

May 8, 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 Lovingson Virginia.

Present: Thomas D. Harvey, North District Supervisor  
Jesse N. Rutherford, East District Supervisor  
Ernie Q. Reed, Central District Supervisor  
Thomas H. Bruguere, 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

Absent: None

**I. Call to Order**

Mr. Bruguere called the meeting to order at 2:05 pm, with all Supervisors present to establish a quorum.

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

Prior to consideration of the Consent Agenda, Ms. McCann introduced new Parks and Recreation Director, Claire Richardson. She noted that she had come from the City of Staunton Parks and Recreation Department as a Recreation Manager and had a Bachelor’s degree from Radford in Tourism and Recreation Management and a Master’s Degree from JMU in Kinesiology and Sport and Recreation Leadership.

**II. Consent Agenda**

Mr. Harvey moved to approve the consent agenda and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

- A. Resolution – **R2018-27** Minutes for Approval

**RESOLUTION R2018-27  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MEETING MINUTES  
(April 3, 2018)**

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**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on April 3, 2018 be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2018-28** FY18 Budget Amendment

**RESOLUTION R2018-28  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2017-2018 BUDGET  
NELSON COUNTY, VA  
May 8, 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)**

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$365.25	3-100-001899-0040	4-100-031020-5418
\$121.75	3-100-001899-0041	4-100-022010-5418
\$4,420.65	3-100-002404-0001	4-100-031020-5419
<u>\$1,530.23</u>	3-100-002404-0006	4-100-022010-5419
\$6,437.88		

C. Resolution – **R2018-29** Adoption of Regional Hazard Mitigation Plan

**RESOLUTION R2018-29  
NELSON COUNTY BOARD OF SUPERVISORS  
ADOPTION OF REGIONAL NATURAL HAZARD MITIGATION PLAN**

**WHEREAS**, the Disaster Mitigation Act of 2000, as amended, requires that local governments develop, adopt and update natural hazard mitigation plans in order to receive certain federal assistance; and,

**WHEREAS**, the Thomas Jefferson Planning District’s Regional Natural Hazard Mitigation Plan has been prepared in accordance with FEMA requirements at 44C.F.R. 201.6; and,

**WHEREAS**, TJPDC has worked with the County of Nelson to assess the County’s capabilities and to identify **mitigation action items to include in the plan, and,**

**WHEREAS**, the Virginia Department of Emergency Management (VDEM) and the Federal Emergency Management Agency (FEMA) have deemed the submitted plan satisfactory with no changes recommended; and,

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**WHEREAS**, hazard mitigation is essential to protect life and property by reducing the potential for future damages and economic losses resulting from natural disasters;

**NOW THEREFORE BE IT RESOLVED**, the Nelson County Board of Supervisors does hereby adopt the Regional Natural Hazard Mitigation Plan.

### **III. Public Comments and Presentations**

#### A. Public Comments

##### 1. Sarah Holman, Nellysford

Ms. Holman noted that her youngest daughter Marlena had completed the dual enrollment program at NCHS and would graduate from PVCC. She thanked the Board for their support of the program professionally and financially. She added that the program was a great opportunity for students and she wanted to thank them publicly.

Ms. Holman then spoke about the Chamber of Commerce looking for a different space and that she understood they were looking at the Bradshaw building. She agreed that they needed to be in Lovingston with easy access from Route 29 and needed better visibility. She noted that her family had property in Lovingston that was available. She then reiterated that it needed to be moved from the basement of the Bank and that Nelson County was the place to be and the County needed to showcase that in every aspect of the county.

##### 2. Joanne Abshire Friends of Gladstone Depot

Ms. Abshire noted that they were in negotiations with CSX to restore the Depot. She noted that an email from them required them to pay \$20,000 for the Depot building and \$20,000 for the land. She advised that they had met with CSX on March 26<sup>th</sup> and had turned their proposal down. She added that Friends of Gladstone Depot felt misled by them. She noted that they had contacted newspapers etc. and have been receiving donations with a total of \$29,800 now. She advised that they were still in negotiations and DHR and DCR staff were working closely with them and providing them assistance. Ms. Abshire then noted they were asking the Board to back them by donating \$15,000 to secure the Depot and the property. She noted that they had reached out to other agencies and noted they would assist them. She added that they had several potential big donors who had questioned why the County was not backing them and she noted that they really needed the County to back them.

Ms. Abshire then noted that \$15,000 was not a lot of money for a senior and youth center and future tourism spot for the county and the only way for them to move forward was to have the funding. Ms. Abshire noted that they would request another face to face meeting with CSX and if an agreement could not be met, they would return the funds from the County. She noted that the Governor was aware of the situation and the Depot would be a good asset for the county. Ms. Abshire noted that they would appreciate if the County would provide them with a letter stating that if negotiations were successful,

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Nelson County would give them \$15,000 so they could buy the building and property. She added that would them \$5,000 left to operate on. Ms. Abshire noted that the process was confusing and their deadline was May 14<sup>th</sup>. She added that may be negotiated also and she would try to do that tonight.

Mr. Harvey noted that he had no problem with the monetary donation, however he thought it was a shame that it could not go towards the process of restoring the Depot rather towards its purchase. He added that those funds would have put them way ahead of the process if they did not have to pay for the building when initially, CSX was going to give it to them.

Ms. Abshire noted that the issue was that CSX had to remove asbestos that was in the caulking around the windows. She added that they could not sell the building with it and they would have to remove it and they have said that the money was for that. She noted that their last proposal was ridiculous and that DCR and DHR representatives were working hard on negotiations and she thought they would be more reasonable.

Mr. Saunders added that the CSX proposal was setting them up to fail. Ms. Abshire agreed and stated that they needed another face to face meeting. Mr. Saunders noted he thought they could give them the \$15,000 and if negotiations failed, the County would get the money back. Mr. Harvey advised that the money should be made available to them.

Ms. Abshire advised that they had suggested that \$35,000 be put in escrow for CSX to use to do the abatement; however that was not in their most recent proposal. Mr. Harvey supposed it would cost more than \$40,000 to tear the building down.

Mr. Saunders advised that CSX had not been straight up from the beginning as they were going to give it to them and now they were not. Ms. Abshire advised that Randy Markus was trying to work with them.

Mr. Bruguere asked if they needed to know about a County donation that day and Ms. Abshire noted they had a conference call later that day. Mr. Saunders added that it would be good to agree or disagree and then they could gauge if they needed to give it to them or make it available to them.

Mr. Saunders then moved to make \$15,000 available to the Friends of Gladstone Depot and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote with Mr. Harvey having briefly exited the meeting and being absent for the vote.

### 3. Michael Tang, Afton

Mr. Tang advised he was speaking to the alcohol issue on Route 151. Mr. Bruguere then advised Mr. Tang that the issue would not be taken up by the Board now and there would be two more public hearing opportunities on it. Mr. Carter then added that the applicant had withdrawn his current application and would be resubmitting it.

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B. VDOT Report

Mr. Carter advised that Mr. Austin would be present at the evening session for the public hearing on the Secondary Six Year Plan and construction priorities.

**IV. New Business/ Unfinished Business**

A. Special Use Permit #2018-01 – Retail Store/Restaurant (Afton Depot -T. Rath) **APPLICATION WITHDRAWN BY APPLICANT**

Mr. Bruguere noted that the SUP application was withdrawn and the applicant would potentially go back through the process. Mr. Carter advised it would depend upon the completeness of the application and the earliest it would come to the Board would be July. Mr. Bruguere then advised the applicant to get State Agency documents in hand to show they had approved the proposed project.

B. Potential Transfer of Fiber Optic Broadband Network to CVEC

Mr. Carter provided the following memo to the Board:

3 May, 2018

To: Nelson County Board of Supervisors and Nelson County Broadband Authority  
From: S. Carter, County Administrator  
Re: Transfer of Fiber Optic Based Middle Mile Broadband Network to CVEC

County staff have continued to confer with staff of the federal National Telecommunications and Information Administration (NTIA) on the subject of transferring the Nelson County owned and Nelson County Broadband Authority administered fiber optic based middle mile broadband network to Central Virginia Electric Cooperative (CVEC), which is planning to implement in the fall of 2018 a five year project to construct and operate a fiber optic based broadband network throughout CVEC's service area. CVEC's \$110 million project has an objective of providing the availability of affordable, high speed internet services to the 36,000 customer accounts (business and residential) currently comprising the Cooperative's service area. CVEC's project will be owned by the Cooperative but operated through a subsidiary business (as CVEC is presently prohibited from directly providing internet services).

CVEC currently has 8,900 accounts in Nelson County that could realize broadband service through the completion of the Cooperative's project. CVEC may also provide extension of its internet service to an estimated 1,000 +/- additional American Electric Power electric utility customers, thereby increasing the number of potential subscriber to high speed internet services in Nelson County to 9,900 businesses and residences. CVEC's currently proposed service levels and subscription rates are: 100 mbps service at \$49.99 per month and 1 gigabit service per second at \$79.99 per month. The cost of service installation is \$100 or waived if a subscriber accepts service from CVEC when it is initially available. CVEC will also, as an outcome of its broadband project, establish and provide a VOIP Telephone Service with unlimited local and long distance service for \$29.99 per month.

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The Nelson County/NCBA middle mile network, which began operation in 2012, currently has just under 600 subscribers over a 74 mile, underground, fiber network. The network is capable of service levels comparable to those CVEC will provide but most subscribers, (service on the County network is provided through private Internet Service Providers (businesses) are at service levels less than those CVEC will provide and at monthly service costs greater than CVEC will offer. Another constraint for the local network in comparison to CVEC's is the cost of service installation. While CVEC's is \$100 or no cost, the County/NCBA installation cost, which is variable dependent on distance from the middle mile backbone and which is provided through a contract installation firm, can range from \$800+/- to \$1,500+/- or, even greater. An advantage the local network has is its compatibility with the CVEC network, as the current location(s) of the County/NCBA network is almost entirely within the routing the CVEC network will deploy.

Setting aside the above and very brief overviews and comparisons of the CVEC project/network and the County/NCBA network, the primary consideration(s) of a transfer of the local network to CVEC include(s):

1. The CVEC project will provide access to affordable and reliable high speed internet service and affordable phone service to 8,900—9,900 businesses and households in Nelson County within five years. Nelson County currently has 11,500 addresses for structures. Assuming the structure addresses is a good comparison to the 9,900 potential CVEC internet subscribers, eighty-six percent (86%) of business and residents in Nelson County will have access to affordable, high speed internet service. It is almost a certainty that the local network will not be able to achieve this level of service(s) within the ensuing five years or, very probably within the ensuing 10+ years.
2. The CVEC project will enable the Board of Supervisors 2006 goal/objective of providing universal access to internet service in Nelson County to be achieved.
3. NTIA staff have confirmed, subject to a period of due diligence, that federal regulation(s) do provide for the “transfer of the local network to CVEC. The County and CVEC will have to agree to maintain the responsibilities the County agreed to in receiving federal funding for the construction of its middle mile network (e.g. open access, non-discrimination, etc.) in order for the network transfer to be approved. There was concurrence among the participants in the 4-20 conference call with NTIA, which included CVEC and County staff, that maintaining the NTIA requirements would not/should not be a deterrent for the network's transfer or for the success of CVEC's project.
4. Transferring the local network to CVEC will enable the largest CVEC service area in Nelson County to be among the first build areas within the Cooperative's five-year project. The first County build area could be completed by summer-fall 2019 providing for access to service to 4,500 current CVEC subscribers. The balance of the CVEC's 4,400 other subscribers would have access over the ensuing five-year construction period with determination of when service availability would be accessible to be decided by CVEC based upon potential subscriber levels.

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5. Transferring the local network to CVEC will either achieve or substantially achieve the Cooperative's request for \$5.0 million in incentives requested from each of the local governments within CVEC's service area (cash, in-kind or tax abatement).
6. The CVEC project, as noted herein, will provide access to very affordable and reliable high speed internet service to the majority of Nelson County's businesses and residents. The federal FCC standard or objective for internet service is presently 25/5 mbps. The service levels CVEC will offer far exceed this service level.
7. No other entity broadband/internet service provider has entered or plans to enter the Nelson County market to provide internet service at the level CVEC has proposed.
8. CVEC is just a few weeks away from securing \$66 million in funding of the total \$110 million project cost to provide for its first three years of network construction.
9. Should the transfer of the local network to CVEC not be accomplished, the CVEC network will, essentially, be constructed in parallel to the local network and become a formidable competitor to the local network, even if competing with the local network is not a CVEC goal, objective or strategy.
10. Perhaps most importantly, the transfer of the local network to CVEC is considered to be in the best interests of Nelson County; its businesses, residents, tax payers, etc.

Next Steps:

- 1) It is recommended that the Nelson County Broadband Authority take formal action at its meeting on May 8th to endorse the transfer of the local middle mile network to CVEC.
- 2) It is recommended that the Nelson County Broadband Authority take formal action at its meeting on May 8th to establish a moratorium on providing network installation discounts and the ability to amortize the cost of service installation to the network. The moratorium would remain in place until final approval from NTIA is obtained for the transfer of the local network to CVEC and upon final approval of all related agreement necessary to provide for the local network's transfer to CVEC.
- 3) It is recommended that the Nelson County Board of Supervisors take formal action at its meeting on May 8th to authorize County staff to proceed with the actions necessary to provide for approval from NTIA and from the Virginia Department of Housing and Community Development (the local network was also the recipient of federal CDBG grant funding and has obligations related to this funding that must also be addressed) to transfer the local middle mile network to CVEC and to facilitate agreement with CVEC for the transfer of the local network from Nelson County to Central VA Electric Cooperative.

Mr. Carter noted that the Broadband Authority had heard a similar report earlier that day and he referenced the memo history and noted the ten bullet points that describe the reasons that staff

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recommended favorable consideration for staff to be authorized to proceed with transfer of the network to CVEC.

Mr. Carter referenced a conference call with NTIA, CVEC staff, and County staff, where NTIA indicated a transfer could be done and the first step was a letter requesting the transfer. He added that the County was the owner of the network and was the grant obligee, and therefore anything formal would be incumbent upon the Board of Supervisors.

Mr. Carter noted that CVEC had the potential to serve 10,000 customers including 1,000 AEP customers, which equated to approximately 87% of the county. He added that CVEC and the County would have continued obligations for open access and non-discrimination etc.

Mr. Carter reiterated his recommendation of sending the letter to NTIA. He then noted that the NCBA had continued its meeting to Thursday at 6:30 and had asked for staff to provide a resolution for NCBA endorsement of the initiative and staff could draft a similar resolution for the Board.

Mr. Bruguere asked if procedurally, the NCBA had to endorse the proposal first and Mr. Carter noted it made no difference. He reiterated that the County owned the network, there had been no serious discussions with NTIA, and the letter was just the first step. He added that the County was the federal funding obligee and had to maintain the grant obligations for the lifespan of the fiber and equipment and that would be ongoing. He reiterated that approval to proceed was what was immediately necessary.

Supervisors then agreed by consensus to consider a resolution on Thursday, May 10th.

## **V. Reports, Appointments, Directives, and Correspondence**

### **A. Reports**

#### **1. County Administrator's Report**

**A. Courthouse Project Phase II:** The project has three (3) outstanding completion items (see attached Jamerson-Lewis report). Completion of a project commemorative plaque is in process. Input from the Board of Supervisors is requested on an unveiling of the plaque, inclusive of the participation of the Nelson County Historical Society.

Mr. Carter noted that the most significant thing was the air tightness test in one of the data rooms. He added that it was unclear if it could be accomplished and they were still working on that. He added that Jamerson Lewis was cooperative and was following up. He added that the County was still retaining \$100,000 and would not release it until the Contractor was finished.

Mr. Carter then noted the potential presentation by the Historical Society and he suggested they have an unveiling of both plaques at the regular session in June or July and they could do an open house if the Board wanted to.

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**B. BR Tunnel Project:** The project's Phase 2 (Tunnel Rehabilitation) was advertised for receipt of bids on May 1 (see attached schedule). A decision on TAP funding for Phase 3 (Western Trail & Parking Lot) is pending with CTB/VDOT awards likely to be made public in May-June, 2018.

**C. Broadband:** County staff have continued to work with federal NTIA and CVEC staff on possible transfer of the local middle mile network to CVEC (see agenda for memo & recommendations on this subject).

**D. FY18-19 Budget:** The Board's public hearing on the FY 18-19 Budget is scheduled for May 10th at 7p.m. Continuation of the May 8th regular session to May 10th is required. Adoption of the FY 18-19 Budget is proposed to be scheduled for the June 12th Board meeting.

**E. Piney River 3 Water System (Disinfectant by Product, DBP, Issue):** A decision on the funding application to VDH is pending. County staff (Administration) is conferring with VDH staff on implementing corrective actions.

**F. 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.

**G. Personnel:** The following positions have been successfully recruited: Director of Parks and Recreation (Claire Richardson), Solid Waste & Recycling Coordinator (Fran Gable), Animal Control Officer (Jessica Howell), Roll Off Vehicle Operator (Dana Dolder) and Substitute Convenience Center Attendant (Paul Phillips). Open positions include: Parks & Recreation Technician and Communications Dispatcher.

Mr. Carter advised that Ms. Howell was County Dispatch staff and she had almost fully completed the Police Academy. He then noted that Mr. Johnston had gotten another job offer from Grief Brothers that he could not turn down and had resigned his Recreation position.

## 2. Board Reports

### Mr. Harvey:

Mr. Harvey reported that there was a Vietnam War museum in Ruckersville and the owner had cancer and was interested in another locality taking it over. He noted that Mr. Saunders, Bo Delk, and another Afton resident were interested. He added that he would like to get a group to visit the place and see if a location or building could be found. He added that the owner had a lot of stuff to be displayed inside and outside. Mr. Harvey noted he had spoken to Maureen and noted she would do some checking as it could be a tourism destination.

Mr. Harvey then described the museum's current location and Mr. Saunders noted it was a first class museum and the owner would not turn it over to just anyone. Mr. Harvey stated it would be good if they could get the museum on Route 29 somewhere where they could have exposure to the road. He noted

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that one could go online and look up the Ruckersville museum and he noted it had helicopters and tanks etc.

Mr. Harvey then asked if the Board had interest in it. Mr. Rutherford asked if it would be a County sponsored thing or turned over to an association. Mr. Saunders noted that was to be determined and Mr. Harvey advised that they did not charge admission currently. He added that they had a lot of school kids coming in and they wanted to preserve history.

Supervisors agreed by Consensus to express interest and Mr. Harvey stated that the museum owner was willing to turn it over to someone who was set up correctly etc.

Mr. Reed:

Mr. Reed reported attending the TJPDC meeting. He then asked if they could revisit the item on the Consent Agenda pertaining to the Regional Hazard Mitigation Plan.

Mr. Reed then noted that the plan was necessary to be approved for grants etc. however, one of the characteristics that Nelson had was the potential for the Atlantic Coast Pipeline. He added that the plan's purpose was to identify natural hazards and because of the ACP, Nelson would have some hazards that other counties would not. He added that the plan was redone every five years and could be extremely valuable in addressing areas where natural hazards could cause failure or other problems and a capability assessment to provide for those. Mr. Reed noted he was not aware of what would be needed to deal with such a problem if it occurred and he suggested they might include a plan for preparedness and finally mitigation. He noted that the approved mitigation plan was okay for what it was, however it contained boilerplate language that may not really apply.

Mr. Reed then asked if they could send it back to TJPDC so they could consult with FEMA and other counties that have dealt with gas pipelines. He added that FEMA had jurisdiction and knowledge and they could get a much more useful hazard mitigation plan that would serve the county better. He then asked to further consult with TJPDC to add additional information associated with the ACP.

Mr. Carter noted that he could confirm his understanding with ACP sponsors that Dominion would have to have its own plan for disaster mitigation and that would entail assistance from local EMS agencies. He added that in his past experience in the nuclear industry, they had to have an emergency plan that encompassed the region around the facility and Dominion should have a similar plan.

Ms. Billie Campbell from TJPDC advised that the plan dealt with natural hazards and Mr. Reed was blending that discussion with manmade hazards. She added that the plan was not the best place for what was being discussed and it would be more appropriate in an Emergency Operations Plan. She further noted that the plan being discussed, prescribed actions to take prior to a natural hazard in order to minimize its impact and only dealt with natural hazards.

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Mr. Russell Gibson explained that the plan dealt with issues like when the ACP was completed and a portion of it was in a floodplain, was there a plan in place to fortify banks of the nearby waterbody. He added that plans for EMS etc. based on the failure from the ACP, were added to the EOP and that plan was updated every four years and was expandable. He noted he would be working with ACP to create those plans.

Mr. Carter advised it was possible they would use the ACP plan as a subset or incorporate it into the County's EOP. He noted he did not think that the Hazard Mitigation Plan was pertinent to that. He then advised Mr. Reed and Mr. Rutherford that the EOP could be circulated to them if needed.

Ms. Campbell noted she would look to see if there were any appropriate things to add. She noted that localities could prescribe the actions but that did not preclude any future amendments.

Mr. Reed then reported that he met with the Sturt Park Committee, including Martha Waring, Paul Truslow, Susan McSwain, Doug Coleman, and Emily Harper. He advised that Doug Coleman and the Nature Conservancy received a \$5,000 grant from the Sturt family to finance a soft opening of the park in the fall. He added that they would update the kiosk, contract with a forestry consultant to thin the pines, and create a loop trail in the center of the park for pedestrian access. Mr. Reed reported that they would also cut a logging road on the southern end to access pine stands there. He noted that there would be a plaque and stone set at the entrance and the wetland ponds and seeps protections were at the forefront of their concern.

Mr. Saunders: No report

Mr. Rutherford: No report

Mr. Bruguere:

Mr. Bruguere reported that there were no Planning Commission public hearings that month.

#### B. Appointments

Ms. McGarry reviewed the following table and noted that there were no appointments to be made that day and that all of the Boards presented had seats expiring on June 30, 2018. She noted that both Nat Hall and Alphonso Taylor of the EDA had indicated they would like to be reappointed. She then advised that she had not yet advised the incumbents that their terms were expiring nor had placed advertisements in the Nelson County Times and on the website; however that would be done in the next week. The Board took this under advisement and no action was taken.

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<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term &amp; Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointment</u>
<b>Nelson County Economic Development Authority (EDA)</b>	<b>6/30/2018</b>	4 Years/ None	Natt A. Hall, Jr.	Y- Email
	<b>6/30/2018</b>	4 Years/ None	J. Alphonso Taylor	Y- Email
<b>Board of Building Appeals</b>	6/30/2018	4 Years/None	Robert L. Yoder	
	6/30/2018	4 Years/None	Robin Meyer	
<b>N.C. Library Advisory Committee</b>	6/30/2018	4 Years/None	Ellen Bouton- North District	
<i>Appointed by District</i>	6/30/2018	4 Years/None	Gloria Ashley - East District	
<b>Planning Commission</b>	6/30/2018	4 Years/None	Phillipa Proulx - North	
<i>Appointed by District</i>	6/30/2018	4 Years/None	Mark Stapleton - Central	
	6/30/2018	4 Years/None	Robert C. Goad, III - East	
<b>Region Ten Community Services Board</b>	6/30/2018	3 Years/ 3 Term Limit	Peggy Whitehead (UT)	
<b>NC Service Authority</b>	6/30/2018	4 Years/None	Robert McSwain - East	
<i>Appointed by District</i>	6/30/2018	4 Years/None	Russell Otis - Central	
	6/30/2018	4 Years/None	Tommy Harvey - North	
<b>NC Social Services Board</b>	<b>6/30/2018</b>	<b>4 Years/ 2 term limit</b>	<b>Joan Giles-West (served 2T)</b>	
<i>Will need a new West District representative</i>	6/30/2018	4 Years/ 2 term limit	Brad Johnson- East District (T1)	

C. Correspondence

Mr. Carter noted that a letter from Wintergreen Performing Arts and Rhonda Holland of Oak Ridge Estate was received regarding their concern about the Admissions Tax and he would distribute those that night.

D. Directives

There were no Directives from the Board.

**VI. Other Business (As May Be Presented)**

*Introduced: Library Expansion*

Mr. Saunders reported that he met with the Library staff who have come up with preliminary drawings for an addition on the west end of the library building. He added that they were working on a better set of plans, had preliminary figures, and they wanted to know what the next step was.

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Mr. Bruguere asked how large of an addition they wanted and Mr. Saunders noted it was about 4,425 square feet of addition and 7,500 square feet of renovated space. He noted that costs for new square footage were \$250 per square foot and \$175 per square foot for renovation. He added that they had a cost of about \$1.2 Million in construction only and were not too concerned about furnishings as they were getting donated furnishings from Charlottesville.

Mr. Carter advised that staff had not seen this information yet and that the Board could not just agree to use their architect as those services would have to be procured. He added that they could not just use a firm that the library has used to date. He noted next steps included developing plans and cost estimates and then the Board would have to decide to go forward.

Mr. Saunders then suggested meeting with the Library staff and Mr. Carter advised they should and Mr. Rutherford stated he would like to do that. Mr. Harvey advised that the library building belonged to the County and they would have to go through the County. It was stated that a Board committee was needed in order to hash out next steps.

Mr. Carter noted that a \$2 Million dollar price tag was of primary consideration going forward as he noted it would be the County's responsibility, although the furnishings would be provided. He then agreed that the Library was well utilized and expanding it would be a good initiative. Mr. Saunders concurred noting they had good ideas and a business center would be located there.

Mr. Bruguere noted they had been discussing this for a long time and while it was not a good time financially, he was not sure when it ever would be. Mr. Saunders noted he would like to move this to the next step and Mr. Carter suggested that two Board members and staff schedule a meeting with the library staff. Supervisors then agreed by consensus to appoint Mr. Rutherford and Mr. Saunders as the Board's library committee.

*Introduced: Meals and Lodging Tax Collection, Penalty, and Interest*

Mr. Saunders then questioned the penalty and interest provisions related to the meals and lodging taxes. He noted that the Commissioner had related there was a 10% penalty on the meals tax. He added that she also told him that the lodging tax was 5% and if it was paid ahead of time, it was only 3%. He added that if it was late, it was 10%. Mr. Carter advised he was not aware of that and he would look at the Code. He related that according to the County Code, the lodging tax was 5%; however, there was a discount provision that stated: "For the purpose of compensating persons required to collect such taxes for the collection of the tax imposed by this article, every person required to collect such taxes shall be allowed three (3) percent of the total amount of the tax due and accounted for in the form of a deduction on his or her monthly return, provided, the amount due is not delinquent at the time of payment." He added that those sections were enacted in 1995 and Mr. Harvey noted it was the same time as the sales tax implementation. Mr. Carter then likened it to an administrative fee, noting that the County would not get 3% of the 5% owed with Ms. McCann adding for example \$150 of \$5,000 owed could be retained by the payee.

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Mr. Bruguiera asked if it was the same for the meals tax and Mr. Carter noted it was not. Mr. Harvey noted that the key was that if the tax was paid on time, the payee could get the discount. Mr. Saunders noted that not many did and some were not up to date.

*Introduced: Legal Representation for County Employees*

Mr. Saunders then noted that Ms. Shackelford had related to him that she was going to court representing the County and she was concerned about not having an attorney. Mr. Carter noted that State law did not provide for the Commonwealth Attorney to prosecute misdemeanors. He noted that historically, they would if the other party had an attorney. Mr. Carter then advised that the Zoning Ordinance provided for civil prosecution and the County could go to Circuit Court to pursue an injunction. He reported that he was going to have Ms. Shackelford report the case and see what the outcome was and if unfavorable, they could appeal.

Mr. Carter advised that this was related to a recurring issue with a father and adult son that have periodically squatted on private property and the neighbors were calling and wanting something done about it. He added that this would be the third or fourth time they have been removed from a property.

It was noted that Mr. Daniel Rutherford, Commonwealth Attorney was not obligated to prosecute misdemeanors and Phil Payne, County Attorney would do that on civil matters. Mr. Carter advised that the County did not have many of those and Ms. Shackelford had the ability to relate the story to the Judge.

Mr. Rutherford asked if there was any reason why Mr. Payne was refusing to represent the County with Ms. Shackelford and Mr. Carter advised that it was because he was in private practice and did not want to be a prosecutor one day and a defender the next day; he had concerns about it.

Mr. Rutherford suggested he speak to Mr. Payne. Mr. Carter advised that in traffic offenses, historically if an individual that was charged was represented by an Attorney, the Commonwealth Attorney would be there; otherwise it was handled without lawyers. Mr. Rutherford noted it was important for the Board to have an expectation of what the County Attorney would and would not do and Mr. Carter advised they should have the same conversation with the Commonwealth Attorney. Mr. Rutherford noted that one was an employee of the County and the other was not and Mr. Carter noted that the Commonwealth Attorney represented the people.

*Introduced: New School Superintendent*

Mr. Saunders then suggested that the new School Superintendent come to a Board meeting to introduce herself and Mr. Rutherford noted having met her at the School Board meeting announcing her. Mr. Bruguiera then asked if there had been any other feedback from the Schools and Mr. Carter advised they would hear about it on the tenth.

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

At 3:20 PM, Mr. Rutherford moved to adjourn and continue the meeting until 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. Bruguiera called the meeting to order at 7:00 PM, with all Supervisors present to establish a quorum.

**II. Public Comments**

Mr. Bruguiera opened the floor for public comments and there were no persons wishing to be recognized.

**III. Public Hearings**

**A. FY19-FY24 SSYP and 2019 Rural Rustic Priority List**

The Board and VDOT will receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2019 through 2024 and on the proposed Secondary Road System Improvement Priority List for Fiscal Year 2019.

Mr. Don Austin noted the Unpaved Road funds on the Tentative Allocations Sheet and he noted the Telefees collected to be used for other things besides unpaved roads as follows:

<b>TENTATIVE ALLOCATIONS SSYP FY19-FY24</b>										
<b>SYIP</b>	<b>FUND</b>	<b>CODE</b>	<b>FIPS</b>	<b>County</b>	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
FY19	Tele Fees	CNS606	125	Nelson County	\$49,928	\$49,928	\$49,928	\$49,928	\$49,928	\$49,928
FY19	Unpaved	GS7110	125	Nelson County	\$0	\$0	\$577,543	\$375,326	\$502,478	\$502,478
FY19	CTB Formula - Unpaved : Nelson (CS0150)	CS0150	125	Nelson County	\$427,989	\$411,332	\$0	\$0	\$0	\$0
<b>TOTAL ALLOCATION</b>					<b>\$477,917</b>	<b>\$461,260</b>	<b>\$627,471</b>	<b>\$425,254</b>	<b>\$552,406</b>	<b>\$552,406</b>

Mr. Austin noted that VDOT was still tracking the turn lane projects until they were closed out and he noted that the funded roads to be done in the current year to be Falling Rock and Campbell’s Mountain Road. Mr. Austin noted that Carter Hill Rd was shown in FY2021 and needed a new road count. He

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noted that items left on the plan were general items that they used Telefees for such as sidewalk repair etc.

Mr. Austin then noted there were a total of 18 Roads on the priority list and the plan was based on the list that was updated each year and was subject to change. He added that roads 1-4 were funded and would be built but the Board could add roads to the priority list along the way.

Secondary Road Improvement Priorities for Fiscal Year 2019 are proposed as follows:

<u>Priority</u>	<u>Route # and Name</u>	<u>Distance</u>	<u>Mileage</u>
1	654 Falling Rock Dr.	1.0 Mi. E Rte. 657 to Rte. 661	1.90 Mi.
2	814 Campbell's Mtn. Rd.	0.99 Mi. N. Rte. 56 to 1.99 Mi. N. Rte. 56	1.00 Mi.
3	617 Buck Creek Rd.	0.23 Mi. N Rte. 29 to Dead End	1.40 Mi.
4	625 Perry LN.	Rte. 623 to Dead End	2.00 Mi.
5	645 Aerial Dr.	Rte. 646 E to Rte. 646 W	0.20 Mi.
6	721 Greenfield Dr.	Rte. 626 to 0.50 Mi. N Rte. 626	0.50 Mi.
7	666 Jack's Hill Rd.	2.57 Mi. W Rte. 678 to 1.82 Mi. W Rte. 678	0.75 Mi.
8	628 Rhue Hollow Rd.	Rte. 764 to Dead End	0.22 Mi.
9	794 Rhue Hollow LN.	Rte. 628 to Dead End	0.20 Mi.
10	678 Embly's Gap Rd.	2.06 Mi. N Rte. 676 to Rte. 666	1.64 Mi.
11	699 Carter Hill Rd.	Rte. 807 to Rte. 680	1.29 Mi.
12	612 Bottom's LN.	Rte. 788 to Dead End	0.95 Mi.
13	623 Shield's Gap Rd.	Rte. 151 to Dead End	0.55 Mi.
14	650 High Peak LN.	0.50 Mi. N. Rte. 772 to Dead End	1.10 Mi.
15	654 Cedar Creek	2.0 Mi. W. Rte. 655 to 3.0 Mi. W. Rte. 655	1.00 Mi.
16	653 Wilson Rd.	Rte. 655 to Rte.710	2.83 Mi.
17	814 Campbell's Mtn. Rd.	1.99 Mi. N. Rte. 56 to 2.99 Mi. W. Rte. 56	1.00 Mi.
18	687 North Fork Rd.	Rte. 56 to 1.0 Mi. W. Rte. 56	1.00 Mi.

Mr. Austin advised that Perry Lane had a little funding and they would use supplemental funding on that. He added that other project balances had been transferred to do the first few.

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

1. Frank Lahner, Montebello

Mr. Lahner noted he lived on Route 685, which turned into a sheet of ice in winter and got muddy this time of year. He noted there was a lot of traffic on that road now and he would like to put it on the Rural Rustic Priority List.

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Mr. Bruguere noted they would add it but it would be down the list. He noted there were also two Christmas tree farms on that route. He added that it started at Bradley Lane and went to Spy Run Gap.

2. Dennis Kincaid, Embly's Gap Road Roseland

Mr. Kincaid noted he would like to see Embly's Gap Road moved up the priority list. He noted he has lived there for nine years now and it was dusty when they graded and put gravel down.

Mr. Austin suggested that the Board could either revise the plan now or do it next year since the funds were just projections and Mr. Rutherford clarified that the plan could be approved that day and edited in the future.

This was briefly discussed with Mr. Austin noting that some routes with lower traffic counts had been given higher priority than those with higher ones; however the only ones receiving funds were Buck Creek Lane and Perry Lane which were scheduled for funding in the current fiscal year. He noted that beyond that, the funds were just projected. Supervisors then agreed by consensus that changes would be made in the future.

Mr. Reed then moved to approve resolution **R2018-30** Approval of FY19-FY24 Secondary Six-Year Road Plan and FY18/19 Construction Priority List 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 resolution was adopted:

**RESOLUTION R2018-30**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF FY19-FY24 SECONDARY SIX-YEAR ROAD PLAN**  
**AND FY18/19 CONSTRUCTION PRIORITY LIST**

**WHEREAS**, Sections 33.2-331 and 33.2-332 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan, and

**WHEREAS**, this Board had previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2018/19 through 2023/24) as well as the Construction Priority List (2018/19) on May 8, 2018 after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List, and

**WHEREAS**, Don Austin, Virginia Department of Transportation, appeared before the Board and recommended approval of the Six-Year Plan for Secondary Roads (2018/19 through 2023/24) and the Construction Priority List (2018/19) for Nelson County,

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**NOW THEREFORE BE IT RESOLVED**, that since said Plan appears to be in the best interests of the Secondary Road System in Nelson County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2018/19 through 2023/24) and Construction Priority List (2018/19) are hereby approved, as amended if applicable.

**B. Amendments to Code of Nelson County, Chapter 11, Taxation – Admissions Tax**

Proposed Amendments to County Code; Ch. 11, Taxation to include a 5% admissions tax for spectator events in Nelson County at which admission greater than \$1 is charged; includes exemptions.

**(O2018-02)**

Mr. Bruguire noted that the proposed amendment would enact a 5% admissions tax for spectator events in Nelson County at which admission greater than \$1 is charged; including exemptions. He then opened the public hearing and the following persons were recognized:

1. Dave Frey, LOCKN Promoter

Mr. Frey spoke against the proposed ordinance and he noted that events created commerce and that was well proven. He added that the Charlottesville Pavilion brought tens of thousands of people downtown to eat and shop and Albemarle County had no admissions tax. He noted that conversely, Elmwood Park in Roanoke had a 5% tax and they were not doing so great. He added that Roanoke used the entertainment tax to invest back into the entertainment industry and Elmwood Park was built with that tax money. He noted it was the same in Nashville, there was a 10% tax there and fewer artists were playing there now. He noted that if implemented, the tax should be kept in the same silo and attached to a related service or building related to entertainment.

Mr. Frey advised that Artists demanded a share of the gross and they would compare venues based on how much they could make and decide where to play. He added it was not a good idea to implement the tax. He noted that LOCKN launched in 2014 and he referenced a fact sheet that showed the beneficial financial effects of their event on the community; with no burden on the County for services. He noted that their traffic plan cost almost \$800,000 for 5 years and that water had been an issue and they have had to truck water in from elsewhere. He added that they had spent \$800,000 on water because they had to put in their own system. He noted there was also no septic and waste had to be hauled away and they had built the largest septic tank in Nelson County that could store 200,000 gallons of waste. He further noted that there were many other things paid for to Nelson County vendors as well as the charity funds that they had raised. Mr. Frey noted that people came to the County, spent money, and left. He noted they would like to do a second LOCKN and at all levels, having a tax like this diminished peoples' appetites to do events. He asked the Board to imagine trying to collect this tax at places like Rapunzel's in Lovingson. He concluded by noting that LOCKN was still in the red, they were done investing, and needed to make a profit in 2018.

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2. Dennis Kincaid, Roseland

Mr. Kincaid spoke in favor of the proposed ordinance. He noted he understood where Dave Frey was coming from; they were investing a lot of money and making a lot of money here. He then stated he would pay a 5% tax and he thought the people coming in here were going to pay it; noting that if they wanted to see it and a good show was put on, people would pay it. He then added that he thought the tax should be 10%; it would not come out of the Promoter's pockets and a 5% tax on a concert that people wanted to see was minimal.

3. Beth Colmery, Treasurer of Wintergreen Performing Arts (WPA)

Ms. Colmery spoke against the proposed ordinance and noted that 1/3 of their revenues came from ticket sales and the majority of funding came from private donations and some grants. She noted that WPA operated a four week summer music academy where students could study with classical musicians and they received scholarships. She added that WPA administered grants such as the one received from the Board of Supervisors that brought arts programs into the schools so they could experience it. She advised that the proposed tax would impose record keeping and administrative duties on WPA and would pose an undue hardship to the group. She added that they were short on funds as it was and much of the work was done by volunteers. She then noted she had done some calculations and with their projected sales being \$132,000, 5% would be between \$7,000- \$8,000 which was a drop in the bucket; however the undue burden on their organization was significant. Ms. Colmery then respectfully requested that if the tax was enacted, that WPA be defined or included in an exemption. She added that WPA was defined by the IRS and the State of Virginia as a charity.

4. Lindsay Dorrier, III Nelson 151 Group and Bold Rock Cidery

Mr. Dorrier spoke against the proposed ordinance and noted that their businesses were built on programming, many were ticketed events, and they wanted to continue to do those. He then noted that the proposed ordinance was overly broad and hastily produced and the County should do this in concert with the businesses it affected and related stakeholders. Mr. Dorrier continued noting that it would have a chilling effect and would de-incentivize business from having events. He then noted it could provide some additional revenue to the County; however he questioned if all other options had been exhausted or was this just low hanging fruit. He added that in doing this, the County was going after the most vibrant business community in the County and he thought it deserved additional consideration because the ordinance was so overly broad. Mr. Dorrier then stated that it also affected small community events and he ask the Board to consider input from stakeholders. He noted that people would choose to go to Charlottesville over Nelson if ticket prices were cheaper. He reiterated the tax presented a threat to them and he hoped the Board would reconsider it, engage with them to craft an ordinance that may have a floor, and not burden smaller players in the community. He concluded by noting that events were a lot of work and they did not want to have to worry about the logistics of the proposed tax, given they were already struggling to generate a profit. He added that they needed something that was better thought out.

5. Thomas Nelson, Roseland

Mr. Nelson spoke against the proposed ordinance and noted he did not think it was a good idea. He noted there had been exponential growth from existing businesses in food taxes being collected. He then advised that the Massies Mill Ruritan Carnival turned over a percentage of their gate to the Ruritan Club and the tax would hurt the Ruritan Club percentage that they could use for charitable purposes. He advised them to be careful when taxing that carnival as they would be taxing a non-profit organization. Mr. Nelson then stated he worried about new taxes and he thought the food and lodging taxes would increase and he was against a 5% admissions tax.

6. Justin Billcheck, Devil's Backbone

Mr. Billcheck spoke against the proposed ordinance noting that he had been producing events at Devil's Backbone since 2009 and he lived in Albemarle. He noted that in addition to doing events in Virginia, he suggested the County look into other counties for public private partnerships where there was no tax but a collaboration. He then suggested they undertake a process similar to the one used to craft the event permits. He then questioned the origins of the tax revenue numbers which seemed high to him and he noted they were one bad rainstorm away from not selling tickets. Mr. Billcheck noted that they had a lot of expenses that had increased in 2018 such as insurance. He added that the perception was that people would not balk at 5%, however he thought they would. He noted that it seemed like a selective tax, they were operating on razor thin margins, and they would love to try to look to at other solutions.

7. Heidi Crandall, Devil's Backbone, Roseland

Ms. Crandall spoke against the proposed ordinance. She noted that as a whole, all of their businesses struggled with weekday business. She added that they may look and appear successful; however most of their patronage was Friday-Sunday. She added that they budgeted daily, weekly, and monthly with anything they did and it was a struggle. She reiterated that Monday through Thursday was a struggle and they played catch up on the weekends. Ms. Crandall then noted that the events they had were connected to some type of charity. She added that she would like them to consider not losing patrons that came to the County from afar and she thought they should have some type of roundtable discussion to come to agreement on something else that may benefit the County and if not, she did not want the tax.

6. Heather Goodwin, Arrington and Representative of Oak Ridge Estate

Ms. Goodwin spoke against the proposed ordinance and asked the Board to kill the initiative. She stated that the Board did not want factories and heavy industry coming into the County and instead decided to focus on tourism; which would bring in revenue and not impact the cost of services associated with year-round industry. She noted that the proposed ordinance would be a detriment to that and the tax revenue was not predictable nor dependable. She added that the current system of meals and lodging tax collection was an honor system and that they would be trusting the Commissioner of Revenue to know who was supposed to pay and how much; enforcement was a huge problem even if they decided to implement the tax. She then noted that there were areas all over the state that were vying for these types

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of business and the tax was not tourism friendly. She added that Nelson County was blessed to have national events in the County and to now be recognized for it by being tagged and posted about on social media. She noted that the County's breweries and wineries were winning national and international awards and she dismissed the idea that the County should act in a way that would further complicate their business. She stated that she understood that many organizations and agencies looked to the County for funding and she thought there were areas of the budget that could be further scrutinized and there was money that was spent that did not need to be. She concluded by stating that the proposed admissions tax was ridiculous, was not dependable, and the County could not balance its budget on it. She then implored the Board to not do something that would harm what the Board decided twenty years ago to base its economy on and give tourism related entities a reason to go elsewhere.

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

Mr. Harvey stated that the Board was a long way from having a finished product if it even was a product. He advised that the Board would consider the comments heard and noted he was not ready to proceed by a long shot.

Mr. Rutherford noted he thought he could echo some of what was said, noting that the industry the County had was wonderful and he had been active in providing certain related activities - career and technical education for one. He noted that he wanted to stress that the Board could relook at the proposed ordinance for any possible edits. He further stated that the County was not hurting financially in the current year; however they needed to keep revenues on their minds with the decreasing assessments and other issues. He noted that the Board has spent approximately \$700,000 on fire equipment to take care of them and their patrons. He noted the county was having population changes and he stated that the County was not going after the tourism businesses but rather was looking at their options.

Mr. Saunders noted that the Board had discussed proposing this ordinance for a number of years and he was not sure he was in favor of it. He stated that the Board had worked hard on the budget and there was very little waste and they had done the best they could for organizations. He added that he would like to see some numbers from events that had taken place in the County and that he preferred to study it more and was not ready to vote either way.

Mr. Reed advised that the Board was struggling with the idea that it needed to find revenue sources that did not burden residents across the Board and they thought the proposed ordinance was a good idea at the time. He added that he had experience in the food and beverage industry and had worked for non-profit organizations. He noted that he had done event planning all over the region and knew how difficult it would be in the non-profit world to raise money or increase membership with a tax like this that would have a negative impact. He noted that the issue of enforcement of meals and lodging tax was an issue for him. He noted that as events were successful and expanded, the ticket prices would go up and food and beverage revenue would follow. He added that he was not in favor of the proposed ordinance at this point and he would vote against it, if it came up to a vote.

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Mr. Bruguere noted that he thought it was a good idea because it was a pass through tax related to those coming to Nelson County for events. He added that the Board was looking at additional taxes because over the next five years, the County would be facing a deficit of over \$2 Million. He noted that they had been presented with a plan to add onto the library which had a preliminary price tag of over \$1 Million, not including AE costs, and increased funding to the schools was their biggest concern. He added that the County was facing declining revenues from real estate taxes and the Board was looking for other ways to generate revenue. He noted that he liked Mr. Frey's concept of taking admissions tax funds and reinvesting it. Mr. Bruguere then reiterated that the County was looking for increased funds to run the County that would not impact its real estate taxpayers. He noted that the County should receive tax revenue associated with the Atlantic Coast Pipeline once it was in place; potentially up to \$1.4 Million initially and that would decline as it depreciated, however there was more to be studied and the public's comments to consider. He added they would take suggestions on raising revenue that would not impact Nelson County taxpayers.

The Board concluded their comments and Mr. Bruguere advised that no action would be taken at that time.

#### **IV. Other Business (As May Be Presented)**

There was no other business considered by the Board.

#### **V. Adjourn and Continue until May 10, 2018 at 7:00 PM for the Conduct of a Public Hearing on the FY19 Budget.**

At 8:00 PM, Mr. Rutherford moved to adjourn and continue the meeting until May 10, 2018 at 7:00 PM for the conduct of a public hearing on the FY19 budget. 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.