

September 13, 2011

**Virginia:**

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

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

Absent: None

**I. Call to Order**

Mr. Johnson called the meeting to order at 2:07 pm, with three (3) Supervisors present to establish a quorum and Mr. Harvey and Mr. Bruguire joining the meeting at 2:10 pm and 4:40 pm respectively.

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

**II. Consent Agenda**

Mr. Hale questioned the purpose of adopting resolutions and inquired as to who would see them, citing the Domestic Violence Awareness resolution as an example. Mr. Carter noted that they were done to be recorded in the official meeting minutes and members noted that resolutions such as the Domestic Violence Awareness Month one were important to organizations. Ms. Brennan suggested using a proclamation instead of a resolution for things such as that in the future.

Ms. Brennan then moved to approve the consent agenda and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (3-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – **R2011-70** Minutes for Approval (Deferred)

**RESOLUTION-R2011-70  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MEETING MINUTES  
(July 5, 2011 and July 9, 2011)**

September 13, 2011

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board's meetings conducted on **July 5, 2011 and July 9, 2011** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2011-76** Minutes for Approval

**RESOLUTION-R2011-76**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF MEETING MINUTES**  
**(July 12, 2011, July 28, 2011, August 9, 2011, August 25, 2011, and**  
**September 7, 2011)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board's meetings conducted on **July 12, 2011, July 28, 2011, August 9, 2011, August 25, 2011, and September 7, 2011** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

C. Resolution – **R2011-77** COR Refunds

**RESOLUTION-R2011-77**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF COMMISSIONER OF REVENUE REFUNDS**

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

<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$ 444.67	Real Estate Taxes –Disabled Veteran Relief Act	Wesley Hull 1416 Howardsville Dr. Howardsville, VA 22993

D. Resolution – **R2011-78** FY11-12 Budget Amendment

**RESOLUTION R2011-78**  
**AMENDMENT OF FISCAL YEAR 2011-2012 BUDGET**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**NELSON COUNTY, VA**  
**September 13, 2011**

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

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

September 13, 2011

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 1,775.00	3-100-009999-0001	4-100-091030-5656
\$ 1,500.00	3-100-009999-0001	4-100-031020-5419
<u>\$ 3,275.00</u>		

E. Resolution – **R2011-79** Domestic Violence Awareness Month – October

**RESOLUTION R2011-79  
NELSON COUNTY BOARD OF SUPERVISORS  
RESOLUTION PROCLAIMING OCTOBER 2011  
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, affecting individuals and society as a whole; 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 done to prevent such violence, support victims/survivors and their families, and increase support for agencies providing services to those community members; and

**WHEREAS**, for 32 years, the Shelter for Help in Emergency has led the way in Nelson County and five surrounding communities of Planning District 10 providing unparalleled services to women, children and men who have been victimized by domestic violence. These services include 24-hour crisis hotline, safe shelter, case management and support services, legal advocacy, information and referral and safety planning; and

**WHEREAS**, In 2011, in Nelson County and the five surrounding counties of Planning District 10, the Shelter for Help in Emergency offered 24-hour intervention and referrals in response to 801

September 13, 2011

hotline calls; safe shelter to 115 women and 102 children, for a total of 3,981 nights; over 4,000 hours of advocacy and counseling; including advocacy services to 134 women who did not stay in our residential facility; provided information and educational materials to over 10,000 members of the community; with support from 7,500 volunteer hours;

**NOW THEREFORE, BE IT RESOLVED**, in recognition of the important work being done by the Shelter for Help in Emergency, that the Nelson County Board of Supervisors, do hereby proclaim the month of October 2011 as DOMESTIC VIOLENCE AWARENESS MONTH, and urges all citizens to actively participate in the scheduled activities and programs sponsored by the Shelter for Help in Emergency, and to work toward the elimination of personal and institutional violence against women, children and men.

Mr. Harvey then joined the meeting at 2:10 pm

### **III. Public Comments and Presentations**

#### **A. Public Comments**

##### **1. Kenneth White, 93 Shields Gap Road, President of VTA**

Mr. White distributed and read aloud the following prepared statement:

Mr. Chairman and members of the Board, my name IS Kenneth White, 93 Shields Gap Road, Roseland, and I am President of the Virginia Taxpayers Association. Since our August 11, 2011 Statement to your Board, including among other things the fact that studies have shown that passengers' perspiring armpits can set off alarms on "anti-terrorist" full body scanner machines, Germany has announced that these dangerous carcinogenic machines will no longer be used in that nation because their signals are also obviously useless.

So you see again that the VTA's superior knowledge has saved significant cost and undesirable problems for the Board of Supervisors when we correctly compelled former Nelson Board Chairman Constance Brennan to officially announce full body scanners will not be used in the newly enlarged Nelson County Courthouse. More recently former Gov. Jesse Ventura of Minnesota has filed suit in U. S. District Court against the Transportation Security Agency and Homeland Security Secretary Janet Napolitano for forcing him to choose between going through these dangerous machines or being offensively groped in his underwear by TSA personnel when going to an airport for a commercial flight.

Nelson County is now encountering a new police state issue, in a totally different area from the foregoing. The County Service Authority is considering whether it might discontinue fluoridation of water, which would save the county approximately 100,000 bucks annually. Attached is an article from the August 11, 2011 Pottstown, Pennsylvania *Mercury*, reporting that the Pottstown Borough Authority had voted to remove fluoride from the public water supply, at an annual savings of approximately 55,000. Significant in the article is that in Pennsylvania roughly 110 water systems add fluoride to their water, while 2,065 do not. The article does mention that over the past 10 years a large body of peer-reviewed science has raised concerns that fluoride may present unreasonable health risks, particularly

September 13, 2011

among children. It also says that fluoride is more toxic than lead, and only slightly less toxic than arsenic.

What the article does not say, because of police state-type censorship affected by the American Dental Association, is that over the years, fluoride is carcinogenic. In Europe, use of fluoride is forbidden. If you examine fine print on any tube of fluoride toothpaste, you will find the words: "If more than used for brushing is accidentally swallowed, get medical help or contact a Poison Control Center right away." While calcium fluoride is beneficial to the human body, sodium fluoride, which is used in toothpaste, is a byproduct of aluminum manufacturing and is a form of rat poison.

Profits to fluoride producers from this processing in many millions of toothpaste tubes are enormous, and there can be no question but that unreported passing some of these sums to top individuals heading the FDA has totally corrupted that agency, which uninformed citizens are hoping is protecting their health. Further in the police state area, which you can verify in a number of websites accessed by Google, is that fluoride was used in both Nazi and Communist concentration camps during World War II and after, because the dictators found that fluoride dulled minds and made prisoners more docile and easier to handle. And so today, powerful forces in the U. S. are effectively using fluoride as one mostly hidden weapon toward mass mind control and prevention of riots. So in Nelson County, there can be no question about discontinuing use of fluoride in the county's water system without delay, both for significant cost savings for our taxpayers and for removing one barrier to desirable active citizenship.

Going back to the major issue of placing a metal detector in the main entrance of the new courthouse which all individuals entering the courthouse, considered as "possible terrorists", would be compelled to go through, we again demand that your Board withdraw and repeal the aforesaid unlawful decision, and provide that metal detectors shall be used only at entrances to district and circuit courts when the courts are actually in session, to properly protect judges of these courts. Finally, in view of all the significant information VTA has provided to your Board in 32 consecutive regular monthly Board meetings, why is it that you don't realize that your Board has an unavoidable obligation not to make Nelson County into a police state? That concludes my Statement.

## 2. Dickie Bell, 20th District Rep.

Representative Bell introduced himself formally and noted that local government issues were important to him; he would fairly represent our interests, and looked forward to representing Nelson County.

## 3. Pete Perdue, Afton - Member of Rockfish Valley Senior Group

Mr. Perdue referred to a letter he had sent to the Board relating to transparency in the use of County funds by community organizations. He noted that the Rockfish Valley Senior Group had reported a \$3,700 discrepancy which had been reduced to \$1,289 and then reduced again down to \$89 and he had requested a report as to how this reduction had occurred. He stated that the group's Treasurer was to send a copy of the reconciliation report which was not done and when questioned at a meeting, the President of RSVG refused to discuss it in public. He noted that later it was revealed that the Treasurer had lost the report. He stated that minutes from previous meetings were requested and denied and he had insisted that it was public information since it included public funds received by the group. Mr. Perdue then requested that the County take some action on this matter. He also noted that he had since been

September 13, 2011

barred from attending the meetings and that RVSG is held accountable for activities held in the building by the Fire Department and that all actions of the tenant regarding the policy of who can enter the building must be in accordance with RVFD policy. He again stated that he was asking the Board to address the non-transparency of funds and the barring of citizens from public meetings funded by public funds.

#### 4. Franklin Webb, Arrington

Mr. Webb stated that he could not believe the County and State passed a law as they did. He noted that he had received a tax letter and couldn't transfer a title from a broken down vehicle to another for less than it costs for a new title. He stated that it did not make sense that he could not transfer tags and had to buy new ones. He reported that he had checked with the Treasurer's office and they had charged him with \$101.92 in taxes and he knew the figures were wrong. He stated that he called the Commissioner of Revenue's office and nothing has been done. He then said his taxes dropped to eighty (80) some dollars. He stated that he had reported his car sold and they did not take it off the books and he was still charged personal property taxes. He then added that they took off \$16 for 3 years and at the same time, he was paying three times as much in taxes. He concluded by saying to the Board that when something was upsetting to him he needed to come to the representatives in local government and the Board needed to look around and see what was going on and do what was right for Senior Citizens.

#### 5. Reverend Foster, Shipman

Mr. Foster stated that he was pleased to see that several of the suggestions to the Board that he has made over the years, have happened. He stated he was asking the Board if there was some way to put a traffic light in Colleen where the businesses are. He also asked the Board to consider peoples' lives in Nelson County and to please pay more attention to what was really going on and they might be able to help save some lives. He noted that there were advisory signs in that area but no speed limit signs and that he also was going to the Sheriff's office about speed limits not being observed on Rt. 56 East.

Mr. Johnson advised Mr. Foster that the Board has discussed the safety situation in Colleen with VDOT.

#### B. TJPDC 2012 Legislative Agenda – David Blount

Mr. Blount noted that this was the first of two visits to talk about the legislative program and to get input from the Board on pertinent issues. He noted that the draft would be done in October and the Board's approval sought in November. He added that he had included a summary of priorities from the past year, which was included in the Board's packet, and reiterated that it was a boiled down list.

Mr. Blount then touched on a couple of issues and noted that State and local economies were challenged and he expected to see the General Assembly proceeding cautiously. He added that education re-benchmarking was coming around and that VRS rates were funded to a greater degree than they are now. He summarized by saying that there were financial pressures related to health and human services and public safety.

He then reported that the notion of devolution has gotten renewed interest at the state and that the one line statement in the legislative priorities would be enhanced. He also stated that there were a number of environmental issues that would continue to be issues.

September 13, 2011

In conclusion he noted that if the Board had suggestions or changes he would discuss them today or over the next couple of weeks. He added that there would be an annual legislative forum at the end of November that would focus on the issue of devolution.

Ms. Brennan then asked if he had been working with Maureen Corum on tax legislation related to distilleries and He stated he had not, but that Mr. Carter has spoken with her about it and would send something over to him on it. Ms. Brennan noted she would need to see more information on this before she would decide to support it or not. She then asked Mr. Blount to look at the state level to see if there were some proposed additional taxes for beer production and breweries.

Mr. Hale inquired as to the state's position on devolution and Mr. Blount reported that the interest in it was coming from the Governor's office. He added that VDOT had paid for a study that was done by a professor at George Mason University and that the policy options that were presented included pushing maintenance responsibilities to localities. He noted that the Commonwealth Transportation Board (CTB) was doing a study on street payments and the amount of money being spent to maintain secondary roads. He added that the idea of devolution was also coming from the fact that in recent years there was a growing gap between construction and maintenance funding and that more money was going towards maintenance from construction. He then stated that he has not polled legislators on this, but that they were mindful of pushing things down to localities. Mr. Johnson stated that it was extremely important to educate legislators on this issue, especially the new ones. Mr. Blount noted that it would take about ten (10) years to reach the level of service currently provided by VDOT.

#### C. VDOT Report

Mr. Carter noted that there was no report received by Mr. Hamilton and noted that when he was in Lynchburg he was told that VDOT was thinking about going back to a district type office and that the Board may see Mr. Austin come in the future. He noted his agreement with this since he handles the County's maintenance issues. Mr. Johnson noted he would follow up with him to schedule the drive arounds.

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

#### A. Proposed Ordinance to Amend the Code of Nelson County, Virginia, 1989, As Amended to Include a Local Drought Ordinance (O2011-07)

Mr. Carter noted that the proposed Ordinance had been newly amended as the model ordinance was formatted strangely such that the County was responsible for recording the draught etc. but does not control the public water. He added that he had conferred with Campbell County who had enacted the ordinance as drafted. He then reported that Mr. Payne had suggested inserting relevant Code references and then clarifying who would be responsible for what; using the correct terms. Mr. Carter noted that for example, the County does not have a Public Utility Director. He then added that on the next to the last page 5B, NCSA is to be responsible for any fees to be assessed.

He concluded by reiterating that passage of the ordinance was an incumbent responsibility for the Water Supply Plan to be approved by the state.

September 13, 2011

In response to questions, Mr. Carter noted that Mr. Payne indicated that County Administrator should be used where it did not say NCSA was responsible. He then confirmed that penalties etc would be assessed by NCSA and that this seemed appropriate. He added that he had spoken with George Miller and he noted that he would be consulted related to these decisions and that it only pertained to public water users.

Mr. Hale then moved to approve **O2011-07** An Ordinance to Amend the Code of Nelson County, Virginia 1989 To Include a Local Drought Ordinance and Ms. Brennan seconded the motion.

Mr. Hale advised that NCSA Board members were concerned that this was creating an additional bureaucratic level and that he did not read it to pertain only to the public system. He added that he had spoken to George Miller and he has no problem with the ordinance and noted that they would work together on this. He added that the County's role was to protect the public not punish the public.

Ms. Brennan suggested that the County could educate the public if there is a drought and Mr. Carter confirmed that the initial language pertained to public information that was to be disseminated before the restrictions were put in place

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 O2011-07**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AN ORDINANCE TO AMEND THE CODE OF NELSON COUNTY, VIRGINIA 1989**  
**TO INCLUDE A LOCAL DROUGHT ORDINANCE**

**BE IT HEREBY ORDAINED**, by the Nelson County Board of Supervisors pursuant to §15.2-923 and 924 of the Code of Virginia, 1950 that the Code of Nelson County Virginia, 1989 be hereby amended as follows:

Sec. XX. Authority to declare drought stages and water emergencies.

During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of Nelson County may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the shortage of raw or potable water becomes increasingly more critical, conservation measures to reduce consumption or curtail nonessential water use may be necessary.

The County Administrator is authorized to declare a water emergency in the County restricting the use of water in any area of the County. All drought stages are built upon and require compliance with previous drought stages. For example when a drought warning is declared all provisions of a drought watch are in effect. Also the County Administrator may declare any of the three stages, they do not have to be declared sequentially. (Ord. No. XX)

Sec. XX. Publication of declaration.

September 13, 2011

Upon the declaration of any drought stage, the County Administrator shall immediately post a written notice of the emergency at the front door of the county administration building and shall place a notice in a newspaper of general circulation in the area in which such emergency has been declared. (Ord. No. XX)

Sec. XX. Water use considerations.

Upon the declaration of a water shortage or emergency, the County Administrator is authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage or emergency in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth hereof, the County Administrator shall work closely with the Executive Director of the Nelson County Service Authority and shall give due consideration to water levels, available/usable storage on hand, draw down rates and the projected supply capability in the County; system purification and pumping capacity; daily water consumption and consumption projections of the systems' customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakages, stoppages and leaks; supplementary source data; estimates of minimum essential supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands. (Ord. No. XX)

Sec. XX. Limitation of restrictions.

The provisions of this article shall not apply to any governmental activity, institution, business or industry which shall be declared by the County Administrator, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, business or industry aggrieved by the finding of the County Administrator may appeal that decision to the County Board of Supervisors. (Ord. No. XX)

Sec. XX. Water conservation measures.

Upon a determination by the County Administrator of the existence of the following conditions, the County Administrator shall take the following actions that shall apply to any person whose water supply is furnished from the public water system:

(a) Drought Watch: When moderate but limited supplies of water are available, the County Administrator shall, through appropriate means, call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by whatever methods available.

(b) Drought Warning: When the onset of significant drought conditions is imminent, the County Administrator shall encourage voluntary conservation measures, including, but not limited to, one or more of the following:

(1) The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation, except indoor plantings, greenhouse or nursery stocks and except limited watering for new lawns and watering by commercial nurseries of freshly planted plants upon planting and once a week for five (5) weeks following planting. Athletic fields are also exempt but shall only be watered to match the evaporation-

September 13, 2011

transpiration rate. In all cases where the above exceptions apply, the watering is not to occur between the hours of 8:00 a.m. and 8:00 p.m. Watering with buckets that have a capacity of five (5) or fewer gallons is permitted at any time.

(2) The washing of automobiles, trucks, trailers, boats, buses, airplanes, or any other type of mobile equipment, except in facilities operating with a water recycling system. The facility shall post a notice in public view that a recycling system is in operation. Exceptions are for vector trucks, refuse trucks, septage haulers and buses. Other exceptions must be approved by the County Administrator or a designee and be demonstrated to be necessary for health and safety purposes.

(3) The washing of sidewalks, streets, driveways, parking lots, service stations aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces, unless the use is approved by the County Administrator for health and safety.

(4) The operation of any ornamental fountain or other structure making a similar use of water.

(5) The use of water from fire hydrants for any purpose other than fire suppression unless the use has been approved by the director of utilities.

(6) Water service lines from the meter box to the home or structure shall be maintained and have no visible leaks.

(7) Restaurants may serve water to customers only upon request.

(c) Drought Emergency: When critically limited supplies of water are available, the following additional restrictions shall apply:

1. Watering of athletic fields, courts, etc. is prohibited.
2. All businesses, institutions and governmental entities shall prominently display, at their entrance and in each restroom and shower, signs indicating the current water emergency.
3. All commercial lodging establishments shall adopt a policy which limits the daily changing of washable linens and towels, and communicate that policy to their employees and guests.
4. The use of showers in health, fitness, athletic and social clubs is prohibited, except showers and faucets fitted with low flow or flow-reducing devices.

5. Emergency water rates designed to drive down water use shall be enacted as follows:

The maximum allowable water use at the prevailing rate will be the average water billed in November through April of the previous year. The actual water use will be recorded for each month and the sum divided by the number of months. The result is the allowable water use in hcf. The result will be rounded down to the nearest whole hcf. This is the maximum amount of water use that will be allowed at the prevailing rate in hcf and is termed the base amount. Use of water over this amount is subject to a surcharge of twenty-five percent (25%) up to one hundred percent (100%). The surcharge is calculated by subtracting the base amount from the actual water use and the remaining hcf is multiplied by the prevailing water rate multiplied by as an example 1.25. The total water portion of the bill is the base amount times the prevailing rate, the amount in excess of the base amount at the surcharge rate plus

September 13, 2011

other applicable fees. For accounts less than one year old the base amount is fixed at 11 hcf. Failure to pay the full amount of the bill, when due, can result in water service termination. A fifty dollar (\$50.00) charge will be collected prior to service reconnection.

During a Drought Emergency, the County Administrator shall restrict the use of water to purposes which are absolutely essential to life, health and safety. (Ord. No. XX)

Sec. XX. Penalty and enforcement.

(a) Any person who violates any provision of this article shall be subject to the following civil penalties:

(1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the County.

(2) For the second offense, violators shall be fined fifty dollars (\$50.00), the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.

(3) For the third and each subsequent offense, violators shall be fined one hundred dollars (\$100.00) for each offense, the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.

(4) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.

(5) The County Administrator may suspend water service to any person continuing to violate the provisions of this article or the regulations promulgated thereunder. If such water service is terminated, the person shall pay a reconnection fee of fifty dollars (\$50.00) before service is restored.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the Executive Director of the Nelson County Service Authority within ten (10) days of the date of the assessment of the penalty. The Executive Director or his designee shall determine that the penalty was properly assessed and notify the complaining person in writing of his determination. Should the Executive Director or his designee determine that the penalty was properly assessed, the person may appeal that determination by providing written notice to the Nelson County Service Authority within ten (10) days of receiving the notice determination. The Nelson County Service Authority shall determine whether the penalty was properly assessed and notify the complaining person in writing of its determination.

(c) The Executive Director of the Nelson County Service Authority or his designee may waive the penalty if he determines that the violation occurred due to no fault of the person. (Ord. No. XX)

Sec. XX. Notification of end of water emergency.

The County Administrator shall consult with the Executive Director of the NCSA and shall notify the County Board of Supervisors when, in his opinion, the water emergency situation no longer exists. Upon concurrence of the County Board of Supervisors, the water emergency shall be declared to have ended.

September 13, 2011

When this declaration is made, the information shall be conveyed to the general public through the news media. (Ord. No. XX)

**BE IT FURTHER ORDAINED**, that this Ordinance is effective upon adoption.

**B. Health Department Building**

The Board agreed by consensus to hold consideration of these items until Mr. Bruguere joined the meeting and moved on to reports. At 4:25pm, the Board took a short break before considering item IV B. and at 4:40 pm Mr. Bruguere joined the meeting.

Mr. Carter reported that the County was going to proceed with damage repair from the recent rains on the second floor of the Health Department and the other consideration was what to do with the building: renovate it, demolish it or do nothing. He added that the Board had been provided with the same information as has been provided previously. He noted that after a \$1,000 deductible, the insurance company has authorized the County to do what is necessary to make repairs, but they would not pay for roof replacement. He advised that W.A. Lynch Roofing had patched up the roof but he did not think they could do any more and the patchwork held up after the heavy rain the previous day.

In reference to the broader question of what to do with the building, he noted that the package contained financing scenarios for various options.

Ms. Brennan inquired of the Board if there was any appetite to move the Health Department over to the Afton Medical Center building and then do something with the current building and Mr. Carter noted that he had followed up with MJH on this and has not heard back yet.

The Board discussed other alternatives including the third floor of the Region Ten building; however Mr. Carter noted that that the 3rd floor was not finished and the Health Department was previously concerned with it being too small and he thought there was concern about sharing space with Region Ten staff. The Nelson Center was noted to be a temporary possibility and it was agreed that the Health Department would have to move somewhere whatever they did with the building.

It was suggested that staff should give information on the options to Dr. Peake and let her decide and Mr. Carter noted that Dr. Peake had reminded Richmond staff that there were no responses to previous lease space inquiries.

The Board further discussed the options and Mr. Harvey noted that the old Afton medical building would be available October 1st.

Mr. Hale then reminded Members that the decision that had already been made was to renovate the existing building, Option 1A of the packet materials. He then read minutes from the Board's retreat and noted comments submitted from Roland Kooch regarding the necessity to reprogram savings from debt service towards operations due to the predicted relatively flat revenue growth over the ensuing years.

He suggested that the Board look at Option 1A using a twenty (20) year financing formula which would enable them to renovate the building and have a total of 9,700 square ft. consisting of the existing 8,600

September 13, 2011

sq ft plus a new entrance. He added that money had already been spent on this design and the County could move Extension from the Nelson Center and use Health Department money which would then enable the County to have this paid for from the rents that would be saved and would not require additional capital funding. He noted that this was the basis for the Board's decision in the first place. He added that the other option would require the County to come up with \$2.3 Million in additional funds, which could only be achieved by an increase in the tax rate(s).

Mr. Johnson suggested the Board could use the double payment on the courthouse debt to fund other options.

Mr. Hale then advised the Board that renovation costs \$200 per sq ft and new space would cost \$231 per sq ft. Ms. Brennan indicated her support of Mr. Hale's analysis of renovating the Health Department building. Mr. Hale added that the design has been done and if given the go ahead, Mr. Vaughan could begin ASAP.

Mr. Harvey disagreed and equated this situation to rebuilding buses and stated that the Board needed to do something before they had to tear it down. He proposed to do a three (3) story building and noted that he thought that the Lovingson Health Care Center (LHC) may be an option in three (3) years.

Mr. Johnson stated that he was worried about what was underneath the building in renovating it and stated that if they built a three (3) story building, they could bring back multiple departments and could use the reduced rents and the additional Courthouse payment to cover most of the debt service.

Mr. Carter noted that he believed what Mr. Kooch wrote to the Board in July and that it is possible the County will have flat revenues for a while and that they would not be able to do anything beyond this for a while.

Mr. Harvey reiterated that he did not think renovating was the way to go and likened it to building the new schools versus renovating the old ones. Ms. Brennan countered that there were many renovations of old buildings done that were fine, citing the Nelson Center as an example. Mr. Johnson supposed that rebuilding would save on utility costs.

Mr. Hale noted that another factor to consider was that a new three (3) story building would require a 7,000 square foot footprint which was larger than the current space.

Mr. Harvey then proposed that they use the other property situated on the backside of the parking lot rather than the same footprint and Ms. Brennan questioned what the costs would be to access this property.

Mr. Harvey then reiterated that they would not have to rebuild at the current location stating that the ideal location was the LHC and they could move the Health Department and sit tight.

Both Mr. Hale and Mr. Bruguere stated that they did not want to own the LHC building longterm.

Mr. Johnson supposed that a third choice was to put the Health Department somewhere for four (4) years and renovate the LHC for \$ 2.5 million and put everything there.

September 13, 2011

Mr. Harvey stated that the only choice to be made was renovate it or tear it down now and that if they could put the Health Department somewhere then they could do something with the building.

Mr. Bruguiera noted that he had voted for renovation before because it was presented as a savings of \$500,000. He stated that he never liked the idea and that he thought that the building has had its time. He added that if all they did was build a building for them it would cost \$1.8 million. He suggested that the Board get them out of the building and then make the other decisions. He added that the building has too many problems and Mr. Harvey agreed that there was nothing in the building to save.

Ms. Brennan agreed with the suggestion to move the Health Department out and then sit down and decide to do something. Mr. Harvey noted that they could move out within 30 days.

Mr. Carter noted that the Health Department was looking to the County for options and they have been alerted that moving to the MJH building was an option and he needed to hear back from them.

The Board agreed by consensus that Option 1 was to get them out ASAP into something that worked.

Mr. Hale then moved to instruct staff to explore alternate locations for the Health Department to be relocated as quickly as possible at the least expense to the County and Mr. Harvey seconded the motion.

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

Mr. Hale then moved to continue to with the renovation of the Health Department building as previously approved by the Board of Supervisors and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted (2-3) by roll call vote not to approve the motion, with Mr. Bruguiera, Mr. Harvey, and Mr. Johnson voting No.

Mr. Harvey then moved to put everything on hold at the Health Department building and Ms. Brennan seconded the motion.

The Board agreed to get the Health Department in a safe place and then examine the other options. They briefly discussed the Registrar's move with members agreeing to keep them in there, subject to what was done with building. Mr. Carter noted that they would not have to figure this out as they will have vacant space in the current Courthouse soon or they could go into the Jefferson Building.

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

- C. Solid Waste Collection Services
  - a. Open Top Container Rotation
  - b. Transfer Station Hours

Mr. Johnson stated that he had brought these issues forward because they are major issues in his world.

September 13, 2011

Mr. Harvey noted that he would like to digest the information provided and look at it next meeting.

Staff noted that the County has one 30 yard container that is fire damaged.

Mr. Hale noted that a thorough report on open tops had been included in the Board's packet and the recommendation from Susan McSwain indicated that doing this would be moving backwards and he was happy to address the issues presently.

Mr. Johnson reported that he has picked stuff up off of the highway and that this was an ongoing issue in his part of the county and was constantly being brought to him. He added that he wanted longer hours at the transfer station and or an open top to dump heavy pieces.

Mr. Carter advised the Board that no one on staff agreed with this proposition. He added that he would consider the rotation of an open top as a service but the concern was that remote sites were subject to abuse and the Board should just put the open tops at the staffed sites.

After brief discussion, the Board's consensus was to read the reports and come back to it.

Mr. Bruguere then suggested that open tops were needed on a rotating basis at all sites and Mr. Hale disagreed stating that people should be responsible for their own garbage and that people in Schuyler have not be littering etc.

#### D. Massies Mill Recreation Center Status

Mr. Bruguere reported that he had tried to contact Bobby Cabell and had left messages regarding the Center's tax delinquency and no one has contacted him back. He noted that they had tried to frame up a shed roof on the building and then took it down. Mr. Carter noted that they did not have a building permit for this and then what they put up was not safe and they had to take it down.

Mr. Hale suggested that it was time to let Shrader sell the property and Mr. Carter advised that it had been referred to Shrader for sale.

Mr. Bruguere then moved to let Mr. Shrader move forward with tax sale of the building and Mr. Hale seconded the motion.

Mr. Harvey stated that he thought this was the wrong thing to do and that staff should make contact with the proper people at the Community Center to work it out. He added that if a problem is found and if there was no active organization, the property should revert back to the County. Mr. Carter added that the sale contract stipulated that the County has the first option to buy it back.

Mr. Hale noted that they had two or three members that met on the purchase of the collection site property and they have not been able to do anything with the building. Mr. Harvey stated that he would like to know where the money is that was paid to them and Mr. Bruguere suggested that they could request financial records.

September 13, 2011

Mr. Bruguere then withdrew his motion and the Board instructed staff to make contact with them and report back at the next meeting.

Mr. Johnson then clarified that this was not a property that would revert back to the County and that staff should set up a meeting with them to discuss it. Mr. Carter added that if the property went to sale, a future consideration would be that the proceeds would have to go to a similar organization.

Mr. Hale indicated his interest in finding out where the money is and Mr. Bruguere related the terms of Fleetwood's dissolution with their funds going to Roseland Rescue etc. Members then briefly discussed the value of the land and it being a desirable site.

*Introduced: Phil Payne, Gladstone Tower Lease*

Mr. Johnson noted that Phil Payne has brought in the Gladstone Tower Lease that has been finalized and Mr. Payne noted that this was subject to Central States concurring; but that he has read the proposed changes over the phone to them. He added that the sections on Rent and Collocation rights were of particular interest. He added that Central States settled on using the CPI for the annual rent increase and that the proposed \$635 per month base rent was in range with other rental amounts within the County.

Mr. Payne noted that in Paragraph 21 Owner Use of Facilities, they went with using a load equivalent and Paragraph 21a, reserved space between 60-90 feet for equivalent loading of items listed. He added that these could be substituted for if the loads were the same. He added that they may never get to the load equivalents that are listed. He then noted that Paragraph 21d reserved the right to assign the lease to the Broadband Authority, to ISPs in connection with the Authority, or public safety communications. He added that there could be no transfer to a private or for profit entity.

Mr. Payne then advised that he did not try to change too much from their original lease and he thought that the County could live with this. He added that he will mention to them that the County will probably assign the lease to a nonprofit and that Nelson County will still be the owner of that space unless it is sublet. He added that he would review this and clean it up. Mr. Johnson noted that he did not want to be restricted from assigning the lease to the Fire and Rescue agency. It was noted that this was being pushed because it was currently budgeted for AT&T and if they did not move quickly it would likely come out of their budget. He then asked the Board to consider approving the lease after conducting the public hearing that evening.

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

### **A. Reports**

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

Mr. Carter presented his report as follows:

**A. Courthouse/Government Center Project:** County staff are continuing to work towards an initial move into the new addition on October 12th. The relocation plan is for E-911/Dispatch to move in on 10-12 followed by the Sheriff's Department on 10-14 and the General District and J&D courts on 10-28. Scheduling of a substantial completion inspection is planned for the week of 9-19. Training of County staff has begun (i.e. security, fire protection, HVAC, E-911 equipment, etc) and is proceeding well. The Board's input on a ribbon cutting/open house event is requested.

September 13, 2011

Mr. Carter added that Blair would be paving the parking lot this week and that they were on task to move in if Blair was ready. He then inquired whether or not the Board wanted to have a ceremony or ribbon cutting and the consensus was to move everyone in first and then have a ceremony. He added that landscaping was being deferred until the fall. Mr. Hale suggested that the ceremony should include a tour of the building and it was suggested that this be done at the end of the afternoon session in November.

Mr. Carter then reported that courthouse lawn lights should be on tonight and that there was a deficiency in wiring that was identified and fixed.

**B. Broadband Project:** Construction of the fiber optic backbone is poised to move forward upon receipt of construction permits from VDOT, which is anticipated the week of 9-19. A four month construction period is projected. Permitting of the two Route 151 towers is in process. A decision is pending on contracting with a company to provide network operation services.

Mr. Carter added that staff was meeting with VDOT on the construction permits and that they were ready to go forward as soon as these were issued by VDOT. He noted that the permits were to be issued by the week of the 19<sup>th</sup> and that subject to weather and road work, the construction should take four (4) months. He reported that staff and Icon has had to try to identify and map any other fiber along the route; which has been a lot of work. He noted that they had discussed not impeding the Old Roberts Mtn. Road project. He reported that the fiber, conduit, and vaults were coming in, a preconstruction meeting with the contractor had been held; which included review of grant compliance responsibilities. He also noted that the permitting of two (2) towers was in process and that the Broadband Subcommittee has been wrangling with identifying a Network Operator and is down to one to begin negotiations with.

In response to questions, Mr. Carter noted that property off of Rt. 679 may be a possibility for the fourth tower site and that the project materials were being stored at RVFD right now. He added that there was no damage to the rolls of fiber after the delivery truck accident and that eleven (11) rolls were delivered and nine (9) were more coming.

**C. Radio Communications (Devils Knob Tower) –** Construction of the tower is ready to proceed upon receipt of final approval of the environmental assessment (anticipated within the ensuing several business days). Construction completion is projected to be less than 90 days. Execution of the lease agreement by New Cingular Wireless, PCS, LLC is pending.

**D. Gladstone Rescue Squad:** The Court appointed Receiver is working to complete his report to the Circuit Court. The Receiver is presently determining how best to resolve the outstanding renovation work that was undertaken by the former rescue squad. A decision is pending on this subject. The licensing of the Gladstone Volunteer Fire Department to become an EMS agency is in process with VA-OEMS. Roseland Rescue Squad continues to respond first due calls for service in the Gladstone area and this response includes assistance from GVFD members. The County's Emergency Services Coordinator is in contact with the leadership of GVFD and RRS to assist with EMS response coordination.

September 13, 2011

Mr. Carter noted that Mr. Berry was working on determining if it is advisable that the County finish the renovation work on the building with the original contractor or someone else and this may come back to the Board for a final decision. He added that the consideration was that there is no entity that he (the contractor) has contracted with.

**E. Nelson County Public Schools:** The NCSA has completed connection of TRES to the Authority's public water and sewer system. The window replacement/repair projects at TRES and RRES are projected to be completed by mid-October (possibly sooner).

Mr. Carter added that the eyebrow windows needed to be finished at both schools and there was some brickwork around the casings to be done.

**F. Lovingson Health & Rehabilitation Center:** Notification to VDH-COPN of the County's withdrawal of its good cause petition has been completed and the agreements with MFA, Inc. have been executed by both parties.

Mr. Hale added that staff should let Maureen Kelley know that this building will be in the County's possession in 3 years time and to be aware of possible tenants.

**G. Personnel:** Ms. Melissa Thompson has accepted the secretarial position in Planning and Zoning. Her start date is October 11th. Ms. Melissa Haislip has accepted the part-time Dispatcher position and began work on September 12th. Pending are employment decisions for the Planner's position in Planning & Zoning, the part-time position in Economic Development & Tourism (position was re-advertised), employment of full and part time custodial positions (in process) and a part-time convenience center attendant (in process). Additionally, the Board's input is requested on the status of the part-time Recycling and Solid Waste Coordinator's position.

Mr. Carter noted that the convenience center vacancy was in a six- hour Sunday slot at Massies Mill that needed to be filled.

Mr. Hale noted that when it came to the Planner position, he would like to be consulted and shown the options as to candidates for this position when they were narrowed down. He noted that since the position may lead to becoming the Planner and is a position that has a lot of public exposure it is a key one in the County. He asked for the Board's input on this and said he wanted to be able to provide input. He clarified that he only wanted to see the narrowed down list etc. and he was only interested because he has some background in this field.

Mr. Carter noted there were two (2) candidates from UVA and a county citizen who graduates next spring, but the County would have to wait for that person. He added that staff was striving to look at planners with a planning background. Ms. Brennan noted that she would like to see someone very strong in GIS and it may be a good idea to have a Planning Commissioner provide their input.

Mr. Hale noted that in regards to the Recycling Coordinator – the Board has discussed this and it was their recommendation that it become a full time position. He noted that he endorsed this as the position is responsible for a large number of employees which requires a lot of oversight. He added that it was

September 13, 2011

his sense that they would be unlikely to find someone as dedicated and as capable as Susan McSwain on a part time basis.

Ms. Brennan agreed that the position should be full time and maybe even be a Supervisor position rather than a Manager.

Ms. McCann noted that Ms. McSwain currently works an average of twenty-five (25) hours per week and that approximately thirty to thirty-two (30-32) hours was allowed for in the budget. She added that these were the hours that Ms. McSwain submitted for payment as hours worked.

Mr. Johnson added that he would like to see a brief synopsis of candidates for the Planner position and was not against waiting until spring to consider the local candidate.

Mr. Harvey asked if they would go through the same procedures in hiring this dispatcher and Mr. Carter stated that they did background checks nationally and were doing the local ones now. He added that he did tell staff that if there was any uncertainty, then they should be kept out of the dispatch office. Mr. Carter reported that the background checks were contracted out to Lexis Nexis and was done for all potential employees. He noted that the cost for this was \$24.95 per inquiry and provided instantaneous results. He added that they would do an additional search if names were close etc. He stated that the goal during the hiring process was to get the background check release signed during the interview process so it is done before the person is hired. He added that he thought it was done for the latest hire, when it hadn't been and agreed with the Sheriff that they shouldn't have access to systems unless they are cleared.

Ms. Brennan asked if the searches showed anything that was pending and Ms. McCann noted that the searches only showed convictions. Mr. Carter added that the level of scrutiny is not such that you would be dismissed for minor traffic violations. Ms. McCann reported that it is specified in employment letters that if anytime during employment something happens, they can be terminated and there is still a six (6) month probationary period for all employees. Mr. Carter reiterated that a person's background check results are typically known before a job is offered.

**H. Staff Reports:** Included with the transmittal of the 9-13 agenda to the Board.

Members noted an increase in building permits over the same time period in 2009 had been reported.

## 2. Board Reports

Mr. Hale reported the following relative to the Blue Ridge Tunnel Project:

He met with staff on this and they are trying to figure out how to now get to the tunnel and they are pursuing this with CSX and Woolpert. He noted that the County had not been able to reach an agreement with Mr. Tyler, were now pursuing alternatives, and could have success with CSX if they were to get hold of the right people. Mr. Carter noted that he had gotten the drawing from Woolpert showing the CSX easement. Mr. Hale then noted that they had proposed a conference call with Royal Orchard, which may be 3pm on Thursday and they may be amenable to the County purchasing right of way there. He added that the Grant funds to be utilized for this purpose could be moved from the East

September 13, 2011

side to the West side of the Tunnel. He reported that the appraisal had been done and that Royal Orchard had it. He noted though that until the County got a major grant there would not be any actual construction.

Mr. Johnson noted that it would be a shame to go to the Augusta side and Mr. Carter noted that the County was making milestones along the way that would be beneficial to the project. Mr. Hale noted that there would be a long trail to the entrance and no vehicular access on the West Side and while not ruling this out, they were pursuing this including using the funds with CSX if will make a difference.

Mr. Hale then noted how helpful Bud Carter had been and that they had toured the mountain on his ATV. He added that he was agreeable to working with the County and always has been, noting that it was conceivable that they could come off of the Rt. 250 overlook and go through his property and his Aunt's property. He noted that the overlook has grown up now and Mr. Carter noted that part of the project was to redo the overlook, noting that this could be a parking area for a drop down to the turnpike. Mr. Hale suggested that the County should pursue this with VDOT to get their participation on cleaning this up since it is on their property.

Ms. Brennan asked if the middle property looked hopeful for the project and Mr. Hale noted that if they changed from accessing it through the Tyler property to accessing it from above at the US 250 overlook, there has been no appraisal of this and no design work done and he did not see how it could be done. Mr. Carter reported that the former consultant looked at this but coming down from US 250 was extremely steep and would not be handicapped accessible as the East side would be.

Mr. Harvey asked about access through the Brokamp property and Mr. Carter advised that they wanted the County to purchase the land and house over there and at that point Mr. Tyler was willing to work with the County. Mr. Hale added that the problem is the time frame to utilize easement funds and he thinks that CSX has an existing 16 ft wide right of way through the Tyler property and they should be willing to sell or assign it to the County. Mr. Carter noted that Mr. Payne shared this opinion and that parking and a turn-around area could go on the CSX property.

Mr. Carter added that the project doesn't seem to be able to go very fast and that the County has gotten extensions to date but he has not asked for another one yet. He then stated that they should note to them that the County is working on alternatives for use of the grant funding.

Mr. Hale then suggested the County should provide notice to Don Pendleton, the appraiser, on what CSX would give us and get this appraisal lined up as the County cannot do anything without access to the tunnel.

Mr. Harvey had no report

Ms. Brennan reported the following:

1. Attended breakfast with Congressman Hurt at Blue Ridge Medical Center.

September 13, 2011

2. She is setting up EMS meetings on problems with rescue squads. She reported that she met once with them but that they have not had another meeting. Mr. Harvey noted he was not able to make it because no one confirmed the meeting with him.
3. Attended JABA meetings and noted they are concerned about the economy and reductions in funding from all levels with the need for their services increasing. She noted that they were looking at all entrepreneurial activities since these revenues were generated to fund ongoing care.
4. Attended VACo Board meeting in Richmond. She noted seeing a VRS presentation that was disturbing and one on Compensation Board changes.
5. Attended the opening of Wells Fargo Bank in Nellysford and noted there had been complaints about the size of the sign there.
6. Attended All County Day where the Smiths presented \$1,000 grant awards to school employees.
7. Met with staff and Mr. Hale on audio visual options for the new Board meeting space and decided to continue to use the current stuff until they could get a feel for the room and then decide if they want to do something different.
8. Attended Nelson County Community Day which was a success.
9. Attended VA Ag Council meeting.
10. Attended Volunteer Appreciation Day and presented the adopted resolution from the Board honoring the surviving founders of the fire and rescue agencies in the County.
11. Had lunch with Schuyler Seniors and noted that the Community Center was serving many more people now. She noted that they have the lunch once a month.

Mr. Johnson reported the following:

1. Attended Mayors and Chairs meeting and thought it was interesting that everyone was looking at going green.
2. Attended VACo meeting in Richmond and noted that some of the issues discussed there were already reflected in the TJPDC legislative agenda.
3. Attended DSS Board meeting and local DSS is now rated at the top of the state for paperwork; which is a significant turnaround.
4. Reported that Gladstone Fire Department was having an event for families on September 24th.
5. Reported that the FFA bluegrass fundraising event was on October 8<sup>th</sup>.

September 13, 2011

Mr. Hale then noted that he had a report from the Schuyler Community Center on their activities and that they appreciated the Board's support.

## B. Appointments

Ms. McGarry noted that there were no new vacancies or applications to report and the following Board seats continued to be advertised: JAUNT one vacancy, Ag Forestal District Advisory Committee, two vacancies, Economic Development Authority, one vacancy, and Region Ten Community Services Board, one vacancy.

## C. Correspondence

### 1. Planning Commission Referral Response – Individual Septic Systems

Mr. Johnson noted the Planning Commission's recommendation to not make any changes regarding this issue and Mr. Hale proposed that Mr. Boger gather ordinances from Albemarle and Rockingham Counties to see what their regulations were with respect to this issue.

Mr. Johnson noted his agreement to move forward with this and have staff come back to the Board with something.

Mr. Hale then noted that Massie Saunders was adamantly opposed to any change and that Morris Foster would be willing to submit his written thoughts on the matter. He added that Mr. Saunders was the one that suggested that citizens have an AOSE sign off on the plat as a compromise. He noted that his reasoning was that there were parcels as large as 100 acres where you cannot find an adequate site for septic and Mr. Hale questioned whether or not the Board has the responsibility to make sure large parcels perk. He noted that Mr. Saunders said that if a parcel is created, then a person might eventually build on it. Mr. Harvey suggested that it is the buyer's responsibility to see whether or not the parcel perks.

It was the Board's consensus that Mr. Boger would get more information and work with Mr. Hale on this to come up with something; noting that they had to give the Planning Commission something specific to review and have a public hearing on, and then it would come back to the Board. It was noted that if the Planning Commission did not make a move; it would then come back to the Board to draft an ordinance.

### 2. Senior FFA and NMS FFA Funding Requests

Mr. Carter noted the two FFA requests for funding of \$2,000 each for competition travel expenses and Mr. Harvey moved to approve \$2,000 each for the High School and Middle School FFA teams. Ms. Brennan seconded the motion and there being no further discussion Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

September 13, 2011

*Introduced: VDOT Correspondence*

Ms. Brennan reported that VDOT was having their fall multimodal meetings in October and November with the closest venue being Lynchburg on October 3rd. It was noted that Mr. Harvey and Mr. Carter attended this last year and got approval for the turn lanes.

D. Directives

Ms. Brennan had the following Directives:

1. Inquired as to the architecture students looking at the Jefferson Building and Mr. Carter noted that he got a response from the professor that said to remind him and he would look at it.
2. Send thank you note to the Saunders for maintaining the flower barrels at the Courthouse. Mr. Carter noted he would check to see who does these as he wasn't sure.
3. Thanked Jaime Miller for her excellent report that she could understand.

Ms. Brennan then expressed concern about what Paul Truslow meant in his report regarding the employees' welfare at the Health Department. Mr. Carter noted that when the County had the heavy rainfall, the roof leaked substantially. He reported that it has been patched and they have commissioned a company to come clean out the building and air it out, but that there were tiles with asbestos glue that are coming up due to the moisture. He reported that staff has checked with the insurance company and they have determined that the County should proceed with the necessary repairs. He noted that they will take the tiles up and paint etc. In response to whether or not the tiles were friable, Mr. Carter stated that he would have to ask Mr. Truslow and to date they have been covering the tiles with heavy mats. He added that they could take it up and it would be an insurance claim and the County would likely have to abate this; and something did need to be done about the roof.

Ms. Brennan then inquired as to where the County was on the reassessment and Mr. Carter noted that he would contact them to provide a report and get it out to the Board. He added that Matt Hickey had indicated that they were done in June and they must be in finalization mode.

Mr. Hale added that the Commissioner of Revenue had said that they should have it to us by October and it had to be in by the end of the year per the Code.

Mr. Carter followed up by saying that staff would likely bring forward an ordinance pertaining to the Board of Equalization with members to consider in the next sixty (60) days. He noted that the assessors have not had any meetings with groups yet.

Mr. Harvey then inquired about obtaining the requested employee information and Mr. Carter advised that it was left in his chair at work. Mr. Harvey noted that he had not seen it yet and Mr. Carter noted that the information also addressed some of the personnel related things that the Board discussed at the retreat regarding specific units and employees.

September 13, 2011

## **VI. Adjournment**

At 5:40 pm, Mr. Harvey moved to adjourn and reconvene at 7:00 pm and there was no recorded second. 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. Johnson called the meeting to order at 7:06 pm, with four (4) Supervisors present to establish a quorum and Mr. Harvey being absent.

#### **II. Public Hearings**

##### **A. Special Use Permit # 2011-006 – Central Virginia Wind Energy**

Consideration of an application submitted by Central Virginia Wind Energy, represented by Dan Boyle pursuant to Article 22, Section 4-1-1b, to install a 140 ft. wind turbine on property owned by Barton Biggs. Property is located at 4026 River Road, Faber, Virginia, Tax Map # 23-A-4, and zoned Agricultural, A-1. **(R2011-81)**

Mr. Boger overviewed the application, noting that the proposed site was 120 ft from Route 151 which is a Scenic Byway. He stated that the Planning Commission looked at the impact to the Scenic Byway, the proposed colors of yellow and white, and its impact to birds etc. and they recommended approval. He added that the Board of Zoning Appeals had denied this last year and it was the same application. He noted that changes were made to the Zoning Ordinance in order to allow these.

Mr. Dan Boyle with Central Virginia Wind Energy addressed the Board and noted that on the site, the trees are 150 ft tall and the wind turbine needed to be 30 ft above the tree line. He added that he was requesting a Special Use Permit for a 150 ft tower. He added that the blades were white and the nose cone was yellow, which were the manufacturer's colors. He then concluded by noting that it would be on a free standing lattice tower.

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

Mr. Bruguire then moved to approve resolution **R2011-81**, Resolution Approving Special Use Permit #2011-006 for Central Virginia Wind Energy 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 resolution was adopted:

**RESOLUTION R2011-81  
NELSON COUNTY BOARD OF SUPERVISORS  
A RESOLUTION APPROVING SPECIAL USE PERMIT #2011-006  
FOR CENTRAL VIRGINIA WIND ENERGY**

September 13, 2011

**WHEREAS**, on September 13, 2011, the Nelson County Board of Supervisors held a public hearing on the application for a Special Use Permit submitted by Mr. Dan Boyle of Central Virginia Wind Energy on behalf of property owner Mr. Barton Biggs to install a small wind energy system 140 ft. in height on property located at 4026 River Road, Faber, Virginia, Tax Map #23-A-4;

**WHEREAS**, on August 24, 2011, the Nelson County Planning Commission held a public hearing on the application when no public comment was made and the Commission voted to recommend to the Board of Supervisors approval of the application;

**WHEREAS**, the Board of Supervisors considered the County's staff report, and the recommendation of the Planning Commission;

**NOW, THEREFORE, BE IT RESOLVED BY THE NELSON COUNTY BOARD OF SUPERVISORS as follows:**

**The Nelson County Board of Supervisors approves the request for Special Use Permit #2011-006 for Central Virginia Wind Energy on behalf of property owner Mr. Barton Biggs to install a small wind energy system 140 ft. in height on property located at 4026 River Road, Faber, Virginia, Tax Map #23-A-4.**

**B. Real Property Lease for the Establishment of a Telecommunications Tower** – Former Gladstone Rescue Squad Property, Gladstone VA. (R2011-80)

Mr. Carter noted that the Code of VA requires a local governing body to hold a public hearing for real property leases etc. and Mr. Payne reported that the draft lease agreement had been negotiated successfully and was subject to the Board's consideration of public input. Mr. Carter noted that the question then was endorsement of the lease agreement. It was noted that both of the lease agreement public hearings were advertised together in the same public hearing notice however the Board could consider them separately if so inclined. Ms. McGarry noted that resolution **R2011-80** included both items B. and C.

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

Mr. Bruguire then moved to approve the referenced ground lease agreement and Mr. Johnson seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

**C. Real Property Lease for the Establishment of a Telecommunications Tower** – Devils Knob, Wintergreen VA. (R2011-80)

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

September 13, 2011

Mr. Carter reported that staff has not received feedback on this lease agreement and he suggested that the Board could favorably consider the resolution subject to modifications. He added that they had heard no objections, but also that they have not heard anything. He added that the proposed resolution would authorize either him or the Chairman to move forward with the lease agreement based on the company's input. He reiterated that the proposed resolution did incorporate both the Gladstone Rescue Squad property and this one. Mr. Johnson then summarized that the resolution authorized Mr. Carter to negotiate and sign the contracts with minor changes and Mr. Carter then confirmed that if the lease on Devils Knob comes back without significant changes, he could go ahead and sign it.

Mr. Bruguere then moved to approve resolution **R2011-80**, Authorization to Execute Real Property Leases (Telecommunications Tower Ground Leases) For Former Gladstone Rescue Squad Property and Devil's Knob Within the Wintergreen Community. There was no recorded second and there was brief discussion regarding the parliamentary procedure related to the Chair providing the second to the motion and it was ultimately agreed that no second was necessary for a motion to move forward. It was noted that the Chair cannot make a motion.

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 R2011-80**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION TO EXECUTE REAL PROPERTY LEASES (TELECOMMUNICATIONS**  
**TOWER GROUND LEASES) FOR**  
**FORMER GLADSTONE RESCUE SQUAD PROPERTY AND DEVILS KNOB WITHIN THE**  
**WINTERGREEN COMMUNITY**

**WHEREAS**, a public hearing was conducted on September 13, 2011 in accordance with §15.2-1800 and §15.2-1427 of the Code of Virginia, 1950 to consider public input regarding proposed real property leases for the establishment of telecommunications towers at the former Gladstone Rescue Squad property, Gladstone, Virginia and at Devils Knob, Wintergreen, Virginia;

**NOW BE IT RESOLVED** by the Nelson County Board of Supervisors pursuant to and in accordance with the provisions of §15.2-1800 of the Code of Virginia, 1950 that the County Administrator or Chairman of the Board be and is hereby authorized to enter into lease agreements for the use of real estate owned by or leased to the County of Nelson for the establishment of telecommunication towers and/or related installations by private business entities with the locations of said real estate being the former Gladstone Rescue Squad property, now owned by Nelson County, Site Name: VA-00-0507 FIVE FORKS and Devils Knob within the Wintergreen Community, identified as 450 square feet located in the "Utility Easement Area" as shown on a certain plat of record in the Nelson County Circuit Clerk's office in Plat Book 10, at page 45, all as described in the Agreement between the County and the Wintergreen Property Owners Association ("WPOA") recorded in the aforesaid clerk's office as Document No. 100003084 (the "WPOA Lease").

September 13, 2011

Mr. Carter then noted that if anything was radically different after final negotiations, he would bring it back to the Board.

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

There was no other business considered by the Board.

### **IV. Public Comments**

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

### **V. Adjournment**

At 7:20 pm, Ms. Brennan moved to adjourn the meeting and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.