

August 13, 2013

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.

Present: Thomas H. Bruguere, Jr. West District Supervisor- Chair
Constance Brennan, Central District Supervisor - Vice Chair
Larry D. Saunders, South District Supervisor
Allen M. Hale, East District Supervisor
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
Phillip D. Payne, IV, County Attorney
Tim Padalino, Director of Planning and Zoning
Emily Harper, Director of Parks and Recreation
Jacqueline Britt, General Registrar

Absent: None

I. Call to Order

Mr. Bruguere called the meeting to order at 2:10 pm, with four Supervisors present to establish a quorum and Mr. Harvey arriving shortly thereafter.

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

II. Consent Agenda

Mr. Bruguere indicated that he would like for staff to explain item D having to do with the salary supplements for the Constitutional Officers.

Mr. Carter noted that for these positions, the current policy called for using the State Compensation Board salary to calculate salary increases. He noted that staff was proposing that if their salary was x at June 30th, it would be used to calculate a salary increase instead. He added that it had been difficult to keep up with now since some Constitutional Office staff were not being paid by the State and therefor did not have a Compensation Board salary. He noted that staff wanted to streamline the policy to apply salary adjustments to the current salary as is.

Ms. McCann reiterated that some of these positions did not have Compensation Board salaries and so their increases were not in line with the original policy. She added that the 5% supplement to cover VRS was required to come from local funds and was never to be supplanted with state funds. She noted that with all of these changes and funding cuts to certain positions, the old policy became out of sync.

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Ms. Brennan then moved to approve the Consent Agenda as presented and Mr. Saunders 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 – **R2013- 51** Minutes for Approval

RESOLUTION R2013-51
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(June 27, 2013 and July 9, 2013)

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board’s meetings conducted on **June 27, 2013 and July 9, 2013** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2013- 52** FY13-14 Budget Amendment

RESOLUTION R2013-52
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2013-2014 BUDGET
NELSON COUNTY, VA
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BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2013-2014 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 3,287.00	3-100-009999-0001	4-100-031020-7043
\$ 29,579.00	3-100-003303-0025	4-100-031020-7043
\$ 105.00	3-100-009999-0001	4-100-031020-7042
\$ 946.00	3-100-003303-0025	4-100-031020-7042
\$ 9,232.00	3-100-002404-0017	4-100-021060-7040
\$ 1,000.00	3-100-009999-0001	4-100-031020-5419
<u>\$ 44,149.00</u>		

II. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 70,000.00	4-100-999000-9905	4-100-032020-5655
\$ 28,425.00	4-100-999000-9905	4-100-032060-5640
<u>\$ 98,425.00</u>		

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C. Resolution – **R2013- 53** COR Refunds

RESOLUTION R2013-53
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>
\$96.09	2013 PP Property Taxes	Barbara Ann Reese 116 Arizona Lane Arrington, VA 22922

D. Resolution – **R2013- 54** Salary & Classification System, FY14 Local Salary Supplements for Registrar & Constitutional Officers

RESOLUTION R2013-54
SALARY AND CLASSIFICATION SYSTEM
FY14 LOCAL SALARY SUPPLEMENTS FOR THE REGISTRAR
AND CONSTITUTIONAL OFFICES

WHEREAS, The General Assembly in Fiscal Year 2010-2011 has eliminated or reduced funding for certain Compensation Board positions and has in Fiscal Year 2012-2013 mandated a five percent local salary supplement relative to the reinstatement of the 5% employee contribution payment to the Virginia Retirement System (pursuant to Chapter 822 of the 2012 Acts of Assembly), and

WHEREAS, the Nelson County Board of Supervisors amended the local government’s “Salary and Classification System” on November 21, 2006, to incorporate governance of local salary supplements for the Registrar and Constitutional Offices, and

WHEREAS, the governance provides that the percentage of annual local salary supplement shall be based on the approved Compensation Board salary, and

WHEREAS, certain employees no longer have a designated Compensation Board salary, and

WHEREAS, the differential between the Compensation Board salary and the employee’s total salary inclusive of the local supplement, has substantially increased due to the 5% mandated local salary supplement which may not be supplanted by Compensation Board salary adjustments,

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NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby authorize effective July 1, 2013, that the percentage of annual local supplement shall be calculated based on the employee's total salary inclusive of all local supplements in effect on June 30 of the prior fiscal year.

E. Resolution – **R2013- 55** Approval for Refinancing of Region Ten Community Services Board, Community Facilities Bond Series 2006

RESOLUTION R2013-55
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL FOR REFINANCING OF REGION TEN COMMUNITY SERVICES
BOARD COMMUNITY FACILITIES BOND, SERIES 2006

WHEREAS, the Industrial Development Authority of the Town of Louisa, Virginia (the "Authority"), has been requested by Region Ten Community Services Board, Inc. (the "Company"), a non-profit, Virginia nonstock corporation, to approve the issuance of a revenue bond in an amount not to exceed \$7,000,000 of its revenue bonds (the "Bonds") to assist the Company in (A) refinancing the Authority's \$7,601,200 Community Services Board Facilities Revenue Bond (Region Ten Project) Series 2006 (the "Series 2006 Bond"); and (B) paying all or a portion of the costs of issuance of the Bonds. The Series 2006 Bond was issued by the Authority on December 21, 2006, with the proceeds thereof being applied by the Company to: (1) refinance the Industrial Development Authority of Albemarle County, Virginia's \$5,000,000 Variable Rate Community Services Facilities Revenue Bonds (Region Ten Community Services Board, Inc.), Series 1999, issued on August 31, 1999 to finance and refinance (a) several Company facilities located in the City of Charlottesville, Virginia at 800 Preston Avenue, 1907 Cedar Hill Road, 720 Highland Avenue, 719 Shamrock Road, 100 Burnett Street, 2000 Michie Drive, and 401 4th Street NW; and (b) Company Facilities located in the County of Albemarle, Virginia at 4312 Dickerson Road; (2) finance the acquisition, construction, renovation and equipping of the property known as Mountainwood, to house the Company's administrative offices and community services, located on an approximately 9 acre tract of land on Old Lynchburg Road, in the County of Albemarle, Virginia; and (3) finance the acquisition, construction, renovation and equipping of the Nelson County Counseling Center located at Tanbark Plaza, Lovingston (Nelson County), Virginia (the projects described in clauses (1)-(3) above are collectively referred to herein as, the "Project");

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, a portion of the Project is to be located in the County of Nelson, Virginia (the "County") and the Board of Supervisors of the County of Nelson, Virginia ("Board") constitutes the highest elected governmental unit of the County;

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WHEREAS, in accordance with Section 147(f) of the Code, the public hearing held by the Authority was within 100 miles of the County;

WHEREAS, for purposes of Section 15.2-4906 of the Code of Virginia of 1950, as amended (the “Virginia Code”), the Authority is issuing the portion of the Bonds relating to the portion of the Project located in the County on behalf of the County;

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds and concur with the Authority’s inducement resolution regarding the issuance of the Bonds (the “Resolution”); and

WHEREAS, a copy of the Authority's Resolution, a certificate of the public hearing, a reasonably detailed summary of the comments expressed at the public hearing, and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED, By the Nelson County Board of Supervisors:

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Company, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (“Virginia Code”) to permit the Authority to assist in the financing of the Project.

2. The Board concurs with the Resolution adopted by the Authority and approves the issuance of the Bonds by the Authority for the benefit of the Company as and to the extent required by Section 15.2-4905 of the Virginia Code.

3. The approval of the issuance of the Bonds does not constitute an endorsement to prospective purchaser of the Bonds of the creditworthiness of the Project or the Company.

4. This Resolution shall take effect immediately upon its adoption.

F. Resolution– **R2013-56** Abandonment and Addition Request for Completed VDOT Project 0661-062-225, M501 Phoenix Road, Arrington

**RESOLUTION R2013-56
NELSON COUNTY BOARD OF SUPERVISORS
ABANDONMENT AND ADDITION OF SEGMENTS OF ROAD ASSOCIATED
WITH COMPLETED VDOT PROJECT 0661-062-225, M501, PHOENIX ROAD
ARRINGTON VA IN NELSON COUNTY**

WHEREAS, the Virginia Department of Transportation has completed project 0661-062-225, and;

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WHEREAS, the project sketch and VDOT Form(s) AM4.3, attached and incorporated herein as part of this resolution, defines adjustments required in the Secondary System of State highways as a result of construction, and;

WHEREAS, certain segments indentified are ready to be accepted into the Secondary System of State Highways, and;

WHEREAS, certain segments identified on the incorporated Form AM4.3 appear to no longer serve public convenience and should be abandoned as a part of the Secondary System of State Highways, and;

NOW THEREFORE, BE IT RESOLVED, this board hereby requests the Virginia Department of Transportation to take the necessary action to abandon those segments identified on the attached AM4.3 Form and project sketch as a part of the Secondary System of State Highways, pursuant to §33.1-155, Code of Virginia, 1950, as amended, and

BE IT FURTHER RESOLVED, this board requests the Virginia Department of Transportation to add the segments identified on the incorporated Form AM4.3 to the Secondary System of State highways, pursuant to §33.1-229 of the Code of Virginia, for which sections this Board hereby guarantees the right of way to be clear and unrestricted, including any necessary easements for cuts, fills, and drainage, and

BE IT FINALLY RESOLVED, that a certified copy of this resolution be forwarded to the Virginia Department of Transportation.

III. Public Comments and Presentations

A. Public Comments

1. Glenda Cahoon, Tye River and VTA Representative

Ms. Cahoon distributed and read aloud a prepared statement by Kenneth White, President of VTA who demanded that the Board repeal their decision to place a walk-through metal detector at the main entrance to the Courthouse and provide that metal detectors only be used at the entrances to the Circuit and District courts when the courts were actually in session to properly protect the judges of those courts.

Ms. Cahoon then noted that Mr. White had passed away from pneumonia at UVA Medical Center in Charlottesville on August 8, 2013. She added that Mr. White had dedicated his life to informing citizens about politics of the day and preserving citizen's rights guaranteed by the US Constitution. She added that his opposition to the placement of the metal detector at the main entrance of the Courthouse was because he believed this was an illegal search upon citizens going about normal business there. She then noted that there would be an announcement in the NC Times regarding his memorial service on the 21st.

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Mr. Bruguiera noted that he would miss Mr. White and that his words of wisdom were informative to the public. He added that he was quite an informed person even though he disagreed with a lot of what he said.

Ms. Brennan then thanked Ms. Cahoon for bringing Mr. White's message and noted that she admired him for his spirit and passion.

2. Edward Waterfield, Arrington

Mr. Waterfield advised the Board that the County had violated the Freedom of Information Act in its handling of a request he made for information from the County regarding his application to the Keep Nelson Beautiful Committee. He then noted that Mr. Massie, from the County had shown up at his house regarding an illegal septic tank in response to him making this request. He then read the membership criteria and term information for the KNB committee and noted that he did not think the current make up of the committee fit this and that the guidelines were being followed. He also indicated that the committee had not met in the last six months and no one could tell him when the next one was. Mr. Waterfield concluded his comments stating that he was not going to pay the bill that the County sent for fulfilling his FOIA request and that the Board had discriminated against him.

Mr. Bruguiera noted that the Board would take his comments under advisement.

B. Presentation – Virginia Department of Health, Community Health Assessment Data

Dr. Lillian Peake presented a Power Point on the results of the recently completed community health assessment.

She noted that the assessment identified key issues for the health district and looked at local data and trends as compared to state and national benchmarks. Dr. Peake noted that the Interagency Council agreed to serve as the local Community Health Assessment Council. She added that Peggy Whitehead had served on the district-wide leadership panel that put all of the data together.

Dr. Peake noted that the other localities participating in the assessment were Charlottesville/Albemarle, Fluvanna, Greene, and Louisa counties. She added that additionally, schools, colleges, community agencies, healthcare organizations, and non-profits also served as partners in providing data.

Dr. Peake then reported that there were four (4) health issues identified; however the one that affected everyone and was designated the number one issue was an increasing rate of obesity.

Dr. Peake then showed a number of national maps that depicted the increasing rate of adult obesity from 1985 to 2010. She explained that BMI stood for body mass index and was weight related to height. She noted that a BMI over 30 for a person 5 ft 4 inches tall

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indicated obesity and was equivalent to a person being 30 pounds overweight. The slides showed that in 1985 there was no data collected for Virginia, in 1990 less than 10% of adult Virginians were considered obese, in 1995 and 2000, 15%-19% were considered obese, in 2005, 20% -24% were considered obese, and in 2010, 25%-29% of adult Virginians were considered obese.

Dr. Peake then noted that the 2009 health district data by county showed that Nelson County had the lowest percentage of adults being obese at 26.4%.

Dr. Peake reported that Blue Ridge Medical Center worked with the schools to collect data for students in the 5th and 10th grades and for 2010-2011, 31.2% of 5th graders were considered obese and 14.9% overweight, and 29.9% of 10th graders were considered obese and 17.5% were overweight.

She then noted that the assessment looked at physical inactivity in 2009 and 25% of Nelson County Adults over the age of 20 reported no leisure time physical activity or were inactive as compared to the state at 24%.

The panel then looked at the availability of formal recreational facilities across the health district; not counting for trails, farming etc. with Nelson County having below the state and national benchmarks.

Dr. Peake then reported that they looked at access to healthy foods and the types of stores that were available. She noted that Nelson County had mostly convenience stores, fast food restaurants, and full service restaurants.

Dr. Peake then noted that the result was that these factors were starting to affect health. She showed a graph that depicted the percent of adults reporting diabetes has increased in Nelson County as it has in the state and the nation. She noted that in conclusion, the group noted that (1) Obesity was most frequently identified as the most important public health concern to which the district needs to give more attention and (2) in Nelson County, education was the key to ameliorating the problem.

Dr. Peake then noted that the first goal of the group was to decrease the percentage of persons who were overweight or obese in the health district by promoting school and corporate wellness programs and by engaging residents in a Move2Health campaign.

She noted that the Move2Health campaign was initiated to promote school and corporate wellness programs that challenged people to take on a physical activity for 30 minutes a day, 5 days a week. She then discussed an Oklahoma City initiative where the employees there were challenged to lose 1 million pounds collectively.

Dr. Peake then explained that the group decided to get started with emphasizing the physical activity component and she reiterated the challenge was to take on physical activity for 30 minutes 5 days per week. She noted that UVA Baseball Coach Brian O'Connor will kick off *Move2Health* on September 6, 2013 at *Fridays After Five* on the Charlottesville Downtown

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Mall and that locally, there would be a *Move2Health* promotion at the Drumheller Orchard Apple Festival on September 28, 2013. Dr. Peake then provided the program website address of www.Move2HealthCentralVa.org and noted that it provided access to the challenge portal.

Dr. Peake then concluded by asking organizations to participate and that individuals could then go and sign up and associate with that organization. She added that the challenge portal would be live on September 6th.

Peggy Whitehead of Blue Ridge Medical Center noted that the county had put up extra money to get enough statistics to be used in grants etc. She added that she was pleased to have participated and encouraged local participation at the apple festival. She also encouraged the County to participate and to promote the effort by posting a link to the Move2Health web site on the County's website etc.

Dr. Peake reiterated that the goal was to think about changing today's culture and doing something active with kids.

Mr. Hale agreed that obesity was a health concern and was a struggle for folks. He noted that there were many things affecting this such as how foods were processed and the subsidization of certain types of foods; however awareness was the first step.

Ms. Whitehead then suggested that as the Board thought about county policies and goals for the county in strategic planning, anything that could be done to help them along with this would be great. She encouraged the Board to consider things missing in Nelson County such as bike friendly roads, or opportunities to walk more easily etc.

Mr. Saunders agreed that obesity was definitely a problem and he noted that a friend's brother had donated money to Martha Jefferson Hospital to battle obesity. Dr. Peake then added that this hospital was a partner in the assessment and Move2Health initiative.

Ms. Brennan then thanked Dr. Peake for conducting the study and noted that this may give the Board some ammunition to move forward with the swimming pool complex.

Ms. Harper noted that the Recreation Department would be encouraging County employees to participate in the Move2Health initiative.

Mr. Bruguere noted that being active was a lifestyle choice. He added that he thought that the schools' PE programs needed improvement and cell phones were keeping kids from being active. He also noted that kids were not doing chores anymore and not doing much in general. He suggested that they engage the school system and encourage the School Board to support more active PE programs. Mr. Bruguere then noted that Diabetes was the worst and most prevalent disease in the Country; however it was up to people to decide to be more active.

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Dr. Peake then noted that it was amazing how much of an impact small lifestyle changes made and that it took a lot of support to make the lifestyle choice.

Mr. Harvey then noted that a past Board had a weight loss competition between Board members and the current Board could do this.

Ms. Brennan added that she had read an article that diabetes was on the rise in Vietnam; not due to obesity but due to inactivity.

Introduced: Annual School Physicals sponsored by Blue Ridge Medical Center (BRMC)

Mr. Harvey asked Ms. Whitehead to explain the donation request for BRMC at the annual school physical night. He added that the nurses and doctors performing the services were not paid, yet the donation went to BRMC.

Ms. Whitehead explained that BRMC was footing the overhead cost to put on the clinic and that they would waive the fee for anyone that could not afford the \$10 cost.

Mr. Harvey and Ms. Whitehead briefly discussed how the clinic was conducted and Mr. Harvey and Ms. Whitehead agreed to discuss this further with Ms. Whitehead noting that they could look at how this was done for the next one.

C. VDOT Report

Mr. Don Austin was present to report the following:

1. VDOT has started construction on South Powell's Island road. He noted that they had a time restriction on installing the pipe before the 15th and they hoped to have construction done by winter.
2. The Interlocken event transportation issues were ironed out and they have installed the entrances to the lots at the site. He noted that VDOT would send the County a copy of the finalized plan.
3. The Rt. 151 safety study was completed and a presentation to the Board was now available. Mr. Carter noted he would work with Rick Youngblood to schedule this and he noted that the full report was now online.

Mr. Harvey asked if Route 151 property owners were consulted before the engineering work was done on this. Mr. Austin noted that it would be once they were doing the surveying. Mr. Harvey then recommended that this be done early on. Mr. Austin noted that VDOT would have informational meetings and public hearings on these improvements. Mr. Harvey suggested that they hold a brief meeting with the affected property owners on this to avoid future resistance. Mr. Hale commented that it was the engineers' job to determine the best solution to the problem and in his experience; this meant some property owners were unhappy. Mr. Austin noted he would speak to Clayton Thomas about this and then would discuss this further with Mr. Harvey.

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Mr. Bruguire inquired as to the two projects slated for 2016 and Mr. Austin noted they were scheduled for 2016 depending on any issues encountered with utility relocation.

Members and staff briefly discussed who was installing fiber on Route 29 north to the county line and Mr. Carter noted he thought it was Verizon. It was noted that activity on Route 29 south was Lumos and was related to the Interlocken Festival. Mr. Carter advised that the state had a mapping program that was supposed to show all fiber optic installations in the state; however this was always changing.

Mr. Austin inquired as to whether or not a decision had been made regarding the concrete toilet facility building at Woods Mill. Mr. Bruguire noted he had spoken with Mr. Bell and he indicated that the problem was going to be maintenance and that unless it was maintained on a regular basis; it would always be a problem. He added that Bell maintained the port o john weekly now and could be paid to do it more often. Mr. Hale added that it would only have to be pumped twice per year. Mr. Austin noted that he thought the concern would be more related to cleanliness and keeping it stocked. Mr. Carter noted that the Park behind the VDOT shed was now accessed by reservation only because it was getting vandalized regularly and was now locked up until it was reserved. Mr. Hale noted that he thought the Board ought to do the building but he did not think they could get it done in time for the festival as he needed to gather more information. It was then noted that with the ongoing bridge construction at Woods Mill, the wayside could not be accessed from the north anyway.

Mr. Saunders requested that crews pick up the roadways in the County prior to the Interlocken Festival so it looked nice.

Mr. Austin then noted that another problem with ditching was the waste material that could be present and approvals were needed for its disposal. He added that they needed a place where they could dispose of material approved ahead of time for environmental reasons.

Mr. Harvey then asked Mr. Austin to get him back on track with the Route 250 Overlook. He added that he wanted to get permission from the landowner and VDOT to proceed in cleaning/clearing it up.

Mr. Bruguire then confirmed when VDOT would do the paving at the courthouse and Mr. Austin advised that they would do this in September and the end of state maintenance sign would be placed at the back of the lot there. He noted that VDOT would use the HVAC building turnaround but would go up to the last driveway put in for the relocated house. Mr. Bruguire then noted that the pipe there was being crushed at that location and was bent down.

IV. New Business/ Unfinished Business

- A. Disposition of County Property: Tax Map #76-11-1-A: Nelson Heritage Center, Arrington VA. - Authorization to Execute Deed of Conveyance (R2013-57)

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Mr. Carter reported that the deed was in order for both parties. He noted that the County had tweaked the language related to the water system and otherwise it was the same as what was presented a while back. Ms. Brennan then confirmed that with the property transfer, the liability related to the gym in the building would be out of the County's hands.

Mr. Bruguiere and Mr. Saunders both indicated that they were satisfied with the deed language. Mr. Hale advised that he had discussed the language with George Miller and he thought it covered the issues well and that this was a very generous gesture on the part of the county to the Millennium Group. He added that he hoped they would be successful as they have been running the center for about ten (10) years now.

Mr. Saunders moved to deed the Heritage Center Tax Map #76-11-1-A to the Millennium Group (R2013-57) 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 following resolution was adopted:

RESOLUTION R2013-57
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION AUTHORIZING THE DISPOSITION OF COUNTY PROPERTY
TAX MAP #76-11-1-A; NELSON HERITAGE CENTER CONVEYED TO THE
MILLENNIUM GROUP COMMUNITY FACILITY

WHEREAS, pursuant to §15.2-1800 of the Code of VA, 1950, local governments are authorized to dispose of publicly owned real property via public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property provided a public hearing has been held concerning such disposal; and

WHEREAS, a public hearing to receive citizen comments on the proposed disposition of Tax Map #76-11-1-A Nelson Heritage Center in the Lovingson Magisterial District, was held on January 10, 2012;

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors that the County Administrator, Stephen A. Carter, is hereby authorized to execute all legal instruments to effect the conveyance of said property on behalf of the Board of Supervisors to the Millennium Group Community Facility; in accordance with the terms and conditions as described in the attached Deed.

- B. Referral of Amendments to the Code of Nelson County, Virginia Article 20, Comm. Tower Ordinance, to the Nelson County Planning Commission
(R2013-58)

Mr. Payne gave a brief history of this item noting that the Planning Commission had sent the Board proposed amendments years ago at the same time that the VA Supreme Court issued an opinion that the Planning & Zoning Director and Planning Commission could not impose

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conditions and could only make recommendations to the Board. He added that the previous amendments included their participation and so this required another revision.

He then noted that staff decided that the piece to be worked on first was the Class IV Tower amendment to address the smaller wireless providers and now this proposed amendment was to remove the participation of the Planning & Zoning Director and the Planning Commission; with some reorganization of the language. He then advised that in the amendment, Class I towers were those between forty (40) and one hundred thirty (130) feet in tower height located in a Conservation District, C-1; Agricultural District, A-1; Service Enterprise District, SE-1; Business, B-1; Business, B-2; Industrial, M-1; or Industrial, M-2 zoning districts. He added that applications for these require what has been required in the past but once all of these are met, the Planning and Zoning Director can issue the permit.

Mr. Payne then noted that a Class II Communication Tower was any communication tower located in a Residential, R-1; Residential, R-2; and Planned Residential District, and, any communication tower in any district that is greater than one hundred thirty (130) feet in tower height. He noted that the application was required and the Planning Commission must review it for conformity with the Comprehensive Plan and then the application was referred to the Board of Supervisors for permitting.

Mr. Payne then noted that there was a corollary undertaking, which was updating the Comprehensive Plan to include additional language about communication towers in it.

Mr. Payne then recommended a deadline be set for the Planning Commission to get this back to the Board as the Ordinance needed to be in conformity with what the Supreme Court has said. He reiterated that the Planning Commission was working towards differentiating between towers under 130 ft and those above. He confirmed that the Planning Commission's task was to make sure the Class II tower conformed with the Comprehensive Plan and then it would be referred to the Board.

Ms. Brennan inquired as to whether or not for Class I towers, the Planning and Zoning Director could request a public meeting on it as a matter of informing the public. Mr. Payne noted that a provision for this was not in the proposed amendment and that there was no discretion since if the tower met the criteria, it would be approved. He added that the Board of Supervisors would have the only discretion, similar to their discretion provided for in the Subdivision Ordinance. He noted that the Board could not request a public hearing for a Class I tower.

Supervisors and staff then discussed how long to give the Planning Commission to refer this back to them and Mr. Carter noted that the State Code says one hundred (100) days unless the Board says less. He noted that the number of days began after the referral was made and the first meeting of the Planning Commission was held. The allowable timeframe was discussed with Mr. Payne suggesting that a longer timeframe was needed if they were to adjust the Comprehensive Plan at the same time. Mr. Padalino noted that the earliest it could be introduced to the Planning Commission was August 28, 2013.

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Mr. Harvey clarified that the clock started ticking once it was given to the Planning Commission. Mr. Bruguere then suggested that the Planning Commission could then have its public hearing in September and they could refer it back to the Board by the October 8, 2013 meeting. He added that the Board could then hold its public hearing in November.

Mr. Hale then moved to approve resolution **R2013-58** Referral of Amendment to Nelson County Zoning Ordinance to Nelson County Planning Commission, Article 20, Communication Tower Ordinance and asking the Planning Commission to have its recommendation to the Board of Supervisors within the number of days until the Board's October 8, 2013 meeting.

Mr. Saunders 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 R2013-58
NELSON COUNTY BOARD OF SUPERVISORS
REFERRAL OF AMENDMENT TO NELSON COUNTY ZONING ORDINANCE
TO NELSON COUNTY PLANNING COMMISSION
(ARTICLE 20, COMMUNICATION TOWER ORDINANCE)

WHEREAS, the Nelson County Board of Supervisors (the Board) has reviewed in public session numerous staff reports on amending Article 20, Communication Tower Ordinance of Appendix A-Zoning (Nelson County Zoning Ordinance) of the Code of the County of Nelson, Virginia;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors, pursuant to the applicable provisions of Title 15.2 (Counties, Cities, and Towns) Chapter 22 (Planning, Subdivision of Land and Zoning) of the Code of Virginia, 1950 that the draft amendment of Nelson County's present Communication Tower Ordinance dated June 26, 2013 be referred to the Nelson County Planning Commission for review and public hearing and subsequent report of the Commission's findings and recommendations to the Board, in accordance with Chapter 22 of the Code of Virginia.

BE IT FURTHER RESOLVED, by the Board of Supervisors that the Board herewith requests that the Nelson County Planning Commission limit its review to the draft Amendments dated June 26, 2013 which proposes the following:

The repeal of Sections 20-1 through 20-17 and the enactment of replacement sections 20-1 through 20-16 and 20-19.

BE IT LASTLY RESOLVED, that the Planning Commission completes its review and conduct of a public hearing and submits its recommendation(s) to the Board within fifty-six (56) days; by October 8, 2013, pursuant to §15.2-2285 (B).

C. Emergency Notification System Enhancements

Mr. Carter noted to the Board that this had been previously presented and that the Board wanted to give it further thought at the time. Mr. Carter then noted that staff could overview the options again.

Ms. Brennan then asked if the fees for the option used by Virginia Tech were \$7,500 per year and if the County did this would it be able to save the funds going towards the current Geocomm system now. Ms. Rorrer then noted that the current \$2,100 fee paid to Geocomm could be eliminated. She added that the County could upload its data annually without an additional charge; however to do it quarterly would cost \$2,000. She added that Geocomm did reconcile the data and this would be sacrificed. She noted that the County would save \$2,100 per year plus any per call charges when calls were activated to landline phones. She added that she would need to do more research to see if the Everbridge system would be good for this.

Ms. Brennan then noted that people not on the school notification list would also like to know about school closings and weather alerts. Ms. Rorrer noted that citizens would have control over the volume of notifications they received. She noted that currently, the system has been more used for specific weather events. She noted that the system could send a countywide or selected area notification; however when notifying cell phones, they would not necessarily be in that area. She added that other than the landline component, there would be an opt in solution for cell phones and that options for Email, text, and/or phone call notifications could be selected. Ms. Brennan noted that she was concerned with notifying landline phones of elderly people and Ms. Rorrer noted that they could opt in to get these and the County could push the 911 database into the system; however she was leery about how this would be maintained going forward.

Mr. Hale noted that he thought the County should have a landline only system. Ms. Rorrer indicated that there were various free services that people could sign up for to get weather alerts. Mr. Hale added that messages sent out to land lines would get disseminated to cell phones and that call forwarding could be used to send alerts from a land line to a cell phone.

Mr. Saunders inquired as to what system the School Board used and Ms. Rorrer noted that she thought it was Honeywell. She noted that she had indicated to Shannon Irvin that she would like more information on their system; however they had not connected to have a face to face meeting on it. She added that she was aware that their system worked off of a database that they managed.

Supervisors then agreed to study this more for future consideration and the matter was tabled.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

A. Courthouse/Government Center Project (All Related):

1) **Courthouse Addition** – Tunnel waterproofing repair is pending, then project completion.

Mr. Saunders noted that the replacement of a section of sidewalk coming up to the main entry was still pending and that the caulking around the seal looked better.

2) **Law Office Retaining Wall:** Complete.

3) **Jefferson Building:** Contract issued to Owen Building and Remodeling, per low bid submittal of \$136,144. Project is in process with 90 day completion schedule.

4) **Magistrate's Building:** Completion of interior plastering by Price Masonry is pending. County Maintenance will then install HVAC, flooring, paint interior, as necessary, and address exterior soiling at base of the structure.

Mr. Carter noted that the HVAC unit would be wall mounted.

B. Broadband Project: NCBA has authorized public hearing ((October 24, 13) to advertise tower rate amendment for WISPs. for ensuing public hearing and approval by NCBA. Staff working with national cellular company and local WISP on tower locations. A second grant application to VA-DHCD to be developed for fiber extension on north and south Rt. 151. Current CDBG grant has been closed and NTIA grant closeout is in process. Fiber network beginning to build out. Shentel and Mid-Atlantic Broadband have signed Service Provider agreements.

Mr. Carter reported that staff was working on a proposition to extend fiber to the Church of the Blue Ridge and then down to Route 664. He added that Ms. Kelley was gathering interest in connecting to the fiber along 151.

Mr. Carter reported that the Authority would be getting \$60,000 to \$80,000 in revenues from Erate funding from the schools. He added that Mid Atlantic Broadband was planning to get their equipment in place in October and this would allow members access to the network.

Mr. Carter then explained that the Schools signed contracts with Shentel and Nitel to provide a Local Area Network (LAN) and that Shentel's contract connected the High School and Middle School for five years. He noted that the Nitel contract connected the elementary schools and they would now run them over the County's network through the connection at the High School. He added that the Authority would see revenue from this and in four more years the Authority would have all school traffic on the network. He noted that this could be as much as \$80,000 in revenues to the NCBA.

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Mr. Carter then reported that staff was seeing interest from cellular companies in locating on the towers and staff was meeting with them. He noted that contracts with them have been exchanged and were under review; which could result in \$50,000 in revenues. He added that if the WISP also used the towers, the NCBA could realize a total of \$70,000 to \$80,000 in revenues.

In response to questions, Mr. Carter noted that County Staff was doing all of the tower work at this point and BRI was doing the fiber based extensions and installations. He added that three of the four towers had fiber connectivity and that BRI may get involved if companies needed backhaul etc.

Ms. Brennan then inquired if it would adversely affect SCS by having cellular companies higher up on the towers and Mr. Carter related that he did not think so and that he had related to SCS that the top two spots would be reserved for the county and public safety initiatives. He added that the towers were built to accommodate two cellular companies and that SCS should be able to operate at 108 feet. He reported that SCS had everything in hand necessary to contract with NCBA to get on the towers. He added that Ms. Rorrer was working with Shenandoah tower on a structural analysis of the High Top tower and that it was looking like it would be better to replace this tower as it was not sound right now. He noted that it could be used for a relay but that it was not in good shape.

Mr. Carter then noted that Shentel would be on the County's network and would be able to provide services to other people; which would generate revenue for the network. He noted that this has not happened yet but the ability was there. He added that Shentel has indicated that they plan to provide services to others in the future.

Mr. Carter concluded by noting that things were looking more promising and there was more interest and connections being done. He then clarified that the Network Operator would oversee the installations by Shentel and would manage their traffic in order to bill them for these services.

C. 2012 Radio Project (Narrow banding): The project is in process. Waiver to extend County's deadline for narrowband compliance to June 30, 2014 is being sought.

Mr. Carter reported that all radios had been installed in school buses and that next summer radio installations would be fully complete. Mr. Harvey added that radio installations had begun in emergency vehicles.

D. Lovingson Health Care Center: Meeting with JABA for feasibility review to be scheduled followed by BOS presentation (October).

E. BR Tunnel and BR Railway Trail Projects: Contract for BR Tunnel received, executed and returned to VDOT for signature. Phase 1 of the project can be initiated upon receipt of fully executed agreement. Meeting with B. Tyler on eastern trail property acquisition completed and in process pending appraisal review/approval by VA-DCR (with update). BRRT project is nearing design completion and approval.

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Mr. Carter added that this was an addendum to the existing contract and did not require Board action.

F. Relocation of BOS Meetings: First meeting in new Gen. District Courtroom on 8-13-13.

H. Department/Office Reports: Included herewith.

I. Other: To be presented or responded to per BOS input.

1) Health Department Building – All relocations complete by 8-15.

Mr. Bruguere noted his preference to complete the demolition of the building by January first of 2014. Mr. Carter noted that staff could put this together and bring it back to the Board. He added that there was probably nothing to be salvaged there but that staff would evaluate this. He added that the County would have to bid out the demolition work.

2) EMS-Nelson Station 2 modifications complete on 7-31

3) EMS (Revenue Recovery) Termination notice to Fidelis sent 8-13-13. Contract signed with EMS Management & Consultants, Inc. on 8-13 (start up on 12-1-13)

2. Board Reports

Mr. Harvey and Mr. Bruguere had no report.

Ms. Brennan reported the following:

1. Attended tea at Ligmincha Institute with Mr. Hale and noted that they were there preserving Tibetan culture. She noted it was on Rockfish River Rd. in Drumheller Hollow.
2. Attended DSS meeting and related that she and another Board member would be meeting with staff. She added that the department was making a concerted effort to look into fraud and may need another person to help with this. She added that food stamp numbers were going up.
3. Attended CIT meeting and noted that the CIT brings together everyone involved to help mental health individuals stay out of jail and get into services needed.
4. Attended NCHS Convocation meeting this year where they did the annual Smyth awards. She noted that the schools were suffering a lot of sadness and concern, having lost a teacher and two students last year, and now there was a student disappearance.

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5. The Courthouse Landscaping Committee met and were committed to creating a plan that would be environmentally friendly and low cost.

Mr. Hale reported the following:

1. The Tunnel Foundation was moving along with fund-raising efforts and had planned an event on September 20, 2013 to be held at Veritas. He noted that the Foundation consensus was that local officials would be given tickets to the event. He noted that the fundraising included options to purchase tables at various prices and that the Foundation members were charged with selling these tables. He added that for \$10,000, you would get a table for ten including dinner, be recognized in the program, and would get a brick from the tunnel. He noted that Veritas was donating the event space and dinner. In conclusion, Mr. Hale noted that prior to the dinner; there would be a program on the tunnel on September 15, 2013 at Rockfish Presbyterian church.
2. Reported that TJPDC was continuing to work with David Blount as the Acting Director and that he was doing well. He noted that they had discussed starting a national search for Mr. William's replacement, however they were holding off for now. Members then indicated their support of Mr. Blount continuing to serve as the TJPDC director.

Mr. Saunders reported that he had participated in a meeting with the Interlocken Festival Committee to discuss potential problems with VDOT. He noted that this had worked itself out. He noted that the stages would go on the infield of the racetrack and that heavy traffic would come off of Diggs Mountain Road. He noted that the end near the cannon was the VIP area inside the track.

Mr. Saunders noted that things were moving along okay but that they had to haul sewage to Lynchburg and haul in water to operate the showers at a greater cost than expected.

Mr. Hale noted that he had discussed with George Miller of the Service Authority why they could not accept this waste and he had noted that they currently could not handle the volume and it would cause them to exceed their allowable threshold for ammonia.

Mr. Saunders added that they had discussed creating a waterline loop in the area of Colleen/Oakridge/Lovingston, which would help to improve water quality and would also help the event promoters with this issue. He noted that this was something to think about for future water/sewer infrastructure improvements.

B. Appointments

Ms. McGarry noted that an application from Alan Patrick had been received to serve on the Broadband Authority Board representing the Central District. Ms. Brennan noted that Mr. Patrick was enthusiastic and would be an excellent Authority Member.

Ms. Brennan then moved to appoint Alan Patrick to serve on the Broadband Authority Board and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Ms. McGarry then noted the existing vacancies on the Keep Nelson Beautiful Council (KNB), the JABA Advisory Council, and the Jefferson Area Disabilities Board.

Mr. Saunders then inquired whether or not inactive boards or councils could be eliminated, such as KNB. Mr. Carter noted that he had recently asked Grant Massie to jump start this council; however maybe it was time to reconsider. He added that the KNB was not part of any County ordinance and was not associated with grant funding. He noted that the grant used by KNB was from DEQ and was the County's funding of approximately \$8,000 per year.

Ms. Brennan noted that her impression from Susan McSwain was that if KNB was not listed on the grant application it would affect the County's ability to get the funding and Mr. Carter stated he did not think this was the case. He added that he was not recommending that the Board do away with KNB.

Mr. Hale suggested that Mr. Massie look into this, discuss it with staff and report back to the Board with a recommendation.

Mr. Carter then noted to the Board that they had full discretion on appointments and that Mr. Waterfield's earlier comment about retaliation was unfounded. He noted that he did not send Mr. Massie over in retaliation; but rather it had been brought to his attention that he may be living in a camper not hooked up etc. in violation of the Zoning ordinance. He added that the \$118.00 bill was for the more extensive nature of his FOIA request and that if he did not pay the bill, the County did not have to respond to further FOIA requests. He added that it took a considerable amount of staff time and he was billed at Ms. Bowling's hourly rate and not his. Mr. Saunders added that his home phone number was listed in the phone book and that Mr. Waterfield had called him at home several times.

C. Correspondence

There was no correspondence considered by the Board.

D. Directives

Mr. Harvey:

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Mr. Harvey noted that his only directive was to tear down the Health Department building ASAP.

Ms. Brennan:

Ms. Brennan noted that she had copies of the proposed County flag for the Board to review. She noted that it was the previous base design that the Board had endorsed; however the statue of the soldier had been reduced in size and dogwood flowers had been added around the soldier. Mr. Bruguere and Mr. Hale both noted that they had seen it and liked the new design.

Mr. Harvey then moved to allow Ms. Brennan and Mr. Bruguere to finalize a flag for the County and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion. Members then agreed by consensus to proceed with the design described by Ms. Brennan.

Ms. Brennan suggested that the Board consider having the upper Rockfish River study done for Scenic River Designation and noted that Mr. Carter had indicated he would write a letter to DCR to this affect. The Board then agreed by consensus to go ahead with requesting that the study be done.

Ms. Brennan noted that she was working with Mark Waller on the new courthouse addition plaque and stated that she would like it to be more reader friendly than the previous plaques in the courthouse.

Ms. Brennan then reported on the landscape committee and noted that Susan McSwain was taking the lead on organizing meetings. She added that the committee also consisted of Doug Coleman, Sam Saunders, Susan Beemaster, Paul Truslow, and Michael LaChance. He added that the committee's mission was to look at the courthouse grounds and come up with something that would not redo anything but would enhance it to fit in with its history, be environmentally friendly, and low maintenance. Ms. Brennan then asked the Board if the committee could have a budget out of the monies left in the courthouse project fund. She asked if the Board supported this and would consider funding a committee budget.

Mr. Bruguere recommended that the committee come up with a plan first and then the Board could evaluate it for funding. Ms. Brennan suggested that the committee would first be working on the area between the old jail and the connector that everyone sees. She added that they wanted to enhance the soil there which would cost some money.

Mr. Saunders inquired as to whether or not this work would have to be bid out and Mr. Carter noted that it depended on the price of the work; if over \$2,500; they would have to get competitive pricing up to \$50,000 and over that amount would require sealed bids.

Mr. Bruguere reiterated the need for an overall plan and Ms. Brennan indicated that the plan would be staged over a few years.

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Supervisors agreed by consensus that the committee should get pricing for the plan and then come back to the Board for approval. Mr. Harvey noted that he thought that the initial improvements needed to be done now as the area between the old jail and the connector was an eyesore.

Mr. Carter advised that the exterior of the Jefferson Building was not in the scope of work to be done by Owens; however staff could get a change order to have this done. He added that the window replacement in the building was to be done soon and then they could repaint the outside of the building to spruce it up. Ms. Brennan indicated that she would confer with Mr. Carter on the Jefferson Building progress to coordinate this. She added that the best time to do plantings was in October.

Ms. Brennan then inquired as to whether or not the County would get an extra port o john at the wayside to accommodate festival travelers. Members and staff briefly discussed this and it was agreed that since the wayside could not be accessed from the north going south, then it would not be necessary.

Ms. Brennan then reported that she was working with Judge Gamble and Judy Smythers on establishing a smoking area. She noted that they had all agreed that the old entrance to the Circuit Court was not acceptable. She added that Staff could use the Sally Port area but that she was not sure about what to provide for the public. Mr. Saunders suggested a no smoking area for the public or establishing the same area for everybody. Ms. Brennan noted she would check with other courthouses to see what they did.

Ms. Brennan then requested a list of all county staff including those in Constitutional Offices and Mr. Brugiére asked that it be sent to the full Board.

Mr. Hale:

Mr. Hale reiterated his May 14th directive on the County devising a plan for the Sturt Property. He reiterated that Ms. Harper was to take the lead on this and that the Sturt family had funds to put towards this.

Mr. Hale then inquired about Mr. Carter's email regarding the reuse sheds and Mr. Carter explained that he had shut down the one at Rockfish for two weeks due to ongoing issues there.

Mr. Saunders:

Mr. Saunders reported that he had received an email from Gladstone Rescue Squad on the purchasing of a new ambulance. He noted that they were seeking 50/50 grant funds from the Department of OEMS and he advised that the state no longer had ambulances under state contract. He added that the grant deadline was September 15, 2013 per Mary Katherine Allen and he asked if the Board was going to fund 50% of the cost.

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Mr. Harvey noted that squads would apply for these ambulance grants twice per year and would get on a cycle of doing this. He added that they were working on the fall cycle now and that if the squads got the grant, the County would pay half. He added that the County had funded about 75% of the cost for fire trucks. Mr. Carter noted that it would take awhile for OEMS to review all applications and award the funds. He added that these things needed to get incorporated into the budget annually so it was a known expense since the budget may not always have contingency funds available.

Mr. Bruguere had no directives.

VI. Recess and Reconvene for Evening Session

At 5:12 PM, Mr. Saunders moved to adjourn and continue the meeting at 7:00 PM 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.

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

I. Call to Order

Mr. Bruguere called the meeting to order at 7:00 PM, with all members present to establish a quorum.

II. Public Comments

1. Rick Larkin, Arrington

Mr. Larkin began to comment on the Tye River, Scenic River designation and was advised to make his remarks during the public hearing portion of the meeting.

III. Public Hearings

- A. Proposed Ordinance to Amend the Code of Nelson County, Virginia, Chapter 2, Article I, Section 2-28 to establish the Central Absentee Precinct at the Nelson Memorial Library, Lovingson Virginia 22949. (O2013-05)**

Ms. Jackie Britt, Registrar noted that the Central Absentee Precinct was where the absentee votes were counted after the polls were closed. She added that her office was where the absentee voting took place and on Election Day, the Central Absentee Precinct was where they were counted. She explained that this location has been in the Circuit Court jury room, there was an upcoming conflict with a jury trial, and they thought it best to move it permanently. Ms. Britt noted that the proposed precinct would be at the Nelson Memorial Library conference room, it would be provided at no cost to the county, and was fully handicap accessible.

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Ms. Brennan expressed concern that the Central Absentee Precinct would be confused with the Central District and Ms. Britt assured her that it would not.

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

Mr. Hale then moved to approve Ordinance **O2013-05**, an Ordinance to amend the Code of Nelson County, Virginia, Chapter 2 (Administration), Article I (In General), Section 2-28 (Precincts and Polling Places) to establish a Central Absentee Voter Precinct in the Nelson Memorial Library.

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 Ordinance was adopted:

ORDINANCE O2013-05
NELSON COUNTY BOARD OF SUPERVISORS
AN ORDINANCE TO AMEND THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 2 (ADMINISTRATION), ARTICLE I (IN GENERAL),
SECTION 2-28 (PRECINCTS AND POLLING PLACES) TO ESTABLISH
A CENTRAL ABSENTEE VOTER PRECINCT

BE IT HEREBY ORDAINED, pursuant to §24.2-306, and §24.2-712 of the Code of Virginia, 1950 as Amended, that Chapter 2, Administration, of the Code of Nelson County Virginia be hereby amended to establish a Central Absentee Voter Precinct to be used in all elections as follows:

Sec. 2-28. Precincts and Polling Places

Central Absentee Voter Precinct:

*Polling Place: Nelson Memorial Library, 8521 Thomas Nelson Highway
Lovingsston, VA 22949-0321*

BE IT FURTHER ORDAINED, that this Ordinance shall become effective upon adoption.

- B. Virginia Scenic River Program**, Tye River Scenic River Designation from Route 738 (Tye Depot Road) to the confluence with the James River, a distance of approximately 12.7 miles (**R2013-50**)

Ms. Emily Harper, Recreation Director, addressed the Board and noted that the County had requested that DCR look at this section of the river for possible designation. Ms. Harper read the intent of the program from the brochure as follows: The intent of the Virginia Scenic

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Rivers program is to identify, recognize and provide a level of protection to those rivers whose scenic beauty, historic importance, recreational value and natural characteristics make them resources of particular importance.

Ms. Harper noted that staff from DCR came up and checked off the items important to making a scenic river and recommended its designation. She noted that the next step would be for the Board to request Legislators to approve it as such.

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

1. Dave Miller, resident at Rucker's Run, Arrington

Mr. Miller voiced his opposition to the designation noting that there was already a lot of activity and trespassing on his property and property along the river. He added that he thought the designation would degrade his property and it was typical for a dozen cars to park along his property and the neighbor's property.

Mr. Miller also expressed concern that with the designation, federal law would allow the feds to come in and condemn land; which would be a detriment to the sale of property creating negative property values.

Mr. Miller also expressed concern that all of the riparian landowners along the river were not notified directly and he was only aware of it through reading the article in the newspaper. He added that if the state did not commercially promote scenic rivers, he did not see the point in making the designation.

He concluded by noting that unless his concerns could be assuaged, he was opposed to the designation.

2. Betsy Abbey, resident at Rucker's Run, Arrington

Ms. Abbey echoed Mr. Miller's previous comments and added that she was concerned with the potential for increased littering with increased use of the river and inquired as to how this would be addressed.

3. Rick Larkin, Arrington

Mr. Larkin noted that he lives on one of the trashiest areas of the Tye River and he noted that people do pick up trash along there. He added that the people that enjoy the river will pick up trash and not add to the trash and that the problem was local people coming down to party and leaving trash. He then reiterated that the designation did not give the state control over land use or give the public the right to use the land or to promote the rivers. He noted that there was no evidence that it would encourage more river traffic. He acknowledged that they have had a few people trespass and have advised them accordingly and he added that there were public accesses along there for two miles. Mr. Larkin noted that he did not see any negatives and he did not think it would increase traffic from undesirables. He added that

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he did not think that the Blue Ridge Trail has had a lot of people trashing it. He then advised that the James River Float Company brings people down there when the James is too high.

4. Dave Miller, resident at Rucker's Run Arrington

Mr. Miller added to his previous comments, noting that the main problem in the area was trespassing.

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

Ms. Harper advised the Board that there was an unofficial take out at Rucker's Run, which was not a good place to take out. She added that this should be posted and discouraged. She added that there were no other take outs before getting to the State Park and she suggested that the County work on a legitimate take out somewhere; one that is close to the road and easy to get to.

Mr. Bruguiere agreed and noted that there was only one true public access in Massies Mill at the park. He then noted that he thought it would behoove the County to contact everyone along the river and see if a right of way along the river could be secured. He added that maybe they should see if this could be done prior to approving the designation.

Ms. Harper reiterated that designating a scenic river did not give people the right to trespass on private property. She added that it recognized the beauty of the river and naming it was a good thing; however steps should be taken to make its access have minimal impact to the property owners. She advised that she would not hold up the designation but that the County should work with the landowners.

Mr. Carter then noted that the law authorized DCR to purchase property but did not authorize the use of eminent domain to obtain property. He added that the County could work with DCR to do so. He added that he was not sure about federal condemnation rights.

Mr. Saunders inquired as to whether or not a letter from Mr. Carter had been written or Board approval had been given for the DCR study to be done. Ms. Harper confirmed that the County had requested the study via a letter from Mr. Carter. Mr. Saunders then noted that he thought that the County should have sent letters to the affected landowners prior to the public hearing. Mr. Carter then clarified that neither a public hearing nor direct notification to landowners was required.

Mr. Hale noted that the County has made other Scenic River designations in the county and they have not resulted in conflict or problems. He added that he thought it was a positive thing for the county as a whole and was in favor of requesting that the General Assembly make such a designation.

Ms. Brennan indicated that while she was in favor of the designation, she was also sympathetic to the landowners' plight. She added that she would like to immediately look in to where to place an official put in or put out and would like to form an oversight committee.

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She noted that it was a wonderful opportunity; however she was not in favor of people trespassing. She added that she would like to see a put in at the Rockfish River also.

Mr. Harvey noted that he did not have an issue with the designation and pointed out that there could be a tax break for property owners. He added that he did not think creating an official put-in or take-out would eliminate trespassing; however it could work towards alleviating this.

Mr. Saunders clarified that he did not say that he was against the designation; however he did think that every property owner should have a chance to know about it and provide input. Mr. Harvey disagreed and likened this to the designation of highways; however he was a proponent of property rights.

Mr. Hale then moved to approve **R2013-50** Scenic River designation – Tye River, whereas the Virginia Board of Conservation and Recreation supported the endorsement for designation as a Scenic River of a portion of the Tye River; therefore be it resolved that the Nelson County Board of Supervisors does hereby support the designation of the Tye River within Nelson County from Route 738 (Tye Depot Road) to the confluence with the James River, a distance of approximately 12.7 miles; and be it further resolved that Nelson County will contact the General Assembly representatives to request that they serve as patrons for the legislation that will codify the Scenic River designation.

Mr. Harvey seconded the motion and Ms. Brennan noted that she agreed it would have been nice to talk to property owners prior to this; however maybe the County could send a letter out now about this designation being made.

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 and the following resolution was adopted:

RESOLUTION R2013-50
NELSON COUNTY BOARD OF SUPERVISORS
SCENIC RIVER DESIGNATION- TYE RIVER

WHEREAS, the Virginia Scenic Rivers Program was enacted by the Virginia General Assembly in 1970 for the purpose of identification, protection, and preservation of certain rivers, or sections of rivers, which possess high quality natural beauty; and

WHEREAS, the Virginia Department of Conservation and Recreation has been charged with administering the Scenic Rivers Program and developing an objective evaluation process to judge the suitability of river segments; and

WHEREAS, on May 21, 2013, Nelson County residents and staff joined staff from the Virginia Department of Conservation and Recreation, the Virginia Department of Environmental Quality, and staff from the Virginia Tech Community Assistance Design Center to visit a section of the Tye River and evaluate its eligibility for Scenic River designation; and

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WHEREAS, the Virginia Department of Conservation and Recreation completed its evaluation and determined that the portion of the Tye River under review in Nelson County was found to qualify as a Virginia Scenic River; and

WHEREAS, the Virginia Board of Conservation and Recreation supported the endorsement for designation as a Scenic River of a portion of the Tye River;

THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby support the designation of the Tye River within Nelson County from Route 738 (Tye Depot Road) to the confluence with the James River, a distance of approximately 12.7 miles; and

BE IT FURTHER RESOLVED, that Nelson County will contact our General Assembly representatives to request that they serve as patrons for the legislation that will codify the Scenic River designation.

Members instructed Ms. Harper to find some place for public access along the designated route and Mr. Hale noted that a takeout place was needed in order to divert the public from taking out at Rucker's Run.

Mr. Bruguiere also advised that property owners needed to have a no trespassing sign up and should call the Sheriff's Department on trespassers. Mr. Harvey advised that they would need to have a license plate number to report. Mr. Harvey then noted that the County would work with the property owners to make the trespassing issue better.

IV. Other Business (As May Be Presented)

Introduced: Planning Commission – Board of Supervisors Member

Ms. Brennan asked the other Supervisors if they thought the Board needed a member on the Planning Commission.

Mr. Harvey suggested that if the law did not require it, then it should be eliminated. Mr. Hale noted that he thought it was valuable to have communication between the Planning Commission and the Board; however he did not think it was necessary.

Mr. Carter related that he had worked for three other localities and Nelson was the only one that had a Board of Supervisors member on the Planning Commission. He added that he had no concerns with its elimination.

Mr. Carter then advised that he would consult Mr. Payne and the Board may have to hold a public hearing to change the ordinance. Members then agreed by consensus to have staff bring back a proposed Ordinance for public hearing authorization.

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V. Adjournment

At 7:40 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.