

July 28, 2011

**Virginia:**

AT A REGULAR SCHEDULED MEETING of the Nelson County Board of Supervisors at 7:00 p.m. in the Circuit Court room located in the Nelson County Courthouse.

Present: Allen M. Hale, East District Supervisor  
Constance Brennan, Central District Supervisor  
Thomas H. Bruguere, Jr. West District Supervisor - Vice Chair  
Joe Dan Johnson, South District Supervisor – Chair  
Thomas D. Harvey, North District Supervisor  
Candice W. McGarry, Administrative Assistant/Deputy Clerk  
Raymond M. Uttaro, Emergency Services Coordinator  
Phil Payne, IV, County Attorney

Absent: Stephen A. Carter, County Administrator

**I. Call to Order**

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

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

**II. Public Hearings and Presentations**

- A. Presentation – Rural Health Initiative Program (Gary R. Pond)

Ms. McGarry introduced Mr. Pond who would be making a presentation on the Rural Health Initiative Program. Mr. Pond then noted that he was the lead Health Educator with the Rural Health Initiative Program and that he was presenting in various counties to better find veterans and to promote the program's event participation.

Mr. Pond noted that there are eight (8) Community Based Outpatient Clinics (CBOCs) in Virginia located in Tazewell, Hillsville, Danville, Lynchburg, Charlottesville, Fredericksburg, Emporia, and Virginia Beach and three (3) Virginia Medical Centers in Salem, Richmond, and Hampton.

He noted that their Core Service Package included:

1. Enroll Veterans into VA Healthcare System - Determine eligibility for programs, do a means test in order to devise a system to prioritize patients.
2. Disease Management – manage cholesterol and diabetes for example and providing Health Education.
3. Vesting Physicals – A mid level provider does a physical and then the patient is brought into the system.
4. Support Community-Based Outpatient Centers through working with county events and groups to provide educational opportunities. Can work with career workforce centers and can hold education classes at the Health Dept.

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He added that the Nelson County Partnership would include attendance of Nelson County Events, collaboration with the District 10 Community Services Board, partnering with Career Resource Centers, and with local Health Departments, and conducting Health Education sessions.

He noted that health education services would include:

- Women's Health – Breast Self Exams, Pap Education, and Osteoporosis education
- Mental Hygiene Goals – Depression, PTSD, Suicide Awareness, and Addiction Reintegration
- Disease Management – Hypertension CHF COPD, Diabetes Weight Management, Obesity, and Healthy Lifestyles

Community Relationships - Successful Partnerships include: VFW, American Legion, Wounded Warrior, Rural Community Colleges, Virginia Employment Commission, and Vet Centers.

He noted that the program looks at the population to do a better job for the Vietnam Vets using a multidimensional model that focuses on medical, psychological and spiritual perspectives

Mr. Pond then noted the following VA Web Resources: • Official VA blog: <http://www.blogs.va.gov/VAntage/>, • Twitter regarding Veterans Health: <http://twitter.com/VeteransHealth>, Veterans Benefits: <http://www.vba.va.gov/VBA/> and National & State Govt. Web Resources.

He concluded his presentation by noting that the program had a mobile van that would be able to perform the vesting physicals and get veterans enrolled into the system. He stated that the program was mandated to do 6,000 by the end of FY12.

Following the presentation, Ms. Brennan suggested that Mr. Pond speak with the County's Interagency Council and contact Peggy Whitehead regarding this. In response to questions, Mr. Pond noted that they had done some data mining in the county and have the numbers of enrolled Vets but that they were looking for the un-enrolled. He noted that he was also doing a presentation with the Region Ten Community Services Board. He noted that at this point the program is educational and they would be getting vets vested and in the program in the future. He noted that the program was grant funded through 2012 and is a pilot program. He noted that they could refer the vets to community based outpatient centers (CBOC) and that Charlottesville was the closest CBOC. Ms. Brennan then also recommended that he speak with the PWN Council that does unemployment work in the area through the Region 10 PDC and the Workforce Investment Board and also Jefferson Area Board for Aging (JABA). He noted that he also works with homeless organizations and Departments of Social Services in identifying veterans needing services.

### **III. Consent Agenda**

Ms. Brennan moved to approve the consent agenda 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:

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A. Resolution – **R2011-54** Minutes for Approval (Deferred from 7/12)

**RESOLUTION-R2011-54**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF MEETING MINUTES**  
**(May 10, 2011 and May 26, 2011)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board's meetings conducted on **May 10, 2011 and May 26, 2011** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2011-59** Rural Development Grant – Authorization to Execute Grant Documents (Sheriff Dept. Vehicles)

**RESOLUTION-R2011-59**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION TO EXECUTE USDA- RURAL DEVELOPMENT COMMUNITY**  
**FACILITIES GRANT DOCUMENTS**

The governing body of the County of Nelson consisting of five members, in a duly called meeting held on the 28<sup>th</sup> day July 2011, at which a quorum were present **RESOLVED** as follows:

**BE IT HEREBY RESOLVED**, that in order to facilitate obtaining financial assistance from the United States of America, United States Department of Agriculture, Rural Development, (the Government) in the purchase of vehicles to serve the community, the governing body does hereby adopt and abide by the covenants contained in the agreements, documents, and forms required by the Government to be executed.

**BE IT FURTHER RESOLVED**, that the County Administrator or the Chairman of the Board of Supervisors for the County of Nelson, be authorized to execute on behalf of the County of Nelson the above-referenced agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above-referenced documents, is hereby entered into the permanent minutes of the meetings of this Board.

C. Resolution – **R2011-60** VDOT Land Use Permit Assurances & Security – Broadband Project

**RESOLUTION R2011-60**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**VIRGINIA DEPT. OF TRANSPORTATION ASSURANCES**  
**BROADBAND PROJECT PERMITS**

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**WHEREAS**, it becomes necessary from time to time for the County of Nelson (Virginia) to obtain land use permits from the Virginia Department of Transportation to install, construct, maintain and operate certain public works and public utilities projects along, across over and upon highway systems of the Commonwealth of Virginia; and,

**WHEREAS**, expense, damage or injury may be sustained by the Commonwealth of Virginia growing out of granting to the County of Nelson by the Virginia Department of Transportation of said permits for the work aforesaid;

**NOW, THEREFORE, BE IT RESOLVED** by the Nelson County Board of Supervisors this 28th day of July, 2011:

**Section 1:** That in accordance with the provisions of Section 24 VAC 30-151-700 of the Land Use Permit Regulations of the Virginia Department of Transportation, the County of Nelson does hereby grant assurances to the Virginia Department of Transportation (VDOT) that it shall in all respects comply with all of the conditions of the permit or permits that have been, or will be, granted to the County of Nelson and that said jurisdiction does hereby certify that it will carry liability insurance for personal injury and property damage that may arise from the work performed under permit and/or from the operation of the permitted activity as follows: up to one-million dollars (\$1,000,000) each occurrence to protect the Commonwealth Transportation Board members and the Virginia Department of Transportation's agents or employees; seventy-five thousand dollars (\$75,000) each occurrence to protect the Commonwealth Transportation Board, the Virginia Department of transportation or the Commonwealth of Virginia in the event of suit.

**Section 2:** That the County Administrator, City or Town Mayor, or their designee, be, and hereby is authorized to execute on behalf of the County of Nelson all land use permits and related documents of the Virginia Department of Transportation.

**Section 3:** That this resolution shall be a continuing resolution and shall not be revoked unless and until sixty (60) days written notice of any proposed revocation be submitted to the Virginia Department of Transportation.

**Section 4:** That the County of Nelson shall, if requested by the Virginia Department of Transportation, provide a letter that commits to using the surety provided by its contractor or to have the contractor execute a dual obligation rider that adds the Virginia Department of Transportation as an additional obligee to the surety bond provided to the locality, with either of these options guaranteeing the work performed within state maintained right-of-way under the terms of the land use permit for that purpose.

**BE IT STILL FURTHER RESOLVED** that the County Administrator, or their designee, be, and hereby is authorized and directed to procure insurance required by Section 1 herein.

#### **IV. New/Unfinished Business**

##### **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.

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lightening 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.

Ms. McGarry introduced this item of business noting that the Board had deferred action on the application until the present meeting. She then noted the presence of Mr. Payne who had provided the Board with his opinion on the matter and that additionally the Board had been provided with new propagation studies showing the service levels attained with towers at 90 ft, 120 ft, and 150 ft.

Mr. Johnson inquired as to the pleasure of the Board and noted that the Gladstone Seniors were unanimously in favor of the tower.

Ms. Brennan noted her concern that there might be more suitable properties in the area. Mr. Boger noted that behind the fire station there was .5 acres that was higher than the current site and the tower could be set back into the woods, which would allay the visibility concerns. He noted that this property to the North that was higher was owned by Julian Hesson. Mr. Boger then noted that he has had experience with Verizon that has moved tower sites and it depended on if the tower company would be willing to do this. He added that if they did relocate, they would have to resubmit the application and go back to the Planning Commission, which would prolong the process.

Mr. Johnson noted that if the tower moved more than 50 ft, the application would also have to go back to the FAA, which could be a 90 day process in addition to the 90 days for Planning Commission review. Mr. Boger noted that he thought that this would go through the channels faster. He added that his impression is that this was the only site they wanted to look at from the very beginning. He noted that they first wanted a 90 ft tower and then submitted the application for a higher one. He added that there were other sites that would work on private land. He noted that the ordinance encourages using public land but that did not mean it is the most appropriate site.

Mr. Hale then moved that they follow the decision of the Planning Commission and urge the applicant to look for other sites in the area and if that was the only site suitable that could be another story. He stated that the Planning Commission's recommendation for denial was spelled out clearly and the greatest weight was the failure to show that other sites were considered.

Ms. Brennan seconded the motion and noted that she had outlined her concerns at the Board's last meeting and added that the Planning Commission had offered them several opportunities to get their application in order and they did not do it.

Mr. Harvey noted that he had looked at this over the weekend and that towers were everywhere and people have to get used to them. He added that he thought that this was a golden opportunity for EMS down there that was much needed in an area that was hard to raise funds in. He stated that therefore, he could not support the motion.

Ms. Brennan noted that the land had reverted back to the County and its disposition would be up to the Board per Mr. Payne. Mr. Bruguere noted that there were three (3) parcels there and the County could

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retain ownership even if the new rescue agency was formed and the County could lease it back to them for \$1.

Mr. Hale noted that he did not object to towers but it is an obligation stated in the ordinance to examine other sites and he thought that there would be one that would be suitable, even if it meant a delay of some months.

Mr. Johnson noted bus drivers and EMS providers that have no service in the area as well as seniors not being able to reach out. He added that there was a broadband provider that says he could reach everyone down there and provide an essential service.

Ms. Brennan stated that they all wanted to provide services to protect people and provide for their health, safety, and welfare but was there a better place for them to put the tower.

Mr. Bruguere stated that there will be more towers coming and they would continually do this. Ms. Brennan noted that this application was the worst application seen by the Planning Commission, it was full of holes and either they needed to follow the application process or not. She added that they did not follow the ordinance procedures and it would not cost the Fire Department any more money.

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

Mr. Bruguere then moved to approve the tower application #2011-003 with exceptions and Mr. Harvey seconded the motion. There being no further discussion, Mr. Johnson called for the vote and Supervisors voted (3-2) by roll call vote to approve the motion and the tower application, with Mr. Hale and Ms. Brennan voting No.

#### **B. Authorization of Funds – Gladstone Fire Department for EMS Operations**

Mr. Johnson introduced this item, noting that he wanted to be certain that the Gladstone Fire Department did not suffer financially in becoming a combined fire and rescue agency. He noted that the funds that were not distributed due to the dissolution of the rescue agency and held back could be used to pick up any costs so that they had no out of pocket upfront costs.

Mr. Harvey stated that he did not think that the Board needed to do this yet. He noted that it would be a long process and that Ray Uttaro was on top of it and this guarantee has already been made to them that it would not cost them anything. He noted that if they acquired expenses then they could send the bills to the County. He noted that the rescue squad assets were still with Tom Berry the Receiver and the Fire Department needed to work through staff and the Board for approval of invoices presented. The Board then agreed by consensus to handle this in this manner.

Mr. Ray Uttaro then noted that the application for licensure was almost done and that Roseland will set up a substation there that will be run by Roseland and they will gauge how many from Gladstone were qualified to run. He stated that if they had enough, they could move a vehicle there and if not, the vehicle will have to come from Roseland. He added that Dr. Just would have to sign off on their skills

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drills and that Roseland would do some temporary changes of their bylaws to allow for temporary membership of Gladstone volunteers. He noted that it was a work in progress and that he appreciated all of the work being done and things were moving forward.

Mr. Harvey advised the Board of the differences between being with BREMS or TJEMS for them but that all parties were working together. He noted that they would have to go with TJEMS for grants. Mr. Johnson clarified that there was not an issue of protocols and will be able to use BREMS.

Mr. Johnson then acknowledged the time put in by Mr. Uttaro and the Board in order to get things moving and inquired as to the next hearing to be held on the matter.

Mr. Payne noted that Mr. Berry was to report around August 15<sup>th</sup> to the Judge regarding all of the assets and will send an order up for payment of routine bills. He noted that they might not need a hearing for extraordinary expenses yet and that they needed an entity that provided a similar service; therefore at this stage, they would need to have the fire/rescue squad created before the Judge would agree to release those assets. He then noted that he had advised the Judge that another fire/rescue operation was being created.

Mr. Johnson inquired as to the chances of the Judge releasing any of the vehicles and Mr. Payne noted that if the Board came up with a plan, he would present it.

Mr. Harvey suggested that there was no need to do this yet, that they should be rapid but not careless; noting that it was set up to provide the basics at this point. He suggested putting things in Mr. Uttaro's hands who was doing a fine job. Mr. Payne advised that an inventory was to be taken of what was in the building and there might be some availability of it in the near future. Mr. Harvey then added that Roseland was standing by on Sunday to be in the community and they may get some help from other rescue squad departments.

In conclusion, Mr. Johnson noted his appreciation to the Gladstone and Roseland communities.

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

There was no other business considered by the Board.

## **VI. Public Comments**

### **1. Mr. Goets, Findlay Mountain Rd, Shipman**

Mr. Goetz stated that he was speaking on behalf of a Nelson County family that emigrated here from Armenia seven (7) years ago on a work visa with the understanding that they would eventually be eligible for residency status.

He noted that their change in status was mishandled and through no fault of the family they will not be able to obtain a permanent labor permit which is a requirement for getting a green card. Mr. Goetz stated that the remedy that would solve their problems immediately would be an act of congress, in terms of a private bill, which historically is the proper remedy to fix these problems when they have occurred. He

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noted however, that this has fallen to disfavor due to the abuse of this process. He added that there has been a change in how it's named and is now called an earmark.

Mr. Goetz reported that he, his wife, and friends set out to launch a petition to DC representatives to introduce a private bill and they have gotten 400+ signatures and many offers of help. He noted that the response from Senators to date has been silence and a response from the District 5 Representative has been No, with no explanation. He added that a recent article in the paper caused concern in the Representative's office and further pressure might work. He noted he was asking the Board if there was any action that can be taken or advice that would help this cause and that he would supply any information necessary and wanted. Mr. Goetz stated that the Nelson County Times article was replicated and commented on positively and he noted that it did not even detail the qualifications of the family members and the exceptional children involved. He added that they have not received one negative comment about this pursuit or about the family and that they embody ideal immigrants and sense that the County would be well served if they became citizens.

Mr. Goetz then described a special situation regarding the son Sampson, who is an exceptional student and one of the top in his class. He noted that he has many attributes and would be a prime candidate for the best universities but could not apply because he does not have a Visa. He added that he lost his passport the moment he turned 16 and cannot renew it while outside of Armenia and if he went back, he would not be able to return for five (5) years due to having to serve in the military. He noted that a green card would fix this also and he could apply to college. He noted that the sister would not lose her passport, but the family is living in basically indentured servitude and bound to a certain employer. He stated that they were creating jobs and not taking any away.

Mr. Bruguere commented that immigration issues now fall under the purview of Homeland Security and he certainly feels for their situation, having an employee with six kids in court now. He noted that the Board may adopt a resolution seeking help from the Congressman and that Congressman Hurt would be in the County on the 10th and he would support that. Outside of doing this, he was not sure what they could do to help.

Mr. Johnson noted that he thought that it would be a good idea to note that they think it is in the best interest of the community.

Mr. Hale then moved that staff be directed to prepare a resolution that best meets the requirements and would carry the greatest weight to have the Congressman introduce a private bill at the next meeting and then present it to Congressman Hurt the following day.

Mr. Goetz advised that he knows this has worked in the past in the 1980s for a friend and there is an average of one private bill introduced per week in congress.

Ms. Brennan stated that this should go to the Senators as well and recommended that it be sent to all four representatives. Mr. Johnson added that it should also be sent to anyone in the Obama administration that would have an impact.

Mr. Bruguere noted that the Feds were working on an e-verify law in August and he was afraid they would not do anything until then and this could be affecting things.

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Mr. Johnson then noted that by 2050 there would not be enough young people to take care of the elderly in this Country and immigrants were needed.

Ms. Brennan then seconded the motion and there being no further discussion, Supervisors voted unanimously by voice vote to approve the motion.

**VII. Adjournment**

AT 8:02 pm, Mr. Harvey moved to adjourn the meeting and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting was adjourned.