

August 11, 2015

Virginia:

AT A REGULAR MEETING of the Nelson County Board of Supervisors at 2:00 p.m. in the General District Courtroom located on the third floor of the Nelson County Courthouse, in Lovingston Virginia.

Present: Constance Brennan, Central District Supervisor
Thomas H. Bruguere, Jr. West District Supervisor
Allen M. Hale, East District Supervisor – Vice Chair
Larry D. Saunders, South District Supervisor – Chair
Thomas D. Harvey, North District Supervisor
Stephen A. Carter, County Administrator
Candice W. McGarry, Administrative Assistant/Deputy Clerk
Debra K. McCann, Director of Finance and Human Resources
Tim Padalino, Director of Planning and Zoning

Absent: None

I. Call to Order

Mr. Saunders called the meeting to order at 2:00 PM, with all Supervisors present to establish a quorum.

- A. Moment of Silence
- B. Pledge of Allegiance – Mr. Bruguere led the pledge of Allegiance

Mr. Hale made a minor grammatical correction to the July 14, 2015 meeting minutes on page 15; which was acknowledged by Ms. McGarry. He then moved to approve the consent agenda and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion. Mr. Bruguere abstained due to his absence from the July meeting and the following resolutions were adopted:

II. Consent Agenda

- A. Resolution – **R2015-63** Minutes for Approval

**RESOLUTION R2015-63
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(July 14, 2015)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **July 14, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

- B. Resolution – **R2015-64** FY16 Budget Amendment

August 11, 2015

**RESOLUTION R2015-64
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
August 11, 2015**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Transfer of Funds (General Fund)

| <u>Amount</u> | <u>Credit Account (-)</u> | <u>Debit Account (+)</u> |
|---------------|---------------------------|--------------------------|
| \$2,500.00 | 4-100-999000-9905 | 4-100-031020-5412 |

C. Resolution – **R2015-65** Healthcare Flexible Spending Account Plan Amendment

**RESOLUTION R2015-65
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF NELSON COUNTY FLEXIBLE BENEFITS PLAN**

WHEREAS, Nelson County Board of Supervisors established a flexible benefits plan (cafeteria plan) in accordance with Internal Revenue Code Section 125 (IRC 125) for the benefit of its eligible employees on June 13, 1990 and amended the plan to include medical and dependent daycare flexible spending accounts effective July 1, 2008;

BE IT RESOLVED by the Nelson County Board of Supervisors to amend the Nelson County Flexible Benefits Plan relative to the medical and dependent care flexible spending accounts to be compliant with the nondiscrimination requirements of IRC 125 as follows:

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to the Nelson County Flexible Benefits Plan (“Plan”) to reflect changes to the Nondiscrimination Requirements of the Plan. The sponsor intends this Amendment as good faith compliance with the requirements of this provision. This Amendment shall be effective as of August 1, 2015.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

**ARTICLE II
NONDISCRIMINATION REQUIREMENTS**

- 2.1 **Effective Date.** This Amendment is effective as of August 1, 2015.

August 11, 2015

2.2 Nondiscrimination Requirements. Notwithstanding any provision contained in this Health Care/Dependent Care Flexible Spending Account Plan to the contrary, the “Adjustment to avoid test failure.” shall read as follows:

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

NOW THEREFORE, BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors hereby authorizes the County Administrator or Director of Finance and Human Resources to execute the amended plan document and any related documents which may be necessary or appropriate to implement the above amendment.

III. Public Comments and Presentations

A. Public Comments

Mr. Saunders opened the floor for public comments and the following persons were recognized:

1. Joe Lee, McClellan – Nelson Cable

Mr. McClellan read the following prepared statement pertaining to Broadband in the County:

- Nelson Cable is opposed to the County spending taxpayer money to extend the NCBA Network to “overbuild” its system on Route 151 south of Route 6 to Nellysford and beyond to Route 664.
- Nelson Cable intends to have our Internet in operation, at the intersection of Router 151 and Route 664, in time for the event at Devils Backbone later this month.
- Nelson Cable will make available to the other Internet Provider on the NCBA Network, Blue Ridge Internet (BRI), and access to its system along Route 151, at complete rates.
- Shentel has purchased nTelos and Nelson Cable is in discussions with them concerning their leasing our fiber to certain locations within and adjacent to Wintergreen to serve their and other Cell Towers.
- And finally, I will tell you again that Blue Ridge Internet and Nelson Cable will be able to connect more subscribers to the NCBA Network going to Piney River, than down Route 151 through Nellysford, where we already have or will have Cable and Internet service.

2. Woody Lynch, Lovington

Ms. Lynch noted she was speaking about the sidewalks in Lovington and that she had requested that these be assessed from between the corners of Front and Main Street. She added that the town residents had to get their mail at the post office and she noted the variance in the steps down on the sides of the street. She added that there was no access to sidewalks past the bank and up to the new Dollar Store and none from Claudia's flower shop to Tanbark; which housed the Horizon House and the drug store containing the only pharmacy in town. She noted it was difficult for the Horizon House clients to walk anywhere in town without sidewalks and if one was on crutches or in a wheel chair; the road would have to be used which was unsafe. Ms. Lynch noted that three people had fallen using the sidewalks; that two had broken their wrists and one was bruised. She concluded that she was asking VDOT to assess the sidewalks for universal access within the town.

B. Presentation – Delegate P. Richard “Dickie” Bell

Delegate Bell noted that he had a commending resolution to present to Mr. Harvey for his years of service on the Board of Supervisors. He noted that House Joint Resolution #764 was agreed to in February 2015 and that he had partnered with Delegate Fariss and Senator Deeds on the resolution.

Delegate Bell then read aloud the resolution as follows:

HOUSE JOINT RESOLUTION NO. 764

Offered February 5, 2015

WHEREAS, Tommy Harvey, a business owner and longtime public servant, has worked to support and enhance the lives of his fellow Nelson County residents as a member of the Nelson County Board of Supervisors for three decades; and

WHEREAS, a resident of Afton, Tommy Harvey owns Afton Service Center and was first elected to the Nelson County Board of Supervisors in 1984 when he was 30 years old, making him one of the youngest supervisors in the history of the county; and

WHEREAS, now serving his eighth term, Tommy Harvey has become the longest-serving member of the Nelson County Board of Supervisors; he has distinguished himself as an open-minded public servant who worked to support policies in the best interest of all local residents; and

WHEREAS, throughout his 30-year career, Tommy Harvey has made many important contributions to the community, including efforts to secure adequate funding for local emergency services; and

WHEREAS, Tommy Harvey is most proud of his contributions to strengthening Nelson County Public Schools; under his tenure, the county opened Rockfish River Elementary School and Tye River Elementary School and completed renovations on Nelson County High School, as well as the addition of a middle school; and

August 11, 2015

WHEREAS, as a member of the Nelson County Broadband Authority, Tommy Harvey promotes the use of technology to ensure that Nelson County students have the tools to achieve success; and

WHEREAS, Tommy Harvey is an exemplar of the professionalism, vision, and care for the community shown by local public servants throughout the Commonwealth; he has received many awards and accolades for his good work, including recognition from the Virginia Association of Counties in 2014; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tommy Harvey for 30 years of service to the community as a member of the Nelson County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tommy Harvey as an expression of the General Assembly's admiration for his leadership and dedication to the well-being of all Nelson County residents.

Mr. Harvey thanked Delegate Bell and noted that it meant a lot to him and he appreciated it.

Mr. Saunders also thanked Delegate Bell and Ms. Brennan added the recognition was well deserved.

C. Presentation – Nelson County Community Fund Advisory Committee (J. Francis, I. Joiner)

Ms. Jane Francis Co-Chair of the Nelson County Community Fund (NCCF) Advisory Committee expressed her thanks to the Board for their work.

She then noted that the NCCF has been helping county citizens for fifteen (15) years. She noted that the fund began with a donation from Gordon Smyth and has grown to giving out over \$1 million dollars to over 50 organizations within the county. She added that they were a committee advised fund operating under the Charlottesville Area Community Fund (CACF); who she noted took care of the fiscal affairs and they doled out the money.

Ms. Francis noted that they awarded grants twice a year in December and June. She reported that the previous winter, they gave out \$86,000 to local organizations and in June they would be awarding over \$66,000. She added that they provided financial assistance to charitable organizations and government agencies. She noted that those awarded tended to have imaginative and collaborative approaches and that they liked to give seed money and sustaining funds for them to keep going.

Ms. Francis then introduced Ms. Ika Joyner, Co-Chair of NCCF.

Ms. Joyner noted that she was Chair of the Opportunity Ball which was a large fundraiser for NCCF. She added that she was hoping they could count on the Board in getting one whole table together to come and that it would be held on October 24th at the Carriage House at Oak Ridge. She noted they would have a live auction and were asking businesses to support them. Ms. Joyner

August 11, 2015

related that this event usually raised \$60,000 to \$80,000. She then noted that another fundraiser was a cruise in a real sailing ship and that for every 10th ticket sold, they got that amount and otherwise they got \$100 from every ticket sale; raising \$8,000 the previous year.

D. VDOT Report

Mr. Don Austin gave the following VDOT report:

Mr. Austin noted that regarding the turn lane projects right of ways, the property owners would be contacted in late fall and he would find out about the west side possibly shifting as noted by Mr. Harvey.

Mr. Austin noted he has discussed the issues with the sight distance and passing zone at the Shipman collection site with the traffic engineer and has asked for the trees to be cut in the area; however he has not heard back on this request.

Mr. Austin noted that there was ongoing plant mix installation occurring.

Mr. Austin noted he would discuss the sidewalks with the Ms. Lynch to see about the locations she mentioned. He noted that this may or may not fall under the new HB2 funding; however, if some repair work was needed, they would look at that.

Mr. Austin noted that they had received notice of special funds of \$50,000 and they could look into how to use the funds.

The Board then discussed the following VDOT issues:

Ms. Brennan:

Ms. Brennan noted that when coming out of Buck Creek Lane looking to the left in the southbound lane, the hillside needed cutting as it was hard to see there.

Ms. Brennan asked about the possibility of reducing the speed limit to 35mph through Nellysford and she asked Mr. Austin to pass the request on to the traffic division. She noted that the 35mph zone should start at the turn into Stoney Creek and go past Valley View Market.

Mr. Bruguere:

Mr. Bruguere asked if Cub Creek Road was slated to be patched where the culvert was replaced, and Mr. Austin noted it was. He added that they would let the stone settle before the permanent patch was done. Mr. Austin then noted he thought that the patch would be done and then it would be tarred and graveled; however he would check on that.

Mr. Bruguere noted that where they did the surface treatment, secondary sand and dust was piling up and needed to be brushed off. Mr. Austin noted that they would go back and do this; and Mr. Bruguere noted that it was a dangerous situation and that the loose gravel signs were still up.

August 11, 2015

Mr. Bruguere then asked if VDOT was knocking off the hump in the median in Colleen and Mr. Austin noted they were; however they needed to check the location of water and sewer lines first. Mr. Bruguere then noted that he would like to see trench widening done on St. James Church Road since a lot of trucks were using the road now. He suggested that they at least put crusher run down and pack it.

Mr. Hale:

Mr. Hale noted it was worth looking into extending the sidewalk in Lovington down to the Tanbark area.

Mr. Hale then asked about the Dollar Store installation and it was noted that these were done in isolation with the installation of the business. He noted that VDOT should be responsible for the ones in Lovington.

Mr. Austin then asked if any pedestrian studies had been done in Lovington and it was noted that a Master Plan had been done in the last ten (10) years. Mr. Austin then noted that this would help if the County were to apply for funds for this.

Mr. Harvey:

Mr. Harvey inquired about the requested speed limit reduction for the remainder of Route 151 and Mr. Austin noted he still had not heard anything. Mr. Harvey noted that when cars got backed up some, the speed limit did drop on Route 151. Mr. Harvey then asked who he could call that was above Mr. Austin and Mr. Austin noted that he could call Chris Winsted. Mr. Austin advised that he would ask about this again. Mr. Harvey noted that the blinking sign on Twin Poplars Road had been very effective.

Mr. Harvey then asked Delegate Dickie Bell in attendance about him helping to reduce the speed limit to 35 mph from Route 250 to Route 664. He added that the Spruce Creek intersection needed to be looked at along there. Mr. Harvey then noted that the County had a great study done of Route 151 and had gotten safety money to fix two (2) other dangerous intersections.

Mr. Hale then commented that he had been by the Afton Overlook and that there were people there. It was noted that the property owner there had counted 300 cars that came through and stopped one day. Mr. Harvey noted that VDOT would be bringing a boom ax up there to trim back the trees some more. He added that they have had meetings with local professionals to come up with a plan for the Overlook.

Mr. Austin noted that he was working on shifting the historical marker there and Mr. Harvey noted he thought the post had been twisted. Mr. Austin noted that Mr. Carter would need to work with Augusta County on this since Augusta County was on one side and Nelson was on the other.

Mr. Harvey noted that the rock wall needed repair and that he had some rock masons that were willing to repair it.

Mr. Saunders:

Mr. Saunders noted he wanted a report back on the issues in Shipman and on the Nelson Wayside.

IV. New Business/ Unfinished Business

A. Proposed Zoning Ordinance Amendment: “Bed & Breakfast” Uses (R2015-66) –Referral to Planning Commission

Mr. Padalino noted that the proposed uses included Bed & Breakfasts and other forms of lodging. He noted that the existing Ordinance was unclear and sometimes was contradictory. He noted for example, the ordinance did not define “bed and breakfast” or specifically provide for that type of use, despite the fact that “B&Bs” are a common and important part of the local economy.

He added that the existing “tourist home” use (which is how the “bed and breakfast” use has been interpreted) was co-defined with “boarding house,” despite the fact that tourist homes were for short-term lodging and boarding houses were for semi-permanent lodging. He noted that these distinct land uses should not be co-defined or co-regulated.

Mr. Padalino then noted that there were numerous other issues with the ordinance regarding these types of overnight lodging uses; and after repeatedly spending a disproportionate amount of time attempting to correctly interpret these elements of the ordinance, County staff believed the appropriate solution was to amend the ordinance to provide better clarity and consistency.

He then noted the following proposed definitions:

Article 2: Definitions

Bed and breakfast: Short-term overnight lodging accommodations inclusive of a morning meal, provided in an occupied residence and/or guest houses. The total number of guests rooms used for sleeping in the residence and guest houses combined shall not exceed eight (8). The total number of guests sleeping in the residence and guest houses combined shall not exceed twenty-four (24). This use is subject to the requirements contained in Article 13, Site Development Plan.

Bed and breakfast, home occupation: A single-family dwelling containing overnight lodging and breakfast accommodations as an accessory use to the principal use. Guest houses may also be used for overnight lodging accommodations on the same property as the principal dwelling. The total number of guest rooms used for overnight lodging in the principal dwelling and the guests houses combined shall not exceed five (5).

Boardinghouse: A single building arranged or used for semi-permanent lodging. A boardinghouse is not a home occupation, and may not be operated on the same parcel as a bed and breakfast.

Campground: Any place used for transient camping where compensation is expected in order to stay in a tent, travel trailer, or motorized camper. Primitive campgrounds may be unimproved with potable water and bathrooms but are limited to no more than five (5) spaces. Improved campgrounds with potable water and bathrooms may have more than five (5) spaces. Improved campgrounds are subject to the requirements contained in Article 13, Site Development Plan.

August 11, 2015

Guest House: A building that provides short-term lodging accommodations for transients and is clearly subordinate and incidental to the principal residence on the same property.

Home Occupation: An occupation or activity for economic gain conducted by a family member(s) which is clearly incidental and secondary to use of the premises as a dwelling and where there is no display beyond what is provided for in this ordinance.

Hotel: Any hotel, inn, hostelry, tourist home or house, motel, rooming house, dwelling, or other place used for overnight lodging which is rented by the room to transients, is not a residence, and where the renting of the structure is the primary use of the property. Hotels are subject to the requirements contained in Article 13, Site Development Plan.

Tent: A structure or enclosure, constructed of pliable material, which is supported by poles or other easily removed or disassembled structural apparatus.

Transient: A guest or boarder; one who stays for a short period of time and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Travel Trailer: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreational, and vacation uses. The term "travel trailer" does not include mobile homes or manufactured homes.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room. Vacation houses with more than five (5) bedrooms are subject to the requirements contained in Article 13, Site Development Plan.

Mr. Padalino then noted that this was an initial draft presented and it needed more work before it should be voted on and he was requesting that the Board refer these proposed amendments to the Planning Commission. He added that the Planning Commission would need to recommend in which districts these were permissible by right or by Special Use permit or not at all.

Mr. Harvey suggested that these changes were proposed to accommodate one applicant and that some were in violation and nothing was being done about it. Mr. Padalino disagreed and noted that his office dealt with this daily and the lodging piece was missing from the Ordinance. He added that it put the burden on staff when the Ordinance was so poor and the proposed changes would benefit staff and applicants.

Mr. Harvey questioned the benefits of this and noted he has asked that the VDOT permit got done first. Mr. Padalino note that would be part of the site plan review process which did incorporate VDOT from the beginning. He noted that VDOT did not want to work with applicants unless it came through the County. He added that VDOT did look at entrances etc. Mr. Harvey indicated that he was unhappy about what was happening at Blue Haven 151 and he thought these amendments applied to all of their issues.

August 11, 2015

Ms. Brennan and Mr. Carter both noted that the intent was to clean up the ordinance and make it easier to work with; not to assist one business. It was noted that Mr. Padalino was not trying to help the particular business that Mr. Harvey was concerned about; although his concerns were understood.

Mr. Hale questioned why Home Occupation was included as it was already defined and Mr. Padalino noted that these were drafted by Grant Massie who could not attend the meeting. He then noted that it was one of the more glaring contradictions in the ordinance and was why they were included. He added that one could apply “home occupation” to either a “B&B” or “home occupation”. Mr. Carter noted that the current definition was broad.

Mr. Harvey supposed that in some cases if the property was turned into a business zoning, and most were off of back roads, VDOT would make them put in entrances and instead of being a little shop, it would turn into something big. Mr. Carter agreed this usually happened.

Ms. Brennan reiterated that the secondary part of this was deciding where they could go once the definitions were cleaned up.

Mr. Padalino advised that “B&B” vs “home occupation” could be addressed more in depth if this was referred. He noted that “B&B” as a home occupation was unusual and had only come up recently. He added that “B&Bs” were very popular and people were trying to do these in A-1 and R-1 and interpretation of the current ordinance had not been easy.

Mr. Harvey supposed that in Afton, the only way to preserve old homes was to create revenue to put back into the structure, otherwise it would deteriorate.

Ms. Brennan noted this would help define it and encourage it and she thought the Planning Commission could sort this all out.

Mr. Hale then moved to approve resolution **R2015-56**, Referral of Amendments to Appendix A, Nelson County Zoning Ordinance – “Bed and Breakfast Uses” to the Nelson County Planning commission and Ms. Brennan seconded the motion. It was noted that the Planning Commission would have 100 days from their next meeting on August 26th to send a recommendation back to the Board.

There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Harvey voting No and the following resolution was adopted:

RESOLUTION R2015-66
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENTS TO APPENDIX A, NELSON COUNTY
ZONING ORDINANCE - “BED AND BREAKFAST USES”
TO THE NELSON COUNTY PLANNING COMMISSION

August 11, 2015

WHEREAS, the Nelson County Board of Supervisors (the Board) has received and reviewed in public session conducted on August 11, 2015, a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) of the Code of the County of Nelson, Virginia; and,

WHEREAS, the staff report proposed changes to the Zoning Ordinance in order to provide for “Bed & Breakfast” uses;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors, pursuant to the applicable provisions of Title 15.2 Chapter 22, Planning, Subdivision of Land and Zoning of the Code of Virginia, 1950 with specific reference to §15.2-2285 of said Code, that the proposed amendments to the Code of Nelson County to provide for “Bed & Breakfast” uses be referred to the Nelson County Planning Commission for review and development of a report on the Commission’s findings and recommendations to the Board, in accordance with §15.2-2285 of the Code of Virginia.

B. Proposed Zoning Ordinance Amendments: “Wayside Stands” & “Farmers Markets” **(R2015-67)**- Authorization for Public Hearing

Mr. Padalino noted the issues that were described in his staff report as follows:

He noted that the Planning Commission (PC) had undertaken a policy review of the Zoning Ordinance provisions for “wayside stands,” and (over the course of many work sessions) had developed proposed amendments to the Zoning Ordinance for consideration by the Board of Supervisors. The PC’s policy review process recently culminated in a public hearing on July 22nd for proposed zoning ordinance amendments that, if adopted, would:

- substantially revise the existing “wayside stand” provision by creating new definitions and new regulations; and
- establish a new “farmers market” land use category, including a new definition and regulations.

He noted that for the purposes of discussion, these two types of land uses were being informally referred to as “off-farm agricultural retail sales.”

Mr. Padalino noted that the existing Zoning Ordinance regulations provided for “wayside stand” as a permissible land use in the Agricultural (A-1) District. Per §2 and §4-11-2, the operation of a wayside stand required an administrative zoning permit to be obtained; and all sales at wayside stands were by definition limited only to products produced by the permit-holder (and/or his or her family) on an agricultural operation owned or controlled by the permit-holder (and/or his or her family).

The existing Zoning Ordinance regulations do not define or otherwise provide for “farmers markets” as a permissible land use. The proposed amendments attempt to resolve that omission.

August 11, 2015

Mr. Padalino reiterated that Farmer's Market was not currently addressed in the Ordinance. He noted that the Planning Commission held a public hearing on July 22nd and the proposed amendments were a product of 8-10 work sessions and was reviewed in detail. He added that the next step would be for the Board to authorize a public hearing.

Mr. Bruguere asked where the Nellysford Farmer's Market fell in the Ordinance now and Mr. Padalino noted it was not included. Mr. Carter noted that this was an issue because it was in an RPC (Residential Planned Community). Mr. Bruguere pointed out that it was now more than a farmer's market and a good portion of it now included crafts.

Mr. Hale noted that they would not want to do anything to limit the Farmer's Market operation there as it was booming.

Mr. Bruguere noted that the crafters were taking up farmers' space now and he was wondering what classification it would be in. Mr. Padalino noted that this could be in any business and A-1 district and RPC could be added and the definition could be changed to include crafts.

Mr. Carter asked how the Board wanted to consider this; work on it first or after the public hearing.

Mr. Hale indicated he wanted to study it more and Mr. Carter suggested that the Board could establish a two-person committee to work on this with Mr. Padalino. He added that the Board did not have to act on it immediately. Mr. Padalino noted that they were seeing a trend of people setting up stalls on the busiest roads and the proposed ordinance addressed this under a SUP and there would be a more rigorous process. He added that they would have to fill out an application and while there would be more regulation on paper, it would improve its real life application.

Mr. Bruguere noted that these were popping up on busy roads because they needed that exposure and they would not do well on a side road.

Ms. Brennan noted they should look at it especially on Route 151. Mr. Harvey questioned the difference between this and a yard sale. He noted he agreed with Mr. Bruguere, that most orchards were not on a main road and he thought they should be able to sell their products.

Mr. Bruguere noted he would like to study this for a month and have a public hearing in October. Mr. Carter noted staff could bring it back next month to discuss and then go from there.

Supervisors then agreed by consensus to defer consideration of this until September.

C. Proposed Zoning Ordinance Amendment: "Temporary Events" (R2015-68) – Referral to Planning Commission

Mr. Padalino noted the staff report and the issues as follows:

He noted that the existing Zoning Ordinance provisions for "special events" were fundamentally inadequate and gave the following examples:

August 11, 2015

There was ongoing confusion (among members of the public and among County staff) regarding how to determine which events require Special Events Permits, and which did not. "Special events" were not defined in the ordinance, and there were no clear boundaries for types of activities which may be exempt from the permit requirement, or which types of events absolutely needed to obtain permits. He noted that this lack of clarity would continue to be a recurring issue, based on the ongoing, successful proliferation of the agritourism and events industries.

He noted that the ordinance did not contain specific evaluation criteria to guide the County's decision-making process during the review and approval/denial of Special Events Permit applications. Staff have done the best they could to develop processes and apply common-sense criteria on a case-by-case basis; and the results have been mostly successful. However, the decision-making process should be based on clear criteria that is consistently applied to each and every event.

He added that the ordinance made no distinction between small events (such as a brief parade down Front Street in Lovington) and major events (such as Lockn' Festival or other mass gatherings). Currently, the same application and same \$25 application fee applied to all events.

He noted that the ordinance currently only contemplated the proposed special event in isolation, and did not account for how the venue / property should be addressed (especially if the special events, which are temporary, propose to include permanent improvements such as roads, utilities, structures, etc.).

He noted that these (and other) limitations and omissions resulted in County staff regularly spending a notable amount of time and effort attempting to handle everything on a case-by-case basis, while also attempting to be as fair, consistent, and accurate as possible. He noted that County staff believed the appropriate solution was to amend the ordinance to provide better clarity and consistency. He noted, if done well, this would reduce the amount of time and effort required of staff for these particular issues and inquiries, and would simplify and clarify the permitting process for applicants.

Mr. Padalino then noted that these were prepared by him, Phil Payne, Mr. Carter and Ms. McGarry. He added that the Events were growing more complex and it was time for more sophisticated means to regulate them. He added that he was not against them and he thought they were great; however the Ordinance needed work. He added that these proposed amendments needed to be referred to the Planning Commission.

Mr. Carter noted that the Board may want to study it for a month or so; however he thought something needed to be done. Mr. Padalino added that his office was inundated with questions about needing a special events permit.

Mr. Padalino then noted the proposed amendments would serve to substantially modify the way events were regulated, in the following ways:

August 11, 2015

“Special Events Permits” would be redefined as “Temporary Event Permits,” to help avoid confusion with “Special Use Permits” and to emphasize that these are primarily meant to be temporary activities, not permanent land uses.

Three categories of events would be established. These would be primarily determined by the number of attendees, and would require different fee payments.

Numerous different types of events would be specifically exempted from Temporary Event Permit requirements; see proposed §23-2-1 “Exempt Events.”

He then noted the following proposed amendments that would mostly be contained in their own Article of the Code:

**ARTICLE 23. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS
ACCESSORY USES**

Statement of Intent

This Article provides regulations designed to address temporary uses in districts where such uses would not otherwise be permissible, establishes criteria for the approval or disapproval of such temporary uses, and provides requirements for the permitting and conduct of such uses. The Article also requires for the issuance of a special use permit for properties where the intended use envisions large scale events and provides for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. The Article is not intended to regulate, and does not regulate, the traditional non-commercial use of property by its owners; such use is subject to other provisions of this Ordinance, the Noise Ordinance, and other applicable law.

23-1 Definitions

Agritourism Activity: any activity carried out on a farm or ranch engaged in agricultural operations that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or small band performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound, and (iii) comply in all respects with other applicable ordinances and regulations. Such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours, or similar activities which are conducted in connection with a property of historical or

natural value when there is either (i) no admission or (ii) a nominal admission dedicated to preservation, restoration, or charitable purposes.

Temporary Event, Non-Profit: An event conducted by non-profit community service organizations such as fire departments, rescue squads, fraternal organizations, faith-based organizations, or community centers.

Temporary Event, Social: A one day private social event which is not open to the general public, such as weddings, receptions, and reunions, to which attendance does not exceed 300 people, conducted on property not zoned for commercial uses and for which the landowner charges a fee for the use of his property.

23-2 Temporary Event Permits

An event that is not otherwise a permitted use in a district, or which will have or projects having a large number of attendees and is conducted out of doors, in whole or in part, may only be conducted upon the issuance of a Temporary Event Permit.

23-2-1 Exempt Events

The following temporary events are exempt from Temporary Event Permit requirements and fees:

1. Private non-commercial functions conducted on the property of the host
2. Social Temporary Events where permitted by right
3. Historical Property Temporary Events
4. Non-Profit Temporary Events having or projecting less than 1,000 attendees at any time during the event
5. Athletic events conducted on sites approved for such events
6. Political gatherings
7. Religious gatherings
8. Out-of-Door Accessory Uses

23-2-2 Temporary Event, Category 1

A Category 1 Temporary Event is an event which is neither an otherwise permitted use nor exempt and (i) for which admission is charged or at which goods and services are sold, having or projecting less than 1,000 attendees, or, (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees. Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

23-2-3 Temporary Event, Category 2:

23-2-3-1 A Category 2 Temporary Event is an event which is neither an otherwise permitted use nor exempt, for which admission is charged or at which goods and services are sold, having or projecting 1,000 or more attendees but less than 10,000 attendees. Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday,

August 11, 2015

Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

23-2-3-2 Except as provided in connection with Festival Grounds, and subject to the criteria for issuance of a Temporary Event Permit provided in Section 23-3, no more than two (2) Category 2 Temporary Event Permits may be issued in a calendar year to the same applicant or for the same property or for properties contiguous to, or adjacent to, such property.

2-4 Structures for Category 1 and 2 Temporary Events

Each structure used for either a Category 1 or 2 event (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size and (ii) shall be a lawful conforming structure and shall support or have supported a lawful use of the property.

23-2-5 Temporary Event, Category 3

23-2-5-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use be obtained pursuant to Article 12, Section 3 “Special Use Permits” and Article 13 “Site Development Plan” and also a Temporary Event Permit.

23-2-5-2 A Festival Grounds Special Use Permit shall automatically terminate five years after its issuance, upon which time a new Festival Grounds Special Use Permit may be applied for.

23-2-5-3 A property granted a Special Use Permit for Festival Grounds use may host no more than three (3) Category 3 Temporary Events and no more than three (3) Category 1 or 2 Temporary Events in a calendar year. Each such event may not exceed a maximum duration of 6 consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning.

23-3 Issuance of Temporary Event Permits

23-3-1 Whether a temporary event permit will be issued will be determined after consideration of the following factors:

1. If and how the proposed event would result in undue interference with other planned activities in the County;
2. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
3. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
4. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
5. Compliance with the requirements of other agencies and departments.

August 11, 2015

23-2-2 In issuing the permit, the Director, may, after consideration of the foregoing factors:

1. Establish or modify times during which activities or amplified sound, or both, may be conducted;
2. Fix the permitted dates for the event;
3. Limit the number of attendees; and
4. Impose such conditions as are necessary to protect the health, safety and welfare of attendees and residents of the County.

23-2-3 The Director may issue a Temporary Event Permit for more than one event if he determines that each event is substantially similar in nature and size and that a single set of conditions would apply to each event, provided that, if allowable, no more than six such temporary events in a calendar year may be permitted under a single permit.

23-2-4 A Temporary Event Permit application requires the following submissions to be considered a completed application:

1. Temporary Event Permit application signed by the property owner and the sponsor who shall collectively constitute the "Applicant";
2. Temporary Event Permit application fee, as follows: a. Category 1 Temporary Event Permit application, per event = \$100
b. Category 2 Temporary Event Permit application, per event = \$500
c. Category 3 Temporary Event Permit application, per event = \$5,000
3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations;
4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);
5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
6. Any other event information deemed necessary by the Director of Planning and Zoning.

In addition to the proposed introduction of Article 23 (above), the following amendments are also proposed for existing Articles:

Article 4. Agricultural District (A-1)

Remove the following:

4-11-3 Temporary events not otherwise a permitted use may be allowed pursuant to a Special Events Permit for a specified time period. [...]

Add the following:

4-1 Uses – Permitted by right:

Agritourism activity

Social Temporary Event, provided that there are no more than fifty such events in a calendar year and that any noise generated by the event is not discernible by adjoining landowners.

August 11, 2015

Category 1 Temporary Event
Category 2 Temporary Event
Category 3 Temporary Event
4-1a Uses – Permitted by Special Use Permit Only:
Festival Grounds

Article 8. Business District (B-1)

Add the following:

8-1 Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event
Category 3 Temporary Event
8-1a Uses – Permitted by Special Use Permit Only:
Festival Grounds

Article 8A. Business District (B-2)

Add the following:

8A-1 Uses – Permitted by right:
Category 1 Temporary Event
Category 2 Temporary Event
Category 3 Temporary Event
8A-1a Uses – Permitted by Special Use Permit Only:
Festival Grounds

Mr. Padalino noted that the long list of exempt events would complement the increase in rules for larger events.

Mr. Hale noted he was in favor of the fees involved with the larger events.

Ms. Brennan then moved to approve resolution **R2015-58**, Referral of Amendment to Appendix A, Nelson County Zoning Ordinance – Addition of Article 23, Temporary Events, Festival Grounds, and Out-Of-Doors Accessory Uses to the Nelson County Planning Commission. Mr. Bruguere seconded the motion and suggested including a minimum threshold of attendees as well.

Mr. Hale commended Mr. Padalino for the job he was doing and noted he has gotten favorable comment from the public and he thanked him for his work.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2015-68
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENT TO APPENDIX A, NELSON COUNTY

August 11, 2015

**ZONING ORDINANCE- ADDITION OF ARTICLE 23, TEMPORARY EVENTS,
FESTIVAL GROUNDS, AND OUT-OF-DOORS ACCESSORY USES
TO THE NELSON COUNTY PLANNING COMMISSION**

WHEREAS, the Nelson County Board of Supervisors (the Board) has received and reviewed in public session conducted on August 11, 2015, a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) of the Code of the County of Nelson, Virginia; and,

WHEREAS, the staff report proposed changes to the Zoning Ordinance in order to provide for “Temporary Events, Festival Grounds, and Out-of-Doors Accessory Uses”;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors, pursuant to the applicable provisions of Title 15.2 Chapter 22, Planning, Subdivision of Land and Zoning of the Code of Virginia, 1950 with specific reference to §15.2-2285 of said Code, that the proposed amendment to the Code of Nelson County to provide for the addition of Article 23 “Temporary Events, Festival Grounds, and Out-of-Doors Accessory Uses” be referred to the Nelson County Planning Commission for review and development of a report on the Commission’s findings and recommendations to the Board, in accordance with §15.2-2285 of the Code of Virginia.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator’s Report

Prior to giving his report, Mr. Carter echoed Mr. Hale’s complimentary remarks about the Planning Department and reiterated that proposed amendments to the Zoning Ordinance were an effort to strengthen the ordinance and make it easier to work with; while being business friendly.

Mr. Harvey noted he liked them having some discretion and Mr. Carter noted that they had been wrangling with Special Events since LOCKN came in; however it was for the Board to decide.

Ms. Brennan then noted that Mr. Padalino worked hard and took his job extremely seriously and it was hard to treat people the same with the numerous vagaries that were in the ordinance.

1. Courthouse Project Phase II: A mandatory pre-bid meeting was conducted on 8-6 with very good attendance. Sealed bids for the project are due on 9-2-15 at 2 p.m. Additionally, the County’s application to VRA for financing of the project was also submitted on 8-6.

Mr. Carter noted staff would have a conference call with VRA on the financing application on Friday at 2pm. He noted that the construction firms that attended the pre-bid meeting were recognized as quality firms that the County would be happy to have. He noted that they were from Roanoke to Richmond and Mr. Saunders noted some were from Lynchburg and he concurred that they would do a good job. Mr. Carter noted that Blair Construction was present and overall he hoped to have a good bidding outcome.

August 11, 2015

2. Broadband: A) Local Innovation Grant Project: Phase 1 construction (from Rtes. 151&6 to Rtes. 151 & 664t) will commence after receipt of right of way permits from VDOT (application(s) submitted on 8-5). A 6-8 week construction period is projected. Thereafter, Phase 2 and 3 will be initiated. Significant interest is being expressed in the Phase 1 network extension. **B) Broadband Strategic Plan:** Development of the scope of work for the project is pending completion.

Mr. Carter noted he thought the network would have 50-100 new customers once the extensions were built. He added that staff had a positive conversation with a large ISP about them providing services in the County. He noted they had the potential to provide Triple Play services.

3. BR Tunnel: An application to VA-DCR for \$250,000 in Recreational Trails Program grant funding was submitted to the Department on 8-4. If successful, the DCR grant funding will be combined with VDOT TAP funding presently in place to provide for completion of a revised Phase 2 (of 3) Project, which encompasses full Tunnel restoration, including bulkhead(s) removal and trail installation, etc. At present, the prospects for overall completion of the project are very promising.

Mr. Carter noted that Ms. McGarry and Woolpert worked on the Recreational Trails Grant application and he was optimistic the County would be awarded funds to complete phase II. He noted that these funds would help tie in two pots of VDOT money and the County would be able to construct the trail through the tunnel and rehabilitate the tunnel. He noted that these funds were Federal Government funds. He also noted that VDOT staff was working on consolidating the phase monies so it would be combined together and the County could get it quickly.

Mr. Hale asked if it was necessary to wait for DCR funding before bidding the project and Mr. Carter noted that this would need to be discussed; however the input from VDOT was to go forward once the County got the consolidated funding agreement.

4. Lovingson Health Care Center: The Citizen's Committee is continuing to meet. Region Ten has previously submitted a purchase proposal and input is pending from Piedmont Housing Alliance on specific interest it may have in ownership and operation of the Center. Staff has a scheduled conference call on 8-12 with a Harrisonburg based adult care company to discuss the company's specific interest in acquiring the property. Input on 8-5 from Medical Facilities of America staff noted that closing of the Center is presently projected in February 2016.

Mr. Carter noted that PHA's input was that they would like to do something like the Ryan School Apartments which would be more akin to affordable housing than assisted living. He noted that the Harrisonburg company was trying to determine how to make an assisted living facility there successful. He then added that the assessed value of the property was \$1.9 Million and that prospects were looking more promising now with three (3) entities wanting further discussion. He then noted that the Committee was meeting the next Tuesday to review things.

5. Radio Project: The Director of Information Services (S. Rorrer) is drafting a more comprehensive status of the project to be included in the agenda package. Input subsequently received from S. Rorrer is, as follows:

August 11, 2015

I met with the Emergency Services Council on July 21, 2015 to give them an update on the system and listen to their concerns.

I assured them that the County was committed to finding solutions to the problems that they were experiencing. I noted that most were related to coverage that additional tower sites would be required to improve it. I also noted that the research, planning and deployment of additional tower sites is a complicated and will take quite a bit of time to accomplish.

Motorola has initiated a new project that will look at how various tower sites (Buck's Elbow, Rockfish Fire Dept., Stoney Creek) will enhance system coverage in the County. RCC is also looking at coverage. (We will need to determine if we want to work with Motorola on next steps or if we want to work with RCC to evaluate and make recommendations on our next steps.)

Motorola has found a resolution to the reported "ghost tone" heard on pagers. I am working with Motorola to determine how we will schedule reprogramming and agencies are working to determine how many need to be reprogrammed. Most of them report that it is practically all of them

6. CDBG Grant Application for Sewer Line Extension: An application to VA-DHCD for funding of the project is in process with additional guidance from DHCD pending receipt.

Mr. Carter noted that the application had to be in By September 30th. He noted that the sale of Valley the water system had gone through.

7. Maintenance: Roof replacement for the new Maintenance Building is scheduled to commence on 8-13 and be completed by 8-28. Repairs at Nelson Memorial Library are pending a more extensive approach, which will require prior review and approval by the Board.

Mr. Carter reported that the roofing contractor noted he could not start when he originally thought because work on another job was extended. He noted that the County's agreement had been amended to extend the work dates.

8. Coffey v. County of Nelson et al: The hearing for the suit brought against the County, Sheriff David Brooks and County Administrator Steve Carter by former Deputy Sheriff Joshua Coffey (seeking compensation for vacation, holiday and compensatory time) was held on 8-5 in the General District Court. The Judge's decision was to remove Nelson County and S. Carter from the suit (as the County had sought). However, Sheriff Brooks and the Sheriff's Department (also named in the suit) were not dismissed from the suit and in his ruling the Judge established a monetary amount (\$4,752.60, inclusive of court costs with 6% interest added as of 8-5-15) to be paid by the Sheriff and the Department to Mr. Coffey.

Ms. Brennan asked about policies being set to make sure this did not happen again and Mr. Carter noted that they had not been as it was the Sheriff's Department policy of holding positions open until their accrued time was paid off and the Judge found no fault with that. He noted that the Judge did acknowledge that employees of the Sheriff's Department were their employees and were not employees of the County. He noted that overtime was incurred due to the nature of the

August 11, 2015

department and it was likely that way everywhere. He added that how it would be paid was to be determined. He noted they could use Asset Forfeiture funds or could come and ask the Board for the money.

9. FY 14-15 Budget & Audit: The recently completed fiscal year/operational budget resulted in no financial issues or concerns. The FY 15 Audit Report (CAFR) is in process but will not be completed until early in the fourth quarter of 2015 (November- December).

Mr. Carter noted that local revenues came in \$1.2 Million more than budgeted and expenditures were less by \$2-3 Million. He clarified that some of this was due to grant funds and he noted that the General Fund was noted to be \$23 million in the Treasurer's report. He advised that the County was still in good financial position.

10. Voting Machines: The County's Registrar, Ms. J. Britt, reported in late July that the new voting machines were delivered in July and acceptance testing and training were successfully completed on 7-21 such that the new machines were be in service for the 11-15 elections.

11. Board Retreat: A work sessions with Mr. Saunders and Ms. Brennan is scheduled for 8-20.

12. Department Reports: Included with the 8-11-15 BOS agenda.

2. Board Reports

Mr. Hale reported the following:

1. He made a courtesy call on Judge Garrett and noted he seemed very reasonable and happy with the Courthouse project.
2. Attended the TJPDC meeting and heard a presentation by the regional Department of Social Services. He noted that they provided a profile of the County that he found distressing as it noted in 2003, the County's poverty rate was 11.2 % and in 2013, it was 15.8%. He asked Ms. Brennan if this was discussed at the DSS meetings and noted that it was a concern. He added that the report showed that for these same years, the number of children in poverty was 16.7% and 23.1% respectively. It was noted that this could be discussed at the Board's retreat; and they discussed inviting a regional head of DSS to discuss the County's statistics.

Mr. Harvey reported that the Service Authority meeting was very quick and easy with nothing to report.

Ms. Brennan reported the following:

1. Attended the DSS meeting and noted that they were almost fully staffed and things were going well. She noted that their work was being done according to state criteria and they were following up on kids in foster care as they should.

August 11, 2015

2. Attended a ribbon cutting for the new events center at Wild Wolf Brewing Company.
3. Attended Judge Ken Farrar's retirement reception and the Judge was presented with the Board's resolution.
4. Attended a meeting with Mr. Saunders, Hank Thiess, and Richard Averitt about the impact of the pipeline coming through Reed's Gap and the rest of the county. She added that Devil's Backbone has put together their financial impact and that Todd Rath, the new owner of Wintergreen Winery, would also be doing that to present to Legislators and the Governor.
5. Attended a meeting with South District landowners, Dominion, and the staff of Creigh Deeds. She noted they discussed their concerns and Dominion was apologetic about it and was looking at another potential rerouting there. Mr. Hale noted that FERC asked Dominion to change the line. They then discussed both the East and South Districts. Mr. Saunders noted he would have been there had he known about it as would Mr. Hale.

Mr. Bruguire reported the following:

1. Attended an EMS Council meeting where lengthy discussion was had about the radio system. He noted that most pagers were not working and needed reprogramming. He added that there was more study to be done by Motorola, mostly in the Rockfish area. He noted that Susan Rorrer was on top of it but it may take a while to figure out. He added that more towers and repeaters may be needed and that they needed to do what was necessary to fix the problems.
2. Reported that Roseland Recue had reported that the Toughbooks needed to be upgraded to Windows 10 and Mr. Carter noted that Jaime Miler had informed him of a grant that could help with this. Mr. Bruguire noted that the upgrade would cost \$1,000. He added that they may need to re-evaluate using these as they were not very user friendly. Mr. Carter noted that staff would look at it and would pursue the grant funding for this.

Mr. Saunders reported the following:

1. Attended Judge Farrar's retirement reception.
2. Attended the Courthouse project pre bid meeting.
3. Attended the meeting with Mr. Averitt and Mr. Thiess on the pipeline and noted that he thought it was time to start talking about it.

Mr. Hale noted that they have been asked by Dominion on several occasions for a meeting and they have outlined a set of questions that would be the subject. He noted that the Board's position has been not to meet with them and he would like to propose they look at the eleven (11) questions they want answered and provide them with a written response in which they answer them to the extent they could. He added they could also include the Board's questions. He noted that he would direct staff to provide draft answers to their questions.

August 11, 2015

He noted that they had also addressed many of their questions through resolutions, such as the question regarding conflicts with the Comprehensive Plan. He then suggested this be done in writing and that it come back to the Board after staff worked on it. He noted that he thought they could answer questions and make it clear that they were not stonewalling them.

Mr. Bruguere agreed that the questions needed to be answered and he would prefer a face to face meeting. Mr. Harvey noted he thought a written response was better because everyone would get the same thing.

Mr. Hale noted that the role of the Board was not to determine the route; however they could point out issues and concerns. He suggested that they could send the questions and answers and suggest that they meet if they want to discuss it further.

Mr. Saunders noted he thought they could express their concerns more strongly in person than in writing and Mr. Hale agreed; but noted that they may have to go up the ladder first.

Mr. Bruguere suggested that they do the questionnaire and set a date to discuss it.

Mr. Hale moved that staff be directed to prepare written answers to the questions to be sent in to Dominion and await their response. Ms. Brennan asked to amend the motion to include questions from the Board not yet answered by them and that it be brought back to the Board for review prior to submission. Mr. Hale accepted the amended motion and Ms. Brennan seconded the amended motion.

The Board then had the following discussion:

Ms. Brennan noted that she would help work on the responses. Mr. Saunders reiterated that he thought meeting face to face was more compelling and would present a clearer picture. He then suggested that they answer the questions and show them the impact reports in person. Mr. Hale noted he agreed and Mr. Bruguere suggested they do both. Ms. Brennan noted her concern of attending a meeting and then that being the end of it; she preferred to do something in writing with everyone's input. Mr. Saunders noted he thought they would need to meet in person at some point and Mr. Bruguere agreed.

Ms. McGarry then reread the motion on the floor and Mr. Saunders noted they were looking at a sixty (60) day timeframe.

There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Bruguere voting No.

Mr. Saunders noted it was a serious situation and if they did not do anything, then nothing would happen. Mr. Hale noted they could summarize the economic impact and put it on the table. Ms. Brennan noted that she thought anyone could contribute to the document.

Mr. Carter advised that the Board could have a called meeting to discuss it once it was completed. Mr. Hale suggested that the adopted resolutions could be attached so that everything that had already been said was not reiterated.

Supervisors then agreed by consensus to circulate drafts of the responses among themselves and Ms. Brennan noted that she had a statement from Hank Thiess that would be acceptable to use for this and could be public information.

B. Appointments

| <u>Board/Commission</u> | <u>Term Expiring</u> | <u>Term & Limit Y/N</u> | <u>Incumbent</u> | <u>Re-appointment</u> | <u>Applicant (Order of Pref.)</u> |
|-------------------------------------|----------------------|-----------------------------|----------------------------|-----------------------|---|
| JAUNT Board | 9/30/2015 | 3 Years/No Limit | Mercedes Sotura | N-Resigned | None |
| Board of Zoning Appeals | 11/10/2015 | 5 Years/No Limit | Kim Cash | Resigned-7/14/15 | Shelby Bruguiera Ronald Moyer - BZA Alternate David Hight |
| <u>(2) Existing Vacancies:</u> | | | | | |
| - | | | | | |
| <u>Board/Commission</u> | <u>Terms Expired</u> | <u>Term & Limit Y/N</u> | <u>Number of Vacancies</u> | | |
| Region Ten Community Services Board | 6/30/2015 | 3 Years/3 Terms | Michael W. Kelley (T3) | NA | None |
| | | | Ineligible | | |

Ms. McGarry advised that there were no applicants for the JAUNT vacancy and that Kim Cash had resigned her post on the Board of Zoning Appeals. She noted that there were three (3) BZA applicants: Shelby Bruguiera, David Hight, and Ronald Moyer, the current BZA alternate. Ms. McGarry explained that Mr. Moyer had served approximately three (3) terms as the alternate and would like to be recommended for appointment to the full time member vacancy. She then noted should the Board do this and the Judge make the appointment, the BZA Alternate seat would be vacated and would be subject to be filled.

Mr. Bruguiera moved to recommend to the Judge that Ronald R. Moyer, the current BZA alternate, be appointed to fill the BZA vacancy and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

August 11, 2015

Mr. Saunders noted there was now a vacancy for the BZA Alternate seat and Mr. Hale advised that this should be advertised before they considered it but not until the Judge made the official appointment of Mr. Moyer.

Mr. Carter noted that he had set up training for the BZA and Ms. Brennan noted that she thought it should be mandatory. Mr. Carter explained that this stemmed from a call from the BZA Chairman, who was concerned with the new membership and the complexity of the issues they were dealing with. He noted that Mike Chandler of Virginia Tech was holding the date of August 24th for the training which would be held in Nelson. He added that people considering being on the BZA could also attend the training and there was no consensus on this.

C. Correspondence

1. Jean Payne, Commissioner of Revenue

Ms. Payne referred to the following correspondence provided to the Board.

To Nelson County Board of Supervisors:

The Commissioner of Revenue's office has two full time positions, Deputy I and Deputy II, which are fully paid by the county. The Deputy II position was vacated on July 31, 2015. I am requesting that I be able to move the Deputy I person into the Deputy II position. The Deputy I salary is \$25,264 and the Deputy II salary is \$30,926. I will be hiring a new person as soon as I find a qualified person to fill the position.

Also, I would like to be able to use part of the Deputy I salary to pay a part time person. This would only be a day or two every now and then until I fill the vacant position.
Thank you for your consideration.

Mr. Harvey questioned why she came to the Board and Ms. Payne noted it was suggested that she do so given that it dealt with local funding.

Supervisors agreed by consensus to approve her proposed personnel changes.

2. Ed McCann, NCHS FFA Advisor

The Board considered the following correspondence:

Dear Mr. Carter,

It is with a great deal of pride and satisfaction that I write to you and the Nelson County Board of Supervisors. This past winter and spring, the Nelson County High School FFA teams did very well competing against the best teams from across the state.

These two teams won their state contests and were recognized in Blacksburg, at VA Tech, during the State FFA Convention in June. The students that will be competing in Louisville Kentucky that are on my Forestry team are Noah Fitzgerald, Shelby Dixon, Phillip Saunders, and Brandy

August 11, 2015

Campbell. The students that are competing on my Meat Evaluation and Technology team are Ruth Fitzgerald, Elizabeth Sites, and Trevor Carter. While at the national FFA Convention, Nelson Senior FFA will be recognized in front of over 60,000 FFA members as being a multiple star chapter, one of the top programs in the nation. This is the highest degree of recognition our FFA Chapter can receive.

In past years, the Nelson County Board of Supervisors has money budgeted for state winning teams that are traveling to compete in National Competitions. The past trips would not have been possible without the Nelson County School Board's support.

These children have spent most of the summer preparing to go to the National FFA Convention and compete in Louisville, Kentucky October 26-31, 2015. The months, and yes for some the years, of preparation has paid off for these young citizens of our county. These students will be representing Nelson County and Virginia in the National contests.

The chapter has been working hard to raise the funds to send the two teams from the high school and to Louisville. The anticipated costs for these teams alone is of over \$13,000. We recently started off our annual 29th FFA Apple Butter sale. Unfortunately due to the current state of the economy, I am afraid this will not be enough to fund the trip. I feel that with the chapter's hard work and community support we can raise over half of the expected costs by the time the national contest begins on October 26, 2015.

My request is to ask the Board if they would once again assist me with the transportation cost of my students to the National contest and the convention for these state winning teams that are competing in the national finals. In past years, when needed, the Nelson County Board of Supervisors has provided up to \$2,000.00 to assist my teams in their travel expenses to competitions that they had earned the right to compete in by becoming the state champions. On behalf of the chapter members, I would like to ask you to consider assisting the High School FFA chapter with their travel expenses in the amount of \$2,000.

I appreciate any assistance that you and the Board members can provide me in this matter. The Board's tradition of rewarding students that distinguish themselves and the County of Nelson above all other localities in the State, is a key motivating factor for these students. I appreciate the Board's generosity in the past and look forward to working with you in the future.

Mr. Bruguere then moved to donate \$2,000 to the FFA for their trip to Louisville KY to compete in National events and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

D. Directives

Ms. Brennan and Mr. Saunders had no directives.

Mr. Bruguere stated he would like for the Board and the Service Authority to meet on the connection fees as he thought they were an impediment to customers hooking up.

August 11, 2015

Mr. Harvey noted that the purpose of these fees was for future expansions given the premise that if more customers were brought on, they would soon have to expand the system. He added that if the Board wanted something done, they needed to fund it.

It was noted that the Board was funding it with Fire Hydrant fees of over \$300,000.

Mr. Bruguere stated that they needed to look at adjusting the fees and Mr. Harvey noted it was brought up at the last Service Authority meeting. He noted that the new connection fees associated with the new Colleen line went back to the County and this cost was 2-3 times as much as putting in a well.

Mr. Harvey then noted that the Board controlled the Piney River system rates and fees and Mr. Saunders noted that the connection fees were much higher than in surrounding areas.

Mr. Harvey noted that they needed to look at the numbers. Mr. Saunders then suggested that this be discussed at the Board's retreat and he added that the County could not bring businesses in because there was not enough water and sewer capacity.

Mr. Harvey disagreed; however Supervisors agreed by consensus to discuss this at their retreat.

Mr. Hale then questioned the role of a private utility providing water and sewer; noting that he had been told it should be a public utility.

Mr. Harvey noted that the developer installs the system in according to the Service Authority's standards and then it was turned over to the Service Authority. Mr. Carter agreed and noted that this was required by the Service Authority's regulations and the County's Ordinance. He reiterated that if someone developed a subdivision, it had to be developed and built to specs and then turned over to the Service Authority to be operated. He added that a private system was regulated by the Virginia Department of Health and the Department of Environmental Quality and that a private company could provide services but not within the scope of the existing regulations.

Ms. Brennan then asked for an update on LOCKN and Mr. Carter noted they were using the same plan as last year. He added that Mr. Padalino's office was reviewing the plan and it should go smoothly; noting that the event was administratively approved per the current Ordinance. Mr. Bruguere noted that he had heard that ticket sales were down; however per Maureen Kelly they had picked up.

VI. Adjourn and Reconvene for Evening Session

At 4:30 PM, Mr. Harvey moved to adjourn and continue the meeting until 7:00 PM and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

**EVENING SESSION
7:00 P.M. – NELSON COUNTY COURTHOUSE**

I. Call to Order

Mr. Saunders called the meeting to order at 7:00 PM, with all Supervisors present to establish a quorum.

Mr. Saunders then noted to the Supervisors and the public that at around 1:00 PM that afternoon, the Special Use Permit #2015-03 applicants had asked for deferral of the Board's consideration. He then asked what the pleasure of the Board was in regards to this request.

Mr. Hale noted that the Board had held a public hearing on it that was well attended and he preferred to move forward with a decision.

Mr. Saunders reiterated that they had gotten the request for deferral that afternoon around 1:00 PM. Mr. Carter noted that the applicants stated that they were still addressing the Board's questions and he noted that he told them that he would report this to the Board and that it may or may not be deferred.

Ms. Brennan noted that since they asked for deferral and were working on something, she would like to hear what they had to say and Mr. Bruguere added he could go either way.

Mr. Hale then moved that the Board proceed with a decision on SUP #2015-03 and Mr. Bruguere seconded the motion. There being no further discussion, Supervisors voted (2-2-1) by roll call vote, with Ms. Brennan and Mr. Harvey voting No and Mr. Saunders abstaining. Mr. Carter noted that the tie vote defeated the motion and the subject was deferred until the next meeting.

II. Public Comments

1. Patty Avalon, Lovington and Ed Hicks, Lovington

Ms. Avalon noted that they were asking the Board to vote No on opening a Dance Hall in Lovington for the following reasons: Late night hours (2 am), lack of noise control, inadequate parking and traffic planning, and it being an inappropriate venue for the largely residential community. She noted that they were presenting the Board with a petition of fifty (50) signatures opposing the approval of SUP #2015-03.

2. Patty Avalon, Lovington

Ms. Avalon then read aloud a letter written earlier on the dance hall bar as follows:

Dear Members of the Nelson County Board of Supervisors,

I am writing you in almost desperation, asking you to not allow the dance hall/bar to come into the village of Lovington for the obvious and not so obvious reasons.

Please let me clearly restate the points as to why the bar/dance hall will have a negative impact on the community and surrounding areas:

August 11, 2015

1. The late night hours (2 a.m.) is not found anywhere in similar venues in the area, including the restaurant owner's own Charlottesville hours.
2. There is no resource for legally monitoring noise levels, therefore making noise pollution nearly unenforceable.
3. The parking and traffic planning was not well considered. There is only one stoplight in the entire county. How will drivers impaired with alcohol make their way in and out safely from Route 29? From what we have learned about the types of 'dances' the proprietors are planning, we may be having 200-300 people trying to drive in and out of, and find parking in this small area.
4. The vice that follows bars in most areas. Primarily drugs and prostitution. I am not saying the proprietors would want any of this, I am saying it would just follow large groups of people wanting to 'unwind'. Drug dealing has made its way into the village. I am sure you know by now, drugs are a very serious and growing problem all over, and small, economically challenged rural communities with small law enforcement budgets are particularly vulnerable. Many residents have come together in the spirit of helping keep Lovingson safe, clean and a good place to visit, live and work. Many who live here know what has been going on, and what is likely to come in once a bar/dance hall should enter. Drinking is one thing, but I can assure you, the drug dealers will not be far behind. Especially in that area back by the creek, Tanbark / IGA lot.

I have been to the Pipeline meetings and what is being proposed for Lovingson and the bar/dance hall, is similar to what is being proposed for Nelson County and the Pipeline. This is a perfect example of a company from the outside coming in for financial and commercial gain, without regard to how it will impact the larger community, quite likely for many years to come.

I sincerely appreciate your fairness in matters, and understand why you may lean toward giving the venue a try. But in this case, there is too much at stake for a trial run. In closing, I call on you, as *people who do not reside* in Lovingson, to rely on the *people who do*, to help make this decision. We who do live here know what we are talking about. This would not be a good addition to Lovingson.

3. Julia Rodgers, Nellysford, President of Nelson County Chamber of Commerce

Ms. Rodgers noted that she was addressing the issue of the revised rezoning for Mr. Kober and Mr. Saunders advised that she could speak on that issue during the upcoming public hearing on the matter.

4. Joe Lee McClellan, Lovingson

Mr. McClellan noted he was called that day by Mr. Gaona who told him their SUP application would not be on the agenda that night and not to come. He noted his surprise that they were taking it up.

Supervisors then advised that they were not taking it up that night and it would be heard the following month.

III. Public Hearings and Presentations

A. Public Hearing: Conditional Rezoning #2015-02 – Mountain Sports Retail Space / Mr. Joseph B. Kober: Consideration of an application to rezone (with conditions) two parcels, consisting of 6.06 total acres, from Residential (R-1) to Business (B-1) Conditional. The subject properties are identified as Tax Map Parcels #22-A-18 (owned by Herbert F. Hughes) and #22-A-19 (owned by Claude Malcolm Dodd), and are located at 2950 Rockfish Valley Highway in Nellysford. Specifically, the applicant wishes to rezone (with conditions) the properties to construct an 8,000 square foot “retail store” and accompanying parking lot on the subject properties.

Mr. Padalino’s staff report noted the following:

Site Address / Location: 2950 Rockfish Valley Highway / Nellysford / Central District, Tax Parcel(s): #22-A-19 and #22-A-18, Parcel Size: 1.27 acres and 4.79-acres, respectively
Zoning: Residential (R-1) with General Floodplain District (FP) on portion of #22-A-18.

Applicant: Mr. Joseph “Sepp” Kober of Mountain Sports, Request: Approval of Conditional Rezoning #2015-02 to rezone Tax Map Parcels #22-A-18 and #22-A-19 to Business (B-1) Conditional, in order to construct an 8,000 SF retail store and accompanying parking pursuant to Article 8, Section 1-2.

Mr. Padalino noted that the request was to rezone the property from Residential R-1 to Business B-1 Conditional. He noted that the use was permissible in a Business District pursuant to Article 8 1-2. He noted that the applicant had submitted uses and noted those that were proffered away. He added that the County had received all of the required approval signatures.

He then noted that the reasoning for this [rezoning] request was fourfold:

1. The “Mountain Sports” store would offer for sale a complete line of outdoor sports equipment and clothing.
2. The Mountain Sports store would provide shopping that fits well with the other venues along the 151 corridor. It is also projected to provide 25 local jobs.
3. The site is in the center of what is a mixed use commercial area. It would fit well with the other businesses in the vicinity.
4. The plan is designed to provide minimal environmental impact and storm water runoff generation. The parcels slope gently from southwest to northeast with a slightly steeper spot in the middle that drops to the flood plain. The relative flatness of the front allow storm water to soak in rather than run off.

August 11, 2015

Mr. Padalino then noted the following and showed various maps regarding the subject property:

The subject properties are located in the Nellysford area at 2950 Rockfish Valley Highway, further identified as:

- Tax Map Parcel #22-A-19 (owned by Herbert F. Hughes): fronting Route 151, this 1.27-acre parcel is occupied by a large white frame building (circa 1878) that was previously a store and was currently vacant. This property is zoned Residential (R-1).
- Tax Map Parcel #22-A-18 (owned by Claude Malcolm Dodd): fronting Route 151 and wrapping behind parcel 19, and with frontage along the South Fork of the Rockfish River, this 4.79-acre parcel is unimproved and contains FEMA-designated floodplain and floodway. This property is currently zoned Residential (R-1), with General Floodplain District (FP) overlaying the rear portion of the property.

He noted that the subject properties were located in the heart of Nellysford, with some adjoining properties zoned Agricultural (A-1), Residential (R-1), and Residential Planned Community (RPC) (“Multiple Use – Village Center” designation). Additionally, some properties were designated Business (B-1) zoning were located in close proximity. He then noted these on related maps.

He noted that the rear portion of parcel 18 contained FEMA-designated “Special Flood Hazard Areas.” Specifically, parcel 18 contained both the 100-year floodplain and the floodway for the South Fork of the Rockfish River. He noted that during his initial site visit on April 17th, he observed that the flat, low-lying landscape contained ephemeral pools, wet soils, and other features characteristic of river bottoms.

With regards to the “Future Land Use Plan” in the *Nelson County Comprehensive Plan*, the Nellysford area is designated as Nelson County’s only “Neighborhood Mixed Use Development Model.” It is further identified as a “primary development area.” He then noted the following highlights from the “Neighborhood Mixed Use” section of the Future Land Use Plan:

- Neighborhood Mixed Use Development Model: “A central gathering place able to fulfill the diverse needs and interests of nearby residents and visitors to the county, all within a focused, walkable and identifiable place.”
- “Appropriate ‘Neighborhood Mixed Use’ land uses include... a variety of commercial establishments... Over time, a neighborhood mixed use community may expand to offer a wider variety of retail and civic uses.”
- “Multifamily dwellings, commercial and office buildings may be up to three stories in height. ... Parking lots should be placed behind buildings or in other areas where the impact of the lot on the neighborhood is minimized. ... Dark sky lighting and unobtrusive signage is appropriate for all new development.”

August 11, 2015

Mr. Padalino then noted that all rezoning requests came with a minor site plan and he reviewed the following relative to this:

- The applicant noted that the existing structure may be retained, or may be demolished. The applicant is undecided on how to proceed. The structure’s historic character, reuse potential, and poor condition were all discussed.

He noted that at the July 22nd PC hearing, the applicant noted they intend to demolish this structure, but they also intend to look for opportunities to salvage and reuse specific materials in the new development, if possible.

- The proposed facility would be 8,000 SF with approximately 6,000 SF dedicated to public floor area. 32 parking spaces and additional handicap parking spaces would be made available in a parking lot on the side and rear of the proposed retail building.

- The applicant has submitted a conceptual rendering of the proposed facility’s facade; this elevation was included in the packet.

- The applicant team will be prepared to address specific site details (such as landscaping, exterior lighting, and signage) at later stages of the permitting process and on the Major Site Plan, if the conditional rezoning request is approved.

Mr. Padalino then noted that in May, the applicant team submitted a transportation plan and VDOT commented on the following:

On May 11th, the applicant team submitted a transportation analysis packet (“access management report”) prepared by Perkins & Orrison in response to VDOT’s preliminary comments. That submittal was then forwarded to VDOT on May 12th. On May 27th, county staff received correspondence from VDOT indicating the following:

- The “access management report” correctly concludes that no turning lane is required;
- The sight distance measurements are acceptable;
- Future (additional) development of the site would require re-review by VDOT; and
- Due to VDOT access management regulations and commercial spacing requirements, the proposed location of this project’s commercial entrance would, “...affect the commercial access to the three parcels located to the south (between this property and Adial [sic] Road) and the six or so parcels located immediately to the north along the east side of Route 151. In anticipation of continued commercial development of the corridor, we recommend the consideration of requiring a shared “joint” commercial entrance that would serve both this property and the adjoining parcels as well.

Mr. Padalino then read his and the Planning Commission’s recommendation to the Board as follows:

Staff Evaluation and Recommendation(s):

August 11, 2015

In consideration of the application materials for Conditional Rezoning #2015-02, and in consideration of other pertinent documents, plans, and resources, the Planning & Zoning Director has identified the following primary factors:

- The Comprehensive Plan designation of Nellysford as a “Neighborhood Mixed Use Development Model” indicates that a new retail commercial development would be appropriate in the center of Nellysford.
 - The Zoning Map and surrounding land uses currently contain a variety of residential, commercial, retail, service, professional office, and restaurant structures and uses in close proximity to the subject property(s).
 - The subject property(s) includes frontage along a stretch of Virginia Route 151 which is a well-known destination for tourism industry activity and related commercial enterprises.
 - The applicant team has communicated and demonstrated that their proposed project, if approved, would be done very tastefully and appropriately. They wish to develop a retail project that will enhance Nellysford’s “curb appeal,” and which would have a character and design that fits in with existing successful commercial enterprises in Nellysford and the Rockfish Valley.
- o The presence of the 100-year floodplain and the other riparian characteristics of the low-lying river bottom are not conducive to commercial development or other intensive land uses.

Therefore, in consideration of the primary factors identified above, and with particular reliance upon the Comprehensive Plan, the Planning & Zoning Director recommends the following:

- The applicant’s request to rezone Tax Map Parcel #22-A-19 from Residential (R-1) to Business (B-1) be approved; and
- The applicant’s request to rezone Tax Map Parcel #22-A-18 from Residential (R-1) to Business (B-1) be approved. Please note that it is the opinion of the Planning & Zoning Director that a substantial portion of parcel 18 is not suitable for commercial development (such as all of the low-lying portions of the property located behind the slope which begins approximately 400’ from the edge of VDOT ROW, an area which includes the “Special Flood Hazard Area” / 100-year floodplain). Please also note that the portion of Tax Map Parcel #22-A-18 adjacent to Rockfish Valley Highway (including, in particular, all of the relatively flat portion of the property within 345’ of the VDOT ROW) is suitable for commercial development, with respect to the site’s physical characteristics

PC Review, Public Hearing, and Recommendation(s):

The Planning Commission conducted a properly-advertised public hearing at their July 22nd meeting. The following members of the public provided comments:

Julia Rogers: Stated she is a business owner in Nellysford as well as the president of the Nelson

August 11, 2015

County Chamber of Commerce. She stated the chamber board has been discussing this issue and passed resolution in support of Mountain Sports Retail at 2950 Rockfish Valley Highway; she read the resolution which stated (in part) that "It fits with the Nellysford plan of mixed use development." She went on to thank the Planning Commission for the assistance provided to Mr. Kober.

Joe Lee McClellan: Owns the shopping center across from street from proposed property as well as a house a few blocks down. Stated this would benefit the community and believed the current building used to provide posters delivered to his father for the theater. This property used to be a retail establishment and should have been zoned for retail when zoning originally began in Nelson County. He then stated that a lot of property in Nelson is incorrectly zoned. He stated the commission is trying to micro-manage a respectable business owner.

Herbert Forest: Stated his mother, who owned parcel #22-A-19, passed away on February 21, 2010. He stated this property has been on the market for the last five years. He then explained the several different businesses that this property has housed over the years. He further stated that his mother would be proud to see it turned into a sporting store, and he would like to see it bring revenue to the community.

After closing the public hearing and further reviewing the applicant's request: Commissioner Russell made a motion to approve the application submitted by Mr. Joseph "Sepp" Kober for the conditional re-zoning of Tax Map Parcels #22-A-18 and #22-A-19 from R-1 Residential to B-1 Conditional. The Commission supports the staff report from July 15th and recommends approval by Board of Supervisors to rezone Tax Map Parcels #22-A-18 and #22-A-19 from R-1 Residential to B-1 conditional zoning, which would limit by right uses to:

8-1-2 Retail drugstores, feed and seed stores, food sales and restaurants, wearing apparel shops, auto and home appliance services, banks, barber and beauty shops, hardware stores, offices and personal and professional services. Wholesale and processing activities that would be objectionable because of noise, fumes, or dust are excluded.

8-1-13 Off-street parking as required by this ordinance

8-1-16 Business signs advertising for sale or rent of premises only, up to fifty (50) square feet in total area

8-1-17 Business signs, up to one hundred fifty (150) square feet in total area. One sign less than five (5) feet beyond building.

8-1-18 Directional sig signs, up to two (2) square feet in total area

8-1-19 Location signs, up to one hundred fifty (150) square feet in total area

Also, the Planning Commission directs the Planning and Zoning Director to assume the lead in the correction of all county records with the correct positioning of these two properties regardless of final disposition of this application.

August 11, 2015

Also, we recommend the Board of Supervisors look at the current development of the east side of Route 151 as well as the comp plans of future development of the area so that it may consider if a joint commercial entrance for this property and a required front yard setback would enhanced future development in this area. Commissioner Harman provided the second, and the motion passed on a 5-0 vote with Supervisor Saunders abstaining.

Mr. Padalino then took questions from the Board as follows:

Ms. Brennan asked if parcels 15 & 16 were A-1 and Mr. Padalino confirmed they were. Ms. Brennan noted that the whole area was mixed use and Mr. Padalino confirmed that there was a wide variety in a short stretch. She then asked if the area behind was not conducive to development and Mr. Padalino advised that it had the same zoning but had a floodplain overlay and other restrictions. He noted that this area would not be developed per the site plan. Ms. Brennan then asked if there was any concern about them doing development there and Mr. Padalino noted that it was not common to develop in those areas, however permits could be obtained to do so but would be difficult. He emphasized that they wanted to keep the proposed project out of this area.

Ms. Brennan then noted that the building was 8,000 square feet and asked if it would include a basement and if so, would this be included in the total square footage and could it be used. Mr. Padalino noted that if it were all open to the public, they would need more parking. He noted that in terms of Erosion and Sediment Control and parking, they were looking at a two dimensional footprint.

Ms. Brennan then questioned the shared access management entrance and Mr. Padalino noted that this would mean VDOT would look at where other intersections were and there was a minimum distance for commercial entrances. He added that they were suggesting that they should account for future development and other commercial entrances. Mr. Carter added it would probably mean there would be shared drives and entrances along a parallel road to Route 151 and that this would be a best practice not a mandate. Mr. Padalino noted that this was not explored in depth but was a comment made by VDOT.

Mr. Harvey asked for clarification on the different colors (blue and green) shown in the floodplain areas of the map and Mr. Padalino noted that the green was due to the overlaying of blue over yellow making green. He noted that this involved lots 18 & 19. Mr. Harvey then noted that the majority of parcel 18 was designated as floodplain and there was also a wetland mapped on the edge of it.

Supervisors then invited the Applicant, Mr. Sep Kober to address the Board and he noted he was there to answer any questions they had.

Mr. Kober then noted that he was not planning a basement right now and noted that his store in Charlottesville did not have one, it was 9,500 square feet, and 7,000 square feet of it was retail space.

August 11, 2015

Mr. Harvey asked if the front of the building would be facing Route 151, and Mr. Kober noted it would be facing the northbound way, so if travelling south, you would see one side of it. He added that the major entrance would be seen travelling south rather than north. He added that he wanted to put a nice looking building on the property that would enhance the area as it was a pretty property and he wanted to maintain that.

Mr. Hale asked if it was possible that the commercial entrance could be on the other side. Mr. Kober noted that it was and in the next steps, he would go through the major site plan process. He noted he was open to that and would work with the adjoining neighbors. He noted he could not commit to anything until he went down that road.

Mr. Harvey noted that the Board was considering the rezoning and there were no guarantees of anything. Mr. Kober noted that this would be tying him to a retail project because he had proffered away the other uses and he wanted to put a retail store there.

Ms. Brennan asked if he could move away from the neighbor on the one side and Mr. Kober noted that he thought it could be switched; however he was unsure of the technicalities of it and if it were, it may be have to be studied again by VDOT. Mr. Harvey noted that it looked like the current entrance would be right in front of the other adjoining property because of the cut and taper that would be required and that part of the driveway would be in front of the other property.

Ms. Brennan asked if a major site plan would have to be done if the property were rezoned, and Mr. Carter confirmed it would. Ms. Brennan then noted that she thought that any major site plan should be reviewed by the Board. Mr. Carter noted that the Planning Commission would review the major site plan; and that it had to conform to site plan requirements which were extensive.

Mr. Hale then noted the existing brick house on parcel 16 and that the existing white house was on parcel 19.

There being no other questions for the applicant, Mr. Saunders opened the public hearing and the following persons were recognized:

1. Julia Rodgers, Resident and Business owner in Nellysford and President of the Chamber of Commerce

Ms. Rodgers noted that when she spoke at the Planning Commission public hearing, the Chamber of Commerce presented a resolution supporting the revised zoning request. She noted that Mr. Kober had proffered many of the uses away. She then distributed the resolution to the Board and noted some key points as follows: the property has not always been residential and has served as many business uses over the years so this was not a new thing; second, that particular establishment would provide up to twenty-five (25) jobs to Nelson County in an industry that was different than the prevailing ones, which provided variety in Nellysford. She then noted the concept of a shared entryway; noting that across the road from the area was a doctor's office, a dental office, and a bank that roughly had a shared entryway. She noted that these were cohesive businesses and it worked well. Ms. Rodgers noted that when establishing her CPA firm in Nellysford, she adjoined a brewery and VDOT suggested that they share an entryway; however

August 11, 2015

these were not cohesive businesses and it would be difficult. She noted that Mr. Kober had no idea what may develop on one side or the other so she thought he should be careful with that idea. She concluded by reiterating this would be a wonderful opportunity to expand diversity and provide jobs and she would like to see it approved.

2. Joe Lee McClellan, Lovington

Mr. McClellan noted he supported the business. He added that he owned the shopping center, land on Lodebar, and fifty (50) acres across from the old Rockfish School and he thought it would be a benefit to the community. He added that the building blended in well and he welcomed it.

3. Carlton Ballowe, Faber

Mr. Ballowe noted that there were only two things wrong with the curb appeal in Nellysford: power lines and some of the abandoned and out of use properties that were too close to the road. He noted that this was an opportunity to address one of those; replacing a building that was not contributing to the curb appeal with one that would. He added that he welcome diversity in the jobs in the area and that the time to address the shared commercial entrances was if and when other commercial properties were developed.

4. Charlie Wineberg, Ennis Mountain Lane

Mr. Wineberg noted he liked that the inappropriate uses were proffered away. He noted he also liked the potential use of shared entrances and he thought that if they were not planned for now, they may not be possible in the future. He added that it seemed there were special rules for developing in the floodplain and the rezoning would be for the entire five (5) acres. He concluded by noting he supported the applicants and suggested that they could also proffer away development of the floodplain.

5. Herbert Hughes, Charlottesville Resident and Son of Previous Property Owners

Mr. Hughes noted the various uses of the property and the adjoining property over the years. He noted that they had tried to maintain the property and that his mother would be proud of the property being used for Mountain Sports. He noted that he was in support of the project and could not see why this would not be approved.

6. Judy Hughes, Owner of the Subject Property

Ms. Hughes noted that this property had been on the market for five (5) years. She noted that they had the property surveyed and it was 1.27 acres. She noted that they have had a hard time selling it because of the dilapidated house on it. Ms. Hughes noted that her mother had lived there for seventy (70) years and died at age 90. She noted she would like the rezoning approved because they needed to sell it and they were selling it for half of the original asking price. She concluded by noting she supported the Board's approval of the rezoning.

7. Donna Small, Nellysford

Ms. Small noted that her mother, Maxine Small owned lot 20. She noted that she was not opposed to more development but would like to keep it in the Residential Planned Community (RPC). She then cited the Comprehensive Plan page 32 "The availability of central water and sewer service is key to future development for any large scale commercial or industrial uses as well as for those development areas with a planned higher density". She then noted that this was in the only residential (R-1) section in Nellysford and to rezone this would be spot zoning. Ms. Small then noted that 8,000 square feet was large and it would have a large impact on the neighbors. She then noted that the site plan had a commercial entrance that would impact lot 20 and that if rezoned, there should be a common entrance. She added that if there was already a commercial property there, they could not tell him what had to be put in, they would have to see what was there in the future.

8. Carole Saunders, Realtor for the Subject Property (Hughes)

Ms. Saunders noted the challenge it had been to market the property because of the deteriorating house on the property. She noted she had been impressed with the manner in which this was presented; that the residential value was gone out of the property and she had thought it would be a good business or office location. She noted that she grew up in that community and there had been a lot of changes there. Ms. Saunders noted that Mr. Kober had gone over and above in listening to the Planning Commission and he had completed every request made of him. She noted that she had not attended many Planning Commission meetings and that it had taken months to get this passed. She noted that she felt like this would be an asset for the community and would provide jobs in the area. She added that she knew there were concerns with the size of the building, but it needed to be sufficient for the business's future needs. Ms. Saunders then added she hoped for much success for Mr. Kober and that she felt he would do a good job and supported it wholeheartedly.

9. William Smith, Faber

Mr. Smith noted he grew up in Nellysford and noted that Route 151 had changed a lot. He noted that traffic had increased 200% since he was growing up and there needed to be some kind of moratorium on commercial development in the area until there was a comprehensive plan in place for roads there. He noted he was not opposed to development; however until VDOT did something with the roads, he urged the Board to hold up on any further development in that corridor.

10. Carolyn Tinder

Ms. Tinder noted that the subject property was her Grandmother's property. She noted that it was not Mr. Kober's proposed business that was causing the traffic issues, but rather it was the breweries or wineries that had been approved by the Board. She added that they could not put a moratorium on his business and punished him because he wanted to use the property. She added that she thought he had jumped through every hoop put out by the neighbors and the Planning Commission and they should allow him the opportunity to proceed and help improve the County's economy in a non-alcoholic way.

August 11, 2015

10. Tim Hess, Wintergreen Real Estate Company - Nellysford

Mr. Hess encouraged the Board to look at development in a comprehensive way. He noted that people wanted to come to Nelson and its biggest asset was recreation. He noted that Mr. Kober was offering another layer that was adding to the recreation layer. He noted that those coming for recreation, come and then they leave and don't add to local costs. He added that they had an opportunity to add quality to Nelson County. He noted that Nellysford had charm and this would be adding to it. He encouraged the Board to think about layers, long term planning, and what was adding to the ambiance of the county in making the decision.

11. Donald Cochran, General Manager of Mr. Kober's Businesses

Mr. Cochran noted that in terms of traffic; their customers were already traveling on Route 151 driving to Wintergreen or other destinations. He noted that they would tap into that traffic and would not be increasing it. He then commented that in regards to the wetlands and floodplain, these were governed by EPA and to develop one; one had to offer at least double the area and the wetland area exceeded the non-wetland area; so it would remain in its original vegetative state. He added that Mr. Kober wanted to improve things and bring jobs and tax revenue to the county.

12. Dan and Lucy Haslam, Nellysford via Email letter dated August 10, 2015

Dear Nelson County Board of Supervisors,

As owners of 3042 Rockfish Valley Highway, a registered Virginia and National historic property, we object to the proposed 8,000 square foot retail store that could potentially be built within 95' of our property line.

This proposed retail space will negatively impact us in many ways. It will cause increased noise from traffic, delivery trucks, trash trucks and general activity that accompanies business locations. It will cause light pollution from the large amount of lighting necessary to illuminate the parking area of an 8,000 square foot business 24 hours a day. These negative impacts from the proposed business will cause a decrease in the value of our property, which was purchased in a residentially zoned area. This proposed change will create a single spot of B-1 in a clearly residential line of properties and seems like spot zoning.

As a Virginia native and owner of an historic property in a rural historic district, we are concerned that if this piece of land is designated as a B-1 property, not only will an historic building on the proposed B-1 site, with portions built as early as 1878, be simply demolished without thought, but our own property's future will be put in jeopardy. Our house has stood for over 220 years and is one of the earliest buildings in Nelson County, but our property will be tarnished for many years to come by the close proximity of this retail space.

We are lovingly restoring our historic property and preserving the land and ecosystem it serves in proximity to the South Fork of the Rockfish River. The value and appeal of our property will be decreased, and with it the opportunity for future responsible stewards who would further preserve

August 11, 2015

the character and significance of this historic property of Nelson County. Who will want it after us? Who will want any of the residential properties adjacent or close to the proposed B-1 designated property?

We are not opposed to development and improvements to the community of Nellysford, but we are opposed to changes that are unsympathetic to the adjacent and nearby residential properties. Please consider that an 8,000 square foot business is going to significantly change the noise, the light levels, the traffic and character of the residential area in which it is proposed to be placed. Will the benefit of this business be worth the devaluation and possible future vacancy of the adjacent and nearby residential properties? Please consider the future that this decision will have on the character and appeal of the village of Nellysford, and its residents.

Thank you,
Dan and Lucy Haslam

There being no other persons wishing to be recognized, the public hearing was closed.

Mr. Saunders noted that due to a conflict of interest, he would not be discussing the matter or voting; only listening. Mr. Hale then assumed the proceedings.

Ms. Brennan asked if Mr. Dodd, who lived in the brick house, had been heard from and it was noted that Mr. Dodd was present and could have made his feelings known.

Mr. Harvey noted he would like to correct what Mr. Cochran said about wetlands and Floodplains. He noted he was correct about the Floodplain; however there was a small portion of it on the back side and they would have to mitigate it. He added that wetland and floodplain were defined differently. He then noted that this was the only chance for the Board to comment on this and weigh in. Mr. Harvey then asked if the drawings were to scale and it was noted they were 1 inch = 20 feet on the large site plan. Mr. Harvey noted that the distance looked off between the house and that it looked like it was crowding everything to the North and should be moved over. He added that he would not have to do anything to the house if didn't want to.

Mr. Kober then noted that the house would be going as there was no historical value; however they would salvage some lumber if possible. He noted he would demolish the house near the road and then would do a major site plan. He noted that they had provided what they felt like would work on the site.

Mr. Hale then noted that the conceptual plan was taking place on parcel 18 that went out to the road. Mr. Harvey noted that the furthest taper to the North would be in front of the adjacent lot. Mr. Kober advised that his engineer worked with VDOT on the siting and that they may be able to shift it south; however he was not sure. He noted that he would not be able to use a well that was on site.

Mr. Hale then suggested that the detailed discussion of the site plan, which was only conceptual, be ceased and the Board only deal with the rezoning request.

August 11, 2015

Mr. Hale then noted that it was obviously a difficult question, however the Board was being asked to rezone two (2) residential R-1 parcels adjoined by additional residential R-1 parcels and agricultural A-1 zoned parcels and he knew zoning was not a perfect tool. He noted that were he an owner of an R-1 lot; he would have an expectation that an adjacent R-1 lot would remain an R-1 lot. He noted that he was all for the business; however he did not think rezoning it was the answer. He noted that there were other lots with residential R-1 buildings on them in the agricultural A-1 to the southwest and that this was a rezoning that he did not think was appropriate for the area. Mr. Hale then added that the Study of Nellysford suggested that commercial development take place in the RPC, and he noted that the other business B-1 zones across Adial Road would not be adjacent to those. He noted another concern for him was the size of the building, and he noted he did not believe there were businesses that were of that size in the area. He concluded by noting that in terms of the Comprehensive Plan, the proposed building was a much larger size than he would prefer; however his real objection was rezoning it away from residential R-1.

Mr. Hale then moved that the Board not approve the rezoning of these two (2) parcels as requested. There was no second and the Board had the following discussion:

Mr. Bruguere noted he disagreed with Mr. Hale; noting that the Comprehensive Plan said that Nellysford was a mixed use development and it was to be in this area. He noted that Mr. Kober had proffered away everything else and was looking out for the community in doing that. He noted that the 8,000 square foot building would be on six (6) acres and there was an opportunity for screening with landscaping. He noted he was in favor of it and the business and that the County could not turn away twenty-five (25) new jobs.

Ms. Brennan noted that she has thought about this noting it was a complicated issue. She noted she could appreciate that folks hoped nothing changed in the neighborhood; however the area was changing dramatically and there were mixed uses all along Route 151. She noted she agreed with Mr. Cochran, that more traffic would not be brought in because of the business and she liked what Mr. Wineberg said about planning for joint shared connector roads. She noted that she thought that the fact that the house on the property had to go made it a valuable property for commercial development and she liked the idea of a high quality building being in the area. She added that the staggering of the building was good and she hoped that the Mr. Kober would move the entrance away from the unhappy neighbor. Ms. Brennan then noted that she thought that twenty-five (25) jobs were needed in the County and she was hoping the Board would pass the rezoning application. She concluded by noting that she was confident Mr. Kober would be a good neighbor and would work with them and she was in favor of the rezoning.

Mr. Bruguere added that the Architect, Robin Meyer, had done an exemplary job on other projects in the county.

Mr. Harvey noted that there was a line of residential development all through there and if it were rezoned, it became undesirable for residential use and he agreed with Mr. Hale. He noted that there was limited property there and a service road would not work. He noted that they could not move back further because of the floodplain; however they could move south a bit. He noted that development should not have this much effect on neighboring properties. He noted that the flood zone there was real. Mr. Harvey then noted that he believed that the commercial property on the

August 11, 2015

opposite side of Adial Road had been there a while and the garage had been there for more than thirty (30) years.

Mr. Harvey then noted that he had not heard anything about water and sewer; however he thought the water table there was high but he was not sure. He noted he thought a septic system could be put in a floodplain; however there was sandy rocky soil there. Mr. Harvey then noted he loved the building plan, however he thought it would look huge and disproportionate on the property. He reiterated he thought it was a great plan and he noted he would love to see it come into the area; however he was not sure this was the best location.

Mr. Harvey then asked Mr. Padalino if Mr. Kober could do the same thing in A-1 and Mr. Padalino noted he would have to check, however he did not think it would be a by right use. Mr. Carter supposed it would take a Special Use Permit; however it was not the same as a neighborhood retail store allowed by SUP in A-1.

Ms. Brennan asked if other areas along the road were zoned individually and if so, she questioned how it happened. Mr. Harvey reiterated that this was the only opportunity for the Board to comment since they did not see the site plan again. Mr. Bruguere suggested that they could attend the site plan meetings and make suggestions. He noted that they were looking at denying folks the sale of their land.

Following discussion, there was no call for the vote from the Chairman and the motion died on the table.

Mr. Bruguere then moved to approve the conditional rezoning #2015-02 and Ms. Brennan seconded the motion.

There being no further discussion, Supervisors voted (2-2-1) by roll call vote, with Mr. Hale and Mr. Harvey voting No and Mr. Saunders abstaining. Mr. Carter then advised that a tie vote was not approval.

Mr. Carter then advised that the Planning Commission had a similar situation and was advised after the fact by the County Attorney that they should have had a vote on whether to deny the application.

Mr. Hale then moved that the conditional rezoning #2015-02 be denied and Mr. Harvey seconded the motion. Supervisors voted (2-2-1) by roll call vote with Mr. Bruguere and Ms. Brennan voting No and Mr. Saunders abstaining.

Mr. Carter then advised that the vote was again tied and therefore the vote was No.

In response to questions from the Realtor, the Board advised that the current zoning should be considered when trying to sell the property.

Mr. Hess of Wintergreen Real Estate Company asked if they could collectively come back to rezone adjoining parcels to B-1 and Mr. Hale noted he thought that would be a more appropriate

August 11, 2015

request than the current one. It was noted that the other side of the streetscape was commercial uses and had larger scaled buildings. He added that if it did not fit into two (2) R-1 parcels, then the property owners should work together to make this work.

Ms. Carole Saunders, Realtor for the property, inquired as to whether or not Mr. Saunders would still have a conflict of interest if she relinquished her commission and was no longer the listing agent. She asked if she did that, could he then vote on the matter. Mr. Saunders then advised that the vote had been taken and the applicants could now take it to Circuit Court.

B. Public Hearing: Proposed Zoning Ordinance Amendments: “Brewery” and “Limited Farm Brewery”: Consideration of proposed amendments to the Nelson County Zoning Ordinance as originally referred to the Planning Commission by Board of Supervisors Resolution **R2015-51** at the June 9th BOS meeting, inclusive of proposed modifications requested by the PC at their June 24th meeting, and as shown in a staff report dated June 26th. The proposed amendments contain a revised definition for “brewery” and “limited farm brewery” which would provide for the production of beer as well as additional types of brewed beverages.

Mr. Padalino noted the following in regards to the proposed amendments:

The Department of Planning & Zoning has recently coordinated with the Department of Economic Development & Tourism in assisting an existing Nelson County business (“Barefoot Bucha”) with their efforts to relocate and expand their operations to a new location in Nelson County.

He noted that the existing business currently brewed a non-alcoholic beverage called “kombucha,” which was essentially fermented tea infused with natural flavors such as berries, herbs, etc. He advised that this existing operation was currently permitted as a Home Occupation and that Barefoot Bucha’s proposed new facility would not be eligible as a home occupation, as the new facility would not be located at their residence.

Additionally, he noted that even though this existing business was a brewery, the proposed new facility was not eligible under the recently-adopted “limited farm brewery” land use, which was provided as a byright use in the Agricultural (A-1) District. The issue primarily involved the extremely narrow and limiting definition of “brewery,” which is:

Brewery: A facility for the production of beer.

Mr. Padalino noted that the existing business did not brew beer; as noted above, they brewed kombucha. Otherwise, they would be eligible to relocate and expand under the “limited farm brewery” land use, as it meets the following requirements to be defined as a limited farm brewery:

- The proposed new facility would be located in the Agricultural (A-1) District;
- They would brew less than 15,000 barrels per year; and
- They would produce agricultural products on premises at the proposed new facility.

August 11, 2015

He reported that the co-owners had submitted in writing their calculations that they produced approximately 30% - 90% of their total ingredients on site, depending on whether or not “water” was considered an eligible ingredient for the purposes of calculating the proportion of on-site agricultural operations or products.

Accordingly, in order to assist this existing Nelson County brewing operation in relocating to an expansion site in Nelson County, the proposed text amendments would broaden the definition of “brewery” and “limited farm brewery” to accommodate the production of brewed beverages other than just beer.

Mr. Padalino then noted the proposed definitions to be:

Brewery: A facility for the production of brewed beverages, including beer or other fermented beverages.

Farm Brewery, Limited: A brewery that manufactures no more than 15,000 barrels of brewed beverages per calendar year, provided that (i) the brewery is located on a farm owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its brewed beverages are grown on the farm. The on-premises sale, tasting, or consumption of brewed beverages during regular business hours within the normal course of business of such licensed brewery, the direct sale and shipment of brewed beverages and the sale and shipment of brewed beverages to licensed wholesalers and out-of-state purchasers in accordance with law, the storage and warehousing of brewed beverages, and the sale of limited farm brewery-related items that are incidental to the sale of brewed beverages are permitted.

Mr. Padalino then noted that staff was not aware of other fermented beverages at the time these definitions were originally put in place.

Mr. Padalino then referred to the information provided to the Board regarding kombucha.

There being no questions for Mr. Padalino, Mr. Saunders opened the public hearing and the following persons were recognized:

1. Ethan Zuckerman, Owner of Barefoot Bucha

Mr. Zuckerman noted that his company brewed a non-alcoholic carbonated tea called kombucha. He noted that they wanted to grow their business and hoped the Board would allow this and create the opportunity for them to move from their current space.

There being no other persons wishing to be recognized, the public hearing was closed.

Ms. Brennan moved to approve the new definitions of “brewery” and “limited farm brewery” and Mr. Hale seconded the motion.

It was noted that this would not change the production thresholds but would allow for brewed beverages other than beer.

August 11, 2015

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following Ordinance was adopted:

ORDINANCE O2015-06
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF APPENDIX A, ZONING ORDINANCE,
OF THE CODE OF NELSON COUNTY VIRGINIA
ARTICLE 2, DEFINITIONS – BREWERY AND LIMITED FARM BREWERY

BE IT HEREBY ORDAINED, that the Nelson County Board of Supervisors does hereby amend Appendix A (Zoning Ordinance) of the Code of Nelson County, as follows:

Article 2 – Definitions

Brewery: A facility for the production of brewed beverages, including beer or other fermented beverages.

Farm Brewery, Limited: A brewery that manufactures no more than 15,000 barrels of brewed beverages per calendar year, provided that (i) the brewery is located on a farm owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its brewed beverages are grown on the farm. The on-premises sale, tasting, or consumption of brewed beverages during regular business hours within the normal course of business of such licensed brewery, the direct sale and shipment of brewed beverages and the sale and shipment of brewed beverages to licensed wholesalers and out-of-state purchasers in accordance with law, the storage and warehousing of brewed beverages, and the sale of limited farm brewery-related items that are incidental to the sale of brewed beverages are permitted.

BE IT FURTHER ORDAINED, that this Ordinance becomes effective upon adoption.

IV. Other Business

- A.** Deferred from July 14, 2015: **Special Use Permit #2015-03** – “Dance Hall”
/ Jose & Elpidia Gaona

Consideration of this item was deferred at the applicants’ request and affirmative vote by the Board at the beginning of the evening session.

B. *Introduced: Massies Mill Property*

Mr. Bruguere noted that he had been approached by someone that wanted to purchase the remaining Massies Mill property that formerly housed the Massies Mill Community Center that had been demolished. He noted he thought there was a little over five (5) acres there and Jay Rostow wanted to put up a 6,000 square foot building to ferment and bottle vinegar there.

Mr. Carter advised that the Board would need to have a public hearing for disposal of the property.

August 11, 2015

Mr. Harvey noted that the Board would want to be careful to preserve the broadband tower property and access to it and Mr. Bruguere noted that if he bought it, there would have to be a right of way to the tower.

Mr. Carter noted that at minimum, the Board would need to advertise this. Mr. Hale suggested looking at the plat etc. and Mr. Bruguere noted that there was not much property left after the collection site. He then noted he could get the plats and he would like to proceed with the process.

Mr. Hale then inquired if this was within the Board's purview to discuss in closed session and Mr. Harvey and Mr. Carter advised it was not and should be discussed in public.

Mr. Harvey noted that the old building foundation was still there and Mr. Bruguere noted that he would pour a slab and put up a metal building. Mr. Carter noted the zoning would have to be checked and Mr. Padalino noted they would need to look at the needed setbacks from the tower.

Supervisors then agreed by consensus to have staff bring this back at the next meeting as a report and then they could decide whether or not to authorize staff to advertise it for sale. Mr. Carter noted that this could then move forward by the October meeting. He also advised that the party could propose to buy the property and he would confer with the County Attorney and bring back the particulars.

V. Adjournment

At 9:00 PM, Mr. Hale moved to adjourn the meeting and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.