

July 12, 2011

**Virginia:**

AT A REGULAR SCHEDULED MEETING of the Nelson County Board of Supervisors at 2:00 p.m. in the Board of Supervisors Room located in the Nelson County Courthouse.

Present: Thomas H. Bruguere, Jr. West District Supervisor - Vice Chair  
Allen M. Hale, East District Supervisor  
Constance Brennan, Central District Supervisor  
Joe Dan Johnson, South District Supervisor – Chair  
Thomas D. Harvey, North District Supervisor  
Stephen A. Carter, County Administrator  
Candice W. McGarry, Administrative Assistant/Deputy Clerk  
Fred Boger, Director of Planning and Zoning

Absent: None

**I. Call to Order**

Mr. Johnson called the meeting to order at 2:07 pm, with all Supervisors present to establish a quorum.

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

**II. Consent Agenda**

Ms. Brennan asked to remove approval of the minutes from the agenda as she has not had a chance to read them. Members agreed by consensus and Ms. Brennan then moved to approve the consent agenda as amended and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – **R2011-54** Minutes for Approval – Removed
- B. Resolution – **R2011-55** FY11-12 Budget Amendment

**RESOLUTION R2011-55  
AMENDMENT OF FISCAL YEAR 2011-2012 BUDGET  
NELSON COUNTY, VA  
July 12, 2011**

**BE IT RESOLVED** by the Board of Supervisors of Nelson County that the Fiscal Year 2011-2012 Budget be hereby amended as follows:

**I. Appropriation of Funds (General Fund)**

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 16,040.00	3-100-003303-0050	4-100-031020-7016

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\$ 6,500.00 3-100-009999-0001 4-100-031020-5419  
\$ 22,540.00

C. Resolution – **R2011-56** COR Refunds

**RESOLUTION-R2011-56  
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>
\$ 61.63	2006-2007 Personal Property Taxes and Vehicle License Fees	Roxanne Suzette Clark 304 Buck Creek LN Faber, VA 22938
\$ 99.72	2008-2010 Personal Property Tax Relief	David & Robin Smoot 1192 Spruce Creek LN Nellysford, VA 22958

D. Resolution – **R2011-57** FY10-11 Budget Amendment

**RESOLUTION R2011-57  
AMENDMENT OF FISCAL YEAR 2010-2011 BUDGET  
NELSON COUNTY, VA  
July 12, 2011**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2010-2011 Budget be hereby amended as follows:

**I. Appropriation of Funds (General Fund)**

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 3,000.00	3-100-004105-0503	4-100-081020-3004

**II. Transfer of Funds (General Fund)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 33,000.00	4-100-999000-9901	4-100-033010-6001
\$ 1,250.00	4-100-999000-9901	4-100-011010-5501
<hr/>		
\$ 34,250.00		

**III. Appropriation of Funds (CDBG Fund)**

	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 3,000.00	3-503-003201-0010	4-503-094850-9201

**III. Public Comments and Presentations**

A. Public Comments

1. Roger Collins, School Division Superintendent

Doctor Collins reported that the school system had attained its 7th year of Annual Yearly Progress and accreditation was expected to be retained.

He reported that two team state titles had been attained in Volleyball and in Drama, as well as an individual State Championship achieved by Thomas Napper in the High Jump.

Doctor Collins then noted that three administrators had earned their PhDs this year.

He added that 10% of the students were participating in summer learning this year for remediation, summer enrichment, and or acceleration.

He reported that the TRES project was moving along well, that the bathrooms looked outstanding, and they were on schedule for the window replacement. He noted that they would then mobilize to RRES to finish there prior to the 8/24 start of school.

He noted that the new High School and Middle School principals would be conducting a public meeting today at 4-6 pm and that 8/17 was employee convocation and it was Ms. Brennan's turn to address staff this year.

He then concluded by noting his appreciation for the unwavering support of the Board and County administration.

2. Kenneth White, Roseland and VTA President

Mr. White distributed and read aloud the following prepared statement:

Mr. Chairman and members of the Board, my name is Kenneth White, 93 Shields Gap Road, Roseland, and I am President of the Virginia Taxpayers Association. Since the regular monthly meeting of your Board on June 14, 2011, when I commented on the UN's Agenda 21 influence on national and Virginia county and local government decision-making, our nation and Nelson County in a Lovingston parade have observed Independence Day. This wonderful holiday celebrates the fact that you and I are sovereign citizens --- not subjects of any king or ruler, or any foreign entity or power, such as the UN or the International Criminal Court. This specifically relates to your Board's unlawful, unconstitutional decision, January 27, 2011, without a required publicly announced public hearing, to

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place a walk through metal detector at the main entrance to the new enlarged Nelson County Courthouse, to be manned full time during office hours Monday to Friday by three deputy sheriffs, all at extra and unnecessary costs.

National resistance to TSA full body screeners groping underwear of plane passengers continues to grow, and in the major state of Texas, for example, a widely publicized bill, HB 41, has been introduced in the legislature declaring that a state actor cannot touch a person's private parts without probable cause in violation of the Fourth Amendment. This will inform you that I personally, as a sovereign citizen, have defied unreasonable harassment of me by the Department of Motor Vehicles on a specious charge of "dangerous driving", and HAVE COMPELLED THE DMV TO BACK DOWN (see attached June 6, 2011 letter from me to DMV Commissioner Richard D. Holcomb and Holcomb's personally signed reply to me of June 17, 2011).

You will see that this correspondence PROVES THE INFLUENCE of the Virginia Taxpayers Association against top state officials, which has made them change their minds. In the same way the Virginia Taxpayers Association IS GOING TO CHANGE YOUR MINDS, because we have far more information on state and federal criminal activity by officials of both major political parties than you do!

We again, therefore, demand that your Board withdraw and repeal the unlawful decision to place a walk-through metal detector in the new main entrance to the courthouse, manned by three deputy sheriffs, and provide that metal detectors shall be used only at entrances to district and circuit courts when the courts are actually in session, to properly protect judges of these courts. That concludes my Statement.

#### B. VDOT Report

Mr. Carter reported that a VDOT report had not yet been received and that he would follow up with Mr. Hamilton and report back. He noted that staff has sent items to them from the Board and he assumes they are working on these.

#### IV. New Business/ Unfinished Business

- A. Proposed Ordinance to Repeal and Reenact Article 20 (Tower Ordinance of Appendix A. Zoning, of the Code of Nelson County, Virginia, 1989, As Amended. **(O2011-03)**)

Mr. Carter noted that the Board had been asked to delay a decision on this until today so that Mr. Bruguiere could provide his input. Mr. Johnson noted that Verizon had spoken at the Board's public hearing and that there was no other public input. Ms. Brennan then noted that she has further concerns that were brought to the Planning Commission to be discussed. Mr. Boger added that the public hearing was held and action on this had been delayed. Mr. Johnson then reiterated that the Board has gotten feedback from Lori Schweller of Verizon and that the Board should look at the significant changes first.

The Board and Staff then reviewed the following Sections:

#### Section 20-4 Definitions

*Proposed: Class I Communication Tower. A communication tower which does not exceed eighty-five (85) feet in tower height, as defined herein.*

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*Class II Communication Tower. A communication tower that is greater than eighty-five (85) feet but does not exceed one hundred thirty (130) feet in tower height, as defined herein.*

*Class III Communication Tower. Any communication tower that is greater than one hundred thirty (130) feet in tower height, as defined herein.*

*Class IV Broadband, License Exempt Provider: A wireless broadband provider utilizing the Federal Communications Commission's "License-Exempt" or "Unlicensed" Spectrum to provide broadband services within the County.*

Mr. Boger noted the inclusion of administrative approval for towers lower than 90 ft. for Class I towers. He added that the average height of these was probably 90 ft. He added that Verizon was using array antennas to go above the tree-line and if collocation was desired then they would have to come back to the County to raise the tower.

Ms. Brennan noted that Mr. Boger's recommendation was 90 ft but that the Planning Commission did not want to raise this above 85 ft. due to the concern that if they kept raising it, there would be no opportunity for the public to comment. It was noted that Ms. Schweller had stated that most trees grow 65-70 feet tall.

Mr. Bruguiere noted that when he spoke to Mr. Bowers about the tower to be sited in the Massise's Mill area, he stated that for towers to work in that area, they would need to be 60 ft. above the tree-line.

Staff noted that the Class II Tower height had been increased to 130 ft. as compared to 95 ft. as was presently in the ordinance.

Mr. Johnson questioned how many Class II towers were approved between 85-95 ft in the last 2 years, and Mr. Boger noted that there were not many. Mr. Johnson indicated that he had no problems with this category. Mr. Boger suggested that they could have a catch all phrase, that the tower could not be more than 10 ft above the tree-line.

#### 20-5-4 Plans and Drawings:

*Proposed :(c) Except where the facility would be attached to an existing structure, the topography within two thousand (2,000) feet of the proposed facility, in contour intervals not to exceed ten (10) feet for all lands within Nelson County and, in contour intervals shown on United States Geological Survey topographic survey maps or the best topographic data available, for lands not within Nelson County.*

The Board discussed this as being excessive and Ms. Brennan noted that she thought this was discussed as being reduced.

Mr. Hale suggested that this be amended to reduce this requirement from 2,000 feet to 300 ft and that it did not hurt to have a clear vision of the site. This requires showing the topography around the tower of 300 ft on all sides, essentially - a radius of 300 ft. Members agreed by consensus to include this change.

#### 20-5-5 Multiple Towers:

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*Proposed: The tower shall not be located so that it and two (2) or more existing or approved towers would be within an area comprised of a circle centered anywhere on the ground having a radius of two hundred (200) feet. This may be waived under the following conditions, as determined by the County: (a) multiple towers will allow for either substantially improved service or cost savings; (b) there is no reasonable alternative to the applicant; and/or (c) the tower will neither affect a substantial detriment to adjoining property nor materially change the character of the surrounding area.*

Members noted that the proposed separation of 200 ft between towers would preclude Wintergreen from clustering towers. Mr. Hale noted that a waiver permitted under this gives the leeway to do clustering and Ms. Brennan noted that clustering in some places made a lot of sense. The party would request the waiver from Mr. Boger based on the proposed criteria and it was noted that he was listed as part of the County per the definitions.

Members noted their consensus that they wanted this to be administratively approved as appropriate for the class of tower and that language should be added to say “as per class of the tower” in terms of the waiver being determined. Whether or not this would slow the process was discussed and it was noted that it would not any more than the natural process.

Mr. Boger noted that eliminating the Class II tower and allowing administrative approval for that height was recommended by the working committee and the Planning Commission voted not to change this.

Mr. Harvey suggested allowing Wintergreen to go through their channels for approval and Mr. Boger noted that in their process, the adjacent property owners were not notified. Mr. Hale commented that he did not think that things should be made different for them and Mr. Boger added that the County would not be able to keep track of the towers there. He added that the process was not more cumbersome and the County would get the same paperwork as they would give to Wintergreen in that scenario. Mr. Carter added that the new tower at Wintergreen is 85-95 ft high.

Mr. Harvey noted his opinion that why have rules, if a waiver can just be obtained and that it would add time to the process unless approved administratively. He added that twenty (20) ft in separation was more than enough room to avoid interference etc. Ms. Brennan noted that she did not think getting a waiver was a big deal.

Mr. Hale then moved to approve Ordinance O2011-03 with 20-5-4c changes to reduce this to 300 ft and with no other changes.

There was no second and Mr. Boger noted that the setback requirements were also changed for viewsheds. Mr. Hale then withdrew his motion.

20-9 Removal and Reporting:

*Proposed: (a) The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for wireless communication purposes is discontinued. If the Planning and Zoning Director determines at any time that surety is required to guarantee that the facility will be removed as required, the Planning and Zoning Director shall require that the parcel owner or the owner of the facility submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for,*

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*and conditioned upon, the removal of the facility. The type and form of the surety guarantee shall be to the satisfaction of the Planning and Zoning Director and the County Attorney. In determining whether surety should be required, the Planning and Zoning Director shall consider the following: (i) the annual report states that the tower or pole is no longer being used for personal wireless service facilities; (ii) the annual report was not filed; (iii) there is a change in technology that makes it likely that the tower or pole will be unnecessary in the near future; (iv) the permittee fails to comply with applicable regulations or conditions; (v) the permittee has failed to remove in timely fashion another tower or pole within the county; and (vi) whenever otherwise deemed necessary by the Planning and Zoning Director.*

*(b) The owner of the facility shall submit a report to the Planning and Zoning Director by no earlier than May and no later than July 1 of each year. The report shall identify each user of the existing structure, and include a drawing, photograph or other illustration identifying which equipment is owned and/or operated by each personal wireless service provider. Multiple users on a single tower or other mounting structure may submit a single report, provided that the report includes a statement signed by a representative from each user acquiescing in the report.*

Mr. Boger noted that he agreed with the proposed reporting component and no changes were made by the Board.

Mr. Carter then suggested that a Board committee work with Mr. Boger to bring back any changes and the Board designated Ms. Brennan and Mr. Johnson to work on this. Mr. Johnson then noted the Board's consensus to postpone or table action on this until a committee recommendation is made.

B. Proposed Ordinance to Amend Articles 3,4,5,6,8,8A,8B,9, AND 18, Of Appendix A, Zoning of the Code of Nelson County, Virginia 1989, As Amended. **(O2011-04)**

Mr. Boger noted that these amendments dealt with small wind energy and clarifying other things to make the language consistent throughout, such as the use of wooden poles. He noted that it allowed for higher wind systems with a Special Use Permit (SUP) approved by the Board. He reported that the current maximum height was 60-80 ft right now and was proposed to be up to 100 ft based on the size of the parcel of land and that anything higher would require an SUP. He noted that two or more would be allowed on twenty (20) acres or more by SUP and that this could allow a wind farm, which was defined as being 2 or more by definition.

Ms. Brennan noted that the intent of the Board was to amend the original ordinance as needed and that there was now an application waiting for these amendments.

Ms. Brennan then moved to approve Ordinance **O2011-04** Proposed Ordinance to Amend Articles 3,4,5,6,8,8A,8B,9, AND 18, Of Appendix A, Zoning of the Code of Nelson County, Virginia 1989, As Amended and Mr. Bruguiere seconded the motion.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the Board's previous adoption of the Ordinance on June 14, 2011 was reaffirmed.

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C. Local Board of Building Code Appeals – Establishment by Ordinance; Authorization for Public Hearing (**R2011-58**)

Mr. Carter noted that a local Board of Building Appeals had been established before by resolution, but when reviewing this, research and input from Phil Payne indicated that this establishment should be codified. Mr. Carter noted that the ordinance established the membership, officers and qualifications, appeals process, meetings, fees, and member compensation. He noted that there have been very few appeals to this Board in his tenure. Members then briefly discussed the minimal appeals over the years.

Mr. Bruguere then moved to approve Resolution R2011-58, resolution authorizing a public hearing to establish the Local Board of Building Code Appeals by Ordinance and Ms. Brennan seconded the motion.

Mr. Bruguere asked if the incumbent individuals would have to submit an application and be approved, and staff suggested that the previous members would be contacted to gauge their interest.

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

**RESOLUTION R2011-58**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION AUTHORIZING A PUBLIC HEARING TO ESTABLISH THE LOCAL BOARD**  
**OF BUILDING CODE APPEALS (LBBCA) BY ORDINANCE**

**WHEREAS**, pursuant to Section 36-105 of the Code of Virginia, 1950 as amended, and Section 119 of the Virginia Uniform Statewide Building Code, effective March 1, 2011, local governments shall establish within its local building department a Local Board of Building Code Appeals (LBBCA); and

**WHEREAS**, an Ordinance is appropriate to establish the method for appointment of LBBCA members and to institute appeal procedures;

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors does hereby authorize a public hearing to be held at **7:00 o'clock p.m.** on **August 9, 2011** to receive citizen input on a proposed ordinance for passage to establish the LBBCA within the local building department in Nelson County.

Staff noted that after adoption of the ordinance, the incumbents would be contacted and the seats would be advertised.

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

A. Reports

1. County Administrator's Report

Mr. Carter reported the following item not included in his written report. He noted that staff had recently appealed the Virginia Department of Health's consideration of a certificate of public need application that would close the Lovingston Health Care Center and move the nursing home beds to

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Albemarle County. He noted that staff was just made aware of how to oppose the application around noontime with a deadline to file an appeal of 5:00 pm the same day. He confirmed that staff had submitted its appeal and had received confirmation that an Informal Fact Finding Conference (IFFC) would be held before the application went to the Commissioner. He added that the 60 beds from Lovingston would go to the new facility in Albemarle and that they had applied for 30 new ones. Mr. Carter then reported that he had met with the Health Care Center owner who said a reuse of the building would be proposed; however he had advised him that the County would oppose their application to move the beds.

Mr. Carter then reported that this began with the VDH determining that there was a need for 60 new beds in the planning district and that they had issued a Request for Applications (RFA) to which the owner of the Lovingston Healthcare Center, Medical Facilities of America, had responded along with another company from Fluvanna County. He noted that ironically, the RFA was issued and shortly thereafter, the statistics showed that there was a surplus of beds in Planning District Ten, but that VDH had determined that they would proceed anyway.

Mr. Johnson noted that the issue is if this application is approved, there would be no beds in Nelson County even though they are within .5 points of the necessary occupancy rate. Mr. Carter noted that staff having limited time to file the appeal, did supply the following reasons for appeal: The County was not afforded sufficient time to provide a substantial and reasonable response, the County was not provided with the public notice required by the Code of Virginia and due to this, the County could not present information relative to the economic impact resulting from the closure of the LHC, which included the loss of 78 jobs, loss of service to residents, possible expansion of the facility or a new facility located in the County, the utilization of LHC by the schools for educational purposes.

Mr. Carter also noted that the County sited material mistakes of fact in the VDH report considering the application such as: the population growth is projected not to be greater than one person per year to 2020-2020 annually turning the age of 75, the projected nursing home bed need in 2014 shows a surplus of 78 beds for Albemarle/Charlottesville, which will increase to 138 beds should the application be approved, Nelson County will continue to have a deficit of 29 beds, which the application does not address, the acceptable driving time radius to the proposed facility is exceeded for County residents, and the approval of the application is not necessary or warranted based on VDH's own occupancy projections – with the report stating that “it can reasonably be said that neither of these projects is necessary”.

He noted that the certified beds were paid for by Medicaid and the government has an interest in determining an equitable allocation of these beds. Mr. Hale added that he thought it would be a serious detriment if the County lost these. Mr. Carter noted that the company's goal was to have a higher number of Medicare beds so that they could make more money.

He concluded by noting that he was hopeful that since the County did not receive notice of the public hearing on these, that it would restart the process; however he could not guarantee that the County's efforts would be successful.

Mr. Carter then reported on the following:

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**A. Courthouse/Government Center Project:** The project is moving to completion. A definitive date for occupancy of the new wing has not been established but is now projected to be the middle (of) to late September with the real possibility of an October transition. Blair is working on all project elements towards a substantial completion walk through with WileyWilson and County staff. Furniture has been delivered and installed or being installed.

Mr. Carter added that the project may be impacted by a Verizon work stoppage, and they cannot guarantee when the E-911 center can be cutover.

He reported that the walk through with the furniture vendor and designer was to be done.

He noted that paving had been delayed due to the pending July 25<sup>th</sup> jury selection and so Blair and staff would open the middle parking lot for use but it would not be paved. He added that the tower is in place but that they would have to bring in the generator by crane and would pave after that.

Mr. Carter reported that the bridge connector work had begun and that Dr. Collins was looking to relocate temporarily.

He noted that Security work was being done, he had met with Judge Gamble; who briefed staff on his security desires and who would issue an order which would govern the security functions in the courthouse. He added that the Judge was comfortable with having a walk through metal detector and not having an x-ray machine.

**B. Gladstone Rescue Squad, Inc.:** The Nelson County Circuit Court has granted Nelson County an injunction in the Board's decision to dissolve GRSI including appointment of a receiver (T. Berry, Esq.) to administer this matter. Final decision on the divestment of the former agency's assets will be decided by the Court.

Mr. Carter added that staff was working with the squads to ensure coverage in the Gladstone area and that a transition plan was in place.

**C. Broadband Project:** This project is proceeding to construction, which is likely to begin in the ensuing 45-60 days with completion and start up now projected for late in the first quarter of 2012. Selection of a network operator is still pending but in process.

Mr. Carter noted that the fiber has been ordered, the construction contract was being finalized, and the County has an agreement for the Afton tower site; however the County was working on a subordination agreement associated with this.

**D. Local Innovation Grant-Broadband (CDBG):** Receipt of the grant contract from VA-DHCD is anticipated daily.

**E. Blue Ridge Medical Center – CDBG Project:** In process.

**F. Blue Ridge Tunnel & Blue Ridge Railway Projects: (Tunnel) –** No new information other than negotiations with the owner of the proposed trail easement on the east (Nelson County) side of the Tunnel is pending.

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**G. Region 2000 Water Supply Plan** – The public hearing(s) for consideration of approval of the WSP and a local drought ordinance will be scheduled for the second August meeting with Draper Aden and R2KLG staff in attendance for briefing purposes.

Mr. Bruguere inquired as to whether or not the Board would have a briefing on this before the public hearing and Mr. Carter noted that Mike Lawless would explain the plan in detail at the public hearing. He noted that staff had offered this and there was no feedback from the Board so staff did not schedule this. He added that the work on the drought ordinance was to begin and he advised the Board to look at the proposed Drought Ordinance which gives the Board more authority and is mandated by state law.

**H. Tower(s) and Microwave (PSIC) Project: 1) Courthouse** – The tower and equipment building have been installed. Final project elements are to be completed in the ensuing 2 - 3 weeks.

**2) Devils Knob** – Two responses to a re-issue RFP for tower services were received and are in the process of review and negotiation for selection of one of the two respondents to complete the project.

**3) Micro-wave** - Completion of the microwave project will follow the installation of the herein referenced towers.

Ms. Brennan noted she was concerned about the screening and fencing around the tower and Mr. Carter noted that for the Devil's Knob Tower, two responses were received and negotiations were ongoing.

**I. Nelson Memorial Library HVAC Project:** Completion of the project has been delayed until August at the request of JMRL staff.

**J. DSS Office Renovation:** The minor office renovation has been completed.

**K. Health Department Building:** Courthouse Committee met on 7-12 with staff and WileyWilson (R. Vaughan) to review options, financing and next steps.

**L. Staff Reports:** (Submitted by email on 7-12).

## 2. Board Reports

Ms. Brennan reported the following:

1. Attended the James River State Park event and read and presented the Board's resolution. She added that Nelson was the only locality there to present their resolution.

2. Attended a JABA Board meeting where it was announced that Riverside will provide a PACE program available to our area. She added that it was a JABA and UVA partnership with the goal being to keep the elderly out of nursing homes and in their own homes. She added that they would be opening a childcare center in their building, and looking into operating a flash freezing food production facility that would provide food to all sorts of organizations and be an outlet for local growers. She noted that this would be a year round operation and they were partnering with someone outside of Richmond. She reported a dramatic need for counseling, inquiries were increasing and they needed to generate revenue to provide these services.

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3. Attended Gladstone Senior Center event and advised them about what was going on with the rescue squad to relieve concerns.

4. Courthouse Committee met and Mr. Hale would report.

Mr. Hale reported the following:

1. The Courthouse Committee met and discussed:

a) Health Dept. building noting that they would like to continue with the plan to renovate the building for the Health Department upstairs and the downstairs for whoever would benefit the county financially. He added that renovation has already been voted on by the Board and it was still cheaper to renovate than to build. Mr. Harvey noted that he thought that all of the numbers should be put together for the Board to review and that he thought that the Board should consider building a three (3) story building.

b) He noted that they thought that the old jail windows would be refurbished and the roof would be replaced with similar slate. Ms. Brennan added that this was about \$10,000 more than a standing seam metal roof, but that it would last forever. He noted that it was cheaper to rehabilitate the windows than to put new ones in and with there being no insulation in the walls etc, energy efficiency was determined to be a non-factor.

Mr. Johnson reported that at DSS there had been an increase in adult services. He noted that there was a Mayors and Chairs meeting coming up 8/26 and a VACo Steering Committee meeting on 8/12.

Mr. Harvey and Mr. Bruguere had no reports.

#### B. Appointments

Ms. McGarry noted that there were no new vacancies or expiring seats for the Board's consideration. She added that there continued to be vacancies on the JAUNT Board, the Ag Forestal District Committee, and the EDA that were being advertised.

#### C. Correspondence

Mr. Carter noted that staff had no correspondence for the Board's consideration.

Mr. Johnson noted receiving correspondence that DCR acknowledged that the full copy of the VAWater Supply Plan had been accepted by EPA.

Mr. Johnson noted there would be a meeting with Gladstone Fire Department tomorrow night.

Mr. Bruguere and Ms. Brennan noted receipt of a letter from Alysson Sappington of the TJSWCD regarding there being a temporary internship available for one year and that staff should put this up on the County's website.

#### D. Directives

Mr. Bruguere and Mr. Harvey had no directives.

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Mr. Hale had the following directives:

1. Mr. Hale noted that with the Blue Ridge Tunnel Project there has been a lack of progress on obtaining the right of way and he suggested scheduling a meeting to go over it and then maybe he and Mr. Harvey could go talk to Bruce Tyler. Mr. Carter noted that he did receive a plat that Mr. Tyler delivered with a note that said he would be sending a letter to be shared with the Board.
2. Send out a list of EDA members to the Board and note what business they are in.
3. Look at featuring a local business on the County website every month or quarter and also send a press release to the local paper on the same business.

Ms. Brennan had the following directives:

1. List EDA members on the County website.
2. Inquired as to the website being redone and Mr. Carter noted that Ms. Kelley was working on it.
3. Send out minutes from the Board's retreat. Mr. Carter noted that he would get these out to members by the first of next week.

Mr. Johnson had the following directives:

1. Start looking at apps development for smart phones for County things to encourage tourism.
2. Noted that the Chamber of Commerce After Hours event would be Tuesday, the 19<sup>th</sup> at Oak Ridge.

Following Directives, Mr. Carter stated that Mr. Payne has input for the Board on the tower application to be considered in the evening session. He then went to get Mr. Payne to address the Board.

During Mr. Carter's absence, Mr. Harvey introduced Rose Mohler who is now leading the Rockfish Senior Center. He added that they were meeting every Thursday from 10-2.

*Tower Application:*

Mr. Payne noted that the Tower application to be considered by the Board was now interrelated with the Gladstone Rescue Department issues. He noted that a temporary injunction had been issued which barred any transfer of the Rescue Squad's assets. He noted that Tom Berry had been made the Receiver and has tried to contact Gladstone. He added that any lease with the tower company would be an asset requiring court oversight. He noted that there was a reversion clause in the deed that makes the land come back to the County. He noted that this all now created a cloudy situation for the pending tower application. He added that this was not fatal but that they needed to work through the details and the tower company would need to enter into an agreement with whoever is the owner of the land. He noted that if dissolution of the rescue squad is fought, there may be a time when there are delays, given that

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they have period of time, 21 days from the date of service to dispute the complaint. He noted that there would be a hearing on Friday for the Court to review the injunction.

Mr. Harvey questioned whether or not the tower application would change given that the applicant is the tower company and Mr. Payne indicated that it would not, but that the lease had not yet been recorded and he could not get Sam Eggleston on the phone. He added that in general principal, this should not hinder the approval or denial of the tower on the property, but that his recommendation was to not vote on the application tonight because it is tied up with land conceivably in litigation. He noted that he would like to give an opinion and wanted more time to do this.

Mr. Harvey suggested that the Board could hold the public hearing and not vote on it yet. Mr. Boger noted that 150 days was the maximum time allowed by the FCC to consider the application and that they may have at least 30 days left, but he would have to double check this.

Mr. Payne noted that he would like to review this with Sam Eggleston and Mr. Hale commented that should the Board agree with the Planning Commission and not approve the application, all of this was mute.

Mr. Payne concluded by noting that in two weeks, the Board may know who owns the land and He did not see where a rush to judgment was necessary.

## **VI. Adjournment**

At 3:55 pm, Mr. Harvey moved to adjourn and continue the meeting until 7:00 pm and Mr. Bruguere seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion.

## **EVENING SESSION**

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

### **I. Call to Order**

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

### **II. Public Hearings**

#### **A. Class III Communications Tower, With Exceptions Application #2011-003**

Consideration of an application for a Class III permit for Central States Tower to construct and maintain a 125 ft. communication tower to provide cellular, data and emergency services. (Included 5 ft. lightning rod) In addition, an exception to Section 20-7-2a, *Distance to property line*, of the Zoning Ordinance is being requested to reduce the required 156.25 ft. fall area to the nearest property line to 63.5 ft. to the nearest property line. Property is located at 8786 Richmond Highway, Gladstone, Tax Map # 97-A-81A. Property is zoned Agricultural, A-1.

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Mr. Boger overviewed the application and noted the proposed tower location on a map. He noted that the original application was for a 150 ft communications tower that was revised down to 120 ft with a 5 ft lightning rod and the applicant left the option to collocate open. He added that the applicants have also requested an exception to the fall zone requirements of the ordinance.

He reported that the Planning Commission held its Public Hearing and he noted that there had been opposition by the Gosses due to their claim that the tower would devalue their property. He referred to the appraisal that was done showing a \$30,000 reduction in their property's value. He then noted that the Captain of the Gladstone Rescue Squad spoke in favor of it, noting the need to transmit a lot of data. He then noted that there were comments from the public regarding the lack of communications services in that area.

Mr. Boger reported that the Planning Commission had concluded that the application was not complete due to the reasons specified in the staff report as follows:

- Does not indicate other sites reviewed and why this is the only site that will work.
- The color of the tower is not indicated.
- There is reference to a chain link fence and a wooden fence to enclose the site on the drawings. The narrative states it will be a wooden fence. The drawing must agree with the narrative.
- The revised drawings now show an equipment shed. The drawings also indicate the cabinets will be outside underneath a canopy structure. The drawing needs to show exactly what will be located within the lease area.
- The drawing shows the detail for the concrete slab for the outdoor cabinets. The drawings do not show the details of the foundation for the tower.
- The tower elevation shows four antenna arrays. It should only show at this time the antennas that will be installed once it is constructed.
- The size and numbers of the antennas is not shown and if they will have a tilt to them.
- The dimensions of the antenna array are not indicated.

He then noted that the Commission had recommended denial for the following reasons:

1. It appears no effort was made to locate this 125' tower where visual obtrusiveness would not be an issue.
2. The parcel on which the tower is to be located is extremely small so as to require an exemption from the fall zone requirement (Sec.20-7-2a)
3. There is little to no tree coverage or foliage to reduce the visual impact.
4. The proposed location is in proximity to a private airport. No opinion has been received from the FAA to date.
5. The applicant has failed to show that other sites were considered and that this is the only site that would meet the company's requirements.
6. The application is incomplete in many areas, specifically but not limited to lighting, type and height of fencing (conflicting statements), number and design of antennas, etc.
7. Completion of item #6 would not outweigh the negatives in items 1-5 above.

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Mr. Boger then reported that he has received comment from the FAA now on the application, noting no impact; which was required because of the private airport nearby.

Ms. Brennan pointed out that the tower could fall onto the rescue squad building itself and Mr. Boger noted that if the owner doesn't mind then that is okay per the ordinance. He then noted the letter from the Engineer that says the tower would collapse on itself within a 60 ft fall zone area.

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

1. Dave Larsen, White Pine Land Co.

Mr. Larsen noted that White Pine Land Co. had submitted the tower application on behalf of Central States Towers and he would address the issues from the Planning Commission's recommendation as follows:

1. Planning Commission Issue: No effort to locate where not obtrusive

Mr. Larsen stated that it was impossible to do since the towers have to be visible to be effective. He added that given that the ordinance language stated it was a priority to consider public land first, they did not pursue other sites. He noted that with the willingness of the land owner, they felt that the site was the best location for all parties. He added that the immediate visibility was limited to one landowner and that letters were sent to all adjacent owners and no one else wrote letters of opposition.

2. Planning Commission Issue: Parcel is small to request exception.

Mr. Larsen acknowledged that the parcel was small, but in discussions with the owners and comments made during the Planning Commission hearings, the ability to obtain the exception was possible. He noted that they submitted a report on the self collapsing tower, 64 ft from closest line and 95 ft from the Goss property and that the tower could be designed to fall within these zones.

3. Planning Commission Issue: No tree cover

Mr. Larsen noted that with the exception of Gosses, there was no visual impact. He added that the Gosses have fruit trees that would offer cover and the tower company would provide landscaping at the Goss's property line to screen not just the compound but the whole property.

4. Planning Commission Issue: FAA Comment

Mr. Larsen noted that this has been addressed and there was no impact to navigation.

5. Planning Commission Issue: Did not show any other sites were suitable.

Mr. Larsen acknowledged that there were probably other sites that would suit AT&T, but they felt that this was the best option and most jurisdictions preferred tower location on public land; which to them outweighed going anywhere else.

5. Planning Commission Issue: lighting requirements

Mr. Larsen noted that the ordinance states that lighting must be motion detected or manual flip.

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6. Planning Commission Issue: Fencing

Mr. Larsen noted that they typically did a chain link fence, but have agreed to do an eight ft high wood panel fence and they have changed the drawings to reflect this.

7. Planning Commission Issue: Tower Specifications

Mr. Larsen noted that adjustments to the tower specs have now been shown.

8. Planning Commission Issue: Foundation

Mr. Larsen noted that the foundation is a poured concrete design and would be ordered after approvals are obtained because of the expense.

Mr. Larsen then noted that he had spoken to Clay Stewart about collocation and Fire and Rescue, so now they were talking 100-110 ft which would leave one other location for an additional provider. He noted that he had wanted the flexibility to go up to 150 ft., but that 120 ft was the minimum required by AT&T, with a 5 ft lightening rod.

In response to questions from the Board, Mr. Boger noted that the FAA is notified no matter what the tower height is, but if it is 199 ft or less, it will not require lighting unless it is near an airstrip. He added that Radio Frequency maps were provided in exhibit 10 of the application and they did RF studies at 150 ft, 120 ft, and 90 ft. and 120ft. provided the minimum coverage objective needed, with this being expanded slightly at 150 ft. Mr. Boger also noted that Central States Tower has agreed to install a solid wood eight foot high fence at the site.

2. Clay Stewart, Arrington and Owner of Stewart Computer Services

Mr. Stewart reported that he is a low profile provider for wireless internet and provides community relays using major relays. He noted that he does not like the number of towers that are visible in the county but sometimes the public needed to consider reality. He then distributed pictures showing Gladstone and his operating relays in relation to it. He noted that Gladstone sits in the middle of his existing tower relays. He noted that the number of requests for service in this area has been as heavy as in any other and that he has had his eye on this location for a while. He added that the topology there was unique and that community relays working off of major towers served these areas well and that they were trying to augment was available to people now. He noted that the majority of customers were home businesses and some were students and some were larger businesses. He noted that he has been trying to get to this area for five years and that he has hooked up the James River State Park which is in the middle of the potential service area. He stated that he could get to Spears Mountain using stronger radios but he liked to use low radiation radio towers and the use of this proposed tower would allow them to augment expansion in the county.

Mr. Stewart then explained that a national issue for bandwidth is Netflix, and that one third of all data downloaded is due to them. He advised the Board that the only way to stay ahead is to build the backbone and increase hubs. He stated that all large service provider ISPs will charge for usage now and that usage based billing is being implemented everywhere. He added that this can be counteracted through community relays and this tower would do this for this region of the county. He noted that there may be changes coming that will turn this around but that his company does a daily bandwidth allocation for fair access reasons. He noted that normally he would need something just above the trees

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for line of sight, but given the area there, they would not need to be that high and perhaps a minimum height of 80-90 ft would be needed.

He further noted that the tower would build in redundancy in his system to provide backhaul; which would affect other areas besides Gladstone. He concluded by stating that he thought that the proposed place for the tower was the best site and that seeing these at fire and rescue buildings is expected or not a surprise to the public.

3. Steve Eubank, Attorney with Shrader Law Firm, representing the Gosses- adjoining property owners.

Mr. Eubank stated that the Gosses were familiar with the need for additional income for volunteer agencies; however the setback from the Goss property and the relief being requested is extraordinary. He noted that the applicant needs the exception from two property lines since both lines were less than 100% of the height of tower and required the exception.

He added that the Goss's property would be devalued by \$30,000 as provided in the appraisal. Mr. Eubank noted that the appraiser who did the appraisal is well respected and does work for VDOT. He noted that he thought it interesting that the tower company has not produced anything to refute this or has had an appraisal done when the burden of proof is on them to show there is no detrimental effect to the surrounding community. He questioned how much less is fair to ask of the property owners. He then cited the Ordinance stating that the applicant has to show that there would be an undue hardship to not grant the application and that there would be no detrimental effect to the community; and it fails in both respects.

Mr. Eubank then noted that the land was owned by a private non-profit company, Gladstone Rescue Squad LLC and this was not public land; therefore the ordinance requirement was not satisfied and the site could be used for something other than a tower. He noted that there was no undue hardship present and there was a substantial detriment to the adjacent owners, the Gosses. He noted that the self-collapsing theory did not go towards the Goss's detriment but that the devaluation of their property was a detriment. He further added that there were no orchard trees on the property and there was nothing that could be done to shield the tower. He noted that they would be able to see virtually the entire tower, which is substantial and he stated that it was incumbent upon the applicant to show something that says the impact would be positive.

In conclusion, Mr. Eubank asked the Board to reject the request for a special exception and noted that the problem was that there is no evidence that any other site was investigated to evaluate a lesser impact.

Mr. Johnson inquired as to the current value of the Goss's property and Mr. Carter inquired as to there being any attempts to settle between CTS and the Gosses. Mr. Boger then asked whether or not the tower could be moved to the other side and it was noted that there has been no offer of compensation to the Gosses from CTS.

3. Lowell Milton, appraiser of the Goss's property from Lynchburg

Mr. Milton stated that he had performed the appraisal for Goss's property and has been in business for over 50 years. He stated that he has appraised all types of property and has done extensive work for AEP and VDOT; specializing in appraisals for right of way acquisitions.

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Mr. Milton stated that he did not think the tower should go on the site unless the Gosses are adequately compensated. He then showed a photo of the view to and from the Goss property to the Rescue Squad property and argued that there was no cover there to shield the tower. He noted the Planning and Zoning staff report which said that a 125 ft tower would have a visual impact. He stated that the current value assessed on the Goss property was around \$160,000 without the tower and with the tower it would be \$30,000 less.

Mr. Johnson noted that these numbers were not comporting to the submitted report. Mr. Eubank then noted that there was a mistake made in the report and noted that it is a valuable tower site and he could not understand why CTS will not make a deal with the Gosses and that it was not right to expect this for free.

Mr. Carter inquired as to the impact of the Fire and Rescue buildings on the Goss's property and if this was taken into consideration in the appraisal. Mr. Eubank noted that it was taken into consideration, was not a factor, and the impact was much like that of a residence.

Mr. Bruguere stated that he did not think the value of the property was relevant if the property is not for sale. Ms. Brennan commented that the trees shown at the bottom of the photo were deciduous and would not provide any coverage in the winter.

#### 4. Sam Eggleston, Attorney from Afton working for White Pine Land Co. and CTS

Mr. Eggleston referred to the photo showing fruit trees between the Goss's house and the tower site, also pointing out a tree line that abuts a septic field. He noted that the rear property line runs right behind the Rescue Squad building and that he was at the property looking at the other side of the building to identify an alternate site of the tower. He noted that the entrance for rescue vehicles was on that side and there was not room enough on that side to put anything. He added that there was a 50 ft right of way owned by the County for the purpose of rear access to the property. He added that this right of way was in the deed, and there was not enough room to get the tower in that location without impinging on the vehicle access or the right of way. He added that there were no trees around that side of the building either and that the visual break up of trees behind the original site was important to the visual impact from the road.

Mr. Eggleston noted that the land behind the Rescue Squad is owned by the County, but he was not sure of ownership of the woods. He added that there was a drain field there and also a draw that creates a ravine. He stated that he understands that the property is County owned at this point and meets the ordinance priority of using publicly owned land. He added that if the tower is put in the old ball field area, the elevation drops off and the woods would be eliminated to clear the 50 ft needed for the tower.

Mr. Eggleston then stated that he has worked with Mr. Milton on other projects and assumed he would have comparables in the report, but did not see any. He referred to the report summary and noted that Mr. Milton's analysis was based on the rental value of the tower and that if the tower can be seen it is within the view shed and they should get a percentage of the tower rent. He added that the analysis assumes the rent to be \$1,000 per month which it is not and the gross rent was estimated to be \$12,000 minus the real estate taxes, leaving \$10,800 and then subtracting out \$34 for the 50 ft spot. He then

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stated that the remaining was apportioned out to the neighbors. He then noted that the report's conclusion was based on a false assumption and there was not a comparable in the report showing that this property was devalued because of a tower.

5. Dennis Goss, Gladstone -adjacent property owner

Mr. Goss submitted to the Board that the tower would be a devaluation to his property. He stated that he is not selling the property but they may if the tower goes up there. He added that there were about 6 neighbors that would see the tower every day and he understands that the tower company has left room to raise the tower at any time and make it even more visible. He added his dislike of people advocating for a tower before waiting to see the presented information before doing this.

6. David Larsen, Central States Tower Representative

Mr. Larsen noted on a photograph where the buffer would be placed using spruce or cedar trees along the Goss's property line. He noted that these would screen the entire compound with the exception of the upper portion of the tower. He then noted the photo simulations in the packet were done at 150 ft and the visual impact would be reduced by 30 ft now. He noted that Mr. Eggleston had stated that they did not provide anything comparable in the appraisal and that is because there weren't any. He noted that there are no comparables to establish this and they cannot prove what doesn't exist.

Mr. Carter inquired as to whether or not they evaluated the ball field area and Mr. Larsen stated that they did not during the initial process, and they had not wanted to get involved in potential environmental issues because of the existing old car and oil etc. in the area. He added that using this site would not mitigate the visual impact of the upper portion of the tower. Mr. Bruguiere added that they did fundraising and held events and it may be in the way there.

Mr. Carter then asked if in the negotiations, they included sharing collocation revenues with the Rescue Squad and it was noted that tower space was reserved for their use.

There being no other persons wishing to be recognized, the public hearing was closed and Mr. Johnson asked the Board for their thoughts.

Ms. Brennan stated that the Board should decide on the application not on all of the other possibilities. She reiterated that there was no undue hardship and no effort by the applicants to find other sites. She added that there would clearly be a hardship on the Gossss to look at the tower even if cover was planted. She agreed that they would always be looking at the top of the tower and wondered if an alternate site is back further and could be explored. She concluded by stating that she did not think the current application was acceptable.

Mr. Harvey did not offer any comment.

Mr. Hale noted that the other land in the back is owned by the Fire Department which he noted to be a critical point. He added that he felt that the Planning Commission has raised a number of valid points about this but the one that has the greatest weight was that there is public land adjacent to the Rescue Squad property and there was no evaluation of it done as an alternate site. He added that the applicant

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should go back and look at that as it seems that a site near the Fire Department would not be as objectionable or as detrimental as the current one to the Goss's property. He further stated that negotiations for the use of the site were with an owner of the land that is no longer valid; he thought it would be unwise to take action on this, and the applicant should look at alternate sites.

Mr. Bruguire noted that he was unsure of how far the County land goes back relative to the Goss's property and Mr. Carter noted that he thought that the County property was 5 acres and the ball field may be 3 acres. Mr. Bruguire noted that he thought a taller tower would be needed there in order to make up for the depression of the land on that site. Mr. Hale reiterated that they needed to do a formal evaluation of this site.

Mr. Bruguire stated that regardless of the ownership of the property, the Board has not heard from any other residents except the Gosses. He added that all towers will affect someone at some point and he saw tremendous advantages to the tower being in that area and the benefits outweighed any visual detriment to the Gosses. He added that planting 6 ft high Leland Cypress would grow fast and would provide good screening. He added the Board needed to weigh the advantages, that services were being demanded and this outweighed one person's objections.

Mr. Johnson noted that he has walked the property, has carefully read the Goss's property assessment and letters from the Gosses, and has spoken to Mr. Eggleston. He added that he has asked a wireless provider about the impact; which he noted would be similar to what will be provided in the eastern end of the county. He noted that he wished the people who were in favor of the tower would speak up, not just those who opposed it. He added that he had concerns if there is no service of a life saving nature or internet service and knows of no other site along route 60 in that area.

Ms. Brennan then moved to delay making a decision on this until knowing the outcome of the ownership of the land issue. Mr. Hale seconded the motion and the Board discussed how long to delay a decision. It was suggested to wait until the status of the property has been determined and Mr. Boger advised that they had thirty days left work with. It was noted that the Courts should hear something Friday and Mr. Harvey stated he was willing to wait until the 4<sup>th</sup> Thursday meeting. Mr. Hale suggested either of the next two meetings would work- the July 28<sup>th</sup> meeting or the August 9<sup>th</sup> meeting.

Ms. Brennan then amended her motion to delay a decision until July 28<sup>th</sup> and Mr. Hale seconded the amended motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and no action was taken on the application.

**B. Rezoning Parcels on Thomas Nelson Hwy.**

Consideration to rezone the following parcels from Agricultural, A-1 to Business, B-1: Tax Map# 67-A-10, 8101 Thomas Nelson Hwy., Tax Map # 67-A-10A, 8047 Thomas Nelson Hwy., Tax Map #67-A-9D, 8151 Thomas Nelson Hwy., and Tax Map # 67-A-15, 8207 Thomas Nelson Hwy.

Mr. Boger gave an overview of the rezoning request noting that the Planning Commission initiated the rezonings based on a 2010 rezoning of Vito's Restaurant where the area was zoned A1 and not B1 as was thought. He stated that the Planning Commission recommended the rezoning but wanted to look at all areas to comport to the comprehensive plan. He noted that they had sent letters to the affected property owners asking for any objections and that they had gotten some responses by phone and had met with

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some property owners. He added that there were no objections noted by the Lovington Veterinarian, Sharon Ponton, AEP or Nelson Rescue Squad.

Mr. Boger then stated that a designation of Industrial and Mixed Commercial Use was recommended instead of Agricultural, which will enhance operations with no negative impacts on values or rights associated with the properties. He added that this had been done in Lovington once before.

Mr. Bruguere noted his agreement that some should be rezoned, however he stated that he had issues with the Nelson Rescue Squad Captain okaying this as it should be approved by the membership. He added that the Planning and Zoning Department should have gotten written letters of no objection and provided an explanation to the property owners in writing of what this was meant to do.

Mr. Harvey noted that doing individual rezonings was not spot zoning. He agreed with Mr. Bruguere and would like to see proper written notices included in the records and written statements of no objections gotten from the affected property owners. He added that property appraisals are based on the property's highest and best use, not its zoning designation.

Following this discussion, the Board agreed by consensus that written statements of no objection from the property owners was needed.

Mr. Johnson then opened the public hearing and the following persons were recognized:

1. Bo Delk, owner of property 13 in Lovington

Mr. Delk stated that he owns 1 acre that was zoned business and he agrees that all four affected properties are business, however the Planning Commission has attempted to do something that they don't allow others to do. He added that adjoining land owners were not notified in writing that there was to be a change in zoning considered. He noted that he agrees with the rezoning in principal, but disagrees with the process; noting that the Planning Commission should have to follow its own rules and proper procedures.

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

Following the public hearing, no action was taken by the Board.

Mr. Hale then noted his agreement with Mr. Bruguere and stated that the property owner should have to apply for these rezonings.

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

*Introduced: Issue with Individual Septic System Requirements*

Mr. Hale noted that it has been discovered that there is a problem with requiring a soil scientist to do a perk test where the residue of a subdivision is 20 acres or larger. He noted that he would like the Planning Commission to take another look at this and consult with professionals on the revision of the

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Ordinance so it is not so burdensomely expensive to the property owners when they divide property into larger parcels.

Mr. Boger noted several instances of this and Mr. Johnson clarified that the discussion was when dividing off a piece of property you would have to get it perked.

Mr. Bruguere noted that this requirement was originally intended for residential subdivisions. The Board briefly discussed that some larger residue parcels may never be developed.

The Board agreed by consensus to direct this issue to the Planning Commission for review and Mr. Carter advised that the Board needed to do this by resolution at the next meeting or provide a motion and vote presently. Mr. Boger noted that the Planning Commission was in the process of revising the Subdivision Ordinance now.

Mr. Hale then moved that the Planning Commission be directed to look at the Ordinance section on Individual Septic Systems and what the exceptions were for getting septic tanks and drain fields. Mr. Harvey seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

#### **IV. Public Comments**

Mr. Johnson opened the floor for public comments and there being no persons wishing to be recognized, the public comments session was closed.

#### **V. Adjournment**

At 8:50 pm, Mr. Harvey moved to adjourn the meeting and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting was adjourned.