April 10, 2018

Virginia:

AT A REGULAR MEETING of the Nelson County Board of Supervisors at 2:00 p.m. in the General District Courtroom located on the third floor of the Nelson County Courthouse, in Lovingston Virginia.

Present: Thomas D. Harvey, North District Supervisor
Jesse N. Rutherford, East District Supervisor
Ernie Q. Reed, Central District Supervisor
Thomas H. Bruguiere, Jr. West District Supervisor – Chair
Larry D. Saunders, South District Supervisor –Vice Chair
Stephen A. Carter, County Administrator
Candice W. McGarry, Administrative Assistant/Deputy Clerk
Debra K. McCann, Director of Finance and Human Resources
Sandra Shackelford, Director of Planning and Zoning
Phillip D. Payne, IV, County Attorney

Absent: None

I. Call to Order

Mr. Bruguiere called the meeting to order at 2:03 pm, with all Supervisors present to establish a quorum.

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

II. Consent Agenda

Mr. Saunders moved to approve the consent agenda and Mr. Rutherford 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 – **R2018-19** Minutes for Approval

RESOLUTION R2018-19
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(March 13, 2018, March 15, 2018, March 20, 2018, March 22, 2018 and March 27, 2018)

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on March 13, 2018, March 15, 2018, March 20, 2018, March 22, 2018 and March 27, 2018 be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2018-20** FY18 Budget Amendment

RESOLUTION R2018-20
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2017-2018 BUDGET
NELSON COUNTY, VA
April 10, 2018

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2017-2018 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

Amount	Revenue Account	Expenditure Account
$9,930.00	3-100-002404-0017	4-100-021060-3160
$825.24	3-100-003303-0105	4-100-031020-5420
$10,755.24		

II. Transfer of Funds (General Fund)

Amount	Credit Account (-)	Debit Account (+)
$50,000.00	4-100-999000-9901	4-100-093100-9209
$50,000.00		

III. Appropriation of Funds (Courthouse Project Fund)

$50,000.00	3-106-003201-0007	4-106-094960-3160
$50,000.00		

C. Resolution – **R2018-21** April is Child Abuse Prevention Month

RESOLUTION R2018-21
NELSON COUNTY BOARD OF SUPERVISORS
APRIL IS CHILD ABUSE PREVENTION MONTH

WHEREAS, preventing child abuse and neglect is a solution that requires involvement among people throughout the community; and

WHEREAS, child maltreatment occurs when people find themselves in stressful situations, without community resources, and don't know how to cope; and

WHEREAS, the majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community; and

WHEREAS, all citizens should become involved in supporting families in raising their children in a safe, nurturing environment; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community;

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors does hereby proclaim April as Child Abuse Prevention Month and calls upon all citizens, community agencies, faith groups, medical facilities, and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

D. Resolution – **R2018-22** April is Fair Housing Month

RESOLUTION R2018-22
NELSON COUNTY BOARD OF SUPERVISORS
APRIL 2018 IS FAIR HOUSING MONTH

WHEREAS, April is Fair Housing Month and marks the 48th anniversary of the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988); and

WHEREAS, the Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the rental, sale, financing or advertising of housing (and the Virginia Fair Housing Law also prohibits housing discrimination based on elderliness); and

WHEREAS, the Fair Housing Act supports equal housing opportunity throughout the United States; and

WHEREAS, fair housing creates healthy communities, and housing discrimination harms us all;

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors supports equal housing opportunity and seeks to affirmatively further fair housing not only during Fair Housing Month in April, but throughout the year.

E. Resolution – **R2018-23** April is National County Government Month

RESOLUTION R2018-23
NELSON COUNTY BOARD OF SUPERVISORS

APRIL 2018 NATIONAL COUNTY GOVERNMENT MONTH
"SERVING THE UNDERSERVED"

WHEREAS, the nation's 3,069 counties serving more than 300 million Americans provide essential services to create healthy, safe and vibrant; and

WHEREAS, counties move America forward by providing health care, administering justice, keeping communities safe, creating economic opportunities and much more; and

WHEREAS, Nelson County and all counties take pride in their responsibility to protect and enhance the health, welfare and safety of its residents in efficient and cost-effective ways; and

WHEREAS, through National Association of Counties President Roy Charles Brooks' "Serving the Underserved" initiative, NACo is focusing on the critical role counties play in breaking multi-generational cycles of poverty; and

WHEREAS, in order to remain healthy, vibrant and safe, America's counties provide public health, justice, safety, infrastructure, transportation, technology, environmental stewardship and economic services that play a key role in everything from residents' daily commutes to emergency response;

NOW, THEREFORE, BE IT RESOLVED, the Nelson County Board of Supervisors, does hereby designate April 2018 as National County Government Month.

F. Resolution – **R2018-24** April 9th to 14th Highway Work Zone Safety Week

RESOLUTION R2018-24
NELSON COUNTY BOARD OF SUPERVISORS
APRIL 9-14 IS HIGHWAY WORK ZONE SAFETY WEEK

WHEREAS, the Federal Highway Administration and Virginia Department of Transportation has dedicated April 9th – 14th as Work Zone Safety Week; and

WHEREAS, highway work zone crashes are on the rise statewide in Virginia, from 2016 to 2017, there was a 9.8% increase in work zone crashes (2666 crashes compared to 2428 crashes in 2016), a 12.7% increase in work zone injuries (1329 injuries compared to 1181 injuries in 2016), and a 20.0% increase in work zone fatalities (12 fatalities compared to 10 in 2016); and

WHEREAS, reduced speed limits, lane closures, detours, trucks entering the highway, and pavement changes are just a few reasons why driving in work zones requires special attention, and while the men and women working in the road are in a dangerous business, statistically drivers are even more at risk; and

WHEREAS, four out of five work zone fatalities are drivers, one work zone fatality occurs every 15 hours, ne work zone injury occurs every 14 minutes, approximately 700 people are killed and more than 35,000 people are injured in work zone crashes each year;

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors does hereby designate April 9th to April 14th as "Work Zone Safety Week" and encourages all drivers to follow these basic principles:

Know Before You Go: Locate work zone locations using the 511 website or phone app.
Avoid Distractions: Dedicate your full attention to driving and avoid using a phone or changing the radio station.
Follow Directions: Follow directions from work zone flaggers and pay attention to warnings posted on work zone signs.
Keep An Eye Out: Watch for construction workers and their equipment and stay alert to the vehicles around you

III. Public Comments and Presentations

A. Public Comments

1. Greg Truslow, President Nelson County Chamber of Commerce

Mr. Truslow noted that the Chamber needed assistance to fund relocation and office expenses. He noted they would like to relocate from the basement of Union Bank as they had been there for over fifteen years and it was not satisfactory. He noted that issues included that the office was only accessible during bank hours and the doors were often propped open with a brick which allowed for the potential for unwanted visitors. He added that prior to that, the Chamber was in a building with County offices and was moved.

Mr. Truslow noted that their activities were solely sponsored by events and the Board of Directors were volunteers who volunteered hundreds of hours. He advised that they brought in $8,000 in annual revenues from dues and events. He then noted that the past fall, the Board developed a plan to improve the role of the Chamber and better define its role in the community. He noted challenges were their lack of visibility not having a storefront and the website needed updating to allow for member participation.

Mr. Truslow noted that the Chamber needed financial help to relocate and they were asking for an initial sum of $37,000 and then $32,000 for the next four years. He noted those funds would only be used for the relocation and not to fund events. He added that they could help revitalize Lovingston with them being first to relocate there. Mr. Truslow then advised that Union Bank had provided them with over $15,000 in furniture to set up their new space; noting that it was from a closed bank in Verona and was being stored.

Mr. Bruguiere noted that the Board would have another budget work session and would look at his request at that time.

2. Kristen Hern, CASA Advocate Manager

Ms. Hern thanked the Board for adopting the proclamation and she announced the event occurring on Thursday at the Nelson Center at Noon. She noted there would be the reading of the proclamation and the dedication of the pinwheel garden, it was open to public, and she encouraged the Board to invite anyone interested in CASA.

B. VDOT Report

Mr. Don Austin from VDOT reported the following:

Mr. Austin asked the Board to discuss the Rural Rustic paving program and to set their priorities for the draft Secondary Six Year Plan to go to public hearing in May. Mr. Austin noted a new copy of the plan was provided however, it did not include High Peak Lane -Route 650 that appeared to be 1.6 miles long and had a traffic count of 90 vehicles per day. He asked the Board to include this when setting their priorities. He then noted that the first four priorities through Perry Lane should be left in the same order; however anything below those could be re-arranged.

Mr. Austin then reported that studies recently done had indicated that Wilson Hill Rd. was not in need of improvement and if they changed that priority it could free up to $460,000 for other roads. Mr. Bruguiere noted the Board would discuss the priorities later that day and would advise Mr. Austin by email. Mr. Austin noted the list was needed within the next week so the public hearing could be advertised.

Mr. Bruguiere then asked which pot of money was funding the paving in Lovingston and Mr. Austin advised it was being done with maintenance funds. Mr. Harvey asked about the funds used for the sidewalks and Mr. Austin advised that the upgrades were done with pedestrian safety funds and the repairs were done with additional operational monies; not construction funds.

Mr. Austin reiterated that the majority of the Secondary Six Year Plan was funded with unpaved road funds for roads that had a minimum of 50 vehicles per day. He added that Telefees could be used for any projects they wanted to do.

Mr. Saunders had no VDOT issues to discuss.

Mr. Rutherford advised he would resend the Rockfish River Rd address to Mr. Austin and he inquired about the Route 639 shoulder repairs. Mr. Austin noted he had gotten no response back to his question about that, however they were working roads that would be resurfaced and that road may be on that list.

Mr. Harvey reported that near the hill on Sunrise Drive on the east side of Route 151, the shoulder kept breaking off back up to the pavement and the guardrail had gotten loose. He added it appeared to be a 75-100 foot drop straight down there. Mr. Austin noted he would pass that on to crews and Mr. Harvey reiterated that the bottom of the guardrail had washed out from under it.

Mr. Bruguiere noted that Cub Creek Rd on the Beech Grove Side was in need of repair as it was breaking up badly. He added that the new road on the west side was in good shape but needed patching in a couple of spots. Mr. Austin advised they would do more patching when the asphalt plants opened up.

C. Presentation - RVES Destination Imagination Team (Global Competition)

Ms. Linda Ziegler, First Grade teacher at RVES and DI Team Manager noted that the team was moving on to the Global Tournament again this year in Knoxville, TN. She noted that the School Board was funding their transportation and registration.

She then asked DI team member Nathan Manthey to read aloud the following:

Dear Ladies and Gentlemen,

Our Rockfish River Elementary Destination Imagination team once again advanced through regional and state competition, to earn a spot in the final level of competition … the Global Finals, taking place in Knoxville, TN from May 23rd-26th, 2018. We are very fortunate to have the support of the Nelson County school division, local businesses, and friends and family. We are asking for your financial support to help the team raise the additional $4,000 needed to attend the global competition.

Throughout the DI Season, each team competes in both an Instant Challenge, which requires the teams to engage in quick, creative and critical thinking to solve a problem or task, which they have not had any preparation for, and a Central Challenge. For the Central Challenge we chose to take part in the Scientific/Unlikely Attraction Challenge, where we had to do the following:

- Create and present a story about an attraction in an unlikely location
- Research and apply 3 scientific methods, we chose electricity, levers, and pneumatics
- Design and create an amusement park attraction (we made a dunking booth)
- Create and present two Team Choice Elements that show off the team's interests, skills, areas of strength, and talents

Our Road to Globals …

- Regional Competition, February 17th at Monticello High School. We came in 1st place in the Central and Instant Challenge Categories.

- State Competition, March 24th at Atlee High School in Mechanicsville. We came in 3st place in the Scientific Challenge, which advanced our team to the Global Competition.

We have worked so hard the last six months, with the support and guidance of Mrs. Ziegler, and we can't wait to represent Nelson County in Knoxville at the end of May.

We have four team members that made the trip last year to Global Finals and had an amazing experience. They not only had the opportunity to compete against teams from all over the U.S. but also teams from 15 other countries. Our team this year has two new members and we are all looking forward to competing and interacting with teams from all over the world. We are excited about participating in the many fun and educational activities at the Innovation Expo, a hands-on science exhibition, where we can learn about chemistry, physics, construction, robotics, and many other science related activities. We will also have the opportunity to interact with exhibitors from NASA, National Geographic, and The Hovercraft Project, to name a few.

Any financial support you can provide to help us on this journey would be appreciated.

Sincerely,

RRES Destination Imagination Team
Nathan Manthey 5th grade, Chris Chaffinch 5th grade, Darion Flores 5th grade, Cooper Shelton 5th grade, Caleb Thompson 5th grade, Jack Winter 5th grade & Linda Ziegler (Team Manager)

Ms. Ziegler noted that the County had provided funding of $3,500 last year and since they had one less family needing assistance this year, they were asking for $2,500 and would appreciate anything the Board could do. She advised that they were having a school fund raiser the next week and had applied for help with Chick Fil A as well as parents were meeting to fundraise.

The DI team members then introduced themselves.

Mr. Saunders then moved to provide funding of $2,500 as they were doing a great job representing the County, and it was money well spent. Mr. Harvey seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

D. Presentation – TJPDC Rural Long Range Transportation Plan Updates

Mr. Wood Hudson of the Thomas Jefferson Planning District Commission advised they had worked with Sandy Shackelford, the technical committee, and colleagues in the Lynchburg District to update the Rural Long Range Transportation Plan.

He then gave the following presentation:

April 10, 2018

PRESENTATION OVERVIEW:

•What is the 2040 Rural Long Range Transportation Plan
•How did we transverse from UnJAM 2035 to the 2040 RLRP
•County Information
•Nelson County Overall Deficiency Map
•Nelson County Prioritization Projects

WHAT IS THE 2040 RLRP PLAN:

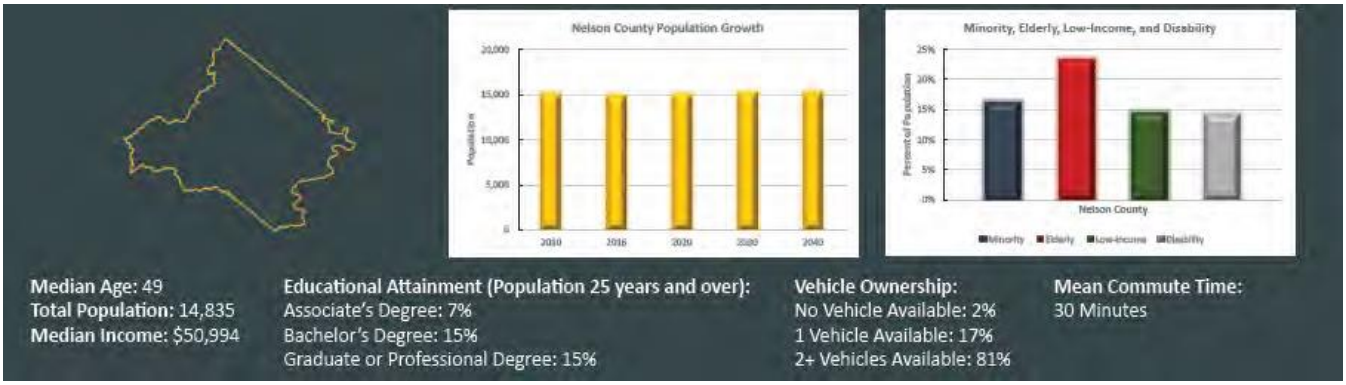
• Serves as an update to the 2035 RLRP and incorporates new data and relies on the most recent trends in transportation
• Adopts a performance-based approach that mirrors the approach used by the State for prioritizing funding of transportation projects known as Smart Scale
• Transportation systems were evaluated and a range of transportation improvements- roadway, rail, transit, air, bicycle, and pedestrian- were then developed into recommendations

Mr. Hudson noted that new VDOT data was being used.

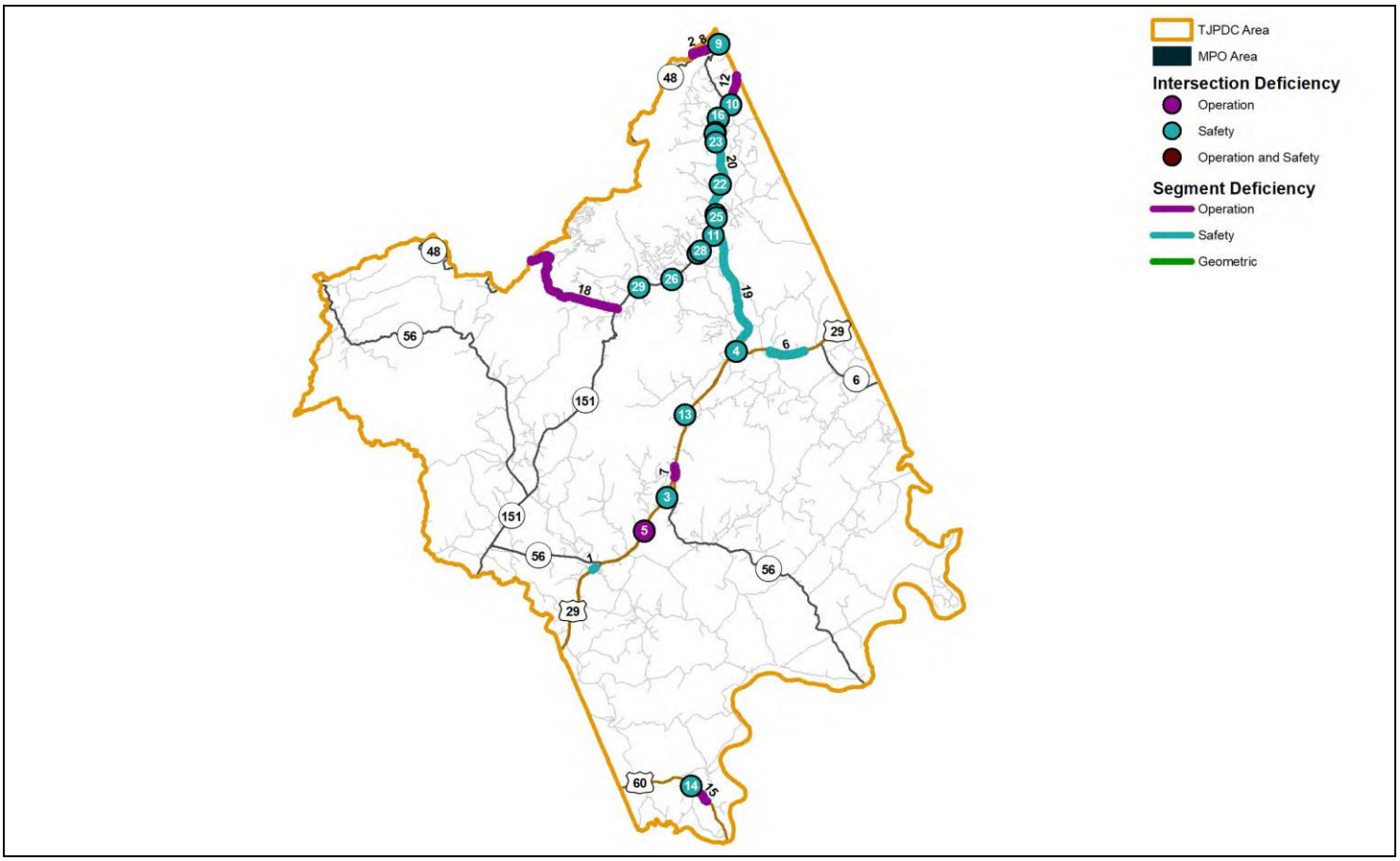
UnJAM 2025 in 2004, UnJAM 2035 in 2009, 2035 RLRP in 2010, and 2040 RLRP in 2018

Mr. Hudson noted that the genesis of regional planning had begun in 2004 and was updated in 2009. He added that VDOT worked with a consultant in 2010 to provide updates and now they went through Smart Scale to fund regional transportation projects. He noted that they were now updating the plan to help prepare counties for updating their Comprehensive Plans or for having lists of projects for grant funding of key transportation improvements especially in rural areas.

NELSON COUNTY FACTOIDS:



Mr. Hudson noted the data shown and that the first graph depicted the declining population of 1.7% and through 2040 it rebounded by 1.7%. He noted that overall stagnant population growth was predicted. He noted the second graph showed Nelson having a high average elderly population.



Mr. Hudson noted that most intersection deficiencies were near Route 151 and were safety related. He noted that on the map above, circles represented intersection deficiencies and lines represented a road segment deficiency.

Mr. Hudson noted they used the Route 151 Corridor study and performed technical analysis using PSI by PDC in order to develop a pipeline for smart scale projects and to supplement Comprehensive Plans. He then noted some of the projects shown on the following charts:

PERFORMANCE AND RECOMMENDATIONS

NELSON COUNTY | PRIORITIZATIONS

Rank	Project Name	Project ID	Type	Route	From	To
1	US 29 Acess Management at Colleen	12501	Segment	US 29	VA 655 (Colleen Road)	3999 Thomas Nelson Highway
2	Interstate 64	12502	Segment	I-64	Albemarle County Line	Augusta County Line
3	Thomas Nelson/Front Street	12503	Intersection	US 29/Business 29	US 29 (Thomas Nelson Highway)	Business 29 (Front Street/ Callohill Drive)
4	River Road/Thomas Nelson	12504	Intersection	VA 6/US 29	VA 6 (River Road)	US 29 (Thomas Nelson Hwy)
5	Nelson County Middle & High School	12505	Intersection	US 29/VA 741	US 29 (Thomas Nelson Highway)	VA 741 (Drumheller Orchard Lane)
6	Thomas Nelson Highway-North	12506	Segment	US 29/VA 6	VA 617 (Rockfish River Road)	VA 779 (Mosby Lane)
7	Thomas Nelson Highway-Central	12507	Segment	US 29	VA 718 (Mountain Cove Road)	9749 Thomas Nelson Highway
8	Rockfish Gap Turnpike	12508	Segment	US 250	Albemarle County Line	Augusta County Line
9	US 250/VA 6	12509	Intersection	US 250/VA 6	US 250 (Rockfish Gap Turnpike)	VA 6 (Afton Mountain Road)
10	US 151/VA 6/VA 638-North	12510	Intersection	US 151/VA 6/ 638	US 151 (Critzers Shop Road)	VA 638 (Avon Road), North
11	US 151/VA 6 (River Road)	12511	Intersection	US 151/VA 6	US 151 (Rockfish Valley Highway)	VA 6 (River Road)
12	Critzers Shop Road	12512	Segment	US 151	Albemarle County Line	VA 6 (Afton Mountain Road)
13	US 29/VA 775	12513	Intersection	US 29/VA 775	US 29 (Thomas Nelson Highway)	VA 775 (Anderson Lane/Lewis Lane)
14	US 60/VA 622	12514	Intersection	US 60/VA 622	US 60 (Richmond Highway)	VA 622 (Allens Creek Road/ Spring Lane)
15	Richmond Highway	12515	Segment	US 60	Robertson Lane (Private)	VA 809 (Payne Place)

VTRANS Needs Key: CoSS: 1 Safety: 2 UDA: 3 Regional Network: 4

Rank	Lanes	VTRANS Needs	Description
1	4	1, 2	Short-Term: Improve signage; Mid-Term: Lengthen turn lanes
2	4	1, 2	Long-Term: Widen road to include truck climbing lanes
3	2	1, 2	Short-term: Modify signal timing and improve signage and pavement markings
4	4	1, 2	Long-Term: Address safety deficiencies
5	4	1	Monitor for safety improvements
6	4	1, 2	Long-Term: Address safety deficiencies
7	4	1	Monitor for operational improvements
8	4	1	Long-Term: Widen road to increase capacity and address geometric deficiencies (including full-width lanes and shoulders)
9	4	1	Monitor for safety improvements
10	2		Deficiency with low priority, continue to monitor for potential improvements
11	2	2	Deficiency with low priority, continue to monitor for potential improvements
12	2		Long-Term: Widen road to increase capacity and address geometric deficiencies (including full-width lanes and shoulders)
13	4	1	Short-Term: Improve signage Long-Term: Consider closing median opening and installing rumble strips
14	2		Mid-Term: Improve intersection to address site distance deficiency
15	2		Monitor for operational improvements

NELSON COUNTY | PRIORITIZATIONS

Rank	Project Name	Project ID	Type	Route	From	To
16	Rockfish Valley Highway/ VA 640	12516	Intersection	VA 6/US 151/VA 640	VA 6/US 151 (Rockfish Valley Highway)	VA 840 (Tanbark Drive)
17	US 151/VA 6/VA 638-South	12517	Intersection	US 151/VA 6/638	VA 6/US 151 (Rockfish Valley Highway)	VA 638 (Avon Road), South
18	Beech Grove Road	12518	Segment	VA 664	US 151 (Patrick Henry Highway)	US 48 (Blue Ridge Parkway)
19	River Road	12519	Segment	VA 6	VA 6/US 151 (Rockfish Valley Highway)	US 29 (Thomas Nelson Highway)
20	Rockfish Valley Highway-North	12520	Segment	US 151/VA 6	VA 6 (Afton Mountain Road)	VA 6 (River Road)
21	US 151/VA 6/VA 609	12521	Intersection	US 151/VA 6/609	VA 6-US 151 (Rockfish Valley Highway)	VA 609 (Mill Lane)
22	Rockfish Valley Highway/ VA 784	12522	Intersection	VA 6-US 151/VA 784	VA 6-US 151 (Rockfish Valley Highway)	VA 784 (Bland Wade Lane)
23	US 151/VA 6/VA 760	12523	Intersection	US 151/VA 6/760	VA 6/US 151 (Rockfish Valley Highway)	VA 760 (Sunrise Drive)
24	US 151/VA 729	12524	Intersection	US 151/VA 729	US 151 (Rockfish Valley Highway)	VA 729 (Creek Road)
25	US 151/VA 635	12525	Intersection	US 151/VA 635	US 151 (Rockfish Valley Highway)	VA 635 (Greenfield Road)
26	US 151/VA 634	12526	Intersection	US 151/VA 634	US 151 (Rockfish Valley Highway)	VA 634 (Adial Road)
27	US 151/Rodes Farm Drive	12527	Intersection	US 151/VA 613	US 151 (Rockfish Valley Highway)	VA 613 (Rodes Farm Drive)

PERFORMANCE AND RECOMMENDATIONS

VTRANS Needs Key: CoSS: 1 Safety: 2 UDA: 3 Regional Network: 4

Rank	Lanes	VTRANS Needs	Description
16	2		Short-Term: Refresh the yellow lines and stop bars and move the stop sign; Mid-Term: Consider rumble strips on Route 840 (Tanbark Drive) approaches; Long-Term: Regrade Route 840 (Tanbark Drive) to improve visibility to Route 151; Long-Term: Regrade the embankment in the southwest and southeast quadrants
17	2		Short-Term: Move the stop bar on Route 638 (Avon Road) closer to the roadway to improve sight distance; Short-Term: Add deer crossing signs south of the intersection and gas station
18	2		Monitor for operational improvements
19	2	2	Long-Term: Address safety deficiencies
20	2	2	Long-Term: Address safety deficiencies
21	2		Mid-Term: Improve access management; Long-Term: Widen the bridge structure
22	2		Mid-Term: Consider changing flashers to be demand responsive, so that they flash only when a vehicle is present or approaching (35 mph advisory speed sign with flashers already present); Long-Term: Regrade the roadway to improve sight distance and eliminate the dip in the road, or; Long-Term: Consider relocating VA 784 (Bland Wade Lane) south of the fitness center
23	2		Short-Term: Add deer crossing signs in vicinity of intersection; Long-Term: Regrade the roadway to reduce crest and reduce embankment
24	2		Mid-Term: Restripe the roadway to provide a northbound left turn into the Ashley's Market southern access Long-Term: Add a southbound right turn lane on Route 151 for turning traffic onto VA 729 (Creek Road), and move the stop bar on VA 729 (Creek Road) closer to the southband through lane
25	2		Short-Term: Extend the northbound right turn lane by utilizing (restriping) the existing northbound shoulder prior to the start of the turn lane
26	2		Mid-Term: Add sidewalks for pedestrians; Long-Term: As new development or re-development occurs, improve access management and inter-parcel connectivity
27	2		Short-Term: Review commercial signage to ensure signage is not within the VDOT right-of-way; Long-Term: Reduce the crest of hill and regrade the embankments to improve sight distance

2045 RLRPI 80

Mr. Hudson noted that next steps included review and adoption of the regional plan by Commissioners at the June PDC meeting in order to be in compliance with Smart Scale. He explained that the document could be used in pre-screening for Smart Scale applications.

Mr. Harvey asked if they were still promoting roundabouts and Mr. Hudson said not particularly; however if that was an advisable solution, they had helped applicants do them such as those in Louisa County and at Lake Monticello. Mr. Saunders noted that Lynchburg had a few and Mr. Harvey acknowledged that they worked okay in city environments. He noted the one that was potentially a solution at Route 250 and Route 151 noting that the temporary stop light there was working well. Mr. Hudson advised that those things were determined by engineers and he was not one of those.

Mr. Bruguiere advised that the plan could reflect that something other than a roundabout be done there. Mr. Harvey advised that would be Albemarle County's call and that it would be included in the CTB Six

Year Plan, which was beyond the scope of long range planning. Supervisors noted that some roundabouts did work well.

Mr. Carter added that the County was waiting on VDOT input on suggested Smart Scale projects and it appeared that the priorities shown did not match up with what had been discussed. He then asked if that could be adjusted. Mr. Hudson noted it could and they were also waiting on their input and would adjust accordingly. He added that they were in contact with them also and were working with them on these. He added that requirements changed and priorities did shift.

E. Presentation – 2018 Board of Equalization Progress Report

Mr. Robert McSwain, Chairman of the 2018 Board of Equalization presented the following report:

Nelson County Board of Equalization
April 9, 2018
2018 Interim Report

Public hearings of the 2018 Board of Equalization (BOE) began on March 19, 2018, and the following BOE members and staff attended the seven days of hearings scheduled to date:

Robert J. McSwain, Chairman	Thomas Nelson, Jr., Secretary
R. Carlton Ballowe, BOE	Gary L. Sherwood, BOE
Mr. Charles R. Wineberg, Jr., BOE	Heather W. Grahame, BOE Staff

We met with 24 owners seeking to raise or lower the assessed value of their property. Of the 25 tax parcels being appealed, twenty were residential and five were agricultural land. Another owner withdrew her appeal of two parcels prior to the scheduled hearing.

One residential property was increased, and seven residential and agricultural properties were decreased. The increase in assessed value was $16,040 and the total of the seven decreases was $73,760. Therefore, the net reduction in assessed property value was $57,720.

In the process of reviewing these cases, we looked at many other properties for recent comparable sales and the assessment values of neighboring properties that were similar. There was generally a consensus of the Board members in deciding these cases, which all had adequate data to make a fair market value determination.

The most difficult decisions related to appeals to reduce property values because of the impact of the impending Atlantic Coast Pipeline (ACP) project. We received five such appeals (one withdrawn) requesting reductions for properties in or near Horizons Village. Anecdotal evidence about local properties not selling is inadequate to judge the impact of the ACP, and there is no comparable sales

data or information on easement payments made to landowners to make a judgement at this stage of the project. The next assessment period based on 2020-21 data will provide much more data, especially for environmentally restricted properties like Horizons Village.

In rejecting these APC-related appeals for a reduction, the Board used the following text in our decision letters:

"Although members of the Board of Equalization (BOE) share your concern that construction of the Atlantic Coast Pipeline (ACP) may have a negative impact on certain property values in Nelson County, the Board has no comparison data that supports or provides an objective measure of possible impact. In addition, the BOE may only consider the status of real estate prior to January 1, 2018. No pipeline construction activity had commenced in Nelson County before January 1, 2018. Nor was the BOE asked by any applicant to consider a reduction of value brought about by an actual easement on their property. For these reasons the 2018 BOE was unable to change the Assessor's valuation of any Nelson County real property due to the ACP."

All records on which the Board decisions are based have been forwarded to the Commissioner of Revenue, Pam Campbell. Support by County staff has been excellent, especially by Heather Graham.

The Board's term for hearing additional appeals does not end until December 31, 2018. However, evidence for proposed changes must be based on data existing prior to January 1, 2018.

Mr. McSwain noted that there was one person adamant that they not go on their property; so they were unable to make a change to the assessment of Ms. Walker's property in Howardsville.

Mr. Rutherford then complimented the Board of Equalization; noting their hard work and dilligence during the process and he reiterated his appreciation.

Mr. Reed then asked if there was qualitative data on those that had drops in their assessments and Mr. McSwain noted there was not, there was a hodge podge of appeals to raise and lower assessments. He advised that a Horizons Village property had showed a well that did not exist so that property's value was adjusted; he noted it was raw land containing no structure which was not unusual.

Mr. McSwain then noted that they had so many appeals from Horizons Village because it was an eco-village and the potential ACP was a concern. He added that he thought they would see more appeals related to the ACP next reassessment.

IV. New Business/ Unfinished Business

A. Proposed Amendment to County Code (Business Licenses) **(R2018-25)**

The following proposed amendment was discussed by the Board and staff:

Proposed New Section 6-90

Sec. 6-90. Application requirements.

(a) The Commissioner of Revenue shall develop an application which shall require the business name and any trade names, the federal identification number, the type of business and its description, the physical and mailing addresses of the business, the name of the individual signing the application together with his driver's license number and contact information, and such other information deemed necessary by the Commissioner for the processing of the application.

(b) For new businesses, or existing businesses which have changed physical location or description, the following additional information is required:

(i) A signature block for the Planning and Zoning Director to indicate whether the applicant's business is in compliance with the Zoning Ordinance.

(ii) A signature block for the Building Official to indicate whether the business premises is in compliance with the Building Code.

(iii) A signature block for the Virginia Department of Transportation to indicate that the requirements of that department have been satisfied.

Mr. Carter noted that the proposed amendment would require the Commissioner of Revenue to have a registration form circulated to VDOT, Planning and Zoning, and Building Inspections. He added that it would not prohibit the issuance of business licenses; but rather would allow the appropriate departments to determine if there were any associated responsibilities on their parts. He then advised that this had been done historically and the County Attorney issued an opinion that said the Commissioner could not require this for a business license without it being in the ordinance. He reiterated that it gave a heads up to other agencies as to if they needed to look into it for compliance. He then noted the resolution provided would authorize a public hearing on the proposed ordinance.

Mr. Bruguiere asked if a business license had to be reviewed by those departments and it was noted that the form would go to them for review but would not prohibit them from getting the business license. Mr. Carter added that potentially, the license could be issued the same day and the forms sent to the other agencies.

Mr. Carter explained that it was a deterrent or preventative measure of violations before or after businesses get a license and it gave prior notice to ensure compliance by other agencies.

Mr. Rutherford noted that some people operated a business from a computer and if they were to go this route, they needed to be conscious of where the Code sits and make sure agricultural and at home businesses were not negatively impacted. He then questioned the necessity of the ordinance, noting that he thought countless businesses could be in violation. Mr. Carter then advised it was the businesses responsibility to comply.

Mr. Harvey clarified that Home Occupations were covered in the Zoning Ordinance, the business owner and one or two family members.

Mr. Carter advised that the proposed amendment was aimed at protecting them more than trying to deter their activities in the county such that they were in compliance with all agencies before getting started. He reiterated that the goal was to prevent issues before they happened.

Mr. Bruguiere noted he had an issue with listing VDOT as they were so onerous and it could be costly to people to have to put in a commercial entrance.

Mr. Rutherford questioned if other counties were doing this and Mr. Carter advised he would have to check. Mr. Harvey and Mr. Rutherford then noted they did not think the amendment was needed.

Mr. Harvey then moved not to go to public hearing on the proposed business license amendment and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Reed voting No.

Mr. Saunders noted that he knew a salesperson who sold $7 Million dollars out of his home from a company in another state.

Mr. Reed noted that this was similar to Special Use Permit issues and he thought it was better if they were cleared ahead of time. Mr. Carter reiterated that the intent was to catch things up front and was not to punish people.

B. Proposed Amendment to County Code (Admissions Tax) **(R2018-26)**

The following proposed amendment was discussed by the Board and staff:

Proposed Effective Date: January 1, 2019

Sec. 11-195. Admissions Tax.

(a) An admissions tax of **5%** is hereby levied on the amount paid for admission to any spectator event occurring in Nelson County, which tax is to be added to and collected by the seller along with the price of admission or other charge. As used in this section "spectator event" includes, but is not limited to, the following:

(1) Any motion picture, play, concert, opera, stage show, or other similar performances;

(2) Any sporting or athletic contest, competition, exhibition, or event, except where the person admitted is participating in any such activity;

(3) Any show, display, or exhibition (e.g. antique show, art exhibition, car show, horse show, computer show, etc.);

(4) Any lecture, talk, literary reading, or similar performance;

(5) Any restaurant, bar, roof garden, winery, cabaret, or similar place furnishing a public performance for profit where music or other entertainment is offered the patron in connection with the serving or selling of food, beverages, or merchandise and at which is charged, however denominated, an admission fee or cover charge; and

(6) Any activity on a festival grounds or in connection with a temporary event. (b) If any person is admitted free to any spectator event at any time when an admission charge is made to other persons, an equivalent tax shall be levied and shall be collected based on the price charged to such other persons of the same class for the same or similar accommodations, such tax to be paid by or on behalf of the person so admitted.

Sec. 11-196. Exclusions.

No admissions tax shall be levied on:

(a) Admissions charged for attendance at any event, the gross receipts of which go wholly to charitable purpose or purposes; or

(b) Admissions charged for attendance at public or private elementary, secondary, and college-sponsored events, including events sponsored by school-recognized organizations; or,

(c) Admissions charges of one dollar ($1.00) or less.

Sec. 11-197. Collection of Admissions Tax; Records.

(a) Every seller of admission to an event with respect to which the admission tax is levied under this article shall collect the amount of tax imposed from the purchaser on whom the same is levied at the time payment for such admission becomes due and payable. The amount of tax shall be added to the cost of admission by the seller. Such taxes collected by the seller shall be held in trust until remitted to the county.

(b) Every seller of admissions with respect to which a tax is levied shall make out a return upon such forms and setting forth such information as the Commissioner of Revenue may prescribe and require, showing the amount of admissions collected and the tax required to be collected, and shall sign and deliver such return to the Treasurer with a remittance of such tax. The return and remittance shall be made on or before the twentieth (20th) day of each month, covering the amount of tax collected during the preceding month.

(c) Every seller of admissions shall keep and preserve for a period of three years records showing the purchases for events and identifying the price charged against each purchaser with respect to each admission and shall make such records available to the Commissioner of Revenue upon request.

Sec.11-198. Procedure upon Failure to Collect, Report, etc. Taxes.

(a) It shall be the duty of the Commissioner of Revenue to ascertain the name of every person conducting a taxable event, liable for the collection of the tax hereby levied, who fails, refuses, or

neglects to collect the tax or make, within the time prescribed in this article, the required reports or remittances.

(b) The Commissioner of Revenue may proceed by warrant or summons against each such person in the manner provided by law.

(c) If any person whose duty it is to collect and remit the tax imposed by this article should fail to do so within the time and in the amount specified, there shall be added to such tax a penalty in the amount of ten per cent (10%) if the failure is for not more than thirty days, with an additional ten per cent (10%) for each additional thirty days or fraction thereof during which the failure continues, not to exceed twenty-five per cent (25%) in the aggregate.

Sec. 11-199. Determination.

All determinations concerning the classification of events shall be made by the Commissioner of Revenue. A request for a determination shall be made in writing on forms approved by the Commissioner.

Sec. 11-200. Violation of Article.

Any person violating or failing to comply with any provisions of this article shall be guilty of a Class One Misdemeanor. Each violation or failure to comply with this article shall constitute a separate offense. Conviction for such violation shall not relieve any person from the payment, collection, or remittance of the tax imposed in this article.

Mr. Harvey moved to approve resolution **R2018-26** and Mr. Reed seconded the motion.

Mr. Carter noted that the tax was proposed to be 5% in the draft Ordinance per the Board's previous direction. He noted that he thought they could go down from there but not increase it. Mr. Harvey then noted that perhaps they should start higher and Mr. Carter advised the ceiling was 10%. Mr. Harvey then changed his mind stating that they should stay with 5% for now and then in the future ask the General Assembly for the authority to apply the tax to participatory sports and Supervisors agreed.

Supervisors then voted (5-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2018-26
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 11, TAXATION,
ADDITION OF SECTION 11-195 ADMISSIONS TAX

BE IT RESOLVED, that pursuant to §15.2-1427 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on May 8, 2018 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed

for passage to amend Chapter 11, Taxation, adding Section 11-195 Admissions Tax, such that the proposed 5% tax for spectator events is effective January 1, 2019.

V. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

A. Courthouse Project Phase II: The County has remitted $156,000 of the project's retainage to Jamerson-Lewis, leaving a balance of $100,000, which will be held in total until the few remaining project corrective items are completed.

Mr. Carter noted there were still a couple of items left such as the metal panel in the lift needed to be redone, outside light covers were reordered, and some windows in the hallway leading from the Commissioner's office to the Circuit Courtroom would be evaluated. He added that Jamerson Lewis was working to address these items with no reluctance.

B. BR Tunnel Project: The Phase 2 Project is pending VDOT authorization for re-bidding.

Mr. Carter noted that the DBE goal had been reset from 7% to 1% and the County had to resubmit the bid package back to VDOT and Greg Harnish was working on that. He added that he had asked VDOT to forgo the mandatory pre-bid meeting; however the County had to have it so VDOT could go over civil rights requirements.

C. Broadband: A meeting with federal NTIA staff for further discussion of the CVEC Project has been requested but a date and time are pending confirmation by NTIA.

D. EMS and Fire Study: The final study has been received and distributed. A determination of next steps with respect to the study's observations and recommendations is to be determined.

E. FY18-19 Budget: The ensuing budget work session is scheduled for April 12 at 4 p.m.

F. Piney River 3 Water System (Disinfectant by Product, DBP, Issue: The funding application to VDH for the Department's Drinking Water Supply Revolving Fund was submitted by the 4-1 due date. A funding decision is pending.

G. VDOT – Smart Scale: Input is pending from VDOT (Lynchburg) on project proposals the County may utilize to seek Smart Scale funding, which will be facilitated by TJPDC.

H. Solid Waste: The first semi-annual ground water monitoring of the County's closed landfill again resulted in no constituents exceeding federal/state parameters. The County through its consultant, Draper Aden Associates is continuing to petition VA-DEQ to conclude the testing program.

Mr. Carter noted the monitoring had been done since 1993 and once closed would save $50,000 to $100,000 per year.

I. Personnel: The Department of Finance and HR is currently recruiting the following positions: Director of Parks and Recreation (interviews have been conducted), Solid Waste & Recycling Coordinator (interviews in process), Animal Control Officer (interviews being scheduled).

Mr. Carter advised that he would like to have a short closed session if time permitted to discuss one position. He noted that driver interviews were scheduled for next Wednesday and Ms. McCann noted there were three candidates being interviewed. It was noted they had to have a CDL and pass a drug test etc.

2. Board Reports

Mr. Harvey:

Mr. Harvey noted attending a meeting with CVEC on their broadband project which was productive. He noted the chance of getting a high percentage of the whole county connected, noting there was no way the County could do it. He noted it could be a long process and they did discuss the possibility of connecting some AEP customers. He advised that the County needed to find out if the network could be transferred to them and he noted the County was in its eighth year of possibly ten of its grant obligations.

Mr. Bruguiere asked if there was an issue with having grant funds for the middle mile and Mr. Carter noted that was why staff would discuss it with NTIA staff as they were the experts. He noted that when staff had spoken to them in the past weeks, they were positive that the network could be transferred; however it may take a long paper process to do so.

Mr. Harvey reiterated that transferring the network to CVEC as part of their project would help get broadband out faster and better. Mr. Carter then noted his understanding was that CVEC thought the overall network would be very helpful.

Mr. Reed asked if the potential for the CVEC project would encourage or frustrate those to continue signing up for service on the County's network. Mr. Harvey noted that it would take at least 18 months before CVEC started building so there was no disadvantage to it. He added that the biggest difference in the two networks was that the County's fiber was underground vs overhead. Mr. Carter then encouraged them to move forward and Mr. Harvey added that he was not soliciting anymore connections but was working on finishing up the ones already in line. Mr. Reed advised he was reaching out to folks at Synchronicity etc.

Mr. Rutherford:

Mr. Rutherford noted working with PVCC on a technical education program in the food and beverage industry.

Mr. Rutherford reported attending the TJPDC meeting and noted a CCJB grant solicitation in the coming months.

Mr. Saunders:

No report.

Mr. Reed:

Mr. Reed reported meeting with Wellness Alliance who was looking at an event called stamp out stigma and conference. He also reported they were working on a grant to establish a drug court in Nelson.

Mr. Reed noted he met with Marta Keene of JABA who reminded him that their services were important as 25% of Nelson's population were sixty-four years and older and lived below the poverty level; which was an increasing trend. He noted he would like to look at their budget proposal of expanding their homebound meals program into Schuyler and Gladstone.

Mr. Reed then reported that the Mountainside Senior Community was 80% staffed by residents of Nelson County.

Mr. Reed reported he was touring the eco areas of Sturt Park with Susan McSwain the following day and they would also look at other areas that lent themselves to clearing etc.

Mr. Reed reported attending the TJPDC meeting; where they had a presentation about the community land trust pilot program in Charlottesville. He noted they were providing low cost housing, where the land trust purchased property and owners purchased buildings. He noted he was meeting with the head of the land trust to see if that was another tool that could be implemented in Nelson.

Mr. Carter noted that the Sturt property had been assessed by the Forestry Department and he would like direction to proceed. He noted the County could work with Martha Waring to develop a bid and go forward with it. He added that the Forestry Department people were the experts and could solicit tree cutting or thinning. Mr. Reed noted that the Steering Committee would like to hear their comments on the plan and he intended to do the right thing and not drag their feet on it. Mr. Bruguiere noted that Ms. Waring was diligent in her job and they were in good hands.

Mr. Bruguiere:

Mr. Bruguiere reported attending the Planning Commission Meeting where they were working on procedural things; such as whether or not a second to a motion was required. He noted in the past, they had not required it however, Mr. Reed had discovered that the bylaws required one.

Mr. Carter noted that Mr. Payne had advised the Board that they could go ahead and vote without a second; however if it is in the Code it was required. He added it was rare to not have a second to a motion.

B. Appointments

Ms. McGarry reviewed the following table:

(1) New Vacancies/Expiring Seats & New Applicants :					
Board/Commission	Term Expiring	Term & Limit Y/N	Incumbent	Re-appointment	Applicant (Order of Pref.)
Nelson County Economic Development Authority (EDA)	6/30/2020	4 Years/ None	Emily Pelton	Resigned March 2018	Deborah Brown
Advertised in Paper and on County Website					Kim Bryant
Region 2000 Solid Waste Services Authority Board Member	7/1/2018	4 Years	Stephen A. Carter	Y	N/A
Region 2000 Solid Waste Services Authority Board Alternate	7/1/2018	4 Years	Candice W. McGarry	Y	N/A
(2) Existing Vacancies:					
Board/Commission	Terms Expired	Term & Limit Y/N	Number of Vacancies		
Keep Nelson Beautiful Council (KNB)	12/31/2017	2 Years/ Y (3)	N/A	N/A	Cindy Westley - N
Advertised in NC Times and Website - Deferred Until Have a					Elwood Waterfield - S
West District Candidate					Mary Cunningham - N
					Michele Regine - C
					Nancy Uvanitte - E
					Ronald Fandietti - E
					Susan McSwain - E
					Victoria Jenkins - N
					Anne Catherine Briddell - C
					Melanie Thigpen -S 2nd Pref

Ms. McGarry noted the two applicants for the EDA vacancy being Deborah Brown and Kim Bryant. She noted that there would also be two EDA seats up for re-appointment at the end of June.

Mr. Harvey then moved to appoint Deb Brown to the EDA, he noted she had been interested for multiple years and was in the construction business. Mr. Reed seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Ms. McGarry noted that Mr. Carter's and her terms on the Region 2000 Services Authority Board as member and alternate respectively would be expiring as of July 1, 2018 and the Authority requested the member jurisdictions have these appointments made for the ensuing four years. Mr. Carter noted that both he and Ms. McGarry regularly attended the meetings.

Mr. Rutherford then moved to appoint Mr. Carter and Ms. McGarry as the member and alternate to the Region 2000 Services 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.

C. Correspondence

There was no correspondence considered by the Board.

D. Directives

Mr. Harvey:

None

Mr. Rutherford:

Mr. Rutherford asked that the County Attorney attend the public hearings that night and Mr. Harvey agreed it was important. Mr. Reed noted that he had learned at the new Supervisors training that it was common practice for County Attorneys to be at Board meetings. Mr. Carter advised that Mr. Payne was under contract and attending meetings was one of his responsibilities. He added that he was compensated at an hourly rate and his attendance has been at the Board's discretion. He advised that he would ask Mr. Payne to attend; however he noted he may be reluctant to give his advice on the spur of the moment. Mr. Harvey noted that since he was the once who wrote the ordinance, it would be good to have his perspective.

Mr. Saunders:

Mr. Saunders inquired about progress on improving the sound system there and Mr. Carter advised they had worked on the podium and the audience had said they could hear. He noted that a permanent solution was needed for the Board microphones.

Mr. Saunders asked who managed the County's webpage and Mr. Carter advised that Maureen Kelley did primarily; however each Department could edit its own pages. Mr. Reed asked who was responsible and Mr. Carter reiterated it was a shared responsibility. Mr. Reed then questioned the BZA meeting posting issues and Mr. Carter noted there may have been some confusion about when the meeting was on or off and then back on again in that instance.

Mr. Saunders asked if there was a posted list of nonprofit organizations in the County and if it was necessary to have one. Mr. Carter indicated he was unsure and would check.

In response to questions, Mr. Carter noted that they did not oblige businesses to advertise on the County's website.

Mr. Reed:

None

Mr. Bruguiere:

None

VI. Other Business (As May Be Presented)

Introduced: Closed Session

Mr. Harvey moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code § 2.2-3711(A) (1): discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body. Mr. Rutherford seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Supervisors conducted the closed session and upon its conclusion, Mr. Rutherford moved to reconvene in public session. Mr. Harvey seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Upon reconvening in public session, Mr. Rutherford moved that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information act cited in that motion. Mr. Saunders seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

There was no action taken by the Board.

Introduced: Rural Rustic Road Priorities

Mr. Saunders noted he thought that since Wilson Road only had five houses, it should be moved down the list so smaller roads could be done in the next couple of years.

Supervisors agreed by consensus to move Wilson Road to below Cedar Creek Road on the list.

Supervisors discussed that High Peak Lane had 90 vehicles per day and in the 1.6 miles past Montreal Village there was a large chunk of houses there. Supervisors advised staff to swap in High Peak Lane at the position of Shield's Gap Rd. and move Bottoms Lane in front of Shields Gap Rd.

Supervisors advised staff to send the new priority list to Mr. Austin and to set the public hearing date for May 8, 2018.

Introduced: Chamber of Commerce Funding Request

Mr. Saunders note he thought providing them with funding would be beneficial and the new President was a ball of fire. He noted that they really needed to get out of the bank basement.

Mr. Reed noted that if they gave them funding it would cost less than $3,000 per month, and he wondered if the Chamber would have the ability to fund itself after the Board's support ended. He added that he thought they should commit something, however it was a high ticket item for something the business community used to support itself.

Mr. Rutherford asked what they would be renting and Mr. Saunders noted the cost was $1 per square foot in rent. Mr. Reed noted he knew Mr. Truslow and he was good at what he did but he thought he was shooting way high.

Mr. Bruguiere noted he agreed they needed to get out of the basement and with more visibility they could attract more members. Mr. Saunders noted that maybe they could share the rental space. Mr. Bruguiere then suggested that they provide the funding for rent only.

Mr. Rutherford suggested providing funding of $5,000 per year for staff noting that they could have a corporation sponsor something and that would enable them to be present in Lovingston.

Mr. Saunders suggested providing funding of $15,000 and then see if they produce results.

Mr. Saunders then moved to provide the Chamber of Commerce with $15,000 in year 1 and then vote on it again next year.

Mr. Carter asked if the funding was as of July 1st and it was noted to be for when they were ready to move and it was not earmarked strictly for rent. Mr. Carter noted they needed to recruit other businesses in the county and Mr. Saunders supposed that with better visibility they would get more members.

Mr. Carter noted that the Chamber has emphasized the Southern end of the county and was a small group rather than including the other side. Mr. Saunders disagreed noting that businesses on the other side of the county had actually supported the Chamber more than those on this side.

Mr. Bruguiere thought the funding should be as of July and Mr. Harvey disagreed noting he thought it would take off and they should give it to them now.

Mr. Saunders then amended his motion to include giving the Chamber the $15,000 when it was requested and Mr. Rutherford seconded the amended motion.

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

VII. Recess and Reconvene Until 7:00 PM for the Evening Session

At 4:15 PM, Mr. Harvey moved to adjourn and reconvene at 7:00 PM and Mr. Reed 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. Bruguiere called the meeting to order at 7:00 PM with all Supervisors present to establish a quorum.

II. Public Comments

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

1. Ginger Peele, JABA

Ms. Peele noted that many good things were going on at the Cecilia Epps Community Center. She noted they offered a balance class that taught how to avoid falls and they provided social opportunities. She noted they had added new members and were continuing outreach to the many underserved senior pockets; siting the Schuyler Community in particular. She added that they were working with a church there that had space for a senior center and they hoped they would work towards that together. She then thanked the Board for their support.

III. Public Hearings

Mr. Bruguiere read aloud the procedures for public hearings as follows:

<u>Sign up:</u>

Please sign up if you wish to comment during the public hearing and clearly print your name and address on the sign-up sheet. If applicable, please clearly print the group you represent.

<u>Speaking During the Public Hearing:</u>

The Board of Supervisor's Chair will open the public hearing and will call speakers in order from the Sign-Up sheet. When your name is called, please come to the podium. Speaking into the microphone, clearly state your name and address for the record. If you are speaking on behalf of a group, please clearly identify the group you are representing. Please only comment on the item for which the public hearing is being held and only direct your comments to the Board. Once the public hearing is closed, no further comments will be taken.

Individuals:

In order to accommodate all persons wishing to speak, individual speakers are asked to kindly keep comments to three (3) minutes or less. Additional time may be granted by the Chair.

Groups:

Members of a group are asked to elect one (1) person to speak on behalf of the group and to kindly keep comments to five (5) minutes or less. Additional time may be granted by the Chair.

Speakers will be timed and notified when they have 30 seconds left.

A. Special Use Permit #2018-01 – Retail Store/Restaurant

Consideration of a Special Use Permit application requesting County approval to use the specified subject property for a mixed retail store/restaurant use. The subject property is located at 9585 Rockfish Valley Hwy in Afton, Tax Map Parcel #6-A-131 (16.8 acres). The subject property is zoned A-1 and owned by Todd Rath.

Ms. Shackelford provided the following report:

BACKGROUND: This is a request for a special use permit on property zoned A-1, Agricultural to allow for the construction of a building that will contain three suites. One of the suites will be used as a nano-brewery where farm products used by the facility will be grown on-site. This will be considered a farm brewery and does not require a special use permit. One of the suites will be used as a farm winery permanent remote retail establishment (§4-1-16a) and the other will be used as a restaurant (§4-1-34a).

Public Hearings Scheduled: P/C – February 28, 2018; Board – April 10, 2018

Location / Election District: 9485 Rockfish Valley Highway / North Election District

Tax Map Number(s) / Total acreage: 6-A-131 & 6-A-163D / 10.937 acres +/-

Applicant Contact Information: Todd Rath, 161 Wood House Lane, Nellysford, VA 22958; 434-

996-7133.

Comments: The applicant applied for, and was granted, a special use permit previously for six one-bedroom cabins and to convert the existing building on the east side of the property into a tasting room/restaurant and use the storage building beside it as an accessory to that use. He had originally requested additional special use permits for other businesses that would potentially be interested in locating on the property, but at the time of the request, the businesses that would likely locate in the space had not been identified and the applicant withdrew that portion of the request prior to final action being taken by the Board of Supervisors.

At this point, the applicant has signed letters of intent from two businesses (farm brewery not needing a SUP and farm winery permanent remote retail establishment) that would occupy the proposed building, and is in discussions with a few potential businesses that would occupy the third space as a restaurant.

DISCUSSION:

Land Use / Floodplain: This area is rural in nature. There are no 100-year flood plains on the property.

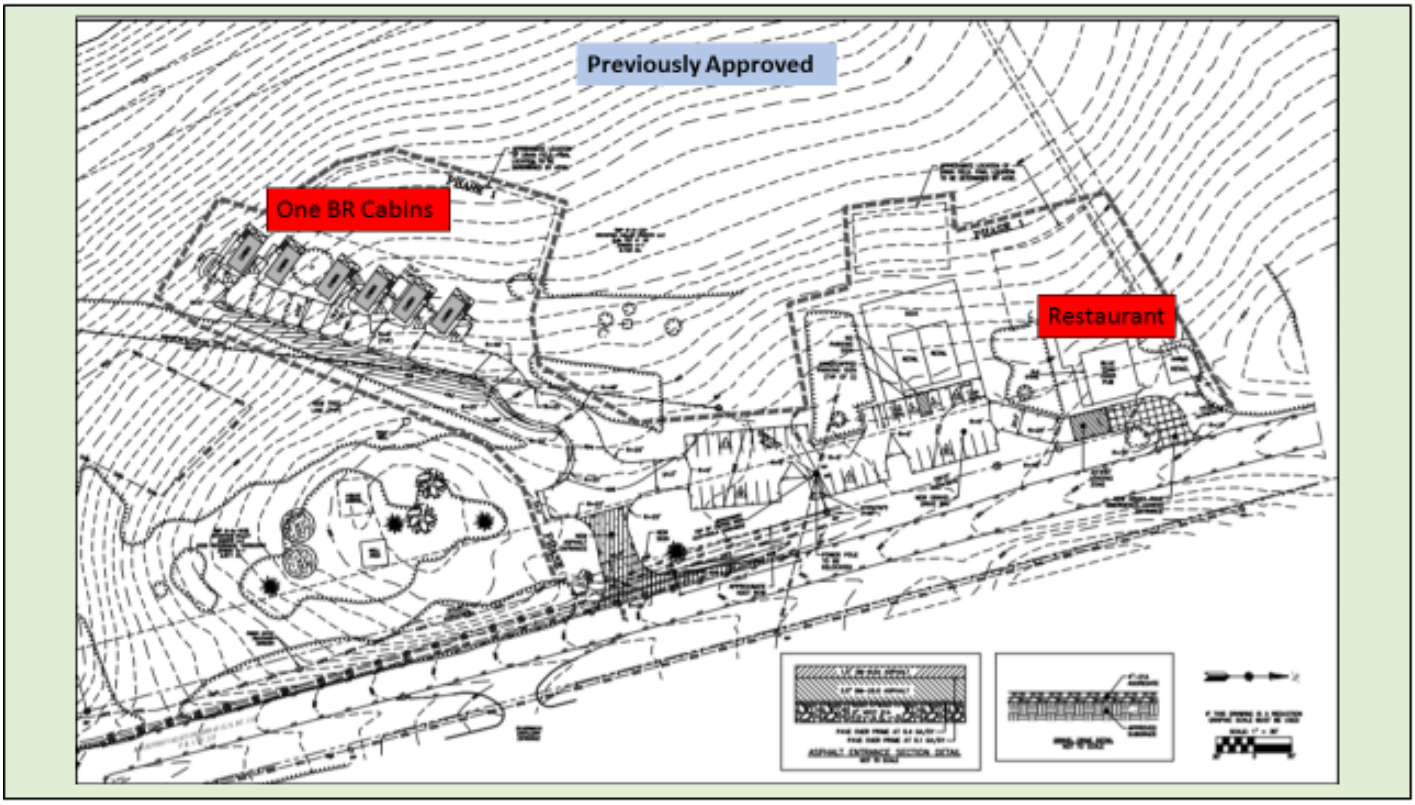
Access and Traffic: Property is accessed from Rockfish Valley Highway (Route VA-151 – AADT 4,800 trips per day). The proposed development will generate additional traffic along this corridor, but a traffic impact analysis is not required at this time. VDOT previously reviewed the proposed development when the initial special use permits were requested. They indicated that the entrance would need to be relocated to align with the entrance into Silverback Distillery. Future phases of development would require a right turn taper and a left turn lane, but those are not needed at this time. The full list of comments from VDOT based on their review of this phase of development are included in the packet for your further review.

Utilities: Property is served by private well and septic systems.

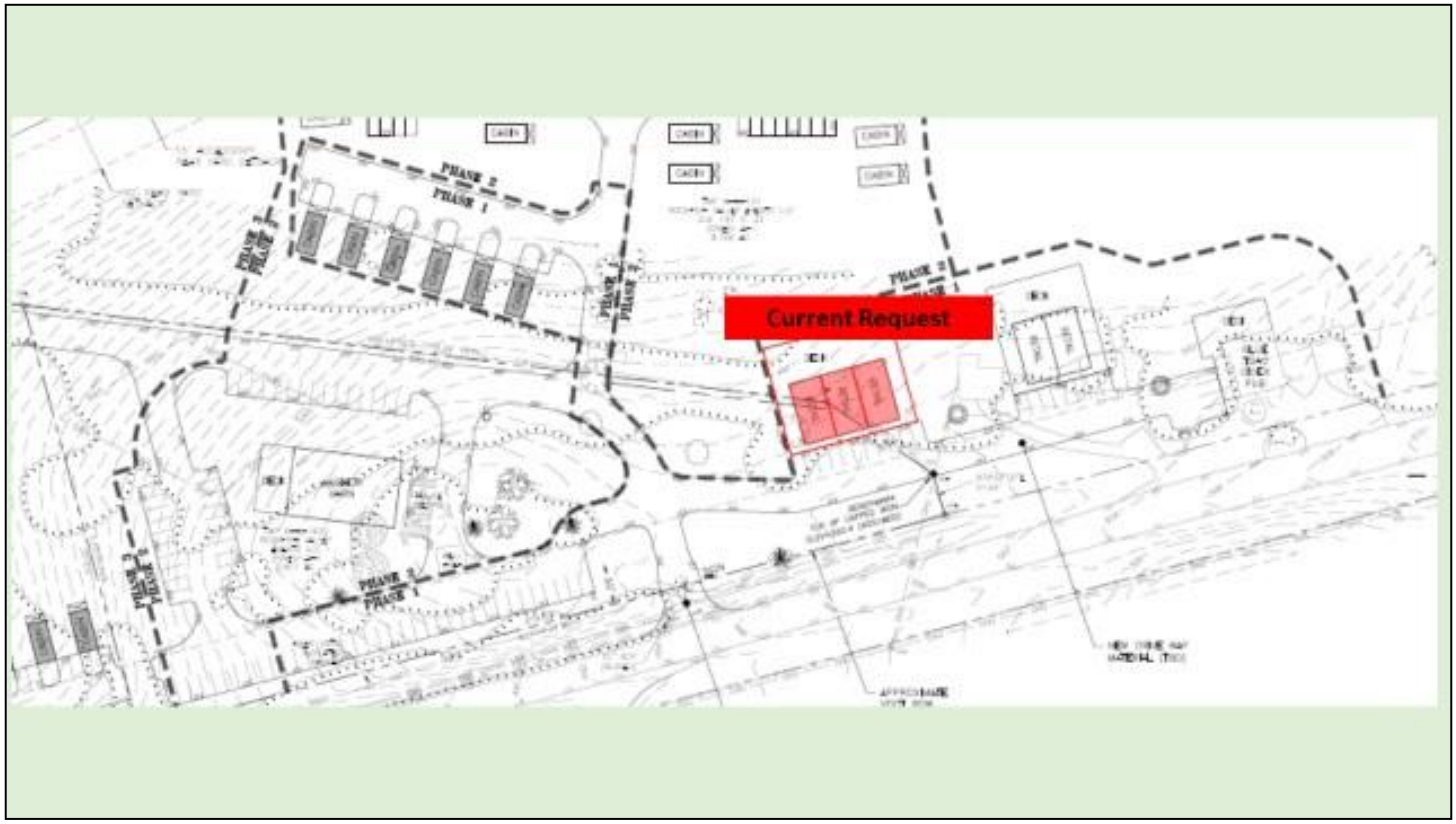
Conditions: The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit. Conditions placed on the initial request approved by the Board of Supervisors included a 9:00 pm amplified music time limit and landscaping along Route 151. Staff recommends that these conditions also be applied to this next request should approval be granted.

Comprehensive Plan: This property is located in an area designated as rural and farming use based on the current Comprehensive Plan.

Ms. Shackelford showed the following slide that depicted the site plan showing the previously approved uses on the site for cabins and to convert an existing building for a restaurant and converting the existing building for a tasting room.



Ms. Shackelford then showed the site plan depicting the location of the 3 suite building in the current Special Use Permit request as follows:



She reiterated that the owner now had signed letters of intent for the building occupants and noted the following technical reviews that had been accomplished:

Summary of Technical Reviews for Phase I Approved by BOS August, 2017:

March 7, 2018 – Approval from VDOT
March 8, 2018 – Approval from TJSWCD for E&S Plan
March 27, 2018 – Comments from DEQ for SWM Plan

Ms. Shackelford then advised that the previous conditions noted on the previous Special Use Permit were recommended to be applied to the current request if approved.

She then noted that the approval of special use permits should be based on the following factors:

(a) The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate. *The proposed use is consistent with the development pattern along the 151 corridor. However, there is concern about continued expansion of higher intensity uses along 151.*

(b) The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property. *The proposed could be considered complimentary to other uses in the area. The Silverback Distillery is located directly across the highway from this site. The businesses that would potentially be permitted are small in scale and would support the types of businesses that are already located in this general area.*

(c) The proposed use shall be adequately served by essential public or private water and sewer facilities. *The applicant will work with the engineers and the health department to ensure adequate facilities are provided.*

(d) The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance. *There are no significant ecological, scenic or historical features that would be impacted by the proposed use.*

She then noted that the Planning Commission recommended denial of this request by vote of 5-1. Concerns centered on wanting to know what the impacts of the first phase of development would be prior to considering additional phases and the potential negative impacts on adjoining property owners.

The Board had no questions for Ms. Shackelford and Mr. Bruguiere invited the Applicant, Mr. Rath to address the Board.

Mr. Rath noted he had been a county resident for ten years and a business owner in the county for over seven years. He noted he would like to make a correction, that the development being discussed was not a Blue Toad endeavor, rather it was Rockfish Valley Events, LLC.

Mr. Rath noted that he had applied to VDOT on 3/4/2017 and had not gotten their approval until a year later and subsequently he could not apply to DEQ without VDOT approval.

He then noted that during the first phase of approval, the Board voted that each time he brought a new tenant to the property, he would have to come back with a new Special Use Permit, and he had agreed with that. He noted that while the project was delayed, he had gotten great interest from some businesses to come into one of their buildings, the three suite building and therefore he was now applying for three Special Use Permits, one for a tasting room, one for a Nano-winery, and one for a chocolate and gelato business.

Mr. Rath then noted he had met with the Homeowners Association at Rockfish Orchard and the largest bordering property owner; however was denied a meeting with the rest of Rockfish Orchard. Mr. Rath then noted that in regards to the concerns about water pollution, they would have plenty of septic and reserves and they were now drilling a test well adding that they were doing everything engineering-wise on the check list. He added that if this were to be disproven, they would not be allowed to build.

Mr. Rath also provided letters from other County business owners such as Taylor Smack of Blue Mountain Brewery and Steve Crandall of Devil's Backbone adding that breweries, wineries, and distilleries were growing in the state. He noted that they were all feeling the pressure of competition now from other areas and they needed to keep innovating and bringing in good businesses such as what he was proposing. He added that Mr. Crandall was in favor of it because it would invite tourists and visitors into the area.

There being no questions for Mr. Rath, he introduced his Project Engineer, Greg Simon.

Mr. Greg Simon, Project Engineer addressed the Board and noted the project team as follows:

Rockfish Valley Events, LLC -	Owner/Developer
SVN/Cornerstone Commercial -	Commercial Real Estate Agent
W & W Associates -	Civil Engineering
Studio 1230 Architecture-	Architecture
Oneil Engineering Services-	PME Engineering
ACE Applegate Consulting Engineers-	Structural Engineering
Aqua Nova Engineering, PLC-	Waste Water Engineering

Mr. Simon noted they proposed to renovate two masonry buildings; which preserved the character of the area; building around two large trees on the site. He noted the design goals and objectives to be:

- Re-use existing buildings where possible to reduce environmental impact and create new buildings using durable materials, appropriate for this region.
- Provide Architectural design that complements the aesthetic character and style of traditional structures in the Rockfish Valley.
- Leave full growth hardwood trees standing and intact, creating focal points for the site.
- Create a small commerce agro business node for Afton Virginia that is family friendly and promotes economic growth for local businesses.

Mr. Simon noted that overall, the property was 16.5 acres and the area under development was a third of that. He noted they had received a letter to run test wells on the site and that effort was in progress and the design for the septic system was also underway. Mr. Simon noted that it would be a light commercial system and no flows required more than two drain fields and they were using a typical commercial well on the design. He showed the location of the drain fields and well in relation to the proposed retail spaces.

Mr. Simon noted using components from the Blue Toad building, the existing store, retail spaces etc. were shown on the site plan and he noted it was not a complete build out of the site. He then noted the aesthetics of the building (Retail Building #2) as follows: Pre-finished metal roofing, natural wood board and batten siding with matching window and door trim, exterior wood decks

and railing, insulated windows and doors. Color = dark bronze/grey, horizontal board screening below deck, heavy timber/wood framing, and covered entrances at each retail unit.

Mr. Simon concluded by showing a rendering of the proposed building containing three retail spaces. Retail space 2A was 1200 square feet, 2B was 1272 square feet, and 2C was 1200 square feet. The rendering showed the front of the building having parking at grade and covered entryways for each retail space, with walkways that wrapped around the sides of the building to the back. The back of the retail spaces were shown to have an expansive deck with partially covered outdoor seating for all three spaces that faced Crawford's Knob.

Following the presentation, the Board had the following questions:

Mr. Reed asked about graphics on the proposed cabins and Mr. Simon noted that they were currently getting prices from a manufacturer of campground cabins and deciding which ones would fit on the site. He added that they were looking at site built cabins, however the first six would be a prefab cabin like those you would see at a campground. Ms. Shackelford then added that the cabins were not a part of the SUP request under consideration. Mr. Saunders asked for the projected number of cabins and Mr. Simon noted they were approved for six and Mr. Rath added that twenty was the total number desired.

There being no other questions from the Board, Mr. Bruguiere opened the public hearing and the following persons were recognized:

1. Elizabeth Smith, 151 Group -Afton Mountain Winery

Ms. Smith noted her support for the SUP and project. She added it was an opportunity for more tourism venues, and provided jobs while maintaining local aesthetics and not impacting services.

2. Margaret Flather, Afton – Representative of Rockfish Orchard Subdivision

Dr. Flather spoke against the SUP and asked that the Board hear the concerned neighbors. She noted that one had even flown up from Florida and was present to speak. She noted getting 120 signatures on a petition from those concerned about the project and she provided pictures of the neighborhood. Dr. Flather advised that the Planning Commission had voted against the project and Commissioner Mark Stapleton had said it came down to people who could not move and entrepreneurs. She then stated the Board's goals and those of the Rockfish Valley Area Plan and emphasized that D' Ambolas and Silverback Distillery were not representative of the community. She added that D'Ambolas had started out small and had evolved with each owner and that was a concern. She added she did not know how Silverback was operating, using a limited distiller's license, and was not on the abc books. She noted that they did not grow anything that they distilled and it was not standard. Dr. Flather then noted that the garage mentioned was one foot from the property line of a neighbor. She further noted their concern regarding Route 151 and if this were approved, there would be five alcohol related businesses on Route 151. She added they

would need a bridge or tunnel there because they would have people going from one establishment to the other crossing the road. Dr. Flather then noted the accidents related to those establishments and suggested that the developer had a lot of land in Beech Grove that he should develop where there was more room and ease of navigating the road. She then asked the Board to side with the Planning Commission.

3. Shirley McGatha, Afton -Rockfish Orchard Subdivision

Ms. McGatha spoke against the SUP and noted that since 1992, when she purchased her property, the traffic had increased tremendously. She noted taking the petition to the Garden Club who did civic things for the County and all wanted to sign. She added that the petition had signatures from people all over the county. Ms. McGatha then encouraged people to create other types of businesses besides alcohol related ones. She then noted that her biggest concern was personal and that was encroachment onto her property and the disruption of privacy. She added she was concerned about the environmental impact on the land and asked the Board to consider the negative impacts of the project.

4. Michael Frencsik, Afton-Rockfish Orchard Subdivision

Mr. Frencsik spoke against the SUP and noted he owned property at the entrance to right of Orchard Drive. He noted that he currently lived in Florida and would be moving to Nelson because of some of the devastation in Naples. He noted that had occurred because of wrong decisions made along the way there. He reiterated that the issue was people who could not move versus entrepreneurs. Mr. Frencsik noted that he had lived in New Jersey for thirty years and now Florida for thirty years. He added that the impacts in Naples had been the catalyst for them moving to Nelson and he had a deep concern for its beauty.

5. Lindsay Dorrier, Nellysford-Vice President of Retail Bold Rock Cidery

Mr. Dorrier noted he was speaking in favor of the SUP as Vice President of Retail for Bold Rock and President of Nelson 151.

Mr. Dorrier noted that Nelson 151 had reviewed the project and all felt that it would serve to enhance the business environment, increase visitation to the County, and grow tax revenues for the County. He added that they felt strongly that if the project was built to the level that has been displayed, it would increase the positive perception of the County. He noted that they supported the project and agreed that they were in a highly competitive environment now and they wanted to stay at the forefront of the craft beverage world in the state.

6. Philip DeJong, Afton

Mr. DeJong spoke against the SUP and noted his property shared a 1400 foot boundary with the development. He noted that they moved to Nelson from Charlottesville for its beauty and rural

character. He noted they were encouraged by the principles outlined in the Rockfish Valley Area Plan and stated those. Mr. DeJong advised he was an advocate for property rights; however property owners were incumbent to do the right thing in the right place. He added that he could not judge Mr. Rath, however he could judge that it was the wrong place to do the project. He then stated that it was not planned growth, they did not want the project in that location, and if went any further, he would be looking at prefab cabins. Mr. DeJong noted that the scale was 20% less than a Hampton Inn. He noted that water resources would be affected and there would be dark sky intrusion every night and it did not protect residential rural areas. Mr. DeJong advised that in light of the approval of Phase 1 of the project he had reached out to Mr. Rath and they had met twice since March. He noted that he had proposed a scaled back project and also offered to purchase the property with no response.

7. Christine DeJong, Afton

Ms. DeJong spoke against the SUP and noted being new to the area. She added that they appreciated Nelson County's beauty and planned to be here the rest of their lives. Ms DeJong noted she appreciated Mr. Rath's desire to want to be a part of the competition and she had no problem with him moving forward with the new business. She noted however the location was most important and she believed it would be a grave mistake if he was asking breweries to go there. She noted that the road was not suitable and there were other prime locations that would be better. She noted the negative impact of the business to the neighborhood and to the quality of life they wanted to have.

8. Bob Kemp, Afton -Rockfish Orchard Subdivision

Mr. Kemp spoke against the SUP. He noted he had no dispute with the business case presented and he understood their desire to be on Route 151; however that location was a concern. He then reminded the Board that the Planning Commission voted 5-1 against it because the permanent residents should have a say.

9. David McGann, Nellysford

Mr. McGann spoke in favor of the SUP and noted that the project property was currently an eyesore and the project was pretty. Mr. McGann noted he supported entrepreneurship, he was one and he hoped his son would be also. He noted that he had listened to the voices speaking out and that it had to be an entrepreneur that made Stoney Creek and the beautiful golf course etc. He added sometimes, you have to put up with change and he reiterated that he was in favor of the project.

10. Carlton Ballowe, Faber

Mr. Ballowe noted he was in favor of the SUP stating that the County had decided to pursue Agri-tourism as a means to expand jobs and the tax base etc. He noted it was consistent with the

long range plan of the county and he had no problem with it.

11. Marilyn Shifflett, Afton -Rockfish Valley Hwy

Ms. Shifflett spoke against the SUP and noted that she had no issue with the business, just the location. She then noted the following:

Starting at the Nelson/Albemarle County line on Route 151, I counted the following:

Total miles from the County line to my house, which I believe is the end of the North District, is 8.4, Total Residential Driveways, including those that serve multiple residences = 103, Secondary Roads that access Route 151= 14, Churches that directly access Route 151= 3, Current Businesses with direct access to Route 151= 25, and Schools & Fire/Rescue = 1each.

Starting at the south end of Route 664 (Devil's Backbone, which I believe is the starting point of the West District) and traveling 8.4 miles south on Route 151, I counted the following: Total Residential Driveways, including those that serve multiple residences= 44, Secondary Roads that access Route 151= 16, Churches that directly access Route 151= 3, Current Businesses with direct access to Route 151= 3, and Schools & Fire/Rescue= 0 each.

From my house south to the beginning of the West District at Route 664; total miles are 4.3 and includes the following: Total Residential Driveways, including those that serve multiple residences= 48, Secondary Roads that access Route 151= 7 Churches that directly access Route 151= 2, Current Businesses with direct access to Route 151= 21, Schools & Fire/Rescue = I included Stoney Creek Fire & Rescue due to the high number of calls they answer even though they access Route 151from Stoney, and Creek Drive, and Schools = 0.

I included the Central District Route 151 corridor as the traffic accessing this area and Wintergreen largely use the North District 151 corridor and as seen above, this area is saturated with development as well.

My point in these counts is that the North District is saturated with development on an already dangerous road. If the Atlantic Coast Pipeline is eventually built and construction begins at Wintergreen this spring, this already taxed highway can expect about 200 truck trips per day. These trucks will include large heavy equipment like cranes, sections of pipe (4 to a truck) that will exceed 40 feet in length and tanker trucks. This additional traffic will occur for more than two years and will present many new dangers on this road carrying our kids back and forth to school.

Given Mr. Rath's announced future plans for this property revealed at the Board of Supervisor's meeting last year, I really wonder why the first Special Use Permit was granted. Why he was not

required to apply for rezoning for what is clearly a large multi-use business development? Ms. Shifflett then advised that businesses should expand into other areas such as the West District where there was access to the Blue Ridge Parkway, a nice drive, and amenities with orchards. She added that the North district had plenty and was done.

12. Charlie Wineberg, Afton

Mr. Wineberg spoke against the SUP and referenced the TJPDC presentation on transportation and noted that Route 151 was strife with safety concerns and the Board should start thinking about granting further SUPs there. He added that almost everyone that has applied has been granted those in the past. Mr. Wineberg then noted that the real estate values in the Rockfish Valley was why there was no greater decline in the latest re-assessment. Mr. Wineberg further noted that employees there could not afford to live in that district because the service industry was not paying that well. He then reiterated that the Board should think about granting SUPs elsewhere.

13. Denver Riggleman, Afton -Silverback Distillery

Mr. Riggleman spoke in favor of the SUP and noted that the Board had created the NAPA Valley of the East and that they were looking at all things that made Nelson County an incredible place to live. He added that he was glad the applicant wanted to improve the site across the street from him and make it better. He added that he had paid $150,000 in tax money to Nelson over the last four years. Mr. Riggleman noted he was also not happy about the falsehoods presented about his business earlier and he clarified that everything was done in Nelson and he was an agribusiness. Mr. Riggleman added that he has had one accident in front of his business so far and Nelson was the most beautiful agri- business place in the state.

14. Rusty Lloyd, Afton

Mr. Lloyd spoke against the SUP and noted he has lived in Nelson since 1991 and was opposite to the proposed development and next to Silverback Distillery. He asked the Board to honor the decision of the Planning Commission and deny the application. Mr. Lloyd noted that it went against A-1 Zoning, was contrary to the ideals of the Rockfish Valley Area Plan survey, and he wanted to preserve the environment. He added that they needed to protect and preserve the County's rural character and no more was needed on Route 151. Mr. Lloyd then supposed that the project was only the first step for a full blown commercial business and it was located in a residential area. He added that once the SUP was granted, it was there forever and would forever change the area. He noted that traffic would increase and there was no guarantee the property would be as rendered. He questioned who would have oversight of signage, noise, trash, and debris and noted there were many unknowns. He reiterated that the project was not in line with what A-1 zoning should be and if allowed the A-1 zoning meant nothing.

15. Eleanor Amidon, Afton

Ms. Amidon spoke against the SUP. She noted that she moved to Nelson in 1989 from VA Beach to avoid growing congestion. She noted that there were now 4,800 trips per day on Route 151 and it was getting busier. She advised that if it kept getting developed, VDOT would have to do something to expand it to address the traffic issues. She added there was a need for residents and visitors who did not know the lay of the land and did not drive courteously. She reiterated that VDOT needed to do something before expanding businesses on 151.

16. Susan Hastings, Afton

Ms. Hastings spoke against the SUP and noted she lived behind Blue Mountain Brewery and feared for her water. She noted that at the base of the driveway, there was a memorial because of a traffic fatality that happened there. She noted that in getting out onto Route 151, she had to allow 15 minutes extra time to her trip. She advised that the traffic was unbelievable and it was disconcerting to think about further development in that part of the county. She added that there were many other areas that could use the development and she encouraged the Board to deny the permit.

17. John Saunders, Tyro - Silver Creek and Seaman's Orchard

Mr. Saunders spoke in favor of the SUP noting that Mr. Rath was a big supporter of orchards and he bought their apple juice. He asked the Board to support local agriculture and their business.

18. Adam Cook, Tyro VA

Mr. Cook spoke in favor of the SUP as the cider maker for Todd Rath and employee of Silvercreek Orchard. He noted that the real issue was that like it or not, Nelson was getting in a lot of people and Route 151 was a floodgate. He noted that to add one more retail shop seemed like a drop in the bucket. He added that he supported the project and noted that the aesthetics of the building fit in with the county. He noted to the Board they were here for business and to make money and that was the bottom line for the County.

19. Ed Koepernick, Nellysford - Broker Representing Applicant

Mr. Koepernick spoke in favor of the SUP noting it was a great project, he had seen all kinds of development, and compared to what they could have, it was far superior. He added that property values would rise and there was beauty and things to do in Nelson and he supported it.

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

Mr. Bruguiere then noted that the applicant may respond to the public concerns and Mr. Kevin Tucker, partner in the proposed development addressed the Board.

Mr. Tucker noted that he had come to the county in 1979 as a kid and was permanently here now. He noted that he owned a business that manages water quality, he had devoted his life to it, and was passionate about preserving ecological resources in the county. He added that many of the concerns about the project were emotionally driven.

Mr. Tucker then asked the Board to focus on the SUPs; noting the proposed uses were complimentary to the surroundings and character of the community. He noted that they were committed to growing responsibly and to creating jobs that would drive revenue without impacting services. Mr. Tucker then related that in A-1 zoned property, one could have a junk yard or a dog kennel currently by right and their development was much better than that. Mr. Tucker also noted that many of the complainants were also patrons of Blue Toad. He added that their rights were not less important than those of the other speakers and they were improving the property's value by removing blight at the site which was not helping the environment one bit. Mr. Tucker then noted that as requested, they had gotten tenants in place before coming back for the SUP.

Mr. Tucker then advised that Mr. DeYoung had taken license with the facts – he had responded to his request for a meeting and was set to meet with him but Mr. DeYoung canceled. He then added it was self-serving when he made an offer that was less than the property's value and was speaking against them. Mr. Tucker noted that the cabins were not an issue; six had been approved, they would be nice, would it would not be a trailer park. He added that if more than six were not approved, then they would not be built.

Mr. Tucker noted that there had been discussion of the County in the past from those that had been here less time than him. He acknowledged that a lot of change had occurred and if those detractors truly believed in property rights; they would not use falsehoods to disparage their rights. Mr. Tucker concluded by stating that stormwater and water quality would be taken care of, they would be good neighbors, and would be good for the community.

The Board then had the following discussion:

Mr. Harvey noted that many people did not understand how these types of permits have come about. He explained that Blue Mountain Brewery was started with a farm exemption that did not require an SUP and has grown into what it was right now. He noted that Silverback did not have an SUP and was established under the parameters of a farm exempt building that turned into a commercial building. He advised that people have misled the Board on those.

Mr. Harvey noted the project's two letters of support- one being from Tectonics (Steve Crandall) and he noted that Route 664 by Devil's Backbone was not an improvement. He noted that people were looking at overdevelopment and it was impacting the north end of the valley.

Mr. Harvey acknowledged that Blue Mountain Brewery may be the biggest meals tax payer in

the county; however it was out of hand. He added that he could not get through that area on weekends and holidays.

He reiterated that those business started off as farm exempt buildings. Mr. Harvey added that they were supposed to be judging the projects and he would debate that the one business would be exempt because of the lack of things grown on site; as he was not seeing anything about that. He noted that there had been multiple accidents at the Silverback Distillery location.

Mr. Harvey then noted what SUP approvals were based on. He stated that it could not be shown anywhere in the Rockfish Valley where there was a strip mall and a campground. He noted that as far as the use being in harmony – the project would impact neighboring properties. He noted that as far as being adequately served by private water and sewer- that had not been proven. He noted as far as the proposed use not resulting in environmental destruction- he understood there was a wetland by the creek and that was an ecological concern.

Mr. Harvey noted the biggest factor was that the project was vetted by the Planning Commission and they overwhelmingly said no, it was not the right location for it. He then noted he agreed that Route 151 was saturated in the Afton area and that the Central district was affecting the Northern end. He added that he would love to see some things done on Route 29 where there was more infrastructure and he hoped his fellow Board members would do their jobs.

Mr. Harvey then noted his preference to defer a decision for a month.

Mr. Rutherford stated that Phase I had already been approved, they were seeking a permit for a 3,600 square foot building, and he had spent a large chunk of his life in the county watching people leave because of the lack of jobs. He noted that if a 3,600 square foot building would have a negative impact; he did not see it and it would not be detrimental. He added that the Board would not approve anything else until they saw progress.

Mr. Rutherford countered Mr. Harvey noting that the proposed use was consistent with development in the area and advised that the developer could not do anything if they did not have VDH or DEQ approvals and they may not get it. Mr. Rutherford noted that VDOT approvals were even more complicated. Mr. Rutherford reiterated that he saw very little damage that could be done by approving a small 3,600 square foot building. He noted that in consideration of the environmental impact, they already had to have due process by many agencies to ensure it was sustainable.

Mr. Reed noted that the overwhelming Planning Commission denial of the SUP was significant as they were professionals. He added that the situation would have to be extraordinary for him to not consider that. He then noted he thought the impacts of phase I should be assessed before approving phase 2. He noted that information was critical and it was hard to take issue with either side on this. Mr. Reed then noted that he thought the sign he was looking for was for them to move incrementally instead of taking a larger step. He then noted that in general, he was in

favor of limiting development on Route 151 until the County had vetted a new Comprehensive Plan that looked at the Route 151 Corridor. He added that he supported developing other areas of the county and he believed the greatest value on the Route 151 corridor was the empty spaces between the development and houses.

Mr. Saunders noted the subject property had been for sale for a long time and Mr. Rath had the opportunity to buy it. He added that he invested the money, chose that site, and he questioned how the Board could choose where their business should be. He noted that he believed strongly that if money was invested and they could make the business go, he was in favor of it. Mr. Saunders noted that the Planning Commission voted the way they did because phase 1 including the cabins had not begun and they wanted to know why. He noted that VDOT took a year to approve it and DEQ was also holding them up. He supposed it may have been less expensive and best to have done both phases together. Mr. Saunders acknowledged that traffic was a problem and the applicant was working with VDOT who said the project area was not unsafe. He added that although he did not live in the area; he knew that traffic was a problem; primarily from people driving slower than the speed limit causing accidents. He then reiterated he was in favor of the project.

Mr. Bruguiere noted that he received information from the County's Tourism and Economic Development Department that the County's wineries, breweries, distilleries etc. accounted for 19 businesses that employed 425 people. He noted that no other business employed that many people, not even Wintergreen. He agreed there were hurdles to get through with the project but that he did not think it would generate more traffic; the traffic was already there. He added that the most traffic he had noticed was those cutting over from Highway 81 to Route 29 by going down Rt. 6 and there was nothing that could be done about it. He noted there was a lot of truck traffic going through the south that were cutting through there. Mr. Bruguiere added that the road was not safe because the people driving were not safe. He then reiterated that the Planning Commission denied recommending Phase 2 because they wanted to see Phase 1 of the project started. He added that it was held up largely due to outside agencies that took longer than anticipated. He added that the proposed project was better than what had existed in that location for years. He reiterated that it was a good opportunity, the County needed businesses to help grow revenue in order to keep from having a tax increase this year; it helped keep real estate taxes down. He added he would vote to go forward.

Mr. Harvey suggested that he and Mr. Rutherford needed to have a discussion about the whole plan. Mr. Bruguiere advised that he had met with Mr. Rath and he related to him that he did not want to see any more cabins on the site. Mr. Harvey advised that VDOT's comments had pertained to that one building and that any further development would need turn lanes etc. and the Board should consider the whole project.

Mr. Harvey then moved to defer action for thirty (30) days and Mr. Reed seconded the motion.

Mr. Reed then questioned what additional information might change the pale of the Board and

Mr. Harvey noted that what was asked for in the Phase 1 approval and nothing had been done. He added that further discussion was needed and thirty (30) days would be good.

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

B. Amendments to Code of Nelson County, Chapter 3, Animals

Proposed Amendments to County Code; Ch. 3, Article II Dogs Running at Large and Lifetime Dog Licenses**. (O2018-01)**

Mr. Carter briefly overviewed the following amendment noting the primary objective was to add a $50 lifetime dog license option and to prohibit dogs running at large with exclusions for hunting dogs with two enforcement options:

ORDINANCE 02018-01
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY
CHAPTER 3, ANIMALS, ARTICLE II DOGS AND CATS
SEC.3-28 AMOUNT OF LICENSES AND SEC. 3-43 DOGS RUNNING AT LARGE

BE IT HEREBY ORDAINED, by the Nelson County Board of Supervisors that the Code of Nelson County, Virginia Chapter 3, Animals, Article II, Dogs and Cats is hereby amended as follows:

Sec.3-28 Amount of License Tax

The annual license tax shall be collected as follows:

(a) Spayed or neutered dogs: $5.00.	[$10.00 is maximum]
(b) All sexed dogs: $7.00.	[$10.00 is maximum]
(c) Kennels:	
• dogs or less: $25.00	[$50.00 is maximum]
• to 20 dogs: an additional $50.00	[$50.00 is maximum]
21 to 30 dogs: an additional $50.00	[$50.00 is maximum]
31 to 40 dogs: an additional $50.00	[$50.00 is maximum]
More than 40 dogs: an additional $50.00	[$50.00 is maximum]
(d) Lifetime dog license: $50.00	[$50.00 is maximum]

Such a license shall be valid only as long as the dog's owner resides in the issuing locality and the animal's rabies vaccination is kept current.

(e) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing-impaired person, or that is trained and serves as a service dog for a mobility-impaired or otherwise disabled person. As used in this section, "hearing dog," "mobility-impaired person," "otherwise disabled person," and "service dog" have the same meanings as assigned in §51.5-40.1 of the Code of Virginia.

Sec. 3-43 Running at Large Prohibited

(a) It shall be unlawful for any dog to run at large in the county.

(b) For the purposes of this section, a dog shall be deemed to "run at large" while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. However, a dog shall not be considered at large if during the hunting season it is on a bona fide hunt initiated by its owner, or during field trials or training periods when accompanied by its owner.

(c) Any person who permits his dog to run at large shall be deemed to have violated the provisions of this section.

(d) OPTION 1

Upon receipt of a complaint, the Animal Control Officer shall investigate and, if satisfied of the truth of the complaint, issue a warning, in writing, to the owner or custodian of the dog that any future violation shall result in criminal proceedings. Following the warning, the first violation hereof shall be a Class 4 misdemeanor and a second and subsequent violation shall be a Class 1 misdemeanor. Criminal proceedings pursuant to this section may only be initiated by an Animal Control Officer or other law enforcement officer.

(d) OPTION 2

Upon receipt of a complaint, the Animal Control Officer shall investigate and, if satisfied of the truth of the complaint, issue a warning, in writing, to the owner or custodian of the dog that any future violation shall result in a civil penalty or criminal proceedings. Following the warning, the first violation hereof shall result in the imposition of a $150.00 civil penalty. Any person summoned or issued a ticket for the violation may make an appearance in person or in writing by mail to the treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Imposition of civil penalties shall not preclude an action for injunctive, declaratory, or other equitable relief. A second and subsequent violation shall be a Class 1

misdemeanor. Proceedings pursuant to this section may only be initiated by an Animal Control Officer or other law enforcement officer.

(e) Any dog observed or captured while unlawfully running at large may be seized and impounded by an Animal Control Officer or other law enforcement officer.

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

Mr. Carter noted he recommended enforcement Option 1 as it was easier to administer and to enforce. He then noted the State Code sections that authorized the lifetime fee and the prohibition of dogs running at large and the section of the code dealing with the various classes of misdemeanors.

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

1. Danny Johnson, Schuyler

Mr. Johnson spoke against the ordinance and noted that the ordinance was not designed to be a leash law; however if a person could not contain their dog on their property, it was essentially asking everyone to put up a fence or to have the dog on a leash. He added that in essence it was a leash law. He noted that it allowed for dogs hunting in season and in training and he then questioned what happened in the next step when a complaint was made. He added that there were 15,000 people in the County and there were about 12,000 dogs based on the number of dog licenses issued. He then reiterated that the ordinance was asking those citizens to either fence in their dogs or to take the dogs every time they moved outside on a leash and he was pretty sure that was unacceptable.

Mr. Johnson then noted that cats had come into the discussion but were dropped and he questioned how it was thought that everybody would keep every dog from roaming. He added that they needed to look at the vicious dog problem; if the County had a vicious dog ordinance, it would fix the issue. He noted that the state already provided for it and the County Ordinance should never address anything but vicious dogs.

Mr. Johnson then questioned how this regulation would stop once it started. He supposed another Board could take it further. He acknowledged that the ordinance had nothing to do with hunting dogs; however they could still be hauled off and the owner fined and he did not think it should be allowed in a rural community as it was extreme.

2. Barbara Bond, Schuyler

Ms. Bond spoke against the proposed ordinance and noted she did not disagree with Mr. Johnson, in that the County need a vicious dog ordinance and she was advocating for it. She noted that she had been threatened and bitten but had never had a problem with a hunting dog. She added that

she respected hunters as sportsman and hunting dogs should be exempt. Ms. Bond advised that she felt she should have the right to enjoy her sport the same as hunters. She then reiterated that she supported a vicious dog ordinance as there were sixty (60) dog bites in Nelson in the past year and the Board should safeguard the safety of everyone.

Mr. Carter then advised the public that the County did have provisions in its Code for vicious and dangerous dogs and it was enforced.

3. James Bond, Schuyler

Mr. Bond spoke against the proposed ordinance and noted he agreed with Mr. Johnson and they never intended for this to be a leash law. He then asked the Board to reconsider the fine points of the amendment proposal. He then noted he and his wife were runners and when they trained, they came in contact with dogs and most were friendly. He noted that they had been bitten and had been neighborly with the dog owners without success. He added that was why they had turned to the Nelson Animal Control Officers for help and found that nothing could be done to make irresponsible owners responsible until a person was bitten. Mr. Bond added that the proposed ordinance was designed to penalize all owners that allowed their dogs to roam and he asked that the Board delay a decision and rewrite the proposed ordinance to deal with blatantly irresponsible owners who allowed their dangerous dogs to roam. He added that there were many attacks that had occurred and were not reported.

Mr. Bond then asked the Board to not penalize those who had friendly dogs but rather to deal with irresponsible owners.

4. Beth Kirkdoffer, Schuyler

Ms. Kirkdofffer spoke against the proposed ordinance and noted that she and her sisters walked their dogs twice per day and 95% of the time, the dogs they encountered were fine and friendly. She added that the people that had the dangerous dogs knew who they were and they should be required to control their dogs and the others could run free. Ms. Kirkdoffer noted that the dogs that attacked hers lived a long ways away and the owner was walking with her and she could not control them. She noted that she had given Animal Control her information and those were the dogs they wanted controlled at home; the vicious dogs.

5. R.B Morris, Afton

Mr. Morris spoke against the proposed ordinance and stated he thought the Board had more important things to do than to consider a dog ordinance. He added that he agreed with what was said about vicious dogs and he carried a gun when he runs. He then asked the Board to not make any changes.

6. Charlie Taylor, Wingina -Virginia Hunting Dog Alliance

Mr. Taylor spoke against the proposed ordinance and acknowledged that under the proposed ordinance, hunting dogs were exempt; however they could not be kept under immediate control. He added that if the ordinance as is was passed, hunters would be bankrupt after hunting season and he asked the Board to make a vicious dog law instead.

7. Tracy Davis, Beech Grove

Mr. Davis spoke against the proposed ordinance and stated that he had owned hounds for 74 years and had never had one of them harm anyone. He added that owners needed to take care of their dogs.

8. Carlton Ballowe, Schuyler

Mr. Ballowe spoke against the proposed ordinance and noted he agreed with everything that had been said and he would hate to see a one size fits all approach for the whole county when vicious dogs were the problem. He added that the owners of vicious dogs should be subject to the harshest penalties. He reiterated that the proposed ordinance seemed to be a one size fits all; when there were only a handful of vicious dogs in the denser areas of the county.

9. David McGann, Afton

Mr. McGann spoke against the proposed ordinance and stated that the proposed ordinance was ridiculous and should be torn up. He added that the County already had a vicious dog law and the proposed one created a hardship for the elderly dog owners in the county. He then asked that the vicious dog laws be enforced.

10. Scott Clarkson, Arrington

Mr. Clarkson spoke against the proposed ordinance and stated that the County had a vicious dog law that needed to be enforced and another one was not needed.

11. Neal Fowler, Shipman

Mr. Fowler spoke against the proposed ordinance and noted he agreed with everyone else and the current vicious dog law needed to be enforced.

12. Tom Guthrie, Arrington

Mr. Guthrie spoke against the proposed ordinance and noted he had issue with a vicious dog law that did not work. He noted that he has had animals killed by vicious dogs and the law was not working. He added that there needed to be a way to address the issue, although he was not saying

the proposed ordinance was the way to do it. Mr. Guthrie then noted that the Animal Control Officers knew which dogs they were and where to get them. He reiterated there was a problem somewhere along the line but he did not want a leash law. He added that he controlled his dogs and the irresponsible owners needed to be addressed.

13. Bette Grahame, Shipman -President of the Nelson Humane Society

Ms. Grahame spoke in favor of the proposed ordinance and noted that there had been a huge change in the County for the better. She noted that when she first came to Nelson, all of the animals brought into the shelter were euthanized and now they and Animal Control had a very good working relationship such that between them, they had made their facilities no-kill since 2010. She added that no adoptable animals were being euthanized, they got plenty of pitiful hounds, and she thought the Animal Control Officers were doing a super job.

Ms. Grahame then noted that she knew there was a problem with the vicious dog law and it was not working and she was trying to come up with something. She noted that in the proposed ordinance, she liked that there was going to be a warning after the first incident, it would be investigated to see if the allegations were true, and then if so, there would be a penalty. She added that not all dogs would be picked up; just the offenders and there would be a fair investigation by ACOs and then those people found in violation would take responsibility.

Ms. Grahame then noted that if the proposed ordinance were passed, it could lead to other issues such as people penning or chaining up their dogs; and the Humane Society was against that. She stated that she thought that Lovingston should have a leash law given that recently a child in a stroller was bitten on the leg by a dog in town. Ms. Grahame added that a leash law was a city dog thing; however they should have one in the village.

Ms. Grahame then noted that her understanding was that on the state level, a dog was declared vicious after it attacked someone and it was hard to wait for an attack. She noted that the ordinance was a step in the right direction by letting ACOs have the first chance to review a complaint and then impose penalties. She noted that the Board wanted to implement option 2 in order to eliminate court time etc. and that a fine would stop irresponsible dog owners. She suggested that instead of calling the Ordinance what they did, it should be called “Responsible Pet Ownership Provision”. She added that the ordinance was not going after hunting dogs and it may be a good start. She suggested that those opposed to it should provide suggestions on language revisions.

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

The Board then had the following discussion:

Mr. Rutherford:

Mr. Rutherford noted he had spoken to many dog associations and he echoed the roots of where they were coming from. He added that when it came to a vicious dog, it was not declared such until it had attacked a person, animal, or property. Mr. Payne added that the County relied on the State Code because that changed every year. He added that there were levels where a dog was first declared dangerous and then vicious and then in some cases, the label went straight to vicious. He noted that severe injury was noted under the label of vicious.

Mr. Rutherford noted that the County had countless citizens and waiting until a dog bites you was a dangerous thing and not all were gun toting citizens. He added that he did not believe the proposed ordinance was the answer; however the Board needed to figure out a way to keep people from being hurt. He added that he had gotten countless letters and emails on this issue and he would like to table it to further discuss it and come up with something that was better.

Mr. Payne noted that the proposed Ordinance was within the limits of the state code and the Board could not pass an ordinance to control people; they were boxed in. He noted that they could have a leash law or run at large law by local area like at Wintergreen. He then asked the Board to tell him what they wanted and he could see how to make it work; adding that they were limited. Mr. Harvey noted that the state law went from dangerous to vicious.

Mr. Saunders noted that the purpose of the proposed ordinance was not to catch dogs running loose; but rather if a dog attacked someone, then the Animal Control Officer had the authority to address it. He added it was not aimed at getting Grandma's dog running across the yard but was intended as Ms. Grahame had noted in her comments. Mr. Saunders then reiterated it was not a leash law and that every month in the last year, someone had come in to bring this up. He added that the Board was there to protect people and that was what the ordinance intended to do. He noted that it was intended to deal with bad dogs and those who had spoken in opposition had misread it.

Mr. Bruguiere noted the bite statistics sent to him by Mr. Wright, ACO Supervisors and he advised that to him, there were too many dog bites in the County. He noted that the Board had not initiated the ordinance until many people had related stories of being afraid to walk around and being bitten. He added that it was hard to tell ACOs that knew a dog was dangerous that it could only be proven after it had bitten someone. He noted that the intent of the ordinance was to make people responsible for their dogs. He noted he had yet to see hunting dogs be vicious to humans and it was not meant to stop hunting dogs. He added that he agreed with Mr. Saunders's comments that the County was not after everyone's' dogs. Mr. Bruguiere then noted that they had to start somewhere and he wanted to make people responsible for their dogs.

Mr. Rutherford stated that they could not define a vicious dog until it had bitten. Mr. Bruguiere suggested that the Board discuss it further and come up with something different.

Mr. Reed then noted he would like to give Mr. Payne some credit for having assessed something the County had the ability to do and the Board had received a lot of input. He added that he did not know what other things they could do and he needed to understand the rights given by the state. He stated that he would be in favor of tabling or dismissing the ordinance; however they needed to deal with it sooner rather than later.

Mr. Saunders advised that the Board did not have to act on the ordinance and Mr. Harvey suggested that there was no need for it to hang around and there was very little of it to be used.

Mr. Bruguiere stated that the Board needed to have a work session with Mr. Payne on it and get advice as to how to take care of vicious dogs legally without liability for the Board. Mr. Saunders disagreed asking what happened if the Board did not do anything and someone was killed.

Following discussion, the Board agreed by Consensus to table the matter and work on it with Mr. Payne, the County Attorney.

IV. Other Business (As May Be Presented)

There was no other business considered by the Board.

V. Adjourn and Continue until April _____, 2018 at ___PM for the Conduct of a Budget Work Session to Be Held in the Bridge Conference Room of the Courthouse in Lovingston

At 9:45 PM, Mr. Rutherford moved to adjourn and continue the meeting until 4:30 PM on April 12, 2018 for the conduct of a budget work session. Mr. Reed seconded the motion and there being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.