

November 10, 2020

Virginia:

AT A REGULAR MEETING of the Nelson County Board of Supervisors at 6:00 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
Thomas D. Harvey, North District Supervisor – Chair
Ernie Q. Reed, Central District Supervisor – Vice Chair
J. David Parr, West 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
Martha Eagle, School Division Superintendent
Denise Bonds, Director of Thomas Jefferson Health District, VDH
Robert Brown, VDOT Residency Administrator
Dylan Bishop, Director of Planning and Zoning

Absent: None

I. CALL TO ORDER

Mr. Harvey called the meeting to order at 6:03 pm, with all Supervisors present to establish a quorum.

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

Mr. Harvey then noted that this is the first Board of Supervisors meeting that is being streamed to YouTube, adding that this is a trial run.

II. PUBLIC COMMENTS

1. Joanne Clarkson, Piney River VA

Ms. Clarkson noted that she is here to reiterate what she had said at the previous meeting concerning the removal of the statue of the Confederate soldier in the courtyard. She stated she is in favor of keeping the statue. She noted that she is unsure if a committee concerning the subject has been formed, and she knows the Board has been thinking about this. She urged that they appoint a committee that is safe, one in which they will listen to all peoples’ opinions, and that everyone will have a chance to speak at a

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committee meeting. Ms. Clarkson reiterated that she is in favor of keeping the statue up in the Courthouse.

2. Elwood Waterfield, Arrington VA

Mr. Waterfield stated that there is a lot of corruption here in Nelson County. He noted that he requested during the October 9, 2019 meeting to appoint a board to look into the numerous complaints against the Sheriff's Department. He stated that no local media has reported that the Sheriff and Commonwealth Attorney were impeached on May 22nd, 2019. He advised that the judge did say that they did what he said they did, but at that time, it did not rise to the level of removing them from office. Mr. Waterfield noted that they did not investigate a crime whereas two women broke into his house and stole his deeds. He stated he has been evicted from his own property, and now, it does rise to the level of removing them from office. He then spoke of the fifty-year toxic dump in Findlay Gap, adding he reported it in 2014 to Tim Padalino of Planning and Zoning and also to Mr. Carter. He then listed the other people who were well-aware of the dump in Nelson County: Jennifer Welcher, Don Tempest, Todd Peninger from DEQ, Merle Kelley from Nelson County, Paul Truslow from Nelson County, Heather Graham from Nelson County, Candy McGarry from Nelson County, Debbie McCann from Nelson County, and Grace Mawyer from Nelson County. He stated all these people knew about the dump, yet the Board claims they do not know about it. Mr. Waterfield then urged the Board to bring back the Keep Nelson Beautiful committee and to also appoint a board to look into the numerous complaints against the Sheriff's Department. He added that he has asked the Board to amend the ordinance to make it the maximum fine for throwing trash on an adopted highway, and they have not done anything about that.

Mr. Waterfield provided documents to the Board and asked that they be entered into the record. The documents are on file in the County Administrator's Office.

III. CONSENT AGENDA

Mr. Rutherford moved to approve the Consent Agenda and Mr. Parr 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 – **R2020-43** Minutes for Approval

**RESOLUTION R2020-43
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MINUTES
(October 13, 2020)**

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RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **October 13, 2020** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2020-44** Budget Amendment

**RESOLUTION R2020-44
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2020-2021 BUDGET
NELSON COUNTY, VA
November 10, 2020**

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$15,000.00	3-100-001899-0025	4-100-013010-7042
\$15,100.00	3-100-003303-0008	4-100-031020-3030
<u>\$ 9,381.00</u>	3-100-002404-0060	4-100-081020-7061
\$39,481.00		

C. Resolution – **R2020-45** Acceptance of CARES Act Grant Funds to Fast Track Broadband Connectivity and Amendment of Fiscal Year 2020-2021 Budget

**RESOLUTION R2020-45
ACCEPTANCE OF CARES ACT GRANT FUNDS TO FAST TRACK
BROADBAND CONNECTIVITY AND
AMENDMENT OF FISCAL YEAR 2020-2021 BUDGET**

WHEREAS, the County applied for and received certain Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) grant funds to fast track broadband connectivity and the CARES Act requires that the payments from the Coronavirus Relief Fund only be used to cover expenses that: (i) are necessary expenditures incurred due to the public health emergency with respect to COVID–19; (ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; (iii) were incurred during the period that begins on March 1, 2020, and ends on December 25, 2020; and (iv) meet all other requirements of the CARES Act and applicable law related thereto (the “CARES Act Requirements”); and

WHEREAS, CARES Act grant funding of \$285,000 was awarded for the Piney River Expansion Project & Sugarloaf Mountain Project “the Project” described as: the extension of broadband internet access from Piney River along Rt. 151 north to the Tye River and then along Rt. 56 west to the

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Fleetwood Community Center and extending service along Lowesville Road from Piney River to Whitehead Drive and secondly, fiber connectivity to the Sugarloaf Mountain 911 system tower.

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors does hereby accept the CARES Act grant funds in the amount of \$285,000 and authorizes the distribution of said funds to Central Virginia Services Inc., dba Firefly Fiber Broadband, via the Economic Development Authority of Nelson County and pursuant to their mutual agreement, in order to implement “the project”.

BE IT FURTHER RESOLVED, the Nelson County Board of Supervisors hereby authorizes amendment of the Fiscal Year 2020-2021 Budget as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$285,000.00	3-100-003303-0040	4-100-091030-5610

D. Resolution – **R2020-46** 2021 TJPDC Legislative Program

**RESOLUTION R2020-46
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF THOMAS JEFFERSON PLANNING DISTRICT
2021 LEGISLATIVE PROGRAM**

WHEREAS, the draft Thomas Jefferson Planning District Legislative Program for 2021 lists three top legislative priorities; and

WHEREAS, the program includes a new priority addressing the COVID-19 health emergency; a revised position on budget/funding issues that supports state aid to localities and opposes mandates and cost shifting to localities; and a continuing priority on broadband expansion; and

WHEREAS, the Legislative Program also contains additional positions that focus on the most critical recommendations and positions in other areas of current interest and concern to localities in the region; now, therefore be it

RESOLVED, by the Nelson County Board of Supervisors, that the 2021 Thomas Jefferson Planning District Legislative Program be and hereby is approved by said governing body, with the legislative program to serve as the basis of legislative priorities and positions of the member localities of the Thomas Jefferson Planning District for the 2021 session of the Virginia General Assembly, as presented via memo on November 10, 2020, as well as incorporation of recommendations put forth by the Board, as applicable.

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IV. PRESENTATIONS

A. COVID-19 Update from Thomas Jefferson Health District (D. Bonds)

Ms. Denise Bonds noted that she is the health director for this region, which includes Nelson County. She advised they are changing their name to Blue Ridge Health District as of January 1st, 2021.

Ms. Bonds presented the following slides:

Nelson County BOS COVID Update

Denise Bonds, MD, MPH
Health Director, Thomas Jefferson Health District

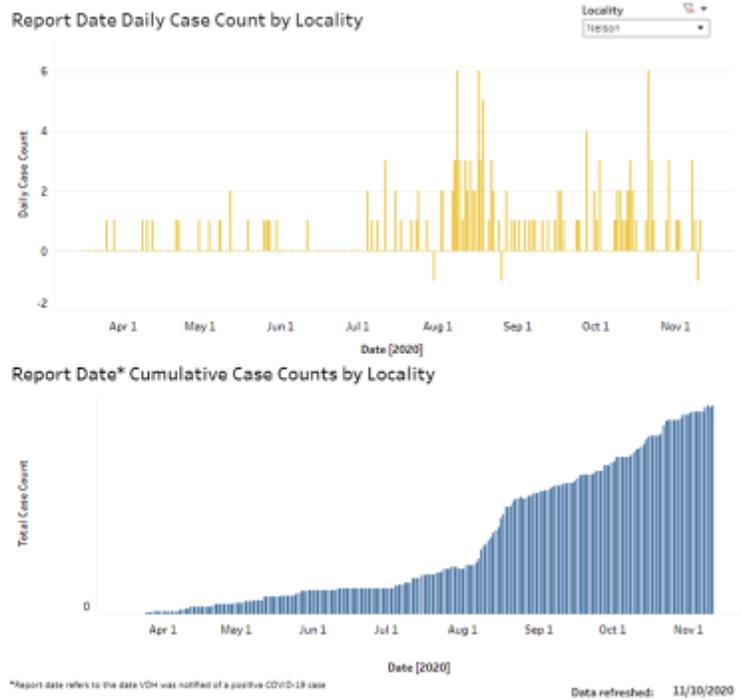
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Total Cases District: 4715
Total Cases Nelson: 146

Total Hospitalizations District: 252
Total Hospitalizations Nelson: 9

Total Fatalities District: 78
Total Fatalities Nelson: 2

<https://www.vdh.virginia.gov/thomas-jefferson/tjhd-localities/>

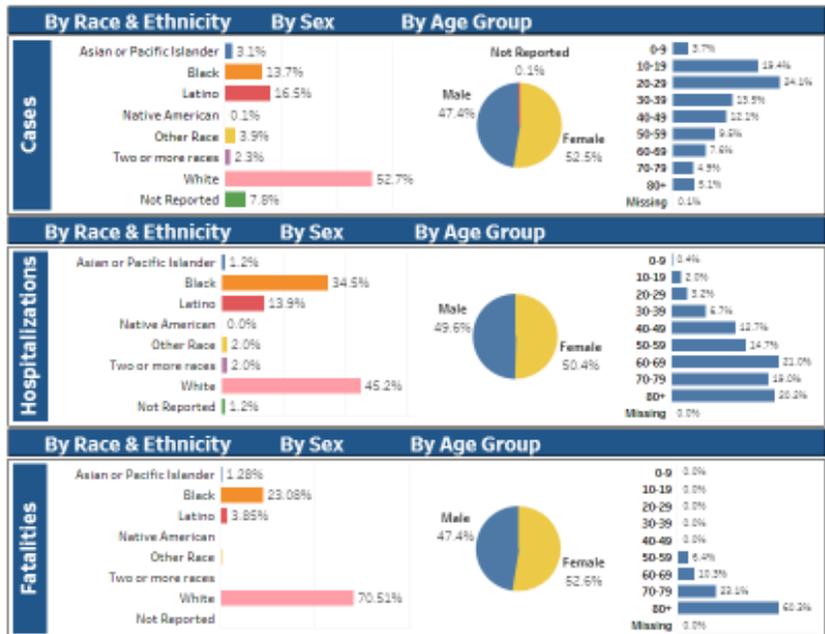


Dr. Bonds noted that for the most part, there have been one or two cases per day in Nelson County, and there was an outbreak in the county in the August to September timeframe. For the most part, the cases have been relatively small and limited in number here.

District population by race/ethnicity:

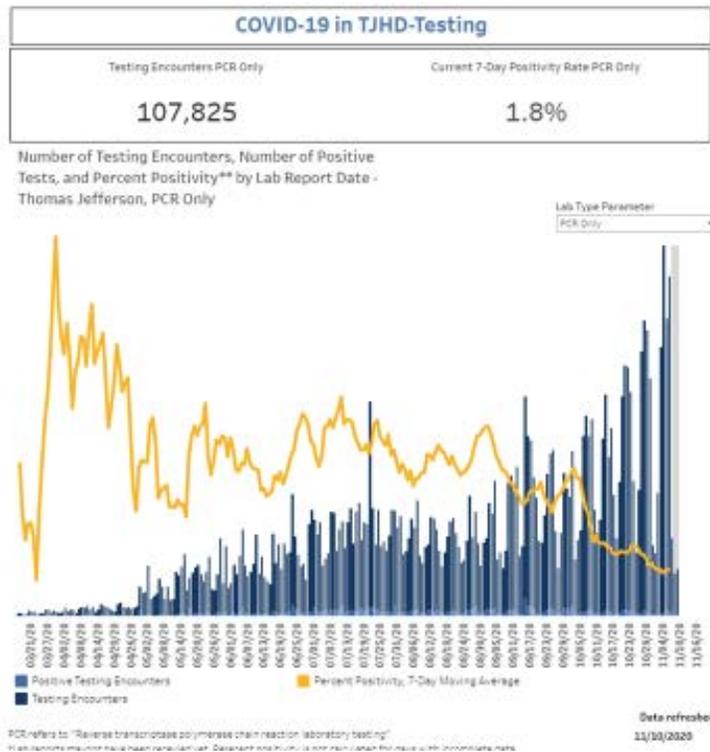
- 4% Asian/Pacific Islander
- 12% Black or African American
- 76% White
- 5% Latino/Hispanic

<https://www.vdh.virginia.gov/thomas-jefferson/tjhd-covid-19-data-portal/>



Dr. Bonds noted that when looking at the cases by age, we see a large number of cases in the younger age groups of 10-19 and 20-29, however, when looking at who is hospitalized and ultimately succumbs to Covid-19, the curve quickly shifts to the older age groups. She added that people over the age of 80 who contract Covid-19 have an especially high mortality rate.

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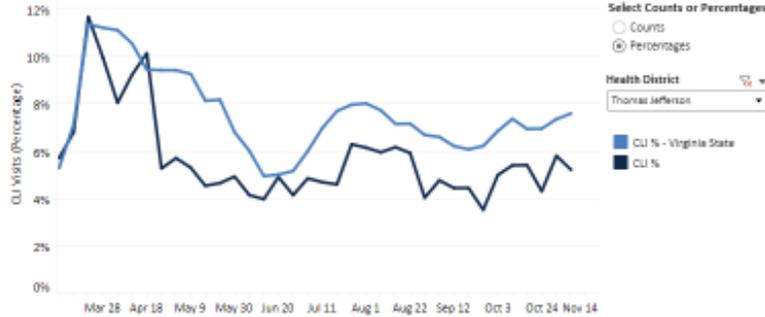
<https://www.vdh.virginia.gov/thomas-jefferson/testing/>

Dr. Bonds noted that they were one of the first health districts to stand up their own testing team, and they have been in Nelson County at least once a month or more to do testing primarily at the Heritage Center. Over 100,000 PCR tests have been done across the district. She advised that percent positivity is the number of positive tests over the number of total tests done, and the district's percent positivity is just under 2%. Nelson County's percent positivity is in the 2-3% range.

ED Visits for COVID-Like Illness (CLI)

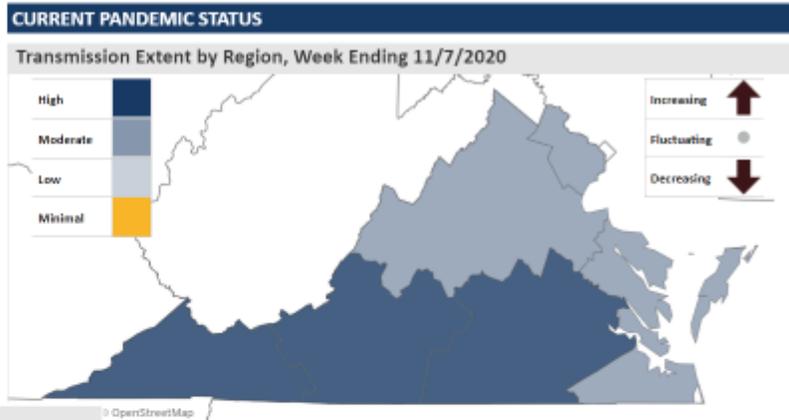
VDH monitors ED visits to measure the number of patients seeking care for a COVID-like illness (CLI). Visits for CLI include visits noting symptoms of fever/viral infection with a respiratory complaint (e.g. cough, shortness of breath, difficulty breathing), those with a coronavirus or severe respiratory diagnosis, or visits that mention COVID-19 as the reason for visit. These data do not represent confirmed cases of COVID-19, but they can assist with understanding the burden on healthcare systems and the community.

Weekly CLI Visits (Percentages) - Thomas Jefferson



<https://www.vdh.virginia.gov/coronavirus/covid-19-data-insights/#CLI>

Dr. Bonds noted that the light blue bar is the percent of ED visits that could be attributed to a Covid-like illness on the state level, and the dark blue bar on the bottom is for this district.



Region	Burden	Trend	Transmission Extent
Central	High Burden	○	At Substantial Community Transmission
Eastern	Moderate Burden	○	At Moderate Community Transmission
Far Southwest	High Burden	↑	At Substantial Community Transmission
Near Southwest	High Burden	↑	At Substantial Community Transmission
Northern	Moderate Burden	↑	Approaching Substantial Community Transmission
Northwest	Moderate Burden	○	At Moderate Community Transmission

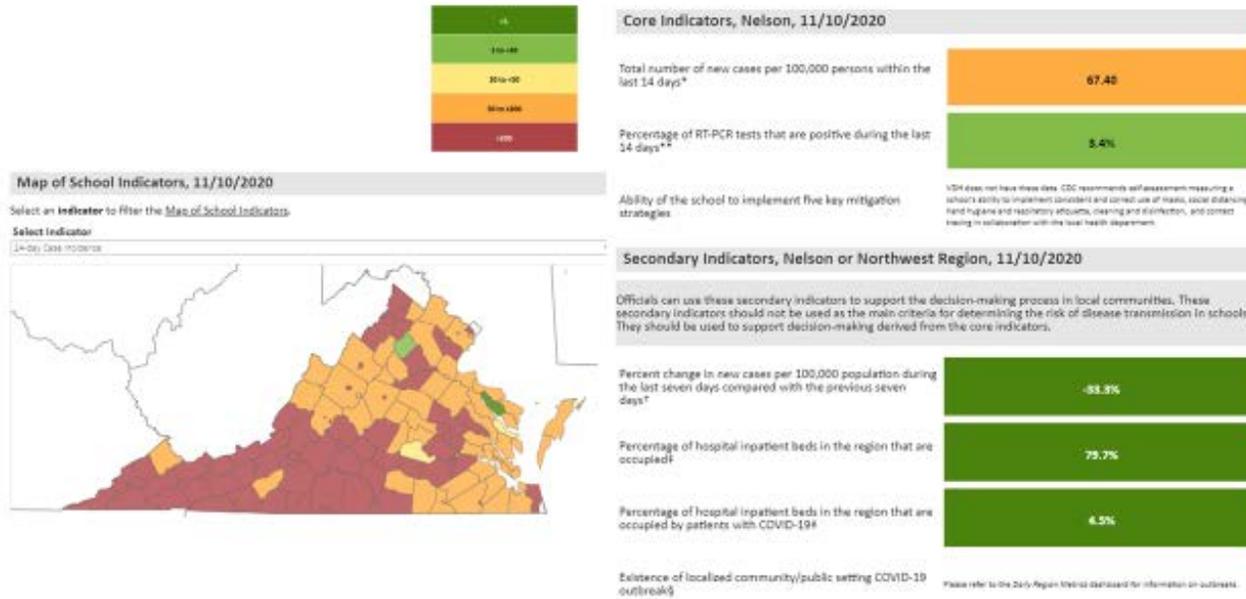
<https://www.vdh.virginia.gov/coronavirus/key-measures/pandemic-metrics/transmission-extent/>

Dr. Bonds noted that we are in the northwest region, which includes Charlottesville, Harrisonburg, and Winchester. She advised that we are at a moderate transmission extent for the entire region. The southern and western half of the state are having significant outbreaks and large numbers going on right now.



Dr. Bonds advised that Nelson County's percent positivity today is 3%, which is a very reasonable and low percent positivity.

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<https://www.vdh.virginia.gov/coronavirus/key-measures/pandemic-metrics/school-metrics/>

<https://www.vdh.virginia.gov/coronavirus/outbreaks-in-school-settings/>



K-12 Schools Reporting Outbreaks of COVID-19



Dashboard Updated: 11/9/2020, Data updated weekly on Fridays

Locality	School Name	Public Health Investigation Status	Date VDH Notified	Cases	Deaths
	Liberty Middle School	Outbreak Closed	9/7/2020	8	0
Henry	Meadow View Elementary School	Outbreak Closed	10/9/2020	*	0
Hopewell	Hopewell High School	Outbreak in Progress	10/20/2020	*	0
Lee	Lee High School	Outbreak Pending Closure	8/28/2020	10	0
	St. Charles Elementary School	Outbreak Closed	8/28/2020	*	0
Loudoun	Dominion High School	Outbreak Closed	8/10/2020	*	0
Lynchburg	Rivermont School	Outbreak Pending Closure	9/22/2020	5	0
Roanoke County	North Cross School	Outbreak in Progress	10/21/2020	*	0

Nursing Homes, Assisted Living, and Multi-Care Facilities Reporting Outbreaks of COVID-19

Locality	Facility	Facility Type	Status	Date VDH Notified	Cases	Deaths
	Meadow View Terrace	Nursing Home	Outbreak Pending CL	4/4/2020	84	14
Middlesex	Dockside Health & Rehabilitation Center	Nursing Home	Outbreak Closed	7/31/2020	78	12
	Heart and Soul assisted living	Assisted Living	Outbreak in Progress	11/4/2020	7	0
	Hilton Plaza	Assisted Living	Outbreak Closed	7/11/2020	5	*
	James River Convalescent and Rehabilitation Center	Nursing Home	Outbreak in Progress	9/3/2020	60	8
Newport News	Newport News Nursing and Rehabilitation C.	Nursing Home	Outbreak Closed	5/14/2020	*	0
	The Gardens at Warwick Forest	Nursing Home	Outbreak Closed	7/8/2020	27	6
			Outbreak Closed	3/30/2020	7	0
			Outbreak Pending CL	7/19/2020	34	5

<https://www.vdh.virginia.gov/coronavirus/health-professionals/virginia-long-term-care-task-force/8807-2/>

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Dr. Bonds noted that there are two ways to look at outbreaks if people are interested in knowing if an outbreak has occurred in the area. The first way is looking at the K-12 school outbreak dashboard. She stated that Nelson County Public Schools have not had any outbreaks because they are virtual at the moment. She advised that an outbreak is not a single case, but rather has to be at least two cases that can be linked together in some fashion. The second way is looking at nursing homes, assisted living facilities, and multi-care facilities. She noted that Nelson has not had any outbreaks in any of these conjugate living facilities.



Dr. Bonds encouraged people with smart phones to download the COVIDWISE app, which looks for other phones that have COVIDWISE on them in the surrounding area and keeps track of those phones. She added that the app tracks if other phones with the app are spending a certain time (fifteen minutes) and distance (within six feet) in the area. She stated that if you or one of those other phones ends up testing positive, a case investigator from the Department of Health calls and asks if you have that app installed, and if you do, they will give you a code to enter in the app. Then, the app will send out a message to all of those other phones that it kept track of. She clarified that it does not download any private information, but rather puts a code on both phones that match that allows it to send that message back out.

Dr. Bonds noted that they are still encouraging people to do physical distancing, and six feet is the recommended number. She added that she gets asked a lot about cloth face coverings and masks and if they really work, to which she advised that they do work.

Testing for COVID19

- Every Monday 6-7:30 PM at the Church of Incarnation (hosted by UVA)
- Every Tuesday 5-8:00 PM at Mount Zion First African Baptist Church (hosted by UVA) (Nov 3 postponed to Nov 4)
- Friday, November 13 & 20, 5-7:00 PM at Charlottesville/Albemarle Health Department (hosted by TJHD)
- Monday, November 16, 5-7:00 PM at Nelson Heritage Center (hosted by TJHD)

More testing events for month at TJHD.org

HOTLINE NUMBER: 434-972-6261

<https://www.vdh.virginia.gov/thomas-jefferson/covid-19-testing-sites/>

Dr. Bonds advised that they will next be at the Nelson Heritage Center for testing on Monday, November 16th from 5:00-7:00 pm. She noted that the testing is free, and they do encourage people to use the hotline number to get registered for a testing time.

Other Services

- Clinical: Family Planning, STI testing and treatment, vaccinations
- Environmental Health: well permits, onsite permits, rabies investigations and vital records
- Women, Infants and Children, expanding to meet need

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Mr. Barton noted that there is a lot of talk about a vaccination in the works and asked how that will be implemented. Dr. Bonds noted that at this time, it looks like they will preposition several hundred thousand doses of the most likely contender. An emergency provision would allow the Health District to start on the distribution plan, whereas it has been tiered out who gets it first, since there is not enough for everybody right now. She advised the first tier is healthcare workers, EMS, and other frontline healthcare-type providers. She noted that this will not be administered by the Health Department, but rather by the umbrella organization that those workers work under, such as the hospital or EMS organization. She clarified that this is only a plan right now and is subject to change. As more vaccine becomes available, then they will work down the tiers. She noted that they will be distributing the vaccine at some point in time, when it gets to the tier for which they are responsible. She added that she does not anticipate that they would have significant vaccine at the Health Department for anybody until after the first of the year, and for the public, it may not be until the spring. Dr. Bonds noted that the good news is that the data Pfizer released is very promising, and they just need a little more safety data before they can submit it for approval from the FDA.

B. VDOT Report

Mr. Brown of VDOT was present and reported the following:

Mr. Brown noted they have finished the pavement widening on Saint James Church Road, and they are working on fixing the drainage issue there.

Mr. Brown then provided an update on the rural rustic hard surfacing of unpaved roads. Carter Hill, Shields Gap, and Bottoms Lane have all been completed, and they have started work on High Peak. He advised they will likely not get the surface on that this year, but they will get the drainage in place. He noted that they may go back and extend Shields Gap a little bit because they found out the posted length on that roadway was not correct and is actually about 300 more feet of road that should be maintained. He noted that they replaced a large pipe on Embly's Gap and also had a pipe failure on Route 6 near 151, which they had repaired. He advised that they are doing the final mowing on Route 29.

Supervisors then discussed the following VDOT issues:

Mr. Rutherford:

Mr. Rutherford asked for an updated list for the Six Year Plan/Unpaved Road Program. Mr. Brown noted that they need to do some work on this and get some roads added to the list. He added that he anticipates them doing a revision to the Six Year Plan in the spring as they normally do.

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Mr. Rutherford asked about putting Routes 646 (Ball Mountain Lane) and 848 (Whippoorwill Lane) on the contention, adding he believes VDOT has done traffic counts on them. Mr. Brown noted that he is pretty sure both meet the minimum traffic count requirement, and he has them on the list.

Mr. Parr:

Mr. Parr noted that he and Mr. Reed share a boundary between the west district and central district that has seen a considerable increase in stuck truck traffic in the last ninety days or so. He thanked Mr. Brown and his team for working on resolving this with the signage. He then asked if Mr. Brown has any information on what's happening on the Augusta side of Reed's Gap. Mr. Brown stated he has reached out to VDOT in Augusta but has not yet heard anything back. Mr. Parr noted that it is his understanding from speaking with Wintergreen Fire and Rescue that most of the traffic is coming from the Augusta side, so that is where it's most important to get some sort of signage. Mr. Brown advised they do have an existing sign over there, and Mr. Parr noted that it is very small. Mr. Brown added that our district traffic engineer is following through with a traffic study and is collaborating with his counterpart in the Staunton district. Mr. Parr noted that the sign currently over there says "GPS routing not recommended" and stated what would be more effective is a big flashing sign saying "No through trucks."

Mr. Barton:

Mr. Barton had no VDOT issues to discuss.

Mr. Reed:

Mr. Reed had no VDOT issues to discuss.

Mr. Harvey:

Mr. Harvey reminded Mr. Brown about the pipe issue on Lowesville Road. Mr. Parr added that the culvert is just up from the Dollar General.

V. NEW & UNFINISHED BUSINESS

A. Closed Session Pursuant to Virginia Code §2.2-3711 (A)(8)

Mr. Reed moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code Section 2.2-3711 (A)(8): Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal

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advice by such counsel. Mr. Rutherford seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

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

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

B. Rezoning #2020-01 – R-1 to A-1 (deferred in October meeting)

Ms. Bishop provided the following report:

BACKGROUND: This is a request to rezone property from Residential, R-1 to Agricultural, A-1 to allow a farm brewery use.

Public Hearings Scheduled: P/C – July 22, 2020 and August 26, 2020; Board – October 13

Location / Election District: 279 Avon Road / North District

Tax Map Number(s) / Total acreage: 6-A-45 / 2.29 acres +/- total

Applicant Contact Information: Dan & Terri Tatarka, 279 Avon Road, Afton, VA 22920, 434-270-0404

Comments: Currently the property is home to Wild Man Dan Bed and Breakfast, with a small-scale brewery operation that is only open to guests of the BNB, as well as a small-scale wholesale bakery operation. Additional meeting space above the current structure is currently being constructed to accommodate guests of the BNB, and potentially utilized for the farm brewery operation. The applicants are proposing the rezoning from R-1 to A-1 to allow the conversion of the current brewery operation to a farm brewery use that is open to the public. According to the applicants, approximately an acre of this property is used for agricultural crop production. Although this property is adjoined by R-1 zoning, the A-1 zoning district is also consistent with the zoning on other parcels in the vicinity.

A public hearing was held at the Planning Commission meeting on July 22. After this hearing, additional and revised proffers were submitted by the applicants for review, requiring a second public

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hearing before the PC on August 26. Following this public hearing, the Planning Commission voted (3-1) to recommend approval of this application, contingent upon the County Attorney's review and acceptance of the submitted proffers. No substantial changes were made or requested, and the County Attorney indicated that the proffers are acceptable.

Ms. Bishop noted that the Board of Supervisors held their public hearing on this matter on October 13th, and the matter was deferred to this meeting to assess the proffers and whether or not rezoning proffers would be upheld against ABC farm winery licensing. She added that the applicants would like to do a short presentation explaining the sizing and production capacity of the system.

The applicants, Dan and Terri Tatarka, came forward and noted that they got the idea from the last meeting that the Board may not have a feel for what a seven-barrel system is, adding that this is one of the proffers. They presented the following slides:

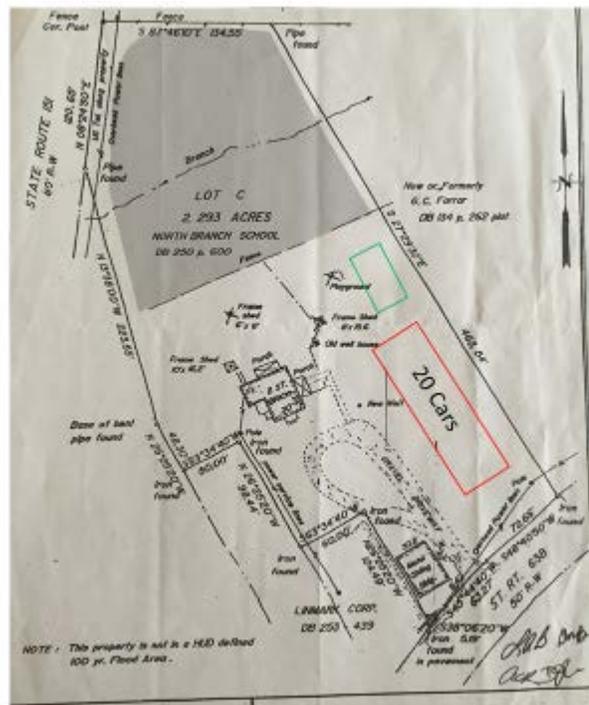
Farm Brewery

- 25,000 BBL limit
- 7 BBL system = 3,571 brews (365 day/yr = 9.7 brews/ day)
- 1 brew is 8 hours/day
 - Meaning 7 BBLS cannot hit farm brewery production limit!
- Error on the high side the most that will be brewed:
 - 7BBL x 3 days week x 50 weeks/yr = 1,050 BBL/yr
- 1,000 BBL = 2,000 Kegs/yr = 31,000 gallons/yr = 248,000 pints/yr
- Assuming only open for 5 days:
 - 5 days/wk x 50 wks/yr = 250 days
 - 248,000 divided by 250 = 992 pints/day
 - 2 pints per person = 496 people/day over 7 hours = 70 people/hr

Mr. Tatarka noted that a farm brewery is able to make up to 25,000 barrels per year, and that is the limit of a farm brewery. A seven-barrel system, in order to reach that limit, would have to brew over 3,500 times in a year to even come close to that. In 365 days, that is almost 10 brews per day, and a brew is about eight hours long. He advised there is no way that a seven-barrel system could even come close to reaching a farm brewery limit. He noted that the max this system could ever make is about 1,000 barrels per year, adding that 1,000 barrels equates to 2,000 kegs, and it would be tough to figure out where to store that many kegs in a year.

Property Limitation

- Upstairs addition = 50 person limit post Covid
- Downstairs 10 people = 60 person limit inside
- Parking is generally calculated as 1 car for 4 people = 15 cars
- Current Parking = 20 cars max (80 people/hr)
- Any additional parking would be high cost:
 - Septic line runs behind house to lower field
 - Large hills would require considerable excavating
 - Lower field has septic and creek
 - 151 access has sharp bend = no VDOT access due to lack of line of sight



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Farm Brewery / Property limitation

- Assuming 4 people/car
 - Current Parking = 20 cars max = 80 persons/hr
 - Beer Capacity = 70 people/hr = 17 cars/hr
- Conclusions:
 - The 7BBL system matches the property limits
 - Going larger is prohibitive due to:
 - Physical limitations of the buildings and property
 - The size of the brew system
- Anything beyond a small business would not make fiscal sense at this location

Ms. Tatarka noted that they proffered nothing larger than a seven-barrel system, adding they are not intending to put a seven-barrel system in. She stated that most community concern has been not related to their business plan but rather related to the question of what if someone buys the property down the road, and what could they do. She advised they are trying to illustrate the limitations of the space and brew system that would hopefully alleviate concerns about what someone else could do down the road.

Mr. Reed asked what they based the occupancy on for the upstairs and downstairs. Ms. Tatarka stated this was Chuck Miller's estimate, as they do not yet have that space finished. She added it was also based on the structural strength by the structural engineer. Mr. Reed noted that this still allows people outside who are not occupying an indoor space, and Ms. Tatarka confirmed.

Mr. Harvey noted that most of their limitations have been set up because of their existing Bed and Breakfast, and Ms. Tatarka agreed. He asked if they are talking about adding on to the house, and Ms. Tatarka stated no, adding that they are finishing out the second floor of the barn.

Mr. Barton asked if any food will be involved, and Ms. Tatarka stated no, adding it is a production brewery at the current time. She noted they have a ten-gallon system, and they like a small system.

Mr. Rutherford noted that spot zoning is always a concern with Special Use Permits, but in this particular circumstance, there is less than a square mile of residential, and across the street, it's agriculture. He echoed that the proffers that the applicants volunteer will be there forever and run with

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the property, adding they do not get eliminated when they go to a farm use brewery. He asked Ms. Bishop if VDOT has any part with the Tatarkas' future plans. Ms. Bishop stated yes, adding they will be required to secure a VDOT land use permit as part of the approval. She noted that they do have a concept design approved as a preliminary design with VDOT, which was done by Massie Saunders. Mr. Rutherford noted that along with this comes the Department of Health and ABC regulators, who all have to approve of particular things moving forward. He added he believes this is a good concept, and he does not see a major concern with the small concept they have proffered.

Mr. Reed referred to the Blue Mountain, Wild Wolf, and Devils Backbone breweries and asked if they are all permitted as farm breweries. Ms. Bishop stated that some of them have farm brewery permits and some have farm winery permits, adding that anyone with a restaurant had to secure a Special Use Permit. She advised that in the past, restaurants and farm breweries and wineries were Special Use Permits until the State Code changed to allow those protections for farmers. Mr. Reed asked if they are operating under the same barrel limits that would apply before the proffers. Ms. Bishop noted she is not sure what ABC's limits for production have been in the past. Mr. Parr noted it is his understanding that Wood Ridge is the only farm brewery in the county.

Mr. Harvey referred to issues with the Brewing Tree. It was noted that there are proffers that are not being adhered to, and Mr. Rutherford suggested that the County Attorney look into this.

Mr. Reed agreed that the County has problems with production facilities along Route 151 that are in agriculture zones but don't have any agricultural function. He noted that is a problem with our ordinance and is something that the Planning Commission should be addressing soon. He added his assumption is that those areas are not operating under any proffer scenarios and are just doing what is by-right. He noted that is a problem, but he does not see those problems with this situation. He added that he has taken a look at the site and he agrees that the scale that is going to be proffered is in keeping with the area and will not pose significant changes to the neighborhood.

Mr. Barton noted that he understands Mr. Harvey's concerns and the concerns of the people living in that district about overdevelopment, and he reiterated that the proffers will stay in place. He added that he really depends upon his intuition, and his intuition tells him these people are sincere and want to be a part of our community. He noted he is reluctant to say no.

Mr. Harvey stated he has no problems with the applicants whatsoever, but his concern is that it is bad zoning and does not meet the criteria for zoning. He noted that this whole community has been burnt time after time on things like this, stressing inconsistency at the county level. Ms. Bishop noted she thinks the issue is that all of the changes need to occur on a state level in the State Legislation. She added as far as zoning goes, we can only regulate the land use and take those things into account, but we really need to be focused on each specific property as it relates to the community.

Mr. Reed then moved to approve **Conditional Rezoning #2020-01 – R-1 to A-1** for Dan and Terri Tatarka and the proffers as presented and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Harvey voting No.

Supervisors then considered Agenda Item VII: Public Hearings.

VI. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE

A. Reports

1. County Administrator's Report

A. Covid-19 (Coronavirus): County staff continue to monitor the status of the Covid-19 Virus within Nelson County. As of the VA Department of Health's (TJHD) most recent (November 2, 2020) metrics report on the status of the virus within Nelson County, there were 142 cumulative (total) cases of the virus in the County with 6 new cases reported over the period of 1-/26 to 11/02. VDH's report denoted a percent positivity, rolling 7-day average of 2.4%. With respect to direct County operations, no County staff are currently impacted by virus either directly or indirectly.

B. Coronavirus Aid, Relief and Economic Security (CARES) Act: As previously reported, both of the County's applications in partnership with Central VA Services, Inc./Firefly for state CARES Act funding for broadband were approved for funding, totaling \$280,000 for two service areas in Nelson County (Piney River and Sugar Loaf Mt. extension). The County's Business Assistance Program, as administered by TJPDC, is also proceeding well. To date, \$178,113 of the \$350,000 set aside has been allocated (including TJPDC's \$15,000 administrative fee). Pending decisions are applications or requests for applications totaling \$185,000. All other local CARES Act funding, as approved by the Board of Supervisors has been disbursed to entities that requested this assistance from the County.

C. BR Tunnel Project (Phas3 – Western Trail & Parking Lot): Completion of Change Order 18, which completes the Phase 3 Project is in process. The additional drainage work will be completed by 11-10. The asphalt surface treatment is scheduled for the week of 12-1 but is subject to weather conditions and has the potential to be delayed until spring 2021. County staff will decide the week of 11-10 on opening the entire trail to the public and, to provide for the surface treatment of the western trail simply schedule four-five days to close the trail to complete the surface treatment.

D. Tye River Water System: The project has been delayed due to the delay in delivery of the equipment building, which has been attributed to the Covid-19 Virus. The building is scheduled for delivery on 10-16-20 after which the project will be positioned to proceed with overall completion.

E. 2022 General Reassessment: Wampler-Eanes is in process with initial steps for completion of the County's 2022 General Reassessment of Real Estate. The contract amount will be \$305,000.00.

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F. Piney River Wastewater System: The County is in process with awarding the repair of the Usemco Pump station, one of the primary and largest pump stations for the County's Piney River Wastewater Treatment System. The repair expense is currently estimated to be in the \$40,000 range.

G. FY21-22 Budget: Initial preparatory work has been done on development of the County's FY21-22 Budget. Budget request document from County departments/offices and external agencies and entities are to be submitted by early December 2020.

H. FY19-20 Audit: County and Robinson Farmer Cox staffs are in process with completion of the audit report for FY19-20 (year ended June 30, 2020).

Mr. Carter then noted that the General Assembly, during the Special Session, authorized a bonus for Sheriff's employees only funded by the State. He advised that we have eight deputies that aren't funded with State funding, and the cost to provide that bonus to all County-only Sheriff's deputies, including the Sheriff, would be \$4,844.25. He added that this would enable all the deputies to receive a similar bonus. He stated that with respect to County and School Staff, the Board is asked to consider that. He noted that if the Board did a similar bonus amount of \$500 to full-time employees and \$250 to part-time employees, the expense would be \$44,405.63. He stated that in discussion with Dr. Eagle, if the bonus was approved of up to \$1,000 for full and part-time employees, that \$44,406 would essentially double to about \$89,000 for County employees. He advised he does not have the information on the School Division.

Mr. Carter noted that lastly, Dr. Eagle had sent an email to Mr. Harvey and himself on October 23rd suggesting a joint meeting of the School Board and Board of Supervisors. She proposed meeting dates of December 1st or December 3rd.

Mr. Carter advised that as far as the bonus is concerned, Staff does ask the Board to consider tonight the \$4,844.25 bonus for the County-only supported deputies because Staff is required to disburse the State funding for those particular deputies on December 1st.

Mr. Harvey noted that if that State funding is disbursed to those particular employees, he believes all deputies should be treated identically.

Mr. Rutherford noted that a lot of people worked really hard during this time of COVID, especially in the School System. He noted concern that a lot of people lost their jobs in the midst of COVID, and a lot of people are struggling still today. He stated he would like to give out a bonus, but he is a little hesitant. He asked if December 31st is the deadline for this, and Mr. Carter stated no, adding that it is whenever the Board would make that decision within this current fiscal year. Mr. Carter added that the timeline for the bonus for the deputies is December 1st.

Mr. Reed asked if unallocated COVID money could cover bonuses allocated to other staff. Mr. Carter stated no, and staff has discussed the possibility of doing a cost allocation with that money based on the

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percentage of specific employees' time for how much they worked within that CARES Act arena. He noted that it has to be applicable to the CARES Act.

Mr. Barton then moved to approve \$4,844.25 to provide bonuses for the County-only supported deputies within the Sheriff's Department and Mr. Parr seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

2. Board Reports

Mr. Reed:

Mr. Reed noted that on October 22nd, Fran Gable, the Director of Recycling here in Nelson, and himself made a site visit to the Sonoco Material Recovery Facility in Raleigh, North Carolina. He stated that the reason for the visit was to answer a question that came up a few months ago: What happens to the materials that Nelson County residents put into recycle containers at the convenience centers?

Mr. Reed presented the following report:

2020 10 22

Sonoco Material Recovery Facility Site Visit, Raleigh NC

w/Fran Gable

Most of what they accept is single stream

Plastics 1-7

Glass

Cardboard

Metal

We pay tipping fees for purchase of materials and we pay less because we presort our cardboard, plastic and metal

100 employees-30 sorters/3 shifts/24 hours a day.

Mr. Reed noted it is a very efficient system, however, quite a lot of stuff falls through the cracks and ends up being landfilled.

“What happens to the materials that Nelson County residents put into recycle containers?”

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“What can we do better?”

- Metal is 100% recycled
- Cardboard is 100% recycled
- Glass: A small percentage of the glass becomes more glass: the rest becomes Alternative Daily Cover (ADC) at landfills, roadbed materials, fiberglass
- Plastic is the problem

If you define recycling as repurposing and reformulating the material into the same product that it was originally, then essentially no plastic is truly recyclable.

#1 and #2 plastics can be reprocessed into a consumer product but none of them become a product that replaces or replicates itself. The products they become are not recyclable.

#1 PET (water and soda bottles) are shipped to a facility in Reidsville, NC and become synthetic fibers (which are not recyclable)

#2 HDPE (5 gallon buckets, detergent and oil containers) are reprocessed into synthetic lumber (which cannot be recycled).

Currently there are markets for these.

The facility receives 20-40 tons /month of 3 #3-#7, 3% of the plastics received...these and large, difficult to handle #1s and #2s are landfilled

...SO...

3% of the plastics we collect is not recycled and is landfilled

My Conclusions:

- Plastic recycling is basically a white lie...a dangerous white lie.
- Virtually all of our plastic products are made from virgin plastics, i.e refined petroleum fossil fuels the production of which generates toxic byproducts and pollution.
- Recycling plastic, though good intentioned, does not reduce the demand for virgin plastic products in any way and does not protect us from plastic pollution.

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- All Plastic eventually becomes part of the waste stream and remains and persists in the waste stream, pieces becoming increasingly smaller, less trackable, more diffuse and more dangerous.
- Kudos to Nelson County Schools for education on plastic pollution: Flippy the Whale displays at county schools, November 2-December 2.
- The only way to reduce demand and the proliferation of plastic is to reduce or refuse plastic when it is unnecessary.
- Some states have banned single-use plastics. The Commonwealth doesn't allow counties to implement bans on plastic products.
- It continues to make good sense to support Nelson County's Recycling program.
- Education, especially consumer education is important. Nelson County's recycling program can better serve the county by taking a more active role in consumer education regarding recycling and, therefore, be contributing towards a better solution.
- We currently don't recycle glass and don't track the amount of glass consumed in the County. Glass is costly to recycle and, because of its weight and volume, costly to transport. Since our county economy has a significant food and beverage industry, we have an opportunity to be more responsible and implement local, creative initiatives in how we handle glass beverage packaging. The county should encourage and facilitate this.

Mr. Carter noted that he does not believe the local Sonoco operations accept glass. He stated that the County previously did that, but not with the current operation. Mr. Carter also noted that the County's tipping fee for disposable solid waste is currently \$30.25, and the tipping fee to dispose of plastic, because it is not free and the County is not collecting any revenue from it, is either \$50 or \$60 per ton. He added this is compounded by the expense of transporting it to Madison Heights with very efficient loads because a typical load in the County's 30-yard containers is three tons or less versus ten tons on average in the solid waste containers. He echoed Mr. Reeds comments that recycling plastic is really not efficient in any respect, but it is the public perception that it should be recycled. Mr. Reed noted that there are benefits to getting it out of the waste stream.

Mr. Rutherford:

Mr. Rutherford had no report.

Mr. Parr:

Mr. Parr noted that on the EMS side, the extractor has been installed at the rescue squad building in Lovington, and there is a problem with the water pressure. He asked if Staff could reach out to the Service Authority to see if there's anything they can do about the water pressure there.

Mr. Barton:

Mr. Barton noted that the Social Services Board wants to thank Nick Cropper of the Nelson County Times for his article on foster children, which is a continuing concern.

Mr. Harvey:

Mr. Harvey had no report.

Mr. Harvey then took another public comment from a citizen. The citizen asked how VDOT could get involved with putting rumble strips on Afton Mountain Road near the Blue Ridge Tunnel to get vehicles to slow down, adding she is afraid there will be a bad accident. Mr. Harvey advised that the Board will bring that up.

B. Appointments

Ms. Mawyer reviewed the following table:

(1) New Vacancies/Expiring Seats & New Applicants :					
<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term & Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointm ent</u>	<u>Applicant (Order of Pref.)</u>
Board of Zoning Appeals	11/10/2020	5 Years/ No limit	Ronald Moyer	N	Being advertised
(2) Existing Vacancies:					
<u>Board/Commission</u>	<u>Terms Expired</u>				
Agricultural & Forestal District Advisory Committee	5/13/2020	4 Years/ 3 term limit	Bill Halverson (T2)	N - resigned	None
	5/13/2019	4 Years/ 3 term limit	Chapin Wilson, Jr. (T3)	N - resigned	None

			Staff Member		
			Pam Campbell- Comm. Of Rev.		
			Robert G. "Skip" Barton-BOS		

Ms. Mawyer noted that Ronald Moyer does not wish to be reappointed to the Board of Zoning appeals, and she has reached out to the alternate on that board, Shelby Bruguire, to see if she would be interested in being appointed to that position. She stated that she has not gotten a response, yet.

C. Correspondence

The Board had no correspondence.

D. Directives

The Board had no directives.

VII. PUBLIC HEARINGS

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

Proposed Amendment to County Code; Ch. 3, Article II Dogs Running at Large. **(O2020-02)**

Mr. Carter noted the proposal is to enact an ordinance amending Chapter 3 that would prohibit dogs from running at large. He advised the draft ordinance describes when a dog would be running at large, when a dog would not be running at large, violations for allowing a canine to run at large, and what those violations would entail as far as civil penalties. He noted the penalties are \$150 for a dog running at large and \$100 for a dog identified running in a pack. He advised the ordinance says a dog is running at large while roaming or running off the property of its owner or custodian and is not under its owner’s or custodian’s immediate control. He noted that immediate control shall mean secured by leash or lead, or under control of a responsible person and obedient to that person’s commands, or within the real property limits of its owner or other person consenting to its presence. He added that “off the property of its owner or custodian” includes, but is not limited to, an easement burdening the property of the dog’s owner or custodian, or other person consenting to the dog’s presence, for a public right-of-way, public road, public sidewalk, or public trail. A dog is not considered to be running at large if the dog is used for hunting, during field trials or training, if the dog is in a fenced dog park or exercise area, if the dog is a service dog, in public service training, or if the dog is a working farm dog. Mr. Carter noted the ordinance then prescribes violations for a dog determined to be running at large in violation of the ordinance.

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

1. Michael Penny, Afton VA

Mr. Penny stated he would like the Board to amend the Code to have some kind of control of dogs that are running all over the place. He noted he has a nice property near Edible Landscaping, and one of his neighbor's dogs is a beagle and goes through anytime, day or night, and makes a loud howling kind of sound. He added there is another big dog that belongs to the same owner and runs wild. He stated his household hates being woken up at night. He advised he also has an AirBnb, and people come there to get away from metro areas looking for some quiet. He stated that these dogs wake them up, and he has to apologize to them for his neighbor's dogs running all over the place. He added there are also some hounds that come onto his property and bark for an hour. He noted there is no point in calling Animal Control right now because they can't do anything.

2. Nick Rush, Afton VA

Mr. Rush stated he has no problems with hunters who take their dogs out and at the end of the day, the dogs go back to the truck and back to the kennels. He stated he does have a problem with the leashless dog law. He noted he has people in his neighborhood who have hunting dogs that run free 24 hours a day and 365 days per year. He emphasized that this is a nuisance, adding that dogs will show up at 3 am and bark outside his bedroom window. He urged that there needs to be a way to hold the owner accountable for the nuisance their dog is creating.

3. Mary Rush, Afton VA

Ms. Rush noted that she loves being able to go outside and walk on her road, however, she has issues with a pack of huge dogs chasing her. She stated she was scared, and Animal Control told her to carry bear mace because those dogs had the right to come down the road. She added that unless she got mauled or injured, there was nothing she could do. She emphasized this has affected her life so much that she can't even go out for a walk on her road. She added that two of those dogs have bitten people, but they could never identify them.

4. Joanne Clarkson, Arrington VA

Ms. Clarkson thanked the Board and especially Mr. Parr for the consideration they have given to this matter. She noted she has been attacked twice by dogs when she was walking on Route 56. She added that one time, the dogs actually came onto her property and attacked her. She stated she is very anxious to see that this is implemented. She added that recently, on the property her home is located, she now

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has two strange dogs that are constantly coming into her backyard. Ms. Clarkson commended the Board for doing this and noted it is her hope that it will pass as an ordinance. She stated that people hunt on her property, and they have the right to do that, but their dogs are under control. She urged the Board to adopt this ordinance.

5. Bonnie Stevens, Massies Mill VA

Ms. Stevens noted she is an employee of the Nelson County Humane Society, and she worked with Mr. Parr and Animal Control to try and establish this ordinance. She advised that the Humane Society's goal is not to go around picking up every stray dog in the county, but they would like to be able to get dogs back to their owners if they are lost. She noted that having a collar and ID tag would be very helpful, and she added that they would like to make sure that people are responsible for knowing where their dogs are. She stated they recognize that this is a rural county, and they have no intention of interfering with hunting or farm dogs. She assured this is really just a tool in the toolbox for Animal Control and the Humane Society to help when there is a situation with a particular dog. She encouraged the Board to adopt this ordinance.

6. Elwood Waterfield, Arrington VA

Mr. Waterfield stated that he loves dogs and noted that road hunting is really bad in his area. He then noted that he spoke with the Department of Game and Inland Fisheries, and he learned there are two separate ordinances in this county. He stated that no dogs can run at large west of Route 151, but dogs can run at large east of Route 151. He noted that he has had issues in the past with vicious dogs. He then urged that there only be one ordinance for the county instead of two separate ones, if there really are two separate ordinances.

Mr. Harvey advised that Route 151 is the boundary line in the county for deer dogs and bear dogs. He stated that people are not allowed to hunt on the west side of 151 for deer with dogs, but they can do that on the east side. During bear season, people can run dogs on both sides of 151. He clarified it is not two different ordinances, and it is a state code that has to do with protecting the bear hunters up in the mountains.

7. Brenda Saunders, Afton VA

Ms. Saunders noted that people move out to a rural area to be country, adding if people want their dogs on a leash, they should go back to the city. She clarified that dogs should definitely be on leashes in a neighborhood, however, it is not needed if someone lives on a farm out in the country far away from neighbors. She stated she does not understand why this ordinance can't just be for the neighborhoods.

Ms. Saunders then urged the Board to stop spot zoning things and update the zoning regulations.

8. David McGann, Afton VA

Mr. McGann stated that he was approached by Mr. Parr and a couple other people about this dog ordinance, adding that he owns 23 hunting dogs, and he always knows where his dogs are. He advised that these dogs running at large through the county belong to people who really don't care. He noted he would be glad to see an ordinance in Nelson County that can protect the public and people walking on the roads. He stated this ordinance is not for Albemarle, Augusta, or Buckingham Counties, but rather it is a Nelson County ordinance. He noted the committee came together with a lot of people from two big hunting groups, and they are trying to work together with all the hunters so they can protect the public from dangerous dogs running the streets attacking people. He then advised he has a lot of people standing behind him who would like to see this ordinance passed. He added that Animal Control is not going to come and lock someone's dog up, even if the dog is on a farm in a rural area. He stated Animal Control is not looking for that kind of dog, and this ordinance is going to give Animal Control the authority to have control of the public when they don't listen about their dogs bothering people. He added that at least they can be fined, and people will listen after that. Mr. McGann stated that he would like to see Animal Control have a little bit more authority to do their job in Nelson County than what they are working with today.

9. Carl Coffey, Massies Mill VA

Mr. Coffey stated he was also asked to sit on this committee that put this ordinance together, and he personally thinks it needs to be adopted and enforced. He noted he is a hunter and has close to 20 dogs that are contained. He added that they have GPS collars and he always knows exactly where they are when they are off his property. He urged that if a person can't walk on their street without getting attacked by a dog, something needs to be done. He stated that all citizens in the county need to be protected from vicious dogs, adding that he hopes this passes.

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

Mr. Rutherford complimented Mr. Parr for his efforts on this matter, adding his gratefulness for the diplomacy that was shown talking about both sides of the conversation. He echoed that this is not Augusta's, Albemarle's, or Buckingham's law, but rather it is Nelson County's law. He noted he is supportive of this particular ordinance, which is not a leash law but rather a dog-at-large law and making sure it is specific and protective of our hunting dogs and farm dogs.

Mr. Reed asked if the intention of the "Dogs Used for Hunting" section is for when dogs are actively hunting when they are exempted or if hunting dogs are exempt. Mr. Parr stated that hunting dogs are

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exempt. Mr. Reed asked if there is basically no restriction with the exception of collar on hunting dogs, and Mr. Parr stated that is correct.

Mr. Barton stated that a person taking a walk down the street has the right to feel safe, adding that we are depending upon our Animal Control Officers to be realistic in their enforcement of this law, if it is passed. He echoed Mr. Rutherford's comments commending Mr. Parr on doing a great job on this. He then stated that he supports this ordinance.

Mr. Parr thanked the committee that worked to draft this ordinance, adding that three of the members spoke tonight: Carl Coffey, Bonnie Stevens, and David McGann. He stated that what started all this was a quote someone said after their dog attacked someone in this room: "You don't have a leash law, so you can't do anything about it." He noted that this was said to our Animal Control Officer, and that mentality is what led the Board to revisit this issue that was addressed back in 2018. He noted that at that time, there were some concerns with the wording, and it was met with a lot of opposition, so it did not pass. He emphasized that one thing that is important for everyone to understand is the intent of the ordinance. He advised that the intent of the ordinance is not for our Animal Control Officers to go chasing your friendly chocolate lab that is running through the neighborhood. He noted that we all want to enjoy living in the country and let our dogs do their thing. He advised that the intent is a tool in the toolbox for Animal Control. He added that right now, Animal Control has no ability to act until somebody is attacked by the dog, and now, with this ordinance, they will be able to do something. If there is a complaint about a dog who is barking in the middle of the night or attacking somebody as they're walking down the road, this gives Animal Control the ability to do something about it. He added if someone's dog is running around or visiting the neighbors, that is where the good neighbor conversations come in. If that dog starts to become a nuisance, that is when Animal Control steps in. Mr. Parr also noted that the ordinance is a three strike situation. He advised that he believes they have done a good job of drafting something that still honors the hunting legacy we have here in the county and protects the people who want to walk in the neighborhoods.

Mr. Parr then moved to approve Ordinance **O2020-02** Amendment to County Code; Ch. 3, Article II Dogs Running at Large and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following ordinance was adopted:

ORDINANCE O2020-02
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY
CHAPTER 3, ANIMALS, ARTICLE II DOGS AND CATS
SEC. 3-43 DOGS RUNNING AT LARGE

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

Sec..3-43 Dogs Running at Large

An owner shall not allow his/her dog to run at large in the County, subject to the following:

(a) *When a dog is deemed to run at large.*

(1) For the purposes of this section, a dog is deemed to "run at large" while roaming or running off the property of its owner or custodian and is not under its owner's or custodian's immediate control. Under "immediate control" shall mean (i) secured by leash or lead, or (ii) under control of a responsible person and obedient to that person's commands, or (iii) within the real property limits of its owner or other person consenting to its presence.

(2) "Off the property of its owner or custodian" includes, but is not limited to, an easement burdening the property of the dog's owner or custodian, or other person consenting to the dog's presence, for a public right-of-way, public road, public sidewalk, or public trail.

(b) *When a dog is not considered to be running at large.*

A dog is not considered to "run at large" in the following circumstances:

Dogs Used for Hunting. Dogs used for hunting are exempted from the prohibitions of this ordinance and shall not be deemed to be running at large provided any such dog is wearing a collar with a tag showing the name and telephone number of the owner of the dog.

Field trials or training. During field trials or formal obedience, agility, or similar training periods when the dog is accompanied by its owner or custodian.

Fenced dog park or exercise area. When the dog is in a securely fenced, specifically designated dog park or dog exercise area established by the County or another governmental entity, a homeowner's association, or a community organization, where the fencing is designed to prevent a dog from escaping.

Service dog; when leashing is not required. When the dog is a service animal whose handler, because of a disability, is unable to use a harness, leash, or other tether, or the use of such a device would interfere with the service dog's safe and effective performance of work or tasks, provided that the service dog is otherwise under the handler's control through voice control, signals, or other effective means.

Public service training. During search and rescue and similar public service training when the dog is accompanied by its owner or custodian, or by a qualified handler, provided the owner, custodian, or handler has the express permission of the owner or occupant of the property on which the dogs are being trained.

Farm dogs. When the dog is a working farm dog that is either guarding or herding cows, fowl, goats, sheep, swine, or other domestic animals normally raised on a farm.

(c) *When a dog is reported to be running at large.*

(1) Except as provided in subsection 2 below, upon receipt of a complaint, the Animal Control Officer shall investigate and, if satisfied of the truth of the complaint, issue a warning, in writing, to the owner or custodian of the dog that any future violation shall result in the imposition of a \$150.00 civil penalty. Any person summoned or issued a ticket for a violation may make an appearance in person or in writing by mail to the treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty of \$150.00. Imposition of civil penalties shall not preclude an action for injunctive, declaratory, or other equitable relief. A second and subsequent violation shall be a Class 1 misdemeanor.

(2) The owner or custodian of a dog found running at large in a pack shall be subject to a civil penalty of \$100.00 per dog so found. Any person summoned or issued a ticket for a violation may make an appearance in person or in writing by mail to the treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty.

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

(d) *Seizure, Impoundment and disposition.*

Any dog observed or captured while unlawfully running at large may be seized, impounded and disposed of by an Animal Control Officer or other law enforcement officer pursuant to Virginia Code §3.2-6546.

(Va. Code §§ 3.2-6538, 3.2-6543, and 3.2-6546)

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

B. Special Use Permit #2020-06 – Office

Consideration of a Special Use Permit application requesting County approval to allow office use on property zoned A-1. The subject property is located at Tax Map Parcel #20-2-3B at 910 Beech Grove Rd. The subject property is owned by Jack and Kathleen Miller.

Ms. Bishop provided the following report:

BACKGROUND: This is a request for a special use permit to allow an office use on property zoned A-1 Agricultural (Section 4-1-28a).

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Public Hearings Scheduled: P/C – October 28, 2020; Board – November 10, 2020

Location / Election District: 910 Beech Grove Road / Central District

Tax Map Number(s) / Total acreage: 20-2-3B / 1.85 +/- acre parcel

Applicant Contact Information: Geoffrey Truslow, 434-256-0502, geoff@mountainlifeofva.com

Owner Contact Information: Kathy Miller, 1280 Walker Mountain Road, Tye River, VA 22922, 434-981-1989, kjfoxmiller@gmail.com

Comments: This property received a special use permit for an antique shop in 2001. It has since seen several commercial uses, most recently as a salon. When the new tenant applied for a sign permit for the office operation (Mountain Life of VA), it was determined that the new use would require a new special use permit. Antique shops (4-1-2a) and offices (4-1-28a) are both special uses in the A-1 District. The original SUP for the antique shop became void when the use ceased for longer than two years.

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature, with some commercial. There are no 100-year flood plains on the property. The existing building will require a change of use from the Building Inspections Department.

Access and Traffic: The property is accessed by Beech Grove Road. VDOT has provided that the existing entrance is satisfactory and will not require any upgrades.

Utilities: The property is served by existing private water and septic systems. Health Department had no comments or concerns.

Conditions: The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit.

At their meeting on October 28, 2020, the Planning Commission recommended unanimous approval of the application, without conditions. There were no speakers at the public hearing.

Comprehensive Plan: This property is in an area designated as Rural and Farming on the current Future Land Use Plan.

RECOMMENDATION: The approval of special use permits should be based on the following factors:

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1. The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate.
2. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property.
3. The proposed use shall be adequately served by essential public or private water and sewer facilities.
4. The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance

Mr. Harvey asked what size sign the applicant is limited to having. Ms. Bishop stated that in the A-1 zone for a business sign, she believes it is 50 square feet, however, this sign is nowhere near that size.

Mr. Harvey invited the applicants to come forward and speak.

The applicants did not wish to come forward.

Mr. Harvey then opened the public hearing.

1. David McGann, Afton VA

Mr. McGann stated he speaks good on behalf of the applicants.

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

Mr. Reed then moved to approve **SUP #2020-06 – Office** and Mr. Parr seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Following the Public Hearings, Mr. Harvey asked Dr. Eagle, in attendance, to come forward to answer some questions.

Mr. Rutherford asked Dr. Eagle if enrollment has gone up. Dr. Eagle stated no, adding they budgeted for 1589 students and they are at about 1560. She noted that the State always does a lower projection, and

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they had our school system projected at 100 less for the next two years, however, we only dropped by a few. She stated it is not as bad as they thought, especially with the pandemic.

Mr. Harvey asked when the students will be going back to school, and Dr. Eagle stated she personally hopes soon. Mr. Rutherford asked about the next School Board meeting, and Dr. Eagle noted it is Thursday the 12th at 6:00 pm.

Mr. Harvey then asked Dr. Eagle about discussion of a bonus. Dr. Eagle stated she hopes they can work together for the good of all of the staff, and she thinks it would be a huge boost for all staff members for the County and Schools who have been working hard. She added that she thinks it would be a great economical boost to put some money out there, and she hopes they can work together on that.

The Board then went back to item VI: Reports.

VIII. OTHER BUSINESS (AS PRESENTED)

A. Closed Session Pursuant to Virginia Code §2.2-3711 A(1), (3), & (5)

Mr. Reed moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code Sections 2.2-3711 (A)(1), (3), and (5): (1) Discussion of the promotion and salary of an employee of the public body; (3) Discussion or consideration of the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and (5) Discussion concerning a prospective business or industry where no previous announcement has been made of the business or industry's interest in locating its facilities in the community. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by voice vote to approve the motion.

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

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

Mr. Reed then moved to approve Resolution **R2020-47** Amendment to the Nelson County Salary & Classification System – Re-Establishment of Planner Position Including Grade Assignment and Job

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Description, with the County Administrator and Staff to determine the salary and classification. Mr. Parr 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 R2020-47
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT TO THE NELSON COUNTY SALARY & CLASSIFICATION
SYSTEM RE-ESTABLISHMENT OF PLANNER POSITION INCLUDING
GRADE ASSIGNMENT AND JOB DESCRIPTION**

WHEREAS, the County of Nelson has a position classification plan that includes job descriptions for full and part-time employment positions; and

WHEREAS, positions and job descriptions occasionally need to be updated, revised or added; and

WHEREAS, the County's previously established position of Planner within the Department of Planning and Zoning was not included in the County's salary and classification system at the time of its revision in 2016-2017;

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby authorize the re-establishment of the Planner position at Grade 17 within the County's salary and classification system; and

BE IT FURTHER RESOLVED, that said Board additionally does hereby approve the job description of Planner as presented or amended as applicable and authorizes the County Administrator to fill the Planner position as re-established herein.

Mr. Rutherford then moved to approve Resolution **R2020-48** Support for an Application for a Business Prospect (The Company) to the Virginia Board of Pharmacy and Mr. Reed 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 R2020-48
NELSON COUNTY BOARD OF SUPERVISORS
SUPPORT FOR AN APPLICATION FOR A BUSINESS PROSPECT (THE COMPANY)
TO THE VIRGINIA BOARD OF PHARMACY**

WHEREAS, The mission of the Nelson County Board of Supervisors is to maintain Nelson County as a beautiful, safe, healthy, and prosperous rural county; where public services are effective, efficient, adequate and responsive to the needs of its citizens; where education is a life-long process;

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where citizens are involved in all aspects of their governance; and where the community is well planned to assure respect for and dedication to its traditions and resources, while continuing to improve its economic viability; and

WHEREAS, The Virginia Board of Pharmacy has issued a Request for Application to solicit applications for a permit to operate a pharmaceutical processor in Health Service Area (HSA) I. As authorized in law, the Virginia Board of Pharmacy may award conditional approval for only one pharmaceutical processor in this health service area. In order to be considered for selection, an Applicant must submit a complete Application for a Pharmaceutical Processor Permit for HSA I with required documentation and application fee in accordance with this RFA no later than December 4, 2020; and

WHEREAS, A business prospect has expressed interest in locating a pharmaceutical processing facility in the Colleen Business Park in Nelson County. The Company is a leading medical cannabis cultivator with a proven track record of successfully and compliantly operating in all of the most regulated medical markets across the country. The Company is an accountable and transparent operator that will bring safe and compliant pharmaceutical grade medical cannabis products to the Virginia market. The company will further positively impact the community through philanthropic giving and sponsorship of community events and initiatives; and

WHEREAS, The Company estimates the employment at the 50,000 square foot facility to be 100 employees with a wage rate of \$15-16 per hour; and

WHEREAS, The Company has a team of experienced leaders who have extensive backgrounds in a variety of industries that are crucial to successful medical cannabis oil operations, including but not limited to pharmaceutical operations, healthcare, and research and development. This experience will allow them to lead Virginia's industry, providing patient-focused care in a sustainable manner while reinvesting in our local community,

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors that said Board supports The Company's application to the Virginia Board of Pharmacy, and authorizes the County Administrator to submit all documents necessary to show Nelson County's support.

IX. ADJOURNMENT

At 9:37 PM, Mr. Parr moved to adjourn and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the meeting adjourned.