

July 9, 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: Thomas H. Bruguiera, 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

Absent: None

**I. Call to Order**

Ms. Brennan called the meeting to order at 2:07 pm, with all Supervisors present to establish a quorum.

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

**II. Consent Agenda**

Mr. Saunders moved to approve the consent agenda 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 – **R2013-48** COR Refunds

**RESOLUTION R2013-48  
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.

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<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$1,493.68	2013 PP Property Taxes	Hyundai Leasing Titling Trust: Property Tax P.O. Box 198069 Nashville, TN 37219

B. Resolution – **R2013-49** Minutes for Approval

**RESOLUTION R2013-49**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF MEETING MINUTES**  
**(June 11, 2013)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board's meeting conducted on **June 11, 2013** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

**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 asking the Board to call Sheriff Brooks before the Board for failing to live up to his oath of office and to ask him to state publicly what his position is with regard to the Dept. of Homeland Security. He also demanded that the metal detectors be removed from the main entrance to the courthouse and that they only be used at the entrances to Circuit and District Courts when courts were actually in session to properly protect the judges of these Courts.

B. Presentation – Virginia Scenic River Program, Tye River Study & Scenic River Designation (L. Crump, DCR) (**R2013-50**)

Ms. Lynn Crump of the Department of Conservation and Recreation was introduced to make her presentation to the Board regarding the Virginia Scenic River Program.

Ms. Crump noted that on behalf of the County, Ms. Harper County had requested a study be done of the portion of the Tye River from Tye River Depot to the confluence with the James River. She noted that 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 this section of the Tye River and evaluate its eligibility for Scenic River designation. She noted that it was found that it did qualify for Scenic River Designation.

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Ms. Crump then reported that the program has been in existence since 1970 and now included 24 river segments totaling 519.8 miles of river with each designation having a unique character. Ms. Crump then noted that the program was not a regulatory one other than a locality could not build a dam without General Assembly approval. She noted that the designation did not change land use along rivers, impact development, or allow citizens to trespass onto private property. Ms. Crump noted that the designation was based on recognition of the quality of the river and it could be used to get conservation easements and other grant funds. Ms. Crump then distributed a brochure on the program and noted that information was provided on the website regarding these designations. She added that to conclude the process, the Board would need to pass a resolution approving of the designation and it would have to go before the 2014 General Assembly.

Mr. Hale then inquired as to there being any designations of the James River at the border between Buckingham and Nelson Counties. Ms. Crump noted that three portions of the James River had been designated – the Upper James, Middle James, and Lower James. She added that common boundaries were involved, the process required requests and support from both jurisdictions.

Ms. Brennan then inquired as to the program requirement for a local administering committee and Ms. Crump noted that this was mandatory in the past, but was now optional. She noted that if a group wanted to form a committee then DCR would appoint them. She added that DCR would support the group by putting meeting notices on their town hall website etc. She noted that there were several in place now that still functioned; however there was no oversight by them.

Ms. Brennan then inquired about having the Upper Rockfish River studied and Ms. Crump advised that Mr. Carter write a letter requesting that a study be conducted.

Mr. Bruguiere then inquired as to whether or not the landowners along the designation route have had any input and Ms. Crump noted that they had not to her knowledge. She noted that how these landowners were notified was up to each locality and was not a requirement of the enabling legislation.

Mr. Bruguiere then noted that he would like for these landowners to have a voice before the designation was made. He then suggested that the Board defer consideration of the designation for a month while a notice is published in the paper to solicit citizen comments.

Ms. Crump offered that DCR could help the County write a press release that included program and contact information. It was agreed that Ms. Crump and Ms. Harper would work on this.

Mr. Saunders and Mr. Harvey indicated their agreement to defer this and Mr. Bruguiere emphasized that he was not opposed to the designation but rather he thought that the affected landowners had a right to know about it.

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Mr. Hale noted that he was fine with a notice being published inviting the public to a meeting for comment; however he would like this to go before the 2014 General Assembly.

Members then agreed by consensus to defer consideration of the designation until landowner comment could be obtained.

C. Presentation – Virginia DEQ, Tye River TMDL Project- Draft Summary Report (T. Sieber)

Ms. Tara Sieber of the Department of Environmental Quality (DEQ) presented her report on the Tye River TMDL Project.

Ms. Sieber noted that areas of Hat Creek, Piney River, Rucker’s Run, and the Tye River had been studied. She noted that they were searching for sources of pollution and the reductions needed to return these waters to a safe and healthy condition. She noted that the study had begun in July of 2012 after soliciting help from the community. She noted that five Technical Advisory Committee (TAC) meetings had been held to review the data collected and that she was impressed with the amount of community input during the process.

Ms. Sieber then noted the section of the report that delineated the influences of bacteria in the sections of water studied as follows:

Stream	Livestock Direct Deposit	Pastureland	Cropland	Straight Pipes & Failing Septics
<b>Hat Creek</b>	75%	25%	5%	100%
<b>Piney River</b>	40%	25%	5%	100%
<b>Rucker Run</b>	65%	25%	5%	100%
<b>Tye River</b>	10%	5%	5%	100%

She noted that livestock and straight pipes were the primary culprits. Ms. Sieber then noted that there had been a thirty (30) day comment period and that the next step was to send the study to the Environmental Protection Agency (EPA) for review and comment. Following that, a cleanup plan would be put together to identify actions that would reduce bacteria in the watershed.

Ms. Brennan inquired if there was any opportunity for grant funding to help people with straight pipes and failing septic systems and Mr. Bruguere noted that the Soil and Water Conservation District had applied for some grants for this; however he was not sure if they got them.

Ms. Sieber then explained that grant funds were from a federal pot of money that was transitioning from DCR to DEQ. She added that they were waiting for the Rockfish River cleanup plan to be finalized by EPA and once the comment period was over, they would be able to send money out to get stuff done. Mr. Carter noted that Tom Eich of the Health Department has tapped into the IPR program to help with this. Mr. Carter added that as a side note the IPR program would be administered regionally now and that George Krieger

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would represent the County on the IPR Board. He added that there were some various pots of money available for this and that Tom Eich was knowledgeable on this.

Ms. Sieber noted that they wanted to eliminate 100% of straight pipes and make sure that people had working septic systems. In other areas, they have educated folks through a well testing program and have gone straight to septic systems. In Rockingham County, they sent postcards to riverside home owners and had success.

Mr. Carter noted that it would be helpful if the Health Department was more proactive in identifying these although it was noted that a lot of these have been in place for a long time.

Mr. Bruguiere then noted that DEQ has a person who worked with farmers to identify problems on farms without imposing any regulatory requirements. Ms. Sieber confirmed that this person was an Agricultural Inspector who was invited to the property by the owner. She noted that they worked out of the Harrisonburg Office.

#### D. Presentation – FY14 Reassessment Status (G. Eanes)

Mr. Gary Eanes of Wampler Eanes Appraisal Group addressed the Board and distributed some sample sales data. He noted that they were 90% complete on the field work, that data entry was 61% complete and they were on schedule.

Mr. Eanes then showed a map of the County with colored in areas that represented completed field work and data entry. He added that they were starting field work in the Afton area and in Montebello.

Mr. Hale inquired if the assessments took into account when forestland was harvested and Mr. Eanes noted it did and it also accounted for the age of re-growth etc.

Mr. Eanes then noted that Commercial properties have been listed but have not been analyzed yet.

In response to questions, Mr. Eanes noted that notices would go out in late October and no later than November first. He added that the Assessors would be in the County for two weeks to talk to property owners about their assessment appeals and the real estate book would be done by December 2014 and signed. Mr. Eanes added that the Board of Equalization would be appointed and would do their work next spring in 2014.

Mr. Bruguiere asked if when looking at the condominium values, did it appear that the 2008 assessments were out of line and Mr. Eanes noted he was unable to tell without having done a sales study for 2008. He did note that Condos had taken the greatest hit in value in the County.

Mr. Harvey asked if they tracked parts of the sale to identify anomalies and Mr. Eanes said that they did. He elaborated noting that for example they did not count family transactions or the sale to an uninformed buyer that paid too much. He added that they threw out foreclosures where the market was affected.

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Mr. Eanes concluded by noting that the worst Wintergreen lots were left and were selling for less than others and that some of the low sales could be attributed to this. He noted that conversely, there were some with spectacular views that had sold for more than the 2008 assessment.

#### E. VDOT Report

Mr. Carter noted that Mr. Austin was unable to attend the meeting; however he would forward any Board concerns to him.

Ms. Brennan expressed concern regarding the large drop offs on Route 29 Northbound starting past Ridgecrest Church.

Mr. Bruguere expressed concern regarding the lack of mowing taking place. He noted that reports from VDOT employees indicate that County has gone from having three tractors to only one working out of Bryant. He noted that back roads should be mowed before primaries because of poor sight distances and that the entrances to the County should be mowed again before the Interlocken Festival.

Mr. Saunders reiterated that the highways needed to be groomed for the Interlocken Festival.

#### **IV. New Business/ Unfinished Business (As May Be Presented)**

There was no new or unfinished business considered by the Board.

#### **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** – Tunnel waterproofing repair and minor curb and gutter repairs are the balance of work to be completed.

Mr. Carter noted that several thousand dollars in retainage was still being held.

**2) Law Office Retaining Wall:** Complete but requires VDOT approval.

Mr. Carter noted that VDOT would be out to look at resurfacing the road now and would also evaluate the drop inlet, concrete box, and culvert to improve these. He added that he would talk to VDOT about extending the paving a little bit further and that Don Austin had assured him that the road resurfacing and looking at the storm water installations would help.

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**3) Jefferson Building:** Contract issued to Owen Building and Remodeling, per low bid submittal of \$136,144. Project is to begin by 7-22 with contract completion at 90 days.

Mr. Carter reported that five bids were received from out of the six companies that attended the mandatory pre-bid conference.

**4) Magistrate's Building:** Price Masonry to resume interior plastering on 7-8. Painting of metal roof will also commence week of 7-8. County Maintenance will install HVAC, flooring and paint interior, as necessary, and will also address exterior soiling at base of the structure.

Mr. Carter noted that staff would touch up the paint and put sheathing and stone around the base of the building.

**B. Broadband Project:** Staff to advertise tower rate amendment for ensuing public hearing and approval by NCBA. Meeting with Stewart Computer Services on leasing of network towers conducted on 7-3. Stewart to submit loading and elevation specifications and schedule for leasing of towers to facilitate lease agreements. NTIA and VA-DHC CDBG grant is in process for close out.

Mr. Carter added that the job counting responsibilities of 51% LMI have been met with all of the jobs created coming from the Blue Mountain Barrel House.

**C. 2012 Radio Project (Narrow banding):** FCC has approved manufacturer's waiver to provide for programming equipment in wideband and narrowband modes. Waiver to extend County's deadline for narrowband compliance to June 30, 2014 is in process.

**D. Lovingson Health Care Center:** JABA continuing feasibility work. Update pending.

**E. BR Tunnel and BR Railway Trail Projects:** Final approval of TAP grant funding for BR Tunnel by CTB on 6-19. Grant contract pending receipt from VDOT. Property appraisal for eastern trail completed, submitted to property owner and meeting pending. Staff will endeavor to issue construction bid requests prior to ensuing November 2013 TAP application due date to show project progress. Re-establishment of CCBRT Foundation tax exempt status in process with IRS. BRRT construction documents in process with date for request for construction bids TBD.

Mr. Carter added that Augusta County was interested in modifying the Blue Ridge Tunnel project plan and he had spoken to Woolpert about this. He noted that he wanted to get the construction out to bid to show progress for next Transportation Alternatives Program grant round.

**F. Relocation of BOS Meetings:** Staff working to establish initial meeting in Gen. District Court by the Board's August 13<sup>th</sup> meeting (sound and recording systems being evaluated).

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Mr. Carter noted that cardboard templates were down in the General District space and he wanted the Board to look at it. He added that there may not be enough space to store these in the planned storage area.

**G. Piney River 3 Water & Sewer System:** Staff working with VA-DEQ on feasibility of water line extension to Roseland area to provide for mitigation of two UST sites on Route 151. An updated PER is being reviewed.

Mr. Carter noted that he wanted to narrow down the scope of the PER to include only the water line extension and not incur other expenses that impact NCSA. He noted that George Miller had indicated that the NCSA Board directed them to not participate unless DEQ would pay for everything. He added that it was not feasible to revisit the PER that NCSA did because it was too much. He noted that the County just wanted to evaluate whether or not the water line could be extended without having to do the other things that NCSA thought needed to be done.

Mr. Hale noted that the NCSA PER began with looking at the waterline extension and then the consultant recommended the other enhancements.

Mr. Bruguiere noted that if DEQ could fund the extension, there were not that many people it would serve that would impact the NCSA operations. He added that he thought that they had oversized pipes in certain areas and Mr. Harvey agreed but noted that they should guard against using too small a pipe also. Mr. Hale added that this line would also have to be flushed.

Mr. Harvey then suggested that Mr. Carter include George Miller in these discussions even if the NCSA did not want to participate in the costs and Mr. Carter indicated that was his intent.

Mr. Carter then noted that DEQ staff has noted that in the fall, they will recover a substantial amount of stimulus funding and that he thought this was worth taking a look at. He added that he was not sure how much the PER would cost and he would have to get back to the consultants.

**H. Reports (Storm Water, Tye River TMDL and General Re-Assessment):** Scheduled for 7-9 BOS meeting.

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

*Introduced: Animal Control Report on Nuisance Ordinance:*

Mr. Carter distributed a report prepared by Animal Control Supervisor Brooks on the functioning of Amherst County's Nuisance Ordinance.

Mr. Carter noted that he did not want to recommend an Ordinance that did not really do anything and Amherst did not think that the nuisance law was very useful or effective.

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Mr. Carter noted that Ms. Brooks indicated that it was effective in giving people warnings. He added that he has advised Animal Control to be more enforcement oriented.

No action was taken by the Board.

*Introduced: Follow Up on Reverse 911 System for Cell Phones*

Mr. Carter noted that the IT staff recommended using the product from EverBridge that was on state contract and was the best solution. He added that a concern was that there was no database and citizens would have to subscribe to the service.

Ms. Rorrer noted that one system was GIS data based and did not take into account cell phones, email etc. unless a person has signed up for a service. She noted that all of the companies listed did have a web interface that a person could opt for various notifications.

Ms. Rorrer then recommended that the County maintain landline notifications because she did not think the County wanted to rely on the opt in only scenario. She reiterated that the system by Everbridge was the best and most cost effective of the options. She noted that with that, a person could opt in for the types of notifications wanted and for an unlimited annual fee, the County could send out as many notifications as it wanted. She added that they also offered National Weather Service notifications generated automatically with no effort required by staff. She noted that the cost was based on the population of the County and that the Department of Emergency Management and VITA had issued an RFP and selected Everbridge. Ms. Rorrer added that Virginia Tech shows the Everbridge system as their notification system.

In response to questions regarding what company the Schools used, Ms. Rorrer noted that it was a student database system and she was waiting to hear back from Ms. Irvin on this.

Ms. Rorrer reported that the current landline notification company offered a product but the cost was on a per call basis and would cost \$1,000 per event. She noted that the Everbridge system would do landline calls also.

Ms. Brennan noted that her personal landline was now connected to a wireless device and she wondered if this was still considered a landline. Ms. Rorrer noted that it was since there was a fixed location associated with the the phone; whereas with a cell phone there wasn't.

Ms. Rorrer noted suggested that the County would have to advertise opt in requirements of the system. Mr. Hale noted he was not in favor of implementing this unless subscribers paid for the service. Ms. Rorrer noted that anyone could sign up for severe weather alerts from Accuweather etc. on cell phones.

Mr. Carter then noted that staff was ready to proceed based on the Board's input. Ms. Brennan noted that she would like to study it for a little bit longer. She added she would like to know how many households in the County were dropping their landlines and Ms. Rorrer

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noted that she would be able to look at 911 phone line counts; however she was sure that the number of these was dropping.

Mr. Bruguere suggested that the Board consider this for another month before deciding.

Ms. Brennan then asked for clarification of whether or not the Everbridge System could take landline people as well and Ms. Rorrer noted that yes, the Verizon database could be loaded into the Everbridge system but she would check. She added that she reconciled the E-911 database every month and thought the County was getting better data from the current system. Mr. Bruguere commented that cell service was not improving rapidly in the county.

Supervisors then agreed by consensus to reconsider this item the following month.

## 2. Board Reports

Mr. Hale and Mr. Bruguere had no reports.

Mr. Harvey inquired as to the status of the fire truck payments and Mr. Carter reported that the Treasurer had written the check to the Emergency Services County so they could proceed.

Mr. Harvey then explained that he had become uncertain about prepaying for the trucks out of concern that it could be a problem if the company went bankrupt. He noted that the departments could purchase a performance bond for \$800 each that would cover their investment and would still save money. He added that he checked that the County was earning less interest and it would make sense to prepay on the trucks with the performance bonds; noting they would save \$6,000 doing this. He noted that the Council was ready to write checks for the 3 - \$140,000 amounts and then the departments would have to sign the interest free loan fund documents for the balances. He added that the Council was redoing the loan fund application forms. Mr. Harvey then stated that they could sign for the trucks with no down payment, and then would wait until the Council met the following week and then the check could be sent to Stevie Ashley the following day. He reiterated that one check for the whole amount would go to the Council for the trucks.

Mr. Hale advised that he had the Faber Fire Department's loan application done. He then noted that he was unclear on what the performance bond would cover. Mr. Carter then confirmed that the bond would cover the full value of the truck. It was noted that Don Fitzgerald was to send a copy of this to Mr. Carter. Mr. Hale then advised that Faber voted to pay for this and Mr. Harvey noted this would come from the County.

Ms. Brennan reported that she attended an all day program put on by the Region Ten behavioral specialists who work in the school system. She noted the program was geared towards teachers' interactions with these students in order to reduce crisis incidents.

Ms. Brennan also reported attendance of a talk given by Anthony Martin on the new laws in effect, related to public safety.

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Mr. Saunders reported that he had met with Blair Construction and reported to them that the concrete expansion joints were not redone correctly. He noted that the joints acted as a wick causing them to keep popping up. He also not to them that the broken sidewalk needed to be replaced and they agreed. Mr. Saunders then advised that Blair was waiting for the tunnel to get dry enough to put some hydraulic cement in a corner that would expand when wet and seal it up. He then noted that the site Supervisor, Eugene was overruled on some decisions that were made on how to do things. Mr. Saunders noted that he had the hinges on the sprinkler building redone and this should work better now. Additionally, he noted that the seal in front of the courthouse would be straightened up. Lastly he noted that a wet spot was found where the asphalt in the parking lot was starting to deteriorate and he would have the asphalt company take a look at it. Mr. Bruguire asked if there might be drainage issues underneath and Mr. Saunders noted that F&R, the structural engineers had okayed it.

Mr. Saunders concluded by noting that Eugene agreed that these items needed correcting.

#### B. Appointments

Ms. McGarry noted that the Broadband Authority seats were expiring and that only Mr. Bruguire and Mr. Saunders had indicated the desire to be reappointed. She noted that several people had inquired about serving on the Authority but that no one had submitted an application. Mr. Harvey and Mr. Hale then indicated their desire to be reappointed and Ms. Brennan noted she was working on finding her replacement.

Ms. Brennan then moved to reappoint Mr. Harvey, Mr. Saunders, Mr. Bruguire, and Mr. Hale to the Broadband Authority Board and Mr. Harvey 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 that Ms. Jean Holliday had indicated her desire to be reappointed to the Library Advisory Committee representing the south district and that no other applications had been received. Mr. Saunders then moved to reappoint Ms. Jean Holliday to the Library Advisory Committee and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

#### C. Correspondence

Mr. Carter noted that he had received a letter regarding the new Lynchburg District VDOT Administrator and he would send this out to the Board.

#### D. Directives

Ms. Brennan, Mr. Saunders, Mr. Harvey, and Mr. Bruguire had no directives.

Mr. Hale inquired as to whether or not the County would be spending more on the renovation of the Jefferson Building than if Blair was doing it. Mr. Carter advised that the

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County would be spending less since Blair's estimate was about \$198,000 and did not include the plaster removal that has been done.

Mr. Hale then inquired as to when the public hearing would be held on the new Broadband Tower rates and Mr. Carter noted that staff would prepare the notice once advised by Mr. Payne on the language and would go by the waiting period prescribed in the state code. He added that regardless, the rates would be in effect until the Authority took formal action.

#### **VI. Adjournment (The Evening Session Has Been Cancelled)**

Prior to adjournment, Supervisors discussed cancelling the July 25, 2013 meeting. It was noted that there was no business currently scheduled and the Board could have a called meeting if necessary.

Ms. Brennan then moved to not meet on the fourth Thursday of the month and Mr. Hale seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion.

Supervisors then discussed the plans to use the General District Courtroom for Board meetings and Mr. Saunders noted that the plan was to meet there long term so that the current space could become office space. It was noted that once the Commonwealth Attorney's office moved, the School Board would take over that space and Dr. Collin's current office would become a conference room.

Mr. Saunders noted that he and Ms. Brennan had worked out a seating configuration that would work for the Board and staff. Supervisors and staff then went over to the General District Courtroom to look at the space and possible seating arrangements. Supervisors agreed by consensus that three sections of the current tables could be used in the space and staff would sit off to the side at a regular table.

Following this discussion, at 4:20 PM, Mr. Hale moved to adjourn and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.