

July 8, 2014

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 - Chair
Allen M. Hale, East District Supervisor
Thomas H. Bruguiera, Jr. West District Supervisor
Larry D. Saunders, South District Supervisor – Vice 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
Susan Rorrer, Director of Information Systems
Captain Ron Robertson, Sheriff’s Department

Absent: None

I. Call to Order

Ms. Brennan called the meeting to order at 2:03 pm, with all Supervisors present to establish a quorum.

Ms. Brennan then asked if there were any changes to the agenda and Mr. Carter noted there was a correction to be made under the consent agenda; the resolution designating the unpaved rural rustic roads needed to be amended to add Route 654 - Cedar Creek Road as it was a previously approved priority of the Board that had been omitted.

Mr. Hale then noted that under New Business, he would like to introduce a resolution regarding the proposed natural gas pipeline.

Mr. Carter then noted that under New Business, he would like to introduce a communication from the Sheriff’s Department requesting additional funding.

Members agreed by consensus to these agenda changes.

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

I. Consent Agenda

Ms. Brennan noted the resolutions for approval under the consent agenda and Mr. Hale moved to approve the consent agenda with the understanding that resolution **R2014-50** would be amended to include Route 654, Cedar Creek Road. Mr. Harvey seconded the

July 8, 2014

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

A. Resolution – **R2014-47** Minutes for Approval

**RESOLUTION R2014-47
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(May 29, 2014 and June 10, 2014)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board’s meetings conducted on **May 29, 2014 and June 10, 2014** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2014-48** Reimbursement Resolution, Future Courthouse Renovations

**RESOLUTION R2014-48
NELSON COUNTY BOARD OF SUPERVISORS
DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE
PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR
CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN
CONNECTION WITH THE ACQUISITION, CONSTRUCTION,
EXPANSION, RENOVATION AND EQUIPPING OF NELSON
COUNTY COURTHOUSE FACILITIES**

WHEREAS, the County of Nelson (**the “Issuer”**) is a political subdivision organized and existing under the laws of the Commonwealth of Virginia; and

WHEREAS, the Issuer has paid beginning no earlier than 60 days prior to the date of adoption of this resolution, and will pay, on and after the date hereof, certain expenditures (**“Expenditures”**) for the acquisition, construction, expansion, renovation and equipping of Nelson County Courthouse facilities and related administrative space and holding areas (**the “Project”**); and

WHEREAS, the Board of Supervisors of the Issuer (**the “Board”**) has determined that those moneys previously advanced no earlier than 60 days prior to the date of adoption of this resolution and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Issuer for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (**the “Bonds”**).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

Section 1. The Board hereby declares the Issuer’s intent to reimburse the Issuer with the proceeds of the Bonds for the Expenditures with respect to the Project made on and

July 8, 2014

after the dates referenced above. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds.

Section 2. Each Expenditure was and will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case as of the date of the Expenditures), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Issuer so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

Section 3. The maximum principal amount of the Bonds expected to be issued for the Project is \$5,000,000.

Section 4. The Issuer will make a reimbursement allocation, which is a written allocation by the Issuer that evidences the Issuer's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Issuer recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. This resolution shall take effect immediately upon its passage.

C. Resolution – **R2014-49** Approval of Virginia Cooperative Extension MOU

RESOLUTION R2014-49
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH
VIRGINIA COOPERATIVE EXTENSION

RESOLVED, by the Nelson County Board of Supervisors that the County Administrator is hereby authorized to execute the attached Memorandum of Understanding between the County and Virginia Cooperative Extension for the purpose of establishing a mutual agreement between Virginia Cooperative Extension and Nelson County related to the local Extension Office's administration, programs, personnel, and financial arrangement.

Memorandum of Understanding
between
Virginia Cooperative Extension
(Virginia Tech and Virginia State University)
and
Nelson County, Virginia

Established in 1914, Cooperative Extension was designed as a partnership of the U.S.

July 8, 2014

Department of Agriculture, the Land-Grant Universities, and local governments. Today, Virginia Cooperative Extension provides research based educational programs to the people of the Commonwealth through Extension Agents in 106 county and city offices.

Local citizens are engaged in helping Extension agents design, implement and evaluate educational programs in the areas of Agriculture and Natural Resources, 4-H Youth Development, Family and Consumer Sciences, and Community Viability to address the educational needs of local residents.

Agriculture and Natural Resources:

Agriculture and natural resources (ANR) programs help sustain the profitability of agricultural and forestry production and enhance and protect the quality of our land and water resources. We help the agriculture industry use the most current technology and management practices to develop strong businesses that prosper in today's economy. We deliver programs that help put research-based knowledge to work for Virginia's agriculture industry.

4-H Youth Development:

4-H is a community of young people across America who are learning leadership, citizenship, and life skills. 4-H, the largest comprehensive youth development program in the nation, educates young people, ages 5-18, through a variety of experiential techniques that encourage hands-on, active learning.

Family and Consumer Sciences:

Virginia Cooperative Extension views the family unit as the cornerstone of a healthy community. We strive to improve the well-being of Virginia families through programs that help participants put research-based knowledge to work in their lives in the areas of family financial management, family and human development, and nutrition education.

Community Viability:

Community viability programs are dedicated to strengthening communities and their economic viability by creating innovative programs that allow citizens and local governments to respond to local issues. Our faculty can assess community needs, design a plan of action, and determine the appropriate delivery method suitable for various programs.

I. Purpose of Memorandum

The purpose of the memorandum of understanding is to establish a mutual agreement between Virginia Cooperative Extension and Nelson County related to Extension's administration, programs, personnel, and financial arrangement.

II. Administrative Responsibility

Extension faculty (Agents and Unit Coordinators) in the Nelson County Extension office will report administratively to the Virginia Cooperative Extension District Director. The District Director will appoint a Unit Coordinator for the Nelson County office after consultation with local government. The Unit Coordinator will supervise the support staff in the Nelson County Extension Office, and is responsible for office operations. Also, the Unit Coordinator is responsible for those additional assignments which are mutually agreed to by Virginia Cooperative Extension and Nelson County. Appointment of the Unit Coordinator may require a local interview when multiple faculty members express interest in this role. **Specific Administrative Responsibility agreements can be outlined in Appendix I, Section A.*

III. Program Responsibility

Programs will be developed in accordance with the Virginia Cooperative Extension programming process. This process involves citizens in the determination and implementation of programs that will address their needs. Supervision of the total program will be under Virginia Cooperative Extension with the expectation that there will be close program coordination and collaboration with local government and other key agencies and organizations. Reports of Extension programs and program impacts will be provided to the local government at least quarterly. **Specific Program Responsibility agreements can be outlined in Appendix I, Section B.*

IV. Personnel

There may be two types of employees within a Virginia Cooperative Extension office. These are employees of Virginia Cooperative Extension and employees of Nelson County assigned to Virginia Cooperative Extension. Virginia Cooperative Extension employees are those employees who are payrolled by Virginia Cooperative Extension and may be funded 100 percent by Nelson County, or funded jointly by Virginia Cooperative Extension and Nelson County. These employees will be employed through the procedures prescribed by the Commonwealth of Virginia and the Virginia Tech EEO/ Affirmative Action Program. A minimum of one-third combined local funding is required for funding extension agents.

Local government input will be sought on the selection of Virginia Cooperative Extension personnel and on their annual performance evaluation. The District Director will work with local government to secure this input. Any employees pay-rolled by Nelson County and assigned to Virginia Cooperative Extension will be employed in accordance with the local government's established hiring procedures. Virginia Cooperative Extension is not liable for actions of Nelson County employees and Nelson County is not liable for actions of Virginia Cooperative Extension employees.

Virginia Cooperative Extension agents are faculty of the University and subject to the guidelines of the Faculty Handbook. Virginia Cooperative Extension employees who are

July 8, 2014

members of the State of Virginia Personnel Classification System are subject to system guidelines, including salaries and employee benefits. Wage employees pay-rolled by Virginia Cooperative Extension are subject to the applicable state and university guidelines. Wage employees pay-rolled by Nelson County and assigned to Virginia Cooperative Extension are subject to applicable Nelson County guidelines. The title of Extension Agent is reserved for the employees of Virginia Cooperative Extension. No County employee can assume the title of Extension Agent. **Specific Personnel Agreements can be outlined in Appendix I, Section C.*

IV. Financial Arrangement

Virginia Cooperative Extension will annually submit a formal budget request for Nelson County funds to support the Extension program. The guidelines for the budget are:

Salaries and Employee Benefits

VCE Employees

Virginia Cooperative Extension will payroll all Extension employees and will bill Nelson County for the locality's portion of salaries and benefits on a quarterly basis. Virginia Cooperative Extension will pay employee benefit costs on the state portion of salaries. The percentage of employee benefits to be applied to salary costs will be requested in the local budget document.

This includes Virginia Cooperative Extension (VCE) employees funded 100 percent by VCE, funded 100 percent by Nelson County, or funded jointly by VCE and Nelson County. Salary adjustments for Extension Agents are based on an annual evaluation. The local government will be asked by the District Director to provide input into Extension Agents' evaluations. Nelson County is responsible for the local portion of the approved salary increase. Any salary increases designated by the University Board of Visitors for Extension employees will occur on November 25th unless the University Board of Visitors or the Governor of Virginia designate additional salary increases during the course of the fiscal year. By contrast, when the locality provides a raise to their employees, this does not apply to Virginia Cooperative Extension employees.

Staff Support

Virginia Cooperative Extension agrees to provide Faculty Specialist assistance from Virginia Tech and Virginia State University, base level secretarial support, university laboratory services both fee based and non-fee based, office equipment, publications, travel funds, office supplies, postage budget, personal computers, in-service education, and program development support to the extent of budget limitations.

Nelson County agrees to provide office space and appropriate insurance, custodian services, additional secretarial assistance (where needed), and telephone service. Nelson County agrees, as funding permits, to provide printing, equipment, supplies, training opportunities,

July 8, 2014

information technology support and travel funds not furnished by Virginia Cooperative Extension and approved by Nelson County. **Specific Financial Arrangements can be outlined in Appendix 1, Section D.*

VI. Amendment

'This memorandum supersedes all previous versions. It may be further amended upon written consent of the parties involved. However, before the memorandum can be terminated by either party, a three month notice must be given in writing to the appropriate party.

The following representatives of Virginia Cooperative Extension and Nelson County agree to the above MOU and attached Appendices.

Appendix 1 Specific Arrangements between Virginia Cooperative Extension and Nelson County

A. Administrative Responsibility

(This section would be used to describe arrangements in Units where Unit Coordinators are County/City Department Heads or where Unit Coordinators are responsible for specific functions such as County/City Emergency Operation Teams, FEMA Disaster Liaison, etc.)
No additional UC administrative responsibilities at this time (June 2, 2014).

B. Program Responsibility

(This section would be used to describe specific programmatic arrangements desired by the locality such as the addendum that the City of Richmond requires that outlines VCE involvement with specific City initiatives such as the Mayor's Youth Academy).

C. Personnel

*4-H Agent housed in Nelson County
ANR Agent (Environmental Horticulture emphasis) housed in Nelson County
ANR Agent (Animal Science emphasis) shared with-and housed in--Amherst County*

D. Financial Arrangement

*ANR Agent (Env. Hort) 66.66% State 33.34% County
4-H Agent 66.66% State 33.34% County
ANR Agent (Animal Science) 50.00% State 50.00% County (85%Amherst, 15%Nelson)
Unit Administrative Assist. 100% State*

D. Resolution – **R2014-50** Designation of Unpaved Rural Rustic Roads

RESOLUTION R2014-50

July 8, 2014

**NELSON COUNTY BOARD OF SUPERVISORS
DESIGNATION OF RURAL RUSTIC ROADS
VIRGINIA DEPARTMENT OF TRANSPORTATION**

WHEREAS, Section 33.1-70.1 of the *Code of Virginia*, permits the hard surfacing of certain unpaved roads deemed to qualify for designation as a Rural Rustic Road; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1,500 vehicles per day; and

WHEREAS, the Board of Supervisors of Nelson County, Virginia desires to consider whether these Routes should be designated as Rural Rustic Roads as follows:

- Route 640, Wheelers Cove Road, From: Route 623 To: Route 620,
- Route 613, Lodebar Estates, From: Route 151 To: Route 612,
- Route 634, Old Roberts Mountain Road, From: Route 619 To: Route: 754,
- Route 654, Falling Rock Road, From: 1.00 mile East Route 657 To: Route 661,
- Route 680, Cub Creek Rock Road, From: 0.51 mile West Route 669 To: 1.90 mile West Route 669,
- Route 721, Greenfield Drive, From: Route 626 To: 0 .50 mile West Route 626,
- Route 756, Wrights Lane, From: Route 623 To: Dead End,
- Route 814, Campbell's Mountain Road, From: 0.99 mile North Route 56 To: 1.99 mile North Route 56,
- Route 654, Cedar Creek Road, From: Route 655 To:1.0 mile West of Route 655, and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on these roads; and

WHEREAS, the Board believes that these roads should be so designated due to their qualifying characteristics; and

WHEREAS, these roads are in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby adopts the resolutions designating these roads as Rural Rustic Roads, and requests that the Residency Administrator for the Virginia Department of Transportation concur in this designation.

BE IT FURTHER RESOLVED, the Board requests that these roads be hard surfaced and, to the fullest extent prudent, be improved within the existing right-of-way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the roads in their current state.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Virginia Department of Transportation Residency Administrator.

II. Public Comments and Presentations

A. Public Comments

Ms. Brennan opened the floor for public comments and the following persons were recognized:

1. Diana Driver, High School Drama Teacher

Ms. Driver thanked the Board for their contributions to the drama team trip, and the recognition and provision of the state championship rings. She added that she brought pictures from the New York trip for the Board to see; noting that they saw three Broadway shows and worked with an actor while they were there.

2. Marion Kanour, Afton

Ms. Kanour spoke in opposition to the pipeline. She reported that she was forming an organization called Free Nelson to celebrate property boundaries. She added that anyone interested could call 434-465-4946 and they would come for a party of the celebration of the boundaries of properties in Nelson. She noted that July 12th there would be training for hosts and hostesses and they would invite the public to join the parties. She then noted that natural gas was not renewable and required fracking; which impacted water sources. She added that the solution was to develop renewable energy sources and she urged the Board to speak with one voice to oppose the pipeline.

3. Charlie Weinberg, Afton

Mr. Weinberg noted he appreciated the service of the Planning Commissioners who knew the ordinances, who could convey things accurately, and who were accessible. He noted that Linda Russell and Philippa Proulx were these things. Mr. Weinberg then asked the Board to remind VDOT to maintain the paving once the rural rustic roads were paved; such as the southern end of Ennis Mountain Road.

Mr. Weinberg then added that the proposed ordinance change scheduled for public hearing in the evening session would weaken the ordinance as it would make the change for one parcel of land.

4. Kim Cash, Montebello

Ms. Cash spoke in favor of the reappointment of Linda Russell and Philippa Proulx to the Planning Commission. She noted that these seats required specialized knowledge and required them to balance land owner interests with those of the public. She noted this was the same for the Board of Zoning Appeals of which she was a member. Ms. Cash added that she attended Planning Commission meetings and endorsed both Linda Russell and Philippa Proulx and commended them for their knowledge as Planning Commissioners. Ms. Cash noted that Ms. Russell served on the site plan review committee and visited each site

July 8, 2014

personally. She noted that she spent a great deal of volunteer time serving the County in these capacities and she disagreed that new blood was needed on specialized boards. In addition she noted that 90% of the legwork on applications was done by the Planning Commission before they came to the Board of Supervisors for consideration. She noted that experience was valuable and she asked for the Board to reappoint Linda Russell and Philippa Proulx. She added that if they did not, they should choose carefully.

5. Donna Small, Nellysford

Ms. Small spoke in favor of the re-appointment of Linda Russell and Philippa Proulx to the Planning Commission.

6. Ernie Reid, Nelson County property owner & Friends of Nelson member

Mr. Reid spoke on behalf of Friends of Nelson regarding a petition signed by citizens requesting a public meeting be held by the Board with Dominion being present and questions allowed to be asked. He noted that they had an additional 130 names on the petition and the total was now up to 500 signatures of which 3/4 were from County residents. He then read aloud some comments made by signers of the petition. He then thanked the Board for the attention given to the matter and submitted the additional petition names to Mr. Carter.

7. Eleanor Amidon, Afton

Ms. Amidon noted that she had spoken with Captain Robertson of the Sherriff's Department regarding surveyors coming onto property. She advised that property needed to be marked with No Trespassing signs that were highly visible and landowners should call the Sheriff's Department or call 911 should unwanted surveyors come on the property. She added that she would like to know from the Board what landowners should do and would like the information posted on the County's website.

Mr. Harvey noted that the Board and County staff did not give out legal advice as they were not attorneys. He noted that there were different rules that applied to pipeline surveyors.

8. Beth Cunningham, Shipman

Ms. Cunningham spoke in opposition to the pipeline coming through her property and noted she was concerned about water contamination. She noted that the path of the proposed line would go right through her current garden plot and she hoped the Board would also oppose it as it was not needed in the county.

9. Marion Kanour, Afton

Ms. Kanour re-addressed the Board and noted that a second letter was required from Dominion per the Virginia Code. She noted that these letters had been dated June 30th;

July 8, 2014

which meant according to the Code, the soonest they could begin surveying should be July 15th. She added that they would not be in compliance if they came in before that.

B. VDOT Report

Mr. Don Austin of VDOT reported the following:

Mr. Austin reported that the Secondary Six Year Plans had now been approved statewide. He noted that there had been a small change in funding that he would send to Mr. Carter.

Mr. Austin then noted they would start back on primary mowing on Monday and that secondary roads were now done.

Mr. Austin then reported that they were currently meeting with LOCKN Festival representatives to come up with a traffic management plan. He noted that traffic would come off of Rt. 29 into the field at Oak Ridge Road this year and that all events would be South of Oak Ridge with nothing being on the left side. He noted that these discussions were ongoing. Mr. Austin clarified that traffic would go south on Route 29 and would be brought back, crossing the field on the corner instead of primarily using Diggs Mountain Road. He added that Diggs Mountain Road would be a backup.

Mr. Harvey noted that people needed to be able to get home in the evening and Mr. Austin noted that they were looking at traffic flows etc. now. Mr. Carter added that he would ask Mr. Frey to meet again soon to advise staff on their plans and he would report back thereafter.

Mr. Austin then noted he would check on the south end of Ennis Mountain Road as noted by Mr. Weinberg during public comments.

Supervisors then noted the following issues within their districts:

Mr. Harvey had none.

Mr. Saunders noted that the pothole on Centenary Road was still there but now had a flag on it and the shoulders and ditches on Greenfield Drive needed attention.

Mr. Bruguere inquired about the ditching on Dickie Road and Mr. Austin noted that the environmental side of it had been checked, they would get clearance, and it would move forward. He added that he had seen where the curve was washing out there.

Mr. Bruguere then noted that per Jimmy Allen, Firehouse Lane had been surveyed and was ready to go. Mr. Austin noted he would contact him to see what he knew. It was noted that they had recently purchased the property and he would also speak to Gary Baldwin to see.

Mr. Hale noted that the pothole on Route 617 was still there and was close to the railroad pipe. Mr. Austin noted he had looked at it the other week and he thought it would probably involve an environmental evaluation.

July 8, 2014

Ms. Brennan thanked Mr. Austin and inquired as to who would repaint the lettering on the historical sign at Nelson Wayside, as the paint was coming off. Mr. Austin noted that their traffic engineer could possibly repaint this and he would check.

III. New Business/ Unfinished Business

A. Emergency Services and Revenue Recovery Program Report (J. Miller & D. McCann)

Mr. Carter noted that Jaime Miller would present call statistics for 2013 and for January 2014 through June 2014 and Ms. McCann would report on the financial status of the revenue recovery program.

Ms. Miller had provided the Board with the following report:

Review of the Revenue Recovery Program Purpose

The purpose of this report is to give a brief overview of the progress achieved with the Revenue Recovery Program during the past year; the call statistics are collected and reported on a calendar year basis while the revenue billed and collected has historically been collected and reported on a fiscal year basis. This report will include call statistics as well as billing and revenue information.

Background Information

In April 2006, an agreement was entered into between the County, Wintergreen Property Owners Association (“WPOA”), and Gladstone Volunteer Rescue Squad, Montebello Volunteer Rescue Squad, Nelson County Volunteer Rescue Squad, Rockfish Valley Volunteer Fire Department, Roseland Volunteer Rescue Squad, and Wintergreen Property Owners Volunteer Rescue Squad (collectively, the “Volunteer Companies”); due to the increasing demand for emergency medical services in Nelson County and the burden placed upon the volunteers to meet the demands to provide such care. It was agreed that to augment the work performed by the Volunteer Companies and WPOA Fire and Rescue, the County shall provide funding to employ six full-time personnel (the “Paid Personnel”), one of whom shall be designated shift captain.

The dynamics of the program have drastically changed since 2006; the Career Staff now operates with one 12-hour crew and one 24-hour crew, both operating from Nelson Station 2 in Lovington, to provide a central response to all calls for service. With the two Career Crews in place, they are able to provide coverage 24/7, to include weekends and holidays. There are still times that are necessary to have the volunteers provide crews to supplement the Career Crews when call volumes are higher, however; this has been harder to obtain.

Call Statistics

| Agency | 2013 Calls for Service | | | | | | | | | | | | | | | | |
|----------|------------------------|----------------------|---------------------|------------------|--------------------------------|---------------------|------------|------------|-----------|------------|-----------|-----------|-----------|----------|----------|----------|-----------|
| | Total Dispatches | Total Calls Answered | % of Total Answered | Total Transports | % of Total Transports Answered | Calls answered for: | | | | | | | | | | | |
| | | | | | | NELS | ROSE | ROCK | MONT | GLAD | WINT | AMHR | APPO | BUCK | AUGU | ALBE | DUAL |
| NELS | 1067 | 138 | 12.93% | 57 | 4.73% | 125 | 13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| ROSE | 983 | 266 | 27.06% | 98 | 8.14% | 75 | 158 | 0 | 2 | 3 | 1 | 26 | 1 | 0 | 0 | 0 | 0 |
| ROCK | 290 | 100 | 34.48% | 27 | 2.24% | 15 | 4 | 68 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 7 | 4 |
| MONT | 91 | 78 | 85.71% | 25 | 2.08% | 2 | 11 | 0 | 64 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |
| GLAD | 201 | 150 | 74.63% | 68 | 5.65% | 13 | 6 | 6 | 0 | 80 | 0 | 12 | 25 | 8 | 0 | 0 | 0 |
| WINT | 165 | 161 | 97.58% | 92 | 7.64% | 55 | 33 | 46 | 2 | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 20 |
| 151 Crew | 751 | 751 | | 481 | 39.95% | 395 | 200 | 131 | 5 | 18 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| 29 Crew | 869 | 869 | 64.47% | 356 | 29.57% | 374 | 450 | 7 | 6 | 30 | 1 | 1 | 0 | 0 | 0 | 0 | 0 |
| | <u>4417</u> | <u>2513</u> | | <u>1204</u> | | <u>1054</u> | <u>875</u> | <u>258</u> | <u>79</u> | <u>131</u> | <u>11</u> | <u>39</u> | <u>26</u> | <u>8</u> | <u>1</u> | <u>7</u> | <u>24</u> |

3213 Nontransports or Nonresponses

Ms. Miller referred to the chart above and gave the following explanation:

Total dispatches was the number of calls for service that each agency was toned to respond on; this number indicated that the agency was toned to respond for a call for service either in their first due area or as a mutual aid response because another agency failed to respond to the call. **Total Calls Answered** was the number of calls that the agency actually responded on.

Percentage of Total Answered was that particular agencies response percentage, i.e. Montebello Rescue responded to 85.71% of their total calls during 2013. **Total transports** was the number of billable transports that resulted from these calls for service.

Percentage of Total Transports Answered was a comparison of the agencies to show who was providing the bulk of the billable transports within the system. The remainder of the chart was a breakdown of how many calls were answered by each agency either in their first due area, for a specific Nelson agency, or outside of Nelson County.

Nelson Rescue: Nelson Rescue received 1,067 dispatches for calls for service in 2013; of which **they answered 138 calls for service or 12.9% of their total calls for service.** Fifty-seven of Nelson Rescue’s calls for service resulted in a billable transport. One hundred twenty five calls for service that were answered by Nelson Rescue were located within their first due area and 13 were mutual aid calls for Roseland Rescue. **The transports performed by Nelson Rescue make up 4.73% of the total transports for 2013.** The total calls answered by Nelson Rescue make up 5.49% of the total calls for service for 2013.

Roseland Rescue: Roseland Rescue received 983 dispatches for calls for service in 2013; of which **they answered 266 calls for service or 27.06% of their total calls for service.** Ninety-eight of Roseland Rescue’s calls for service resulted in a billable transport. One hundred fifty eight calls for service that were answered by Roseland Rescue were

July 8, 2014

located within their first due area, 75 were mutual aid calls for Nelson, 2 were mutual aid calls for Montebello, 3 were mutual aid calls for Gladstone, 1 was a mutual aid call for Wintergreen, 26 were calls in their first due area in Amherst County, and 1 call was in Appomattox County. **The transports performed by Roseland Rescue make up 8.14% of the total transports for 2013.** The total calls answered by Roseland Rescue make up 10.58% of the total calls for 2013.

Rockfish Rescue: Rockfish Rescue received 290 dispatches for calls for service in 2013; of which **they answered 100 calls for service or 34.48% of their total calls for service.** Twenty-seven calls for service that were answered by Rockfish Rescue resulted in a billable transport. Sixty-eight calls for service that were answered by Rockfish Rescue were located within their first due area, 15 were mutual aid for Nelson, four were mutual aid for Roseland, two were mutual aid for Wintergreen, seven were in their first due area in Albemarle, and four were in their dual response area with Wintergreen. **The transports performed by Rockfish Rescue make up 2.24% of the total transports for 2013.** The total calls answered by Rockfish Rescue make up 3.98% of the total calls for 2013.

Montebello Rescue: Montebello Rescue received 91 dispatches for calls for service in 2013; of which **they answered 78 calls for service or 85.71% of their total calls for service.** Twenty-five calls for service that were answered by Montebello Rescue resulted in a billable transport. Sixty-four calls for service that were answered by Montebello Rescue were located within their first due area, two were mutual aid calls for Nelson, 11 were mutual aid calls for Roseland, and one was a mutual aid call for Augusta County. **The transports performed by Montebello Rescue make up 2.08% of the total transports for 2013.** The total calls answered by Montebello Rescue make up 3.10% of the total calls for 2013.

Gladstone Rescue: Gladstone Rescue received 201 dispatches for calls for service in 2013; of which **they answered 150 calls for service or 74.63% of their total calls for service.** Sixty-eight calls for service that were answered by Gladstone resulted in a billable transport. Eighty calls for service that were answered by Gladstone Rescue were located within their first due area, 13 were mutual aid calls for Nelson, six were mutual aid calls for Roseland, six were mutual aid for Rockfish, 12 were in their first due area in Amherst County, 25 were in their first due area and/or mutual aid for Appomattox County, and eight were mutual aid for Buckingham County. **The transports performed by Gladstone Rescue make up 5.65% of the total transports for 2013.** The total calls answered by Gladstone Rescue make up 5.97% of the total calls for 2013.

Wintergreen Rescue: Wintergreen Rescue received 165 dispatches for calls for service in 2013 of which **they answered 161 calls for service or 97.58% of their total calls for service.** Ninety-two calls for service that were answered by Wintergreen Rescue resulted in a billable transport. Five calls for service that were answered by Wintergreen Rescue were located within their first due area, 55 were mutual aid for Nelson, 33 were mutual aid for Roseland, 46 were mutual aid for Rockfish, two were mutual aid for Montebello, and 20 were in their dual response area with Rockfish. **The transports performed by**

July 8, 2014

Wintergreen Rescue make up 7.64% of the total transports for 2013. The total calls answered by Wintergreen Rescue make up 6.41% of the total calls received for 2013. Ms. Miller noted that these were calls not in the Master Plan area.

Career Staff: The Career Staff received one thousand six hundred twenty dispatches for calls for service in 2013, of those eight hundred thirty seven calls for service resulted in a billable transport. Seven hundred sixty nine calls were answered in the Nelson Rescue area, 650 calls were answered in the Roseland Rescue area, 138 calls were answered in the Rockfish Rescue area, 11 calls were answered in the Montebello Rescue area, 48 calls were answered in the Gladstone Rescue area, three calls were answered in the Wintergreen Rescue area, and one call was answered in Amherst County. **The transports performed by the Career Staff comprise 69.52% of the total billable transports for 2013. The total calls answered by the Career Staff make up 64.47% of the total calls received in 2013.**

Ms. Miller then referred to the following Chart for 2014 January - June

2014 Calls for Service - January through June

| Total Calls Answered | % of Total Answered | Total Transports | % of Total Transports Answered | Calls answered for: | | | | | | | | | | | | |
|----------------------|---------------------|------------------|--------------------------------|---------------------|------------|------------|-----------|-----------|-----------|-----------|-----------|----------|----------|-----------|-----------|--|
| | | | | NELS | ROSE | ROCK | MONT | GLAD | WINT | AMHR | APPO | BUCK | AUGU | ALBE | DUAL | |
| 46 | 12.04% | 20 | 2.99% | 21 | 8 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 70 | 22.01% | 34 | 5.07% | 25 | 54 | 1 | 0 | 0 | 0 | 10 | 0 | 0 | 0 | 0 | 0 | |
| 108 | 54.55% | 40 | 5.97% | 6 | 5 | 77 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 11 | 0 | |
| 18 | 81.82% | 13 | 1.94% | 1 | 0 | 0 | 21 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 82 | 76.64% | 27 | 4.03% | 6 | 14 | 1 | 0 | 26 | 0 | 8 | 20 | 4 | 0 | 0 | 0 | |
| 138 | 86.25% | 68 | 7.64% | 25 | 11 | 51 | 1 | 0 | 11 | 0 | 0 | 0 | 0 | 0 | 38 | |
| 121 | | 93 | 13.88% | 46 | 34 | 33 | 2 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 480 | | 375 | 55.97% | 260 | 177 | 24 | 0 | 18 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | | <u>670</u> | | <u>390</u> | <u>303</u> | <u>189</u> | <u>24</u> | <u>53</u> | <u>11</u> | <u>18</u> | <u>20</u> | <u>4</u> | <u>0</u> | <u>11</u> | <u>38</u> | |

1124 Nontransports or Nonresponses

Ms. Miller concluded by noting that career staff were answering more calls and the number of calls answered by volunteers was declining. She added that a nonresponse was when the crew went on a call and it did not result in a transport or the call was canceled.

Mr. Carter then distributed an updated financial report from Ms. McCann as follows for 2013 and year to date 2014.

PAID EMS PROGRAM FINANCIAL INFORMATION

| July 1, 2012 – June 30, 2013 | |
|-------------------------------------|----------------|
| Gross Charges Billed | \$1,361,890.90 |

July 8, 2014

| | |
|--|----------------------|
| Contractual Allowances & Other Adjustments | -\$409,637.48 |
| Net Charges Billed | \$952,253.42 |
| Cash Collections (56.3% of Net Charges) | \$536,333.30 |
| Year End Expenditures | \$656,290.00 |
| Net Program Shortfall | -\$119,956.70 |

| July 1, 2013 – March 31, 2014 | |
|--|----------------------|
| Gross Charges Billed | \$852,192.60 |
| Contractual Allowances & Other Adjustments | -\$213,062.13 |
| Net Charges Billed | \$639,130.47 |
| Cash Collections (55.7% of Net Charges) | \$355,922.08 |
| YTD Expenditures | \$501,824.28 |
| Net Program Shortfall YTD | -\$145,902.20 |

Ms. McCann noted that for July 1, 2012 to June 30, 2013 Gross Charges Billed were \$1,361,891 and explained that the \$409,637 of Contractual Allowances were amounts that exceeded the allowable charges for Medicare or Medicaid. She noted that the Net Billed amount was \$952,253 and Cash Collections (56.3% of Net Charges) were \$536,333 with Year End Expenditures being \$656,290 which resulted in a Net Program Shortfall of \$119,956.

She then reported that for July 1, 2013 to March 31, 2014 Gross Charges Billed were \$852,193 and there was \$213,062 of Contractual Allowances deducted for a Net Charges billed amount of \$639,130. Cash Collections (55.7% of Net Charges) was \$355,922 with Year to Date (YTD) Expenditures being \$501,824 which resulted in a Net Program Shortfall Year to Date of \$145,902.

Ms. McCann reported that receipts provided 81.7% of the total program expense in FY13 and YTD receipts provided 70.9% of YTD program expenses.

July 8, 2014

Ms. McCann then noted that the three month average collections with the new billing company was about \$38,000 per month. She noted that in projecting out for June the total expenditures were \$665,000 not including the \$34,000 spent at Nelson Rescue Station II for capital improvements and the revenues should be around \$494,000; therefore the revenue paid for about 74% of operating costs with a net program shortfall anticipated to be \$171,000.

Mr. Harvey then inquired as to whether the collection ratio was lower with the new billing company and Ms. McCann noted that the new company started billing in December 2013 and it took about 6 months for everything to iron out. She noted that generally, insurance companies were slower to pay; however the May receipts were \$51,000. She suggested that the County give them a year before looking at their collections. She added that the current company was much timelier in getting charges billed to insurance companies which resulted in more timely payments. She added that the billed charges were less because the actual number of transports had declined. Ms. Miller noted that this would increase during the summer months.

Mr. Carter noted that at the start of the program, staff projected a collection rate in the 60% range and he added that a lot of charges were written off because of nonpayment.

Mr. Bruguiere then inquired about the Medicare Allowable Charges and Ms. McCann noted that staff tried to keep the charges in line with these rates and noted that the last time it was evaluated, it was not thought that a rate change was warranted.

Mr. Carter noted that 70% of the call volume was handled by the career staff and that revenue needed to be picked up.

Ms. Brennan then inquired about the soft billing process and Ms. McCann noted that based on the current billing policy approved by the Board, the billing company billed a patient a certain number of times and then they did not get sent to collections. She added that the County did provide for a hardship waiver based on Federal Poverty guidelines. She then added that copays for Nelson residents were waived per the policy. Ms. Brennan then inquired as to how many patients with insurance were getting written off and Ms. McCann noted that this was uncertain and this analysis would be very tedious to do.

Mr. Carter noted that he thought the County would have better results and less write-offs of those with insurance, with the new company.

In response to questions regarding crews using electronic reporting, Ms. Miller noted that a couple of agencies still used paper reporting and then entered the data into their computer at a later date. She noted in looking at this, it was discovered that there was no physical signature from the provider which created a backlog of calls that they had to get an affidavit for from each provider that care was given before the calls could be billed.

Ms. Miller noted that staff had provided training to the squads multiple times and some would still not use the computers. Ms. McCann added that the new billing company would

July 8, 2014

also provide training. Mr. Carter added that the squads were encouraged to use the toughbooks to report electronically.

Ms. Brennan then noted she was concerned that if people who had insurance weren't paying, then others were subsidizing this.

Mr. Carter then reiterated that the County could not charge a copay because of operating under the OIG opinion. Ms. Miller added that taxes paid by citizens was considered the copay per the OIG opinion. Mr. Carter reiterated that the County had not gone to using collections thus far and was making substantial write-offs.

Ms. Miller noted that the new billing company had better relationships with hospitals and providers which enabled them to get insurance information on the back end if it was not provided on the front end by patients. She added that they had been very successful in getting insurance information for billing. Mr. Carter noted that this had been a problem with the former billing company and was a large part of the reason the County solicited a new one. He added that he thought the career program worked extremely well. Ms. McCann concurred that the current billing company was much better so far.

Mr. Bruguere then suggested that the County look at changing the soft billing policy. Supervisors and staff then discussed use of the hardship waiver form and Mr. Carter noted that it would take considerable staff time to make sure that hardship waiver forms were filled out by those account holders being written off. He added that he was confident that after a year, the County would achieve the collection rate expected.

B. Reconsideration of Authorization for Public Hearing -Planning Commission Referred Comprehensive Plan Updates (**R2014-44 Deferred**)

Mr. Carter reported that for consideration was authorization of a public hearing on the new transportation chapter of the Comprehensive Plan that had been discussed at the previous regular meeting. He added that it had been presented at the regular June meeting and the Board had asked for additional time to review it. He added that staff was reintroducing the subject in case the Board was ready to consider it and staff was waiting for the Board's direction. He added that Mr. Padalino was present to address any questions they may have.

Ms. Brennan indicated she was happy with the changes and Mr. Hale noted he thought they should move forward with a public hearing in August and it was noted that the Board would have time afterwards to rethink any of it. Mr. Carter noted that he concurred; however he was not pushing it and Mr. Bruguere indicated they should move forward as well.

Mr. Hale then moved to approve resolution **R2014-44** Authorization for Public Hearing, Comprehensive Plan Updates – Transportation Chapter at 7pm on August 12, 2014.

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

July 8, 2014

RESOLUTION R2014-44
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
COMPREHENSIVE PLAN UPDATES –TRANSPORTATION CHAPTER

BE IT RESOLVED, that pursuant to §15.2-1427, §15.2-2204, §15.2-2223, §15.2-2225, and §15.2-2226 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held for the purpose of receiving public input on proposed amendments to the Nelson County Comprehensive Plan, specifically, Chapter 5, the Transportation Chapter.

The public hearing will be held at 7:00 PM on August 12, 2014 in the General District Courtroom of the Nelson County Courthouse, 84 Courthouse Square, Lovingston, Virginia.

Introduced: Resolution Regarding the Proposed Dominion Pipeline

Mr. Hale noted that in regards to the proposed pipeline, he moved to approve resolution **R2014-51**, Request for Meeting on Proposed Dominion Transmission Inc., Natural Gas Pipeline (Southeast Reliability Project) and he read the proposed resolution aloud.

Mr. Bruguere noted he had no problem with the resolution except for the statement that “no further research or surveys be taken”. He clarified that if these continued it may prove to them that this may not be the best way to go.

Mr. Hale explained that the resolution included the phrase because Dominion had approached this in a high handed manner and if the clause were not put in, they would just say they were not ready. He added that they may say this anyway; however the resolution was saying that they should tell the Board something and that they did not want them to do any more work until they did. He added that the language made it more persuasive. He added that when they say they did not know the route, he believed they did and that they did not want to show it. He noted he thought the resolution was a step in the right direction to put pressure on them. He noted that this project was the biggest expenditure on infrastructure in the county ever.

Mr. Bruguere then seconded the motion and discussion followed.

Mr. Harvey questioned whether or not the resolution was worth the paper it was written on and Mr. Hale acknowledged that it was a federally regulated project; however he thought that Dominion was morally obligated and responsible to talk with the Board. He added that they would argue that they were in the pre-application phase and nothing had been determined and that once their application was made to FERC, they would do all of these things as a matter of requirement. He added there was nothing that said they had to talk to the Board specifically.

July 8, 2014

Mr. Carter noted that when Emmett Toms of Dominion called him, he indicated they were in pre-filing mode and had indicated they would come to this meeting; however they called back and said open season had been extended and they would defer coming to a meeting to make a presentation until it had closed.

Mr. Harvey noted he thought things were more than preliminary at this point. Mr. Hale agreed and added that he thought they had determined the route, which may move around houses etc. but he was not sure to what extent. He noted he wanted to know the amount of capital investment to be made and the size of the pipe etc. Mr. Hale then stated that the Board could not request an advisory opinion of the Attorney General as was previously noted; however this could come from the County Attorney, the Commonwealth Attorney, or a member of the General Assembly. He then noted that in his discussion with Mr. Payne, who had looked over the previous AG advisory opinion, it was noted that it was not likely that a new opinion would differ and the process could take nine months.

Mr. Hale then noted that he thought the appropriate place to ask for this opinion was with the General Assembly; noting that Senator Deeds should be addressed on the subject. Ms. Brennan then noted that she would contact him regarding making this request.

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

RESOLUTION R2014-51
NELSON COUNTY BOARD OF SUPERVISORS
REQUEST FOR MEETING ON PROPOSED DOMINION TRANSMISSION INC.
NATURAL GAS PIPELINE (SOUTHEAST RELIABILITY PROJECT)

WHEREAS, the Nelson County Board of Supervisors was first informed of Dominion Transmission, Inc.'s (Dominion) proposed natural gas pipeline project on May 14, 2014; and

WHEREAS, said notice included a crude General Location Map of the proposed route traversing Nelson County from the Blue Ridge Mountains to the James River, some talking points, and a copy of the letter to be sent to landowners to be affected by said pipeline; and

WHEREAS, Dominion has failed to provide the County or its residents the rationale for the route selection; and

WHEREAS, Dominion has failed to provide the County or its residents technical details as to the proposed specifications for the pipeline; and

WHEREAS, the Nelson County Board of Supervisors has insufficient information to understand or evaluate the consequences of a project of this magnitude on Nelson County and its residents; and

July 8, 2014

WHEREAS the County has requested a meeting with Dominion representatives as well as a more accurate depiction of the proposed route and Dominion has failed to provide either,

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors requests that a representative of Dominion meet with the entire Board at the earliest possible date to fully explain the project, the proposed route, and address our questions and concerns; and that until such time as that meeting takes place, no further research or surveys be undertaken on the proposed natural gas pipeline in Nelson County.

Mr. Carter then advised that the resolution would be sent to Dominion.

Introduced: Sheriff's Department Funding Request dated July 7, 2014

Mr. Carter reported that staff had received an appropriations request from the Sheriff's Department on 7-7-14 as follows:

The Nelson County Sheriff's office request the continual support of the Nelson County Board of supervisors at the generous levels it has received. With the aging fleet of vehicles being used today, this has a potential safety concern for me and my officers. Please consider restoring vehicle allocation money into the county budget for the cost of 2 2014/2015 Dodge Chargers. The amount requested is the price quote received from Southern Auto Group, using the York County Contract, which is less expensive than the Virginia State Contract price.

| | | |
|---------------------------------------|--|-------------|
| 2 | 2014 Dodge Charger Police Pursuit RWD, 5.7L Hemi V-8 Engine @23,829eac | \$47,658.00 |
| 2 | Lettering/Stripping of Vehicle @ 625.00ea | \$ 1,250.00 |
| 2. | Installing vehicle equipment, Light bars, Radio, Siren, Cages, Push bumper etc, approx @\$7,000.00ea | \$14,000.00 |
| Total Requested Funding for Vehicles: | | \$62,910.00 |

The Nelson County Sheriff's Office also request that \$5,000.00 be added to Line Item 30102-5409 for the purchase of ammo .At present we do not have enough ammo on hand to complete service weapons qualifications this year as directed by DCJS (Department of Criminal Justice Services) ,which mandates that we qualify at least once per calendar year. Due to the war effort there is a long waiting period to receive ammo of about 6 to 8 months. Last week we received ammo that was ordered in September 2013,

Mr. Carter noted that the funding could be approved that day; however it would come back as a budget amendment the following meeting.

Captain Ron Robertson then addressed the Board concerning the request and noted that he was in the process of answering Mr. Carter's questions. He noted that one of the vehicles would be replacing Officer McDonald's car with a blown engine. He noted it would have cost \$4,400 dollars to fix it and it needed repainting which would have cost another \$8,000 and it was not worth the investment. He noted the other vehicle would replace a transport car

July 8, 2014

that had engine problems. He added that the Department had no spare vehicles besides the car known as “the gray ghost”.

He then noted that as far as the ammunition request, they had very little ammunition on hand and had to qualify annually. He noted it took 1,600 rounds per DCJS specifications to qualify. He then explained that they had two different types of ammo: full metal jacket or a ball and they had to practice with one and qualify with the other. He noted that they had 2,600 rounds on hand of one type of which 1,600 would be used in qualification leaving 1,000 rounds.

He then noted that the Tactical Team would take 6,000 rounds to practice and qualify. He noted that the 223 rifles for the Tactical Team would require 3,000 rounds of that.

He noted that the total was \$5,695 for ammunition and they were asking for \$5,000. He added that this would get them up to par and if something happened in the meantime, they would be woefully unprepared.

Captain Robertson then noted that the ammunition was ordered off of State Contract and that there was a 6-8 month delivery on all orders. He noted that County regulations required them to use the State contract or they would have to get 3 prices per the purchasing policy, which took time. He noted that 40 caliber rounds took longer to get for some reason and that was what was being used.

Mr. Saunders noted he could not imagine this many rounds (3,000) would be needed if something happened.

Captain Robertson noted that the DCJS students required 1,400 rounds to practice and 200 rounds to qualify. Mr. Saunders clarified that he was questioning the Captain’s statement that 3,000 rounds were needed to have on hand and he was not sure what could happen that would require this kind of stockpile. Captain Robertson clarified that he stated that 3,000 rounds would be needed for the Tactical Team training.

Supervisors then revisited the request for cars.

Mr. Harvey noted that his understanding was that the two cars being requested were for the two new officers and that the Sheriff had said he would pay for those out of asset forfeiture funds.

Captain Robertson then noted that the case did not come up until July 24, 2014, it had to go through trial, and the assets had to be seized and sold. He added that some of the funds would go to the State and Courts. He noted that if the Department received these funds, they would buy as many vehicles as they could afford. He added that there was some uncertainty that they would get the funds. Ms. McCann noted that the current asset forfeiture fund balance was around \$4,000 to \$5,000.

July 8, 2014

Mr. Harvey then posed the question of whether or not these cars were for the new Officers or would be replacement cars and Captain Robertson noted that the new Officers got new cars and these would be replacement cars for those that weren't running.

In response to questions regarding the cars requested, Ms. McCann noted that they did make a Ford Police Interceptor; however Captain Robertson noted that they wanted the Dodges because they were trying to save money by transferring old Dodge equipment to the new Dodges. He added that the Department was in a transition period of moving from one vehicle make to the other and they were trying to be consistent.

Ms. McCann noted that the last two vehicles purchased by them were Ford Tauruses or Police Interceptors. It was noted that any excess equipment went back to the County and was disposed of as it was generally not worth reusing.

Mr. Saunders inquired as to the model years of the two vehicles coming out of service, and Captain Robertson noted he thought they were 2005 and 2006 models. Ms. McCann added that she thought Officer McDonald's vehicle was a 2008.

Captain Robertson then noted that he did not have all of the information that the Board was asking for and that he was in the process of getting the answers to Mr. Carter's questions.

Captain Robertson then explained that Officer McDonald was currently using the only spare car they had; and they had an extra truck that could be used. He added that they had assigned their spare cars to personnel so now they had no spares. He noted that everyone had a vehicle now except for Officer McDonald.

Supervisors then agreed by consensus to defer any action on the request until August.

Supervisors then revisited the request for ammunition.

Captain Robertson reiterated that the ammunition requested would allow them to have enough for training and qualification and have some on hand. He noted that they intended to go ahead and order it and pay for it; which would not leave any funds for equipment. It was noted that the Department spent \$1,200 for ammunition last year and it was more of a timeliness issue. Mr. Carter noted that the Department currently had \$17,000 in that line item; which was sufficient funds for the time being.

In response to questions Captain Robertson reiterated that the Department had four or five 223 rifles and these took 480 rounds to qualify. He added that the Tactical Team was requesting 3,000 rounds for school.

In conclusion, Supervisors agreed by consensus to also defer action on this request.

IV. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

July 8, 2014

Mr. Carter reported the following:

- I. Courthouse/Government Center Project:** Complete.
- II. Courthouse Project Phase II:** Interviews with prospective AE firms scheduled for 6-11-14.
- III. Jefferson Building:** Complete.
- IV. Massies Mill School Demolition:** Complete (including retention pond rehabilitation).
- V. Lovington Health Care Center:** Planning meeting conducted on 6-27 with concurrence of participants (County, JABA, Region 10) to contact potential re-development partners.
- VI. BR Tunnel and BR Railway Trail Projects:** **A) BRRT** – Construction complete with VDOT close out in process. Retainage pending payment. **B) BRT** – Bid receipt delayed to 6-22. Phase 2 grant funding formally approved by Commonwealth Transportation Board.

Mr. Carter noted that the BRT bid receipt date was July 22nd not June 22nd as noted above. He added that revisions had been made and he was hopeful the County would be successful.

- VII. 2014 Lockn Festival:** Special Event Permit approval of the 2014 festival is in process.

Mr. Carter noted that some elements of the festival had changed from last year and he wanted to meet with Dave Frey. Ms. Brennan asked to be included in this meeting. Mr. Saunders then inquired if 2013 had been settled yet and Mr. Carter noted this would be discussed at the meeting. Mr. Saunders reiterated that he did not want the 2014 permit issued until it was settled.

- VIII. Broadband:** Fiber installations to Rockfish Orchard Subdivision completed. Consent received from Nature Conservancy on proposed High Top Tower co-location. Feasibility of CDBG grant application for fiber network extension being reviewed.

Mr. Carter reported that 11 of the Rockfish Orchard installations had been completed.

- IX. Radio Project:** In process with project completion projected at 9-30-14.

Mr. Carter added that preliminary testing was occurring that day and would continue for the next several weeks.

- X. Rockfish Valley Area Plan:** Contract completed with TJPDC for project assistance. Project status is very preliminary.

July 8, 2014

Mr. Carter noted that a draft had been provided to the Board in their mailboxes.

XI. Roseland/Ferguson's Store PER: Agreement with Draper Aden Associates to update the previous PER in partnership with VA-DEQ completed on 7-2. Work to commence within ensuing two weeks, approximate, with draft report submittal 30 days thereafter.

Mr. Carter noted that the update may take 45-60 days and the total cost was \$7,500 with \$5,100 paid by DEQ.

XII. Sturt Property Plan: Site visit by VT-Community Design Assistance Center completed on 6-25. A decision is pending on agreement between County and CDAC for planning project.

XIII. Personnel: Recruitment in process for Secretary 3 position in Co. Administrator's office.

Mr. Carter noted that approximately 30 applications had been received and were being reviewed by staff.

XIV. Staff Reports: Provided within the July 8, 2014 Agenda

2. Board Reports

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

Mr. Hale gave an update on the Service Authority noting that they had a number of projects underway. He noted that Engineers were doing a PER on the Schuyler Water treatment plant to replace the membranes. He noted that the old membrane at the Wintergreen water treatment plant was being refurbished. He noted that in the Lovington water system, the Henry Hill system had lines replaced. Mr. Hale then noted that Gladstone wastewater treatment was still a problem and that the Service Authority received letters from DEQ saying that they had to do something about storm water intrusion into the lines making the ratios out of line for the treatment plant. He added that the water intrusion was on the laterals and the Service Authority policy was to not replace these. Mr. Hale then noted that their reserves for debt service were met earlier in the year and that they could take care of these proposed projects with balances on hand.

Mr. Hale then reported that a meeting on the Rockfish Valley Area Plan with the Executive Director of the PDC had been postponed until the following week if it could be arranged. He added that he would like to include Mr. Harvey in the meeting.

Mr. Hale then reported that the Virginia Tech CDAC would look at the Sturt property this fall after tick season.

Ms. Brennan reported attending meetings of Friends of Nelson concerning the pipeline. She noted that Southern Environmental Law Group was there to develop questions to be answered.

July 8, 2014

Ms. McGarry noted that the sheet had been revised from the original in the packet to include additional applications received. She noted that a further addition was the application submitted by Ms. Diane Harvey to represent the North District on the Social Services Board.

Supervisors then considered the following appointments:

Nelson County Service Authority Board – North District:

Mr. Harvey noted he wanted to check into the applicants. He added that he knew Mr. Shimp who had previously served on the Louisa County Board; however he was not familiar with Mr. Cupo. Supervisors agreed by consensus to defer consideration of the appointment.

Library Advisory Committee – East District

It was noted that no applications had been received for this vacancy and Ms. Brennan encouraged those in attendance to consider submitting an application.

Planning Commission – North, East, and Central Districts

Supervisors questioned whether or not Daniel L. Rutherford would be an East District candidate or a Central District candidate and Ms. McGarry noted that she had checked this with the Registrar who had verified him to be in the East District. Supervisors discussed this further noting that the Registrar's records were incorrect. Ms. McGarry noted she would re-verify this and Supervisors agreed by consensus to defer consideration of these appointments until such time as there was an East District applicant and they could all be appointed at once.

Department of Social Services Board – North District

Ms. McGarry reiterated that Ms. Diane Harvey had submitted an application to represent the North District on the Board. She added that she had served in this capacity before, her last full term had ended in 2009 and the two (2) year break period as required by the Code had passed, and she was eligible for appointment.

Ms. Brennan noted that she would love for Ms. Harvey to be on the Board and Mr. Hale noted he had served on that Board with her during her last term and he thought her experience would serve them well.

Mr. Hale then moved to nominate Ms. Diane Harvey to serve on the Department of Social Services Board representing the North District and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted (4-0-1) by roll call vote to approve the motion, with Mr. Harvey abstaining.

Ms. Brennan then noted the remaining vacancy on the JABA Advisory Council noting that this was a Board that advised the JABA Board of Directors on various issues.

July 8, 2014

C. Correspondence

Staff noted that they had no correspondence to present and Ms. Brennan noted that she has had a lot of email correspondence lately. Mr. Carter then noted that staff was keeping a file with public input about the pipeline. Mr. Hale added that he has been getting numerous things on the pipeline and he could not answer each one personally. He noted therefore his response would be made in the public forum.

D. Directives

Mr. Harvey and Mr. Saunders had no directives.

Mr. Hale directed staff to fix the middle railing of the steps that went out to Court Street as they wiggled when he used them.

Mr. Bruguere inquired as to where the County was with Stewart Computer Services signing the lease for use of the Massie's Mill tower. Mr. Carter noted that the last he heard was the lease was on Mr. Stewart's desk for signature. Mr. Hale added that Mr. Stewart had noted he was very busy had he had not signed the papers yet. He added that he was replacing a lot of equipment and this was keeping him busy. It was then clarified that the County was not holding Mr. Stewart back from locating on and providing services from that tower. Staff then noted it took him about six months after signing the lease to put equipment on the Martin's Store tower.

Ms. Brennan then asked for an update on LOCKN 2013 etc. and noted she would attend the meeting with staff and Mr. Frey. Mr. Harvey then inquired if there were things in place to ensure that the issues with payment of local taxes would not happen again. Mr. Carter noted that plans were in place and he had suggested to the Commissioner of Revenue and the LOCKN sponsors that all vendors needed to be registered and obtain business licenses individually, whereas they were allowed to operate under a blanket license last year.

Mr. Hale suggested that the Commissioner should have her office staff out there on site to get the paperwork and provide them with instructions on what was to be reported and paid. Mr. Saunders added that the vendors should fill this out and pay the license fee beforehand. Mr. Carter noted that the Commissioner could be included in the upcoming meeting and he noted that someone besides Mr. Frey was in charge of the vendors. He noted that the ABC issue had not been resolved yet.

Ms. Brennan then directed staff to invite the new School Superintendent to a meeting for introductions. Supervisors noted having met Dr. Comer in between the earlier Broadband meeting and the Board meeting prior to Ms. Brennan's arrival.

Ms. Brennan then inquired as to why the windowsills were not also white on the exterior of the Jefferson Building and Mr. Harvey and Mr. Hale noted that they liked it that way as it broke up the all-white exterior.

July 8, 2014

Ms. Brennan noted that she had been in contact with Hank Theiss regarding the new Business Council that RVCC was putting together and he wanted to have a 2x2 meeting with the Board soon. She noted she would set it up and then would invite another member to attend.

Ms. Brennan then inquired whether or not the Board wanted to resume the 2x2s with the School Board and Mr. Hale noted that they had discussed having another joint meeting in the fall to discuss things in October.

Ms. Brennan then directed staff to resume provision of the Board's punch list.

V. Adjourn and Reconvene for Evening Session

At 4:15 PM, Mr. Harvey moved to continue the meeting until 7:00 PM and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

EVENING SESSION

7:00 P.M. – NELSON COUNTY COURTHOUSE

I. Call to Order

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

II. Public Comments

1. Carl Denney, Afton

Mr. Denney spoke in opposition to the pipeline and referred to the Board's resolution adopted in the afternoon session; reading aloud the last sentence. He noted that this statement had tremendous value and reflected the hearts and minds of the citizens. He then noted the value of the Board's actions and thanked the Board.

2. Charlotte Rea, Afton

Ms. Rea noted that as Chair of the Friends of Nelson Committee she wanted to publicly thank the Board for passing resolution **R2014-51** and she paraphrased the words of the resolution. She added that they were looking forward to working with the Board against the pipeline.

3. Clay Stewart, Arrington

Mr. Stewart noted he was the owner of SCS Broadband and that he could not make it to the earlier Broadband meeting to provide them with an update as there was a CVEC power

July 8, 2014

outage at noon that disrupted service etc. Mr. Stewart reported that he had engaged the Secretary of Technology and CIT in order to help meet the Governor's mandate to expand Internet throughout the state. He noted that he had proposed to tie School Lunch Vouchers to Internet service provision and he had asked for access to VDOT locations for community relays. Mr. Stewart then noted that they had been tied up with growth and that May to June was the hardest month with installs and storms. He added that his network was growing tremendously and they had taken over a Crozet company. He noted that progress had been made on High Top and on the establishment of other community relays. He added that growth including filling in with more community relays took time; however they were doing it. He then asked the Board to support, in any way they could, the endeavors coming out of a third meeting at the State level and he requested that the County Administrator attend. He added that he would sign the Massie's Mill tower lease that week and he asked once again for a sixty (60) day bill time for all future leases be applied retroactively to the Martin's Store tower lease.

4. Jane Taylor, Afton

Ms. Taylor spoke in opposition to the Dominion Pipeline. She noted that Humpback Rock and the Appalachian Trail were in her backyard. She noted she was proud that they were still mostly intact and they would be severely marred if the pipeline went through. She added that she wanted citizens to go on record with a resolution that prohibited all construction of natural gas pipelines in the County; sending it to the Board and State Representatives, the President, EPA, U.S. Dept. of Interior, Office of Surface Mining Reclamation and Enforcement, and the U.S. Dept. and State Dept. of Forestry. She added that she hoped that she could get an earnest response to corporate power.

5. Matt Dwyer, Howardsville

Mr. Dwyer speaking in opposition to the Dominion Pipeline noted that Eminent Domain had been used to take land from private citizens and it would now be used to give it to private corporations. He suggested that the Board ask for assistance from adjoining counties especially Albemarle County, noting that they would not go near Albemarle. He added that that the County needed assistance and could not fight the pipeline by itself.

Ms. Brennan then thanked the speakers and noted that the resolution that had been passed was a starting point.

III. Public Hearings and Presentations

A. Public Hearing - Consideration of Proposed Amendments to Nelson County Zoning Ordinance, Article 4 (Agricultural District A-1) – “Lots Allowed and Area Regulations” Proposed Ordinance to amend the Code of Nelson County, Virginia, Appendix A, Zoning Ordinance. The proposed amendments would reduce the minimum required acreage required for a two-family detached dwelling or “duplex” from 4 acres (minimum) to 2 acres (minimum). (O2014-04)

July 8, 2014

Mr. Padalino had provided the Board with the following staff report:

On February 12th, 2014, the Department of Planning & Zoning received a referral from the Board of Supervisors (BOS) containing suggested text to amend Article 4 (“Agricultural District A-1”), Section 3 (“Lots Allowed and Area Regulations”) as it pertains to regulations for “two-family detached dwellings,” or duplexes. Specifically, the proposed amendments would reduce the minimum acreage required for a duplex in the A-1 District from 4 acres (minimum) to 2 acres (minimum). The full text of the proposed amendment is as follows:

4-2-1a The minimum lot area shall be two (2) acres (87,120 sq.ft.) or more per dwelling unit for single and two-family detached dwellings. For family subdivisions lots the minimum lot area shall be one (1) acre (43,560 square feet) per dwelling unit.

Please note that the proposed amendments, as written, would not actually achieve the intended effect of reducing the minimum acreage requirements from 4 acres to 2 acres for a duplex. As written, the proposed amendments still require, “two (2) acres or more per dwelling unit...for two family detached dwellings.” Using a straightforward interpretation and application of the Zoning Ordinance definitions, this would still require two acres for each of the two dwelling units contained in the duplex, i.e. a requirement for a minimum of 4 acres for a duplex.

Therefore, in order to achieve the Board’s referred objective of reducing the required minimum acreage from 4 acres (minimum) to 2 acres (minimum) for all duplexes in the A-1 District, County staff recommend that the phrase “per dwelling unit” be removed and the proposed amendments be re-written as follows:

4-2-1a The minimum lot area shall be two (2) acres (87,120 sq.ft.) or more per dwelling unit for single-family detached dwellings and two-family detached dwellings. For family subdivisions lots the minimum lot area shall be one (1) acre (43,560 square feet) per dwelling unit.

Review of Amendment Process To-Date

Please recall that the BOS originally referred the following proposed amendments, as detailed in the March 20th staff report:

4-2-1a: The minimum lot area shall be two (2) acres (87,120 sq. ft.) or more **per single-family detached dwelling or two-family detached dwelling containing a total of four (4) or fewer bedrooms and two (2) or fewer bathrooms**. For family subdivision lots the minimum lot area shall be one (1) acre (43,560 sq. ft.) per dwelling unit.

4-2-2: For permitted uses utilizing individual sewage disposal systems, **the Health Department shall review and approve** the required area for any such use shall be approved by the health official **in consideration of the average daily water usage, as calculated by the number and size of bedrooms and bathrooms**. The administrator may require a greater area if considered necessary by the health official. *(Note: As explained in the referral memo from Mr. Carter, the Commission was invited to consider the proposed changes to 4-*

July 8, 2014

2-2 at their discretion; but the BOS did not discuss these specific amendments or formally refer them to the Commission.)

After reviewing this issue in March and April, the Planning Commission acted at their April 23rd meeting to have Chair Proulx provide a formal recommendation to the Board of Supervisors (BOS), recommending that the BOS not proceed with the proposed amendments as referred; but to instead explore an alternative policy approach that would potentially modify (reduce) minimum acreage requirements for duplexes only when being developed by the Nelson County Community Development Foundation (NCCDF).

This alternative approach was formally recommended to the BOS for two general reasons. The first reason is because the PC identified several questions and concerns at their February 26th Work Session, summarized as follows:

- Concern that the Health Department has not reviewed and endorsed this proposed policy amendment;
- Concern about residential density and concern about possible future “relaxations” of similar density requirements;
- Concern that too many uses are being suggested for the A-1 District;
- Concern that the proposed amendments are too broad in scope – that they could work well for NCCDF but may not be appropriate for all other scenarios;
- Concern that this type of “limited duplex” could be easily expanded or renovated to eventually include more than the proposed restrictions for a maximum total of four (4) bedrooms and two (2) bathrooms; and
- Concern that the proposed amendments are not enforceable.

The second reason for this recommended alternative approach is that the PC felt that a more narrow set of amendments, pertaining specifically (and only) to the NCCDF, would be a more appropriate solution. Upon County staff consultation with County Attorney Phil Payne, this recommended alternative was determined to be a legally-defensible approach. That is because NCCDF duplexes are developed in conjunction with the Foundation’s mission to provide affordable housing opportunities for low- and moderate-income residents, elderly residents, and residents with disabilities; and such affordable housing efforts are considered a legitimate expression of the locality’s “police power” and a legitimate promotion of the County’s public health, safety, and/or welfare.

The PC’s formal recommendation was provided to County staff by Chair Proulx on May 7th. At the subsequent May 13th BOS meeting, the Board reviewed the PC recommendation before moving to authorize and advertise a Public Hearing at the June 10th BOS meeting for consideration of proposed amendments as they were composed in the original BOS referral from February (i.e. proposed amendments that would reduce the minimum required acreage for all duplexes in the A-1 District from 4 acres to 2 acres).

After the June 10th public hearing was scheduled and advertised, the BOS then postponed that hearing, and have since re-scheduled a BOS public hearing for July 8th. The purpose of that postponement and re-scheduling was to ensure that the Planning Commission properly

July 8, 2014

conducted a Public Hearing at their regularly-scheduled June 25th meeting, before the BOS could legally conduct their own public hearing (and/or take any legislative action on the proposed amendments).

Planning Commission Public Hearing

A public hearing was conducted at the June 25th Planning Commission meeting, and was properly advertised in the Nelson County Times on June 5th and June 12th, in accordance with State Code provisions contained in §15.2-2204.

The first and only member of the public to speak was Mr. Allen Hale, of 3130 Laurel Road in Shipman. Mr. Hale noted that he has been a land surveyor in Nelson County for forty years; and that he is a Board of Supervisors member, where this matter has been previously discussed. Mr. Hale expressed two concerns. One is that the larger the lot size requirement, the greater the expense is for a homeowner. The second concern is that the Board of Supervisors sent this proposed amendment to the Planning Commission as a result of so many things happening in this County, with a specific request from Nelson County Community Development Foundation to build duplexes on two acres per structure, rather than four acres per structure. He further stated that the means by which the Planning Commission reached a verdict – recommending that the Board of Supervisors make a special exemption for the NCCDF – did not seem to be a good solution, in his opinion.

After the Public Hearing was closed by Chair Proulx, Commissioner Russell made the following motion:

“The Planning Commission has received a proposal from the Board of Supervisors to hold a public hearing to amend Section 4-2-1-a, which would allow single and two family detached dwellings on two acres, referred by the Board of Supervisors for the Planning Commission to hold a public hearing and recommend a course of action. The Planning Commission has previously met, reviewed a more restrictive request, which limited the reduction of area to two bedroom and one bathroom units per two unit building. Chair Proulx has responded for the Planning Commission on May 7th. The Board of Supervisors has again referred that we have held a public hearing and have made the decision to recommend to the Board of Supervisors that we do not recommend approval of this amendment for the following reasons:

- 1. We are concerned about the residential density and possible future relaxation of similar density requirements that could increase future buildout totals for the entire County.**
- 2. We are concerned that the A-1 district is becoming a catch-all with very little focus on the ordinance’s description of this district. The description reads, *“this district is designed to accommodate farming, forestry, and limited residential use. While it is recognized that certain desirable rural areas may logically be expected to develop residentially, it is the intent, however, to discourage the random scattering of residential, commercial, or industrial uses in this district.”***

3. We are concerned that the proposed amendment is too broad, though it might work very well for the NCCDF, it might not be appropriate for all scenarios. This limited focus is not generally considered a very good principle of zoning.

4. The proposal is not easily enforceable.

5. The County has been advised that it has other means to achieve the desired result of encouraging affordable housing, which is the stated goal of the Board of Supervisors, the Comprehensive Plan, and of course this Commission. However, if the Board wishes to proceed along these lines, we suggest that they consider a Special Use Permit be added to the Zoning Ordinance in the Agriculture District, which would allow four bedrooms, per two family detached dwellings on less than four acres.”

Commissioner Hunt seconded Commissioner Russell’s motion; and the Planning Commission voted 4-0.

In addition to the spoken comments, Mr. George Krieger of Nelson County Community Development Foundation provided County staff with written comments prior to the meeting, on June 24th. He also stated that he was providing each of the County Supervisors with a copy of the same written comments.

Summary & Staff Recommendation

In conclusion, County staff recommend that the Board of Supervisors take into consideration the Planning Commission’s recommendation and the comments from the public hearing, as well as the clarification from County staff that the Board’s referred amendments would need to be modified (as noted on page 1) in order to accomplish the Board’s original intentions with these proposed amendments.

Mr. Tim Padalino noted the existing language in the Ordinance. He then noted the process of the Board’s referral to the Planning Commission who recommended an alternative solution without holding a public hearing. He noted that the Planning Commission then held a properly advertised public hearing and had now made its recommendation to the Board.

Mr. Padalino noted that the originally referred language would not have provide for the reduced acreage for duplexes and he noted that the proposed language would strike the “per dwelling unit” from the section.

Mr. Bruguiere then noted that the word “detached” was confusing and Mr. Hale clarified that it was used because a duplex was detached from other buildings.

Ms. Brennan questioned the rationale behind the suggestion of just using a Special Use Permit application process to provide for this as was noted in the staff report. Mr. Padalino noted that this suggestion had originated from the Planning Commission trying to cap how many rooms would be in the duplexes if allowed on 2 acres.

July 8, 2014

Ms. Brennan noted she was sympathetic to the need for duplexes but was concerned regarding the concerns expressed by the Planning Commission on the impacts of the amendments to Agricultural (A-1) districts. She added that these would be by right if the amendment was adopted. Mr. Padalino then noted that a duplex was more in line with core A-1 uses. He added that the Board and staff were working on other amendments in order to keep A-1 from being a catch all. Ms. Brennan then noted that she did not think the County would have an abundance of these types of dwellings.

Mr. Hale noted he disagreed and noted that the County was largely A-1. He added that the reality was that people who were seeking to own homes would likely be in A-1. He added that the notion of using an SUP was absurd. He noted that by-right a person could build a mansion on two acres and have twenty bedrooms if the drainage field passed muster. He added that the notion that these would pop up all over the County was not a reality. Mr. Hale then noted that he was the only one who spoke at the Planning Commission public hearing and there was no uproar over duplexes.

Ms. Brennan noted she was in favor of increasing affordable housing in the county and agreed that the SUP was not necessary.

Mr. Padalino noted that Mr. George Krieger had provided staff with written comments on the issue.

Ms. Brennan then opened the public hearing and the following persons were recognized:

1. Woody Greenberg, President of Nelson County Community Development Foundations (NCCDF)

Mr. Greenberg reiterated that the goal of the NCCDF was to provide affordable housing and the proposed Ordinance change would make that more likely and possible. He noted it would be helpful to NCCDF as it tried to create more affordable housing. He added that there was no big rush from private developers to develop duplexes in the county.

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

Mr. Bruguiere then moved to approve **O2014-04** an Ordinance to Amend and Reenact Appendix A, Article 4, Agricultural District A-1, Section 4-2 Lots Allowed and Area Regulations of the Code of the County of Nelson, 1989 Generally Relating to zoning.

Mr. Hale seconded the motion and thanked Mr. Padalino for making the change in the proposed Ordinance language to accomplish the Board's objective of reducing the required acreage from four (4) to two (2) for single and two-family detached dwellings. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following Ordinance was adopted:

July 8, 2014

ORDINANCE O2014-04
NELSON COUNTY BOARD OF SUPERVISORS
AN ORDINANCE TO AMEND AND REENACT
APPENDIX A, ARTICLE 4, AGRICULTURAL DISTRICT A-1,
SECTION 4-2 LOTS ALLOWED AND AREA REGULATIONS
OF THE CODE OF THE COUNTY OF NELSON, 1989,
GENERALLY RELATING TO ZONING

WHEREAS, public necessity, convenience, general welfare, and good planning and zoning practice requires revision of the Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF NELSON: that Pursuant to §15.2-1427 and §2.2-2204 of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors does hereby amend and reenact the Code of Nelson County, Virginia, Appendix A – Zoning:

1. That Article 4, Agricultural District A-1, §4-2-1a, be, and the same is amended to read as follows:

4-2-1a the minimum lot area shall be two (2) acres (87,120sq.ft) or more for single and two-family detached dwellings. For family subdivisions lots the minimum lot area shall be one (1) acre (43,560 square feet) per dwelling unit.

B. Public Hearing – Consideration of Class C Communication Tower Permit #2014-005, CV488 for Velocitel, Inc. on behalf of AT&T Wireless

Application is for a 130 ft. Class C tower identified as CV488 on Tax Map parcel #67-A-49 located adjacent to Route 29 with access at 6391 Thomas Nelson Highway, Lovingston VA.

Mr. Padalino had provided the following Staff Report to the Board for Class C Tower Permit #2014-005 Application (AT&T / CV488):

Site Address / Location: 301 Drumheller Orchard Lane / Lovingston / Central District

Tax Map Parcel: #67-A-49

Parcel Size: 81 acres

Zoning: Agriculture (A-1)

Request: Class C Tower Permit #2014-005 / pursuant to Article 20, Section 13

July 8, 2014

Application Overview

The Department of Planning & Zoning originally received an application on February 24th from Mr. John Milisitz of Velocitel, Inc., seeking approval for Class III Tower Permit #2014-005, on behalf of AT&T. This application seeks permission for the, “installation and operation of antennas and associated equipment inside a new fenced compound on a new 130’ monopole.” The proposed new tower site is identified as “CV488.”

The subject property is identified as Tax Map Parcel #67-A-49, and is located on the western side of Thomas Nelson Highway (Rte. 29). It adjoins the Nelson County High School property, which is located to the northeast across Drumheller Orchard Lane. The 81-acre subject property is zoned Agricultural (A-1) and is currently used for agricultural and residential purposes. The application includes the required approval signature of the property owner (Mr. Ronald L. Collins) on the affidavit (item #5). Vehicular access to the proposed site is from 6391 Thomas Nelson Highway (Tax Map Parcel#67-A-49A). Please see the attached maps (pages 5 and 6).

Application Update and Revisions

In response to the County’s recent “repeal and replacement” of the Tower Ordinance, the members of the applicant team (including Mr. Milisitz as well as Mr. Preston Lloyd and Mrs. Valerie Long of Williams Mullen) have worked in close coordination with County staff to revise and resubmit application materials for this proposed facility.

These new application materials include the following:

- Revised site plan drawings conforming to and satisfying the requirements of §20-12-C (which were received electronically on Tuesday, May 6th, with hard copies being provided on Monday, May 19th);
- An additional \$1,500 to bring their total fee payment to \$2,000, pursuant to §20-18; and
- Photo simulations of the proposed facility, which were developed from photographs taken at a second balloon test which was conducted on Friday, May 16th at 9:00am (and which included proper public notice as required by §20-13-D-1).

In addition, to satisfy the Code of Virginia advertising requirements contained in §15.2-2204, the applicant team caused a Legal Notice of Public Hearing advertisement to be published in the Daily Progress on Friday, May 9th and in the Nelson County Times on Thursday, May 15th and Thursday, May 22nd. The applicant team was responsible for this re-advertising due to their previous request for a one-month deferral from their original Public Hearing (which was scheduled for the April 23rd Planning Commission meeting).

Overview of Proposed Uses

This application for Tower Permit #2014-005 seeks approval for a new Class C Communication Tower, which is the classification for (proposed) 130’ tall facilities per

July 8, 2014

§20-5. Specifically, the application seeks approval to install the following, as specified on Sheets C-1, C-2, and C-3 of the site plan drawings:

- a 130' tall monopole (as specified on Sheet C-2), with a potential maximum total of three separate arrays (including the proposed AT&T array at 127' above ground level (AGL), plus two possible future co-location arrays at 117' AGL and 107' AGL);
- a total of twelve (12) AT&T antennas and an additional six (6) "TMAs" mounted on a three-sided platform mount, which is 12' wide on each side (as specified on Sheet C-2); and
- associated ground equipment (as specified on Sheet C-1), located within a 60' x 60' lease area that is surrounded by an eight (8) feet tall security fence (as specified on Sheet C-3).

For more information, please reference the site plan drawings.

April 9th Site Plan Review Committee Meeting and Comments

The Site Plan Review Committee convened on April 9th to review the application materials. The committee members' comments are as follows:

VDOT: Mr. Jeff Kessler requested that additional stone be laid at the access point for this proposed project, in order to accommodate the construction equipment which would access the lease area from Thomas Nelson Highway. Mr. Kessler said he considered the addition of the requested material to be part of the maintenance of the existing entrance.

VDH: Mr. Tom Eick of the Health Department was not in attendance, and has not provided comments at the time of this report. County staff do not believe this application pertains to Mr. Eick's or VDH's scope of responsibilities.

TJSWCD: Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District was not in attendance, and has not provided comments at the time of this report. Because this project will involve approximately 2,500 SF of disturbance (as specified in the "Project Summary" table on Sheet T-1), County staff believe there should be no problematic issues with erosion, sediment control, or stormwater management.

Nelson County Building Code Official: Mr. David Thompson was not in attendance, but provided comments prior to the meeting. Mr. Thompson's comments remind the applicant that an approved Erosion & Sediment Control Plan is required for projects that disturb 10,000 square feet or more; and that a Building Permit would be required to authorize the construction activity for this site, if the County permits the proposed project.

Nelson County Planning Commission: Commissioner Linda Russell, in collaboration with County staff, reviewed the site plan drawings and discussed the following issues with Mr. Milisitz:

July 8, 2014

- Sheet C-2: specify the dimensions of how far from the monopole the platform antenna mounts will extend outward (two separate dimensions were requested – the shortest dimension and the longest dimension);
- Sheet C-2: specify and clarify the exact height of the proposed monopole, the height of antenna, and the total height of tower facility (inclusive of the lightning rod);
- Sheet C-2: regarding the note “tower comes in its natural galvanized steel but can be painted if jurisdiction prefers it,” a suggestion was provided for the monopole to be painted java brown (or some similar natural / neutral color, to be approved by the final approving authority);
- (New Sheet): Provide details (including dimensions) of all types of AT&T antennas and other equipment that are proposed to be mounted in conjunction with this application;
- *Please note: these issues were all addressed on revised Sheet C-2*

In addition to the details associated with the monopole and all the associated tower equipment, there were several issues regarding the landscaping requirements found in §20-12-D-9. In the weeks after the April 9th Site Plan Review Committee meeting, the applicant team has worked with County staff to revise the Site Plans accordingly, satisfying items a), b), and c) of §20-12-D-9. Please reference Sheet L-1 for more detailed information on the revised Landscape Plan.

Additionally, Section 20-8-3 states that, “A Class III Communication Tower cannot be located closer than two (2) miles to another Class III or Class II Communication Tower.” The applicant submitted his analysis of the proposed tower’s location relative to existing Class II and Class III facilities on April 15th. He concluded that, according to FCC data, there are no such existing towers within a 2-mile radius of the proposed site.

I reached the same conclusion through my own independent analysis: the County Broadband Project tower at Cooperative Way is approximately 2.5 miles away; the County Broadband Project tower at the Courthouse is approximately 2.9 miles away; and the Mountain Cove tower farm in Lovington is approximately 2.8 miles away. There are existing telecommunication facilities mounted to the transmission line towers across Rte. 29 (approximately 0.5 miles away), but they are not Class II or Class III Communication Towers and thus do not pertain to Section 20-8-3.

Finally, §20-12-C-11 requires that applicant provide documentation that the Federal Aviation Administration (FAA) has determined that the proposed project would not present any hazard to any airport. This determination (dated May 12th) was provided on May 15th.

Balloon Test

Section 20-13-D requires that scaled depictions of the proposed facility be superimposed onto photographs of the balloon test (referred to as a photo simulation or “photosim”). To

July 8, 2014

satisfy this photosim requirement, the applicant team conducted a balloon test on Friday May 16th at 9:00am.

During the balloon test, I went to the proposed tower site and observed the balloon and lease area. I then drove around the high school property, Drumheller Orchard Lane, a small residential area on League Lane, and Route 29 to further observe the balloon test and to take photographs.

The balloon was visible from all sites I visited; and it also was apparent that the lease area and ground equipment would be visible from locations to the northeast, east, southeast, and south.

Planning Commission Review and Public Hearing

On May 28th, the Planning Commission conducted a public hearing in accordance with Code of Virginia requirements for public notification and public advertisement. There were no comments from the public.

After reviewing the proposed facility with the applicant, Mr. John Milisitz, and with Ms. Valerie Long of Williams Mullen, the Commission entertained the following motion by Commissioner Russell:

The Planning Commission recommends that the Board of Supervisors approve the Class C Tower Permit #2014-005, based on the application submitted by Mr. John Milisitz from Velocitel, Inc., on behalf of AT&T, to install a 130' Class C telecommunication tower identified as "CV488" on Tax Map parcel #67-A-49 located adjacent to Route 29 with access at 6391 Thomas Nelson Highway, Lovingston, VA. The Planning Commission further recommends that the following conditions be attached to any approval:

- 1. Clarification that the tower height, by Zoning Ordinance regulations, be 130' including all attachments (including lightning rod)*
- 2. Antennas per triangular platform leg (or array or sector) be limited to 3 (as required in Section 20-12-D4)*
- 3. Landscaping requirement (Section 20-12-D9) – all plant materials as submitted on sheet L-1 of site plan packet submission be maintained annually and replaced so as to provide a continual thick buffer*
- 4. The minimum and maximum distances from the pole to the sector (or array or leg of triangular platform) be shown on the site plan packet (Sheet C-2)*
- 5. New appropriate site plan page(s) be submitted for approval by the Planning & Zoning Director before final submittal to the Board of Supervisors.*

The four Planning Commissioners present voted unanimously in favor of this motion.

Please note that the Commission's "recommended conditions" were made in direct connection with existing requirements contained in the Tower Ordinance; they are not new obligations or additional requirements. For example: recommended condition #1 is meant to ensure compliance with §20-4 (specifically "Tower Height" and "Class C Communication Tower" definitions); #2 is meant to ensure compliance with §20-12-D-4; and #3 is meant to ensure compliance with §20-12- D-9-a.

July 8, 2014

Additionally, recommended condition #4 was a request originally made by the Site Plan Review Committee at their April 9th meeting to enable an accurate review of the proposed facility relative to §20-13-F-2; and recommended condition #5 is a request that the applicant submit revised documentation to the County to demonstrate that the proposed facility has been sufficiently revised to be fully compliant with all applicable regulations for a Class C Communication Tower.

Summary

In summary, County staff have attempted to evaluate the potential (negative) visual impacts to the immediate vicinity and adjoining properties, with consideration to the potential (positive) benefits of improved cellular coverage and data capacity.

It is clear that due to the proposed tower site being located on the top of a knoll that does not contain any existing vegetation in the immediate vicinity, the tower (and more specifically the ground equipment and security fencing) will be visible from the high school, from the adjoining properties on League Lane and Drumheller Orchard Lane (which contain single-family dwellings), and possibly from Thomas Nelson Highway. However, the applicant team has revised the site plan drawings to include additional landscaping materials on the sides of the ground equipment compound that would be visible from the League Lane neighborhood and from the Nelson County High School.

Regarding improved capacity and expanded coverage, this proposed facility would benefit the high school's day-to-day users, as well as visitors at public school events (such as sports competitions), and other residential sites in the immediate area. Please reference the coverage maps on page 9.

Conclusion & Staff Recommendation

With all of the above factors in mind, and with confirmation that the applicant has properly revised and resubmitted their Site Plan drawings in conjunction with the Planning Commission's "recommended conditions," County staff recommend that the Board of Supervisors consider approving Class C Tower Permit #2014-005 (CV488 / AT&T).

Mr. Padalino noted that this had been the first tower application processed under the replaced Tower Ordinance. He then noted the location of the proposed tower on the 80 acre parcel adjacent to the High School and owned by Ronald Collins, Tax Map #67-A-49.

He added that the proposed site would be on the western edge of property and that there were no trees in the immediate adjacency to the site but there were some 150 feet away. Mr. Padalino noted the revised site plan drawings and relation of the parcel to Thomas Nelson Highway. He added that there would be the potential for colocation at the site; and the tower would be 130 feet tall, the maximum height allowed by the new classifications. Mr. Padalino noted that there would be a platform mount of a triangular shape that would have three (3) antenna per array for a total maximum of nine (9) antenna.

July 8, 2014

He then showed the Board the landscape plan and noted that the applicant had been very responsive to site plan review suggestions. He noted that the bottom of pole was visible to the High School and that they had shifted the landscaping to better screen the bottom of the facility.

Mr. Padalino noted a comparative picture denoting the existing coverage vs. the new coverage with the new tower. He added that a map had been provided by the applicant showing other tower facilities in the area and they complied with the requirement of being outside of a two (2) mile radius of another facility. He then showed photo simulations with balloon test from various locations. He added that the site was visible from Freshwater Cove Lane and that he did not see the balloon from Oak Ridge Road; however the photo simulation suggested it would be visible from there.

Following Mr. Padalino's presentation, the applicant was invited to speak and Ms. Valerie Long, the Attorney representing ATT addressed the Board.

Ms. Long thanked the Board for its work on the new Tower Ordinance and noted she appreciated Mr. Padalino's guidance through the new procedures. Ms. Long then noted that the tower pole would be brown and that the coverage maps shown were ATT's area of coverage. She added that they were projecting they would have seamless coverage along the highway there. She noted that they had worked hard to find a location that balanced the elevation with some screening and that the addition of landscaping around the base of the tower would help shield its visibility. She added that they had also made minor revisions based on the Planning Commission's review.

In response to questions, Ms. Long noted that there was an existing entrance from Route 29 that was essentially an old farm road that would become a gravel road as it approached the tower site. She added that it did pass by Mr. Collin's house; however it was their old driveway.

There being no further questions for the applicant, Ms. Brennan opened the public hearing and the following persons were recognized:

1. Clay Stewart, Arrington

Mr. Stewart noted he hated seeing large towers coming in and he would like to see more local access on this tower. He noted that the Board should request Radio Propagation maps from applicants. He then added that this was a corridor tower for travelers; however it would help Steven's Cove which he could not reach for Broadband expansion and would help the Route 56 corridor towards Shipman. Mr. Stewart then requested that the Board consider a similar lease contract where he could have space set aside on a lower tier to provide for the expansion of his Broadband service.

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

July 8, 2014

Ms. Brennan then inquired as to whether or not SCS could collocate on this tower. Mr. Harvey then noted that there was a difference between this tower and the one in Gladstone. He explained that the County owned the property on which the Gladstone tower was located and it had subleased the top spot on the tower to Mr. Stewart. He noted this was not the case on this tower and the County could not force ATT to do this; however Mr. Stewart could negotiate this with them.

Mr. Harvey then moved to approve the Class C tower permit #2014-005 CV488 for Velocitel on behalf of ATT and Mr. Bruguire seconded the motion.

Mr. Harvey commented that he thought it was ridiculous that tower companies had to provide so much information and that the Engineer's drawings were unreadable by the average person.

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

IV. Other Business (As May Be Presented)

There was no other business considered by the Board.

V. Adjournment

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