

PRESENT: S. F. Shreckhise, Chairman
 G. A. Coyner, II, Vice Chairman
 D. A. Brown
 T. H. Byerly
 J. W. Callison, Jr.
 J. R. Wilkinson, Zoning Administrator & Secretary
 Timothy K. Fitzgerald, Director of Community Development

ABSENT: Pat Morgan, County Attorney

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, October 6, 2011, at 8:30 A.M., in the County Government Center, Verona, Virginia.

The staff briefing was held at **8:30 a.m.** in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.

VIEWINGS

The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- **James Milham, Jr., agent for Stonewall Jackson Area Council of Boy Scouts of America, Inc. - Special Use Permit**
- **Tim Grove, agent for Houff's Feed and Fertilizer - Special Use Permit**
- **Terry Argenbright - Two Year Extension of Time Request**

At each location, the Board observed the site and the premises to be utilized. The Board also viewed the development and the character of the surrounding area.

 Chairman

 Secretary

PRESENT: S. F. Shreckhise, Chairman
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Pat Morgan, County Attorney
Timothy K. Fitzgerald, Director of Community Development
B. Cardellicchio-Weber, Administrative Assistant

ABSENT: None

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, October 6, 2011, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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Vice Chairman Coyner moved that the minutes from the September 1, 2011, meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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DAVID L. GARDNER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by David L. Gardner, for a Special Use Permit to modify the size of the veterinary clinic expansion on property he owns, located at 54 Fadley Road, Weyers Cave, in the North River District.

Chairman Shreckhise asked Mr. Gardner if this is the same request that the Board granted previously except for a larger building?

Mr. David Gardner stated yes.

Chairman Shreckhise asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Shreckhise declared the public hearing closed.

Ms. Brown stated that this is a much needed service for the area and Mr. Gardner has been in business for a long time. She moved that the request be approved with the following conditions:

Pre-Condition:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.

Operating Conditions:

1. Be permitted to construct up to a 50' x 100' addition.
2. All animals be kept within the facility unless under control of a staff member or the pet owner.

Mr. Byerly seconded the motion, which carried unanimously. He mentioned that he was pleased to see this request in the North River District.

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JAMES MILHAM, JR., AGENT FOR STONEWALL JACKSON AREA COUNCIL OF BOY SCOUTS OF AMERICA, INC. - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by James Milham, Jr., agent for Stonewall Jackson Area Council of Boy Scouts of America, Inc., for a Special Use Permit to add a family campsite area with a latrine, relocate the administration/multipurpose building, relocate and expand the parking area, add staff cabins, scout-craft shelter, reconstruct campsite shelters, and have extension of time on current permits on property it owns, located at 222 Boy Scout Lane, Swoope, in the Riverheads District.

Mr. David Deering, 79 Willow Lane, Waynesboro, stated that he is here to speak on behalf of the Boy Scouts. He mentioned that Harrison Hankins from 216 Boy Scout Lane, Swoope and Julian Moffett, the Chief Executive Officer of Moffett Paving is here today also. He mentioned in consulting with the neighbors they think there is insufficient detail and scope and they would like to point out an inaccuracy of the map on how they submitted it. He would be glad to review any of the requests. He mentioned the camping area is further to the left. He stated the rise is where the family camping area

would be located. He stated that area gives more space from the neighbors. He stated they want to keep the parking area as natural as possible. He stated there would be no lighting. He mentioned the Boy Scouts are requesting five (5) years to complete these items but it would all depend on adequate funding. He stated the multi-purpose building will be located in the parking lot.

Chairman Shreckhise stated the Board reviewed the request. He stated they did a magnificent job of showing the Board around. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. John Sills mentioned that he is here to speak on behalf of Wendy Higginson and the Hannas who own adjacent property. Mr. Sills mentioned that subject to the Boy Scouts providing them with additional detail, they have no objection to this request. He stated they would like to see the dimension and the parking area location and camping area. He stated the family camping area is much smaller and in a different location. He stated they think everything will be fine once they see that information.

Chairman Shreckhise asked if there was anyone else wishing to speak in favor, or in opposition to the request?

There being none, Chairman Shreckhise asked if there was further comment from the applicant.

Mr. Deering stated they do not want to guesstimate. He would like to give an accurate description and proper placement. He asked if the proposal would be acceptable conditionally for thirty (30) days until they submit the revised plans.

Mr. Wilkinson asked typically the Board would table the request for thirty (30) days.

Mr. Deering stated that thirty (30) days would be fine. He hoped that the request would get approved rather than go before the Board again. He will provide the information to Mr. Wilkinson. He mentioned that he does not want their current Special Use Permit to expire.

Mr. Wilkinson stated this is a pending matter before the Board, therefore, the current permit will not expire.

Chairman Shreckhise declared the public hearing closed. He stated that it is best that the Board look at the exact size and locations of the parking lot and camping area. He stated that this will give the applicant time to confer with the neighbors.

Vice Chairman Coyner moved that the request be tabled until the November 3, 2011 meeting.

Mr. Callison seconded the motion, which carried unanimously.

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PATRICK C. RODGERS AND STEPHEN HUFF, AGENTS FOR SHENANDOAH MOUNTAIN OUTFITTERS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Patrick C. Rodgers and Stephen Huff, agents for Shenandoah Mountain Outfitters, for a Special Use Permit to continue to have private guided hunting and fishing, bird dog training, kennel, and private retreat/outings on property owned by C. Rodgers Huff, Trustee and Etal, located at 425 Shenandoah Mountain Drive, West Augusta, in the North River District.

Mr. Patrick Rodgers stated that he is one of the agents for Shenandoah Mountain Outfitters. He stated they actually opened last year because they did not get a chance to hunt the previous years. He asks that the Board extend his permit to operate as a game preserve. He also would like to add additional time on the camping so that they are permitted to camp in the middle of the week. He mentioned twenty (20) campers would be a better number especially with the Christian retreats.

Ms. Brown asked how many days per week would he have campers onsite?

Mr. Rodgers stated they hope to have a couple a month. He stated the guided hunts are limited to during the weekdays.

Ms. Brown asked what is done at the Christian retreats?

Mr. Rodgers stated the retreats are for men and youth. He stated they teach fly fishing and other skills as well as paintball with the kids. He stated they have a wide variety of activities. He stated the camping and retreat part will take place at their location.

Chairman Shreckhise asked if there is anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Shreckhise declared the public hearing closed.

Mr. Wilkinson stated this is a new application. He would like to continue the operation. He mentioned the Board permitted camping only on weekends with the previous permit.

He stated the applicant is requesting to have camping permitted Wednesday through Sunday.

Chairman Shreckhise asked about the days of operation?

Mr. Rodgers stated that he would like to operate for the week. He only has tent camping.

Mr. Wilkinson stated the previous permit allowed for ten (10) people and only on weekends.

Mr. Rodgers is asking for twenty (20) campers for the retreats. He stated with the guided hunting they will only have a couple times a year. He stated the hunting remains the same. He would also like to be able to camp all week. He would also like the permit to be permanent instead of coming back before the Board every five (5) years.

Vice Chairman Coyner asked about the dogs at the site?

Mr. Rodgers stated they train working dogs.

Mr. Byerly stated this is a logical request for that particular area. He asked if twenty (20) campers would be adequate? He stated the applicant is requesting to hunt all week long and camp any day.

Mr. Rodgers stated that more than twenty (20) campers would be great.

Mr. Byerly stated that he has no problem granting twenty-five (25) campers.

Ms. Brown stated neither does she.

Mr. Byerly moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. No hunting within seventy-five (75) yards of property not owned by the national forest.
2. Groups of customers for the guided hunting, fishing, and dog training be limited to a maximum of ten (10) at one time.
3. Overnight camping for private retreats or outings be limited to a maximum of twenty-five (25) customers at a time and be permitted Monday thru Sunday.
4. Maximum number of dogs be limited to fifteen (15).
5. Site be kept neat and orderly.

Ms. Brown seconded the motion, which carried unanimously.

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TIM GROVE, AGENT FOR HOUFF'S FEED AND FERTILIZER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Tim Grove, agent for Houff's Feed and Fertilizer, for a Special Use Permit to use an existing manure storage facility to store bio-solids or manure for future land application on property owned by Everette L. Gardner, located at 137 Melody Lane, Mount Solon, in the North River District.

Chairman Shreckhise stated that he will not be partaking in the discussion or the voting on this request.

Mr. Tim Grove stated that he is the manager of the bio-solid operation at Houff's Feed and Fertilizer in Weyers Cave. He stated they have been successfully land applying it for over twenty (20) years under the DEQ permits and now they want to use it on one of the farms to better serve the needs of clients. He stated this lagoon will allow them to haul material during times when weather does not allow them to apply. He mentioned the inbound material would be six (6) to seven (7) loads per day on rainy days only on weekdays and during business hours except in an emergency. He will only haul out what is necessary. He stated they would be regulated by DEQ. He stated they will be seeking permits from DEQ on Mr. Gardner's land. He stated this approval would be the first step in his ability to begin the work. He mentioned DEQ will do a review and they will need to notify all adjacent owners and seek comments before issuing his permit. He stated the synthetic liner needs to be repaired which would be the first step. He stated the neighbors have had a bad experience with storage and application of industrial sludge with Mr. Gardner. He sent a letter to all adjacent property owners stating their proposal. He stated that Mr.

Gardner will have no control or involvement with this request. He is a Mount Solon resident and have made himself available to the neighbors. He stated that if Mr. Gardner does not comply he would not get his rent. He stated that there is an odor when the material is mixed which is typical and will only last a few days similar to how dairy odor does. He stated they inject the material. He stated if the odor is too offensive they will change the way they operate. He stated that odors are regulated by DEQ. He stated that there is no incentive in business to be at odds with anyone. He mentioned they want to maintain good relationships with the neighbors. He asked the neighbors to consider the company's track record. He asked that the Board consider that when granting the request.

Ms. Brown asked when the odors are bad is it injected with something?

Mr. Grove stated that when the materials are injected under the soil, nothing is absorbed in the air and there is virtually no smell in the field.

Ms. Brown asked how far does the applicant live from the site?

Mr. Grove stated two (2) miles away.

Ms. Brown asked if there is a neighborhood on the one side?

Mr. Grove stated that there is residential zoning in the woods. He mentioned there are houses scattered throughout the area.

Vice Chairman Coyner stated the Board visited the site this morning. He asked if the liner would be repaired before storing material at the site?

Mr. Grove stated that it is their understanding that there will be an engineering inspection at the site. He stated the liner below the water is in better condition than the skirts. He will need to get an engineering certification on the repairs before approaching DEQ. He stated it will cost some money to repair the liner. He stated that there are many steps with this request. He stated the first is getting the Board of Zoning Appeals' approval, second DEQ approval contingent upon the liner being repaired, and thirdly the liner needs to get fixed. He stated this will be a great facility pending the repairs.

Vice Chairman Coyner asked if the material will be brought in close by?

Mr. Grove stated that he has contracts with McKee and he expects WhiteWave in Mount Crawford will also use the site. He stated that Mr. Gardner worked with both Purdue and Shenandoah Pride. He stated the odor with the milk was bad. He stated that Shenandoah Pride has been sold for several years. He stated that the product that comes from

WhiteWave is a soy based product. He stated that they have received very few odor complaints. He stated they will operate during business hours except during an emergency. He stated the outbound extended hours would be 6:00 p.m. to 7:00 p.m. He stated that they could possibly operate on Saturday but no Sunday hours or after dark.

Ms. Brown asked what would be considered an emergency?

Mr. Grove stated that if the plant shuts down for a couple of days during a snow storm then they may haul on Saturday and some Sundays in an emergency. He stated if it is a matter of WhiteWave going into violation with their permit, they would need to consider that an emergency.

Ms. Brown asked what is the base under the liner?

Mr. Grove stated that it is clay lined. He stated the liner broke down due to being exposed to the UV rays.

Vice Chairman Coyner asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Harold Argenbright, 302 Curry Road, Mount Solon, would like to know if the trucks will pass through the roads in the Springhill Village area. He mentioned that he is not opposed to the request.

Mr. George Earhart stated that he is the Assistant Superintendent for Administration for the Augusta County Schools. He stated that Katherine Ralston, the Principal of North River Elementary School is also here. He stated the students attend school 180 days in a year Monday through Friday. He stated that Houff has been a good neighbor but they have concerns with the loads coming and going Monday through Friday which could be a lot of traffic. He stated that bio-solids and sludge have a distinctive odor which may be an issue with the students that have asthma and use inhalers. He stated that with the trucks coming to the site, there will be a constant stirring of odors. He stated that he is not sure how this will affect the water supply and they do not know if the well will be bothered by this. He stated that the EPA requires them to do testing of the well water.

Vice Chairman Coyner asked if they had a good experience with the dairy farm operation?

Ms. Ralston stated the 284 students endure the smells of farm life especially during the fall and spring. She stated there was an issue with traffic because of being on Route 42. She mentioned that twenty (20) to thirty (30) trucks is a big issue for her and the students.

Ms. Joy Loving, 9448 E Timber Ridge Road, Grottoes, stated that she resides in Rockingham County and she did receive a letter from Augusta County. She stated she did not receive a letter from Houff Feed. She stated that not all property owners received letters. She does have concerns of what is considered an emergency. She stated that she does have experience in Rockingham County with fields that Houff has applied bio-solids as well as farm work. She stated that some of the work has been done after dark. She stated that sometimes she has been kept awake in the evening due to the equipment. She does not know what the limit would be with these materials. She stated that it seems that Houff is trying to run the cart before the horse. She stated that this application is premature. She mentioned the applicant does not know if there will be any odor. She stated that she does not know if the County has ordinances regarding groundwater contamination. She asked what liability does the company have if the ground is contaminated? She asked if the lagoon open area in the ground is covered? She stated that if it is covered, will it help mitigate the odor? She asked what would happen in the event of leakage?

Ms. Brenda Sheffer, 1117 Mt. Solon Road, Mt. Solon, stated that she is an adjoining property owner but she did not receive a letter from anyone. She stated that she saw the negative results from Mr. Gardner's property. She stated that many deer did not even step foot onto her property when Mr. Gardner was running his operation. She stated the odor was unbearable. She does not want that to happen again. She asked what type of trucks will be hauling the material? She stated Mount Solon Road is a narrow road. She stated the traffic is bad enough now.

Ms. Shelly Fix, 165 Wampler Lane, Mt. Solon, stated they have another plan of some sorts and wanted Mr. Grove to address it. She stated that if there are leaks in the system how will it be detected? She stated that if it starts to leak, it will affect all the residents that are on well water. She asked how long will it take to repair? She stated no one will be able to drink water. She stated the sludge being hauled will cause road conditions to be slick. She stated the sludge will splash out of the trucks which will be a big safety concern. She stated the roads are very narrow and only two (2) cars can pass by. She stated that traffic is a big concern especially with the bigger trucks. She stated the letter sent out to them by Houff contained information that they would have food residual sludge but the letter from the County stated bio-solids or manure. She stated there is nasty stuff in bio-solids. She read the definition of bio-solids. She stated that it may even be a risk to human health. She stated that some neighbors did not even receive letters about the request. She asked how many are adjacent to the property? She stated that many neighbors did not know about this hearing or the request. She stated the neighbors in the area dealt with this for years and years and their tolerance has been abused in the past. She stated the Board needs to take into consideration the thirty-five (35) neighbors in the area who are opposed to it if the site will stink. She stated there are a lot of sicknesses in the schools when this

stuff is spread. She would like to know where the material is coming from. She is concerned about this stuff being bad for the community and the area.

Vice Chairman Coyner asked if there was anyone else wishing to speak in favor, or in opposition to the request?

There being no one else, Mr. Wilkinson addressed some of the citizens concerns.

Mr. Wilkinson stated that state law requires that all adjacent property owners be notified when the County receives a Special Use Permit application. He stated that they sent thirty-nine (39) letters out. He stated they did not just notify adjacent landowners but went around the perimeter of Mr. Gardner's farm. He stated that he did notify more property owners than what was required by state law. He stated the request is also advertised in the Staunton News Leader.

Mr. Grove apologized to Ms. Loving and Augusta County Schools for not notifying them. He stated that his nephews attend North River Elementary School. He stated that there will not be truck traffic through the Springhill area. He stated this facility will serve WhiteWave in Mount Crawford. He stated they will go onto Route 42. He stated that inbound traffic will be six (6) to seven (7) loads per day and outbound would be twenty (20) to thirty (30) loads. He stated they want to empty the lagoon as quickly as possible. He stated that it would require a separate application to apply on land. He would expect a phone call if there is a breathing situation and the children cannot play outside. He stated that there will not be any odor omitted during travel. He mentioned DEQ requires trucks to be water tight. He stated they have the ability to put the hose under the crust in order to pull material from the lagoon. He mentioned that he could count on one hand the number of times that they have worked passed 7:00 p.m. or 8:00 p.m. He has only received complaints in the Port Republic area. He stated the Board can put a condition for them not to work late. He stated that materials are coming in from WhiteWave, Hershey, McKee, etc. He stated they can restrict the material to certain sources which they would have no problem with that. He stated that DEQ needs them to make sure they can get the Special Use Permit before DEQ involves public input. He stated that DEQ requires them to carry pollution insurance at \$2,000,000. He stated the lagoon is not covered. He mentioned that he knows that the neighbors have had a negative experience in the past but Mr. Gardner is not part of this operation. He stated that if they are in violation of anything Houff will be paying the fines. He stated that Mr. Gardner is renting them the lagoon and nothing else. He does not know what Mr. Gardner has spread in the past. He stated the trucks are eighteen wheelers. He stated the leak system for the lagoon is in place right now. He stated there are two (2) barriers. He stated they decide what they need to do. He stated they are not allowed to drop stuff along the road. He stated they have many restrictions on their operation. He stated they run a much tighter ship. He stated the permit from DEQ is for industrial sludge only. He stated they would not be able to collect human components.

He stated if the odor lasts more than four (4) to five (5) days they have a problem which will need to be remedied and treated seriously. He stated there is an application with DEQ for part of the Gardner property as well as others to hold a sewage sludge from Northern Virginia, Philadelphia, and Washington, DC. He stated there is 4,000 acres in Augusta County involved in this application. He stated they are permitting next to his property. He stated they are from out of town but this application is a local one. He stated that Houff has a good family name. He stated that Mr. Gardner ran a bad operation and they apologize for it. He stated they will be different.

Vice Chairman Coyner asked if the product will be commingled?

Mr. Grove stated that DEQ permits do not allow it. He stated that if Mr. Gardner was to spread his own material and Houff has to pay fines then they will close their deal.

Vice Chairman Coyner declared the public hearing closed. He stated this request is similar to what they applied for a month or so ago. He stated the neighbors will need to overcome their previous bad experiences.

Mr. Byerly stated that he lives four (4) miles from the operation. He stated that Houff has an excellent reputation and the safeguard is through DEQ. He did not appreciate what Mr. Gardner did to the property.

Vice Chairman Coyner stated that Houff has a good reputation and they have operated in Augusta County for many years. He stated the applicant should furnish a list of where the material is being brought in from. He stated the neighbors should not experience any night application. He stated that Houff will want to be a good neighbor.

Mr. Byerly asked who does Houff provide all of their information to?

Mr. Grove stated that it is all public record. He stated that all of their information that DEQ keeps is public record. He stated that if anyone calls him he will give that information to them.

Mr. Callison stated that he would confirm Mr. Byerly's comment. He stated the applicant will have to adhere to all of DEQ's regulations. He moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Obtain DEQ permit and provide a copy to Community Development.
2. Be permitted to keep one (1) lagoon mixer and one (1) vehicle onsite.
3. Site be kept neat and orderly.
4. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
5. Applicant must furnish a list of sources of all materials being brought to this site.

Mr. Byerly seconded the motion, which carried with a 4-0 vote, with Chairman Shreckhise abstaining from the vote.

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TERRY ARGENBRIGHT - TWO YEAR EXTENSION OF TIME REQUEST

A request by Terry Argenbright, for a Special Use Permit to have a sports park facility with outdoor and indoor recreation including a motocross track, BMX track, skate park, soap box derby track, overnight recreational vehicle parking, outdoor stage events, and a paintball facility on property owned by Augusta County Company, LLC, located on the northwest side of Lee Jackson Highway (Route 11), approximately .1 of a mile south of the intersection of Lee Jackson Highway (Route 11) and Peyton Hill Road (Route 659) in the Riverheads District.

Mr. Wilkinson stated that the permit was approved and the applicant had two (2) years to complete Phase I. He stated the zoning staff visited the site and did not find the volleyball and basketball courts and the horseshoe pit at the site. He contacted the applicant and the applicant stated they were there but the area is overgrown. Mr. Wilkinson stated the property is overgrown and in his opinion if the activities are not accessible to the public, then it is not installed. He sent a first notice of violation to the applicant. He mentioned the applicant submitted a request for an Extension of Time to complete the facility.

Mr. Bob Argenbright is requesting an extension of the permit and not asking for any changes. He stated there is a volleyball and basketball court as well as a horseshoe pit. He stated this summer his family has had a difficult time. He mentioned his daughter-in-law passed away from a battle of cancer. He mentioned for the passed two to three months the family took turns sitting with her. He would have rather been out their mowing and cutting weeds and keeping the track mowed. He stated during those times the track was closed down. He stated that his family is a close family. He stated family is their

number one priority in life. He stated they did the best they could. He is asking for an extension so that they can have more time to accomplish what the Board would like them to do. He stated they solved the dust problem at the site with 500 loads of chips.

Chairman Shreckhise offered sympathy and their condolences to the Argenbright family. He stated the Board visited the site today. He stated the volleyball and basketball courts and horseshoe pit are not big items in comparison to other problems with this permit. He stated the conditions at the site are completely unacceptable. He stated the site is supposed to be neat and orderly. He stated the fence was put up cheaply and not attractive and is not professional. He mentioned the site has not been mowed. He stated there is trash up against the signs. He stated there was opposition to this site in the first place. He stated that the Board guaranteed these people that you would abide by stipulations and that it would not come to this and the permit would be revoked if it ever did. He stated that something needs to be done. He stated it is unacceptable that every two (2) weeks the fence needs to be rebuilt. He mentioned the neighbors are looking down from their house and seeing the track as well as it being noisy.

Mr. Bob Argenbright stated that he understands they have been fighting with the fence for two (2) years. He stated they will do a better job at fixing the fence now. He stated a ten (10') foot fence is hard to control. He stated the wind on the hill blows continuously. He stated that when the gas prices went up to almost \$4.00 a gallon people could not drive two (2) to two and a half (2 1/2) hours to ride a track. He stated they did not mow for three (3) weeks. He stated that the grass was in nasty shape and it will be corrected but it will not be done overnight. He stated a completely new fence will need to be installed with more posts and maybe a steel fence. He stated that he does not know what the answer is but they are working on it.

Vice Chairman Coyner stated that he is sorry for the death in the family, however, there was an expectation of the site. He stated the weeds have been there since spring. He did not appreciate the way the site looked today. He stated that Augusta County can do better than that.

Chairman Shreckhise stated that the fence is not done professionally due to the fact that it weaves in and out. He stated the fence is not straight. He stated that it is not a good job and it is not what the County wants.

Vice Chairman Coyner asked if the extension is granted what would be done differently?

Mr. Bob Argenbright stated that it took a year and a half to build the BMX track and paintball. He stated that a lot of things were accomplished during that period of time. He stated that some things were done hastily and some were done right. He stated they put 500 to 1,000 loads of mulch at the site which takes time and money. He may add another

100 to 150 loads which will make it even better. He stated the extension will allow them to proceed. He stated that between now and the opening of the season a lot of things need to get done including fixing the fence.

Mr. Harold Argenbright, 302 Curry Road, Mount Solon, stated that he is one owner of the park. He would like to apologize for some of the conditions. He would like to give this another chance. He stated there is not a lot for young people to do. He is willing to entertain any suggestion to strengthen the fence. He stated they obtained Graham Nelson, who is the manager for the park. He spoke with him a few times. He has been involved very little with the park. He stated there is a lot of discrepancy with the park. He asked that the Board be considerate and they will try their best to get the site cleaned up and maintained in a nice order.

Ms. Brown asked if they were seriously interested in keeping the track open?

Mr. Harold Argenbright stated that he has donated a good some of money.

Ms. Brown asked if they were going to put more money into the track?

Mr. Harold Argenbright stated that he put an additional \$717 last week buying 6' x 6' posts and have been working three (3) to four (4) hours a day. He bush hogged some of the property.

Ms. Brown stated that she was shocked at her first impression of the site, she could not go any further.

Mr. Harold Argenbright wants this to work. He does not want to fight the opposition all of the time. He stated the main thing is the extension and maybe the economy will get a little better. He stated by next summer they will be in good shape. He hopes the economy will turn around so they can make additional improvements that need to be made. He started this as being an investor.

Mr. Humes Franklin stated that he represents a number of Greenville residents who are opposed to this extension of time. He stated they are sensitive to the loss of the family member but they do not think that is justification to extend the time for Phase I. He has letters from Dianne Moody, Richard and Elizabeth Lewis, etc. as well as a petition. He stated that it is safe to assume they are against the extension by the applicant. He stated the permit was granted July 2, 2009, and the applicant has had over two (2) years to complete Phase I. He stated the permit was issued to Terry Argenbright and since then he has refused to comply with the pre-conditions and operating conditions of the permit. He stated they have received two (2) written notifications. He stated the first was on February 17, 2011, regarding the fence being down. He mentioned the second was on September

26, 2011, regarding the fence and the failure to complete Phase I. He stated the time for warnings have passed. He mentioned Mr. Argenbright is not interested in satisfying pre-condition #2 which is a ten (10') foot fence be installed which has been in a constant state of repair for the past twenty-four (24) months. He mentioned the recreational facilities of Phase I be installed within two (2) years which included a horseshoe pit, volleyball court, and basketball court and his photographs show what is in place. He stated they have a mobile basketball court and a horseshoe pit that has gone to seed. He stated the area has not been kept up in three (3) months. He stated under operating condition #13 states that the property should be kept neat and orderly. He stated there is trash and weeds at the site. He stated that operating condition #4 states only nine (9) race events. He stated that he has screen shots of them practicing on Sundays not races. He mentioned they are not supposed to operate passed 8:00 p.m. He stated they have had practices on Sundays and have ran passed 8:00 p.m. He stated that the site is more of a campground rather than a recreational facility. He stated there are RVs and campers parked at the site 24/7. He mentioned that it is not just the fence but there are five (5) other operating conditions that are being violated. He stated the applicant has received two (2) written notices and has not done anything to remedy them. He did not hear a lot of answers. He stated that the fence is more than a \$700 problem. He stated it would take a significant investment of money. He feels Terry Argenbright is unwilling to invest that type of money in it. He does have another concern that the holder of the Special Use Permit is no longer running or managing the site. He stated that on the website they advertise they are under new management by Graham Nelson. He stated the conditions are unacceptable. He would request that the two (2) year Extension of Time be denied for Phase I.

Ms. Cynthia Williams, 326 McClures Mill Road, Greenville, stated that she submitted a petition of Greenville residents with over 100 signatures. She stated some of the names have a Staunton address but they do live in the Greenville area. She stated there is so much more to this than the fence being in disrepair. She stated there are practices held at the site on a regular basis on Sundays which are not allowed on the permit. She stated the Argenbrights advertise practices on Sunday before asking for permission. She stated the first letter was sent out on February 15, 2011, to the Argenbrights that stated they should not allow riders until the fence is repaired. She stated that on September 18, 2011, there were riders at the site but the fence was not repaired. She contacted Mr. Wilkinson on September 20, 2011. She stated on September 23, 2011, Mr. Wilkinson told Mr. Argenbright if they were continuing to allow riders without the fence being repaired, they would be in violation of their permit. She stated Mr. Wilkinson spoke with Mr. Nelson and Mr. Argenbright and said if they continued to ride, they would be in violation and they would receive a letter in violation. She stated she called Mr. Wilkinson on that Saturday and they continued to ride. She mentioned that they just do not care. She stated this is an utter lack of respect for the County, Mr. Wilkinson, and the Board. She stated until the County decides to do something about it they will not care.

Ms. Elizabeth Lewis, 267 McClures Mill Road, Greenville, stated at the original hearing Mr. Argenbright had \$12 million to spend for the upkeep and it seems as though he has fell short of that somewhere. She stated the motocross feels they can do whatever they would like to do. She stated this is a flawed and failed business. She stated that the Board should revoke and not extend the permit.

Mr. James Williams, 326 McClures Mill Road, Greenville, stated that this is not the place for the motocross. He stated the Board needs to take action and do what needs to be done. He stated that he is particularly disappointed with the level of noise.

Ms. Rachel Ashby, 188 Indian Ridge Road, Greenville, stated that she can clearly see the motocross. She stated that this passed Saturday they had riders. She stated the noise is awful. She mentioned it sounds like a chainsaw in the backyard going on and off all day long. She stated there were dust clouds in the beginning which is a really big nuisance.

Mr. Swortzel, 399 Indian Ridge Road, Greenville, stated the sound pollution is amazing. He stated the applicants blamed it on the weather but the sound at the testing is what all the neighbors hear. He did not expect that he would hear the sounds in his home with the windows and door closed. He did not expect that. He stated it sounds like this operation is not economically feasible. He stated very tall trees throughout the park may help. He stated this has lowered the quality of life for residents of Indian Ridge Road.

Mr. Bob Argenbright stated that he is aware of the disarray. He stated they will take care of it. He did not anticipate that the fence would be torn down. He stated the fence was not built to accommodate the project. He stated they will get it cleaned up and get the site mowed. He was part of the trash near the signs. He did not get a chance to clean up the trash. He stated there were only riders on two (2) Sundays to his knowledge other than occasionally his grandson would ride. He stated they have put in a couple million dollars into the project. He is willing to put forth more and do whatever it takes to get the project rolling. He feels that \$200,000 needs to be invested in the next year. He stated that Graham Nelson is an employee of theirs. He has no ownership rights. He stated that they cannot do it all. He stated the paintball facility is going well now. He stated no one is parking on the property. He stated someone was parked along the road. He stated there was a camper that belonged to his son which they are using an office for the paintball. He stated no one sleeps in them. He stated there were riders that were joy riding and they were asked to vacate the property. He stated they may have been the ones riding on Sunday. He stated that they are below fifty (50) decibels. He stated there is no noise ordinance in the County. He stated they have the dust under control. He stated the fence is a problem but they are willing to invest the money. He stated they are asking for time to proceed with the request. He stated that the grass will be taken care of every day. He would like for the site to look nice. He stated there is no one that cares more then Terry Argenbright. He stated that Terry Argenbright could not be here today because he had

something that he could not get away from. He stated they will spend the money. He stated the race track and paintball is bringing in income. He stated that he is in agreement that the site is in disarray.

Mr. Wilkinson stated that he spoke with Terry Argenbright and he stated that there were a couple of races left on the schedule. He stated the fence was the main condition of the track. He mentioned that no one should be riding if the fence is not in tact. He stated if someone is riding there will be another violation of the permit.

Mr. Bob Argenbright stated that they were planning on riding on Saturday. He stated that Terry Argenbright told him that if the fence is not up for him to stop the riders from riding on Saturday.

Mr. Wilkinson stated that there needs to be a sign that the park is closed in order to give the riders notice if the fence is not repaired. He was unsure if the locks have been installed.

Mr. Bob Argenbright stated the chain and lock will be put in.

Mr. Harold Argenbright stated that the farmer uses the property next to us. He stated that he thinks the farmer cuts out sections of the fence and enjoys riding through the property. He does not know how they can be held accountable. He is unsure if he has a right of way to be on the property.

Chairman Shreckhise stated that if there are violations the permit will need to be revoked. He asked what the process would be?

Mr. Wilkinson stated it is County policy that the Special Use Permits are inspected before the end of the first year. He stated that the County has the right to enter the property to routinely make inspections. He stated that if there is a violation the County will photograph the violation and send written notice of the violation. He mentioned that on the Saturday prior to race day he spoke with Terry Argenbright and Graham Nelson and told them the conditions on the permit and gave them a copy and that they would be receiving a violation letter. He stated normally if the violation is not corrected by the first notice then a second notice is sent out stating a right of appeal. He stated with the final notice it states that the applicant will need to appear before the Board to consider cancellation of the request. He stated the County will need to advertise the request for cancellation and is a separate ad from the normal advertisement. He mentioned they occasionally have to do that but not very often. He mentioned occasionally through the years they had to revoke permits and some were appealed to the circuit court judge. He stated they sent a notice earlier this year about riding motorcycles or practicing on Sundays as well as ATV usage. He stated he wrote a letter in February on specific issues. He mentioned that he and Mr. Morgan

looked at other tracks in Virginia. He stated that two (2) and four (4) wheels are permitted, therefore, ATV are not prohibited. He stated the ATVs were part of the sound test. He stated there are nine (9) race days permitted total. He stated if only ten (10) riders showed up and they did not have enough to race, then they could use that time as practice and that would be permissible but it would count towards a race day. He stated that as long as they do not exceed nine (9) races.

Chairman Shreckhise stated the entire project is misrepresented to us. He stated that all of the items have been violated. He stated there are a lot of factors considered such as the economy and family problems. He stated the residents have complained. He stated that he hates to see the continued investment because the applicant does not satisfactory comply with the levels of the permit. He would suggest that the Board table the request until Terry Argenbright is here.

Vice Chairman Coyner stated that it would be good to have the applicant here.

Mr. Callison agreed.

Mr. Byerly stated that he is the newest member on the Board. He was appalled at the project. He is not in favor of granting the Extension of Time. He would suggest that the request be tabled so that the applicant can have everything in order or have some other plan.

Chairman Shreckhise stated that the applicants will need to invest a substantial amount of money. He would like to communicate with the owner to see what they are willing to do.

Vice Chairman Coyner moved that the request be tabled until the November meeting. He stated that the applicant will need to be present at this meeting. He would request that the final violation notice be sent to the applicant.

Mr. Byerly seconded the motion, which carried unanimously. He hoped that they would see a lot of improvement before the November meeting.

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STAFF REPORT

- 10-66 Schwendeman, James R. or Valerie L.
- 10-67 Mossy Creek Catering, LLC
- 10-68 Bright, Ralph S.
- 10-69 Steger, Lyall O., III
- 10-70 Cason, Fred E. or Gayle M. and Wilson, Alyssa M.

Mr. Wilkinson stated that all Special Use Permit requests were inspected and all are in compliance.

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Mr. Wilkinson passed out the court cases for the Board to review.

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There being no further business to come before the Board, the meeting was adjourned.

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Chairman

Secretary