

June 8, 2021

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 Lovingson Virginia.

Present: Jesse N. Rutherford, East District Supervisor – Vice Chair
Ernie Q. Reed, Central District Supervisor – Chair
Thomas D. Harvey, North District Supervisor
Robert G. “Skip” Barton, South District Supervisor
Stephen A. Carter, County Administrator
Grace Mawyer, Administrative Assistant/Deputy Clerk
Candice W. McGarry, Director of Finance and Human Resources
Robert Brown, VDOT Residency Administrator
Dylan Bishop, Director of Planning and Zoning

Absent: J. David Parr, West District Supervisor

I. CALL TO ORDER

Mr. Reed called the meeting to order at 2:01 pm, with four (4) Supervisors present to establish a quorum and Mr. Parr being absent.

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

II. PUBLIC COMMENTS

1. Thomas Bruguire, Roseland VA

Mr. Bruguire urged that the County needs to expand the parking lot at the Blue Ridge Railway Trail. He noted that it is often full, and he doesn't want people parking alongside the road like they do in other places. He added that horse trailers limit the space as well. He suggested that the landowner could possibly be talked into donating some land, adding that it is J.H. Fitzgerald. He noted that there is another spot at the Appalachian Trail in Tyro, advising that many times on weekends, there are cars parked up and down both sides of the road there. He stated that he is unsure of who owns that parking lot right now. He also noted that since there is no parking ordinance in this county, the Sheriff is limited to what he can do. Mr. Bruguire stressed that this is a safety issue with people parking up and down that narrow road.

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Mr. Bruguire noted that before he left the Board of Supervisors, he gave a couple of directives, and one of which was to get the old post office in Massies Mill torn down. He noted that letters were sent and nothing has been done, and it has been over a year. He stressed that the building is an eyesore and a danger. Staff noted they would look into this.

Mr. Bruguire noted that he was disappointed that Jacks Hill and Campbell's Mountain Roads were not at the top of the list to finish being surfaced. Mr. Brown noted that they are at the top of the unpaved road priority list for this coming year. Mr. Bruguire then referred to Route 151 on Brent's Mountain and noted that road needs to be resurfaced as it is in pretty bad shape.

III. CONSENT AGENDA

Mr. Reed asked Ms. McGarry for clarification about the Children's Services Act (CSA) portion of the budget amendment. Ms. McGarry noted that the initial allocation from the State was about \$1,030,000, and our expected expenditures for the year are about \$1.7 million. She stated that the programmatic allocation differs from what is currently in the budget, because based on historical expenditures, we budget \$1.6 million roughly in the expenditure budget. She added that we need to amend our budget for the difference between the \$1.7 million in expected expenditures and the current amount of approximately \$1.6 million. She noted that she requested a budget amendment for \$102,104 of which 30.33% is local funds, and the remaining amount would come from the State. Mr. Carter noted that these are mandatory expenses and are not something that the County has authority over.

Mr. Reed then read the text of item III C: Resolution **R2021-36**:

**RESOLUTION R2021-36
NELSON COUNTY BOARD OF SUPERVISORS
ANNIVERSARY OF CANCELLATION OF ATLANTIC COAST PIPELINE**

WHEREAS, on July 5, 2020 Dominion Resources announced the cancellation of the proposed Atlantic Coast Pipeline; and

WHEREAS, the Atlantic Coast Pipeline represented a risky and unnecessary threat to hundreds of Nelson County landowners as well as many others in our region; and

WHEREAS, the pipeline would have cut across steep slopes and through rivers, streams and wetlands and put numerous properties at risk of landslides and bodies of water at risk of increased sedimentation and harm to sensitive species; and

WHEREAS, the pipeline's route would have fragmented some of the most intact forested landscapes in the Southeast; and

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WHEREAS, the pipeline would have bisected areas of historical and cultural significance in Wingina and in the Rockfish Valley; and

WHEREAS, the pipeline project exposed numerous flaws in the regulatory process governing the location and need for such projects; and

WHEREAS, the route of the pipeline raised issues of environmental justice in rural and minority communities, thereby increasing economic disparities and racial tensions; and

WHEREAS, the use of eminent domain by private, profit-making corporations threatens the sanctity of property rights and the safety and security of property owners and the effectiveness of local zoning and flood plain ordinances; and

WHEREAS, the continued reliance on fossil fuels puts the region, nation and world at risk of exacerbating climate change to the detriment of millions of people; and

WHEREAS, citizen groups in Nelson County and elsewhere organized to protect their fellow citizens from the harmful effects of the pipeline project by mounting political and legal challenges to the project over a six-year period; and

WHEREAS, our Nelson County government took an active role opposing the ACP in numerous comments to the Federal Energy Regulatory Commission.

NOW, THEREFORE, BE IT RESOLVED, in recognition of the success of these citizen-led efforts, the Nelson County Board of Supervisors resolves to publicly congratulate and thank those who put the interests of their fellow citizens at the forefront of their concerns in their successful campaign to defeat this misguided project, and hereby establishes July 5, 2021, the one-year anniversary of the cancellation of the pipeline project, as a commemorative day to celebrate their accomplishment.

Mr. Harvey noted that he has problems with several parts of the resolution, adding that some of the affected property owners came out pretty good financially, and some of this is political.

Mr. Barton noted that the key point is that the people of Nelson County stood up to a corporation that was manipulating the system in order to assure a profit. He urged that we should celebrate that we all got together to stand up for something that didn't make sense. Mr. Harvey noted that he agrees with those facts.

Mr. Rutherford stated that the pipeline was a serious property rights issue and suggested the resolution let us remember that day as the anniversary of the cancellation of the Atlantic Coast Pipeline and then let people remember for why.

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Mr. Reed advised that he had let the Board know he would be working on this resolution and to let him know if they had any comments, adding that he did not hear from anybody. He noted that the only point in the resolution that was not one that was County-specific was the one pertaining to fossil fuels and climate change, and he added that the science on those two subjects is indisputable. He went on to say that none of the points in this resolution are points that the County has not made on the record previously. He added that this resolution both celebrates the people of Nelson County and the Government and administration.

Mr. Rutherford noted his belief that they should be celebrating the cancellation of the Atlantic Coast Pipeline, adding that they need to recognize it. He stated that the Board is arguing over the bullet points and noted that the final paragraph is the most important.

Mr. Reed stated that he would like to include the last two paragraphs on page one which recognize the citizen groups in Nelson County and the government. Mr. Rutherford noted that the very first paragraph of the resolution should also be included.

Mr. Rutherford then moved to approve Resolution **R2021-36** as amended and Mr. Harvey seconded the motion. Mr. Barton asked if the paragraph regarding fossil fuels was the only thing that was objected to. Mr. Reed noted that the Whereas's in this resolution that are being omitted from the final resolution are well established and were all successful arguments to have the pipeline canceled. He added that anyone could go to the record and take a look at these and realize that none of these were effectively refuted in court or elsewhere. He advised that he is fine with the amended resolution. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following amended resolution was adopted:

**RESOLUTION R2021-36
NELSON COUNTY BOARD OF SUPERVISORS
ANNIVERSARY OF CANCELLATION OF ATLANTIC COAST PIPELINE**

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this misguided project, and hereby establishes July 5, 2021, the one-year anniversary of the cancellation of the pipeline project, as a commemorative day to celebrate their accomplishment.

Mr. Rutherford moved to approve the remainder of the Consent Agenda as presented and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolutions were adopted:

A. Resolution – **R2021-34** Minutes for Approval

RESOLUTION R2021-34
NELSON COUNTY BOARD OF SUPERVISORS APPROVAL OF MINUTES
(April 13, 2021, May 4, 2021, and May 11, 2021)

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **April 13, 2021, May 4, 2021, and May 11, 2021** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2021-35** Amendment of Fiscal Year 2020-2021 Budget

RESOLUTION R2021-35
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2020-2021 BUDGET
NELSON COUNTY, VA
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I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 5,003.32	3-100-002404-0001	4-100-031020-5419
\$71,135.92	3-100-002401-0045	4-100-053600-3164
<u>\$18,316.48</u>	3-100-024040-0002	4-100-032020-5650
\$94,455.72		

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II. Transfer of Funds (General Fund Recurring Contingency & Employee Benefits)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account(+)</u>
\$30,968.17	4-100-999000-9901	4-100-053600-3164
\$ 2,200.00	4-100-999000-9901	4-100-032020-5415
\$ 60.00	4-100-999000-9901	4-100-035030-3001
\$ 8,000.00	4-100-999000-9901	4-100-042030-5408
\$25,000.00	4-100-999000-9901	4-100-042030-3004
\$15,000.00	4-100-999000-9901	4-100-042030-3010
\$15,000.00	4-100-999000-9901	4-100-042030-3015
\$ 2,231.81	4-100-999000-9901	4-100-012130-3125
\$10,000.00	4-100-999000-9901	4-100-021040-3020
\$10,000.00	4-100-999000-9901	4-100-032060-5404
\$12,500.00	4-100-999000-9901	4-100-043040-5408
\$ 4,000.00	4-100-999000-9901	4-100-092010-9201
<u>\$ 9,209.00</u>	4-100-091030-5616	4-100-012090-2005
\$144,668.98		

D. Resolution – **R2021-37** Adoption of the National Incident Management System

**RESOLUTION R2021-37
NELSON COUNTY BOARD OF SUPERVISORS
ADOPTION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM**

WHEREAS, the President in Homeland Security Directive (HSPD)-5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State, and local governments to work more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the collective input and guidance from all Federal, State, and local homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS; and

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WHEREAS, it is necessary and desirable that all Federal, State, and local emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that Federal, State, and local organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve county's ability to utilize federal funding to enhance local agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various city/county incident management activities, including current emergency management training programs; and

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System,

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors that Nelson County, Virginia hereby adopts The National Incident Management System.

IV. PRESENTATIONS

A. VDOT Report

Mr. Robert Brown of VDOT was present and introduced his new assistant, Mr. Daniel Brown. He noted that Mr. Brown will be working as an Assistant Residency Engineer for Nelson County and the other counties in the district. He also noted that Mr. Brown is a licensed professional engineer with 18 years of experience with VDOT, adding that he has been a roadway designer for his whole career.

Mr. Brown then gave the following report:

Mr. Brown reported that VDOT staff has been reviewing some secondary road mileages, and a discrepancy has been found for Castle Creek Lane near Massies Mill off of Dickie Road. He advised that currently, that road is 0.46 miles long, but in their records, it is 0.70 miles long. He passed out a

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sketch to the Board showing a discontinuance of maintenance for that road. He advised that with a discontinuance, they discontinue with the maintenance, but the right of way remains intact so that if there is an issue in the future, the right of way would still be intact, and it would be a matter of taking it back into the system. He advised that with a discontinuance, they have to post a willingness for a public hearing, and they will put this in the newspaper if the Board has no objections. He noted they will advertise this in the newspaper and receive public comment to see if there is enough interest or any reason they should have a public hearing. He stated that VDOT staff has done thorough research on this road, reiterating that it is a discontinuance of maintenance and not an abandonment. Mr. Reed asked if Mr. Brown has any knowledge on the use of that stretch of the road. Mr. Brown noted that he could not find anything on it, and it looked like it was all absorbed in a larger parcel, and none of the deeds to any of the properties up there where the road was reference the state road or the right of way. He added that the area is wooded.

Mr. Brown then referred to Mr. Bruguieri's comments and agreed that Route 151 over Brents Mountain is getting in horrible shape. He noted that unfortunately, their paving dollars that they are receiving through their maintenance funds are short. He advised that he will check on the pavement rating of 151, adding that it was paved about ten years ago, but that section gets treated heavily with salt and chemicals, so it does not last as long as typical pavement would.

Mr. Brown advised that they are working up on Route 664 doing some pavement widening in that worst curve right before getting to the Appalachian Trail. Once they get the widening done, he noted that they will bring in their paving contractor to work on taking some of that super elevation out of that curve. Mr. Harvey asked if this is being done to make it truck-passable. Mr. Brown stated no, noting that this will make sure that what trucks do go through there don't cause the problems that they have caused in the past. He advised that this is just our side and there are still issues on the Augusta side of the parkway, adding that the restriction is still in place, but we all know that trucks are still going up through there. He added that this is in the best interest of public safety. Mr. Reed asked if it is the responsibility of the Sheriff's Office to enforce those restrictions. Mr. Harvey stated it is the responsibility of State Police.

Mr. Brown then noted that they have started working on some rural rustics/unpaved roads and advised that they still need to finish High Peak over in Shipman. He noted that they are working to do the next mile on Cedar Creek. He added that they have done some mowing on the four lane highways and will keep working on that.

Supervisors then discussed the following VDOT issues:

Mr. Harvey:

Mr. Harvey had no VDOT issues to discuss.

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Mr. Reed:

Mr. Reed had no VDOT issues to discuss.

Mr. Barton:

Mr. Barton referred to Variety Mills Road near Williamstown where it goes down to Ruckers Run and noted that there are two bad curves there. He advised that there was an accident there this past weekend. Mr. Brown noted that this is the intersection of 655 and 722, Variety Mills Road and Williamstown Road. Mr. Barton noted that the sharp curve is down Variety Mills Road toward Ruckers Run, and it is totally blind coming both ways. He urged that there should be a sign coming both ways to warn of the dangerous curve. Mr. Brown noted that there could be a curve warning sign with a speed placard on it and added that he would look into this.

Mr. Rutherford:

Mr. Rutherford referred to Route 648 going onto 703, which goes all the way to 56. He noted this is an unpaved road with high traffic and is used as a crossover for people from Shipman to head towards Wingina. He asked if a traffic count could be done on this road, adding it is Eagle Mountain Drive. Mr. Brown noted that this may already be on the unpaved road list but would check.

Mr. Brown then reported on two requests for interest in revenue sharing through Mr. Carter's office. He noted that one request is for Mountain View Road; those residents have expressed an interest for the County to apply for revenue sharing funds on their behalf. He advised that VDOT did do a cost estimate on that road, and it is for 0.65 mile totaling \$120,000. He noted that this is a great road, the footprint is there, and it falls within the scope of State forces for doing the construction and completing that road. He asked Mr. Rutherford if it has an existing 50 foot right of way dedicated to the County, and Mr. Rutherford noted that he believes it does but will confirm. Mr. Brown noted that typically, a County will make an application for revenue sharing funds on the behalf of a homeowner's association or a group of citizens, and revenue sharing can be up to a 50% match from VDOT revenue sharing funds. He added that he would give an estimate or preliminary estimate, and if it is 50/50, those residents need to commit that if the County applies for these funds, they can furnish the match.

Mr. Brown noted that there are Tier 1 and Tier 2 revenue sharing projects. Tier 1 projects are revenue sharing applications that deal strictly with economic development and economic access. Subdivisions and streets that people are seeking revenue sharing on are Tier 2 projects. Mr. Brown advised that VDOT funds Tier 1 projects first, and whatever is left is what they fund Tier 2.

Mr. Brown advised that Old Ridge Road was also requested, and he has had some of his staff doing research. He noted this project is a little different because it was a subdivision that was created and there was never a public right of way established. It's basically a 20-foot ingress and egress easement to all of those houses back there, and there is no footprint. He noted that they would have to set up a preliminary engineering phase, right of way phase, and construction phase. He added that there will be a PE cost for doing the plans, and he will not be able to get everything done in time to meet the pre-application date. He noted that for this road, it could cost between \$500,000 and \$1 million per mile at least as it is a full construction project with right of way, utility relocations, etc. He added that two residents made this request to the Board and he needs direction on how to proceed. Mr. Reed advised that he will be in touch with the landowners.

V. NEW & UNFINISHED BUSINESS

A. Montebello Volunteer Fire Department – Application for Interest-Free Loan

Mr. Carter advised that this is consideration for approval of a \$40,000 loan through the County's Emergency Services Loan Fund to the Montebello Volunteer Fire Department. He noted that the County assisted with the purchase of their new fire tanker vehicle, and this would assist them with their share of the total expense. The application was made by MVFD to the Emergency Services Council, and the Council approved the loan request unanimously. Mr. Carter added that the loan fund has an excess of \$500,000, and currently, the loan period would be amortized over eight years. He noted if the Board consents to this, the Treasurer will then take care of the necessary paperwork.

Mr. Reed noted that Mr. Parr, who is absent today, had indicated that he apologizes for missing the meeting and is really in support of this. Mr. Harvey noted that the request meets all of the criteria.

Mr. Rutherford moved to approve the interest-free loan application from Montebello Volunteer Fire Department for \$40,000 and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

VI. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE

A. Reports

1. County Administrator's Report

Mr. Carter presented the following report:

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A. Covid-19 (Coronavirus): Current VA Department of Health data for Nelson County, as of June 3rd reported zero (0) new cases of the coronavirus for the past 90 days and zero (0) new cases of the virus for the most recent seven (7) day average. Cumulatively, to date, the County has had 895 total reported cases of the coronavirus. Of this total, forty-one (41) persons have been hospitalized and there have been thirteen (13) deaths from the coronavirus.

County offices were reopened to the public on May 3, 2021. Telework schedules for County staff (2) concluded on May 31st.

Mr. Reed noted that there is still signage on the Courthouse building stating that masks are required, however, it is clearly not enforced. He asked what the protocol is for this. Mr. Carter noted that unvaccinated people, per the Governor's guidance, need to wear a mask. He added that those directives from the State will be further relaxed on June 15th, and then we can forego any requirement to wear a mask in the Courthouse. He noted at this point, Courthouse staff does not know if the people coming into the building are vaccinated or not unless they ask. If they indicate that they have not been vaccinated, we ask them to wear a mask.

B. American Rescue Plan: The first one-half, \$1,449,988.50, of federal ARP funding to Nelson County was received on June 1st. The balance of ARP funding, also \$1,449,988.50 will be received approximately one year from 6-1-21. The County's FY21-22 includes the total ARP funding the County will realize. A work session after July 1st is proposed to discuss possible use of ARP funding.

Mr. Carter noted that the County has until 2023 for the total funds to be expended.

C. Capital/Priority Projects: Per Board consensus, the business park initiative is ready to proceed. County staff are also positioned to proceed with other capital/priority projects subject to the Board's direction.

D. Piney River Wastewater System - Usemco Pump Station (Refurbishment): Project completion is anticipated the week of June 7th and not later than the week of June 14th.

E. 2022 General Reassessment: In process. A status report from Wampler-Eanes is planned for the Board's July 13th meeting. A draft ordinance will also be presented. The ordinance would establish the time period for the completion of the Board of Equalizations work.

F. VDOT- Transportation Alternatives (Grant) Program: County and TJPDC staff are working together on the submittal of pre-applications for two TAP grant proposals. The projects are Lovington Revitalization and Gladstone Depot.

G. Redistricting: Final information and direction on completion of redistricting the County's election districts is pending receipt. A very preliminary review by County staff suggests that no changes to the current election districts may be necessary but this is still to be determined.

H. Lockn' Festival: The sponsors of the Lockn' Festival issued a press release on June 2nd to announce three smaller scale weekend shows in August. The dates of the three shows are: August 13-15, 20-22 and 27-29.

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Mr. Reed asked for an update on the RFP for the Comprehensive Plan. Mr. Carter noted that he spoke with Ms. Bishop last week and again today about this, and she is working on a draft that will be presented to both boards. He advised that staff is trying to get it out by the first of July or so, adding that staff will share this with the Board and Planning Commission for comment before it is publically advertised.

Mr. Carter noted that Ms. Bishop is working with Mr. Payne on potentially several zoning amendments, adding that the ordinance is pretty open/flexible, and it is a question of whether it should be more limiting or not. He advised that there is a proposed and pretty significant development that would basically be vacation rental properties, and seemingly, per discussion with Ms. Bishop, it is not really addressed but not really prohibited either. He added it would potentially be a pretty big investment in the county and would be 32 cabins of different sizes on a 360-acre property just for vacation rentals. Mr. Harvey urged that the County needs to address these vacation homes and noted that this is taking the market away from young people. Mr. Rutherford noted that Nelson is a unique situation because we have a tourist driven economy, and a chunk of today's Airbnbs were somebody's secondary home, so they wouldn't have been rental properties otherwise. He added that he would be interested to know how much of the Airbnb revenue translates into lodging taxes versus Wintergreen and the Village Inn. Mr. Carter noted that the Board does now have the flexibility of increasing the lodging tax up to 10%, adding it is currently at 4%.

2. Board Reports

Mr. Rutherford:

Mr. Rutherford noted that recently, County Staff, Mr. Parr, and himself had a meeting with Amherst County to discuss the potential ag facility. He added there are some questions and comments regarding how to move forward, and they are thinking of doing a study of sorts. He noted that he and Mr. Parr will keep everybody updated on this as they find out more.

Mr. Harvey:

Mr. Harvey had no report.

Mr. Barton:

Mr. Barton had no report.

Mr. Reed:

Mr. Reed had no report.

B. Appointments

Ms. Mawyer reviewed the following table:

(1) New Vacancies/Expiring Seats & New Applicants :					
Board/Commission	Term Expiring	Term & Limit Y/N	Incumbent	Re-appointme nt	Applicant (Order of Pref.)
JABA Board of Directors	7/15/2021	2 Years/ No term limit	Dana E. Quillen	Y	None
Jefferson Madison Regional Library Board	6/30/2024	4 Years/ 2 term limit	Marcia McDuffie (T2)	N-stepped down	Aleta L. Childs
Nelson County Broadband Authority	6/30/2021	4 Years/ No term limit	Jesse Rutherford	Y	
			Gary W. Strong	Y	
			Thomas D. Harvey	TBA	
			Thomas H. Bruguiera, Jr.	Y	
			Larry D. Saunders	Y	
N.C. Economic Development Authority	6/30/2021	4 Years/ No term limit	Kim Bryant	TBA	
JAUNT Board	6/30/2021	3 Years/ No term limit	Delores J. Green	N	None
N.C. Library Advisory Committee	6/30/2021	4 Years/ No term limit	Jean B. Holliday - South District	TBA	
Region Ten Community Services Board	6/30/2021	3 Years/ 3 term limit	Peggy Whitehead (T1)	Y	
N.C. Social Services Board	6/30/2021	4 Years/ 2 term limit	Diane Harvey - North District	Y	
(2) Existing Vacancies:					
Board/Commission	Terms Expired				
Social Services Board	6/30/2023	4 Years/ 2 term limit	Tanya Stewart - South district (T1)	N-stepped down	None
Local Board of Building Code Appeals	6/30/2024	4 Years/ No term limit	Steve Crandall (Builder)	N	None

JABA Board of Directors

Ms. Mawyer noted that Dana Quillen wishes to be reappointed for another term. Mr. Reed noted that he has served on this board with Ms. Quillen for the last two years and stated that she is excellent and he would like to see her reappointed. Mr. Rutherford moved to reappoint Ms. Quillen to the JABA Board of Directors and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

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Jefferson Madison Regional Library Board

Ms. Mawyer noted that Marcia McDuffie stepped down, and Staff has received an application from Aleta Childs for that position. Mr. Rutherford moved to appoint Ms. Childs to the Jefferson Madison Regional Library Board for the term expiring on June 30th, 2024 and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Nelson County Broadband Authority

Ms. Mawyer noted that all members of the Authority have terms that expire at the end of this month, and she reached out to everyone and heard back from all members except Mr. Harvey. She advised that those four members indicated that they would like to be reappointed for another term. She then asked Mr. Harvey if he would like to be reappointed, and he stated yes. Mr. Barton then moved to reappoint Jesse Rutherford, Gary Strong, Thomas Harvey, Thomas Bruguire, Jr., and Larry Saunders to the Nelson County Broadband Authority and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

N.C. Economic Development Authority

Ms. Mawyer noted that Kim Bryant's term expires at the end of this month, and she has reached out to Ms. Bryant but has not heard back, yet.

JAUNT Board

Mr. Rutherford noted that he had heard some scrutiny in the news about this board recently. Mr. Carter advised that he would follow up.

Ms. Mawyer noted that Delores Green does not wish to be reappointed for another term, so that position will be open.

N.C. Library Advisory Committee

Ms. Mawyer noted that she contacted Jean Holliday to see if she would like to be reappointed for another term, but has not heard back, yet.

Region Ten Community Services Board

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Ms. Mawyer noted that Peggy Whitehead has indicated that she would like to be reappointed for another term. Mr. Barton moved to reappoint Ms. Whitehead to the Region Ten Community Services Board and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

N.C. Social Services Board

Ms. Mawyer noted that Diane Harvey has indicated that she would like to be reappointed for another term. Mr. Rutherford moved to reappoint Ms. Harvey to the Social Services Board and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Ms. Mawyer noted that there is still an opening on the Social Services Board for the South District representative. Mr. Barton asked if anybody has applied, and Ms. Mawyer stated that she has not received any applications.

Local Board of Building Code Appeals

Ms. Mawyer noted that there is still a vacancy on this board.

C. Correspondence

Mr. Rutherford noted that the train horn situation in Faber is continuing, and the Congressman's Office of Safety in regards to the railroad has been contacted. He stated that he hopes to get some answers for the people in Faber.

D. Directives

Mr. Rutherford noted that he has had discussions with other board members concerning the topic of a swimming pool. He asked about the status of the RFP in regards to the general project that has been spoken about in regards to the Larkin property. Mr. Carter advised that Staff is ready to proceed with the project. Mr. Rutherford stated that he wants to make sure a public swimming pool is included in between the areas of Lovington and Tye River. Mr. Carter noted that Staff can proceed now with the recreation study, which would come up with several concepts and cost estimates for each concept. He added that the question is where to put it, and that would be the first step with this property assessment. He noted that the assessment would determine whether it is feasible for development for multiple purposes, and if so, we can look at using those footprints for a recreation center, County offices if need be, school facilities, etc. Mr. Rutherford noted that he wants to make sure we have a specific scenario in

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regards to a public swimming pool. Mr. Carter stated that the FY22 budget has about \$30,000 for this study. He added that the County has done a study previously, and it was updated around 2012. He noted that the premise is for the location to be in the 29 corridor in between Lovington and the High School/Middle School campus.

Mr. Reed asked if the previous study includes analysis of existing County properties. Mr. Barton stated that the directive is separating this particular project from the other development ideas, adding that the need for a swimming recreation area is so incumbent that the Board should move forward on this. He noted that he does not see why it needs to be attached to development as a whole and asked that Staff look for land that would be appropriate to develop as an outdoor recreational swimming area for the summer. Mr. Carter stated that this is not what the Board previously decided upon. Mr. Rutherford stated that when this work is done, he would like to create another scenario with an independent public swimming pool area. Mr. Carter noted that he foresees there being several different options being created with this project, and the Board would decide which one they prefer and how to pay for it. He added that they also have to have a place to put it on, which we don't have at present. Mr. Carter then noted that Staff has asked the engineer to also look for other properties that could work. He advised that the study done in 2012 by Moseley Architects had an indoor and outdoor facility, and options could include no indoor facility and no outdoor facility and associated costs.

Mr. Barton advised that he is suggesting that this is seen as a priority and urged that the County immediately begin looking for suitable land. Mr. Harvey stated that this is totally out of the scope of what the Board has been talking about for the last several years, adding that it should be something that lets high school kids be involved in competition swimming.

Mr. Rutherford noted that the outdoor swimming area scenario can be included and asked if Staff could get started on this project this month.

Mr. Carter noted that the County does have one or two properties that may suit the project. Mr. Reed noted that if the County currently has property that might suit, then that is a separate possibility that will not be covered in this plan, adding that could expedite this much quicker than being subjected to the finality of this plan. Mr. Rutherford noted that the RFP also takes into consideration whatever lands we have. He reiterated that the scenario of a standalone public swimming pool should be added.

Mr. Carter noted that the previous study looked at three different locations. One was the present location of the tennis courts at the high school, and that was for the building facility. The second was the area behind the baseball fields at the high school which would require significant grading and was the most expensive to site the facility on. He advised that the third site was 18 acres of private land adjacent to the middle school, adding that is the property that will be evaluated. He noted that the County does own the high school property as well as property on Callohill beside Food Lion.

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Mr. Barton noted that people in the county may be willing to sell land to the County for a swimming pool project and suggested using the press for this.

Mr. Rutherford advised that his directive is for Staff to include a standalone public swimming pool in between Lovingson and Tye River as a scenario in the project as well as include property that the County owns.

Mr. Carter noted that he envisions the project outcomes to be scenarios for a multipurpose recreation center with an indoor pool, a multipurpose recreation center with an indoor and outdoor pool, an outdoor pool only, and maybe an outdoor pool with playing fields. He noted that playing fields could be included in the first two scenarios as well. He advised that he will get the architects to submit their proposal and scope, and they will get on it as soon as possible.

VII. OTHER BUSINESS (AS PRESENTED)

Mr. Barton noted that bathroom facilities are needed at the Wayside, the Blue Ridge Tunnel, and Railway Trail. Mr. Carter noted that portable toilet facilities are at all three, and Mr. Barton stated that the county needs more than that. Mr. Harvey stated that is a capital project that needs to be put in order with other things. Mr. Carter noted that potentially, American Rescue Plan monies could be used for those facilities, adding that a concern is that somebody will have to keep up with custodial duties, which would add staff and expense. Mr. Reed noted that this can be brought up the next time the Board looks at capital projects.

The Board then took a short recess.

Introduced: Closed Session

Mr. Rutherford 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 of the assignment, appointment or performance of specific employees of the public body. Mr. Barton seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) 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 (4-0) 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

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discussed under the provisions of the Virginia Freedom of Information Act cited in that motion. Mr. Barton seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

VIII. ADJOURN AND CONTINUE – EVENING SESSION AT 7 PM

At 4:06 PM, Mr. Rutherford moved to adjourn and reconvene at 7:00 PM and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the meeting adjourned.

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

I. CALL TO ORDER

Mr. Reed called the meeting to order at 7:00 PM, with three (3) Supervisors present to establish a quorum and Mr. Parr and Mr. Rutherford being absent.

II. PUBLIC COMMENTS

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

III. PUBLIC HEARINGS

The Board considered the items in the order of C, D, A, and B.

C. Rezoning #296 – R-1 to A-1

Consideration of a Rezoning application requesting County approval to rezone the R-1 portion of the property to A-1. The subject property is located at Tax Map Parcel #3-A-149 at 804 Afton Mountain Rd. The subject property is 6.23 acres and is owned by Laura Coleman.

Ms. Bishop provided the following report:

BACKGROUND: This is a request to rezone property from Residential, R-1 to Agricultural, A-1 to satisfy density requirements to construct a second dwelling on the property.

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Public Hearings Scheduled: P/C – May 26, 2021; Board – June 8, 2021

Location / Election District: 804 Afton Mountain Road / North District Tax

Map Number(s) / Total acreage: 3-A-149 / 6.23 acres +/- total

Owner/Applicant Contact Information: Laura Coleman, 804 Afton Mountain Road, Afton, VA 22920, 434-242-8077

Comments: This property contains two zoning designations, also referred to as “split-zoning.” It is staff’s understanding that a strip of R-1 Residential zoning along each side of the road was established when the Zoning Ordinance and Map were adopted. Paper maps from 1995 show this strip of zoning as well. As shown on the *Afton Zoning* attachment, these roads include Afton Mountain Road, Avon Road, Critzer Shop Road, and Old Turnpike Road. This also includes portions of Route 151, Tanbark Drive, and Windy Acres Circle. It is staff’s belief that the purpose of this was to concentrate areas of residential development, and protect agricultural properties in the Afton area.

Allowable lot rights and density requirements are referenced in the Zoning Ordinance, and attached is the *Allowable Lots Chart* from *Article 4: A-1 Agriculture District*. New lots in both the A-1 and R-1 Districts require a minimum lot size of 2 acres (when utilizing well and septic). To assess the permitting of multiple dwellings on a single lot, both the most recent recorded allowable lots and density requirements are considered. This means that 2 acres per dwelling is required on a single lot. The intent is that should a future subdivision of the additional dwelling(s) be proposed, the Subdivision Ordinance requirements for new lots would be met. Based on GIS estimates and interpolation of the master zoning map onto the plat, approximately half of the property closest to the road is zoned R-1, with the other half zoned A-1. Because each portion contains more than 2 acres, we could permit a second dwelling in the R-1 portion of the property. To place a second dwelling in the A-1 portion of the property would require a minimum of 4 acres that are zoned A-1. The owner wishes to place the second dwelling on the A-1 portion of the property, and therefore requests this rezoning to satisfy minimum acreage requirements.

The owner requested to move forward with site work and constructing the second dwelling prior to receiving this approval. An email is attached with this report explaining that the Building Inspections Office will perform inspections on the property prior to issuance of a building permit, with the understanding that the owner is proceeding at her own risk. Should the rezoning request be denied, the property would be required to be brought into compliance.

The Board of Supervisors approved a rezoning of property of Avon Road from R-1 to A-1 to allow a farm brewery use in 2020.

DISCUSSION:

Land Use / Floodplain: This area is residential and agricultural in nature. Zoning in the vicinity is a strip of R-1 along each side of the road with A-1 zoning behind and beyond. There are no 100-year floodplains on this property.

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Access / Traffic / Parking: Property is accessed by an existing private driveway on Afton Mountain Road, and the second dwelling is proposed to be served by the same entrance. VDOT's regulations allow up to two single-family dwellings to be served by a private entrance; the existing entrance is satisfactory.

Utilities: The property is currently served by private well and septic. Existing and new well and septic shall be approved by the Health Department.

Proffers: There are no proffers submitted as part of this request.

Comprehensive Plan: This property is located in an area designated rural residential in the Comprehensive Plan, "which would allow low density residential and compatible non-residential uses in rural areas where agriculture is not the predominant use. Clustering of residents further protects rural areas... These sites are adjacent to identified development areas and adjacent to existing institutional (typically schools) or small-scale industrial uses. These areas are not expected to be served by water or sewer and therefore must be developed at a density consistent with groundwater availability and the lot sizes needed to accommodate septic systems."

RECOMMENDATION: At their meeting on May 26, the Planning Commission voted (5-0) to recommend approval of this request.

Mr. Reed then invited the applicant, Ms. Laura Coleman, to come up and speak.

Ms. Coleman noted that this all came about because her mother wants to come live on her property, and she is 83 years old and ready to move. She noted that she then ran into the zoning issue and added that the hopeful solution is to rezone the whole property to A-1.

Mr. Reed then opened the public hearing.

There were no persons wishing to be recognized, and the public hearing was closed.

Mr. Harvey then moved to approve **Rezoning #296** and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (3-0) by roll call vote to approve the motion.

D. Rezoning #297 – Designation of B-1 Zoning

Consideration of a Rezoning application requesting County approval to designate B-1 zoning on a parcel that is not zoned. The subject property is located at Tax Map Parcel #97-

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A-86B on Gladstone Rd. The subject property is 1.069 acres and is owned by Friends of Gladstone Depot.

Ms. Bishop provided the following report:

BACKGROUND: This is a request to designate property that is not zoned as B-1 Business to move a historical depot to be utilized as a community center and transportation museum.

Public Hearings Scheduled: P/C – May 26, 2021; Board – June 8, 2021

Location / Election District: Gladstone Road Road / South District

Tax Map Number(s) / Total acreage: 97-A-86B / 1.06 acres +/- total

Applicant Contact Information: JoAnne D. Absher, 1023 Gladstone Road, Gladstone, VA 24553, 434-944-0026, joanne.absher@dcr.virginia.gov (President of Friends of Gladstone Depot)

Owner Contact Information: Friends of Gladstone Depot, 1020 Gladstone Road, Gladstone, VA 24553, 434-944-0026

Comments: Due to previous railroad ownership, this lot does not currently have a zoning designation. The Friends of Gladstone Depot, a nonprofit entity, purchased the property from CSX Corporation, and intends to move the depot to this location. The nonprofit agency intends to restore the historical depot to be utilized as a community center and transportation museum. The Planning Commission discussed this subject in January 2020, and was in unanimous support of designating the property as B-1 Business to support the proposed use.

DISCUSSION:

Land Use / Floodplain: This area is residential and agricultural in nature. Zoning in the vicinity is R-1, A-1 and B-1. The property is located fully within the Special Floodplain District as defined by County Ordinance (FEMA Zone AE), and will be required to comply with applicable regulations.

Access / Traffic / Parking: The property is proposed to be accessed from Gladstone Road. The proposed entrance shall comply with VDOT standards and proposed parking shall comply with County requirements. Comments from VDOT will be provided at the meeting.

Utilities: The property is proposed to be served by public water and sewer. Comments from the Nelson County Service Authority indicate that the existing water and sewer service laterals are available for the future connections of the depot.

Proffers: There are no proffers submitted as part of this request.

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Comprehensive Plan: This area is not addressed on the current Comp Plan's Future Land Use Map other than the generalized 'Rural and Farming' designation. There are references to the Gladstone area having sidewalks to facilitate bicycle and pedestrian activities, and support for recreation activities such as river access.

RECOMMENDATION: At their meeting on May 26, the Planning Commission voted (5-0) to recommend approval of this request.

The Board had no questions for Ms. Bishop. Mr. Reed then invited the applicant, Ms. Joanne Absher, to come up and speak.

Ms. Absher noted that she is working with Massie Saunders on getting the VDOT requirements met, and other than that, things are hopefully looking up. She thanked the Board for their time.

Mr. Reed then opened the public hearing.

There were no persons wishing to be recognized, and the public hearing was closed.

Mr. Harvey then moved to approve **Rezoning #297** and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (3-0) by roll call vote to approve the motion.

A. Amendment to Code of Nelson County, Chapter 3, Animals

Proposed Amendment to County Code; Chapter 3, Article 2 Dogs and Cats to incorporate provisions pertaining to the inclusion of lifetime dog licenses and the annual license taxes related to licensing of dogs. **(O2021-04)**

Mr. Carter noted the objective of this proposed ordinance is to include a lifetime licensing ability for canines. He advised that the County Attorney has provided input on this, and the ordinance includes that provision and at present still maintains an annual license and other provisions for kennels. He added that the Board could also, in approving the ordinance, move from the current fees to the maximum fees if they so decide. He advised that Mr. Payne's opinion is that the ordinance still needs to maintain the annual licensing in addition to the lifetime fee. He noted that staff recommends having the public hearing tonight and carrying this forward to the July meeting for everyone's consideration.

The Board had no questions for Mr. Carter.

Mr. Reed then opened the public hearing.

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There were no persons wishing to be recognized, and the public hearing was closed.

Mr. Harvey moved to table **Amendment to Code of Nelson County, Chapter 3, Animals (O2021-04)** to the July meeting and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (3-0) by roll call vote to approve the motion and the following ordinance was tabled:

ORDINANCE O2021-04
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

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 [\$10.00 is the maximum]

(b) Sexed dogs [\$10.00 is the maximum]

(c) Lifetime dog license [\$50.00 is the maximum]

A lifetime license shall be valid only for as long as the dog's owner resides in this County and the dog's rabies vaccination is kept current.

[Tax for spayed dogs shall not exceed tax for male dogs.]

(d) Kennels

5-10 dogs	[\$50.00 is the maximum]
11 to 20 dogs	[additional \$50.00 is the maximum]
21 to 30 dogs	[additional \$50.00 is the maximum]
31 to 40 dogs	[additional \$50.00 is the maximum]
More than 40 dogs	[additional \$50.00 is the maximum]

(e) No license tax shall be levied on any dog that is trained and serves as (i) a guide dog for a blind person, (ii) a hearing dog for a person who is deaf or hard of hearing, or (iii) 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" shall have the same meanings as assigned in Virginia Code Section 51.5-40.1.

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

B. Amendment to Code of Nelson County, Chapter 2, Administration

Proposed Amendment to County Code; Chapter 2, Administration, Article 7 to incorporate provisions addressing operation and regulation of the County’s parks, recreation facilities, and playgrounds and the fees related thereto. **(O2021-05)**

Mr. Carter noted that this would add Article 7 to Chapter 2 of the County Code and provides specific provisions pertinent to the Department of Recreation. He stated that one of the primary considerations is the establishment of fees and other costs that the department would develop that would then be subject to approval by resolution of the Board. He added that the specific intent is to allow the flexibility of the fees to be amended by resolution instead of having to change such fees by public hearing and an ordinance. He noted that the solid waste ordinance has a similar provision that allows fees to be established by the Board by resolution. He then advised that Ms. Richardson is currently working on the fee schedule.

The Board had no questions for Mr. Carter.

Mr. Reed then opened the public hearing.

There were no persons wishing to be recognized, and the public hearing was closed.

Mr. Barton moved to approve **Amendment to Code of Nelson County, Chapter 2, Administration (O2021-05)** and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (3-0) by roll call vote to approve the motion and the following ordinance was adopted:

**ORDINANCE O2021-05
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY
CHAPTER 2, ADMINISTRATION, ARTICLE VII**

BE IT HEREBY ORDAINED, by the Nelson County Board of Supervisors that the Code of Nelson County, Virginia Chapter 2, Administration, Article VII is hereby amended as follows:

Chapter 2, Article VII.

The Department of Recreation shall have the responsibility for the operation and regulation of the County’s hiking, biking, and horseback riding trails, trails for all-terrain vehicles, off-road

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motorcycles, or both, as those terms are defined in Virginia Code § 46.2-100, and any system of boating, canoeing, kayaking, or tubing activities on waterways on land or contiguous land owned or leased by the County or land for which the County has obtained licenses or permits for such use.

Such Department shall further have the responsibility for the operation and regulation of the County's parks, recreation facilities, and playgrounds.

The Board of Supervisors shall establish by resolution fees for the use of some or all of the foregoing facilities. The County Administrator shall establish a system implementing the imposition and collection of such fees.

State Code reference: § 15.2-1806

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

IV. OTHER BUSINESS (AS PRESENTED)

There was no other business considered by the Board.

V. ADJOURNMENT

At 7:17 PM, Mr. Harvey moved to adjourn and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (3-0) by roll call vote to approve the motion and the meeting adjourned.