

October 13, 2020

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 – 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
Susan Rorrer, Director of Information Systems
Dylan Bishop, Director of Planning and Zoning

Absent: None

I. CALL TO ORDER

Mr. Harvey called the meeting to order at 2:02 pm, with all Supervisors present to establish a quorum.

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

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 soldier in the courtyard. She stated she is opposed to moving it, adding that these people were called to do a job just as people were called to do in other wars. She truly believes that this statue should still be here, and when she comes to the courthouse, she does not think of racism or slavery. She noted that when she looks at that statue, she thinks of a man or young boy that was called to do a job to defend a part of the south at that time. She reiterated that slavery did not start in America, adding that there were slaves in biblical times. She stated that she does not want southern history to be erased.

2. Wisteria Johnson, Shipman VA

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Ms. Johnson asked the Board to form a committee of Nelsonians to ponder and maybe even settle the statue question. She noted that two ministers are leading a response to this question: Reverend James Rose and Carlton Ballowe, who she understands is also a minister. She stated that she feels good about this because as Christian leaders, they have preached and practiced loving their neighbor as themselves. She noted this is the second greatest commandment out of ten. She suggested putting these two men and others together and let them face each other and continue to practice what they preach. She suggested letting the people sit and talk.

3. Lillian Bibb, Arrington VA

Ms. Bibb stated she is a transplant from the north and has been on both sides of the political party. She noted that she strongly believes that all statues and monuments are here to represent the past in history, and not all people look at a certain part of history in the same way. She urged that all statues and monuments should remain where they stand so everyone has the equal opportunity to acknowledge or remember their past. She stated that we must remember the past and honor its part in history, no matter how we personally feel about the past. She added that we cannot change history, and we can only learn from it. Ms. Bibb urged that the statue needs to stay for future generations and everybody in the world.

4. Thomas Nelson, Jr., Roseland VA

Mr. Nelson read the following:

1. Wars through history have nearly all built memorials to the fallen or those who served.
2. In Virginia there are many examples of memorials fought by Virginians for the cause.
3. Nelson County honors all those who fought in wars as we remember on Memorial Day and Veterans Day.
4. In the War Between the States, Virginia citizens fought to protect our state, as Gen Robert E. Lee had the opportunity and was asked to join the Union but could not forget his grand state of Virginia and decided on the Confederacy.
5. The colored, two years into the war in Virginia, were provided the opportunity in March 1853 to sign up for the Confederacy, whether slave or free blacks. Richmond was the capitol with large numbers of colored who signed up as well as the tidewater region. The Union was not interested in signing up colored, as the Confederacy did, until two years into the war. The war early on was centered on Virginians protecting their homeland and rights. Taking up arms by colored was not the common occurrence but a colored Confederate battalion was formed and who fought.
6. My research of coloreds born in Nelson County found records of service for 54 soldiers, but for who entered into the war up north for the Union. Records for colored confederate was not available in that search.
7. The Lovington statue serves as a memorial for all Confederates. As those colored Confederates who died in battle or in prison camps up north, they too are honored.

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8. As we don't have records at this point to colored slaves or free colored who might be buried in Nelson County, we should honor all soldiers. Like all American soldiers, they should be honored who served faithfully.

9. Now for slaves buried in Nelson County. I have spent a lot of time visiting and documenting graves in our county. More research could be done by families who have burials here. How many slaves are documented? I haven't been able to determine. Why haven't descendants of slaves cared for their family cemeteries? It takes work and permissions to clear vegetation, find the graves, do research by going through court records, and interview family members. The same goes for anyone who finds ancestors who served in the Union or Confederacy. At this point, I have heard there is just one Union soldier buried in Nelson County.

10. The Confederate Soldier statue should represent anyone, colored or white, who served coming from Nelson County who served in the Confederacy, as both did.

5. William Percy, Lovingston VA

Mr. Percy spoke in support of keeping the memorial statue. He noted that the focus of attention on this monument has afforded the community with a very valuable opportunity to search our hearts and minds to reevaluate a very painful period in our nation's history and to relearn from the tragedy of our past. He added that those who forget or remove their past or history are doomed to repeat it. He repeated the words engraved on the memorial: "In memory of the heroic Confederate soldiers of Nelson County who served in the War Between the States 1861-1865. Love makes memory eternal." He noted that he has done some research and learned that it was the decision of the 1962 Board of Supervisors as well as the Virginia General Assembly, the Civil War Commission, and independent individual citizens to approve of the memorial and these words. He stated that he agrees with and concurs with the wisdom and prudence of their efforts.

Mr. Harvey notified Mr. Percy that his time was up, adding that he could finish his comments after everyone else has gotten the chance to speak.

6. Herman Ponton, Lovingston VA

Mr. Ponton noted that he agrees with the previous speakers, adding he thinks it would be wrong to remove the statue. He advised that his real reason for being here is to speak to what happened at the School Board meeting the other night. He stated he believes the kids of this county have been done a great injustice by the decision to not open up the schools. He noted that a lot of these kids do not learn well at all on the internet, and a lot of them do not even have internet service. He reiterated that the School Board did them a real injustice for allowing this to happen, and he asked if this Board can do anything to help with this situation. He stated that his granddaughter has been an A/B student for the last few years, and this year, she is getting D's and E's. He added that she is good with a computer, but the deficiency is there, and it's not working for our kids.

Mr. Ponton also noted that our Sheriff's Department in our School System needs assistance dealing with the drug problem that we have in our schools. He stated it is rampant, and something needs to be done.

7. Brenda Ponton, Lovington VA

Ms. Ponton noted that she is the grandmother of the previously mentioned eighth grader. She stated that she has not been taught a lot of the things that her granddaughter is required to learn, and she cannot teach her. She emphasized that her granddaughter cannot learn remotely and is having a terrible time. Ms. Ponton noted that she is totally dissatisfied with the School Board's decision to not let the kids back in school, adding that numerous people spoke during the meeting. She stated that one of the people who spoke was the school nurse, who said that she would absolutely let the kids back in school. She noted that we are all meeting here today in-person, and it would be no different than if the kids were sitting in a classroom with a teacher in front of them. She stated that she is not sure if the Board of Supervisors can do anything about the School Board's decision, and she asked if they could try to help change their minds because the kids are missing out terribly. She reiterated that some kids can't learn remotely and need a teacher in front of them and visual contact with that teacher. She also noted that kids in surrounding counties are going back to school, and she does not understand why Nelson County kids cannot.

8. Chuck Amante, Shipman VA

Mr. Amante noted that regarding the statue of the generic soldier from Nelson County, it comes down to one question: Why are you fighting? He stated this is really what it's about, and no one will ask this question if the statue is taken down. He referenced an article stating that the war was not about slavery motivation, but rather the soldiers of the Confederacy were fighting for independence, gallantry, and hate of the Yankees. He noted that many young Southerners viewed Yankees in the same light as their ancestors viewed the British in 1776 and 1812, adding that they wanted to be left alone and be their own nation. He stated that evidence in letters and diaries of both northern and southern soldiers points to the fact that the defense of slavery was not what the war was all about.

Mr. Harvey notified Mr. Amante that his time was up, adding that he could finish his comments after everyone else has gotten the chance to speak.

9. James Bibb, Arrington VA

Mr. Bibb reiterated the importance of the statue on the Courthouse lawn to him and hundreds and thousands of other residents and families here in Nelson. He understands that it does not reflect on everyone, but there are also other things that do not reflect on him. He stated that he encourages the erection of a monument towards enslaved people, African Americans, and anything historical. He stressed that everyone needs to know their ancestors, their struggles, and what they persevered. He added that it is important to memorialize those people. He noted that this memorial does not represent any color, but rather the common soldier that served for his county in defense of the State.

10. Elwood Waterfield, Arrington VA

Mr. Waterfield stated that the Sheriff of this county and the Commonwealth Attorney were impeached on May 22nd, 2019, adding that there was not one word in the newspaper or on the news. He then spoke of a fifty-year-old dump in Findlay Gap consisting of 26 and a half tons of tires, waste, and trash in that creek. He advised that he reported this to Stephen Carter and Tim Padalino in 2014, and it is still there. He stated that this is the most corrupt place in Virginia, and this is the most corrupt Sheriff's Department in the world.

Mr. Waterfield then noted that he wants the statue to stay and asked whose bright idea it was to shut down the schools for a four-day drunken dope fest.

11. Reverend James Rose, Wingina VA

Mr. Rose stated that the statue represents the old south, and this is the new south. He noted that we do not need a reminder of the old south, adding that the statue only tells one side of the story, and we need to teach our children both sides. He urged that the statue needs to be removed and placed somewhere else. He advised that times have changed and implored that we come together as one people. Mr. Rose stated that he does not see a U.S. soldier when he sees that statue, but rather he sees the dividing of the country. He asked the Board to remove the statue and relocate it somewhere else, not on County Government property. He referred to people who have made comments on Facebook about him and stated that Nelson County is his home, and he will fight for what is right. He suggested putting up a statue that includes everybody. He stated that racism does exist, adding that we must come together.

12. William Percy, Lovington VA

Mr. Harvey let Mr. Percy finish his comments.

Mr. Percy encouraged our youth to not focus on the past that they cannot change, but instead to focus on looking forward to how they can affect and determine the future. He stated that removing the memorial to a common soldier that sacrificed his life in service to his state would have no positive influence on the future of anyone's life. He noted that if the young soldier could speak to us today, he believes his message would be short and sweet: "Remember me." Mr. Percy then suggested that the Board do likewise to the 1962 BOS in commissioning an additional monument to the memory of the thousands of black Americans whose lives were sacrificed or stolen in the growth process of our great country.

13. Chuck Amante, Shipman VA

Mr. Harvey let Mr. Amante finish his comments.

Mr. Amante stated that there is plenty of room for another statue on the Courthouse lawn. He noted that the statue could be for those who died in servitude and in slavery and who also built this county. He added that the Board would not unite anybody by removing the memorial to young lives voluntarily sacrificed or by slanderously ascribing motives invented by ignorant and suspect political operatives to those young men.

14. Gary Wood, CEO of Central Virginia Electric Cooperative and Firefly Fiber Broadband

Mr. Wood provided an update on where CVEC stands with broadband in the county. He noted that CVEC has completed construction out of their Martins Store substation, and service is available at about 4,000 locations there. They have completed construction up at Wintergreen and have completed the fiber placement out of their Colleen substation and are doing splicing now. He noted that this will go past another 1,200 homes at Wintergreen. He added that they have a couple of CARES Act projects that will take them past another 400-500 locations. By year end, they will cover a significant part of the county, and they are starting to connect people out of the Colleen substation, which will serve from Davis Creek south to the county line and go down Tye River Road. He added that this will go up to their old Piney River substation and also go into Freshwater Cove and Stevens Cove and around to Montreal Village in Shipman. Mr. Wood noted that the splicing for this is taking place now, and they are starting to do connections on that substation. He noted that the Gladstone substation is under construction, and this runs along the James River to Norwood.

Mr. Wood spoke of the CARES Act projects that the County has agreed to fund. He noted that they have the designs complete for those, and they have permit applications turned in to VDOT on several of them: Shipman, Cabell Mountain, and Piney River. They have design underway and should be submitting Rainbow Drive and Arrington pretty soon, and they have just about completed the piece of the connector between Colleen and Gladstone.

Mr. Wood noted that today was the first day that applications were accepted at the State for a new round of CARES Act funding that the State made available last Tuesday. They have \$30 million available, which is good news. He noted the bad news is that everything has to be in service by December 25th, so it is a very short construction period. He stated that they asked the County, and the County has agreed to apply, adding that the County has no money in this. The funds just have to run through the County. He noted that they are looking at two projects. One project is out of Piney River. He advised that CVEC has an agreement now to get on AEP poles, and they will be running north along 151 all the way up to Tye River and Lane Ford Bridge. They will also be going up Route 56 to Fleetwood Community Center. He noted that with the new CARES Act application, they will also go further down Lowesville Road to Whitehead Drive and pick up another 10 or 12 homes out there. Altogether, this additional work will add about 80 homes and businesses that they are passing.

Mr. Wood noted that the other application for the new round of CARES funding is for service to go up to Sugarloaf Mountain where the County has 911 antennas. It is about a two-mile build up that mountain along a private road, and they are asking for this funding so the County will have higher reliability out of the 911 services up there.

Mr. Wood noted that they are moving quickly, and they have their commitment that all CVEC members should have service available to them by mid-2022. He added that they are starting to do some off-system builds with Firefly in non-CVEC territory where there's funding available and where it doesn't

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slow down the project to build on CVEC lines. He expressed appreciation for all the support and added that he will come back and talk to the Broadband Authority about some plans for next year. He added that they are putting together a long-term plan that will look at how to get gigabit level service available to every home and inhabitable building in the county within a set period of time.

Mr. Barton asked if there are still plans to cross the railroad tracks in Arrington. Mr. Wood stated that they would like to do this early next year on AEP poles. It is about 300 homes and 10 miles of construction. Mr. Wood clarified that this is a separate project that he will be back to discuss at a later date. He added that they are also looking at some options near Schuyler.

Mr. Harvey commended Mr. Wood on behalf of the County and both the Board of Supervisors and the Broadband Authority. Mr. Wood noted that the County has done a great job and expressed appreciation for the people who have been working to provide broadband before CVEC got into the business: Nelson Cablevision, SCS Broadband, and Blue Ridge Internetworks. He added that all have played a role in getting this moving.

15. Lois Bennett

Ms. Bennett noted that she happened to meet a black lady at the Lovington Dollar General, and she asked her what she thought of the monument in front of the Courthouse, as she wanted a black person's opinion. Ms. Bennett stated that the woman responded with "What monument?" and looked puzzled. The woman then stated that she does not understand why people want to tear down monuments as they are inanimate objects. Ms. Bennett then suggested that if somebody does not like the statue, they should not look at it. She noted that when she looks at it, she sees sons and fathers bloody, dying, and laying on the ground. She stated that she believes Mr. Rose is in a position, having a congregation, to spread love and not divide.

16. Sherry Harman, Roseland VA

Ms. Harman stated that she opposes removing the statue. She noted that her two times great grandfather fought in the Civil War, and several of her ancestors died, with most of them in their teens and early twenties. She stated that they fought for what they believed in at the time, adding that the Civil War was not just about slavery, but also about the Tariff Act of 1825 that raised the duties of imported goods by 45%. She advised that this was very detrimental to the South and very advantageous to the North. She noted that this statue does not depict any one person but honors fallen soldiers, which were many Nelson County ancestors. She stated that a lot of things offend her, but she does not try to destroy them, remove them, or tear them down. She then noted that without our forefathers, such as George Washington, Thomas Jefferson, John Adams, and James Madison, there would be no United States. She added that these men all owned slaves, and as vile as it is to us today, it was an accepted practice in that period of history.

17. Kimberly Fitzgerald, Piney River VA

Ms. Fitzgerald stated that she is opposed to the removal of the statue. She noted that she has a son in the United States army and a stepson who served in the Marine Corps for four years. She stated that this statue represents these soldiers who fight for America every day, adding that there is no color on the statue. She emphasized that this statue represents brotherhood, and that is what they are taught in the military. She added that the statue represents all races that fought in the Confederacy, and removing it would be wrong.

18. Max Johnson, Afton VA

Mr. Johnson stated that this is a nameless generalized statue, and it is the first thing you see when you drive up to the Courthouse. He noted that it sends a simple message as you're driving up about what kind of treatment you are about to receive, and it is not a good message. He added that it provides no context and is a visual symbol and gives no education or history. He reiterated that it does not represent any one person. He noted that history lessons happen in the classroom, and there are lots of ways to learn about history. He added that he does not believe we are in danger of forgetting the past, especially not here in Virginia. He reiterated that the statue does not educate, but rather sends a simple message to anyone driving up to the Courthouse.

19. William Perkins, Schuyler VA

Mr. Perkins stated he opposes the removal of the Confederate statue.

20. Dakota Marsh, Afton VA

Mr. Marsh stated he thinks there should be a council made in terms of deciding about the statue. He noted that it is important to keep in mind that when the council did decide to build the statue, the schools were segregated at the time, which was nine years after Brown vs. Board of Education decided that separate but equal was unconstitutional. Mr. Marsh then noted that he would like to put in his bid to be on the council if one is created.

Mr. Harvey then closed the public comments.

Mr. Harvey advised that he does not want to form a committee right now, and he believes the environment in the United States is not the best right now. He noted that the Board will want to try to incorporate a lot of ideas, and as soon as things calm down a bit with the current pandemic, they can come back and sit down and actually talk. He assured that the Board will not forget, and this subject is on the front burner.

Mr. Harvey then addressed the School Board comments. He stated that he feels for them and emphasized that they are two separate bodies. He thanked the administration and the people who showed up at the meeting the other night. He noted that one side wants to go back to school and the

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other side doesn't, and there is no way to appease everybody. He added that he sees where a lot of kids are getting left behind. He then noted that families need to continue great communication with the School Board and school system and then suggested that everybody put themselves in their place. He stated that we need to pray for our School Board and school system, adding that the main priority is to educate the kids.

Mr. Barton reaffirmed Mr. Harvey's comments on education and the School Board. He stated that no matter what decision they make, it will be wrong to a lot of people, adding that we need to support the children and school system as best we can.

Mr. Barton then referred to the statue comments. He noted that he is a history teacher, and Virginia voted against secession. Lincoln called for troops after Fort Sumter to get the deep south back in the Union, and in order to do that, they would have to march across Virginia. Virginia was not about to let them do that, so they joined and fought. He noted that there were people in America who wanted slavery to continue, but the person in that statue was not one of them. The person was rather interested in his home, which was invaded. Mr. Barton added that one third of all white males of military age died during that war, and more northerners died. He noted that it would be a great idea to have something next to the statue that says that we of Nelson County recognize that slavery was wrong, and we need to move away from it and stop the fear of each other.

Mr. Reed stated that we are fortunate to have so many people in the county who are so thoughtful and articulate. He noted that he thinks it is important that we do something and take some action, but he does not think it is important that we do that immediately. He conferred with Mr. Harvey, adding that there are so many other things going on in the world right now grabbing their attention, such as the pandemic. He reiterated that he does think we need to do something, and he is in favor of continued dialog on this. He suggested allowing the people to come up with a way to address it and added that he is in favor of the idea of a committee consisting of thoughtful people.

Mr. Rutherford referred to the statue and concurred with the previous comments, adding that in the current atmosphere we have, we should not be rushing into making a decision. He encouraged everyone to love each other like neighbors and added there are a lot of different opinions on this topic. He noted support for creating a committee as a guide but not necessarily a decision-making mechanism.

Mr. Rutherford then addressed the School Board issue. He applauded our teachers, administrators, and staff that are working very hard on the topic of COVID with our education system. He stated he knows there are a lot of people suffering, and that ranges in our younger demographics who need to be socializing right now. He noted that he was at that meeting where the Health Department spoke advising that it is fine to come back to school, and he emphasized the mother who currently is working three jobs with three kids and is having to figure out childcare and paying for her mortgage. He added that there are a lot of situations like this in this county. He noted that he does recognize that a lot of people are doing a great job virtually as well, however, most of society cannot do well this way for a variety of reasons. He encouraged the School Board to be thoughtful of that in the future. He clarified that he does

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not want to see anybody getting sick with the virus, however, he knows the hybrid system is being done in the region, and it can be done safely and effectively.

Mr. Parr noted that he agreed with fellow Board members about the statue and thinks they need to proceed slowly, cautiously, and methodically and make a decision based on mass rather than on volume. He emphasized with everyone who expressed concerns on the school system. He clarified that the Board of Supervisors has no say over the schools other than allocating funds annually, and the School Board sets policy and makes decisions for the Division. He noted that he agrees with Mr. Rutherford and was disappointed in how the vote went after the school administration gave their plan and the medical experts gave their recommendation. He advised it was a 3-2 vote against those recommendations. He stated that as a resident, spouse of an educator, former School Board member, and a Board member here, he reiterated that he is disappointed in how that moved forward.

Mr. Parr then addressed Mr. Waterfield's comment asking whose idea it was to close down schools for a "four-day drunken dope fest." He noted that as a former School Board member, he would have to accept responsibility for that decision, and he believes that for the transportation needs of our students, it was the right decision at the time.

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 – **R2020-37** Minutes for Approval

**RESOLUTION R2020-37
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MINUTES
(September 8, 2020)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **September 8, 2020** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2020-38** Budget Amendment

**RESOLUTION R2020-38
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2020-2021 BUDGET
NELSON COUNTY, VA**

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I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 517.50	3-100-009999-0001	4-100-021040-3025
\$ 10,416.37	3-100-009999-0001	4-100-092010-9201
\$ 20,081.46	3-100-009999-0001	4-100-022010-5419
\$ 171.00	3-100-002404-0006	4-100-022010-5419
\$ 84,592.55	3-100-009999-0001	4-100-031020-5419
\$ 2,907.67	3-100-002404-0001	4-100-031020-5419
\$ 8,158.50	3-100-001899-0002	4-100-013010-7041
<u>\$ 42,686.32</u>	3-100-002404-0046	4-100-092010-9201
\$ 169,531.37		

II. Transfer of Funds (General Fund Contingency)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
<u>\$ 128,456.26</u>	4-100-999000-9901	4-100-091050-7085
\$ 128,456.26		

C. Proclamation – **P2020-01** October is Domestic Violence Awareness Month

**PROCLAMATION P2020-01
NELSON COUNTY BOARD OF SUPERVISORS
OCTOBER IS DOMESTIC VIOLENCE AWARENESS MONTH**

WHEREAS, the problems of domestic violence are not confined to any group or groups of people but cross all economic, racial and societal barriers, and are supported by societal indifference; and

WHEREAS, the crime of domestic violence violates an individual’s privacy, dignity, security, and humanity, due to systematic use of physical, emotional, sexual, psychological and economic control and/or abuse, with the impact of this crime being wide-ranging; and

WHEREAS, no one person, organization, agency or community can eliminate domestic violence on their own—we must work together to educate our entire population about what can be done to prevent

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such violence, support victims/survivors and their families, and increase support for agencies providing services to those community members; and

WHEREAS, the Shelter for Help in Emergency and the Nelson County Domestic Violence Task Force have led the way in the County of Nelson in addressing domestic violence by providing services to victims/survivors and their families, offering support and information, and empowering survivors to chart their own course for healing; and

WHEREAS, the Shelter for Help in Emergency commemorates its 41st year of providing unparalleled services to women, children and men who have been victimized by domestic violence; and

WHEREAS, the Nelson County Domestic Violence Task Force currently provides victim advocates and a support group for those seeking relief from domestic violence in Nelson County;

NOW THEREFORE, BE IT RESOLVED, in recognition of the important work being done by the Shelter for Help in Emergency and the Nelson County Domestic Violence Task Force, the Nelson County Board of Supervisors do hereby proclaim the month of October 2020 as DOMESTIC VIOLENCE AWARENESS MONTH, and urge all citizens to actively participate in the scheduled activities and programs sponsored by these organizations, and to work toward the elimination of personal and institutional violence against women, children and men.

IV. PRESENTATIONS

A. VDOT Report

Mr. Robert Brown of VDOT was unable to attend the meeting.

Mr. Harvey noted that he has been in communication with Mr. Brown about the tower project in Piney River, adding he believes they have made some phenomenal progress.

V. NEW & UNFINISHED BUSINESS

A. Authorization to Sign GAC Agreement with NCSA (**R2020-39**)

Mr. Carter noted that this agreement is between the County and the Service Authority and provides for operation and maintenance of the granular activated carbon system that the County installed to address a compliance issue with the Piney River water system. He noted that Service Authority staff and their attorney have reviewed the agreement and are fine with it, and Staff recommends the Board's approval by the drafted resolution.

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Mr. Parr then moved to approve Resolution **R2020-39** Authorization to Sign GAC Agreement with Nelson County Service Authority and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2020-39
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION TO SIGN GAC AGREEMENT WITH NCSA**

RESOLVED, by the Nelson County Board of Supervisors that the County Administrator be and hereby is authorized to execute on behalf of said Board (the) “GAC Agreement” with the Nelson County Service Authority to provide for the operation and maintenance of a Granular Activated Carbon System within NCSA’s Black Creek facility.

This agreement shall renew annually unless either party gives the other thirty days’ written notice of its intent not to renew.

B. Nelson County Animal Control Firearms Policy Approval (**R2020-40**)

Mr. Carter noted that ACO Staff, particularly the Supervisor, Kevin Wright, researched this thoroughly. He added that the County Attorney and Sheriff were all in agreement with the policy, and County Staff have reviewed it and recommend the Board’s approval.

Mr. Parr then moved to approve Resolution **R2020-40** Nelson County Board of Supervisors Approval of the Nelson County Animal Control Firearms Policy 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. Barton voting No and the following resolution was adopted:

**RESOLUTION R2020-40
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF NELSON COUNTY ANIMAL CONTROL FIREARMS POLICY**

WHEREAS, the Nelson County Board of Supervisors voted during its meeting conducted on June 18, 2020 to authorize Animal Control Officers to carry firearms; and

WHEREAS, a Standard Operating Procedure has been created to provide Animal Control Officers (ACOs) with guidelines regarding the carrying and use of defensive weapons by ACOs.

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NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby approve the Nelson County Animal Control Standard Operating Procedure for Firearms Use and Training as presented and attached hereto.

Mr. Parr asked about the schedule on training and implementation of this. Mr. Harvey stated that County Administration would work this out.

C. Authorization for Public Hearing – Proposed Dogs Running at Large Ordinance (**R2020-41**)

Mr. Carter noted that Mr. Parr, with the Board’s consent, established a committee which met a few times under his guidance, and Kevin Wright of Animal Control participated. He advised that the outcome was a proposed draft ordinance for the Board’s consideration, and Staff has written a resolution to authorize a public hearing, if the Board is so inclined.

Mr. Parr thanked Mr. Wright for his participation in the committee and added that they had four other community members involved. He stated that they had great feedback and reviewed ordinances in surrounding counties. He noted one change in the draft ordinance under B(1) where it says “any such dog is wearing a collar with a tag showing the name, address and telephone number of the owner of the dog.” He advised that they will strike out “address” so that it just says “showing the name and telephone number of the owner of the dog.” He noted that he believes it is a great ordinance that will help protect the community as needed while offering assurances to the hunting community that those dogs are not part of the ordinance. Mr. Parr added that two of the members on the committee are active in the hunting community.

Mr. Parr advised that this will allow Animal Control to be able to address those instances where the dogs are aggressive and gives a three strike opportunity.

Mr. Parr then moved to approve Resolution **R2020-41** Authorization for Public Hearing – Amendment of the Code of Nelson County, Virginia, Chapter 3, Animals, Article 2 Dogs and Cats – Dogs Running at Large 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 R2020-41
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 3, ANIMALS, ARTICLE 2 DOGS AND CATS
DOGS RUNNING AT LARGE

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BE IT RESOLVED, that pursuant to §15.2-1427 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on November 10, 2020 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Chapter 3, Animals, Article 2 Dogs and Cats to incorporate provisions pertaining to the prohibition of dogs running at large.

D. Department of Social Services CARES Act Funding Request

Mr. Carter noted that the Department of Social Services requested \$5,000 in CARES Act funding that was allocated to the County. Of the \$5,000, \$2,500 would be used for utility bill assistance and \$2,500 would address expenses that the department may incur from now until the end of the year for protective measures against the COVID-19 virus.

Mr. Rutherford then moved to approve the Department of Social Services CARES Act funding request and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

E. Nelson Community Wellness Alliance Updated CARES Act Funding Request

Mr. Carter noted that the Alliance resubmitted its initial request and reduced it to \$11,255, adding that the request is for CARES Act funding assistance from the County. It would establish a program to provide a resource to the community to communicate a means of assistance to address the virus and potentially other forms of assistance to the public. He noted that they included a budget for the use of the funding, and they understand it has to be expended by the end of the year. He added that they would hire a part-time coordinator at \$4,800 with additional fringe benefits, and the rest would be used for volunteer training and marketing/promotion. Mr. Carter advised that the Alliance has also received a \$200,000 grant that would further this program into the future.

Mr. Harvey noted that he is not in favor of this, adding it sets a short term that this money will be available. He stated that he sees it as establishing something that may continue, and the Board of Supervisors would become the funder of the program.

Mr. Carter noted that the Alliance has become a non-profit organization, which, as Mr. Harvey had mentioned, does establish more permanence to what was an alliance of local agencies.

Mr. Reed stated that he is in favor of this. He noted that he does not agree with Mr. Harvey, adding that there is nothing in this that states it will be an ongoing request. He emphasized that this is a response to the COVID-19 threat.

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Mr. Reed then moved to approve the funding request from the Nelson Community Wellness Alliance and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Mr. Reed requested an update on the amount of the remaining CARES Act money. It was noted that the CARES Act remaining balance is \$94,284 after this funding comes out.

F. Change in November Regular BOS Meeting Date (**R2020-42**)

Mr. Carter noted that several Board members have expressed interest in attending the virtual VACo conference, and the sessions extend into Wednesday, November 11th.

It was suggested that the Board not conduct the afternoon session and have an earlier evening session on Tuesday, November 10th.

Mr. Rutherford moved to not conduct an afternoon session for the regular November Board of Supervisors meeting and have an evening session starting at 6:00 pm, with the public hearings occurring at 7:00 pm as they usually do. 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 R2020-42
NELSON COUNTY BOARD OF SUPERVISORS
RESCHEDULING OF NOVEMBER 2020 REGULAR MEETING

WHEREAS, the Nelson County Board of Supervisors hereby establishes that an alternate date for the Board's regular monthly meeting on November 10, 2020 is necessary due to the attendance of some members of said governing body at the annual conference of the Virginia Association of Counties through November 11, 2020;

NOW THEREFORE BE IT RESOLVED, by the Nelson County Board of Supervisors pursuant to §15.2-1416 (Regular meetings) of the Code of Virginia that **an afternoon session (2:00 pm) of the Board on Tuesday, November 10, 2020 is not to be conducted and the evening session is rescheduled to 6:00 pm.**

The Board then took a 5-minute recess.

VI. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE

A. Reports

1. Report on Broadcasting and Virtual Meetings

Mr. Carter noted that this is in follow-up to the Board's request for a County report on virtual meetings and options for virtual meetings. He advised that County Staff have established a Zoom account and have used that successfully a couple times now, so we do have that capability. He noted that for broadcasting meetings, there are several options outlined in Ms. Rorrer's report. He added that staff did have a virtual meeting with a vendor for a more sophisticated and expensive system, which seems to be a very good solution, which Ms. Rorrer will also overview.

Ms. Rorrer gave the following report:

Considerations:

- a) Is the Board looking for a temporary or long-term solution?
- b) How important is the audio and video quality of what is being viewed?
- c) Will the Board need to be able to participate virtually?
- d) Will the public need to be able to participate virtually?
- e) Will the County be required to maintain a copy of the meeting audio and video?

Regarding #5, Ms. Rorrer noted that Staff does not have a definitive answer from the Library of Virginia at this point, however, Mr. Payne has recommended that Staff contact somebody there, and he does recommend that the County retain a recording in their possession of anything that is streamed to the public.

Video Streaming Options:

1) Audio and video streaming on the internet using a laptop and webcam

- 1) Requires laptop and webcam
- 2) Static view of Board members and podium (may require relocation of podium)
- 3) Option to stream on YouTube or Facebook
- 4) Estimated cost: \$1,200 (one time)
- 5) Example: Search Amherst County Board of Supervisors on YouTube.com

2) Audio and video streaming on the internet using a laptop and HD camera and boom microphone

- Requires laptop and HD camera
- Option for panned views of Board members and podium (will require a camera operator)
- Option to stream on YouTube or Facebook
- Estimated cost: \$3,100 (one time)
- Example: Similar to Amherst County Board of Supervisors but with higher quality audio and video

3) Audio and video streaming on the internet using a webcasting device and HD camera

- Requires webcasting device

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- Option for panned views of Board members and podium (will require a camera operator)
- Option to stream on YouTube or Facebook
- Estimated cost: \$2,750 (one time)
- Example: Similar to Amherst County Board of Supervisors but with higher quality audio and video

4) Contract with a private firm to provide onsite audio and video services for meetings

- Contractor would provide all required equipment and services
- Estimated cost: TBD

5) Audio and video streaming on the internet using a video system provided by a multimedia communications service (Swagit Productions, LLC – see attached information)

- Requires purchase and installation of fixed camera equipment (up to 3 cameras)
- Panned views of Board members and podium (will require a camera operator or camera can be operated remotely by Swagit staff)
- Streamed by Swagit and accessed from County Website
- Estimated cost: \$12,000 - \$42,000 + annual fees of \$8,400 - \$12,600 (Annual fees higher if NCBA and Planning Commission Meetings are included)
- Example: <https://warrencountyva.new.swagit.com/videos/86824>
- All meeting video is archived by Swagit and available for review at any time
- Meeting can be transcribed for an additional fee.
- Same services are provided for virtual meetings
- Virginia localities using Swagit: Norfolk City Public Schools, Chesterfield County Public Schools, City of Winchester, Alexandria City Public Schools, York County, City of Newport News, Town of Front Royal, Warren County, Henrico County, Town of Purcellville, Town of Hamilton, Accomack County, Middleburg, Portsmouth City Schools

Virtual Board of Supervisors Meeting options:

1. **Zoom**
The County has a subscription to Zoom (\$149.00 annually) that can be used to accomplish virtual BOS meetings or to allow the public to participate. Additional participant capacity is available for \$40 per month.
2. **Other subscription services such as Go-To-Meeting, Google Hangouts and Microsoft Teams**

Public Participation (public comments) options:

- 1) **Zoom**
- 2) **Submit written comments prior to meeting to be read during the public comment section**
- 3) **In person**

What some other localities are doing:

Stafford

- f) Went back to in-person meetings in July – limited number of people in the board chambers.
- g) Continue to televise on our County channel and stream.
- h) Accept written public comments and they are read aloud during the meeting.

Mathews County

- i) The majority of BCAS are meeting in person and some are streaming to zoom to allow remote participation for those who are adverse to attending in person or whose agencies are disallowing travel.
- j) Board of Supervisors meeting is streaming audio and video through zoom, Facebook live and the meeting portal on our website using Civic Clerk.
- k) No real-time public questions – our board allows two public comment sessions for those physically present at the meeting and also written comments submitted prior to noon on the day of the meeting. The written comments are read aloud at the meeting by the County Attorney.

Blacksburg

- λ) Meeting in person with limited staff and public participation.
- μ) Streaming audio and video for formal Council and Planning Commission meetings (do not stream work sessions) – using Granicus to stream and archive.
- ν) Public is welcome, with COVID-19 protocols, to offer public comment.
- ο) We are not doing real time public comment via telecommunications. Submitted comments via email or voice mail are read during the meeting. Same process above applies to Planning Commission

King William County

- π) BOS is Hybrid using Zoom – those that attend in person follow the social distancing guidelines marked on the benches.
- θ) Real time public comments – yes. Using the Chat feature in Zoom they can request to speak but only during public comment section of the BOS meetings

Lynchburg

- ρ) They continue to be In-person although they just extended an ordinance for another four months to have them virtual if needed.
- σ) Using Granicus and Facebook along with TV broadcast to stream meetings.
- τ) Are taking real-time public questions – they pre-scheduled call-ins for certain topics.
- υ) Other boards and commissions are being streamed too

Ashland AND Goochland

- ν) Meetings are in person but are also streaming audio and video
- w) Not taking real time public comments/questions, other than in person
- x) Other boards and commissions are being streamed

Warrenton

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- y) Town Council are meeting in person and live streaming audio and video.
- z) Do accept real time public comments.
- aa) Because so few people attend, we have social distancing, mask wearing and good cooperation from citizens.
- bb) PC and ARB are meeting in person and also live streaming.

Alexandria

- cc) Virtual meetings – we just setup Chambers for hybrid. Streaming video with closed captioning for ADA compliance – TV, Zoom, Granicus, Microsoft Teams
- dd) Council closed sessions use MS Teams and we display on Zoom “Council is in closed session” using a PowerPoint slide with a nice graphic
- ee) Are taking real time public comments virtually via Zoom, We have a speakers form in HTML that staff accesses via a SharePoint link, City Clerk places people in numerical order, Mayor calls on the signed up speaker.
- ff) We are using Zoom to meet, Planning and Zoning is like Council – TV, Granicus, and Zoom

Danville

- gg) Back to normal, meeting in person (6’ apart with plexiglass in between) live streaming, allowing residents (6’ apart)

Christiansburg

- hh) Almost completely in person. Rarely includes zoom participation.
- ii) Not taking real time public comments other than in person. Other methods are not real-time such as voicemail, email, mail, online form.
- jj) Planning meetings are being streamed as well

King George

- kk) We are meeting in-person and online using Go-To-Meeting, for the BOS and Planning Comm. We've been streaming for a couple years, now.
- ll) We take Public Comments through GTM and broadcast through our Crestron A/V system.
- mm) Almost all of our other Boards use the same thing, there are a few that use Google Suite - Hangouts (Econ. Dev. Auth., Tourism Advisory Comm. and Wetlands Board)

Mr. Harvey and Mr. Rutherford suggested buying a nice camera and streaming the meetings to YouTube. Mr. Parr asked if a camera would be able to tie in the current audio that the meeting room has. Ms. Rorrer noted that the audio would have to be captured from the microphone on the camera.

Mr. Reed agreed with the suggestion of getting a camera and noted that they can see how it works, adding they can do something different if the camera does not give the desired result. He noted he would also like to look into archiving options.

2. County Administrator's Report

A. Covid-19 (Coronavirus): The “Nelson County Infectious Disease Preparedness and Response Plan” has been completed to provide for compliance with state regulatory requirements. Training of County staff is in process and will be completed prior to the end of October, 2020. County staff also continue to monitor the status of the coronavirus in Nelson County. Additionally, all County staff have resumed regular at work schedules with the exception of staff who meet Families First Coronavirus Relief Act (FFCRA) criteria, which expires at the end of 2020 (e.g. impacted by the virus, in-office and teleworking due to child care).

B. Coronavirus Aid, Relief and Economic Security (CARES) Act: County Finance and HR staff completed and submitted (the week of 10-5-20) to the state Department of Accounts the County's current reports on use of locally received CARES Act funding (see Finance & HR monthly report). Governor Northam announced on 10-8 the allocation of \$220 million in state CARES Act funding to support VA's public schools. \$175 per pupil will be allocated to school divisions. For Nelson County this amount is \$264,215.00 (which reflects an enrollment of 1,509.8 students). Additionally, Gov. Northam also announced on 10-7-20 the allocation of \$30 million of state CARES Act funding to support the deployment of broadband. The state's application guidance for the broadband funding was issued on 10-8. Applications must be received from local governments, which can partner with private entities. County staff are in process with CVSI-Firefly for the submittal of a grant application (applications, if necessary). While a date for submittal of the County's application has not been currently established, every effort will be made to complete and submit the County's application(s) as immediately as possible as the funding is available as applications are received and processed for approval.

C. Land and Water Conservation Program: County staff are in process with development of an application to the VA Department of Conservation and Recreation to obtain grant funding for the purchase of land for public outdoor recreation. The grant program has \$8.0 million in funding, requires a 50% match and has a minimum project cost of \$500,000. Applications are due by 5 p.m. on 12-15-20. Mr. Carter advised that Staff would like to discuss this during a closed session with the Board today.

D. VACO Virtual Conference (November 9 -11): Registration for this year's “virtual” conference is due by 10-30-20. Staff will facilitate the registration for Board members. The 10-13 agenda includes consideration of an alternate meeting date in November to enable the Board and staff to participate in the conference.

E. BR Tunnel Project (Phas3 – Western Trail & Parking Lot): Change Order #18 is in process for approval and completion. The work encompassed by CO#18 includes additional drainage ditching and culvert installation and surface treatment of specified sections of the western trail. This work will provide for enhance structural stability of the western trail. Fielder's Choice Enterprises has estimated the work will be completed by 11-20-20. Thereafter, a final CO#19 will be issued to provide for project closeout with FCE. County, FCE and Woolpert staff will then work to finalize the project with VDOT.

F. Nelson Memorial Library Project: The project is completed.

G. Piney River Water System – GAC Project: The project is completed. An agreement for operation and maintenance of the GAC system with NCSA is an agenda item for 10-13-20.

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H. 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.

I. Lovington Revitalization: The CDBG funded planning grant project is complete as of 9-30-20. An ensuing step is a decision on a Community Improvement Grant to VA-DHCD in March 2021 or 2022.

J. VDOT – Smart Scale Program: The County in partnership with TJPDC submitted three Smart Scale project applications to VDOT by the August 17th deadline. The projects include: Rt. 29 & Oak Ridge Road, Intersection of Rt. 6 & Rt. 151 (Martins Store) and Rt. 151 and Tanbark Lane (Afton). Project priorities and funding allocations will be completed and submitted by VDOT staff to the Commonwealth Transportation Board in January, 2021 and the CTB from January to June 2021 works to incorporate approved projects into the 21-27 Six Year Improvement Plan (Primary Roads) (June 2021).

K. 2022 General Reassessment: Four assessor firms responded to the County’s Request for Proposals (RFP). Two firms were interviewed virtually via Zoom. The County’s selection committee (P. Campbell, J. Rutherford, C. McGarry, G. Mawyer and S. Carter) unanimously ranked Wampler-Eanes Appraisal Group, LTD. (which completed the 2014 and 2018 general reassessments) as the top ranked firm. County Administration is now in process with contracting with W-E. The contract amount will be \$305,000.00. Mr. Carter advised that this is about \$6,000 more than the 2018 General Reassessment. He added that Staff did discuss the option of using drones as an alternate means with two of the interviewed firms, but at the end of the day, Staff decided it was best to look at every property and take photos using the traditional way. Mr. Carter then advised that Wampler-Eanes will complete their work by the end of December 2021.

3. Board Reports

Mr. Parr:

Mr. Parr had no report.

Mr. Rutherford:

Mr. Rutherford had no report.

Mr. Reed:

Mr. Reed noted that the Planning Commission did not meet this past month.

Mr. Barton:

Mr. Barton had no report.

Mr. Harvey:

Mr. Harvey had no report.

B. Appointments

Ms. Mawyer reviewed the following table:

(1) New Vacancies/Expiring Seats & New Applicants :					
Board/Commission	Term Expiring	Term & Limit Y/N	Incumbent	Re-appointment	Applicant (Order of Pref.)
Economic Development Authority	6/30/2023	4 Years/ No limit	Mark B. Robinette	N - resigned	Robert A. Doyle Robin Bledsoe
JABA Advisory Council on Aging	12/31/2019	2 Years/ No limit	Cindy Westley	N	Robert Alpers
(2) Existing Vacancies:					
Board/Commission	Terms Expired				
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 two applications have been received for the vacancy on the Economic Development Authority, and the two applicants are Mr. Robert Doyle and Ms. Robin Bledsoe. Mr. Rutherford noted that he has had the opportunity to speak with Mr. Doyle, and he seems intelligent and is from this area. Mr. Rutherford then moved to appoint Robert Doyle to the EDA and Mr. Parr seconded the motion. It was noted that both applications are great, and Mr. Harvey asked that a note be sent to the one who is not appointed. Mr. Barton and Mr. Reed stated that there is no basis to pick one over the other. There being no further discussion, Supervisors voted (3-0-2) by roll call vote to approve the motion with Mr. Barton and Mr. Reed abstaining.

Ms. Mawyer noted that an application has been received for the vacancy on the JABA Advisory Council on Aging from Robert Alpers. Mr. Reed moved to appoint Robert Alpers to the JABA Advisory Council on Aging and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

C. Correspondence

Mr. Rutherford noted that he has had a couple constituents with some recent traffic-related instances. One of them called him and gave a great compliment to a dispatcher who had talked her through a situation, and she asked that he extend her thanks to Dispatch. Mr. Rutherford expressed his compliments to the department.

D. Directives

Mr. Parr asked Dr. Eagle, in attendance, about how the links open up into separate windows in the School Board agendas. He asked if that is a Board Docs feature. Dr. Eagle stated yes. Mr. Rutherford noted that he likes that feature as well.

VII. OTHER BUSINESS (AS PRESENTED)

Closed Session Pursuant to Virginia Code §2.2-3711 A.3

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

VIII. ADJOURN AND CONTINUE – EVENING SESSION AT 7 PM

At 4:50 PM, Mr. Rutherford moved to adjourn and reconvene at 7:00 PM 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 meeting adjourned.

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

I. CALL TO ORDER

Mr. Harvey called the meeting to order at 7:06 PM with all Supervisors present to establish a quorum.

II. PUBLIC COMMENTS

1. Elwood Waterfield, Arrington VA

Mr. Waterfield noted he is here to talk about the corruption in this county. He stated that a toxic dump has been sitting in Findlay Gap for 50 years, and he reported this to Mr. Carter and Mr. Padalino from Planning and Zoning in 2014, and nothing was done. He noted the Sheriff's Department is corrupt and referred to a 74-year-old black man named Sammy Gaines who was murdered here in 2013. He advised that nobody has ever been arrested, and everybody knows who killed that man. He added that Sheriff David Brooks was too busy making a porno movie in 2013 to investigate. When Mr. David Hill took office, his detective, Mr. Tabler, called the deceased man's son, Bruce Johnson, saying they will solve the murder. Mr. Waterfield stated that Mr. Johnson never heard from Mr. Tabler again. Mr. Waterfield then stated that the deeds to his property were stolen and illegally converted to someone else's name. He added that he was evicted from his property during this time when nobody is supposed to be evicted. He stated that the Sheriff's Department colluded and conspired because they don't like him speaking out about corruption in this county.

2. Carlton Ballowe, Faber VA

Mr. Ballowe spoke about the Confederate statue on the Courthouse lawn. He stated it was here for over half a century and didn't bother anybody, and he does not understand why it is a front burner issue now. He noted that he has no desire to relitigate the Civil War, and certainly not in this forum. He stated that there had been a cold war between the north and south for over 25 years over tariffs, and it wasn't until the moral of tariffs of 50% were passed that they seceded from the Union. He emphasized that the Southern soldiers did not fight to preserve slavery, and a low percentage of them had no stake whatsoever in slavery. Most of them joined because their native states had been invaded. He added that it is not a popular war, but that does not diminish the sacrifice that those soldiers made, adding that their sacrifice should not be diminished by political motives.

3. Susan Frise, Arrington VA

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Ms. Frise stated that she is not originally from Nelson County, but she is a ninth generation Virginian. She noted that her ancestors fought with honor in every conflict from the American Revolution to present day service including four great-great grandfathers who served Virginia in the War Between the States. She advised she is here speaking on their behalf, as they no longer have a voice. She noted that liberals have been pushing a false narrative on war memorials for months and asked if we are to become another Richmond or Charlottesville. She advised that surveys indicate the majority of Virginians do not want war memorials removed or desecrated, adding that these memorials were built and dedicated typically by mothers, grandmothers, wives, daughters, and sisters for the purpose of honoring and remembering our war dead. Ms. Frise asked the Board of Supervisors to do the right thing and pass a resolution stating that Nelson County will not participate in the radical and unpatriotic cultural cleansing that is sweeping through liberal cities but will commit to honor and protect all of its history and heritage.

4. Thomas Nelson, Jr., Roseland VA

Mr. Nelson continued his public comment from the earlier meeting. He stated that thousands of coloreds fought for the Confederacy, and according to his research, 54 Nelson-born coloreds fought for the Union. He then noted that he pulled up a listing of Confederate statue removals in Virginia and advised that almost all of them are in liberal cities such as Alexandria and Lexington.

5. James Bibb, Arrington VA

Mr. Bibb read the following statement:

Earlier today I learned that some folks do not associate that monument with anyone. I want to clear the air here and let them know this could not be further from the truth. This is a short list of my personal immediate family just on my father's side, of which that soldiers monument stands for.

Picture their faces, skinny poor farm boys with no education, eager to enlist for a sense of excitement and duty

Middle aged fathers and grandfathers pressed into service by angst and guilt of their sons fighting alone.

Entire Families Brothers Fathers

Sons

Grandfathers and Grandsons

For many of them only to meet their demise with Shell and ball, to spill their blood on the ground of their beloved Va.

Why would we not memorialize them.

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Why is it so hard for some people to grasp this.

James H Bibb
Co B 56th Va infantry
Private

James N Bibb
Corporal
Co I 50th Va Regt Infantry

James L Bibb
Private Co. H
Bookers Reserve Regt'

Solon Stephens
51st va Co G Sgt

Taliaferro Stevens
CoB&E
51st Va private
Shot in the back by bushwacker yankees and buried in Kanawah WV

John J Stevens
Co E 51st Va Infantry
Private

James T Stevens
Co E 51st Va Regt
Private

Alexander Purvis
Private
Co E 51st Va Infantry

Nicholas Morris
Private

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Co C. 17th Va infantry

Daniel P Kidd

Private

Co E 51st Va infantry

Isaiah B Kidd

Private

Co E 51st Va Infantry

David F Arganbright

Co F 5th Va Infantry

Corporal

James H Argenbright

Co F 5th Va Infantry

Mortally wounded at Antietam

October 6th 1862

Buried in Washington Confederate Cemetary Maryland

Levi Argenbright

Private

5th Va Co F Infantry

George Argenbright

Private

Staunton Light Artillery

Charles Butler

4th Sgt Staunton Light Artillery

Those poor souls that gave their life and died away from their homes, specifically, this monument represents them the most. They are buried in cold ground on or near where their bodies fell. Far away from their beloved home.

These are the men in the face of that memorial out front.

6. George Nieber, Nellysford VA

Mr. Nieber spoke of the Confederate statue on the Courthouse lawn. He noted that he was drafted in the army during Vietnam, and he was called a racist and baby killer when he returned home. He advised that the same ideology of hate is happening now. He added that he sees this going on with the removal of statues; those soldiers are being vilified, and they were not racist or baby killers. They were just trying to do their duty to their country. Mr. Nieber urged the Board to keep the memorial in place.

III. PUBLIC HEARINGS

A. Rezoning #2020-01 – R-1 to A-1

Consideration of a Rezoning application requesting County approval to rezone from R-1 to A-1. The subject property is located at Tax Map Parcel #6-A-45 on Avon Rd. The subject property is owned by Daniel & Terri Tatarka.

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

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. A draft copy of the proffers is submitted with this report.

DISCUSSION:

Land Use / Floodplain: This area is residential and agricultural in nature. Zoning in the vicinity is R-1 and A-1, with one parcel zoned B-1. There are no 100-year floodplains on this property.

Access / Traffic / Parking: Property is accessed from Avon Road between Rockfish Valley Highway (Route 151) and Tanbark Drive. According to a letter provided by VDOT, the use will require a VDOT commercial entrance. The applicants and their engineer have a concept developed that has been preliminarily approved by VDOT, providing for a one-way-in / one-way- out design. Parking is sufficient to support the proposed uses.

Utilities: The property is currently served by private well and septic. Comments provided by the Health Department indicate that the previous owners had a repair drainfield installed in the area denoted "Additional Parking" on the plat. This area will not be utilized for additional parking.

Proffers / Conditions: Proffers submitted by the applicant are attached with this report.

The Planning Commission may accept and recommend, and the Board of Supervisors may accept or impose, reasonable conditions upon the approval of the rezoning request. The criteria for conditions associated with rezoning are below:

- a) The rezoning itself must give rise to the need for conditions.
- b) All conditions shall have a reasonable relation to the rezoning.
- c) No condition shall include a cash contribution to the County.
- d) No condition shall include a mandatory dedication of real or personal property for open space, parks, schools, fire stations or other public facilities except those provided for by law.
- e) No condition shall include payment for or construction of off-site improvements except those otherwise provided for by law.
- f) All conditions shall relate to the physical development or physical operation of the property.
- g) All conditions shall be in conformity with the County's comprehensive plan.
- h) No condition shall be used for the purpose of discrimination in housing.

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Comprehensive Plan: This property is located in an area designated rural residential in the Comprehensive Plan, “which would allow low density residential and compatible non-residential uses in rural areas where agriculture is not the predominant use. Clustering of residents further protects rural areas.”

RECOMMENDATION: The approval of requests should be based on one or more of the following factors:

1. Good Zoning Practice
2. Public Necessity
3. General Welfare
4. Convenience

Draft Proffers for Proposed Rezoning 2020-01 – Dan & Terri Tatarka – 279 Avon Road – R-1 to A-1

Proffered Uses in A-1 (only these uses permitted by-right):

4-1-1 Single-family detached dwellings

4-1-5 Agriculture (farm animals limited to 10 chickens and 3 goats)

4-1-8 Home occupations, class A and class B

4-1-10 Off-street parking as required by this ordinance

4-1-11 Public utilities... etc.

4-1-12 Accessory uses

4-1-13 through 4-1-17 all deal with by-right signage

4-1-19 Yard sale

4-1-25 Farm winery

4-1-27 Temporary placement and occupancy of a travel trailer not to exceed ten (10) consecutive days

4-1-29 Farm brewery, limited

4-1-30 Bed and breakfast, class A

4-1-31 Bed and breakfast, class B

4-1-32 Vacation house

4-1-33 Agritourism activity

4-1-34 Social temporary event, provided that there are no more than 12 such events in a calendar year and that the event complies with the county noise ordinance

4-1-a Uses permitted by Special Use Permit only

Additional Proffers:

For farm brewery operation, 7 barrels shall be the maximum system size, and shall be contained to existing structures on the property

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

Dan and Terri Tatarka, Afton VA

Ms. Tatarka noted that their understanding from the last meeting was that the Planning Commission voted approval for this zoning change application contingent on approval of the proffers reviewed by the County Attorney. She stated that they currently have a bed and breakfast that is beer centric, and they have a ten-gallon home brew system. They are a licensed production brewery, and they can share and sell beer with guests at the B&B. They also have a distribution company, and they have had a couple kegs for advertising at Jack Brown's in Harrisonburg and that type of thing, but they brew two five-gallon kegs at a time. She stated they are the ultimate small batch craft brew.

Mr. Harvey asked if the applicants have applied for the Farm Brewery permit. Ms. Tatarka stated they have not, and they have only asked for the zoning at this point. She added that they do intend to apply. Mr. Harvey stated that once they are approved by the State, the County has nothing whatsoever to do with it-no building permits or anything. Mr. Harvey pointed out that this would be done right in the middle of a residential area, which he thinks is spot zoning. Ms. Tatarka noted that they have agriculture across the street, behind them, and across the road.

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Ms. Tatarka noted that she and her husband have been here for six years and proven to be good neighbors and responsible decision makers.

Mr. Harvey noted he is going by the law, adding that the County has been burnt badly with the State Farm Brewery regulation. Ms. Tatarka emphasized that they have a ten-gallon system and they want to stay small-batch, adding that they are not like the surrounding large operations that may have burned the County in the past. Mr. Harvey stated he does not think there would be anything keeping the Tatarkas from expanding to a large operation if they get the Farm Brewery permit.

Ms. Bishop made note of the additional proffer of a maximum system size of seven barrels. Ms. Tatarka advised that a seven-barrel system is a test system for large breweries.

Ms. Bishop noted that the proffers run with the land; regardless of who owns the property in the future, these will be the only allowed uses.

Mr. Rutherford asked Mr. Reed about the Planning Commission's thoughts. Mr. Reed noted that the Planning Commission voted 3-1 to approve this, and they were very happy with the proffers, adding they felt they were limiting enough. He advised that the vote against approval had to do with concern with spot zoning for residential.

Mr. Rutherford suggested getting council from Mr. Payne and finding out if the proffers will still govern if the owners get a Farm Brewery license.

The Board had no further questions for the applicant, and Mr. Harvey opened the public hearing.

1. Ben Toms, Afton VA

Mr. Toms noted that he is representing Rodes United Methodist Church as a member of the Board of Trustees. He noted that their only concerns are relating to traffic, parking, and how it would affect the operation of the church. He noted that they have no problem with the Tatarkas or their business, but they are just concerned about the traffic and what their operating hours will be.

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

Mr. Parr asked Ms. Bishop about her professional opinion on proffers in general. Ms. Bishop noted that she does not have a ton of experience with proffers, and she knows that in recent years, State legislation has changed regarding proffers. In the past, when a landowner came to request a rezoning, there were very strict rules in place. She noted that they had to offer up the proffers voluntarily, the Board couldn't

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ask for anything, and there was very little to no discussion about it because of the fear of litigation against the locality. She continued that in recent years, it has changed to open the conversation a lot more so that the locality can work with the landowner and figure out what is best suited for the property regarding those proffers. She emphasized that she knows for a fact that proffers go with a property and do not change regardless of ownership.

Mr. Harvey reiterated that the Board needs answers from the State regarding the Farm Winery permit and if it trumps anything the Board does or says.

Mr. Rutherford then moved to postpone consideration of **Rezoning #2020-01 – R-1 to A-1** to the next Board of Supervisors meeting, no later than the regular meeting in November at the updated time of 6:00 pm. Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

It was noted that Staff will confer with Mr. Payne regarding whether or not the proffers govern and trump the Department of Agriculture or other entities.

B. Special Use Permit #2020-04 – Extended Stay Campground

Consideration of a Special Use Permit application requesting County approval to allow an extended stay campground use for a single travel trailer. The subject property is located at Tax Map Parcel #13-A-77 on Taylor Creek Rd. The subject property is owned by Jackie Whalen.

Ms. Bishop provided the following report:

BACKGROUND: This is a request for a special use permit to allow extended stay camping for one site on property zoned A-1 Agricultural.

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

Location / Election District: 6787 Taylor Creek Road / North District

Tax Map Number(s) / Total acreage: 13-A-77 / 16.4 acre parcel

Applicant Contact Information: Jacqueline M. Whalen, 7056 Taylor Creek Road, Afton, VA 22920, 434-882-2456

Comments: This property is zoned A-1 Agricultural, and currently contains one dwelling, accessory structures, and horses. According to the applicant, there was a second dwelling on the site that

burned down in 2008. The applicant is requesting to utilize this site for the purpose of renting it out to transient lodgers for up to 6 months at a time. These lodgers would provide their own travel trailer and connect to existing utilities.

There is currently a travel trailer on the property in the proposed location. This tenant contacted our office to confirm that the current zoning allows this type of use, which ultimately manifested this application. The owner has indicated that she believed the previous homesite to be perpetually "grandfathered" to allow transient rental accommodations. In fact, the homesite would have been grandfathered only for the 2-year period following its destruction, and only for a new permanent dwelling. By charging a fee to utilize the site for transient lodging is by definition, a campground. The owner is currently in legal proceedings to remove the current tenant from the property.

At their meeting on August 26, the Planning Commission recommended approval (4-0) of this application, with the condition that the extended stay campground be limited to one site as shown on the plat.

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature. There are no flood plains on the property.

Access and Traffic: The property is accessed by a private entrance from Taylor Creek Road. VDOT has indicated that the current entrance is adequate to support the proposed use.

Utilities: The property is currently served by private water and septic systems.

Conditions: The Planning Commission may recommend, and the Board of Supervisors may impose, reasonable conditions upon the approval of the special use permit. Staff recommends the condition of limiting the extended stay campground to one site as shown on the submitted plat.

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:

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.

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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 then invited the applicant to come forward and speak.

Jacqueline Whalen, Afton VA

Ms. Whalen noted that she has owned this property since 1989, and it has been used as a rental since 1989. She stated that right now, she would just like to bring it into compliance.

Mr. Rutherford asked if the property has proper water and sewer. Ms. Whalen stated yes, adding that the home that was there goes back to the 1900s.

The Board had no further questions for the applicant, and Mr. Harvey opened the public hearing.

1. Joanna Zimmerman, Afton VA

Ms. Zimmerman noted that she is the resident of 6787 Taylor Creek Road, and she signed a lease to rent the property to place her RV in March 2020. She noted the lease is for one year. She stated that she questioned the situation in June of this year, as she was concerned this was not permitted. She advised she is currently in litigation with Ms. Whalen for breach of contract. Her concern is that Ms. Whalen has misrepresented, adding that Ms. Whalen stated she believed this was grandfathered prior. Ms. Zimmerman noted that a concern going forward is that the septic system is just a pipe coming out of the ground with no seal, which you stick your hose into. She stated that an open sewer pipe is not environmentally sound. She added that the well water has a horrible smell, and she will not drink it. She noted another issue is that the driveway drains out into the road and results in standing water, which Ms. Whalen refuses to fix. She encouraged the Board, before making a decision on granting this permit, to set this aside and require Ms. Whalen to have the septic inspected and water tested by the Health Department as well as repair the driveway. She distributed photos showing the septic and driveway to the Board. She added that she feels that Ms. Whalen's honesty is in question and should prove first that these matters are taken care of.

Mr. Reed asked if the Health Department has taken a look at this. Ms. Bishop stated yes, and she has an email from Tom Eick stating that he didn't have any issues with it. She noted that she does not know what Health Department review looks like and if they actually go out to the site or just pull files, however, she did get approval from Mr. Eick with the Health Department.

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Mr. Harvey stated that what the owner is asking for is not actually in the ordinance under campgrounds, noting this is just for one trailer.

Mr. Carter suggested the Board direct staff to look into this, as it is creating a loophole. Mr. Rutherford noted that he would like to see more details on the Health Department side. He added that he has no issues with delaying this for 60 days.

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

Mr. Rutherford then moved to delay consideration of **Special Use Permit #2020-04** Extended Stay Campground to two meetings from now, which would be in December. Mr. Parr seconded the motion. It was noted that there will not be another public hearing on this, as there was one conducted today. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

C. Special Use Permit #2020-05 – Retail Store

Consideration of a Special Use Permit application requesting County approval to allow a retail store on property zoned M-1. The subject properties are located at Tax Map Parcels #45-A-33 on Davis Creek Ln. The subject property is owned by Kerry Williams.

Ms. Bishop provided the following report:

BACKGROUND: This is a request for a special use permit to allow a retail store use on property zoned M-1 Industrial.

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

Location / Election District: 60 Davis Creek Lane / East District

Tax Map Number(s) / Total acreage: 45-A-33 / 0.94 +/- acre parcel

Applicant Contact Information: Kerry W. Thornton, 4295 Tye River Road, Amherst, VA 24521, 434-987-7910

Comments: This property is zoned M-1 Industrial, and contains an existing structure that is over 6,000 square feet. The applicant is requesting to utilize approximately 2,700 square feet of this structure for retail sales of items that are not manufactured on site.

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At their meeting on August 26, the Planning Commission voted (4-0) to recommend approval of this application to the Board of Supervisors, with the condition that the retail use be limited to the approximately 2,700 square foot area as shown on the drawing, and VDOT approval.

DISCUSSION:

Land Use / Floodplain: This area is agricultural and residential in nature. There are no flood plains on the property.

Access and Traffic: The property is accessed by an entrance from Davis Creek Lane. A VDOT land use permit will be required to modify and upgrade the existing entrance to a low volume commercial entrance.

Utilities: The property is currently served by existing utilities.

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

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:

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 then invited the applicant to come forward and speak.

Kerry Williams Thornton, Amherst VA

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Ms. Thornton noted that she purchased the property in January, and her idea for the building is to make it into a secondhand store. She added that she still has the previous owner's metal work and items he made, since she bought the whole estate. She noted that it does not have to be industrial because she is not planning on building or manufacturing anything; she is more of an auction/flea market type person where she gets secondhand items and resells them. She reiterated that she does not really need the industrial use.

Mr. Harvey then opened the public hearing.

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

Mr. Rutherford then moved to approve **SUP #2020-05 – Retail Store** with the recommendations from the Planning Commission and Mr. Parr seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

IV. OTHER BUSINESS (AS PRESENTED)

There was no other business considered by the Board.

V. ADJOURNMENT

At 8:48 PM, Mr. Reed moved to adjourn and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the meeting adjourned.