

February 12, 2013

Virginia:

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

Present: Constance Brennan, Central District Supervisor - Vice Chair
Thomas H. Bruguiera, Jr. West District Supervisor- 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
Tim Padalino, Director of Planning and Zoning
Phillip D. Payne, IV, County Attorney

Absent: None

I. Call to Order

Mr. Bruguiera called the meeting to order at 2:30 pm, with all Supervisors present to establish a quorum.

- A. Moment of Silence
- B. Pledge of Allegiance – Ms. Brennan led the Pledge of Allegiance.

II. Consent Agenda

Mr. Saunders asked to discuss item D. separately. He noted that the Criswell lease agreement said sixty days notice was required; however since he had patients booked through November, he would like to give him until August 15, 2013 to move out. The Board agreed by consensus that this would be okay. Mr. Saunders noted that he had been practicing there for fifty-five years. Mr. Carter suggested that the County should proceed with establishing this date but go ahead and give him the notice, with which the Board agreed.

Mr. Saunders then asked to discuss item F. and asked for background on this since he was not on the Board when it began.

Mr. Hale then explained that the property was located on Little Joe's Creek near Fairmont Church in Shipman. He noted that the County was approached about two years ago through Sturt's attorney about him being interested in deeding this land to the County for recreational purposes as stated in the deed. He added that at that time the Board had expressed interest in this and had followed up. Mr. Hale noted that Mr. Sturt did not need tax benefits at the time, put this deed of gift in his will, and has now died and the

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property was to be conveyed to the County. It was noted that the deed was included in the package and Mr. Hale stated that it was around 344 acres valued at about \$1.5 Million. He then noted that the deed of gift stated that:

“WHEREAS, Grantor wishes to give the below-described property to Grantee for the purposes of recreation and conservation,

WHEREAS, the Comprehensive Plan for Nelson County, adopted October 8, 2002, includes the following goals: and, Recognize that the natural environment is an important facet of our quality of life and efforts should be made to support and enhance that environment; Protect the county's scenic resources as essential to the County's rural character, economic strength and quality of life; Promote a diversity of recreational opportunities for Nelson's citizens and for those who visit the county as tourists; Maintain the rural character of Nelson County;

WHEREAS, Grantee is willing to accept such gift with restrictions;

NOW, THEREFORE, for and in consideration of the foregoing, Grantor does hereby give, grant, and convey with General Warranty and English Covenants of Title unto Grantee the following described property:

All those two certain tracts or parcels of land lying in the Lovingston Magisterial District of Nelson County, Virginia, containing 344.5 acres, more or less, this being a conveyance by the boundary and not by the acre. BEING the same property conveyed to Grantor by deed dated October 3, 1989 and recorded in Deed Book 279 at page 190 in the Office of the Clerk for the Circuit Court of Nelson County, Virginia.

PROVIDED HOWEVER, that such property shall be used only for public recreation and for the conservation of natural resources, and further provided that such limitation shall not prohibit improvements to the property in connection with these uses, including but not limited to recreational facilities and parking, trails, water impoundment, and timber management, all of which shall be a covenant binding upon and running with the land.”

Mr. Hale then noted it was a generous gift to the County and that the Board had sent a letter of appreciation when he was alive for this gift. He added that it provided long term opportunities for the County and the Board needed to discuss later how to take advantage of this.

Mr. Hale added that Mr. Sturt was a native of Virginia, was very successful in his business career, accumulated great wealth, and had retired to California. He noted that this was not the only gift he made in Virginia.

Mr. Saunders then asked what the obligation and liability was associated with the land and Ms. Brennan noted that this was to be discussed. Mr. Hale noted that most of it had been in pines and Mr. Bruguere suggested the Board discuss this at another time but that

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it should not remain idle and should be used. Mr. Harvey added that if the Board chose, it could sit and the County did not have to spend any money on it.

Mr. Harvey then moved to approve the consent agenda with the change to item D. 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 resolutions were adopted:

A. Resolution – **R2013-06** FY12-13 Budget Amendment

**RESOLUTION R2013-06
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2011-2012 BUDGET
NELSON COUNTY, VA
February 12, 2013**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2012-2013 Budget be hereby amended as follows:

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

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 15,000.00	3-100-001401-0001	4-100-031020-1009

II. **Transfer of Funds (General Fund)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 12,038.00	4-100-999000-9905	4-100-081010-1001
\$ 1,763.00	4-100-999000-9905	4-100-081010-2001
<u>\$ 13,801.00</u>		

B. Resolution – **R2013-07** COR Refunds

**RESOLUTION R2013-07
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>
\$ 154.68	PP Tax Relief	Caudel A. Campbell and Virginia C. Campbell

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1506 Woodson Road
Lowesville, VA 22951

C. Resolution – **R2013-08** Minutes for Approval

**RESOLUTION-R2013-08
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(January 8, 2013)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board's meeting conducted on **January 8, 2013** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

D. Resolution – **R2013-09** Authorization to Give Notice to Tennant (Dr. Criswell)

**RESOLUTION-R2013-09
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION TO GIVE NOTICE TO TENNANT OF FORMER HEALTH
DEPARTMENT BUILDING**

RESOLVED, by the Nelson County Board of Supervisors that pursuant to the Lease Agreement dated August 21, 2003, the County Administrator, Stephen A. Carter is hereby authorized to give notice of lease termination on August 15, 2013 to the County's tenant, Dr. George Criswell DDS, Lessee of a portion of the former Health Department building.

E. Resolution – **R2013-10** Extension and Amendment of APCo Service Contracts

**RESOLUTION-R2013-10
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION TO EXECUTE EXTENSION OF APCO SERVICE
CONTRACTS**

RESOLVED, by the Nelson County Board of Supervisors that pursuant to the recommendation of the VML/VACo/APCo Steering Committee, the County Administrator, Stephen A. Carter is hereby authorized to execute an extended contract between Public Authority customers and APCo for the purchase of electricity (including street lighting) to serve governmental facilities retroactive to July 1, 2012 and for an eighteen (18) month term ending December 31, 2013.

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F. Resolution – **R2013-11** Acceptance of Conveyance (Sturt Property)

RESOLUTION-R2013-11
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR ACCEPTANCE OF CONVEYANCE
D.W. AND J.S. STURT REVOCABLE TRUST

RESOLVED, by the Nelson County Board of Supervisors that the County Administrator, Stephen A. Carter is hereby authorized to accept the conveyance of property from D.W. and J.S. Sturt Revocable Trust via Deed of Gift dated January 22, 2013 on behalf of the Nelson County Board of Supervisors; the conveyed property being approximately 344.5 acres, more or less, in the Lovington Magisterial District. This being the same property conveyed to the Grantor by deed dated October 3, 1989 and recorded in Deed book 279 at page 190 in the Nelson County Circuit Court Clerk's Office.

III. Public Comments and Presentations

A. Public Comments

1. Glenda Cahoon, VTA Representative

Ms. Cahoon distributed and read aloud a prepared statement by Kenneth White, VTA President that demanded that the Board withdraw the decision to place a walk through metal detector at the courthouse entrance and provide that these only be used at the courtroom entrances when the courts were in session.

B. Presentation – Robinson, Farmer, Cox Associates: FY12 CAFR (D. Foley)

Mr. Carter introduced Mr. David Foley, of Robinson, Farmer, Cox Associates and Mr. Foley noted that he was the Audit Manager for the County's audit this year for the fiscal year ending June 30, 2012. He then thanked staff for their help in completing the audit; noting that it took a lot of advance preparation to get ready for the audit and staff did an excellent job in pulling the information timely.

Mr. Foley then referred to page 1 of the financial report; which was the Independent Auditor's report where they issued an opinion on the County's financial statements. He noted that the County had earned the cleanest opinion possible of Unqualified.

Mr. Foley then noted that they have issued reports on the County's internal controls and compliance with major federal programs. He added that these were in the back of the audit and were clean as well with no material deficiency or instances of material weakness.

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Mr. Foley then noted that Page 3 began the Management Discussion and Analysis which gave a narrative overview written by management that covered the County's activities.

He then referred to Page 14; which was the listing of Governmental funds including a Balance Sheet. He noted that at the end of the year, the County had a general fund balance of \$19.7 million and the total fund balance was \$22.1 million.

He then noted that Page 16, Exhibit 5 showed the County's revenue and expenses during the year and the associated change in the fund balance. He added that the fund balance had increased during the year to \$3.6 million and was now \$1.1 million; indicating a good year for the County and was a positive thing.

The Board then thanked Mr. Foley and Ms. Brennan suggested that the audit be posted on the website with the Management Discussion and Analysis statement excerpted out. She then suggested that RFCA update the Table of Contents for correct pagination.

Mr. Harvey then thanked County staff for being headed in the right direction and Mr. Carter thanked Mr. Foley and noted that Ms. McCann and the Treasurer's staff were the exemplary ones working on the audit.

C. Presentation - CIT Broadband Initiatives and Franklin County Wireless Broadband Project (S. Terry)

Mr. Carter introduced Ms. Sandie Terry who noted her background and what CIT does for the State of Virginia. She noted that CIT was a nonprofit operating arm of the Commonwealth's Economic Development Office that had five service lines with Broadband being one of these. She then noted that Karen Jackson was in charge of Broadband and that she has worked directly for her since July.

Ms. Terry then noted that CIT was awarded money to collect broadband data and compile this into a mapping database. She noted that Virginia was collecting twice the data as other states and had built the broadband map at no cost to taxpayers. She then noted that that they were awarded \$8 million for data collection, capacity building, ecommerce, and emedicine. She noted that they also had a technical assistance project; which was why she was in attendance. She then noted that she was working on a guide for communities on broadband implementation.

Ms. Terry then noted that the primary reason for the invitation to speak to the Board was to discuss Franklin County. She noted that she was the IT Director there for 10 years and had 721 square miles and the County facilities were spread out. She noted that some had internet and some had none and she added that she did not have broadband internet at home either; which made it hard to do her job.

She then noted that the Office of Telework and Broadband Assistance was created in 2006 and in 2007 the Broadband Roundtable was created. She noted that out of that came

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several deliverables: a recommendation to form a Broadband Advisory Council for Virginia and the Broadband Tool kit; a methodology to resolve broadband issues.

She added that this led to them assessing where the service providers were in Franklin County and identifying unserved areas. She reported that they had sixteen fire and rescue agencies and had a cable franchise at the County Seat. She added that DSL was only available in the town of Rocky Mount and did not build out in the directions they needed.

Ms. Terry noted that they then looked at public safety towers to solve their radio problem and then wanted to leverage these. She noted that they issued an RFP to find a partner and the foundation was they were given free access to their entire infrastructure. She clarified that they did not have fiber but had towers so they leveraged those in order to build a wireless network to serve the County and citizens. She noted that they then established the number of potential customers at each tower site and determined the value of that site. She noted that the value was then turned into internet service to County Facilities and this was the basis of the partnership.

Ms. Terry then noted that they were able to build a fiber Wide Area Network (WAN) quickly and allowed the service provider to expedite growth and build a redundant network for very little capital. She noted that they used \$50,000 in Homeland Security grant funds to pay for receivers etc. for the fire/rescue agencies and invested \$83,000 out of the County's General Fund for equipment and receivers etc. She stated that they paid their service provider for five (5) years of service up front that provided them with the capital funding to go on commercial towers within the system. She added that the service provider has continued to grow and become more robust.

Ms. Terry added that the best thing a County could do was to create an environment that fostered expansions and upgrades by making permitting easy and the rates conducive to growth. She added that it was a business case, costs needed to be low, and not a lot of inhibitors preventing build out. Additionally, she noted that there had to be enough demand for the product. She then emphasized the importance of having a workforce that understood how to leverage broadband to attract companies and that the role of local government was educating the citizenry on how broadband could improve their business.

Ms. Terry then referred to an Economic Development Survey done in October that reported that if the unemployed had a broadband connection and there were home businesses that they could do, they could be taken off of assistance and placed into a home based business.

In response to questions, Ms. Terry noted that they had only one service provider that they partnered with. Ms. Brennan then clarified that they did eventually get fiber to connect major complexes within a mile in town and Ms. Terry confirmed this and noted that they wanted to own the fiber locally. She noted that their service provider had a head-end in Salem and there were three large providers there for redundancy. She noted that they shoot wirelessly from there into Franklin County.

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Ms. Brennan then confirmed that you can connect a wireless signal to fiber for distribution and Ms. Terry suggested that the County could shoot bandwidth point to point from Martin's Store to the Tower at Wintergreen in order to provide them with services.

Ms. Rorrer then noted that the County was at Wintergreen with a microwave link now and Mr. Carter noted that when they had discussed this with SCS, Mr. Stewart noted he could locate on Devil's Knob and then he could deploy point to point to Wintergreen.

Mr. Harvey supposed that there may be an agreement with WPOA and Wintergreen for WCC to be the only service provider there. He added that WCC may have a monopoly there because they were the only one who had the fiber but they may not be the only one that could provide services there.

In conclusion, Ms. Terry wanted the Board to know about First Net, which she described as the Federal Government starting discussions regarding a national first responders network based on LTE - 4G wireless technology. She added that they would be naming an organization in every state to represent the state and would take an inventory of vertical assets. She noted to the Board that she hoped the County's towers would accommodate five providers. She noted that Firstnet was coming and its goals were to consider any towers for the provision of broadband to unserved and underserved areas. She added that if the County had towers in unserved areas and was going to partner with a wireless provider, they should reserve space on each for Firstnet.

D. VDOT Report

Mr. Rick Youngblood the District Planning Manager from the Lynchburg District Office addressed the Board and noted that MAP-21 became prominent and as a result, the Federal Highway Administration sent down a functional class update. He noted that many characteristics were evaluated and they were asked to go back and update these characteristics. He noted that there were ten (10) roads in the County going through a functional class change and were going down a level.

Mr. Youngblood then noted that they had two consultants that went through the class changes based on MAP-21 guidance and then they came to the District level to review functional classes. He added that most were due to traffic volume generation that declined and tripped the class reduction.

Mr. Youngblood then noted that VDOT was not asking for a resolution and it was just a courtesy to allow the Board to make comments. He suggested that they look at the roads as submitted. He noted for example that Route 6 going up Afton Mountain was downgraded because of lower traffic volume as was Route 535. He then noted that the ten locations went from minor collectors to local roads because of declining traffic volumes in these cases. He noted that they should look at the information and justification or rationale for the Routes that should not be downgraded.

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Mr. Bruguere noted that this meant less money would be spent in this area and Mr. Youngblood agreed and noted that he had requested guidance on these impacts. Mr. Bruguere noted he thought it curious how the population was going up yet traffic was decreasing and Mr. Youngblood noted this was why they wanted local review.

Mr. Padalino commented that the roads seemed to be clustered in certain areas.

Mr. Youngblood then reported on the Route 151 Corridor Study; noting that VDOT was able to hire HNTB for consulting. He noted that they had done a lot of data collection etc. and that VDOT has provided them with past studies. He added that Route 151 has been a hot topic and its economic impact was growing substantially. He noted that they would be looking at safety aspects as opposed to only operational aspects during the review. He added that they had fourteen (14) intersections being looked at and would take the compilation of studies and reinforce the 2001 study to be a one stop document.

Mr. Youngblood then noted the dates of the field visits to be February 21st and 22nd and that they had Sheriff's Office involvement on the review team to look at these intersections. He noted that they would be meeting at RVCC at 9:00 am and the next project team meeting was February 28th from 1:00 to 3:00 pm at RVCC. Mr. Youngblood then reported that the big public information meeting was set for March 14th from 6:00 pm to 8:00 pm and would be advertised. He noted that they would present the data collected from the field visits then. He noted that they were getting positive feedback from the area.

Mr. Bruguere asked Mr. Youngblood to send the invitations to the entire Board so all knew what was going on.

Mr. Hale then asked if staff could check with Mr. Austin on the status of VDOT being able to do the site work for the Woods Mill Wayside concrete building.

Mr. Bruguere asked that VDOT take care of its ditches and culverts which was causing problems during heavy rains. He noted that the mud on Bradley Lane was terrible. He also noted the letter from Ms. Pope regarding the paving of Carter Hill Road and noted that at one time it was on the Secondary Six Year Plan and he asked staff to contact Don Austin about this.

Mr. Saunders noted that VDOT employees told him that they were not allowed to clean ditches in the winter.

Mr. Harvey and Ms. Brennan had no VDOT issues to be sent to Mr. Austin.

IV. New Business/ Unfinished Business

A. School Division CIP Priorities

Mr. Carter noted that the Board had asked that this be brought back for consideration and the ability to fund any of these included.

Mr. Carter then noted an email from Shannon Irvin noting that student security was their main priority; however others were noted to be: the outdoor bleachers, the asbestos tile removal at NCHS, and finishing the roof replacements at NCHS as well as the other items listed in the CIP.

Mr. Carter noted that the last page included the current status of the Board's financial ability to fund these projects as follows:

Capital Fund:	
Unallocated	\$ 1,017,375.00
Reserve-School Buses	\$ 180,000.00
Reserve-Tye River Elem (Bldg. Envelope)	\$ 300,500.00
	\$ 1,497,875.00
Courthouse Project Fund:	
Estimated balance after completion of project & Jefferson Building	\$ 600,000.00
General Fund Contingency:	
From Non-recurring revenue sources	\$ 642,495.00
From Recurring revenue sources	\$ 664,142.00
	\$ 1,306,637.00
Total Funding \$ 3,404,512.00	

Mr. Carter noted that the majority of these funds were nonrecurring and had been shown to the Board during the budget sessions the previous year; however he wanted to be sure the Board was aware of these balances. He noted that any monies could be transferred over to the Capital Fund to be used and that if it says recurring then it would be considered nonrecurring if used next year.

Mr. Harvey indicated that he and Mr. Hale should review this and come back with recommendations; however the ball field lights and bleachers needed to be done now or it would be too late for this year. He then asked if the Board could give the go ahead for these. Mr. Carter noted that in the School's CIP listing there were 2 sets of bleachers included: indoor and outdoor. The Board then agreed by consensus to do only the outside bleachers and the ball field lights.

Mr. Harvey then moved to authorize the schools to replace the visitors' bleachers at the football field and to do baseball and softball field lights. Mr. Saunders seconded the motion and Ms. Brennan clarified that they were not doing the gym bleachers. Mr. Carter then asked to what extent on the outdoor bleachers and Mr. Harvey noted that he and Mr. Saunders would work with them on this. In terms of how many bleachers, Mr. Harvey noted that they would replace what was there or would have them come back with a plan.

Ms. McCann then asked about replacing the asbestos tile and Ms. Brennan asked if they would be getting this bid out. Ms. McCann noted that they wanted to do this as soon as schools were out. It was noted that firmer dollar amounts were also needed. Mr. Carter then supposed they would need forty-five days to bid this out and Mr. Bruguere noted that an estimate of \$52,000 for this was listed.

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

Members then discussed that there was time to consider approval of the tile replacement and a few of the other smaller items on the list at the next regular meeting on February 28th.

It was noted that there were some smaller security related items on the list and members asked when the security study would be done. Mr. Carter then noted that a Task Force was appointed by the School Board to work with the Paulsens to do situation assessments at each of the schools and this may take 60-90 plus days to complete. He then noted that the State may be getting involved in this and was mentioned by the Paulsens at the meeting at Rockfish that week. He noted the participants and stated that he had asked Dr. Collins about Board representation and he had responded that initially, they would do this internally and then it would be turned over to the Task Force.

B. Proposed Amendments to the Subdivision Ordinance

Mr. Carter noted he would defer to Mr. Padalino and Phil Payne in presenting again the amendments sent forth by the Planning Commission some time ago. He noted that Mr. Padalino's Memo summarized the major changes.

Mr. Padalino then reviewed the summarized changes as follows:

- Generally giving more ministerial authority to the Agent (amended to be defined as "Planning & Zoning Director of Nelson County") and in some cases the Planning Commission – to administer and enforce the Ordinance. This would reduce the involvement of the Governing Body for several responsibilities, For Example:
 - The Agent would administer all bonding requirements.
 - The Planning Commission would authorize all exceptions
- Providing Clearer requirements for how the Ordinance shall be administered and enforced:
 - The administrative procedures for Platting appeals, approval, and disapproval would be revised.

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- The Agent's "Additional Authority" to "establish reasonable administrative procedures....necessary for the proper administration of the Ordinance" would be stricken.

In addition, the proposed amendments also include the following revisions:

- Requiring a Maintenance Agreement for approved Dry Hydrants.
- Establishing a section for Access Management which is intended to provide local oversight of traffic safety issues. There are three brief components to this proposed new section:
 1. Requiring entrances to public streets to be constructed in accordance with VDOT standards.
 2. Providing authority to the Agent and/or Planning Commission to require a shared driveway when subdivisions have three or more lots and are adjacent to a public road (instead of each lot having separate entrances onto the public road). Such shared driveways "may" be required but are not automatically required.
 3. Requiring provisions for service drives when access is from a multi-lane divided highway.
- Increasing from 30 to 45 the number of days an applicant must submit a preliminary plat to the Agent prior to the public hearing.

He noted that the amendments were meant to give more administrative control over procedures and clarify these.

Mr. Carter noted that in staff discussions, it was decided it was best to start from the Planning Commission recommendation phase and Mr. Hale inquired if this would have to go back to the Planning Commission. Mr. Carter noted that it would not if they accepted these recommended changes.

Mr. Payne advised that the Planning Commission's recommendations did not have to be accepted in total. He noted that some years ago when they had taken steps to move the Board out of the approval process, one thing that was not done was to take the Board out of administrative steps. He noted that it was discussed internally and it was his position to clean this up further in order to get them out of administrative steps that by statute could be done by the Planning Commission or the Board's agent.

He noted that there was also discussion to remove the Planning Commission from the review process for subdivisions of eleven (11) lots or larger because the approval of a plat was ministerial. He added that there were provisions for exceptions that the Planning Commission could have this authority.

Mr. Payne suggested that the Board (step 1) endorse a public hearing on the amendments that take the Board out of the administrative details and as for the other things like road

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management, these could be deleted from the amendment and then if the Board wanted to take the Planning Commission out of reviewing subdivisions with over eleven (11) lots, it would be a referral to the Planning Commission (step 2). He noted that it was hard to do as a whole package and recommended that they do it in pieces to get there.

Ms. Brennan agreed it made sense to separate these out and Mr. Bruguere clarified they were primarily giving the okay for these to go to public hearing and Mr. Carter confirmed this.

Mr. Harvey then moved to send this to public hearing in March and Ms. Brennan seconded the motion.

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

Mr. Hale asked if the alternative waste water system language could be added after the after public hearing and Mr. Payne advised that there was no rule for what was a substantial change requiring re-referral or a modification. He added that if the subject was addressed by the Planning Commission, then the Board could do something with the language.

Ms. Brennan then indicated that the Planning Commission may take up the topic of alternative sewer systems.

C. Maintenance of Residential Solid Waste Collection Site Decals

Mr. Carter noted that staff wanted to get input on continuing these, abandoning these or issuing them one more time and as needed.

He noted that the current stickers were issued in 2011 for two years and staff was deciding what to do. He added that the new Recycling Coordinator, Grant Massie has polled the site attendants and they have said that if they did not know someone, they stopped them to see their driver's license. He noted that it cost \$2,500 to issue the decals and he thought they should be abandoned or made permanent. He then noted that they had been fairly effective.

Mr. Harvey noted that the situation was under control and there was no need to continue this and Mr. Hale noted that half of the citizens did not have these on their vehicles anyway.

Mr. Carter noted that Grant Massie recommended giving it a year to see how it was going without decals and then reconsider issuing them if it was not working.

Mr. Bruguere and Mr. Saunders noted that they thought they should get rid of them and Ms. Brennan agreed; noting she thought that they should go with the recommendation of Mr. Massie and the attendants.

The Board then agreed by consensus to not reissue the residential solid waste collection site decals.

D. Discussion of Amendments to Chapter 3, Animals of the Code of Nelson County – Dogs Running at Large

Ms. Theresa Brooks, Animal Control Supervisor addressed the Board and noted that the County did not have a dogs running at large ordinance however, dogs were not allowed to run at large not displaying their tags.

She noted that there have been some problems in the County that were more of a nuisance nature. She noted that dogs attacking livestock cases would go to the judge for consideration. She added that there were not a large amount of bite cases but they did deal with nuisance problems daily especially with elderly people. She noted that dogs were going onto others property and chasing chickens and other pets; however, they had not had any calls as far as dogs tearing into trash.

She noted the recent case of a goat attack that was dismissed in court due to there not being enough information.

Ms. Brooks then noted that there was a constant issue of nuisance; where owners were not keeping their dogs on their property; however there was nothing the ACOs could do about that at this point besides counseling the dog owner.

Ms. Brooks then noted that the Albemarle Code stated that running at large was strictly prohibited whereas Amherst County had a section related to public nuisances and she read this aloud. She noted that these infractions were subject to a fine and noted these. She then suggested that they start with giving warnings and then institute fines thereafter.

Mr. Hale asked if she could find out how many people were fined in Amherst and the number of occasions where ACOs were able to successfully enforce the ordinance she read. Ms. Brooks noted that she would talk to Amherst about this.

Mr. Hale indicated he was concerned about enforcement of the ordinance. Ms. Brennan noted that the Wintergreen law was not working too well over there per her constituents and it was not being enforced there as it should. Mr. Carter noted that when this was enacted, the Wintergreen Police said that they would enforce this.

Ms. Brennan indicated her concern with issuing a warning after the first bite and then a fine after the second bite and wanted to see something preventative in place to deter these things from happening.

Ms. Brooks noted that when this happened, the dog would be confined for ten (10) days.

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Mr. Carter noted that the majority of input from smaller groups has been fear to be out walking etc. and being attacked; rather than dogs getting in trash. He noted that he thought that the Amherst Ordinance would be tough to enforce.

Ms. Brooks then noted that when talking about bites, you were getting into the dangerous dog or vicious dog statutes and that State law says if caught in the act or have reason to believe it has bitten someone, it is a dangerous dog. Mr. Harvey noted that unless a person witnesses the act, this would be hard to prove. Mr. Carter noted that the County did have things in place to address these things.

Ms. Brooks then noted that the issue was with educating people and prohibiting dogs running at large at all would cause hardship for the current staff in the county.

Mr. Bruguere noted that he liked the nuisance provisions of Amherst County but that he thought if a fine was involved it would get people to be responsible for their pets.

Mr. Hale asked what they had to do if they had a nuisance complaint and Ms. Brooks noted that the owner was unknown a lot of times so they set traps. She noted that if the owner was known, they go to them to provide counsel.

Mr. Harvey noted that a lot of the times the gripe was between owners and not the animals. Ms. Brooks agreed and noted that there was currently nothing in place for the court cases that get dismissed that the owners had to keep their dogs confined. She added that she did not think this was an issue with specific breeds of dogs.

Ms. Brennan noted that she would like to see a fine for first time offenses by nuisance animals.

Mr. Bruguere suggested that the Board take this up again after getting information from Amherst on how this was working for them.

Ms. Brooks then noted that anyone could look up their annual report on VDACS to see any of the County's activity including bites on www.VDACS.va.gov.

Mr. Carter noted that this was an annual report showing the disposition of each animal. He added that in 2011, they handled over 700 animals and in 2012 over 800. It was noted that the majority of them were adopted out to Almost Home and less than 30% were euthanized.

Mr. Hale then added that Almost Home was happy with working with Ms. Brooks and that theirs was a key relationship.

Ms. Brooks noted that her goal was to allow people to keep their animals and Almost Home has helped with that in assisting with owner expenses. She noted that they let Almost Home decide at times if an animal is adoptable or not. She noted that this was the case with two dogs that were owner surrendered after a bite and held for 10 days. She

noted that this was a case where the animals misbehaved in a pack and when separated, they were fine and Almost Home adopted them out to New Jersey.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

Mr. Carter reported the following:

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

1) Courthouse Addition – Blair Construction working to complete punch list.

Mr. Carter added that Blair would install CO2 sensors to make the HVAC system work more efficiently; which would cost less than \$3,500. He then emphasized that the concrete work was the priority.

2) Courthouse Display: Complete and installed within 30 days.

3) Courthouse Signage: Complete other than minor punch list items (in process).

4) Courthouse Retaining Wall (Law Office): Complete. Drainage installation being reviewed per VDOT comment.

Mr. Carter added that VDOT was coming back to confirm the grade %, which should be .5% and they think a low spot does not meet this. He noted that Butch Cook from Nolen Frisa indicated that it was at a 2.5% slope – five times what was required

6) Jefferson Building: Lynchburg Restoration has completed interior outside wall work. Proposal on balance of building interior is pending receipt.

7) Magistrate's Building: Door and windows pending completion. Price Masonry Contractors Inc. will then complete interior re-plastering.

B. Broadband Project: Massies Mille Tower installation in process (late February/early March 13 completion). Extension request to NTIA submitted (to 9-13). Tower lease agreements with SCS are in process. Staff & BRIW working on rate revisions.

Mr. Carter added that the extension request was based on FCC approval timeframes and not the weather.

C. 2012 Radio Project (Narrow banding): BOS has approved the project's Contract Design Review (CDR). Project comment is pending from the National Radio Astronomy Observatory ('quiet zone'). The FCC has granted the County a narrow banding compliance waiver until 11-30-13. Project completion projected at September 2013.

D. Lovington Health Care Center: Howard & Assoc.'s final report has been received and conference call conducted with consultant, JABA and County staff. JABA input received (attached). Meeting to discuss next steps to be scheduled.

Mr. Carter noted that he thought that Evelyn Howard should come and report to the Board as staff was not sure it would work and wanted Ms. Howard to provide input to the Board to determine next steps. He noted that JABA wanted to bring in an architect to look at expansion of the building in order to allow for Alzheimer's care there.

Ms. Brennan confirmed they were planning a walk through; however she had not heard when it would be.

Mr. Carter then noted that the report had stated that it was necessary to get clients from other counties and Wintergreen to make it feasible. He noted that he was doubtful that Wintergreen clients would use this facility over the one at Old Trail in Crozet. He then noted that there was a lot more work to be done in order to decide what to do with the property.

E. 2013 Courthouse Refunding: Pooled financing application submitted to VRA on 2-8.

F. 2014 General Reassessment: In process.

Mr. Carter noted he would ask them to report in March to the Board. He added that the Commissioner of Revenue had been pleased with their work thus far.

G. Stormwater Program (Local): The project is in process.

Mr. Carter added that Tim Padalino and David Thompson were actively involved in this and that a DCR grant was funding the administrative details.

H. Trail Projects: BRRT in design phase. BRT – funding application submitted to VDOT. Tunnel tour with VA-CTB members planned for 3-13. NPS Rivers, Trails and Conservation Assistance project in process. Grant application to FHA for Paul S. Sarbanes Transit in Parks grant funding pending final decision.

Mr. Carter noted that Emily Harper was now managing the Blue Ridge Railway Trail grant since Mr. Boger's retirement and that a tour of the Blue Ridge Tunnel with the CTB would be scheduled in March or April. He added that Waynesboro was the co-applicant for the MAP-21 grant; they were getting excited, and had asked about extending the trail head into the city.

I. Route 151 Corridor Study: Kick off meeting with VDOT conducted on 1-10.

J. FY 13-14 Budget: In development. Submittal to the Board projected for 3-12-13.

K. Emergency Services: School Division and Disaster Dynamic staff proceeding with an initial assessment meeting at RRES on 2-11 and proceeding with more in depth review thereafter, including use of a project Task Force.

Mr. Carter added that Jaime Miller had been briefed on this and was impressed with what had been done so far; however he had not yet heard from Dr. Collins..

L. Personnel: New employees include: Mr. Grant Massie on 1-29 (SW & Recycling Coordinator) and Mr. Shawn Wood on 2-5 (Public Safety Dispatcher).

Mr. Carter added that Mr. Massie was retired from Amherst County and had worked with Region 2000. He noted that he is a Planner and would work out of The Planning and Zoning Office and would provide some assistance there.

M. Other: a) Smoke Free Campus is in review; b) updated financial information placed on County website; c) K. White affidavit placed in BOS in-boxes; d) Reverse E-911 messaging to cell phone numbers in review; e) Per Treasurer's Office, \$74,355.30 in RE taxes billed to WG Resort based on \$12,385,650 assessment with \$10,802 pending payment (Note: Per discussion with Comm. of Revenue the assessment is incomplete and a supplemental tax bill is to be issued)

2. Board Reports

Mr. Harvey had no report.

Ms. Brennan reported that Members may hear this from citizens that Social Security checks would no longer to be sent in paper form and recipients must have a bank account or they will get a debit card.

Mr. Hale reported attending the TJPDC meeting; where the ride share program was discussed.

Mr. Saunders reported that employees have pointed out issues of trim coming off and benches in the courtroom coming unglued in the new judicial wing.

Mr. Saunders reported that he had obtained a quote from Lynchburg Restoration to remove the plaster from the interior walls of the Jefferson Building for \$10,175.00. He noted that the work done before cost \$8.50 per square foot and at this price, the cost per square foot was \$5.80.

Mr. Saunders then noted that they would potentially leave these walls exposed. Mr. Hale added that they had done a very good job and had determined that the walls were in better shape than anticipated and for future use; consistency with this would be a good idea. Ms. Brennan then agreed it was in keeping with historic preservation. Mr. Hale noted that if they did not remove it, they were going to have to put in a metal stud wall and sheetrock to cover it.

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Mr. Hale then moved to authorize staff to enter into an agreement with Lynchburg Restoration to complete the removal of plaster on the interior walls as proposed and Ms. Brennan seconded the motion.

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

B. Appointments

Ms. McGarry noted having submitted a revised appointment sheet to reflect having received an application for the Ag Forestal District Committee from Chapin Wilson, Jr. She then noted that an application had been received from Audrey D. Evans for the Library Advisory Council representing the West District.

Mr. Hale then moved to appoint Chapin Wilson, Jr. to the Ag Forestal District Advisory Committee and Ms. Brennan seconded the motion.

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

Ms. Brennan then moved to appoint Audrey Evans to the Library Advisory Council representing the West District and Mr. Hale seconded the motion.

Following brief review of Ms. Evans's application Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

C. Correspondence

There was no correspondence considered by the Board.

D. Directives

Mr. Harvey noted that his experience with the new GIS was terrible and he was unable to do anything with it. Mr. Hale noted that he had had positive experience with it so far and liked it better and it had more features. Members briefly discussed whether or not the public would be able to navigate the new website.

Ms. Brennan thanked Ms. McCann and Ms. Kelley for updating the County's website for budget information.

Ms. Brennan asked that all new staff be introduced at the first March meeting.

Ms. Brennan reported that she was off of the VACo Board of Directors and the County's new representative was Mozell Booker from Fluvanna Co.

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Ms. Brennan noted that she and Mr. Harvey were hosting another town meeting the following night.

Mr. Hale suggested that the Board direct the Planning Commission to look at the Zoning Ordinance to add “bonafide caretaker” as a residential use in an M2 District as it exists in the current M1 Zone and would be appropriate for M2.

Mr. Carter suggested that this be done by motion and Mr. Hale moved that the Board request that the Planning Commission review the Industrial District M2 for inclusion of residential use for bonafide caretakers as in M1, see M1 section (18-2-1).

Ms. Brennan 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 noted that there was confusion with respect to cabins in the A1 District and it needed to be resolved. He noted that a rustic cabin was allowed according to the Zoning Ordinance and it was in possible conflict with the Building Code. He then read the definition of a rustic cabin and noted that the Building Official has indicated that the public thinks this allows them to choose whether or not to provide the items listed in the definition of a rustic cabin, while the Building Code requires these things for a dwelling unit or requires a modification granted by the Building Official. He added that this needed to be sorted out.

Members briefly discussed this and Mr. Padalino added that from David Thompson’s perspective, if someone sleeps under that roof once then it becomes regulated as a residential structure. He added that there was a disconnect between Planning and Zoning and the Building Department on this since Planning and Zoning does the land use regulation first and then when cleared by Zoning they go to the Building Department for their permitting.

It was noted that Staff would look into this and come back with some recommendations. Mr. Padalino added that it was more related to accessory structures and the terminology oftentimes gets confused. He confirmed that on their side, the Zoning Ordinance did appear to give the applicant a choice in things they do not really have a choice in when it comes to the Building Code.

Mr. Saunders then asked what was to be done with the soapstone plaque that the Judges had presented to the Board as Paul Truslow needed direction.

It was suggested that Blair needed to be consulted to see about available structural bracing. Mr. Harvey suggested that a case could be built under it and it was decided that staff would come up with something by the next meeting.

Mr. Saunders then suggested that a Board meeting be held in the General District Courtroom. He added that he had spoken with Paul Truslow and he had indicated that he thought someone could make some seating that would work to be used temporarily

during Board meetings and then the current Board Room space could be used for office space. He added that Judge Serkes wanted more of the public to see the courtroom and he would like to get quotes on this.

Members then briefly discussed the seating at the tables and whether or not staff would be included or be seated off to the side.

Mr. Bruguire noted he would like for staff to work on a way for all offices, such as: Tourism, Commissioner of Revenue, Circuit Court Clerk's Office and Planning and Zoning, to talk to each other and then have a station at Planning and Zoning where citizens could pull all of the property information up from one location. He added that he wanted to make working with County records more seamless for citizens so that they would not have to go from office to office. Members noted that this information was readily accessible from their computers or the Clerk's Office for real estate information etc; however Mr. Bruguire would like to see this collaborated on by staff.

VI. Recess and Reconvene for Evening Session

At 6:40 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.

EVENING SESSION

7:00 P.M. – NELSON COUNTY COURTHOUSE

I. Call to Order

Mr. Bruguire called the meeting to order at 7:03 pm, with all Supervisors present to establish a quorum.

II. Public Comments

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

III. Public Hearings & Presentations

A. Public Hearing – Application to amend Rezoning Application # 2000-005, L. Saunders, Tax Map # 76-11-1 to include Articles 9-1-2, 9-1-7a, 9-1-8, 9-1-11, 9-1-12, 9-1-20, 9-1-21 and 9-1-28.

Mr. Padalino noted that the subject property was identified as tax map parcel #76-11-1 and was located in the West District of Nelson County along the southbound lanes of U.S. Route 29. He added that it was a 21.75-acre property which was currently zoned Industrial (M-2) Conditional. He then noted that the application was technically an amendment to rezoning application #2000-005 to rezone a parcel zoned M2 conditional.

He noted that the list of allowable uses was to be expanded to include the following eight (8) uses by right:

- 9-1-2: automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing and overhauling, tire retreading or recapping, or battery manufacturing
- 9-1-7a: manufacture, compounding, assembling, or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stone, shell, straw, textiles, tobacco, wood, yarn, and paint
- 9-1-8: manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas
- 9-1-11: coal and wood yards, lumberyards, feed and seed stores
- 9-1-12: contractors' equipment storage yard or plant, or rental of equipment commonly used by contractors
- 9-1-20: veterinary or dog or cat hospital, kennels
- 9-1-21: wholesale business, storage warehouse
- 9-1-28: communication towers subject to Article 20, Communication Tower Ordinance

Mr. Padalino noted that this was nothing out of the ordinary or of high impact. He added that the Planning Commission had requested that battery manufacturing be stricken from the allowable uses due to its potential environmental impacts.

Mr. Padalino then explained that the rezoning was precipitated by the applicant's placement of a temporary structure on the property and he was now going through the process. He added that the structure was placed there before getting a permit because it needed to be moved from BRMC property.

Mr. Padalino then noted that they were not fully going from M1 to M2; however the applicant would have all M1 uses and the expanded list of M2 uses would be allowed.

Mr. Hale reiterated that it was not technically a rezoning; however Mr. Carter noted that legally it should be considered as one.

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

Mr. Harvey then questioned what a designation of M2 would allow him to do and why not rezone to that.

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Mr. Hale then moved that the rezoning request be granted and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted (4-0-1) by roll call vote to approve the motion; with Mr. Saunders abstaining.

Mr. Saunders then noted that Mr. Boger had suggested that the M2 uses be amended to include office space and Mr. Padalino noted that M2 did have an allowance for an office associated with the industrial business.

Mr. Hale then moved that the Board send that to the Planning Commission also to consider the use of an Office on an M2 parcel along with the residential use for caretakers.

Ms. Brennan seconded the motion and there being no further discussion, Supervisors voted (4-0-1) by roll call vote to approve the motion; with Mr. Saunders abstaining.

IV. Other Business (As May Be Presented)

Introduced: Sturt Property Use

Mr. Hale inquired if it would be appropriate for Recreation to take the lead on this and staff agreed it would. Mr. Saunders then noted that the State of Virginia was looking for plots like this for quail etc. and that he would bring the information in. Mr. Hale noted that a lot of it was open with young pines; however they could burn off small circles for food plots.

V. Adjournment

At 7:15 pm, Ms. Brennan moved to adjourn and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote approve the motion and the meeting adjourned.