

October 11, 2016

**Virginia:**

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

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

Absent: None

**I. Call to Order**

Mr. Hale called the meeting to order at 2:05 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. Resolution Honoring the Public Service of the Late Clifford E. Wood (R2016-64)**

Mr. Hale introduced the item and Mr. Bruguere moved to approve resolution **R2016-64** Resolution Recognizing the Public Service of the Late Clifford Ewell Wood and Mr. Harvey seconded the motion. Mr. Bruguere then read the resolution aloud.

Following the reading of the resolution, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2016-64  
NELSON COUNTY BOARD OF SUPERVISORS  
RESOLUTION RECOGNIZING THE PUBLIC SERVICE  
OF THE LATE CLIFFORD EWELL WOOD**

**WHEREAS**, Mr. Clifford Ewell Wood, Nelson County native and community servant, has recently passed at the age of 89; and

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**WHEREAS**, Mr. Wood's extensive community service included organizing and serving as the first President of the Nelson County Farm Bureau in 1956, teaching Vocational Agriculture at Nelson County High School from 1960-1962, and serving on the Nelson County Board of Supervisors from 1968-1971 when he was named Civil Defense Director; overseeing rescue and recovery efforts during Hurricane Camille in 1969; and

**WHEREAS**, Mr. Wood also served the community by bringing public library services to the County in 1972, serving on the Board of Directors of Blue Ridge Medical Center in its early years, and being a wealth of local history knowledge as a member of the Nelson County Historical Society; and

**WHEREAS**, Mr. Wood not only served his Nelson County Community; but also his Country as a Veteran of World War II, serving in the US Army for two years and again in Korea from 1950-1951 and co-establishing the Nelson County Katrina Fund – raising \$78,000 for the Mennonite Disaster Service to aid in post Hurricane Katrina restoration efforts; and

**WHEREAS**, it is fitting and proper that the Nelson County Board of Supervisors recognizes the outstanding and extensive community service of the late Mr. Clifford Ewell Wood who was a pillar of the community and a great asset to Nelson County who delighted in being an avid historian and storyteller,

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors does hereby commend and celebrate the many exceptional public service contributions of former Board of Supervisors member, Mr. Clifford Ewell Wood.

Mr. Hale then noted that he had discussed with staff the framing of a photograph of Mr. Wood to be hung in a place to be determined. Mr. Carter suggested that the Board consider placing those photos along the corridor leading up to the new County Administration offices where the public would see them.

Mr. Harvey added that he would like to see a picture of Mr. Wood doing something as well as a portrait; similar to the one of Mr. Harris. Mr. Carter advised that Mr. and Mrs. Raup were still looking at other photos. Mr. Harvey suggested a picture of him doing something during Hurricane Camille and he supposed that there could be a picture of him in Torn Land.

### **III. Consent Agenda**

Mr. Hale noted each of the items on the consent agenda. Ms. Brennan then moved to approve resolution **R2016-66** October is Domestic Violence Awareness Month and read the resolution aloud. Mr. Saunders seconded the motion and Mr. Hale asked for a motion on the approval of the consent agenda.

Ms. Brennan then withdrew her previous motion and moved to approve the consent agenda as presented and Mr. Saunders seconded the motion. There being no further discussion,

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Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

A. Resolution – **R2016-65** FY17 Budget Amendment

**RESOLUTION R2016-65  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2016-2017 BUDGET  
NELSON COUNTY, VA  
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**BE IT RESOLVED**, by the Board of Supervisors of Nelson County that the Fiscal Year 2016-2017 Budget be hereby amended as follows:

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

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$5,000.00	4-100-999000-9901	4-106-091030-5700

B. Resolution – **R2016-66** October is Domestic Violence Awareness Month

**RESOLUTION R2016-66  
NELSON COUNTY BOARD OF SUPERVISORS  
OCTOBER IS DOMESTIC VIOLENCE AWARENESS MONTH**

**WHEREAS**, the problems of domestic violence are not confined to any group or groups of people but cross all economic, racial and societal barriers, and are supported by societal indifference; and

**WHEREAS**, the crime of domestic violence violates an individual’s privacy, dignity, security, and humanity, due to systematic use of physical, emotional, sexual, psychological and economic control and/or abuse, with the impact of this crime being wide-ranging; and

**WHEREAS**, no one person, organization, agency or community can eliminate domestic violence on their own—we must work together to educate our entire population about what can be done to prevent such violence, support victims/survivors and their families, and increase support for agencies providing services to those community members; and

**WHEREAS**, the Shelter for Help in Emergency and the Nelson County Domestic Violence Task Force have led the way in the County of Nelson in addressing domestic violence by providing services to victims/survivors and their families, offering support and information, and empowering survivors to chart their own course for healing; and

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**WHEREAS**, the Shelter for Help in Emergency commemorates its 37<sup>h</sup> year of providing unparalleled services to women, children and men who have been victimized by domestic violence, and

**WHEREAS**, the Nelson County Domestic Violence Task Force currently provides victim advocates and a support group for those seeking relief from domestic violence in Nelson County;

**NOW THEREFORE, BE IT RESOLVED**, in recognition of the important work being done by the Shelter for Help in Emergency and the Nelson County Domestic Violence Task Force, the Nelson County Board of Supervisors do hereby proclaim the month of October 2016 as DOMESTIC VIOLENCE AWARENESS MONTH, and urge all citizens to actively participate in the scheduled activities and programs sponsored by these organizations, and to work toward the elimination of personal and institutional violence against women, children and men.

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

##### A. Public Comments

###### 1. Charlie Wineberg, Afton

Mr. Wineberg asked VDOT about where he could find plans on improving the intersection of Route 151 and Route 250. He noted it was getting worse and worse on weekends.

Mr. Wineberg encouraged the Board to look at the Floodplain Ordinance and he noted he was in favor of expanding the floodplain where necessary.

Mr. Wineberg then noted that he thought the Festy did a great job in emergency preparedness.

Mr. Wineberg then questioned whether or not the LOCKN Festival revenues would be for 2016 or 2017 and Mr. Carter noted that they would be for the 2016 festival; however, they were included in fiscal year 2017.

###### 2. Beth Cunningham, Victim Witness Advocate

Ms. Cunningham thanked the Board for recognizing October as Domestic Violence Awareness Month and invited the Board to a vigil to be held at 7pm on October 12, 2016. She noted that it was being held in conjunction with YWCA, SHE, and the Nelson County Domestic Violence Task Force. She added that it would also be covered by the NC Times.

##### B. Presentation – Commissioner of Revenue (P. Campbell)

Ms. Pam Campbell, Commissioner of Revenue addressed the Board. She noted that her biggest concern was the Land Use Taxation program because they were having more visual

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inspections done. She noted having spoken to other surrounding localities and Nelson was the only one that was doing them. She advised that new properties and ones that have changed in acreage were looked at; however there were some properties that had not been re-inspected since the 1970's. She noted that she would like to improve upon that; however, she did not have people to check on these annually.

Mr. Hale noted he was in favor of the program and that forested tracts were easy to verify by GIS or Google Earth.

Ms. Campbell then recommended that the Land Use Committee do fall inspections. Mr. Bruguire asked if she was able to pull the properties up and preview them and Ms. Campbell noted she could. She added that currently there may be property that was farmed, was sold and was no longer being farmed that would not come up for inspection unless it had to be re-validated. She noted there was no way for them to know if the use had changed without an inspection. She then noted that re-validation occurred every six (6) years and was basically a rubber stamp.

Mr. Harvey asked if this could be looked at by the re-assessors and Mr. Carter noted that was not included in the RFP; however he could speak to them about that. Ms. Campbell supposed that some may be able to do it based on their knowledge of the properties.

Mr. Hale supposed a new owner of former farmland could say they had not had time to get going. Mr. Saunders then suggested that a new owner should have to re-apply when property in the program was sold. Ms. Campbell noted that it had not been done that way; however it could be changed. It was suggested that Staff look at the Code to see if it was spelled out there. Mr. Saunders reiterated that he thought at least a new land use application should be done when property changed hands.

Mr. Bruguire noted that he was aware that in western counties, forested districts had to submit a Forest Management Plan to get land use taxation. Ms. Campbell noted that was supposed to be the case in Nelson also. Mr. Bruguire then noted that there was some clear cut land that was not being replanted and there was no plan for regrowth.

Ms. Campbell then noted that the land use taxation program was a good one if used as intended.

Ms. Brennan noted that she had brought up the subject of the need for forest management plans and she thanked Mr. Bruguire for bringing it up again.

Ms. Campbell then advised the Board that she was unaware of who any of the vendors were at the Festy that weekend and she was supposed to have been provided a list. She added that she had gotten the LOCKN festival results the previous week. Mr. Saunders asked if this could be tied to their event permit and Mr. Hale agreed that this information should be provided before a permit was issued. Mr. Carter advised that the County could withhold the issuance of permits until they provided a list of all of the vendors. Ms. Campbell noted that

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the LOCKN total sales numbers were received the previous week; however she was supposed to have gotten it the Friday following the end of the festival.

Ms. Brennan asked if this would apply to other festivals and the Board's consensus was that it should. Mr. Carter noted that food vendors were also at Hoopla at Devil's Backbone the previous week. Mr. Hale supposed that the local vendors were already signed up and Mr. Carter noted that many were out of county vendors.

Ms. Brennan then asked if this applied to the Farmer's Market and Mr. Carter noted that some of those were from out of the county. Mr. Bruguere advised that the honor system was used there and the Farmers' Market collected the sales taxes and remitted it. Ms. Campbell noted she did not receive any meals tax from them; however if they were selling prepared food such a sandwiches that were eaten there, they would be responsible for meals tax. It was noted there were not that many doing that if any. Ms. Campbell noted that beverages were another question; was meals tax to be collected on drinks. Mr. Carter recommended she get guidance on that from Mr. Payne and it would be her decision. He then advised her to submit a list of questions and he or she could consult Mr. Payne.

Mr. Saunders thanked Ms. Campbell for her report and noted that taxes of \$81,279 had been received from LOCKN. He then noted it would be helpful to get a list of new businesses in her monthly report. Ms. Brennan then asked if she would also spell out the acronyms as well.

Ms. Campbell then inquired about her working relationship with the Board; noting that she had emailed them regarding some things in between meetings with no response. She was then advised that if she wanted to speak to a Supervisor of a particular district, that was fine; however any consensus or decision needed to be in public.

Mr. Harvey inquired about the meals tax recovery status of Oceanwide Seafood. Ms. Campbell reported that the previous owner had made a payment and was supposed to send in something monthly. She noted that as long as that occurred, it would stay out of court. She noted that the new owner was getting the lease signed over and was waiting for LOCKN to pay him, so he could pay the County. Mr. Carter advised that the restaurant was still conducting business.

Mr. Carter then advised that she could speak to Mr. Payne regarding criminal charges and Mr. Bruguere supposed that was true because of the dollar value however he did not think it should be criminal. He stated that he thought the County should go after them, it was not fair, and was more of a fraud charge. Ms. Campbell noted she had served warrants on the two owners and she added that the State was also after them.

#### C. VDOT Report

Mr. Don Austin gave the following report:

- Wheelers Cove Road rural rustic should be finished up the next week.

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- VDOT was using Safety funds to widen Tan Yard Rd. and that may be started in November. If not, it would be done next spring.
- Dark Hollow Rd. should be opened up the following week barring more rain. He noted that the Seamans were currently able to use it for the orchard. Mr. Bruguire inquired about replacement cost and Mr. Austin noted he would report back on that. He noted that since the pipe was anchored, the hope was it would stay if the road washed out again.
- The Culpeper district was working on the Route 151 and Route 250 intersection. He noted that the speed limit had been reduced to 45 mph approaching Route 250 from Route 151.

Mr. Saunders noted that at the TJPDC meeting a roundabout at that location had been discussed with no timeframe noted. It was noted that the grade coming down the mountain there was a factor. Mr. Harvey stated that Nelson should be involved in the discussion and Mr. Austin noted that the Lynchburg District was involved. Mr. Harvey added that the two districts should be able to pool funds to enhance the solution more. Mr. Austin advised that it was a primary route and the two districts were working together on it. He noted that the appropriate solution was the problem more than the funding.

Ms. Brennan noted that Anne Mallek, of Albemarle had advised her that they would be putting in a temporary light there sometime that winter. Mr. Austin noted he would update the Board in November and that there should be some kind of information meeting on it organized by the Culpeper District. Mr. Harvey noted that on weekends traffic was backed up way past the 45 mph sign.

Mr. Bruguire then inquired about the paving at Montebello and Mr. Austin noted that he thought that was finished.

Mr. Saunders thanked them for cutting the dead trees on Wilson Hill Road.

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

### **A. Authorization to Award & Execute Contract for 2018 Real Property Reassessment (R2016-67)**

Mr. Carter advised that County staff had interviewed two (2) firms, Wampler Eanes and Pearson Appraisal to conduct the 2018 real property reassessment. He noted that the interview committee consisted of himself, Ms. McGarry, Ms. McCann, and Ms. Campbell and a scoring matrix was used to evaluate the firms. He added that each had provided a cost proposal with a slight difference in their per parcel price. Mr. Carter noted that the committee felt that Pearson Appraisal did not line up with Wampler Eanes on the inclusion of clerical work in their cost. He added that Wampler Eanes had significant ProVal experience and their previous work experience in the County was weighted heavily. Mr. Carter also noted that Wampler Eanes proposed to look at every property and Pearson

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proposed a drive by method noting any changes. He added that Pearson offered that they would look at every property if they were asked to.

Mr. Carter then noted the Committee's recommendation to award Wampler Eanes the contract for a not to exceed cost of \$299,000.

Mr. Harvey noted that Wampler Eanes had completed the second round of the most recent reassessment and that the Board had been pleased with their work. Mr. Carter agreed and noted that both firms would be able to begin as soon as possible.

Mr. Hale then inquired as to how this cost proposal compared to the previous and Mr. Carter noted it was slightly less. He added that they would use their own staff for the clerical work which worked better than if the County did it. He noted that the old Finance Office would house the reassessment staff.

Ms. Brennan moved to approve resolution **R2016-67** Authorization to Award and Execute 2018 Reassessment Contract and Mr. Bruguire seconded the motion.

Mr. Bruguire then asked about having them check on land use and if that would be an extra cost. Mr. Carter noted he could check with them and see and it was possible that the property card's they would have in the field would show if the property was in Land Use. He added that in the past, they had been amenable to doing other work for the County. Ms. Brennan asked if there was any ability to appeal and it was noted that the designation was the Commissioner of Revenue's decision and they would advise the assessors that a certain parcel be checked. Mr. Bruguire noted that could save legwork on the County's part and Mr. Hale agreed that this should be pursued adding that the Commissioner could flag those parcels that needed to be looked at. Mr. Bruguire added that the Board may have to approve more money for the Land Use Committee to perform extra work.

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

**RESOLUTION-R2016-67**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION TO AWARD AND EXECUTE**  
**2018 REASSESSMENT CONTRACT**

**BE IT RESOLVED**, by the Nelson County Board of Supervisors that the County Administrator is hereby authorized to award and execute a contract with Wampler Eanes Appraisal Group Ltd. in the amount of \$16.35 per parcel, not to exceed a total of \$299,000.00, to conduct the 2018 general reassessment of real property.

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

A. Reports

1. County Administrator's Report



**1. Courthouse Project Phase II:** The project is proceeding well. County Administration, Finance & HR and Information Systems staffs are scheduled to relocate to the reconstructed, second floor, 1940s addition to the Courthouse on 10-28. Over the ensuing two weeks from 10-18, County Maintenance staff will update the former County Administration office suite for occupancy by the Commissioner of Revenue on 11-14 (approximate). These transitions provide for the expansion of the Clerk of the Circuit Court's offices, re-construction of which is also in process. The overall project is proceeding well. The concern expressed by staff on 9-13 regarding the project's schedule and cost has seemingly been resolved, per Jamerson-Lewis, but a revised changer order proposal (COP) is pending receipt to provide for confirmation of this. The ensuing OAC Project Progress Meeting is scheduled for 10-26 at 1 p.m. The most recent project report from Architectural Partners (J. Vernon) is attached hereto.

Mr. Carter noted that the former Administration office would be repainted, shelving would be removed, and it would be freshened up with new furnishings for the Commissioner's office.

**2. Broadband:** **A) Expansion Project** – CCTS will begin construction of Phase 3 (the project's final phase) on 10-10. Less than one month is anticipated for completion of Phase 3 and, thereby, the overall project. **B) Broadband Planning Project** – The NCBA Board conducted a work session on 10-6 with County staff and the project's consultant, Design Nine (Dr. A. Cohill). One outcome from the session included working towards a final County build out plan and plan of finance with the Authority Board and Board of Supervisors to then determine next steps. Other outcomes included approvals to advertise revised network rate structures and to issue an RFP for Network Operation services. The Authority also briefly discussed the CVEC RFI but agreed that the scope of the Cooperative's proposal may be well beyond the ability of NCBA. **C. Network Customer Status:** 220 Current Service Connections, 47 Service Connections in process of being completed and 32 Service Connections in development. Assuming the in process and development connections are realized, the network will soon have 299 service connections (with additional interest being received each week for follow up by either the network's ISPs, WISP or by County staff.

Mr. Harvey noted knowledge of 24 other connections not noted in the report.

**3. BR Tunnel Project:** Final plans and specifications for the project's completion have been submitted to VDOT for review and approval. A new issue that will likely have to be addressed is the completion of a Conservation Plan required by the Department of Game and Inland Fisheries to address the listing of two bat species on the state and federal endangered species list. If required, the Conservation Plan will likely have Time of Year restrictions for construction, and, possibly, access to the Tunnel once it is opened as an outdoor trail.

Mr. Carter advised that the Conservation Plan could delay the project by 6 months or more. Mr. Hale urged staff to continue to move forward in terms of getting the project bid. Mr. Carter noted that the County was waiting on VDOT. Mr. Hale then noted that the

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Conservation Plan was straightforward and that they should begin construction work in the spring when the bats were gone. He added that this should be a primary objective and it would be a problem if it did not get started in spring.

Mr. Hale then noted that in the long run, what was done with the tunnel would enhance the bat habitat because they would be able to utilize the whole interior of the tunnel.

Mr. Carter advised that he would contact Woolpert and would coordinate with Mr. Hale. He noted being aware of the time of year restriction; however the plan just came forward. He added that the plan was required by the Department of Game and Inland Fisheries and would delay the project moving forward until the plan was done.

Mr. Carter noted that there were three bat species of concern: the large brown bat, the little brown bat, and the tri-colored bat. He added that Greg Reynolds was the plan contact and that the crisis facing the bats was not due to reductions in habitat but rather the white nose disease.

Mr. Carter added that the DGIF had identified 100 different hibernacula areas where the bats hibernated and one was the tunnel. Mr. Hale added that the bats did not bother the public at all; they hibernated and were gone in summer.

**4. Region 2000 Service(s) Authority:** The Authority's strategic planning project has recently completed two public informational meetings and a public forum. The project work group (consisting of representatives from each member jurisdiction, R2KSA staff and staff of Draper Aden Associates, the project's consultant) continues to meet each week and work through a significant set of goals and objectives. Completion of the overall project is TDB in 2017.

**5. Radio Project: Motorola, Inc.:** County staff have completed the contract with Motorola, Inc. to equip, test and incorporate the local government tower located at the Rockfish VFD in Afton into the overall public radio network. The contract cost is \$570,231.68, which included an initial discount of \$29,500 and, as facilitated by County staff, an additional discount of \$35,000. The project is scheduled for completion in August 2017.

The status of delivery and installation of the Digital Vehicle Repeater Systems is that the DVRSSs are pending delivery.

**6. 2016 Lockn' Festival:** County staff completed a post festival review on 9-29 at the Oak Ridge Carriage House. Attendees included representatives of VA State Police, VDOT, VDH, Nelson County, Nelson County Sheriff's Department and Lockn Festival. The inputs from each agency during the meeting were very positive with respect to the conduct of the 2016 Festival and provided for concurrence that the 2017 Festival should be similarly planned and conducted. Mr. Frey from Lockn Festival advised that Lockn representatives would be meeting with the communities adjacent to the Festival's location to confer with

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property owners on any concerns, recommendations, etc. they may have to provide for further enhancement of the Festival and its objective of being a good neighbor.

Additionally, projected financial outcomes (local government tax revenues only) from the 2017 Festival were: \$35,295.92 (Meals Tax) and \$45,984.27 (Lodging Tax) for a total of \$81,280.19. The local option 1% sales tax amount is pending a determination.

Mr. Carter confirmed that the monies reported were in hand. Mr. Saunders inquired as to who paid for the use of County Deputies and vehicles at LOCKN and Mr. Carter noted that LOCKN had paid for them. He added that it was decided that those details needed to be handled between the Sheriff's Department and LOCKN. He reported that the County had been paid for use of the vehicles and the Sheriff's Department would issue 1099 forms to the officers working the festival.

**7. Maintenance Facility:** Contractual services have been completed for installation of new HVAC and electrical systems at the facility. Due to a 6 – 8 week order and delivery date for the HVAC equipment, completion of this work will extend to the end of the year. The electrical installations (is in process) will be completed by the end of November (probably sooner) . Costs include: \$28,501 for HVAC and \$7,800 for Electrical Service (436,301 in total).

Mr. Carter noted that the County had contracted with Maddox for HVAC work and Casey Smith to do the electrical work. He added that the temporary electrical parts from the Courthouse project would be reused and that would save money.

Staff and Supervisors discussed building a shed to cover the bucket truck in order to keep it out of the sunlight. Mr. Harvey noted he thought the bucket arm could be lowered enough for it to fit into the building. Mr. Carter noted he would discuss that with Paul Truslow.

**8. 2018 General Reassessment:** See 10-11-16 agenda for complete report and recommendation to retain Wampler-Eanes Appraisal Group, Ltd.

**9. Personnel:** **Anna Birkner** has accepted an Executive Assistant's position with VDOT's Lynchburg District and will be leaving County employment in the ensuing 30 days (approximate). Recruitment has begun to fill this vacancy. **Karla Thompson** has accepted the position of Animal Control Officer and will return to employment with the County on 10-12. Interviews have been conducted for open positions in the departments of Animal Control (Shelter Attendant) and Information Systems (IS Specialists). The ACO position will be offered the week of 10-10. Recruitment for the Information Systems position is continuing.

Ms. Brennan asked if the County was not offering enough money in order to hire an IS person and Mr. Carter noted that was hard to say. He advised that they had interviewed three (3) people and two (2) candidates had declined offers having found other positions. He noted that the County may not have matched up compensation wise and it would be good to find out. He then noted that staff was almost ready to bring the pay study forward to the Board.

**10. VDOT - Smart Scale (Formerly HB 2) Program:** TJPDC staff completed (in conjunction with VDOT Lynchburg District staff) and submitted on 10-5 two applications for Smart Scale Program funding. The projects submitted include a) intersectional improvements at Route 6 (River Rd) and Route 151 (RV Hwy) at Martin's Store substation area b) Access management and intersection improvements for Route 29 corridor in Colleen.

**11. Zoning Ordinance:** Included with this report is a staff report (Planning & Zoning) regarding the pending consideration of the draft amendment to the zoning ordinance pertaining to "temporary events". Also, the draft amendment(s) to the local flood plain program within the zoning ordinance is also pending further review by the Board.

**12. Route 29 Corridor Project:** The project, which is being facilitated by TJPDC, is in its earliest phase(s) of development (research). TJ staff have met with 301 Ltd. (D. Kurtz), which will be a project subcontractor to assist with the development of a marketing plan.

**13. Massie Mill Property:** The subdivision plat of the County's property has "finally" been completed. The Board has previously directed that an auction be completed to provide for a sale of a portion of the property. Staff's input is the question, following a long delay, of whether or not to proceed with the property sale.

Supervisors noted that they would like to see the plat before making a determination. Mr. Harvey noted that it was not worth selling a parcel that small. Mr. Carter then agreed but noted that he had proceeded with the Board's directive to have the plat done.

**14. Department Reports:** Included with the BOS agenda for the 10-11-16 meeting.

*Added: Feral Cat Issue*

Mr. Carter noted that the County has had citizen requests that Animal Control trap feral cats. He noted that the policy they have followed for the past years, was that they were only accepting cats that were owner surrendered or that were injured and needed treatment. He added that they were currently not going out to trap or accept feral cats. He noted that the County's Ordinance provided for the taking in of cats that had not been vaccinated.

Mr. Hale noted the studies that had been done on feral cats destroying large numbers of birds and small mammals. Mr. Carter advised that one of the department's practices was partnering with the SPCA on their trap, neuter, and release program; which was not a deterrent to the growth of the cat population.

Mr. Carter advised that he could write a more extensive report on this. He noted that Kevin Wright had polled other jurisdictions and he worked with both the state and national ACO Associations and there were a variety of things being done in other localities. He noted that many did not accept or trap cats; however Amherst County did and they were destroying

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many cats each year. He noted that others were doing what Nelson did. Mr. Carter noted this had not been an issue until the recent citizen inquiries.

Mr. Kevin Wright, ACO Supervisor was asked to speak to the subject and he noted that by law, they were not required to take cats - only those that were injured and that needed care. He confirmed that Amherst County was taking cats, however they were not trapping them.

Mr. Wright advised that Nelson did take in two (2) types of cats: good owner surrendered cats that have adoption potential and could be handled by humans and stray cats that were wounded or injured and needed care.

Mr. Wright then noted that Amherst took in a lot of cats and potentially had \$24,000 in euthanasia costs as their numbers were in the eight hundreds annually. He reported that Fluvanna did not take cats, Richmond took in cats at their discretion, and Albemarle treated cats like wildlife; if they were moving on their own, they would let them go but would take them in if care was needed.

Mr. Wright noted that the feral cat situation was created by humans and he would like to see the County revamp this policy and not take any cats except what was required. He added that the County has worked with the SPCA and their program of trap and release did stop the reproduction of cats. He noted there was no clean solution to it and trap and release was the best thing going.

Mr. Wright then noted that the previous year, state legislation was considered that feral cats would be considered a nuisance species and localities would be held responsible for this. He noted the legislation was tabled.

Ms. Brennan asked about there being a cat rescue place in Roseland. Mr. Wright confirmed there was; however they had gotten complaints about that also and have had to go out and check on them. He noted this was next to a winery and it was hard for them to coexist. He noted there were conflicts like this all over the county.

Mr. Hale asked if Animal Control had the ability and the right to kill animals that were a problem or appeared rabid. Mr. Wright noted that they did not carry firearms so that was not happening. He noted that citizens did have a right to do this if the animal was destroying property and their department had worked with the Sheriff's Department on some cases.

Mr. Bruguiere asked what they did if they saw a rabid dog or cat and Mr. Wright noted he did not advise shooting anything based upon how it looked. Mr. Carter noted that the ACO would take the animal into custody. He then advised that he would not recommend anyone shoot anyone else's pet unless they had their ducks in a row.

Mr. Harvey questioned being able to shoot animals if they were destroying property and Mr. Wright noted that he never gave that advice; however he was speaking on what he had seen in working with the sheriff's Department. Mr. Carter confirmed that Animal Control worked in cooperation with current Sheriff's Dept.

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Mr. Hale referenced the report that was sent to all Supervisors and he noted that trap, neuter, and release had statistically proven it had not reduced cat colonies.

Mr. Carter noted he would have to confer with Mr. Payne and state law about unlicensed animals. He noted state law did not require they be taken into custody; however the County's ordinance did provide for taking in stray cats even though it was not being done in practice now.

Ms. Brennan then asked what happened if they were taken into custody and it was noted that if they were not claimed and were not adoptable then they would probably be euthanized. Ms. Brennan noted they were a liability if have a business and cats were running around and it was unknown if they were vaccinated.

Mr. Carter then advised that the County could require cats to be licensed like dogs were. He noted that the problem was that cat populations were out of control. He noted that people harbored feral cats, they multiplied, and then the property changed hands and the new owners wanted the County to deal with it.

Mr. Carter noted he would check with Mr. Payne and perhaps the Board about removing the Ordinance language pertaining to cats and taking them into custody; although it did not solve the nuisance problem of cats.

It was noted that the County's relationship with SPCA, had provided for better euthanasia numbers and Nelson was now considered a no kill facility. Mr. Hale then noted that the most progress made was with dogs at the SPCA.

Ms. Brennan asked if cats were transported north and Mr. Wright noted they were; but they had to be adoptable cats and not many of those were coming through. He added that the problem was the wild cats - not the adoptable cats. Supervisors questioned who was liable in in the situation where one of those cats bit someone and it was possibly rabid. Mr. Wright noted they have seen a good chunk of those tested come back positive for rabies.

*Added: Lovington Healthcare Center*

Mr. Saunders inquired about the status of the Lovington Healthcare Center property and Mr. Carter noted staff was waiting for direction from the Board. Mr. Hale then proposed that it be discussed during the evening session.

Mr. Carter reported that staff had shown it to Dr. Ligon the previous week and she was not sure if she was interested.

## 2. Board Reports

Mr. Harvey and Mr. Hale had no reports.

Mr. Bruguiere reported that there was no Planning Commission meeting held.

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Mr. Saunders attended the TJPDC meeting and noted that they approved a budget for FY2017. He added that they would present an annual report.

Mr. Saunders then thanked the County and staff for the food, flowers, and card sent in memory of Carole's mother.

Ms. Brennan reported the following:

- Attended JABA Board meeting - looking at budget and being creative in how to increase revenue. Going well and fundraising was good.
- Attended Marching Band competition in Stuarts Draft and noted they won all different awards. Mr. Saunders added that he had been presented a letter from a parent regarding their being no coverage in the paper about them. He noted the outstanding competition results so far and noted they had two left.
- Attended Cliff Wood's service and noted that the family appreciated what was sent to them.
- Attended event at Three Chimneys

#### B. Appointments

Ms. McGarry reported that there were no appointments to be made and that vacancies remained on the JAUNT Board and the Board of Building Code Appeals with no interest having been received.

Mr. Saunders then noted that Mr. Padalino would like to be replaced on the TJPDC Board. Mr. Padalino noted that he was on the TJPDC Board as a Planner so it was odd that he voted on things as a Commissioner that he worked on at a staff level. He added that he now had a personal conflict on Thursday nights with the meetings.

Mr. Carter then asked if he was still the only Planner on the Commission and Mr. Padalino added that he was and that the intent was to foster regional governance and the member was typically a Planning Commissioner.

Mr. Hale noted that Mr. Padalino was anxious to get out of this and it was his feeling that the Planning Commission was the place to find someone to replace him. He then asked if another elected official could serve on it and Mr. Hale indicated he was not sure; however he thought they could and that was another option.

#### C. Correspondence

*VACO Correspondence:*

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Mr. Hale noted that he had received correspondence regarding the VACO meeting in Hot Springs and about appointing someone to appear at the Rural Caucus. It was noted that a Board member was needed to be designated as the voting member. Mr. Carter noted that voting credentials were sent in and the meeting was usually conducted during Tuesday morning and the understanding was that Mr. Hale would not be attending, Mr. Harvey was designated as the voting member, and Mr. Bruguire was the other alternate. Mr. Carter noted that Sunday afternoon was the Region 5 Regional Directors meeting. He noted that Anne Mallek was on the Board of Directors now and may have another year. He advised this was open to any member of the Board and they all should attend.

Mr. Carter then advised Supervisors to let staff know if they would not be attending the VACO conference. Mr. Harvey then noted he would not be going.

*Taylor Correspondence re: Trager Brothers*

Mr. Bruguire noted having received a video from the Taylor's regarding Trager Brothers Coffee. Mr. Hale noted he had met with the Taylors and was supposed to meet with William Trager. Mr. Carter noted that the issue had gone to Court and the attorneys had asked the Judge not to hear the case and they would work it out as it was more of a private matter. He noted the issue to be that they shared a common entrance and there was an issue with the traffic. He added that this was between them; however they wanted the County to fix the problem. Mr. Carter noted that the property's' use was approved years ago, it was zoned B-1 and had a by-right use for what they were doing.

Mr. Hale added that there was a question of where the property line was and it was not a matter for the County at this point. Mr. Carter noted he had spoken with Phil Payne and he agreed with that assessment.

D. Directives

Mr. Bruguire and Mr. Saunders had no directives and Mr. Harvey noted he preferred to discuss his during the evening session.

Ms. Brennan had the following Directives:

Ms. Brennan asked someone to figure out the humming in the courtroom.

Ms. Brennan asked if there was anything that could be done about the poor state of Tan Bark Drive in Lovington and Mr. Harvey noted it was owned by the property owners there; however they could spend County money to have it paved.

Ms. Brennan then asked for staff to provide her with a plat so she could see who the property owners were and approach them. Mr. Saunders stated he could tell her who they were. He noted he owned four (4) parcels, Fleming was an owner, and Joe Lee McClellan. He noted that one of the owners did not want to contribute to fixing the road, so none of them did. Mr. Hale indicated he would speak to the owners. It was then asked if VDOT did



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revenue sharing on it, would it have to be brought up to state standards and Mr. Carter confirmed it would. He added that because of the commercial interest there, they may not take it into the state system. He noted if they did, they may not provide funding to improve it and Ms. Brennan stated she would take the lead on it.

Mr. Carter then suggested that the Board use the water connection fee for the business to pay for the road improvements. Mr. Harvey then noted that the County owed \$20,000 back to the Mexican restaurant owners. Ms. McCann then reported that the County had not received that money from the Service Authority and until it was connected, they would not release the funds to the County.

Mr. Hale then noted that he had not received emails from Mr. Carter on the Blue Ridge Tunnel and he would like to keep pushing it along.

## **VII. Recess and Reconvene Until 7:00 PM for the Evening Session**

Mr. Hale recommended that the Board use the time to discuss the Lovingson Healthcare Center building and the consensus of the Board was to go and tour the new courthouse renovations.

Mr. Harvey then moved to adjourn and reconvene at 7:00 pm and Mr. Bruguere seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

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

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

Mr. Hale called the meeting to order at 7:00 pm with all Supervisors present to establish a quorum.

### **II. Public Comments**

#### **1. Ron Bush, Rhue Hollow Road**

Mr. Bush noted he was speaking in relation to the proposed Temporary Events Ordinance changes. He noted that they had gone through another four (4) days of music and his property adjoined Devil's Backbone. He noted that he had concerns down the road about camping. He added that he understood the makeup of the work group; however going forward he would like to represent area residents in the new work group if allowable.

#### **2. David Connelly, Stagecoach Road - Afton**

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Mr. Connelly noted that he had been in communication with Supervisors and Mr. Carter on the issue he was speaking on. He noted that he was a thirteen (13) year resident and lived on Stagecoach Road. He noted that his road backed up to Route 250 and Route 64 and there were all kinds of noises around them; however it was tolerable because of the view they would always have. Mr. Connelly noted he was a construction professional and was a Project Manager now; therefore he knew a little about construction. He then related that the lights that were now turned on at the Zenith Quest building were shining directly into their windows. He noted that their residence was at 1600 feet and Zenith Quest was at an 800 ft. elevation. Mr. Connelly stated that Zenith Quest seemed incongruous with other development and he wanted to know where they stood with the lights. He added that they were the brightest thing in the valley and every evening the lights were shining in their windows at eye level. He then stated that he was aware that other concerns had been expressed and something could and should be done to reduce the effect of the lights. He added that he would like to be kept in the loop on any follow up. Mr. Connelly further related that he was dismayed by the Project Manager on that job who said that the lights were new and they had to get used to them. He noted that they were not something he could get used to when they shined into his house at eye level.

Mr. Bruguiere asked how far away Mr. Connelly's house was from Zenith Quest. He replied that he was 1.5-2.0 miles as a crow flies and 5 miles driving. He added that they had no issues with any other lights.

Mr. Harvey added that if you were traveling South on Route 151 and you looked at the lights and then back at the highway, you were blinded and that was a safety issue. He noted that he has had more displeasure over these lights than he has the pipeline. He related that another person living at another elevation was having an issue of the lights reflecting off of the mountains into their bedroom. He added that they remind him of runway lights coming into an airport. He noted that he thought it was because these were up on the building and instead of lighting the parking lot or dock, they were a bright white light. He noted that they had parking lot poles up that were wired and those looked like they would shine downwards. He then noted that Zenith Quest has said that the bright lights were for security and he noted that they now made cameras that worked very well in low light and he thought they could reduce the number of lights out there. Mr. Harvey related that he had not spoken to the Zenith Quest owner; however they were well aware of the concerns. He added that they had been advised that they did not want to leave them up there.

Mr. Saunders inquired as to whether or not they could reduce the wattage of the bulbs. He then acknowledged that they were blinding when you look at them and then back at the road; but he thought it could be corrected.

Mr. Carter noted that the lights were very bright and that Tim Padalino had spoken to Mr. Miles. He noted that they needed to follow up; however Mr. Miles said they would do whatever needed to be done to fix the problem. He added that staff would be proactive about it to see what could be done.

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Mr. Harvey noted he didn't understand why they had to be on at night and Mr. Padalino noted he was unsure what the distinction between daytime and nighttime activities would be. He added that they were trying to get a certificate of occupancy (CO) for the main part of the building while finishing the last part. He added that they had submitted new plans for this that may explain the timing of the lights coming on.

Mr. Harvey noted that he hoped that the temporary CO would not be issued with this going on. Mr. Hale agreed noting that they needed to resolve the lighting issue and he thought it was clear that when you look at the building they were flat on it with no hood. He added that the problem could be solved and they should do whatever would meet the community's concerns. He added that the County would work toward that goal and he advised that it may not be solved overnight.

Mr. Harvey noted that they should not see the pole lights as much because those should not be white. He added that such a bright light was not needed for security. He then related that the lights on the back side of the building were fine and did not bother the subdivision behind them.

Mr. Padalino then advised that Mr. Ray Miles had indicated that he would continue to work with the County and in other instances they had done so to accommodate concerns. He noted that they had shown care about what the community thinks. Mr. Padalino then advised that he would go around different areas to look at the lights that night.

### **III. Public Hearings**

- A. **Public Hearing: Class C Tower Permit Application #2016-08, Existing Site CV221, 12979 Thomas Nelson Hwy.** The application is for replacement of an existing 97.5 ft. wooden pole with a 130 ft. metal monopole painted brown with flush mount antennas and associated ground equipment. The wireless service facility is located at 172 Davis Creek Lane, Lovington VA 22949, tax parcel 45-A-40 Zoned A-1.

Mr. Padalino noted that the application had been received in May 2016 from Shentel. He showed the property location and its location on the tax map. He advised that the property was zoned A-1 and its use was for hay and it was partially forested. He advised that the property already contained an existing tower site CV221 - Polly Wright and the other towers were located on top of the knoll.

Mr. Padalino advised that the proposed tower would be at the 130 foot maximum allowed by Ordinance and would replace an 80 foot wooden tower that must be replaced as shown by structural analysis. He noted that there was an oak tree that would be pruned and one that would be removed. He then showed pictures of the balloon test and noted the tower's height of 130 ft. relative to the adjacent tree canopy that was at 80-90 ft. He noted the removal of the hedgerow and the site's vertically prominent location along Route 29 and its visual alignment on a long straight away on Route 29.

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Mr. Padalino then noted that there would be a predicted increase in coverage; however it would not be that significant. He noted that there was poor in vehicle coverage and the increase would be significant enough to eliminate the dropped call coverage for Sprint customers. He then stated that the tower design was favorable; however the height would result in a visual impact disproportionate to the increase in coverage.

Mr. Padalino then noted the previous conditional approval by the Board for the 80 foot tower stated that, "The total height of the pole including antenna is not more than ten (10) feet above the tree line."

Mr. Padalino then noted that the Planning Commission and the applicant discussed the submittal of additional information; which was submitted. He noted that at the August Planning Commission meeting, the additional information on alternatives was reviewed and the Commission voted 3-2 to recommend denial of the permit and advising the applicant to pursue scenario D - replacing the monopole at the same height and adding a new tower in Lovington which would be a whole new process. It was noted that the site in scenario D was called CV150.

Mr. Padalino clarified that the CV221 request was the one up for consideration and he asked the Board to consider the recommendation of the Planning Commission and staff as follows:

- County staff and Planning Commission recommendations for denial, based primarily on concerns about the tower design relative to the purpose established in Z.O. 20-2-6: "Restrict the location of communication towers that adversely impact the natural beauty of the mountains in Nelson County."
- Previous BOS condition of approval: "The total height of the pole including antenna is not more than ten (10) feet above the tree line."

Ms. Brennan asked if there was consideration of putting the pole on other side of the highway and Mr. Padalino noted there was not. Mr. Hale then advised that it was not the Board's job to decide where to put the tower. Mr. Bruguiere added that they were to only consider the current request and what was applied for; noting that the applicant had come up with the five (5) other scenarios for consideration.

Mr. Hale then opened the public hearing and the following persons were recognized:

1. Applicant Jessie Wilmer, Shentel

Ms. Wilmer noted that they were proposing to increase the height of the tower to the maximum allowed under a Class C application. She added that they did have a dropped call area along Route 29. She noted that they had done inspections on all of their wooden poles on Route 29 and all were coming up on their twenty (20) year life expectancy. She noted that some of those could be upgraded and be below the tree line; however this pole needed to be replaced regardless of height and while fixing it, they would like to fix the coverage hole.

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Ms. Wilmer noted that the tower was visible for .3 miles going north and it was not seen going south. She noted that the coverage was greatly improved, there were no dropped calls, and the taller tower would provide colocation opportunities for other carriers. She added that the previous approval in 1999 was for a height 10 feet above the trees, the trees had grown since then, and it appeared to be above the trees in the photos because of the angle - you were looking up but really you were right at tree level.

Ms. Wilmer then noted that they would like to remove the big oak tree in order to provide more room and room to expand without impacting the landowner. She added that the tree trunk was not the issue, it was its branches that would hit the tower and damage it in a wind storm. Mr. Saunders asked if they would still have coverage if they went up to 130 feet with the tower and left the tree. Ms. Wilmer noted that they would; however they would be concerned that the tree branches would damage the pole and it was not related to coverage. She then noted that the foundation of the tower would probably damage the roots of the tree.

Ms. Brennan asked if colocation opportunities included the County being able to install broadband equipment on the tower and Ms. Wilmer replied it would.

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

Mr. Bruguere then moved to allow Shentel to replace the current 95 foot pole with a 130 foot pole including the recommendations of color and the permission to clear whatever trees necessary in order to protect their equipment and Mr. Harvey seconded the motion.

Mr. Bruguere explained that the visual impact of the taller tower was minimal going north and nonexistent going south. He added that there were already other towers there and people wanted good cell service. He noted that there was no public present in opposition and cell towers were a necessity.

Mr. Saunders noted he had a call dropped in that area that morning and he agreed with Mr. Bruguere on the lack of visual impact.

Ms. Brennan noted she was conflicted about it and that she thought any negative visual impact should be seriously considered; she added that she was not excited about this.

Mr. Harvey noted the many visual towers in neighboring counties and Mr. Hale noted he agreed with the Planning Commission and Staff recommendation that it was not necessary to have the tower at that height.

There being no further discussion, Supervisors voted (3-2) by roll call vote to approve the motion with Mr. Hale and Ms. Brennan voting No.

**B. Public Hearing - Proposed Amendment to the Code of Nelson County, Chapter 11, Article 2 Real Property Tax, Division 2 Exemptions for Elderly and Disabled (O2016-07) Proposed**

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changes are so that the local Ordinance more closely mirrors that of the State Code of Virginia pertaining to whether or not a live-in caregiver's income (paid or unpaid) is counted towards the tax exemption. The Code language change does not change the County's processing of these exemptions.

Mr. Hale introduced the item noting that Mr. Payne had advised that it was not necessary to make the changes. Mr. Carter stated that was true, however they should make them in order to make the local ordinance more in conjunction with the new language in the State Code. Mr. Hale stated that the County spent a considerable amount of money matching up to the State Code and he read in Mr. Payne's memo that they did not need to do this.

Mr. Carter noted that the public hearing could be held and the Board did not have to act on the ordinance amendments.

Mr. Harvey and Mr. Bruguere noted that this type of tax relief was provided every year and was not something new. Mr. Hale added that the amendment would only change the wording of the ordinance and did not change anything the County was doing. Mr. Carter acknowledged this but noted that the amendments added more definition to the process.

Mr. Hale again noted he objected to spending time and money making ordinance changes that did not really change anything. Mr. Harvey advised that the money had already been spent and Mr. Carter noted that Mr. Payne had spent minimal time on this.

Mr. Hale 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 **O2016-07** Nelson County Board of Supervisors Repeal and Re-enactment of Chapter 11, Article 2 Real Property Tax, Division 2 Section 11-43, Exemption for Elderly and Disabled of the Code of Nelson County, Virginia and Mr. Harvey seconded the motion.

Mr. Hale noted that he was not entirely sure that the table had been modified since 2007 and in reading through it, it did not seem to him that the net combined financial worth, excluding the value of the dwelling and one (1) acre shall not exceed \$100,000 was reasonable. He added that if one had ten (10) acres, that amount could be exceeded and they could still be in need of assistance.

Mr. Hale then inquired what the economic impact would be and Mr. Carter noted it was not significant. Mr. Hale noted he was not in favor of it and Mr. Carter advised that the table was not presently up for consideration; however staff could be directed to go back and relook at the table. He then noted that the proposed ordinance better defined things and he noted that income for care-givers did not count whether or not they were related to the elderly or disabled.

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Ms. Brennan suggested tabling action on this until next month and noted there was no effect unless they changed the values. She then withdrew her motion and Mr. Harvey withdrew his second.

Supervisors then agreed by consensus to table consideration of these amendments until November.

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

There was no other business considered by the Board.

**V. Adjournment**

At 7:48 pm, Mr. Harvey moved to adjourn the meeting 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.