

November 14, 2019

Virginia:

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

Present: Jesse N. Rutherford, East District Supervisor
Thomas D. Harvey, North District Supervisor – Vice Chair
Ernie Q. Reed, Central District Supervisor
Thomas H. Bruguire, Jr. West District Supervisor
Larry D. Saunders, South District Supervisor – Chair
Stephen A. Carter, County Administrator
Grace Mawyer, Administrative Assistant/Deputy Clerk
Candice W. McGarry, Director of Finance and Human Resources
Robert Brown, VDOT Residency Administrator
David Blount, TJPDC Legislative Liaison
Martha Eagle, School Division Superintendent
Dylan Bishop, Director of Planning and Zoning

Absent: None

I. CALL TO ORDER

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

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

II. CONSENT AGENDA

Mr. Bruguire moved to approve the Consent Agenda and Mr. Reed seconded the motion. Mr. Bruguire then noted that the Blue Ridge Railway Trail caboose is officially finished; he saw pictures of the interior this morning, and it looks really nice. He noted that Ted Hughes should be commended for all the work he’s done. Mr. Harvey asked if the caboose is considered permanent property. It was then asked why the caboose is being given to the County instead of the Foundation. Mr. Carter noted that from his understanding, the Foundation is becoming more and more inactive. It was noted that the County owns the area off of Route 151 including the train station. Mr. Carter noted that this depot was refurbished in the last TAP grant from VDOT. 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 – **R2019-41** Minutes for Approval

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**RESOLUTION R2019-41
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MINUTES
(October 8, 2019)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **October 8, 2019** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2019-42** FY 19-20 Budget Amendment

**RESOLUTION R2019-42
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2019-2020 BUDGET
NELSON COUNTY, VA
November 14, 2019**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2019-2020 Budget be hereby amended as follows:

A. **Appropriation of Funds (General Fund)**

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$109,739.43	3-100-009999-0001	4-100-31020-5419
\$24,939.07	3-100-009999-0001	4-100-22010-5419
\$8,003.92	3-100-002404-0001	4-100-31020-5419
\$1,809.01	3-100-002404-0006	4-100-22010-5419
\$783.88	3-100-001899-0005	4-100-91030-5621
<u>\$35,000.00</u>	3-100-002404-0031	4-100-91050-7011
\$180,275.31		

B. **Transfer of Funds (General Fund Contingency)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$5,074.00	4-100-999000-9901	4-100-82050-6008

C. Resolution – **R2019-43** Holiday Lake 4-H Educational Center Support

RESOLUTION R2019-43

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**NELSON COUNTY BOARD OF SUPERVISORS
IN SUPPORT OF A REQUEST
BY
HOLIDAY LAKE 4-H EDUCATIONAL
CENTER TO
THE COMMONWEALTH OF VIRGINIA
FOR ESSENTIAL CAPITAL SAFETY IMPROVEMENT PROJECTS**

WHEREAS, Holiday Lake 4-H Educational Center (HL4HEC), a non-profit 501c (3) organization, is requesting funds for essential capital safety improvements from the Virginia General Assembly, in the amount of \$332,000 for the 2020/2022 biennial budget,

WHEREAS, HL4HEC mission is to improve the quality of life by educating youth and adults in a natural setting,

WHEREAS, Holiday Lake 4-H Educational Center (HL4HEC) serves nineteen (19) Virginia localities which includes the counties of Albemarle, Amherst, Appomattox, Amelia, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Fluvanna, Greene, Louisa, Lunenburg, Mecklenburg, Nelson, Nottoway, and Prince Edward as well as the cities of Charlottesville and Lynchburg,

WHEREAS, HL4HEC is located in the 20,000-acre Appomattox/Buckingham State Forest, the largest state forest in Virginia,

WHEREAS, the 4-H Center leases 157.8 acres from the Virginia Department of Forestry on a long-term lease through the year 2080,

WHEREAS, the objectives of HL4HEC are:

- To provide four seasons annually of educational camping programs for 4-Hers in Central, Southside and specialized camps across the state of Virginia.
- To provide special programs and activities to include Natural Resource Education as a resource for school groups, 4-H clubs, the summer 4-H camping program as well as for adults.
- To provide facilities, programs, and services necessary to serve as the Virginia 4-H Shooting Education Center.
- To provide quality facilities and support services year-round for diverse groups from multiple geographical regions.
- To evaluate the effectiveness of educational programming on an ongoing basis and to revise programming to meet the changing needs of stakeholders.

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WHEREAS, today at HL4HEC, over ten thousand (10,000) participants (many of which are underserved youth) benefit annually from a variety of programs. Holiday Lake 4-H Educational Center has served the youth and adults of Central/Southside Virginia and beyond since 1941. Thousands of urban youth get to experience the “*forest*” through 4-H and Natural Resource Education programs at the 4-H Center. For almost 80 years, Nelson County has played an active part of the more than one hundred thousand (100,000) lives that have been enriched at the 4-H Center through educational programs, friendships and a closeness to nature,

WHEREAS, in 2011 HL4HEC was registered as a Virginia Historic Landmark and listed on the National Register of Historic Places. The historic registration (which in part includes 15 cabins built in 1937 by the WPA which are still used today) assures that the original character of the historic buildings will be preserved,

WHEREAS, through a memorandum of understanding between the Appomattox County School Board and HL4HEC, the 4-H Center serves as a designated evacuation site to be utilized in the event of an emergency which would require students to be taken out of the Appomattox County Schools and be temporarily located at HL4HEC,

NOW THEREFORE BE IT RESOLVED, the 4-H Center’s capital improvement projects include facility upgrades/installations to include Medical Clinic Facility and Equipment Upgrade (including floor replacement and AED), PA System (Active Shooter), ADA accessibility improvements, Emergency Generator, Exterior Security Lighting, Infrastructure Upgrades (drainage system, sidewalks, sewer lines and water storage and pressure tank repair/painting), HVAC units, Large Pavilion Upgrade, Roof, Gutter and Siding Replacements, Kitchen Floor Replacement, Challenge Course Repairs and Improvements and Platform Tents for Outdoor Skill Education;

BE IT FURTHER RESOLVED, upon receiving the funds and completing the necessary capital improvements, Holiday Lake 4-H Educational Center will be able to increase the 4-H Center’s useful life and continue to serve thousands of youth and adults for many years to come in Central and Southside Virginia.

D. Resolution – **R2019-44** Approval of NG9-1-1 Implementation

**RESOLUTION R2019-44
NELSON COUNTY BOARD OF
SUPERVISORS APPROVAL OF NG9-1-1
IMPLEMENTATION**

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WHEREAS, Pursuant to §56-484.16 (G) of the Code of Virginia, no later than July 1, 2023, the state 9-1-1 Services Board shall develop and fully implement NG9-1-1 transition plans to migrate PSAPs and originating service providers from E-911 to NG9-1-1; and,

WHEREAS, To the extent practicable, the migration of PSAPs will be implemented on a sequential region-by-region basis for those PSAPs served by each legacy E-911 selective router pair; and,

WHEREAS, the Nelson County migration is scheduled to occur in the first quarter of 2021; and,

WHEREAS, Nelson County has received a migration proposal from the 9-1-1 Services Board recommending implementation of NG-9-1-1 utilizing the Fairfax County contract with AT&T as a cooperative procurement vehicle; and,

WHEREAS, Nelson County is required to submit a Proposal Acceptance Letter to the 9-1-1 Services Board which signals the County's intent to deploy NG9-1-1;

NOW, THEREFORE, BE IT RESOLVED, by the Nelson County Board of Supervisors that the 9-1-1 Services Board's NG9-1-1 Migration Proposal is hereby accepted;

AND, BE IT FURTHER RESOLVED, that the County Administrator is authorized to proceed with executing an agreement with AT&T utilizing the Fairfax County contract for the implementation of NG9-1-1 services.

E. Resolution – **R2019-45** Acceptance of Conveyance-Virginia Blue Ridge Railway Caboose

**RESOLUTION R2019-45
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR ACCEPTANCE OF CONVEYANCE
CABOOSE-VIRGINIA BLUE RIDGE RAILWAY TRAIL**

RESOLVED, by the Nelson County Board of Supervisors that the County Administrator, Stephen A. Carter is hereby authorized to accept the conveyance of property from the Virginia Blue Ridge Railway Trail Foundation, Inc., via Deed of Gift dated November 4, 2019 on behalf of the Nelson County Board of Supervisors; the conveyed property being a wooden caboose including all rails, ties, ballast, and electrical hook up.

III. PUBLIC COMMENTS AND PRESENTATIONS

A. Public Comments

1. Gary Wood, East District Resident and CEO of Central Virginia Electric Cooperative (CVEC) and CEO of Central Virginia Services Inc. (CVSI)/Firefly Fiber Broadband

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Mr. Wood thanked the Board for consideration of transferring the fiber today and also thanked the staff for the work that's been going on this year in preparation. He noted that CVEC/CVSI has committed to connecting to 8500 CVEC members plus another 1000 or so non-CVEC members in the county over the next 5 years. He added that they are making good progress and assured they will be diligent in continuing to do so. He noted that if the Board has any questions and would like him to stay for the consideration on the agenda, he will. He lastly recognized Mr. Saunders and Mr. Bruguiera as they will not be on the Board next year. He thanked them for the work they have done for the County and assured them that they will be missed.

2. Martha Eagle, School Division Superintendent

Dr. Eagle distributed the following handout:

- Good afternoon gentleman
- Intro - Martha Eagle, School Division Superintendent
- We enjoyed having several of you join us yesterday for our annual tour of our schools. Last year we had the opportunity to tour Tye River, Nelson Middle School, and Nelson County High School. This year we showcased Rockfish River Elementary. The group of visitors had a chance to tour the school, visit two classrooms and engage with the students, and then we had a time of discussion.
- We are appreciative of your time shared to see what we are doing in our schools and to interact with our staff and students - it truly means a lot!
- I want to thank Mr. Steve Carter and Mrs. Candy McGarry for their time last month to sit down and meet with Ms. Shannon Irvin and me. We plan to sit down again in December and I would like to meet every two months as our schedules will allow.
- We have proposed a joint board meeting for the first week in December and I am hopeful our two boards can sit down for a quick information presentation and dialogue prior to the budget season. The date we have requested is Dec. 3 at 4:00 p.m. and we look forward to hearing from you on your commitment to the meeting.
- As we continue our request for capital improvement planning, I have submitted a letter to Mr. Carter for your review today. If you have any questions, I will be glad to answer them. We thank you for your support as we continue chipping away at several projects. The school division has partnered with Architectural Partners out of Lynchburg to consult on several projects and based on the positive relationship this firm has with the county already, it is a win-win situation and we look forward to moving forward with discussion and planning.
- We appreciate and thank you for your support!

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Dr. Eagle noted that they received a security grant from VDOE; they applied for all 4 schools for over \$200,000 but unfortunately only received \$60,000 for Tye River Elementary School. She added there will be a local match with that.

3. Elaine Woodson, Shipman VA

Ms. Woodson requested that the reuse sheds at the collection centers be reopened on weekends. She noted they have been closed for a while now and are an asset to the community. She stated a lot of citizens in Nelson work in Charlottesville, Lynchburg, or Waynesboro, and on weekends, people are usually cleaning out their homes and wanting to recycle things. She added that the nearest places to recycle reusable goods are places such as Goodwill in the Waynesboro, Charlottesville, and Lynchburg areas, or the Almost Home thrift shop in Colleen. She noted she has been to both but would rather give to local people in the community than to give to a place to resell. Ms. Woodson stated that local people cannot utilize the reuse sheds as much during the week and urged the Board to reopen them on weekends. She noted that the people fighting over items in the past should be punished, and the whole community shouldn't be punished because of that. She also asked if there are any plans or possibilities to do some electronic or battery recycling as well as plastic bag recycling.

B. VDOT Report

Mr. Robert Brown of VDOT noted that they are currently doing their final mowing on Route 29 before wintertime. They are also in their snow preparations for this coming winter. Regarding rural rustics, they are grading and doing drainage work on Jack's Hill Road. They have completed Embly's Gap and are working on Rhue Hollow Road and Rhue Hollow Lane. He noted they will hopefully be moving to Aerial Drive very shortly. He added that there is new pavement on Front Street/29 Business, which was a bonus this year, as they originally thought they would have to cut it due to funding.

Mr. Brown referred to the recent accident on 29 near Woods Mill which caused a large traffic backup. He talked to their incident commander yesterday and will have an after-action review of the accident to look at what happened, what went well, and what didn't go well as well as how they can eliminate the amount of congestion that caused. They are currently looking for a room to use to host that meeting and the Board will be welcome to attend.

Supervisors then discussed the following VDOT issues:

Mr. Rutherford:

Mr. Rutherford asked how far down VDOT can go on Route 848, Whipoorwill Road and would like to see if the rest can be paved. He noted his appreciation for the paving in Lovington and added that after the paving was done, he received a few complaints on globs of asphalt on 29 north that felt like rumble strips.

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Mr. Bruguere:

Mr. Bruguere noted that Embly's Gap looks good but thinks they need to take a brush and go over a few places with washboards (gravel buildup). Mr. Brown noted that they sometimes do need to come back and sweep.

Mr. Bruguere then noted that he would like to finish Campbell's Creek and Jack's Hill roads as well as other roads that have already been started in next year's rural rustic plan.

Mr. Reed:

Mr. Reed noted that Route 619, Hill Hollow Road between Old Roberts Mountain Road and Duncan Hollow Loop has some big potholes and needs some grading done.

Mr. Reed then noted an issue on Davis Creek Road on Huffman Hill where the cement bridge goes over Davis Creek. He stated that every time there is a rain event, a steep watershed drains down into small culverts and debris clogs up there. He noted that Mr. Brown could contact himself or Andre Derdeyn for more details about this.

Mr. Harvey:

Mr. Harvey noted that Dickwoods Road in Albemarle County was just paved and asked if Nelson paved their side. Mr. Brown stated he would look into this. Mr. Harvey then noted he would like to ask the State to name that road in honor of a gentleman who has passed away. The gentleman worked for 20-30 years to try to get that road paved. He noted this would be a joint effort with Albemarle County, and he has already spoken to his counterpart in Albemarle who is willing to go to their Board to request this. Mr. Harvey asked if there is an application to fill out, and Mr. Brown stated there is some paperwork involved but there isn't a whole lot to it. Mr. Brown added it is very similar to the process of naming a bridge.

Mr. Harvey also noted his disagreement with the plans to put a roundabout at the Route 250 and 151 intersection. He believes some improvements could be made with the redesign of the 151 part, but the stoplight works great, and a roundabout would be a huge mistake. Mr. Brown noted there will be a public hearing on the project and added he will voice Mr. Harvey's concern. Mr. Brown noted that Rick Youngblood helped get this submitted for the SMART Scale and it's currently in the design/preliminary engineering phase. He added that a lot of people have different opinions on the roundabout, but it's much safer and allows for more continuous movement so traffic will not be sitting at the bottom of Afton Mountain.

Mr. Saunders asked how many accidents have occurred since the stoplight was put up. Mr. Brown noted he would have to look, and Mr. Harvey stated that there was one very recently that involved a runaway truck. Mr. Brown noted he is unsure of what the diameter of the roundabout would be, but there would be a reduced speed in there such as 25 or 35 mph. Mr. Harvey stated he would like to see an example of

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a roundabout in a location that has a similar decline as this area as well as the amount of traffic. Mr. Carter noted that if changes are requested, it would likely take an action by the Albemarle Board because they requested the funding to VDOT, which was approved by the Transportation Board. Mr. Brown noted he would talk to his project managers and try to find a roundabout in a similar situation. He added that with the SMART Scale process, we have to be careful about trying to change a project because we don't want to lose that money. If we lose it, it is going somewhere else.

Mr. Saunders:

Mr. Saunders noted that the decelerate lane they put in front of the Colleen Exxon and Feed Store is being used as a parking lot for trucks/tractor trailers. He then thanked Mr. Brown for what VDOT has done for the south district and the county for the last 8 years. Mr. Brown thanked Mr. Saunders for his service.

IV. NEW & UNFINISHED BUSINESS

A. 2020 TJPDC Legislative Program (R2019-46)

Mr. Blount reviewed the following relative to the 2020 Legislative Program:

TOP PRIORITIES:

TJPD Legislative Program

Highlights of proposed changes (for 2020)

STATE BUDGET—updated first paragraph with timely topics to be addressed in budget

PUBLIC EDUCATION FUNDING—updated numbers and added a statement about restoring previous cuts

BROADBAND—updated funding amounts; added language supporting local broadband authorities;
added language supporting use of railroad crossing easements

OTHER PRIORITY ITEMS:

LOCAL REVENUE AUTHORITY—deleted position on local sales taxes related to the Wayfair decision, which was accomplished; added position opposing changes to the existing tax assessment appeals process

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CHILDREN'S SERVICES ACT—updated funding numbers and status of studies

LAND USE/GROWTH MANAGEMENT—revised language on proffers in light of 2019 legislation; added position supporting local tree preservation

LEGISLATIVE POSITIONS:

--ENVIRONMENTAL QUALITY: Added NEW STATEMENTS to the position on solar to support 1) local authority on small solar facilities; 2) easing of the property tax exemption for utility scale solar; and 3) changes in net metering. Also, added a NEW STATEMENT to the position on recycling to support improvements to recycling markets and provision of accurate reporting of recycling data.

--GENERAL GOVERNMENT: Added NEW STATEMENTS to the position on Elections to 1) support state funding for new early voting requirements; and 2) address GIS use in determining county boundaries.

--HEALTH and HUMAN SERVICES: Updated language related to reduced CSB funding that is expected to be recovered from Medicaid expansion.

--HOUSING: Added a NEW STATEMENT under Affordable Housing to support greater state incentives for developers to provide affordable housing.

--PUBLIC SAFETY: Added NEW STATEMENTS to the position on Funding to 1) request full state funding for currently authorized positions for Commonwealth's Attorney offices; 2) support fair transitioning to NG911; and 3) support state funding for alternative options for transporting mental health patients. Also, added a NEW POSITION on Volunteers to endorse having additional tools to support emergency services volunteers. Deleted a position on court issuance of restricted driver's licenses, which has been accomplished.

--TRANSPORTATION: Deleted the position on Transit Capital Funding, as bond usage has been extended for several years.

Mr. Blount noted the top three priorities and stated that in regards to the state budget and public education funding, it's mostly technical changes. He noted the latter position on education funding includes a continued emphasis on the underfunding of K-12 education by the State and the State not make any policy changes that would further lessen the State's commitment to their share of funding.

Mr. Blount pointed out within the local revenue authority position, that is where the support for the equalized revenue authority position is contained. He added that he was at the Board of Directors meeting for VACO on Sunday, and there was a vote by the Board to make that their top priority for the year. He anticipates that bill will be introduced once again this coming session.

Regarding land use and growth management, Mr. Blount noted that they had proffer legislation this past year that made changes to the 2016 law, and they have made some changes in light of that legislation this past year.

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Regarding the legislative positions section, Mr. Blount noted some new statements pertaining to solar have been added as well as statements on elections regarding the new voting requirements that will be taking effect in November 2020.

Mr. Rutherford noted that regarding solar, he had heard at VACO that the State was going to allow solar as by-right in most zoning scenarios for local government and asked if Mr. Blount had heard anything about that. Mr. Blount stated there are a number of different proposals floating around for the General Assembly, and that could be one of them.

Mr. Rutherford asked about the affordable housing front. Mr. Blount noted this is an area with a lot of moving parts right now, and there may be a lot of competing proposals in Richmond.

Mr. Rutherford then moved to approve resolution **R2019-46** and Mr. Bruguiere 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 R2019-46
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF THOMAS JEFFERSON PLANNING DISTRICT
2020 LEGISLATIVE PROGRAM**

RESOLVED, by the Nelson County Board of Supervisors that the 2020 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 positions and priorities of the member localities of the Thomas Jefferson Planning District Commission for the 2020 Session of the Virginia General Assembly, as presented by Mr. Blount via memo on November 14, 2019 as well as incorporation of the recommendations put forth by the Board as applicable.

B. School Board Capital Improvement Plan Update

Mr. Carter noted that the School Division through Dr. Eagle's office has submitted its current request for capital improvements funding to the Board. He reminded the Board that they budgeted approximately \$800,000 for school division capital improvements, and that funding was retained in the general fund on the County's side of the ledger with the process that the school division develops the projects and brings them back to the Board for funding approval. He noted Dr. Eagle's letter dated August 30th requests funding for 4 projects:

- The athletic track at NCHS, costing \$200,825
- Repairs to the gymnasium bleachers at NMS, costing approximately \$7,600

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- Replacement of cameras on 8 buses, costing \$12,000
- Upgrade enterprise building integrator (computer management system operated under contract with Honeywell which manages HVAC systems), costing an estimated \$170,000 (verbal quote)

Mr. Carter noted that the total request is approximately \$390,464. If this is approved, that would leave a balance in the capital funding allocation of about \$252,000 during the current fiscal year. He added that we did request and they did assist us with any additional information from the various vendors, and that's included in the information provided to the Board.

Mr. Rutherford asked how much of the allocated funding has been spent already. Mr. Carter stated 2 buses and 2 vans were purchased for approximately \$200,000. Mr. Bruguere noted the current balance is about \$642,000.

Mr. Saunders questioned why they are asking for money for the athletic department when they have a roof leaking along with other building needs and stated he believes the welding/vocational department should be higher on the list in his opinion.

Mr. Saunders asked who reviews the cameras on the buses if there is a problem. Dr. Eagle stated the supervisor of transportation and the principals. She added that law enforcement is only brought in if there is a crime.

Mr. Rutherford asked why they are requesting cameras for just 8 buses. Dr. Eagle stated money is the reason, and as they get new buses, cameras are included on them.

Mr. Rutherford then asked when they need to start procurement on the track. Dr. Eagle stated it has been started already and needs to be on schedule after the Spring track season finishes. She added it will need time to cure.

Mr. Harvey asked if this \$200,000 for the track is more important than other things that are much more needed. Dr. Eagle stated that the School Board is looking at safety items.

Mr. Saunders asked how many months is the track actually used. Dr. Eagle stated 11 of the 12 months and added the community uses it as well.

Mr. Harvey and Mr. Saunders both noted they are not ready to vote on this today and agreed this could be discussed further during the joint meeting. Mr. Bruguere agreed and noted he would like to see more details about the roof concerns. Mr. Reed noted that the track resurfacing really needs to get done, and if it doesn't get on the list soon, we're looking at another cycle, which would put us in a much worse situation than we're in now. Mr. Saunders stated that it can still be put on the schedule, and they don't have to approve the money today.

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By consensus, the Board decided to defer this subject until the joint meeting on December 3rd at 4:00 PM.

C. Livestock Fence-In Provisions Ordinance (**O2019-02**)

Mr. Carter noted that during the October meeting, the Board requested that the ordinance to change the fence-in/fence-out regulations in the County be reconsidered, and the agenda packet includes that draft ordinance that previously underwent public hearing, and the Board had taken no action. Mr. Carter added that Staff spoke to Mr. Payne, the County Attorney, who advised another public hearing is not required. He noted the draft ordinance includes options of penalties or no penalty, and essentially, a boundary between properties would be the fence. The Board's consideration would include either establishing a penalty of a class 4 misdemeanor, a civil fine, which would hopefully not exceed the class 4 misdemeanor of \$250, or no penalty whatsoever.

Mr. Saunders noted he requested this be put back on the agenda because unfortunately, it seems that there are people taking advantage of the fence-out law. He noted he is not really in favor of it, but it's time for the Board to come up with some kind of an ordinance to protect the ones whose property gets destroyed.

Mr. Bruguiere agreed and noted there is no recourse for the people taking advantage of the fence-out law. He stated he unfortunately has to go against what the Farm Bureau suggested and believes they should adopt the fence-in law with option 3.

Mr. Rutherford noted he would not like to see a criminal charge or a fine going to the farmer but believes that when people have damages to their property, the person who caused that injury needs to be held responsible.

Mr. Carter noted that if option 1 was approved as part of the ordinance, then either the Sheriff or Animal Control could charge the party with a class 4 misdemeanor. If option 2 was approved, a civil penalty would be issued in the amount of whatever the Board sets. He noted that what has been recommended by the County Attorney is option 3, whereas by default, the property owners can decide what action needs to be taken.

Mr. Reed noted that in this way, initially, there's the opportunity of the two parties to figure something out between themselves and whether charges are going to be pressed. He then noted he would be in favor of option 2 because then, even if there should be some agreement amongst them, there would be a consequence. He added that having a consequence puts some teeth in this.

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Mr. Carter stated that both options 1 and 2 could cause it to become a nuisance ordinance for the Sheriff or Animal Control because of the calls they could get to come and enforce whatever penalty the Board enacts.

Mr. Carter reiterated that the property line is the fence, and as soon as you go across that line, you've crossed over the fence, whether it's there or not.

Mr. Saunders noted to Mr. Reed that the property owners will still have the opportunity to work it out amongst themselves in option 3.

Mr. Carter noted that this can be monitored if enacted, and if we find there needs to be more punitive teeth in the ordinance, we can amend the ordinance.

Mr. Harvey then moved to adopt Ordinance **O2019-02** effective December 15th, 2019 and Mr. Reed seconded the motion. Mr. Bruguieri noted it is unfortunate that a few people have caused the Board to have to change an ordinance and added that it affects himself and Mr. Saunders, as they are cattle owners as well. 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 O2019-02
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 3, ANIMALS, ARTICLE IV FENCE LAW

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

New Section

Article IV. Fence Law

4.1. Boundaries Declared Lawful Fences.

(a) The boundary line of each lot or tract of land in this county is hereby declared a lawful fence to any livestock domesticated by man.

BE IT FURTHER ORDAINED, that this Ordinance becomes effective on December 15th, 2019.

The Board then took a 5-minute recess.

D. Nelson Center Parking Lot Lease Agreement

Mr. Carter noted that this was carried over from the October meeting. He stated that the Nelson Center has proposed an annually renewable lease for use of its parking lot adjacent to the Nelson Memorial Library. Use of the parking lot would be daytime parking for employees and patrons of Nelson Memorial Library and employees and visitors of the Nelson County Department of Tourism and Economic Development. The first term, if this lease agreement was consented to by the Board, would have begun July 1st of this year and conclude June 30th, 2020. He added there is no cost involved, and either party may terminate the lease. Mr. Carter noted that the Board had some questions which were submitted to Mr. Krieger, and he responded by email dated October 15th. He added that it is his understanding they have completed the paving/resurfacing of the parking lots there. He noted he does not see the necessity of this lease agreement and stated the Nelson Center and the County and Library have cooperatively used the parking facilities for the past 10 or 15 years without a lease. He added that one of the comments Mr. Krieger made was: "This is based on the model of the County currently requiring the Nelson County Community Development Foundation to renew annually agreements to waive tipping fees at the landfill for demolition debris and to provide a 24-month grace period to pay water and sewer connection fees on NCCDF-owned rental property." He reminded the Board that the County's contribution to the NCCDF is in the neighborhood of \$55,000 per year, and the lease that the County pays for use of the Nelson Center is about \$55,000-\$65,000 per year, so it's over \$110,000 per year in direct contributions from the County.

Mr. Harvey stated that the parking area should be given to the County and noted he is against this, adding it will come back and bite us if we don't own the land.

Mr. Rutherford asked if Mr. Krieger gave reason for this agreement. Mr. Carter stated that initially, they requested funding in support of their resurfacing of the parking facilities at the Nelson Center, and the Board hasn't consented to that. Subsequently, the lease agreement came forward thereafter.

Mr. Saunders suggested sending the lease back and asking them to reconsider selling the property.

Mr. Rutherford noted that we have already given them our liability policy, so we are assuming the liability for our employees and patrons. If liability is a concern, then we've already satisfied that with our policy.

Mr. Harvey then moved to instruct Mr. Carter to restructure his letter to the Nelson Center addressing the concerns and conveying that we feel very strongly that we need to own the property. He noted that we would accept responsibility for maintaining the loop road. Mr. Rutherford requested clarification of the motion, and Mr. Harvey stated the motion is requesting the Nelson Center to donate the upper (3rd

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tier) parking lot to the County, and the County will maintain it. Mr. Rutherford seconded the motion, and Mr. Bruguere noted he would like to see a plat outlining the parking lot. Mr. Reed stated he would not be in favor of voting for this unless he can see what it is they're voting on and see the plat. There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Reed voting No.

E. Network Transfer to CVSI-NOAA/NTIA Approval (**R2019-47**)

Mr. Carter noted that Staff drafted a resolution for the Board's consideration to enable the County Administrator to sign the document that's required by the National Oceanic and Atmospheric Administration (NOAA) that will enable final approval of the transfer of the County's middle mile Broadband network to Central Virginia Services, Inc. (CVSI). He added that basically, what the Board's approval would entail is acknowledgment of the following (as written in the acknowledgment letter):

The County acknowledges that it is not entitled to, nor is it seeking, reimbursement from NTIA, pursuant to 15 C.F.R. §14.34(g)(3) or any other provision of law, for the non-federal interest in the BTOP assets being transferred from the County to EDA and then to CVSI.

Mr. Carter stated as Mr. Wood mentioned in the Broadband Authority meeting earlier, there are several acknowledgments that CVSI has to make, and the CVEC Board approved the execution of those acknowledgments yesterday. He noted if the Board is favorable to R2019-47, then effectively, everyone who signs will return it to NOAA, and that concludes federal and state approval for the network's transfer.

Mr. Rutherford then moved to approve resolution **R2019-47** and Mr. Bruguere seconded the motion. Mr. Harvey noted the only change he suggests is for Mr. Saunders to be the one to sign the acknowledgment letter on behalf of the County. Mr. Carter noted that Staff can make this change in the resolution wording. Mr. Rutherford agreed and amended his motion to include that adjustment. 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 R2019-47
NELSON COUNTY BOARD OF SUPERVISORS
ACKNOWLEDGMENT OF FEDERAL REQUIREMENTS FOR
NETWORK TRANSFER TO CENTRAL VIRGINIA SERVICES, INC.

RESOLVED, by the Nelson County Board of Supervisors that the Board of Supervisors Chairman, Larry D. Saunders is hereby authorized to sign on behalf of the Nelson County Board of Supervisors the acknowledgment (copy attached) required by the National Oceanic and Atmospheric Administration (NOAA) and National Telecommunications and Information Administration (NTIA) to conclude Nelson County's transfer of its middle mile network to Central Virginia Services, Inc. (CVSI).

V. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE

A. Reports

1. County Administrator's Report

A. BR Tunnel Project: Final inspection to confirm and accept completion of Phase 2 is scheduled for 11-18-19 with approval anticipated and confirmation to VDOT thereafter. Phase 3 is in process with approximately 10% of the project completed as of 11-14-19.

B. Broadband: Final federal approval (NOAA/NTIA) was received on 10-22-19. Nelson County and CVSI must provide signatory acceptance by 11-21 of the responsibilities denoted in the approval communication from NOAA/NTIA (Board of Supervisors approval is scheduled for 11-14 and CVSI has advised it will secure approval from its Board prior to the required submission date).

C. Library Project: Architectural Partners (J. Vernon) Field Report No. 05 is attached hereto. The report denotes that work on all facets of the addition to the existing library is in process, including site work. As is also denoted in the report, four and possibly all five of the slab foundations for the addition's shear walls will be removed and re-done due to defective installation. The project is currently 35%-40% complete.

D. Lovingson Revitalization: Pending is a submittal to UVA's Urban & Environmental Planning Program, which, if approved, will result in graduate students from the program working with the County's project team (County and TJPDC staff, Mr. Rutherford and two citizen sparkplugs) to complete by 6-30-20 the planning grant project funded by VA-DHCD. If the submittal to UVA is not successful then a solicitation in accordance with the County's purchasing policy will be submitted to four consultant firms with selection, thereafter, of one of the firms to assist the project team with project completion.

E. R2KSA: The R2KSA next meets on 12-4-19. At that meeting (Nelson) County staff will reiterate the proposal staff made to the Authority in July and September to solicit the addition of Bedford County as an Authority member, inclusive of the Authority acquiring the County's landfill facilities, which can provide long term landfill capacity to the Authority (possibly 50+ years).

F. Piney River Water & Sewer System: **1) GAC Project** – Sealed bids are due on 11-22. **2) Route 56 Pump Station** – Installation of two new variable frequency drives (VFDs) has been completed, returning the pump station to design operation. **3) Transfer of System to NCSA** – A letter response dated 11-7-19 has been received from NCSA in response to the County's prior request for the Authority to accept ownership of the Piney River Water & Sewer System. The letter includes several "issues" the Authority wants resolved. Staff will complete and submit a full report on this subject to the Board prior to close of business on 11-22.

G. Tye River Water System: The elevated (5,000 gallon) water tank, which is located at the Nelson Heritage Center, developed two leaks on 11-14. Temporary repairs were completed by COB on 11-15. Work is now in process to remove and replace the elevated tank with a ground tank. A previous structural evaluation of the elevated tank was completed and reported to the County on 1-24-19 noting therein "both the tank and support structure are in good condition and are suitable for continue use". A cost estimate for this work is pending receipt but is projected to be in the \$80,000-\$100,000 range (TBD).

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H. Nelson County Service Authority: As previously reported, the Authority is under a “consent order” from VA-DEQ to address compliance issues with the Schuyler Sewer System (wastewater plant and collection system). The Authority has sought funding (grant and loan) from USDA-RD/RUS to complete a project to replace the wastewater treatment plant and either substantially repair or completely replace the collection system. The sewer system serves 44 customers. The estimated cost to complete the project is approximately \$3.5 - \$4.0 million (excluding future O&M costs). USDA-RD/RUS has conditioned that federal grant and loan funding requires Nelson County to guarantee debt NCSA obtained from RD/RUS in 2002. The County agreed at that time to a “moral obligation” to provide funding to the Authority for this debt and has continued to provide the funding to the Authority. However, the County cannot provide the debt guarantee RD/RUS is now requiring and has so advised the Authority in writing by letter dated 10-29-19. As such, it is understood the Authority may now be considering a second option for the Schuyler System which entails replacing the existing sewer system with individual septic systems, which would or could result in the abandonment of the public sewer system (i.e. the 44 current customers would assume responsibility for the newly installed individual septic systems). The expense of this option, per a Preliminary Engineering Report the Authority commissioned is projected at \$1,237,000 (excluding future O&M costs). The status of either project is also understood to be pending a final decision on how to proceed. County staff discussed this subject with VA-DHCD staff on 11-7-19 during a conference call related to the County’s local middle mile transfer to CVSI. RD/RUS staff had conferred with VA-DHCD staff on the Authority’s Schuyler Project as a means of possible assistance to the Authority. Per DHCD’s 2019 Program Design, a successful application for CDBG funding could result in a grant award of \$792,000 (\$18,000 per household). The area’s median household income (MHI) in conjunction with the DEQ consent order are factors that would strongly contribute to a successful CDBG grant application, which only the County, as a local government, can apply for. It is possible but TBD that additional grant funding from DHCD could be secured. However, grant funding from USDA-RD/RUS cannot be secured without loan funding. Staff will draft a more comprehensive report on this subject, if requested by the Board, for submittal by COB on 11-22.

Mr. Carter reiterated that one Board cannot obligate a future Board in the way that RD wants the guarantee. He noted that Staff spoke with RD, and RD staff acknowledged that they knew the County couldn’t give the guarantee, but if the Service Authority wants the money, the County has to provide some guarantee.

Mr. Saunders noted that Mr. Rutherford is on the Service Authority Board and asked him for the reasoning why they don’t want to install septic tanks. Mr. Rutherford noted that some of the potential issues they saw was the number of homes that don’t have sufficient square footage for a drain field, and then they would likely need to have a mass drain field, which would lead to more complications such as locations and maintenance agreements. Mr. Rutherford stated it’s not an option that they can’t take, but it would be more complex and difficult.

Mr. Bruguere noted that spending \$4.5 million to replace the plant for 44 people just does not seem feasible.

Mr. Harvey stated that supposedly, all the Service Authority needs is a letter stating that the County will continue to give that \$82,000 every year for the 29 project. He asked how much is owed on that project, and Mr. Carter stated \$600,000.

Mr. Carter reiterated again that the Board cannot legally guarantee they’re going to pay something from one year to the next; they’ve already done a moral obligation, which said they would do that, and RD will not accept that.

Mr. Harvey stated if we send a letter stating that we will continue to do what we’ve been doing for the last 20 or so years, that should be sufficient. Mr. Carter stated he can write the letter, but he is not sure it will be acceptable.

Mr. Harvey then moved to instruct Mr. Carter to work with the Service Authority director to scope this letter to send to RD, whereas the letter will state that we will continue to do what we've been doing for the last 20 years. Mr. Rutherford seconded the motion, and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

I. Sturt Park: County staff (Parks and Recreation and County Administration) are working to complete a report to the Board, planned for submittal and review at the Board's 12-10 session on the question of hunting or no hunting on the Sturt Park. Additionally, staff's plan/proposal is to initiate a master plan/design for the park utilizing funding from the timber sale from the property (total revenue received to date is \$72,557.82).

J. ACO Office: The office project is complete with ACO staff located on site with the County's ACO Shelter.

K. FY18-19 Comprehensive Annual Financial Report (CAFR/Audit): Robinson Farmer Cox staff are working this week in the conference room within the County Administrator's office to complete the annual audit report for FY18-19 (ending on 7-30-19). Required submittals to the Auditor of Public Accounts will be made later in November with the final audit report to be received (projected) in early January 2020.

L. FY19-20 Budget: Work to develop the draft FY19-20 Budget is in process. Ms. McGarry, Director of Finance and HR, has submitted a draft budget schedule to the Board.

2. Board Reports

The Board decided to move Board Reports to the evening session.

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	11/1/2019	5 Years/No term limit	Mary Kathryn Allen	Y - email	
(2) Existing Vacancies:					
<u>Board/Commission</u>	<u>Terms Expired</u>				

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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.		
			Thomas H. Bruguire, Jr.-BOS		

Ms. Mawyer noted there is one expiring seat on the Board of Zoning Appeals, and Ms. Mary Kathryn Allen has indicated that she would like to be reappointed.

Mr. Harvey moved to reappoint Ms. Mary Kathryn Allen to the Board of Zoning Appeals and Mr. Rutherford seconded the motion. Mr. Carter noted this is a recommendation to the Circuit Court. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

C. Correspondence

There was no correspondence considered by the Board.

D. Directives

There were no directives.

VI. OTHER BUSINESS (AS PRESENTED)

There was no other business considered by the Board.

VII. ADJOURN AND CONTINUE – EVENING SESSION AT 7 PM

At 5:08 PM, Mr. Harvey moved to adjourn and continue the meeting until 7:00 PM and Mr. Rutherford 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. Saunders called the meeting to order at 7:05 PM with all Supervisors present to establish a quorum.

II. PUBLIC COMMENTS

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

III. PUBLIC HEARINGS

A. Extension of Special Use Permit #2018-09 – Single Family Home in B-1

Consideration of extension of a previously approved Special Use Permit requesting County approval to build a single family home on property zoned B-1. The subject property is located at Tax Map Parcel #66-A-64 (4.1 acres) on Colleen Rd. The subject property is zoned B-1 and owned by Henry Fitzgerald.

Mr. Rutherford advised that he has a conflict of interest with this subject and will be abstaining his vote and participation in the discussion.

Ms. Bishop provided the following report:

On November 13, 2018, the Board of Supervisors approved SUP Request #2018-09 to allow for the construction of a single-family dwelling in the B-1 Business District. The site plan requirement was waived, due to the fact that a site plan is not typically required for a single-family dwelling. There were no conditions associated with this approval.

The Zoning Ordinance establishes a 12-month deadline from the date of SUP approval in which the use must be established, or the SUP will automatically terminate and become null and void. The procedure for the renewal of a SUP shall be the same as specified herein for the approval of the original permit.

Public Hearings Scheduled: P/C – October 23, 2019; Board – November 14, 2019

Location / Election District: East of and adjacent to 394 Colleen Road / West Election District

Tax Map Number(s) / Total acreage: 66-A-64 / 4.1 acre portion of 16.477 acre +/- parcel

Applicant Contact Information: Thomas Fitzgerald, 722 Harpers Creek Lane, Tyro, VA 22976; 434-238-3579.

At their meeting on October 23, 2019, the Planning Commission voted unanimously to recommend approval of this request.

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The Board had no questions, and Mr. Saunders invited the applicant, Mr. Thomas Fitzgerald, to come up and speak.

Mr. Fitzgerald came forward and noted that nothing has changed since last year. He noted they have had the perc test and septic field engineering done and are just waiting on the bank to come through with subdividing the land.

The Board had no questions for the applicant, and Mr. Saunders then opened the public hearing.

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

Mr. Bruguiere then moved to approve the **Extension of Special Use Permit #2018-09 – Single-Family Dwelling in B-1** and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted (4-0-1) by roll call vote to approve the motion with Mr. Rutherford abstaining.

B. Extension of Special Use Permit #2018-05 – Farm Winery Permanent Remote Retail Establishment and Restaurant

Consideration of extension of a previously approved Special Use Permit requesting County approval to use the specified subject property for Farm Winery permanent remote retail and Restaurant use. The subject property is located at Tax Map Parcels #6-A-131 (8.126 acres) and #6-A-163D (2.811 acres) at 9485 Rockfish Valley Hwy. The subject property is zoned A-1 and owned by Rockfish Valley Events LLC.

Ms. Bishop provided the following report:

On September 11, 2018, the Board of Supervisors approved SUP Request #2018-05 to allow a three-unit structure including a farm winery permanent remote retail establishment and restaurant in the A-1 Agriculture District. This request entails only what was approved – the three-unit structure with the attached conditions as imposed by the Board. Should the Board approve this request, the site plan would still require final approvals from the appropriate agencies prior to any permits being issued.

The Zoning Ordinance establishes a 12-month deadline from the date of SUP approval in which the use must be established, or the SUP will automatically terminate and become null and void. The procedure for the renewal of a SUP shall be the same as specified herein for the approval of the original permit.

Public Hearings Scheduled: P/C – October 23, 2019; Board – November 14, 2019

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

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

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Applicant Contact Information: Rockfish Valley Events, LLC (Todd Rath), 161 Wood House Lane, Nellysford, VA 22958; 434-996-7133.

At their meeting on October 23, 2019, the Planning Commission voted (4-2) to recommend approval of this request.

Ms. Bishop advised that the applicant, Mr. Todd Rath, was unable to attend tonight's meeting due to a work emergency that carried him out of state. However, he asked that we go forward with the public hearing since it was advertised, and if the Board has any questions for him, the Board can table the decision after the public hearing if the Board so chooses.

Mr. Bruguiere asked if Special Use Permits (SUPs) go with the sale of land. Ms. Bishop stated a SUP carries with the property, and they'll have a year to establish the use, and if not, it then becomes null and void. She clarified it is a year from the date it was approved, not from the date of sale.

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

1. Margaret Flather, Afton VA

Ms. Flather stated she lives close to this property and noted that the property is a trash pile. She urged the Board to attach stipulations if they choose to approve this extension. She added that the stipulations could be that the fence get constructed and the lots get the trash and debris cleaned up. Ms. Flather noted that the Board could give Mr. Rath 2 to 3 months to do this and added that doing these things will help him in terms of the property and being able to sell it.

2. Philip De Jong, Afton VA

Mr. De Jong noted that he submitted a letter to Ms. Bishop and he believes it was distributed to the Board. He urged the Board to deny the extension and stated that nothing has happened in 2 and a half years except the well has been drilled. He added that the property is for sale, and extending this only benefits the developer at this point. He noted that if the Board does choose to extend it, he asks that they include placing conditions on the applicant as Ms. Flather suggested.

3. Shirley McGatha, Afton VA

Ms. McGatha stated her concerns are her privacy and traffic on 151. She asked the Board to consider keeping Afton rural and not extend this SUP.

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

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Mr. Harvey stated this has gone on quite a while and added that nothing towards this project has been done. He noted that he talked with Jeff Kessler today, who advised that Mr. Rath does not have a highway entrance permit. Mr. Harvey added that the land is for sale and he doesn't like the threats that keep being made to the surrounding landowners whereas Mr. Rath has spoken of pig farms, etc. He stated that he would like to see the Board turn down the extension, and Mr. Rath would not have to wait any period of time before reapplying. Mr. Carter stated that Mr. Rath would have to wait a year. Mr. Harvey noted that Mr. Payne stated otherwise. Mr. Carter stated that it essentially would be a new application because he has to comply with the same requirements as he did initially to get the SUP approved. He added that the ordinance states that if the Board turns it down, that the applicant cannot reapply for substantially the same application within one year. Mr. Harvey stated that the Board would be turning down the extension, not the application. Mr. Carter noted that Staff will have to confer with Mr. Payne about this.

Mr. Saunders asked what happens if it expires. Ms. Bishop stated that the ordinance says that a renewal shall be the same process as a new application, so if that gets denied, then it would be considered a denial of the application, and they wouldn't be able to reapply for a year.

Mr. Reed asked if there is a time limitation if there's a new owner. Ms. Bishop stated if the Board approves it, it goes with the property, so if there was a new owner, they would have a year from the date of approval.

Mr. Bruguiere noted that he believes it would be prudent to wait 30 days to get all the Board's questions answered regarding the proper procedures. It was clarified that another public hearing would not be needed.

Mr. Bruguiere then moved to table this decision until the December Board meeting 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.

C. Class C Tower Permit #2019-11 – Whispering Pines Dr. / Verizon

Consideration of a Class C Tower Permit application requesting County approval to use the specified subject property for a "150-foot steel monopole tower". The subject property is located in Piney River off of Whispering Pines Dr., Tax Map Parcel #64-A-101 (11.83 acres), owned by Carlton & Carolyn Mattox. The subject property is zoned Agricultural (A-1) and Residential (R-1).

Ms. Bishop provided the following report:

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BACKGROUND: This is a request for a Class C Communications Tower with modifications on property zoned A-1, Agricultural and R-1 Residential in accordance with §4-1-22 and §20-13 of the Zoning Ordinance.

Public Hearings Scheduled: P/C – October 23, 2019; Board – November 14, 2019

Location / Election District: Whispering Pines Drive / West Election District

Tax Map Number(s) / Total acreage: 64-A-101 / 11.83 acres +/- total, 2,500 square foot lease area.

Applicant Contact Information: Stephen Waller, Verizon, 8159 Cancun Court, Gainesville, FL 20155; 434-825-0617.

Comments: The requested use is for a 150' steel monopole communications tower (painted brown) with a 4-foot lightning rod. The balloon test at the site was held on Friday, October 18 in accordance with §20-13-D.

The applicants are requesting the following modifications in accordance with §20-20:

- Height: The maximum allowable height for a Class C Tower is 130 feet (§20-4). The proposed tower is 150 feet in height, with a 4-foot lightning rod.
- Fall Area: The minimum distance from the tower's base to the property line is required to be 110% of the tower height for a metal monopole (§20-12-C-8). The proposed setback is 30 feet from the nearest property line.
- Number of Antennas: Only three arrays are permitted with three antennas each (§20-12- D-4). The applicant is proposing one array with six antennas.

The applicant has provided a Project Narrative, outlining the justifications for the modifications requested.

Per Section 20-20-A:

The Board of Supervisors may modify the location or height restrictions, or both, upon a determination that: (i) the strict application of the ordinance would produce undue hardship or severely limit the provision of telecommunication services; (ii) there are no commercially reasonable alternatives; and (iii) the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.

Per Section 20-12-D-4:

Unless waived or modified by the Final Approving Authority, equipment shall be attached to the tower as follows: (i) the total number of arrays of antennas attached to the existing structure shall not exceed three (3); (ii) each antenna shall not exceed one thousand one hundred fifty-two

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(1,152) square inches; (iii) each array shall contain no more than three (3) antennas; and (iv) no antenna shall project from the structure beyond the minimum required by the mounting equipment.

DISCUSSION:

Land Use / Floodplain: This area is mixed use in nature. The property does not fall within any 100-year flood plains.

Access and Traffic: The property is accessed by an entrance from Whispering Pines Drive onto Patrick Henry Highway (Route 151). The connection of Whispering Pines Drive to Route 151 will require upgrading to meet the standards for a moderate volume commercial entrance. County staff is working closely with VDOT and the applicants towards a solution.

Ms. Bishop noted that today, they indicated that a site distance analysis was recently done.

Utilities: There is a proposed 20' wide access/utility easement running from Whispering Pines Drive to the lease area where the tower will be located.

Conditions: The final approving authority for this request is the Board of Supervisors. The ordinance states that the final approving authority shall approve the color of the tower and may impose other conditions upon approval. The Planning Commission may make recommendations to the Board of Supervisors regarding proposed conditions. The applicants have proposed to paint the tower brown and staff recommends and that the tower is constructed as proposed in the final approved plans. Staff also recommends the condition that the Virginia Department of Transportation provide approval.

Comprehensive Plan: This area is not identified on the Future Land Use Map other than the generalized "Rural and Farming" designation, as is much of the County. The current Comprehensive Plan does not address communications towers/infrastructure. The application meets the guidelines established in §20-2 of the Zoning Ordinance outlining the purpose of the Communications Tower Ordinance including the importance of protecting the scenic nature of the County.

At their meeting on October 23, 2019, the Planning Commission voted unanimously to recommend approval of the request with the following conditions/modifications.

1. Virginia Department of Transportation approval.
2. The tower shall be constructed according to the final approved site plan.
3. Allowed modification for height requirement of 150 feet, with 4-foot lightning rod.
4. Allowed modification for fall area setback of 30 feet.
5. Allowed modification for number of antennas in a single array to six antennas.

Mr. Bruguiere asked why VDOT is requiring a commercial entrance for this when we don't have commercial entrances for other tower sites. Ms. Bishop noted that VDOT's comment was any change in use at that location would require upgrading because there are 6 homes back there. Putting the tower back there would increase the intensity of the use, and VDOT is saying there should have already been a

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commercial entrance there, but the question is if that is even going to be an option because of the site distance. Ms. Bishop added that they said there's the possibility of doing a site distance waiver, and there are other options there as far as access to the site.

Mr. Bruguiera stated that VDOT is holding this up and added that access will only be needed maybe once in a blue moon to check the equipment, but it will not be accessed daily.

Mr. Saunders then invited the applicant to come up and speak. Lori Schweller spoke on behalf of the applicant.

Mr. Saunders asked Ms. Schweller if the VDOT entrance requirement is a problem. Ms. Schweller stated it is a challenge because they did go out there and do the site distance analysis, and it didn't meet the stopping distance from that direction. So, the options are a site distance waiver, which makes the most sense to pursue first, or look for an easement through a neighboring property.

Mr. Saunders asked if the 150 feet height of the tower includes the 4-foot lightning rod, and Ms. Schweller stated it is 150 feet plus the 4-foot lightning rod.

Mr. Rutherford asked if there will be any spots available other than for Verizon. Ms. Schweller stated at this height, there would be room for co-locators on that monopole.

Mr. Harvey noted that they started work on this site in 2006 and then stopped. Ms. Schweller stated that unfortunately, after they had approval for a Class 2 in 2007, it was at that time that Verizon and Alltel merged, so all Alltel sites had to be analyzed and determined what Verizon still needed, so a lot of their work got put on pause for a long time.

Mr. Saunders then opened the public hearing.

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

Mr. Bruguiera moved to approve the **Class C Tower Permit #2019-11 – Whispering Pines Drive** with the provisions recommended by the Planning Commission except VDOT approval. Mr. Rutherford seconded the motion, and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

D. Zoning Ordinance #2019-01(03) – Extended Stay Camping

Consideration of a Zoning Ordinance Amendment to add an "Extended Stay Campground" limited to 180 days as a special use in the A-1 District only, with associated definitions.

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Ms. Bishop provided the following report:

A public hearing is scheduled to consider the addition of an "Extended Stay Campground" as a special use in the A-1 District only, with associated definitions. This would allow new or existing campgrounds to apply for the option to designate a portion of their sites as extended stay, allowing transient stays up to 180 days. As a special use request, Planning Commission would be able to regulate these requests on a case-by-case basis, and recommend conditions to the Board of Supervisors.

At their meeting on October 23, 2019, the Planning Commission voted unanimously to recommend approval of this ordinance.

Ms. Bishop noted that a few months ago, her office received a request to allow extended stay camping, and they realized they didn't have a way to allow anyone to apply for that. The maximum allowable stay by the Ordinance is 30 days. They took it to the Planning Commission, tossed around some ideas, and they ultimately unanimously recommended approval of this ordinance.

Mr. Reed asked how the 180-day number was determined. Ms. Bishop stated that when you look at short-term tourist rental state code, that's the maximum allowable stay per State Code. The Planning Commission decided to go with the State Code route, knowing that they could condition a shorter time period on a case-by-case basis.

Mr. Saunders then opened the public hearing.

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

Mr. Bruguiere then moved to approve **Ordinance Amendment #2019-01 – Extended Stay Campground** and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Reed voting No.

*Staff realized soon after that ordinance number 2019-01 has already been used, therefore this has been renamed to **O2019-03**. The amendment adds the following language to Appendix A, Zoning:

BE IT HEREBY ORDAINED, by the Nelson County Board of Supervisors that the Code of Nelson County, Virginia Appendix A, Zoning, is hereby amended as follows:

Article 2: Definitions

Add the following definitions:

Campground, extended stay: Any place used for extended transient camping where compensation is expected in order to stay in a tent, travel trailer, or motor home. Campgrounds must provide potable water and sanitary facilities.

Transient, extended: A guest or boarder; one who stays for less than one-hundred and eighty (180) days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Transient lodging, extended: Lodging in which the temporary occupant lodges in overnight accommodations for less than one-hundred and eighty (180) consecutive days.

Article 4: Agricultural District A-1

Section 4-1-a Uses – Permitted by Special Use Permit only:

4-1-10a Campground (O2016-02) or Extended Stay Campground (must specify)

BE IT FURTHER ORDAINED, by the Nelson County Board of Supervisors that this Ordinance becomes effective upon adoption.

IV. OTHER BUSINESS (AS PRESENTED)

The Board then presented their Board reports that they deferred from the afternoon session:

Mr. Rutherford:

Mr. Rutherford provided an update on the Regional Housing Partnership and affordable housing. He noted that they will be outreaching with County Staff about doing a presentation on affordable housing in the near future. He added that he is excited to be talking about the importance of career and technical education with our youth. He noted that he is part of a group who is working on soliciting grant money for career and technical education in renewable energy to be in Nelson County; this would include solar panel technicians, indirect related jobs such as welding and electricians, machinists, etc. He stated that we have the potential of being the first high school in Virginia to be offering training in that industry. Also, Charlottesville has become a hub for the solar industry, and with Apex moving in, they are looking to fill 250 jobs. Sigora, who opened in the 2000s, has doubled their needs in the last 5 years for employment. Mr. Rutherford added that a lot of jobs are being created that he sees Nelson County having the opportunity to be a business hub of sorts for the 3 metropolis areas served.

Mr. Bruguere:

Mr. Bruguere had no report.

Mr. Reed:

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Mr. Reed noted that at the last Thomas Jefferson Planning District Commission (TJPDC) meeting, the counties talked about their problems with recycling, and they all have the same problems we have. He noted that there will be a quarterly meeting with representatives from all the different areas in hopes that some of these problems may be able to be solved regionally.

Mr. Harvey:

Mr. Harvey had no report.

Mr. Saunders:

Mr. Saunders noted that himself, Mr. Reed, and Mr. Rutherford went to the dinner hosted by the Gladstone Senior Center, whereas the group wanted to show their appreciation to the Board of Supervisors for their funding assistance in getting a new commercial exhaust fan. The group ended up getting enough donations to buy a new commercial stove, and they donated the additional money they received from fundraising to the fire department.

The Board then discussed correspondence. Mr. Carter noted that they have a letter from Stewart Computer Services and Nelson Cable recommending establishment of a consortium with Central Virginia Services Inc. (CVSI) on the broadband project. He added that this was reported to the Broadband Authority earlier, and it does not seem feasible at this time, as the Board approved this afternoon consent to sign the documents to return to the federal agency that has granted approval for the transfer of the network. If the Board entertained this proposition, which he doesn't believe CVSI will agree to, everything would basically have to start all over.

The Board then discussed directives. Mr. Bruguere noted that he does not believe 1 year is long enough for Special Use Permits (SUPs), and he thinks they should look into possibly a 2-year period instead, especially if the applicant is having to wait on outside agencies.

Ms. Bishop noted that her Staff has decided to make it practice to ask the applicant when they apply for a SUP if they plan on having it established in 12 months. She added that the ordinance does allow the Board to impose different timelines, so a practice they could start doing is communicating better with applicants to see how much time they need, etc.

Mr. Reed added that when someone applies for a SUP, they should have a plan and a plan they intend to implement.

V. ADJOURNMENT

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At 8:14 PM, Mr. Reed moved to adjourn and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.