

July 14, 2015

**Virginia:**

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

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

Absent: Thomas H. Bruguire, Jr. West District Supervisor

**I. Call to Order**

Mr. Saunders called the meeting to order at 2:07 PM, with four (4) Supervisors present to establish a quorum and Mr. Bruguire being absent.

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

**II. Resolution Recognizing the Service of the Honorable Kenneth W. Farrar (R2015-52)**

Mr. Hale moved to approve resolution **R2015-52** Resolution Recognizing the Honorable Kenneth W. Farrar, July 01, 1999 – July 31, 2015. Ms. Brennan 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 and read aloud by Mr. Hale:

**RESOLUTION R2015-52  
NELSON COUNTY BOARD OF SUPERVISORS  
RESOLUTION RECOGNIZING THE HONORABLE KENNETH W. FARRAR  
July 01, 1999 – July 31, 2015**

**WHEREAS**, on July 31, 2015, the Honorable Kenneth W. Farrar officially retires from service as Judge of the Juvenile and Domestic Relations District Court of the Twenty-fourth Judicial District of Virginia; and

**WHEREAS**, Judge Farrar is a life-long resident of Virginia, a graduate of Amherst County High School (1966), earned his Bachelor of Science degrees in Business Management and Business Finance from Virginia Polytechnic Institute and State University (1970) and received his Juris Doctorate Degree from the University of Baltimore School of Law (1974); and

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**WHEREAS**, Judge Farrar practiced law for twenty-five years beginning his career in March, 1974 in Altavista, Virginia and opening a practice in Lovingston, Virginia in October, 1975; he is a member of the Virginia State Bar and of the Criminal Law, Domestic Relations and Judicial Sections of the Virginia Bar Association; is a member and past president of the Amherst/Nelson Bar Association; he served as chief judge of the Twenty-Fourth Judicial District from 2004 - 2006; he participated in the Juvenile Detention Alternatives Initiative in the Lynchburg Juvenile and Domestic Relations District Court; he implemented the Nelson Juvenile and Domestic Relations Best Practice Court in the area of foster care and adoption in 2010; he is a member of the National Council of Juvenile and Family Court Judges where he served on the Permanency Planning for Children and the Family Violence & Domestic Relations Committees; he serves on the Executive Committee of the Judicial Conference of Virginia for District Court Judges and on the Virginia Council of Juvenile and Domestic Relations District Court Judges Schools and Courts Committee; and

**WHEREAS**, Judge Farrar was appointed to the Juvenile and Domestic Relations District Court bench on July 01, 1999 and over the past sixteen years Judge Farrar has presided over numerous cases involving children and families where he has exhibited his knowledge, dedication and professionalism, all of which will be greatly missed; and

**WHEREAS**, Judge Farrar is an active and important part of his community and profession as a member of Mineral Springs Baptist Church in Gladstone, 4-H Club adult leader, Dixie Youth T-Ball Coach, Boy Scout Fundraising Drive co-sponsor for Nelson County and member/director of the Nelson County Chamber of Commerce; and

**WHEREAS**, it is fitting and proper that the Nelson County Board of Supervisors recognizes the Honorable Kenneth W. Farrar for his many years of service and commitment to the citizens of Nelson County and Virginia, and to congratulate him on his well-deserved retirement as Judge, with best wishes for many years of happiness and contentment,

**NOW, THEREFORE, BE IT RESOLVED BY THE NELSON COUNTY BOARD OF SUPERVISORS**, that The Board of Supervisors does hereby go on record as recognizing the Honorable Kenneth W. Farrar on his retirement from service from the Juvenile and Domestic Relations District Court of the Twenty-fourth Judicial District of Virginia.

### **III. Consent Agenda**

Mr. Hale noted a correction to be made to the draft June 9, 2015 minutes under Ms. Brennan's directives. He requested that the word "imminent" be corrected to read "eminent" as it related to "eminent domain". Ms. McGarry acknowledged the correction and Mr. Hale moved to approve the consent agenda. Ms. Brennan 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 resolutions were adopted:

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A. Resolution – **R2015-53** Minutes for Approval

**RESOLUTION R2015-53  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MEETING MINUTES  
(June 9, 2015)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **June 9, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2015-54** FY16 Budget Amendment

**RESOLUTION R2015-54  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET**

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

I. Appropriation of Funds (General Fund)

<b>Amount</b>	<b>Revenue Account (-)</b>	<b>Expenditure Account (+)</b>
\$290,647.00	3-100-009999-0001	4-100-091050-9999
<u>\$20,000.00</u>	3-100-009999-0001	4-100-093100-9201
\$310,647.00		

II. Transfer of Funds (General Fund)

<b>Amount</b>	<b>Credit Account (-)</b>	<b>Debit Account (+)</b>
\$26,460.00	4-100-999000-9905	4-100-091050-7106
<u>\$5,000.00</u>	4-100-999000-9905	4-100-091050-7011
\$31,460.00		

III. Appropriation of Funds (VPA/Social Services Fund)

<b>Amount</b>	<b>Revenue Account (-)</b>	<b>Expenditure Account (+)</b>
\$20,000.00	3-150-004105-0001	4-150-053110-8111

C. Resolution – **R2015-55** Blue Ridge Tunnel, No Trespassing

**RESOLUTION R2015-55  
NELSON COUNTY BOARD OF SUPERVISORS  
NO TRESPASSING AT CLAUDIUS CROZET BLUE RIDGE TUNNEL, AFTON**

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**RESOLVED**, by the Nelson County Board of Supervisors that until its completion and opening to the public, the Claudius Crozet Blue Ridge Tunnel in Afton shall be posted with No Trespassing signs and any persons caught trespassing on the subject posted property shall be prosecuted.

D. Resolution – **R2015-56** Appointment of Agricultural and Forestal District Program Administrator

**RESOLUTION R2015-56  
NELSON COUNTY BOARD OF SUPERVISORS  
AGRICULTURAL & FORESTAL DISTRICT PROGRAM ADMINISTRATOR**

**RESOLVED**, by the Nelson County Board of Supervisors that pursuant to Chapter 9, Planning and Zoning, Article V. Agricultural and Forestal Districts of the Code of Nelson County, the Director of Planning and Zoning is hereby appointed as Program Administrator of the Agricultural and Forestal Districts Program.

E. Resolution – **R2015-62** Consent for Offers in Compromise- Local Taxes

**RESOLUTION R2015-62  
NELSON COUNTY BOARD OF SUPERVISORS  
CONSENT FOR OFFERS IN COMPROMISE – LOCAL TAXES  
OUTSTANDING SERVICE DISTRICT (STREET LIGHT) TAX OBLIGATIONS**

**WHEREAS**, the Nelson County Board of Supervisors (the Board) enacted on July 13, 1999 a local ordinance establishing “Service Districts” within the provisions of the Code of the County of Nelson, Virginia (the Code) to provide for the administration, including taxation, within three specified Service Districts of a street lighting program; and,

**WHEREAS**, by Ordinance O2008-02 approved on April 24, 2008, the Board repealed the Service District provisions established in the Code at Chapter 9.5; and,

**WHEREAS**, the repeal of the Service District program resulted in the placement of liens against those properties that had outstanding tax obligations pursuant to the Service District program; and,

**WHEREAS**, the Board wishes to provide its consent, pursuant to §58.1-3994 (Offers in compromise with respect to local taxes) of the Code of Virginia, 1950 to the Treasurer of Nelson County (the Treasurer) to provide for “compromise and settlement” of the outstanding Service District tax obligations in accordance with the provisions of §58.1-3994, as said Treasurer of the County may complete.

**NOW, THEREFORE, BE IT RESOLVED** by the Nelson County Board of Supervisors that said Board hereby provides its consent, pursuant to the provisions of §58.1-3994 of the Code of Virginia, 1950, to the Treasurer of Nelson County to enable the Treasurer to compromise and settle, as determined by said Treasurer, the outstanding tax obligations resulting from the now repealed Service District Ordinance and the Street Light program that was established and administered pursuant to said Service District Ordinance.

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**BE IT FURTHER RESOLVED**, that the Board herewith provides authority to the County Administrator, as its designee pursuant to §58.1-3994, to consent on behalf of the Board, as may be necessary, to such compromise and settlement as is facilitated by the Treasurer.

**LASTELY, BE IT RESOLVED**, that the Board's consent, as herewith provided pursuant to §58.1-3994 of the Code of Virginia 1950, is and shall be limited to the outstanding tax obligations owed to Nelson County that are a result of the repealed Service District Ordinance and Street Light program.

#### **IV. Public Comments and Presentations**

##### **A. Public Comments**

###### **1. Reverend Rose, Arrington**

Reverend Rose thanked Mr. Harvey and Mr. Hale for speaking at a vigil held on June 21, 2015 at the Nelson Heritage Center in response to the South Carolina Massacre and thanked Mr. Saunders for attending. He noted that good things had come from this.

Reverend Rose then requested that the Board consider reversing the entrance and exit at the Shipman convenience center because of near accidents at the location. He noted he had also spoken with Don Austin about changing the passing lanes in front of it and was awaiting a response.

Reverend Rose then asked about renaming Front Street after Dr. Martin Luther King, Jr. He noted he was a member of the Dr. Martin Luther King Jr. Celebration Committee that has given out five (5) \$1500 scholarships over the past few years and they were dedicated to the education of their students. He then noted he wanted to better the quality of life for all citizens and he believed it was a defining time in the history of the County; that Nelson County could become better and the Board could have a great impact in making this come true. He commented that he had been to New York for a family reunion and was glad to get home. He added that he loved Nelson, the State and the Country. He added that he hoped the Board would consider this request and respond back in a timely matter.

Reverend Rose then noted that on August 10th at 11 am at the Lovingson Healthcare Center, they would present a plaque recognizing the service in care of his wife Hattie and he invited them to attend.

###### **2. Pastor Marion Kanour, Afton**

Pastor Kanour noted she was Priest at Grace Episcopal Church. She noted that the Interfaith Alliance would meet on August 12, 2015 at the library at 12:30. She noted the group was an Arm of Unity in Community and was an action arm creating faith based actions focused on bringing people closer together as a County over race lines. She added that they may be having a Thanksgiving Dinner at the Lovingson Firehouse that would be countywide.

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Pastor Kanour then noted that she was a Co-convenor of the Nelson County Domestic Violence Task Force and they would be coming to the Board with a resolution for adoption next month. She noted the group had been established for three years, they had victim advocates that worked in tandem with the Sheriff's Department and they met them at the Courthouse to walk them through the process. She noted that they were expanding their services to meet victims at the Hospital. She added that they would get CIT and Victim Advocate training and become certified in these areas. She noted that their ultimate goals was to have a shelter in Nelson in the next year.

3. Sharon Ponton, Lovington

Ms. Ponton noted that she was speaking as a County citizen and representative of the Blue Ridge Environmental Defense League.

She noted that she was speaking directly to the resolution that Ms. Brennan would be putting forth. She shared facts on Erosion and Sediment Control noting that there were 26.6 miles of pipeline and 23.5 of those miles were considered high risk for landslides. She noted that 21.6 miles of the total miles were considered to have re-vegetation concerns. She added that this information came directly from the Atlantic Coast Pipeline's Resource report to FERC. She added that they would build seven permanent access roads and that temporary ones were to be determined in the reports. Ms. Ponton emphasized that it was imperative that Atlantic Coast Pipeline, LLC should have to file site specific Erosion and Sediment Control plans with the County as was required by others. She noted that DEQ has said they did not have the staff and inspectors to require ACP to do this. She added that she hoped the Board would support Ms. Brennan's resolution.

4. Eleanor Amidon, Afton

Ms. Amidon read aloud a letter she had written to Governor McAuliffe as follows:

Dear Governor McAuliffe:

I live in Nelson County and I am very concerned that the proposed Atlantic Coast Pipeline, if built, will negatively impact the quality of water here. We must insist on thorough and proper management of one of our most important resources. Although the Virginia Department of Environmental Quality (DEQ) has the authority to require site-specific Erosion and Sediment Control (E & SC) plans from pipeline construction companies, they have neither personnel nor funding to review such plans. Therefore DEQ has not required the submission of E&SC plans. DEQ has abdicated its responsibility to provide oversight and accountability in this critical area. The result is a classic case of the fox guarding the hen house: only company-hired plan reviewers are examining the E&SC plans for compliance with state requirements, and no one else has access to those plans.

This is an intolerable arrangement, and concerned citizens are stepping up to fill DEQ's vacuum. The Dominion Pipeline Monitoring Coalition (see [www.pipelineupdate.org](http://www.pipelineupdate.org)), an organization of citizen volunteers, conservation groups, and environmental scientists, is proposing a citizen review of the E&SC plans. I, for one, am very thankful that people who actually care about our land, water, and quality of life are willing to contribute their energy and expertise to do a job that needs

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to be done. The E&SC plans should be made available to the public, so that this group, and anyone else who cares to, can review the plans for regulatory compliance.

Also, the practice of allowing pipeline companies to perform their own compliance reviews and conduct their own inspection programs, using company-hired plan reviewers and inspectors, is clearly inadequate. For example, in West Virginia there have been mudslides and other occurrences of non-compliance, with fines that amounted to a mere wrist-slap, just another business cost. We do not want to see this happening in Virginia.

It is obvious that DEQ needs more resources. Part of Virginia's budgetary surplus should go to DEQ, so that they can review plans and also perform inspections of existing projects. Energy companies have demonstrated that they are incapable of effective self-monitoring. We need DEQ oversight to protect our environment.

In the short term, citizen involvement in reviewing the E&SC plans can provide a meaningful review. Please do all within your power to make the E&SC plans available to the public.

She then added that, at a local level, to protect the County's water sources, the Flood Plain Ordinance needed to be strengthened.

#### 5. Ernie Reed, Faber

Mr. Reed noted he was a member of Friends of Nelson and he was speaking in favor of Ms. Brennan's proposed resolution. He noted that he had discovered that it had become the responsibility of citizens to protect themselves. He noted that the Virginia DEQ had a responsibility to prevent degradation of water quality but did not have the resources to do this. He noted it was up to them to make sure DEQ did what it was supposed to do and that Atlantic Coast Pipeline, LLC created an E&SC plan. He added it was within local authority to ask them to do this and provide it to the public. He noted that this needed to be done before their permit was authorized, and this guaranteed it would be done. He added that the public should have access to this before their permit was issued and that enforcement would be important. He then asked that the Board endorse Ms. Brennan's proposed resolution.

#### David Collins, Nellysford

Mr. Collins noted he was the Director for Thomas Jefferson Soil and Water Conservation District for Nelson. He added that he was also a surveyor and civil engineer and that any other project was required to do a site plan that required an E&SC plan and stormwater management plan. He noted that the ACP would disrupt an acre of land about every 400 ft. and plenty were critical slopes. He noted that there would be additional run-off because of the removal of trees that would be replanted with grass. He noted this would create more runoff and sediment in the Chesapeake Bay.

Mr. Collins noted that there were currently TMDLs in local rivers partially due to soil runoff and more due to getting a lot of rain. Mr. Collins then described driving to Highland County and on Route 250 the side slopes were in bad shape.

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Mr. Collins noted that they would need a good plan if the ACP came through to be assured that they would be bonded to get the disturbed slopes re-stabilized. He then concluded by noting he was in favor of the proposed resolution.

B. VDOT Report

1. Discontinuance of a Portion of Route 641 Dutch Creek Lane (**R2015-57**)

Mr. Don Austin noted that for the Board's consideration was the Discontinuance of portions of Route 641, Dutch Creek Lane. He noted that portions had been abandoned and since then VDOT has made additional contact with adjacent property owners. He noted registered letters had been sent with no comments as a result; however he had spoken with a property owner and had given them additional information and mapping and had not heard back; so he was assuming they had no objection to it. He reiterated that the road had not been in use for years and it was a matter of formalizing discontinuance of VDOT maintenance.

Mr. Hale moved to approve resolution **R2015-57** Discontinuance of Portions of Route 641 Dutch Creek Lane and Ms. Brennan seconded the motion.

Mr. Austin then confirmed that there was nothing new to consider 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 R2015-57**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**DISCONTINUANCE OF PORTIONS OF ROUTE 641 DUTCH CREEK LANE**

**WHEREAS**, the Virginia Department of Transportation has provided this Board with a sketch dated June 22, 2015 and VDOT Form AM-4.3, which is hereby incorporated herein by reference, defines adjustments required in the secondary system of state highways as a result of the proposed discontinuances, and

**WHEREAS**, the portions of Route 641 (Dutch Creek Lane) to be discontinued are deemed to no longer serve public convenience warranting maintenance at public expense, and

**WHEREAS**, a public notice was posted and registered letters, as prescribed under §33.2-908, Code of Virginia, were sent to each landowner whose property abuts the section of highway to be discontinued, and

**WHEREAS**, the Commissioner of the Virginia Department of Transportation was provided the prescribed notice of this Board's request to discontinue the subject sections of road, and

**WHEREAS**, no public hearing was requested; and

**WHEREAS**, after considering all evidence available, the Nelson County Board of Supervisors is satisfied that the described sections of road to be discontinued no longer serves public convenience

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warranting maintenance at public expense and are no longer necessary as a part of the Secondary System of State Highways;

**NOW THEREFORE, BE IT RESOLVED** this Board concurs with the discontinuance as part of the Secondary System of State Highways, those portions of road identified by the sketch dated June 22, 2015 and Form AM-4.3 to be discontinued, and hereby requests the Virginia Department of Transportation to take the necessary action to discontinue those identified segments as part of the Secondary System of State Highways, pursuant to §33.2-908, Code of Virginia, and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Mr. Austin then reported that he had passed Reverend Rose's passing zone concern to their traffic engineer and had not yet heard back. He noted that the issue there was that someone may be pulling out of the collection site and someone would be passing and they would be looking left and not see the person passing from the right. He noted that they had similar issues at other locations and the lines were changed; however he was not sure about this location. He noted this would be reviewed same as with the crossover at Wilson Road, he had not heard back.

Mr. Austin noted it had been mentioned about the potential to put in a boat access at the Wayside in Woods Mill, and he noted he was checking on it. He added that there had been some emphasis placed on this by the Governor's Office and he had seen a MOA between VDOT, DCR, and Game and Inland Fisheries to allow this access. He added he did not know where the funding came from for this, but there was a push for this and chances were better for it to happen.

Mr. Austin then noted that HB2, Transportation Funding Project applications were to be made for the Primary Six Year Plan. He noted that they would be prioritized and the Commonwealth Transportation Board decided the funding. He added that the first application period was this fall. He then related that Counties have been asked to designate a point person and training would be held on July 30th. He noted that localities would compete for statewide funding and the new bill restricted a portion of this to districts. He noted that \$25 Million to \$30 Million had been designated for the Lynchburg District. He reiterated that Counties could apply for the statewide pot and district pot of funds. He noted that these applications were due at the end of September.

Mr. Austin then noted that the applications could be for any routes not just primary roads; however the funds mostly pertain to highways of significance.

The following VDOT issues were discussed:

Ms. Brennan:

Ms. Brennan asked if this would affect the two Route 151 safety projects and Mr. Austin noted it would not.

Mr. Austin noted that the Lynchburg district did get more funding; however it was a competitive process.

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Mr. Hale noted that these funds were really for the primary system and Mr. Austin added that feeder roads that were near primaries were considered. He reiterated that corridors of significance were priorities.

Mr. Austin then advised that the District would look at these and could make recommendations for good projects. He noted that Counties should limit their submissions to 3 or 4 at the most.

Ms. Brennan asked about submitting applications for joint projects between localities and Mr. Austin noted that the Route 250 intersection was being looked at for safety project funding but these could be worked on. He added that they were being looked at under safety funds which did not fall under the new HB-2 funding.

Ms. Brennan then noted she attended a meeting about the Craft Brewers Festival and the Spartan events. She noted their concern was where the buses were going to take people in and out and their intent to use the Spruce Creek intersection. She noted that now they were going to have buses go along Glenthorne Loop to get out. She added that the Spruce Creek area would be an annual problem and VDOT needed to look at this for safety funding.

Mr. Hale:

Mr. Hale noted that on Route 6 from Route 29 heading to Scottsville, the pavement had come up and some marks on the road had been made that needed patching.

Mr. Hale then noted that the speed limit was 35mph at the State Shed across from the Shipman Collection Center and that the passing zone there could be eliminated. Mr. Harvey noted that the collection site was built backwards, noting that one should always enter on the upper side and go out on the lower.

Mr. Hale noted that the bridge on Route 714 off of Route 617, which was a wooden deck type of bridge with asphalt on it, had holes in it such that one could look down into the river. He then asked if bridges had a schedule for replacement and Mr. Austin noted that there was a replacement schedule; however this was done in the bridge division and he could get that to him.

Mr. Harvey:

Mr. Harvey then asked about the speed limit reduction request for Route 151 and Mr. Austin noted that VDOT had not done an additional review yet and he had not yet followed up with Jerry Harter. Mr. Harvey noted that there was tremendous traffic on Route 151 Saturday night and traffic was going 35-40 through there and he did not understand why VDOT was not moving faster on this. He then asked if a resolution from the Board would help and Mr. Austin noted it would probably not help because certain criteria had to be met. Mr. Harvey noted that the section of reduced speed had yielded huge improvements and Mr. Austin noted he would speak to Mr. Harter. It was noted that the speed reduction would make sense with the construction that would go on for the safety projects.

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Mr. Harvey then inquired as to who did the paving at the Afton overlook and it was noted that the Culpeper District did, because they maintained Route 250. Wayside trash can maintenance was discussed, and Mr. Austin noted he would find out who dumped these on I-64; noting it was probably done on an interstate contract.

Mr. Harvey then asked if VDOT was working on obtaining right-of-ways in Avon and Mr. Austin noted they should be. Mr. Harvey noted an area resident had gotten a letter from a law office offering to help them work with VDOT on these. Mr. Austin noted he would find out and report back. Mr. Harvey then added that the citizen had not been contacted yet by VDOT.

Mr. Saunders:

Mr. Saunders noted that the shoulders on Brent's Mountain were washing away and they still looked bad. Mr. Austin noted he would check back on this as it was supposed to have been done.

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

##### **A. Courthouse Project Phase II, Authorization to Issue Invitation to Bid and Proceed with Application to Virginia Resources Authority for Project Funding (R2015-58)**

Mr. Jim Vernon of Architectural Partners, gave a presentation on the status of the project. He noted that they were on the threshold of completing the documents needed to go out to bid, he would be giving a status report and requesting authorization to proceed.

Mr. Vernon noted that that the project was not adding much square footage and he showed the floor plan that showed the two areas of new construction. He noted that the new Circuit Court Judge had reviewed the plans and some minor revisions were made; such as the Judge decided to make the open balustrade into a panel wall in front of the jury. He added that he had a new request for wiring for future technology needs since Judge Garrett was interested in video monitoring and docket monitors that could be paid for by the VA Supreme Court.

He then showed the second floor and noted that there was a decrease in area to be disturbed. He then noted three conference spaces were now on the second floor; which allowed for meeting flexibility. He noted that the balcony in the Circuit Courtroom needed work underneath it; however once this was done, it could take loading per the building code and it could be opened back up for spectator seating.

He then showed the basement area and noted that they would extend the tunnel for inmates to be brought over and then they would have a vertical platform lift to take them up to court. He then noted that there would be mechanical areas and some storage there.

Mr. Vernon then showed the exterior elevations and noted that the design had not changed from what was presented previously and they were using architectural elements that already existed in the current building.

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Mr. Vernon then briefly reviewed the phasing plans and noted that the Circuit Court would be using the General District Courtroom during construction. He added that the phasing was part of the bidding package and would be a requirement of the General Contractor.

He then noted the proposed schedule going forward if granted approval by the Board. He added that phasing the project would lengthen the contract time from 12 to 15 months.

Mr. Hale inquired about the bidding atmosphere and if advertising in the NC Times, Lynchburg News and Advance, and the Daily Progress would provide enough coverage area. Mr. Vernon noted that the bidding climate was good and the plans would also be submitted to plan rooms that were nationally known. He added that people were aware of the project already.

Mr. Carter then noted the resolution for consideration and Ms. Brennan moved to adopt resolution **R2015-58**, Authorization to Issue Invitation to Bid for Courthouse Project Phase II and to Apply to Virginia Resources Authority for Project Funding. Mr. Hale 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:

**RESOLUTION R2015-58**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION TO ISSUE INVITATION TO BID FOR COURTHOUSE PROJECT**  
**PHASE II AND TO APPLY TO**  
**VIRGINIA RESOURCES AUTHORITY FOR PROJECT FUNDING**

**RESOLVED**, by the Nelson County Board of Supervisors that authorization is hereby granted to the County Administrator to proceed with issuing an invitation to bid for the project known as the Courthouse Project, Phase II and;

**BE IT FURTHER RESOLVED**, that the County Administrator is hereby authorized to proceed with submitting a funding application to the Virginia Resources Authority for financing of an amount up to \$7,500,000 Dollars for completion of the Courthouse Project, Phase II.

Mr. Hale noted again that the Courthouse Committee had worked closely with Staff and Architectural Partners and they had addressed every concern and the project had moved along well. Mr. Saunders added that he was pleased that Mr. Vernon had found ways to lower costs.

**B. Department of Conservation & Recreation Grant Application (R2015-59)**

Mr. Carter noted that the resolution proposed to allow staff to apply to DCR for up to \$250,000 to complete Phase 2 of the Blue Ridge Tunnel Trail. He noted the grant program requires a 20% local match and staff may need to come back to the Board for some of that. He noted that the County had requested a rollover of other grant funds to the Tunnel project and federal law enabled VDOT funds to match DCR funds if successful. He noted that if successful with the application to DCR, 90% of the local match of \$62,500 would be grant rollover funds.

Mr. Carter then noted that the County needed an authorizing resolution for the application to DCR and these funds would help bridge the funding gap for the Tunnel Project. He reported that the

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stakeholders had met on the Tunnel project and the consolidation of VDOT funding. He noted VDOT staff, County staff, CTB members and Richmond staff agreed that the project should be finished. He noted that he thought the County would have a favorable outcome.

Ms. Brennan inquired if this funding would be available for the Sturt property sometime and Mr. Carter noted it would.

Mr. Hale asked if staff was preparing the application and Mr. Carter noted he had asked Woolpert about completing the application.

Following discussion, Mr. Hale moved to approve resolution **R015-59**, Authorization to Apply for Department of Conservation and Recreation Recreational Trails Program Grant Funds for Blue Ridge Tunnel Project.

Ms. Brennan 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:

**RESOLUTION R2015-59  
NELSON COUNTY BOARD OF SUPERVISORS  
AUTHORIZATION TO APPLY FOR DEPARTMENT OF CONSERVATION  
AND RECREATION RECREATIONAL TRAILS PROGRAM GRANT FUNDS  
FOR BLUE RIDGE TUNNEL PROJECT**

Recreational Trails Program Authorizing Resolution A resolution authorizing application(s) for federal funding assistance from the Recreational Trails Program (RTP) to the Virginia Department of Conservation & Recreation (DCR).

**WHEREAS**, under the provisions of RTPF, federal funding assistance is requested to aid in financing the cost of trail/trailhead/trailside construction and/or rehabilitation within Nelson County; and

**WHEREAS**, Nelson County considers it in the best public interest to complete the project described in the RTP application;

**NOW, THEREFORE, BE IT RESOLVED** that:

1. The County Administrator be authorized to make formal application to DCR for funding assistance;
2. Any fund assistance received be used for implementation and completion of trail and trailside construction of the Blue Ridge Claudius Crozet Tunnel within the specified time frame;

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3. The Board of Supervisors hereby certifies that project funding is currently available and is committed for the completion of this project while seeking periodic reimbursement through the Recreational Trails Program;
4. We are aware that the RTP funding, if approved, will be paid on a reimbursement basis. This means we may only request payment after eligible and allowable costs have already been paid to our vendors and evidence of such has been provided to DCR.
5. We acknowledge that the assisted trail project will have an assigned life expectancy assigned to it and that the facility must be maintained to standards suitable for public use.
6. We acknowledge that we are responsible for compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act, Executive Orders 11988 and 11990 (Floodplain Management and Wetlands Protection) and all other applicable state and federal laws;
7. We acknowledge that appropriate opportunity for public comment will be provided on this application and evidence of such is a required component for approval;
8. This resolution becomes part of a formal application to the Virginia Department of Conservation & Recreation.

C. Gladstone Fire & Rescue Services Interest Free Loan Application (**R2015-60**)

Mr. Carter noted that the interest free loan program was a two-step process- the application went to the Emergency Services Council (ESC) for approval and then the Board for final authorization. He noted that the application information had been included in the Board's packet and there was more than sufficient funds in the loan fund.

It was then noted that the requested loan amount was \$55,518 for Gladstone Volunteer Fire and Rescue Service (GVFRS) to purchase a fire truck.

Mr. Harvey noted that this should be an 80/20 match and he thought that this had already been discussed previously. Mr. Carter noted that the Board had previously endorsed the local funding and the GVFRS had pursued a loan with the ESC and staff had never gotten the application to bring to the Board until last month.

Mr. Harvey then moved to approve resolution **R2015-60**, Approval of Interest Free Loan for Gladstone Volunteer Fire and Rescue Service and Mr. Hale seconded the motion. 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 R2015-60**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF INTEREST FREE LOAN FOR**

July 14, 2015

**GLADSTONE VOLUNTEER FIRE AND RESCUE SERVICE**

**NOW THEREFORE BE IT RESOLVED**, the Nelson County Board of Supervisors hereby approves the interest free loan request of \$55,518.00 made by Gladstone Volunteer Fire and Rescue Service and approved by the Nelson County Emergency Services Council.

**BE IT FURTHER RESOLVED** that upon the completion of all required loan documentation, approved funds shall be disbursed from the EMS Loan Fund by the Treasurer's Office no later than July 20, 2015.

*Introduced: Atlantic Coast Pipeline Resolution*

Ms. Brennan noted that the proposed resolution was related to information presented by the public during public comments regarding E&SC plans for the ACP. She read the title of the resolution and noted she hoped it would not be needed but she thought it was necessary.

Mr. Harvey noted that he had received the proposed resolution the previous night and had not read it until that morning. Ms. Brennan noted that no one else had seen it before the Board. Mr. Hale noted that the Board had seen the information before and the resolution addressed the same issues that had been discussed before. He added that the resolution reiterated the position held by the Soil and Water Conservation District.

Ms. Brennan added that the resolution asked for access to the plans and Mr. Hale noted that it requested project specific plans and was something they would do otherwise.

He noted that it was a significant request and he did not see any harm in adopting it. He added that after careful review of the route presented in reports to FERC, erosion and sediment control along most of the route was virtually impossible and there would be massive problems. He stated that Dominion has noted they would minimize the impact of the project but he thought there was not much they could do.

Mr. Hale then moved to approve resolution **R2015-61**, Resolution Petitioning Governor Terry McAuliffe and Secretary of Natural Resources Molly Ward to Provide Public Access to Erosion and Sediment Control Plans for the Construction of the Atlantic Coast Pipeline.

Ms. Brennan seconded the motion and Mr. Harvey noted he would have liked to have been more informed earlier than at the meeting.

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 R2015-61  
NELSON COUNTY BOARD OF SUPERVISORS  
RESOLUTION PETITIONING GOVERNOR TERRY MCAULIFFE AND SECRETARY  
OF NATURAL RESOURCES MOLLY WARD TO PROVIDE PUBLIC ACCESS TO**

July 14, 2015

**EROSION AND SEDIMENT CONTROL PLANS FOR THE CONSTRUCTION OF THE ATLANTIC COAST PIPELINE**

**WHEREAS**, Dominion Resources, Inc., Duke Energy Corporation, Piedmont Natural Gas Co., and AGL Resources, Inc. have formed Atlantic Coast Pipeline, LLC, which has contracted with Dominion Transmission, Inc. to permit, build, and operate a natural gas pipeline which transects portions of three states, including eleven counties and two cities in the Commonwealth of Virginia; and

**WHEREAS**, the proposed Atlantic Coast Pipeline will require excavation of over twenty-one and six tenths (21.6) miles of highly erodible soils with slopes greater than 8% in Nelson County; and

**WHEREAS**, the required excavation is unprecedented and will cause severe erosion in vertically steep and inhospitable mountainous terrain, and the amount of runoff from seasonal downpours would cause major soil loss and slides; and

**WHEREAS**, all private water systems and most business systems in Nelson County rely on groundwater from wells or springs for their water supplies; and

**WHEREAS** we are deeply concerned that construction of the proposed Atlantic Coast Pipeline will impact the quality and quantity of water supplies due to erosion, sedimentation and impacts on hydrology; and

**WHEREAS**, Nelson County's agricultural-tourism based economy is highly reliant on abundant, clean water; and

**WHEREAS**, erosion caused stream sedimentation is a significant contributor to pollution of the surface waters of Virginia and the Chesapeake Bay; and

**WHEREAS**, the Virginia Department of Environmental Quality has the authority to request site-specific erosion and sediment control and storm water management plans from Dominion Transmission, Inc., as prescribed by the Erosion and Sediment Control Regulations 9VAC25-840-30-B: "The submission of annual standards and specifications to the department does not eliminate the need where applicable for a project specific Erosion and Sediment Control Plan"; and

**WHEREAS**, Nelson County's unique mountainous terrain with shallow soils and granitic bedrock that are prone to landslides qualifies this project for DEQ authorization under VA Code to require submittal of a "*project specific Erosion and Sediment Control Plan*"; and

**WHEREAS**, current Erosion and Sediment Control and Stormwater Management regulations include critical post construction runoff requirements; and

**WHEREAS**, the Freedom of Information Act can be used to obtain public and local government access to such plans, but only if the Virginia DEQ requires the submission of the plans to the agency by the pipeline developer.

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**NOW, THEREFORE, BE IT RESOLVED** by the Nelson County Board of Supervisors that in consideration of the points made above, the Nelson County Board of Supervisors respectfully requests that:

1. DEQ will require project-specific Erosion and Sediment Control and Stormwater Management Plans for the proposed Atlantic Coast Pipeline project that meet all Virginia standards, and that these plans will be made available to the public prior to project approval and construction; and
2. Localities will have the right to review plans, conduct inspections and enforce their local Erosion and Sediment Control Ordinances; and
3. Prior to project approval and construction, Dominion Transmission, Inc. officials and third-party inspectors will be required to meet with local officials to discuss the implementation of the project-specific Erosion and Sediment Control and Stormwater Management Plans and adaptive management plans.

**AND BE IT FURTHER RESOLVED** that the Nelson County Board of Supervisors directs the Clerk of the Nelson County Board of Supervisors to send a copy of this resolution to: Governor of Virginia Terry McAuliffe, Virginia Secretary of Natural Resources Molly Ward, Virginia Senator Creigh Deeds, Virginia Delegate Richard Bell, Virginia Delegate Matthew Farris, US Senator Mark Warner, US Senator Tim Kaine, US Congressman Robert Hurt, Atlantic Coast Pipeline, LLC, Dominion Transmission, Inc., and the Federal Energy Regulatory Commission (FERC).

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

### **A. Reports**

#### **1. County Administrator's Report**

**1. Courthouse Project Phase II:** The 7-14 Board agenda includes a presentation on the project's status from Architectural Partners and an authorizing resolution for the project to be publicly bid and for staff to secure bond funding for the project from VRA.

**2. Broadband:** **A) Local Innovation Grant Project:** Receipt of the project contract document from VA-DHCD is in process and, thereafter, the project will proceed to construction. **B) VA Technology Planning Initiative** –The County was not selected to submit a final funding application (a debriefing with VA-DHCD can be conducted). As an alternative, County staff have requested the Department's input on use of the VTPI submittal for the agency's annual planning grant program (maximum of \$30,000 can be awarded). **C) Broadband Strategic Plan:** Staff will begin development of this project in the month of July.

- A) Mr. Carter noted he was hopeful that construction would begin in the next two weeks with the first leg to be done being from Martin's Store to Route 664.
- C) Mr. Hale suggested that the scope of the plan should be an outcome of the work session planned.

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**3. BR Tunnel:** A regional meeting, including participation was held on 7-8 at the Rockfish Valley Vol. Fire & Rescue Department. The purpose of the meeting was to discuss the means to provide for overall completion of the project. The meeting's outcomes will provide for consolidation of Phase 2 and Phase 3 grant funding to provide for restoration of the Tunnel, leaving Phase 3 (western trail and parking lot) as the last element for Project Completion.

Mr. Carter noted that strong endorsement to finish the project was received by everyone there.

**4. Lovingson Health Care Center:** The Citizen's Committee is continuing to meet. Region Ten has submitted a purchase proposal and Piedmont Housing Alliance will be scheduled to tour the Center the week of 7-13 or 7-20. One of two private companies that have recently toured the Center has withdrawn from any interest in the project. Medical Facilities of America will close its operation of the Center in the ensuing several months.

**5. Radio Project:** County staff met with Motorola and Clear Communication on 6-24 to discuss next steps in addressing concerns/issues with coverage areas, radio and pager use. A follow up meeting will be conducted in late July to receive Motorola's recommendations, which may result in a Phase 2 Project.

Mr. Carter noted that staff would be meeting in August with Motorola and Clear staff to discuss the system's shortcomings. He added that this may result in a phase 2 project coming back to the Board. He noted that there were areas where the system was not working well and it may entail expanding the scope of the initial project.

Mr. Harvey added that the new narrow-banding was an issue and Mr. Carter noted that Ms. Miller and staff thought that some of the issue was people getting used to using the new equipment.

Mr. Harvey related that they did a test on a pager at Rockfish and there was an error with Motorola and since it was reprogrammed, there was improvement.

Mr. Saunders noted that he had heard some volunteers were having problems getting messages and he was not sure if it was a phone issue or a system issue.

**6. CDBG Grant Application for Sewer Line Extension:** An application to VA-DHCD has not, to date, been completed. A meeting with the Department has been requested to discuss the project and grant specific criteria to enable a stronger application to be submitted.

Mr. Carter noted that Wild Wolf Brewery could still use the facility and have a margin until September to get an application in. He added staff was waiting on a response from DHCD and that WWB had a year to fix the issues.

**7. Solid Waste – A) Tire Amnesty Program:** The County collected 17 tons of tires from the two weekend amnesty days (6-20 and 27). **B) New Roll Off Truck:** The new roll off truck is received and in service. **C) Paving Gladstone Collection Site:** Complete.

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Mr. Carter noted he was not sure of the cost to the County of doing the tire amnesty; noting he would know once he knew the number of loads taken. He noted that the commercial accounts did pay for tires and the amnesty only applied to residential customers.

**8. Capital/Maintenance Programs - A) County:** Roof replacements at the Montreal Village Park are completed. Roof replacement and related repairs of the new Maintenance Building will begin on 7-13 (\$33,000). Bid quotes have been solicited for initial building repairs to the Nelson Memorial Library. **B) DSS:** Roof replacement and building repairs are in process.

Mr. Carter noted the work being done was on the pavilion and restrooms there. Mr. Saunders inquired as to next steps for the maintenance building and Mr. Carter noted it would be to come up with a plan on how it would be used. Fencing for the Sheriff's impound lot was discussed and then Mr. Harvey noted that maintenance could store equipment in the building that was being stored outside now.

In response to questions, Mr. Carter noted that the bucket truck had to be certified annually and it could be taken to Lynchburg for this. He added that it had been certified after the work was done to refurbish it.

**9. Department Reports:** Included with the 7-14-15 BOS agenda.

## 2. Board Reports

Ms. Brennan reported the following:

1. Attended Ag Forestal District Advisory Committee meeting – there were applications adding parcels to existing districts and there may be more.
2. Attended Anthony Martin's briefing on new laws.
3. Attended planning meeting for the Spartan Race and Craft Brewer's festival.

Mr. Saunders asked what buses were being used by the Spartan race this year and Ms. Brennan noted that they were hiring 25 buses from a local company.

4. Attended Crisis Intervention meeting - All dispatchers were being trained and some were going to a conference. Suicide prevention and mental health training was coming and they reviewed legislation that was passed.
5. Attended Atlantic Coast Pipeline meetings.
6. The Lovingson Healthcare Center Committee meeting last week was postponed until next week. There would be a meeting with another entity on Friday.
7. Did not attend the Prayer Vigil at the Nelson Heritage Center because she was in New Mexico.

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8. Noted that perhaps the state budget surplus could be used to help DEQ do their jobs and she would write a letter on this.

Mr. Saunders reported that he attended a court session for kids getting new driver's licenses and the Judge did not attend. He added that the kids heard from Deputy Vasco Wright and Commonwealth Attorney, Anthony Martin because no Judge showed up and he was disappointed.

Mr. Hale reported the following:

1. Went to Serenity Ridge for a Tea; which is the headquarters of Ligmincha International. He noted that they proposed to do a major expansion and it would be a multimillion dollar project. He added this was a major Tibetan Buddhist organization in the County.
2. Reported that the Tunnel Foundation provided the banquet license for the Lockn Farm concert and the Foundation would get another \$1,000 for this. Mr. Carter noted that there were about five hundred (500) people there at most. Mr. Hale noted that he has given a couple of Tunnel Tours and suggested scheduling tours through the Parks & Recreation Department.

Mr. Harvey reported the following:

1. Work had been done to trim trees at the Afton Overlook and several pictures were shown.
2. The Service Authority meeting had not been eventful.

Ms. Brennan inquired about consideration of Blue Mountain Barrel House's request for rebate of connections fees from installation of the new line and Mr. Harvey noted that this was a Board of Supervisor's decision. Mr. Hale suggested waiting until they proceeded and there was no action taken.

Mr. Saunders reported the following:

1. Attended the meeting at the Rockfish Valley Fire Department building regarding the Blue Ridge Tunnel project.
2. Attended a Gladstone Senior Center Board meeting and noted that they were having the issue of members getting old with no younger replacements. He added they were having trouble with administration. He gathered that the Staff or someone should go down and see what could be done to help them with Fire and Rescue operations and he was very concerned about them being able to respond to calls etc. He added they would like to set up something and have help. He noted that they said that each Squad bought their own supplies and they expired before they were used and he suggested that there be a centralized system.

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Mr. Harvey noted that centralized supply purchasing was already done and they must have not participated; he added that this may be coordinated through the Paid Crew. Mr. Saunders noted that they also complained that phone numbers were not being added and Mr. Harvey noted this would be done right away if the information was gotten to the right people and this may have to do with cell service.

3. Mr. Saunders noted that he had attended a 4th of July picnic with the Governor and had gained some insights. He noted that they talked about boat ramps and the Governor had spent the weekend at James River State Park. He noted that the Governor was going to visit every state park in Virginia and that was number 16 of 36. He noted that the Governor said he could not do anything about the pipeline, it was a federal issue and was over his head. He noted that he also said he had created more jobs than any other Governor of Virginia. He added that he was out to put boat docks and landings in and was working with parks.

Mr. Hale noted he agreed in a sense that the pipeline was decided by FERC and Mr. Harvey added that the DEQ problems were his issue. Mr. Saunders then noted that Emily Harper had spoken with the Governor's wife about visiting the tunnel.

Mr. Hale then reported that he went to a Senior Advisory Committee Meeting and he noted similar issues with others besides Gladstone. He noted that the other centers did not want to travel to the Nelson Center and he suggested that maybe Gladstone could go to the Gladstone Fire Department building for meetings.

Mr. Saunders noted that the seniors in Gladstone say they have too much stuff to move. Ms. McCann noted that they had two different senior organizations in Gladstone with different bank accounts and they were squabbling over money.

Mr. Harvey then inquired as to when the EMS Council funds would be disbursed and Ms. McCann noted it would be that month.

Mr. Harvey then commented on Reverend Rose's gathering at the Heritage Center, noting it was very good and had great speakers. Mr. Saunders agreed it was very touching.

Reverend Rose then spoke and noted he did not have time to let everyone know it was happening and he thanked Board members for coming and noted that good things were coming out of it.

## B. Appointments

Ms. McGarry reviewed the following appointments summary and noted that the Chair had requested that consideration of the BZA appointment be deferred until the whole Board was present. She also noted that she had received an Email from Lee Albright clarifying his willingness to be reappointed such that he would serve if no one else was interested. Ms. McGarry then noted that an application had been received from Joyce Burton who wished to serve in his place.

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<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term &amp; Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointment</u>	<u>Applicant (Order of Pref.)</u>
Local Board of Building Code Appeals	6/30/2016	4 Years/No Limit	Clarence Craig	N - Resigned	Shelby Bruguere
					Barbara Funke
JAUNT Board	9/30/2015	3 Years/No Limit	Mercedes Sotura	N-Resigned	None
JABA Board of Directors	7/15/2015	2 Years/No Limit	Constance Brennan	Y	None
Ag & Forestal Dist. Advisory	5/13/2015	4 Years/3 Terms			
* See Attached Email Regarding His Appointment		<i>Producers</i>	* Lee Albright		Joyce Burton
		<i>Other Landowners</i>	Bruce A. Vlk (T2)	Y	None
Region Ten Community Services Board	6/30/2015	3 Years/3 Terms	Michael W. Kelley (T3)	NA	None
			Ineligible		
Board of Zoning Appeals	11/9/2018	5 Years/No Limit	John Bradshaw	Resigned- 6/4/15	Carole Saunders
					Shelby Bruguere

Mr. Harvey noted no reason to wait on the BZA appointments and moved to appoint Shelby Bruguere to the Local Board of Building Appeals, Joyce Burton and Bruce Vlk to the Ag Forestal District Advisory Committee, Connie Brennan to the JABA Board of Directors, and Carole Saunders to the Board of Zoning Appeals, replacing Mr. Bradshaw.

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Mr. Hale seconded the motion and there being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion with Mr. Saunders abstaining.

C. Correspondence

1. R. Browne –Rockfish Collection Site

It was noted that Mr. Browne’s email was complimentary of the cleanliness of the Rockfish solid waste collection site and Mr. Hale commented that the County should be proud of it.

2. R. Matuszak – Fence in Law

It was noted that Mr. Matuszak’s letter asked the Board to consider a fence in law for animals. Mr. Hale noted he had left a phone message for him that he was not in favor of a fence in law which was something the Board could pursue. He noted his reasons were it would impose a great burden on lots of people especially livestock owners and that the ability to succeed with that type of Ordinance would be limited. Mr. Harvey added that these issues seemed to come up between neighbors and he thought it was a civil matter.

Mr. Hale then confirmed that there was no laws requiring citizens to keep livestock in. Ms. Brennan indicated some level of support of this for livestock and Mr. Harvey maintained his position that these were civil matters.

Following this brief discussion, the Board agreed by consensus that they were not interested in pursuing a fence in law.

D. Directives

The following Directives summary was provided:

<b><u>Directives</u></b>	<b><u>Member</u></b>	<b><u>Status</u></b>	<b><u>Progress/Comments</u></b>
<b><u>Directives from November 13, 2014</u></b>			
<i>Continue to CC Mr. Hale on E-mails with Woolpert</i>	A. Hale	Ongoing	
<i>Check Into Getting a Boat Ramp at Nelson Wayside</i>	C. Brennan	In Process	Emily Harper Working On With Rob Campbell
<b><u>Directives from January 13, 2015</u></b>			
<i>Proceed With Historic Marker Replacement at Nelson Wayside and Colleen</i>	Consensus	In Process	Markers Ordered-At VDOT in 8-9 wks (3/25/15)
<i>Follow Up on Collection Options For The EMS Revenue Recovery Program</i>	C. Brennan	In Process - 90%	Staff Reviewing Summary Report

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<b><u>Directives from June 9, 2015</u></b>			
<i>Ask Dominion to Send Shape Files for ACP Routes</i>	C.Brennan	Complete	
<i>Check Noise Ordinance to See if ACP Construction Would be Exempt</i>	C.Brennan	Complete	Construction Exempt 7am to 9pm
<i>Get New BRT Project Engineer and PM Contact Information</i>	A. Hale	Complete	
<i>Get New BRT Phase II Estimate Inclusive of All of the Tunnel Work</i>	A. Hale	Complete	

Mr. Harvey mentioned that he wanted to note in the minutes, the great loss of Whitney Loving, a young lady in the County and noted what a tragedy it was. He added that she was Miss Nelson and had been named Miss Congeniality in the recent Dogwood Festival. He noted that Miss Virginia had visited her in the hospital, Miss Dogwood had sung at her service, and the family had received a letter from Miss America.

Mr. Saunders noted this tragedy was the reason he mentioned being disappointed that no judge had come to the latest issuance of driver's licenses.

Mr. Hale noted he sent an email requesting topo maps of Nelson County and the Atlantic Coast Pipeline route and Susan King of Dominion had sent back a reply and these were not provided. He noted he would like to have paper copies printed out and that Susan Rorrer had provided some sort of map; however it was not what he wanted. He added that he would like to see Dominion be responsive to his simple request and noted that it was part of their Environmental Resources Report.

Ms. Brennan agreed that it would be nice to have these. Mr. Hale noted some new routing where they were trying to stay away from any development and residences; however they were now going through some of the most difficult terrain in the County.

Mr. Saunders and Ms. Brennan had no Directives.

## **VII. Adjourn and Reconvene for Evening Session**

At 4:45 PM, Mr. Harvey moved to adjourn and continue the meeting at 7:00 PM. Mr. Hale seconded the motion and there being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

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

**I. Call to Order**

Mr. Saunders called the meeting to order at 7:10 PM, with four Supervisors being present to establish a quorum and Mr. Bruguere being absent.

**II. Public Comments**

1. Mary Elnidge, Lovington

Ms. Elnidge noted that she was aware there was a Master Plan for the town of Lovington which had never been approved. She noted it was comprehensive and asked if there was there a reason that it had not been approved and noted that it tied the hands of anyone that wanted to improve the town itself. She then asked if there was VDOT grant money for this; noting that the sidewalks were in bad shape and the lighting could be improved to make the Town safer. She added that she would like to know if it could be brought back for approval and noted the Plan was dated May 1, 2006.

Mr. Hale noted that they would look at it and see if in fact it needed adoption by the Board and Ms. Elnidge noted her understanding was that unless the Board adopted the plan, they could not go forward with grant requests.

Mr. Carter then noted that the Board had endorsed the plan, because the County had sought grant funding for Downtown Revitalization. He added that to date the Board had made the Blue Ridge Tunnel project its priority project, that VDOT funding was limited and the Tunnel had taken precedence over the town.

Mr. Carter added that only the Local Government could apply for the funding that he was speaking of and he noted that the Plan did not include any restrictions or local controls.

Ms. Elnidge noted that she was looking at it for safety reasons and for improving the Town.

Mr. Hale noted that the County had addressed these issues previously and VDOT had not provided funding for the grade changes or hole patching and paving in certain areas. He added while it has not been a comprehensive effort; they had done some things.

Ms. Elnidge noted places where people had fallen and broken bones and she added that the road (Tanbark Lane) leading into the Drug Store was in horrible shape. She added that there were a lot of walkers in the town and there was room for much improvement. She noted that she wanted to be able to look for funding and bring it to the Board for endorsement.

Mr. Hale noted that it was not that simple as the sidewalks were owned by VDOT. He added that he would bring up the issues she has raised with VDOT and noted that if there were safety issues with the sidewalks, they could can ask them to address them.

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2. Joe Lee McClellan, Lovington

Mr. McClellan noted his agreement with the previous speaker and stated that more sidewalks were needed in the Town. He noted that the initial ones were put in by private citizens and were later taken over by VDOT. He added that the Town had grown now and had more.

Ms. Brennan noted she thought it was time to review the Master Plan and agreed that perhaps the Town needed sprucing up and this could be discussed at the Board's retreat.

Mr. Harvey noted that most buildings were privately owned and owners had to be willing to do things.

Ms. Brennan added that the Town was a designated Historic District which afforded some opportunity for the funding of improvements.

**III. Public Hearings and Presentations**

- A. Public Hearing: Special Use Permit #2015-03 – “Dance Hall” / Jose & Elpidia Gaona** Consideration of a Special Use Permit application to operate a “dance hall” pursuant to §8-1-3a of the Zoning Ordinance. Specifically, the applicant wishes to operate a dance hall on Friday nights and Saturday nights, remaining in operation until 2:00AM the following morning(s). The requested dance hall would be co-located with “La Michoacana Authentic Mexican Taqueria & Restaurant” (which is a permissible by-right use, and which received County zoning approval via Minor Site Plan #2015-03 on May 27, 2015). The subject property is owned by Mr. Joe Lee McClellan and is located in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1).

Mr. Padalino noted the location of the subject property is in Lovington at 37 Tanbark Place; it is further identified as Tax Map Parcels #58B-A-36 and #58B-A-37 which are zoned Business (B-1) and owned by Mr. Joe Lee McClellan. He noted on a map that the property was surrounded by the same types of zoning (Business B-1). He further noted that the property was located at the intersection of Main Street and Thomas Nelson Highway and also fronts along a small private road (Tanbark Plaza). He added the property was a total of 1.26 acres and the existing building was formerly a grocery store and is currently vacant.

Mr. Padalino showed an aerial view of the property and noted it was not in the floodplain .

Mr. Padalino then noted that the request for the Special Use Permit for a “dance hall” was made pursuant to §8-1-3a of the Zoning Ordinance. He added that the request was made in connection with the minor site plan submitted and approved to operate a restaurant as a by right use; and the Special Use Permit would be in addition to that previous approval.

He then advised that Massie Saunders had prepared the site plan for the restaurant and a new one was not required. He then showed some pictures of the site and noted the process of the permit

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review was that the Planning Commission held a public hearing on June 24<sup>th</sup> and voted 3-0-1 to recommend approval of the Special Use Permit without conditions. He added that members spoke in favor of the application with some concerns regarding the dance hall operating late at night.

Mr. Padalino then listed the criteria for the review of Special Use Permits as follows:

- A. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
- B. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;
- C. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and
- D. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

He noted that the opinion of Staff was that the proposed "Dance Hall" use, as proposed in the application seemed to be satisfactory relative to evaluation criteria C and D. However, the proposed use appears to be questionable with respect to evaluation criteria A ("shall not change the community character") and evaluation criteria B ("shall be in harmony with by-right uses and shall not affect adversely the use of neighboring property"). He added that operating until 2 am could alter the character, be unharmonious, or could adversely affect use of neighboring properties. He noted that he recommended the Board consider the potential noise from amplified music, traffic etc. and that the Planning Commission forwarded the application with a recommendation of approval.

Ms. Brennan inquired if a house in a business district could be transferred over to a business and Mr. Padalino noted this was determined by the Zoning. He noted that there were people living in residences along Front Street; however there were no residents on Tanbark Plaza. He advised that on the east side of Front Street the residences are zoned R-2 and the residences on the other side are zoned B-1.

Mr. Padalino then confirmed that the subject property was not in the floodplain; although there is some property on the other side of the road that is in the floodplain.

Mr. Padalino also advised that the Village of Lovington was exempt from parking requirements; however there were forty-eight (48) spaces with at least 2 designated handicapped spaces.

Ms. Brennan then inquired if there was anything to prohibit people from parking along Tanbark Road and Mr. Padalino advised that there was not and Mr. Carter added that the concentration of parking was near Region Ten and Rite Aid.

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

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1. Patty Avalon, Lovington

Ms. Avalon noted she was curious about the nuisances brought up and noted that they were also her concerns. She then read aloud the following statement:

To the Nelson County Board of Supervisors,

“I am a 13 year resident of the Village of Lovington, and am I writing to ask that you NOT approve the request for the Mexican restaurant dance/hall, as it is currently proposed, for these reasons...

Lovington is working hard to keep good residents and businesses, as are many rural small towns around the country. We have created a safe, family friendly environment through the efforts of many individuals by developing programs such as a Neighborhood Watch, the Adopt-a-Bed Flower barrel plantings, Holiday Decorating of the Village etc. We even paint our town curbs safety yellow ourselves as we have no government funds for this. We want our community to flourish and remain inviting and safe to live in and visit. A Mexican Restaurant would be fantastic here in Lovington! I whole heartedly support that.

The three serious problems with the current proposal are:

Serving alcohol. When you allow alcohol into the equation, suddenly there are too many opportunities for violence, noise, and late night lingerers after closing hours. Drugs will most likely find their way in and around the dance hall as well as dark corners of our neighborhood, (and there are many).

Noise. We already have noise problems with the local Firehouse dances...the music can be heard throughout the Village. Fortunately these are held only occasionally. If the music can be guaranteed to NOT BE HEARD 25 ft from the establishment (as the local ordinance states) that could work. Can you imagine in YOUR OWN NEIGHBORHOOD having loud music filtering into your homes all night long? Unacceptable of course. Please put yourself in our place.

The 2 a.m. closing time. There will be drunk drivers driving in and out of the Village into the wee hours, perhaps motorcycles as well. The “boom box” car stereos come through this village enough as it is, and with a nightly dance hall, we’ll be inundated with loud traffic. Would you and your children want to live with this? And what would happen to YOUR property values if this were in YOUR neighborhood?

I know that you listen to us and that you will make every effort to help grow Lovington to its greater potential to be a safe, fun and inviting town in which to raise families, work and visit.”

She then read aloud the Board of Supervisors Mission Statement as follows:

“It is the mission of the Board of Supervisors to maintain Nelson County as a beautiful, safe, healthy, and prosperous rural county; where public services are effective, efficient, adequate and

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responsive to the needs of its citizens; where education is a life-long process; where citizens are involved in all aspects of their governance; and where the community is well planned to assure respect for and dedication to its traditions and resources, while continuing to improve its economic viability.”

2. Mike Crabill, Lovington

Mr. Crabill noted he lives across the creek from the proposed site and his morning alarm goes off at 4 am and he noted if the noise was going on until 2 am, he would be personally upset. He noted he was not in favor of the dance hall unless the Board limited the hours or the noise. He then asked what the decibel limit was in the Noise Ordinance. Supervisors noted they could get him a copy of the Ordinance.

3. Joe Lee McClellan, Lovington

Mr. McClellan noted that the Planning Commission held a public hearing and passed the Special Use Permit with no reservations because they wanted to give people the leeway to operate a profitable business and to not restrict it. He added he felt that the Sheriff’s Department could take care of any disruptions. He added that he thought that if the business owners could not maximize their potential, they would not be successful and that they should be given the opportunity to operate and if there was a problem, then it could be addressed. He added that he thought citizens were getting the wrong idea about a dance hall and noted that there used to be one in Lovington.

4. Mary Elnidge, Lovington

Ms. Elnidge noted that 2 am was too late to operate, it was too late and would be too loud. She added that she knew there was a noise ordinance; however the Sheriff’s Office did not know what it says. She added that the Village was not patrolled by Deputies and this was a problem. She added that they come in the Village and go out to other areas of the County and she questioned who would take care of monitoring the noise. She added that the County did not have the resources for that. She then noted that she thought patrons would be parking out on Main Street regardless of the number of existing parking spaces; and with no traffic control, they would park wherever they wanted. She added that if they were serving alcohol, there was no mention of a cutoff time and she questioned who would patrol this for drunk driving. Ms. Elnidge then noted that she lived in a house zoned R-2 and could be a business; however she was not and she was very concerned about the associated alcohol use.

5. Joe Lee McClellan, Lovington

Mr. McClellan disputed Ms. Elnidge’s comment that the Sheriff’s Department did not patrol Lovington. He added that once a week, they would leave a business card in the door of the grocery store building to show they’d been there. He added that the dance hall was meant for the fifteen (15) going out party and was a community affair and it was his understanding that this was the primary reason for the request. He added that State law required no sale of alcohol after midnight.

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6. Ed Hicks, Lovington

Mr. Hicks noted he was in favor of the restaurant, but was not in favor of the 2 am dance hall hours. He noted that the Board would be tying their hands if they set the times. He advised that he had spoken with Devil's Backbone and Wild Wolf Brewing Company to see when they closed. He noted that WWB closed at 10pm Monday through Thursday and were open until 11pm on weekends. He noted Devil's Backbone was open until 9pm during the week and until 10pm on weekends. Mr. Hick's then stated that he did not think fifteen (15) year olds needed to be out until 2am. He added that he did hear everything that went on at the Firehouse; has called and complained and nothing was done. He then questioned whether or not Mr. Hale had polled the Lovington residents personally on the matter and noted that he did not think he had.

7. Celine Thelen, Lovington

Ms. Thelen noted she thought the restaurant was fine; however she was seriously opposed to the dance hall. She noted that serving alcohol and being open until 2am was asking for disaster. She noted that she hears the Lovington Firehouse and other businesses that are noisy all hours of the night. She noted that she purchased a home in Lovington because it was a nice, quiet, safe place to live and it would not be if the Board allowed things like this in and she did not want it in her backyard.

8. David Boor, Lovington

Mr. Boor spoke to the Village being patrolled by deputies and noted that there had recently been a break in at Front Street Garage and at American National Bank that were unsolved. He noted that the Sherriff's Department was undermanned and did not need to be taxed anymore. He noted he was not opposed to the restaurant; however he did not think a beer joint was needed. He then referenced an email from Mr. Hale noting that he, Mr. Hale was in favor of the dance hall with conditions. He added that the Planning Commission had referred this to the Board with stipulations and he requested that Mr. Hale abstain from voting because he had made his mind up before hearing any public comments.

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

Mr. Saunders then asked for the Applicants to address the Board.

Mr. Massie Saunders addressed the Board representing the Applicant. He noted that Mr. Gaona understood good English and could answer; however he would work with him and the Board to answer questions.

He noted that Mr. Gaona had a security team that worked within the restaurant and alcohol serving shut down at midnight.

Supervisors then asked what was the anticipated maximum capacity and Mr. Saunders noted that the Building Official would determine this at some point. Supervisors then asked what would be a typical crowd for this type of activity and Mr. Saunders noted that this was hypothetical because

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they did not know how many people would come. He added that there was an architect involved with the layout, the Fire Marshall was involved and there would be a large amount of renovation involved.

Mr. Harvey then asked about the building, noting one side was 2,260 square feet and the other was 3,150 square feet and he inquired as to which part was open to the public. Mr. Saunders noted that the space designated as restaurant was where the food was prepared and was a 1,080 square foot area. He added that these were round figures from measures pulled between existing walls.

Mr. Harvey then noted he would like to hear from Mr. Gaona.

Mr. Harvey asked Mr. Gaona if these types of events were going on in the County now and he answered that they had these in Albemarle County, was from there and had a restaurant in Charlottesville.

Mr. Harvey asked how many people usually attended the dances and Mr. Gaona replied 65-75 people in the Charlottesville restaurant along with five (5) employees who were mostly family members.

Mr. Harvey asked how many seats were in the proposed restaurant and Mr. Gaona noted 40-45.

Ms. Brennan then inquired if this number was determined by the size of the restaurant by the Department of Health and Mr. Saunders noted that this had been based on the Architect's recommendation based on the building plans. He noted that the overall layout was dictated by what was a part of the operations.

Mr. Harvey asked what square footage the restrooms would take up and Mr. Saunders noted they would have to be large for ADA compliance.

Ms. Brennan noted it sounded like the applicant had experience with this and Mr. Saunders noted that they have been successful in Charlottesville and wanted to expand.

Mr. Carter then asked if the City had imposed any restrictions on the Charlottesville business and they noted that they had an abc permit in Charlottesville, the hours were 11am to 9pm with no dance hall.

Mr. Carter asked if the dance were not approved, would they still open the business and Mr. Saunders related that they would need to relook at the financials of this since the building was so big it would be hard to fill.

Mr. Saunders then noted that a small dance hall could be had within the restaurant by right; however if the SUP application were not approved, it would have to be discussed. Mr. Saunders advised that they had done a business plan because they had a financing plan in place.

Mr. Harvey then asked if the dances were special events or if they would be held every weekend. Mr. Saunders noted that this had been discussed a lot and they were not sure which night they

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would be held or if it would be both nights; they wanted to leave it open. He noted that there had been discussion at the Planning Commission of limiting the number held per month etc. and then they just rolled back to the original plan. He added that there was discussion about 1 night or 2 nights per month and then if it went well, they could get other nights approved. He added that no one spoke against this at the Planning Commission public hearing and it was properly advertised.

Mr. Harvey then supposed that if these dances were done as a private party then it was not really a dance hall. Mr. Padalino noted this was correct and that they had included a private dining area that would be used for private functions, in connection with the restaurant operation. He added that if the dance hall were not approved, they would still be able to rent this area out for quinceaneras and private events, but only during the normal operating hours of the restaurant use.

Ms. Brennan then asked for clarification on this, noting that she understood that they could do what they wanted without the SUP. Mr. Padalino noted this was not the case; but that they could rent out the space for private events during business hours with 1/8 of the restaurant being able to be used for dancing per the Ordinance definition of restaurant.

Mr. Saunders then noted that Mr. Gaona was in a band and has not had a problem with alcohol. He added that Mr. Gaona would be willing to operate the dance hall one night a week on Saturday night to see how it went and would be willing to stop at 1am. He added that most people come out late after dinner and stay out. He noted he was used to that timeframe and wanted to stay open past midnight. He noted that they typically started playing music around 10pm that alcohol was only served at the bar and none was allowed in the dance hall, and there would be security on site.

Ms. Brennan then asked if they were requesting the Special Use Permit for one night or both nights and Mr. Saunders noted that it was for just Saturday night and if all were content with it, they may come back to ask for a second night.

It was noted that the Board could restrict the Special Use Permit to this particular business.

Mr. Carter then asked if the music was acoustic or amplified and Mr. Saunders noted some of it was amplified.

Ms. Brennan noted that she appreciated the applicant's concession of one night per week; however she would like it to stop at midnight. She added she was appreciative of them having security on site and was confident that the noise ordinance could be met and that she was in favor of a trial period. She noted that she knew quinceaneras were important to Mexican families and there was a need for a safe place for these to occur and added she had no problem with this.

Mr. Hale noted he thought that it was important for Lovington to have commercial viability and he noted that businesses had been lost one after the other; he reiterated he was in favor of commercial opportunities being available. He added that when he reviewed the material the previous day and responded to an email about his thoughts, he said he was not in favor of a 2:00 am closing time. He noted that nothing much good happened between Midnight and 4:00 am so he was not in favor of the proposed hours. He noted that it had been stated in the email that the Planner had recommended that these things be addressed through possible condition; one of which

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was to permit it until a certain time. He then noted that the Board could apply conditions to Special Use Permits. He noted that it was also suggested by the Planner that the Special Use Permit have a condition that after 18 months of their certificate of occupancy that it be subject to review with an additional public hearing. He added that he thought that the applicant should limited this to a few nights each month rather than having it open every weekend; and he would like to see these conditions. He added that this would be a compromise to some extent that would enable the operators to have as many opportunities to succeed as possible.

Mr. Harvey stated that he thought the dance hall was a terrible idea; however he supported the restaurant. He noted that at the Rockfish Volunteer Fire Department, these events were held and there had been a minimum of 500 people and they were open to anyone. He added that he knew what happened and the required that security be there. He noted that they have had a lot of damage and they had gotten a call that week to rent the building for 1,000 attendees. Mr. Harvey then noted that the proposed location did not have the capability to handle this type of event. He added that there being only one way in and out of the property was a problem because if something happened, the whole place would be bottle necked. He noted he would love to see the restaurant and if they wanted to have a private party then that would be okay; however if it were open to the general public, the tendencies were known. Mr. Harvey then noted that it was the wrong place for this and there were only 48 parking places; meaning cars were going to line up the whole area.

Mr. Harvey then recommended that a decision be tabled so the Board could hear more and give the applicant an opportunity to see if it needed to go to the extent proposed. He added that eighteen months was a long time and the noise ordinance changed at 10:00 pm. He noted that the only enforcers of this was the Sheriff's Department and he noted that the noise ordinance says the sound cannot be over 65 decibels at the property line and was an average taken over a 15 minute period; so it was hard to violate the noise ordinance. He then noted that he felt for the people of Lovington, as sound carried over the creek there. He again suggested that this be deferred until they had a full Board and could give it more thought.

Mr. Harvey then moved to defer consideration of the Special Use Permit until next month's Board of Supervisors meeting on August 11, 2015 with the understanding that it's a public meeting; however the public hearing was over. He noted this would give the Board time to learn more and He thought there was something wrong for nobody to show up at the Planning Commission's public hearing.

Mr. Hale seconded the motion and then the Board had the following discussion:

Mr. Saunders noted at the Planning Commission meeting he was quiet and did not vote because he has adjacent property across from the subject property and did not want to influence the outcome either way. He added that he would not comment or vote now.

Ms. Brennan reiterated that at the next meeting there would be no public hearing; however the public could speak under public comments. She added that she thought it was a good idea to study it better and the applicant could have more time to consider concessions. She noted that she thought that economic development was important and she cared about those living in Lovington; however she did not think it would be like Mr. Harvey suggested.

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Mr. Saunders asked what the applicant should use as a gauge of how many people would attend these things and Mr. Harvey noted that the Fire Department had hosted three or four per year and they had all been the same and this was hard to judge.

Mr. Hale noted that these had been held at the Faber Rescue Squad building and he would find out what their experience has been.

There being no further discussion, Supervisors voted (3-0-1) by roll call vote to approve the motion with Mr. Saunders abstaining.

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

There was no other business considered by the Board.

**V. Adjournment**

At 8:30 PM, Mr. Hale moved to adjourn and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.