

March 13, 2012

Virginia:

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

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

Absent: None

I. Call to Order

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

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

II. Consent Agenda

Mr. Hale requested that the Minutes for Approval be deferred until the next meeting and it was noted that the Registrar could apply for some reimbursement from the State for expenses related to the primary, but has not yet done so.

Ms. Brennan then moved to approve the consent agenda, minus the minutes for approval and Mr. Bruguire seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution - **R2012-18** Minutes for Approval – deferred
- B. Resolution – **R2012-19** COR Refunds

**RESOLUTION-R2012-19
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS**

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RESOLVED, by the Nelson County Board of Supervisors that the following refunds, as certified by the Nelson County Commissioner of Revenue and County Attorney pursuant to §58.1-3981 of the Code of Virginia, be and hereby are approved for payment.

<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$ 381.48	Real Estate Taxes	Melinda Dunn and Joan Linnander 130 South Green St. Nazareth, PA 18064
\$ 67.05	2011 Personal Property Taxes & Vehicle Licenses Fee	Adrienne C. Brown 5558 Irish Rd. Schuyler, VA 22969
\$ 74.64	2010 Personal Property Taxes	Mason R. Wells 1720 Ivy Street Apt. 142 Waynesboro, VA 22980
\$ 180.86	2009-2011 Personal Property Taxes & Vehicle License Fees	Colleen Marie Pozniak 800 River Trail Shipman, VA 22971

C. Resolution – **R2012-20** FY11-12 Budget Amendment

**RESOLUTION R2012-20
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2011-2012 BUDGET
March 13, 2012**

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

I. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 6,376.00	4-100-999000-9905	4-100-013010-1010
\$ 1,435.00	4-100-999000-9905	4-100-013010-5401
\$ 1,683.00	4-100-999000-9905	4-100-013010-5501
\$ 106.00	4-100-999000-9905	4-100-013010-5503
\$ 4,472.00	4-100-999000-9905	4-100-013010-5413
<u>\$ 14,072.00</u>		

III. Public Comments and Presentations

A. Public Comments

1. Paula Pierce, Tye River and Virginia Taxpayers Association Representative

Ms. Pierce distributed and read aloud a prepared statement from Kenneth White, President of the Virginia Taxpayer's Association opposing the Class II Communications Tower Application #2012-001 due to erroneous information provided on the application concerning the incorrect owner of the property being noted on the application. Mr. White requested in his statement that this opposition be noted during the public hearing to be held during the evening session.

2. Eleanor Amidon, Afton

Ms. Amidon stated that she was concerned about possible uranium mining in Virginia. She added that State officials were working behind closed doors and were studying the proposed mine in Pittsylvania County and would not hold any public meetings or publish any papers. Ms. Amidon noted that she had visited William Lassiter with the Virginia Dept. of Mines Minerals and Energy and had asked to see his report. She noted that he had stated that there was no report but that he had done a presentation for the National Academy of Sciences on uranium mining. She noted that this presentation was essentially a guide for the exploration of potentially unexplored resources and if Virginia were to allow uranium mining at Coles Hill, they would start looking other places and Lassiter has provided a roadmap. She noted that uranium mining could not be done safely and asked the Board to let the Governor and the State know that uranium mining is not wanted in Nelson or any other County. She then urged the Board to pass a resolution to keep the ban on uranium mining in Virginia.

3. Peyton Williams, Seeking Democratic Nomination for 5th district Seat in US House of Representatives

Mr. Williams noted that he had become disenchanted with partisanship in government. He noted that he is a retired Army Officer in Special Forces and has a daughter serving as company commander with the 82nd airborne in Afghanistan right now. He noted that he thought that the Country was not progressing and he has long-standing connections in Virginia. He noted that he was raised in Norfolk, where his father was a minister and he worked as an Ecologist in Orange County for some time and has relatives from Nelson County. He noted that his issues were jobs, education, healthcare and veterans care. He then echoed Ms. Amidon's comments and noted that having been involved in ecology, he has looked at how radioactive particles move through the environment. He added that the band of uranium extended from Coles Hill up to Fauquier County with the hottest spot being in Orange County just over the line.

B. Presentation - Draft Regional Hazard Mitigation Plan (D. Nairn, TJPDC)

Mr. Carter introduced Mr. Daniel Nairn of the Thomas Jefferson Planning District Commission to present the draft Regional Hazard Mitigation Plan. Mr. Nairn noted that the PDC was working on the draft Regional plan incorporating Nelson County and its purpose was to protect human life and property and maintain business functions during hazardous or disastrous situations. He added that he was presenting this as an information item and that there was no action needed from the Board at present. He

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noted that the draft plan needed to be approved by VDEM and FEMA and then it would come to the Board of Supervisors sometime in summer.

Mr. Nairn provided the following action items for Nelson County to the Board:

- 1 Continue and expand use of citizen alert systems
- 2 Provide educational instruction and materials to school age youth and their teachers on proper procedures for responding to natural disasters
- 3 Provide training for building inspectors and code officials on mitigation techniques and hazard-resistant building
- 4 Conduct Firewise Workshops
- 5 Ensure all houses have clear address signs that are visible during snowstorms
- 6 Install backup generators in shelters and critical facilities
- 7 Ensure that all homeowners and businesses located in areas prone to landslides are aware of the risks and appropriate responses to an event
- 8 Maintain and add more fire rings in camping areas for controlled fires
- 9 Conduct Community Emergency Response Team (CERT) classes to equip individuals and groups to assist in the event of a disaster
- 10 Investigate safety and maintenance of roads in private communities

He noted that the action items were not obligations but could be used to leverage funds from other sources and these did not have to be completed in the five year timeframe. He noted that the PDC has been updating this for the last eight months with two public workshops being held to help form the overall goals and objectives. He noted that there had been an extensive analysis period using data from FEMA and NOAA, where they looked at threats and vulnerabilities in order to develop the action items. He added that many of these were from the original plan done five years ago. He added that an online survey had been conducted with 120 responses to prioritize actions during disaster etc.

Mr. Nairn then noted that in the next month, the PDC would have public review of the full plan online for thirty days, then the plan would undergo the state and federal review, and then it would come back to the Board for approval.

Members then discussed the plan being referred to the EMS Council for review and comment. The website access for the plan was noted and it was suggested that the Council review the ten action items for Nelson County.

In response to questions regarding who was on the local preparedness committee, Mr. Carter noted that the County does not have a local one; however Emergency Services staff have been assigned to participate and have been involved in the plan. Mr. Nairn confirmed that Ms. Jaime Miller has attended several meetings.

C. Presentation- Local Extension Service (Antwan Rose)

Mr. Carter introduced Mr. Antwan Rose of the local Extension Service to overview their activities of the past year.

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Mr. Rose reviewed the activities conducted by Mr. Michael Lachance, the Agriculture and Natural Resources Agent and noted that Mr. Lachance had been instrumental in fostering wine grape production and beekeeping management as well as has delivered programs related to: farm transition and planning, pest management for farms and homes, domestic water supply issues, personal finance, livestock production, local food production, and forest landowner education.

He noted that they had done many presentations in the County such as introduction to Beekeeping in Virginia – an eight part program, and Central Virginia Fruit School in Nelson and Albemarle. Other presentations noted were: Home Wine Grape Growing and Winemaking, Raising Small Ruminants on Your Farm, Private Pesticide Applicator License Recertification, Pesticide Safety for Vineyard Operations, Commonwealth Scholars, and Basic Tree Care.

Mr. Rose then noted some collaborative efforts including: Living from Your Land, Central Virginia Small Farm Series, Central Virginia Livestock Show, and Techniques in Entomology.

Mr. Rose then reviewed activities related to 4-H Youth Development such as: School Enrichment, Aerospace, Gardening, Leadership Development, Personal Finance, Livestock Showmanship, Camping, Volunteer Development, Community Outreach, and Shooting Education.

In response to questions, Mr. Rose noted that the aerospace club was geared toward teaching kids about the basics of flight and rocket propulsion. He noted that the students construct a model rocket and launch it. He also noted that 4-H used to be conducted in all school grades, however it was now only in the 4th grade because Virginia has adopted the No Child Left Behind and with SOLs teachers cannot fit this in. He noted that he was making headway into the 5th grade now. He added that the Middle School has not yet been explored; however he has done some at the High School.

Mr. Bruguere suggested getting into the activity periods at the schools to serve more children and Mr. Rose noted that he would explore this and try to do more at the Middle School.

Mr. Rose then noted that seven senior teens attended 4-H day at the Capital in Richmond and had the opportunity to speak with state delegates Watkins Abbit, Ben Cline, and Scott Garrett. He reported that they developed and conducted 2011 Jr. Camp for Nelson And Albemarle, five teen ambassadors attended the 2011 Congress at Virginia Tech, and fourteen youth aged 5-8 with three teens and one adult volunteer attended 4-H Cloverbud Camp in 2011.

Additionally, he reported that the Nelson Community has been served by six clubs: The Tye-River Garden Club (15 members), Nelson County Teen Club (28 Members), Nelson County Jr. Master Gardeners (8 members), Amherst/Nelson Livestock (30 members, 6 from Nelson), Aerospace Club (14 members), and Nelson 4-H Home School (6 members).

In response to questions regarding the decline in active community 4-H groups, Mr. Rose noted that they do still have kids doing projects and keeping record books and he cited the Homeschoolers, Livestock group, and Public Speaking. He noted that these clubs were a huge thing but now he was running into issues with recruiting volunteer leaders and noted that it was a challenge to get volunteers to commit to leading an evening club. He noted that he did attend as many night meetings as possible.

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Mr. Bruguiera noted that he would like to see as much 4H as possible in the County and the programs expanded. He added that he would rather see 4H stay in the County rather than agents going into Amherst or Albemarle Counties.

Mr. Rose indicated he would create a Nelson County only livestock club if the participants were interested.

Mr. Bruguiera stated that every county should have a 4H agent and Mr. Saunders noted that 4H might cater to those youths who did not play sports, which could generate more interest.

Mr. Rose then reported that Nelson County's investment of \$47,976 for Salaries and Fringe Benefits in relation to the total support provided by Virginia Tech and Virginia Cooperative Extension of \$434,930 (including the value of volunteer hours of \$161,087) yielded a return on investment of \$9.07 for every \$1 invested by Nelson County. He noted that per a Federal Government report, one volunteer hour was valued at \$22/hour.

Mr. Rose then thanked the Board for their time and noted he would endeavor to expand 4H activities within the County.

D. VDOT Report

Mr. Carter noted that there were no VDOT representatives present for the meeting. Ms. Brennan noted that VDOT had been working on ditching in her part of the County. Mr. Bruguiera inquired as to the sidewalk out front having to be according to VDOT standards and Mr. Carter noted that this was on the punch list and would be discussed in his report. He then noted that there was a big hole coming up to Simpsons Fruit Stand going south. Mr. Harvey noted that VDOT was looking for places to dump ditching materials along Brent's Mountain and Route 151.

IV. New Business/ Unfinished Business

A. Jefferson Building Renovations

Mr. Carter noted that an original turnkey proposal to finish out the Jefferson Building had been submitted by Blair Construction for a cost of approximately \$198,000. He added that subsequently two lesser options had also been submitted for the Board's consideration and he then asked for the Board's direction.

Members agreed immediately by consensus to not spend \$198,000 on the building. Mr. Saunders noted that Blair's estimates were overloaded on the general conditions and he felt like Blair did not care whether or not they did the work. He added that he would like to consider Mr. Thompson's suggestions and have locals do the work. It was noted that some things had already been purchased by Blair and could not be returned.

Mr. Hale noted that the roof needed to be finished and the connection to the new main entryway done. He noted that this was part of the original contract but they now had to anchor the roof. He noted that the original work included the breezeway construction but that they have added eave blocking and attaching the roof to the scope of work. Mr. Harvey indicated that he did not think the roof was going anywhere but that it needed to be done and Mr. Saunders agreed.

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Mr. Carter then suggested that the County use the specifications developed by Wiley Wilson to bid out what the Board wanted to be done and it was noted that in this case, the County would be the project manager.

Members briefly discussed not finishing the interior until it was decided who would occupy the space and Mr. Carter recommended finishing the space as is and partitioning it off later on.

Mr. Hale then noted that Blair had not finished the roof and should have to complete whatever work was in the current contract. He noted however that in order to finish the roof, the eave blocking needed to be done for the guttering.

Members then agreed by consensus that the Committee would work with Mr. Carter to get this resolved such that at minimum, the roof was finished out and anchored.

Mr. Bruguere then noted that he thought the landscaping preparation was terrible and Mr. Carter reported that the landscaping subcontractor would come back and would address these issues and if not, they would be on the punch list for Blair.

Mr. Saunders then mentioned that there was water ponding at the flagpole in heavy rain and Mr. Carter reported that the water was not draining through the soils and needed to be addressed. He noted that no seeps had been installed in the walls because then water would drain onto the sidewalk.

B. Draft Communications Tower Ordinance

Mr. Boger reported that the main revisions had been done by him and Ms. Brennan. He noted that they had discussed that the Board should grant the waivers and that there was a twenty-one day waiting period. He noted that there were problems with this time stipulation and Class II towers as the 150 day time limit starts at the time the application is submitted to the Planning and Zoning Office. He suggested that if they were stuck in this time frame, they could advertise for a special meeting. Mr. Harvey clarified that the advertising requirements were the constraint. Mr. Boger noted that these did not have to have a public hearing, but the Planning Commission wanted everything to have a public hearing. He noted that the Board could make 95 feet by right approvals and if there was disagreement, the person could go to the BZA. He added that the revised Ordinance did streamline the processes and included a checklist. He noted that applicants could use photo simulations and these would be provided with the applications up front; and that they would try to help people make a complete application. Mr. Harvey noted that there was a lot of risk in the beginning if the applicant did not know what to provide.

Mr. Carter referred to the memo from Lori Schweller and noted that it seemed that the FCC's objective was to put these towers in place with little room to deny the towers; suggesting that the tower approval process may not need so many layers.

Ms. Brennan noted that the main reason for the process was so that the public had the opportunity to comment; which she thought was critically important.

Mr. Carter suggested that the Board set thresholds so that the tower height required the Board to hold a public hearing in order to move it along, although the Federal statute says that these should be approved.

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Mr. Boger then recommended setting the administrative approval height at 95 feet and then anything higher would require a Special Use Permit.

Ms. Brennan noted that it was clear that the public liked to know about these and wanted to make sure that they were done correctly and fit into the environment. She added that it was not a matter of not wanting cell towers, but that having a public process was a good idea to ensure that they were done properly.

Mr. Boger then suggested they set the administrative height at 100 ft and then use an SUP process. It was then noted that collocation would require tower heights to be raised in order to accommodate it.

Members then discussed the appropriate tower height for administrative review and at what point the public could review and comment on proposals.

Mr. Harvey suggested a 130 foot threshold and Mr. Bruguere moved to have everything above a Class I or above 130 feet be approved by Special Use Permit and anything under be approved by administrative review and then if there were problems it would be sent to the Planning Commission.

Ms. Brennan questioned why the threshold would be set at 130 feet and Mr. Bruguere noted that Class I towers were up to 130 feet in the Ordinance. Mr. Hale commented that the purpose of the Ordinance was to provide for the public to have an opportunity to be aware of it and be able to comment on it.

There was no second, and Mr. Harvey called for the vote with Supervisors voting (3-2) by roll call vote to approve the motion with Mr. Hale and Ms. Brennan voting No.

Mr. Hale noted that this did not preclude the Planning Director from bringing an application to the Planning Commission and Ms. Brennan added that he could bring them all forward if he wanted to.

Mr. Carter noted that adjacent property owners would still be notified and given 10-21 days to comment. He added that this included the contiguous properties and Ms. Brennan clarified that parcels in the middle of contiguous properties still needed to be notified.

Mr. Bruguere briefly inquired about the Verizon issue and Mr. Boger noted that Crown was leasing the property and that this had been an issue at the Planning Commission and that they could not be at the Board's public hearing that night. Mr. Harvey suggested it was not the Board's responsibility to verify property owners.

C. FY12-13 General Fund Budget Introduction

Mr. Carter referred to the handouts distributed to the Board and noted that the cover memo had been corrected.

He stated that staff was presenting a balanced budget based on a proposed \$.23 per hundred real estate tax rate increase to \$.78 per hundred to maintain the local revenue base since the 2008 reassessment. He added that the budget was bare bones and that staff felt good that the budget was balanced including an increase of \$500,000 to the schools.

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Ms. McCann noted that she could review the summary provided and suggested scheduling further budget meetings. She added that the Board needed to set the tax rate no later than April 10th or 12th as it would take the Commissioner and the Treasurer a month to get the tax tickets out. She noted that once the tax rate had been set, the Board could take its time to more closely review things as necessary.

Mr. Carter then credited the significant work done by Ms. McCann on the budget and Ms. McCann then briefly reviewed the summary sheet as follows:

FY13 Budget Assumptions/Proposals:

- 1) Real Estate tax rate of 78 cents (23 cent increase) to approximately equalize FY12 revenue
- 2) Assumes 94% collection rate for real estate tax. In FY12, a collection rate of 93% was used for budgetary estimates.
- 3) Value of one penny on real estate values is \$199,539 (after land use and collection rate adjustment)
- 4) Reallocate Courthouse principal prepayment for the current year and in FY13 budget proposal (\$253,810)
- 5) Level funding proposed for most agencies as in FY12.

Significant Budgetary Changes:

Expenditures

- 1) Increases in gasoline costs have been included (\$41,500 Motor Pool & Transfer Station).
- 2) Increases in required Virginia Retirement System costs (\$82,464) for county personnel have been included. An increase of \$500,000 is proposed for the School Fund. This increase should fund Virginia Retirement System rate increases assuming salaries remain flat. Final school figures relative to these costs are pending.

Mr. Carter recommended that the Board concentrate on funding the VRS increase only for now.

- 3) No funding is currently included to provide new school buses.
- 4) Addition of 2 positions for support of Broadband Network operations (107,890). Budget assumes 100% reimbursement from Broadband Authority. Budget also includes \$100,000 of non-recurring revenue to provide start-up support for network operations with anticipation that the network will be self-supporting in future years.
- 5) Net decrease in the transfer to Debt Service of \$40,999. This results from the new debt for the radio project (+\$204,645), the savings from the 2012 school refunding (-\$145,315), the onetime FY12 allocation of VPSA Refunding savings to School capital improvements (+\$302,686), the reduction in debt service FY12 to FY13 (-\$149,205), and the allocation of courthouse debt principal prepayment for other purposes (-\$253,810).

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Mr. Carter explained that the schools were given capital money that resulted in a decrease between fiscal years, however operationally; they have an increase of \$500,000. He added that there was no bus money in currently and that all leases were now paid off. It was noted that the schools have 91 buses of which 45 are in use and 45 are held in reserve. Mr. Carter noted that the previous year, the schools were to study transportation but that they have not done so to date. Ms. McCann noted that there were potentially some nonrecurring funds available if the Board wanted to apply it to buses.

Revenues

1) Local Revenues reflect a budgetary increase of \$223,832. This is attributed primarily to real estate tax (+\$118,008), personal property tax (+47,730), local sales tax (+\$41,446), recordation tax (-\$43,803), meals & lodging taxes (+\$96,000), real estate tax sale proceeds (-\$120,000), EMS Revenue Recovery (+\$30,000).

Ms. McCann noted that the collection rate had been adjusted from 93% to 94%, meals would exceed the budgeted amount but lodging may be down, and that real estate sales proceeds are held by the Circuit Court Clerk for a number of years and this decrease is based on what the Clerk is holding. It was noted that there would be new sales going forward but the funds would be held in escrow. Mr. Carter then noted that it was critically important that the Treasurer continued to process the delinquent tax sales.

2) State revenues are anticipated to decrease by \$101,429. This is primarily due to the shifting of the daycare programs from local DSS responsibility to the state.

3) Non-revenue receipts are increased by the inclusion of \$1,800,000 in financing proceeds for the radio project. There is also a reduction in transfers from other funds. In FY12, \$600,000 was transferred to the General Fund from the Capital Fund for the radio project and \$44,132 was transferred in from the Reassessment set aside funds. These were non- recurring transfers.

4) Grant funds reflect a decrease of \$1,299,707 primarily due to the completion of the microwave network through a Public Safety Interoperability Communications Grant.

FY13 Budget Considerations (not currently in budget proposal)

1) Shift all or portion of the NCSA debt service/fire protection to NCSA (Debt-\$162,812/Fire Protection Fee-\$156,000)

2) Further reductions to agencies (i.e. MACAA, Nelson Volunteer Coalition, Dental Voucher program, etc.)

3) Relocation of Recreation and/or Extension to the old General District Court areas in order to reduce rent expense. (FY12 rates for Recreation Rent-\$34,464 Extension Rent-\$19,536)

Mr. Carter noted that it would be difficult to determine who fit best where.

4) Consideration of increase in ambulance transport fee (BLS-\$320 to \$450/ALS-\$415 to \$550) to pay for night and weekend paid EMS coverage (\$157,684 as proposed by Wintergreen Rescue). Estimated revenue would generate excess funds of \$55,463 which could be applied to EMS Council reimbursements thereby freeing up this amount of funds for other purposes.

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Mr. Carter suggested that the Board could discuss charging non residents at Wintergreen for transport services and noted that localities could also charge for fire responses which would be covered by homeowners insurance with car accident responses being covered by car insurance policies.

5) Even with a 23 cent real estate tax increase for 2012, it is likely that another increase would be necessary in 2013. An additional real estate tax increase (more than 23 cents) may be considered to avoid two consecutive years of tax increases and to maintain services at current levels until the reassessment in 2016.

Mr. Carter noted that the goal is to balance the budget without any tax increase but it could not be done this year and that the next couple of years could be tough.

Other Personnel Considerations (not currently in budget proposal):

- 1) Re-evaluate Emergency Services job descriptions
- 2) Re-instatement of second building inspector position (\$49,044)
- 3) Change 2 part-time Animal Control Officers to full time (\$35,161)

Mr. Carter noted that there was also a part-time Shelter Attendant and Mr. Harvey recommended that these positions be shifted to the Sheriff's Department.

4) Change 1 part-time Custodian to full time and eliminate vacant full time maintenance position. Savings would be applied to contractual services to offset elimination of maintenance position.

Mr. Carter noted that this did not result in any monetary change in the budget.

5) Salary Adjustment 1% (County- \$44,000/School- ??)

Tax Rate Timeline:

- 1) Public Hearing advertisement must be submitted to newspaper on March 26 for publication on March 29
- 2) The earliest the public hearing could be is April 5
- 3) The latest the hearing could be is April 10 which would require the tax rate be set the same night of the hearing.

Ms. McCann then noted that it was uncertain as to whether or not Aid to Localities would be restored and that the revenues projected were based on what the County would get, and she did not anticipate that the County would get much more if it were reinstated.

Mr. Carter suggested that the Board discuss a budget meeting schedule and Mr. Hale noted that they needed to look at decreasing expenditures. Ms. McCann noted that on the expenditure side, the currently

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fiscal year 1% raise money had not been transferred into each departmental budget which made it look like a budgetary increase that wasn't really there.

Ms. McCann then noted that staff had not budgeted for any potential retirements since no official notifications had been made. Staff noted that it was realistic to expect that at the very most, the tax increase was to equalize revenue with \$.23 and the Board should decide if it was going to do more or not. He noted that the schools had proposed a 3.65% salary increase plus adjusting salaries to be within the top 25% of the state. He added that they had asked for \$1.7 million and staff recommended funding the VRS increase only.

Ms. Brennan inquired as to whether or not the VRS 5% pay raise was required and Mr. Carter noted that it was what staff understands but that it was not yet incorporated into the budget. He noted that employees were to pay their 5% contribution and then localities would be mandated to implement a 5% pay increase. He added that in 2 years localities would be required to establish an alternate retirement plan. It was then noted that staff was looking at this to determine the impact and was also looking at IRS withholding rules. It was noted that it may be more expensive and was a cut to employees because they would get a raise but the 5% coming out was based on a larger amount so ultimately employees would take home less income. He added that this legislation would apply to the schools as well.

Ms. McCann noted that staff was hoping that the mandated 5% salary increase associated with the 5% employee payment for VRS would be a wash, but this would depend on whether or not localities had to pay the Social Security benefits on this or not. She noted that she thought that the added costs would be \$30,000 if the County had to pay FICA on the raise amount and that staff would be studying it before the next meeting. She also noted that the Schools may receive some additional funding from state for their VRS increase.

Mr. Carter added that the legislation prevented the General Assembly from not using the actuarial amounts to set the rates; which has caused the current problems; they would now have to accept the rates from the actuarial studies.

Ms. Brennan asked if anyone else was having this high of a tax increase and Mr. Harvey stated that they would if they had a reassessment and their values were lower. Mr. Carter noted that the Board could consider a higher rate than the \$.23 as next year could be really tough.

Ms. Brennan stated that she was not ready to say the rate would only increase by \$.23 and Mr. Bruguere and Mr. Hale noted that they were ready to say it would be no more than that.

Mr. Bruguere stated that he would prefer to find the Courthouse debt prepayment funds in order to keep up the prepayment.

Mr. Carter suggested that the Service Authority could afford to pay for their debt and fire protection since they had raised their rates and were not doing the projects now; which would restore the courthouse debt prepayment amount.

The Board then agreed by consensus that reaching a consensus on the tax rate would not be the responsible thing to do at present.

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Members then briefly discussed the reassessment and some commercial assessments being out of line and Ms. Brennan noted that Northumberland was suing BRMAC to get their money back. Mr. Carter noted that he would need to consult Mr. Payne on this and it would depend on how extensively staff could find inconsistencies. Members and staff discussed not proceeding with the BRMAC reassessment and/or suing them and decided they were two different issues.

Members and staff acknowledged that doing a new reassessment would be a gamble and Mr. Payne reported that the Augusta County suit against the Board was ultimately dismissed.

Mr. Harvey noted that he thought that if the 2012 assessment was kept, the County would have the same revenue base but the people less able to pay would be paying more in taxes and that Nelson County would have a better case. He added that the commercial property value assessments were a big problem.

Mr. Payne noted that challenging other person's assessments was not allowable; one can only challenge one's own assessments. He noted that in Northumberland, the Commissioner of Revenue had gone through and detailed tracts of land that had wide variations in value to provide a basis of challenging it. It was noted that they had shown that there were pieces of land where improvements were left off or erroneously placed on parcels etc.

It was also briefly discussed that if the 2012 assessment stands and the tax rate is adjusted to maintain revenues, then the properties in land use would pay more in taxes. It was explained that the values would remain as set by the Commissioner of Revenue, but any adjustment in the rates upwards would result in higher tax payments.

Mr. Hale then noted that if the County followed the same route as Northumberland, there would be an awful lot of additional work for possibly the same results.

Members and staff then agreed to meet again on Tuesday, March 20th at 2pm to discuss the reassessment and the budget.

In conclusion it was noted that the assessors had met the deadline with the preliminary data and were still updating it. Members suggested that staff and the Commissioner look at contractual obligations and inconsistencies in the values to prepare for the meeting.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

Mr. Carter distributed and reviewed his report as follows:

A. Courthouse/Government Center Project: The second floor bridge is completed. Replacement of the front steps off Court Street is in process and nearing completion. The primary item requiring completion is the Jefferson Building for which a decision is pending on the level of work Blair Construction will complete. Final landscaping is also pending completion but is not of concern at present. Otherwise, the project is essentially complete pending final punch list(s) resolution (Blair Construction's and WileyWilson's).

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B. Health Department Relocation: Blue Ridge Medical Center has assumed full responsibility for this initiative with progress being made on the proposed relocation of the local Health Department to BRMC. A projected relocation date is now early September 2012.

Mr. Carter noted that according to Dr. Peake, the budgeted amounts are still valid.

C. Broadband Project: Mastec has installed approximately 10.1 miles of conduit of the planned 31 miles of conduit enclosed fiber optic cable. Responses to the project's electronics installations (operating system) RFP were received on 3-7 and are currently being reviewed/evaluated. A bid solicitation has been issued for location services (this pertains to locating the County's backbone installations when other companies are completing installations in the same area) is in process. Negotiations with service providers are ongoing. Licensing with Ms. Utility is in process as is work to establish NCBA as an ERate provider. Completion of the backbone installation is projected by not later than May 30, 12.

Mr. Carter explained that staff and Icon were working with a service provider who wanted to lease 4 dark fibers; which would be a revenue source. He added that the County's E-rate application was in process; which would allow the schools to be reimbursed for E-rated costs and the Authority would receive full cost of the services. He noted that he has emphasized finding a location for the Massies Mill tower as being a priority. He reported that Icon does propagation analysis using tax map and GIS information to assess properties as well as going out in person to look at the proposed sites.

D. Gladstone Rescue Squad: The Court appointed Receiver submitted an order on 3-12 to provide for the transfer of the EMS vehicles to GVF&RS. Signatory approval of the order by the Court will enable the agency to obtain its transport license with V A-OEMS.

Mr. Carter added that he was not sure if they had access to the building yet.

E. Refunding of Lease Revenue Bond, Series 2002: The refunding will close by 3- 27 or 28.

F. 2012 Radio Project (Narrowbanding): The project is in process with the loan application to VA Resources Authority submitted and Motorola, Inc. personnel working towards completion of the Rough Order of Magnitude, which is anticipated by 5-12. An 18 month schedule is projected.

Mr. Carter noted that VRA was interested in what the Board would do about the tax rate.

G. High Top Tower (Lease Agreement): A revised lease agreement assigning the sub-lease to the Nelson County Broadband Authority has been drafted and is in review. Review and approval consideration by NCB A may be scheduled for 3-22 prior to the regular Board meeting.

H. Recreation PER: The project is in process. Three site options will be developed inclusive of facilities. A six week schedule is projected.

Mr. Carter reported that the County was working with Mosely Architects who had hired Timmons Engineering and Saunders Surveys as subcontractors for the work.

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I. Maintenance Dept. Projects: Maintenance staff are facilitating the law office retaining wall initiative (Nolen Frisa Assoc. is being retained in lieu of the initial engineering firm). The Department is also working on the proposed sidewalk on Court Street and the rework of the Treasurer's office. Both initiatives require further information and cost estimates prior to their initiation.

Mr. Carter explained that the Roanoke firm was not making any start on the law office retaining wall work and that the County was terminating the contract and would go forward with Nolen Frisa to do the work. He added that the County had solicited cost estimates from Saunders Surveys and Jim Taggart on the sidewalk and they cautioned staff on the scope of what could be involved. He added that VDOT may require the County to address storm water drainage and that could get expensive. He noted that it was not dealt with now. He added that Mr. Austin had noted that VDOT would address this and that the County should ask about this before getting a permit.

Mr. Harvey stated that he saw no reason to put a sidewalk through there now because there was now no reason to park there and walk up that way. He suggested that VDOT pave it all the way over to the wall and leave it as is. He also suggested that no parking could be painted on the pavement in lieu of no parking signs. The Board then agreed by consensus to forgo installing the sidewalk.

Mr. Carter then noted that the Treasurer's Office work could get more expensive and that an estimate provided to put a header up and open the space was \$12,000; which did not include finishing the space. He added that Paul Truslow was working with an engineer who had a subcontractor provide the cost estimate.

Mr. Saunders inquired as to whether or not he could bring someone in to look at it and the Board noted their agreement that he could. It was noted that an alternative had been discussed such that plexi-glass would be put in at the counter and then slots would be cut into it for pass-throughs. It was noted that this would get the customers out of the hallway and would not be a great expense if in the future, the County used Wiley Wilson's layouts for providing the Commissioner of Revenue more space and having the Treasurer occupy the Finance Office at some point.

The Board agreed by consensus to think about this some more and Mr. Saunders then suggested moving the Treasurer's counter back some to utilize more of the open floor space.

Members then requested a time schedule for completion of the Treasurer's Office work.

2. Board Reports

Mr. Hale reported the following:

1. Mr. Hale reported that it was a struggle to figure out how to use the vacated space and new passageway (bridge area) and what could be done to alleviate the crowding for the Circuit Court Clerk. He referred to the Wiley Wilson plan for rearranging the areas and suggested that the next step was for the courthouse committee to have each of the people affected: the Commissioner, the Treasurer, the Commonwealth Attorney and the Circuit Court Clerk meet and discuss this. He further suggested that they use the needs assessment data for this.

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Mr. Harvey noted that he thought that County Administration etc. should move to the Health Care Center building once it is vacated and give this building all over to the courts.

Mr. Hale then noted that the Circuit Court needed collocated storage and it could not be on another floor. He added that the Board and staff needed to consider what worked best for the public in these decisions.

Mr. Carter noted that Anthony Martin went over to the Jefferson Building and had emailed to see if he could look at the building floor plan.

2. Attended Planning District Commission meeting and noted that the DCR State Parks Plan meeting was to be attended by Fred Boger. He suggested that the Blue Ridge Tunnel, the Blue Ridge Trail, the Recreation Center, the Sturt Property, the DeFosse Trail, and the Peter Agelasto trail be included in order to be eligible for future funding.

3. Attended NCHS Musical Anything Goes and was highly complementary of the production.

4. Attended meeting with the Millennium Group and noted that the Heritage Center had provided the electric bills finally; which seemed high to him. He added that the Service Authority had noted what it would cost for the tower and it would be less than \$30 per month. It was noted that the Service Authority was to get separate electrical service, which would cost \$5,575 and to get the meter in place, it would cost \$2,678. He then proposed that the Service Authority not charge for water and the Millennium Group then not charge for the electricity and it would be a wash. This would avoid putting in the new costly electric service.

Mr. Saunders suggested setting a limit such as the minimum water bill per month. Mr. Bruguere noted that they could extrapolate how much water is used and how much energy is used to pump the water to determine a cost of how much water the NCSA is using. He suggested that he would have this metered since they would need to know if there was any non-billable usage on the line like for flushing it. He then suggested having NCSA put in a meter but not spend the money for the separate electrical service and they would potentially only use the minimum of \$30 per month. Mr. Harvey noted that if additional water was used because of tenants they would need to pay for it.

Mr. Saunders reported the following:

Mr. Saunders reported that he attended a Piedmont Workforce Network (PWN) Board meeting and he noted that the computer center in the Nelson Center needed to be manned. He added that the PWN was looking for \$5,000 to \$10,000 to cover this cost. It was suggested that they get volunteer help to do this and then re-evaluate it.

Mr. Saunders reported receipt of a letter from Gladstone Senior Center requesting funding for fuel; however he noted the letter did not specify an amount.

Ms. Brennan reported the following:

1. Reported that a new Zoning Amendment was coming to the Board during the night session from the Planning Commission.

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2. Attended meeting with Senior Advisory Committee
3. Attended JABA Advisory Committee Meeting where a report on health services was provided and housing projects were being considered. She reported that the PACE program was progressing in the old MJH hospital and was to start service in 2013. She reported that Gordon Walker was retiring and JABA was searching for his replacement.
4. Attended Community health Assessment group meeting and it was noted that transportation was the biggest barrier to obtaining healthcare. Other issues were noted to be Obesity, diabetes, substance abuse, dental care and domestic violence and abuse.
5. Attended a Courthouse Committee meeting that Mr. Hale reported on.

Mr. Bruguere reported the following:

1. Reported that the EMS Council had requested that a State Trooper and the Sheriff come to explain how they work accidents. He noted that the Sheriff declined to come and the Trooper said that in a lot of counties the Sheriff's Department did not work accidents. He added that fire depts. were not required to be out there and he noted that the deputies did help with the jackknifed tractor trailer accident during the recent snow storm. Mr. Bruguere then commended the paid rescue squad for their excellent work at the accident on Dickie Road.
2. Commended the Drama Club play production and noted the excellent set design done by a local construction company, Appletree Construction.

Mr. Harvey had no report.

B. Appointments

Ms. McGarry noted that an application had been received for the JAUNT vacancy from Mercedes Sotura, a retired school teacher that resides in Afton. She then noted that three of the previous members of the Local Board of Building Appeals had indicated that they wished to be reappointed: Clarence Craig, Jr., Steve Crandall, and Kenneth Taylor. She added that new applications had been received from Robert Yoder an architect and Robin Meyer also an architect. Ms. McGarry noted that the Board had reestablished this committee by ordinance and the ordinance provided that the Board consists of five members who need not reside in Nelson County; noting that Ms. Meyer's primary residence was in Charlottesville, Virginia; however she did own a secondary residence in Wintergreen. She added that the ordinance provided for staggered initial terms and then terms of four years thereafter.

Mr. Bruguere indicated that he was familiar with Ms. Meyer and Mr. Yoder's qualifications were noted as not only him being an architect but he served on the Virginia Beach Board of Building Appeals for 25 years.

Mr. Bruguere then moved to appoint Clarence Craig, Jr., Steve Crandall, Kenneth Taylor, Robert Yoder and Robin Meyer to the Local Board of Building Code Appeals and Ms. Brennan seconded the motion.

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

Mr. Hale then moved to appoint Ms. Mercedes Sotura to the JAUNT Board and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the appointment.

C. Correspondence

Ms. Brennan noted having received a letter from Ben Brown who was resigning his seat on the JABA Board at the end of June.

D. Directives

Mr. Bruguere:

Mr. Bruguere directed that the Courthouse landscaping be resolved.

Mr. Hale:

Mr. Hale inquired as to the request for an accounting of funds from the Massies Mill Recreation Center and Mr. Carter noted that nothing has happened with them. He added that he had requested information from them on the disposition of funds and there has been no response. Mr. Carter noted he would follow up on this.

Mr. Hale noted that the Historical Society was interested in being a part of the Courthouse Dedication and had elected a new President, Robert Carter. He inquired as to consolidating this with the business after hours function which is to be held on May 15th. Members and staff decided to discuss this further at some point.

Ms. Brennan:

Ms. Brennan stated that the Paid EMS issues needed to be moved to the forefront. Mr. Carter noted that staff could bring proposed new fees to the Board to consider. He noted that they could also explore billing visitors at Wintergreen and proposed that they also discuss this with Curtis Sheets.

Ms. Brennan asked for a Dispatch Center Update and Mr. Carter noted that the County was recruiting part timers for vacancies. He added that he was meeting with dispatch staff on Thursday to get their input on how things were going etc. and he thought that Ms. Miller was doing a good job of managing the center. He noted that he had not further discussed management with Sheriff Brooks and that they could not get over who managed the VCIN issue. He further noted that the camera was in place but not running right now and that the State Police were given specs on the camera and were assured it could not read anything from VCIN or the workstations. He added that the requested sketch of the room layout and camera vantage had been provided; however he had not heard back yet and so it was still off. It was noted that the VCIN could be moved out.

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In terms of deputies, Mr. Carter noted that he thought that they were okay with what they had and the County has two beyond what the State prescribes.

Mr. Carter then confirmed that the Board of Equalization Announcement was placed and was in the regional newspapers. He also confirmed that the Citizen Alert System was ready to be deployed if needed in an emergency.

Ms. Brennan then reported that Gordon Walker of JABA was interested in doing a feasibility study to look at the potential for having an assisted living facility at the Lovington Health Care center building. She noted that this could potentially provide 30-40 jobs. The Board agreed by consensus to do it if they paid for it and it stayed on the tax rolls. Mr. Carter noted that he had been contacted by a realty company about coming to look at it and had agreed to meet with them to tour the building.

VI. Other Business (As May Be Presented)

Mr. Boger reported that his office had received 15 responses to the RFP for Blue Ridge Trail work.

VII. Recess and Reconvene for Evening Session

At 5:34 pm, Mr. Saunders moved to adjourn until the evening session and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion.

EVENING SESSION

7:00 P.M. – NELSON COUNTY COURTHOUSE

I. Call to Order

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

II. Public Comments

Mr. Harvey opened the floor for public comments and the following persons were recognized:

1. Lori Schweller, represents Verizon Wireless.

Ms. Schweller noted that she had provided comments on the new Tower Ordinance and supported further consideration of the draft before them with the suggested changes. She added that she was available to discuss and provide information during the process. She added that Carriers would welcome the streamlining of the process and it would help them be in compliance.

2. Virginia Edwards, Afton and owner of the property for tower application #2012-001.

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Ms. Edwards noted to the Board that she was the owner of the property on which the tower in application #2012-001 was to be placed. She added that Crown Castle leases the property from her and that Verizon wanted to sublease it from them. She then asked if staff could explain what the term property line setback meant.

Mr. Harvey noted that these issues would be addressed shortly during the public hearing on the tower application.

3. Clay Stewart, Arrington and Owner of Stewart Computer Services (SCS)

Mr. Stewart noted that the number of calls he is getting for service has been tremendous as the IBEC equipment comes down. He noted that he would like a status update on the towers - Colleen, High Top etc. so he could plan and budget for bringing these into his service system. He asked for assistance in movement on these items and in getting updates from the County. He added that his company was pro low profile installations and that protecting the County's view-sheds was important.

III. Public Hearings & Presentations

A. Class II Communication Tower, Application #2012-001, Verizon Wireless

Consideration of an application by Verizon Wireless/AT&T to construct a 68 foot communication tower. The tower will be located on property owned by Crown Castle USA, Inc., 6049 Howardsville Turnpike, Afton VA., Tax Map #3A2-1-A-10. The Applicant is requesting the following waivers/exceptions: (1) §20-7-2a, property line setback (2) §20-7-2d, location within the view shed of the Blue Ridge Parkway/Skyline Drive and §20-7-2e, location within the view shed of a Scenic By-Way.

Mr. Boger presented the application and noted that Crown Castle has a lease with Ms. Edwards and Verizon was asking to take the existing wood pole down and replace it with a metal tower and then they would collocate on the tower. He noted that wooden poles do not require a fall area and a metal one of that height did require a 125ft fall zone. He noted that they were asking to reduce the fall area to 68 feet for it to work. He noted that the structural analysis from Verizon called for a tower that would collapse upon itself and that this type of waiver had been granted in the past. Mr. Boger also noted that there were two other exceptions being asked for: §20-7-2d, location within the view shed of the Blue Ridge Parkway/Skyline Drive and §20-7-2e, location within the view shed of a Scenic By-Way. He added that they were keeping the tower 10 feet above the existing tree line. He concluded by noting that Staff had no objection to the application and the Planning Commission recommended approval with the exceptions.

Members then questioned the ownership listed on the application and Mr. Boger noted that it was mis-stated on the agenda and that Ms. Edwards had been notified and had participated in the Planning Commission hearings.

Mr. Harvey questioned whether or not Crown Castle signed the application as the owner and questioned why they would have to do this for the replacement of an existing tower. Mr. Boger noted that the ordinance required it because they were going from a wooden pole to a metal pole.

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Ms. Lori Schweller noted that under the terms of the lease between Edwards and Crown, they had the approval to sign the application. Mr. Harvey noted that they should not have signed as the owner and then they listed the Edwards as adjoining property owners.

It was noted that it was a moot point if Verizon has the sublease from Crown and then it was reported that Steven Waller signed as the applicant and lessee and beside the block where the owner is, he wrote Lessee on behalf of Crown Castle. Ms. Schweller then noted that the only reason the owner had to be on the application was for notice requirements.

Ms. Edwards was then asked if she had a problem with the tower and she stated that they do have the right to change the tower and she did not mind Verizon being up there.

Ms. Anne Gunn, a friend of Ms. Edwards noted that it bothered Ms. Edwards that the owner of the property is listed as Crown and she was concerned that this would go forward with them being listed as the owner in other County records. She stated that Ms. Edwards wanted to be sure that it was known that it was her property. Board Members and staff assured Ms. Gunn and Ms. Edwards that what was on the application had no bearing on and could not change other official County records.

Mr. Harvey then opened the Public Hearing and the following persons were recognized:

1. Lori Schweller, Attorney for Verizon

Ms. Schweller, noted that the Application identified Ms. Edwards as the property owner, the survey and deed showed this and there was nothing there to confuse anyone on who owned the property; Crown Castle simply wrote in that they were the leaseholder.

2. Steven Waller, Verizon.

Mr. Waller noted that the Lease was not recorded but the MOA was recorded identifying Ms. Edwards as the property owner.

3. Clay Stewart, Arrington

Mr. Stewart noted that technology changes in radios allowed for more clustering on poles and carriers were going to metal poles so they could put more antennas on them.

4. Lori Schweller, Verizon

Ms. Schweller noted that she was speaking on behalf of the application and for the exceptions. She added that the metal pole would fall within the property boundary and that they needed the two other exceptions. She added that the National Park Service viewed the balloon test and gave a list of mitigation requirements. She added that they would be able to keep the visual impact to a minimum by placing all technology at 10 ft above the tree-line.

5. Kenneth White, Roseland and Virginia Taxpayers Association – Afternoon Session Public Comments

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Ms. Paula Pierce distributed and read aloud a prepared statement from Kenneth White, President of the Virginia Taxpayer's Association opposing the Class II Communications Tower Application #2012-001 due to erroneous information provided on the application concerning the incorrect owner of the property being noted on the application. Mr. White requested in his statement that this opposition be noted during the public hearing to be held during the evening session.

Mr. Boger then briefly explained the term setback to Ms. Edwards.

Mr. Harvey inquired as to why an exemption from the requirement that towers not be within two miles of each other was not required at this site with four towers being there and Mr. Boger noted it was because these were not classified towers and that particular requirement only applied to Class III towers.

Members, staff, and the applicant briefly debated further whether or not the application had been signed appropriately and was valid. It was finally determined upon further inspection of the application that Crown Castle had signed the application appropriately and was not purporting to be the owner of the property.

There being no other persons, wishing to be recognized, Mr. Harvey closed the Public Hearing.

Mr. Bruguire moved to approve the tower application for Verizon Wireless and Crown Castle on tax map #3A2-1-A-10 with all of the Planning Commission recommendations and exceptions and the property being owned by Ms. Edwards

Ms. Brennan seconded the motion, and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

B. Class II Communication Tower, Application #2011-010, New Cingular Wireless/AT&T

Consideration of an application by New Cingular Wireless/AT&T to construct an 80 foot communication tower with a 4 foot lighting rod. The tower will be located on property owned by Robert & Brenda Woody, 6109 Richmond Highway, Gladstone, VA., Tax Map #97-A-23. The applicant is requesting the following waivers/exceptions: (1) §20-7-2a, property line setback (2) §20-8-3, distance between towers located at 16 Old Thirteen Lane & Gladstone Rescue Squad.

Mr. Boger overviewed the application and noted that Mr. Joe O'Conner has submitted an application for a Communication Tower Permit to install a Class I Communication Tower at 6109 Richmond Highway. He reported that The Communication Tower will be eighty (80) feet tall with a four (4) foot lightning rod for a total tower height of eighty four (84) feet. He stated that the proposed height of this tower is greater than the eighty (80) maximum for a Class I Tower making it a Class II Communication Tower.

Mr. Boger added that the proposed Tower will be steel and designed for a full array of antennas. The plans indicated there will be twelve (12) panel antennas, four on each side of the array. He noted that the RAD Centers for the antennas will be at seventy seven feet. The tower and all antennas will be painted dark brown and the proposed lease area is approximately 60'X60' in size. He added that the site will contain the tower, an 11'5" X 28' equipment shelter, and the utility connections area. The lease area will

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be surrounded by an eight (8) foot chain link fence and the site will be screened by existing woods, additional tree plantings on the southeast corner and an existing building. Additionally, he noted that the applicant is requesting a waiver of Section 20-6-2a property line setback. Since this is a Class II metal tower the applicant requires an exception from 20-7-2a, the required one hundred twenty-five percent fall area for a tower. The fall area needs to be reduced from one hundred five (105) feet to thirty-two (32) feet and the applicant stated that the tower will be designed to fall within the lease area.

Mr. Boger then noted that the applicant had provided a copy of the lease and a letter from a licensed engineer certifying the tower would be designed to fall within the proposed lease area.

Mr. Boger noted that the proposed Tower will be located approximately 1.891 miles east of the recently approved Class III tower site at 16 Old Thirteen Lane for AT&T and 2.617 miles from the approved Class III Communication Tower to be constructed at the Gladstone Fire and Rescue Squad site at 8786 Richmond Highway. He added that the separation between the two Class III Communication Towers is 3.908 mile and after reviewing Section 20-7, Section 20-8 and consulting with the County Attorney, it has been determined that there is no separation requirement between towers for a Class II Communication Tower application. He noted that the proximity requirement only applies when considering an application for a Class III Communication Tower.

Mr. Boger then showed pictures of the site and noted that the building at 6109 Richmond Highway has been used for commercial/residential purposes for years and that the building effectively screens the equipment shed and other outside cabinets from view. He added that this was the third tower for AT&T along Richmond Highway for the purpose of providing wireless communication in this area of the County. He then noted that both the property owner and the lessee had signed the application.

Ms. Valerie Long, representing AT&T, the applicant noted that she did check the application to verify that both parties had signed the application. She then noted that the site was a good location and would be well screened. She reiterated that they had submitted a fall zone letter certifying that the tower would collapse within a 32 foot radius and that it would not hit the actual structure but might nick the old stone garage. She noted that the purpose of this was to keep it within the property boundaries. She noted that the woods behind the site would also provide a screen and there would also be a row of landscaping added to help screen the base of the tower and the ground equipment. She noted that they were using metal poles now because of enhanced engineering; that allowed for a defined fall zone. She added that wooden poles were being damaged and becoming a hazard. She also noted that metal towers could be transported to sites in segments, which allows for easier transport.

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

Mr. Saunders then moved to approve the application as presented and recommended by the Planning Commission for an application by New Cingular Wireless/AT&T to construct an 80 foot communication tower with a 4 foot lighting rod. The tower will be located on property owned by Robert & Brenda Woody, 6109 Richmond Highway, Gladstone, VA., Tax Map #97-A-23.

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

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C. Amendment to Appendix A, Zoning of the Code of the County of Nelson, 1989

The purpose of this amendment is to revise the County's Zoning Ordinance to comply With §15.2-2292.1, of the Code of Virginia requiring local zoning ordinances to have provisions for temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted use in any single-family residential zoning district on lots zoned for single-family detached dwellings. The proposed amendment will create Article 23, Temporary Family Health Care Structures in the County's Zoning Ordinance to comply with the State Code and the requirements listed in §15.2-2292.1. **(O2012-02)**

Mr. Boger reported that it was a requirement of the State Code to amend the County Code to provide for these structures. He noted that not many Zoning Administrators were happy about this but was required. He noted that staff had used an adjoining locality's ordinance as a template; the Planning Commission had held their public hearing and recommended its approval.

Mr. Boger explained that these structures were for if a person needed more than assisted living care and wanted to be able to receive this care at home. He noted that the person receiving care must live there and when the person dies it is removed. He added that it would be a modular type structure and not on a permanent foundation. He noted that these structures had specialized equipment inside of them.

Members discussed the timeframe for approval and Mr. Boger noted that until this was approved, no one would be able to have these structures in the County. It was discussed again that these came equipped to provide total care for the person and were limited to 300 gross square feet. He added that the caregiver did not stay in the structure.

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

Ms. Brennan then moved to approve Ordinance **O2012-02** establishing Article 23 Temporary Family Health Care Structures and Mr. Bruguire seconded the motion.

Mr. Saunders clarified with staff that if the Code did not have this, it would not be allowed for someone wanting one of these structures. Ms. Brennan noted that it was required by State Code and that the Board would work to get it repealed. It was also noted that the person receiving care pays for the structure and that it may be much cheaper than a nursing home. Mr. Boger clarified that the structure had to be separate from the house.

There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Harvey No and the following Ordinance was adopted:

**ORDINANCE O2012-02
NELSON COUNTY BOARD OF SUPERVISORS**

March 13, 2012

ORDINANCE TO AMEND APPENDIX A, ZONING, OF THE CODE OF NELSON COUNTY VIRGINIA, 1989 AS AMENDED, TO ADD ARTICLE 23, TEMPORARY FAMILY HEALTH CARE STRUCTURES

WHEREAS, §15.2-2292.1 of the Code of Virginia requires Virginia localities to include in their zoning ordinances provisions for temporary family health care structures; and

WHEREAS, on February 22, 2012 the Nelson County Planning Commission held a public hearing on a proposed Ordinance to amend Appendix A of the Code of Nelson County prepared by the Nelson County Planning Department to include Article 23, “Temporary Family Health Care Structures”, and voted to recommend to the Nelson County Board of Supervisors approval of the proposed Ordinance; and

WHEREAS, the Nelson County Board of Supervisors held a public hearing on the proposed zoning amendment at its regularly scheduled meeting on March 13, 2012; and

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require the Nelson County Zoning Ordinance to be amended;

NOW, THEREFORE, BE IT ORDAINED that Appendix A, Zoning, of the Code of Nelson County Virginia, is hereby amended to include the following Article:

ARTICLE 23. TEMPORARY FAMILY HEALTH CARE STRUCTURES

23-1 Temporary family health care structures.

23-2 For purposes of this Article:

- (1) “Caregiver” means an adult who provides care for a mentally or physically impaired person. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he/she is caring.
- (2) “Mentally or physically impaired person” means a person who is a resident of Virginia and who requires assistance with two (2) or more activities of daily living, as defined in Code of Virginia §63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.
- (3) “Temporary family health care structure” means a transportable residential structure, providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than three hundred (300) gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (Code of Virginia §§36-70 through 36-85.1) and the Uniform Statewide Building Code (Code of Virginia §§36-97 through 36-119.1).

20-3 Temporary family health care structures shall be allowed in the Conservation, C-1; Agricultural, A-1; Residential, R-1; Residential, R-2; and Residential Planned Community, RPC Zoning Districts as permitted accessory uses to single-family dwellings. Temporary family health care structures shall be only (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned by or occupied by the caregiver as his or her residence.

- 20-4** Such structures shall comply with all setback requirements that apply to the primary structure. Only one (1) family health care structure shall be allowed on a lot or parcel of land. Placement of temporary family health care structures on a permanent foundation shall not be permitted.
- 20-5** A Zoning Permit to install a temporary family health care structure shall be obtained from the Department of Planning and Zoning. A Building Permit is also required and shall be obtained from the Department of Building Inspections. The applicant shall provide sufficient proof of compliance with this section, initially and annually thereafter, for as long as the temporary health care structure remains on the property. Such evidence may involve the inspection by the County of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.
- 20-6** Any temporary family health care structure installed pursuant to this section shall connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
- 20-7** No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- 20-8** Any temporary family health care structure installed pursuant to this section shall be removed no later than thirty (30) days after the mentally or physically impaired person is no longer receiving or in need of the assistance provided in this section.
- 20-9** The Director of Planning and Zoning, on behalf of the County, may revoke the permit granted pursuant to this section if the permit holder violates any provision of this section. The Planning and Zoning Director is vested with all necessary authority on behalf of the Board of Supervisors to ensure compliance with this section.

BE IT FURTHER ORDAINED that this Ordinance shall be become effective on March 14, 2012.

IV. Other Business (As May Be Presented)

Mr. Harvey inquired as to the status of the job description for Public Safety Officer and Mr. Carter noted that staff would work on this now that the County was in a position to do so. He added that he would propose that the EMS Coordinator description and Title be changed and he noted that Animal Control Supervision would not be part of the job description. He then clarified that he proposed to revise it because the current one contained supervision of Animal Control and Dispatch. He added that the Interim Dispatch Supervisor may not be the new EMS Coordinator and that staff had wanted to wait until some things were resolved to bring this back to the Board. He then noted that a retiree in the community may be the interim EMS Coordinator on a temporary basis.

Mr. Bruguere noted that he and Mr. Harvey would be attending a meeting with Montebello fire and rescue regarding the possibility that they may be shutting down but he noted that he thought that they could work things out so that didn't happen.

March 13, 2012

V. Adjournment

At 8:04 pm, Mr. Hale moved to continue the meeting until Tuesday, March 20, 2012 at 2pm and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

DRAFT