

May 10, 2011

**Virginia:**

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

Present:

Allen M. Hale, East District Supervisor  
Constance Brennan, Central District Supervisor  
Thomas H. Bruguiera, Jr. West District Supervisor - Vice Chair  
Joe Dan Johnson, South District Supervisor – Chair  
Thomas D. Harvey, North District Supervisor  
Stephen A. Carter, County Administrator  
Candice W. McGarry, Administrative Assistant/Deputy Clerk  
Debra K. McCann, Director of Finance and Human Resources  
Raymond M. Uttaro, Emergency Services Coordinator  
Maureen Kelley, Director of Tourism and Economic Development

Absent: None

**I. Call to Order**

Mr. Johnson called the meeting to order at 2:10 pm, with all Supervisors present to establish a quorum.

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

**II. Consent Agenda**

Mr. Hale moved to approve the consent agenda and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – **R2011- 35** Minutes for Approval

**RESOLUTION-R2011-35  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MEETING MINUTES  
(March 16, 2011)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board’s meeting conducted on **March 16, 2011** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

- B. Resolution – **R2011- 36** COR Refunds

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**RESOLUTION-R2011-36  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS**

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

<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$ 289.65	2010 Personal Property Taxes	Honda Lease Trust c/o HVT Inc/Honda Lease Trust P.O. Box 2295 Torrence, CA 90509-2295

C. Resolution – **R2011- 37** FY10-11 Budget Amendment

**RESOLUTION R2011-37  
AMENDMENT OF FISCAL YEAR 2010-2011 BUDGET  
NELSON COUNTY, VA  
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BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2010-2011 Budget be hereby amended as follows:

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

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 10,000.00	3-100-001401-0001	4-100-031020-1009

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

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 111,252.00	3-205-003840-0009	4-205-061100-9301
\$ 5,566.00	3-205-003840-0009	4-205-068000-9306
\$ 9,105.00	3-205-003840-0319	4-205-061100-9301
\$ 16,731.00	3-205-003840-0174	4-205-061100-9301
\$ 699.00	3-205-003840-0174	4-205-068000-9306
\$ 33,542.00	3-205-003840-0010	4-205-061100-9301
\$ 5,172.00	3-205-003840-0367	4-205-061100-9301
\$ 42,565.00	3-205-003840-0027	4-205-061100-9301
\$ 32,563.00	3-205-003840-0365	4-205-061100-9301

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\$ 4,334.00	3-205-003840-0318	4-205-061100-9301
\$ 6,948.00	3-205-003840-0048	4-205-061100-9301
<u>\$ 268,477.00</u>		

D. Resolution – **R2011- 38** Vehicle Transfer to NCSB

**RESOLUTION-R2011-38**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**TRANSFER OF COUNTY VEHICLES**  
**TO THE NELSON COUNTY SCHOOL BOARD**

**BE IT RESOLVED**, by the Nelson County Board of Supervisors that the following vehicles be transferred to the Nelson County School Board upon adoption of this resolution:

<u>Vehicle Make/Model</u>	<u>Last 4 Digits of VIN Number</u>
2004 Dodge Intrepid	1417

**III. Public Comments and Presentations**

Mr. Ray Uttaro introduced Kevin Burnley, a new part time Animal Control employee. He noted that Mr. Burnley began work on April 27<sup>th</sup> as a part time Animal Control Officer. He added that he holds an Associate’s Degree in Criminal Justice, which should serve him well in this position. He also noted the hire of Robert Morris as Shelter Attendant, who was not able to be present for introduction. He noted that the two new hires were already showing dedication to the department and he was very impressed with their work ethic. Mr. Burnley thanked the Board and noted that he welcomed the opportunity to work for the County.

A. Public Comments

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

1. Mr. Kenneth White, Roseland and VTA President distributed and read aloud the following prepared statement:

Mr. Chairman and members of the Board, my name is Kenneth White, 93 Shields Gap Road, Roseland, and I am President of the Virginia Taxpayers Association. At a recent regular monthly meeting of your Board, during the public comment segment, after I had presented the Virginia Taxpayers Association prepared Statement to the Board, Supervisor Hale said to me, (QUOTE) "Mr. White, I hope you would use your active mind to focus more on matters closer to home." (UNQUOTE). In the Virginia Taxpayers Association Statement to your Board at your monthly meeting April 11, 3011, I brought out that virtually all of the Board's decisions on local natters, regarding zoning, flood plain levels, population density, wild life environment and transportation, are controlled by parameters set forth by the UN's Agenda 21. I'm sure that all of you Supervisors have read the May 5, 2011 Charlottesville Daily

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Progress story on the call by Albemarle Supervisor Kenneth C. Boyd for the Albemarle Board to rescind its membership in the UN-backed global organization that advises cities and counties on ways to reduce greenhouse gas emissions. Boyd was quoted as saying (QUOTE) "We are being influenced in local government by an agenda that is set up by this international organization. It's now becoming evident that this initiative was just an extension of United Nations initiative Agenda 21, which is administered by ICLEI." (UNQUOTE). Name of ICLEI has now been changed to Local Governments for Sustainability, which has been joined by over 1,200 local governments including also Arlington and Fairfax Counties. Boyd also said, (QUOTE) "My concern now is that this is the camel's nose under the tent. It's even beyond that. I think it's now a cancer that is influencing our local government here." (UNQUOTE)

But if you really want to see an example of local speech that is ignoring Supervisor Hale's advice to me, just read the long editorial in the latest May 5, 2011 issue of the Nelson County Times discussing conspiracy theories. Remember that we in VTA do believe in historically verified conspiracies, including for example assassinations of Julius Caesar and Abraham Lincoln, for the latter of which a woman was executed after trial by the U. S. government for participation in that conspiracy. Also remember that the Nelson County Times, which is supposed to be a local newspaper, has censored all of the 28 VTA monthly Statements presented to your Board at 28 consecutive regular monthly Board meetings. I will state right here that we in VTA know far more about true conspiracies in the U. S. than the editor and management of the Nelson County Times, and that the alleged "conspiracy theories" that are ridiculed in this propagandistic editorial are far more true than the editorial itself.

For example, regarding the Kennedy assassination, remember that the Church Committee found that the previous official investigation of this event (QUOTE) "was deficient" and "impeaches the process whereby intelligence agencies arrive at their own conclusions." (UNQUOTE) Keep in mind that many surveys in recent years show that 80 to 90 percent of Americans do not believe that Oswald acted alone in this assassination, and that careful tests by the most experienced sharpshooters, using the slow-loading gun Oswald had, have demonstrated that there is no way shots from Oswald's gun were responsible for rapid multiple shots recorded at the time of the assassination.

Also, as VTA has previously told you, there is massive, massive public evidence including photographs that destruction of World Trade Center towers was not caused by planes hitting the buildings with resulting fires, as the 9/11 Commission pretends, but by internal explosions mostly not causing fires. The Nelson County Times does not dare argue factual matters with us, but hopes that most county residents will believe its unbelievably slanted editorial. You Board members, who have already admitted your own violations of the Posse Comitatus Act and the U. S. and Virginia Constitutions, should know that the truth eventually will prevail despite all the deceitful propaganda issued by the Nelson County Times, the U. S. government and establishment media.

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

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**B. VDOT Report**

Mr. Randy Hamilton reviewed the following report with the Board:

<b>MAINTENANCE</b>
Over the next month, VDOT will focus on the following: <ul style="list-style-type: none"><li>• Customer Service Requests</li><li>• Preparing Roads for Surface Treatment and Plant Mix Schedules</li><li>• Patching Potholes</li><li>• Addressing Storm Damages from Recent Weather Events</li><li>• Mowing operations to start on Route 29 the week of May 9, weather permitting</li><li>• Route 617, Rockfish River Road over Ivy Run Creek, closed for bridge superstructure and deck replacement. A signed detour is in place.</li></ul>
<b>CONSTRUCTION</b>
(UPC 76552) Tye River - Build Bridge Rehabilitation, Project 0029-005-C501, B645 <ul style="list-style-type: none"><li>• Northbound and southbound traffic will use the southbound lanes of Route 29 during the bridge rehabilitation. The work zone will be in place through late 2012.</li></ul>
<b>TRAFFIC STUDIES/SPECIAL REQUESTS</b>
<ul style="list-style-type: none"><li>• Route 611 - Ennis Mountain Road - STOP AHEAD and larger STOP signs were installed on April 13, 2011.</li><li>• Guardrail installation approved on Route 151 at the Route 6 intersection, per a citizen's request. Location is to be added to the District's upcoming Guardrail Project.</li></ul>
<b>PROJECT STATUS</b>
<ul style="list-style-type: none"><li>• No updates this month</li></ul>

**1. Secondary Six Year Plan Work Session**

Mr. Hamilton noted that he has discussed consideration of the SSYP for FY12 with Mr. Carter. He recommended having a work session with him and VDOT staff in the next couple weeks in order to go to public hearing on the SSYP and the FY12 transportation budget. He added that he had a draft of the plan to distribute. The Board then agreed by consensus to do a work session before the budget public hearing at the May 26, 2011 meeting.

The Board briefly discussed that the process of how VDOT work is requested and done is off and that any citizen requests should come to the Board before they are completed by VDOT.

Members discussed when herbicides would be sprayed along Rt. 151 and it was suggested that they should use a broad leaf solution rather than roundup. Mr. Harvey noted that they currently may be spraying under the guardrails.

**C. Blue Ridge Mass Appraisal Company -2012 Reassessment Status Report**

Mr. Matt Hickey reported that they were ahead of schedule, had finished initial fieldwork a month ago, and were currently doing a systematic review. He noted that this involved looking at house pictures as compared to the GIS system and verifying that the sketches and house information were correct. He also

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noted that they were looking at simplifying the current land codes in the Commissioner of Revenue's computer system in order to ensure that values for the same types of land remained consistent going forward. He noted that the use of pasture, wooded and tillable land classes would make land use tax relief administration more efficient.

He then reported that they were pulling out new construction and going back out in the field on those in July and reiterated that they were currently on schedule to be finished on time.

Mr. Hickey added that values were changing constantly; they were monitoring it, and would continue to gauge this as more sales came in. He noted that the big land sale at Black Eagle Farm was just going through the system now and they were making sure that information was accurate as they were going through the process.

Mr. Hickey reported that all of the commercial properties had been done and that they would go back to locked properties to get permission to access them from the owners. He added that pictography was used daily in their review and that they have found several new structures that haven't been assessed before.

In response to questions, Mr. Hickey advised that Section 58 of the Code of Virginia gave them legal right to access property, just the same as it did for meter readers. He noted that if they were asked to leave they would, but they would assess it based on the best information that was available. He added that they were using a new system this time in order to have better consistency with home classification and they were finding that a lot of classifications were wrong and they were working to fine tune the data.

Mr. Hickey then reported that the 20,50,75,100, 200+ acre land value breakdown was dictated by market conditions. He noted that they were seeing that contiguous parcels owned by the same person were being valued together and that they were removing a lot of home sites from properties that the market no longer warranted. He noted that the magnitude of changes differed throughout the county.

Mr. Carter stated that staff has noted that the process was very thorough and Mr. Hickey confirmed that their new system was working well with GIS.

Mr. Hickey then noted that they were using 2010 Q4 and 2011 sales and that they may go back further on unique properties. He added that they would get the bottom line right before the notices went out since things were constantly changing.

In conclusion, it was noted that the Board would appoint the Board of Equalization (BOE) closer to the end of the year for 2012 and the Board would adopt an ordinance limiting the time BOE would serve. He noted that the informal hearings would occur first, then those held by the BOE.

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

Items A&B were considered together.

A. Blue Mountain Barrel House and Organic Brewery – Provision of Local Incentives

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## B. Wild Wolf Brewery – Provision of Local Incentives

Mr. Carter noted that staff was working with two businesses intending to expand in the county; Blue Mountain Barrel House and Wild Wolf Brewery.

He reported that the Economic Development Department had been working closely with them and that staff has brought forward information for the Board to consider. He noted that the County Attorney had drafted an incentive agreement pertaining to Blue Mountain and that the agreement for Wild Wolf was in process but would mirror that of Blue Mountain.

Mr. Carter distributed and reviewed a summary comparison of the two requests noting that Blue Mountain Barrel House had requested four years of tax abatement of Real Estate, Tangible Personal Property, and Machinery and Tools taxes totaling \$61,788 as well as waiver of water and sewer connection fees estimated at \$20,000 and Wild Wolfe Brewery had requested three years of tax abatement of Real Estate, Tangible Personal Property, and Machinery and Tools taxes totaling \$34,772.

Mr. Carter noted the presence of both business owners and then explained that the tax amounts would be granted back through the Economic Development Authority (EDA) and would be subject to annual appropriation.

Mr. Hale inquired as to there being any comment from EDA and staff regarding the proposals and Mr. Carter noted that it was a Board of Supervisor's decision and only the process was discussed with the EDA. He added that he thought the Board was favorably inclined, but his concern was that it would open the door for others. He added that this would need to be discussed at the Board's retreat in order to look at the broader picture. Mr. Carter then noted that a significant investment in the County was being made by both businesses and jobs would be created.

Ms. Brennan then noted that she had no objection to approving the incentives for the two businesses and Mr. Bruguere added that he was in favor of it also, but was agonizing because a lot of businesses have made investments in the County and had not gotten incentives; however he acknowledged it might be necessary to keep businesses in the county and the Board should offer a hand to help in any way they could.

Mr. Hale noted he was also in favor of the incentives and was looking at the balance between the two requests; noting that he did not want to see something unbalanced going forward.

Mr. Carter noted that staff and the Board did not get to consider business incentives often and he noted that the most emphasis was on Tourism Development; therefore there has not been much business expansion in the county. He advised that the proposition was where to set the bar and the degree of analysis wanted going forward. He added that there had been good cooperation by staff and the businesses on this.

Mr. Johnson noted the mixed debate between three and four years of incentives, stating that he liked the message of being a favorable business client and that he appreciated growth in the south and west districts. He noted that he was considering the long term impact.

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Mr. Carter advised that the capital outlay would be higher now for Blue Mountain because they could not use the waste water system at the park per Mr. Smack this morning. Mr. Carter also advised that the retention pond was not necessarily a done deal, but that they were in discussions with the Building Department on this and it has been related that the current retention pond on site was built for CVEC only and was not sufficient for use by others.

Mr. Carter noted that the Board's consideration was the amount of incentive and the number of years it applied, as well as authorizing staff or the Chairman to share the agreements, negotiate, and execute them.

Ms. Brennan then moved to give their blessing to draft an agreement with the EDA, which was subsequently withdrawn.

Mr. Carter advised that the Board would have to annually appropriate funds for the rebates.

Mr. Hale then moved that the Nelson County Board of Supervisors lend its support in agreement to the proposed incentives for the two proposed breweries presented, through the EDA and Mr. Harvey seconded the motion.

Mr. Johnson noted that this was a grant for incentives and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

It was asked if the draft agreement was acceptable to both parties, and staff noted that they had not yet seen them.

When invited to address the Board, Mr. Smack of Blue Mountain Brewery noted that he did not have anything to add, but wanted to be present as the decision was a big deal to his company and he appreciated the Board's consideration.

Additionally, Ms. Wolfe of Wild Wolfe Brewing Company noted the same and that she has enjoyed working with the County. She noted that they would be renovating the old schoolhouse and the main building would be a restaurant. She added that all of the little buildings would be renovated into little shops at the old Garden Center where the old Dogwood Restaurant was in Nellysford.

#### C. FY11-12 Budget

Ms. McCann distributed a handout containing the changes to the General Fund budget made as of April 12, 2011. She noted that changes made then had resulted in a recurring contingency balance of \$75,159 and a non-recurring contingency of \$159,000.

Members and staff then revisited budgetary items for consideration as follows:

#### Additional Funding for Dispatch Position:

The Board and staff discussed what dispatcher funding would provide, with staff noting that a part-time position would cost \$32,000, and a full time position would cost \$38,000.

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Mr. Carter noted that staff has been looking at an 8 hour day schedule, with 3, 8 hour shifts per day in order to avoid having holes in the schedule. He added that this has been looked at several different ways, rotating shifts every few months etc. Mr. Bruguere noted that he would like to see this happen and Ms. McCann noted that she would like to see people working the same days of the week every week which should be easier for employees; but that this would rotate if it were preferable. Mr. Carter added that staff was working with Mr. Uttaro on this; however there may be some who are not happy about going to an eight hour shift. It was suggested that staff could sit down with Mr. Uttaro and the Sheriff to iron out which shift is to be used and Mr. Harvey and Mr. Bruguere would meet to get it done. Mr. Hale then suggested that the wishes of dispatch staff should be considered if possible.

Mr. Harvey noted that he preferred establishing a full time position versus the part time; given that there was about a 100 hour difference between them. The Board then agreed by consensus to hire a full time dispatch position.

#### Recreation Van:

Mr. Carter reported that the Recreation Director, Emily Harper preferred to purchase a minivan where the back seat folds down instead of having to be removed as in a twelve (12) passenger van. He noted that the new vans priced were only \$3,000 more than a used one.

The Board then agreed by consensus to allow the Recreation Department to purchase a new minivan priced at \$22,500.

Ms. McCann then reported that the Recurring Contingency would now be \$36,774 and the Non-Recurring Contingency would be \$137,122.

#### Rockfish Valley Senior Group:

Ms. McCann noted that the Rockfish Senior group has reorganized and that the budget number for this year was derived from what was left over from the FY10 amount of 9,628. She noted that they had a balance of \$1,261 so staff subtracted this out and that is what was in the budget. She noted that their meal cost is \$11.18 per meal which is more per meal than Gladstone and Schuyler at \$9.54 and \$5.33 respectively. She added that \$8,367 was now in the budget for them and the Board indicated their concurrence. Mr. Harvey noted that this group was now totally separate from RVCC, that the Rockfish Valley Fire Department building has been offered, and he believed it would work out.

#### Recreation Complex:

Mr. Harvey noted that he was recommending that funds for the Preliminary Engineering Report (PER) for a recreation complex be put back in the budget. He noted that there was a lot of interest in this project in the community. He added that they should look at acquiring land and getting donations etc. for the project and it should include a pool for use by the High School and be an available resource for the public.

Mr. Bruguere noted that he would like something similar to the Waynesboro Park, which has an outdoor pool with concession stand, baseball fields, soccer fields, a place to put in on the South River,

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and park areas. He added he would like it to be on land to the north of the High School so students can learn to swim through the PE programs. Mr. Johnson added that in Florida this was done and the time was split between the schools and the public.

Mr. Carter reported that he has contacted the Sweetbriar people to possibly tour their facility and he suggested that they look at it from a broad perspective and decide priority-wise what the biggest need is. He added that it could be staged and built out. Ms. McCann noted that the \$18,000 in non-recurring funds would go back in; which was a ballpark figure since the County would have to do a competitive process for engineering work and that staff could put together a scope of work for the Board to look at.

Members and staff briefly discussed the fifty (50) acres owned by the Schools already as being a possible site and that staff needed to look around at firms that have experience in designing recreation complexes. Mr. Carter suggested that they could use the policy just adopted to get pricing using four quotes.

The Board then agreed by consensus to include up to \$18,000 in the budget for the recreation complex PER.

Mr. Hale suggested that staff involve the Green and Gold Club and get all of the players together. He acknowledged the interest and questioned who would work on this. Members suggested that a committee would have to be established; keeping it to fewer than ten people if possible; with Mr. Bruguere to be on the main committee. Mr. Hale added that he would like to see a public-private partnership on this.

Following all budgetary discussion, the Board agreed by consensus to advertise it as is and Mr. Harvey moved for final approval for advertising the budget for public hearing and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

*D. Introduced: Response to Mr. White's Public Comments*

Mr. Bruguere responded to Mr. White's public comments and noted that the Board has not admitted to violating the Posse Comitatus Act etc. as was stated by him during public comments. He added that no one has admitted anything and that the security measures being considered were per the Judge's request.

*E. Introduced: Board Event Attendance*

Mr. Hale suggested the Board go to Business Appreciation Day, sponsored by the EDA at Devil's Backbone in lieu of the NMS FFA banquet at 5:30. Members discussed the need for better scheduling as this event was in conflict with the Board Meeting. Members then agreed upon who would attend each event.

*F. Introduced: Broadband Authority Network Management Plan*

Mr. Carter noted that page six (6) of the Network Management Plan says that the Board of Supervisors should also approve the plan.

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Mr. Bruguere then moved to adopt the plan with the same wording as adopted by the Broadband Authority and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

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

### **A. Reports**

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

Mr. Carter reported the following:

**A. Courthouse/Government Center Project:** Construction of the Courthouse addition is nearing completion. Blair Construction indicated on 4-27 that they are working towards completion in early June. It is likely, however, that occupancy by the County will be mid, possibly late summer. Following completion of the new addition, Blair will complete renovation work of the current Sheriff's Department office and initiate construction of the second floor bridge to connect the east and west wings of the historic Courthouse.

Mr. Carter added that even if the building was turned over, they would still have to test equipment etc. and a date can't be pinpointed right now. He added that the floor panels from the 911 center floor were sent off for testing and the results will be communicated. He noted that a defect in the carpet would be presented to Wiley Wilson and Blair and all of the panels may be replaced. He reported that the cleaning method used had affected the wearability of the carpet and that Blair had until they turned it over to have the opportunity to make it right. Mr. Harvey agreed that the floor needed to be replaced and Mr. Carter noted that a related issue was what would be the delay in getting in the building and connectivity accomplished. He added that the contract states that the Architect is the arbiter of disputes which was clearly articulated to Randy Vaughan and Blair.

**B. Broadband Project:** Most, if not all, elements of the overall project are currently in process. Interviews with service providers (two) will be conducted on 5-11. The Environmental Assessment/Review (state and federal) has been completed and a Finding of No Significant Impact (FONSI) has been published (this is a major project milestone). The construction RFP for installation of the fiber optic backbone (i.e. Outside Plant Construction/OSP) has been issued with responses due on 5-13. Bid proposals are also due on 5-17 for purchase directly by Nelson County of the fiber optic cable to be installed by the OSP contractor. Negotiations with CVEC on agreements related to project towers, make ready (i.e. infrastructure upgrades to accommodate install fiber optic cable on CVEC's electrical poles) and pole attachments are nearing conclusion. Tower acquisition (Avon site) is also in process. A location for the Massies Mill tower site is pending as is negotiations with service providers. All pre-contract requirements for the CDBG – Local Innovation Grant have been completed and submitted to VA-DHCD which will result in issuance of the project contract and access to the \$200,000 in grant funding.

Members questioned whether or not Broadband over Power Lines could take advantage of this infrastructure and Mr. Johnson stated that it could possibly take advantage of back haul availability to maintain bandwidth.

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Ms. Brennan clarified that the May 11<sup>th</sup> interviews reported on were with Network Operator candidates and not Service Providers.

Mr. Johnson noted that the issue of the Devil's Knob tower was being brought up because it could be used immediately by service providers. Mr. Carter noted that the lease there had expired and was not renewed; and it was with WCVE right now. He added that the County would have to reestablish a new lease with the Nature Conservancy and that they were not communicating back. Mr. Johnson suggested that this should be under the Broadband Authority's purview.

**C. 2012 General Reassessment:** Blue Ridge Mass Appraisal (Mr. Matt Hickey) will present a status report to the Board of Supervisors at the regular session on 5-10.

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

**E. Blue Ridge Tunnel & Blue Ridge Railway Projects: (Tunnel)** – The County was not awarded a 2011 Transportation Enhancement Grant by VDOT (Commonwealth Transportation Board) for the BR Tunnel Project. A second communication (5-6) has been sent to the owner of the proposed eastern trailhead to request concurrence to proceed with acquiring the trailhead easement. The western trailhead will be minimally relocated due to an archeological finding just north-west of the entrance to the western portal. Notice is pending on a grant award from VA-DCR for funding to acquire the easement for the western trailhead. **(Railway Trail)** – Initiation of the 2010 TEP grant funded project (renovation of the train depot and rail line resources) is pending.

Mr. Carter reported that Bruce Tyler had responded and noted time constraints over the next month. He added that he wanted staff to send him the legal documents and his commentary was positive. Mr. Carter added that the engineers would reroute the trail around the archeological site found on the west side of the tunnel.

Mr. Hale suggested that for the project, the cost of the western trailhead should not be borne by the County, but rather by Waynesboro etc. and that the County needed to let them know this. Mr. Carter suggested that another meeting was needed on this and that over the time span of the project, there had been some interest expressed by them, which has shifted to now a favorable endorsement. He added that the Waynesboro/Augusta Board of Supervisors needed to push this and a grant could pay for the west side.

**F. Region 2000 Water Supply Plan** – The project's final "Briefing Package has been received from R2K Local Government Council and Draper Aden Associates (the project engineer) and will be distributed to the Board the week of May 9<sup>th</sup>. The proposed schedule for plan approval by Nelson County, inclusive of local ordinances (drought) related to the plan, is July 12<sup>th</sup> and entails a public presentation of the plan by DAA and R2KLG staff followed by a public hearing and consideration of final approvals by the Board.

**G. Tower(s) and Microwave (PSIC) Project:** Construction of the tower at the Courthouse complex began on 4-11 but was delayed due to lack of depth for the structure's foundation. Revision of the foundation structural design is in process with completion anticipated the week of 5-9. Thereafter, final

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installation of the tower will require approximately six weeks to be completed. An RFP for construction of the Devils Knob Tower was issued on 4-28 with responses due on 5-12. Completion of the microwave project will follow the installation of the herein referenced towers.

Mr. Carter added that the paving of the new parking lots was being put off until the tower was erected.

**H. FY 11-12 Budget:** – Public Hearing is scheduled for May 26<sup>th</sup> with adoption planned for June 14<sup>th</sup>.

**I. 2010 Redistricting (Re-apportionment) Plan** – The final plan, inclusive of the local ordinance enacting it, was submitted to federal DOJ and state SBE on 5-2. Additional work on the election district map was required to address compliance with federal racial composition requirements, which did not affect the re-districting plan, but did require software updates from the GIS vendor and much additional work by County staff.

**J. Staff Reports:** (Included in the agenda document).

**K. (5-10) Status of Health Department Building:** At the request of VDH staff a conference call was conducted on May 9<sup>th</sup> with Dr. L. Peake, Director of TJHD, Dana Chadwell, TJHD Finance Officer, Melissa Desmond, VDH Real Estate Lease Manager and Holly Eve, Dept. of General Services Real Estate Specialist, to discuss the status of renovation of the adjunct office building at the Courthouse for the local Health Department unit. An outcome of the meeting was staffs concurrence to present this subject to the Board for input and subsequently advise VDH staff of this comment.

Mr. Carter noted the meeting with VDH regarding the building and overviewed the funding included to do renovations of the building that were in the budget. He reported that VDH wanted to follow their OSQ space requirements and locating them on the second floor would accomplish this. He noted that staff asked what they would do if the Board decided to put them on lower level and they noted that if it didn't work they would do an RFP to lease space. He noted that there was no lease space in the County and they would await the Board's decision; adding that they wanted 4500 sq ft.

Mr. Johnson asked if the lower level would accommodate DSS and staff noted that it would be better if they were upstairs, since they dealt with more people on a daily basis than VDH. Mr. Hale noted the need to make a decision on this and he added that VDH would pay pro rata for the space. Mr. Carter noted that if the County provides this space, they may provide a lease amount that would cover it all. Ms. McCann clarified that the pro rata share was applicable to the money held on hand. It was also noted that if the VDH was to be maintained in that building; they would have to be moved out during the renovations.

Mr. Hale noted that he thought that the Board should decide if VDH would stay there or not and Mr. Carter noted that staff would need to provide proformas on how to finance it and the question then would become who would go downstairs. Mr. Hale agreed the key matter was who would pay for this.

In discussing the alternatives, Mr. Carter noted that in his conversations with George Krieger of NCCDF, he had indicated that he had stopped working on a solution there based on Board member input.

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Ms. Brennan and Mr. Hale noted that they would look at the drawings again and would come back with a recommendation at the next Board meeting. Staff and Members then discussed renovation being cheaper than demolition and rebuilding.

**L. (5-10) VDOT Secondary Six Year Plan & FY 11-12 Budget:** VDOT staff have completed a draft Secondary (System) Six Year Plan (copies attached) and in discussion with staff have proposed conducting a work session to review the plan prior to proceeding with a public hearing and plan approval. Work on the Six Year Plan would also encompass consideration of the annual budget (FY 11-12) for expenditure of transportation improvement funds. A continued meeting prior to the 5-26 regular session or including this subject on the 5-26 meeting agenda is proposed. See attached §33.1-70.01.

## 2. Board Reports

Ms. Brennan reported the following:

1. JABA was doing a lot of good work to generate money to support its projects.
2. PWN met and is working with Maureen Kelly on commuters and their impact on Economic Development.
3. Met with NCSB and the meetings are going well. Members will be bringing things forward soon.
4. GIS Board of Directors – listened to a presentation on a virtual race around the world concept for school children.
5. Attended Planning Commission presentation by Karen Firehock and the first greenways meeting. She noted that it would be presented at some point to the Board. She added that the Planning Commission was working on the Comprehensive Plan and she noted that the transportation section had been sent back to the PDC for rework.
6. Attended a VACO meeting and went through areas affected by recent tornados. She noted that she had never seen anything like it. She reported that VACO was looking at whether or not to establish a Local Government Investment Fund other than the LGIP, so interest funds could not be pulled away by the State. Ms. McCann noted that the County did not have much in LGIP right now. Ms. Brennan noted that they also took a field trip to a strip mine and looked at reclaimed land and went to UVA at Wise, which was beautiful.
7. Attended PDC meeting and was asked to think about what the County wanted them to do in order to get the best bang for the buck. She suggested looking at if it was reasonable to help the County with the statistics part of the Comprehensive Plan. The cost is \$18,000 per year on a per capita basis. She noted that this contribution also funded David Blount's legislative activities.

Mr. Hale inquired as to when they would have results from what the Governor and the General Assembly were doing with election districts, and Mr. Carter noted he would find out. Members briefly discussed changes to Watkins Abbitt's district.

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Mr. Bruguiere and Mr. Harvey had no report.

Mr. Johnson reported the following:

1. Received a Route 60 Trail flyer regarding a meeting on June 2<sup>nd</sup> and inquired as to staff attendance. Mr. Carter noted that this had been sent out to staff and someone would attend.
2. Inquired about the Water Supply Plan being presented by July 12th including the drought ordinance and Mr. Carter noted that the consultants were going around to all of the counties and towns in order to have it all done by September. He noted they had discussed giving an overview just prior to the public hearing and that an information package would be sent out to the Board this week.
3. Attended the Mayors and Chairs meeting where they discussed transportation plans. He noted that the Charlottesville/Albemarle MSA had the smallest per capita amount of road funding in the state. He added that it was probably related to them not doing the bypass. He noted that the state Redistricting Plan was sent to the Feds for approval and that they may try some evening webinars in the future.
4. Suggested that the Board invite Delegate Abbitt to the November meeting and the Board's consensus was to invite them all for a dinner outside of the regular meeting dates. Mr. Johnson and Mr. Carter would establish a date and issue the invitation.

#### B. Appointments

Ms. McGarry reviewed the list of appointments to be made, noting that the Ag Forestal District Advisory Committee appointments were all expiring on May 13, 2011 and that letters to incumbents had been sent out on May 3<sup>rd</sup> with only one response having been received. Members then agreed by consensus to table these in order to make the appointments all at once.

Ms. McGarry noted the existing vacancies on the JAUNT Board and the CPMT Board noting that these were continuing to be advertised and that the CPMT vacancy could be filled at the discretion of the Board as it is not a mandated seat by the Code of Virginia Section 2.2-5205.

#### C. Correspondence

There was no correspondence considered by the Board.

#### D. Directives

Mr. Hale, Mr. Bruguiere, and Mr. Harvey had no Directives.

Ms. Brennan had the following Directives:

1. Inquired as to the salary adjustment for dispatchers and it was noted that Mr. Harvey and Mr. Bruguiere were working with staff on this and that information had been gathered.

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2. Inquired as to a panic button for the Treasurer and Mr. Carter noted that it was in the works and put on the punch list. It was suggested that they could test the ones from the Board room in their office.
3. Inquired as to the status of the County's noise meter and Mr. Carter noted that it had been sent off for repair.
4. Inquired as to the status of off duty officers workers compensation insurance and Mr. Carter noted that it was on the punch list and he would distribute information to the Board.
5. Inquired as to the status of things following the energy meeting with the representative from Planet Footprint and Mr. Carter reported that it went well, with the consensus being to move forward, and staff needed to follow up.
6. Inquired as to any forthcoming Comprehensive Services Act (CSA) policy changes that were a concern to localities and Mr. Carter noted that staff would look into this further.

Mr. Johnson reiterated his directive for Ms. McCann to send out the revised budget documents following the changes made at the current meeting.

#### *E. Introduced- Closed Session*

Prior to adjournment, members agreed by consensus that a closed session was in order and Mr. Harvey moved to go into Executive Session to discuss the following as permitted by Virginia Code § 2.2-3711(A) (1): discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body. Mr. Hale seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote, to approve the motion to lawfully enter into closed session.

Mr. Carter requested that Ms. McCann be allowed to participate in the closed session, to which the Board agreed.

The Board conducted the closed session and upon its conclusion, Mr. Hale moved to reconvene in open session and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and lawfully reconvene in open session.

Upon reconvening in open session, Mr. Harvey moved that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information act cited in that motion. Mr. Hale seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the closed session was lawfully certified.

## **VI. Adjournment**

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At 5:00 pm, Mr. Harvey moved to adjourn and continue the meeting until 7:00 pm and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

## **EVENING SESSION**

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

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

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

#### **II. Public Hearings & Presentations**

##### **A. Staff Presentation - REPEAL AND REENACTMENT OF ARTICLE 20 (Tower Ordinance) OF APPENDIX A, ZONING, OF THE CODE OF NELSON COUNTY VIRGINIA, 1989, AS AMENDED**

Mr. Boger noted that these items were not for public hearing but rather the Planning Commission has been working on these revisions and had appointed a committee consisting of two Planning Commission members, and Verizon and NTelos representatives. He added that they had shifted things around to make the Ordinance easier to work with; grouping things together in a sort of checklist. He also noted that they had added elements related to broadband which were simplistic.

Mr. Boger then noted that the Board should look at Section 20-4 definitions, relating to the tower height threshold for administrative approval. Mr. Boger noted Section 20-5-5 relating to multiple towers and Mr. Johnson stated that he liked the clustering concept; if given enough room so that the towers worked effectively per Mr. Harvey.

Mr. Boger then noted Section 20-5-17 relating to tower siting and construction specifically Item (c) Setbacks-View sheds; which noted the new requirement for setbacks for towers in View sheds 1 and 2. He noted that in the current ordinance it required an exception from the Board of Supervisors to locate a tower in one of the view sheds. The required setback is based upon a set distance for every two antennas. He noted that this requirement should be changed to three antennas since providers generally have three types of technologies to deploy. He added that the number of antennas could be reduced but their size would be significantly larger. He pointed out that the Planning Commission removed the waiver of view shed requirement on a scenic byway, noting that VS 1 was the Blue Ridge Parkway and VS 2 was a Scenic Byway.

Mr. Boger then noted Section 20-9 relating to removal and reporting; noting that he did not think this section was necessary and consideration should be given to removing this requirement.

Mr. Boger then discussed Section 20 -15 Class III Communication Towers higher than 135 feet. He noted that the procedure to be used is to request a Special Use Permit for these high towers. He noted that consideration should be given to inserting a specific time period the application must be acted on. The FCC requires an application for a tower permit to be acted upon within 150 days for a new tower. This restriction was taken into account when placing a deadline for the Commission to act. The SUP

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procedure does not require the Board to act within a specific number of days. The Planning Commission is required to act within 90 days from the date of their first meeting on an application. On a Class III application, the Board of Supervisors will have 60 days to make a decision on the application. This was discussed during the Commission's review of the draft Ordinance and they felt that the Commission's role is to hear the concerns of the community and try to resolve them before the application is sent to the Board. The potential problem is that the Board may have less than 60 days to act on an application should the Commission take the full 90 days to act on the SUP application due to advertisement requirements and meeting dates of the Board. As of this date, applicants have agreed to an extended review period for a decision to be made on a request. However, there is always the potential that if the County fails to act within 150 days, the applicant has the right to proceed to court for a decision. The Board should carefully consider the time restraint for Commission action and inserting a time restraint for the Board to act. Mr. Boger noted that the clock starts running at the first Planning Commission meeting regarding a request.

Mr. Boger noted Section 20-4, relating to Broadband License Exempt Providers and that the Voltage requirement was removed but the Board may want to reconsider this. He noted that the number of allowed transistors was limited to three.

The Board and staff discussed how to proceed and Mr. Boger proposed holding a work session. He noted that in the draft Ordinance, the bold items were staff recommendations that have been discussed with the Planning Commission.

He noted that with the new definitions, they could probably do away with Class 2 Towers; however Ms. Brennan noted that the Planning Commission felt strongly about this subject.

Mr. Boger noted that the existing sections were rearranged with different section numbers and he added that topography limitations for storm water should be considered and that all except this one item has been discussed with the Planning Commission.

B. Staff Presentation - AMENDMENTS TO ARTICLES 3,4,5,6,8,8A,8B,9, AND 18,  
OF APPENDIX A, ZONING, OF THE CODE OF NELSON COUNTY  
VIRGINIA,1989

Mr. Boger noted that these changes were related to Small Wind Energy and were meant to standardize terminology used throughout the Ordinance. He noted that these two proposed amendments were broken out into separate consideration for the Board so they could proceed faster with one or the other if desired.

Ms. Brennan added that the small wind energy changes were to allow larger windmills on large tracts of land and that the Tower Ordinance was a work in progress.

Mr. Boger recommended that the Board read through the drafts and he noted that he thought that it was highly improved.

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Mr. Bruguere noted that he would do away with the scenic byway restrictions and Mr. Johnson noted his agreement in addition to stating that he would like to do away with the 200 ft between towers requirement; adding that it would be for clustering.

Mr. Hale and Ms. Brennan noted that they favored the byway restrictions for commercial towers and Ms. Brennan noted she was happy for people to see windmills, which promotes energy consciousness.

Mr. Boger noted the byway setback requirements in the current ordinance for towers in a byway; noting that if clustered, they can go in the same setback area.

Mr. Harvey indicated his agreement with Mr. Bruguere on the subject.

Ms. Brennan then noted that they could have an exception for this inserted and a Special Use Permit process for shorter towers and clustering; keeping them out of the scenic byways.

Mr. Carter complimented Mr. Boger for working through this; but noted that the directive was to streamline the Ordinance and make compliance easier, but it seemed to be more difficult and cumbersome. Mr. Boger noted that the providers were all in favor of the revisions, having worked on it to make it easier for them to comply with. He added that they had discussed adding height to the towers and that they preferred having power underground even if it was more expensive. Ms. Brennan confirmed that the cell tower people participated and thought it was a good ordinance.

Mr. Carter proposed that next steps include holding a public hearing at the Board's first meeting in June.

Ms. Brennan then thanked Mr. Boger for his work on the tower ordinance and moved that staff advertise this for public hearing for the first meeting in June. Mr. Harvey seconded the motion, and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

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

Mr. Johnson asked the Board to appoint a committee to look at a potential dog ordinance, and Mr. Johnson and Ms. Brennan were appointed.

### **IV. Public Comments**

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

### **V. Adjournment**

At 7:42 pm, Mr. Harvey moved to adjourn the meeting. There was no second and Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.