

December 10, 2013

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.

Present: Thomas H. Bruguere, Jr. West District Supervisor- Chair
Constance Brennan, Central District Supervisor - Vice Chair
Larry D. Saunders, South District Supervisor
Thomas D. Harvey, North District Supervisor
Stephen A. Carter, County Administrator
Candice W. McGarry, Administrative Assistant/Deputy Clerk
Debra K. McCann, Director of Finance and Human Resources
Jean Payne, Commissioner of Revenue
Tim Padalino, Director of Planning and Zoning
Phil Payne IV, County Attorney
David Thompson, Building Code Official

Absent: Allen M. Hale, East District Supervisor

I. Call to Order

Mr. Bruguere called the meeting to order at 2:03 pm, with four (4) Supervisors present to establish a quorum and Mr. Hale being absent.

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

II. Consent Agenda

Ms. Brennan moved to approve the consent agenda and Mr. Harvey noted he had a question regarding the requested Commissioner of Revenue’s refund for an untagged vehicle. Ms. Payne noted that if the vehicle does not have tags from DMV then the owner is not charged the \$38.75 vehicle license fee.

Mr. Harvey then seconded the motion and Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution –**R2013-79** Minutes for Approval

**RESOLUTION R2013-79
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(November 14, 2013)**

December 10, 2013

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board's meeting conducted on **November 14, 2013** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution –**R2013-80** COR Refunds

RESOLUTION R2013-80
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>
\$161.04	2012 & 2013 RE Tax	Portia Mae Craig 904 Rockfish Crossing Schuyler, VA 22969
\$137.50	2010-2013 Vehicle License Fee	Electrical Innovations P.O. Box 12 Afton, VA 22920
\$30.00	Business License	Karen Kemp 4770 Tye River Road Amherst, VA 24521
\$4,588.50	2011-2013 RE Tax	William W. Martin 587 Chapel Hollow Road Afton, VA 22920

C. Resolution –**R2013-81** FY13-14 Budget Amendment

RESOLUTION R2013-81
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2013-2014 BUDGET
NELSON COUNTY, VA
December 10, 2013

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2013-2014 Budget be hereby amended as follows:

I. Appropriation of Funds (School Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 27,740.00	3-205-004105-0001	4-205-066100-9305
\$ 142,260.00	3-205-004105-0001	4-205-064100-8000
\$ 170,000.00		

II. Transfer of Funds (Capital Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 170,000.00	4-110-999000-9903	4-110-093100-9100

III. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 170,000.00	3-100-004105-0110	4-100-093100-9206

III. Public Comments and Presentations

A. Public Comments

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

B. Presentation – 2014 General Reassessment of Real Property (G. Eanes)

Mr. Gary Eanes of Wampler Eanes Appraisal Group thanked the Board and staff for the opportunity to work in Nelson County.

Mr. Eanes noted that they started their work in late summer of 2012 and started by looking at sales in 2011 and any that occurred in 2012. He noted they then did the field inspections and entered the real estate cards into the ProVal real estate database. He then explained that they looked at the county on a neighborhood by neighborhood basis by named subdivisions and expanded until they found enough comparable sales. He noted that after this, they ran it countywide to get a residential sales ratio from January 1, 2012 through October 2013. He reported that in this time period, there were 240 qualified sales looked at and the average sales ratio was 98%. He added that the midpoint was at 99% for all sales.

Mr. Eanes then noted that the County lost value on condos, which declined the most and lost 40-50% in value. He noted that the next highest decline in value was in residential land (homesites under 19 acres) which was down 29% and total residential values (house and land) were down 20%. He noted that there was an 18% decline in agricultural land. Mr. Eanes then reported that the commercial properties held the strongest value between assessments and some gained in value.

December 10, 2013

Mr. Eanes then reported that the first assessment notices had been sent out and hearings were conducted for 123 people. He noted that 317 properties were reviewed in the process and there would be some instances where people who did not appeal would receive a second notice. He explained that many times when they adjust one property it affects others as well. He added that second notices were mailed the previous Friday and should be received by property owners in the next few days.

Mr. Eanes then advised that the final step was establishing the Board of Equalization and he understood nominees would be presented that day. He noted that they would be available for these hearings and would come back for training on January 16th to give them a brief review of what was seen in the market. Mr. Eanes then emphasized that the quality of the properties drove the value, such as location, condition of home, waterfront, views etc. He noted that the land book had been certified with the Commissioner of Revenue and that they would come back to help with new construction etc. as they believed in providing service to their product. He then noted that the more they worked in a county, the better they got to know it and they wanted to come back again for future assessments.

Mr. Harvey then asked about the cohesion of the computer systems this time and Mr. Carter noted that Wampler Eanes worked with Proval and they were licensed to use the software the County has. Mr. Eanes added that Susan Rorrer and Andrew Crane kept things up and running and the Commissioner's office records had been kept up to date which made it all work smoothly.

Mr. Saunders thanked Mr. Eanes and noted he enjoyed talking with him about his assessment and that he had learned a lot from speaking with him.

Mr. Bruguiere then asked what the chief complaints were and Mr. Eanes noted that some were upset because their values dropped and some because it went up. He added that some just wanted to see if their property records were correct. Mr. Harvey noted that he had heard more about incorrect square footage; however no one had been irate about their assessments. Mr. Eanes noted that they had been well received in the field. Mr. Carter added that Mr. Eanes and staff had been easy to work with and demonstrated the proper demeanor with the public.

Ms. Brennan asked if they had visited every property in the County and Mr. Eanes replied that yes they were to suppose to have. He noted that there were five assessors working the county and at the end of the job, he had personally visited some remote sites in Montebello. He explained that if the assessors felt like the property had an absentee owner etc. then he advised them not to leave door-hangers so as not to alert anyone that no one was there for extended periods of time. He noted that otherwise, a door hanger was supposed to be left; however they have had them blow away.

Mr. Bruguiere then asked what the frequency of assessment was for other localities that they worked for and Mr. Eanes noted that most were looking at doing this more often. He added that the Isle of White County assessed every 2 years, Fluvanna County was on a 2 year

cycle, and the city of Franklin was contracting them to do three 2-year cycles. He noted that if done more often, the property records stayed more up to date. Mr. Bruguere then asked if the costs were the same for a 2 year cycle and Mr. Eanes noted that it was probably close; however he would have to look at it since there was still the same amount of work and data entry to be done. He then noted that when the ratio comes in at 99%, it did not leave much room and he was hoping that the market was turning back up. He then concluded by noting that if the County went to a 2-year assessment cycle, there would likely be some savings.

C. VDOT Report

1. 2015-2020 Secondary Six Year Plan (SSYP) Workshop (R. Hamilton)

Mr. Randy Hamilton, Mr. Jay Brown, Mr. Robert Brown and Mr. Don Austin were present to discuss the secondary road six year plan priorities.

Mr. Hamilton suggested that the Board take a look at the last Rural Rustic unpaved road plan for this since all programmed secondary roads have been completed. He added that the current plan included the two funded intersections and the design phase would begin on those in the near future. He noted that if the Board thought of any more roads after the work session, that they could contact Mr. Austin and they would begin to build the plan. Members noted that Mr. Hale, not in attendance, may also have something to add.

Mr. Austin then reported that the Route 6 flashing light was still not operational because the electric company could not get to it. He noted that they were working with a citizen on a permanent easement and that was holding things up. Mr. Austin noted he would provide the members with a contact person at CVEC and that his understanding was that they were having trouble in meeting with John and Sarah Holman, the property owners involved. Members asked if a temporary solution could be put in place and Mr. Austin advised that he was unsure about this and that the VDOT traffic division was working on this.

Mr. Hamilton then reviewed the draft projected revenue numbers for the SSYP and noted that in FY17, the County would pick up formula secondary unpaved road monies. He added that he would like to see which rural rustic roads needed to be done. He noted that July 1, 2016 would be when the 2017 funding would be available. Mr. Hamilton then explained that VDOT was getting out to counties earlier in order to give the Board of Supervisors more time to decide what to do. Mr. Austin noted that they could come back sometime in March for the public hearing on the plan. Mr. Austin noted that a person named Travis at CVEC has been working on getting power to the flashing light sign on Route 6. Mr. Austin then noted that if the Board has suggestions for roads to be added, they would look at traffic counts etc.

Mr. Harvey and Ms. Brennan had no suggestions for roads to be added to the plan.

Mr. Bruguere mentioned people had been complaining about Carter Hill Road. He added that he thought this road was on the plan a while back. Mr. Austin confirmed that Carter Hill Road came off Route 680 and was Route 699 running back to Route 56 in Tyro. He noted

December 10, 2013

that some of it was paved up to Strickland Lane and then it went all the way over to Route 680. Mr. Hamilton noted that he would take a look at this road.

Mr. Saunders suggested adding Route 654 Cedar Creek Road. Mr. Austin noted that he did have the traffic counts on that one and it was one of the higher traveled ones. Mr. Saunders noted that it was a long section of road and he was getting calls on this regarding dust or ruts. Mr. Austin noted that he had this one marked and that maybe they could do a segment at a time. Mr. Saunders noted that South Powell's Island Road looked great and citizens had been by to thank VDOT for the improvements.

Mr. Bruguiere reiterated that there was not much money to do much right now and he inquired if there was any possibility the state would increase these funds. Mr. Hamilton noted that the numbers presented reflected increases from the state in FY17. Mr. Hamilton then noted that the costs were averaging \$165,000 per mile for a rural rustic project and this was the number they used to estimate project costs. Mr. Harvey noted this was up from \$125,000 per mile.

Mr. Carter then confirmed that the goal was FY17 for rural rustic projects and Mr. Hamilton noted that they wanted to have these on the plan so that when the funds were available, the projects could start.

Mr. Austin then noted that Carter Hill road has named sections with traffic counts from 2011 and Mr. Hamilton noted that they would look at this again. He added that with secondary unpaved road funds, the roadway had to have a minimum traffic count of 50 vehicles per day; whereas this did not come into play with other funding. He noted this was a federal requirement.

Mr. Hamilton then noted that the rural addition cost center required the County to have a local Ordinance per State Code for the control and development of roads being constructed to secondary standards. Mr. Carter noted that there was currently a requirement that they be constructed to a local standard. Mr. Hamilton advised that if the County had this, it could pull 5% from these pots of funds for rural addition and that if developers built their roads to state standards they could petition the state to take these in to the state system.

Mr. Bruguiere noted that he had requested that Cub Creek road be included previously; however he noted that some landowners did not want it paved. He added that it was paved on the backside to the top of the mountain and stopped. He noted that coming down the west side was the worst section in terms of maintenance. Mr. Harvey added that there was a section past there where it was really narrow and rocky. Mr. Austin noted that this road had 70-80 vehicles per day and Mr. Harvey supposed it would have more if the road were paved.

Mr. Saunders then noted a safety problem on James River Road (Rt. 56 E) at the intersection of Findlay Mountain Road. Mr. Austin noted that he thought this issue would take more than moving the intersection as previously discussed. Mr. Saunders added that his understanding was that the property owner of the land on the right side would be willing to give some right of way to fix this. Mr. Hamilton noted that he would not advise putting this into the

December 10, 2013

secondary plan and noted that he would like to use pre-engineering and pre-scoping funds for this; so that they would have a sounder estimate for the location. He added that this was on VDOT's radar screen. Members then discussed whether or not the dilapidated house ownership had changed at the intersection there and it was believed that it had.

Ms. Brennan asked if two different parts of a road were being paved, would two different traffic counts have to be done and Mr. Austin noted that it was possible and it depended on how the road was broken up. He added that this was usually done by intersection or other logical termini.

Mr. Saunders noted that Greenfield Road may be another addition at Mr. Mundy's and Mr. Austin agreed this was a high maintenance area. Mr. Austin then confirmed a traffic count of around 50 vehicles per day on that end of the road. He added that the upper end had been done a couple of years ago and had a count of about 60 vehicles per day.

Ms. Brennan then noted that she had taken a request from someone who just moved into 3643 River Road for a bus stop sign and Mr. Austin noted he would confer with David Johnson on the logistics of the bus stop. She then noted that the drop-offs on Route 29 were still an issue. Mr. Austin noted that these were being worked on and to send him specific areas as they were noticed.

Mr. Saunders did not have any road issues to report.

Mr. Bruguiere noted a stopped up culvert at Dickie Road was causing water to go onto other people's property along there. He noted that the Superintendent was working on it with a hand held hoe because he was worried about environmental issues; however it was overflowing and something needed to be done to open it back up. Mr. Austin noted he would check on this and it should be able to be reopened.

Mr. Austin noted that a Route 725 owner may contact the County about an unpaved road there. He added that it may be Cat Rock Road and he advised the gentleman to contact the County. It was noted that the caller may have been Tommy Massie.

IV. New Business/ Unfinished Business (As May Be Presented)

A. Application to DEQ for Local Program Authority, Virginia Stormwater Management Program (R2013-82)

Mr. Carter distributed an updated timeline for the local VSMP adoption schedule. He noted originally, the deadline would be July 2013; however a 1 year extension was granted and the program was transitioning from DCR to DEQ. Mr. Carter then reviewed the status of the local program noting that the County had partnered with Louisa County in a grant application and was awarded funds to hire Joyce Engineering to help facilitate all elements of the local program including forms, a draft ordinance, staffing levels etc. He noted that the County was now positioned to move forward and had a draft ordinance, policies and procedures and other documents including fee establishment. He added that the original plan was to submit all draft information by the end of December; however the deadline was now January 15th. Mr. Carter noted that David Thompson had received information from DEQ

December 10, 2013

that the Board did not have to officially approve moving the information along and therefore Staffs' thought was to go ahead and send the documents in and get comments back. He noted that the State Water Control Board was going to consider some regulatory amendments that may necessitate changes to these. He then noted that formal adoption of the Ordinance would be in May 2014 and the program would be ready to start on July 1st. Mr. Carter further explained that the proposed Resolution authorized staff to go forward with submitting the draft documents to DEQ for review.

Mr. Carter then noted that the information provided also included an MOU with the Thomas Jefferson Soil and Water Conservation District (TJSWCD) that was similar to the one the County has for the E&S program; and it would incorporate VSMP plan review and inspections. He added that the County needed to submit to DEQ who would be responsible for these activities. He noted that at present, the TJSWCD would do this; however alternatively, staff had discussed hiring someone locally to do this. He noted that Alyson Sappington wanted to alleviate her concern that her office would be in a negative situation in being able to add staff to do this when this was subject to an annual Board of Supervisors budget allocation. She had noted that they would rather have a set amount of funding for this which would be approximately \$65,000 for both E&S and VSMP plan reviews and inspections. Mr. Carter then suggested that for this amount, the County could take all of this in house instead. He noted that if the County did not take this on, they would have to sign off on the MOU and see how it worked for a year. He added that the County could send the MOU in to DEQ but not be obligated to proceed with it; however the Board would need to decide prior to May.

Ms. Brennan then clarified that the County would assume all of this from TJSWCD and Mr. Carter confirmed it was suggested if the County was going to pay them \$65,000 plus travel, then he would like to consider hiring someone to do this.

Mr. Carter then reiterated that presently, Staff just needed the Board to authorize the resolution to send the draft program documents to DEQ for review so the local program could move forward. He added that the Board would need to decide on how to handle the plan reviews and inspections for this early on in the budget process and the concern would be getting a new employee trained if necessary if they decided to do this in house. He reiterated that sending in the draft program documents to DEQ for review was the first step so that the State could see that the County was making progress towards establishing a local program.

Mr. Bruguiere noted that this was a statewide mandate and he recommended approving the proposed resolution and sending the draft documents on to DEQ and the Board could further consider the MOU with TJSWCD.

Mr. Carter advised that the fees could be reset and were not set in stone if these were sent forward to DEQ now for review. He then noted that the challenge was would either the County or TJSWCD office be able to get someone qualified to do the plan reviews and inspections, so deciding on this earlier was better. He noted that the TJSWCD would have to hire someone at least part time and if done in house, the County would have to approve a job

December 10, 2013

description and recruit someone. He added that there would be a lot of competition for people with the necessary skill sets within the state. He then recommended that the Board endorse the proposed resolution authorizing staff to move forward.

Ms. Brennan then moved to approve resolution **R2013-82**, Authorization for Submittal to the Virginia Department of Environmental Quality for Local Virginia Stormwater Management Program (VSMP) Program Authority. There was no second and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2013-82
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR SUBMITTAL TO THE VIRGINIA DEPARTMENT OF
ENVIRONMENTAL QUALITY (DEQ) FOR LOCAL VIRGINIA STORMWATER
MANAGEMENT PROGRAM (VSMP)
PROGRAM AUTHORITY

WHEREAS, pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia and 9VAC25-870-10 of the Virginia Stormwater Management Regulations, Nelson County has developed its local Stormwater Management Program; and

WHEREAS, localities are required to submit their applications for local “Program Authority” to the Virginia Department of Environmental Quality (DEQ) by January 15, 2013 including drafts of the following for review and approval:

1. Program Policies and Procedures
2. Stormwater Management Ordinance
3. Program Funding and Staffing Plan
4. Program Partnering Agreement (MOU with TJSWCD) if applicable and;

WHEREAS, the Nelson County Board of Supervisors has reviewed the aforementioned documents and intends to proceed with adoption of its local Stormwater Management Program and Ordinance,

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby authorize the County Administrator to submit the County’s application for “Local Program Authority” to DEQ for their review and approval by the required deadline.

Mr. Bruguiere commented that those in southwest Virginia were not in favor of the mandate because it is geared towards protecting the Chesapeake Bay.

Mr. Carter then noted that some ancillary work that needed to be done was amending the Zoning Ordinance and Subdivision Ordinance to comport to with the VSMP Ordinance and staff would be bringing these amendments forward for referral to the Planning Commission.

December 10, 2013

B. Zoning Ordinance Amendments, Article 20 Tower Ordinance – Planning Commission Recommendations (**R2013-83**)

Mr. Carter noted that the Board had referred a draft Tower Ordinance to the Planning Commission and Phil Payne had reviewed it with them. He noted that the Board's mission was to now decide if it wanted the original draft, the draft with revisions made by the Planning Commission or some combination of the two.

Mr. Padalino then explained what the Planning Commission revisions included and noted the timeline for the Commission's review.

He noted that a major element was using different criteria for the Tower Classes as follows: Class I - 100 ft, Class II 100-130 ft with a maximum height of 130ft which was what it was now. He added that no maximum height was referred. He advised that property owner rights were included and noted when certain things would kick a Class I tower to a Class II for public notification etc. Mr. Padalino further noted that in addition, the referred amendments did not propose any Class IV towers. He noted that the Planning Commission reviewed this and did include language to break this up a bit since the Class IV Tower was created in isolation it included some things that were not considered personal wireless etc. so they took these and put them under their own administrative review process and not as a Class IV tower. He noted that this made more sense for applicants and staff for collocations etc.

Mr. Padalino then noted that the Planning Commission was also addressing the absence of telecom language in the Comprehensive Plan that minor changes had been made to the Comprehensive Plan that the Board would consider in the evening session. He noted it would give the Planning Commission something to weigh applications against.

It was then noted that the Board would have to have a public hearing on the Tower Ordinance and that there was a public hearing scheduled during the evening session to amend the Comprehensive Plan for telecommunications. He noted that the ordinance amendment was a result of legislation that limited the Planning Commission's role in tower applications. He added that their single role was to make recommendations to the Board based on the Comprehensive Plan provisions.

Ms. Brennan noted that the Board could make some changes after the public hearing and Phil Payne advised that the goal was to get it close to what the Board wanted to be enacted.

Mr. Payne then noted that aside from getting the Class IV established ahead of time, the goal was to bring the Ordinance into compliance with the state statute to simplify procedures and increase the number of towers that could be dealt with administratively.

The Planning Commission Changes were then discussed as follows:

Definitions: changes for Class I towers, Class II towers (SUP tower) originally had been any tower located in Residential or RPC or over 130 ft in height. The Planning Commission changed this to any tower greater than 100ft to a maximum of 130 ft and added the provision

December 10, 2013

for it not being allowed within 300 feet of an occupied dwelling. It was noted that now the role of the Planning Commission was to determine if a Class II tower was generally in accord with the Comprehensive Plan. He added that they could still make recommendations, and that the Code says that they may have a public hearing. It was also noted that the tower categories were cramped down such that more towers would fall into the administrative approval categories.

Temporary towers were added and stemmed from these being used during the LOCKN festival and the application process for these was towards the end of the Ordinance. It was then noted that insurance would be required to cover anything that was put up.

Planning Commission Review allowed for a public hearing.

Ms. Brennan then questioned whether or not the Planning Commission could make recommendations and Mr. Payne noted that they could; however they could not impose conditions. He added that there were places in the Ordinance where the Planning Director was given authority to waive or modify conditions but the Planning Commission was not.

Mr. Payne reiterated that some of the Class IV provisions were pulled out into its own sections as this was neater and he noted that they should be in their own section with administrative approval.

Mr. Payne then noted that the biggest consideration was what was going to be the category of tower heights within Class I and Class II towers because this dictated how the applications were handled.

Ms. Brennan asked that since there was no longer a Class III now, could the Board make Class IV the new Class III. Mr. Payne noted that the idea was to treat towers like towers, and the only way to go was either administrative or a Special Use Permit process and there was no other process that would lend itself to a Class III designation. He reiterated that the cutoff point for Class I and the cutoff height for Class II were the main points to consider.

Mr. Bruguere then clarified that anything over 100 feet and in Residential or RPC would have to come to the Board and it was noted that if it were 100ft to 130ft, this would be a Class II tower and the maximum height would be 130 ft.

Mr. Payne advised that the Board could change the limitations on height and could approve an exception; which was still included in the Ordinance. He noted that the exception was a hardship provision and was not at the Board's discretion.

Mr. Bruguere asked if the FCC provided limitations on height and Mr. Payne noted that the Feds did not prohibit by height; however the Board could not discriminate in approving towers. If an applicant has to go through hardship analysis for a tower over 100ft, this was taking away some of the Board's discretion and these requirements were very vague.

December 10, 2013

Ms. Brennan noted that she liked public notification in general for towers and that the Board could set conditions for Class II towers because it was a SUP process. Mr. Payne then noted the language included regarding towers within 300ft of an occupied dwelling being added to provide the public notice. Mr. Carter added that the Ordinance still contained the fall-zone provisions.

Mr. Saunders then asked why the setback for towers located near Scenic Byways and the Parkway couldn't be the same as the setback from a dwelling. He added that he thought that these setbacks ought to be the same. Mr. Carter added that the problem was that the companies wanting to erect the towers want them in areas near the Scenic Byways. Mr. Harvey noted that this would be limiting and Mr. Bruguere added that if the towers were 1,000 feet away from the Scenic Byways, the tower companies would be forced to do more invasive things.

Mr. Carter noted that the broader question for the Board was whether or not it was more important to be more restrictive to the towers in order to protect the beauty of the County. Ms. Brennan noted that she was not opposed to there being towers, however she would like to see smaller towers.

Mr. Bruguere then noted that if tower companies get permitted to build towers, they should have to put them into service within a certain timeframe, such as in six months similar to building permits. Mr. Payne then noted that language to this effect could be added to the proposed ordinance and he suggested adding a provision that would require them to complete the tower within a year. It was noted that the companies did complete their studies ahead of the permitting process.

Mr. Saunders then inquired as to whether or not the Board could adjust the 300 ft restriction and Mr. Payne indicated that they could. He added that the 300 ft threshold triggered the application coming through the SUP process and took it out of being eligible for administrative approval. He reiterated that this could be adjusted and the Board could use another threshold; however this did not prohibit the approval of something else.

Members and Staff then discussed the notice requirements and Mr. Padalino confirmed that written notice to adjoining landowners was not required for Class II towers going through the Special Use Permitting (SUP) process.

Mr. Payne then advised that the Board could require the applicant to post signs and Mr. Harvey noted that they would need to have a standard sign to be used for this. Mr. Carter then posed the question of where these signs would be posted and who would ensure that they stayed there etc. He then suggested that in lieu of posting signs, the office could notify adjoining property owners. Mr. Payne added that he recommended that adjacent property owners be used instead of adjoining property owners in order to capture those located across the street. He clarified that the process would be similar to that used in the SUP process; however it would not be a SUP process.

December 10, 2013

Mr. Saunders noted that he thought that it would be better to include the notification process for Class II and those requiring public hearing notices.

Mr. Bruguiere then asked if a lessee was in the only occupied dwelling within 300 feet of a tower, could there be an exemption from automatically moving this to a Class II tower. Mr. Payne noted that they could include some written permission to exempt it from Class II as long as the owner agreed.

Mr. Saunders then noted that for temporary towers, there was a "Not to Exceed" 30 days provision and he inquired as to how it would be handled if someone needed more time than this. Mr. Payne advised that they could add a provision for this that would include a good cause extension of 30 days.

Mr. Padalino then noted the peculiarity of having classes of I, II, and IV. Adding that there were classes I, II, and III now and perhaps these class designations should change to Class A & Class B and then keep Class IV or make this Class C. In discussion members and staff agreed that this would be beneficial and could distinguish towers permitted following the rewrite of the Ordinance.

Members also agreed by consensus to only have a 2,000 ft setback for the Blue Ridge Parkway and Skyline Drive and remove Scenic Byways from this setback requirement.

Mr. Carter advised that staff needed to look at the VDOT requirements for Scenic Byways before removing this. Mr. Bruguiere reiterated that it caused more disruption if the towers were required to be further away from the road because they would need a longer road and possibly utilities etc.

Ms. Brennan questioned whether or not the Board had the ability to change this and Mr. Saunders moved to delete Byways from the Ordinance.

Mr. Harvey then noted that he was not sure it was that simple and Mr. Carter reiterated that he would have to check on this.

Mr. Saunders then withdrew the motion.

Mr. Bruguiere then noted that he would like to see an exception for the Scenic Byways.

There being no further discussion, Ms. Brennan moved to approve Resolution **R2013-83**, Authorization for Public Hearing to Amend the Code of Nelson County, Virginia – Appendix A Zoning Ordinance, Article 20, Communication Towers with Planning Commission recommendations as modified by the Board and public hearing to be held at the second January 2014 meeting.

Mr. Saunders seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

December 10, 2013

RESOLUTION R2013-83
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING TO AMEND THE CODE OF
NELSON COUNTY, VIRGINIA – APPENDIX A, ZONING ORDINANCE, ARTICLE
20, COMMUNICATION TOWERS

BE IT RESOLVED, that pursuant to §15.2-1427 and § 15.2-2204 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on January 23, 2013 at 7:00 p.m. in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of said public hearing is to receive public input on an ordinance proposed for passage to amend Appendix A, Zoning Ordinance Article 20 “Communication Towers”, to repeal and re-enact Section 20-1 to 20-17, and Section 20-19, to amend Section 20-18 and enact Section 20-20 in accordance with the Planning Commission’s recommendations as modified by the Board of Supervisors on December 10, 2013.

C. Consideration of Admissions Tax Implementation

Mr. Carter noted that the Board had previously directed staff to have an admissions tax ordinance drafted. He added that Mr. Payne had drafted it and as a first step recommended a closed session to confer with him in order to answer questions and give legal guidance.

Mr. Harvey asked if it was okay to discuss in open session and Mr. Payne noted it was; however he recommended that his advice be given in closed session.

Mr. Saunders suggested beginning discussion and then the Board could conduct a closed session if it was deemed necessary.

Mr. Carter noted that the Code of VA established a special provision for Nelson County that says the County may enact an admissions tax for spectator events. He noted that there was difficulty in fitting the County into the six (6) categories of taxes but there was an "other" provision that was deemed to be suitable. He noted that the tax could be set from 1%-10% and participatory events were excluded. He noted that staff did prepare a financial summary of each of the larger events of the County that would be subject to the tax and another one showing the inclusion of the excluded participatory events category.

Mr. Harvey then inquired if the County could use a flat rate and Mr. Payne advised that the Code says the tax could not exceed 10%; however if they did use a flat rate there would have to be a cap. Mr. Brugiare noted that he thought this would penalize the smaller events and that using a percentage was better.

Mr. Carter then distributed the financial comparison including the participatory events that were currently excluded. He noted that if skiers and golfers were excluded, the County would get about \$30,000 in taxes per each 1% of tax. He added that in early 2000, the County did ask to add participatory sports but this was blocked at the General Assembly.

December 10, 2013

Mr. Bruguere noted that he was not in favor of this tax early on; however after LOCKN he changed his mind because he thought this would be one way the County would not be taxing its citizens since most natives did not attend this event. Mr. Carter noted that in consultation with Mr. Payne, it was found that the ticket sales were not taxed and that the local option sales tax would be \$50,000-\$100,000 in sales tax money; however it did not apply. He added that with the admissions tax, they would have to see if this would be collected from out of state purchasers. He noted that LOCKN was located within the State and would be subject to the tax.

Mr. Saunders inquired as to what the County gave LOCKN. He added that they lost money and now the County wanted to tack on this tax. He added that he was concerned with what message this would convey to them and to the new ownership at Wintergreen. He added that he was against more taxes and was saying this up front noting that more would be lost if the County did this. He then reiterated everything that LOCKN did for the County and noted that only twelve (12) Counties were qualified for this tax and only three (3) had actually implemented it. He did acknowledge that this tax would be collected from mostly non-residents; however the County has all of the other taxes, lodging, meals, business license etc. and he was not in favor of another tax.

Ms. Brennan expressed agreement with Mr. Saunders regarding Wintergreen because they were trying to get the resort back on track and she would find it difficult to impose this tax on participatory sports at this time. She noted that she had second thoughts about LOCKN and would like to see an admissions tax in place; however she would like to discuss it with them to see how to make it not so onerous to be sure that it would not be. She noted that this tax could provide the County revenue to do something like a pool facility; however she wanted to work in concert with the larger producers of these events.

Mr. Saunders then noted that the Board needed to publicly clarify that the County did not get \$1.6 million in revenues from the LOCKN festival. Mr. Harvey followed by asking when the County would have a figure on what revenues were actually received.

Ms. Jean Payne, in attendance, noted that LOCKN had mistakenly sent the lodging tax money to the State and that they had to file an amended return to them and then get the money back and remit it to the County. She added that it was approximately \$14,000 to \$16,000 dollars. She further explained that the vendors submitted the sales tax to the State and then the County was remitted its 1% from them. She added that the deadline to submit these funds to the State had not yet expired and that she had a list of all the vendors. She noted that LOCKN itself had paid only \$200 some dollars in sales tax and that the State had only received \$2,500 so far from the vendors and the County would get 1%.

Mr. Carter noted that the reported \$1.6 million was miscommunicated by the media. He added that the County did not put this number out; however it had come from the Tourism and Economic Development office; although it had not been said that the County was going to get this amount of revenue. It was noted that this should have been clarified.

December 10, 2013

Ms. Brennan suggested that the County could do a letter to the editor of the Nelson County Times clarifying this and it was noted that the reporter in attendance should handle this. Mr. Harvey then wondered if LOCKN was beneficial to the County if it only brought in \$30,000 for example and was that worth the inconvenience to the County.

Mr. Bruguere then agreed with Mr. Saunders in that the admissions tax would be viewed as another tax; however the citizens from Nelson County would not be affected and it would take some of the burden off the Real Estate tax. Mr. Saunders reiterated that he thought it was too soon to impose this tax on LOCKN after the first year and it may be a deterrent for them or anyone else coming back to the County in the future. He also questioned why only three out of the permitted twelve localities had implemented this tax and Mr. Carter supposed that it may be because there were more cities than counties that had this ability. Mr. Saunders noted he did not believe now was the time to implement this tax.

Ms. Brennan reiterated her belief that it would be worthwhile to get feedback on the admissions tax from all of the organizations that were on the financial summary list.

Mr. Bruguere then related to the Board that he had asked Dickie Bill to put in legislation adding participatory sports for the County. He added that this would not mean the County would have to do it, but it would have the authority to and that Representative Bell asked that he get a resolution of support from the Board for the legislation. There was no consensus from the Board to consider this and no action was taken.

Mr. Harvey noted that the meals and lodging taxes had not deterred people from staying and eating in the county; however he would like to see the admissions tax revenues targeted to a specific thing. Mr. Bruguere noted his agreement and Ms. Brennan noted that she thought that a recreational facility would serve everyone who wanted to be there; whereas funding Service Authority improvements only served certain people.

Mr. Harvey then indicated that he thought that the County needed to meet with the people on the list individually prior to further consideration. Ms. Brennan suggested it be put on the Board's retreat agenda and Mr. Carter noted this could be done.

Mr. Harvey agreed the Board was not ready to consider this yet and he suggested it be tabled.

Mr. Bruguere noted that the County could still have the ability to do something and that Counties should have equal taxing powers; he added that he would like the County to have this ability.

Mr. Harvey supposed that Wintergreen may be amenable to the tax if there was some way to put money back up there. Mr. Carter noted that the County has had its current taxing authority since 1998 and it has never been implemented; so the County would not be obligated to implement a tax on participatory sports if it were authorized by the General Assembly.

Mr. Harvey then suggested that Staff set up 2x2s to talk to the main people who would be affected by the tax, noting there would only be two primarily. Members then agreed by consensus to table the matter until further notice.

D. Request For Funding-Sheriff's Department Vehicle

Mr. Carter noted that the Sheriff Department's request was for a new vehicle for traffic enforcement and was not a part of the three (3) cars currently approved or the three (3) cars that may be approved in January; it was a separate request.

Ms. McCann advised the Board that they had previously decided to evaluate the prior request for three (3) more vehicles in January to see if the speed enforcement funding was coming in and if it was, the Board would appropriate funding for these three (3) vehicles then.

Ms. McCann noted that the Board had approved two (2) new positions and they needed vehicles. Mr. Carter added that the new vehicle requested was not a police vehicle and that the radio equipment requested was not part of the radio equipment grant purchase.

Ms. McCann then reported that the speed enforcement revenues were projected to be on target but not to be considerably more, so they would not offset the purchase of the vehicle.

Mr. Saunders suggested they fix or get rid of the unreliable vehicles they have and Mr. Harvey noted he thought they should approve the vehicle request because it supported itself.

Mr. Harvey then moved to approve the request of \$23,228.50 for the car as presented and Mr. Saunders seconded the motion.

Mr. Bruguiere then clarified that this was above and beyond the six (6) vehicles previously discussed for approval and Mr. Carter noted that there were three (3) cars that were already budgeted for. He added that the Department was now authorized to employ 2.5 new positions and the Board had stated it would consider purchasing three (3) more vehicles if the speed enforcement revenues were enough to support that. He noted that the 2.5 positions were two (2) full time law enforcement positions and a part time investigator. He noted they also had extra security people.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

I. Courthouse/Government Center Project: Resolution of water entering the tunnel structure is the outstanding project item. Blair Construction and its sub-contractor are working to resolve this condition. The remaining project retainage is continuing to be held.

Mr. Carter noted that over the past weekend the tunnel leaked again. He reiterated that the County was holding \$31,000 in retainage and that Blair Construction was insistent they would fix it.

II. Jefferson Building: Final inspection and punch list generation (as applicable) week of 12-9. Relocation of Commonwealth Attorney's office is pending final coordination.

Mr. Carter noted that as the Committee had directed, the County will put out completion of the exterior rehabilitation to three contractors that the County has worked with for the work to be done in spring.

III. Magistrate's Building: Complete.

IV. Health Department Building Demolition: Low bid of \$54,732 submitted by Jeff Thompson Building. Project start date is 12-16 and completion date is 1-31-14. Related UST removal and remediation in process through J. Loving, Environmental Consultants.

Mr. Carter reported that the underground oil tank remediation would have to take place since the test results came back positive. He noted that this was reported to DEQ and that the Underground Storage Tank (UST) fund may pay for this. He added that the tank had been pumped out; however the water and remaining oil had leached out.

V. Massies Mill School Demolition: Environmental assessment pending receipt of test results (asbestos is present). Advertisement of bid solicitation projected for not later than 1-17-14. See attached request of Nelson Heritage Center/Millennium Group.

VI. Broadband & Radio Projects: See attached Information Systems Department report.

Mr. Carter noted that Broadband was moving forward and that the Authority's operating budget may become revenue/expenditure neutral before the end of the year. He reported that there were now 54 customers and more to come into the mix. Mr. Carter added that Blue Ridge Internetworks (BRI) would be submitting a document showing potential customers on the proposed route and the Return on Investment (ROI). He added there would be 50/50 grant match up to \$200,000 if the CDBG grant were pursued.

VII. Lovington Health Care Center: Meeting conducted on 11-27 with JABA, Rosewood Village and County representatives (Ms. Brennan and Staff). JABA to commission update of previous consultant's report to consider expanded memory care units. Two entities (JABA and Rosewood Village) to continue to confer with each other and with the County on next steps.

VIII. BR Tunnel and BR Railway Trail Projects: **A) BRRT** – Construction project awarded to Keith Barber Const. Inc. (\$208,509). Completion date is 5-15-14. **B) BRT** – Fed. Hwy Administration approval received to bid Phase 1 project. Coordination of bid

December 10, 2013

advertisement is in process. Acquisition of easement from ROLC initiated with ROLC; funding directly available from VA-DCR.

Mr. Carter noted that if the appraisal on the ROLC property could be done, the County could the grant funds without competition.

IX. EMS (Revenue Recovery Program): Contract with EMS Management & Consultants, Inc. commenced 12-1-13.

X. Solid Waste: Variance request to DEQ for annual groundwater monitoring testing and reporting program (in lieu of bi-annual program) approved 12-6.

Mr. Carter added that this could be a savings to the County of \$30,000 to \$50,000 per year.

XI. FY 13-14 CAFR (Audit) & FY 14-15 Budget: Draft FY 12-13 audit being reviewed for comment by staff, final to County late December. FY14-15 Budget development is in process.

XII. School Safety Task Force Meeting: Meeting proposed for 4 p.m. on 12-17 at NMS to discuss outcomes of school safety assessments and consider project proposals.

XIII. January 2014 Board Retreat: Scheduling of a Board retreat in January 2014 (as previously discussed) is presented for consideration

Mr. Carter suggested that the Board have a meeting with the Department Heads, the Constitutional Officers, and School Board and then they could discuss priorities. He added that he thought this could be done in a one day or day and a half session and that he thought it would be helpful for staff to report on the direction things were going in and then they would take it from there.

Introduced: Massies Mill Recreation Center

Mr. Bruguiere noted that Fleetwood Community Center wanted some of the blackboards from the Massies Mill Recreation Center building prior to its demolition. He noted the he wanted to keep the dusk to dawn lights in place at the site for the convenience center and the tower site next door. Mr. Carter noted that the soapstone had been detached and lined up at the building for the County to collect.

Mr. Saunders noted that he thought that the County also wanted the slate blackboards and Mr. Carter noted that he thought they only wanted the soapstone.

Members then agreed by consensus for staff to work out who got what from the building.

2. Board Reports

Mr. Harvey, Mr. Saunders, and Mr. Bruguiere had no reports.

December 10, 2013

Ms. Brennan reported the following:

Attended Community Criminal Justice Board (CCJB) meeting and noted that a group of UVA students were looking at computer systems between agencies to make them more cohesive.

Attended the Thomas Jefferson Planning District Commission (TJPDC) Legislative Forum and noted that she had learned some interesting information on the Affordable Care Act. Mr. Carter noted that the PowerPoint presentations from this had been sent out to the Counties. She then noted that Board of Supervisors members were not considered employees in relation to the Act.

Attended a Jefferson Area Board for Aging (JABA) ribbon cutting for their new PACE facility, which offered all inclusive care for the elderly and would save a lot of money.

Attended a meeting with the Nelson County Community Development Foundation and L.F. Payne to discuss the importance of housing.

Attended the Virginia Association of Counties (VACO) conference and went to a booth for an engineering company that fixed culverts by putting something in and expanding it. Mr. Saunders noted that this method was used in water and sewer pipes also.

B. Appointments

Ms. McGarry noted vacancies on the following Boards/Commissions: TJPDC Corporation, Board of Zoning Appeals (BZA), JABA Advisory Council, PVCC Board, and the Board of Equalization. She noted that Mr. Krieger of the Community Development Foundation had agreed to consideration of appointment for the TJPDC Corp., that Mr. Bradshaw wished to be reappointed to the BZA and an application from Shelby Ralston Bruguere had been received. She also noted that Ms. Harvey did not wish to be reappointed to the JABA Advisory Council and no applications had been received for this vacancy or the vacancy on the PVCC Board.

Ms. McGarry then noted that there were five (5) persons to be considered for appointment to the Board of Equalization, with there being two applicants for the North District: Shelby Ralston Bruguere and Kathryn D'Augustino. For consideration for the East District was Robert McSwain, Central District was Craig Cooper, South District was Jennifer Turner, and West District was David Hight.

Ms. Brennan then moved to approve George Krieger for the TJPDC Corporation appointment and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Mr. Harvey then moved to recommend reappointment of John Bradshaw to the BZA and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (3-0-1) by roll call vote to approve the motion with Mr. Bruguere abstaining.

December 10, 2013

Ms. Brennan then moved to recommend appointment of Robert McSwain to the Board of Equalization representing the East District and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Ms. Brennan then moved to recommend appointment of Craig Cooper for Central District member of the Board of Equalization and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Mr. Saunders then moved to recommend appointment of Jennifer Turner for South District member of the Board of Equalization and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Mr. Saunders then moved to recommend appointment of Shelby Ralston Bruguere for North District member of the Board of Equalization and there was no second. There being no further discussion, Supervisors voted unanimously (3-0-1) by roll call vote to approve the motion with Mr. Bruguere abstaining.

Mr. Harvey then moved to recommend appointment of David Hight for West District member of the Board of Equalization and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

C. Correspondence
1. FFA Recognition Request

Mr. Carter noted the letter from Ed McCann, Senior FFA Advisor relating that the Forestry team won the National Championship and asking the Board of Supervisors to fund the cost of rings for eight (8) students and two (2) advisors, Mr. Massie and Mr. McCann. He added that the schools were going to provide watches for the national champions.

Mr. Bruguere noted that he thought this was worthwhile and noted that the two (2) Advisors had devoted their lives to these students and have taken them to the highest level of achievement. He added that being able to compete at this level was a feat. Ms. Brennan suggested that the Board also do a resolution honoring their accomplishments.

Mr. Saunders then moved to approve the FFA request and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Mr. Carter then noted that the Drama Team had also won the One Act Play State Championship for the 4th or 5th year in a row. Members acknowledged the Drama Department's leadership and how proud they were of the students.

D. Directives

Mr. Harvey and Mr. Bruguere had no directives.

Ms. Brennan had the following Directives:

1. Provide a resolution honoring the Drama Team and FFA. Also check to see what was done for the Drama Team in the past.
2. Noted that there would be a Senior Center event (the Senior Ball) at RVFD at 2pm on Thursday.
3. Noted the Board having received correspondence from George Hodson on Route 151 Corridor strategic planning; he wanted to look at everything there.
4. Noticed cement was crumbling on the sidewalks and asked if this was normal. Mr. Saunders noted that it had been said that this was due to the type of de-icer that had been used and Mr. Carter verified that staff was now using a kind that was not harmful.
5. Inquired about the status of the new courthouse soapstone marker and Mr. Carter advised that he needed to follow up on this; however it was forthcoming.
6. Inquired about the County having a smokers' kiosk – she noted that Ms. Turner had researched this and had presented several locations for smokers to be permitted. She noted that she did not want these to be located right in front of where people came up to the entrance. She noted that she had discussed having a kiosk with judge and she suggested that this be set up over by the yew trees. She then asked for the Board's okay to look at this noting that she wanted a structure built for smokers to be located over by the yew trees.

Mr. Saunders suggested that this would be promoting smoking and staff then asked if a similar structure would have to be provided for nonsmokers also. Mr. Harvey noted that it would be beneficial for smokers to quit smoking.

Mr. Carter explained that staff had presented the idea of creating a smoke free perimeter around the courthouse grounds. He noted that the research done showed that no localities were doing the same thing. He added that the thought was to post signs saying “no smoking beyond this point” around the perimeter and Security Staff would police this.

Ms. Brennan indicated that she did not like this idea. Mr. Saunders noted that it was not the Board's job to provide smoking areas, and they should just be told where they were not able to smoke and Mr. Harvey agreed.

Ms. Brennan noted that she did not want signs everywhere and did not think the Security people would enforce this.

December 10, 2013

Mr. Harvey noted that a lot of work time was lost by employees smoking and following discussion, it was the Board's consensus not to move forward with the kiosk at the yew trees.

Mr. Carter suggested smoking could be banned from the courthouse grounds and Ms. Brennan questioned what the banned area(s) would be. Mr. Carter noted that the problem would be that it was not enforceable and if an ordinance was passed, the Sheriff would likely not enforce it.

Following discussion, no action was taken by the Board.

7. Inquired if it was possible to do a resolution to honor Massie and Esther Napier having their 70th anniversary. Following brief discussion, there was no consensus for this or to send a card.

Mr. Saunders had the following Directives:

1. Noted that the demolition of burnt structures had been discussed at the last meeting, and he inquired as to whether or not an ordinance could be reviewed on this.

Mr. Harvey noted that this had been looked at previously and it was found that the liability related to these structures had fallen back to the County. Mr. Carter noted that an ordinance could be written and that the previous opinion written by Mr. Payne could be revisited.

Mr. Saunders then noted that he would like to see this looked at again. Mr. Carter noted that in a previous locality he was employed in, the County ended up paying for this in the end and that Nelson County may not have enough employees to keep up with this.

2. Mr. Saunders noted that he had gotten criticism regarding public advertisements for public hearings. He added that the County did follow the Code on this and was not sure what more could be done to get the word out more about public hearings.

Mr. Carter confirmed that notices were being done according to the Code and in the past with Planning and Zoning public hearings, the staff was notifying more than who was required and it became a problem, so they were directed to stop that practice. Mr. Carter advised that the County could advertise in more papers; however this would be more expensive.

Mr. Saunders then noted that he had promised he would bring this subject up to the Board and was not sure what else could be done. Mr. Carter assured the Board that staff strictly adhered to the law on this.

VI. Recess and Reconvene for Evening Session

December 10, 2013

At 5:54 PM, Mr. Harvey moved to adjourn and continue the meeting until 7:00 pm and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by voice vote to approve the motion and the meeting adjourned.

EVENING SESSION

7:00 P.M. – NELSON COUNTY COURTHOUSE

I. Call to Order

Mr. Bruguere called the meeting to order at 7:01 PM, with four (4) Supervisors being present to establish a quorum.

II. Public Comments

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

III. Public Hearings

A. Conditional Rezoning #2013-004 –Mr. Taylor Smack / Blue Mountain Brewery

Consideration of an application to rezone a 2.472 acre parcel of property at 9403 Critzer Shop Road, Afton, Tax Map #4-A-60, from Residential (R-1) to Agricultural (A-1), pursuant to Article 16, Section 1-1. The applicant has voluntarily included the following proffers: Kennels (per Section 4-1-9); Public Utilities (per Section 4-1-11); and Automobile Graveyard (per Section 4-1-18).

Mr. Padalino referred to the conditional rezoning application submitted by Blue Mountain Brewery for brewery related functions not currently permitted under residential, R-1 zoning; however were permitted under Agricultural A-1.

He then showed the pattern of zoning along Route 151 and noted that most was zoned R-1 along the road with the rest being A-1. He added that there was a common pattern of split zoning in the area based on road frontage. He then noted that the applicant had proffered away the use of kennel, public utilities, and automobile graveyard.

Mr. Padalino noted that the application required a minor site plan and he showed this to the Board. He noted the proposed ninety-four (94) space parking lot and 4,000 sq ft pergola to be located on the property. He noted that before any expansion was to take place, they would have to provide a major site plan.

December 10, 2013

Mr. Padalino then showed the relative location to the Church of Blue Ridge to the north and the current Blue Mountain Brewery property to the south. He then noted that the Planning Commission had voted to recommend approval of the conditional rezoning.

Mr. Bruguire then asked for the reason for them to proffer away utilities and Mr. Padalino noted that there were concerns regarding potential outcomes. He added that based on timing requirements, the applicant was able to fit in the conditional rezoning within a reasonable time so as not to impact them significantly.

Mr. Harvey then recommended that they be sure to stay in Nelson County with their development as they were near the Albemarle County boundaries and the GIS boundary lines may not be exact.

Mr. Scott Wilcox representing the applicant addressed the Board and noted he was present to answer questions.

Mr. Bruguire then asked if the rezoning were approved would they then have to do a full blown site plan and E&S plan before expansion. It was noted that a Special Use Permit would be required if they went forward with the event center; however if they did the parking, it may be an accessory use and it was possible to do a minor site plan. It was noted that there was a 5,000 square foot threshold and over this size, they would have to do a major site plan. Staff noted that there was a lot of discussion regarding transportation on this and that VDOT had commented that there was not enough information at this time. It was suggested that the transportation issues would be dealt with when physical development had occurred.

Mr. Carter then noted that the internal discussion was that when they came forward with a major site plan or Special Use Permit, it would be sent to VDOT who would require them to address any transportation improvements and that this had been related to the applicants, the Smacks.

Ms. Brennan questioned this and Mr. Carter clarified that VDOT had not looked at the plan comprehensively yet and that this was the next step. He added that there was uncertainty as to whether or not VDOT would give them the second entrance shown on the new parcel.

Mr. Wilcox, on behalf of the Applicant, noted that the plans provided a wedding event space with a pergola and space to get inside out of the weather.

Mr. Bruguire then opened the public hearing and there being no persons wishing to be recognized, the public hearing was closed.

December 10, 2013

Mr. Harvey asked what the intent of the whole project was and noted that what had been intended previously had not been what had happened.

Mr. Wilcox noted that the applicant was looking for a place to hold special events given that the current place was too busy to be able to do this in the summer. He added that they wanted additional parking for outside events and land along Route 151 for hop growing. He noted that they wanted to preserve the view and build an auxiliary event center.

Mr. Harvey indicated that the business was in need of more parking presently and he questioned how they would have weddings and other events and still have enough parking. Mr. Wilcox noted that the number of spaces specified would be more than enough for overflow parking now and to hold an event. He added that they were only running around 30-40 spaces short now.

Mr. Carter then related that staff had advised the Smacks that for now, the County was treating the two, current and developed parcels, as separate and distinct and if they came back to consolidate the two, then they would have to come back with a major site plan.

Mr. Harvey noted that he was not yet ready to vote on the application and would like to see the Smacks present. He added that the conditional rezoning proffers offered were not much and a lot of uses remained. He reiterated that he preferred to defer a decision and noted that this would be great for their success; however it was way more than originally planned and he wanted to ensure protection for the neighboring Church property.

Mr. Carter advised that if the applicant was required to do a Special Use Permit for the construction of the Events Center, the Board could set conditions on the use. He added that he agreed that the door was open for by right uses once it was rezoned.

Mr. Padalino clarified that the applicants could submit a minor site plan with a Special Use Permit application; however they would be required to submit a major site plan before getting a building permit.

Mr. Harvey reiterated that he did not have enough information to make a decision and Mr. Carter advised that the Board could defer a decision for up to a year.

Mr. Harvey then moved to defer a decision on rezoning application #2013-004 and Mr. Saunders seconded the motion.

December 10, 2013

Mr. Carter then asked the Board what specific information they needed from the Smacks in order to make a decision and Mr. Harvey noted that he would like to speak to them directly and he noted that their other project was nothing like what the Board had approved and it was having a major affect on traffic there.

Ms. Brennan questioned if that was the applicant's fault and Mr. Carter noted that he could not speak to their current development and traffic, however he noted that when they moved forward with what they wanted to do with the adjacent property, they would have to satisfy VDOT. He added that in conversation, Mr. Smack had noted that if the cost of improvements to Route 151 were too overwhelming for them, then they would only do the expanded parking.

Mr. Harvey then noted that more parking would create more of a headache and they were using the parking area now. He added that normally the Board would have an idea of what they were going to do and that the applicants did not do what they said they were going to do previously. Ms. Brennan suggested that this may be a misunderstanding.

Mr. Carter acknowledged that their business had grown exponentially and that the Board had approved the major expansion of the brewery. He added that he was not sure if it was referred to VDOT at that time. Mr. Padalino noted that there was an amended site plan on file; however it was not approved by VDOT in 2006 and this was a step that was missed in 2009/10 in getting an amended site plan. Mr. Carter then noted that a letter had been sent out to the Smacks that day that they needed to come back with a fully amended site plan for what had been done to date.

Mr. Bruguire agreed that what would go on further needed to be addressed and that the Board needed to see what they had to say. Mr. Saunders noted that the next Board meeting was on January 14, 2014.

There being no further discussion Supervisors voted (3-1) by roll call vote to approve the motion to defer consideration of the rezoning application until January 14, 2014, with Ms. Brennan voting No.

Mr. Bruguire reiterated that the applicants, the Smacks, needed to attend the meeting on January 14, 2014.

B. Comprehensive Plan Amendments - Proposed Revisions to Chapter Three of the Nelson County Comprehensive Plan "Goals and Principles" Relating to Telecommunication Infrastructure.

Mr. Padalino noted that it was necessary for the Planning Commission to make recommendations on tower applications based on language relative to telecommunications contained within the Comprehensive Plan. He added that Chapter 3 of the Comprehensive Plan seemed to be the most appropriate place to add this language. He noted that a Telecommunications Goal and some related Principles had been added to page 15 as follows:

Telecommunications:

Goal – Support the appropriate and efficient development of telecommunication infrastructure.

Principle – Recognize and support telecommunications infrastructure as an essential component for successfully growing and sustaining a strong rural economy including home occupations, tourism and resort industries, and telecommuters.

Principle – Recognize and support telecommunication infrastructure as a valuable tool for improving emergency services and law enforcement operations.

Principle – Ensure that telecommunication facilities are subject to appropriate review and approval procedures and, when appropriate, the public hearing process.

Principle – Ensure that each tower permit application is carefully reviewed for appropriateness with the Zoning Ordinance and Zoning Map, as well as its appropriateness relative to the Comprehensive Plan.

Principle – Ensure that careful consideration is given to preserving Nelson County's invaluable scenic resources and recreational resources such as the Blue Ridge Parkway, Appalachian Trail, George Washington National Forest, and designated Virginia Scenic Byways.

He explained that a few were related to the recognition that telecommunications was essential to the County and there was a need to make sure towers were reviewed properly to protect intangible things that made Nelson County special.

Mr. Padalino then reported that the Planning Commission held a public hearing and no public comments were made.

Ms. Brennan noted that the language looked good to her. Mr. Padalino noted that typically, changes such as this would not be referred for public hearing immediately; however due to the relatively brief content he, in consultation with Mr. Carter and Ms. McGarry, brought it forward.

December 10, 2013

Mr. Bruguere then opened the public hearing and there being no persons wishing to be recognized, the public hearing was closed.

Ms. Brennan then moved to approve and adopt the presented Comprehensive Plan amendments and Mr. Saunders seconded the motion. Mr. Bruguere then noted that the Comprehensive Plan was a set of guidelines and was not written in stone.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

IV. Other Business (As May Be Presented)

Introduced: Upcoming County Observed Holidays

Mr. Bruguere asked when the upcoming County holidays were and noted that the Sheriff's Department had been asking about December 23rd.

Mr. Carter advised that the County had a set holiday list and the policy says that the County would observe any additional time off granted by the Governor. He added that the Governor had granted an additional four hours off on Wednesday, December 23rd also and the plan was to observe this unless the Board had concerns. He added that the following week, the County offices were closed New Year's Day only. He noted that the solid waste and emergency services folks would likely be working and this would be part of the ad that was posted in the paper. He added that the collection sites would be open on Tuesday and again on Thursday.

Following this discussion, there were no concerns expressed by the Board regarding the upcoming Holiday schedule.

V. Adjournment

At 7:40 PM, Mr. Harvey moved to adjourn the meeting and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.