

September 9, 2014

**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 - Chair  
Allen M. Hale, East District Supervisor  
Thomas H. Bruguiera, Jr. West District Supervisor  
Larry D. Saunders, South District Supervisor – Vice 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**

Ms. Brennan 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. Saunders led the pledge of Allegiance

**II. Consent Agenda**

Ms. Brennan noted the items on the consent agenda for consideration and Mr. Hale suggested that the resolution recognizing the service of Tanith Knight be removed and considered separately.

Mr. Hale then moved to approve the consent agenda items, B, C, and D. Mr. Saunders seconded the motion. Ms. Brennan noted that she proposed that item A not be separated as it was to be presented to Ms. Knight at her retirement party the following week and read aloud for the first time then. Supervisors disagreed this was an issue and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

- B. Resolution – **R2014-61** Minutes for Approval

**RESOLUTION R2014-61**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF MEETING MINUTES**  
**(August 12, 2014)**

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**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board's meeting conducted on **August 12, 2014** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

C. Resolution – **R2014-62** COR Refunds

**RESOLUTION R2014-62  
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>
\$222.00	2014 PP Tax & Vehicle License Fee	Chase Bank, USA N.A. Attn: Kim Ford NY2-S503 P.O. Box 9211 Garden City, NY 11530-9891
\$189.88	2011-2014 PP Tax & Vehicle License Fee	Timothy D. Truslow 2280 Tye River Rd. Amherst, VA 24521
\$156.96	2014 Disabled Veteran Refund	Shelton L. Root 1917 Greenfield Rd. Afton, VA 22920

D. Resolution – **R2014-63** FY15 Budget Amendment

**RESOLUTION R2014-63  
AMENDMENT OF FISCAL YEAR 2014-2015 BUDGET  
NELSON COUNTY, VA  
September 9, 2014**

**BE IT RESOLVED** by the Board of Supervisors of Nelson County that the Fiscal Year 2014-2015 Budget be hereby amended as follows:

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

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$5,496.00	3-100-009999-0001	4-100-031020-5419
\$1,104.00	3-100-002404-0002	4-100-031020-5419

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\$985.00	3-100-003303-0025	4-100-31020-7044
\$109.00	3-100-009999-0001	4-100-031020-7044
\$10,000.00	3-100-002404-0041	4-100-091050-7011
\$5,000.00	3-100-001901-0045	4-100-091050-7011
\$5,100.00	3-100-002404-0031	4-100-091050-7097
<u>\$2,400.00</u>	3-100-009999-0001	4-100-091050-7097
\$30,194.00		

## II. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$6,609.00	4-100-999000-9905	4-100-031020-3003
\$47,658.00	4-100-999000-9901	4-100-043040-7005
<u>\$15,630.00</u>	4-100-999000-9901	4-100-043040-5409
\$69,897.00		

Mr. Hale then moved to approve Resolution **R2014-60** Resolution Recognizing Retiring Librarian, Tanith Knight and read it aloud. Mr. Harvey seconded the motion and their being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

A. Resolution – **R2014-60** Recognition of Service- Retiring Librarian, Tanith Knight

### **RESOLUTION R2014-60 NELSON COUNTY BOARD OF SUPERVISORS RESOLUTION RECOGNIZING RETIRING LIBRARIAN - TANITH KNIGHT**

**WHEREAS**, after thirty-seven (37) years, Mrs. Tanith Knight is retiring from her position as Librarian of the Nelson Memorial Library; and

**WHEREAS**, the Nelson County Board of Supervisors wishes to honor Mrs. Knight's dedicated and exemplary service to Nelson County citizens; and

**WHEREAS**, since 1977, Mrs. Knight has successfully managed the Nelson Memorial Library and has facilitated the increase in annual circulation of library materials from less than 14,000 to over 58,000; and

**WHEREAS**, under Mrs. Knight's management, the Nelson Memorial Library entered into the digital age, offering library users online computer services only dreamed of in 1977; and

**WHEREAS**, Mrs. Knight utilized her knowledge of the people of Nelson County and her love of books to render Nelson Memorial Library an essential educational resource for residents of all ages.

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors hereby recognizes, and extends their appreciation to Tanith Knight for her many years of dedicated public service and joins the community in wishing her health and happiness in the years to come.

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

Ms. Brennan suggested that item B be considered first and the Board agreed by consensus to make this change.

#### A. Public Comments

##### 1. Mary Coy, Jefferson Madison Regional Library Board Representative

Ms. Coy thanked the Board for the resolution passed for Tanith Knight and distributed invitations to her retirement party. She also invited County staff and thanked the Board for supporting the Library.

##### 2. Robert Gubisch, Beech Tree Lane

Mr. Gubisch read aloud a letter to the editor that he had written regarding the Atlantic Coast Pipeline. His letter noted that the people of the County did not need lawyers for this and that laws were there to protect, preserve, and defend the innate rights of individuals. He added that people were not confused as to their fundamental rights and were the true power in the country. He encouraged the public to write the Governor and let him know he was to represent the people and that his support of the pipeline went against the rights of his constituents. He encouraged people to stand firm with the majority and there would be no pipeline in Nelson County.

##### 3. Edward Grant, Arrington

Mr. Grant noted that he moved to the County in 2007. He noted that cars flew down Arrington Road and he asked if a watch for turning vehicles sign could be installed in this area. He added that a “deer crossing” sign would be beneficial there as well.

Mr. Grant then noted that he thought if the citizens of the County stuck together in opposition to the pipeline, they could prevail. He added that he thought the Nelson Center was not big enough for the Dominion open house and it should be held in the Nelson Middle School Auditorium. He noted that he also did not like the meeting format.

##### 4. Charlie Weinberg, Ennis Mtn. Road

Mr. Weinberg thanked VDOT for being responsive to fixing his road which was now safe again.

Mr. Weinberg noted that he was impressed with the LOCKN festival evacuation for safety reasons that occurred on Saturday night.

Mr. Weinberg noted that with regard to the pipeline, it was clear that the Board had worked hard to get answers and he thanked them for speaking to people about the pipeline. He then added that he wished the Governor would have had some contact with constituents on the matter.

5. Charlotte Rea, Afton

Ms. Rea added thanks for the Board's support to the citizens of the County in having the informational meeting with Dominion. She noted that she was still concerned and appreciated the opportunity to get more information. She added that they had been the first Board of Supervisors that had said no more surveying until Dominion came and talked to them. She added that still no surveying had been done and there probably would not be until after the September 16, 2014 open house.

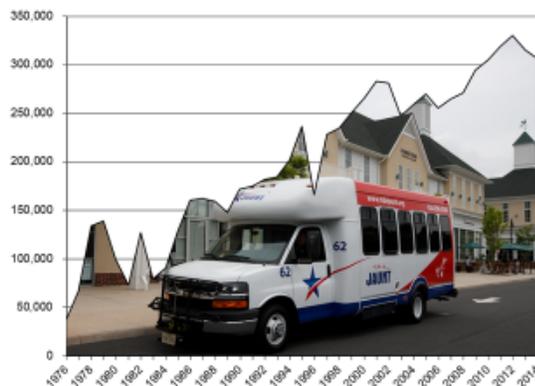
6. Eleanor Amidon, Afton

Ms. Amidon noted she was representing the Pipeline Education Group that was formed in opposition to the Atlantic Coast Pipeline. She noted that their two objectives were to provide as much information as possible on fracking and pipelines and to provide the opportunity for citizens to blend their voices in opposition. She then presented a petition to the Board that contained over 1,000 signatures to date. She then implored the Board to take whatever action they could to support the will of the people. She added that she wanted a clean, safe, viable, and beautiful county for now and generations to come.

B. Presentation – JAUNT Annual Report (D. Shaunesey)(R2014-64)

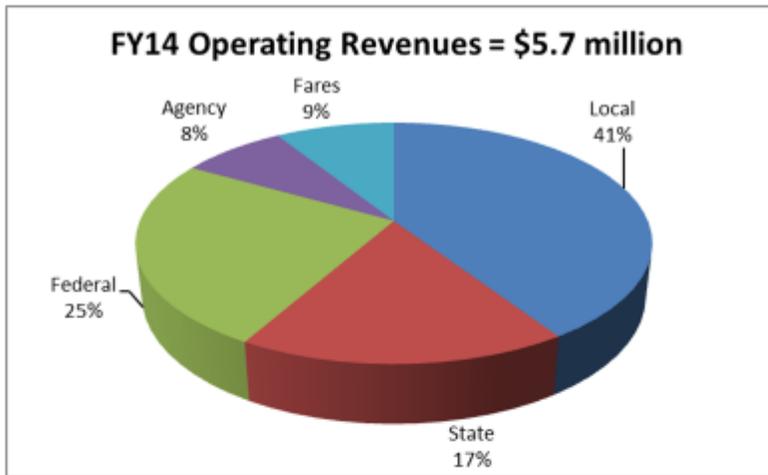
Ms. Shaunesey noted the presence of both Nelson County JAUNT Board members, Ms. Sotura and Ms. Jackson and then gave the following PowerPoint presentation:

## TOTAL ANNUAL RIDERSHIP

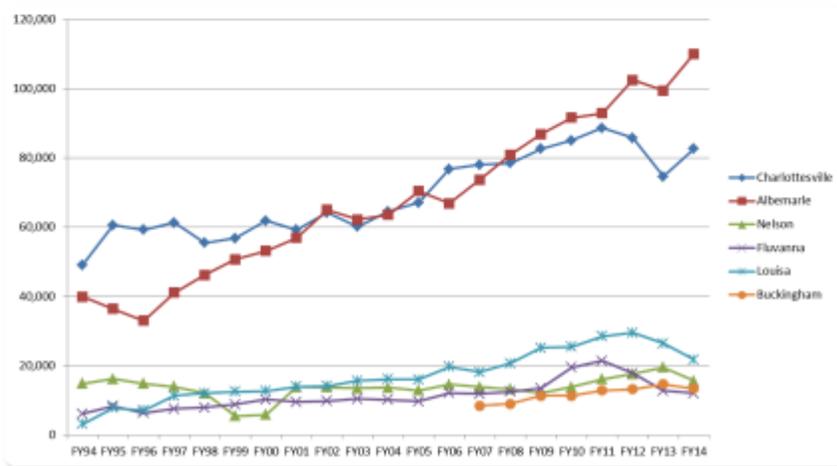


Ms. Shaunesey noted that the preceding chart showed annual ridership for the last thirty-nine (39) years and that Louisa County had cut back this fiscal year.

## OVERALL FINANCIAL PICTURE: Revenue

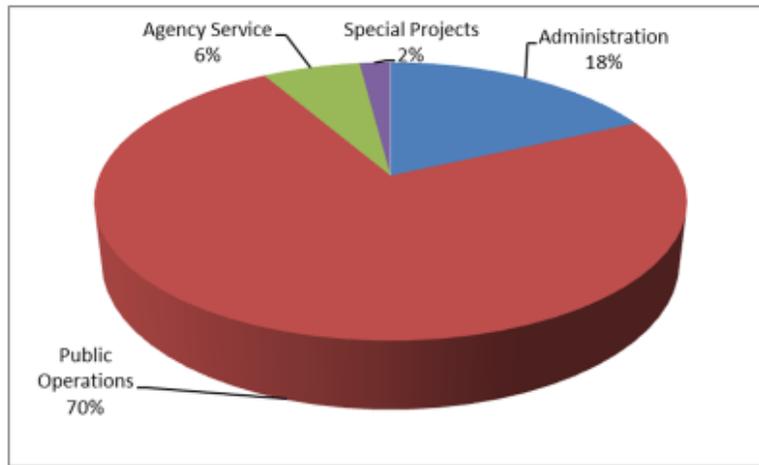


## PUBLIC RIDERSHIP FY93 TO FY14



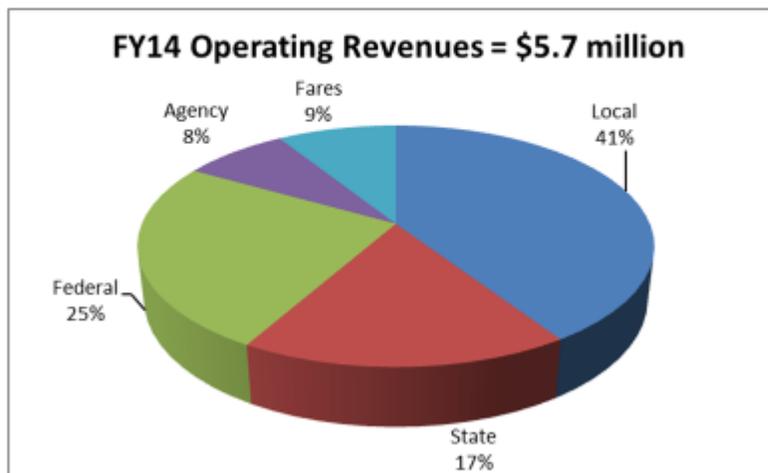
Ms. Shaunesey noted that this chart showed ups and downs for Nelson County which was primarily related to Wintergreen.

## OVERALL FINANCIAL PICTURE: Expenses

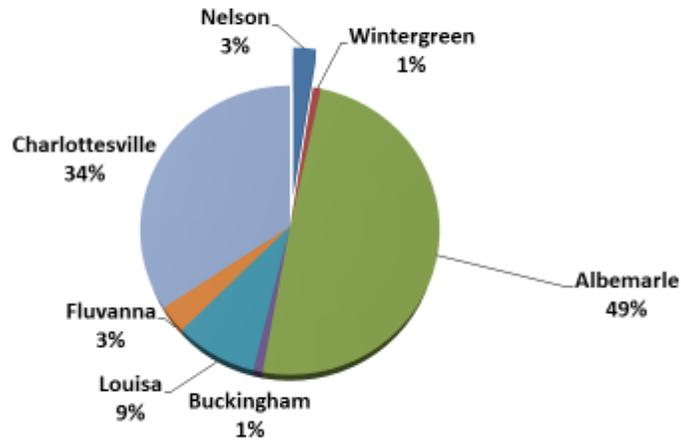


Ms. Shaunesey noted that JAUNT had initiated a special project related to spanish outreach which had been beneficial to the hispanic community's utilization of their services. She also noted that the Administration expense category seemed high due to some items having to be included there for accounting purposes; that were more tied to operations.

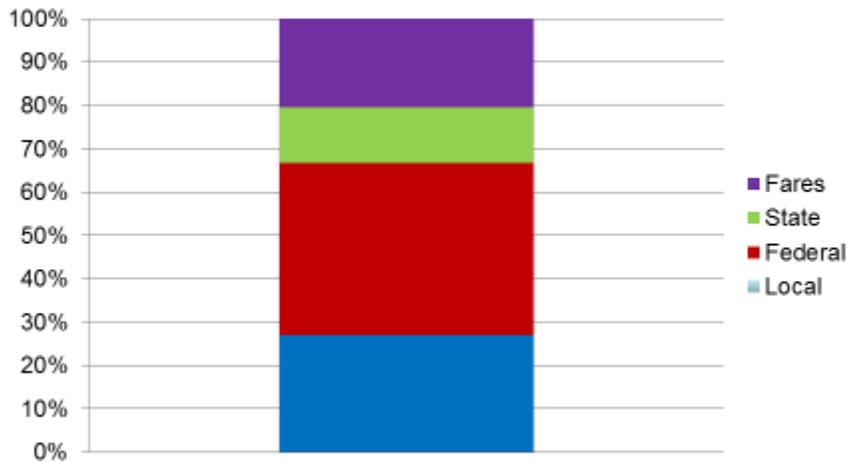
## OVERALL FINANCIAL PICTURE: Revenue



## LOCAL FUNDING SHARES

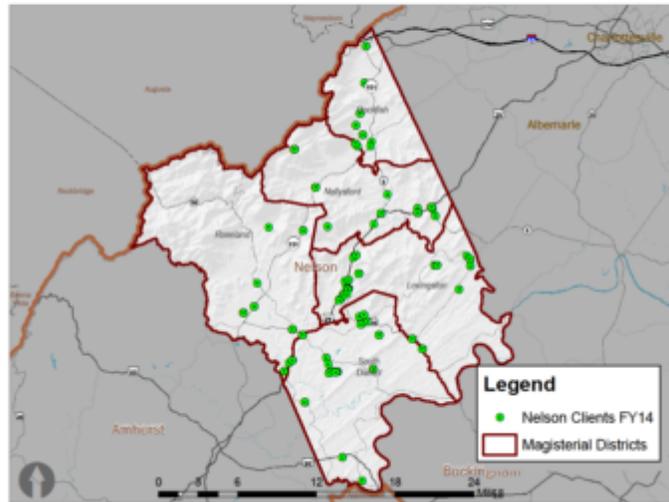


## COUNTY TRANSIT FUNDING

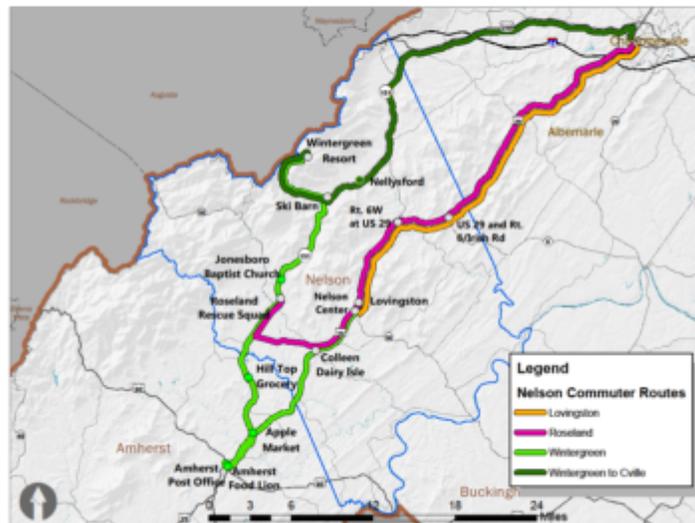


Ms. Shaunesey described how the local funding was the basis of the other funds that were leveraged for their operations.

## RIDERS THROUGHOUT THE COUNTY

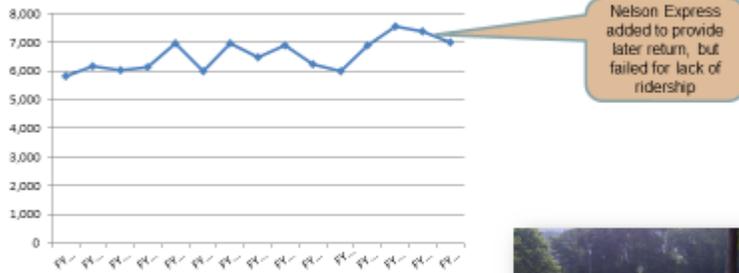


## COMMUTER ROUTES



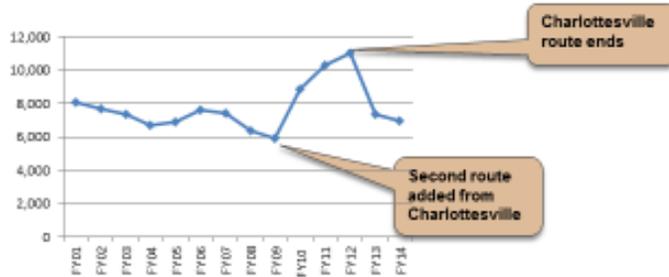
Ms. Brennan asked how people got from Faber to Wintergreen and Ms. Shaunesey noted that they did not and that they concentrated the routes in more highly populated areas. She noted routes could be changed if there were multiple riders in the same area.

## COMMUTER ROUTES to Charlottesville

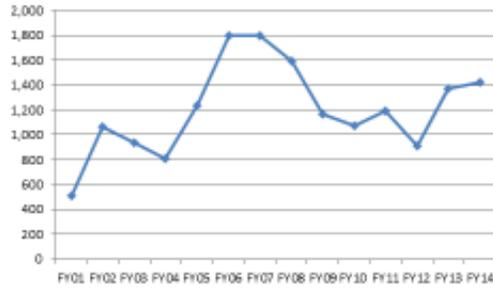


Ms. Shaunesey noted that in FY15, they shut down the route that left Charlottesville at 5pm and went back to 4:30pm, due to there being only one rider at the 5pm time.

## COMMUTER ROUTES to Wintergreen

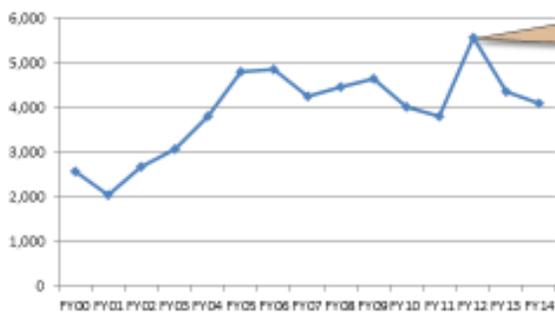


## MIDDAY ROUTE



Ms. Shaunesey noted that they had added a little bit of service with State funding and this route was picking up.

## INTRACOUNTY SERVICE



50¢ fares instituted for senior centers; all fares increased by \$1.00



## SOME HIGHLIGHTS

- Senior Shopping Grant provided nearly 375 field trips for seniors
- A federal grant continues to provide one additional day of midday service



Ms. Shaunesey clarified that 375 people went on the field trips.

## MORE HIGHLIGHTS

- Five Nelson drivers won safe driving awards this year
- Our nonprofit, JAUNT Friends, distributed 1,600 tickets to passengers in need



Ms. Shaunesey noted that one had to have a full year of no accidents or moving violations of any kind to get the safe driving award. She added that they gave this out to one person for 22 consecutive years. She then noted that a Nelson Resident, Ian Callahan had received the Employee of the Year award. She noted he was the Safety and Training Manager and was also in the Navy Reserves; juggling both. Ms. Shaunesey then noted that the JAUNT Friends program funds bridges the gap for those who have started a job and have not yet gotten a

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paycheck to be able to afford transportation. She noted that the Jeans for JAUNT program generated \$1 per person from those who wore jeans to work on Friday. She added that the Nelson County Department of Social Services participated in the program.

## FY15 Preview

- We expect to hit a cumulative total of 8 million trips in October – a significant milestone!
- Staffing Changes



Ms. Shaunesey then noted that she would be retiring in February and she introduced Brad Sheffield as her replacement. She added that Mr. Sheffield had been the JAUNT Assistant Director and was also on the Albemarle Board of Supervisors. She noted that Karen Davis, JAUNT's community relations person, would be taking his place.

Ms. Brennan then noted that the Board had prepared a resolution to honor her in her retirement and Ms. Brennan read aloud the resolution.

Mr. Hale then moved to approve resolution **R2014-64** as read by Ms. Brennan and Mr. Saunders seconded the motion.

Ms. Brennan thanked Ms. Shaunesey again for her service 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 R2014-64**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION RECOGNIZING THE SERVICE OF**  
**DONNA SHAUNNESEY-RETIRING EXECUTIVE DIRECTOR OF JAUNT**

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**WHEREAS**, after thirty (30) years, Ms. Donna Shaunesey is retiring from her position as Executive Director of JAUNT; and

**WHEREAS**, the Nelson County Board of Supervisors wishes to honor Ms. Shaunesey's dedicated and exemplary service to the JAUNT organization and to the citizens of Nelson County; and

**WHEREAS**, in her thirty years, Ms. Shaunesey has grown the JAUNT organization from a fleet of twelve (12) vehicles that ran Monday through Friday and served one small city, Charlottesville, and two counties to an organization that now has an eighty (80) vehicle fleet, services five counties, including Nelson, and the City of Charlottesville and now operates seven days a week; and

**WHEREAS**, Ms. Shaunesey, a former Nelson County resident, began JAUNT's service in Nelson County in 1978 which has provided for over 18,000 trips in FY14 for Nelson County residents,

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors hereby recognizes, and extends their appreciation to Donna Shaunesey for her many years of dedication to the JAUNT organization and citizens of Nelson County and wishes her much health and happiness in the years to come.

#### C. VDOT Report

Mr. Don Austin of VDOT gave the following report:

- Watch for Turning Vehicles sign at Arrington Road was submitted to the traffic engineering section for review.
- No Pipeline signs have been placed in the VDOT right of way, which is not legal. He noted that they had removed some signs on Route 29. He noted that on Route 29, they can definitely not be placed in the median and must be 40-50 feet off of Route 29, for secondary routes, they could be placed 20 feet off of the road, and on Route 151, 40 feet off of the road would be okay per VDOT policy.
- A public hearing on the Route 151 turn lanes (safety projects) will be held on October 16, 2014 at the Rockfish Fire Department from 4pm to 6pm and would be advertised the following week. He added it would be a joint public hearing for both locations.
- Primary Six (6) Year Improvement Plan – the first State hearing on this would be on September 23, 2014 in Lynchburg at the Holiday Inn Downtown. He noted that they had revised the current plan that was adopted in July due to funding shortfalls and adjusted priority projects. He added that they would also take suggestions for updating the plan for next year.

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- Historical Markers - Wayside and Cabbell's Mill under review. He noted that the Cabbell's Mill sign was being worked on without success and they may need to discuss funding for its replacement. He noted that the Wayside marker had been reported as being broken in half and they have picked it up.
- LOCKN went much better this year and traffic moved along smoothly. He noted that there was very little back up on Route 29 and they were able to open up cross overs sooner than last year.
- Route 623 Stagebridge road should be opened up the following Tuesday unless this was prohibited by bad weather. He added they were finishing two weeks early.
- The sign at Route 632 would be adjusted.

Supervisors then discussed the following VDOT issues:

Mr. Hale had no VDOT issues.

Mr. Harvey asked Mr. Austin to have the Charlottesville VDOT person email him so he could get going on the Afton Wayside in the fall.

Mr. Bruguiere noted that everyone he had spoken to had been complimentary of traffic flow with LOCKN. He added that they may need to open up the cross over at Blue Ridge Medical Center in the future.

Mr. Bruguiere then noted that on Route 56 west above Harpers Creek, there were a lot of trucks coming out there from the orchards and looking west there was an overgrown curve. He asked if the County could get signs installed there noting trucks were entering the highway there to help safety.

Mr. Saunders thanked VDOT for getting the guardrails trimmed and trash picked up for LOCKN. He also thanked Mr. Austin for repairing the culverts and he noted that the secondary road trimming looked great.

Ms. Brennan noted that she thought LOCKN went much better this year. She then asked Mr. Austin to look at the overgrowth blocking the northern view from the southbound lane as one comes out of Route 617 - Buck Creek Lane.

Mr. Harvey then asked Mr. Austin if LOCKN affected any of their budgets in the county. Mr. Austin noted that they had not billed for any of the maintenance that had been done as it was routine. He added that they did not charge for reviewing the LOCKN traffic plans as this was part of their job and it did not typically use their resources. He added that LOCKN had provided all of the message boards this year for the event. Mr. Austin then confirmed that it was not true that funds were taken out of the highway budget last year and that they did work that needed to be done anyway.

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Mr. Bruguiere then inquired as to when the alert sign was going to be operational in Amherst. Mr. Austin noted that it was supposed to be operational but was not yet and there had been foundation issues. He noted that it should be working soon and was a permanent sign.

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

##### **A. Nelson Rescue Ambulance Funding Request**

Mr. Carter noted that the Board had first considered this request at the August meeting and staff had now gathered the cost estimate. He noted that the Board would need to appropriate approximately \$112,000 to re-chassis a Nelson Rescue ambulance and that funding was available for this.

It was noted that they had applied for special funding from the State that was not approved and Roseland Rescue was going to apply for State grant funding in the fall.

Mr. Harvey then moved that the Board approve the purchase of the Nelson County Rescue Squad ambulance re-chassis at a cost of \$ 112,453.00 and Mr. Hale seconded the motion.

Mr. Carter noted that staff would bring back an appropriation request that would need approval to authorize it to go forward. It was noted that the re-chassis would be paid for when it was completed.

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

##### **B. Local Business Expansion Economic Incentives (R2014-65)**

Mr. Carter noted receipt of a letter from Steve Crandall, CEO of Mountain View Brewery (MVB) LLC, doing business as Devil's Backbone Brewing Company. He noted that the letter stated that they were planning an expansion and were requesting tax abatement incentives from the County in order to expand at their Nelson County location. He added that staff had worked with them and used a return on investment (ROI) tool to analyze it. He noted that the Board had been briefed in August in closed session and then the request went to the Economic Development Authority (EDA) who had endorsed the request. He noted that the EDA would be the conduit for the rebate of taxes since the County could not do this directly.

Mr. Carter then reiterated that the company had requested five (5) years of tax abatement. He noted that staff thought the County should provide for three (3) years of tax abatement on the improved values and include the requirement of establishing 10 new jobs over a 5 year period. He added that the incentive agreement would be between the EDA and MVB. He added that staff had prepared a resolution to this effect and he added that MVB would make an investment of \$2.5 Million, would provide for ten (10) new jobs over the next five years in order to obtain abatement of real estate taxes, machinery and tools taxes, and tangible personal property taxes on the improved values only for three (3) years. He noted

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that Mr. Payne had drafted an agreement that would require that the stated investment be made and new jobs created; with the condition that if these marks were not met, the rebate would be reduced by a comparable percentage shortfall.

Mr. Harvey inquired as to whether or not the Planning Commission would have to review this and Mr. Padalino noted that they would only have to review the site plan and he did not see this as an issue subject to concern or controversy.

Mr. Harvey then expressed concern regarding how much more development there would be on Route 151 in the same area and Ms. Brennan emphasized the importance of doing the inventory of that area to facilitate better development.

Mr. Hale then noted that the site in question had been approved for more than what had actually taken place since the overall master plan was not previously implemented and he did not think it unreasonable to expect this to work. Mr. Bruguere concurred and noted that this expansion plan would use one of the vacant lots that was part of the previous plan. Mr. Harvey noted that even though the project did not have anything to do with the Planning Commission, he did not want to approve something or put the cart before the horse.

Mr. Bruguere then pointed out that the EDA recommended approving the full five (5) years of tax abatement, the County was proposing three (3) years and the MVB business plan showed a profit after two (2) years.

Supervisors and staff then briefly discussed that the County's proposal was similar to others that had been granted for new or expanding businesses in the County.

Mr. Hale then moved to approve resolution **R2014-65** Resolution Approving Local Business Expansion Economic Incentives – Mountain View Brewery, LLC; providing for 100% tax credit for three (3) years on the improved value of real property for tax map parcel 31-12-2 and tax map parcel 31-12-5, and 100% tax credit for three (3) years on machinery and tools and tangible personal property associated with improvements on tax map parcel 31-12-2.

Mr. Bruguere seconded the motion and Mr. Hale noted that the reason he moved to approve the resolution was that he thought it was a matter of fairness to the Devil's Backbone operation that was a successful venture and the Board had extended the same type of incentives to others for comparable periods of time. He added that he thought the Board should offer them the same opportunity as has been offered to others. He noted that the County did get considerable revenue from meals taxes on these operations.

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 R2014-65**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION APPROVING LOCAL BUSINESS EXPANSION ECONOMIC**  
**INCENTIVES – MOUNTAIN VIEW BREWERY, LLC**

**WHEREAS**, Mountain View Brewery, LLC intends to expand its current operation and has requested that Nelson County provide economic incentives consisting of: 100% tax credit for five (5) years on real property for tax map parcel 31-12-2 and 100% tax credit for land and improvements on tax map parcel 31-12-5, 100% tax credit for new improvements on tax map parcel 31-12-2, and 100% tax credit for five (5) years on machinery and tools and tangible personal property associated with improvements on tax map parcel 31-12-2; and

**WHEREAS**, Mountain View Brewery LLC plans to invest a total of \$2,250,000 in capital improvements over a two-year period and create ten jobs over a five-year period; and

**WHEREAS**, at the August 21, 2014 Economic Development Authority (EDA) meeting, the EDA recommended the Board of Supervisor's approval of the proposed economic incentives for Mountain View Brewery, LLC and resolved to serve as the agent for the financial transaction,

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors does hereby approve the following economic incentives for Mountain View Brewery, LLC's business expansion in Nelson County: 100% tax credit for three (3) years on the improved value of real property for tax map parcel 31-12-2 and tax map parcel 31-12-5, and 100% tax credit for three (3) years on machinery and tools and tangible personal property associated with improvements on tax map parcel 31-12-2.

C. Planning Commission Recommendation – Zoning Ordinance  
Amendment for Agricultural Operations (Authorization for Public  
Hearing **R2014-66**)

Mr. Padalino provided the following report to the Board:

The Department of Planning & Zoning recently assisted Mr. Phillip D. Payne IV, County Attorney, with his development of several proposed amendments to the Nelson County Zoning Ordinance, regarding the definitions and regulations of agricultural operations, breweries, distilleries, and restaurants. The proposed amendments would affect the following zoning districts: Agricultural (A-1), Business (B-1), Service Enterprise (SE-1), Industrial (M-2), and Limited Industrial (M-1).

These proposed amendments were initiated by the County Attorney and County Administrator primarily in response to two factors:

1. Recently adopted provisions in the Code of Virginia that directly affect (restrict) the ability of localities to regulate agricultural operations and agri-tourism land uses and activities; and
2. The absence of sufficient Zoning Ordinance provisions and/or regulations regarding agritourism and agribusiness land uses and activities in Nelson County, which are

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currently a substantial and important sector of overall land use, and which are expected to continue to increase and expand throughout the County.

As Mr. Payne noted in his earlier memo (dated May 14, 2014), “*The present dilemma is that the Zoning Ordinance (i) has no provision for breweries, distilleries, cideries, etc. which have an agricultural component; and, (ii) does not address the food sale and processing conducted in connection with limited or token farming. In order to have the tools and resources necessary for doing a better job at interpreting these types of proposed uses, and in order to review and process these types of projects more consistently, the ordinance needs some new language and rules.*”

### **Review of Amendment Process To-Date:**

*May 13th, 2014:* The original proposed amendments were introduced to the Board of Supervisors (BOS). The Board then referred those proposed amendments to the Planning Commission (PC) for the Commission’s review and eventual recommendations, in compliance with Code of Virginia §15.2-2285 (which requires the PC to conduct a public hearing and provide recommendations back to the BOS within 100 days of the first PC meeting after the Board has referred the proposed amendments.) The PC’s initial review of this referral material occurred at the regularly scheduled May 28th meeting, which set the deadline for providing recommendations to the Board of Supervisors at Friday, September 5th.

*June 25th, 2014:* The Planning Commission conducted a public hearing. Public comments were received from Mr. Al Weed, a resident of Lovington and owner and operator of Mountain Cove Vineyards, regarding the proposed new definition of “Agricultural Processing Facility, Major.” The recommendations contained in this report incorporate Mr. Weed’s suggestion to restrict the criteria for calculating the “amount of enclosed space” only to the enclosed space that is specifically “devoted to agricultural operations.” Mr. Weed also provided comments regarding the proposed redefinition of restaurant, which would include “mobile food vendors” in the definition of restaurant, and which would then require a Special Use Permit for food trucks and other mobile food vendors. Mr. Weed’s comments about restaurants and mobile food vendors have also been reflected in the recommendations contained in this report. (*See comment #2 on page 5.*)

*July 23rd, 2014:* The Planning Commission again reviewed the referred amendments and continued the discussion. Chair Proulx indicated that the PC would greatly benefit from receiving insight and legal guidance from Mr. Payne, in his roles as author of the referred amendments and as the County Attorney.

*August 6th, 2014:* The PC conducted a Work Session on to further review the referred amendments with Mr. Payne in attendance, and to refine their recommendations.

*August 27th, 2014:* The Planning Commission reviewed the draft recommendations as contained in a staff report dated August 20. After a final review, the PC voted 4-0 (with

Commissioner Russell absent) to forward those final recommendations to the Board of Supervisors.

The following section of this report contains the Planning Commission's recommended amendments, as determined through diligent review, consideration of public comments, revisions during the Work Session, and formal resolution with a unanimous vote.

**Planning Commission Recommendations:**

Article 2. Definitions:

~~Agricultural: The tilling of the soil, the raising of crops, horticulture, and forestry, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies, or similar use associated with an active farming operation, unless otherwise specifically provided for in this ordinance.~~

*Agricultural operations:* any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silvicultural activity. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of Virginia Code §3.2-5130 or related state laws and regulations are accessory uses to an agricultural operation, unless otherwise specifically provided for in this ordinance. When used in this ordinance, the words *agricultural* or *agriculture* shall be construed to encompass the foregoing definition.

*Agricultural Processing Facility:* the preparation, processing, or sale of food products, or accumulation for shipment or sale of crops and animals, in connection with an agricultural operation when more than 20% of such crops or animals are not produced on an agricultural operation on the same or contiguous parcel(s) owned or controlled by the operator of the facility.

*Agricultural Processing Facility, Major:* an agricultural processing facility that, by virtue of its size, shipping requirements, noise, or other characteristics, will have a substantial impact on the health, safety, or general welfare of the public or adjoining landowners. A major agricultural processing facility is one that either (i) has more than 10,000 square feet of enclosed space devoted to agricultural processing operations or (ii) entails the preparation, processing, or sale of food products, or accumulation for shipment or sale of crops and animals, in connection with an agricultural operation when more than 50% of such crops or animals are not produced on an agricultural operation on the same or contiguous parcel(s) owned or controlled by the operator of the facility.

*Brewery:* a facility for the production of beer. See also "Farm Brewery, Limited" and "Micro-brewery."

*Distillery:* a facility for the production of distilled spirits.

*Farm Brewery, Limited:* A brewery that manufactures no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery, the direct sale and shipment of beer and the sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with law, the storage and warehousing of beer, and the sale of beer-related items that are incidental to the sale of beer are permitted.

*Micro-brewery:* a brewery which is housed within and operated in conjunction with a restaurant, and which manufactures no more than 15,000 barrels of beer per calendar year. A micro-brewery is an accessory use to a Restaurant.

*Restaurant.* (remains unchanged)

Article 4, Agricultural District A-1, Section §4-1, Uses – Permitted by-right:

4-1-28 Agricultural Processing Facility, provided that (i) all components of the facility shall be located 250 feet or more from any boundary line or street, or located 125 feet or more from any boundary line or street if screened by fencing and/or vegetation, and (ii) no noise, unshielded lights, odors, dust, or other nuisance may be perceptible beyond the property upon which the facility is located.

4-1-29 Farm Brewery, Limited

Article 4, Agricultural District A-1, Section §4-1a, Uses – Permitted by Special Use Permit only:

4-1-7a Agricultural Processing Facility, Major  
4-1-45a Distillery

Article 8, Business District B-1, Section §8-1a, Uses – Permitted by Special Use Permit only:

8-1-11a Distillery  
8-1-12a Brewery

Article 8B, Service Enterprise District SE-1, Section §8B-1, Uses – Permitted by-right:

8B-1-24 Farm Brewery, Limited

Article 8B, Service Enterprise District SE-1, Section §8B-1a, Uses – Permitted by Special Use Permit only:

8B-1-12a Distillery

8B-1-13a Brewery

Article 9, Industrial District M-2, Section §9-1, Uses – Permitted by-right:

9-1-6 Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products other than a **food or** meat packing or processing plant

9-1-30 Distillery

9-1-31 Brewery

Article 18, Limited Industrial M-1, Section §18-1, Uses – Permitted by-right:

18-1-6 Distillery

18-1-7 Brewery

Staff Comments on PC Recommendations

1. Please note that the existing definition of “Agricultural” would be deleted and replaced with three different definitions and uses:

- *Agricultural Operation*, which allows for the “preparation, processing, or sale of food products in compliance with [applicable state laws and regulations], as long as 20% or less of those products for sale are not produced “on an agricultural operation on the same or adjacent parcel(s) owned or operated by the operator of the facility.” This is a “traditional” agricultural operation / facility, such as a packing shed or on-farm market, which provides for the “direct-to-consumer” sale of agricultural products that were produced on the farm (with up to 20% of the agricultural products for sale being sourced from off the farm). In other words, this allows for on-site sales of agricultural products that are primarily produced on-site.

- *Agricultural Processing Facility*, which allows for the “preparation, processing, or sale of food products, or accumulation for shipment or sale of crops and animals, when more than 20% but less than 50% of such crops or animals are not produced on an agricultural operation on the same or contiguous parcel(s) owned or controlled by the operator of the facility.” This is an agricultural operation / facility which provides for the “direct-to-consumer” sale of agricultural products that were partially produced on the farm (with more than 20% but less than 50% of the agricultural products for sale being sourced from off the farm). In other words, this allows for on-site sales of agricultural products only partially produced on-site.

- *Major Agricultural Processing Facility*, which allows for the “preparation, processing, or sale of food products, or accumulation for shipment or sale of crops and animals, when more than 50% of such crops or animals are not produced on an agricultural operation on the same or contiguous parcel(s) owned or controlled by the operator of the facility.” This is an

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agricultural operation / facility which provides for the “direct-to-consumer” sale of agricultural products that were primarily produced off the farm (with more than 50% of the agricultural products for sale being sourced from off the farm). In other words, this allows for on-site sales of agricultural products, the majority of which are produced off-site.

Please note that these amendments would not affect the definitions or regulations for “Farm Wineries” (including cideries).

Separately, the PC also recommended that “Agricultural Processing Facility” and “Agricultural Processing Facility, Major” be removed from Industrial (M-2) and Limited Industrial (M-1), since those uses are by definition associated with an on-site (or contiguous) agricultural operation, which is not likely to occur in either of the Industrial zoning districts; and because the Industrial (M-2) District currently provides for food processing in Article 9, Section 1-6 as a by-right use and for abattoir / meat processing as a Special Use in Article 9, Section 1-1a.

Additionally, retail sales are not typically considered to be a compatible or appropriate use in industrial zoning districts, which is another reason to not provide for APF or Major APF in those districts.

2. Regarding the issue of “restaurants” and “mobile food vendors,” the Planning Commission felt that mobile food vendors should not be regulated in the same way as restaurants, which require a Special Use Permit in the Agricultural (A-1) District. After proposing to remove the clause about restaurants “including mobile points of service” from the referred amendments, the PC did not find any remaining purpose for redefining the “restaurant” use.

The PC then discussed the potential to separately recommend an administrative permitting process for mobile food vendors or “food trucks,” but decided not to identify any recommendations (at this time) that would seek to establish new regulations specifically for food trucks or other mobile food vendors. Therefore, the PC’s recommended amendments do not contain any revisions to the restaurant definition or use.

3. Regarding various types of “brewery” land uses, the PC included in their recommendations the Code of Virginia language about “Limited Farm Breweries,” which are facilities in the Agricultural (A-1) District that include an agricultural operation and which brew a maximum limit of 15,000 barrels per year. The PC recommendations also suggest placing the same 15,000 barrels per year limit on “Micro-breweries,” which would only be permitted as an accessory use to permitted restaurants (in any zoning district). “Breweries” would not have any production limits, and would not be permissible in the Agricultural (A-1) District. “Breweries” would be permissible by-right in the Industrial (M-2) and Limited Industrial (M-1) Districts, and would be permissible with a Special Use Permit in the Business (B-1) and Service Enterprise (SE-1) Districts.

4. The PC recommendations do not include any proposed new definitions regarding the phrase “bona fide agricultural production,” which is contained in the proposed “agricultural

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operations” definition (which itself is found in the Code of Virginia §3.2-300 “Right to Farm” language). This term does not seem to be defined by the State; it appears that the act of defining (or interpreting) that phrase is left to the County.

After extensive review and discussion, the Planning Commission and County staff agreed that it would be virtually impossible to define the term “bona fide agricultural production” in a way that properly accounts for all the different production scenarios that are possible. Rather, it may simply need to be interpreted on a case-by-case basis. Leaving the term open to interpretation allows for the consideration of scale to be a factor when determining whether or not an agricultural operation should be considered “bona fide production,” or if it is simply a novel display meant to circumvent the rules and conditions found elsewhere in the Zoning Ordinance

Mr. Padalino then noted that the consideration for the Board was authorization for public hearing as recommended or otherwise.

Ms. Brennan noted that the Board could authorize these recommended amendments for public hearing and then discuss them.

Mr. Bruguire then asked about Mr. Weed's comment regarding mobile food vendors and Mr. Padalino noted that his comments were included in the staff report. He added that within the Board’s referral, the state definition of restaurant was included and the Planning Commission decided that using that created more problems. He noted that they also decided to not include a food truck as a restaurant as this was viewed to be virtually unenforceable; therefore they kept the current definition of restaurant. He noted that Mr. Weed's other comment was included.

Ms. McGarry noted that a revised resolution had been provided to the Board at their seats with the only revision being the additional Articles affected by the amendments as noted to her by Mr. Padalino.

Mr. Bruguire then moved to approve resolution **R2014-66** Authorization for a Public Hearing to Amend the Code of Nelson County, Appendix A, Zoning Ordinance, Article 2 Definitions, Article 4 Agricultural District A-, Article 8 Business B-1, Article 8-B Service Enterprise SE-1, Article 9 Industrial M-2, and Article 18 Limited Industrial M-1 to include agricultural operations.

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

**RESOLUTION R2014-66**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION FOR PUBLIC HEARING**  
**TO AMEND THE CODE OF NELSON COUNTY, VIRGINIA**

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**APPENDIX A, ZONING ORDINANCE, ARTICLE 2 DEFINITIONS, ARTICLE 4 AGRICULTURAL DISTRICT A-1, ARTICLE 8 BUSINESS B-1, ARTICLE 8-B SERVICE ENTERPRISE SE-1, ARTICLE 9 INDUSTRIAL M-2, AND ARTICLE 18 LIMITED INDUSTRIAL M-1 TO INCLUDE AGRICULTURAL OPERATIONS**

**WHEREAS**, the Planning Commission has completed its review, held a public hearing, and has made its recommendation to the Board of Supervisors regarding proposed amendments to the Code of Nelson County, Appendix A, Zoning Ordinance, Article 2 Definitions, Article 4 Agricultural District A-, Article 8 Business B-1, Article 8-B Service Enterprise SE-1, Article 9 Industrial M-2, and Article 18 Limited Industrial M-1 to include items regarding agricultural operations, breweries, distilleries, and restaurants,

**NOW THEREFORE BE IT RESOLVED**, that pursuant to §15.2-1427 and §2.2-2204 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on Tuesday, October 14, 2014 at 7:00 p.m. in the General District Courtroom in the Courthouse in Lovingson, Virginia to receive public input on an ordinance proposed for passage to amend Appendix A, Zoning Ordinance, Article 2 Definition and Article 4 Agricultural District A-1 to include items regarding agricultural operations, breweries, distilleries, and restaurants

D. Schedule October Joint Meeting with Nelson County School Board

Mr. Carter noted that Dr. Comer had come down to see him about having a joint meeting of the Boards in October. He added that Dr. Comer had related that the School Division had undergone a civil rights audit and he would like to possibly discuss that report at the meeting.

Mr. Carter noted that he had not seen the report; however he understood there were some things that needed to be addressed. He noted that the School Division had mitigated a lot of things but things were sited such as the girls locker room was not comparable to the boys locker room and the old High School gym bleachers were also noted to not be handicapped accessible and needed to be addressed.

Mr. Carter noted that he was working with Dr. Comer's office and he offered for them to come on the 14<sup>th</sup> and also suggested that the Board of Supervisors could adjourn to another meeting.

Mr. Harvey and Mr. Hale suggested having a separate meeting for this and Supervisors agreed by consensus to have Mr. Carter coordinate with the School Board on this. Mr. Bruguire and Mr. Saunders both noted that they preferred a night meeting.

*Introduced: Atlantic Coast Pipeline Resolution:*

Mr. Hale noted that he had drafted a resolution that stated the Board's opposition to the Atlantic Coast Pipeline and he then read it aloud.

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Mr. Hale then moved to approve resolution **R2014-67** Resolution in Opposition to the Atlantic Coast Pipeline and Mr. Harvey seconded the motion.

The Board then had the following discussion:

Mr. Bruguere wondered if consideration of the resolution could be delayed until after the next public meeting on September 16<sup>th</sup> in case there was some additional information to be provided at the meeting. Mr. Saunders concurred and noted that the public information meeting was a week away and there may be more information given out and he preferred to look at the resolution then.

Mr. Bruguere noted that they would have a session for elected officials from 4pm-5pm and others after that. Mr. Carter advised that the Board may have to adjourn that day's meeting if they were to attend the meeting as a Board. Mr. Bruguere supposed they could continue the meeting to that date and then maybe they could consider the resolution.

Mr. Hale noted that he did not think there was anything that would come out of the meeting that would change anything in the resolution and Mr. Saunders noted it may change votes.

Mr. Carter then noted the agenda for the information meeting sessions.

Mr. Harvey suggested that if the Board went into it with a split vote, they may as well not have it. He added that the discussion suggested it would be a 3-2 vote and he did not think that would be good. Mr. Hale added that the 3-2 vote was the will of the Board; however the votes would be exposed.

Mr. Hale noted he was willing to defer a vote on the proposed resolution until the 16th if the meeting was continued to that time. He added that in that case, he would move to approve the resolution at the conclusion of that meeting. Mr. Carter added that the Board could adjourn to an adjoining room at the Nelson Center for this.

Mr. Hale noted that he did not think the resolution would make a difference; however he felt that he, as a member of the Board of Supervisors, representing his constituents and also being in agreement with it, would bring it forward.

Mr. Bruguere noted that there may be something that comes out of the informational meeting that could be disseminated to the public. He added for example, Emmitt Toms had told him that they would be boring under the Blue Ridge Parkway so they would not have a right of way swath that would be seen there. Mr. Saunders referenced a pipeline bored near the Monacan Bridge in Lynchburg and one could not tell that they had been there.

Mr. Hale noted he had no doubts that there were arguments on either side of the issue and he was noting his position on it with the resolution. Ms. Brennan reiterated that she did not think the County would get anything of benefit out of the pipeline and instead would have a huge burden.

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Mr. Harvey noted that he was not concerned about the safety aspects of building the pipeline as there were stringent environmental regulations, he just did not want it.

Mr. Saunders noted that he thought the United States needed to start being independent of the Middle East. He added that this small section may not do it; however he thought that the County would receive some direct and indirect benefits from it. Mr. Bruguere added that the President and Governor had committed to shutting down coal fired power plants and there were environmental positives to using Natural Gas.

Mr. Hale noted that it was not his intention to bring up energy policy with this; but rather there was no benefit from the project for the County and this was his focus.

Mr. Saunders noted that he thought there being no benefit to the County was all speculation and that sooner or later everyone may need to sacrifice a little. Mr. Hale noted that energy consumption was another issue and he preferred to go ahead and vote on the resolution.

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

Mr. Saunders noted he voted No because he did not have enough information to be voting on this yet.

The following resolution was adopted:

**RESOLUTION R2014-67**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION IN OPPOSITION OF THE ATLANTIC COAST PIPELINE**

**WHEREAS**, a joint venture led by Dominion has proposed a gas pipeline (Atlantic Coast Pipeline formerly Southeast Reliability Project) to run from West Virginia to North Carolina, crossing Nelson County from the Blue Ridge Mountains to the James River; and

**WHEREAS**, the proposed route through Nelson County traverses much of our most scenic, rugged, and undeveloped terrain; and

**WHEREAS**, the construction of the pipeline through the watershed of the Rockfish River would disturb and damage surface water resources at or near every stream crossing; and

**WHEREAS**, the construction and existence of a gas pipeline of the magnitude proposed would have a harmful effect on tourism, a critical component of the economy of Nelson County; and

**WHEREAS**, real estate along or near the proposed route would be adversely impacted, harming not only those property owners directly in the path of the pipeline, but also neighboring properties; and

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**WHEREAS**, the building and continued presence of a gas pipeline through the county would impose a significant burden on local government resources including but not limited to our largely volunteer fire and rescue services; and

**WHEREAS**, Nelson County would not derive any perceptible benefit from the project sufficient to compensate us for the harm caused to property owners, tourism, natural resources, and the ongoing disruption of life in the county for a period of years.

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors hereby firmly opposes the construction and operation of the Atlantic Coast Pipeline.

*Introduced: Norwood Historic District Nomination*

Ms. Brennan noted that the Norwood Historic District study was complete and would be submitted to the Department of Historic Resources (DHR) State Review Board on September 18, 2014 for their recommendation for nomination to the National Register of Historic Places and the Virginia Landmark's Registry. She noted that the Consultant that was hired to prepare the study would require \$3,000 to prepare the District's nomination for registry. She added that she would like approval for these funds so the consultant could go ahead with submitting the nomination.

Mr. Carter explained that the County match was \$2,000 for the study work that did not include the work to complete the nomination once the State has endorsed it as meeting the nomination requirements. Ms. Brennan noted that the consultant had to be sure that all properties were properly identified and form work was submitted. She added that if the majority of landowners did not want the Historic District, then it would not move forward. She noted that the designation did not affect the properties of people who did not want to have controls placed on them.

Mr. Carter reiterated that the state review board would look at it the week of the September 18th and it should be approved. Ms. Brennan added that the process required that it be put in the federal register for a month; and the consultant just needed the funds to complete the nomination process.

Mr. Hale then moved to authorize \$3,000 to complete the nomination of the Norwood and Wingina Historic Area and Mr. Saunders seconded the motion.

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

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

A. Reports

1. County Administrator's Report

Mr. Carter reported the following:

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**1. Courthouse Project Phase II:** Architectural Partners and its subcontractor, Masters Engineers and Designers have proceeded expeditiously with an initial assessment of the pre-2011 Courthouse structures, including completing interviews with the project committee, County and School Division staffs. A meeting is scheduled with the project committee at 2 p.m. on 9-11 to discuss AP's findings to date and to review initial project options the firm has developed.

Mr. Carter added that at the next meeting, the committee would hear about the Circuit Courtroom and Clerk's area and following week, they would look at four floor plans and rough cost estimates. He added that in the Circuit Courtroom, they would discuss materials to be used and which physical changes may occur in the courtroom.

Mr. Saunders added that the schedule is laid out such that it would be out to bid in January and things were moving quickly.

Mr. Hale added that the committee wanted to defer to Judge Gamble on the Circuit Courtroom and that Judge Gamble would participate in person or would call in to the meeting.

**2. Lovington Health Care Center:** A DC based marketing firm, Love Funding Corporation, contacted by JABA staff, has been working on the project towards potential re-use of the facility as a memory care/assisted living operation. Based on limited review, LFC has the expertise and experience necessary to assist the County on this initiative. Nothing definite at present with regard to a new end user and there is also the question of procure to be resolved with LFC.

Mr. Carter noted having received a call from a Real Estate III person who would like to help the county market the property. He added that Region Ten would tour the property on September 6<sup>th</sup> and that MFA would move this time next year.

**3. BR Tunnel and BR Railway Trail Projects:** **A) BRRT** – VDOT notified County staff on 9-2 of its acceptance of final close out documents enabling the project to move to administrative and financial close out (within the ensuing 30 – 45 days, est.). **B) BRT** – Three bid proposals were received at 2 p.m. on 8-8 for the project's Phase 1(western trail). The low bidder at \$636,049.80 was Fielder's Choice Enterprises, Inc. (Charlottesville). A bid summary documentation package was subsequently submitted on 8-18 to VDOT (Lynchburg) to secure formal approval for the acceptance of the low bid, which was received (via email) on 9-2. CSX, Inc. also has approved license agreements necessary for the project's completion (following much negotiation). Next steps are issuance of contract documents to FCE and the conduct of a pre-construction meeting, inclusive of VDOT staff participation (anticipated within the ensuing 10-15 business days). The County is also in process with re-appraisal of the ROLC property for the parking lot and western trail (Phase 3) with funding made available by VA-DCR for the acquisition, which also requires the consent from ROLC. Phase 2 (Tunnel rehabilitation) contract documents are pending receipt from VDOT which will be followed by bidding of Phase 2 later in 2014 or in early

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2015 (TBD). The County will also apply to VDOT in November for TAP funding for the project's Phase 3 construction (funding decisions announced May-June 2015).

Mr. Carter noted that on the Blue Ridge Railway Trail, the County had to go back and get civil rights documentation from the contractor in order to close out. He added that there may be about \$30,000 that could be rolled over to the Blue Ridge Tunnel Project.

Mr. Carter then reported that the Notice of Award had been sent to Fielder's Choice Enterprises, Inc. (FCE) the previous day. He noted that there was an extensive amount of documentation and review for the project and VDOT had consented to move forward with construction. He added that a pre-construction meeting was scheduled on September 16<sup>th</sup> with staff, VDOT, and Mr. Saunders and Mr. Hale. He noted that FCE did VDOT projects and was familiar with their requirements.

**4. 2014 Lockn Festival:** Special Events Permit finalized and issued on 9-2. Festival opens for campers on 9-3 (evening) and concludes on 9-7 (evening). 30,000 attendees projected.

Mr. Carter reported that both the Commissioner of Revenue and the Treasurer were in attendance when the vendors cashed out and they noted that they would follow up with vendors that did not remit taxes directly. He added that they were already thinking about improvements for next year. He noted that Ben Thompson figured out what was owed for each vendor so now the County knows what is owed. Mr. Carter then noted the following associated tax rates:

4% for meals and lodging.

1% sales tax would come back from the state.

Mr. Carter then described the large central tent of local vendors that was at the festival. Mr. Saunders added that Ms. Holland wanted to thank the Board and the Planning Commission for their help in making the festival successful.

It was noted that it would be better for them to get them the special events permit approval sooner; not the day before and Mr. Carter noted that the agencies involved had given them strong indications it would happen all along. Ms. Brennan reiterated Mr. Padalino's explanation that the purchase of the adjacent property had changed things significantly.

It was also noted that more of a local economic impact was seen this year and it was noted how nice the attendees were. Ms. Brennan noted that the Board would be getting a report from the Sheriff on their perspective.

Mr. Harvey noted that a topless sunbather was photographed by five ABC agents and was never advised to cover up etc.

**5. Broadband:** County staff are working to complete Innovation CDBG Grant application to VA-DHCD (due by 9-30 with submittal of pre-app anticipated by 9-22). Funding

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decision by the Department is expected within 3 weeks, approximate, of application submission.

**6. Radio Project:** Letter of Concurrence for frequency licensing received from NRAO (National Radio Astronomy Observatory). Final frequency (approval) application filed with FCC on 8-29. Cut over to new radio system projected for October 2014 (a specific date is TBD).

**7. Rockfish Valley Area Plan:** A project kick-off meeting was completed on 8-20, inclusive of County and TJPDC staff. Work is in its very early beginnings.

**8. Roseland/Ferguson's Store PER:** Draper Aden has completed informational gathering and, as of, 9-2, is analyzing the data for completion of the update of the previous PER (anticipated within 2 weeks) for expansion of the PR3Water System in potential partnership with VA-DEQ.

Mr. Carter noted that the report would have some analysis of potential expansion; however the primary focus would be the extension to Roseland. He noted that this would probably be a six (6) inch line. Mr. Harvey noted that the Service Authority would be opposed to installing a twelve (12) inch line; however he thought a six inch one would be okay. Mr. Carter added that the state would not pay for laterals off of the line and noted their only concern was extending the main to Ferguson's Store.

**9. Sturt Property Plan:** Site visit by VT-Community Design Assistance Center completed on 6-25. CDAC has submitted a \$25,532 proposal to assist the County with a plan of outdoor development for the property. Status pending.

Mr. Carter noted he was uncertain about the cost and Mr. Hale noted it was probably too much. He and Mr. Saunders added that the pines did need to be cut on the property before their value began to decline.

**10. Norwood-Wingina Rural Historic District:** Work on the proposed historic district (through a state cost share grant from VA-DHR) has been completed and DHR staff will present the report and recommendation to the State Review Board on 9-18. DHR staff have advised that the proposed district "appears to meet National Register of Historic Places criteria", which if so endorsed by the State Review Board then nominations will be completed to formally place the district on state and national historic registries (i.e. official designation). Local recognition is an additional consideration, which can be done following state and federal registries.

Mr. Carter noted that the consultant had indicated that the registration could be completed by December if he could proceed now.

**11. Rockfish Valley Rural Historic District:** Project contract with VA-DHR completed, inclusive of provision of local matching funds by Rockfish Valley Foundation. DHR staff will facilitate the work to determine eligibility for state and federal historic registries.

Mr. Carter noted that this was on hold until further notice due to state budget cuts. He added that the state had changed the process and DHR now had most responsibilities.

**12. Staff Reports:** Provided in the 9-9 meeting Agenda.

2. Board Reports

Mr. Saunders and Mr. Bruguere had no reports.

Mr. Hale reported attendance of the Blue Ridge Tunnel Foundation meeting and that a possible trail connection from the tunnel to the City of Waynesboro was in the works. He noted that a consulting firm showed the group possibly two overhead connections and one boring underneath. He noted that the County was encouraged to proceed with obtaining funding for Phase III construction on the western side.

Mr. Carter noted that staff had been working with the City of Waynesboro and was aware of their proposed project. He noted that the County had to use state funding to acquire the western easements before the end of the year so, they had been advised that the County was going ahead.

Mr. Hale then reported that he attended the LOCKN festival for a couple of days and he noted that they had made terrific organizational improvements. Mr. Harvey commented that the majority of patrons that came in his store had attended last year.

Mr. Harvey reported attending the Service Authority meeting which he noted was routine.

Ms. Brennan reported the following:

Attended LOCKN every day and was amazed at the level of organization and was pleased to see the local tent.

Attended the DSS Board meeting and they welcomed Diane Harvey as their newest member. She reported that things there were running smoothly although they were losing a CPS worker of five (5) years. She added that they were also working through computer glitches.

Attended the TJCCJB meeting and re-entry was discussed. She noted that the Charlottesville program was discussed and everyone was supposed to have one and the County may be getting a re-entry program which would be handled through DSS as was usually the case.

Attended the Mayors and Chairs meeting where legislative issues and Broadband were discussed; including potential regional programs.



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Mr. Hale noted that he would like to move forward on making the Planning Commission Appointments.

Planning Commission:

Mr. Hale then moved to appoint Robert C. Goad, III as the East District representative, who he noted to be an attorney living in Lovingson, and whose Grandfather was a Circuit Court Judge at one time. He added that he had encouraged him to apply and he was willing to serve.

Mr. Hale also moved to appoint Linda Russell for reappointment as the Central District representative on the Planning Commission and Philippa Proulx as the North District representative.

Mr. Saunders then suggested that these appointments be done individually and being in concurrence, Mr. Hale amended his motion to only include the appointment of Robert C. Goad, III for the East District Seat.

Mr. Bruguere seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Mr. Hale then moved to re-appoint Linda Russell to the Planning Commission representing the Central District and Ms. Brennan seconded the motion.

Mr. Hale then noted that while he did not agree with her many times, she had consistently proven to be a conscientious Commissioner and Ms. Brennan noted she could attest to that.

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

Mr. Harvey then moved to re-appoint Philippa Proulx to the Planning Commission representing the North District and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted (3-2) by roll call vote to approve the motion with Mr. Bruguere and Mr. Saunders voting No.

JABA Advisory Council:

Ms. McGarry noted that Mr. David Holub of Nellysford had submitted an application to serve on the JABA Advisory Council.

Mr. Hale then moved to appoint Mr. David Holub to the JABA Advisory Council and Mr. Bruguere seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

C. Correspondence

1.NCHS Senior FFA Request for Funding – National FFA Convention

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2.Nelson Middle School FFA Request for Funding – National FFA Convention

Mr. Carter noted receipt of the letters drafted by Mr. Ed McCann and Mr. Scott Massie requesting funding of \$2,000 each to contribute towards the teams' attendance of the National Convention to be held in Louisville, Kentucky. He noted that historically the Board has authorized funding for these teams to attend the National Convention and they have been very successful.

Mr. Harvey then moved to approve funding of \$2,000 each for both the Nelson County High School and Nelson County Middle School FFA teams. Mr. Hale seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion

*Introduced:*

Mr. Harvey noted receiving a letter from Dr. Comer regarding the event at Wintergreen called the Spartan race. He noted that the private company bus drivers working the event walked off the job and 4,000 people needed transportation. He noted that he took it upon himself to contact David Parr who then contacted Dr. Comer and they sent thirteen (13) school buses up there to help out. He added that everyone commented on how professional and nice all of the drivers were and that they really needed to thank those employees for coming out.

Ms. Brennan thanked Mr. Harvey for making that happen and he noted that the drivers had to go back and forth down to Beech Grove. He added that the expenses of doing this were covered by the Spartan race organizers.

*Introduced:*

Ms. Brennan noted a Commonwealth Transportation Board letter she received regarding a meeting in Richmond on September 23, 2014. She added that if they attended, they could meet the County's new member, Shannon Valentine.

She also noted that she had gotten something from the VRA conference. Mr. Carter noted that Maureen, EDA Members, or other staff may attend the meeting which was hosted by VRA every year.

D. Directives

Mr. Harvey and Mr. Bruguere had no directives.

Mr. Hale directed staff to provide him with a printed copy of the agreement with CSX and full scale copies of the two drawings that have been finalized in relation to the CSX license agreement on the Blue Ridge Tunnel project.

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Mr. Hale then directed staff to provide him with a copy of the Blue Ridge Tunnel project Phase II bid document estimate sheets if these were available.

Mr. Carter noted that he had received a draft Addendum 12 that reduced Addendum 11; however he was waiting for a revised one based on his comments provided to Woolpert. Mr. Hale and Mr. Saunders directed him to provide them with a copy prior to its being signed.

Mr. Saunders inquired as to the status of Mr. Williams being out of the building that the County purchased on Calohill Drive and Mr. Carter noted that no activity had been seen to date. He added that the date for his vacating the property was sometime in November.

Ms. Brennan then inquired if there were any outstanding staff issues and Mr. Carter noted that the County had one vacancy. He added that the Sheriff's Department wanted to look at the applicants and he had just gotten their consent to offer the position which would mean dispatch would be fully staffed within the next two weeks.

Mr. Carter reported that Animal Control was now fully staffed. He added that he met with the Animal Control Officer, who was going to resign and Theresa Brooks and the Officer was going to stay now. He noted that the Officer had expressed concerns about compensation etc.; however was okay with staying for the time being. He noted that the Shelter Attendant position was filled and Theresa would bring her over to introduce her to the Board.

Mr. Carter noted that recruiting for the Part Time Finance position was in process and the screening process would ensue.

Ms. Brennan then inquired about the use of the School Superintendent's old office and Mr. Carter noted that it was vacated and nothing was in there yet. He added that Dr. Comer and his staff were located in the old Commonwealth's Attorney space and were happy there. He noted that use of the vacated space would be incorporated into the assessment being done by Architectural Partners.

Ms. Brennan then inquired as to whether or not the Schools had the new County flag and she asked where these were distributed. Mr. Carter noted he would need to check on this and report back.

Mr. Hale then reported that the Faber Fire Department had a new flag and flagpole donated to them by the Woodmen of the World organization and it was going to be put up on 9/11.

## **VI. Adjourn and Reconvene for Evening Session**

At 4:52 PM, Mr. Hale moved to adjourn and continue the meeting until 7:00 PM and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously by voice 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**

Ms. Brennan called the meeting to order at 7:00 PM with all Supervisors present to establish a quorum.

**II. Public Comments**

There were no persons wishing to be recognized for public comment.

**III. Public Hearings and Presentations**

**A. Public Hearing - Consideration of Proposed Amendments to Code of Nelson County** : Proposed Amendment to Chapter 9, Planning and Development, Article III, Planning Commission, Section 9-27, Composition; general powers and duties, to add a Board of Supervisors member; increasing the Planning Commission Membership from five (5) to six (6). **(O2014-05)**

Mr. Carter noted that for the Board's consideration was the reinstatement of the Board of Supervisors member on the Planning Commission. He noted that approximately one year ago the Board elected to remove this member from the Commission. He reiterated that the public hearing was to consider reinstatement of this and he noted that the proposed Code Amendment had been duly advertised according to state law.

There being no questions for Mr. Carter, Ms. Brennan opened the public hearing and the following person was recognized:

1. Jim Budd, Blackrock Circle

Mr. Budd confirmed that the Board of Supervisors Member would be a voting member of the Planning Commission. He noted that he had just moved to the County a year and a half ago and had been a member of the Hanover County Planning Commission. He noted that he was opposed to the proposal because he thought this would be diluting the Planning Commission such that things would just be pushed along. He added that he believed in keeping the Planning Commission and Board of Supervisors separate. He noted that he thought that the Planning Commission should deal with the initial contact with the applicant and he thought this would get something better for the County which would then be followed up on by the Board. Mr. Budd then noted that communication was key and if it was good between them and their appointees, it would work better to keep the two entities separate and he hoped the Board would give this serious consideration.

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

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Mr. Harvey then moved to approve Ordinance **O2014-05** Amendment and Reenactment of the Code of Nelson County, Virginia, Chapter 9, Planning and Development, Article III, Planning Commission, Section 9-27, Composition; General Powers and Duties and Mr. Hale seconded the motion.

Mr. Hale then related his experience with the Planning Commission, having been a member as a Board of Supervisors member and attending as a nonmember. He noted that he had spoken at a public hearing and the Planning Commission then did the opposite of what he wanted them to do; so he did not think that the presence of a Board of Supervisors Member would keep the Planning Commission from coming to its own conclusions. He noted that Communication was important and the best way to have it was to have someone present at the meetings and to ensure this was to have a Board member on the Planning Commission.

Mr. Harvey noted that this has been the setup historically and that in the past as a voting member of the Planning Commission, he had voted one way at the Planning Commission meeting and had then voted another way when it came to the Board; and therefore he did not think the outcomes were a guarantee.

Mr. Bruguiere noted that his experience was that the Planning Commission did not follow suit anyway and they had removed the Board member previously because no one wanted to do it. He added that there were Board of Supervisors Planning Commission liaisons in other places too.

Mr. Saunders noted he could not speak to it as he had never served on the Planning Commission.

Ms. Brennan noted that she did not have a problem with it as long as the Supervisor did not vote and that was her position when she was on it. She added that this would be up to whomever was appointed. She noted that communication between the Planning Commission and the Board had been a problem and she did not understand a lot of the difficult issues as there was a lot to know.

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

**ORDINANCE O2014-05  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT AND REENACTMENT OF THE CODE OF  
NELSON COUNTY, VIRGINIA CHAPTER 9, PLANNING AND  
DEVELOPMENT, ARTICLE III PLANNING COMMISSION,  
SECTION 9-27, COMPOSITION; GENERAL POWERS AND DUTIES**

**BE IT HEREBY ORDAINED**, that the Code of Nelson County, Chapter 9, Planning and Development, Article III, Planning Commission be amended as follows:

*Sec. 9-27. - Composition; general powers and duties.*

(a) The planning commission shall be comprised of six (6) members, one (1) appointee from each election district appointed by the Board of Supervisors and one (1) appointee from the membership of the Board of Supervisors. Except as hereinafter provided, each election district member shall be appointed for a four-year term. Members may be re-appointed without limitation. The member from the Board of Supervisors shall have a one year term and shall be appointed each year at the first regular meeting of the Board of Supervisors.

(b) Except as provided in connection with the member from the Board of Supervisors, each member shall serve from July 1 until four (4) years hence on June 30 when his term shall expire. Any person appointed to fill a vacancy shall serve the unexpired term of the member being replaced. At the request of the board of supervisors, a serving member may continue to sit beyond the expiration of his term until such time as his successor may be appointed; however, the successor's term shall not be extended by such delay.

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

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

*Introduced: Appointment of Board of Supervisors Member to the Planning Commission*

Mr. Harvey moved to appoint Mr. Larry Saunders as the Board of Supervisors Liaison to the Planning Commission and Mr. Hale seconded the motion. It was noted that this would be until January when the Board made their annual appointments.

There being no further discussion, Supervisors voted (4-0-1) by roll call vote to approve the motion with Mr. Saunders abstaining.

*Introduced: Board attendance of Dominion Public Information Session*

Mr. Carter reported that he had spoken with the County Attorney on the Board's attendance of the Dominion public information meeting. He noted that Mr. Payne recommended that Mr. Carter speak with Dominion on what the intent of the elected official's session was and then have a called meeting if he thought it was necessary; however he wanted to be careful about it.

Mr. Hale noted that they needed to see what the format of it was, and that if it were actually an exchange of information then it became a meeting. He added that in this case, it would give the public the wrong impression if they were not invited also.

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Mr. Carter noted that maybe Dominion could merge the elected officials meeting with the public meeting session.

Mr. Harvey noted that he thought it could be a missed opportunity to learn something if they all could not attend.

Mr. Hale suggested that they see what was found out from Dominion and he noted it would work if they gave a presentation and then they had an opportunity to ask questions prior to their meeting with landowners. He added then they would have a called meeting and he would attend.

Mr. Saunders suggested that they have the same format as before where the Board interacted with Dominion and the public did not.

Mr. Carter noted that Mr. Payne recommended having a called meeting after the details were determined. Ms. Brennan noted that she wanted to make clear that if it was a called meeting, then the public was able to come to the meeting.

## **V. Adjournment**

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