

August 8, 2017

**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: Allen M. Hale, East District Supervisor  
Constance Brennan, Central District Supervisor  
Thomas H. Bruguere, Jr. West District Supervisor – Vice Chair  
Larry D. Saunders, South District Supervisor  
Thomas D. Harvey, North District Supervisor – Chair  
Stephen A. Carter, County Administrator  
Candice W. McGarry, Administrative Assistant/Deputy Clerk  
Debra K. McCann, Director of Finance and Human Resources  
Sandra Shackelford, Director of Planning and Zoning  
Russell Gibson, Emergency Services Coordinator  
Phillip D. Payne, IV, County Attorney

Absent: None

**I. Call to Order**

Mr. Harvey called the meeting to order at 2:05 PM, with all Supervisors present to establish a quorum.

- A. **Moment of Silence** – A moment of silence was observed
- B. **Pledge of Allegiance** – Mr. Bruguere led the Pledge of Allegiance

**II. Recognition of the Community Service of the Late Pauline M. Page (R2017-39)**

Mr. Hale moved to approve Resolution **R2017-39** 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 and read aloud:

**RESOLUTION R2017-39  
NELSON COUNTY BOARD OF SUPERVISORS  
RESOLUTION RECOGNIZING THE PUBLIC SERVICE  
OF THE LATE PAULINE M. PAGE**

**WHEREAS**, Ms. Pauline M. Page, life-time Nelson County resident and community servant, has recently passed at the age of 78; and

**WHEREAS**, Ms. Page’s extensive community service included the Nelson County Senior Advisory Council, Nelson County Chapter of SALT-Triad, Nelson County Department of Social Services Board of Directors, the

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Faber Fire and Rescue Auxiliary Squad, the Faber Fire Department, and Nelson County Auxiliary Rescue Squad Vice President and Building Coordinator; and

**WHEREAS**, Ms. Page also served her community through her many other organization affiliations and posts such as: Locust Grove Baptist Church Secretary and Sunday School Secretary, the Zion Women’s Ministry, the Piedmont Valley Baptist Sunday School Association, the Martin Luther King Scholarship Committee, the Nelson County Social Club, and Nelson County Alumni Committee; and

**WHEREAS**, it is fitting and proper that the Nelson County Board of Supervisors recognizes the exemplary and extensive community service of the late Ms. Pauline M. Page who was a pillar of the community, a tremendous asset to Nelson County, and who dedicated her life for the betterment of the County and its citizens,

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors does hereby recognize and celebrate the many exceptional public service contributions of the late Ms. Pauline M. Page.

Ms. Brennan then presented a plaque containing the adopted resolution to Ms. Page’s son, in attendance, Mr. Darrell Miles.

### **III. Consent Agenda**

Mr. Hale requested that Item C, the resolution on salary adjustments be removed and considered separately. Supervisors agreed by consensus to and handle the item separately under new and unfinished business and possibly in a closed session.

Mr. Saunders then questioned the Commissioner of Revenue’s refund request noting the large amount being refunded. Mr. Hale advised that all refund requests were signed off on by both the Commissioner and the County Attorney. Mr. Carter added that this was one of a few that the Board has had in a while and Mr. Harvey noted that the request included three (3) tax cycles for approximately \$1,000 each time. Mr. Saunders then agreed to its consideration.

Ms. Brennan then moved to approve the Consent Agenda as presented less Item C. and Mr. Saunders 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 – **R2017-40** Minutes for Approval

**RESOLUTION R2017-40**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF MEETING MINUTES**  
**(July 11, 2017)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **July 11, 2017** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

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B. Resolution – **R2017-41** COR Refund

**RESOLUTION R2017-41  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS**

**RESOLVED**, by the Nelson County Board of Supervisors that the following refunds, as certified by the Nelson County Commissioner of Revenue and County Attorney pursuant to §58.1-3981 of the Code of Virginia, be and hereby are approved for payment.

<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$3,549.98	2016 & First Half 2017 Real Estate Tax	Brian Obertone 4946 Lake Tree Lane Crozet, VA 22932

C. Resolution – **R2017-42** FY18 Salary & Classification Adjustment

This item was considered under New and Unfinished Business during the Evening Session.

**IV. Public Comments and Presentations**

A. Public Comments

1. Pete Perdue, Afton

Mr. Perdue introduced himself and noted the presence of several people that wanted to honor Ms. Pauline Page’s contributions to the SALT Triad program in Nelson County. He added that Mr. David Malakouti from the Attorney General’s Office was present to speak on Attorney General Mark Herring’s behalf.

Mr. Malakouti then addressed the Board and advised that he was the Attorney General’s Outreach Coordinator. He noted he would be acknowledging Ms. Page’s contributions on behalf of the Nelson County Triad. He then read aloud a letter written to Ms. Page's family from Attorney General Mark Herring's Office which extended his gratitude to her and her family for her service to the Nelson County Triad and her service at large to the Nelson community.

Sheriff David Hill also addressed the Board and noted how important Ms. Page was to the community and that she often looked after everyone; and had checked on him many times. He then noted that it was a pleasure to present a plaque honoring Ms. Page to her family on behalf of the Nelson County Triad and noted that she

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would be greatly missed. Sheriff Hill then presented the plaque to Ms. Page's son, Mr. Darrell Miles, and noted it would be displayed at the Faber Rescue Squad building.

## 2. Ingrid Sherman, Citizen

In reference to the Circuit Courtroom balcony legend, Ms. Sherman read aloud the following excerpts from the book "A Miracle That Changed the World – 5000 Year Leap-Principles of Freedom 101 by W. Cleon Skousen.

From Page 1:

"Colonies of civilized human beings have been emerging and disappearing on the continental fringes of the Planet Earth for over 5,000 years."

"It was in A.D. 1607 that another such attempt was made to lay the foundations for man's most modern civilization. Undoubtedly the annals of humankind will ultimately show that this one turned out to be different. The most striking thing about the settlers of Jamestown was their startling similarity to the ancient pioneers who built settlements in other parts of the world 5,000 years earlier. The whole panorama of Jamestown demonstrated how shockingly little progress had been made by man during all of those fifty centuries. The settlers of Jamestown had come in a boat no larger and no more commodious than those of the ancient sea kings. Their tools still consisted of shovel, axe, hoe, and a stick plow which were only slightly improved over those of China, Egypt, Persia, and Greece."

From Page 3:

"Soon two whole centuries had passed into history. By 1976, the "noble experiment" of American independence and free-enterprise economics had produced some phenomenal results. Men left the earth in rocket ships and actually walked on the moon."

From Page 6:

"The Founders made possible the fantastic 5,000-year leap."

From Page 101:

"Alexis de Tocqueville visited America and wrote: While I was in America, a witness who happened to be called at the Sessions of the county of Chester (state of New York) declared that he did not believe in the existence of God or in the immortality of the soul. The judge refused to admit the evidence on the ground that the witness had destroyed beforehand all the confidence of the court in what he was about to say. (Democracy in America) In a note, de Tocqueville added: The New York Spectator of August 23, 1831, related the fact in the following terms: "... The presiding judge remarked that he had not before been aware that there was a man living who did not believe in the existence of God; that this belief constituted the sanction [in law, that which gives binding force] of all testimony in a court of justice; and that he knew of no case in a Christian country where a witness had been permitted to testify without such belief." (Ibid.)

Upon concluding her remarks, Ms. Sherman provided copies of her statement and a list of twenty-eight (28) Principles of Liberty.

## 3. Thomas Nelson Jr., Roseland

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In reference to the Circuit Courtroom balcony legend, Mr. Nelson distributed and read aloud the following prepared statement:

“The United States Supreme Court allows a frieze, adorning the north and south walls of the courtroom in the Supreme Court building, depicting a procession of 18 great lawgivers. One of those lawgivers is Moses holding the Ten Commandments. The eastern pediment of the Supreme Court building also depicts Moses holding the Ten Commandments. Shouldn't the Nelson County courtroom allow "Keep God's Commandment"?

The sculpture over the east portico is entitled, "JUSTICE THE GUARDIAN OF LIBERTY". Moses is the central figure, holding two tablets of THE TEN COMMANDMENTS one in either hand, a stark reminder of the origin and basis for our American legal system. The inner courtroom of the Supreme Court shows four marble bas-relief panels beneath the ceiling of each of the four walls. Each has a particular story to tell. The panel directly above the bench where the Chief Justice and associate justices are seated depicts "The Power of Government" and "The Majesty of the law". Between the two allegorical figures, THE TEN COMMANDMENTS stand out in a position of prominence. Both marble sculptures in the Inner Courtroom of the Supreme Court, highest court in the land, stand out as awesome reminder that truly we are a Christian nation.

Why should the Nelson County Courthouse not leave the recently uncovered words viewable to the public? Are we so special to be targets for political correctness requiring covering up the words, "Virtus -Keep God's Commandment-Veritas"? The phrase "Keep God's Commandments" referring to the same person, Moses, with the Ten Commandments tablets. Are not the words "Virtus" and "Veritas", meaning "Virtue" and "Truth" what we expect of a jury or persons entering the courtroom?

The U.S. Capital has numerous examples relating directly to our faith and the Supreme Being. Why shouldn't Nelson County leave this small single historical wording be viewable? My fourth great grandfather, Thomas Nelson, Jr., the name sake of this county, didn't give his wealth to see a future generations make a politically correct motion cover over words of our faith.

In church last Sunday, the minister was spot on when he said we need faithful men & women. Are we putting on the armor to fight the good fight or are we quitting under a shadow of political correctness?

This nation was founded because of the faith of our fathers; they were the soldiers for our Lord, as we should be. The Ten Commandment recognizes a supreme being, the lord God. The same God our Supreme Court recognizes.

If the Ten Commandments are represented at the Supreme Court, then why shouldn't you agree with the simple phrase "Keep God's Commandments"?

He then implored the Supervisors to vote to leave the wording exposed.

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4. Wendy Nelson, Roseland

In reference to the Circuit Courtroom balcony legend, Ms. Nelson noted that she was shocked and disappointed that the legend was even an issue and she would like to understand why it was. She noted that they should research the spiritual heritage of monuments in Washington DC - that all had numerous scripture verses and paintings associated with them. She noted that our Nation was founded on principals, such as one nation under God and she found it absolutely mind boggling to understand that it was an issue in Nelson County. She noted that the County had larger issues to deal with. She added that she did not understand why they were dealing with drugs and dealers who got slaps on the wrist. She then noted that her son would like to live in Nelson; however the Schools did not meet her son's expectations for her grandchildren. She added that she did not understand why totally hideous commercial buildings that did not fit in the community were allowed to be built. In conclusion, Ms. Nelson then read aloud a quote from Thomas Jefferson that is inscribed on his memorial. "God who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God? Indeed I tremble for my country when I reflect that God is just, that his justice cannot sleep forever."

5. Carlton Ballowe, Faber

In reference to the Circuit Courtroom balcony legend, Mr. Ballowe asked the Board to explain to him how it was that we decided that we would accept the hodge podge of the courthouse complex in order to preserve the historic nature of the buildings and yet when something historically significant was found, they wanted to erase it. He then advised that he noticed from the article in the paper that those Board members who were Republicans wanted to keep it and the Democrats wanted to remove the inscription. He then posited that was how the Democrats earned the reputation as the Godless party.

B. VDOT Report

1. Presentation of Smart Scale Project – Intersection of Route 655 and Route 29/Access Management (Colleen)

Mr. Don Austin reported the following on the Smart Scale project:

He noted that VDOT had posted a willingness to hold a public hearing notice and that they were not going to have a public hearing after speaking with affected land-owners about the project. He noted that going south on Route 655, they would be installing a right turn lane as one approached the Dairy Isle. He noted that they would repave areas along Route 29 creating a 15 foot wide shoulder area. Mr. Austin noted that the existing entrances along that stretch were being used by trucks and they would not modify the first three; however they would eliminate the most southern entrance in order to reduce conflicts coming onto Route 29. He added that the property owners there were satisfied with those improvements.

Mr. Austin then noted that on the northbound side, the turn lane would be lengthened and would be 12 feet wide going into the subdivision and would be marked as a right turn lane. He added that if funding became available, they may be able to try to lengthen the paved shoulder back to the Blue Ridge Medical Center (BMRC) entrance.

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Mr. Austin concluded by noting that the project would open things up and clarify entrances there in colleen along Route 29.

Mr. Bruguere then confirmed that VDOT had okayed the plans with property owners and Mr. Austin reiterated that he had.

Mr. Hale inquired as to the price tag on the project and Mr. Austin advised he thought it was just over a million dollars; noting he thought there was \$200,000 in right-of-way costs and \$700,000 in construction. Mr. Hale noted that he just did not see where those improvements were really all that beneficial and Mr. Saunders reiterated that all of the accidents or fatalities in that area happened crossing over at the intersection.

Mr. Austin confirmed that the improvements did not deal with cross-over accidents at the intersection which has been a concern; however the project would improve entrances into the service station and feed store. He noted that the no parking signs were requested to be maintained there. Mr. Harvey asked if the entrances met standards and Mr. Austin advised that they would exceed them.

Ms. Brennan asked when construction of the project would begin and Mr. Austin reported that they were a year out for advertisement and they needed utility easements. He added that they were now approving the design concept and the right-of-way phase was next.

Following some discussion regarding utilities, Mr. Austin acknowledged that the water and sewer lines there were located in the median. Ms. Brennan then requested a large set of plans for the project to be held for public review.

Mr. Austin then reported the following:

- VDOT was starting the Beech Grove turn lane project and had posted a willingness to hold a public hearing notice. He noted that he did not expect to have one and he had spoken with landowner Steve Crandall who was okay with the project. Mr. Harvey then recommended that they check deeds as he may not be the only owner of the corner. Mr. Austin noted that it was in his Corporation's name and seemed to be the only one.
- VDOT had completed the Route 635 turn lane and was now working on the one at Route 6 in Afton; with completion to be done before winter.
- The temporary signal at the intersection of Route 250 and 151 was working okay. Mr. Harvey advised that everyone he spoke to wanted to see it stay and he suggested that they could just fill in the holes and save \$4.5 million dollars. Mr. Austin noted that VDOT had applied for funds for a roundabout in the other district and it was approved. He added that Nelson citizens should make comments to the Board up there. Mr. Austin then noted that roundabouts did work well once the public got used to them. Mr. Bruguere stated that a roundabout would not cure the issues at Afton and the light was working well. He added he would like to see the eastern turn lane extended coming down the mountain as a safety feature

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for trucks. Mr. Harvey noted that was in the plan, however they were limited by the creek over there. Ms. Brennan added that the decision was to be made by the Board in Charlottesville.

Mr. Hale and Mr. Bruguire had no VDOT issues to discuss.

Mr. Saunders:

Mr. Saunders asked if they had started paving on Cedar Creek and Mr. Austin noted that they would be starting Rural Rustics next week.

Ms. Brennan:

Ms. Brennan asked if Wright's Lane was the one off of Davis Creek and Mr. Austin noted it was and they were looking at the issues noted by a previous public speaker.

Ms. Brennan asked if VDOT had met with Saunders Brothers to discuss the speed limits and sight distances on Route 56 west that they had spoken about. Mr. Austin noted that the traffic engineering division was reviewing it. He added that the reduced speed zone extending into Roseland would not be done; however, they would put up watch for turning vehicle signs there coming south down to the store.

Ms. Brennan then thanked VDOT for cutting the trees that she requested be cut and noted it had opened up sight lines there. Mr. Austin advised that they would be back over to cut a few more.

Mr. Bruguire:

Mr. Bruguire explained that on Route 56 in Roseland at Route 151, when going south and making a right turn, tractor trailers had to swing into the other lane in order to make the turn and he asked if the angle on the guardrail could be cut back a little creating more of an apron there. Mr. Austin confirmed that this was taking a right after you pass over the bridge. Mr. Harvey agreed that trucks could not stay in their lane there and Mr. Austin advised he would look at it. Mr. Bruguire noted that there was some type of road bed there that could be fixed up to allow for wider turning.

C. Presentation – SALT Triad PED Program and Recognition of the Late Pauline  
Page

Mr. Pete Perdue reintroduced Mr. Malakouti who would explain the purpose of SALT Triad.

Mr. Malakouti reiterated that he was from the Attorney Generals Office and their role was to administer the Triad program state wide and assist localities in building up curriculum and outreach. He noted that they facilitated partnerships between law enforcement and senior groups in order to engage seniors on issues and things they may experience in their communities.

Mr. Malakouti further noted that the Attorney General's Office assisted localities in developing chapters and they hosted a yearly conference. Mr. Malakouti noted that some counties partnered with their surrounding

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counties and developed chapters with others. He noted that the benefit of this was that they were locally run and were based on the needs of each community. He advised that a regular issue they dealt with was fraud and scams and he noted that Triad advised seniors of these and what they could do to protect themselves. He added that there was a group of Outreach Coordinators that made the connection to the Richmond office and that grant funding was used for more outreach and to purchase information flyers etc. Mr. Malakouti noted that his office was proud to be a part of Triad, it was a great value in protecting seniors, and connecting law enforcement with seniors benefitted everyone in the long run.

Mr. Perdue then noted that Ms. Constance Henderson served as Chair of Nelson County Triad and had served under Sheriffs Wood, Brantley, Brooks, and now Hill. He added that the Sheriff's Department has been looking out for seniors and they hoped to do more. He then asked the members of the Triad Committee in attendance to stand and be recognized.

Mr. Perdue and Sheriff Hill then gave the following Power Point Presentation:



**Background Information**  
on  
**Nelson County Chapter of SALT-Triad**

*Triad began in 1988 when AARP, the International Association of Chiefs of Police and the National Sheriffs' Association signed a cooperative agreement to work together to reduce both criminal victimization and unwarranted fear of crime affecting older persons.*

*Today, Triad is active in 47 states, including Virginia, where the number of Triad chapters across the state is now about 260, with more on the way.*

*The SALT-Triad Nelson County Chapter was formed October 6, 1999.*

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*Mission of Nelson County SALT-Triad PED Program*  
*Provide cost effective alternative to seniors or indigent citizens who need a medical alert device but can't afford one.*

*Purpose of Presentation*  
*Update BoS on the status of the PED Program.*

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## SALT-Triad Nelson County Chapter Members

President – Constance Henderson  
Secretary – Natalie McDonald  
Treasurer – Lou Elliott  
Sheriff David Hill  
Nelson County Commonwealth Atty. Dan Rutherford  
Rev. James Rose  
Sherwood Irving  
Connie Brittle  
Frances Mitchell  
Betty Sharp  
Jonae Buckley  
Pete Perdue

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## Emergency Alert Devices

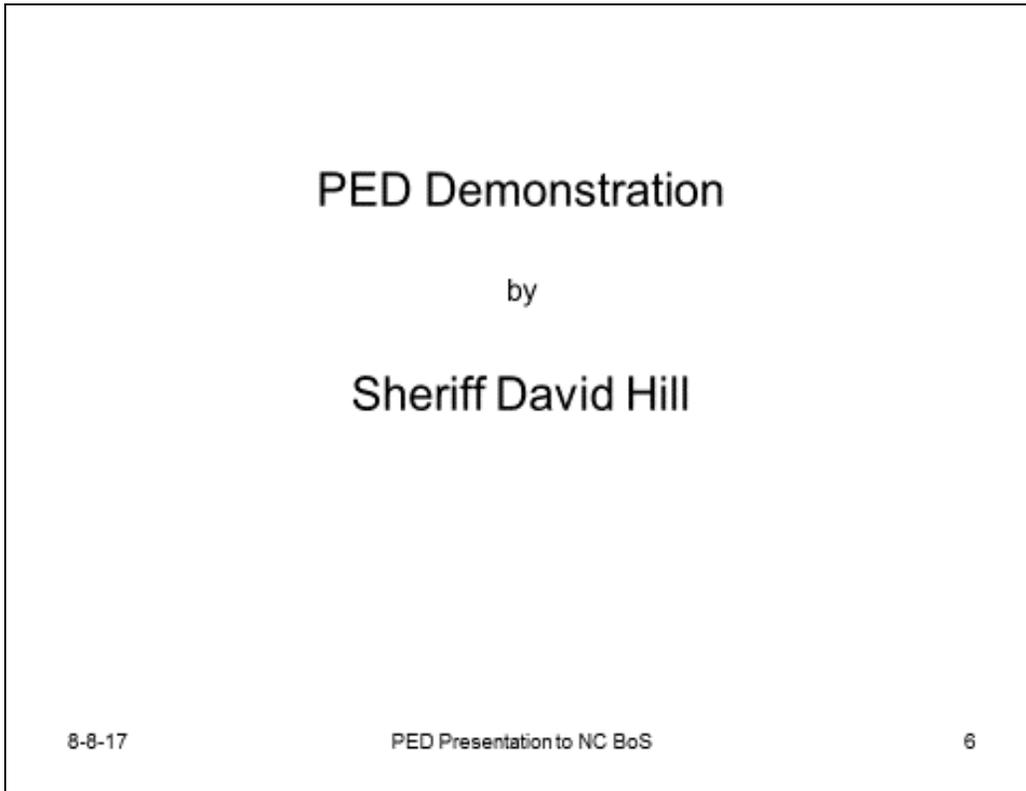
- Summoning Aid – Lease Vs. Buy
  - Current Methodology - Medical Emergency Alert Unit
    - Initial contact is with a 3<sup>rd</sup> party located out of state or offshore
    - 3<sup>rd</sup> party contacts the Sheriff/EMS
    - Initial cost – None
    - Monthly cost - ~\$40/month
  - Nelson County Methodology – Personal Emergency Dialer
    - Initial contact is the Sheriff's Department /EMS
    - Initial cost – ~\$60
    - Annual cost – \$2.25 for batteries
- PED - Improved reliability and lower life cycle cost

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Sherrif Hill noted that the personal emergency dialers (PEDs) looked like a telephone and could be used as a phone. He added that it had a base station that had an answering machine included and also included a portable safety pendant worn by the individual. He noted that the pendant was programmed so that #1 was pressed to dial 911 like speed dial and dispatch could talk to them on speakerphone; it was a two way device. He advised that Dispatch had a call history and could see that a PED has been installed there and they could dispatch rescue. Sheriff Hill then noted that button #2 was programmed to a family member that they often called. He reiterated that the person could answer the phone by pressing the phone button on the front of the device and could speak through the speaker phone.

Sherrif Hill concluded by noting that Deputies have been building up community relations and the PED plugged right into the home phone line. He added that they had received many donations of these from individuals and churches. He noted that the devices saved lives and there were no monthly fees.

Ms. Brennan inquired if these were used instead of medical alert and Sheriff Hill noted they were; however, they were limited such that they could not be too far away from the base unit; whereas Medical Alert was connected outside of the home. He added that one could be close by outside of the home and it had a range similar to that of a portable phone.

Mr. Saunders then asked how many PEDs had been installed in the County and Sheriff Hill noted there were approximately forty-seven (47). He added that they had not received many calls per month and most were maintenance type calls.

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# Cost Comparison

10 Year Cost Savings of 500 PED Units as Compared with Typical Medical Alert Units

	Number of Customers	Cost of Unit \$ (See Note 1)	Monthly Service Fee \$	Annual Maintenance Costs 2nd through 10th Year \$ (See Note 2)	MA Total Costs and PED Cost Savings		
					First Year	Cumulative 2nd through 10th Year	Cumulative Over A 10 Year Period
Medical Alert (MA) Units	500	—	\$40	None	\$ 240,000	\$ 2,160,000	\$ 2,400,000
Personal Emergency Dialer (PED) Units	500	\$63	None	\$2.25	\$ 31,500	\$ 10,125	\$ 41,625
Cost Savings					\$ 208,500	\$ 2,149,875	\$ 2,358,375
Per Cent Cost Reduction					87%	100%	98%

Note 1: One-Time Purchase by User

PED Unit

\$60

Note 2: Annual Maintenance Costs of Batteries After 1st Year of Service

\$2.25

Telephone Splitter

\$3

Note 3: All monetary values are in dollars.

Total Cost

\$63

Note 4: The first 225 PED units were 1<sup>st</sup> Generation technology. Cost of these units initially was >\$60, but eventually was reduced to \$60 each.

Cost of current 3<sup>rd</sup> Generation PED Units is \$50 each, as of July 25, 2017.

As of July 25, 2017, a total of ~475 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Generation units are installed.

The data presented here is intended to provide a flavor of the cost savings of PED units vs. MA units. The comparison calculations are not intended to be used as a rigorous economic comparison of the two systems. In line with that view, and to keep the spreadsheet simple, the cost of all PED units is assumed to be \$60.

Note 5: The PED program was started circa January 2008.

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Mr. Perdue noted that no public money had been used for the PED program and he noted that the ten year cost per 500 units was much lower for PEDs than for Medical Alert units. He noted that compared to Medical Alert Units over 10 years, the PEDs saved \$2.4 Million dollars.

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## Summary

- Case Histories
- No Public Funding Involved
- Community Support
  - Raffle Fund Raiser
  - Churches
  - Businesses
  - Individuals
  - Law Enforcement
- Sustaining Support
  - Rear Guard Intrepid Warriors
    - Sheriff David Hill and Deputy Sheriffs

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Mr. Perdue related the stories of some PED users and noted that if one could not pay for it, they got it for free; however if one could afford it, they were expected to pay for it. He reiterated that the Sheriff's Department helped with installations and support.

Mr. Bruguiere asked if they worked with cell phones. Mr. Perdue advised that new technology coming on the market would allow the coupling of the PED with cell phone signals with a GPS system included. He added he was not sure how it would interface because there was a third party involved. He added that there was also the issue of there not being cellular reception in all areas of the County.

### **V. New Business/ Unfinished Business**

#### **A. Circuit Courtroom Balcony Legend**

Mr. Carter reported that staff tried to work towards a compromise on this and Jamerson Lewis Construction had devised a possible solution. He advised that strips could be added to the current balcony that would allow a flat piece of wood to slide in place in order to cover up the inscription. He noted that the concerns regarding the lettering were that during court, the inscription could influence the jury. He added that there were others that thought it should be left uncovered. He then noted that the solution, if approved, would allow the inscription to be concealed during court and at other times the panel could be slid out and the inscription could be seen.

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Mr. Harvey referenced the public comments speakers that noted the Ten Commandments in the Supreme Court courtroom and he questioned if they were there for historical reasons. He added that he felt strongly that the current issue was more of a historical nature than a religious one.

Mr. Phil Payne, County Attorney addressed the Board and stated that he understood the information and that the Supreme Court belonged to them and nobody could tell them what to do with it. He added that the referenced Ten Commandments were installed in the 1930s at some point when the Courtroom was renovated and the Justice referred to that in his opinion. He added that case involved the Ten Commandments on statehouse grounds in Texas and each of those cases was distinct and fact focused, however, the Supreme Court majority ruled on their courtroom.

Mr. Harvey then questioned how they could rule against Nelson County and Mr. Payne advised that they could do what they wanted. Mr. Harvey then noted that there were several decisions to discuss regarding the existing lettering: leave it as is, permanently cover it, or try to restore it.

Mr. Payne advised that the advantage of the proposed solution was that it was not a permanent change to the face of the balcony and it had the ability to be a temporary solution while any other investigation was done by the Board. He added that restoring it may rob it of some of its value.

Mr. Bruguere then asked if it could be restored or enhanced. He noted that the proposed solution allowed for a compromise with the Judge; however, he would rather not have it covered it up.

Mr. Hale noted that the inscription was previously completely painted over and the County went to the expense to be able to read what was there. He added that he thought the proposed solution was a good one and met the request of the Judge and yet preserved what was uncovered.

He then moved to install the type of proposed panel solution so that as soon as the courtroom could be used again it would be available for use without conflict. The motion was not accepted by the Chair and Mr. Harvey stated that it needed to be discussed further. Mr. Hale then agreed to withdraw his motion.

Ms. Brennan advised that Supervisors have had several discussions with the Judge on the inscription and he felt that it should not be visible to his juries during court proceedings. She stated that she resented Mr. Ballowe's comments that brought politics into the discussion; noting that none of the Democrats on the Board wanted to get rid of the inscription. She added that she and Mr. Hale had both been involved in the Historical Society. She noted that it was a complicated issue and more research needed to be done on when and why it was there. She noted that honoring the Judge's wishes and allowing the public to see it when they wanted was a good solution.

Mr. Saunders then stated he was not in favor of covering it up, he questioned why a jury would reach a different verdict because of it, and they answered to the big Judge and not the one down here. He added he was in favor of restoring it, he was proud of it, and was in favor of keeping it uncovered.

Mr. Harvey then questioned the courthouse history, supposing the courthouse was built in 1809 and then in 1830 it was used by a church somewhere in there. Mr. Payne noted he was not sure about that; however he

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would not be surprised since public buildings were often used for church during that time period. He noted that the answer to that may be published in the "History of Virginia Courthouses". Mr. Harvey then supposed it was safe to say that churches did share the building. Mr. Payne disagreed noting that the inscription words were Latin and had a more legal connotation than religious, so he thought it was a part of the court from a legal aspect rather than a religious one.

Mr. Payne advised that there was an expansion of the courtroom in 1940; when the former Clerk's Office spot was added; which was the first addition. He added he was unsure if the lettering was painted then.

Mr. Harvey then noted that he agreed with Mr. Payne that its value was there as is and he was not sure how many people without x-ray eyes could read it from the jury box. He added one almost had to be right up on it to see it. He equated it to cars, in that 100% original cars brought the most value.

Mr. Saunders noted that it was painted at one time to be visible and they could have paint samples tested in order for the inscription to be dated.

Mr. Hale reiterated that the proposed solution meant that the inscription would not be covered permanently.

Mr. Harvey stated that he was not willing to potentially spend a lot of citizens' money on litigation. He noted that the Board was trying to continue to study the inscription and learn the facts, not cover it up. He added that the proposed solution was the simplest thing to do in order to be able to show it to the public and make the Judge happy. Mr. Harvey related that the Judge had cited a murder case held in the courtroom and that he would hate for a mistrial to be declared because of the lettering. Mr. Payne then confirmed that if a suit over the lettering were to be brought under Federal laws, and the County were the losing party, the County would pay all of the legal fees. Mr. Harvey then added that the intent was to put the issue on hold so that the Circuit Courtroom could be opened and be functional. He noted that the Judge was only concerned about it when they were having a jury trial and that the Judges that they spoke to were religious and felt strongly about it as the Board did, however no Judge wanted to be overruled. Mr. Harvey further noted that the Board was asking for a temporary solution so they could decide what to do with it. He added that they were not intending to paint over it or cut the inscription out and move it to another location. He noted that even if it were in the hallway, an argument could be made that jurors were influenced just walking by it and it could be an issue. Mr. Harvey then noted that the issue was not an easy one and he felt as strongly as Mr. Saunders; however the reality was that they must be cautious and be sure the ultimate result was the correct one.

Mr. Bruguere then asked if the proposed solution covered everything and Mr. Payne noted the panel was meant to cover all of the writing, it would be in sections, would be painted the same green as the balcony, and the original material would be untouched. Mr. Bruguere then agreed with Mr. Payne that the inscription was likely to be more of a legal one due to it being in Latin.

Ms. Brennan noted that she thought the proposed solution was a good temporary one and it was something they could do to open the courtroom and make the Judge happy for now; then they could decide what to do.

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Mr. Hale then moved to use the proposed method of preserving the writing but enabling the Court to hold session with it covered and Ms. Brennan seconded the motion. Mr. Harvey asked if he would like to add to his motion that it was a temporary solution and Mr. Hale declined, noting that it could always be changed.

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

**B. Local Emergency Operations Plan Update (R2017-43)**

Mr. Russell Gibson, Emergency Services Coordinator noted that he had completed a review of the County's Emergency Operations Plan (EOP) which was required by the Virginia Department of Emergency Management (VDEM) to be updated every four (4) years. He added that State Statutes and grant funds were tied to the EOP and it was required to be looked at consistently to make sure it was an effective plan.

Mr. Gibson then advised that his review consisted of making sure the basic plan was updated and functional and contained the County's commitment to use the National Incident Management System (NIMS) as was required by VDEM. He added that the document also contained contact lists and equipment lists held by various local emergency services agencies. He then noted that the proposed adoption resolution allowed those changes to be made on the fly and he would provide updated copies as those changes were made.

Mr. Gibson then reported that a larger forthcoming change was the formatting of the EOP; the new statewide format would mention or overview transportation and ESFs and how they would work together in an emergency. He noted that overhaul would be done more throughout this year and he could submit it for re-adoption once it was complete.

It was then noted that the EOP also included emergency preparedness and recovery with attention given to plans in place for the recovery of finances. Mr. Carter noted that the original sunset date for the EOP was June 30th and the County was granted an extension because of the now filled Emergency Services Coordinator vacancy.

Mr. Harvey asked if the EMS Council had seen the updated EOP and Mr. Gibson advised that they would be getting it to review their equipment and apparatus lists. He added that they had all signed off on it before and the changes to date were not substantive so they had been operating under it.

Mr. Carter noted that a draft resolution was presented for the Board's consideration. He added that Mr. Gibson had been placed in the awkward position of having to update the plan as soon as possible. Mr. Harvey added that the EOP was boilerplate and blanks were filled in.

Ms. Brennan moved to approve resolution **R2017-43**, 2017 Emergency Operations Plan Update and Mr. Brugiure 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:

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**RESOLUTION R2017-43  
NELSON COUNTY BOARD OF SUPERVISORS  
2017 EMERGENCY OPERATIONS PLAN UPDATE**

**WHEREAS**, the Nelson County Board of Supervisors recognizes the need to prepare for, respond to, and recover from natural and man-made disasters; and

**WHEREAS**, the County of Nelson has a responsibility to provide for the safety and well-being of its citizens and visitors; and

**WHEREAS**, the County of Nelson has established and appointed a Director of Emergency Services

**NOW, THEREFORE, BE IT RESOLVED** by the Nelson County Board of Supervisors, that this Emergency Operations Plan as revised in August 2017 is officially adopted, and

**BE IT FURTHER RESOLVED** that the Emergency Services Coordinator, or his designee, is tasked and authorized to maintain and revise as necessary this document over the next five (5) year period or until such time it be ordered to come before the Board.

**VI. Reports, Appointments, Directives, and Correspondence**

A. Reports

1. County Administrator's Report

**1. Courthouse Project Phase II:** Jamerson-Lewis is focused on project completion. However, the final completion date has slipped to a TBD date in September. This is primarily due to coordination issues with other contractors employed by the County (Simplex-Grinnell and BT Conferencing). Otherwise, the project is proceeding well.

**2. BR Tunnel Project:** The final project has been divided into two phases, 1) Phase 2 – Tunnel Rehabilitation and, 2) Phase 3 -Western Trail and Parking Lot. Woolpert has updated the Phase 2 cost estimate and bid documents (plans, manual and, specifications) have been revised to provide for submittal to VDOT (Lynchburg) for approval to bid Phase 2. A date for advertisement of Phase 2 is TBD but will be done as immediately as possible. County staff has purchased and will install, prior to 9-1, "bat netting" over the east and west portals to deter entry into the Tunnel of two species of bats on the states endangered species list. Other than issuance of the Phase 2 bid (and hope for a successful low bid), the primary concern with project completion has become the potential lack of funding to complete Phase 3.

**3. Broadband:** Blacksburg based Wide Open Networks is now the Network Operator. Revision of the Authority's rate structure to provide for leasing of dark fiber is in process. There are several neighborhood expansions that are pending completion by CCTS and County staff is endeavoring to have this work completed immediately.

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**4. Region 2000 Service(s) Authority & Solid Waste/Recycling:** The Authority's next meeting (September 23) will include approval consideration of a Property Value Protection Plan and disbursement of Excess Revenues to Lynchburg City and Campbell County. County staff will oppose both of these subjects as being against Nelson County's and the Authority's best interests and not the Authority's responsibility with respect to the PVPP.

Mr. Carter advised that the Property Value Protection Plan was for those homes existing as of 2012 and anything after that, the plan would not pertain to them. He added that the Campbell County citizen group was opposed to it as it was not as far reaching as they would like.

**5. 2018 General Reassessment:** The monthly update from Wampler-Eanes is attached hereto for the Board's review. And, Mr. Gary Eanes will report to the Board at the September regular session on the status of the GR.

**6. EMS and Fire Study:** By letter dated July 21, 17, the County requested the Department of Fire Programs to re-schedule the study of the County EMS and Fire services. A response from DFP is pending.

**7. Radio Project:** Installation and testing of radio equipment on the County's broadband tower at the Rockfish Valley Vol. Fire Department will be completed this month (on schedule). The site is online and coverage testing has been completed (see S. Rorrer report in the agenda). Digital Vehicle Repeater Systems have also been installed for the Rockfish, Montebello and Wintergreen agencies with training to be provided to the agencies by Radio communication of VA on 8-15.

**8. Lovingson Health & Rehab Center:** The sales contract has been signed by Region Ten and the County. County Attorney Payne is working on the formal closing on the sale of the property (date TBD).

**9. VA First Net:** County staff will attend a one day conference on 8-23 on VA First Net. First Net is a federal initiative (through the national First Responder Network Authority created under federal law in 2012) to build an "interoperable" "public safety broadband network so that first responders will have a reliable and robust communications system to hand crisis situations." Virginia is the first state to opt into the First Net initiative (see attachment).

**10. Go VA:** The statewide economic development initiative is in process. Nelson County is a member of Regional Council 9 (comprised of the TJPDC and Rappahannock-Rapidan Regional Commission planning districts). Region 9 has retained Camion and Associates to complete a regional study with recommendations for subsequent submittal to the state Go VA Council for funding of initiatives contained in the study. The final Region 9 report will be complete within the ensuing 15-30 days.

**11. Auditor of Public Accounts - Fiscal Stress Early Warning System:** This system is an outcome of budget language included in the state's 2017 budget. The intent is "to allow the state to flag certain localities determined to be in financial trouble for certain follow-up actions, including potential state intervention." The APA has completed a preliminary Financial Assessment Model (FAM) and is continuing its work on this overall responsibility (see attachments). Sample outcomes from the FAM (based upon Fiscal Year 14, 15 and 16 audit reports) place Nelson County among the highest scores (best position) for each fiscal year (see page 7 of the FAM attachment hereto).

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Mr. Carter noted that the APAs initial threshold for when a locality was in financial trouble was 15% and the County's percentage was 90%. He added that Nelson was in the top three (3) localities in 2016 and Mr. Hale added that there were many near 20%. Mr. Carter noted his question was related to what the State would do to help or interceded with those lower percentage localities. He added that the report was good news for Nelson and it spoke well of the Board and staff.

Ms. Brennan questioned them not taking into account local debt for School Boards and Mr. Carter noted that they were not including that as of yet; however even with that included, Nelson should be well positioned.

Mr. Saunders then asked if there was Broadband available at Edgehill at Route 6 and staff noted there was.

## 2. Board Reports

### Ms. Brennan:

- Attended the Community Criminal Justice Board meeting, where a presentation was made by UVA students on how well the Charlottesville Albemarle Regional Jail and the Buckingham Jail were coordinating. She noted that their computer systems and police Departments were all different and they were trying to figure out how to coordinate all of that.
- Met with Jay Roberts of WPOA at his request. He advised her that they had met with Dominion and he let her know they had big concerns about how civil unrest was going to be handled. She noted it would be handled by the Sheriff's Office and the County needed to follow up on that. Mr. Carter noted that in a few meetings with Dominion, they have said that they would have security but would need to work in concert with local law enforcement. Ms. Brennan then asked for a record of those meetings. Mr. Carter added that he had noted those concerns to Sheriff Hill and that staff was working to coordinate a meeting with EMS staff etc.

### Mr. Saunders:

- Attended the Planning District Commission meeting in Greene County and noted that Nelson's turn to host was in October.
- Attended monthly Courthouse project meeting.

### Mr. Hale:

- Attended monthly Department of Social Services (DSS) Board meeting.
- Attended monthly Courthouse project meeting.

### Mr. Bruguiera:

- Attended monthly Planning Commission meeting and noted items were coming forward that night.



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Mr. Hale noted that he had met preliminarily with all of the KNB applicants on the list. He noted that they had a real interest in KNB and what could be accomplished. He added that it was time to have KNB re-established and the question was whether they wanted to appoint all of them or a fewer number. Staff noted that the previous KNB bylaws stated membership was up to fifteen and they could have less.

Ms. Brennan suggested that they all be appointed and then they could work on the bylaws. Mr. Hale noted it was fine with him.

Ms. Brennan then moved to appoint all applicants to KNB and Mr. Hale seconded the motion. Mr. Bruguere questioned whether or not they really wanted all nine people and Ms. Brennan supposed they could work together to handle their differences and get on with it.

There being no further discussion, Supervisors voted (2-3) by roll call vote to not approve the motion with Mr. Harvey, Mr. Bruguere, and Mr. Saunders voting No.

Mr. Bruguere then advised he thought there should be one member from each district and Mr. Hale asked how the bylaws could be revised if they were part of the County Code. Mr. Carter then advised that the bylaws were not part of the County Code and it was more of a guidance document.

Mr. Hale then asked if KNB were to move forward would the Board be willing to look at a slate of five (5), one from each district and Mr. Bruguere and Mr. Saunders noted they would be amenable to that.

Mr. Hale noted his choice would be Susan McSwain and Mr. Bruguere noted he would see if he could find somebody if this could be delayed by a month.

Mr. Carter advised that the KNB bylaws did not mean anything right now, they were made up by the committee and endorsed by the Board.

Mr. Hale and Mr. Harvey noted that the former KNB had coordinated cleanups and had an annual dinner at the High School. Mr. Hale then noted that he thought they could be an organization that could work on various projects and Ms. Brennan agreed.

Supervisors then agreed by Consensus to revisit this matter in September.

C. Correspondence

1. Rockfish Valley Senior Group

Mr. Carter noted the following letter from Rockfish Valley Senior group for reconsideration of FY18 funding:

ROCKFISH VALLEY SENIOR GROUP  
AFTON, VIRGINIA

JULY 05, 2017

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NELSON COUNTY BOARD OF SUPERVISORS

RE: FUNDING FOR THE ROCKFISH VALLEY SENIOR GROUP FOR 2017-2018.

WE HAVE RECENTLY BEEN ADVISED THAT OUR FUNDING FOR THE 2017-2018 FISCAL YEAR WILL BE THE SAME AS THE PREVIOUS YEAR. WHEN WE SUBMITTED OUR BUDGET REQUEST FOR THE 2017-2018 FISCAL YEAR WE ASKED THAT FUNDING BE INCREASED DUE TO THE NUMBER OF PEOPLE THAT ARE SERVED ON EACH THURSDAY OF THE MONTH AND THE INCREASE IN FOOD COSTS AND SUPPLIES THAT ARE USED EACH THURSDAY.

THE ROCKFISH FIRE DEPT. LETS US USE THE BUILDING ON EACH THURSDAY AND DOES NOT CHARGE USE FOR THE USE OF THE BUILDING. THIS IS CERTAINLY APPRECIATED BY THE GROUP.

ALSO, THE ROCKFISH PRESBYTERIAN CHURCH FEEDS US EACH FOURTH THURSDAY WITH THE EXCEPTION OF NOVEMBER AND DECEMBER. THIS MEANS THAT THERE ARE FIFTY (50) THURSDAYS THAT FOOD IS PREPARED FOR THE SENIORS. WE ALSO PAY SOMEONE TO PURCHASE AND PREPARE THE FOOD.

NO FUNDING IS PROVIDED BY JABA.

WE ASK THAT YOU REVIEW OUR BUDGET REQUEST FOR 2017-2018 TO SEE IF WE MAY APPLY FOR ADDITIONAL FUNDING.

THANKING THE BOARD OF SUPERVISORS FOR THE FUNDING FOR THE SENIOR GROUP AND CONSIDERATION FOR OUR REQUEST.

RESPECTIVELY SUBMITTED BY THE ROCKFISH VALLEY SENIOR GROUP.

ROSE MOHLER, PRESIDENT.  
IRM

Mr. Harvey noted he spoke to them and their numbers were growing. He added that there were no facility costs and the County paid their electricity so the funds were spent on the food itself.

In response to questions regarding their funding, Ms. McCann noted that they got approximately \$8,000 for the year and she thought they had requested \$2,000-\$3,000 more.

Mr. Harvey noted he would research their request and bring it back to the Board and no action was taken.

D. Directives

Mr. Bruguere had no directives.

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Mr. Hale:

1. Mr. Hale noted that Nelson Cable had advised him that it would be helpful to Internet Service Providers to know what network extensions were being made for fiber. He then suggested that it would be helpful if the County would put out a monthly update to ISPs on what expansions were in the works. Mr. Carter advised that the ISPs were regularly told where the extensions were going.

Mr. Harvey noted that his experience with Nelson Cable has been terrible; they would not answer calls for service. Mr. Carter noted that was a recurring subject internally; that he understood they were informed of new customers and never followed up.

Mr. Hale also noted the bitter complaints about the slowness of the installation of the extensions. Mr. Bruguere and Mr. Harvey added that Stewart Computer Services did not return calls either.

2. Mr. Hale noted that he had spoken to Dwayne Jones of Waynesboro for a Tunnel update and that Waynesboro was keen on coming up with the money to work on the Western Trail. He added that the County needed to keep in touch with them and they had an October deadline for securing more money. Mr. Carter advised he would follow up and that they had indicated that they would consider applying for TAP money for Phase 3. He noted that staff had done a quick reading of the numbers and given the current estimate, there was adequate funding there for Phase 2 not counting the DCR money. Mr. Saunders noted the key was getting more than one bidder.

Mr. Carter then advised that he had asked Woolpert to ask Jacobs to get the word out to their contacts. Mr. Hale suggested that he personally call the two tunnel firms that the County was aware of and Mr. Carter advised that VDOT had no objections to that.

Mr. Saunders:

1. Mr. Saunders stated that the County should recognize David Thompson and Mr. Hale agreed noting it would be nice for something similar to that which was done for Ms. Page to be done and it could be hung in the Building Inspections Office. Mr. Carter agreed and noted Mr. Thompson was an exceptional person and employee.

2. Mr. Saunders noted he would be meeting with a Gladstone resident on Thursday regarding the CSX buildings and that the Railroad had said they were going to proceed with demolishing the buildings.

3. Mr. Saunders asked for an update on the boat ramps that had been discussed a year ago. Mr. Carter advised that he thought they had a design but had not secured easements to put them in place and then there were some other expenses. He added that they may have to go back to see if property owners were still willing to do it.

4. Mr. Saunders asked if Tye River Elementary School had met accreditation and if not, he wanted to know the plan. Mr. Carter supposed that if not the State would take over; however he would find out.

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5. Mr. Saunders asked if the Jake brake concerns had been tabled and Mr. Harvey noted that concern was specific to certain areas and was not countywide. Ms. Brennan then noted she would like to see the County Jake brake free.

Ms. Brennan:

1. Ms. Brennan asked when the Board would meet the new Recycling Coordinator and Mr. Carter advised it would be next month.
2. Ms. Brennan asked about the boat ramp, canoe entryway at Nelson Wayside and Mr. Carter noted he would have Emily explain as VDOT owned the land there.
3. Ms. Brennan directed that the County treat the Ash tree for Ash bores at the Courthouse and for staff to get estimates for that.
4. Ms. Brennan asked for the reasoning behind Mr. Saunders's request for School information. Mr. Saunders noted that that the County was sending money out of the County to people who were not paying taxes in Nelson. He added that he did not think the information provided by the Schools was accurate. Mr. Bruguere noted that he knew of Nelson County teachers who were turned down for jobs in Nelson even with years of experience.
5. Ms. Brennan asked about the tire dumping situation in Piney River and Mr. Bruguere advised that there were a few less tires there. Mr. Carter advised that the County had done something via Planning and Zoning, however he would have to check.
6. Ms. Brennan commented on the cancellation of the Fourth of July parade and Mr. Harvey stated that the Fourth of July parade should be done by Parks and Recreation. Mr. Carter advised that the County was typically the applicant for those VDOT permits and then the County provided the sponsor with a rider on insurance. He noted he would speak to Ms. Harper about it.
7. Ms. Brennan asked if the Sheriff's Request was coming up later and Mr. Carter advised it was.
8. Ms. Brennan advised that the State Water Control Board and DEQ had been having meetings to look at the ACP application and somebody brought up that Dominion may get us to participate in an MOU and she advised that the County did not want to do that. Mr. Carter noted that he had not heard anything about that.
9. Ms Brennan then asked about the Spy Rock issue and Mr. Carter advised that he had met with the Forest Service on the matter. He advised that part of the Appalachian Trail crossed private property and the gate along the route had been posted for trespassing. He noted the Forest Service asked about County involvement and brought up condemnation and Mr. Carter noted he advised them that the County would not be in favor of that. He added that the attorneys were researching the land records and the property owner had directed them to go to court; because that posting was legitimate. Mr. Harvey noted he read that the Forest Service was directing people across that property. Mr. Hale advised that he had surveyed it and it was private property and as far as he was concerned, by adverse possession the hikers had the right to walk on there. Mr. Bruguere disagreed and noted that the Campbell property was purchased for that access and the property owners were within their rights. Mr. Carter stated that the Forest Service may have permission to access the Trail there but no-one else. He noted

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that they did not want to go to court and wanted to work it out with the property owner. Mr. Bruguire noted that Spy Rock was still accessible, and Mr. Carter added that the other route was a longer trek to get there and more windy. Mr. Hale then noted that the matter was not really the County's affair and Ms. Brennan noted she was concerned because it was a popular attraction. Mr. Carter noted that he had advised the Forest Service that the County wanted to be helpful and he would report the meeting to the Board and ask for direction.

Supervisors then agreed by consensus to allow the Forest Service and the Department of Game and Inland Fisheries work it out.

## **VII. Other Business (As May Be Presented)**

*Introduced: Closed Session*

Mr. Harvey noted that the Board would discuss personnel matters in executive session, whereas the pay classification could be discussed in open session.

Mr. Hale moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code § 2.2-3711(A) (1): personnel matters involving compensation of constitutional offices and County employees.

Mr. Bruguire seconded the motion and Ms. Brennan confirmed it was in the rules that they could discuss blanket compensation of Constitutional Officers and employees.

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

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

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 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.” and Ms. Brennan seconded the motion.

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

Following certification of the closed session, no action was taken by the Board.

## **VIII. Recess and Reconvene Until 7:00 PM for the Evening Session**

At 5:40 PM, Mr. Hale moved to adjourn and reconvene at 7:00 PM and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the meeting adjourned.

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

**I. Call to Order**

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

**II. Public Comments**

There were no persons wishing to be recognized for public comments.

**III. Public Hearings**

**A. Class C Tower Permit #2017-12 – Hunting Lodge Rd. / SBA Communications Corp.**

Consideration of a Class C Tower Permit application requesting County approval to use the specified subject property for a “130’ Self Support Tower”. The subject property is located in Shipman off of Hunting Lodge Rd, Tax Map Parcel #81-6-2 (84.35 acres), owned by Edward and Patricia Williams. The subject property is zoned Agricultural (A-1).

Ms. Shackelford reviewed the following staff report:

**BACKGROUND:** This is a request for a Class C Communications Tower on property zoned A-1 in accordance with §4-1-22 and §20-13 of the zoning ordinance.

**Public Hearings Scheduled:** P/C – July 26, 2017; Board – August 8, 2017

**Location / Election District:** Adjacent to and SW of 892 Hunting Lodge Road / East Election District

**Tax Map Number(s) / Total acreage:** 81-6-2 / 84.35 acres +/- total, ~1.25 acres subject to request including 100’ x 100’ lease area and land disturbance area.

**Applicant Contact Information:** Drew Patterson, SBA Communications Corp., 8051 Congress Avenue, Boca Raton, FL 33487; 804-363-0891

**Comments:** The requested use is for a 130’ self-support communications tower. The balloon test at the site is scheduled for July 20th.

**DISCUSSION:**

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**Land Use / Floodplain:** This area is rural in nature. The property does not fall within any 100-year flood plains.

**Access and Traffic:** Property is accessed from Hunting Lodge Road (Route 62-646 – AADT 180 trips per day). The proposed tower will not take impact the daily traffic once construction is completed. An existing road will be used to access the property during the construction of the tower.

**Utilities:** Public water/sewer are not available at the site. There is a 30' wide access/utility easement running from Hunting Lodge Road to the lease area where the tower will be located.

**Conditions:** The final approving authority for this request is the Board of Supervisors. The ordinance states that the final approving authority shall approve the color of the tower and may impose other conditions upon approval. The Planning Commission may make recommendations to the Board of Supervisors regarding proposed conditions. Based on the photo simulations that are generated as a result of the balloon test, staff recommends that the tower is either painted either a dark brown to blend in with the surrounding trees or that the galvanized steel is left as is to better blend in with the sky and that the tower is constructed as proposed in plans submitted with the request.

**Comprehensive Plan:** This property is located in an area designated as rural and farming based on the current Comprehensive Plan. The current Comprehensive Plan does not address communications towers/infrastructure. The application meets the guidelines established in §20-2 of the Zoning Ordinance outlining the purpose of the Communications Tower Ordinance including the importance of protecting the scenic nature of the County.

**RECOMMENDATION:** The applicant has satisfied all of the application requirements. Based on the natural tree growth around the property, and the location of the tower in a heavily wooded area, staff recommends waiving the landscaping requirement as requested. The Planning Commission recommended approval of this request by vote of 6-0 with the condition that 1) the tower is constructed as proposed in plans submitted with the request, and 2) the galvanized steel color be left as is.

Ms. Shackelford then showed the proposed tower location on aerial photographic maps and on future land use maps. She noted that the existing road would be used for construction and there was a thirty foot wide easement to the lease area of the tower. She noted the tower location to be rural and farming according to the Comprehensive Plan and that it met Zoning Ordinance guidelines. Ms. Shackelford then noted that staff recommended waiving the landscaping requirement as the tower site was surrounded by trees and was not intrusive to the environment. She added that Staff could not see the balloon during the balloon testing.

Ms. Shackelford advised that the Board could determine the color of the tower and other conditions. She noted the Planning Commission's recommendations and advised that they preferred the galvanized steel color over painting it brown.

She then reiterated the following tower approval considerations:

- Location is in a densely wooded area that provides a significant amount of screening/buffering.

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- Staff was unable to see balloon during a field visit.
- Board of Supervisors will have final approval of color of pole/antennas.
- Conditions recommended by Planning Commission:
  - the tower is constructed as proposed in plans submitted with the request
  - the galvanized steel color be left as is

Mr. Drew Patterson, Project Manager for SBA, the applicant, gave a Power Point presentation that noted following:

**Request:**

- ▶ 130 foot self-support tower on Hunting Lodge Road
  - ▶ Tower will be owned by SBA Communications Corporation (SBA)
  - ▶ Anchor tenant will be Shenandoah Telecommunications Company (“Shentel”)

**SBA:**

- ▶ SBA is an independent owner and operator of wireless communications infrastructure across North, Central and South America
  - ▶ Founded in 1989 and headquartered in Boca Raton, Florida
  - ▶ Lease towers to telecommunications carriers

**Shentel:**

- ▶ In business since 1902
- ▶ Started as a small phone company serving Virginia’s Northern Shenandoah Valley
- ▶ Today it is affiliated with Sprint
- ▶ Provides broadband services, digital TV, high-speed Internet and phone services to Virginia, West Virginia, and Maryland
- ▶ Specialize in providing advanced services to rural and underserved markets

**Wireless Technology:**

- ▶ December 2007 - 16% wireless only
- ▶ December 2016 - 51% wireless only (1 in 2 households are reachable only on wireless phones)
- ▶ Currently more than one wireless device for every person in the U.S.
- ▶ Data traffic over wireless networks doubles every year
- ▶ Nearly 500,000 E-911 calls per day from wireless phones

**Advantages of Proposed Tower:**

- ▶ Provide voice and data coverage in the area
  - ▶ Allow employees to work from home
  - ▶ Provide students access to latest online educational opportunities

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- ▶ Allow emergency workers operating in the area the ability to communicate more effectively
- ▶ Connect the propagation rings of existing adjoining sites, which will allow for fewer dropped calls
- ▶ Provide the infrastructure necessary for other wireless carriers to expand their networks

Mr. Patterson then showed Shentel propagation maps with and without the tower. He showed the site plan and advised that the tower was set back 160 feet from the property line. He showed a tower elevation diagram noting that the tower would be 129 feet tall with a 1 foot lightning rod. He also showed the tower compound plan and photo-simulations from the balloon tests. He advised that the proposed tower had limited visibility, it was 1300 plus feet from Hunting Lodge Road, and 1500 plus feet from the closest residence. He added that the site was screened with trees and they would use galvanized steel to blend in with the sky.

Ms. Brennan then asked if the site had ever been logged and it was noted that it had; the woods were fairly small and not mature; possibly ten years old.

Mr. Bruguere asked when they planned to build the tower and Mr. Patterson noted they would pursue a permit if approved and would built it by the end of the year depending on permitting.

Ms. Brennan inquired if there was a time limit on the tower permit and Ms. Shackelford advised that they had a year to pursue construction of the tower.

There being no other questions for the applicant Mr. Harvey opened the public hearing. There being no persons wishing to be recognized, the public hearing was closed.

Mr. Hale moved that the Board of Supervisors approve cell tower application #2017-12 Hunting Lodge Road and Mr. Bruguere seconded the motion.

Mr. Saunders then questioned counting the lightning rod as part of the tower height and Ms. Shackelford noted that she had previously reviewed the Zoning Ordinance definition and she recalled that the height limitation did include all appurtenances; however she would double check it.

Mr. Hale then noted that the tower would be located where there would be no adverse effects to anyone and based upon the coverage maps, it would provide coverage where there was none.

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

**B. Class C Tower Permit #2017-14 – Beech Grove Rd. / Verizon**

Consideration of a Class C Tower Permit application requesting County approval to use the specified subject property for a “130’ steel monopole tower”. The subject property is located in Roseland at 398 Beech Grove Rd, Tax Map Parcel #31-A-51A (5.67 acres), owned by William C. Parrish. The subject property is zoned Agricultural (A-1).

Ms. Shackelford reviewed the following staff report:

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**BACKGROUND:** This is a request for a Class C Communications Tower on property zoned A-1 in accordance with §4-1-22 and §20-13 of the zoning ordinance.

**Public Hearings Scheduled:** P/C – July 26, 2017; Board – August 8, 2017

**Location / Election District:** 398 Beech Grove Road / Central Election District

**Tax Map Number(s) / Total acreage:** 31-A-51A / 4.523 acres +/- total, 1,600 square feet lease area.

**Applicant Contact Information:** Stephen Waller, Verizon, 8159 Cancun Court, Gainesville, FL 20155; 434-825-0617.

**Comments:** The requested use is for a 130' monopole communications tower. The balloon test at the site is scheduled for July 21st. The applicants are requesting a waiver from §20-12.D.4 limiting the equipment attached to the tower. The requested increase in the size of the antennas will allow a few number of antennas to be used. The applicants are also requesting that the requirement to allow only three antennas per array be waived in order to install all six of the necessary antennas in a single array.

The development proposed at the site will also result in slopes steeper than 2:1 in some areas. To comply with the design requirements, the applicants will be installing retaining walls to provide site stabilization (see pages ST-1 and ST-2 of the site plan submitted with the request).

**DISCUSSION:**

**Land Use / Floodplain:** This area is mixed use in nature. The property does not fall within any 100-year flood plains. Ms. Shackelford noted that there was floodplain around the property but reiterated there were none on the property.

**Access and Traffic:** Property is accessed from Beech Grove Road (Route 62-646 – AADT 2,400 trips per day). The proposed tower will not take impact the daily traffic once construction is completed. An existing road will be used to access the property during the construction of the tower.

**Utilities:** Public water/sewer are not available at the site. There is a 20' wide access/utility easement running from Beech Grove Road to the lease area where the tower will be located.

**Conditions:** The final approving authority for this request is the Board of Supervisors. The ordinance states that the final approving authority shall approve the color of the tower and may impose other conditions upon approval. The Planning Commission may make recommendations to the Board of Supervisors regarding proposed conditions. The applicants have proposed to paint the tower brown and staff recommends and that the tower is constructed as proposed in plans submitted with the request. In lieu of providing the drawings for the fall zone, the applicants have also requested a condition be placed upon approval of the request that a professional engineer will provide a letter certifying that in the event of a collapse, the tower will fall within the property boundaries.

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Ms. Shackelford reiterated that the Board could approve the tower color and any conditions. She noted that Staff recommended that the tower be constructed as planned and provided for with an Engineer to certify the fall zone.

**Comprehensive Plan:** This property is located in a Neighborhood Mixed Use Area based on the current Comprehensive Plan. The current Comprehensive Plan does not address communications towers/infrastructure. The application meets the guidelines established in §20-2 of the Zoning Ordinance outlining the purpose of the Communications Tower Ordinance including the importance of protecting the scenic nature of the County.

**RECOMMENDATION:** The applicant has satisfied all of the application requirements. Based on the natural tree growth around the property, and the location of the tower in a heavily wooded area, staff recommends waiving the landscaping requirement, as well as granting the other waivers, as requested.

The Planning Commission recommended approval of this tower request by vote of 6-0 including the granting of all requested waivers with the conditions that 1) the tower be painted dark brown as proposed, 2) the tower is constructed as proposed in plans submitted with the request, 3) the total height of the tower including the lightning rod is no taller than 130', and 4) a professional engineer will provide a letter certifying that in the event of a collapse, the tower will fall within the property boundaries.

Ms. Shackelford then showed the proposed tower location on aerial photographic maps and on future land use maps.

She then reiterated the following tower approval considerations:

- This tower would be constructed in close proximity to an existing tower.
- Applicants are unable to collocate on existing tower.
- Board of Supervisors will have final approval of color of pole/antennas.
- Conditions recommended by Planning Commission:
  - the tower be painted dark brown as proposed
  - the tower is constructed as proposed in plans submitted with the request
  - the total height of the tower including the lightning rod is no taller than 130'
  - A professional engineer will provide a letter certifying that in the event of a collapse, the tower will fall within the property boundaries.

Ms. Shackelford noted that there was an existing tower on site in near proximity to the proposed tower. She advised that the applicants had pursued collocation initially and there was only one array left available and that level was already spoken for. She noted additionally, that array elevation would not be high enough.

The Applicant, Ms. Lori Schweller representing Verizon Wireless then addressed the Board and presented the following information:

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Ms. Schweller noted the landowner to be William C. Parrish, the site was 4.5230 acres and zoned A-1 as shown on a GIS map.

She then showed a rendering of the existing Ntelos tower compound on the site and their proposed compound and driveway access. She noted that they would be using portions of the existing gravel road and compound to minimize disturbance, the wooded area negated the need for additional landscaping, and 110% of the monopole height fall zone radius setback was not met on the eastern parcel boundary (96'); therefore, they would obtain an engineer's letter certifying that the pole would fall within the boundary lines if it were to fail.

She then noted the following design standards:

- Java Brown monopole, antennas, remote radio heads
- Antenna projection from monopole is the minimum required by the mounting equipment
- Total number of arrays not to exceed three
- Antennas at 1,320.66 square inches – *Waiver Request to exceed 1,152 square inches*
- Number of antennas per array exceed three – *Waiver Request for Six*

She added that they usually provided 12 antennas, however since they were using dual antennas, all would fit on 6. She noted they were requesting slightly larger antennas because of that.

Ms. Schweller then noted both of the tower elevations and the proximity of the proposed tower to the existing Ntelos tower. She noted that the appearance of the proposed tower was very similar to the existing monopole. She noted that the proposed tower would be at the maximum height permitted of 130ft; however it would appear to be slightly shorter than the Ntelos tower because the ground elevation there was 10 feet lower.

Ms. Schweller showed all of the photo simulations and noted that the balloon test was conducted with site testing from fourteen locations with it being visible from seven. Ms. Schweller then reiterated that they were requesting a 130 foot tower including the antenna and they were told that would be fine.

Ms. Schweller then introduced Joseph Nekambuza, Verizon Wireless RF Engineer who reviewed the following:

Mr. Nekambuza showed signal propagation maps of the area without the proposed tower, the coverage of the tower, and then the area with the proposed tower. He also showed a map of potential future Verizon tower sites in the County noting sites at Jonesboro, Eades Hollow, and Rockfish in order to provide connectivity and capacity along Route 151.

Mr. Bruguiere asked how soon they would do the other sites along Route 151 and Mr. Nekambuza noted it depended on company funding; however the Beech Grove tower would be as soon as possible.

Ms. Brennan then asked if they had acquired the property for those planned towers and Mr. Nekambuza confirmed that they had not acquired any of those properties yet.

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There being no other questions from the Board, Mr. Harvey opened the public hearing. There being no persons wishing to be recognized, the public hearing was closed.

Ms. Brennan then moved to approve the Class C permit #2017-14 on Beech Grove Road for Verizon including the recommended conditions and Mr. Bruguere seconded the motion.

Mr. Harvey asked if the tower would be brown or galvanized and it was noted that the Planning Commission had recommended brown. Ms. Shackelford noted that the other tower on site was also brown and would blend in with the trees.

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

**C. Special Use Permit #2017-07 – ‘Mixed Use’ / Todd M. Rath**

Consideration of a Special Use Permit (SUP) application requesting County approval to use a specified subject property for a “Mixed Use” land use. The subject properties are located on Rockfish Valley Highway in Afton, and are Tax Map Parcels #6-A-131 (8.126 acres) and 6-A-163D (2.811 acres). The subject property is zoned Agriculture (A-1).

Ms. Shackelford reviewed the following staff report:

**BACKGROUND:** This is a request for a special use permit to allow for a variety of mixed uses on property zoned Agricultural. The proposed uses would include: motels/hotels (§4-1-25a), restaurant (§4-1-34a), farm winery permanent remote retail establishment (§4-1-16a).

**Public Hearings Scheduled:** P/C – July 26, 2017; Board – August 8, 2017

**Location / Election District:** 9485 Rockfish Valley Highway / North Election District

**Tax Map Number(s) / Total acreage:** 6-A-131 & 6-A-163D / 10.937 acres +/- (The applicant also owns a third parcel adjacent to the two lots included as part of this request.)

**Applicant Contact Information:** Todd Rath, 161 Wood House Lane, Nellysford, VA 22958; 434-996-7133.

**Comments:** The applicant would like to use the property to construct 6 single-bedroom cabins that could be rented out to guests (motels). The applicant would also like to have a pub on the property (restaurant/farm winery permanent remote retail establishment). The original request that was presented to the Planning Commission also included retail spaces and a number of other potential uses that would potentially occupy those spaces. The motion made in the Planning Commission meeting was to approve just the cabins (hotels/motels) and the pub (restaurant/farm winery permanent remote retail establishment). The revisions the applicant has made to the original request is consistent with the uses on which the Planning Commission voted.

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**DISCUSSION:**

**Land Use / Floodplain:** This area is rural in nature. There are no 100-year flood plains on the property.

**Access and Traffic:** Property is accessed from Rockfish Valley Highway (Route VA-151 – AADT 4,800 trips per day). The proposed development will generate additional traffic along this corridor, but a traffic impact analysis is not required at this time. VDOT has reviewed the plans. The primary concern is that the entrance shown on the site plan be relocated farther south to align with the entrance to Silverback Distillery across the street.

Ms. Shackelford reiterated that VDOT had recommended the entrance be moved south and she noted that the applicant was complying with that request.

**Utilities:** Property is served by private well and septic systems.

**Conditions:** The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit. Conditions recommended by staff are that 1) the site shall be developed in conformance to the site plan submitted with the special use permit request, and 2) the cabins be limited to single bedrooms. (Please note that conditions can be placed on each of the uses requested individually.)

**Comprehensive Plan:** This property is located in an area designated as rural and farming use based on the current Comprehensive Plan.

**RECOMMENDATION:** The approval of special use permits should be based on the following factors:

1. The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate. *The proposed use is consistent with the development pattern along the 151 Corridor.*
2. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property. *The proposed use is complimentary to other uses in the area. The Silverback Distillery is located directly across the highway from this site. It would provide lodging for out-of-area visitors that would be aesthetically appropriate for the rural nature of the area where it is being located. The retail businesses that would potentially be permitted are small in scale.*
3. The proposed use shall be adequately served by essential public or private water and sewer facilities. *The applicant will work with the engineers and the health department to ensure adequate facilities are provided.*
4. The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance. *There are no significant ecological, scenic or historical features that would be impacted by the proposed use.*

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The Planning Commission and Board of Supervisors are under no obligation to vote for all of the proposed uses together. Each use is separate and distinct although they are being proposed in a single request. Additionally, any of the requested uses that are not pursued within one (1) year will no longer be permissible under the special use permit if approved.

By vote of 3-3, the Planning Commission failed to recommend approval of the request. The motion was made to recommend approval of the request only for the six one-bedroom cabins and the restaurant/farm winery permanent remote retail establishment as shown on the site plan with the condition that the applicants comply with VDOT's request to relocated the entrance.

The vote was: **Aye** – Allen, Harman, Bruguere; **Nay** – Proulx, Goad, Stapleton

Ms. Shackelford then showed the proposed site location on aerial photographic maps and on future land use maps. She also showed a site map that showed the locations of the cabins relative to the pub and other landmarks.

Ms. Brennan then clarified that the entrance would be to the south and the road to the cabins and parking area would parallel Route 29. Mr. Hale asked how far south it would be moved and Ms. Shackelford stated it would be approximately 200 feet closer to the Silverback entrance and it would be directly across from it.

Mr. Bruguere questioned there being two uses requested and only one special use permit and Ms. Shackelford noted that both were done on one SUP under one permit number, however they could vote on them and place conditions on the uses separately.

Mr. Todd Rath, Applicant then addressed the Board.

Mr. Rath Clarified that initially he had requested three special use permits for a restaurant, farm winery tasting room, and motel. He noted that the farm winery tasting room would be ancillary to the winery he operated on Beech Grove Road and the tasting room and cidery would be in the same building.

He then thanked the Board for their meeting and for reviewing his application. He noted that his main focus for the property was to give a new home to his northern tasting room and create more lodging for the County.

Mr. Rath noted that his site drawings had been updated per VDOT's request and that the entrance was shown across from Silverback and it would entail excavation. He noted that the anchor tenant would be Blue Toad Hard Cider Tasting Room and it would not be produced on the site. He added that he used 100% Nelson County products from Silver Creek and others and everything they did fits the agritourism model of the Comprehensive Plan.

Mr. Rath then noted that he had read the Comprehensive Plan and he advised that by right the property could be a kennel and a junk car yard. Mr. Rath reiterated that he used 100% local Nelson County

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apples and would rehab the old buildings including the old Trading Post for one. He added that if the property were used for rural-residential purposes he could create eight two acre lots with eight driveways dumping into Route 151, whereas he was only doing one driveway. He noted that he intended to build more buildings and he would come back before the Board and the public before doing that. He then advised that he had denied Dollar General when they had called him about the property.

Mr. Rath then addressed another concern that the Planning Commission had which was the proximity to neighbors. He advised that one could not see a home from the property and he had met with Rockfish Orchard residents to discuss the particulars of the use of the site. He stated he would add a fence to the northern hedgerow and he added that the closest home to the pub was about 600 yards and the closest neighbor was Silverback Distillery across the street. Mr. Rath noted he would most likely have eighty chairs on the deck and that the Comprehensive Plan goals were being addressed in his project.

Mr. Hale stated it was puzzling to him that the best portion of the property was where the house used to stand and now there will be a big entrance there. Mr. Rath advised that his goal was to put a rustic barn on the top of that hill in order to get the views of Pilot Mountain. Mr. Rath added that you would not be able to see the cabins from the road.

Mr. Harvey asked the location of the creek and Mr. Rath noted that the creek was the northern boundary of the property.

Mr. Rath then noted that he had agreed on signing an agreement with his neighbors, he was courteous of his neighbors, and had a good track record; with no problems at his other business sites.

Mr. Bruguere advised that a revised site plan was needed to show the new entrance and Ms. Shackelford advised that she had it.

There being no further questions for the Applicant, Mr. Harvey opened the public hearing and the following persons were recognized:

1. Dr. Margaret Flather, Rockfish Orchard Subdivision - Afton

Dr. Flather noted she was concerned about the new development and she understood that the Board's mission was to maintain Nelson County as beautiful, safe etc. She noted that Rockfish Orchard subdivision was developed in 1992 for home sites that would protect those values etc. She advised that she had three issues: traffic, sound, and security; however others may have other issues.

Dr. Flather stated that Route 151 was overtaxed with traffic. She added that sound would affect the whole community. She noted Mr. Rath had verbally offered that the outdoor music speakers would be aimed down and south toward the creek, with music to end at 9 pm, and he would provide them with a telephone number to contact him anytime, 24 hours per day, 7 days per week. She added that it would help to have this in an agreement with him, the neighbors, and the County.

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She then noted that security was an issue especially for her neighbor, Shirley McGatha whose property was just to the north and was way closer than 600 yards; adding she did not think there was even the length of a football field there. She added that the proposed project would be like putting a bar and a package store on the line of the property. She also expressed concern about those renting cottages roaming onto her property near the pond. She noted she had fencing and horses and it would be a big problem if they were to get out and she noted that there were also two private pools in the community.

Dr. Flather then asked Supervisors to require, at the cost of the developer, an eight foot tall privacy fence that went down past Shirley McGatha's deck and continued down the property line and along the far west property line to prevent people from coming over to their property. She reiterated that she would like final occupancy permits being tied to that being done.

Dr. Flather concluded by noting that the concerned neighbors had met with Mr. Rath who had been very easy to talk to; however she would like her neighborhood protected with an agreement for fencing and sound. She then thanked the Board for their consideration in protecting the rural environment that was their home.

## 2. Ian Kelly, Rockfish Orchard Drive and HOA Director

Mr. Kelly noted that he and his family had moved into the subdivision ten years ago and had done so to have a rural and safe lifestyle. He noted that the proposed project would be putting in place housing and retail where it was not before. He added that while the Rockfish Valley Area Plan identified that area it also identified areas where those establishments were already located. He noted people wanted growth and to support businesses, however they wanted it done with a plan in place and done in a more thoughtful way. Mr. Kelly stated that the proposed project would hurt their home values and there would be twenty two lot owners affected just so that two others could create income.

Mr. Kelly also stated that sound carried up the mountain in the neighborhood and they had been able to sing along with music being played at Blue Toad and Silverback Distillery. He added that they were speaking about having eighty people outside and he was not sure how they would support twelve people using the cabins and a few hundred using the restaurant and pub above it.

Mr. Kelly stated he had many concerns about the proposed project and he asked the Board to honor their wishes and not put into place the cabins and the pub. He stated he was especially against the pub.

## 3. John Saunders. Silver Creek -Seaman Orchard, Tyro

Mr. Saunders noted that he worked with Mr. Rath and noted that they had together put in a cider press. He confirmed that Mr. Rath used 100% Nelson County apples and that helped the local economy. He noted that if Mr. Rath's permits were approved, he would sell more cider and that would help them as well. He added that Mr. Rath had always done what he said he would do and the proposed project would be an asset to the agricultural community.

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

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Mr. Rath then asked to address the public's concerns. He stated that the traffic on Route 151 was attributed to cell phones with GPS since anyone heading to Greensboro, Charlotte, or Raleigh were directed to Route 151 by their GPS. He noted that changing the speed limit on Route 151 would change the GPS software telling people the fastest route.

Mr. Rath then noted that he had hand-picked Nelson to raise family in. He noted that Agricultural Tourism was the vital economic engine for Nelson. He added that he would go back and look at the distance of his property to homes and he stated he was not sure how his development would hurt home values there.

Mr. Rath then spoke to his septic system, noting that engineering had been done on that and that there was 10,000 gallons of usable septic on the property. Mr. Rath stated he understood the speakers concerns and he wanted to work with them. He reiterated that the proposed project would be for Blue Toad Hard Cider and the six cabins.

Mr. Bruguire then stated that the Rockfish Valley Area Plan did denote the Rockfish Orchard area as developable in the area and Mr. Harvey noted that the plan was still on the shelf and was not endorsed by the Board.

Mr. Bruguire noted the questions about the septic there and he noted that Roger Nelson had outlined them and there could be many approved by the Health Department separately from them and it was not a concern.

Mr. Saunders then noted that VDOT had also made their comments and their only issue had been the entrance.

Ms. Brennan noted she had no problem at all with the cabins and she could speak to Mr. Rath's character in that he would do what he says he will do. She noted that he would have a signed agreement with the neighbors for some of the things. She added that she could not imagine anyone wandering around to go to other properties as it was much different than the Devil's Backbone camping. She reiterated that she would like to see the agreement made to include making sure that the music did not go on too long or be too loud facing the wrong direction. She then noted she did have concerns about how it would look from the road. She then questioned how long one could stay in a motel or in transient lodging. Staff noted that stay was limited by Zoning Ordinance to thirty days. She then noted that the neighborhood had many homes and she did not think their values would be diminished. She concluded by reiterating she had no issues with approving the permits as long as there was an agreement between Mr. Rath and the neighbors.

Mr. Bruguire agreed with Ms. Brennan but stated he thought the neighbors' concerns should be addressed in the Board's approval conditions.

Mr. Harvey asked if the Board could have thirty days to get it all in place and Mr. Rath stated that they would start right away because they had to move from the current facility by March. Mr. Harvey stated that he thought they could come up with a workable plan in the next thirty days. He then asked if when

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they moved the entrance down, if they would have to lay the bank way back. Mr. Rath noted not much; but would have to some looking south (right). Mr. Harvey supposed that cleaning up the trees would also help. He then asked if Mr. Rath would object to the Board deferring a decision until September to sew up loose ends. Mr. Rath noted that the loose ends known were the driveway and a reasonable agreement with neighbors. Mr. Harvey noted that he thought Mr. Bruguere was right, the neighbors' concerns should be addressed in the Special Use Permit so it held water and he did not think it could be done that night.

Mr. Hale noted he was familiar with the property and he would say that anytime someone could take an old abandoned building and turn it into a successful enterprise, it was a good idea. He added that the housing shown to be demolished would be an improvement to the property and he did not see any problems with where the cabins were located. He noted that the layout seemed to be well done with some future potential for the applicant. He then noted he was confident that he could not address the concerns of all of the neighboring property owners but he thought he would do his best to do so. Mr. Hale added that in looking at the terrain map, the property was suitable for what Mr. Rath was planning to do and he was in favor of it. He added that he had concerns about opened ended retail; however that had been narrowed down.

Mr. Saunders then added that it was important to get started this time of year in construction.

Mr. Harvey then noted that if fencing were made a part of the Special Use Permit then it would have to be there. He then asked if there was a creek between the cabins and Route 151 and Mr. Rath noted there was no creek there. Mr. Hale then noted with regards to his comments on re-use of an old building; he wanted to use that and get rid of the junk there. Mr. Rath noted he would put up a fence to block anything and he noted that his bigger events were on Winery Lane and would not be at that location. Mr. Hale reiterate the point was that he would be using the building and freshening it up and Mr. Rath noted he would spruce up the garage and sell the packaged goods there.

Mr. Harvey asked Ms. Shackelford how that would work with the garage being an accessory building that did not meet setback requirements and Ms. Shackelford advised that because it was an existing building he was not required to move it. She added that she would look at the Zoning Ordinance to see if it was an accessory building; however since it was an accessory to the restaurant, she thought it would be okay. Mr. Carter added that he could use it for a separate use but could not expand it because then it would not meet setbacks.

Mr. Rath then explained he would connect the garage to the restaurant with a breezeway so it would be contained. Mr. Harvey noted that it would be a commercial structure open to the public and he would have to work with the Building Inspectors. Mr. Rath noted it could be storage for the property if not used for packaged goods. Mr. Rath then noted that everything was on hold with financing and construction pending the Board's action.

Supervisors then discussed some potential conditions such as requiring eight foot tall fencing going past the house and deck to block visibility of the pond, no amplified music after 9pm, and landscaping along

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Route 151. Mr. Bruguiere added that the landscaping would have to be low growing so it did not impede sight distance.

Mr. Rath noted that the cabins would be built off-site and then set in place on pillars and if they failed, he would pick them back up and potentially sell them.

Mr. Saunders then moved that Special Use Permit #2017-07 be approved with the conditions set of installation of an eight foot fence on the northern boundary, a 9:00 pm amplified music time limit, single bedrooms in the six cabins, and landscaping along Route 151.

Mr. Hale seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

**D. Special Use Permit #2017-06 – “Temporary RV Campground” / Al Weed II & Al Weed III / La Abra Farm and Winery**

Consideration of a Special Use Permit (SUP) application to use subject properties for “Campground” land use. The properties are all zoned Agricultural (A-1) and are located in Lovingson off of Fortune’s Cove Lane, and include: Tax Map Parcel #57-A-3A1(63.68 acres), owned by La Abra Farm and Winery; and Tax Map Parcel #57-A-3L(15.90 acres), owned by Al Weed III.

Ms. Shackelford reviewed the following staff report:

**BACKGROUND:** This is a request for a special use permit to allow for the temporary parking of recreational vehicles/motor homes on property zoned A-1 in accordance with §4-1-10a of the zoning ordinance.

Public Hearings Scheduled: P/C – June 28, 2017; Board – August 8, 2017

Location / Election District: 1362 Fortunes Cove Lane / East Election District Tax Map Number(s) / Total acreage: 57-A-3A1 & 57-A-3L / 79.28 acres +/- total, 0.933 acres subject to request

Applicant Contact Information: La Abra Farm & Winery, 1362 Fortunes Cove Lane, Lovingson, VA 22949; 434-263-5392

Comments: The requested use falls into the definition of campground per the Nelson County Zoning Ordinance. The applicants are required to provide potable water and sanitary facilities. The applicant has made arrangements to provide water to refill the internal tanks of the vehicles and for contracting sewage pumping from on-board toilets. A total of 20 parking pads will be available for rental; 10 of those pads will also have access to electrical connections. The parking pads will be located on a grassed area; no land disturbance is planned at this time.

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**DISCUSSION:**

Land Use / Floodplain: This area is rural and agricultural in nature. There is an existing winery located on the property. There is a 100-year floodplain running through the property. Pads 11 through 20 are located in the floodplain, but no electrical hook-ups will be installed at these pads.

Access and Traffic: Property is accessed from Fortunes Cove Lane (Route 62-651 – AADT 60 trips per day). The additional traffic generated by this request is minimal. The applicant has worked with VDOT to create an ingress/egress plan that satisfies VDOT’s safety concerns for the entrance requirements. Prior to final approval of the use, the applicant will need to revise the minor site plan to reflect the agreed upon traffic pattern to comply with VDOT’s request.

Utilities: Property is served by private well and septic systems. Potable water will be available to refill the tanks for the recreational vehicles/motor homes, and sanitary services will be available on a contract basis for the individuals utilizing the accommodations.

Ms. Shackelford noted that the use was for a campground and thus they must provide potable water. She noted that Mr. Weed would provide this using tanks. She added that he must also provide sanitary services and he would provide this as well.

Conditions: The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit. Conditions recommended by staff are that the site shall be developed in substantial conformance to the site plan submitted with the special use permit request including that no power hook-ups will be made available to the ten pads that are within the floodplain.

Comprehensive Plan: This property is located in an area designated as rural and farming based on the current Comprehensive Plan. This request is generally consistent with the Comprehensive Plan.

**RECOMMENDATION:** The approval of special use permits should be based on the following factors:

1. The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate. *This use does not appear to change the character/development pattern in the area.*
2. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property. *This use seems to be in harmony with the current use of the property as a winery. A portion is on an adjoining property, and that owner has consented to the use. It does not appear to adversely affect the adjoining property owners.*
3. The proposed use shall be adequately served by essential public or private water and sewer facilities. *The applicant has made arrangements to ensure that the necessary water and sanitary needs are available.*

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4. The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance. *There are no significant ecological, scenic or historical features that would be impacted by the proposed use.*

The Planning Commission recommended approval of this request by vote of 6-0 with the conditions that 1) the site shall be developed in substantial conformance to the site plan submitted with the special use permit request including that no power hook-ups will be made available to the ten pads that are within the floodplain and 2) the applicant complies with the ingress/egress traffic plan that has been agreed upon with VDOT.

Ms. Shackelford then showed the site location on aerial photographic maps and future land use maps. She also showed a sketch of the proposed traffic plan and noted that the applicant would be required to revise their minor site plan before the project would be approved. She added that the purpose of the sketch was to communicate to the Planning Commission that the applicant had reached a viable solution to the entrance improvements with VDOT. Ms. Shackelford noted the existing winery on the property and how it was accessed from Fortunes Cove Lane. She noted the one way entrance from Fortunes Cove Lane and reiterated that an updated formal site plan would be required before VDOT signed off.

Mr. Al Weed, Applicant noted he had nothing to add. Mr. Saunders then asked if the Health Department was okay with the water and sewer plan and Mr. Weed answered that they were. Mr. Harvey then noted that there would probably be some non-potable water there as well.

There being no further questions for the Applicant, Mr. Harvey opened the public hearing. There being no persons wishing to be recognized, the public hearing was closed.

Mr. Hale stated that he thought this was the kind of opportunity that landowners had to avail themselves of with the big event here, there was a need for this type of vehicle parking, and he was in favor of it. He noted that that it was not permanently there and would be used during larger events. He added that the exit road would save some problems and he was in favor of its approval.

Ms. Brennan agreed with Mr. Hale that it was a good project and was needed.

Mr. Bruguere then asked how many days was considered temporary and Ms. Shackelford advised that there was no limit for operations; however Mr. Weed wanted the permit specifically for LOCKN. She added that there was a limit on RVs occupying one space, which may be ten days.

Mr. Bruguere then asked the Applicant if there was any other time of the year that he wanted to have a campground and Mr. Weed noted that anytime there was an overflow filling up lodging, he would like to participate.

Mr. Hale then moved to approve Special Use Permit #2017-06, Temporary RV Campground" / Al Weed II & Al Weed III / La Abra Farm and Winery and Ms. Brennan seconded the motion.

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

**IV. Other Business (As May Be Presented)**

*Introduced: County Attorney Pay Rate*

Mr. Hale noted he would like to address the question of compensation of the County Attorney. He noted that Mr. Payne had requested his hourly rate be increased by \$25 per hour so that for general work it would be \$250 per hour and for Board meetings it would be \$225 per hour.

He then moved that his pay be adjusted to those levels effective July 1st. Mr. Bruguire seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

*Introduced: FY18 Salary Classification Resolution from Afternoon Session Consent Agenda*

Mr. Carter noted that the proposed resolution authorized the 2% raise that was already approved; however, they may want to strike the last sentence.

Ms. Brennan then moved to approve resolution **R2017-42**, Salary and Classification System, striking the final statement “All other Compensation Board salary adjustments shall be calculated pursuant to the governance established for this purpose and approved by the Board of Supervisors on November 21, 2006.”

Mr. Bruguire 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 R2017-42  
NELSON COUNTY BOARD OF SUPERVISORS  
SALARY AND CLASSIFICATION SYSTEM**

**BE IT RESOLVED** by the Nelson County Board of Supervisors that the local government’s “Salary and Classification System” is hereby amended to incorporate the following:

A two percent (2%) salary adjustment shall be hereby authorized for Nelson County personnel (full time and regular part-time) employed pursuant to the County’s salary classification and pay plan, effective on July 1, 2017. Additionally, a two percent (2%) salary adjustment shall be authorized for all regular part-time employees and all full-time employees, inclusive of the elected/appointed official, employed by a Constitutional Officer or in the Office of the Registrar. The two percent (2%) is inclusive of the 2% across-the-board percentage based salary increases effective August 1, 2017 for all constitutional officers and their Compensation Board funded permanent staff positions and shall be calculated based upon the salary in effect on June 30, 2017 (Compensation Board and local supplement).

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*Introduced: Constitutional Offices Local Supplement Policy*

Mr. Carter reiterated that the Sheriff had requested use of local supplement funding and the current policy prohibited the use of those funds. He noted that he and Ms. McCann recommend that any policy change allow the Sheriff use of those funds only for new employees but not for current staff.

Mr. Carter then noted that the Sheriff's State Compensation Board funded positions were also eligible, depending upon years of service to receive \$80 for each year served for law enforcement and \$60 per year of established service for dispatch and clerical positions. He noted that the conflict with the policy was that all of those employees had received supplements and the new adjustment would negate any increase in compensation from the state. He clarified that if they were afforded additional compensation from the State, the local supplement would be reduced pro rata. He added that if the policy stayed as it was, then those employees would be penalized. He noted that this additional salary funding would take place in August.

Mr. Hale advised that if the Board reversed the policy and it would not change the budget, they should go ahead and change it.

Mr. Carter noted that the change in policy would pertain to all constitutional offices and would allow them to use available supplement funds for new personnel and secondly the Board would approve an increase in compensation for Sheriff's Department employees for years of service certified by the state and their current local supplement would not be reduced by the policy. He added that the Board could simply direct staff to amend the policy accordingly.

Mr. Hale then moved that the savings of supplements from leaving personnel from County employment could be used, if in the budget, for new hires. Secondly, in the case of additional money coming to employees from the State Compensation Board, those employees would not lose their supplemental benefits from the County.

Mr. Carter then advised that the purpose of the supplement policy was to pay the County back for extending salary compensation to those employees that the state had not provided.

He added that the other consideration was increased compensation for certifications; such as the Treasurer's Office, who had completed those and they were now eligible for an increase; which would also be allowed.

Mr. Hale then amended his motion to include that certifications were not to mean a reduction in supplement.

Mr. Saunders then seconded the amended motion and Mr. Carter then asked the Board to consider looking at the compensation study that was done for County employees.

There being no further discussion Supervisors voted (4-1) by roll call vote to approve the motion with Ms. Brennan voting NO. She noted she was not sure changing the policy was the right thing to do.

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*Introduced: County Administrator Request*

Mr. Carter advised that he had requested to combine his health benefit with his annual compensation, which would increase his retirement (VRS) in future years. He noted that the cost to do that was approximately \$4,000 per year.

Mr. Saunders then moved to approve the request and Ms. Brennan seconded the motion. There being no further discussion Supervisors voted (5-0) by roll call vote to approve the motion.

Mr. Harvey then thanked staff for their work and noted that it said something when the County was in the top three in 2016 as was reported earlier in the meeting.

*Introduced: Miscellaneous*

Mr. Saunders stated he would like to see men take their hats off when entering the Board's meetings.

Mr. Harvey noted to Staff that he did not want a thick stack of papers on cell towers; but rather staff should make one complete copy available in case anyone wanted to see it.

**V. Adjournment**

At 9:00 PM, Ms. Brennan moved to adjourn the meeting and Mr. Bruguier seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the meeting adjourned.