

September 8, 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. Bruguere, Jr. West District Supervisor
Allen M. Hale, East District Supervisor – Vice Chair
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: None

I. Call to Order

Mr. Saunders called the meeting to order at 2:00 PM, with all Supervisors present to establish a quorum.

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

II. Resolution recognizing the Service of Mary Coy, Former Jefferson Madison Regional Library Trustee (R2015-70)

Mr. Saunders read the proposed resolution aloud commending Ms. Coy for her past service as Library Trustee and Mr. Hale moved to approve resolution **R2015-70**, Resolution recognizing the Service of Mary Coy, Former Jefferson Madison Regional Library Trustee. Mr. Bruguere seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2015-70
NELSON COUNTY BOARD OF SUPERVISORS
RECOGNITION OF SERVICE: MARY COY, FORMER JEFFERSON MADISON
REGIONAL LIBRARY TRUSTEE**

WHEREAS, Mary Coy served as a Library Trustee on the Jefferson Madison Regional Library Board for Nelson Memorial Library from 2008 to 2015 and;

WHEREAS, Mary Coy has faithfully and diligently contributed to the interests of Nelson County on the Jefferson Madison Regional Library Board for seven years on a variety of committees and;

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WHEREAS, Mary Coy has both dedicated her service to the library and has been a strong advocate for the promotion of reading in Nelson County and;

WHEREAS, the members of the Nelson County Board of Supervisors wish to commend and thank Mary Coy for her service to Nelson County, which is indeed appreciated by all our citizens,

NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby recognize Mary Coy, and respectfully asks all citizens alike to join in expressing their sincere gratitude and appreciation for the many long hours of outstanding service and commitment she has given to our community.

III. Consent Agenda

Ms. Brennan noted a minor grammar correction to the August 11, 2015 minutes for approval and then asked for an explanation of the Thomas Jefferson Planning District Commission appropriation included in the FY16 Budget Amendment. Mr. Carter noted that the funds were expended but not paid out in the previous fiscal year, so the funds were carried over. He noted this may have been due to the invoices not being timely submitted by the TJPDC and added that there was no budgetary impact as the funds had been approved but not yet expended.

Mr. Hale asked for an explanation of the appropriation of \$10,000 for additional signage for the 151 Corridor included on the FY16 Budget Amendment. Ms. McCann noted that this was related to a Tourism grant and that staff could provide the Board with the grant proposal submitted by Ms. Kelley. Mr. Carter noted he was unsure of the specifics of the signs; they were tourism related and he would get the details for the Board. Mr. Harvey noted that there were already a lot of signs in that corridor and Mr. Carter reiterated that the \$10,000 was an appropriation of grant funds.

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

A. Resolution – **R2015-71** Minutes for Approval

**RESOLUTION R2015-71
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(August 11, 2015)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **August 11, 2015** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

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B. Resolution – **R2015-72** FY16 Budget Amendment

**RESOLUTION R2015-72
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
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BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 6,100.00	3-100-009999-0001	4-100-031020-5419
\$ 1,230.00	3-100-003303-0025	4-100-031020-7045
\$ 137.00	3-100-009999-0001	4-100-031020-7045
\$ 3,500.00	3-100-009999-0001	4-100-081010-3002
<u>\$ 10,000.00</u>	3-100-002404-0060	4-100-081020-7060
\$ 20,967.00		

C. Resolution – **R2015-73** COR Refunds

**RESOLUTION R2015-73
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>
\$207.76	RE Tax Correction	Mr. Lowell T. Underwood 57 Jessica Lane Afton, VA 22920
\$84.57	2012 PP Tax & Vehicle License Fee	Rachel V. McNeal 110 Rhue Hollow Lane Roseland, VA 22967

IV. Public Comments and Presentations

A. Public Comments

1. Bob Carter, East District Resident and President of Nelson County Historical Society

Mr. Carter noted he was in strong favor of a resolution to be introduced by Mr. Hale later in the meeting. He noted that the resolution required FERC to comply with Section 106 in its review of the Atlantic Coast Pipeline. He noted that he thought the resolution made a compelling statement of the importance of historical places to the County. He added that it clearly stated the principals and policies in the Comprehensive Plan that supported that.

Mr. Carter then noted that it was important that the Board petition FERC to do its utmost to avoid any adverse effects on historic properties that met the legal criterion used by FERC to determine this. He then read the FERC definition of Historic Property; noting it referenced property that was listed on the register of historic places or was eligible to be listed. He added that he was concerned that the pipeline would intersect eligible properties and he asked the Board to consider the public's input on this.

Mr. Carter then noted it was his understanding that FERC was required to consult with Nelson County, and the Monacan Indian tribe and he asked the Board to support the other two organizations that have requested to participate as consulting parties.

Mr. Carter then noted that the resolution was directed at FERC because Dominion had no legal responsibility to avoid these properties and that it was FERC's responsibility to see that Dominion avoided these. Mr. Carter noted that the resolution was necessary because it called on FERC to perform its role excellently and do "A" work; looking comprehensively the effects of the ACP. He added that the resolution asked that they examine the visual impact on the cultural landscape of the county and he noted it was important to have an idea of what the alternatives would look like. He concluded by noting he hoped every member would vote to adopt the resolution.

2. Peter Agelasto, Nellysford

Mr. Agelasto reiterated Bob Carter's statements. He noted that he was President of the Rockfish Valley Foundation and he and Bob Carter had been to Richmond to talk to the Department of Historic Resources representatives who would be meeting with the ACP representatives. He noted that every community in the county had its historians that carried forward the history of their communities. He noted that the Rockfish Valley Historic District was almost complete and would be recognized as a special place in Nelson County. He then noted that the group would meet the following day with Kevin Bowman and they wanted to hand him a copy of the passed resolution as they explored the area explaining to him where the historic properties were in relation to where the ACP route was going. He added that the resolution was critical and its adoption would be appreciated. Mr. Agelasto then advised that the Foundation would be honoring Thelma McCann, who was a historian in the area, with a plaque placed on a picnic table.

3. Charlie Wineberg, Ennis Mountain Road - Afton

Mr. Wineberg noted he would be speaking broadly on Special Use Permits and the burgeoning travel business. He noted that the Food Lion intersection was still a deadly intersection. He noted that the County was seeing more re-zonings to commercial requests and that the County had a burgeoning travel industry that was overlaid on an old road system. He added that as such, these special use permit applications could have unforeseen implications for residents. He explained that as the County collectively builds, the consequences that the slowing of traffic, hazardous intersections, and future turn lanes may have on the daily lives of residents may not be known. He added that some residents had spray painted "slow down" on the roads to get motorists' attention and the Board should consider what additional loads would do to residents in the area. He concluded by suggesting that the Board look at these not one by one but how they would all come together and what the end result will be.

4. James Ford, Perry Lane Davis Creek

Mr. Ford agreed with Mr. Wineberg and noted that the road he lived on, Perry Lane Road, was a dangerous road and his mother in law was involved in the recent fatal accident at the Food Lion intersection. He noted he thought that something better could have been done at the Twin Poplars intersection and that with the technology of the time, there could be a "smart light" at Food Lion.

B. Presentation – Courthouse Phase II Project

1. Authorization to Award & Execute Construction Contract (R2015-74)

Mr. Carter noted that Jim Vernon from Architectural Partners was present as was Paul Jacobsen from Sands Anderson, the County's Bond Counsel to answer any questions the Board may have.

He reported that sealed bids were taken the past Wednesday and that there were three (3) bidders; however one was late and their bid was returned unopened. He reported that the apparent low bidder was Jamerson-Lewis Construction at \$4,598,000 and the second bidder was MB Contractors with a bid of \$4,959,000. Mr. Carter then noted that Mr. Vernon had submitted a letter recommending the acceptance of the bid proposal and another resolution was presented authorizing the County to go forward with VRA financing. He advised that staff was still recommending the strategy of putting down \$2 Million on the \$6 Million total project cost. He added that staff thought that the County would have to bridge the financing over several years, however it would only need to carry the project for this fiscal year of interest only and then the debt service for the next year. He noted that after that, the solid waste debt would be retired and those funds would support the debt for this project for both 15 and 20 year terms.

Ms. Brennan asked when the solid waste debt would retire and Mr. Carter noted it would be in fiscal year 2018.

Mr. Hale then requested that Mr. Vernon come forward and explain his view of the bids and Contractor selection.

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Mr. Vernon reported that they had projected a construction cost of \$5.2 Million and noted that the bids had come in at \$4.5 Million and \$4.9 Million. He noted that Jamerson-Lewis Construction was the result of the combination of two companies, CL Lewis and Jamerson Construction, and he noted that they have had positive experiences with each over the years. He noted that more contractors came to the pre-bid meeting than bid and he noted that he thought they saw that it would not be an easy project with the requirement of keeping everyone in place. He added that he had no reservations recommending the low bidder and that he had worked with them and had received awards on their last project together.

It was noted that C.L. Lewis Construction worked on the Ryan School Apartments, Blue Ridge Medical Center, possibly Tye River Elementary School, and the new Central Virginia Electric Coop building. Mr. Carter added that Jamerson built the California Sidecar building and may have done the addition to the Baptist church south of town.

Mr. Hale then moved to approve resolution **R2015-74**, Resolution Authorizing the Award and Execution of an Agreement for Construction of Nelson County Courthouse Complex Phase 2 and Ms. Brennan seconded the motion.

In response to questions, it was noted that the expected start date was October 1, 2015 with a 455 day construction period. Mr. Saunders noted that a lot of money was saved by not moving staff out and working around them. Mr. Hale noted that the construction phase would be challenging; however staff was willing to put up with it and the advantage of it was continued operations. Mr. Carter noted that the staging area was to be determined; however they may use the very lowest parking lot and they could also use the new maintenance building site if needed.

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

RESOLUTION R2015-74
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION AUTHORIZING THE AWARD AND EXECUTION OF AN AGREEMENT
FOR CONSTRUCTION OF
NELSON COUNTY COURTHOUSE COMPLEX PHASE 2

WHEREAS, in accordance with §2.2-4300 et seq. of the Code of Virginia, 1950 as amended, sealed bids were advertised and subsequently received on September 2, 2015 for the project known as the Nelson County Courthouse Complex Phase 2, and

WHEREAS, two sealed bids were received, with the lowest responsive and responsible bidder being Jamerson-Lewis Construction Company; and

WHEREAS, the consulting Architect, Architectural Partners, Inc. and the Courthouse Committee has evaluated the bid submitted by Jamerson-Lewis Construction Company and has recommended it's acceptance by the County;

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NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors, the County Administrator, Stephen A. Carter, be and is hereby authorized to award and execute an agreement on behalf of Nelson County with Jamerson-Lewis Construction Company for the construction of Nelson County Courthouse Complex Phase 2, as recommended by the Courthouse Committee and its Architect, Architectural Partners, Inc. to include five (5) bid alternates, for a contract amount not to exceed \$4,890,300.

2. VRA Lease Financing Approval (R2015-75)

Mr. Hale noted that the amounts listed in the documents and interest rates seemed high. Mr. Paul Jacobson, Bond Counsel, noted that the documents were similarly structured to previous VRA financings. He noted with VRA, the proceeds requested and the maximum dollar amount was always higher because they were selling bonds in the open market and when sold, the bonds were sold at a premium or at a discount. He explained that if they were sold at a premium, then the interest rate was higher and if they were sold at a discount, the interest rate was higher to make up for it. He then explained that VRA required a higher principal amount than the proceeds requested; which was higher than what would be received at closing; when the budget would be more finalized. He added that the interest rate was a maximum and this would depend on the term of the borrowing. He noted that he understood the County to be very much set toward a 15 year term; however it had the option to go out 20 years.

Mr. Carter reiterated that subject to closing, the preliminary analysis indicated that once the solid waste debt was retired, the debt service of a 15 year term would be covered. Mr. Jacobson then advised that the final numbers would be set on November 4, 2015.

Ms. Brennan then inquired as to how the \$2 Million County contribution was decided and Mr. Carter and Ms. McCann noted it was discussed during the budget process and voted upon by the Board. They reiterated that it was presented and included in the budget; so the funds were there and staff recommended using it. Mr. Carter then noted that the County could afford to borrow the full amount.

Mr. Bruguiere inquired as to the accuracy of the interest rates presented and Ms. McCann noted that the estimates provided to staff listed a rate of 2.42% for a 15 year term and 2.68% for a 20 year term. Mr. Carter added that the highest he had seen was 3.15% and that hopefully it would be no higher than that.

Mr. Hale then moved to approve resolution **R2015-75**, Resolution Approving Lease Financing of Courthouse Capital Improvements and Mr. Harvey seconded the motion.

Mr. Hale questioned the collateral being the Courthouse itself and Mr. Jacobson confirmed that it was of sufficient value to VRA. He noted that if the borrowing amount increased, potentially more would be needed and the Library would be used; however he did not expect this to happen.

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

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RESOLUTION R2015-75
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION APPROVING LEASE FINANCING OF
COURTHOUSE CAPITAL IMPROVEMENTS

WHEREAS, the Board of Supervisors (**the "Board"**) of Nelson County, Virginia (**the "County"**) has determined that a true and very real need exists for the design, acquisition, construction, expansion, renovation and equipping of County courthouse facilities and related administrative space and holding areas (**the "Project"**) on certain real estate (**the "Real Estate"**) owned by the County, described in the Prime Lease and Local Lease Acquisition Agreement and Financing Lease (each as hereinafter defined); and

WHEREAS, the Board has the power to acquire by lease real property and personal property consisting of the Real Estate and the Project and additional real property currently being used for County purposes which includes, as may be required by VRA (as defined below) for financing of the Project, real property currently subject to a Prime Lease between the County and VRA dated as of June 1, 2013 and a Local Lease Acquisition Agreement and Financing Lease dated as of April 4, 2013 between the County and VRA (**collectively, the "2013 Leases"**) as well as real property used by the County for public library and office purposes, all as further described in the Local Lease Acquisition Agreement and Financing Lease (**together, the "Leased Property"**); and

WHEREAS, the Leased Property, including the Project; is essential to the governmental functions of the County and the Board reasonably expects the Leased Property, including the Project, to continue to be essential to the governmental functions of the County for a period not less than the terms of the Prime Lease (as defined below) and the Local Lease Acquisition Agreement and Financing Lease; and

WHEREAS, to assist in providing financing of the Project, the Virginia Resources Authority ("**VRA**") intends to (a) issue its Series 2015 VRA Fall Pool Bonds (**as more particularly defined in the below defined Local Lease Acquisition Agreement and Financing Lease, the "VRA Bonds"**) and, subject to VRA credit approval, to make available a portion of the proceeds to the County to finance all or a portion of the costs of the Project in the amount of approximately \$4,500,000 or such other amount as requested by the County in writing and approved by VRA prior to the VRA Sale Date, as defined below (**the "Proceeds Requested"**); (b) acquire a leasehold interest in the Leased Property pursuant to the terms of the Prime Lease; and (c) lease the Leased Property to the County pursuant to the terms of the Local Lease Acquisition Agreement and Financing Lease (**collectively, the "Lease Obligations"**); and

WHEREAS, the County has submitted its application to VRA to finance the Project and to undertake the Lease Obligations; and

WHEREAS, VRA has advised the County that the sale date of the VRA Bonds is tentatively scheduled for November 4, 2015 but may occur, subject to market conditions, at any time between October 28 and November 30, 2015 (**the "VRA Sale Date"**), and that VRA's objective is to pay the County an amount which, in VRA's judgment, reflects the market value of the Lease Obligations under the Local Lease Acquisition Agreement and Financing Lease (**the "Purchase Price**

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Objective’), taking into consideration such factors as the purchase price received by VRA for the VRA Bonds, the underwriters’ discount and other issuance costs of the VRA Bonds, and other market conditions relating to the sale of the VRA Bonds; and

WHEREAS, such factors may result in the County receiving an amount other than the par amount of the aggregate principal components of the Lease Obligations under the Local Lease Acquisition Agreement and Financing Lease and consequently the aggregate principal components of the Lease Obligations under the Local Lease Acquisition Agreement and Financing Lease may be greater than the Proceeds Requested in order to receive an amount of proceeds that is not less than the Proceeds Requested;

WHEREAS, the Local Lease Acquisition Agreement and Financing Lease shall provide that the aggregate total principal components of Lease Obligations and the interest component of the Lease Obligations will not exceed the parameters set forth herein; and

WHEREAS, there have been presented to this meeting drafts of the following documents **(together, the “Basic Documents”)** in connection with the transactions described above, copies of which shall be filed with the records of the Board:

- A. Prime Lease, between the County and VRA, dated as of November 1, 2015 conveying certain interests in the Leased Property to VRA **(the “Prime Lease”)**;
- B. Local Lease Acquisition Agreement and Financing Lease, between the County and VRA, dated as of September 25, 2015 (i) providing for a portion of the proceeds of the sale of the VRA Bonds to be provided by VRA to the County and (ii) conveying to the County a leasehold interest in the Leased Property **(the “Local Lease Acquisition Agreement and Financing Lease”)**; and
- C. Leasehold Deed of Trust and Security Agreement, between VRA and certain deed of trust trustees to be named therein, dated as of November 1, 2015 regarding VRA’s leasehold interest in the Leased Property **(the “Leasehold Deed of Trust”)**.

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. It is hereby found and determined that the terms of the Basic Documents in the respective forms presented to this meeting and incorporated in this Resolution are in the best interests of the County for the design, acquisition, construction, expansion, renovation and equipping of the Project.

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2. The Basic Documents and related financing documents are hereby approved in substantially the respective forms presented to this meeting. The Chairman, Vice Chairman, County Administrator and any officer of the Board who shall have power generally to execute contracts on behalf of the Board be, and each of them hereby is, authorized to execute, acknowledge, consent to and deliver, as appropriate, the Basic Documents, any amendments to the 2013 Leases that may be required by VRA for financing of the Project and any other related financing documents, with any changes, insertions and omissions therein as may be approved by the individuals executing them, such approval to be conclusively evidenced by the execution and delivery thereof. The actions of the Chairman, the Vice Chairman and the County Administrator, each of whom is authorized to act, shall be conclusive, and no further action shall be necessary on the part of the County.

The final pricing terms of the Local Lease Acquisition Agreement and Financing Lease will be determined by VRA, subject to VRA's Purchase Price Objective and market conditions described in the Recitals hereof; provided, however that (i) the Lease Obligations shall be composed of principal components having a maximum aggregate principal amount of not to exceed \$4,815,000 (**the "Maximum Authorized Principal Amount"**) and interest components with a maximum interest rate of 4.5% per annum (exclusive of "supplemental interest" as provided in the Local Lease Acquisition Agreement and Financing Lease) and (ii) the Lease Obligations shall be payable over a term expiring not later than December 1, 2035. Subject to the preceding terms, the Board further authorizes VRA to determine the aggregate total of principal and interest components of the Lease Obligations, establish a schedule of Lease Obligations including the dates and amounts and the optional and extraordinary prepayment provisions, if any, of the Lease Obligations, all in accordance with the provisions hereof. The term of the Prime Lease shall not be more than five years longer than the term of the Local Lease Acquisition Agreement and Financing Lease; such term is intended to provide security to VRA in the event of default or non-appropriation by the County, all as more fully set forth in the Local Lease Acquisition Agreement and Financing Lease (or any supplement thereto).

Given the Purchase Price Objective and market conditions, it may become necessary to enter into the Local Lease Acquisition Agreement and Financing Lease with aggregate principal components of the Lease Obligations greater than the Proceeds Requested. If the limitation on the maximum aggregate principal components of Lease Obligations on the Local Lease Acquisition Agreement and Financing Lease set forth in this Section 2 restricts VRA's ability to generate the Proceeds Requested, the Local Lease Acquisition Agreement and Financing Lease may be entered into for an amount less than the Proceeds Requested.

The Chairman, the Vice Chairman, the County Administrator, or any of them and such other officer or officers of the County as either may designate are hereby authorized and directed to enter into the Local Lease Acquisition Agreement and Financing Lease, the Prime Lease and any amendments to the 2013 Leases that may be required by VRA for financing of the Project.

As set forth in the Local Lease Acquisition Agreement and Financing Lease, the County agrees to pay such "supplemental interest" and other charges as provided therein, including such amounts as may be necessary to maintain or replenish any VRA Reserve (as defined in the Local Lease Acquisition Agreement and Financing Lease).

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Rental Payments (as defined in the Local Lease Acquisition Agreement and Financing Lease) due under the Local Lease Acquisition Agreement and Financing Lease shall be payable in lawful money of the United States of America and otherwise comply with the terms set forth in the Local Lease Acquisition Agreement and Financing Lease. The County may, at its option, prepay the principal components of Rental Payments upon the terms set forth in the Local Lease Acquisition Agreement and Financing Lease.

3. The same officers of the Board, and the County Administrator and the County Attorney be, and each of them hereby is, authorized and directed to take all actions and procure, execute and deliver any and all other agreements, financing statements, papers, instruments, title insurance policies, real property surveys and inspections, opinions, certificates, affidavits and other documents, and to do or cause to be done any and all other acts and things necessary or proper for carrying out the purposes and intent of this resolution, the Basic Documents and any amendments to the 2013 Leases that may be required by VRA for financing of the Project, including the final selection of property to be utilized as the Leased Property as may be required by VRA prior to the recording of the Local Lease Acquisition and Financing Lease. The same officers are authorized and directed to work with the County's bond counsel, Sands Anderson PC, and representatives of VRA, including without limitation McGuireWoods LLP, Bond Counsel to VRA, to perform all services and prepare all documentation necessary or appropriate for the execution, delivery and recording, as appropriate, of the Basic Documents.

4. The County represents and covenants that it shall not take or omit to take any action the taking or omission of which would (a) cause the VRA Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (**the "Code"**) or (b) otherwise cause interest on any VRA Bonds to be includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require it at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the VRA Bonds. The County shall pay any such required rebate from legally available funds.

5. The County covenants that it shall not permit any proceeds derived from the Lease Obligations to be used in any manner that would result in (a) 10% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's use of the Project, (b) 5% or more of such proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that compliance with any such covenant is not required or is no longer required in order to prevent the interest on the VRA Bonds from being includable in the gross income for Federal income tax purposes of the registered owner thereof under existing law, the County need not comply with such covenant to the extent provided in such opinion.

6. Such officers of the County as may be requested are authorized and directed to execute and deliver a tax compliance agreement in relation to the Lease Obligations (**the “Tax Compliance Agreement”**) in the form approved by the Chairman or Vice Chairman of the Board or the County Administrator, or any of them, in collaboration with the County’s bond counsel, with such completions, omissions, insertions and changes as may be approved by the officers of the County executing such Tax Compliance Agreement, whose approval shall be evidenced conclusively by the execution and delivery thereof.

7. The undertaking by the County under the Local Lease Acquisition Agreement and Financing Lease to make Rental Payments and any other payments due under the Lease Obligations shall be a limited obligation of the County, payable solely from funds to be appropriated by the Board from time to time for such purpose and shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the County beyond any fiscal year for which the Board has lawfully appropriated from time to time. Nothing herein or in the Lease Obligations shall constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit or taxing power of the County.

8. The Board believes that funds sufficient to make payment of all amounts payable under the Lease Obligations can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future Boards do likewise during the term of the Lease Obligations. The Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County’s annual budget, to include in the budget request for each fiscal year during the term of the Lease Obligations an amount sufficient to pay all amounts coming due under the Lease Obligations during such fiscal year. As soon as practicable after the submission of the County’s annual budget to the Board, the County Administrator is authorized and directed to deliver to VRA evidence that a request for an amount sufficient to make the payment of all amounts payable under the Lease Obligations has been made. Throughout the term of the Lease Obligations, the County Administrator shall deliver to VRA within 30 days after the adoption of the budget for each fiscal year, but not later than July 1, a certificate stating whether an amount equal to the Rental Payments and any other amounts due under the Lease Obligations which will be due during the next fiscal year has been appropriated by the Board in such budget. If at any time during any fiscal year of the County, the amount appropriated in the County’s annual budget in any such fiscal year is insufficient to pay when due the amounts payable under the Lease Obligations, the Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County’s annual budget, to submit to the Board at the next scheduled meeting, or as promptly as practicable but in any event within 45 days, a request for a supplemental appropriation sufficient to cover the deficit.

9. The County authorizes and consents to the inclusion of information with respect to the County to be contained in VRA’s Preliminary Official Statement and VRA’s Official Statement in final form, both prepared in connection with the sale of the VRA Bonds, a portion of the proceeds of which will be used to purchase the Lease Obligations. If appropriate, such disclosure documents shall be distributed in such manner and at such times as the Chairman of the Board, the Vice Chairman of the Board or the County Administrator, each of whom is authorized

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to act, shall determine. The Chairman of the Board, the Vice Chairman of the Board or the County Administrator, each of whom is authorized to act, are authorized and directed to take whatever actions are necessary and/or appropriate to aid VRA in ensuring compliance with Securities and Exchange Commission Rule 15c2-12.

10. The recitals to this resolution are hereby incorporated by reference and are declared to be findings of the Board in connection with its decision to finance the Project.

11. The Board hereby determines that it is in the best interests of the County to authorize the County Treasurer to participate in the Virginia State Non-Arbitrage Program in connection with the Lease Obligations if requested by VRA.

12. Nothing in this Resolution, the Basic Documents or other related documents shall constitute a debt or a pledge of the faith and credit of the County, and the County shall not be obligated to make any payments under the Basic Documents except from funds that may be appropriated by the Board.

13. All acts of the officers, agents and representatives of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the leasing of the Leased Property by the County to finance the Project are hereby approved, ratified and confirmed.

14. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto, to record such document where appropriate and to pay from County funds all appropriate recording fees, taxes and related charges.

15. This Resolution shall be effective immediately upon its adoption.

C. Presentation – 2016 TJPDC Legislative Priorities (D. Blount)

Mr. David Blount of TJPDC noted the following summary of 2015 Legislative Priorities:

2015 Legislative Priorities

(Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson & Charlottesville City)

***EQUALIZED REVENUE AUTHORITY:** We urge the governor and legislature to equalize the revenue-raising authority of counties with that of cities.

- State-level studies, as far back as 30 years, recommend this difference be eliminated.
- This proposal removes restrictions on meals, lodging, cigarette and admissions taxes.
- It would help diversify and broaden the revenue base of counties.

STATE MANDATES and FUNDING OBLIGATIONS: We urge the governor and legislature to 1) not impose financial or administrative mandates on localities; 2) not shift costs for state programs to localities; and 3) not further restrict local revenue authority.

- Unfunded mandates and shifted costs strain local ability to craft effective budgets.
- The State should examine how services are delivered and paid for in the future as a different economy takes hold in Virginia.

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PUBLIC EDUCATION FUNDING: We urge the State to fully fund its share of the realistic costs of the Standards of Quality without making policy changes that reduce funding or shift funding responsibility to localities.

- Public education funding is 32% of the State's FY15/16 general fund budget (35.4% in FY08/10).
- Local governments boost education funding by over \$3.5 billion more per year than required.

TRANSPORTATION FUNDING and DEVOLUTION: We urge the State to find additional revenues for secondary/urban construction and unpaved roads. We oppose transfer of secondary road responsibilities to counties.

- Construction funding, suspended in 2010, will continue to be elusive given recent revenue reductions of nearly \$500 million in the current Six-Year Improvement Program.(more)

WATER QUALITY: We support the goal of improved water quality, but as we face mounting costs for remedies, we need major and reliable forms of financial and technical assistance from the federal and state governments.

- Investments should include authority, funding and other resources, and cost/benefit analyses of solutions that yield the greatest pollution reductions per dollar spent.
- High priority areas are stormwater management, upgrading treatment plants, and aid to farmers for best management practices.

LAND USE and GROWTH MANAGEMENT: We encourage the state to provide local governments with additional tools to manage growth, without preempting or circumventing existing authorities.

- Tools and solutions should be helpful, rather than one-size-fits-all rules that hamper different local approaches to land use planning.

*Top Priority and Legislative Request

Mr. Blount noted that there was focused attention on the item of equalized revenue authority and that it should remain a top priority in the region. He added that the wording of the priorities allowed them the flexibility to support and oppose legislation and assert to take certain action by Legislators. He noted that they stressed what was not wanted and this was backed up. He then described the strategy as being like a shield and being more on the defensive.

Mr. Blount then noted that there was one legislative issue coming up and he noted that this was the session where a two-year state budget would be crafted and was the only chance for the Governor to introduce it and work it through. He added that they would need to keep a close eye on it given the divisiveness within the General Assembly. He noted there would be some big bills to pay as education would be re-benchmarked and that could mean \$500 Million dollars more in state costs. He noted that the change in the Composite Index would also occur and that the Governor had indicated that public education would be a top priority.

Mr. Blount then advised the Board to provide any feedback on the priorities and that if they had any special legislation, they should be talking about this and making the request. He added he would then work with staff on the process. He noted that the Legislative Program would come up again in October and then would be discussed for approval in November.

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Ms. Brennan inquired about the possibility of getting an increase in the Certificates of Public Need (COPNs) for Nursing Homes. Mr. Blount noted that it was being reviewed by Region and Planning District and that only Planning District 18 had been identified as being eligible for more. He added that he would have to do some research on the viability of this. Ms. Brennan noted that the County had an aging population and its nursing home beds were being moved.

Mr. Carter advised that this was looked at by the Virginia Department of Health's central office division. He noted that they had indicated that there would be no more beds authorized in the Planning District in the foreseeable future and the County would lose the nursing home in February of next year.

Mr. Hale noted that it seemed odd that there was not more revenue generated from the gas tax and in fact it was less. Mr. Blount noted that on January 1st of this year, there was another bump up of the wholesale tax rate; however, with more efficient cars and lower gas prices, it has meant fewer dollars. He noted that they may be having transportation dollars used in more effective ways and that there was no state appetite for the generation of additional revenues. Mr. Harvey noted that making the tax a percentage tax took a lot of transportation money away. Mr. Blount indicated that they would continue to look at this issue.

Ms. Brennan then asked if the issue of devolution was still being discussed and Mr. Blount noted this was now on the back burner.

D. Presentation - Virginia Department of Forestry (M. Warring)

Ms. Warring introduced herself as the Area Forester for Nelson County. She noted that she was the main person in the department that took care of the Lesesne State Forest and that they had replanted an area from timber sales to control invasive species. She noted that they had awarded a bid in 2014 for a second timber sale for areas of small clear cuts and others that were selectively harvested. She noted that the spot clear-cuts had invasive species so they were clear cut and where they were nicer looking, they did a selective harvest. She noted that they would replant fifty-two (52) acers in white pines. She then noted that as a result of the clear cut, she was presenting the County with a check for \$5,462.50. She then thanked the Board and the County for its continued support.

Ms. Brennan inquired as to what were the worst invasive species and Ms. Warring noted that the Tree of Heaven, Multiflora Rose, and Garlic Mustard were the worst. She then noted that walking anywhere in the forest would introduce invasive species since it was open to anyone.

Mr. Hale then noted that he would like to thank Ms. Warring for her help on the Sturt property; noting that she was meeting with the committee and would be volunteering her time providing forestry management on the property this fall.

Mr. Harvey then asked Ms. Warring about any communications problems and Ms. Warring noted that the difficulties had were on their end and that the County had done everything it could to help.

E. VDOT Report

1. Shipman No Passing Zone Report

Mr. Austin indicated that VDOT would be removing the westbound no passing zone in Shipman in front of the State shed and the Collection Site.

Mr. Austin reported that transportation planning for LOCKN had gone smoothly. He noted that this year, they were not entering the site on Route 29 and that they would have to turn down Oak Ridge Road. He noted he thought this would go okay since the numbers were down from last year. He noted that on Thursday, they would take traffic down south and U-turn them at Tye River Road and then they would move the loop up on Friday and see how it went. He noted that the message boards were going up that day.

Mr. Hale then asked if there would be crossing allowed at Route 56 going northbound after Thursday and he noted that they may have allowed monitoring at that intersection. He noted the plan was the same as last year and they would also do this at Route 655. He advised that generally, most crossovers would be closed on Thursday.

Mr. Austin then reported that he met with the citizen on the Lovington sidewalks and noted that there was a need and it could possibly be a safety application under HB2 for next year. Ms. Brennan asked if he had looked at the Lovington traffic study that had been done and Mr. Austin noted he had not seen it; however that would help on an application.

Mr. Austin then referenced the recent fatality at the Food Lion intersection and noted that accidents at that location had been reduced and in their review of this, they would get the police report and there would be a review of the location. He added that the flashing yellow light has worked well overall in most areas. Mr. Saunders asked if Mr. Austin would forward the report when it was done and he noted he would send it out for comments.

Supervisors then discussed the following VDOT issues:

Ms. Brennan:

Ms. Brennan asked if the pipeline was built, what would be done about the bridges and roads and Mr. Austin noted they would have to get a permit to go across roadways and they had met with Dominion on that. He advised that they had looked at potential delivery routes and staging areas and noted that they had to comply with weight limits and had to be bonded. He noted that permits for installation and off site were not bonded. He then explained that if a road started to fail after their use, they could see if the weight limits could be reduced and they would then be ticketed if they were over. He noted that in that case, they would be ticketed and liable for damage. He added that this was not seen as a big issue; however VDOT was working with them on it now.

Ms. Brennan noted she was concerned about old bridges and Mr. Austin advised that these were all inspected every year and if the ratings were low, then the weight limits would be lower and they would have to comply with those.

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Ms. Brennan asked about the speed reduction in Nellysford and Mr. Austin noted he had not heard anything from the traffic engineer as to whether or not a full study would be done.

Mr. Bruguere:

Mr. Bruguere noted that the ditches going north along Route 151 down Brent's Mountain, on the right side needed to be fixed. He noted it had been around two months since this was first mentioned.

Mr. Bruguere noted that he had gotten comments that the speed limit coming into the Food Lion stop light should be lowered to 45 mph. He noted that it was currently 60 mph and there were cars turning at intersections into Dollar General and the Apartments in that stretch before the light. He suggested that the 45 mph zone should start at the intersection near the apartments in order to get traffic to slow down before reaching the light. Mr. Austin noted this had been reviewed before; however he would take another look at it.

Mr. Harvey, Mr. Saunders, and Mr. Hale had no VDOT issues.

2. HB2 Funding Applications (**R2015-76**)

Mr. Austin then noted that Mr. Rick Youngblood was present to give a general overview of the HB2 application process.

Mr. Carter then noted that he initially was not sure that the County would have projects to submit during the application period; however as time progressed, it became apparent that it did. He noted that Mr. Youngblood was the most knowledgeable person on the subject to discuss why three (3) projects were suggested for submission.

Mr. Youngblood addressed the Board and noted that the County had great staff to work with.

He began by noting that HB2 was another program and funding was 8% of the total state budget. He noted that the funding legislation, HB1887, had a cap limit set and more money had been received under this than the old program.

Mr. Youngblood explained the HB2 prioritization process and noted that safety and economic development were weighted more heavily in the County's area. He noted that the County was in the C category which rated Economic Development, Accessibility, and Safety at 25% each. He noted that the application was a twelve (12) page application for each project and Nelson had three (3) to submit. He noted that project details had to be provided in the application; most of which his staff would provide to the localities.

Mr. Youngblood noted that Route 29 was a Corridor of Statewide Significance (COSS) and that Route 151 was considered a Regional Network since it serviced Route 29 and Route 64 and had a high concentration of economic development. He noted that the County did not currently have any Urban Development Areas or UDAs, however Lovington had the potential to be one. Mr. Youngblood noted that the statewide funding was \$500 Million and the District Grant funding was

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\$35 Million. He noted the evaluation criteria was the same except "Safety" was added in June, which helped the rural localities. Mr. Youngblood then noted the two (2) HSIP safety projects on Route 151 were in design and the addition of the safety criteria opened up additional opportunities.

Mr. Youngblood noted that when they looked at potential projects, they looked to see whether VDOT had vetted any and he noted that the Route 638 HSIP turn lane project was around \$800,000 underfunded and was attractive for submittal under HB2. He noted that the end project score would be higher because of it being funded with HSIP money.

Mr. Youngblood then referenced the following three (3) proposed projects:

- 1) **Route 151/6/638 HSIP Project (Existing Project)** Existing HSIP Project with revenue shortfall and identified VTRANS Safety Hotspot. Located on a Regional Network (US 151) and in an area of high Economic Development.

Intersection Improvement Safety Project submittal to secure shortfall

2015 Long Range Transportation Plan Prioritization: **Rank #5, Project ID: 28**

2013 Route 151 Corridor Study Identified Intersection **Recommendation #14**

VTRANS Top 100 PSI Intersections (Fatalities & Serious Injuries), **Lynchburg District #27**

- 2) **Route 29 / 655 Intersection Improvement** Identified VTRANS Safety Hotspot on a Corridor of Statewide Significance (Seminole Corridor, Segment I2-US Route 29)
 - 1) Right turn lane and taper to be constructed on Route 29 Southbound at the intersection of Route 655
 - 2) The existing right turn lane and taper on Route 29 Northbound at the intersection of Route 655 to be extended / widened

2015 Long Range Transportation Plan Prioritization: **Rank #2, Project ID: 10**

VTRANS Top 100 PSI Intersections (Fatalities & Serious Injuries), **Lynchburg District #3**

- 3) **Route 151 / 664 Turn Lane** Identified Safety Improvement in Route 151 Study and located on a Regional Network (US 151) and in an area of high Economic Development.
 - 1) Offset Right turn lane and taper to be constructed on Route 151 Southbound at the intersection of Route 664

2013 Route 151 Corridor Study Identified Intersection **Recommendation #1**

Mr. Youngblood noted that for proposed project number #1, all of the data was available and all of the cost estimates were done. He added that VDOT was doing cost estimates on forty-two projects in the district by September 18, 2015.

He noted that for proposed project number 2, the intersection of Route 655 and Route 29, was a previous HSIP project that could be looked at and he noted there were secondary recommendations

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for that area. He noted that this intersection had been identified as a safety need under VTRANS, which was the statewide multimodal plan and was the guiding document. He noted the improvements to be proposed for the project and that it could be applied for under the safety component for the District Grant or as a Corridor of Statewide Significance under the statewide program. He noted this project had five chances to get funding.

Mr. Youngblood noted that all priority one projects would be scored, then priority twos and down the line. He added that they were looking for quality projects not quantity.

He then noted that proposed project number 3, the intersection of Route 664 and Route 151, would create an offset right turn lane and taper on Route 151 Southbound at the intersection of Route 664. He noted that this was identified as a safety need and was listed in the Route 151 Corridor Study. He then noted the economic growth and events being held in the area and noted that there was a similar project in Campbell County with a similar design and it would be easy to justify.

Mr. Youngblood noted that time was of the essence, so localities needed to be diligent in identifying projects. He noted that going to the Board was not a requirement; however it was good to collaborate and communicate. He noted that he realized that there were other priority locations in the county and that there may be others that come up in the next six months for next year.

He then noted that they were looking for Board support for the three proposed projects, then there could be an opening dialogue for next year and they could begin working on them.

Mr. Harvey inquired about the two HSIP projects on Route 151 and clarified that they were already approved and work was being done. Mr. Youngblood confirmed that they were and Mr. Carter added that the projects were allotted funding based on a score and in recognizing topography and utility issues, these can become underfunded. He noted that they would also seek additional HSIP money for these and the project was still moving forward. He noted that the Route 635 project was in good shape and Mr. Harvey noted that he thought the right-of-way was going to be an issue for the Route 638 and Afton Mountain HSIP project. Mr. Youngblood noted that a shortfall of \$800,000-\$900,000 was a best guess.

Mr. Youngblood noted that the HB2 and HB1887 was a new revenue source and was the primary source for future projects. He reiterated that they would look at quality over quantity of applications.

Mr. Austin then noted that the new HB2 system replaced the old process of the Primary Six Year Plan.

Ms. Brennan inquired about the Route 29 project and Mr. Youngblood noted that access management was the true fix there; however there were conflict issues that may be causing accidents. He noted there were a number of different alternatives to fix the sight distance; however it was being done incrementally.

Ms. Brennan asked if there was a long range plan for that stretch of highway and Mr. Youngblood noted that they would be looking at access management through their land use management

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section. He noted there were issues from Route 56 down through the corridor there and they would be looking at an overall plan for that area which would be a coordinated effort to recognize what needed to be done.

Mr. Hale noted he was in favor of the #1 priority and noted it should be made clear that this was only the Route 655 intersection and not the Route 56W one. Mr. Youngblood noted that this intersection was more highly rated as a safety concern than the Route 56W one; however the long range plan would address the Colleen Corridor. Mr. Hale then suggested that the third priority be dropped if there was a question of limited staff time and likelihood of funding. Mr. Youngblood noted that priority #3 was identified as a safety hotspot since people were turning into the Ski Barn and not onto Route 664. He noted that having an offset turn lane that pulled traffic off and the potential for growth there, the project was justifiable. He noted that they had a good basis for design and cost estimation for that project.

Mr. Carter then reported that he had reached out to the TJPDC and noted that they were available to help with submittal of the applications.

Mr. Youngblood then noted that the intersection of Route 6 and Route 151 at Martin's Store was also a safety hotspot; however it would need an individual study. He noted that the proposed projects were closer to being ready to go. He then noted that if Spruce Creek came into play, it could be a future application item. He noted that he and staff would be meeting with Dave Frey of LOCKN to discuss their long range needs and that the HSIP project at Route 635 called for a left turn lane and with the new development there, a right turn lane may be needed in the future.

Mr. Harvey then noted that the key there was the speed limit and he noted that the reduction to the 45mph speed limit in the area had been a tremendous help.

Mr. Carter then noted the resolution for consideration that endorsed the submittals and Mr. Harvey moved to approve resolution **R2015-76**, Endorsement of HB2 Funding Applications.

Ms. Brennan seconded the motion and Mr. Carter noted that over the next year, staff and the Board would have more work sessions on this. Ms. Brennan asked if approved, how long the process was and Mr. Carter noted it could be within the six year program; however the HSIP projects would stay on track. He clarified that if approved, the funds would be in the next six year plan approved by the Commonwealth Transportation Board, which meant no action would be taken until next spring. He added that the approval would be effective July 1, 2016 and there would still be planning to be done.

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

RESOLUTION R2015-76
NELSON COUNTY BOARD OF SUPERVISORS
ENDORSEMENT OF HB2 FUNDING APPLICATIONS

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RESOLVED, by the Nelson County Board of Supervisors that the following projects are hereby endorsed by the Board for submittal to the Virginia Department of Transportation for HB2 funding consideration:

- 1) **Route 151/6/638 HSIP Project (Existing Project)** Existing HSIP Project with revenue shortfall and identified VTRANS Safety Hotspot. Located on a Regional Network (US 151) and in an area of high Economic Development.

Intersection Improvement Safety Project submittal to secure shortfall

- 2) **Route 29 / 655 Intersection Improvement** Identified VTRANS Safety Hotspot on a Corridor of Statewide Significance (Seminole Corridor, Segment I2-US Route 29)

Right turn lane and taper to be constructed on Route 29 Southbound at the intersection of Route 655

The existing right turn lane and taper on Route 29 Northbound at the intersection of Route 655 to be extended / widened

- 3) **Route 151 / 664 Turn Lane** Identified Safety Improvement in Route 151 Corridor Study and located on a Regional Network (US 151) and in an area of high Economic Development.

Offset Right turn lane and taper to be constructed on Route 151 Southbound at the intersection of Route 664

V. New Business/ Unfinished Business

A. Planning & Zoning Project – Monarch Inn and Farm

Mr. Carter noted that staff met with Mr. Padalino regarding a couple of significant projects that would be coming to the Board and the thought was that staff would present them as they moved forward through the Planning Commission. He noted that the Monarch Inn and Farm developers were present to make a brief presentation to the Board and take questions.

Mr. Mike Matthews and Wendy Summer introduced themselves and gave a PowerPoint presentation that noted the following:

The Monarch: A Nelson County Inn, Restaurant and Spa

Who We Are: Husband and wife team in the area for 25+ years

Wendy Summer: Private-practice therapist in Charlottesville, Formerly a counselor at Nelson County HS and Region 10 Lovingston; Former Nellysford Resident, Afton Resident.

Michael Matthews: Consulting and development firm based in Albemarle, serving mostly non-profit clients on the East Coast.

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Mr. Matthews then noted that he was an experienced developer with multiple-repeat clients with mission-based projects such as: Martha Jefferson Hospital, Monticello, the UVA Community Credit Union, and Westminster Canterbury. He noted that he had worked with Martha Jefferson Hospital over eleven (11) years which was a \$300,000,000 project, his work at Monticello entailed eight (8) projects over fifteen (15) years, and his work at Westminster Canterbury entailed fifteen (15) projects over fifteen (15) years. He then showed some slides depicting the end product on these projects.

Mr. Matthews noted that Nelson was the right place, it was the right time for them in their careers and family life, the property was amazing and was the right property for their vision, the timing was right for needed good lodging for smart Nelson growth, and they had shared goals with the Nelson Community.

Ms. Summer then noted that their project goals were to: create a restful, peaceful, exceptional experience for their guests, with outstanding service, in a spectacular setting, to preserve / enhance the natural beauty of the amazing site and provide Monarch butterfly awareness/waystations, as well as meet an important need in the Rockfish Valley; extend stays in the Valley; support/enhance local businesses, create partnerships with community businesses and create good jobs and “clean” tax revenue.

Mr. Matthews then noted the project location to be in the heart of the Route 151 Corridor, next to the Rockfish Valley Community Center and near the major roadways of Route 151 & Route 6. He noted they intended to create a four-season destination. He then showed an aerial map of the property noting the proposed entrance off of Rockfish School Lane, the general lay of the land, and significant landmarks. Ms. Summer explained that they intended to have the more public amenities, such as the restaurant near the front of the property that was closer to Route 151 and the more peaceful amenities such as the Inn and Spa on the other side of the ridge that provided a natural buffer from the busier side of the property. Mr. Matthews added that they intended for patrons staying there to park their cars and use golf carts to get around. He noted that their vision was akin to Blackberry Farm in Tennessee; but perhaps not quite as upscale. He noted that the restaurant would be a nice place to have dinner but would not be overly formal. Ms. Matthews added that they envisioned a “sky bar” at the restaurant that would enable patrons to enjoy the spectacular views.

Mr. Matthews then noted that their project consisted of a 4-Star inn, restaurant and spa respecting the unique landscape, 45 to 60 rooms in a mixture of cottages, inn and “barns” rooms, a public farm-to-table restaurant with a small farm shop, and a full-service spa typical of a fine resort property. Mr. Matthews and Ms. Summers then reviewed a site plan depicting the locations of these amenities and showed slides of the views from their proposed locations. They noted that they were working with what the land presented; for example they would have a parking garden in the distressed part of the woods.

Mr. Matthews then noted that they have been very proactive and the first thing they did was they sent letters to all of their neighbors, have met with most of their neighbors, and with many local businesses. He noted that the response had been enthusiastic and they had assembled a team of

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national experts from the beginning. Ms. Summers emphasized that they truly wanted to get input from their neighbors and would work with them to resolve any concerns or issues that were had. She noted for example, they had moved the original site of the fire pit based upon input from a neighbor. She added that if there was anyone they had not spoken to, they would welcome the opportunity to do so.

Mr. Matthews then concluded by noting that they had done their homework and had done the following: a Hospitality Feasibility Study, an Aerial Topographic Survey of the 114 acres, a Septic Study / Prelim System Design, a Hydro-geologic Study of the water supply, a VDOT Trip Generation Study and a VDOT Intersection Study that was underway, and had developed a respectful land-use plan.

Mr. Saunders then opened the floor for questions from the Board and the following discussion ensued:

Mr. Hale commented that he had walked the property doing bird counts and it was a fabulous site. He noted that the wastewater study said it worked and Mr. Matthews noted that there would be a centralized plant serving the restaurant and some of the cottages. He added that they did not have high intensity waste and that it was basically house waste and low level. Ms. Summer noted that the cottages would not have kitchens. Mr. Hale commented that he liked the waste plan.

Mr. Hale then noted that another project of similar scope was in the works and he inquired how that worked as competition. Ms. Summer noted that they were familiar with this, had met with the Averitts and were excited about their project. She noted that their general thinking was, the more the merrier and Ms. Brennan noted she thought they were complimentary versus competitive; to which Mr. Matthews and Ms. Summer agreed.

In response to questions about the timing of the project, Mr. Matthews and Ms. Summer noted that they hoped to conclude the permitting process in October and would like to build next summer and open in 2017. They noted that they would time their opening just right.

Mr. Carter then noted that there were three (3) Special Use Permits submitted and these were scheduled for public hearing with the Planning Commission that month; and it would then come forward to the Board for public hearing in October. He added that the purpose of the presentation was to familiarize the Board with the project.

Mr. Matthews then noted that they had been delighted with the process so far in Nelson.

B. Proposed Zoning Ordinance Amendments: “Wayside Stands” & “Farmers Markets” (R2015-67)- Authorization for Public Hearing (Deferred from 8/11/15)

Mr. Padalino noted that this subject was carried over from last month to provide the Board more time to study it. He noted that one topic of discussion was how these would be treated in the two categories. He noted this would be by VDOT classifications in one category and in the other it

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would be by Special Use Permit. He noted he was not sure what criteria VDOT used to classify roads and he showed a map of the County noting these.

Mr. Padalino then noted that Farmers Markets was a use not provided for and there was one here in the County. He added that he wanted the Ordinance to provide for the use and it would allow others to be established. He noted that the Board's action would be to consider scheduling a public hearing for that set of amendments. Mr. Padalino then added that the two categories were established to make sure there was a way to evaluate these that was consistent but would not be rubber stamped if they were on a busy road.

Ms. Brennan then moved to approve resolution **R2015-67**, Authorization for Public Hearing, Amendment of the Code of Nelson County, Virginia Appendix A, Zoning, "Wayside Stands" and "Farmers Markets" and Mr. Bruguere seconded the motion.

Mr. Hale then asked Mr. Bruguere for his thoughts on these and Mr. Bruguere noted he may have an issue with requiring a Special Use Permit for Wayside Stands because he thought everyone should be treated the same. It was noted that the VDOT criteria was a way to differentiate these and Mr. Hale noted that many of the existing wayside stands would not meet the new criteria.

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

RESOLUTION R2015-67
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
APPENDIX A, ZONING, "WAYSIDE STANDS" AND "FARMERS MARKETS"

BE IT RESOLVED, that pursuant to §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on October 13, 2015 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingson, Virginia to receive public input on an Ordinance proposed for passage to revise the definitions, application requirements, and regulations for "off-farm agricultural retail sales" land uses, including Wayside Stands and Farmers Markets. Affected Sections of the Zoning Ordinance include: Article 2; Article 4, Sections 1-a and 11-2; Article 8, Section 1-a; Article 8A, Section 1-a; and Article 8B, Section 1-a.

C. Agricultural & Forestal District Applications – Authorization for Public Hearing (R2015-77)

Mr. Padalino noted the following relative to AFD Application #2015-05: Addition to Davis Creek AFD (Scelzi):

- Date received: 5/26/2015
- Total size of proposed expansion: 165.08 acres
- Parcels and property owners in proposed addition: 1 total property owner / 1 total parcel

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

- Advisory Committee Recommendation: The committee reviewed this 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.
- Planning Commission Recommendation: After conducting a public hearing, the PC voted to recommend approval of this proposed expansion of the existing Davis Creek AFD.
- *Staff comment*: The applicant has requested a 4-year “term” (review period). However, the review period for the existing Davis Creek AFD has previously been established as a 5-year term by the Board of Supervisors in 2003; this request for a 4-year term appears to be invalid.

He then noted the following relative to AFD Application #2015-06: Addition to Greenfield AFD (Burton):

- Date received: 6/1/2015
- Total size of proposed expansion: 258.43 acres
- Parcels and property owners in proposed addition: 5 total property owners / 5 total parcels
 - 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 acresPlease see Map 3 and Map 4 on pages 6 – 7.
- Advisory Committee Recommendation: The committee reviewed this 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.
- Planning Commission Recommendation: After conducting a public hearing, the PC voted to recommend approval of this proposed expansion of the existing Greenfield AFD.

Mr. Padalino then noted the process of review as listed below and referred to the review criteria that was provided in the Board’s packet:

He noted that the review process for all AFD applications required the following steps (below) as prescribed by Nelson County Code Section 9-201, “Creation of District.”

Summary of current review process with status updates:

- COMPLETED (6/29): AFD Advisory Committee receives applications via Program Administrator:
 - Advisory Committee conducts review of applications
 - Advisory Committee provides Planning Commission with recommendations

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- COMPLETED (7/22): Planning Commission (PC) receives applications from committee:
PC directs staff to provide legal notice of the applications to adjoining property owners
- COMPLETED (8/26): PC conducts review of applications:
PC conducts public hearing on the applications and Advisory Committee recommendations
PC provides the Board of Supervisors (BOS) with recommendations
- [SCHEDULED for 9/8]: Board of Supervisors (BOS) receives applications from PC:
Within one hundred eighty (180) days from the date the application was received, the BOS shall:
 - Conduct a properly-advertised public hearing
 - Vote to create / expand a district (as applied for); or create / expand a district with any modifications it deems appropriate; or reject the application

Mr. Hale then moved to approve resolution **R2015-77**, Authorization for Public Hearing, Amendment of the Code of Nelson County, Virginia, Chapter 9, Planning and Development, Article V, Agricultural and Forestal Districts, Expansion of the Davis Creek and Greenfield Agricultural and Forestal Districts.

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

**RESOLUTION R2015-77
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 9 "PLANNING AND DEVELOPMENT," ARTICLE V, "AGRICULTURAL
AND FORESTAL DISTRICTS" EXPANSION OF THE DAVIS CREEK AND
GREENFIELD AGRICULTURAL AND FORESTAL DISTRICTS**

BE IT RESOLVED, that pursuant to §15.2-4303 - §15.2-4309 §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on October 13, 2015 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of the public hearing is to receive public input on Ordinances proposed for passage to amend Chapter 9 "Planning and Development", Article V, "Agricultural and Forestal Districts" to expand the existing Davis Creek and Greenfield Agricultural and Forestal Districts.

D. Massies Mill Property Disposition-Authorization for Public Hearing (R2015-78)

Mr. Carter provided the following report regarding the Massies Mill property:

I. Chronology of Property Conveyances

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- A. June 29, 1995 – Nelson County School Board to County of Nelson – 10 acres more or less.
- B. November 17, 1999 – County of Nelson to Massies Mill Recreation Center, Inc. – 10 acres more/less.
- C. August 21, 2007 – Massies Mill Recreation Center, Inc. to County of Nelson – 3.75 acres (the acreage was used to construct the Massies Mill Solid Waste Collection Center).
- D. November 15, 2012 – Massies Mill Recreation Center, Inc. to County of Nelson -6.25 acres more/less. (A portion of this property was used to construct one of the County’s wireless telecommunications Towers – see site drawing).

II. Assessed Value of Land (only) per 2014 Gen. Reassessment, as revised in 2015 per demolition of former school building is \$71,500.00 (\$11,440 per acre @ 6.25 acres).

III. Locational Drawing – See agenda. The drawing depicts the MM Collection Site, the Tower Site with tower fall zone (circled), internal gravel access road to tower site, and former school building foot print following demolition with well and septic systems locations denoted; Acreage beyond the tower fall zone is 2.7 acres.

IV. Code of VA Requirements – Public Hearing required per §15.2-1800 to provide for sale of public property and advertised per §15.2-1427 (see agenda for Code sections).

V. Staff Comment: Should a decision be made to sell County property to a third party, the County should retain property inclusive of the tower fall zone, retain an easement for use of the tower access road with road maintenance shared with the third party purchaser and, sell the property as-is, no warranties, etc.

Mr. Carter reiterated that the Board had requested a report on the Massies Mill school property and he noted the chronology of land transactions of property listed above. He also noted the State Code requirements that were provided to dispose of public property and the proposed resolution authorizing a public hearing in order to comply with these.

Ms. Brennan inquired as to the remnant piece noted and Mr. Carter explained that this piece could be sold; however he would suggest that if they sold the land, they sell the middle piece where the school was and retain an easement of gravel road and not sell the tower fall zone property. He noted that the acreage beyond the fall zone to be 2.7 acres.

Mr. Hale noted that the picture showed the residue of property to be 3.75 acres plus the 2.7 acres was 6.75 and the remainder of 3.55 acres included the tower site. He referenced the actual plat of the property.

Supervisors questioned if they would have to take sealed bids if they wanted to sell the 2.7 acres, and it was noted that it would be up to the Board once a public hearing was held; but that they could also accept offers. Ms. McGarry noted the Code section language that read “Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, at

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public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property....” Allowing a public or private sale.

Mr. Harvey noted that they just had to notify the public that public property was being disposed of.

Mr. Hale noted they would need to resolve the right of way through the tract and then would have to consider if the County needed to have the right of first refusal because it would impact the residue of property.

In response to questions regarding the site, Mr. Carter noted he thought the basement had been removed and filled in after the building demolition and noted that Mr. Truslow had said everything had been demolished.

Mr. Saunders suggested they set a minimum acceptable amount and Mr. Carter suggested this be the assessed value of the property.

Supervisors briefly discussed the fall zone and Mr. Harvey noted that whoever purchased the property should be responsible for not building in the tower fall zone.

Mr. Hale then moved to approve resolution **R2015-78**, Authorization for Public Hearing, Disposition of Public Property in Massies Mill and Mr. Bruguere seconded the motion.

Mr. Carter noted that once the Board held the public hearing, they could meet with whoever to negotiate and establish the purchase agreement and decide the particulars to be approved. Mr. Bruguere noted the purchaser should have access to everything except the tower and fall zone. It was noted that the tower site would be excluded and a right of way to the site retained.

Mr. Carter then noted that the public hearing could be held on October 13, 2015. Mr. Hale noted he thought the Board ought to have the public hearing first and then negotiate what they wanted to do.

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

RESOLUTION R2015-78
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
DISPOSITION OF PUBLIC PROPERTY IN MASSIES MILL

BE IT RESOLVED, that pursuant to §15.2-1800 and §15.2-1427 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on October 13, 2015 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia to receive public input on the proposed disposition of County Property located at 961 Tan Yard Road, Massies Mill, Virginia, Tax Map # 55-A-26.

E. Board of Supervisors Retreat

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This item was deferred until the evening session and then was discussed under County Administrator's Report, item number ten (10).

F. Dominion Atlantic Coast Pipeline Questionnaire

This item was considered during the evening session as follows:

Mr. Carter noted that the Board had directed staff to complete the Atlantic Coast Pipeline Questionnaire, staff met on it and then Mr. Padalino completed it. He noted that staff could overview the responses or could take questions. He noted that the Board had wanted to discuss the response and then decide next steps on meeting with Dominion.

Mr. Hale noted he had read the response and thought it was a thoroughly done piece of work and Mr. Padalino was to be commended. He noted it accurately reflected the concerns of the County, addressed previous action taken by the Board, and it put them on record as being responsive. He added he thought they should move forward with sending it to Dominion and then meet with them to discuss it.

Ms. Brennan agreed that it was an excellent piece of work and noted that she believed they should have a public meeting with Dominion, ask them questions directly, and invite the public to attend. She noted this was not so the public could speak; but so they could hear what was said in person. She added that the open houses were not helpful to the community at large and they should have an open meeting at the end of the month and invite the public to attend.

Ms. Brennan reiterated that she would like to ask them questions and would like for the public to hear the answers. She added she was fine with sending them the Board's response; however she would like to hear from them.

Supervisors discussed the potential meeting with Mr. Saunders noting he would like to send the Questionnaire response and then hold a meeting. Mr. Bruguere suggested having the face to face meeting at the November Board meeting since he thought October would be too fast. Ms. Brennan suggested that they send the response and in the meantime, schedule a meeting. Mr. Hale noted that the problem was they did not know the route and the final determination would be made when FERC decided. Ms. Brennan noted they were determined to put the route through Reed's Gap.

Mr. Hale noted they may not get a response from Dominion and Ms. Brennan noted that was why they needed to meet face to face. Mr. Saunders suggested getting the response first and Mr. Bruguere noted he would rather have this meeting after the election so it would not be politicized; which was why he suggested having it at the November meeting. He noted he wanted the meeting without the threat of political ramifications. Ms. Brennan noted she did not think it was political in any sense and meeting gave the Board a chance to hear from them.

Mr. Hale suggested separating the two issues of the Questionnaire response and the meeting and subsequently moved that the draft (Questionnaire Response) as presented be submitted to the ACP Project and then they would wait to hear from them.

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Mr. Harvey seconded the motion and Ms. Brennan noted that the response contained tons of questions.

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

Ms. Brennan then moved to schedule a public meeting with Dominion as soon as possible after a month and at the October meeting set a workshop that the public could attend.

There was no second and Supervisors had the following discussion:

Ms. Brennan noted she would like to invite the public to submit questions and Mr. Harvey noted this had been done six (6) months ago. Ms. Brennan noted she felt strongly about it and the public had the right to hear the answers. Mr. Hale noted that the reality was that the company and its allies had a project they wanted to do and Ms. Brennan noted that there were many questions to be asked of them. Mr. Hale noted he was not objecting to meeting and it was clarified that it would be a work session with the public invited to attend.

There being no further discussion, Mr. Saunders called for the vote and Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Harvey voting No.

Following the vote it was clarified that at the October Board meeting, they would decide on a meeting date.

G. *Introduced: Resolution R2015-69, Atlantic Coast Pipeline and Historic Properties.*

Mr. Hale referenced the previously mentioned resolution regarding the pipeline and the preservation of historic properties and moved to approve resolution **R2015-69**, Resolution Petitioning the Federal Energy Regulatory Commission to Comply Fully With Section 106 of the National Historic Preservation Act of 1966, as Amended, To Ensure That The Atlantic Coast Pipeline Avoids or Minimizes Any Adverse Effects to Historic Districts and Other Historic Properties in Nelson County.

He noted that Bob Carter had explained it fully under public comments that it went to FERC asking that they comply completely with the laws with respect to historic properties. Mr. Bruguere noted that they would have to comply anyway and Mr. Hale reiterated that they could comply at an A level or a C level.

Ms. Brennan seconded the motion and Mr. Harvey questioned Ms. Brennan's commitment to historic properties when the previous month she wanted to put an 8,000 square foot retail building right next to one. Ms. Brennan noted that the resolution was specifically related to the Atlantic Coast Pipeline and having Dominion pay attention to historic properties. The list of resolution recipients was then noted.

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There being no further discussion, Supervisors voted (2-3) by roll call vote to disapprove the motion with Mr. Bruguere, Mr. Harvey, and Mr. Saunders voting No.

Mr. Saunders noted he voted no because he wanted to consider this later during the evening session and it was questioned whether or not it could be brought back up. Mr. Harvey added that he thought that all historic properties should be treated the same.

Mr. Carter then advised that the Board could nullify the previous vote and revisit the matter during the evening session.

Mr. Hale then moved to nullify the previous vote and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Bruguere voting No.

Mr. Saunders then noted that the matter could now be revisited during the evening session.

H. *Introduced: Resolution Recognizing Carolyn Albritton*

Ms. Brennan introduced a resolution to commend Ms. Carolyn Albritton for her service to Nelson County. She noted that Ms. Albritton's family and friends were hosting an event in her honor on October 3rd and she was asked if the Board could do this.

She then moved to approve resolution **R2105-79**, Resolution Commending Carolyn T. Albritton for Her Community Service to the Citizens of Nelson County and Mr. Bruguere seconded the motion.

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

**RESOLUTION R2015-79
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION COMMENDING CAROLYN T. ALBRITTON FOR HER
COMMUNITY SERVICE TO THE CITIZENS OF NELSON COUNTY**

WHEREAS, Ms. Carolyn T. Albritton came to Nelson County in 1958 as an Agent of the Virginia Cooperative Extension Program and as such has provided a wealth of information, education and tools to hundreds of its citizens, and

WHEREAS, she began to involve the local African-American schools in a 4-H program bringing support, exposure, creativity and motivation to many hundreds of the County's youth that otherwise would not have received the program, and

WHEREAS, in 1965 that effort was extended to include all interested youth providing education in canning food, sewing, nutritional meal planning, formalizing community efforts for change, and general home and health care, and

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WHEREAS, Ms. Albritton implemented the first programs administered by the Federal Farmer's Home Administration, working with Nelson citizens for better housing and general home improvements including indoor plumbing and bathrooms, and

WHEREAS, she has been instrumental in the creation of other community committees that have pioneered efforts to meet the needs of this rural county and continues to be active and influential in many ways;

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby express its appreciation to Ms. Albritton for her many years of past and continued community service to the people of Nelson County, wishing her continued health and prosperity.

Mr. Bruguere then noted that Ms. Albritton had influenced many lives and had provided great service to Nelson County.

Mr. Harvey agreed and asked about doing a resolution for John Bradshaw who had resigned from the Board of Zoning Appeals. Supervisors agreed by consensus it be done.

VI. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

1. Courthouse Project Phase II: Sealed bids were received on September 2nd at 2 p.m. in the former Board Room. Two bid proposals were received (Jamerson-Lewis Construction, Inc. and MB Contractor, Inc.) by the 2 p.m. A third from Mathers Construction was late and is being returned unopened to the company. The low bid proposal of \$4,598,000 was submitted by Jamerson-Lewis. MB Contractors bid proposal was \$4,959,000. There were five bid alternatives included in the bid solicitation and Jamerson-Lewis's total cost proposal for the five alternatives is \$292,300. Total estimated project costs, subject to being finalized is \$5,826,492 (inclusive of Jamerson-Lewis's base and add alternate bid proposal, A&E fees, a 5% contingency, legal and special inspection costs). In a meeting on 9-3 with the Board's Project Committee (Supervisors Saunders and Hale) the Committee decided, subject to Board approval to accept all 5 bid alternatives. Staff have conferred with VRA and the County's bond counsel (Sands Anderson/P. Jacobson) to provide for financing the project through VRA. At present, the financing with VRA would provide \$4.5 million in bond funding, repayable for 20 years at an interest rate not higher than 4.5% (the bond resolution documents which the Board will formally consider approval of on 9-8 currently provide an amount higher than the \$4.5 million but this is to provide a maximum funding ceiling that, as necessary, will encompass all in closing costs from VRA, inclusive of bond counsel). Collateral (security) for the financing will be the four connected structures that comprised the Courthouse (1809 to 1970s) until the new addition was completed in 2011 (the new addition is not a part of the collateral for the project's financing). Based on VRA's analysis, the final all in financing will not be higher than \$4.456 million based upon an insured valued of \$3,342,400 (of the overall renovation areas). The Board's agenda for 9-8 includes resolutions to authorize acceptance of the low bid proposal and to authorize the financing with VRA. The proposal from Jamerson-Lewis projects a start date of October 1st with project completion in January-February, 2017.

2. Broadband: A) Local Innovation Grant Project: Phase 1 construction (from Rtes. 151&6 to Rtes. 151 & 664) is projected to begin this month (September), as staff and the project's installation contractor (CCTS – D. Beam) have been working closely with VDOT to secure the required permits for the project from the Department. Phase 2 and 3 will follow Phase 1. **B) Broadband Strategic Plan:** Development of the scope of work for the project is pending. **C) NCBA Planning Session:** The Authority Board requested the scheduling of a planning session at their July 2015 meeting. This session will likely be conducted in October, as (County) staff is continuing to focus on the CDBG construction project, providing coordination/information for potential service connections to the network for an approximate 50 +/- (possibly more) new customers. Staff is also very focused on negotiations with current and potential new service providers. This is a very critical time for the broadband network. **D) CDBG Planning Grant:** An application for \$30,000 in planning grant funding has been submitted to DHCD. Input from DHCD is pending.

Mr. Carter noted there was potential for two larger service providers to come in and offer services on the whole network.

3. BR Tunnel: Development of the revised Phase 2 of the project (full Tunnel rehab & restoration, trail construction within the Tunnel) is projected to begin in the ensuing 30 – 45 days approximate. A favorable grant decision from VA-DCR for \$250,000 in RTP funding will enable the Phase 2 Project, based on current cost estimates, to be completed, leaving Phase 3 (estimated between \$900,000 - \$1.0 million) as the last project element to be completed, which grant funding from VDOT will be sought by County staff with Woolpert's assistance in November 2015. With regard to the project's completed Phase 1, photos of the trail area from cameras placed by County staff denote the trail is being actively used (despite No Trespassing Signs) and the cameras have captured persons cutting the trail fencing near the Tunnel's eastern entrance (investigation by the Sheriff's Department is in process).

Mr. Harvey suggested talking to locals that lived around the Tunnel. He added that the County may need to camera the overlook also as graffiti was now present there.

Mr. Carter noted that there was a picture of a man and a small child on a four wheeler, and he thought this would be a discussion with the adjoining property owner that no four wheelers were supposed to be on the trail.

Mr. Hale then suggested moving the gate past the parking area and maybe removing the no trespassing signs. He noted that given that the people who were passing through the fence were coming from the Railroad side, channeling them through the trail side would be better.

Mr. Carter noted that they were coming in down Afton Mountain Vineyard Road and then over. It was noted that a foot bridge on the other side of the tracks had been seen and Mr. Harvey confirmed that there were trails back there. Mr. Carter reiterated that the issues were from the east side by the fence and the people were crossing the active tracks. He confirmed that the pictures were clear enough to identify someone and he noted that they may have cut the fence for a fourth time.

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Mr. Bruguere noted that simple trespassing could carry a hefty fine. Mr. Carter noted that the camera showed them cutting the fence and that Paul Truslow has been patching it back together. He noted after the first time it was repaired by FCE, the contractor.

4. Lovington Health Care Center: The Citizen's Committee is continuing to meet. There are currently three prospective owners/operators of the Center following MFA's (Medical Facilities of America) relocation to its new Albemarle location, currently project for February 2016. Two of the prospective owners/operators are Region Ten CSB and, secondly, a possible consortium (LLC/LP) between Piedmont Housing Alliance and JABA. The third prospect is a private company in Harrisonburg. A meeting with PHA & JABA will be scheduled for later in September. The Harrisonburg company is currently completing various financial and architectural/engineering studies to determine the feasibility of owning and operating the Center. Region Ten has previously submitted a purchase proposal but nothing has advanced, to date, towards further discussions with the regional CSB.

5. Radio Project: The Department of Information Services is continuing to work with Motorola and Clear Communications towards solutions to improve system coverage, resolving pager malfunctions, etc.

6. CDBG Grant Application for Sewer Line Extension: An application to VA-DHCD for funding of the project is in process with additional guidance from DHCD pending receipt.

7. Maintenance: Roof replacement for the new Maintenance Building is in process but pending completion.

Mr. Carter added that the contractor had put half of the roof on and then took a break. He noted that Paul Truslow has called them and they should be finishing.

8. FY 14-15 Budget & Audit: The FY 15 Audit Report (CAFR) is in process but will not be completed until early in the fourth quarter of 2015 (November- December). The estimated FY 14-15 Budget balance (revenues vs expenditures), subject to audit, is \$1,164,621 (which was not included in the FY 15-16 Budget).

9. Personnel: Staff is actively recruiting for the Building Inspection position authorized in the FY 15-16 Budget and for the vacant part-time position in the Department of Finance and HR.

Mr. Carter noted that several applications had been received. In response to questions regarding the vacant Part-Time Finance and HR position – Mr. Carter reported that Laura Lovern had resigned. He noted that she lived in Amherst, her background was in insurance, and she was offered a job locally that suited her schedule better, had benefits, and possibly paid more money. He noted that she said she did not really want to leave; however it was a better situation. He noted that staff had been pleased to have her while she was here.

10. Board Retreat: The Retreat Committee (Supervisors Saunders and Brennan and staff members Carter and McGarry) decided on October 22-23 as the proposed dates for the Board's retreat. Mr. Chip Boyles, Exec. Director of TJPDC has agreed to facilitate the retreat. The

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proposed meeting location is Veritas Winery (which is pending confirmation with the winery). An outline of items for the Board's consideration at the retreat was forwarded to the Board on 8-26.

Mr. Hale noted he thought one day would be plenty of time for the retreat and Mr. Bruguere noted he would like to postpone it until November or December because October was busy for him.

Mr. Carter noted that TJPDC Executive, Chip Boyles was happy to facilitate.

Members then agreed by consensus to try to have the retreat during the first week of December.

Mr. Hale noted he was in favor of Mr. Boyles facilitating the retreat and he reiterated that he thought one day would be enough. Mr. Saunders advised that they would then have to narrow down the list of topics to be discussed.

Mr. Hale noted that Tuesday or Thursday suited him best and the Board's consensus was to review this item again in October once Mr. Carter could check with Mr. Boyles about December and locate an available venue.

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

2. Board Reports

Mr. Bruguere had no report, Mr. Hale did not attend the TJPDC meeting, and Mr. Harvey noted he attended the Service Authority meeting and had nothing to report.

Ms. Brennan reported the following:

1. Participated in a meeting with Senator Warner noting she was invited to go with Richard Averitt and Hank Theiss to present the economic impact of the pipeline to their developments. She noted there were people there from four counties and they each had two minutes to speak. She added that Reverend Rose was also there. She then noted she went to a second meeting with Dominion and the Dutch Creek people. She noted that the ACP folks were looking at moving away from environmentally sensitive areas. She noted that she learned about ridge-top construction; where they sliced off the top of the mountain, bury the pipe, and then were required to put it back like it was.

2. Attended Augusta County Board meeting and noted they had someone come who coordinated between federal agencies. She noted it seemed unclear if FERC was considered a federal agency.

3. Spoke to someone who has done work on floodplain issues etc. and noted she would like staff to keep working on the Floodplain Ordinance.

Mr. Saunders reported the following:

1. Reported that he had gotten concerns regarding the bell at Ryan School. He noted that he had coordinated with the County and had it removed and it was being stored until the Heritage Center

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could build a display for it. He added that he was working with Reverend Rose on it and the bell was in a safe place right now. He noted that the bell had a lot of history and rather than it being taken or vandalized, it was moved. He noted this was the bell in the cupola of old Ryan School.

2. Attended Courthouse project meetings.

B. Appointments

Ms. McGarry reported that there were no appointments to be made and noted the existing vacancy on the JAUNT Board and the Region Ten Board with no pending applicants. She then noted the pending appointments by the Circuit Court Judges for the Board of Zoning Appeals as follows:

Carole Saunders for the John Bradshaw vacancy and Ronald Moyer for the Kim Cash vacancy. She reiterated the Board's previous directive to not advertise for an alternate until Mr. Moyer was officially appointed by the Judge's to the full time seat.

C. Correspondence

1. Nelson Middle School FFA

It was noted that the letter received was the customary request to provide \$2,000 in funding to the Nelson Middle School FFA for travel expenses to the National FFA Convention.

Mr. Harvey then moved to approve the requested funding and Ms. Brennan seconded the motion.

Mr. Hale clarified the motion was to give Nelson Middle School FFA \$2,000 for transportation costs to Louisville, Kentucky.

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

Mr. Harvey then noted that Lauren Goff, a Nelson County High School graduate and recent college graduate, had taken Mr. Massies's place as the Middle School Ag teacher and FFA Advisor when he retired.

D. Directives

Supervisors had no directives; however Mr. Hale noted he would be absent for the October meeting.

VII. Adjourn and Reconvene for Evening Session

At 5:20 PM, Mr. Bruguiere moved to adjourn and reconvene for the evening session at 7:00 PM and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the meeting adjourned.

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**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 all Supervisors present to establish a quorum.

II. Public Comments

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

1. Celine Thelen, Lovingston

Ms. Thelen read aloud written comments in opposition to the proposed special use permit for the dance hall and bar. She noted that this started out as a restaurant and now was a dance hall and bar. She noted that the proprietor stated it would be a night club but that he was not supposed to say that. She noted that the issues of safety and parking had not been addressed. She noted that Lovingston was going downhill, the buildings were not being maintained, and were allowed to become more blighted. She noted that the residents had a right to a quiet and safe environment that would seemingly be protected by elected officials. She asked the Board to prove that the County was not run by powerful families and that the normal citizen was represented. She implored the Board to listen to its constituents, heed their wishes, and disapprove the dance hall and bar.

2. Ed Hicks, Lovingston

Mr. Hicks presented the Board with more signatures on the petition opposing the dance hall special use permit. He then questioned what the maximum capacity for the building was for the square footage as that would indicate how many it could hold.

3. Patty Ray Avalon, Lovingston

Ms. Avalon noted she was a Lovingston resident asking them to vote No on the special use permit for the night club.

Ms. Avalon reported that the previous Wednesday, Lovingston residents were invited to be present for a sound check at the proposed dance hall and when they asked if the doors would be open or closed, they responded they would be closed because it was a night club. Ms. Avalon then encouraged the Board to ask for a detailed business plan for the restaurant. She noted that research showed the cost of a commercial kitchen ranged from \$10,000 - \$100,000. She then questioned whether they were planning to invest in a proper kitchen. She added that the entire building space was empty and looked to be purely a night club, dance hall, and bar. She noted that there was no third party monitoring noise levels.

Ms. Avalon then noted the distance of each Supervisor's home from the proposed dance hall.

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She noted a letter to the Board that said "if they did not encourage economic development in Lovington it would continue to deteriorate and would cost the county money". She advised that if one looks for a home online, a crime report can be seen that showed all types of crime in the area. She further noted that she had read statistics regarding what happened when a bar or night club came into an area. She noted that literature showed that bars were associated with elevated crime rates and could account for more than 50% of problems. She noted their proliferation had led to an increase in assaults in and around bars that were alcohol related and on weekend nights. She noted that other statistics showed more than 1 in 10 crimes took place in parking lots. She concluded by noting that elevated crime rates would follow and those would be posted on websites for the public to see.

Ms. Avalon then stated that landowners should be required to clean up blighted buildings and clean up trash dumps in the village.

She then noted rates of alcohol impairment in 2013 and 2014; noting that according to the Nelson County Sheriff's Department, there were 50 car accidents at the three Lovington exits in the last year. She noted that Route 29 was a dangerous highway even without drivers being alcohol impaired.

Ms. Avalon noted that noise, crime, drugs, theft, burglaries, and vandalism would follow and she reiterated that traffic on Route 29 combined with alcohol impaired drivers was a disaster.

Ms. Avalon then suggested the old Dollar Store venue next to Food Lion for the dance hall and noted that they had submitted a petition with over fifty signatures and she asked the Board again to not approve the Special Use Permit for the dance hall.

4. Al Weed, Lovington

Mr. Weed noted the vitality of the economic growth on Route 151 and noted that on Route 29, there may be six (6) build-able lots and eleven (11) or twelve (12) empty storefronts. He noted that Lovington was a ghost town and needed something. He noted that when he ran for Congress, Nelson County stood out from other counties as being open, friendly, and it encouraged diversity and this reputation had continued. He then noted that Nelson had benefited from a Hispanic workforce, which was a part of the County's culture and community and he thought the County should find ways to make them feel welcome. He added that he was afraid that fear of the different would make the community lose their humanity. He noted that the decision was about trusting the local government and the Virginia Department of Health; which he thought they could do and he thought the Board should approve the Special Use Permit for the dance hall.

5. Joe Lee McClellan, Lovington

Mr. McClellan noted that at the previous meeting a petition was presented against the Special Use Permit for the dance hall and he now had one containing one hundred signatures in favor of it. He noted he could get ten times that amount if he had the time. He then noted that he owned several properties in Lovington and struggled to pay the taxes on those every six months. He noted that he would prefer certain types of businesses in Lovington; however these were not available. He noted that with the regulations that were in place, he thought it would be difficult for the business

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to disrupt the community. He then noted he hoped the Board would give them a chance to do what they said they would do and if they did not, they could kick them out and he would support that.

Mr. McClellan then noted that VDOT had asked him if there was anything Nelson Cable could do to share the fiber line with the County going down Route 151 to Route 664 and he noted he planned to write a letter to the Broadband Authority to see if something could be worked out.

III. Other Business

A. Special Use Permit #2015-03 – “Dance Hall” / Jose & Elpidia Gaona (Deferred from July 14, 2015)

Mr. Saunders clarified that he would not discuss the matter or vote on it just as he did not at the Planning Commission level. He noted that he owned adjacent property and had a conflict of interest. He noted he had a letter from his attorney on the matter and he wanted it to be known that he had been made an offer to purchase the property; which had been on the market for over ten (10) years.

Mr. Hale then noted that the applicants and their son Edgar were present to answer questions.

There being no questions for them, Mr. Hale moved to approve Special Use Permit #2015-03, Dance Hall, Jose & Elpidia Gaona with the following conditions: the Dance Hall be operated only until midnight on the days in operation, the Dance Hall be limited to five (5) nights per month on Friday and Saturday only, and the conditional approval of the Dance Hall is for twelve (12) months from the receipt of the Certificate of Occupancy; at which time the Special Use Permit for the Dance Hall would be reviewed and a public hearing held to determine if the Special Use Permit would be continued or revoked. He noted this was pursuant to Article 12-3-8.

Ms. Brennan seconded the motion and Supervisors had the following discussion:

Mr. Hale noted that in terms of discussion, the conditions would not please the applicants who wanted to have the Dance Hall open until 2:00 am; however it was a compromise and an opportunity for them to try to successfully operate the business. He noted that they had determined that the dance hall component was necessary for their business plan to be financially viable and it would be an addition to the community in Lovington and he thought they would not be unhappy with it. He added that if it did not work out, it would not be allowed to continue and that if the Board had questions, he felt they should ask them.

Ms. Brennan noted her agreement with everything that Mr. Al Weed said under public comments. She noted she has felt welcomed by people different from her and it was part of the community. She noted that when property was purchased, there was no guarantee that things would stay the same and she did not think the dance hall would change the community at all and she thought they would do a very good job. She then encouraged all to embrace them and noted that the Fire Marshall would determine the building's maximum capacity. She added that there was already a bar in Lovington and she had not heard anything about rampant drugs etc. being associated with it and she thought the dance hall would be good for the County and Lovington and she welcomed them.

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Mr. Harvey noted he agreed up to a point. He noted he thought the restaurant would be welcomed; however it was not the appropriate location for the proposed dance hall. He then asked staff about the required parking. Mr. Padalino noted that the Lovington Village was exempt from these requirements; however, fifty-two (52) spaces were on the property – forty-eight (48) regular spaces and up to four (4) handicap spaces. He reiterated that the Ordinance exempted one place, Lovington, from parking requirements and he noted this was discussed during the site plan review. Mr. Harvey then noted that the Dollar Stores were required to have a certain number of spaces; however the real question was, what their plan B was in terms of parking when they ran out of spaces.

Mr. Joe Lee McClellan was recognized by the Chair and he noted that the lot next-door between his property and Region Ten could be developed for parking.

Mr. Hale then pointed out that all of the improvements to the building would be subject to review by the Building Code Official and would have to meet Building Code which addressed in detail many of the issues raised. He noted they would also be inspected by the Virginia Department of Health.

Mr. Harvey noted he did not doubt they would meet regulations. He noted his position was unchanged; however he hoped he would be wrong about his concerns.

There being no further discussion, Supervisors voted (3-1-1) by roll call vote to approve the motion and Special Use Permit #2015-03 with the aforesaid conditions. Mr. Harvey voted No and Mr. Saunders abstained from the vote.

B. Introduced: Resolution R2015-69, Atlantic Coast Pipeline and Historic Properties

Mr. Hale reiterated the purpose of the resolution and moved to approve resolution **R2015-69**, Resolution Petitioning the Federal Energy Regulatory Commission to Comply Fully with Section 106 of the National Historic Preservation Act of 1966, as Amended, To Ensure That The Atlantic Coast Pipeline Avoids or Minimizes Any Adverse Effects to Historic Districts and Other Historic Properties in Nelson County and Ms. Brennan seconded the motion.

Mr. Hale reiterated that FERC would be required to fully comply with federal laws.

There being no further discussion, Supervisors voted (3-2) by roll call vote to approve the motion, with Mr. Bruguiera and Mr. Harvey voting No. Mr. Bruguiera noted he agreed with Mr. Harvey that the County should follow the same rules that others were expected to follow with regards to historic properties.

The following resolution was adopted:

**RESOLUTION R2015-69
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION PETITIONING THE FEDERAL ENERGY REGULATORY
COMMISSION TO COMPLY FULLY WITH SECTION 106 OF THE NATIONAL
HISTORIC PRESERVATION ACT OF 1966, AS AMENDED,**

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TO ENSURE THAT THE ATLANTIC COAST PIPELINE AVOIDS OR MINIMIZES ANY ADVERSE EFFECTS TO HISTORIC DISTRICTS AND OTHER HISTORIC PROPERTIES IN NELSON COUNTY

WHEREAS, Nelson County is safeguard to an outstanding Virginia legacy of historic places that are listed on the Virginia Landmarks Register and National Register of Historic Places or have been determined to be eligible for listing on the state and national registers, and

WHEREAS, Nelson's historic places are authentic historic sites where important local, state and national events took place; where historic personages of great renown lived; where exist historic plantation seats and their farmlands which have been farmed intensively for over three centuries; where every period and style of architecture is displayed in living outdoor classrooms; and where significant prehistoric and historic archaeological sites like the Monacan sites on the James or the burials of enslaved people near old Warminster evince a continuum of human settlement by Native Americans, Europeans and African-Americans in Nelson over thousands of years, and

WHEREAS, Nelson's historic places tell unique Nelson stories and recall the historic and cultural contributions of Nelson families, and bring our heritage home to our children and fellow citizens, and

WHEREAS, Nelson's **historic** places have high value to a broad spectrum of Virginians and visitors who are drawn to the authenticity and richness of our historic places,

WHEREAS, Nelson's rural economy with its reliance on a local tourism industry is fundamentally reliant upon an intact authentic rural landscape, unspoiled Blue Ridge Mountain scenery and high quality public landscapes managed for outdoor recreation, scenic value and environmental health, and

WHEREAS, it is the policy and goal of Nelson County to preserve and protect the historic character and features of Nelson County and a stated principle under that goal is to recognize and honor the stewardship of historic properties and sites through Historic Designation programs; and

WHEREAS, it is the policy and goal of Nelson County to encourage and establish historic districts in Nelson in support of the County's tourism program and to protect their historic, architectural and cultural significance, and

WHEREAS, it is the policy and stated goal of Nelson County to support and encourage tourism as a viable means to diversify Nelson's economy, and to promote historic sites that are accessible to the public and to promote local greenways and other recreational opportunities, and

WHEREAS, the designation of Nelson's rural historic districts recognizes the historic importance and continuing vitality of Nelson's agricultural economy; and

WHEREAS, proposed routes and alternative routes for the Atlantic Coast Pipeline directly intersect and threaten to affect adversely rural historic districts and other historic properties that are on or eligible for listing in the National Register of Historic Places; and

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WHEREAS, open and transparent project planning and coordination among governmental agencies as well as sound resource-based planning and decision making are vital to the preservation of Nelson's historic places.

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors petitions the Federal Energy Regulatory Commission to comply fully with Section 106 of the National Historic Preservation Act of 1966, as amended, to ensure that the Atlantic Coast Pipeline avoids or minimizes any adverse effects to historic districts as well as to other historic properties in Nelson County; to seek and consider the public's views of the Atlantic Coast Pipeline at every stage of the federal review process including the views of designated representatives of Nelson County, the Nelson County Historical Society, the Rockfish Valley Foundation and the Monacan Indian Nation as consulting parties; to consult closely with every federal agency and state agency that has stewardship responsibility for some aspect of the historic, cultural and natural resources affected by this project; to consider the impacts of this project on historic buildings, historic structures, historic districts and archaeological sites, historic cemeteries, burial grounds, cultural landscapes and view sheds that could be directly or indirectly impacted adversely by this project; to employ state of the art elevation modelling and photo simulation to show the visual impact of the project on the cultural landscape of Nelson County; and to take account of those visual and all other impacts in evaluating preferred responsible routes for the Atlantic Coast Pipeline in Nelson County;

AND BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors directs the Clerk of the Nelson County Board of Supervisors to send a copy of this resolution to the Federal Energy Regulatory Commission, Governor of Virginia Terry McAuliffe, Secretary of Natural Resources Molly Ward, Director of the Virginia Department of Historic Resources Julie V. Langan, Virginia Senator Creigh Deeds, Virginia Delegate Richard Bell, Virginia Delegate Matthew Fariss, Chairman of the President's Advisory Council on Historic Preservation Milford Wayne Donaldson, U. S. Senator Mark Warner, U.S. Senator Tim Kaine, U.S. Congressman Robert Hurt, Atlantic Coast Pipeline LLC, and Dominion Transmission, Inc.

IV. Adjournment

At 7:45 PM, Mr. Harvey moved to adjourn 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.