

August 25, 2011

Virginia:

AT A REGULAR SCHEDULED MEETING of the Nelson County Board of Supervisors at 7:00 p.m. in the Board of Supervisors room located on the second floor of the Nelson County Courthouse in Lovingson, Virginia.

Present: Allen M. Hale, East District Supervisor
Constance Brennan, Central District Supervisor
Thomas H. Bruguire, Jr. West District Supervisor - Vice Chair
Joe Dan Johnson, South District Supervisor – Chair
Thomas D. Harvey, North District Supervisor
Stephen A. Carter, County Administrator
Candice W. McGarry, Administrative Assistant/Deputy Clerk
Phil Payne, IV, County Attorney

Absent: None

I. Call to Order

Mr. Johnson called the meeting to order at 7:05 pm with all Supervisors present to establish a quorum.

- A. Moment of Silence
- B. Pledge of Allegiance – Ms. Brennan led the Pledge of Allegiance

Mr. Johnson suggested that the order of business be changed to consider the Consent Agenda first to accommodate the Johnson family in attendance for the presentation of a resolution honoring Alexandria Johnson. The Board agreed by consensus to consider the consent agenda prior to the scheduled public hearing.

II. Public Hearings and Presentations

- A. **Public Hearing** - Region 2000 Regional Water Supply Plan (**R2011-69**) and Local Drought Ordinance and (**O2011-07**)

Mr. Carter introduced Mike Lawless and Bob White, who have been working with Region 2000 on the Regional Water Supply Plan since 2006. He noted that they were presenting in various localities and when they were done with obtaining all of the plan approvals, it would be submitted to the state. He added that Mr. Lawless would overview the plan, and then the Board would conduct the public hearing, and consider the proposed approvals.

Mr. Lawless stated that he would summarize the plan document and their findings regionally and for Nelson County, as well as outline the actions needed in order to submit the Plan to DEQ by the deadline.

Mr. Lawless then noted those localities involved in the plan: Amherst, Appomattox, Bedford, Campbell, and Nelson Counties, Cities of Bedford and Lynchburg; and towns of Altavista, Amherst, Appomattox, Brookneal, and Pamplin. He added that there were some participating service authorities as well.

Mr. Lawless then reviewed a PowerPoint Presentation that included the following:

Background

- Water Policy TAC was formed in the Fall of 2002 to address ways to improve water supply planning in Virginia in response to the drought of 1999-2002.
- The General Assembly enacted SB1221 in 2003, which required DEQ to develop criteria for local and regional planning and a preliminary state water resources plan.

Water Supply Planning Regulations

- Title 62.1 of the Code of Virginia Chapter 780 9 VAC 25-780 et seq. Effective Date: November 2, 2005

Plan Goals

- Data collection from all participants
- Determine existing demands and project future demands for next 50 years
- Identify who in the region will need additional water supply and when
- Identify potential alternatives for additional water supply
- Create a useable, expandable, implementable plan – not one that just satisfies the regulations

The Plan is NOT

- Not intended to be a regulation
- Not locked into current ranking of alternatives
- Not restricted from considering new alternatives as conditions change
- Not committing you to conclusions of other localities

Water Sources

- NCSA - Four Water Systems
 - Gladstone – series of springs
 - Lovington – Black Creek Reservoir and groundwater wells
 - Schuyler – Reservoir on Johnson's Branch
 - Wintergreen Mountain Village – Lake Monacan and groundwater wells

Current Water Use

- Serves approximately 5,090 people
- Average daily withdrawal = 0.436 MGD
- Annual average demand = 159.14 MG

Mr. Lawless noted that the current water use was listed as noted in the 2006 census data and an addendum would be prepared to include the 2010 census data.

Demand Projections

- Current Demand = 814 MG/Year
- Demand in 2060 = 1,094 MG/Year
- Water shortage beginning around 2058
- Total water deficit in 2060 = 73 MG/Year

Mr. Lawless stated that these projections were done out to 2060 and noted because this was such a long time out, it was important to review these in 5 and 10 year cycles. He stated that it was done this way because DEQ wanted disaggregated projections for various uses not only total usage. He added that there was a slight deficit in water supply shown for the region as of 2006-2007, which has since changed to show a surplus. He reported that the projected demand vs. supply showed that Nelson County would recognize a deficit around 2058, but that this would need to be reviewed. He added that permitting takes a while and it was important to plan ahead. He noted that the model anticipates growth and climate changes, but does not account for increasing supply since the data was gathered in 2007.

He noted that the model does look at private ground water use, however there was not enough ground water data in the region to get an accurate picture of resources available and his recommendation was to begin collecting ground water data in the County and in the region.

Potential Alternatives

- Tye River withdrawal to supply Black Creek Impoundment
 - Option 1: New raw water line along Route 56 from Tye River to Black Creek Impoundment
 - Option 2: New water line following Black Creek to the confluence with Tye River
- New reservoir for short term storage needs (Wintergreen Resort)
 - Preferred site near Rode's Farm –
 - 39 MG of usable storage, 13 acres in area
 - Filled from Lake Monacan using Allen Creek Pump Station

Potential Alternatives

- New reservoir for long term needs
 - Option 1: One large reservoir to satisfy demands of 100% buildout
 - Option 2: Incrementally construct several smaller reservoirs as growth in Rockfish Valley Corridor increases.

Drought Response & Contingency Plan

- Wintergreen Area
 - Based on Wintergreen Water Emergency Action Plan
 - Drought conditions are governed by reservoir levels, which are based on percent of total reservoir capacity (96.6 MG, includes Lake Monacan and 11 Valley Lakes)
 - Response at each level involves transfer of water from Valley Lakes to Lake Monacan
 - Four Drought Levels:
 - Level 1: 79% of aggregate reservoir capacity
 - Level 2: 68% of aggregate reservoir capacity
 - Level 3: 63% of aggregate reservoir capacity
 - Level 4: 42% of aggregate reservoir capacity

Drought Response & Contingency Plan

- Gladstone Area
 - Drought conditions monitored based on stream flow at USGS gauging station located at the James River at Bent Creek

- Three drought stages:
 - **Stage 1: Drought Watch** - Representative daily stream flows between the 10th and 25th percentile for return flow frequencies
 - **Stage 2: Drought Warning** - Representative daily stream flows between 5th and 10th percentile for return flow frequencies
 - **Stage 3: Drought Emergency** - Representative daily stream flows below the 5th percentile for return flow frequencies

Drought Response & Contingency Plan

- Lovington Area
 - Drought conditions monitored based on Black Creek Reservoir level and stream flow at Tye River stream flow gauge
 - Three drought stages based on stream flow:
 - **Stage 1: Drought Watch** - Representative daily stream flows between the 10th and 25th percentile for return flow frequencies
 - **Stage 2: Drought Warning** - Representative daily stream flows between 5th and 10th percentile for return flow frequencies
 - **Stage 3: Drought Emergency** - Representative daily stream flows below the 5th percentile for return flow frequencies

Drought Response & Contingency Plan

- Schuyler Area
 - Drought conditions monitored based on Johnson's Branch Reservoir and stream flow at Tye River stream flow gauge
 - Three drought stages based on stream flow:
 - **Stage 1: Drought Watch** - Representative daily stream flows between the 10th and 25th percentile for return flow frequencies
 - **Stage 2: Drought Warning** - Representative daily stream flows between 5th and 10th percentile for return flow frequencies
 - **Stage 3: Drought Emergency** - Representative daily stream flows below the 5th percentile for return flow frequencies

Drought Ordinance

- No ordinance currently in place
- Adopt Drought Ordinance

Mr. Lawless noted that the County does not currently have a drought Ordinance in place and a draft ordinance had been provided that meets DEQ requirements. He noted that this could be changed to add language to mesh with County policies. He added that this would need to be included as part of the plan to be submitted to DEQ by November 2nd.

Actions Required

- Adopt Drought Ordinance
- Hold a public hearing and pass a resolution adopting the Regional Water Supply Plan (including the Drought Response and Contingency Plan)

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Following the presentation, Mr. Lawless answered questions from the Board and initially clarified that the local drought ordinances did have to be included in the plan.

Mr. Hale then noted that the Service Authority has moved forward with the new reservoir.

Ms. Brennan inquired as to where they were on collecting groundwater data going forward and Mr. Lawless noted that this task was not part of the Water Supply Plan and it would be up to the County to request that this happen and either work with Region 2000 or a consultant to collect this data. He noted that there may possibly be funding for this in the future from the USGS, however DEQ funding has been cut for this.

It was noted that increasing the reservoir only helped those on existing water lines. He noted that the drought plan was not clear in its application to individual wells and stated that it should apply to all in theory; however it would be difficult to enforce the plan on private wells. He suggested that these could be reached through public education and the Ordinance did not contain any repercussions for this instance. Mr. Bruguere noted that he did not think it should apply to private sources and confirmed that the ordinance does not. Mr. Johnson added that droughts could affect private wells and Mr. Harvey added that the wells dug for the geothermal system at the new medical center had varying levels of water at varying depths. Ms. Brennan stated that it would be useful to know the County's groundwater levels.

There being no further questions from the Board, Mr. Johnson opened the public hearing and there being no persons wishing to be recognized, the public hearing was closed.

Mr. Bruguere stated that he would like to delay consideration of this until the Board's next meeting in order to be able to reread the documents. Mr. Carter noted that there were terms in the draft ordinance that needed correction and Mr. Lawless reiterated that adoption of an ordinance was an incumbent responsibility and there may be penalties if it was not done. He added that the timing was still okay if the Board delayed its approval.

Mr. Hale then confirmed that the Board could approve the Regional Water Supply Plan separately. He then moved to approve resolution **R2011-69**, a Resolution Approving the Region 2000 Regional Water Supply Plan. Ms. Brennan seconded the motion and 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-R2011-69
NELSON COUNTY BOARD OF SUPERVISORS
A RESOLUTION APPROVING THE REGION 2000
REGIONAL WATER SUPPLY PLAN

WHEREAS, Virginia State Water Control Board Regulation 9 V AC 25-780, Local and Regional Water Supply Planning, requires all counties, cities and towns in the Commonwealth of Virginia to prepare and submit a water supply plan to the Department of Environmental Quality (DEQ); and

WHEREAS, the County of Nelson is a participant in the Region 2000 Regional Water Supply

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Planning Group as reported to DEQ by letter before the November 2, 2008 deadline; and

WHEREAS, on August 25, 2011, the County of Nelson held a public hearing to accept public comment on the Regional Water Supply Plan; and

WHEREAS, the adopted Regional Water Supply Plan will be submitted to the DEQ on or before November 2, 2011.

NOW, THEREFORE BE IT RESOLVED that the Nelson County Board of Supervisors of the County of Nelson hereby adopts the Region 2000 Regional Water Supply Plan as it pertains to the County of Nelson. Approval and adoption of this regional plan indicates support for and general agreement with the regional planning approach, but does not indicate approval or disapproval of conclusions and recommendations presented in the plan as they pertain to other localities. The County of Nelson reserves the right to comment on specific water supply alternatives in the future even though such alternatives may be recommended in this adopted plan. The County of Nelson will not be limited to specific water supply alternatives in this adopted plan and reserves the right to recommend additional alternatives for consideration in the future.

BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors of the County of Nelson intends that the Regional Water Supply Plan shall be revised to reflect changes in relevant data at least once every five years and resubmitted to DEQ every ten years in accordance with the regulation and sound planning practice.

Mr. Carter then commended Mr. Lawless and Mr. White for the monumental task they have undertaken.

III. Consent Agenda

The Board considered this item of business prior to the conduct of the scheduled public hearing.

Mr. Johnson suggested that the Board remove the resolution honoring Alexandria Johnson and Mr. Hale asked that approval of the minutes be deferred until next meeting. The Board agreed by consensus and Mr. Johnson noted that the items remaining for consideration on the consent agenda were item B. Resolution – **R2011-71** September -National Preparedness Month, item C. Resolution – **R2011-65** Emergency Services Volunteer Appreciation (Deferred from 8/9), and item E. Resolution – **R2011-73** Support for Community Health Center Funding and BRMC.

Ms. Brennan then moved to approve the consent agenda, removing the minutes for approval and the resolution of recognition and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – R2011-70** Minutes for Approval – Deferred
- B. Resolution – R2011-71** September -National Preparedness Month

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**NELSON COUNTY BOARD OF SUPERVISORS
NATIONAL PREPAREDNESS MONTH**

WHEREAS, September is National Preparedness Month, a time set aside annually to encourage Americans to take necessary steps to prepare for emergencies in their homes, businesses and communities; and

WHEREAS, this September marks the ten-year anniversary of the tragic terrorist attacks of 9/11, including a jet airplane crash into the Pentagon that killed 125 military and civilian public servants and 64 people on the plane; and

WHEREAS, in observing this tenth anniversary of September 11, 2001, we honor the memory of those who were lost by doing all we can to ensure that our Virginia communities, including Nelson County are prepared to respond and recover from all types of disasters and hazards; and

WHEREAS, those who are prepared for emergencies recover faster and can help others who also may be affected, demonstrating community spirit in the face of adversity, and

WHEREAS, emergency preparedness is a shared responsibility, and every family that is able should prepare to be self-sufficient for the first 72 hours after disaster strikes; and

WHEREAS, Virginia and Nelson County families can start their preparedness actions by making an emergency plan and stocking at least three days' of essential supplies including water and food that won't spoil and a hand-crank or battery-powered radio and extra batteries to hear emergency information,

NOW, THEREFORE BE IT RESOLVED that the Nelson County Board of Supervisors hereby joins Governor McDonnell in recognizing September 2011 as National Preparedness month in the Commonwealth of Virginia, and in Nelson County, a time to remember and a time to prepare, and encourage all citizens to be ready for emergencies by taking steps to prepare for emergencies at home, at work and in our communities.

C. Resolution – **R2011-65** Emergency Services Volunteer Appreciation (Deferred from 8/9)

**RESOLUTION R2011-65
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION HONORING THE SURVIVING FOUNDERS OF LOCAL VOLUNTEER FIRE
DEPARTMENTS AND RESCUE AGENCIES AND DECLARING SEPTEMBER 11, 2011 TO BE
EMERGENCY SERVICES VOLUNTEER APPRECIATION DAY**

WHEREAS, the Nelson County Emergency Services Council will honor the County's fire and rescue agency volunteers on September 11, 2011; and

WHEREAS, the EMS Council and the Nelson County Board of Supervisors would like to offer their gratitude and appreciation for the dedication and service of all emergency services volunteers; and

WHEREAS, the EMS Council and the Board of Supervisors wish to specifically honor the surviving founders of each of the County's volunteer organizations as follows:

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Lovington Fire Department: W.E. Dawson and George Parrish

Piney River Fire Department: Charles Mantiplay, Tunstall L. Baldwin, Robert Lloyd Campbell, and Wayne Ferguson

Faber Fire Department: A.T. Davidson, Jr., and H.C. Powell Sr.

Gladstone Fire Department: Lewis Edwards Moore, Russell Moore, Pete Macffand, Russell Macffand, and Terry Clark.

Gladstone Rescue Squad: Willie Cyrus

Nelson Rescue Squad: John J. Bradshaw and Earl Gormes

Roseland Rescue Squad: George Beard, Bobbie Napier, and William H. Thompson, Jr.

Montebello Fire & Rescue: Patty Grant Hendrix, Madeline Grant, Mitchell Seaman, Stanley Cash, Lester Roberts, Milton Bryant, Kenneth Fitzgerald, Paul Musgrave, Doris Bryant, R. Bistow, and B. Byers.

Rockfish Fire & Rescue: Jim Willis and John Anderson

Wintergreen Fire & Rescue: George Nicklas, Barlow Delk, L.F. Payne, Don Fitzgerald, and Jim Kenes

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors that said Board in conjunction with the Emergency Services Council, hereby honors its volunteer Fire and Rescue members and organizations, specifically their surviving founders and hereby declares September 11, 2011 to be Nelson County Emergency Services Volunteer Appreciation Day.

D. Resolution – R2011-72 Recognition of 4-H All-Star Alexandria Johnson – Removed and considered separately.

E. Resolution – R2011-73 Support for Community Health Center Funding and BRMC

**RESOLUTION R2011-73
NELSON COUNTY BOARD OF SUPERVISORS
SUPPORT FOR MAINTENANCE OF FEDERAL FUNDING
FOR COMMUNITY HEALTH CENTERS INCLUDING
BLUE RIDGE MEDICAL CENTER**

WHEREAS, Blue Ridge Medical Center, as a member of America’s Health Center network, is a vital part of our nation’s safety net providing health care to 23 million people in medically underserved communities; and

WHEREAS, Health centers have proven their ability to improve health, reduce illness, and reduce health costs; and

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WHEREAS, The survival of Blue Ridge Medical Center is critically important to the health and well-being of our local communities; and

WHEREAS, The communities served by health centers, including Nelson County, have higher proportions of both uninsured persons and individuals covered by Medicaid; and

WHEREAS, The current federal fiscal situation threatens important domestic programs like Health Centers;

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors hereby supports the National Association of Community Health Center's "Campaign for America's Health Centers" in its efforts to demonstrate to the federal and state governments that health centers like Blue Ridge Medical Center are an essential part of America's commitment to health care and an essential part of the strategy to deliver cost effective, efficient AND high quality care; and

BE IT FURTHER RESOLVED, that the Nelson County Board of Supervisors pledges its strong support for the efforts provided by Blue Ridge Medical Center as well as the National Association of Community Health Centers, The Virginia Community Health Care Association, and others; and hereby appeals to Congress and the Administration to assure that this support continues.

The Board then considered item D. **R2011-72** Recognition of 4-H All-Star Alexandria Johnson, which had been removed from the Consent Agenda. Mr. Johnson then read the resolution aloud and following Mr. Harvey moved to approve resolution **R2011-72** and Mr. Bruguere seconded the motion. 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-R2011-72
NELSON COUNTY BOARD OF SUPERVISORS
RECOGNITION OF ACHIEVEMENT – 2011 4-H ALL STAR
ALEXANDRIA JOHNSON**

WHEREAS, The 4-H All Star program is an honor/service organization that is community oriented and is the highest recognition that a Virginia 4-H'er can achieve; and

WHEREAS, since 1923, over 9,000 Virginia 4-H members have been selected as Virginia 4-H All Stars as a result of their accomplishments; and

WHEREAS, Miss Alexandria Johnson has been a 4-H member since age five (5) and began her All Star efforts at age nine (9) having been a member of Nelson County 4-H for eleven (11) years; and

WHEREAS, Miss Johnson has participated in competitive events such as public speaking, presentations, and Share-the-Fun, 4-H exhibits including the individual showing of livestock, participating in 4-H camp as a Counselor-in-Training and a Teen Counselor for four (4) years and various other events; and

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WHEREAS, on June 21, 2011, Miss. Johnson became a member of the 89th class of Virginia 4-H All Stars, marking a significant achievement in her life

NOW, THEREFORE BE IT RESOLVED that the Nelson County Board of Supervisors hereby congratulates Miss Alexandria Johnson for her outstanding personal dedication and community service in attaining 4-H All Star recognition and becoming a member of the 89th class of Virginia All Stars.

Ms. Brennan then presented the adopted resolution to Miss Johnson and her family.

IV. New/Unfinished Business

A. Lovingston Health Care Center/Medical Facilities of America COPN Application

- 1. Closed Session pursuant to Virginia Code § 2.2-3711(A) (7):** Consultation with legal counsel employed or retained by a public body regarding the Lovingston Healthcare Center/Medical Facilities of America COPN application, requiring the provision of legal advice by such counsel.

Mr. Johnson inquired as to whether or not to have the closed session and Mr. Payne advised that if the Board had additional questions it would be appropriate. The Board agreed by consensus that they had additional questions and Mr. Hale moved that the Board conduct a closed session pursuant to Virginia Code § 2.2-3711(A) (7): Consultation with legal counsel employed or retained by a public body regarding the Lovingston Healthcare Center/Medical Facilities of America COPN application, requiring the provision of legal advice by such counsel. Mr. Bruguiere then seconded the motion.

Mr. Carter noted that he had another matter requiring Mr. Payne's advice, that of the Gladstone Rescue Squad receivership and would like to include this in the closed session if agreed.

Mr. Hale then amended his motion to also include this topic and Mr. Bruguiere seconded the amended motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion to go into closed session.

Members then conducted the Closed Session and upon its conclusion, Mr. Hale moved to reconvene in public session and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and reconvene in public session.

Upon reconvening in public session, Mr. Hale moved that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information act cited in that motion. There was no recorded second and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and certify the closed session.

Ms. Brennan then stated that the Board has given Mr. Payne authorization to continue conversations with MFA on the Lovingston Healthcare Center and no other action was taken.

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B. Health Department Building

Mr. Hale suggested and the Board agreed by consensus to defer consideration of this subject until the Board's next meeting.

C. Resolution in Support of the Avagyan Family (R2011-67) (Deferred from 8/9)

Mr. Johnson reported the good news that an extension had been granted to the Avagyan family through April 2013 which would ease the situation; however he recommended that the Board move forward with the proposed resolution.

Mr. Carter noted that the original resolution had been revised based on conversations with Senator Warner's immigration specialist and that in lieu of a private bill, the Board was asking for discretionary relief in order to be able to get the family some legal guidance and work towards a permanent solution. Mr. Carter reiterated that this was done based on input from a Warner staffer with 17 years experience.

Mr. Johnson added that the revised resolution had been included in the Board's meeting packet.

Ms. Brennan then moved to approve resolution **R2011-67** Request for Discretionary Relief for the Avagyan Family: Ara Avagyan, Gayane Avagyan, Samson Avagyan, and Ludmilla Avagyan. Mr. Hale seconded the motion and 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 R2011-67
NELSON COUNTY BOARD OF SUPERVISORS
REQUEST FOR DISCRETIONARY RELIEF FOR THE
AVAGYAN FAMILY: ARA AVAGYAN, GAYANE AVAGYAN,
SAMSON AVAGYAN, AND LUDMILLA AVAGYAN**

WHEREAS, Ara Avagyan, his wife Gayane, daughter Lyudmila (Ludi), and son Samson (Sam) came from Armenia to the USA legally, but for bureaucratic reasons beyond their control, their immigration status is now in serious jeopardy; and

WHEREAS, In 2000, Ara Avagyan completed an agricultural internship in the U.S. and then returned to Armenia until he obtained an HIB visa, which is a normal path to immigration, and then brought his family to the U.S. After six years of hard work building up the produce part of Double H Farm in Nelson County, the Avagyan Family now faces the end of their legal stay in the U.S., due to the denial of a permanent labor certificate by the Department of Labor; and

WHEREAS, The denial by the Department of Labor was not based on any wrongdoing by the Avagyans; and

WHEREAS, More than 400 members of the Nelson County community have signed the petition for Permanent Residency for the Avagyan Family, considering them a vital part of the community, as did

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nearly 100% of the business customers of Double H Farm; with support coming from neighbors; farm market customers; fellow growers; teachers; law enforcement; and many other walks of life; and

WHEREAS, Both Samson and Ludi are exceptional as persons, scholars, and athletes ranking at the top of their respective classes and are well liked for their personal qualities and excellence in academics, sports, and the arts. They represent human and intellectual "capital" that has been recognized by neighbors, teachers, and institutions, including the Rotary Club and the White House; and

WHEREAS, A junior now, Samson would be eagerly recruited by top universities and be eligible for full scholarships, but he cannot apply to any academic institution without a valid visa. His Armenian passport expired with his 16th birthday and it can only be renewed if he returns to Armenia. If he does, he would be subject to conscription, and could only return to the U.S. after age 21 and having served in the Armenian military;

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors that said Board hereby requests that Representative Hurt, Senator Warner, and Senator Webb provide any discretionary relief available to the Avagyan family consisting of: Ara Avagyan, his wife Gayane, daughter Lyudmila (Ludi), and son Samson (Sam).

Mr. Carter noted the Warner Staffer's suggestion that the family submits a letter also asking for discretionary relief and noting the Board's support with the Board's resolution attached. He added that there was follow up work by staff that would be done. Mr. Johnson noted that he understood that Homeland Security was directed to focus on criminal activity and to drop the rest.

D. Authorization of Public Hearing Approval (R2011-75)

Gladstone Tower:

Mr. Johnson inquired as to how long of a process it would be to release the Gladstone Rescue Squad property and should the Board move this forward so that the lease is with the new Gladstone Fire and Rescue agency instead of with the Board.

Mr. Carter noted that the County could grant the Gladstone Fire and Rescue agency the authority to enter into a lease. He added that he would like to brief the Board on these and then get their direction for next steps.

Mr. Harvey stated that the lease will be with the owner of the property. He added to be on the safe side, the lease should be with the County and the lease funds could be escrowed and then released.

Mr. Carter reported that the terms in the current lease were between the old Rescue Squad and the Company and the Board may want to change or renegotiate these.

Mr. Payne reported that the tower company did not understand that the lease was ineffective due to the reversion of the property to the County. Mr. Payne noted that the Board needed to decide who would enter into the agreement with the tower company and whether leased or conveyed to the new Fire and Rescue Agency in the future, the lease could be assigned if the Board entered into the agreement. He

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added that the advantages were that this would move it along quickly and he noted that the tower company was already exploring another site up the road about three miles away.

Mr. Payne suggested that the major things in question were the lease term, rent, and the reservation of space on the tower for the County. He added that currently the reservation of space was for a whip antenna at 50 ft. and the Board should make sure that space is reserved for future use besides a whip antenna. Mr. Johnson suggested reserving space at 90 ft. and Mr. Carter noted that a range of feet of x-y has been discussed. He added that their discussions have included sharing revenues from co locators; which was not in the current lease document.

Mr. Payne noted that the Board could get guidance on what space the County should have reserved and that it would be foolish not to reserve a flexible amount of space that would be adequate.

Mr. Payne then advised that the current term of the lease was forty-five (45) years and renewable for five (5) years with eight (8) renewable terms; which was far beyond what has been seen with other leases. He added that this made a difference if it was a factor in the rent computation. He noted that \$100 would be paid up front for the lease and the rent goes to the tower company and then some goes to the Fire Department. He added that the tower could be built and then assigned to AT&T. He noted that it was not likely that Central States Tower would own it until 2050. He then stated that the rent goes up 115% every 5 years so it would be \$730 then, and then after 10 years it would be \$890; which seemed very conservative.

Mr. Johnson suggested that the Board give Mr. Payne the authority to negotiate this and Mr. Payne stated that he needed guidance on the term and rent to be included and Mr. Johnson then suggested that there be an additional increase for co locators that should be included.

Mr. Payne advised that this was not as valuable a location as the one up on Afton Mountain and that he would go back to them to see what else could be obtained. He added that they would be price sensitive and were anxious and the leverage was the permitting process. He added that the more valuable change was adding co location revenues rather than changing the \$100 rental fee. He added that it would be nice to have the lease in the County's name.

Members briefly discussed these types of contracts with Mr. Harvey noting that good tower sites were paid \$500-\$600 per month. Mr. Johnson stated that he would like to say that this will go to the Gladstone Fire and Rescue agency and Mr. Harvey noted that the Board did not have to do anything with this now.

Mr. Carter suggested that staff could follow up on this using its and Icon's knowledge and that Mr. Payne would come back with a contract for the Board to consider.

Ms. Brennan noted that there was a tower company out there who would build towers on public land that would split revenue and Mr. Payne noted that the previous contract was void and needed to be renegotiated.

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Devils Knob Tower:

Mr. Payne reported that because of changes along the way, the tower people were going to enter into a ground lease with Wintergreen and the County was going to build the tower and antenna. He added that AT&T would locate on the County's tower with the building to be located on WPOA land and they would send a revised lease agreement to Cingular Wireless.

He noted that they have agreed to pay 1/2 of the tower cost of \$77,000 and were not paying for anything else. He added that the true rental was with the ground lease with WPOA and the consideration was going to be the construction of the tower. He noted that the twist was because of AT&T's pending merger and they have not scheduled money for this, this year. He added that because it hasn't been scheduled, there was a question of whether or not they would really contribute.

Mr. Payne then explained that there would be an option and lease and that the option would be providing one year in this agreement and they would have the right to enter the lease. He noted that once they did, they would pay the County the \$77,000 and if not, they would not get to locate there. He added that the County was building the tower anyway and it was a business decision for them down the line.

Mr. Carter added that he was concerned with expediency and inquired if the Board was comfortable with this. He noted that the tower was needed for public safety and that they had not been certain of what the company was willing to pay and it was now known this amount was \$77,000.

Mr. Johnson noted that this was about four (4) years worth of lease up front and benefitted the County.

Mr. Harvey noted that Wintergreen had a million dollar contract that was in flux right now and the County needed to build the tower to specifications that would benefit them. He added that this might be a separate issue and the County needed to build the tower regardless.

Mr. Payne noted even if the figures were okay; there was a possibility that they might come back with more options. Mr. Carter noted that at this point the Board was simply authorizing a public hearing on the matter which moved things into place.

Mr. Harvey suggested leaving the figures out and the County builds the tower with Wintergreen having the option to have the co locator. Mr. Carter confirmed that this was how it was planned to work and that the ground lease payments went to Wintergreen and not to the County. He then suggested that the County move forward with the public hearings and one or both could be cancelled if necessary.

Mr. Hale then moved to approve resolution **R2011-75** Authorization for Public Hearings on Real Property Leases; going forward with both with the option to cancel one if necessary. Ms. Brennan seconded the motion and 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 R2011-75
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING(S)
REAL PROPERTY LEASES**

August 25, 2011

RESOLVED by the Nelson County Board of Supervisors pursuant to and in accordance with the provisions of §15.2-1800 of the Code of Virginia, 1950 that the County Administrator be and is hereby authorized to advertise public hearing notices for the conduct of public hearings on September 13, 2011 at 7:00 p.m., the purpose of said hearings being receipt of public comment regarding the Board of Supervisors authorization of lease agreements for the use of real estate owned by or leased to the County of Nelson for the establishment of telecommunication towers and/or related installations by private business entities with the locations of said real estate being the former Gladstone Rescue Squad property, now owned by Nelson County, and Devils Knob with the Wintergreen Community (formal real property descriptions to be contained in the authorizing resolutions for each lease agreement).

E. Approval of Job Description – Full Time Solid Waste Manager (R2011-74)

Mr. Carter recommended tabling this item and it was the Board's consensus to do so. He noted that he needed to do more analysis on the position and would work with Ms. McSwain on staying on longer and would enlist her help with the job description.

V. Other Business

A. Gladstone Volunteer Fire Department Invoice

Mr. Carter noted that the Gladstone Volunteer Fire Department had submitted an invoice for payment of \$224.63 for first aid supplies used in rescue calls.

Mr. Harvey then moved to approve payment of the invoice and Ms. Brennan seconded the motion.

Mr. Johnson questioned the process to be used and Mr. Carter noted that staff had suggested to their treasurer that it would be a cleaner process for the County to reimburse them for invoices paid rather than paying the invoices directly. He noted that otherwise he thought that this was the process that the Board had previously established. He added that under the current process of providing funds to the EMS Council, this would not be a reimbursable expense. The Board then agreed by consensus that any expenses for more than \$500 should get pre-approved by the Board. Mr. Carter noted that he would advise them of this directive. It was then briefly noted that Dr. Just had done some of the skills testing with prospective members.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Introduced: Proposed Resolution of Intent to Refer a Proposed Amendment to the Zoning Ordinance to the Planning Commission Related to Permitted Signs in Nelson County:

Mr. Carter noted that Rockfish Valley Community Center (RVCC) wanted to erect a sign on the building and the current Zoning designation restricted the size that this could be. He noted that the proposed amendment would allow a 50 ft sign there.

August 25, 2011

Mr. Harvey stated that he disagreed with the zoning designation rather than amending the signage requirements.

Mr. Johnson suggested that Mr. Boger should check the property's Zoning designation and then if needed recommend that they seek rezoning if it is zoned A-1. Mr. Carter noted that the zoning should account for the mixed uses of the building and that it would be brought back.

Introduced: Individual Septic System Exceptions

Mr. Johnson noted the response received from Mr. Boger and the Planning Commission on their review of individual septic systems and he noted that the Board would take this up at their next meeting.

Introduced: 30 Day Comment period for VPEDS for Schuyler Facility

Mr. Johnson inquired about the notice of a thirty (30) day comment period for the VPEDS for the Schuyler facility and Mr. Carter noted that this was a standard notice and no action was required by the Board.

Introduced: Massies Mill Community Center

Mr. Johnson noted the correspondence related to the Massies Mill Community Center being considered for tax sale in September and the Board questioned where the money went that was given to them for paving. Mr. Bruguere noted that he would contact the Center's leader to find out.

VI. Public Comments

Mr. Johnson opened the floor for public comments and the following person was recognized:

1. Mr. Goetz, Findlay Mountain Road, Shipman

Mr. Goetz thanked the Board for their actions in helping the Avagyan family and reiterated that they had received an extension until 2013.

VII. Adjournment

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