

How does CSA work?

A team meeting is scheduled with the FAPT and members of the family:

- the child and family take an active part of the FAPT meeting to discuss their needs
- a service plan is developed
- the family signs the service plan if they agree with the plan
- services begin as soon as possible
- emergency services may begin immediately
- parents may be required to make co-payments for non-foster care services
- parents may be required to make child support payments for foster care services
- parents are not required to make co-pay payments for special education services

What are my rights?

Most importantly, you have the right to understand the CSA process. You also have the right:

- to receive information on the CSA process
- to be notified before your child is assessed and/or offered services
- to understand the information that you receive
- to consent and agree in writing before beginning any services, except when ordered by the court
- to read records, challenge information, give permission for release of records and be provided a written copy of the records unless ordered otherwise by the court
- to assistance from your child's case manager as well as a member of your family, friend, advocate or support person
- to review the assessment and service plan
- to disagree with the assessment and service plan and place your concerns in writing to the CPMT.
- to participate and be present for the entire FAPT meeting and discuss your child's and family's situation and well as participate in decisions that apply to you and your family.

What about children eligible for special education?

If your child is eligible for special education, all the rights and protections of special education continue to be available to you and your child. You have the right:

- to notice before a child's educational service begins or changes
- to consent before certain evaluations or placements
- to an independent educational evaluation if you disagree with the school's evaluation
- to participate in the preparation of your child's Individual Education Plan (IEP)
- to inspect and review your child's education records
- to file a complaint or request a due process hearing

What about children and youth receiving foster care services?

If your child is in foster care you can ask the foster care worker for help. Unless the court has taken away your parental rights, you have a right to be involved in making decisions about your child.

For more information about foster care services contact the Virginia Department of Social Services at: www.dss.virginia.gov

How do I request a review/appeal?

You have the right to disagree with any part of your child's evaluation or service plan. You have the right to disagree with the decisions of FAPT. You may file an appeal in writing with the chair of the Clarke CPMT within ten calendar days of receipt of the FAPT decision:

Ms. Denise Acker
209 W. Crisler Rd
Front Royal, VA 22630
540-3059151 | dacker@nwsb.com

The CPMT shall make a final decision within 45 calendar days following receipt of the appeal.

New Initiatives in Clarke CSA:

- Local policy and procedure overhaul
 - Local forms overhaul
 - Added use of contracts with local vendors
 - Updated strategic plan
 - Updated CPMT by-laws
 - Created a web presence for citizens and case managers to access
 - Focus on electronic communication with teams and vendors
 - Created a handout for families to learn how to access CSA
 - Added a second monthly FAPT meeting for flexible scheduling for families to attend and participate
 - Renewed focus on relationship building with OCS, CCPS, NWCSB, and local helping organizations
-
- The FAPT, Family Assessment and Planning Team, is the heart and soul of CSA.
 - Brings experts from the six (6) corners of the behavioral health universe together to collaborate and help families when they are in a point of crisis in their lives.
 - Over the past year, the focus has been on making the process work as it is designed.
 - The CPMT, Community Policy Management Team, consists of different leaders in the local behavioral health agencies.
 - They use their lens of their agencies to further the mission and vision of Clarke County CSA, adapting local policies and procedures to fit the needs of this community.
 - CSA coordinator's role is administrative support to the FAPT and the CPMT facilitating the program in general and acting as a gatekeeper to the families to access the program.
 - Money spent in the program directly supports local kids, and getting families the services they need.

- Every category of the budget has a local match. Some are capped some are not. In the past five (5) years, \$0 has been spent in the special education fund, partly due to a fractured relationship between Social Services and the Schools. Adding she has worked hard to mend that relationship and is happy to report they have had four (4) referrals since September 2021.

Supervisor Bass

- Thanked Katherine Webster and Jennifer Parker for attending the meeting and presenting today.

Supervisor Catlett

- Opined Katherine Webster, with the support of Director Parker, has done a great job of looking at what is done and how it is done and streamlining the process. Adding that, she has made herself more accessible to the community to help foster the needed relationships to make the program successful.

Supervisor Lawrence

- Asked what ages are eligible for the program?
 - Katherine Webster responded that any age up to 18 unless they have an IEP, Individual Education Plan, through the school system then the child is served until the program is ended.

Chair Weiss

- Thanked Katherine Webster and Jennifer Parker for all they do for the folks that need help, adding he had noticed there was no money being spent in that category, assuming there was not a need but is happy to hear the relationship between DSS and the schools is better and that is being utilized.

Chris Boies

- Asked what the 30-second quick explanation of what a CSA Coordinator does.
 - Katherine Webster responded that the CSA Coordinator is a service planning opportunity and funding source for children who have behavioral health needs.

8) Approval of Minutes

Supervisor Catlett moved to approve the November 16, 2021, Special Meeting Minutes, the November 23, 2021, Regular Meeting Minutes, and the November 29, 2021, Legislative Priorities 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

9) Set 2022 Board of Supervisors' Organization Meeting Date, Time, and Location.

Staff recommends Tuesday, January 11, 2022, at 9: 30 am in the Main Meeting Room.

By consensus, the Board moved to set the 2022 Board of Supervisors Organizational Meeting and work session for Tuesday, January 11, 2022, Main Meeting Room at 9:30 am followed by the Personnel Committee Meeting, and finally, the Finance Committee Meeting.

10) Set Public Hearing, PH 2022-01 – Agriculture and Forestal District Renewal for January 18, 2022.

Jeremy Camp, Zoning Administrator, presented the following information



Clarke County Planning Department
101 Chalmers Court, Suite B
Berryville, Virginia 22611
(540) 955-5132

TO: Board of Supervisors

FROM: Jeremy F. Camp, Senior Planner / Zoning Administrator

**SUBJECT: SET PUBLIC HEARING
Agricultural & Forestal District (AFD) 6-Year Review**

DATE: December 6, 2021

The Clarke County Agricultural & Forestal District (AFD) is a voluntary program authorized by state and local law for the purpose of promoting agriculture. Property owners that apply and qualify for membership to the program receive certain benefits and restrictions during the district term. The district term in Clarke County is 6 years.

In accordance with certain procedural requirements, the AFD can be continued for an additional 6 years if authorized by the Board of Supervisors prior to the expiration of the district. As part of the renewal process, the district is reviewed by the Agricultural & Forestal District Advisory Committee and the Planning Commission. During this renewal process, property owners may elect to withdraw from the district, or may apply to be added to the district.

On October 27, 2021, the Clarke County Agricultural & Forestal District Advisory Committee approved a motion to recommend renewal of Clarke County Agricultural and Forestal District for a period of 6 years with no changes except for the removal of the parcels referenced below. The Planning Commission provided the same recommendation during a public hearing held on December 3, 2021.

These parcels were requested by the property owners for removal during the review process. A map of these parcels is provided in the attached powerpoint presentation document.

- 27-A-18 Knowles Partnership LC
- 27-A-6 L Seven Farm, LC
- 27-A-7 "
- 27-A-8 "
- 27-A-8B "
- 27-A-8C "
- 13-A-70 Westwood Farm, Incorporated
- 13-A-58 "
- 13-3-1 "
- 13-3-3 "
- 7-A-122 JC Hardesty Family, LLC
- 7-A-129B "

During the advisory committee's review there were three meetings held. Notices were sent to property owners within the AFD, as well as property owners that were in the land use tax program. Pursuant to Chapter 48 of the Code of Clarke County, and Chapter 43 of the Code of Virginia, and in addition to the advisory committee, the Planning Commission held several meetings, including a public hearing.

Staff will present the AFD to the Board at the December 21, 2021 meeting and request that the Board schedule a public hearing in January to take action on the renewal of the district.

CLARKE COUNTY
Agricultural and Forestal District (AFD) Program
Information Flyer



WHAT IS THE AFD?

The Agricultural and Forestal District (AFD) is a voluntary program that places benefits and restrictions on land. The intent of the AFD is to protect the rural character of the community by preserving agricultural, forestal, and open space land and by providing safeguards against the adoption of local ordinances that unreasonably restrict farm structures, farming, or forestry practices unless the restrictions are directly related to health, safety, and welfare. The District was established in 1980 for a six-year term that has been renewed several times, most recently in 2016. The County is currently undergoing a renewal review of the District and is inviting landowners to apply to add new land to the District. County landowners to date have enrolled approximately 37,051 acres in the AFD program.

The AFD program provides certain benefits to landowners including automatic qualification for the Land Use Assessment Program. For landowners already in Land Use, participation in the AFD program ensures that land use valuation will continue for the District term even if the Land Use Assessment Program is discontinued. District membership also offers special protections against eminent domain actions. Acquisition of land for power lines, roadways, and other infrastructure within a District is subject to a special public review process. Also, the expenditure of public funds for non-farm related purposes in a District is subject to a special review process.

FREQUENTLY ASKED QUESTIONS

Who can join the Agricultural and Forestal District? Any landowner in the Agricultural Open Space Conservation (AOC) Zoning District (most properties west of the Shenandoah River) who has either 5 acres of unimproved land or 6 acres of land that contains a dwelling and any landowner in the Forestal Open Space Conservation (FOC) Zoning District (most properties east of the Shenandoah River) who has either 20 acres of unimproved land or 21 acres of land that contains a dwelling.

How do you apply for inclusion into the District? Contact the Clarke County Planning Department and ask to be included. There is a simple application form to fill out and the County will do the rest. Property owners wishing to include their land in the District may do so at the time of renewing the District or annually. Although the State allows localities to charge an application fee, Clarke County has chosen not to charge a fee.

Do you have to include all of my properties? No, however it is important to provide detailed property information on the application form to ensure that the properties desired to be included are accurately noted.

Is acceptance into the District automatic? No. Each application must be reviewed by County Staff, the AFD Advisory Committee, Planning Commission, and Board of Supervisors for compliance with program requirements. Both the Planning Commission and Board of Supervisors are required by State law to hold public hearings on all new applications. This process can take approximately 4-5 months to complete.

1

CLARKE COUNTY
Agricultural and Forestal District (AFD) Program
Information Flyer



What do I have to do if I want my property to remain in the District? Those who are already in the District and wish to remain in the District are not required to take any action.

Suppose I want to withdraw my property from the District? During the District review process, current District landowners may withdraw their properties at their discretion by providing written notice to the County. However, during the District term there are limited options for requesting land to be withdrawn. This includes death of the property owner or financial hardship approaching confiscation.

Are there restrictions placed on land in an Agricultural and Forestal District? Yes. Although a property owner can continue to use the land as they always have and can sell it at any time during their inclusion in the district, the property owner agrees not to do more than a one lot subdivision or to reduce the area of their property by boundary line adjustment during the District term. There are also limitations on certain special uses that may be applied for that would conflict with the character and purpose of the District. It is recommended that potential applicants discuss these restrictions with County Staff to determine whether they may conflict with the applicant's future plans for the properties.

Do I have to be in an AFD in order to farm my land, have livestock, etc? No. The Zoning Ordinance governs the uses of your property. Enrollment in an Agricultural and Forestal District provides some additional right-to-farm protections beyond what the Zoning may allow.

If I sell my property do I need to inform the new owner about the AFD? Yes. Agricultural and Forestal Districts run with the land. Selling or transferring ownership does not remove this encumbrance. It is very important that the new owner understand they are bound to the same restrictions and will receive the same benefits of all property in the District. Many new buyers think they can create a subdivision and then learn they cannot due to restrictions imposed by inclusion in the District. They may incur expensive subdivision costs with no chance of completing the division until the District term expires.

Does being in the District automatically reduce my taxes? No. Clarke County has a Land Use Assessment Program (LUAP) that provides for the deferral of real estate taxes on properties that qualify for agricultural, horticultural, forestry, or open space uses. Any status change to a parcel enrolled in the LUAP is subject to rollback taxes, penalties, and interest. Contact Commissioner of the Revenue's office at 540-955-5108 for further information on the Land Use Program.

Am I required to be in an AFD to qualify for the Land Use Assessment Program? No. The Land Use Assessment Program is a separate program from the Agricultural and Forestal District Program. A landowner must apply for the Land Use Assessment Program and must meet certain qualifying criteria that can be explained by the Office of the Commissioner of Revenue at 540-955-5108.

For more information contact:
Jeremy Camp, Senior Planner/Zoning Administrator / 540-955-5132 / jcamp@clarkecounty.gov
Clarke County Department of Planning - 101 Chalmers Court, Suite B, Berryville, VA 22611



**Agricultural & Forestal District:
What is it?**

A voluntary program authorized by state and local law that offers landowners certain benefits and restrictions that are intended to promote agriculture.

Legal Authority

- Virginia:
Agricultural & Forestal Districts Act (1977)
Virginia Code 15.2-4300
- Clarke County:
Clarke County Code, Chapter 48 (1992)

12/6/2021

Criteria for New Applications

- AOC Zoned land (west of Shenandoah River) – minimum 5 acres without a dwelling or 6 acres with a dwelling
- FOC Zoned land (east of the Shenandoah River) – minimum of 20 acres without a dwelling or 21 acres with a dwelling
- The County uses the Land Evaluation and Site Assessment (LESA) system to determine whether to include properties for agricultural, forestal, or open space use.
- The following LESA scores are required to qualify for inclusion in the District:
 - Composite LESA score of 72 or higher for parcels less than 40 acres
 - Composite LESA score of 68 or higher for parcels 40-129.99 acres
 - Composite LESA score of 64 or higher for parcels 130 acres or greater

Criteria for New Applications (cont.)

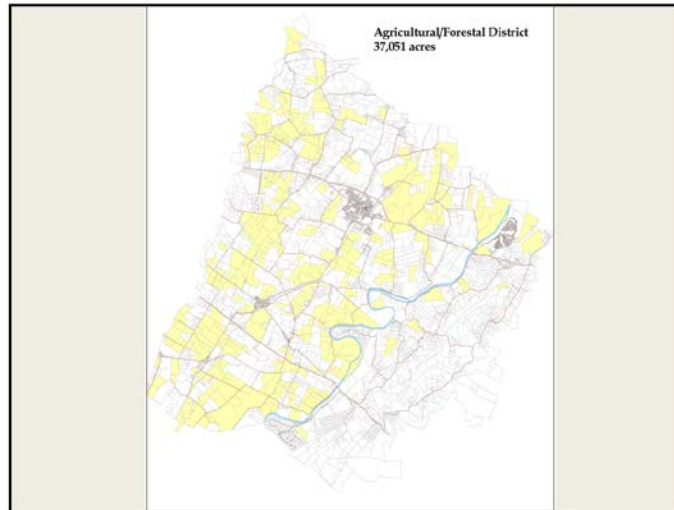
- Farms with a composite LESA score of lower than 60 shall be excluded unless they are adjacent to and operated contiguously with farming units with qualifying LESA scores and which are owned by one or more individuals who also own the qualifying farming unit.
- Parcels cannot be included in the corporate limits of the Towns of Berryville or Boyce.

Purposes

- ❖ “to conserve and protect and to encourage the development and improvement of the Commonwealth’s agricultural and forestal lands for the production of food and other agricultural products.”
- ❖ “to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, as well as for aesthetic purposes.”
- ❖ “to provide a means for a mutual undertaking by landowners and localities to protect and enhance agricultural and forestal lands as a viable segment of the Commonwealth’s economy and as an economic and environmental resource of major importance.”

Background

- The County’s first Agricultural District was established in 1980 for a six-year term and has been renewed several times (7).
- The district was last renewed on March 2016 for a six-year term. Included a change in the program name to the “Clarke County Agricultural & Forestal District” to recognize inclusion of silviculture properties in the District.
- Approximately 37,000 acres are currently included in the District (not to be confused with 27,000 acres in conservation easement)



District Benefits

- ❖ Land in the District automatically qualifies for the Land Use Assessment program upon application instead of waiting 5 years.
 - The Land Use Assessment Program reduces real estate taxes for agricultural uses. Must still comply with reporting a agricultural activity to the Commissioner of Revenue.
- ❖ Land in the District is guaranteed inclusion into the Land Use Program during the AFD 6-year term.
 - In other words, if the program is canceled, owners of land in the AFD would continue at least until the end of the 6-year period. Must still comply with reporting a agricultural activity to the Commissioner of Revenue.
- ❖ District inclusion also adds a safeguard against eminent domain or laws that restrict agriculture.
 - A special review process is required.

District Restrictions

- ❖ Parcels in the District may not be withdrawn prior to the completion of the six-year term unless:
 - Financial hardship approaching confiscation of property
 - Death of the landowner of record
- ❖ Only one lot may be subdivided during each District term.
 - Boundary line adjustments are allowed, but limitations apply to adjusting acreage with non-district parcels.
- ❖ Rezoning is restricted except for the AOC or FOC Districts.
- ❖ Special use permits are restricted unless for the following uses:
 - Livestock auction markets
 - Small-scale processing of specialty fruits and vegetables
 - Veterinary services, animal hospitals, and breeding kennels*

*Boarding Kennels removed in 2016 renewal process

Criteria for New Applications

- AOC Zoned land (west of Shenandoah River) – minimum 5 acres without a dwelling or 6 acres with a dwelling
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Criteria for New Applications (cont.)

- Farms with a composite LESA score of lower than 60 shall be excluded unless they are adjacent to and operated contiguously with farming units with qualifying LESA scores and which are owned by one or more individuals who also own the qualifying farming unit.
- Parcels cannot be included in the corporate limits of the Towns of Berryville or Boyce.

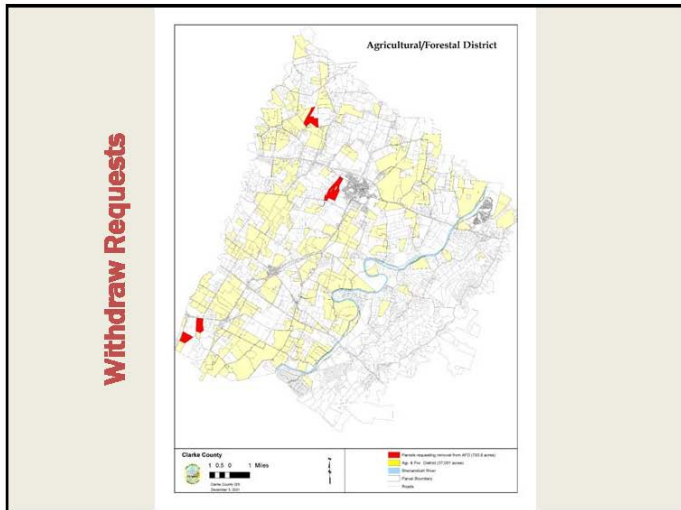
Criteria for New Applications (cont.)

- Parcels can qualify for District inclusion as Open Space:
 - Cannot contain any commercial use except those allowed as a principal use or structure by the County Zoning Ordinance (e.g., farm winery, home occupation)
 - Parcel shall be at least 5 acres in size – exception may be granted if parcel is adjacent to a conservation easement, historical easement, or is considered to be environmentally sensitive
 - Parcel shall have at least one unused dwelling unit right (DUR)
 - DURs shall not be transferred or used to construct a dwelling during the term of the District

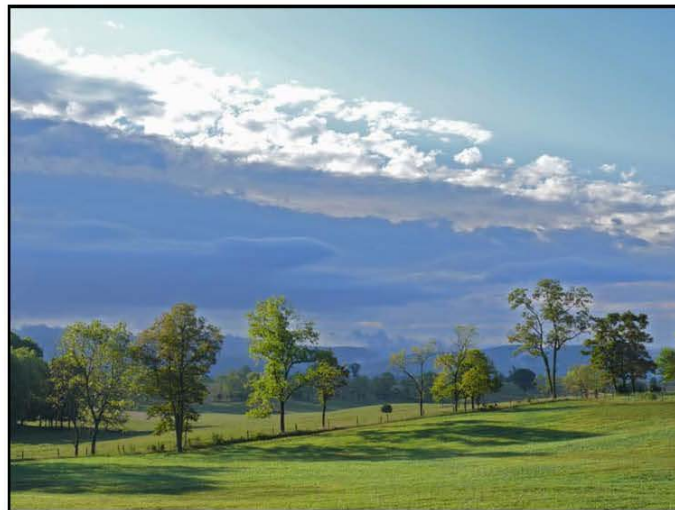
Withdraw Requests

❖ Four property owners have requested that their properties be withdrawn from the AFD . This includes the following parcels

- 7-A-122 (JC Hardesty Family , LLC)
- 7-A-129B (JC Hardesty Family, LLC)
- 27-A-18 (Knowles Partnership, LC)
- 27-A-6 (L Seven Farm, LC)
- 27-A-7 (L Seven Farm, LC)
- 27-A-8 (L Seven Farm, LC)
- 27-A-8C (L Seven Farm, LC)
- 27-A-8B (L Seven Farm, LC)
- 13-A-70 (Westwood Farm, Incorporated)
- 13-A-58 (Westwood Farm, Incorporated)
- 13-3-1 (Westwood Farm, Incorporated)
- 13-3-3 (Westwood Farm, Incorporated)



District Review Process Timeline	
Board of Supervisors Initiates Review	August 2021
Advisory Committee Kick off Meeting	September 14, 2021
Advisory Committee Public Meeting	October 14, 2021
Advisory Committee Final Meeting	October 28, 2021
Planning Commission Work Session	November 2021
Planning Commission Public Hearing	December 3, 2021
• Board of Supervisors Meeting(s) & PH	December 2021 – February 2022
• Expiration of current District	March 16, 2022



Supervisor Catlett

- Inquired if a property withdrawal is there a conversation to figure out what has changed to cause a property to withdraw from the program? Jeremy Camp said he had had conversations with the properties withdrawing from the program, and while not everyone gave details, some indicated there was developmental interest they would like to pursue.

Vice-Chair McKay

- Asked, and Jeremy Camp confirmed that the County allows citizens to apply for a breeding kennel. Further clarifying boarding kennels were removed at the last renewal period in 2016; breeding kennels were not removed.

Supervisor Lawrence

- Asked if this will have any impact on the Broadband project. Jeremy Camp said it could have an impact but a lot of times it does not cause any concerns.

Chair Weiss

- Asked if the committee had any general thoughts on changes?
 - Jeremy Camp indicated there had been discussions on the benefits of the program and how it is important to maintain a strong agricultural community in Clarke County. Therefore, they felt it was advantageous to continue the program. There was one request to expand how notifying property owners about the renewal process and new people who may want to apply to the program.
- Stated and Jeremy Camp confirmed that a property could be added once a year, but property can only be removed every six (6) years.

Vice-Chair McKay moved to set the public hearing for January 18, 2022. 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

11) Approval of Revised County Emergency Operations Plan

Chris Boies explained the following:

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

To: Board of Supervisors

From: Chris Boies

Re: Emergency Operations Plan

Date: December 9, 2021

The Code of Virginia requires the County to have an emergency operations plan which has been formally adopted by the governing body. The Code further states that a review of the approved plan shall occur every four years and be formally re-adopted by the governing body. The existing Clarke County plan was last reviewed in December of 2017, meaning a re-adoption must occur this month.

Due to the COVID-19 pandemic, an extensive review of the existing emergency operations plan has not yet occurred. Staff recommends the Board adopt the existing emergency operations plan so we at least have one on record. The only change is an additional appendix related to pandemics. Staff will then work in 2022 with various stakeholders to do a comprehensive review and update to the plan, which once completed, will be submitted to the Board for approval.

Supervisor Catlett

- Ask for Chris Boies to explain the process of updating the current plan. Chris Boies clarified that the plan impacts many different County departments, so a workgroup should be formed for the revision. The workgroup will need to get input from many other groups and provide updates to review. In addition, the Fire & EMS Commission and fire companies requested a role in the review of the document so it will impact every County department. Ideally, Staff would provide the Board a draft document for review a few months prior to anything being taken to the Board for a final vote.

Supervisor Lawrence

- Aske for Staff to print off a copy of the current plant for the Board to read.

Chair Weiss

- Observed and Chris Boies agreed, the current plan meets all state requirements, but it is not an ideal plan for real-life situations. Chris Boies further added that the current plan needs to be better organized and user-friendly in an emergency.

Supervisor Lawrence moved to approve the current County Emergency Plan and instructed Staff to work on an update in 2022. 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

12) Waterloo Sewer Availability Fees

Chris Boies explained the following:

- In January 2021, the Board approved the proposal to spur development at the Waterloo intersection of Clarke County. Staff discovered while working with the Sanitary Authority that the Board was due back 1/3 of the sewer availability fee to pay back previous money the County had invested in the system. The County had not budgeted for that and had not received any funds due in many years because there had not been any new connections.
- Staff informed the Board that \$100K was due to it and Staff was given the flexibility to try to create an incentive program to reduce the fees up to the \$100K threshold to get new development.
- For various reasons, the County has not had anyone participate in the incentive program.
- The incentive program is set to expire on December 31, 2021.
- There are three (3) options for the Board to take going forward:
 - Let the program expire and take no further action.
 - Extend the program as currently designed for another year to give potential applicants more time to utilize the incentive program.
 - Take the \$100K available for the program and take a more targeted approach to try to get current property owners to connect to the system.
- The Industrial Development Authority gave the opinion that a more targeted approach, option number 3, is usually better than a wide net but did not take an official stance.
- There are a number of undeveloped plots at that intersection, and there are numerous existing businesses with their own systems we could try to entice to connect.
- The system is currently at roughly 55% capacity.

Clarke County Board of Supervisors



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(540) 955-2151

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

County Administrator
Chris Boies
(540) 955-5175

To: Board of Supervisors

From: Chris Boies

Re: Waterloo Sewer Connection Fee

Date: December 14, 2021

The Board of Supervisors, at the January 19, 2021, approved an incentive program which waived one-third of the sewer availability fee for eligible connections at the Waterloo intersection. To be eligible, a zoning permit and site plan had to be submitted before December 31, 2021 and an actual connection to the system made by December 31, 2022. No applications have been received for this program and none are expected before the December 31st deadline. There are a number of options at this point and several are discussed below:

Option 1: Let the program expire and take no further action.

Option 2: Extend the program as currently designed for another year to give potential applicants more time to utilize the incentive program.

Option 3: Take the \$100,000 available for the program and take a more targeted approach. Under this approach, the Board would provide areas to target and staff would try to work out deals with property owners. For example, the Board could instruct staff to focus on existing businesses which are currently served by private systems. Staff would identify and reach out to these property owners to determine if they are interested in participating in the program and how much of an incentive would be needed to make the connection happen. Under this approach, the Board could provide staff authorization to approve agreements until the \$100,000 cap is reached, or the Board could review and approve/disapprove each request.

Supervisor Catlett

- Opined Staff should work on a targeted approach to existing owners at the Waterloo Intersection.

Vice-Chair McKay

- Opined that there is limited capacity at the plant and believes the incentive program should be targeted to the existing businesses not currently hooked up.

Supervisor Lawrence

- Suggest a combination of extending the program for one (1) year and as Staff has time to perform a targeted outreach.

Supervisor Catlett moved to extend the existing program one (1) year and to have Staff perform targeted outreach to current business owners. 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

13) Board of Supervisors Personnel Committee Items

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

2021-12-13 Summary: The Personnel Committee recommends the following:

- Reappoint Daniel Sheetz to the Parks & Recreation Advisory Board for a term expiring December 31, 2025.
- Reappoint Tom Bauhan to the Clarke County Sanitary Authority for a term expiring January 5, 2026.
- Reappoint Brandon Stidham to the Northern Shenandoah Valley Regional Commission for a term expiring January 21, 2025.
- Reappoint George Ohrstrom II to the Berryville Area Development Authority for a term expiring March 31, 2025.
- Appoint Bob Glover as the Planning Commission representative, replacing Doug Kruhm, on the Historic Preservation Commission for a term expiring December 31, 2023.
- Appoint Walker Thomas, replacing Christopher Curran, on the Library Advisory Council for a term expiring on April 15, 2025.

2021-12-21 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

14) 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-A29 Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body. The Board will be interviewing design firms who submitted proposals for the Courthouse Green Master Plan Project

At 10:30 am, Supervisor Bass moved to enter closed session pursuant to §2.2-3711-A29 Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body. The motion carried by the following vote:

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

At 1:10 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, 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.

At 1:10 pm, Chair Weiss adjourned the meeting.

2021-12-21 Action: Information Only

15) Board of Supervisors Finance Committee Items

A. Byrne Justice Assistance Grant Supplemental Request: (See attached memo)

2021-12-13 Summary: The Finance Committee recommends the approval of this request as presented.

2021-12-21 Action: Brenda Bennett explained the Byrnnne Justice Assistance Grant Supplemental Request in the amount of \$929.00 was awarded to the Sheriff Department. This award is from the Department of Criminal Justice Services; there is no match requirement, and the Sheriff's office plans to use these funds to provide Staff with new traffic vests. Finance Committee recommends approval of this request.

Supervisor Lawrence

- Asked how many hours are spent working on this grant for such a small dollar amount. Sheriff Roper noted it is minimal, under one (1) total. Chair Weiss clarified if a department need items, they are encouraged to find grants for them, but if a grant cannot be obtained to come to the Board.

Vice-Chair McKay moved to approve the expenditure and appropriations of the FY22 Sheriff's Office budget be increased by \$929 and that revenue from the Commonwealth of Virginia Department of Criminal Justice Service be increased by the same for the purpose of accepting the Byrne Justice Assistance Grant.

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

B. ARPA Tourism Recovery Program Supplemental Request (See attached)

2021-12-13 Summary: The Finance Committee recommends approval of this request as presented above. Felicia Hart, Director of Economic Development & Tourism, will present a broad plan for the use of these funds at the Board of Supervisors meeting on December 21st.

2021-12-21 Action: Brenda Bennett explained that Clarke County was allocated \$30K to address the negative economic impact due to COVID-19. A supplemental expenditure appropriation of \$30K and revenue appropriations in the same amount are requested to receive these funds.

Felicia Hart, Director of Economic Development and Tourism, presented the following:

- These funds are coming from the Virginia Tourism Corporation.
- Proposing to use the funds for:
 - Rack cards - the current cards are outdated and need to be reprinted with current information.
 - Small Signage – for places such as the fairgrounds to let people know what is available on Main Street.
 - Visitor's Center – located at the Barns of Rose Hill. Additional banners, brochures, photography, etc.
 - Fields of Gold Program – working regionally to try and bring an agro-tourism program to fruition. A tentative meeting has been set for late January/early February to get together local farmers to discuss the idea.
 - Chair Weiss asked for further clarification on how this program would work. Director Hart stated this would list all area farms with activities the public can participate in. i.e. Llama petting, farmers markets, etc.

Supervisor Lawrence

- Asked who "Horns, LLC" were. Felicia Hart responded that they are the firm hired to manage the Virginia Tourism Corporation funds.
- Asked if there were any programs that these funds could be used for the elderly population stuck in their homes due to COVID-19. Suggesting a film night or something to give back to that demographic.

Supervisor Bass moved to approve the request 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. VDEM Supplemental for ATT 911 Connection

2021-12-13 Summary: The Finance Committee recommends approval of this request as presented above.

2021-12-21 Action: Brenda Bennett explained that as part of the overall NextGen 9-1-1 Project, through the Virginia Department of Emergency Management, there is a reimbursement for the difference between the cost of the existing Verizon connection and the new cost of the AT&T fiber connection for the first two (2) years. This reimbursement is expected to be \$29,883 for the FY22 year (first year). The supplemental request is for additional expenditure and revenue in the amount of \$29,883 for FY22.

Supervisor Lawrence

- Asked if this was in relation to texting abilities now being able to be received? Brenda Bennett clarified she spoke with Pam Hess of the Communications Center, who stated the biggest gain is the change of copper lines to fiber, and it enhances the ability of the 911 call centers to include text and video imaging.
 - o Chair Weiss noted that in two (2) years, the County would be responsible for the full increased amount.

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

D. Battle of Berryville Boundaries Study Supplemental Request

2021-12-13 Summary: The Finance Committee recommends approval of this request as presented above.

2021-12-21 Action: Brenda Bennett explained this was a grant originally appropriated in FY21; however, the project was not completed in FY21.

Therefore, a supplemental is needed to recognize the available grant expenditure amount of \$32,526 and the available revenue amount of \$39,427.

Supervisor Lawrence

- Asked if the County has received the donations from the two outside groups who were going to help with the bill? Brenda Bennett stated that it had not been received as of the last time she looked.

Supervisor Lawrence moved to approve the request 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

E. Social Services Budget Transfer Request

2021-12-13 Summary: The Finance Committee recommends transferring \$20,732 from the FY22 Social Services Fund to the FY22 Comprehensive Services Agreement Fund for the purpose of collecting state reimbursement.

2021-12-21 Action: Brenda Bennett this is an FY22 expenditure budget transfer of \$20,732 from the Social Services fund to the Children’s Services Act fund (CSA). This request moves expenditure budget to the CSA fund in order to cover the CSA Coordinator position. In addition, this will allow State reporting of the CSA Coordinator expenditures, resulting in qualifying revenue of \$10,787 to be reimbursed from the Commonwealth of Virginia.

Supervisor Catlett moved to approve the transfer of \$20,732 from the FY22 Social Services Fund to the FY22 Comprehensive Services Agreement Fund for the purpose of collecting state reimbursement. 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

F. Clarke County School Division Supplemental Requests

Brenda Bennett explained the following items are supplemental requests that were received from the Clarke County School Division. The cumulative impact of these supplemental requests requires the Board of Supervisors to hold a public hearing before amending the approved budget. It is the practice of the Board of Supervisors to hold a public hearing for supplemental requests reaching a cumulative total of 1% of the approved budget since the last public hearing. These four (4) requests reach that threshold.

1. FY22 Coronavirus State and Local Fiscal Recovery Fund (CSLFRF)

2021-12-13 Summary: The Finance Committee recommends moving this request forward to a public hearing in January.

2021-12-21 Action: Brenda Bennett explained the school division was awarded funds in the form of an HVAC replacement and improvement grant in the amount of \$344,737. The school division plans to use these funds for equipment and labor costs associated with the replacement of heat pumps at Johnson Williams Middle School and Boyce Elementary School, as well as replacing a boiler at Boyce Elementary School. The work is estimated to begin in May or June of 2022.

2. IDEA Part B section 619 funds (ARP Flow Through)

2021-12-13 Summary: The Finance Committee recommends moving this request forward to a public hearing in January.

2021-12-21 Action: Brenda Bennett explained that these are funds that the school division was awarded in the amount of \$7,241 and will be used to offset expenses for Soliant. Soliant is a vendor used by the school for speech and language pathologists. The current FY22 budget includes the budgeted expenditure, so the additional revenue appropriation would be needed to offset those expenditures.

3. School Security Officer Grant

2021-12-13 Summary: The Finance Committee recommends moving this request forward to a public hearing in January.

2021-12-21 Action: Brenda Bennett explained the school division was awarded a grant from the Commonwealth of Virginia in the form of the

School Security Officer Grant. The total amount awarded was \$70,000, which includes a required local match of \$40,103 and State revenue of \$29,897. The grant funds will be used to offset the current budgeted salary and benefit expenses to provide School Security Officers at Boyce Elementary and Cooley Elementary Schools.

Supervisor Lawrence

- Asked if the officers who are normally positioned at the schools can fill shifts when the school has a holiday. Sheriff Roper explained that School Security Officers should not be confused with School Resource Officers. The School Security Officers work entirely for the school system and cannot fill other positions.

4. The Virginia Department of Health Grant

2021-12-13 Summary: The Finance Committee recommends moving this request forward to a public hearing in January.

2021-12-21 Action: Brenda Bennett explained that the Virginia Department of Health has contracted with the Clarke County School Division to provide Federal pass-through funding in the amount of \$125,400. The funds will be used to provide staff support to the school system consisting of a COVID-19 K-12 Division Coordinator to assist with implementing the Virginia School Screening Testing for Assurance Program and provide \$13,400 for supplies. The funds are available through July 31, 2022, and can be used for COVID-19 testing and anything that goes along with that.

Supervisor Catlett moved to set a Public Hearing for January 18, 2022, at 6:30 pm to 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. Capital Project Transfer

2021-12-13 Summary: Information Only

2021-12-21 Action: Information Only

Supervisor Lawrence

- Asked Sheriff Roper if connectivity had changed for the Sheriff's Office as much as it has for Fire/EMS? Sheriff Roper stated it had changed a little bit, but not nearly as much as it has for Fire/EMS. Sheriff Roper further clarified that the Sheriff's Office installed repeaters in its vehicles a number of years ago.

H. General Fund Balance Transfer

2021-12-13 Summary: The Finance Committee recommends the transfer request of \$100,000 from Fund Balance Designation to the Self Funded health Insurance Fund to handle monthly variations in revenue received and expenses paid.

2021-12-21 Action: Brenda Bennett explained the transfer of \$100K would help to handle the variations that happen during the course of the month between the revenue received and the claims and expenses paid out. Depending on the timing of payroll, this would help create a cushion.

Supervisor Catlett moved to approve the transfer of \$100,000 from Fund Balance Designation to the Self Funded Health Insurance Fund. 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. Bills and Claims

2021-12-13 Summary: The Finance Committee recommends approval of the bills and claims as submitted

2021-12-21 Action:

Supervisor Bass moved to approve the bills and claims 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

J. Standing Reports

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

2021-12-21 Action: Information Only

16) Joint Administrative Services Board Update

Brenda Bennett explained the following:

- The Joint Administrative Services Board did not meet in November but did meet on December 20th and reviewed proposed changes to the Purchasing Policies and Procedures document.
- The proposed changes include:
 - Increases to purchasing thresholds,
 - Minor procedural changes
 - Code updates
 - Proposed to the handling of surplus auction items
 - Travel, Meal, and Reimbursement Section to include
 - Shift to per diem reimbursement for employees over the current actual expenditure reimbursement
- Those proposed changes will come to this Board as well as the School Board at the January meeting for approval.

17) Government Projects Update

Chris Boies provided the monthly project update:

- The Potomac Appalachian Trail Club (PATC) is nearing completion of the Kohn cabin renovation and has already started taking reservations in January. Early reservation activity shows that this will be a popular destination. The PATC did a great job renovating the structure, and hopefully, we will be able to take the Board on tour sometime soon. This project was made possible by the hard work of the PATC volunteers and Alison Teetor.
 - o Supervisor Bass inquired into the total acres. Chris Boies stated it was 50 acres.

- Vice-Chair McKay asked what was done with the pond. Chris Boies clarified it had corrected itself, and there have been no problems with it.
- Northwestern Community Services is currently going through the licensing and credentialing process to open their office beside the School Board office. Things were delayed because of a delay in receiving a handicapped-accessible ramp for the structure. They are interested in doing an open house at the end of January and hope to serve clients by February.
 - Chair Weiss asked that the School Board be included in the Northwestern Community Services tour of the new building.
 - Staff will work to coordinate a visit.
- Discussions with Frederick Water have gone well thus far. Their attorney is working on a proposed operating agreement that will stipulate how and where they can operate in Clarke County. Once we have received the draft document, Staff will conduct a review as well as Mr. Mitchell. It should come to the Board in early 2022.
- As you know, we received very good news last week on our VATI application. I have reached out to Brandon Davis, the executive director of the regional Commission, on the next steps. He is expecting to receive a grant contract from the Department of Housing and Community Development. That contract will likely spell out what each governing body must do to participate in the program. He is expecting that we would have things ready for the February Board meeting, but we will know much more once we receive further instructions from the Department of Housing and Community Development.
 - Supervisor Lawrence asked if there was a way to get closer to the top of the list. Chris Boies opined that he believes the work will be dependent on Rappahannock Electric.

Chair Weiss

- Asked if there had been any headway on the gutter repairs and landscaping. Chris Boies conveyed that Joey Braithwaite, Director of Maintenance, had been having problems getting vendors to bid on the project. There are concerns because there is no support structure behind the efface to nail anything to. A lift was rented to bring out contractors to go up and inspect the structure. Believes it will be a total replacement of the gutters because they are not working, adding that there is concern on what to affix the new gutter to. One vendor pointed out a lot of the gutter is standing up because the downspout is holding up the weight of the gutter.

- Supervisor Lawrence suggested the landscaping needs something taller to replace the removed bushes.
- Chair Weiss requested something with color that changes with the seasons.
- Vice-Chair McKay suggested hiring a company to assist with this.
- Noted a down tree at the convenience center needed to be cleaned up as well as some stake replacements needed for some of the newer plantings.

18) Miscellaneous Items

None added to the December 21 meeting.

19) Summary of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Set Public Hearings for January 18, 2021, for Ag & Forestal District Renewal and Budget Amendment.	Chris Boies
2.	Send revised EOP to VDEM	Chris Boies
3.	Update www.clarkecounty.gov with the Waterloo Incentive Program Continuation	Chris Boies
4.	Process Personnel Appointment letters and update the database.	Tiffany Kemp
5.	Process Supplemental Requests	Brenda Bennett
6.	Transfer \$100,000 from Fund Balance Designation to the Self Funded health Insurance Fund.	Brenda Bennett
7.	Process Approved Minutes for November 16, 2021, Special Meeting Minutes, November 23, 2021, Regular Meeting Minutes, and November 29, 2021, Legislative Priorities Meeting Minutes	Tiffany Kemp

20) Board Member Committee Status Reports

Supervisor Matthew Bass

- Board of Septic and Well Appeals
 - Did not meet.
- Library Advisory Council

- Is excited to welcome Walker Thomas at the next meeting.
- The library is giving out COVID-19 tests, which are going very quickly. These were given to the library by the state for free to give out to the public.
- Clarke County Litter Committee
 - Did not meet.
- Planning Commission
 - Continue to work on the Comprehensive Plan update. No major changes.
- Josephine School Community Museum Board
 - Credited Alison Teetor and Maral Kalbian for pushing through an application for a no-match grant to do brick and mortar repairs.
- Legislative Updates
 - Public Libraries are now giving out at-home COVID-19 tests.
 - Pay raises in the budget proposal for teachers adding it appears Counties will have to match.
 - Chair Weiss noted that Delegate Gooditis was putting forth a bill in relation to Nutrient Credit Banks.
- Northwestern Regional Adult Drug Treatment Court Advisory Committee
 - Will be reviewing the procedural steps for removing someone from the drug court were cumbersome and, at the time, not fair to the participant. Those will be examined to see how to streamline the process. Overall the program is succeeding.
 - Vice-Chair McKay asked what success rate is ideal? Supervisor Bass responded that Drug Court is geared as a deterrent to jail, adding that the goal is to have more people succeed at Drug Court than fail.
- Northwestern Regional Juvenile Detention Center Commission
 - Meeting Cancelled.
- Sheriff Office
 - Welcomed new deputies and thanked them for showing up at the meeting.
- Town of Berryville
 - The Christmas Tree lighting was well attended.
 - Two (2) new officers were welcomed and received their accreditation.

Vice-Chair Bev McKay

- Berryville-Clarke County Joint Building Committee
 - Did not meet.
- Northern Shenandoah Valley Regional Commission

- Did not meet.
- Town of Boyce
 - Went to the tree lighting and was amazed to see how many people attended. The event was moved inside due to cold winds and temperatures.
 - A town picnic was held. Thanked Chris Boies for attending. Had a large crowd in attendance.
- Clarke County Sanitary Authority
 - Working on getting their arrears caught up from the time during COVID-19 when water could not be shut off.

Supervisor Terri Catlett

- Career and Technical Education
 - Met for the first time this school year.
 - Discussed Agricultural Programs
 - Planning an outing day for 5th graders at the fairgrounds to see different animals and get kids excited about Ag programs at the middle school.
 - The Small Engine Program is now an accredited program by the Engine and Equipment Training Council.
 - The switch from Block Scheduling to the full 8-classes a day is going well.
- Clarke County Historic Preservation Commission
 - The court case regarding the setback issue with the White Post property is scheduled for December 22.
- Clarke County Humane Foundation
 - Hosted a picture with Santa day on December 19.
- Conservation Easement Authority
 - Decided against changing the acreage requirements.
 - A representative from Piedmont Environmental Council spoke about background work on the deed work when putting a property into Conservation Easement.
 - It appears Smithfield should close in January 2022. Thanked Alison Teetor for her hard work on this.
- Parks & Recreation Advisory Board
 - Did not meet.
- School Board
 - Recognized numerous student-athletes
 - Has had some Covid cases in the school system.

- Village of Millwood
 - Had a nice tree lighting for the holiday season.
- CPMT
 - Heard from Katherine Webster today.

Supervisor Doug Lawrence

- Berryville-Clarke County Joint Committee on Economic Development and Tourism
 - Did not meet.
- Board of Social Services
 - The "Angel Tree" was well supported this year.
 - Heard from Jennifer Parker and Katherine Webster about the Children's Services Act.
 - Board made and delivered food for Staff which was appreciated.
- Broadband Implementation Committee
 - Waiting on instructions regarding the Broadband project. Chris Boies suggested sending any questions constituents have to: <http://fiber.allpointsbroadband.com> for information regarding the project.
- Regional Jail Authority
 - A letter of complaint was sent out by an anonymous employee.
 - The Governor's office put out a good increase for Sheriff's Offices and Jails in the proposed budget.

Chairman David Weiss

- Berryville-Clarke County Joint Committee on Economic Development and Tourism
 - Did not meet.
- Industrial Development Authority
 - Met and went over basic information.
 - Continues to support the Lord Fairfax Small Business Development Center with a \$6,000 donation each year.
- Attended the American Legion Annual Dinner

21) Closed Session

No closed session scheduled.

At 4:11 pm, Chair Weiss recessed the meeting.

Evening Session:

Board Members Present Afternoon Session

Matthew E. Bass - Berryville District
Terri T. Catlett - Millwood / Pine Grove District
Doug Lawrence - Russell District
Bev B. McKay - White Post District
David S. Weiss - Buckmarsh / Blue Ridge District

County Staff Present

Chris Boies, Jeff Feaga, Cathy Kuehner, Brandon Stidham, Alison Teetor

Constitutional / State Offices / Other Agencies

Sheriff Anthony "Tony" Roper

Press

None

Others Present

Mason Allen – District Environmental Health Manager, Jim Davis – Clarke County Senior Environmental Health Specialist, Jeff Hinson – R.E.C., Frank Lee, Jennifer Lee, Michael Lupton – Robinson, Farmer, Cox Associates, Bob Marshall, Tressa Reuling, Mark Taylor, and Bill Waite,

At 6:32 pm, Chair Weiss reconvened the meeting.

Chair Weiss requested to move Item 25 – 2021-23R Resolution of Recognition and Appreciation of Alison Teetor after the citizen comment portion of the agenda.

By consensus, the Board moved Item 25 – 2021-23R Resolution of Recognition and Appreciation of Alison Teetor after the citizen comment portion of the agenda.

22) Citizen's Comment Period

No citizens appeared to address the board.

23) 2021-23R Resolution of Recognition and Appreciation of Alison Teetor



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 RECOGNITION & APPRECIATION OF ALISON TEETOR
2021-23R**

WHEREAS, Ms. Teetor was initially hired as a geographic information system (GIS) specialist in February 1990 and became the County’s natural resources planner in January 1991; and

WHEREAS, she has served for the past thirty years as the County’s subject matter expert for land conservation, natural resources, and water quality and quantity planning issues; and

WHEREAS, her GIS expertise was invaluable in the implementation and growth of the County’s GIS program and the creation of mapping resources to support many County initiatives; and

WHEREAS, she was instrumental in the establishment and successes of the Clarke County Conservation Easement Authority and Easement Purchase Program which has resulted in the permanent preservation of nearly 9,000 acres of County lands; and

WHEREAS, she managed many projects and programs to protect and conserve the County’s natural and water resources including:

- the establishment of a real-time groundwater monitoring network in conjunction with the United States Geographical Survey (USGS) and development of a drought monitoring program,
- stream and watershed restoration projects to improve water quality,
- extension of public sewer service to homes in the village of Millwood where 44% of homes had unsatisfactory sewage disposal systems,
- contributions to the County’s Comprehensive Plan and component plans including continued development of the County’s Water Resources Plan,
- administration of the County’s septic and well ordinances,
- creation of an Energy and Resource Management Plan and implementation of County energy-saving and recycling initiatives and many more; and

WHEREAS, she has worked to obtain hundreds of thousands of dollars of grant funding from various sources to support conservation easement purchases, historic preservation, and projects related to watershed restoration and nonpoint source pollution remediation; and

WHEREAS, she has provided Staff support and leadership to many boards and committees including the Conservation Easement Authority, Historic Preservation Commission, Board of Septic and Well Appeals, and Litter Committee; and

NOW, THEREFORE, BE IT RESOLVED by the Clarke County Board of Supervisors that Alison Teetor be recognized and congratulated for her service and dedication to all citizens of Clarke County.

APPROVED AND ORDERED ENTERED in the official records by the unanimous vote of the Clarke County Board of Supervisors’ members assembled on the 21st day of December 2021.

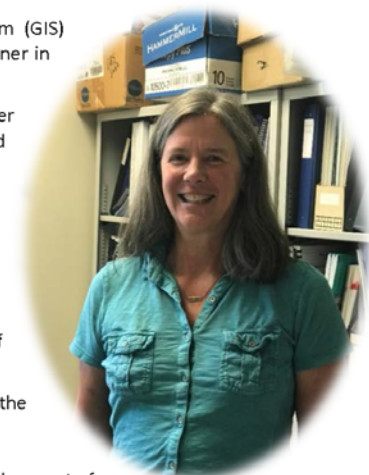
ATTEST 2021-23R

David S. Weiss, Chair

www.clarkecounty.gov

101 Chalmers Court, Suite B
Berryville, VA 22611

Telephone: [540] 955-5175



Chair Weiss moved to approve the 2021-23R Resolution of Recognition and Appreciation of Alison Teetor. 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

Chair Weiss opined that the goal is to make the County better than when we came, and Alison Teetor has accomplished just that. Adding Alison's dedication and spirit is remarkable.

Alison Teetor thanked this Board and previous Boards for the assistance and support they have given her over the years.

24) PH 2021-15: TA-21-03 Short Term Residential Rental, Home Occupation Bed and Breakfast

Brandon Stidham presented the following:



Clarke County Board of Supervisors December 21, 2021 Meeting

PUBLIC HEARING

- **TA-21-03, Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn**

TA-21-03, Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn

- Amend Zoning Ordinance §5.2B (Residential Uses) and §5.2C (Business Uses).
- **Purpose:**
 - To establish a new “short-term residential rental” use in the AOC and FOC Districts
 - To amend use regulations for home occupation bed and breakfast uses and country inns for consistency purposes across rental uses

Rental Uses Currently

- **“Short-term residential rental”** -- Rental of a portion of a dwelling (one or more rooms) or rental of an entire dwelling to a single paying customer for a period of less than 30 days
 - “Single paying customer” can be one person or more than one person renting together as a group.
 - Not currently regulated by the Zoning Ordinance and no zoning approval is required.
- **“Home occupation bed and breakfast”** – Home occupation where lodging and meals are provided for compensation for up to five (5) transient guests and maximum of three (3) guestrooms.
 - Allows rentals to more than one paying customer up to the maximum occupancy limitation.
 - Owner-occupancy is required as it is a home occupation.
 - Requires approval of a home occupation zoning permit.

Rental Uses Currently (cont.)

- **“Country Inn”** – Business offering for compensation to the public guestrooms for transitory lodging or sleeping accommodations for a period not to exceed 14 consecutive days. Maximum of 15 guestrooms. Meal service and public assembly activities are allowed as accessory uses subject to regulations.
 - A country inn is a business use that requires approval of a special use permit (SUP) and a site development plan by the Board of Supervisors following review by the Planning Commission and required public hearings.
 - Rental uses in the AOC and FOC Districts that exceed the scope of a short-term residential rental and home occupation bed and breakfast would require country inn approval.

Background

- Text amendment was developed in response to concerns about the absence of regulations for short-term residential rental activities via websites such as AirBNB and VRBO.
- Issues identified:
 - Addressing potential adverse impacts of unregulated short-term residential rental activities on onsite sewage disposal systems and groundwater quality.
 - Ensuring compliance with the Virginia Uniform Statewide Building Code.
 - Creating regulations that establish a “level playing field” for all commercial lodging establishments.
 - Developing new regulations within the existing ordinance framework.

Proposed Short-Term Residential Rental Use

- **A new “short-term residential rental” use would be created in the Zoning Ordinance with a definition and use regulations.**
- **Use would be “by-right” subject to administrative approval by the Zoning Administrator.**
- **Short-term residential rentals would only be allowed on lots in the AOC and FOC zoning districts – prohibited in RR District.**
- **Rental activities in the RR District would be permissible as a home occupation bed and breakfast use – owner-occupancy during rental periods is required.**

Proposed Short-Term Residential Rental Use (cont.)

- **A maximum occupancy of ten (10) persons per lot would be established regardless of the number of dwellings on the lot available for rental activities.**
- **Maximum occupancy includes transient guests and residents of the lot.**
- **Rental activities can be conducted in any approved single-family dwelling, minor dwelling, or tenant house on the lot subject to the maximum occupancy limitation.**
- **No requirement that the property owner be onsite during rental periods.**

Proposed Short-Term Residential Rental Use (cont.)

- **A zoning permit issued by the Zoning Administrator would be required in order to conduct a short-term residential rental use. Prerequisites to zoning permit approval would include:**
 - Confirmation from the Virginia Department of Health (VDH) that the existing onsite sewage disposal system will support the proposed maximum occupancy (transient guests and residents of the lot).
 - Confirmation from the Clarke County Building Department that the use will comply with building code requirements.
 - Issuance of a business license by the Clarke County Commissioner of the Revenue.

Review Process Summary

- **Applicant files short-term residential rental zoning permit application including:**
 - Proposed maximum occupancy including transient guests and residents of the lot.
 - Information on the onsite sewage disposal system, if available.
- **Zoning Administrator reviews application for compliance with short-term residential rental regulations.**

Review Process Summary (cont.)

- **Zoning Administrator forwards the application to the Virginia Department of Health (VDH):**
 - **VDH staff reviews the proposed maximum occupancy against information on file for the onsite sewage disposal system.**
 - **VDH staff confirms whether information is available to determine conformance to the approved maximum capacity of the system.**
 - **If information is not available or shows the proposed maximum occupancy will not conform to the approved system capacity, the Zoning Administrator will not approve the zoning permit.**
 - **Applicant will need to work directly with VDH to identify system capacity – may need to upgrade system capacity or reduce proposed maximum occupancy to a level that can be confirmed by VDH.**

Review Process Summary (cont.)

- **Zoning Administrator forwards the application to the County Building Department for building code compliance review.**
- **Confirmation from both VDH and the Building Department are required in order for a zoning permit to be issued.**
- **Issuance of a business license from the Commissioner of the Revenue Office is also required.**
- **For the life of the rental use the applicant is required to:**
 - **Maintain the onsite sewage disposal system in accordance with VDH regulations.**
 - **Maintain the business license in good standing.**
 - **Notify the Zoning Administrator of any future changes to the rental use, maximum occupancy, or approved accessory activities.**

Prohibited Activities

- **Prohibited activities at a short-term residential rental use would include:**
 - **Provision of meals to transient renters (may be allowable as a home occupation bed and breakfast).**
 - **Commercial public assembly activities such as special events, live music, weddings, meetings, conferences, and reunions (may be allowable with approval of a special use permit and site development plan for a minor commercial public assembly use, zoning permit for agritourism activity, or special event permit).**
 - **Other gatherings on the lot of persons that are not transient renters or residents of the single-family dwelling, minor dwelling, or tenant house – necessary to ensure compliance with maximum occupancy limits during rental periods.**

Changes to Home Occupation Bed and Breakfast Use

- **Maximum occupancy would be increased from three (3) guest rooms and five (5) transient guests to five (5) bedrooms and ten (10) occupants including transient guests and residents of the lot.**
- **Home occupation bed and breakfast uses are approved by zoning permit with the following changes to the prerequisites:**
 - **Confirmation from the Virginia Department of Health (VDH) that the existing onsite sewage disposal system will support the proposed maximum occupancy (transient guests and residents of the lot).**
 - **Confirmation from the Clarke County Building Department that the use will comply with building code requirements.**
 - **Issuance of a business license by the Clarke County Commissioner of the Revenue.**
- **Maximum occupancy may be further limited by onsite sewage disposal system capacity or building code requirements.**
- **Rentals are permitted in a single-family dwelling, minor dwelling, or tenant house on the lot.**

Changes to Country Inn Use

- **Maximum occupancy period would be increased from 14 consecutive days to less than 30 consecutive days.**
- **Maximum occupancy would remain unchanged at 15 rooms but may be further limited by:**
 - **The onsite sewage disposal permit issued by VDH**
 - **Maximum occupancy as permitted by building code requirements**

Application and Enforcement

- Proposed short-term residential rental regulations can be applied to existing operators who:
 - Do not have written zoning approval, or
 - Have an approved business license application noting “no zoning approval required” or similar language written by Planning Department staff
- The proposed regulations if adopted would be applied to existing operators subject to the Department’s complaint-basis enforcement process.
- To encourage voluntary compliance, Staff recommends the Board direct Staff to delay enforcement for a period of six months to establish a “grace period.”
- The delay would allow Staff to work with existing operators without having to consider them to be in a state of noncompliance at the onset of the regulations.
- As a further incentive, Staff recommends that the Board allow the \$100 zoning permit fee to be waived for operators that apply for zoning permits during the six-month grace period.

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 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.

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.**
- **Motion includes a recommendation that the Board consider delaying the effective date of the text amendment for six (6) months.**
- **This delay would provide a “grace period” for existing operators to work with Planning Department staff to comply with the proposed regulations.**
- **Further staff discussion – delay enforcement of regulations for six months**

Staff Recommendation

- **Staff has no outstanding concerns with the adoption of this text amendment.**
- **Staff supports the concept of delaying enforcement for six months to provide a “grace period” for existing operators to comply.**
- **Staff also recommends waiving the \$100 zoning permit fee during the “grace period.”**

Chair Weiss opened the Public Hearing at 6: 53.

The following persons appeared to address the Board:

Mark Taylor, Boyce, VA

- Sent an email to each of the Board members asking the exemption which applies to Shenandoah Retreat be applied to Calmes Neck Properties.
- Reiterated, he supports this and feels there is no difference between Shenandoah Retreat and the subdivisions which make up Calmes Neck Property Owners Association.
- Both subdivisions are roughly 60 years old. Calmes Neck's first property was sold in 1960; there were four (4) developers, and many of the homes are every bit as close as they are in Shenandoah Retreat, Millwood, and White Post.
- Concerned that there is no discussion on the impact of the FOC district. Within the last month, there was a one (1) acre fire on the Lewis property on Slate Ridge.
- There is an inconsistency that has not yet been addressed; aggressively surrendering DURs to limit density but then bringing in people in short-term renters who do not have the appreciation and skill level necessary to protect this area.
- There are three (3) subdivisions on the East side of the river, the West side of the Blue Ridge, Shenandoah Retreat, which has this exemption because of its placement in the Rural Residential. The subdivisions within Calmes Neck Property Owners Association and Shenandoah Farms, which straddles Clarke and Warren County.
- There seems to be no consideration for the impact of short-term rentals on common properties and common facilities of HOAs.
 - Tax issues – if more than 15% of the properties within an association are used as short-term rentals, tax exemptions are lost.
 - Insurance – Calmes Neck property owners are insured as an HOA for its comprehensive general liability. It is not insured as a public accommodation. It is not insured for guests, business clients, or homeowners.
 - Liability Issues – to have a short-term renter injured or killed on common facilities would be catastrophic for an HOA.
 - ADA issues – it is not clear the extent to which a short-term rental as distinct from a B&B is exempt from coverage as a public accommodation, but it is clear that facilities that are advertised, such as a recreation area, can be a public accommodation.

Bill Waite of Bluemont, VA

- Recognizes from an Airbnb perspective, there has been no official complaint on this throughout Clarke County.
- Also, Airbnb has its own rules about enforcing parties and some of the things that are of concern to Clarke County and other residents.
- Has given input to the Planning Committee at Public Hearing and put their input in and believe what they put forward is supportive of what they are already doing and supportive of what Clarke County has in mind to have protections in place in case there is a wild card out there doing things that are not appropriate.

Jennifer Lee of Bluemont, VA

- Supports this amendment and feels it is very important to protect the groundwater. Anything done in that vain is critical going forward.
- Operates a small Airbnb, which is in compliance, since April.
- Guests contribute to the local economy by visiting restaurants and shops when staying. In addition, guests add a lot of cultural enrichment to the area.
- They do not require the use of public services unless there is an emergency.
- The expectation of cleanliness and safety is very high. It is an incentive for people to maintain their properties.
- Provides income for owners who cannot use their property for agricultural uses or other uses compatible with the County.

Tressa Reuling of Llewellyn Farm in Berryville, VA

- Agrees with the Planning Commission's purported goal to protect and preserve the integrity of the County's groundwater as any untoward effects that an unregulated rental might cause.
- To that end, the proposed regulations and requirements all make sense; however, the limitation on the number of guests that can occupy a parcel has created the, I assume, unintended consequence of discriminating against large property owners and thus dissuading them from keeping large parcels of land intact.
- This is in direct contradiction to what the County has been trying to accomplish for decades.
- Their land was purchased 50-years ago; operating a large farm is a very expensive endeavor. The Airbnb I operate covers almost half of the overhead of the farm and allows many improvements to be made.

- The income received from Airbnb rentals is essential to many who operate short-term rentals.
- Through Airbnb, Ms. Reuling rents five (5) bedrooms to a maximum of 10 guests. The property has up-to-date septic systems and can meet all the licensing requirements, but under the proposed regulations, many large landowners would not be permitted to operate a short-term rental. This is because the number of guests permitted on a parcel of land includes permanent residents.
- Our farm has four (4) homes on 325-acres. The seven (7)-main bedroom house is occupied by the owners. Two (2) tenants live in a four (4)-bedroom house, another two (2)-tenants occupy another four(4)-bedroom house, and one (1)-tenant occupies a three (3)-bedroom house for a total of seven (7) permanent residents.
- Under the proposed regulation, we would be allowed to rent to a maximum of three (3) guests, or if the farmworkers are working, we would be limited to one (1) guest.
- An alternate option would be to build out on our nine (9) DURs, and easily triple the number of permanent tenants or subdivide the property. We are not willing to do any of these things because we want Luellen to remain intact as an operating farm; however, not all landowners have that option.
- But, a property owner who does not live in the area could own numerous, inexpensive homes on very small plots of land and rent them very cheaply on a nightly basis because they would not have the overhead incurred by owning a large farm.
- This invites speculators who are not invested in the welfare of the County, as well as guests without the means to contribute to our economy.
- She is selling Luellen in the near future but feels some of the measures can be problematic and harmful to the County in the long run.

Karen Taylor of Boyce, VA

- President of the Calmes Neck Property Owners Association.
- Congratulated Alison Teetor for her 30-year achievement and noted her appreciation of her service to the County.
- Noted she is supportive of the Board's addressing of short-term rentals.
- The biggest concern is the licensing issues. Can we verify that all properties operating short-term rentals are following all rules?

- Is finding, some short-term renters tell their renters to tell the community they are guests, friends, or relatives.
- There are 33 full-time residents of Calmes Neck. In addition, 19+ part-time residents, and there are undeveloped lots.
- Since Covid hit, I have been getting calls several times a week asking about short-term rentals because people want to buy a second home in the community for the purpose of short-term rentals to help pay for the second home.
- The full-time residents do not want to take on the burdens of short-term rentals to help others pay for their second home.

Chair Weiss closed the public hearing at 7:15 pm.

Supervisor Bass

- Informed all in attendance that he is on the Planning Commission.
- Submitted the following for the record:
- "I understand that there are some people in the community who might wonder why Clarke County feels the need to regulate short-term residential rentals, and perhaps some on this Board as well. However, it is true that to date, we have not faced a significant public outcry for such regulation. Generally, I am not in favor of overregulation. That said, in my mind, there is significant evidence, for example, in our currently robust housing market that the country life we are blessed with is increasingly in demand. For better or worse, the last two years have seen the pandemic-driven gravitational shift towards privacy. When traveling or vacationing, people seem to prefer the private setting of an Airbnb over the relative bustle and close proximity of a hotel. At least partially as a result of that phenomenon, a number of Airbnb's, and I use that term to encompass Airbnb and similar businesses such as VRBO, have popped up across the County. While we have not received a steady of complaints about these operations, the anecdotal evidence is there. Some advertise properties are aging with little known about their septic capacity or structural safety, especially when subjected to a large number of people over a short period of time. While other properties are newer, they may still face similar issues, particularly with regard to septic capacity. Moreover, there is something to be said for creating a level playing field for those engaged in the business of logic, not only as between aging and newer properties but in the greater context of those who lawfully operate Bed and Breakfasts and Country

Inns which are currently regulated under County ordinances. On the note of business, if the County does not have some control mechanism over these entities, we stand to lose an untold amount of potential Transient Occupancy Tax that can support our revenue stream. This tax applies to the aforesaid out-of-town visitors who come to our County and then go home. The reason the Board previously voted to increase the amount of Transient Occupant Tax from 2% to 3.5% is that 1) the State finally let us do so after years of requesting the authority, and 2) we recognize the potential value of in taxation based revenue generation that would not simultaneously overburden our own citizens. That is not always an easy combination to find. Undoubtedly, not every Airbnb operator will come into compliance with the proposed regulations, but the hope and object are that some, or perhaps even a majority, will do so. This will help the County Building and Health Departments maintain oversight with respect to building code and septic ordinance and enforcement, thus ensuring safer and environmentally sound visits to our County. Likewise, the regulations may actually save some property owners from septic system failures and building or fire code issues. Particularly those operators from more urban areas who may not be familiar with the septic system capacity and maintenance. And, as I said, it will hopefully help additional Transient Occupancy Tax revenue as well. All of these topics I can assure you and more, including whether or not County Staff would be overly burdened with enforcing the ordinance, and indications were that they would not, on a complaint basis, were vigorously debated at the Planning Commission level over the last couple years, beginning well before I joined the Commission. So, I think the Planning Commission, some of who are in attendance tonight, and County Staff for the hard work and thorough, thoughtful manner with which they approached this issue. Admittedly, it is a complicated one with no easy one-size-fits-all solution. Primarily, for the foregoing reasons, I support the proposed regulatory framework. Lastly, let it be noted that we do not seek to discourage short-term residential operators from doing business in Clarke County; on the contrary, we welcome them and the visitors they seek to attract. We hope they continue to come and enjoy all we have to offer as a county; however, I believe we must balance their business with the safety of those within our borders, citizens, and visitors alike, and the environment we treasure as part of our country life in this beautiful County of Clarke we are blessed to call home."

Supervisor Catlett

- Pointed out those with large farms and have numerous tenants full-time cannot use the available home on the property to its full potential because of the full-time resident's limitations. Feels it is making some have to jump through additional hoops. Chris Boies clarified the Board of Supervisors could set the number of max occupants for the property. The number set for the structure is in the building code and is ten (10). That is a number that cannot be messed with, but the Board can determine the number it feels is best for the parcel. The Board is not inhibited by any State code. Brandon Stidham confirmed the number ten (10) is used for its relevance to the Building Code Use Change; it is not a number picked out of thin air. Chair Weiss further clarified, and Brandon Stidham confirmed it is a number for one (1) dwelling, not one parcel.
- If this is complaint-driven, how would the enforcement work? Brandon Stidham clarified that presuming his office received a complaint regarding an Airbnb without proper zoning permits, and evidence would be needed to issue a notice of violation and begin an enforcement action against the property owner, which will be challenging. The fact that they are advertising for rentals alone is not evidence they are conducting a rental. Assistance will be needed from the individual making the complaint to build a case and prove there are rental activities going on without approval. Enforcement will always be a challenge, and Staff will have to rely on adjoining property owners and what evidence they can come up with. Evidence could include photographs, videos, cars in the driveway with out-of-state license plates, large numbers of people on the property, etc.

Vice-Chair McKay

- Understands Calmes Neck's concerns and recognizes some farms have multiple homes with full-time residents and feels that should be addressed for any property with that problem.
 - Chair Weiss iterated the Board sympathizes with the thought but is unsure if there is an appropriate way to do that legally. Brandon Stidham stated exempting an area was not vetted in the review process.
- Further asked if a sliding scale could be created using the example, if a property had 200 acres, it could have 12 tenants or 500 acres it could have tenants up to 14 – something along those lines. Brandon Stidham stated the

directive was to come up with as simple and direct a set of regulations as possible. If Staff were to try to come up with an increment of how to measure where the tenants can be, the boundaries of the lot records are the only ones that make sense; otherwise, there is no way to control where the people end up if there are multiple houses that can be used on a lot at any given time.

- Asked if a Special Use Permit for a Country Inn could be used for a property with multiple homes, the owner lives in the main house and has multiple homes. Brandon Stidham clarified that a Special Use Permit for a Country Inn has a maximum of 15 guest rooms, so yes, you can have a single-family residence and accessory dwellings on the property too. It is a legislative act by the Board as opposed to an administrative act for approval, which allows that to be vetted through a public hearing process. That and the fact that a site development plan is required is the difference with a Country Inn.
- What are the costs associated with doing a Country Inn? Brandon Stidham said he was unsure off the top of his head. However, he did note it was a fixed fee for the Special User Permit application of \$2,500 and a Special Use Permit and site plan review fee that goes along with it as well. Adding, the Board would have more control over a Special Use Permit than a Zoning Permit.

Supervisor Lawrence

- Asked if HOAs can outlaw short-term rentals? Brandon Stidham stated he could not answer that question, adding restrictive covenants in neighborhoods, and HOAs are a separate body of law from zoning law and do not usually intermingle. Shenandoah Retreat is zoned Rural Residential primarily because most of the lots were campground size lots. The vast majority are under an acre in size, roughly the minimum lot size in the Rural Residential District. It's also not subject to sliding scale zoning. If Calmes Neck were rezoned Rural Residential, that would take the sliding scale zoning system off the map, and those lots could be further subdivided.
- Asked Brandon Stidham what the arguments for and against counting tenant houses on a large property with multiple homes?
 - Brandon Stidham stated the Planning Commission worked through the concept that the occupancy should be driven by building code requirements and the capacity of the septic system on site. It was recognized that you might have a single-family dwelling that can support more than ten (10) occupants, or there may be multiple dwellings on a property that qualifies for rental use – maybe they share

a large draining field, or perhaps they have separate drain field, but all together they can have more than ten (10) occupants at any one point in time. The Planning Commission's recommendation to cap that for short-term residents at ten (10) occupants, if a proposed rental wanted to exceed ten (10), they wouldn't be prohibited from doing a rental use. They would just have to apply for a Special Use Permit and site plan for a Country Inn.

- Chair Weiss asked why we don't stipulate one license per lot, farm, etc. Why regulate houses that are not Airbnb's? Brandon Stidham clarified that the point was to tell how many people were on the lot at any given time. It was an essential point to the Planning Commission, noting that you could have way more people on the property; it may be easier where you have a situation where the tenant houses are occupied by permanent residents, maybe less so when all of the structures on the property are available for rent. Understanding where everyone is going to be and is everyone at one location overloading the septic system or will they be spread out like they are supposed to be.
- Ask for clarification to at which point the building inspector is brought into the picture. Brandon Stidham stated the Building Department would be routed all copies of applications received for short-term rentals at the same time we route them to the Health Department. Primarily, occupancy with the maximum of ten (10) we wouldn't have the use change issue, but there may be other building code issues that they identify in their review that would then be addressed directly with the applicant, adding they would not be doing an onsite visit at this point unless there is something requiring remediation by getting a building permit and doing some corrective actions.
- If a person came in and applied for a permit that had a note by the assessor during the last assessment that the homeowner had built something without a permit, what would happen in that situation? Brandon Stidham stated that it would be a completely different issue. If the owner built a structure and is housing guests, that is not an approved rental. That would be considered a violation of their zoning permit because they have approval for a rental in the approved structure; by adding another structure without permits to house additional renters, their zoning permit could be revoked.

Chair Weiss

- Asked and Brandon Stidham confirmed, if the zoning were changed, you would have to increase the density to call it Rural Residential.
- Asked if there is a way to stipulate X house on X lot is going to be used for an Airbnb. If the owner violates that, then they are in violation of their application and could be held accountable? Brandon Stidham stated that under the text amendment and how he understands the question, you will have to account for the other residences on the property and how many occupants will be in those structures during the rental period and determine the maximum occupancy. It could be done by basing rental capacity on the septic system capacity. The zoning Administrator would have to make a notation on the zoning permit that rental activities are not allowed on, for example, the Main House, Tenant Houses A, B – only at Tenant House C can be used for short-term rentals.
- Reiterated that he supports the concept of trying to get a handle on Airbnb's and making sure they are safe and appropriate and not harming our direct groundwater, these are things currently being covered by State law. If you have a failing drain field, there is a process. Not opposed to enhancing this, he believes the Staff and Planning Commission has done a good job of trying to create a system by which we do that; we are still chasing something he is not sure we need to chase and not sure what will happen when we catch it. Particularly, the idea of a ten (10) person limit on a property, whether it is 3 acres or 300 acres, does not make sense. If we are worried about drain fields and groundwater contamination, and buildings, we ought to be worried about. Suggests doing away with the ten (10) person limit per lot because you have all the other safety precautions in place.
 - Supervisor Lawrence believes the Planning Commission is worried that a family will rent multiple homes on a property, but all end up in one location for meals putting undue strain on the system at the house everyone congregates at. Chair Weiss pointed out a weekly family gathering can cause the same stress on a system as a rental with ten (10) people.

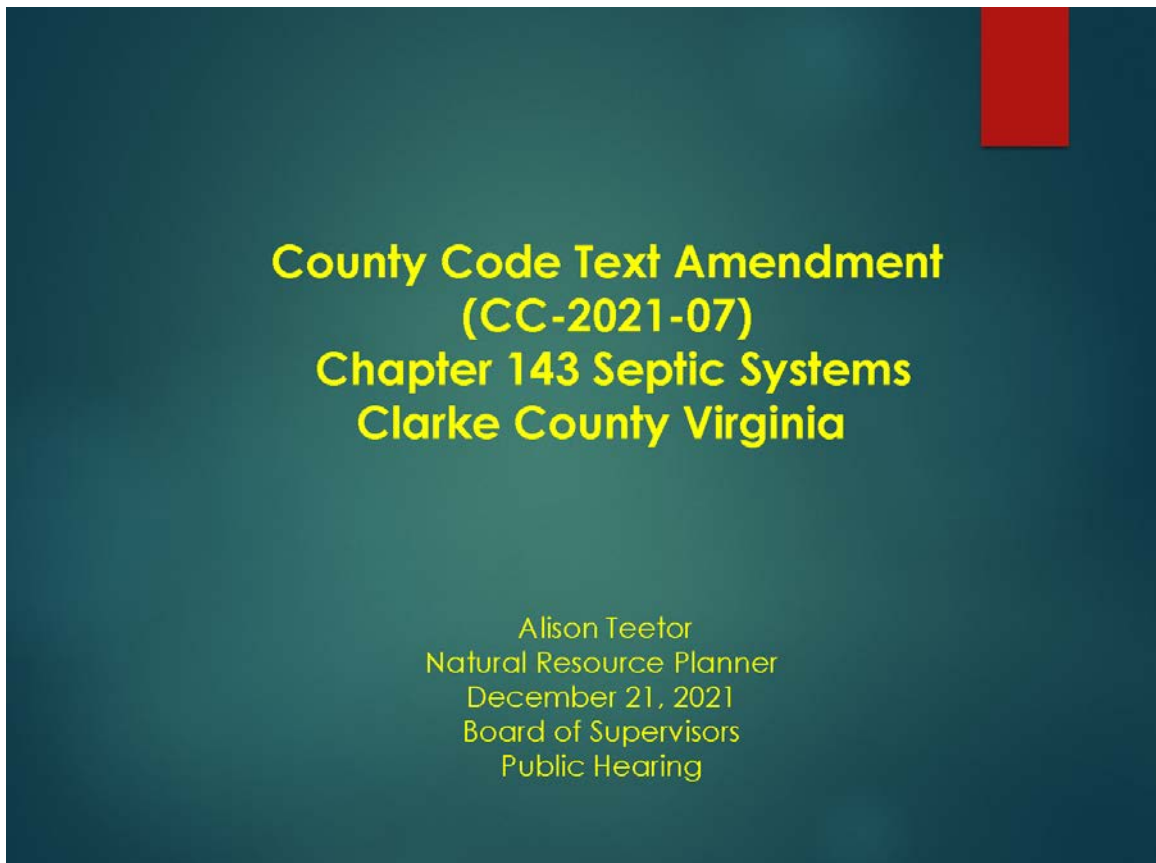
Brandon Stidham suggested the Board table the discussion. He will work on a staff report for the January meeting to go over what would happen if the ten (10) person limit were removed and let it be driven entirely by the septic system capacity for each structure that is being used as a rental.

Vice-Chair McKay moved to defer action to January 18, 2022. Chair Weiss instructed Staff to provide an opinion on removing the ten-person limit per lot and address the difficulties the Calmes Neck Community faces and how the County can assist in those concerns. 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

25) PH 2021-16: CC-2021-07 Chapter 143 Septic Systems Proposed Revisions

Alison Teetor presented the following:



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

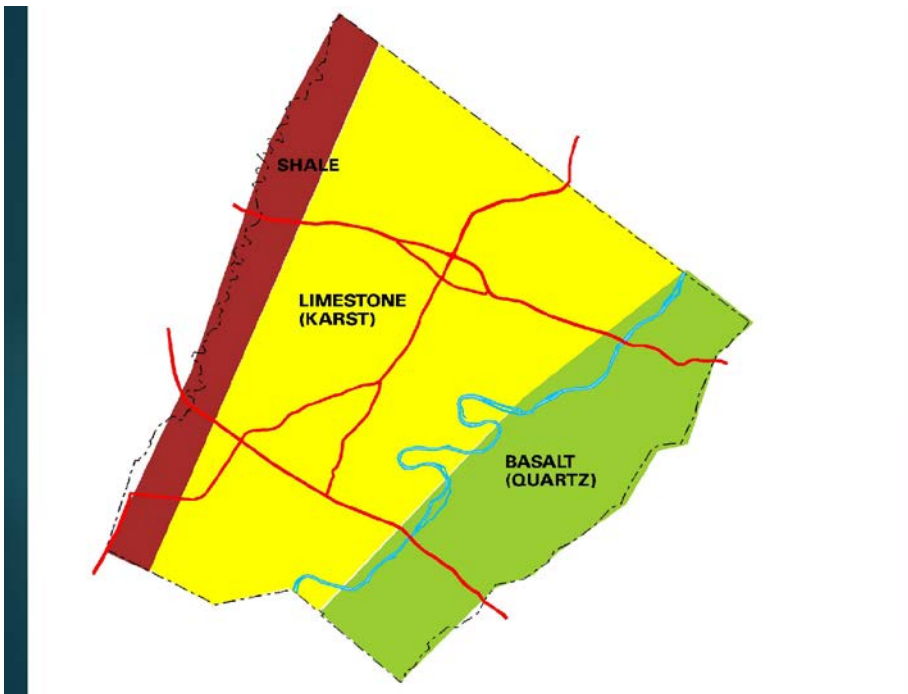
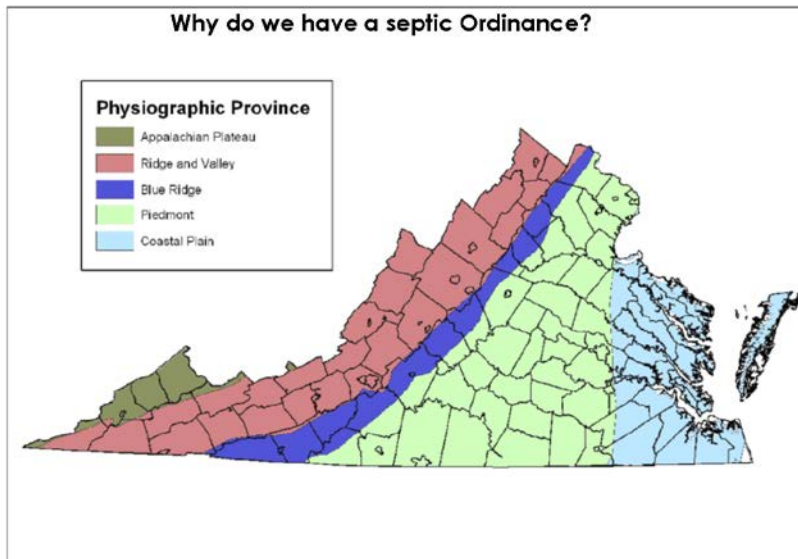
GROUNDWATER PROTECTION PLAN

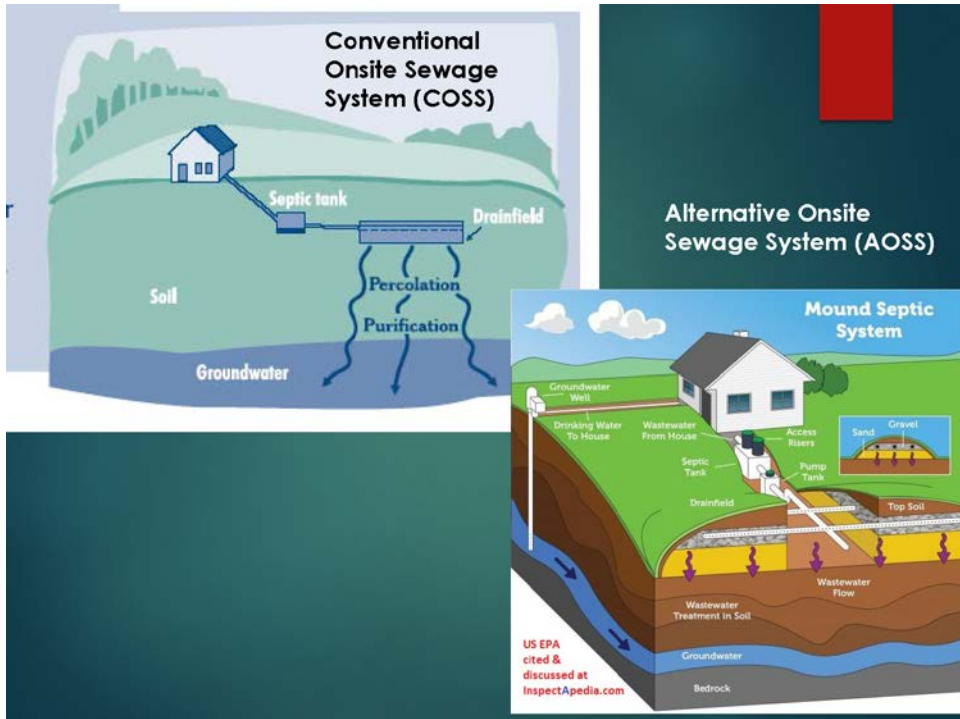
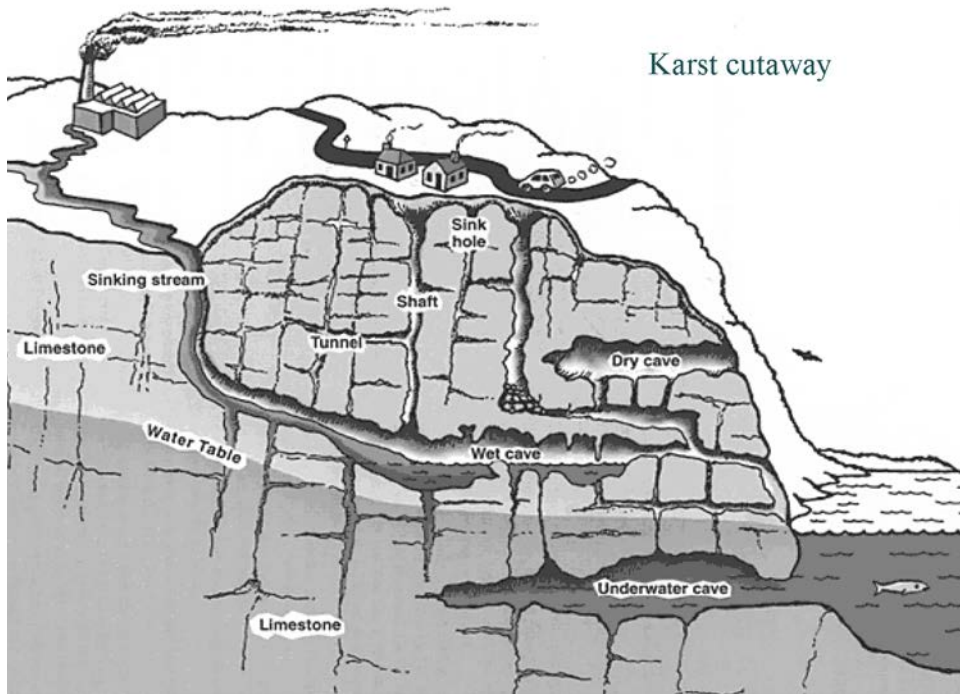
Adoption:

- 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...”

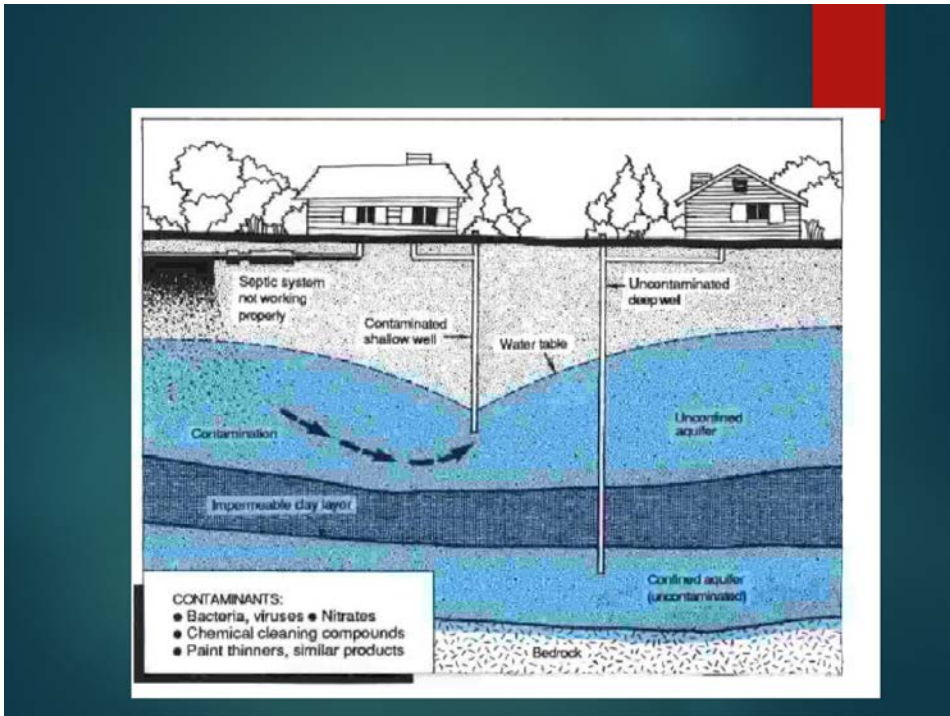




Alternative Onsite Sewage System

"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
- ▶ 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), and Rob Charnley, OSE, Cloverleaf Environmental.**
- ▶ **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 – and are in attendance to answer technical questions**
- ▶ **No legal objections**

Updated Changes

- ▶ Updates based on worksession comments
 - ▶ Added descriptions of acronyms
 - ▶ Ex. DPOR – Department of Professional and Occupational Regulation
 - ▶ Revised privy section to require permits for use along Shenandoah River only

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 changes
- ▶ No adverse impact to property owners

Changes by Section

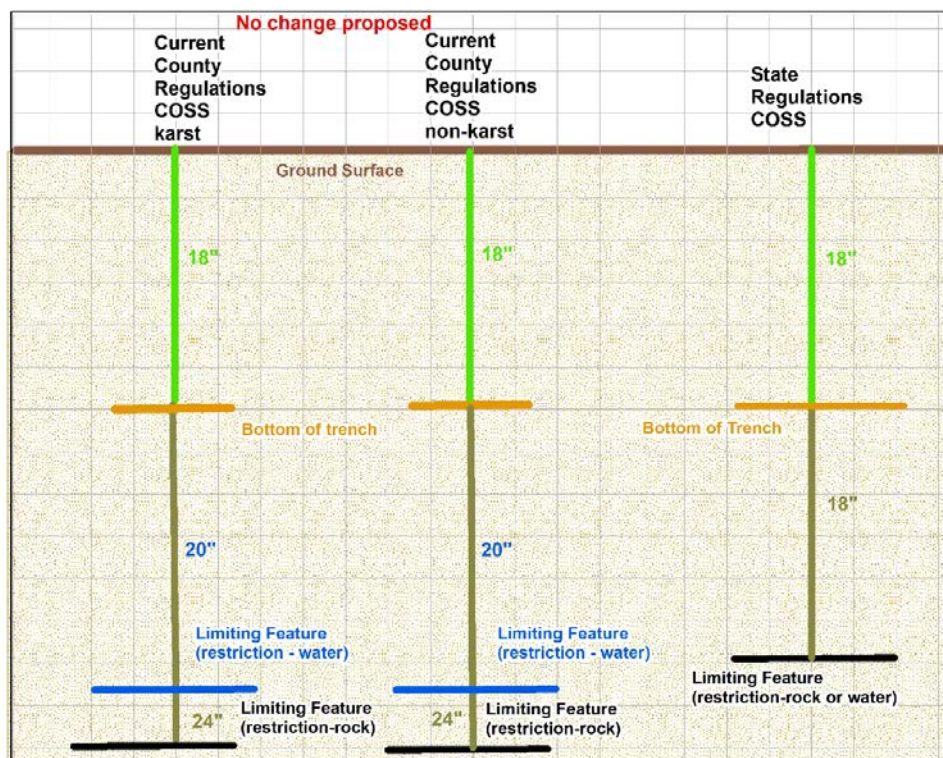
- ▶ 143-1 - moved intent to beginning of Ordinance, added language from Loudoun and paragraph 2 as recommended by Bob Mitchell
- ▶ 143-2 Definitions – added from Loudoun's ordinance, updates from Bob Denton related to resistivity testing
- ▶ 143-3 Approved method of Sewage Disposal from Loudoun, added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

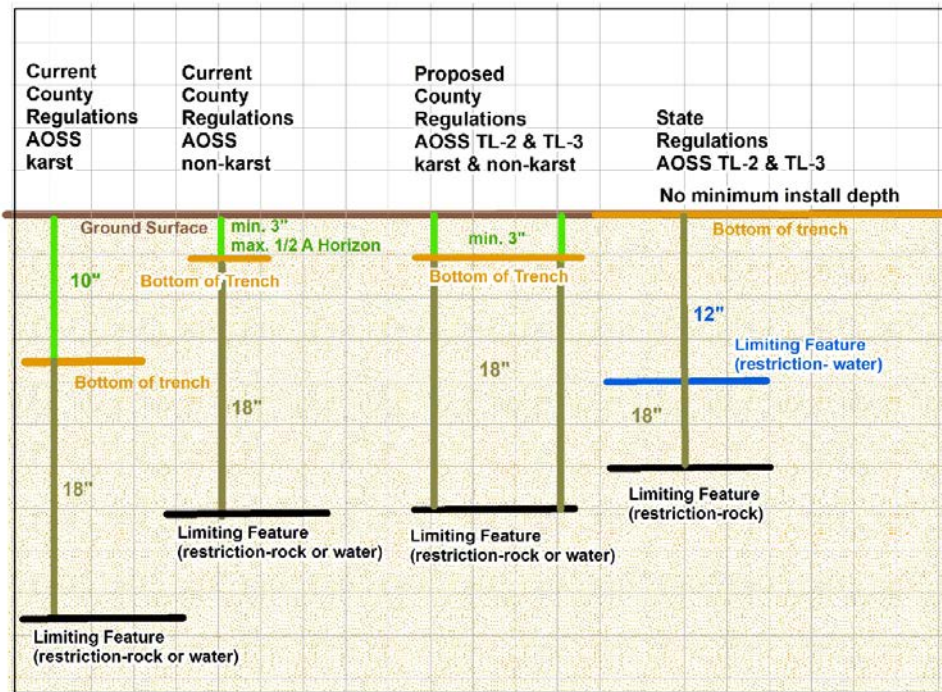
Changes by Section

- ▶ 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
 - ▶ Design and Installation – require removal of all woody vegetation from soil absorption area
 - ▶ Amended section on Privies to require permitting only along the river
 - ▶ 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

Questions???

Supervisor Bass

- Asked what the rationale behind the prohibition on mass drain fields. Alison Teetor responded they are large systems used in areas that are not certified public sewers that may be able to accommodate a large facility such as a hotel or shopping center. In Clarke, to get a mass drain field for those types of facilities, we probably don't have the amount of soil to even accommodate that. Those types of facilities need to go where there is public sewer.

Supervisor Lawrence

- Asked Alison Teetor to remind the Board of the software available that is searchable. Alison Teetor informed the Board that a database called RME is a software program developed by Health department folks in Seattle that is

used by Loudoun County, among others. It is a cloud-based system, so anyone has access. You can identify the type of system, the inspections completed on it, any issues that have come up. Right now, it only shows parcels, but hopes to in the future have GPS capabilities.

- How would the Health Department handle a complaint about someone who has an outhouse on their property? Would that property be vested? Mason Allen responded in this type of situation, if the structure is already there and is being utilized and has been being utilized, then that is a septic system until such time that the zoning changes or regulations changes would cause the need for a change. As long as there is no sewage on the ground, there should be no issue as far as the Health Department is concerned.

Chair Weiss

- Asked if the Health Department had anything to add. Mason Allen conveyed they are supportive of the changes Alison Teetor is recommending adding this is good for the environment but also maintaining the alternative septic system. Any time there is a septic system with more components, bells, and whistles, that is when you run into more issues. Feels that having an oversight on those things and a database to keep track of that locally will ensure the safety of the environment but the citizens as well.

Chair Weiss opened the Public Hearing at 8:15 pm.

The following persons appeared to address the Board:

Frank R. Lee of Berryville, VA

- Serves on the Planning Commission, is an MAOSE and a PE.
- Congratulated Alison Teetor on her accomplishments over the last 30 years and the work done to this project.
- There is one aspect to clarify, in doing this, we are having the Health Department come by and inspect new systems, which is a fine thing and is supportive of that, but asked the Board to not be dissuaded that we are not inspecting systems now.
- There are current inspections going on, but it is left up to people like the Master Alternative Onsite Soil Evaluator (MAOSE) or an Onsite Soil Evaluator (OSE).

- Supervisor Catlett clarified if she feels there is an issue with her system, she would contact someone with those certifications? Mr. Lee confirmed and also said to contact the Health Department as they are a good source of knowledge.
- Many of the systems with someplace like an Airbnb would have to be looked at, especially the older systems, which do not have as many records and inspected to see what kind of capacities they have.

Bob Marshall of Berryville, VA

- Informed the Board he is an Onsite Soil Evaluator (OSE) since 2009 and an onsite wastewater operator.
- Has many problems with this regulation.
- Just sat in a public hearing about Airbnbs and farms trying to make a living, and at the same time, we are proposing an ordinance that will eliminate mass drain fields. You need to keep the tools you have to solve some of these problems in the community.
- Advises the Board to take its time, look it all over and reconsider the abandoning of the mass drain fields and even the discharge systems.
- Yes, the systems can malfunction if not maintained, but they have a high level of performance.
- An alternative system does not mean an inferior system or a system that has so many bells and whistles that it will break frequently.
- A conventional system is only evaluated and assessed when the tank needs to be pumped or is overflowing. An alternative system has a mandated annual inspection, so if there is a malfunction, you have someone there to fix it.
- In regards to the database and enforcement, there are civil penalties for those homeowners who don't want to get their systems inspection.
- Would like to see the Health Department get to a *[several inaudible words]* because the state database isn't accessible. The collection of data should be a high priority for this County.

At 8:23, Chair Weiss closed the Public Hearing.

Supervisor Bass stated he does not fully understand the issue of the mass drain fields and why they may be good. Mason Allen clarified that a mass drain field is anything over 1,200 gallons which fits a 4-bedroom home. If you are over 1,200 gallons a day, you are utilizing a mass drain field and that is not a huge

amount of water. Alison Teetor added the other component is the Zoning Ordinance; there is an entire section on not allowing sewage works outside growth areas. That is specifically defined in the Zoning Ordinance as not being allowed currently, so we are being more consistent to put it in the Septic Ordinance.

Chair Weiss indicated the proposed changes are consistent with what has been done historically. She continues to tighten and focus our approach on safety in relation to sewer and our water quality. Believes these are not dramatic changes. She's worked very hard with the Health Department and taken advice from Loudoun County who has a tremendous development. Feels this is a reasonable approach and a tightening and clarifying of our ordinance and supports the changes.

Vice-Chair McKay moved to approve the changes to the Code of Clarke, Chapter 143 Septic Systems 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

26) Adjournment

At 8:28 pm, Chair Weiss adjourned the meeting.

27) Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, January 18, 2022, at 1:00 pm in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

ATTEST: December 21, 2021

David S. Weiss, Chair

Chris Boies, County Administrator

Recorded by Chris Boies and Transcribed by Tiffany R. Kemp