

October 13, 2015

Virginia:

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

Present: Constance Brennan, Central District Supervisor
Thomas H. Bruguiera, Jr. West District Supervisor
Larry D. Saunders, 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
Tim Padalino, Director of Planning and Zoning

Absent: Allen M. Hale, East District Supervisor – Vice Chair

I. Call to Order

Mr. Saunders called the meeting to order at 2:00 PM, with four (4) Supervisors present to establish a quorum and Mr. Hale being absent.

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

II. Consent Agenda

Ms. Brennan suggested a minor change to be made to Resolution **R2015-82**; removal of the word unparalleled under the second to last whereas paragraph. She added this was because the Nelson County Domestic Violence Task Force was also doing a lot of work in the county and therefore the work done by Shelter for Help was not unparalleled. Supervisors agreed by consensus and Ms. Brennan moved to approve the consent agenda inclusive of the correction to **R2015-82**. Mr. Bruguiera seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – **R2015-80** Minutes for Approval

**RESOLUTION R2015-80
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(September 8, 2015)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **September 8, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

October 13, 2015

B. Resolution – **R2015-81** FY16 Budget Amendment

**RESOLUTION R2015-81
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
September 8, 2015**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$10,000.00	4-100-999000-9905	4-100-091030-5695

C. Resolution – **R2015-82** October is Domestic Violence Awareness Month

**RESOLUTION R2015-82
NELSON COUNTY BOARD OF SUPERVISORS
OCTOBER IS DOMESTIC VIOLENCE AWARENESS MONTH**

WHEREAS, violence against women, children, and men continues to become more prevalent as a social problem in our society; and

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, in our quest to impose sanctions on those who break the law by perpetrating violence, we must also meet the needs of victims of domestic violence who often suffer grave physical, psychological and financial losses; and

WHEREAS, it is victims of domestic violence themselves who have been in the forefront of efforts to bring peace and equality to the home; 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

October 13, 2015

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

WHEREAS, the Shelter for Help in Emergency commemorates its 36th year of providing 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 2015 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.

D. Resolution – **R2015-83** Red Ribbon Week (October 23-31)

**RESOLUTION R2015-83
NELSON COUNTY BOARD OF SUPERVISORS
RED RIBBON WEEK - OCTOBER 23 TO OCTOBER 31**

WHEREAS, in 1985, the Red Ribbon Campaign began as a means to address the importance of a healthy, drug free youth; and

WHEREAS, the red ribbon was chosen as a symbol commemorating the work of Enrique “Kiki” Camarena, a Drug Enforcement Administration agent, who was murdered in the line of duty; and

WHEREAS, by 1988, the Red Ribbon Campaign was adopted by Congress; and

WHEREAS, since 1988, the Red Ribbon Campaign has been sponsored by the Young Marines and the National Family Partnership, which works year round to raise awareness of the social destruction caused by drugs in America; and

WHEREAS, communities across America continue to be plagued with the numerous problems associated with alcohol, tobacco, and other drug use; and

WHEREAS, local leaders in government and in the community are crucial to the support needed to reduce the use of alcohol, tobacco, and other drugs; and

WHEREAS, October 23-31, 2015, has been designated National Red Ribbon Week; and

October 13, 2015

WHEREAS, Red Ribbon Week is an opportunity to encourage people to seek the help they need, and to recognize the work of those providing education on drug-use, as well as those protecting youth from drug-use;

NOW, THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors does hereby recognize October 23-31, 2015, as RED RIBBON WEEK in Nelson County and does hereby call this observance to the attention of all our citizens.

E. Resolution – **R2015-84** Rescheduling of the November Board Meeting

**RESOLUTION R2015-84
NELSON COUNTY BOARD OF SUPERVISORS
RESCHEDULING OF NOVEMBER 2015 REGULAR MEETING**

WHEREAS, the Nelson County Board of Supervisors hereby establishes that an alternate date for the Board’s regular monthly meeting on **November 10, 2015** is necessary due to the attendance of some members of said governing body at the annual conference of the Virginia Association of Counties through November 10, 2015;

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors pursuant to §15.2-1416 (Regular meetings) of the Code of Virginia that the regular meeting of the Board on **Tuesday, November 10, 2015** be and hereby is rescheduled to **Thursday, November 12, 2015**.

F. Resolution – **R2015-85** Personnel Policy Revision – Requirement to Wear Seatbelts

**RESOLUTION R2015-85
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF REVISION TO SECTION 2.7 OF THE
NELSON COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL NELSON
COUNTY OPERATORS OF
COUNTY-OWNED MOTOR VEHICLES**

WHEREAS, the County of Nelson, as a sub-recipient of Virginia’s Highway Safety Program grant, is required to adopt and enforce an on-the-job seat belt use policy;

WHEREAS, the current personnel policy related to operation of county owned vehicles does not include any provision regarding seat belts;

NOW THEREFORE, BE IT RESOLVED that the Nelson County Board of Supervisors hereby approves the amended Section 2.7, Operators of County-Owned Motor Vehicles, of the Nelson County Personnel Policies and Procedures as attached.

October 13, 2015

G. Resolution – **R2015-86** Support for Locality “Opt Out” Provisions of the VA Stormwater Management Program

RESOLUTION R2015-86
NELSON COUNTY BOARD OF SUPERVISORS
SUPPORT FOR THE CONTINUANCE OF THE ABILITY OF LOCALITIES TO
“OPT OUT” OF LOCALLY ADMINISTERING
THE VIRGINIA STORMWATER MANAGEMENT PROGRAM

WHEREAS, many localities are increasingly concerned over the Commonwealth of Virginia’s expanding reliance upon localities for the administration, implementation and enforcement of regulations promulgated at the state level; and

WHEREAS, over the past several years, many changes have been made to the environmental laws in the Commonwealth of Virginia, including legislation imposing unfunded and underfunded mandatory local obligations regarding erosion and sediment control, the Chesapeake Bay Act and most recently, the significant expansion of the Virginia Stormwater Management Program (VSMP); and

WHEREAS, many localities in Virginia expressed concern to their state government delegation about the reasonableness, efficacy and costs of implementing the Commonwealth’s expanded Stormwater Management Program and other environmental regulations at the local level; and

WHEREAS, many localities in Virginia have expressed concern regarding the liability they incur by becoming the VSMP plan approving authority, as well as the inestimable costs and responsibilities of the perpetual maintenance of abandoned stormwater facilities required or implied through the expanded Stormwater Management Program; and

WHEREAS, the Senate of Virginia and the Virginia House of Delegates, in response to local government concerns, both passed by wide margins amendments to the Virginia Stormwater Management Program under House Bill 1173 / Senate Bill 423, which amendments allow local governments to choose either to manage their own Stormwater Management Programs or to “Opt Out”, leaving the administration, implementation and enforcement of the Program to the Virginia Department of Environmental Quality (DEQ). These were both Omnibus Bills with broad and unequivocal support from DEQ, Environmental Groups and representatives from the Construction/Development community; and

WHEREAS, the Governor of the Commonwealth of Virginia signed House Bill 1173 / Senate Bill 423 on March 24, 2014, and the bill was enacted immediately with an emergency clause contained therein; and

WHEREAS, upon enactment, the Commonwealth of Virginia’s lead environmental regulatory agency, the DEQ was established as the Commonwealth’s VSMP Authority. The DEQ is the stormwater permitting authority and has the responsibility to implement, administer, and enforce the Commonwealth’s environmental regulations in a uniform, consistent, efficient and timely manner across the Commonwealth; and

October 13, 2015

WHEREAS, the Board of Supervisors of Nelson County, along with 54 other localities in Virginia, voted in 2014 to “Opt Out” of administering their own stormwater management program, leaving the administration of the Program to DEQ; and

WHEREAS, following the 2014 legislation, a Stormwater Advisory Group was convened and charged with making recommendations regarding consolidation and implementation of the Virginia’s Water Regulations, including Stormwater and Erosion and Sediment Control, to the 2016 General Assembly; and

WHEREAS, the Stormwater Advisory Group is largely comprised of representatives from the environmental community, engineers and DEQ staff and lacks sufficient representation from Virginia’s “Opt Out” localities and Chesapeake Bay Act localities; and

WHEREAS, while the Stormwater Advisory Group should be commended for their months of hard work, and in particular for the work on consolidating various environmental programs into one program under DEQ administration, the Group has focused a significant amount of time recently and has become sidetracked of late with a discussion on the benefits to DEQ of repealing the statutory right to “Opt Out” provided by the 2014 legislative amendments to the Virginia Stormwater Management Program and thereby returning to localities the responsibility of plan implementation, administration, and enforcement; and

WHEREAS, a recommendation to repeal the statutory “Opt Out” constitutes nothing less than nullification by committee of the legislative action clearly embodied in the 2014 Omnibus legislation, nullification of a right guaranteed by both houses of the General Assembly and the Governor, and would require that each and every locality in the Commonwealth administer a separate version of the Virginia Stormwater Management Program, thus resulting in inconsistency, inefficacy and a cumulative burden that will increase both in size and cost each year, constituting nothing short of a significantly expensive and burdensome **unfunded or underfunded mandate**; and

WHEREAS, DEQ has opined that Chesapeake Bay localities who exercise the statutory right to “Opt Out” receive an additional burden not shared by other localities by being forced to administer a local Stormwater Program for land disturbance projects between 2,500 square feet and 1 acre;

NOW, THEREFORE, BE IT RESOLVED THAT: The Board of Supervisors of Nelson County **STRONGLY OPPOSES** any recommendation or effort to reverse or amend the action taken by the 2014 General Assembly in affording to Virginia’s counties and cities the statutory right to “Opt Out” of administering the Virginia Stormwater Management Program, and further respectfully requests that the Stormwater Advisory Group support and seek implementation of the current law; and The Board of Supervisors of Nelson County respectfully requests that the Stormwater Advisory Group recognize and recommend that the statutory right to “Opt Out” be applied to all localities equally such that the Chesapeake Bay localities are not required to administer a local Stormwater Program for land disturbance projects between 2,500 square feet and 1 acre; and

BE IT FURTHER RESOLVED THAT: The Board of Supervisors of Nelson County **strongly recommends** that DEQ and the General Assembly impanel an additional stakeholder group, more representative of rural and Chesapeake Bay localities, to conduct a comprehensive review of the efficiency and efficacy of the implementation and delivery of state environmental regulations and programs, to make recommendation for revisions on the delivery and implementation of these programs, and, if appropriate, draft the subsequent statutory and regulatory revisions, especially where the objective is to grant “Opt Out” alternatives to all localities equally.

III. Public Comments and Presentations

A. Public Comments

Ms. Rachel Smith, reporter for the Nelson County Times, was recognized by the Chair. She noted that she would be leaving the Nelson County Times after election season to take another position with the News and Advance covering Bedford County. She then thanked the Board for working so closely with her. Supervisors thanked her for her work and noted she would be missed.

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

1. Marion Kanour, Faber

Ms. Kanour thanked the Board for their passage of the resolution declaring October as Domestic Violence Awareness Month. She then read aloud the following prepared statement:

“I’m speaking as the Co-Convenor of the Nelson County Domestic Violence Task Force to help our Supervisors become aware of the history, mission and scope of our organization.

We were formed 2 1/2 years ago as an initiative begun by Grace Episcopal Church, Massies Mill that quickly grew to a non-denominational group with monthly meetings. Since that time we have created a weekly support group for victims in the process of transition, a victim advocacy team that accompanies victims through the court process; and, we offer emergency help with finances and residential relocation or we provide transportation to a safe house/shelter.

We primarily access the safe house/shelter in Lynchburg, due to the preference of the women we assist and the level of cooperation we have received from our colleagues in Lynchburg. On October 21st we are holding our 2nd Annual Vigil to Break the Silence at 8 PM in the parking lot of Calvary Baptist Church. We believe public awareness is one important part of changing the tacit acceptance of violence.

Our goal in the coming year is to create a safe house/shelter in Nelson County. There is obvious need for this form of intervention in our county. Grants and private donors are the primary sources of financial support for the mission of the task force.

The task force has met with the candidates for sheriff in the county and are pleased to have support for our shelter from them. Following the election, we will meet with the sheriff-elect to adopt a

October 13, 2015

clear five-year plan for the full implementation of our mission to serve anyone in need of assistance to leave abusive relationships. We recognize the need to work closely with the schools, law enforcement and social services in our county and are grateful for their support to this point.”

2. Charlie Wineberg, Ennis Mountain Rd.

Mr. Wineberg thanked Mr. Carter for responding to his emails regarding putting Board of Supervisors legal notices in a more prominent location on the website. He noted he would also like to see agendas and packets put out sooner.

Mr. Wineberg then noted that the County was doing a great job with the tourism industry. He noted that a measure of it was that they come in and immediately expand. He added that the Board would hear a proposal for a new business in the Rockfish Valley that night and that the Board should consider the impact on traffic in that intersection of Route 151 and Rockfish School Lane. He added that the Board should consider the manufacturing going on at an A-1 parcel at the end of the road. He then questioned what would happen if Van Rippers became functional again. He noted that Route 151 and Rockfish School Lane was a high pressure point intersection and the Board would be asked to consider new development there. He noted that VDOT was already considering improvements there because of the traffic and there would be unintended consequences of approving the development.

Mr. Wineberg then noted that the speed limit on Route 151 had been reduced already to 45mph and he did not think it should be reduced further.

Mr. Wineberg concluded by noting that the Zoning Ordinance was revised inadequately and now the Board was approving piece-meal patches to the Ordinance. He added that the Comprehensive Plan did not address current conditions in the County.

3. Reverend James Rose, Wingina

Reverend Rose thanked Mr. Austin for taking care of the passing zone in Shipman and Mr. Saunders for transferring the old school bell to the Heritage Center.

Reverend Rose then noted that the Pastors meeting scheduled for September 27th had been postponed to October 27th and 45 pastors of various denominations were now coming together to see how to work together in the community.

Reverend Rose concluded by requesting again that the Board rename Front Street to be Martin Luther King Boulevard and he noted it would be great for the County to see something like that.

4. Joanna Solidas, President of Friends of Nelson – Afton Resident

Ms. Solidas thanked the Board for their efforts related to the Atlantic Coast Pipeline. She also thanked Mr. Carter and Mr. Padalino for their thorough review of the County’s Comprehensive Plan relative to the pipeline. She noted that she thought it was critical for the County to file as an intervenor in the FERC process. She noted that worst case, Dominion could change the route and

according to their standard easement agreement, could control easements for five (5) full years. She added that if FERC allowed the change, the County would have no legal recourse if it were not an intervenor. Ms. Solidas added that being an intervenor gave the County the option to use the courts if necessary, noting there was no obligation; however the option was preserved. She then reiterated the importance to file as an intervenor. She concluded by noting that the adopted resolutions served as the voice of the community effectively and that State and Federal Legislators used their resolutions to embolden them to take action. She thanked the Board again for their actions.

5. Joe Lee McClellan, Lovington

Mr. McClellan stated that he thought the County should file to be an intervenor in the Atlantic Coast Pipeline.

He then noted that he had seen the preliminary plans for the Spruce Creek development and he supported it.

B. Presentation – Planning & Zoning Project – Averitt “Spruce Creek”

Mr. Padalino noted that this was not an action item for the Board but rather it was a courtesy for the applicants to familiarize the Board with their project.

He noted that his office had received five (5) Special Use Permit applications on August 26th for a mixed use development including: retail store, neighborhood, conference center, activity center, restaurant, and farm winery permanent remote retail establishment. He added that getting these permits was more appropriate than seeking a rezoning of the property. In addition to this, they had submitted a minor site plan and a supplemental packet showing the many details of the project.

Mr. Padalino noted the permitting process for the five SUPS under §4-1-35a for “retail store, neighborhood”; §4-1-13a “conference center”; §4-1-44a “activity center”; §4-1-34a “restaurant”; and §4-1-16a “farm winery permanent remote retail establishment”. He noted the property was across from Bold Rock Cidery on Tax Map parcels #21-A-35; -36, and consisted of 98.21-acres zoned Agricultural (A-1).

Mr. Padalino then noted that a site plan review was conducted on September 9, 2015, the Board was being briefed that day, the Planning Commission would hold its public hearing on October 28, 2015 and then it was anticipated that the Board would conduct its public hearing on November 12, 2015.

Mr. Richard Averitt then presented the development concept. He noted that the core concept was a celebration of all things they loved about Nelson County. He noted that the County was seeing growth in agri-tourism and it was an opportunity to come to Nelson for a combination of visiting friends and taking in the beautiful atmosphere as an escape. He then agreed that a comprehensive plan for growth was needed; however they expected the development to be low impact and of high value to the community.

October 13, 2015

Mr. Averitt then showed a diagram of the development site and noted that they wanted it to be a destination like the Homestead, the Greenbrier, or Blackberry Farms in Tennessee.

Mr. Averitt explained that the retail operations that would be close to the road would be developed to be close to the vernacular and there would be a farmers market area that featured local craft foods, wines etc. He noted they would have a private event space seating up to 125 people and that could accommodate up to 300 using the green space. He related that the upper parcel would have cabins, a resort, and a high end restaurant. He added it would be high end but not overpriced. He showed the nesting of cabins all along the property designed so that visitors would feel like they were all by themselves. He noted that spa cabins would be located along the creek and would be open for massage, body work, and facials etc. so that one could listen to Spruce Creek running by. He concluded by noting that cars would be parked and guests would be taken by a resort vehicle to the upper property.

Mr. Averitt then noted that they had traffic pattern diagrams and were looking at detailed issues. He noted they had not done septic or E&S work yet; however if the concept was approved, they would be in a position to pursue investment capital to develop those plans.

Mr. Bruguiere asked if the lake on the property was still a dry hydrant for Horizons Subdivision and Mr. Averitt noted that the lake was now dry and they intended to put it back in place; at which point it would then be a dry hydrant for them.

Mr. Bruguiere then asked if the issues with the Atlantic Coast Pipeline had been resolved and Mr. Averitt advised that they would proceed with their plans as was their right. He noted that Dominion claimed that the pipeline would not impact their development; however it would radically change things and they would not be able to develop that location. He related that they would not back down and he added that they had rerouted the pipeline from going through the Bold Rock building and it now went through this site.

The Board had no further questions and Mr. Averitt thanked the Board for their time.

C. VDOT Report

Mr. Don Austin reported the following:

- Lodebar Estates Rural Rustic work was complete and they were now working on Cedar Creek which would be the last one done this fall.
- Thanked the County for HB2 submissions and noted these were now under review. He added VDOT would have fall public hearings on projects, probably the second week of November at Sweet Briar College and he would send out the information.
- LOCKN post review meeting was held and a lot of information was shared.
- Speed Studies in the Nellysford and Route 250 areas were in progress; no determinations made yet.

October 13, 2015

- Looking at crash information at the Food Lion intersection to determine if a change to protected turn only from flashing yellow was needed. He added that reduced speeds to the north before the light was also being looked at.

Supervisors then discussed the following VDOT issues:

Mr. Harvey had none.

Ms. Brennan:

Ms. Brennan asked about the Lovington traffic study and Mr. Austin noted he had not been able to discuss this with Mr. Carter yet; however he would and could get this started for next year.

Ms. Brennan advised that she had heard there was a plan to continue Old Stoney Creek Rd. on up the mountain and Mr. Austin noted he was fairly certain they were not putting a road up there but he would check.

Mr. Bruguere:

Mr. Bruguere asked that since the median at the intersection of Route 56 and Route 29 had not yet been lowered, if it could be mowed quickly. Mr. Austin noted that they had gotten the utility markings to do the lowering of the median and the water and sewer lines should be deep enough where they would not be affected.

Mr. Bruguere noted that he noticed the ditch on the other side of Brent's Mountain was fixed.

Mr. Bruguere then suggested that VDOT hire someone from Nelson County when they hired a new Bryant Maintenance Supervisor.

Mr. Bruguere asked if they would put reflectors back in where they had repaved Route 151 and Mr. Austin noted that if they were there before, they would be put back in and he would check.

Mr. Saunders:

Mr. Saunders noted that he had seen painted lines on Wilson Hill Road that day.

1. Proposed Joint VDOT/LOCKN' LLC/County Traffic Study (**R2015-87**
Resolution of Endorsement)

Mr. Bruguere suggested that they look at mitigating traffic so the schools did not have to close and Mr. Austin noted that this would be looked at as part of the proposed planning study.

Mr. Carter advised that County staff had met with VDOT and Dave Frey of LOCKN a few weeks back to discuss a study for a traffic plan that worked short and long term. He noted that the first step was to get Board support to move it along. He added that he thought a good plan could be done and Rick Youngblood of VDOT was very encouraging. Mr. Saunders reiterated the concern with schools closing because of the traffic.

October 13, 2015

Mr. Carter then noted that outcomes of the study may involve seeking HB2 funding etc. Mr. Austin added that there were special planning funds that could be used for the plan and the cost could be in the \$100,000 range. He added that VDOT would outsource this to another firm to do the work.

Ms. Brennan then moved to approve Resolution **R2015-87**, Endorsement of Joint Traffic Study by VDOT, LOCKN' LLC, and Nelson County.

Mr. Bruguere seconded the motion and the Board had the following discussion:

Mr. Harvey stated it did not make sense to study this for one event a year and nothing had been done on the intersection of Route 151 and Route 250.

Mr. Saunders noted that LOCKN would be doing a lot more than one event per year; he understood that they would do several large events and then other smaller events throughout the year.

Mr. Harvey noted that there had been horrible traffic disruption over the weekend on Route 151 and he noted the drinking that was likely involved. He added that he thought the Board needed to get a handle on things.

Ms. Brennan agreed that there was a huge problem on Route 151; however she did not think it was an either or thing; the two should not cancel each other out.

Mr. Saunders noted that the study would not cost the County any money and the present request was only for the Board's endorsement.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2015-87
NELSON COUNTY BOARD OF SUPERVISORS
ENDORSEMENT OF JOINT TRAFFIC STUDY BY
VDOT, LOCKN' LLC, AND NELSON COUNTY

WHEREAS, the Nelson County Board of Supervisors, the Virginia Department of Transportation (VDOT), and LOCKN' LLC are committed to the safety and mobility of citizens travelling regionally and along US Route 29 in Nelson County, and

WHEREAS, mitigation of traffic congestion along US Route 29 in Arrington and Colleen related to special events conducted by LOCKN' LLC is of utmost importance to the Nelson County Board of Supervisors, VDOT, and LOCKN' LLC;

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors does hereby endorse the joint traffic study effort to address the regional mobility, accessibility, overall safety,

access management, as well as congestion mitigation related to LOCKN' LLC events in Nelson County; inclusive of the US Route 29 Corridor in Arrington and Colleen.

IV. New Business/ Unfinished Business

A. Proposed Amendments to Zoning Ordinance – Article 10 General Floodplain District FP & Referral to Planning Commission (R2015-88)

Mr. Carter advised that Mr. Padalino would overview the proposed changes and he noted that the proposed Board action was referral of the draft Ordinance to the Planning Commission. He added that staff had used input on specific changes to be made from the Department of Conservation and Recreation (DCR) and had also used DCR's model Ordinance. He noted that the Floodplain Ordinance was last updated in 2012 and it met the minimum standards then. He added that some of the revisions went a little beyond the minimum standards.

Mr. Padalino then reported that staff had worked with Charles Kline of DCR; who had looked over the current ordinance and had suggested two categories of changes: how to better mirror the model ordinance and how to include some of the higher standards.

Mr. Padalino noted that Mr. Kline had recommended the use of twelve (12) new standards and that staff recommended using six (6) of these; which he would explain. He added that there were housekeeping items that were also addressed such as: adding a statement about the authority of the county to have a floodplain management program and floodplain ordinance; adding a section outlining the administration of the floodplain ordinance; replacing "Planning & Zoning Director" with "Floodplain Administrator" throughout the ordinance; and several other instances of similar "housekeeping" updates.

Mr. Padalino then noted the following six (6) staff recommendations:

- Increase freeboard from the existing 12" requirement to an 18" requirement. This would require the lowest floor (including basement) of any new construction or substantial improvement to be located a minimum of 1.5 feet above the Base Flood Elevation. This would be an increase from the existing requirement of a 1 foot minimum.
- Define "critical facilities" and prohibit them in the Special Flood Hazard Area (SFHA). This would prohibit the placement of critical facilities – such as emergency services and rescue squads, schools, medical facilities, hazardous materials and fuel storage, and other uses, structures, and improvements – within all Special Flood Hazard Areas.
- Restrict hazardous materials and fuels in the Special Flood Hazard Areas. This would entirely prohibit the storage of certain hazardous materials within any SFHA; and would restrict the storage of other hazardous materials (including gasoline, petroleum products, and natural gas) for any time period longer than thirty (30) days.

Mr. Carter noted that staff had included language pertaining to the restriction of transport of natural gas in this section.

October 13, 2015

- Limit land uses in the Floodway to only non-structural uses.

This would prohibit any and all structures from being located within the Floodway, but would allow other non-structural uses within the portion of the floodplain designated as Floodway. The Floodway is, “*the designated area of the floodplain required to carry and discharge flood waters*” and is generally the lowest area in the middle of the floodplain which actually conveys surface waters.

- Modify the requirements for when the Base Flood Elevation needs to be identified and included on subdivision plats.

This would change the threshold for when applicants need to identify and include the Base Flood Elevation (BFE) on a plat of division. Currently, this information needs to be included for subdivisions containing more than fifty lots or more than five acres, whichever is lesser. Specifically, the recommended amendments would alter the threshold as follows:

- Include the BFE if there are more than eleven (11) lots; and
- Include the BFE if the subdivision acreage exceeds forty (40) acres.

- Restrict the placement of fill in the Special Flood Hazard Area (SFHA).

This would prohibit certain fill materials from being placed within any designated SFHA, and would only allow for locally-borrowed mineral materials to be used as fill within an SFHA (and would still require that a Special Use Permit be obtained to do so).

It was noted that staff had included a specific restriction of the use of fly ash or other waste byproducts as fill in this section.

Mr. Harvey noted that with regards to limiting land uses in a floodplain to nonstructural uses, one currently could not build in a floodway and he questioned how this was different. Mr. Padalino noted that the new language stated it and this was identified by Mr. Kline as a necessary clarification.

Ms. Brennan then questioned the higher standards contained and Mr. Padalino advised that the current Ordinance already contained two or three of these and the new language would add three more. Mr. Carter added that staff was only recommending six of the twelve suggested higher standards.

Mr. Bruguere asked if the amendments were required by DCR and Mr. Padalino noted they were not; and that DCR had just performed a courtesy review of the current Ordinance for the County.

Ms. Brennan then moved to approve Resolution **R2015-88**, Referral of Amendments to Appendix A, Zoning, Article 10 General Floodplain District FP to the Nelson County Planning Commission and there was no second.

Mr. Bruguere stated he was not sure all of the extra language was needed since no one was building in the floodplain. Ms. Brennan noted that the amendments modified what the County already had and in her opinion made it better.

October 13, 2015

Following discussion, the Chair called for the vote and Supervisors voted (1-3) by roll call vote to disapprove the motion with Mr. Harvey, Mr. Bruguere, and Mr. Saunders voting No and the following resolution was *NOT* adopted:

NOT ADOPTED:

**RESOLUTION R2015-88
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENTS TO APPENDIX A, ZONING
ARTICLE 10 GENERAL FLOODPLAIN DISTRICT FP
TO THE NELSON COUNTY PLANNING COMMISSION**

WHEREAS, the Nelson County Board of Supervisors (the Board) has received and reviewed in public session conducted on October 13, 2015, a staff report on changes proposed to Appendix A-Zoning (Nelson County Zoning Ordinance) of the Code of the County of Nelson, Virginia; and,

WHEREAS, the staff report proposed changes to the Zoning Ordinance in order to synchronize Article 10, General Floodplain District FP with State Floodplain regulations;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors, pursuant to the applicable provisions of Title 15.2 Chapter 22, Planning, Subdivision of Land and Zoning of the Code of Virginia, 1950 with specific reference to §15.2-2285 of said Code, that the proposed attached amendments to the Code of Nelson County, Virginia, Article 10, General Floodplain District FB be referred to the Nelson County Planning Commission for review and development of a report on the Commission's findings and recommendations to the Board, in accordance with §15.2-2285 of the Code of Virginia.

- B.** Atlantic Coast Pipeline Project
 - 1. Potential Meeting/Workshop with Dominion

Mr. Carter noted that per the Board's direction, staff responded to the ACP Land Use Questionnaire and then also sent them a list of questions after some back and forth. He noted that this was in process and per Dominion, they were working on their response. He added that Susan King of Dominion had advised that they would be amenable to meet with the Board whenever they were so inclined.

Mr. Saunders noted that the Board had said they would wait for the answers back before scheduling a meeting. Ms. Brennan noted she was okay to wait for the answers as long as they did give them the answers. Mr. Carter noted that so far they had indicated that they would work on it.

Mr. Saunders then advised that Susan King was on medical leave for a month and per Mr. Carter, another employee was designated to take her place during this time.

Mr. Bruguere noted his agreement that they needed answers back before meeting.

October 13, 2015

Following this discussion, the Board's consensus was to get answers back from Dominion and then schedule a meeting.

2. County Status as an Intervenor

Mr. Carter noted that an intervenor was an official party to a proceeding and enjoyed distinct advantages over those who only filed comments. He noted that Intervenor become participants in a proceeding and had the right to request rehearing of Commission orders and seek relief of final agency actions in the U.S. Circuit Courts of Appeal.

He added that if the Board decided to register as an Intervenor with FERC, they would have an official status and would be granted additional rights and abilities over and above if they did not file. He noted that as Intervenor, they would not have to file anything or they could choose to actively participate.

Mr. Saunders clarified that the Board would not automatically have the right to do this.

Mr. Carter advised that if the Board decided to become an Intervenor, that staff could complete the registration process.

Ms. Brennan then noted it would be a Board decision to file anything once they became an Intervenor. Mr. Carter noted that the legal aspects and associated costs would come if the Board decided to act beyond the ability of County Staff as an Intervenor.

Mr. Harvey noted his support; but noted that if they were to get involved beyond registering; it would become expensive.

Mr. Carter reiterated that if the Board decided in the future it wanted to be more active, they would be in a better position to do so if they were an Intervenor. Mr. Bruguere agreed and added that becoming an Intervenor allowed them the right to see the process.

Mr. Harvey then moved that the County register as an Intervenor and Ms. Brennan seconded the motion.

Mr. Bruguere then clarified that there were two (2) different processes: seeing what was going on and then getting involved in court.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

1. Courthouse Project Phase II: A pre-construction meeting with Jamerson-Lewis, the project's general contractor, Architectural Partners and County staff was completed on 9-24. The project is

October 13, 2015

now in its initial start-up with Jamerson-Lewis mobilizing to the Courthouse, asbestos abatement, through Hurt & Proffitt, in process. County staff has been very busy removing furniture, records, etc. from the project area. A significant amount of space in the new maintenance building is being used prior to a planned, future auction of all of the surplus items the project has generated in preparation for the start of construction. With regard to financing the project with VRA, County staff has advised Authority staff and respective bond counsels to reduce the repayment period to 15 years instead of 20 years. The shorter term will save the County \$524,189.00 and is still within the annual debt service expense previously reported and endorsed by the Board of Supervisors.

Mr. Saunders inquired as to what would happen with the furniture to be disposed of and Mr. Carter noted that some has been trashed and then other items have been stored. He noted that staff has consulted with three auction houses and the County could have an auction to the best benefit of the county. Mr. Bruguiera then suggested the County look at on-line auctioning.

In relation to project financing, Mr. Carter noted that staff looked at a ten year term; however that would require additional funding and Board approval so staff went with a fifteen year term.

2. Broadband: A) Local Innovation Grant Project: Construction of the project has been delayed pending final approval by VDOT of the project's construction drawings (Phase 1 – Martins Store at Routes 151 and 6 to the intersection of Routes 151 and 664). Revised drawings are being completed and submitted to VDOT by 10-9 or early the week of 10-12. An 8 - 10 week construction schedule is projected. The ensuing two phases (Present Network Terminus on Route 151 north to County line on Rt. 151 with Albemarle County and from intersection of Routes 151 and 6 to intersection of Routes 6 and Saddleback Lane) of the project will require an estimated 6 -8 weeks to complete once initiated. **B) NCBA Report:** Attached

Mr. Carter advised that according to the outside plant contractor, the VDOT regulations have been an issue. He added that VDOT had come over and looked at the route with CCTS, so staff was hopeful the drawings would be right this time. Mr. Carter noted that he had reported this previously and he would call for a meeting with the District Administrator if needed. He noted VDOT was aware of the urgency in getting the project done.

B) Attached NCBA Report:

8 October, 2015

To: Nelson County Broadband Authority
From: S. Carter
Re: Report for October 13, 2015 Meeting

Please be advised of the following pertinent information for the Authority's consideration on 10-13:

1. Current Customer Base: 136 Connections with 1 Connection in Process = 137 Total Connections.

2. Financial Report: The FY 15-16 year to date summary of revenues and expenditures is included in the agenda document. D. McCann, Director of Finance and HR, will summarize this report to the Authority on 10-13.

3. CDBG Grant/County Funded 8 Mile Expansion Project: Construction start up (Phase 1 – Routes 151 & 6 to Routes 151 & 664) has been delayed due to VDOT permit requirements. Revised drawings and specifications (from the project contractor) will be submitted to VDOT by October 9th or early in the week of October 12th. A ten week build is projected and will be followed by the two additional phases (Rt. 151 at network's current norther terminus to County line on Route 151 and, Rt. 151 & 6 to Route 6 and intersection of Saddleback Farm). An end of year project completion is still possible albeit the project may now extend into early 2016.

4. Nelson County Public Schools: A five year dark fiber lease (2 strands) is being completed with Shentel to enable the company to provide greater bandwidth to the public school's local area network (from NCHS/NMS to both Rockfish and Tye River elementary schools and to the central administration office within the Courthouse). The dark fiber lease will be revenue generating, approximately \$20,000 additional income per year, than the current revenue from leasing of circuits from the network to serve the school division.

5. Additional Service Providers: County staff has had recent meetings with Shentel and Lumos (Residential Small Business – RSB Division) staff to discuss the two companies becoming service providers on the NCBA network. While Shentel provides services to the NC School Division it does not utilize the local network beyond this service. Lumos provides service to the County's local government but is not an ISP on the local network. Final decisions by both companies are pending.

6. Meeting with Ting: County staff will meet with representatives of Ting (which purchased Blue Ridge Internetworks within the past year) on 10-22. The purpose of the meeting will be to discuss possible changes in Ting's services as Network Operator to the NCBA network and Ting's interest in providing 5/5 and symmetrical gigabit plans services to end users (customers), which may require revision to the Authority's rate schedule(s) to accommodate these service levels.

7. Negotiating Neighborhood Builds to Achieve Expanded Customer Base: Attached are two financial projections (Edgewood Park and Horizons Village) for the Authority's review and approval consideration. The premise(s) of this information is that the NCBA will share in the expense of expanding the local network into residential neighborhoods/subdivisions, as a means of achieving an expanded customer base. The investment by NCBA in the neighborhood build out(s) would be recovered within a five year period and those properties that do not initially participate in the network build would be subject to payment of the same amount of the lateral installation cost (the expansion of the network from the middle mile backbone into the neighborhood/subdivision, excluding the installation of the service connection from the lateral expansion to the end user) at such time as these properties would decide to request service from an ISP provider on the NCBA network.

To date, County staff has been meeting with representatives of Edgewood Park (Messrs. Dick Averitt and Howard Ellis) and Horizon Village (Gary Strong) to work to incorporate these two

subdivisions into the NCBA network. The input from the two residential communities is the NCBA should also share in the cost of expanding/extending the local network in order to increase the Authority's overall customer base. The present concern with the Authority incurring additional expense to share the cost to expand the network into neighborhoods/subdivisions is, simply put, having the financial capacity to do so. Therefore, it is critically important, if the Authority is amenable to the strategy(s) contained in the attached financial analyses that the Authority is able to recover the investment (albeit over time) from revenues realized from the increase in the network's customer base and do so within an appropriate period of time, which at present is "considered" to be no more than five year (this comports to the five year ability of customers to amortize their installation costs). Assuming that the Authority can at minimum recover its financial outlay(s) within five years and have the potential for additional revenue (that would be realized from revenues paid by customers who did not initially agree to establish service through the neighborhood/subdivision expansion project and would, therefore, be subject to pay the same share of the lateral installation cost, which would be additional revenue to the Authority).

The Edgewood Park and Horizons Village neighborhoods are poised to move forward with these two lateral expansion projects, which would result in approximately 34 total new network connections (15 in Edgewood Park and 19 in Horizons Village). Both of these expansions would be completed once the middle mile network is expanded from Martins Store (Routes 6 and 151) to the intersection of Routes 151 and 664, which, as noted, herein, should begin construction later this month (October).

The considerations for the Authority include: 1) Approval of the two lateral expansion projects based upon the projections completed by County staff (which may require modification once the ability to provide service to these neighborhoods is in place). 2) Continuing to approve such lateral expansions on a case by case basis or providing County staff authority to complete such negotiated expansions based upon no net financial loss to the NCBA network. 3) Possibly revising the rate structure or development of a policy that provides specific criteria for the continued expansion of the local network into neighborhoods/subdivisions in which the Authority, as may be necessary, shares the expense of the lateral expansion from the backbone but recovers this cost through revenues realized from an expanded customer base.

Subject to the Authority's review, staff recommends favorable consideration of the two network lateral builds to Edgewood Park and Horizons Village.

8. Network Expansion Plan and NCBA Planning Session: A Request for Proposals (RFP) is pending completion. Staff has discussed the tasks, which are multifaceted, that would be included in the planning project but this work is pending completion but will be accomplished within FY 15-16 (and as soon as possible). A pending decision is the \$30,000 planning grant funding request made to VA-DHCD. It is anticipated that the Department will decide on the County's grant application within the ensuing several weeks. If successful (which is very uncertain) the total available funding for the network planning project would be \$80,000, all of which may or may not be required.

With respect to the Authority's request to conduct a session to discuss short and long range planning, staff's recommendation is to schedule this meeting later in FY 15-16 (perhaps in

December) to enable many of the subjects that are presently in process to either be concluded or brought to a point in which the Authority's participation is required. Staff's consideration in this position is that Authority will be better positioned to discuss the status, present and future, of the NCBA in the ensuing months of FY15-16 rather than at present (there are many things in process that when outcomes are final will better position the Authority to have a more meaningful planning session).

9. Letter from Nelson County Community Cablevision: The letter from the local cable company is included under correspondence in the agenda document. Staff (S. Carter) has not responded to the letter and staff does not concur with the statements made in the letter. Staff can provide comment, as may be necessary, to the Authority on the company's correspondence, and is prepared to respond to the letter if the Authority deems it necessary.

10. Other: Input, questions, etc. from the Authority or from staff (at the meeting on 10-13).

Thank you for your consideration.

Attachments: Edgewood Park Neighborhood Build & Horizons Village Neighborhood Build

Edgewood Park Neighborhood Build

22 Developed Lots (Homes)

Assuming a Take Rate of 70% (15 customers)

Total Lateral Build Cost:	\$25,124
Total Per Customer Share of Lateral Build Cost:	\$1,142

Edgewood Park neighborhood gets connection agreements from 15 customers.

15 customers initially connect and pay \$17,130 of the total build cost.

NCBA invests \$7,994 in completing the neighborhood build.

It is assumed that NCBA will eventually recover most, if not all, of its investment as the remaining 7 customers connect to the network and are charged an equal share (\$1,142) of the total lateral build cost.

In addition, NCBA begins receiving \$25.00 per customer (from the service provider) in revenue upon connection of the customer.

Even if no new customers connect to the network in this neighborhood:

- NCBA recovers the maximum out of pocket expense for the discount offering (\$750 per customer) in 2.5 years.
- NCBA recovers the \$7,994 investment in an additional 21.3 months.
- All NCBA investment is recovered through revenue in 51.3 months or 4.3 years.

Total Cost of Installation to the Customer (does not include the monthly fee for services):

Share of Lateral Installation Cost:	\$1,142
<u>Customer Drop Installation Cost:</u>	<u>\$1,284</u>
Total Installation Cost Per Customer:	\$2,426

October 13, 2015

Total Installation Cost Less \$750 NCBA Discount: \$1,676 (**\$750 discount currently requires 5 year contract with Service Provider.)

Total Monthly Installation Payment per Customer: \$27.93 (Assumes 5 year contract.)

Horizons Village Neighborhood Build

24 Developed Lots (Homes)

19 Letters of Intent to Connect to the Network (80%)

16 Vacant Lots

Total Lateral Build Cost: \$36,097

Total Per Customer Share of Lateral Build Cost: \$1,504

Horizons Village neighborhood gets connection agreements from 19 customers.

19 customers initially connect and pay \$28,576 of the total build cost.

NCBA invests \$7,521 in completing the neighborhood build.

It is assumed that NCBA will eventually recover most, if not all, of its investment as the remaining 5 customers connect to the network and are charged an equal share (\$1,504) of the total lateral build cost.

In addition, NCBA begins receiving \$25.00 per customer (from the service provider) in revenue upon connection of the customer.

Even if no new customers connect to the network in this neighborhood:

- NCBA recovers the maximum out of pocket expense for the discount offering (\$750 per customer) in 2.5 years.
- NCBA recovers the \$7,521 investment in an additional 15.8 months.
- All NCBA investment is recovered through revenue in 45.8 months or 3.8 years.

Total Cost of Installation to the Customer (does not include the monthly fee for services):

Share of Lateral Installation Cost: \$1,504

**Average Customer Drop Installation Cost: \$1,814

Total Installation Cost Per Customer: \$3,318

Total Installation Cost Less \$750 NCBA Discount: \$2,568 (**\$750 discount currently requires 5 year contract with Service Provider.)

Total One-time Payment: \$68.00 (Amount in excess of \$2,500 max for amortization)

Total Monthly Installation Payment per Customer: \$41.67 (Assumes 5 year contract.)

**Distance for drops varies between 200 and 1300 feet. How cost will be allocated per customer is to be determined.

3. BR Tunnel: County staff are working towards completion of the project's Phase 2 (tunnel rehab/restoration, bulkhead removal and trail installation). This entails coordination with VDOT, Woolpert and VA-DCR (possibly VA-DHR) to enable the project to first be publicly bid and, thereafter, construction to begin and be completed. The County will be awarded \$250,000 from VA-DCR's Recreational Trails Program (DCR's program coordinator confirmed this on 10-8) A \$65,000 local match will be required (as the balance of funds from the BRRT Project cannot be used as the local match). Construction bidding of Phase 2 is projected for first quarter of 2016. The County, possibly in partnership with the City of Waynesboro, will submit a Transportation

Alternatives (Grant) Program application to VDOT for Phase 3 (western trail and parking lot) in later October or early November for approximately \$900,000. If successful, this funding will enable the project to be completed.

4. Lovingson Health Care Center: There continues to be three entities interested in the Center. These include Piedmont Housing Alliance, Region Ten CSB and a company located in the Harrisonburg area. PHA would use the building for affordable housing. Region Ten's use would be for assistance living services to its clients. The Harrisonburg based company would use the building for assisted living and memory care services. The Harrisonburg Company has proceeded with a complete analysis of what will be required for its use of the property. No direct negotiations with this company have been completed, other than email messages (i.e. a purchase proposal has not been discussed to date). Both PHA and the Harrisonburg based company, which can operate as a non-profit, have indicated that funding sources other than from traditional lending institutions may be necessary. This could entail County applications for CDBG funding, applications for housing tax credits, etc. County staff have noted their willingness to schedule discussion meetings with staff of VA-DHCR regarding a possible CDBG application (earliest would be first quarter 2016, which might pose a difficult time schedule). In depth negotiations with any of the three interested parties are pending.

5. Radio Project: (See the attached summary of the completed project prepared by Motorola). Count staff convened a meeting on September 17th with representatives of Motorola Corp., RCC and Clear Communications (Supervisor Harvey was also in attendance). The meeting focused on addressing the lack of coverage in the Rockfish Valley, Montebello and Gladstone areas. Next steps will include analyses by Motorola and RCC to assist the County with determining how best to address these concerns. This will require provision of additional funding, the purchase of additional equipment and identifying new tower locations either existing or new. Work is in process.

Mr. Carter noted that the long range plan for the Rockfish Valley was another Tower location. He noted that the State had a site called Bear Den in Albemarle County that would give the County the coverage, subject to more analyses. He noted that staff was exploring that option and may have to get additional funding to do something else; however the State Police option was a good one. Mr. Carter added that Susan Rorrer had conferred with the State Police person the County worked with on High Top and things looked good for use of that tower.

6. CDBG Grant Application for Sewer Line Extension: A decision on the application to VA-DHCD for funding of the project is anticipated in the next several weeks, possibly sooner.

7. EMS & Revenue Recovery Program: See attached report on use of collection agencies (not recommended) and the current trend analysis of Countywide EMS services.

Mr. Carter reported that staff did not think hiring a collection agency should be done; as it did not seem to be a productive thing to do. He added that currently, three notices were sent and the County has had a better collection rate with the new company.

2015 Calls for Service: January - August 2015																	
Agency	Total Dispatches	Total Calls Answered	% of Total Answered	Total Transports	% of Total Transports Answered	NELS	ROSE	ROCK	MONT	GLAD	WINT	AMHR	APPO	BUCK	AUGU	ALBE	DUAL
	NELS	442	45	10.18%	26	2.90%	41	3	1	0	0	0	0	0	0	0	0
ROSE	292	142	48.63%	58	6.47%	12	99	0	0	1	0	10	0	0	0	0	0
ROCK	137	72	52.55%	20	2.23%	2	0	48	0	0	0	0	0	0	4	12	5
MONT	3	3	100.00%	1	0.11%	0	0	0	3	0	0	0	0	0	0	0	0
GLAD	106	101	95.28%	38	4.24%	3	3	0	0	52	0	16	17	10	0	0	0
WINT	139	139	100.00%	81	7.64%	41	52	35	0	0	0	0	0	0	1	0	5
151 Crew	223	223		205	22.88%	51	42	23	0	0	2	6	0	0	0	0	0
29 Crew	697	697		467	52.12%	290	327	50	0	9	0	0	0	0	0	0	0
	<u>2039</u>			<u>896</u>		<u>440</u>	<u>526</u>	<u>157</u>	<u>3</u>	<u>62</u>	<u>2</u>	<u>32</u>	<u>17</u>	<u>10</u>	<u>5</u>	<u>12</u>	<u>10</u>
				<u>1143</u>	Nontransports or Nonresponses												

8. Lynchburg Juvenile Detention Center: Review of a new ten year regional agreement of member jurisdictions is in process and will be presented to the Board for approval consideration prior to the end of FY 15-16. Staff’s review of the draft agreement has not resulted in any concerns with regard to Nelson County’s continued membership and use of the LJDC.

Mr. Carter noted that Lynchburg City owned the facility and it had other region 2000 members in it with Nelson. He added that the agreement renewal was not of any concern to the County at this point and that the County was currently guaranteed one bed.

9. Jefferson Madison Regional Library: Staff (S. Carter) attended the annual meeting of member jurisdictions held on 9-29 at the new Northside Library in Albemarle County. The JMRL’s objectives for FY 16-17 were reported by Exec. Director John Halliday as 1) implement 3rd phase of the Library Pay Plan, 2) additional hours at all libraries, including moving Nelson to 48 hours per week, which is minimum state standard and, 3) creating a Digital Librarian position for IT.

10. Region 2000 Service Authority: The Authority convened a continued meeting on 9-21 in Campbell County. Specific outcomes of the meeting were 1) approval (3-1 with Nelson dissenting) of disbursing \$1.3 million+ in year-end excess revenues to Lynchburg and Campbell County (Appomattox County reversed its previous no vote) 2) proceeding with a project to provide for odor mitigation at the Concord Turnpike Landfill (3-1 with Nelson dissenting), 3) conducting a future operations planning session in October 2015.

October 13, 2015

Mr. Carter noted that in his opinion it was indeterminate if the Authority needed to implement the odor mitigation project now since they were not at any regulatory threshold. He added that there was a large cattle livestock market there that was not included in the odor study.

Mr. Bruguere then asked how one mitigated odor at a landfill and Mr. Carter explained that a misting system would be put around the landfill at outlet points which helped to mitigate the odors. Mr. Carter then reported that Lynchburg City had been taking sludge there and have now changed their processes to make it less odorous. He added that they would be land applying it in the near future and would not be bringing it there anymore.

11. Nelson County Public Schools (Office of Civil Rights Follow-Up): County (Carter, McCann and McGarry) and Division (Comer and Irvin) staffs met on 10-1 to discuss the Division's work to address compliance with OCR findings, as previously reported to the BOS and School Board. The Division has retained BCWH Architects to assist with this responsibility. The meeting on 10-1 was a status on the OCR related improvements the Division wants to initiate in the summer of 2016. The estimated total expense for items ranging from drinking fountains, restrooms, auto lab pit and new bleachers for the old gym, etc. is \$282,279 (excluding AE costs). The more significant considerations pertained to addressing accessibility to the "greenhouse" used for teaching horticulture and providing equal team locker rooms for male and female athletes (Title IX compliance). The latter two subjects included a range of cost estimates of \$163,137 for the least extensive means to address the greenhouse and gym findings to a total cost estimate (excluding AE fees) of \$2,339,779 to construct a new greenhouse and to construct a new athletic field house. As AE fee were not included, County staff requested that the total AE estimated expenses be obtained from BCWH and added to the Division's report for submittal to the Board of Supervisors in October and inclusion as an agenda item for the Board's November 2015 meeting (updated information from the Division is pending receipt).

Mr. Carter noted that the Schools had returned \$200,000 from FY15 to the County and would submit their smaller list of items to be addressed for the Board's consideration.

He then noted that if they were to have a new concession stand; they may have to have more bathrooms etc. He noted that the existing locker room was used for storage and football.

Mr. Bruguere suggested that the Board request a tour of the High School facilities to see what was being discussed.

Mr. Saunders noted he was not sure why they could not expand the greenhouse if the handicap accessible ramps were to take up 1/3 of the current one.

Mr. Carter noted that Dr. Comer and Ms. Irvin were very concerned about costs and doing the best job for the money.

Mr. Carter then suggested he could set it up for two Supervisors to get a tour of the facilities in question and he noted the goal was for the schools to be in a position to have someone on board to do the work over the summer.

October 13, 2015

Ms. Brennan suggested that the full Board do a tour after the afternoon session on November 12th.

12. FY 14-15 Audit Report (CAFR): In process.

13. Personnel: The part-time Finance Technician's position has been filled by Ms. Heather Graham, a Nelson County resident with an MA in Education and significant prior experience in a similar employment position(s). The Assistant Building Code Official's position has been offered to a highly qualified candidate but, to date, not accepted.

Mr. Carter noted that the offered candidate had a degree in Architecture and was certified in all areas of the Building Code. He added that staff would have to follow up with him on negotiating points; however he was interested. Mr. Carter noted that the candidate lived in Williamsburg now and he noted to him that it was preferable for him to live in the County. He then advised that he went to UVA and said he may want to live in Charlottesville; however it was still an ongoing discussion. In conclusion, Mr. Carter noted that none of the other applicants had any certifications.

14. Board Retreat: Staff has confirmed the use of a meeting room at Veritas Winery for the conduct of the retreat either the first or second week of December. Mr. Chip Boyles, Exec. Director of TJPDC has agreed to facilitate the meeting. Pending is confirmation of a date for conducting the retreat.

Mr. Carter suggested considering this in November to which the Board agreed.

15. Department Reports: Included with the 9-8-15 BOS agenda.

16. VDOT HB2 Applications: Three applications for HB2 funding were submitted to VDOT by the 9-30-15 due date. The projects for which funding is being sought include: a) Rt. 151/664 Turn Lane; b) Rt. 29/655 Intersection Improvement; c) Rt. 151/6/638 HSIP Project. The County's applications were facilitated by VDOT-Lynchburg (R. Youngblood) and TJPDC (W. Cockrell) staff,

2. Board Reports

Mr. Saunders and Mr. Harvey had no report.

Ms. Brennan reported the following:

1. Attended the LOKN follow up meeting and Dave Frey described the microburst that occurred and the damage that was done. He noted that there was only one minor injury and the water system worked perfectly. She noted that the State Police had plenty to say about the traffic issue with everyone coming in at the same time; however 50% of the deployment staff left and wouldn't come back so there were not enough people to help with that. She added that they would be working with VDOT on this. Ms. Brennan then noted that the Health Department reported that things went very well from their perspective and there were no food borne problems. She then noted that Emergency Services had 400-500 contacts; they did not have a big enough tent and could not get staff into the event. She added that egress was okay for

October 13, 2015

transport vehicles and they transported ten (10) by ground and two (2) by helicopter. She noted that the helicopter would not come within two miles of laser lights so they had to go meet them. She added that one patient was hospitalized for five (5) days and fully recovered. Ms. Brennan then noted that the LOCKN public relations people said that Nelson County worked so hard to accommodate everyone; even opening the Nelson Center to event staff who had lost all of the personal items during the microburst.

Mr. Harvey asked who had decided to ship everyone to Lynchburg when LOCKN could not open. Mr. Saunders noted that there were some patrons that were already in that area. Mr. Carter noted that the County Administrator's office was not involved but that Ms. Miller and Ms. Kelley were simply trying to find big enough places that could house campers and there was no intent to send them out of the county.

Mr. Bruguere noted that they needed to have a contingency plan for this type of thing and they needed to have their permits all done a month or more ahead and not in the last couple of days beforehand.

Ms. Brennan noted that they were working on that. Mr. Harvey noted it should be boiler plate and Mr. Carter noted that they had to change their transportation plan again. Ms. Brennan added that they had to change a lot and Ms. Miller noted that they would start planning now for next year. It was noted that the transportation issues were largely just because of the microburst.

Mr. Bruguere noted that there were half of the number of vehicle search stations this year and Ms. Brennan noted that there nine (9) rows going in and not as many stations because those people left. She reiterated that LOCKN was working on all of the issues.

2. Attended a meeting at Rockfish Valley Foundation and two FERC people were there. She noted that they looked around the entire area at historic sites and wetlands
3. Attended two JABA meetings
4. Attended the Community Criminal Justice Board Retreat and noted that Nelson had the highest return on surveys
5. Attended the Department of Social Services meeting and noted everything was okay there
6. Participated in an energy meeting in Abingdon
7. Attended an event for Carolyn Albritton and read the Board's resolution
8. Met with Susan Huffman of the Library to discuss ideas for expanding

Mr. Bruguere reported the following:

Mr. Bruguere reported attending the EMS Council meeting and noted that per their correspondence, they wanted the ability to monitor the Sherriff's Department put back on their

October 13, 2015

radios. He added they wanted to be able to receive their traffic so they could know if they were coming to a scene or where they were etc.

Mr. Carter advised that mobile radios had this capability; but portables did not.

Mr. Harvey noted he was against this because he thought they only wanted it to know what was going on in the Sheriff's Department and the County. He added that they should at least wait until after the election to discuss it with the new Sheriff.

Ms. Rorrer noted that a quote had been requested from Clear/Motorola and she pointed out that the Sheriff's verbal approval of this applied only to fire and not rescue. She noted that there were still details to be worked through and she thought it would be best to coordinate all of the changes at once.

Mr. Harvey then stated that the system needed to be completed before they started retouching things.

Following discussion, no action was taken by the Board.

B. Appointments

Ms. McGarry noted that applications had been received for the JAUNT Board and the Region Ten Community Services Board vacancies. She added that previous applicants for the BZA seats had both indicated that they were interested in the Alternate vacancy.

JAUNT Board:

Ms. McGarry reported that an application had been received by Delores Green for the JAUNT Board vacancy. It was noted that she had served on the Board previously and was a retired driver for JAUNT. Mr. Bruguere commented that he was okay with her appointment as long as she was not a current employee.

Mr. Bruguere then moved to approve the appointment of Delores Green to the JAUNT Board and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Board of Zoning Appeals (Alternate)

Ms. McGarry noted that both David Hight and Shelby Bruguere had indicated they would like to be appointed to the BZA Alternate seat and that both had previously applied for the regular seat vacancies.

Ms. Brennan moved to appoint David Hight to the BZA Alternate seat and there was no second.

She then noted that Ms. Bruguere was already serving on the Board of Building Appeals and Mr. Bruguere noted that particular Board had only met once in fifteen years. Ms. McGarry added that

October 13, 2015

Ms. Bruguire had indicated to her that she would like to serve on a Board that was more active as she wanted to be more involved. Mr. Bruguire then noted that Mr. Hight was also already serving on the Service Authority Board.

Ms. Brennan then withdrew her motion and Supervisors agreed by consensus to continue to advertise the vacancy.

Region Ten Community Services Board:

Ms. McGarry noted that the applicant, Dwight McCall was highly qualified and was currently a Ph.D. and counselor who lived in Afton. She noted that she and Mr. Carter had spoken with the Region Ten Executive Director, who was familiar with Dr. McCall and endorsed his appointment.

Ms. Brennan then moved to appoint Dwight McCall, Ph.D. to the Region Ten Community Services Board and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

C. Correspondence

1. Nelson County Emergency Services Council

This item was discussed under item VA 2. Board of Supervisors Reports. See Mr. Bruguire's report.

D. Directives

Supervisors had no directives; but discussed the following:

Supervisors asked if there was still trespassing occurring at the Blue Ridge Tunnel trail in Afton. Mr. Carter noted there was and that he had sent the most recent photos of teens cutting the fence and entering the trail to the Sheriff's Department and the Schools; who could not identify them. He noted that the pictures that had been given back to him were black and white and he then asked for color copies of the photos of them breaking through the fence so he could relook at them.

Ms. Brennan then asked Mr. Carter to check into Bob Carter becoming a consulting party for historic resources. She added that she would get Mr. Carter information on this.

Mr. Saunders then reported that he had gotten the old school bell in Shipman moved and he felt better that it was in a secure place.

Mr. Saunders then noted that he was at the Gladstone Senior Center and they said that the furnace did not work and they were not going to fix it. He suggested asking surrounding counties to contribute to a heating system there.

Mr. Carter noted he thought the Board did repair the furnace system there but he would have to check. Mr. Saunders noted that he thought they were provided with stand-alone heaters. It was suggested that they move out of the building and Mr. Saunders noted that they did not want to do that. He added that they had both a Senior Center and Community Center there that met a couple of times per month. He noted the building was not unsafe but it was not well maintained.

October 13, 2015

Mr. Bruguiere stated that he thought the Board had put enough money into the building and Mr. Saunders noted that he could ask them for an alternative heat plan.

VI. Adjourn and Reconvene for Evening Session

At 4:50 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 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. Saunders called the meeting to order at 7:00 PM, with four (4) Supervisors present to establish a quorum and Mr. Hale being absent.

II. Public Comments

1. Eleanor Amidon, Afton

Ms. Amidon noted that she subscribed to the Nelson County Times and would also like to see the agendas posted on the website. She then noted that there were people in the county who had been studying the floodplain regulations and she noted that the way the Board had dismissed them was confusing. She noted that she understood Mr. Padalino to say that staff wanted to clarify them and make them stronger. She then urged the Board to reconsider them and pass them on to the Planning Commission.

Ms. Amidon then noted that if FERC did permit the building of the Atlantic Coast Pipeline, Dominion would have eminent domain power and would use it. She noted that in West Virginia, they have asked for waivers and had not gotten permits. She again urged the Board to strengthen the County's floodplain regulations before anything happened. She added that if they ignored it then Dominion would ask for waivers.

2. Gary Scott, Findlay Mountain Road Shipman

Mr. Scott noted he was concerned about Wayside Stands and Farm Markets. He noted it was important to not be too restrictive on what was being marketed. He added that he had presented the Board with some alternate language that was used by others and he suggested that they look at the language from Loudon County.

3. David Collins, Berry Hill Road

Mr. Collins noted that he had assumed that any work done in the Floodplain had to be done under the supervision of the Building Inspections Department. He noted that the previous year, he had to do an engineering plan for a fuel tank at Shady s Market. He noted he was sure that a fuel line, even if flowing with gas, would be lighter than water. He added that if there was a flood, while it was in the ground three (3) feet, what was to stop it from popping out of the ground if it was not counter weighted.

4. Jesse Carter, Faber -President of Nelson Farmers Market Board

Mr. Carter urged postponement of Board action on the Farmers Market and Wayside Stand amendments until their Board could fully submit their concerns etc. regarding the proposed language. He added that they wanted the Farmers Market to be vital to the community and it not be hindered.

5. Vicki Wheaton, Faber

Ms. Wheaton noted that she had moved to the County twenty-some years ago and had met Tinker Bryant whose family died in Hurricane Camille. She noted that he had advised that she keep that from happening to anyone else. She then noted that there were higher standards for floodplains that should be adopted. She added that the County had 7 out of 8 high hazard areas as identified by the American Society of Civil Engineers. She noted that a stronger Floodplain Ordinance was imperative since based on history, there would be more severe weather trends. Ms. Wheaton named the high hazard areas and noted that adopting higher standards allowed the county to be involved in a community rating system which decreased flood insurance premiums by giving discounts. She then noted she was asking the Board to reconsider this; which would be prudent based on the history of higher incidence of flooding in the county. Ms. Wheaton then noted that she attended a seminar where a Virginia Tech meteorologist said that the Atlantic Coast Pipeline would have made the Hurricane Camille situation much worse. She noted that he said it would be a matter of when something like this would happen again. She reiterated her request that the Board reconsider the Floodplain Ordinance amendments and refer them to the Planning Commission.

6. Sarah Ray, Nellysford

Ms. Ray asked the Board to reconsider referring the Floodplain Ordinance amendments to the Planning Commission and adopting the highest standards.

7. Jeannie Scott, Shipman

Ms. Scott noted she was the Secretary for the current board of the Nelson Farmers Market Cooperative. She noted that she did have concerns regarding the proposed amendments and noted that the Farmers Market was a half million dollar plus business in the county and they had not had enough time to review the proposed changes. She added that the Farm Market Manager had emailed Mr. Padalino with no response yet and they wanted to know how the amendments would impact the market. She then asked for a delay in action in order to get this dialogue going.

8. Joyce Burton, Afton

Ms. Burton noted that she was involved with Rural Nelson when they had a person that attended meetings and sent out notes about what went on and that now it took weeks for the meeting minutes to be posted. She asked if the Board had considered the idea of posting meeting videos on YouTube; which would be a low cost solution to this for the County.

III. Public Hearings

A. **Public Hearing – Special Use Permit SUP #2015-05 Evans Cabins:** Application to construct six (6) over-night temporary-stay cabins and one (1) full-time residential house along with necessary utilities and access drives, pursuant to §4-1-25a of the Zoning Ordinance. The subject property is located in Beech Grove, Roseland; Tax Map Parcel #31-A-39A; and is 4.99 acres zoned Agricultural (A-1).

Mr. Padalino noted that his office had received the Evans’s special use permit application on June 25, 2015 seeking County approval “to construct six (6) overnight temporary-stay cabins and one (1) full-time residential house along with necessary utilities and access drives.” He added that the applicants had submitted a project narrative for the “Evans’ Cabins Project” including important application details. He then noted that the application included documentation that the applicants had authorized Mr. David L. Collins, LS, PE, to operate as their agent and that Mr. Collins had prepared the Minor Site Plan that was submitted in conjunction with their SUP request.

Mr. Padalino then showed a County Map depicting the property and location noting that the subject property was located on the southern side of Beech Grove Road and was currently undeveloped. He noted that the subject property comprised a total of 4.99-acres and was located in the Agricultural (A-1) zoning district.

Mr. Padalino noted that the Minor Site Plan prepared by David Collins was reviewed on July 8, 2015 by the site plan committee and he had reported the following:

The proposed use would include six (6) cabins totaling 3,456 SF. The proposed project also includes a residential dwelling (estimated at 1,340 SF) which is a permissible by-right use.

- The minor site plan notes that the proposed impervious area would increase to 12.2% (from approximately 1%); and that the project would leave 48% of the property wooded, and would leave 39% of the property in “open” space.
- An extensive tree survey was conducted, identifying existing hardwoods and pines which will be retained during construction and which will leave many mature specimens intact. This preservation of desirable trees will enhance the project, and will help to minimize the visual impact of the new development from the Scenic Byway.

October 13, 2015

- Thirteen (13) parking spaces would be provided. This exceeds the required minimum number of spaces which is nine (9).

Mr. Padalino then reported that VDOT had comments related to the location of the proposed commercial entrance and their comments had been incorporated into a revised site plan.

He noted that the Soil and Water Conservation District was not present; however they had noted that an approved E&S plan and VSMP would be needed if approved. Mr. Padalino then noted that 1.76 acres of land disturbance would occur and a combination of bio-filters and shallow ponding would be utilized.

Mr. Padalino then noted that the Health Department had noted that septic plans would be required for review and that Roger Nelson had been retained to conduct this work and do the preliminary design. He then added that the site had good soils throughout.

Mr. Padalino then reported that the Planning Commission had held their public hearing, there were no speakers, and the Planning Commission had recommended approval.

Mr. Collins then noted that the preliminary soils work showed two (2) possible drain fields.

Mr. Evans, the applicant noted that their plan had been devised over the years. He noted that they had vacationed at Douthat State Park and wanted a facility similar to that and that he and his wife wanted to do this in their retirement. He noted that they wanted to retain as much of the natural setting as possible and wanted to be a part of the community.

The Chair then opened the floor for questions from the Board and Mr. Harvey asked what the term “temporary cabins” meant. Mr. Padalino noted that it meant the cabins would be for temporary stay and would have to be built to building code.

Mr. Harvey then recalled that Route 664 was zoned as Special Enterprise, SE. Mr. Padalino noted that a portion was and Mr. Harvey noted that he thought the whole area was zoned that way and it ran up Route 664 to Cub Creek. Mr. Padalino noted that he had not seen notes on the zoning map about this and Mr. Harvey noted that he thought the Board did a change to the whole area a while ago and it would be worth looking into. Mr. Padalino noted that there were similar enterprises there and he could look more closely at it. Mr. Harvey then reversed course and noted that, on the other hand, those businesses in the subject area did not meet the SE requirements.

Mr. Harvey then asked how they could put seven (7) structures on the same parcel of land and Mr. Padalino explained that they were requesting the special use permit since their use met the definition of a motel. He added that they could not divide the parcel into seven (7) parcels but could have it under an SUP or could get it done under a major site plan per the Ordinance.

Ms. Brennan then asked if it would change anything if the property was zoned SE and Mr. Padalino noted that an SE zoning designation would also require that a special use permit be obtained for the intended use. He then added that the same thing was done on Adial Road and Mr. Padalino read aloud the definition of motel as follows:

“One or more buildings containing individual sleeping rooms designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.”

Mr. David Collins then clarified for the Board that it was his language regarding “temporary stay, structures” and he noted that these would be permanent structures that were used for a temporary period of time.

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

1. Ann Wachmeister, Nellysford

Ms. Wachmeister noted that she was supportive of the Evans’ application. She noted that she owned property on Beech Grove Road and Nelson County needed more places for people to stay. She reiterated her support for the special use permit.

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

Ms. Brennan then moved to approve special use permit SUP #2015-05 for Evans Cabins and Mr. Bruguire seconded the motion.

Mr. Harvey then questioned how the Board could vote on something when they were not positive about the zoning. Ms. Brennan noted that the property was either A1 or SE and Mr. Carter confirmed that the requirements were the same for either district.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

B. Public Hearings – Special Use Permits Monarch Inn and Farm:

Applications for the establishment of “The Monarch”, an inn, restaurant, and spa pursuant to Zoning Ordinance §4-1-13a (“conference center”); §4-1-34a (“restaurants”); and §4-1-44a (“activity center”). The subject property is located at 559 Rockfish School Lane and is identified as Tax Map Parcel #12-A-52, consisting of 114.42 acres zoned Agricultural (A-1).

1. **SUP # 2015-07** Conference Center -4-1-13a
2. **SUP # 2015-08** Restaurant - 4-1-34a
3. **SUP # 2015-09** Activity Center - 4-1-44a

Mr. Padalino noted the three SUP applications: SUP #2015-07 for a Conference Center, SUP #2015-08 for a Restaurant, and SUP #2015-09 for an Activity Center. He noted that the applicants did not own title to the property; however they had the owner’s consent as was required by Ordinance.

October 13, 2015

He noted the following relative to each special use permit:

SUP #2015-07 requested approval for “conference center” (pursuant to §4-1-13a)...

This requested special use would allow for the development and operation of private event spaces with overnight lodging, totaling approximately 45 rooms contained in multiple formats (such as cottages, multi-unit rustic outbuildings, and a main inn).

SUP #2015-08 requested approval for “restaurant” (pursuant to §4-1-34a)...

This requested special use would allow for the development and operation of a full-service restaurant, totaling approximately 4,000 SF with 80 seats at tables plus 20 lounge seats.

SUP #2015-09 requested approval for “activity center” (pursuant to §4-1-44a)...

This requested special use would allow for the development and operation of a spa, totaling approximately 2,500 – 3,500 SF.

Mr. Padalino then noted the property’s location on the County map and then the Zoning map. He noted that there was a small area of floodplain along Paul’s Creek and this was being appropriately addressed. He then noted that the property had a lot of forest and pasture areas and he showed the various views on the property.

Mr. Padalino then noted that the Minor Site Plan contained drawings that portrayed the proposed configuration of the restaurant, spa, and inn (and associated cottages and outbuildings). He added that the Minor Site Plan contained extensive details which were often not determined until the Major Site Plan, which was an indication of the amount of due diligence that the applicants had already undertaken. He added that the project was low impact on the land and that it was environmentally sound.

Mr. Padalino noted that the applicants had provided a Special Permit Portfolio that provided extensive details using both narrative explanations and graphic exhibits. He added that it contained the applicants’ statements about the proposed project’s appropriateness and compatibility (and contained other responses to SUP evaluation criteria as specified in Zoning Ordinance §12-3.)

He noted other considerations for the Board as follows:

- “Since The Monarch was a comprehensive planned development, all three special use permit applications were needed for the plan to be viable. He noted that the applicants requested that all three be viewed as a “package” and considered jointly rather than [separately] in any final action.”
- “Section 12-3-8-b provides that the Board of Supervisors may set a timetable for the establishment of the use on the property, and if none is specified, the limit shall be within twelve months. Mr. Padalino noted the applicants were requesting that the Special Use Permits provide for a minimum of twenty-four months to establish the use based on the

October 13, 2015

expected time to complete the design of the project and then construct the buildings. He noted that they anticipated the design time to take eight to twelve months, and construction approximately a year.”

- “Although not the subject of this application, it was expected that a request for consideration of a stream crossing (requiring a Special Use Permit for activities within the floodplain) for the main entrance pursuant to Section 10 of the ordinance would be submitted when the major site plan was developed.”

Mr. Padalino then reported that the Site Plan was reviewed on July 24, 2015 and the following was noted:

- TJSWCD: Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District indicated that an approved Erosion & Sediment Control Plan and an approved Stormwater Management Plan would be necessary, subsequent to any SUP approval by the BOS.
- VDH: Mr. Tom Eick of the Nelson County Health Department attended the meeting and provided written comments as follows:

“VDH requires commercial developers to enlist the services of Onsite Soil Evaluators (OSE) to provide soil evaluations and system design for onsite sewage treatment and disposal. In addition, a Professional Engineer (PE) is required whenever the waste stream to be generated exceeds residential strength waste, as it would from a restaurant.”

The VDH Office of Drinking Water would need to regulate the construction and operation of any well on the property that is determined to meet the minimum use requirements of a public waterworks, namely, 25, or more people using water from a well, 60, or more, days per year.”

Mr. Padalino noted that the following due diligence had been performed by the applicants:

Drainfield areas and estimated percolation calculations were prepared by Roger Nelson (Air, Soil, and Water Environmental, LLC) during May 2015.

Preliminary hydrogeological analysis report was completed by True North Environmental, LLC on July 17, 2015.

- VDOT: Mr. Jeff Kessler, Virginia Department of Transportation representative, attended the meeting and provided review comments in writing on August 13th. The review comments stated that a VDOT Traffic Impact Statement (ref: 24VAC30-155-60) would be required.

On August 20th, the applicants submitted to VDOT (through their consultant Mr. Erich Strohacker of Green Light Solutions, Inc.) the requested traffic statement. In response, VDOT provided written comments on September 1st which contained the followed

October 13, 2015

requests: *“...we feel weekend traffic will be the highest generator and therefore, request that you add Saturday’s 2-Way Volume and Saturday’s Peak Hour Volumes for each Land Use listed on Table 1 of your analysis. In addition, day traffic generated by the conference center will also need to be addressed. Once these two items are included in the trip generation analysis, the report will be acceptable. Please provide me with the revised report. No further review will be necessary.”*

The applicants then submitted a revised Traffic Impact Statement on September 25th. In response, VDOT provided written comments on October 5th, including the following: –

(Existing): At the intersection of Rockfish Valley Highway and Rockfish School Lane, a southbound right turn taper is currently warranted on Rte. 151.

(Projected): At the intersection of Rockfish Valley Highway and Rockfish School Lane, a southbound right turn lane would be warranted (under full project buildout) on Rte. 151 during Saturday’s peak hour traffic.

VDOT recommends, *“that the County consider requiring the proposed development to fund and construct the warranted right turn taper at the initial stage of development followed by a right turn lane when warranted by the development as a condition of the special use request.”*

Mr. Padalino then noted that regarding transportation planning and VDOT review comments, the applicants have been continuously focused on these transportation issues since the August 12th meeting, and were able to provide more information (and answer your questions) during the review and public hearing. He then asked the Board to consider the following:

The Traffic Impact Statement prepared by Green Light Solutions and submitted to VDOT contained the following conclusions:

- “...standard analysis indicates that a southbound right turn lane is not warranted at the intersection of Rockfish Valley Highway and Rockfish School Lane.”
- “Analysis indicates that site traffic impacts are expected to have a minimal impact to overall traffic operations within the study area for this project. Operational analysis indicates all study area intersection movements are expected to operate at Level of Service B or better with no degradation in levels of service due to site traffic impacts.”
- “Based on the analysis presented in this report, it is not justified for the proposed development to fully mitigate an existing warranted improvement while traffic operation suggest that no improvement are needed based on movement delay measures.”
- My understanding of the transportation elements of this proposed project include the following conclusions:

October 13, 2015

The construction of a right turn lane from Rte. 151 onto Rte. 635 does not seem to be essential since this Traffic Impact Statement indicates that, after full project buildout, the intersection would go from the current “B” level of service to a “B” level of service (as demonstrated in Table 2).

Additionally, the right turn lane is only warranted during the Saturday PM peak hour – the remainder of the analysis does not indicate that a turn lane would be warranted during any other time throughout the remainder of the week.

Finally, the applicants also note that The Monarch operations would not correlate with standard workday hours that are used to calculate “evening peak hours” (i.e. check-in /check-out times don’t correlate with typical 8:00am – 5:00pm workday timing and traffic patterns).

Mr. Padalino noted that in summary, regarding transportation issues, the Supervisors would have to evaluate the evidence and determine whether to impose VDOT’s recommended requirements as part of any approval the Board wished to grant, or not.

Mr. Padalino then noted that per Zoning Ordinance Article 12, Section 3-2, the following criteria must be evaluated when reviewing all requests for Special Use Permits:

A. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate.

Mr. Padalino noted that the Board should consider the Rockfish Valley Community Center and its proximity to Route 151.

B. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;

Mr. Padalino noted he agreed it was in harmony with the uses permitted by right.

C. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and

Mr. Padalino noted that he had touched on the due diligence done by the applicants to date and he noted he was confident they would be responsible.

D. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

Mr. Padalino noted that the site plan incorporated excellent design principals that minimized the detractors of character.

Mr. Padalino noted that the opinion of Staff was that the proposed project, as detailed in the application materials for SUP #2015-07, #2015-08, and #2015-09 and as depicted on the accompanying Minor Site Plan and in the Portfolio, seemed to be satisfactory relative to all four

October 13, 2015

evaluation criteria. Therefore, he recommended approval of Special Use Permits #2015-07, #2015-08, and #2015-09.

Mr. Padalino noted that on September 29, 2015, the Planning Commission voted to recommend approval to the Board.

The Chair then opened the floor for questions from the Board and Mr. Bruguere asked if the Conference Center use allowed for a restaurant or not. Mr. Padalino noted that he was not sure serving food was prohibited in a conference center; however the restaurant was intended to serve the public.

Mr. Mike Matthews and Wendy Summer gave a similar presentation as the one given to the Board in September. They noted additionally that the Inn would be 2-3 stories and would not be a high rise. They also noted that they wanted to restore riparian buffers along Paul's Creek that had been damaged by the recent cattle operation there.

In terms of the traffic study, Mr. Matthews and Ms. Summer noted that the project was a low volume trip generator with peaks that did not match rush hour, they always operated at a B level or better, the Monarch did not change existing conditions, and no turn lane was needed except under the worst case scenario. Mr. Matthews noted that they would withdraw their applications if a turn lane was required as a condition; as it was a deal killer because of cost.

Mr. Bruguere then noted that he appreciated that they sought approval from the adjoining landowners and Ms. Summer noted that they were hoping there was a place on the land for a house for them and they would also be a neighbor.

Mr. Saunders then opened the public hearing on all of the Special Use Permits being considered and the following persons were recognized:

1. Janet Lychock, Nellysford Rockfish School Lane

Ms. Lychock noted that her property was adjacent to the current main entrance of the development. She noted that she was not as opposed to the project; however she had reservations. She noted that she was glad that the Martin cemetery would be protected and maintained and that Mr. Matthews and Ms. Summer had spoken with the Monarch butterfly expert.

Ms. Lychock then noted that it seemed like spot zoning to grant these permits on A-1 property. She added that she was concerned about logistics and traffic overflow related to construction and operation; noting that having the main entrance on Rockfish School Lane would disrupt traffic flow. She noted that she was also concerned that the development might evolve into a music venue and noise tended to reverberate down into the valley there.

Ms. Lychock also stated that the revenue and the jobs should be quantified by the applicants and she added that farmland lost was lost forever. She added that the property was a pristine piece of land and she had hoped it would be put into a conservation easement. In conclusion, Ms. Lychock noted that she thought north Route 151 was losing its rural character.

2. Tony and Elizabeth Smith, Afton

Mr. and Mrs. Smith noted that they had friends and family asking for somewhere to stay in Nelson. They noted that the B&BS were often full and Nelson was losing visitors to other areas. They noted that they had spent a lot of time looking at the project plans and they appreciated the effort made to respect the site and solve the lodging need in a way that appreciated the land. They added that they were agricultural producers and that it was important to have thoughtfully done developments. They added that it was important to enhance the County's tax base in a non-detrimental way.

3. Jill Averritt, Nellysford

Ms. Averitt noted that she supported the project, it fit in with the existing Route 151 businesses, and was sorely needed. She added that the project would be low impact on the environment and was what she'd like to see along Route 151. Ms. Averitt concluded by noting that she thought Nelson County was worth sharing and she wholly supported the project.

4. Michael Zuckerman, Crawford's Knob Lane

Mr. Zuckerman noted that he lived in Paul's Creek Subdivision behind the project property and he encouraged entrepreneurial energies. He noted that the Rockfish Valley was developing fast and traffic was becoming a problem especially getting onto Route 151 from Route 635 (Rockfish School Lane). He then noted that there was a community center, a dumpster site, and a subdivision in the back off of Rockfish School Lane. He noted he thought the inn would be a good thing and would not put a strain on community services. He then noted that there were things allowed that did not need Special Use Permits; such as boarding houses, agriculture, and a corporate training center which was pretty close to a conference center. He added that they could feed attendees and he did not see the need for all of the permits because he thought the uses existed already. Mr. Zuckerman then noted that he did not want to see increased traffic. He reiterated that he would like to see a beautiful Inn there but he did not see the need for the Special Use Permits.

5. Alan Patrick, Nellysford

Mr. Patrick encouraged the Board to vote in favor of the permits and he noted that the applicants had done an excellent job. He added that he had studied the traffic report and if they considered the impact from new people coming into the northern and central area, then more traffic than this would be generated. He added that he was not sure that one developer should be responsible for solving a traffic problem that has been growing. He then noted that the Board should consider the benefits of tax revenue that would come in and the project seemed like a huge benefit to the community as a whole. He then added that Fiber was going right down the road and it provided an opportunity for another business to connect to the County's Broadband network which would allow for it to be built out further. Mr. Patrick then reiterated his support for the approval of the special use permits.

6. Maggie Buchanan, Paul's Creek Subdivision

Ms. Buchanan noted she was concerned about the intersection of Route 635 and Route 151; however, she appreciated that the applicants were looking for ways to take entryways off of Route 151. She then noted that she walked along Rockfish School Lane and was concerned about the narrow section of road along the property. She then noted that she appreciated that the project related to the health of the land and the maintenance of its rural character; however she was concerned about safety and aesthetics there. She added that she thought the other entryways would become service entryways. Ms. Buchannan then noted that she did not know what kinds of protections to the community existed down the road if they were no longer there or if the property was sold or expanded and the Board should consider this in making their decision.

7. Steven Patrick, Nellysford

Mr. Patrick stated that he supported the special use permit applications and noted that the project would be an asset to the community. He noted that he knew there was a need for lodging and this would be a good thing for the county. He added that Route 151 was growing and they would not have had the opportunities they have had without it. He noted that this was just another phase of business and he was in support of it.

8. Mitchell and Tina Barker, Paul's Creek Subdivision

Mr. and Ms. Barker noted that they had farmed the land for a long time and were in support of the project. They stated that the plans the applicants had would give back to the community. They reiterated that they were in favor of the project and were pleased with how the applicants had handled themselves with the neighbors. Ms. Barker noted that she believed that the property should be shared with others as others would think it as beautiful as they did. Ms. Barker then noted that she walked the road three days per week; and noted that where the entrance was, there was a 100 yard stint and she did not see traffic being a problem there. Mr. and Mrs. Barker noted that the applicants had more than done their homework to bring something of value to the county and that they cared about the land as much as they did.

9. Barbara Funke, Paul's Creek Subdivision

Ms. Funke noted that she had a personal perspective; that the county was growing and it would need to be addressed. She noted that the proposed project was world class and that she ran a wedding venue in the county that only had ten rooms on site. She added that there was a need for lodging for events and that they had bus-loads of people that wanted to sleep in the county. She then noted that the Wintergreen Conference Center was not open during ski season since that was where they housed the equipment rental area.

10. Anne Wachmeister, Nellysford

Ms. Wachmeister noted she was the owner of Blue Haven 151 and could speak to this from a B&B perspective. She noted that there was a tremendous need for more quality accommodations and she

October 13, 2015

appreciated the fact that the applicants wanted to preserve what was there. She added that she hoped the Board approved the permits.

11. Jim Craig, Paul's Creek Subdivision

Mr. Craig noted he had no opinion on the subject; however he had a picture of Rockfish School Lane and he noted this was a Lane not a two lane road. He added that he was concerned about construction traffic and there was only tar and gravel on the road. He noted it had been patched but that did not hold up. Mr. Craig noted that if one were to meet a bus coming in or out it was very narrow there. Mr. Craig then reiterated his concern about the road holding up.

12. Marlo Allen, Nellysford

Ms. Allen asked the Board to support the project. She noted that she was speaking as a long standing native of the county and graduate of the old Rockfish School before it was a community center. She noted that the property was a beautiful place and it would be a blessing to open it up to others. She added that there were a lot of positives in doing so and it would be a win-win proposition. Ms. Allen noted that the applicants had taken the high road on every aspect of the proposed project. She then noted that safety was a concern and improvements were needed on Route 151; however she noted that those conditions were the same whether the Monarch was there or not. She added that the trash site generated far more traffic than the Monarch would and she hoped the Board approved it.

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

Mr. Bruguiere then asked about the size of the right of way on Rockfish School Lane and Mr. Harvey noted he thought there was a 35 ft. prescriptive easement there. Mr. Bruguiere then noted that he encouraged the developers to allow leeway for VDOT road widening there.

Ms. Brennan then noted she appreciated everyone coming out about the project. She noted that she thought it was a remarkable project and she looked forward to having it in the community. She noted that she was concerned about traffic; however she did not think the onus should fall on the applicants. She added that VDOT needed to be worked with on solutions. She noted that the County was in the process of doing a Route 151 corridor study and she hoped to come up with solutions. She noted that the whole corridor was becoming difficult and she was concerned for residents there.

Mr. Harvey noted that traffic was always a concern on Route 151. He added that Route 635 (Rockfish School Lane) was a concern, however it was not a through road; so excluding the community center and trash site, 90% of the traffic was from people that lived there. Mr. Harvey added that hopefully patrons of the Monarch would respect the local traffic and runners etc.

Mr. Harvey then noted that the intersection of Route 151 and Route 635 had been approved for a right turn lane improvement. He noted that most of the traffic there had been created by the Board when the trash site was located there. He added that it was the busiest site in the County and he thought that the Board could push VDOT to improve Route 635. He then noted that he thought that

October 13, 2015

someone would buy the property and develop it no matter what, the County was fortunate to have a project of this caliber proposed there, and he was very impressed by it. He added that it was fortunate that the applicants were taking into account the environment and he thought the property would be much better off afterwards than it was now. Mr. Harvey then noted that he would rather see that kind of development than subdivisions and he thought the project would provide a great service and would not be a high traffic generator. Mr. Harvey then noted that he whole heartedly supported it and wished everyone that came to the county had the same amount of caring as the applicants.

Mr. Saunders noted he echoed all of the Supervisors' comments and he agreed that lodging was needed in the County. He added that the traffic on Route 151 would always be a problem; however he did not think the project was the traffic generator.

Mr. Harvey then moved to approve special use permits #2015-07 to #2015-09 for Monarch Inn and Farms and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Mr. Saunders then brought to the attention of the Board that the applicants had also asked for a 24 month timeframe over and above the 12 months allowed by the Ordinance. Mr. Harvey then moved that for the Monarch approval, they include an allowance of 24 months to start construction instead of the 12 months allowed and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

C. **Public Hearing - Proposed Ordinance Amendment (O2015-09)**
Chapter 9, Planning, Agricultural and Forestal Districts: Proposed expansion of the Davis Creek Ag Forestal District 165.08 acres total, Parcel #44-A-29B – Michael Scelzi – 165.08 acres

D. **Public Hearing - Proposed Ordinance Amendment (O2015-10)**
Chapter 9, Planning, Agricultural and Forestal Districts: Proposed expansion of the Greenfield Ag Forestal District 258.43 acres total, Parcel #12-A-113A – Erin Johnson and Kim Grosner – 3.83 acres, Parcel #13-A-35C – Freeman Mowrer and Mary Connolly Mowrer – 12.6 acres, Parcel #24-A-8 – Aristedes Avgeris and Despina Avgeris – 74.5 acres, Parcel #24-3-Y – Thomas E. Proulx, Phillipa Proulx, and Maya Proulx – 5.43 acres, Parcel #24-4-B – Paul Gifford Childs and Amy Larson Childs – 162.07 acres

Mr. Saunders noted that the Board would hear presentations on both Ag Forestal District expansions from Mr. Padalino and then public hearings would be held on both; however they would be voted on separately.

Davis Creek Ag Forestal District Expansion:

Mr. Padalino reported the following relative to the Davis Creek Ag Forestal District (AFD) expansion:

October 13, 2015

He noted that the date the application was received was May 26, 2015, total size of the proposed expansion: 165.08 acres, parcels and property owners in proposed addition: 1 total property owner / 1 total parcel, parcel #44-A-29B owned by Michael Scelzi with a total of 165.08 acres.

Mr. Padalino noted that the Advisory Committee reviewed the application on June 29th and unanimously voted to recommend to the Planning Commission and the Board of Supervisors that they approve this proposed expansion of the existing Davis Creek AFD. He then noted that after conducting a public hearing, the Planning Commission voted to recommend approval of this proposed expansion of the existing Davis Creek AFD. Mr. Padalino then noted that the applicant had requested a 4-year “term” (review period) however, the review period for the existing Davis Creek AFD had previously been established in 2003 as a 5-year term by the Board of Supervisors. He noted therefore the request for a 4-year term appeared to be invalid and the request had been withdrawn.

Greenfield Ag Forestal District Expansion:

Mr. Padalino related the following relative to the proposed Greenfield Ag Forestal District (AFD) expansion. He noted that the application had been received on June 1, 2015, the total size of the proposed expansion was 258.43 acres, parcels and property owners in the proposed addition included 5 total property owners / 5 total parcels as follows:

- Parcel #12-A-113A – Erin Johnson and Kim Grosner – 3.83 acres
- Parcel #13-A-35C – Freeman Mowrer and Mary Connolly Mowrer – 12.6 acres
- Parcel #24-A-8 – Aristedes Avgeris and Despina Avgeris – 74.5 acres
- Parcel #24-3-Y – Thomas E. Proulx, Phillipa Proulx, and Maya Proulx – 5.43 acres
- Parcel #24-4-B – Paul Gifford Childs and Amy Larson Childs – 162.07 acres

He then reviewed a map showing the current parcels and noted that Gifford Childs’s property was partially in Albemarle County so a notice had been sent to Albemarle County regarding the addition and no comments had been received.

Mr. Padalino then noted that the Advisory Committee reviewed the application on June 29th and unanimously voted to recommend to the Planning Commission and the Board of Supervisors that they approve the proposed addition of all parcels to the Greenfield AFD. He noted that after holding a public hearing, the Planning Commission voted to recommend approval to the Board.

Mr. Bruguiere noted he thought the parcels had to be contiguous and Mr. Padalino noted that was relative to the core requirements and he noted that all of the parcels in question were eligible. Mr. Harvey added that they did not have to be contiguous if they were within a mile of the core and there were no minimum acreages for expansions. Mr. Padalino confirmed that parcel size was a factor in establishing an AFD, but not in expanding it.

Ms. Brennan then thanked Joyce Burton for putting the Greenfield Ag Forestal District together and for helping others to join it.

October 13, 2015

Mr. Saunders then opened the public hearing on both the Davis Creek Ag Forestal District expansion as presented in **O2015-09** and the Greenfield Ag Forestal District expansion as presented in **O2015-10** and the following persons were recognized:

1. Joyce Burton, Greenfield

Ms. Burton noted she was thankful for the Board's support for the AFDs especially the new Greenfield AFD. She added that they were vital to preserve the rural character of the County and she hoped they would keep this in mind in protecting the vision and natural beauty of the land.

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

Ms. Brennan then moved to approve Ordinance **O2015-09** for expansion of the Davis Creek Ag Forestal District with a five year review period and Mr. Bruguere seconded the motion.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following Ordinance was adopted:

ORDINANCE O2015-09
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 9 "PLANNING AND DEVELOPMENT," ARTICLE V,
"AGRICULTURAL AND FORESTAL DISTRICTS"
EXPANSION OF THE DAVIS CREEK
AGRICULTURAL & FORESTAL DISTRICT

WHEREAS, Mr. Michael Scelzi has filed application #2015-05 to expand the Davis Creek Agricultural and Forestal District along Grape Lawn drive, Huffman Way, and Davis Creek Lane onto Perry Lane for a total addition of **165.08** acres; and

WHEREAS, the new parcel to be added to the Davis Creek Agricultural and Forestal area is as follows:

Parcel #44-A-29B – Michael Scelzi – 165.08 acres, and

WHEREAS, all of the property owners voluntarily agreed to subject their properties to the requirements stated in Section 9-202 of the Code of Nelson County and in addition, the following conditions will also apply:

- a. No parcel within the District shall be developed to a use more intensive than that existing on the date of creation of the district, other than uses resulting in more intensive agricultural or forestal production;
- b. Parcels of land within the District may only be subdivided by purchase or gift to immediate family members. However, subdivided parcels shall remain in the District for at least until the time of the next scheduled District renewal; and

October 13, 2015

- c. Parcels of land within the District may be sold in their entirety to a non-family member during the term of the District. However, the parcel under new ownership shall remain in the District at least until the time of the next scheduled District renewal; and
- d. Membership in this AFD does not preclude building a home on land on which no structure exists, or construction of guest house, garage, workshop, barn or similar auxiliary structure as allowed by County Regulations.
- e. The period before first review is five (5) years; and

WHEREAS, all procedural matters have been completed pursuant to §15.2-4300 et seq. of the Code of Virginia, 1950 as amended and pursuant Article V, Agricultural and Forestal Districts of the Code of Nelson County; and

WHEREAS, after reviewing the Planning Department's report, the Agricultural and Forestal Districts Advisory Committee's recommendation, and considering the comments from the public received at its public hearing held on **October 13, 2015**, it is the Board's finding that there are significant agricultural and forestal lands within the proposed expanded District and that they meet the requirements for such designation;

NOW THEREFORE BE IT ORDAINED, by the Nelson County Board of Supervisors that Chapter 9 "Planning and Development," Article V, "Agricultural and Forestal Districts" be amended to expand the Davis Creek Agricultural and Forestal District as proposed with the conditions (restrictions) as stated in the applications; which each property owner voluntarily agreed to place on his and/or her property; and

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

Mr. Harvey then moved to approve Ordinance **O2015-10**, Amendment of the Code of Nelson County Virginia, Chapter 9 Planning and Development, Article V, Agricultural and Forestal Districts, Expansion of the Greenfield Agricultural and Forestal District and Ms. Brennan seconded the motion.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following Ordinance was adopted:

ORDINANCE O2015-10
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 9 "PLANNING AND DEVELOPMENT," ARTICLE V,
"AGRICULTURAL AND FORESTAL DISTRICTS"
EXPANSION OF THE GREENFIELD AGRICULTURAL AND FORESTAL DISTRICT

WHEREAS, Ms. Joyce Burton has filed application #2015-06 to expand the Greenfield Agricultural and Forestal District centered along Greenfield Road (Rte. 635) near Shannon

October 13, 2015

Farm Lane (Rte. 843), roughly following the route of the North Fork of the Rockfish River starting near the intersection of Rte. 151 and Pounding Branch Road (Rte. 709), extending due south in a nearly continuous swath for approximately 5.1 miles, and ending just south of the river's North/South Fork confluence (near the intersection of Rte. 6 and Hill Hollow Road/Rte. 810) and extending NW and SE to include properties flanking Rte. 633 (Blundell Hollow and Taylor Creek Roads) for a total addition of **258.43** acres; and

WHEREAS, the new parcels to be added to Greenfield Agricultural and Forestal District are as follows:

Parcel #12-A-113A – Erin Johnson and Kim Grosner – 3.83 acres

Parcel #13-A-35C – Freeman Mowrer and Mary Connolly Mowrer – 12.6 acres

Parcel #24-A-8 – Aristedes Avgeris and Despina Avgeris – 74.5 acres

Parcel #24-3-Y – Thomas E. Proulx, Phillipa Proulx, and Maya Proulx – 5.43 acres

Parcel #24-4-B – Paul Gifford Childs and Amy Larson Childs – 162.07 acres, and

WHEREAS, all of the property owners voluntarily agreed to subject their properties to the requirements stated in Section 9-202 of the Code of Nelson County and in addition, the following conditions will also apply:

- a. No parcel within the District shall be developed to a use more intensive than that existing on the date of creation of the district, other than uses resulting in more intensive agricultural or forestal production;
- b. Parcels of land within the District may only be subdivided by purchase or gift to immediate family members. However, subdivided parcels shall remain in the District for at least until the time of the next scheduled District renewal; and
- c. Parcels of land within the District may be sold in their entirety to a non-family member during the term of the District. However, the parcel under new ownership shall remain in the District at least until the time of the next scheduled District renewal; and
- d. Membership in this AFD does not preclude building a home on land on which no structure exists, or construction of guest house, garage, workshop, barn or similar auxiliary structure as allowed by County Regulations.
- e. The period before first review is five (5) years; and

WHEREAS, all procedural matters have been completed pursuant to §15.2-4300 et seq. of the Code of Virginia, 1950 as amended and pursuant Article V, Agricultural and Forestal Districts of the Code of Nelson County; and

WHEREAS, after reviewing the Planning Department's report, the Agricultural and Forestal Districts Advisory Committee's recommendation, and considering the comments from the public received at its public hearing held on **October 13, 2015**, it is the Board's finding that there are

October 13, 2015

significant agricultural and forestal lands within the proposed expanded Districts and the newly proposed District and that they meet the requirements for such designation;

NOW THEREFORE BE IT ORDAINED, by the Nelson County Board of Supervisors that the Code of Nelson County, Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts” be amended to expand the Greenfield Agricultural and Forestal District as proposed with the conditions (restrictions) as stated in the applications; which each property owner voluntarily agreed to place on his and/or her property; and

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

E. **Public Hearing - Disposition of Public Property – Massies Mill:**
Proposed disposition of County property located at 961 Tan Yard Road, Massies Mill, Virginia, Tax Map # 55-A-26.

Mr. Saunders suggested considering this item last in order to accommodate those from the public in attendance for item F and Supervisors agreed by consensus.

Mr. Carter noted that the Board had previously asked about the disposal of a portion of Tax Map 55-26A located at 961 Tan Yard Road. He noted that background information had been given to the Board and the property footprint was shown. He then noted that the Board would have to hold a public hearing on the disposal of public property.

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

Mr. Bruguiere then noted that he thought the basement floor was still intact; however there was six to seven feet of dirt on top of it. He added that this should not affect putting a building on the site.

Mr. Carter then advised that the County could accept proposals, could auction it, or dispose of it however they wanted. Mr. Carter confirmed the acreage in question was 2.7 acres and Mr. Harvey noted his agreement as long as the County retained everything it needed to keep.

Mr. Bruguiere then suggested holding a public auction for the sale of the property.

Ms. Brennan then moved to advertise the property for a public auction and Mr. Bruguiere seconded the motion.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

F. **Public Hearing - Proposed Zoning Ordinance Amendments (O2015-11):** Proposed Amendments to Article 2 Definitions “Wayside Stands” and “Farmers Markets”, Article 4 Agricultural A-1, Article 8: Business District (B-1), and Article 8B: Service Enterprise District (SE-1)

Supervisors agreed by consensus to consider this prior to Item E. in order to accommodate those from the public in attendance for this matter.

Mr. Padalino noted that there was a lot of history involved with the proposed Amendments. He noted that agricultural producers had benefited from the deregulation of on farm sales and there were many protections for them on the farm. He noted that in contrast, those protections were not geared towards off farm agricultural sales.

Mr. Padalino noted that the proposed Amendments related to Farmers Markets and Wayside Stands would newly establish a Farmers Market category which was not provided for in the Ordinance. He noted that for new ones, there would be a Special Use in the B-1, B-2, and SE -1 districts.

He then noted that the amendments would substantially revise Wayside Stands **by creating new definitions and new regulations. He noted that these have been an odd type of land use because no review has been required even though they have the same impact as a more permanent type of business.**

Mr. Padalino noted that the proposed amendments would address the fact that “farmers market” was not currently defined or provided for by Ordinance, yet was something that currently existed in Nelson County.

He also noted that the proposed amendments would improve the “wayside stand” provisions in the following ways:

- They would bring clarity and consistency to the current provision (§4-11-2), which was extremely vague and which currently lacked any clear methods or criteria for applying for, reviewing, approving, or denying these types of administrative permits.
- They would create two separate categories or classes for the “wayside stand” land use, determined by the type of road it would be located on (or accessed from).
- The two categories would be determined by using VDOT’s “Functional Classification Code” to treat some wayside stands as a by-right use, while treating other wayside stands (on busier roads) to be treated as a special use, all based on the location. This allowed for proposed wayside stands located on smaller roads to be reviewed and approved more easily than proposed wayside stands located on roads with high traffic counts, high rates of speed, or other transportation factors which inherently create more concerns regarding public safety and land use changes.

Mr. Padalino noted that the proposed amendments were the product of six months of work sessions. He noted the Planning Commission held its public hearing and they were recommended for approval. He added that the Board had received the staff report at the August meeting and were now holding a public hearing. He then noted that the Board could act on the proposed amendments, defer them, or send them back to the Planning Commission.

October 13, 2015

Mr. Padalino then showed a slide of the VDOT FCC codes of main roads in the county and noted what the classifications meant.

Mr. Padalino then noted the definitions proposed for Wayside Stand as follows:

Wayside Stand: Any use of land, vehicle(s), equipment, or facility(s) for the off-site retail sale of agricultural products, horticultural products, or merchandise which are produced on an agricultural operation owned or controlled by the seller or the seller's family. Wayside stands are a temporary (non-permanent) land use.

Wayside Stand, Class A: A Wayside Stand which is located on a road with a Functional Classification Code of 115 or higher (as defined by the Virginia Department of Transportation).

Wayside Stand, Class B: A Wayside Stand which is located on a road with a Functional Classification Code of 114 or lower (as defined by the Virginia Department of Transportation), or located within six-hundred sixty (660) feet of an intersection with any road with a FCC of 114 or lower.

Mr. Padalino then noted that six review criteria were proposed for review in administrative permitting. He noted that these were significant issues that could arise, mostly related to access to stands, parking, and configurations. He clarified that the concept of using two categories was so that there was consistency and if a wayside stand was to be on the busiest roads, it should be a special use permit process so staff could see safety plans. He added that this was a policy decision for the Board to make.

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

1. Gary Scott, Shipman

Mr. Scott noted he had no problem with the proposed amendments, however he would be happy to provide input and work with the Board on these. He reiterated that he did not want the language to be restrictive in what could be sold at Farmers Markets and he would like the matter to be deferred until the Farm Market Board could consider the language.

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

Mr. Saunders noted his surprise that no one saw the proposed amendments when they went through the Planning Commission. He agreed that he did not want to restrict things too much and he noted that the Planning Commission had spent a lot of time on this and no one had come forward then to offer input. Ms. Brennan noted that people tended to not go to the Planning Commission meetings and then came to the Board meetings and it was disconcerting.

Mr. Carter suggested deferring the matter for another month which was the Board's prerogative.

Mr. Harvey then moved to defer action on the proposed amendments and Ms. Brennan seconded the motion.

October 13, 2015

Mr. Carter noted that this should not be viewed a negative towards Mr. Padalino or the Planning Commission; but that it was the right thing to do. Mr. Saunders noted he wanted to work with the Farmers Market and they were trying to make it as easy as possible. He then encouraged them to get in touch with Mr. Padalino. Mr. Carter noted that Mr. Payne had advised that the Board could send it back to the Planning Commission; however it did not have to.

Mr. Bruguiere then suggested that the Farmers Market may not be in the same location forever.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

IV. Other Business (As May Be Presented)

There was no other business considered by the Board.

V. Adjournment

At 9:35 PM, Mr. Harvey moved to adjourn the meeting and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the meeting adjourned.