

September 12, 2017

**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: Allen M. Hale, East District Supervisor  
Constance Brennan, Central District Supervisor  
Thomas H. Bruguere, Jr. West District Supervisor – Vice Chair  
Larry D. Saunders, South District Supervisor  
Thomas D. Harvey, North District Supervisor – Chair  
Stephen A. Carter, County Administrator  
Candice W. McGarry, Administrative Assistant/Deputy Clerk  
Debra K. McCann, Director of Finance and Human Resources  
Sandra Shackelford, Director of Planning and Zoning  
Phillip D. Payne, IV, County Attorney

Absent: None

**I. Call to Order**

Mr. Harvey called the meeting to order at 2:07 PM, with all Supervisors present to establish a quorum.

- A. **Moment of Silence** – A moment of silence was observed
- B. **Pledge of Allegiance** – Mr. Hale led the Pledge of Allegiance

Ms. McCann then introduced Rick Schall, Solid Waste and Recycling Coordinator. She advised that Mr. Schall had worked for the Federal Government, had come to Nelson from the Chesapeake area, and was a retired naval veteran.

**II. Recognition of the Late David L. Thompson, Building Code Official (R2017-44)**

Mr. Harvey asked Mrs. Thompson to come forward to receive the resolution. He noted that he remembered the day that Mr. Thompson was hired down in Mr. Carter's old office. He then read aloud the prepared resolution and noted that there were a few County Administrator's left out of the resolution and that would be corrected.

Mr. Hale moved to approve resolution **R2017-44**, Resolution Recognizing the County Service of the Late David L. Thompson, Building Code Official and Mr. Bruguere 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:

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**RESOLUTION R2017-44**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION RECOGNIZING THE COUNTY SERVICE OF**  
**THE LATE DAVID L. THOMPSON, BUILDING CODE OFFICIAL**

**WHEREAS**, Mr. David L. Thompson, Nelson County native and County Building Code Official, passed on June 25, 2017 at the age of sixty-two (62); and

**WHEREAS**, Mr. Thompson served Nelson County for approximately thirty-one (31) years in the County's Building Inspections Department; being employed in 1986 by then County Administrator Russell B. Otis, with prior experience in Albemarle County as a Facilities Inspector II, and having previously worked for A.L. Thompson General Contractor from June 1973 to October 1983 performing most phases of construction, and

**WHEREAS**, during his tenure with the County, Mr. Thompson served under several Building Code Officials, including: Larry Maeyens, Michael Redifer, and most recently Mark Bolt as well as various County Administrators: Russell B. Otis, Jeff Johnson, George H. Kreiger, Douglas Powell, John D. Cutlip, Interim County Administrator, and finally Stephen A. Carter, and

**WHEREAS**, Mr. Thompson strived for excellence in his profession, obtaining International Code Council (ICC) certifications as: an Electrical Plans Examiner, Residential Electrical Inspector, Commercial Electrical Inspector, Residential Mechanical Inspector, Plumbing Inspector, Residential Plumbing Inspector, Residential Combination Inspector, Residential Building Inspector, and

**WHEREAS**, Mr. Thompson subsequently obtained certifications as an Erosion and Sediment Control Inspector and Program Administrator and eventually obtained Core certification and Advanced Official certification from the Virginia Building Code Academy, as well as certification from the International Code Council in ICC Technology and in ICC Legal and Management, making him eligible for Virginia Building Code Official designation by the Department of Housing and Community Development (DHCD), and

**WHEREAS**, on June 24, 2010, Mr. Thompson's wealth of knowledge and expertise earned him the appointment of Nelson County Building Code Official by Board of Supervisors Resolution **R2010-41**, and

**WHEREAS**, Mr. Thompson's dedication to his profession was further exemplified by his membership of various professional associations including: James Madison Building and Code Officials Association, International Association of Electrical Inspectors, Virginia Plumbing & Mechanical Inspectors Association, and Virginia Building & Code Officials Association, and

**WHEREAS**, Mr. Thompson was highly regarded as a consummate professional in his field, his public service served to greatly enhance the Nelson County Community and beyond, and he was an esteemed colleague and friend;

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**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors does hereby honor, with great appreciation, the late Mr. David L. Thompson for his many years of dedicated and steadfast service to Nelson County and its citizens in his capacity as Building Inspector, Assistant Building Code Official, and ultimately Building Code Official of Nelson County.

### **III. Consent Agenda**

Mr. Harvey noted the items on the Consent Agenda and asked if there were any questions or concerns.

Ms. Brennan questioned a reference to payment of court ordered burial services in the budget amendment and Ms. McCann explained that when someone did not have dependents to handle their death, the Court interceded and the County became responsible for the burial services.

Mr. Hale then stated he would like to move to remove item B. pertaining to the CSA Coordinator job description for further consideration and also those portions of Item C. the FY18 Budget Amendment that referred to it. Mr. Harvey clarified that Item B. would be removed and the portions of Item C. that were related. Mr. Bruguier then seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Mr. Hale then moved to approve the consent agenda, Item A. and those parts of item C. that were not related to Item B. Ms. Brennan seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

A. Resolution – **R2017-45** Minutes for Approval

**RESOLUTION R2017-45  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MEETING MINUTES  
(August 8, 2017)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **August 8, 2017** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2017-46** Approval of Job Description (CSA Coord. PT)

**NOTE:** This resolution was deferred and later adopted under Other Business.

C. Resolution – **R2017-47** FY18 Budget Amendment

**NOTE:** Items **I.** and **IV.** were adopted as part of the Consent Agenda. Portions of this resolution, **II.** and **III.**, pertaining to Item B. (CSA) were deferred and later adopted under Other Business

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with a (4-0-1) roll call vote with Mr. Harvey abstaining. The entire adopted resolution is as follows:

**RESOLUTION R2017-47  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2017-2018 BUDGET  
NELSON COUNTY, VA  
September 12, 2017**

**BE IT RESOLVED** by the Board of Supervisors of Nelson County that the Fiscal Year 2017-2018 Budget be hereby amended as follows:

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

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$39,364.54	3-100-009999-0001	4-100-022010-5419
\$4,191.53	3-100-002404-0006	4-100-022010-5419
\$18,722.00	3-100-009999-0001	4-100-091050-7150
<u>\$342,899.00</u>	3-100-009999-0001	4-100-091050-9999
\$405,177.07		

**II. Transfer of Funds (General Fund from VPA Fund)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$8,250.00	3-100-004105-0150	4-100-053600-1003
\$1,725.00	3-100-004105-0150	4-100-053600-1011
\$763.00	3-100-004105-0150	4-100-053600-2001
\$50.00	3-100-004105-0150	4-100-053600-2011
\$585,730.00	3-100-004105-0150	4-100-053600-3164
\$12,721.00	3-100-004105-0150	4-100-053600-3174
\$500.00	3-100-004105-0150	4-100-053600-5201
\$450.00	3-100-004105-0150	4-100-053600-5401
<u>\$1,073.00</u>	3-100-004105-0150	4-100-053600-5504
\$611,262.00		

**III. Transfer of Funds (VPA Fund to General Fund)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$611,262.00	4-150-053500-3002	4-150-093100-0100

**IV. Transfer of Funds (from Contingency)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$3,530.00	4-100-999000-9901	4-100-031020-3003

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#### **IV. Public Comments and Presentations**

##### **A. Public Comments**

###### **1. Ray Miles, Afton**

Mr. Miles noted he was the Republican candidate for the North district Board of Supervisors seat. Mr. Miles read a short quote from the Virginia Constitution Bill of Rights Section 16 pertaining to honoring one's parents and all seniors. He then noted his gratitude to the Master Gardeners that donated flowers, and for the Rockfish Fire hall that was available to the Rockfish Senior Group. He noted that the senior group met there and was led by Ms. Rose Mohler who had recently lost her husband. Mr. Miles then stated that seniors had paid taxes that had kept the schools open and they also chipped in their own funds. He added that to honor them, the Board should consider two things: first, removal of the consideration that if other individuals or groups provided funding toward their budget, the County funding was cut and secondly, the funding for all senior groups in Nelson should be doubled.

###### **2. Ronald Blake, Faber**

Mr. Blake noted that he was a county resident for five years, an Augusta County resident for eleven years prior to that, and previously was from England. He noted he was speaking to the diminishing quality of life of residents along Rainbow Ridge, Rocky Mount, and Creekside due to a nuisance pack of dogs running around at 2:30 am and again at 4:00 am on his property. He added that they were howling under his windows and he did not dare go out and try to shoo them away. He added that he had spoken with Animal Control who told him that unless they were bitten there was nothing they could do. Mr. Blake noted that he had lived in places with a strong hunting community and had not had the problem before. He noted that Augusta County had a leash law and Nelson did not have anything similar on the books and he asked if the Board would consider encouraging or requiring responsible animal control on the part of dog owners. He added that it had worked for Augusta County which was similar in nature to Nelson.

###### **3. Reverend James Rose, Wingina**

Reverend Rose noted that he had visited the Gladstone senior center and he asked that they support them all that they could. He noted they were dedicated people who were upset by the things happening there. He added that they were not giving up and would continue on. He asked that the Board please support them as they deserved it, and the senior center was the only place for them to socialize with each other.

##### **B. VDOT Report**

Mr. Don Austin gave the following VDOT Report:

Mr. Austin reported that the bridge on Drumheller Lane that had beam deterioration now had a reduced weight limit from 13 Tons to 3 Tons and it should take 2-3 weeks to repair. He added

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that there were no buses using the bridge. Mr. Hale asked if the whole beams were affected and Mr. Austin noted they were and that they were hoping not to have to close it entirely; but rather maintain one-way traffic. He added that the construction contractors for Ligmincha were using a back way in and he would let the Faber Fire Department know about that.

Mr. Austin then reported that the Route 56 study at Saunders Brother's Orchard was still pending and the traffic division was reviewing data now to see if the speed limit could be reduced.

Mr. Austin noted that VDOT would not be making any adjustments to the short piece of guardrail near the bridge at the intersection of Route 56 and 151 as was requested the previous month.

Supervisors then discussed the following VDOT issues:

Ms. Brennan:

Ms. Brennan referenced a recent accident at the intersection of Buck Creek Lane and Route 29 and Mr. Austin noted that they had all of the necessary sight distance, they just pulled out there. Ms. Brennan questioned the sight distance going the other way and noted some brush needed to come down there. Mr. Austin acknowledged that there was one section left uncut.

Mr. Saunders:

Mr. Saunders thanked Mr. Austin for the Cedar Creek Road paving.

Mr. Saunders advised that people from the Walker's Mountain subdivision would be getting in touch with them.

Mr. Saunders asked about the improvements on Main Street in Lovington and Mr. Austin explained that they were starting the safety improvement project consisting of sidewalk work down to Dollar General and the Post Office. He noted they were replacing the sidewalk and new entrances where needed, as well as patching along the curb and gutter. He added that they had planned for replant mix next year.

Mr. Bruguere:

Mr. Bruguere asked if VDOT crews were working on Fridays now and Mr. Austin advised that they were working five days per week and not doing the four ten hour days anymore.

Mr. Hale and Mr. Harvey had no VDOT issues.

Mr. Carter asked for the status of the Route 151 and Route 6 intersection at Avon and Mr. Austin noted that they were paving now and it would be done within 30 days.

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C. Presentation – Friends to Save the Gladstone Train Station

Ms. Joanne Absher came forward and noted their official name was Friends of the Gladstone Depot and she was their President.

She noted that they had accomplished a lot in the last sixty-two days and had developed a lot of potential partnerships to save the depot. She noted that they had officially incorporated as of September 7<sup>th</sup> and had filed for non-profit status. She then noted that the seniors and community center members had vacated the YMCA building and had provided photos to CSX and Nelson County. She added that CSX was now willing to negotiate directly with the Friends of Gladstone Depot going forward and they appreciated Mr. Carter's assistance with that recommendation.

Ms. Absher noted that the group now had a business plan and estimates for moving the depot building. She noted that the business plan was a beginning, there was more research to be done; however, it showed that they were organized and willing to accomplish their goal of moving and restoring the depot. She noted that it also showed their intentions for the depot as a tourist destination. She advised that the future economic possibilities were becoming a part of the Virginia Rail Heritage Region that was established in 2010. She added that they were partnering with the Transportation Museum of Roanoke, Virginia State Parks, Old Dominion Chapter of Historic Railways, Virginia Canal and Navigation Society, the C & O Historical Society, and the Nelson County Historical Society.

Ms. Absher then noted that in 1998 Cliff and Louise Wood researched the depot's history and reached out to the Department of Historic Resources, placing the depot on DHR's eligibility list of historic resources. She added that Michael Pulice of DHR offered to file their application for the Gladstone depot to be placed on the National Register of Historic Places. On behalf of the Friends of Gladstone Depot, Ms. Absher thanked Andy Wright and the Nelson County Historical Society, Michael Pulice and Stephanie Williams of DHR, Steve Carter and Larry Saunders, the Nelson County Board of Supervisors, and the citizens of Gladstone and Nelson County that have stepped up to help save the depot.

Ms. Absher then noted that the depot was another tourism opportunity not just for Gladstone and she noted they would continue to work hard to make the depot a success story for the county. She then pointed out a painting that they had done of what they hoped the depot would look like in the future.

Ms. Absher then noted that she had corresponded with CSX and they were looking into the insurance requirements for the time period of moving the building. She added that they could now apply for grants due to their 501 3 (c) status. She then thanked the Board for taking their phone calls and for the opportunity to come before the Board.

Mr. Bruguiera then asked about the timeline for moving the depot and Ms. Absher noted that they had not been given one by CSX yet. She reiterated that the YMCA building was now vacated and would be demolished before the end of the year. She added that CSX wanted those buildings off of the tax rolls, so she felt certain it would be before year's end. She noted that their

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headquarters were in Jacksonville, Florida and they had not heard anything with the hurricane being there.

Mr. Harvey then asked if CSX could now give the depot building directly to them and Ms. Absher and Mr. Carter advised that they were saying they could. Ms. Absher noted that a CSX employee from Clifton Forge also wanted to see the Gladstone depot saved. She noted it was built in the early 1880s and was in good shape.

Mr. Harvey noted that he had seen a TV news story about the depot and he commended the Friends of Gladstone Depot on the job they had done and he noted he did not see any failure there.

Ms. Brennan then asked if the group would have all of the land and Ms. Absher noted that there would be two acres underneath the YMCA building and the depot would be moved to that location. She added that CSX would retain ownership of the land under the depot building in its current location. Mr. Saunders then noted that he understood that the seniors would meet at the Fire Department temporarily.

Mr. Stephen Shepp addressed the Board and noted he was currently from South Boston Virginia. He noted that he had worked for the railroad in Gladstone until 1989 when he retired after thirty-seven years with them. He noted he was the happiest working in Gladstone and he wanted the depot to be saved for the community.

#### D. Presentation – 2018 Reassessment Status Report (G. Eanes)

Gary Eanes of Wampler Eanes Appraisal Group addressed the Board and thanked them for the opportunity to work again in Nelson County. He added that they loved working in the county and county employees welcomed them. He noted that the Commissioner's Office does an excellent job of keeping up sales and maps and that made it easier for them. He added that the IT Department kept them connected to their database.

Mr. Eanes then advised that they would be sending out notices soon. He then reported that they had started in November 2016 and they had visited the 16,455 properties in Nelson over that time. He noted that the field work was complete and they were doing rechecks of properties to answer questions as well as working new construction and cleaning those up. He reported that new construction was up in the county and was statewide as well. He noted that the data entry should be done in September and they were continuing to analyzing sales; noting that sales had increased in the last four years.

Mr. Eanes then noted he wanted to go on public record that the reassessments were State mandated in order to equalize property values. He added reassessment was not just a request of the Board, they were just following the laws of the state.

Mr. Eanes then noted that Wintergreen had 214 sales and other parts of the county had 209 sales. He added that there were a total of 156 listings, 117 vacant land sales and 107 condo sales. He noted that property location was still important, people wanted water, barns, and views. He



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added those were holding value and some had increased. Mr. Eanes noted that people also looked to see if they had cell service when buying property. To further explain, Mr. Eanes noted that they did not compare Wintergreen sale prices to other areas such as Shipman or Afton, they looked at sales right there in the immediate area.

Mr. Eanes concluded by noting that they were intending for notices to go out in October and they would have the hearings etc. listed therein.

Ms. Brennan then asked when the Board of Equalization would do its work and Mr. Eanes noted that would be after the first of the year.

Ms. Brennan then asked for Mr. Eanes's general predictions and he noted that he thought there would be an overall slight decrease in values; noting that some market areas had increased but overall the County may lose a little bit. He noted that condos were coming down and vacant lots in Stoney Creek and in Wintergreen were down. Mr. Eanes added that the second home market was the slowest to recover.

Mr. Hale then asked if they were required by law to have an assessment be within 5% of true market value and Mr. Eanes noted that they were supposed to be at 100% of market value and they tried to be in the 90% range. He then advised that what they did was mass appraisal and their decision was made from outside of the house; however they did use Zillow etc. for interior comparisons where possible.

E. Presentation – 2018 Legislative Program (D. Blount)

Mr. Blount had provided the following report:

**2017 Legislative Priorities  
(Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson & Charlottesville)**

**TOP LEGISLATIVE PRIORITIES**

**STATE BUDGET and FUNDING OBLIGATIONS:** We urge the State to preserve aid to localities when addressing its current budget gap, and to not balance the budget by imposing new mandates or shifting costs to localities.

- Don't reduce funding for locally-provided, state-mandated services.
- Preserve existing funding formulas; don't alter them to save money and/or to shift costs to localities.

**PUBLIC EDUCATION FUNDING:** We urge the State to fully fund its share of the realistic costs of the Standards of Quality without making policy changes that reduce funding or shift funding responsibility to localities.

- Preserve 2016 investment which pushed State funding back above 2009 levels.
- Localities spend \$3.6 billion more than required by the State.

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**LOCAL REVENUE AUTHORITY:** We urge the State to diversify revenue options available to localities, to include equalizing revenue-raising authority of counties with that of cities, and to not restrict local revenue-raising authority.

- This proposal removes restrictions on meals, lodging, cigarette and admissions taxes.
- State-level studies, as far back as 30 years, recommend this difference be eliminated.

## **OTHER PRIORITY ITEMS**

**LAND USE and GROWTH MANAGEMENT:** We encourage the state to resist preempting or circumventing existing land use authorities, and to provide additional tools to plan and manage growth.

**TRANSPORTATION FUNDING and DEVOLUTION:** We encourage the State to continue to enhance funding for local and regional transportation needs. We oppose legislation or regulations that would transfer secondary road responsibilities to counties.

**WATER QUALITY:** We support financial and technical assistance from the federal and state governments for improving water quality, including for stormwater management.

Mr. Blount noted he appreciated the Board and staff during the legislative process and noted how responsive everyone was to various calls to action.

He then referenced the one page summary he had provided noting current priorities and he reminded the Board that he was revising the program and getting input from localities. He added he would send out revisions in October and would present it for approval in November.

He gave a brief legislative update noting budgetary items and high profile telecom bills. He added that the state share of salary increases were done this year and public education funding dropped for FY17 over FY16 due to raises taking the place of one-time bonuses and technical updates related to enrollment etc. Mr. Blount then noted that the state projected revenues to be up 3% and a two-year budget session was coming up and it was also a re-benchmarking year for education. He added that the new Composite Index for education would also be released.

Mr. Blount also noted that Medicaid was a 6% increase per year and CSA expenditures were increasing and would be a challenge.

Mr. Blount noted that programmatically, funding issues would be emphasized as well as expanding Broadband. He then added that they would bring together folks to offer solutions this fall instead of noting issues.

Ms. Brennan asked if devolution was still on the table and Mr. Blount noted he had not heard about that in a while.

Mr. Bruguiere asked if there was funding in a separate line for Broadband and Mr. Blount noted that there was a telecom initiative included in the budget and it was funded at a little over \$1M per year in the bi-biennial budget. He noted that VACO has been talking about consolidation of

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telecom taxes into one package; having it bumped to 5.3% and having that money put into expanding broadband, \$24-\$25 Million. Mr. Bruguere asked if it could be tied to education and Mr. Blount noted that could be a possibility and he could make that suggestion.

**V. New Business/ Unfinished Business**

**A. Rockfish Valley Senior Group Funding Request**

Mr. Harvey commented that he was supposed to have checked on a few things. He noted that Rose Mohler's husband had passed away and they had met that morning. He noted that food costs were going up and they had sixty-seven members. He added that they usually had forty-five to fifty each Thursday and they met fifty times per year. He noted that they had churches helping and the older ones were getting older and were not able to do it; now they had one church that helped some. Mr. Harvey then reported that they had worked it out to where the cost per meal was \$3.60 and included plastic wear, cups, plates, napkins etc. He noted that their request was for an additional \$4,000. In response to questions about the other senior groups, Mr. Carter noted that there was Gladstone and then Lovington was done through JABA.

Mr. Harvey noted that the group did not have building or utilities costs, it was a worthwhile program, and should have the additional funding. Mr. Bruguere stated that he thought the group should be lobbying the Board at budget time, not after the budget had been passed. He added that the amount to be allocated was posted and they could have lobbied for more then, not after the fact. Mr. Harvey noted that the Board had done a broad sweep of level funding, it was the most successful program in the County, and \$4,000 was a small amount.

Mr. Hale noted that Schuyler had a successful program, only did meals once per month, and that budget was \$5,000.

Mr. Hale then moved that the Board add \$4,000 to the budget for the Rockfish Valley Senior Group and Ms. Brennan seconded the motion.

Mr. Saunders then asked for the record, if the Board would entertain the Gladstone senior group if they came back and asked for more money because of their moving causing a shortfall. Mr. Hale noted he thought they should see how things went down there and he thought the Board should support them as well in their efforts to save the depot. He added that they may have needs that should be addressed at that time.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

**B. Amendment of Technology Use Policy-Social Media (R2017-48)**

Mr. Carter explained that the proposed language was an enhancement to the Technology Use Policy regarding Social Media. He added that staff worked with Mr. Payne in drafting the policy and the amended section would be added to the Technology Use Policy as a new section. He then read aloud the policy objective as follows:

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“The objective of the policy is to provide County employees with guidelines for participating in social media, including online blogs, community forums, podcasts, and social networks, when the employee is posting or responding to subjects related to County business or its citizens or which reflects on the interests of the County, as an employer, in promoting the efficiency of the public services it performs through its employees. This policy is not intended to interfere with an employee’s responsible postings made while off-duty on personal devices regarding matters of public concern involving social, political, or other matters of interest to the community.”

Mr. Carter then noted that the purpose and intent of the policy was prohibition on the inappropriate use of social media and Mr. Payne was the primary author.

Ms. Brennan then moved to approve Resolution **R2017-48**, Amendment of Technology Use Policy to Include Social Media and Mr. Brugiére 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 R2017-48  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF TECHNOLOGY USE POLICY  
TO INCLUDE SOCIAL MEDIA**

**BE IT RESOLVED** by the Nelson County Board of Supervisors that the local government’s “Technology Use Policy” is hereby amended to incorporate “Social Media Use” as follows:

**V. Social Media Use**

**Policy Statement**

The objective of the policy is to provide County employees with guidelines for participating in social media, including online blogs, community forums, podcasts, and social networks, when the employee is posting or responding to subjects related to County business or its citizens or which reflects on the interests of the County, as an employer, in promoting the efficiency of the public services it performs through its employees. This policy is not intended to interfere with an employee’s responsible postings made while off-duty on personal devices regarding matters of public concern involving social, political, or other matters of interest to the community.

**Definition**

“Social media” includes all means of electronic communication, whether or not associated with the County, such as websites for networking and microblogging through which users create online communities to share information, ideas, personal messages, and other content including on your own or someone else’s web log or blog, journal or diary, personal web site, social networking or affinity website, web bulletin board, twitter, chat room or the like.

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**Prohibited Activities**

The following postings, at any time, are prohibited. Failure to observe the following prohibited actions and may result in disciplinary action up to and including termination.

The use of social media on work time, or on equipment that the County provides, unless it is related to work as authorized by a supervisor.

The use of the County's email addresses to register on social networks, blogs, or other online tools utilized for personal use.

Purely personal complaints and grievances about conditions of employment, fellow employees, supervisors, and other internal affairs.

The disclosure of confidential information or non-public internal reports, policies, procedures, or other confidential communications of the County.

Postings that could contribute to a hostile work environment on the basis of race, sex, disability, religion, or any other status protected by law or County policy.

Knowingly posting false information or rumors about the County, fellow employees, citizens, or people working on behalf of the County.

Postings that reasonably could be viewed as malicious, obscene, threatening, or intimidating, or that constitute harassment or bullying.

Postings in which the employee represents himself as a spokesman for the County unless so designated by a supervisor.

**County Designation of Media Contact**

The County designates specific employees to comment to the media (radio, television and newspapers) about specific topics. As social media is a communications medium between the County and its citizens, the County will designate employees to provide information on social media regarding County policies, practices, and events so that one clear and accurate message will be delivered.

**C. Amendment of Local Salary Supplement Policy For Constitutional Offices (R2017-49)**

Mr. Carter noted that after the August Board meeting, decisions were made by the Board pertaining to the County's salary supplement policy and therefore staff rewrote the policy to comport with those changes.

He advised that the policy was generally more favorable to Constitutional Officers and it gave them greater latitude for the use of county given supplements. He added that before the revisions, the current policy would not allow the use of a terminating employee's supplement to be used to recruit new employees and it went back into the general fund.

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Mr. Harvey clarified that this dealt with the policy and not the pay. Mr. Hale noted that he thought that the changes would be such that they would not be constantly harangued by officers wanting more and was a step in the right direction. Mr. Carter noted that it gave them more control over the use of supplement funding.

Mr. Carter then reviewed the additional changes pertaining to certifications by Officers, which were addressed to enable additional compensation by the state. Mr. Harvey noted that change did not affect the County and it benefitted the employee.

Mr. Hale then moved to approve resolution **R2017-49** Local Salary Supplements for the Registrar and Constitutional Offices and Mr. Saunders seconded the motion.

Ms. Brennan then asked if there were any restrictions on the use of the supplements in recruiting and Mr. Carter noted that the use of supplements was restricted to hiring new employees and was not to be distributed to current employees. He added that Officers were to coordinate with him for the salary amount to be offered a prospective hire and if he and the Officer did not agree, it would be brought to the Board. Ms. McCann added that the supplement of an outgoing employee was to be used within the fiscal year of that employee's termination because the funds were already in the budget. Mr. Carter noted that that the policy was not very restrictive; however it provided some discretion between the Officer and the County Administrator as to new hires.

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 R2017-49**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**LOCAL SALARY SUPPLEMENTS FOR THE REGISTRAR**  
**AND CONSTITUTIONAL OFFICES**

**WHEREAS**, Title 15.2-2507 of the Code of Virginia requires a locality to appropriate as part of its annual budget or in amendments thereto amounts for salaries for its constitutional officers that are not less than those established for such offices in the locality by the Compensation Board;

**NOW, THEREFORE, BE IT RESOLVED** by the Nelson County Board of Supervisors that the local government's "Salary and Classification System" is hereby amended to incorporate governance of local salary supplements for the Registrar and Constitutional Offices as follows:

For the purposes of this amendment, references to the Compensation Board shall also mean the State Board of Elections as it pertains to the salary of the General Registrar. References to Constitutional Officers shall be inclusive of the General Registrar.

Local salary supplements for Constitutional Officers and their full time staff are intended to provide equitable annual salary adjustments for these employees with those of other full time Nelson County personnel. The supplement is subject to annual approval by the Board of

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Supervisors and shall apply in each year to those employees hired or beginning employment before July 1 of the fiscal year.

The percentage of annual local supplement shall be based on the approved Compensation Board salary in effect on June 30 of the prior fiscal year (Compensation Board and local supplement). In addition to the local supplement percentage calculated on July 1, prior year supplement amounts in effect on June 30 of the prior fiscal year will be included in the total supplement amount.

Should the annual salary adjustment in the Appropriation Act and approved by the Compensation Board result in greater compensation over the course of the fiscal year than the percentage of salary adjustment approved by the Nelson County Board of Supervisors plus any prior year supplement in effect on June 30, the salaries of those constitutional employees shall be paid at the salary established by the Compensation Board. Employees who were employed in a full time Compensation Board position on June 30, 2012 and remain in the same position class shall be entitled to maintain the 5% salary adjustment required to offset the reinstatement of the 5% employee contribution payment to the Virginia Retirement System (VRS) mandated in Chapter 822 of the 2012 Acts of Assembly.

Salary adjustments approved by the Compensation Board beyond the annual across-the-board adjustment shall be regarded in the following manner:

- (a) Compensation Board salary adjustments that do not exceed the total annual salary (Compensation Board and local supplement) being paid to the employee will not result in a pay adjustment. In cases where the salary adjustment results in an annual salary greater than the total salary currently being paid, the employee's salary will be adjusted to equal the Compensation Board salary.
- (b) Compensation Board salary adjustments that result in a reduction of the Compensation Board salary, such as in the case of a demotion, will be compensated at the approved Compensation Board salary effective on the date of the Compensation Board salary reduction.

Exceptions:

- (a) Career Development Program participation that results in an increase in Compensation Board approved salary: The increase in salary resulting from such certification shall not result in a decrease of local supplement in effect at the time of the approved salary increase. A copy of the certification must be provided to the governing body.
- (b) Situations where a position or group of positions are no longer funded by the Compensation Board or an across-the-board reduction in funding is applied to Compensation Board salaries: Such situations shall be subject to review and consideration by the Board of Supervisors on a case by case basis.

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The impact to local supplement for any other Compensation Board salary adjustment not specifically addressed herein shall be subject to review and approval by the Board of Supervisors on a case by case basis.

Upon termination from employment of a Compensation Board employee with an earned supplement, budgeted supplement funds may be applied to the salaries of new hires provided funds are utilized within the fiscal year budget that the vacancy occurs. Such use of supplement funds is subject to review and consent by the designated administrator of the salary and classification system. The designated administrator may elect at his discretion to have the Board of Supervisors consider any particular request for use of supplement funding.

#### D. Circuit Courtroom Railings and Pickets

Mr. Carter suggested that the Board go down to look at the pickets and railings in the courtroom. He noted that Mr. Hale and Mr. Saunders had differing opinions and therefore it was being presented to the Board for a decision. He then noted the three options for the Board's consideration as follows:

1. Proceed per the project's specifications to sand the railings and pickets, polyurethane the finished railings and re-paint the sanded pickets at no additional cost.
2. Strip the railings with a chemical treatment to obtain an original wood grain finish, sand as necessary, and apply polyurethane once finished. Sand and re-paint the railings (at no additional cost for this work) at an estimated cost of \$10,799 (inclusive of a 30 day extension – into October). This work is limited to the railings at the bench, behind the witness stand and at the stair railings.
3. Replace the railings and pickets (limited to the areas in #2 above) at an estimated cost of \$33,696 and with a projected project completion date extended to November and possibly beyond.

Mr. Saunders then noted that he now agreed with Mr. Hale that the pickets and railing should be sanded and re-painted per the contract specifications and that was now the Committee's recommendation.

Mr. Hale noted that he and Mr. Saunders had worked closely on the project and had mostly agreed on everything. He noted that Mr. Saunders was interested in seeing the solid walnut railing look better; however in fact he did not want to replace them at this time at the outlandish prices shown. He then advised that the County should move ahead with finishing the contract. Mr. Saunders noted he agreed and that the pickets should be sanded to their satisfaction and that Jamerson Lewis would fix it. Mr. Hale noted that it was a historic courtroom and it was appropriate to have old architectural features as well as new. It was noted that the courtroom could be finished in the next two weeks.

Mr. Saunders then noted that initially, the thought was that the Board should make the decision. Supervisors then agreed by consensus to go with the committee's recommendation.



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Mr. Saunders then noted he wanted to make another suggestion. He suggested that the County not finish the concrete outside of the courthouse. He noted it would not match, they would only do parts of it, and it would look as bad with or without it. Mr. Hale noted he agreed.

Ms. Brennan then noted that the facing on the stairs going up to the courthouse from Front Street still looked bad. It was noted that the old front door of the building would not be a public entrance; however people would still be able to come up the stairs and walk around. Mr. Carter advised that staff would take a look at it.

Mr. Harvey then noted that in relation to the balcony engraving, he suggested that the policy be that it was uncovered until the Judge said it should be covered for that court session. He added that as a whole it should be exposed when court was not in session. Mr. Saunders agreed and noted that the covering could be taken down very easily and Mr. Harvey added that he wanted it down and then it was to be covered as needed.

The Board agreed by consensus as long as the Judge was amenable.

Mr. Hale then noted that he saw in Virginia Historic Courthouses, that in the 1830s, the Courthouse was used as a place of worship and that was when the balcony legend was put up. He reiterated that the Courtroom was used as a place of worship and Mr. Carter noted that Emily Brown's research had confirmed that as well.

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

### **A. Reports**

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

**1. Courthouse Project Phase II:** Jamerson-Lewis has proposed a (retroactive) date of September 1<sup>st</sup> for the project's substantial completion date. Once this date is established the project's focus will be towards final completion following any balance of work remaining from punch lists generated by the substantial completion process. This subject is under review with the project's architectural consultant. In addition to determination of substantial completion, the project has two critical decisions to be made. The first, which is a 9-12 agenda item, is the status of the existing railings and associated pickets in the Circuit Courtroom. Three options are outlined in the summary on this subject within the 9-12 agenda and will likely require the Board to inspect the current (historic) installations to assist with a final decision. The second is the resurfacing of sections of the existing sidewalks with the question being to proceed as planned or to remove this work as a project outcome. The project team, including Messrs. Hale and Saunders are evaluating this subject.

**2. BR Tunnel Project:** VDOT and FHWA approval(s) to re-bid the project (Phase 2, Tunnel Rehabilitation only) is in process and is anticipated at any time. With respect to Phase 3 (Western Trail & Parking Lot), a decision on bidding this phase is incumbent upon the bid outcome of Phase 2 (i.e. available funding in relation to the project's estimated cost). County

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representatives (Supervisor Hale and S. Carter) are scheduled to meet on 9-8 with Waynesboro City staff to discuss possible partnership options for completion of Phase 3.

**3. Broadband:** See attached report.

Mr. Carter noted the numbers on the report and advised that the focus was on getting pending connections done and working with WON on reconciling billing accounts. He added that he was confident they were getting close to getting it finalized.

**4. Region 2000 Service(s) Authority & Solid Waste/Recycling:** The Authority's ensuing meeting is scheduled for 9-20. Decisions on a property protection program for private properties located in proximity to the active landfill (Campbell County) and the distribution of excess revenues to Lynchburg City and Campbell County are likely agenda items, both of which Nelson County's representative to the Authority (S. Carter) will likely oppose.

**5. 2018 General Reassessment:** Mr. Gary Eanes, a principal of Wampler-Eanes, will report to the Board on 9-12 on the status of the current general reassessment.

**6. EMS and Fire Study:** County staff participated on 9-6 in a brief conference call with the staff and members of the VA Department of Fire Programs project team for the purpose of scheduling the team's three day visit to Nelson County. The confirmed schedule is October 11-13 during which the project team will meet with County staff, with representatives of each of the County's Fire and EMS agencies and visit/tour inclusive agency's location as a part of the team's overall assessment. An itinerary for the three day assessment has not been drafted at present.

**7. Radio Project:** The Rockfish Tower has been added to the radio network. Testing is still in progress but the tower and associated equipment are operational.

**8. Lovingson Health & Rehab Center:** Closing on the sale of the property is in process.

**9. VA First Net:** No update on this nationwide initiative is included herein.

**10. Go VA:** The Region 9 Go Virginia Growth & Diversification Plan will be presented by the project consultant, Camion Associates on September 13 at 9 a.m. at PVCC and at 2:30 p.m. At Germanna CC's Daniel Technology Center in Culpeper. Please contact County Administration staff for further information on attending the plan's presentation.

**11 Board Directives (August 2017):** Staff's report on the status of Board directives from the August 2017 meeting will be submitted to the Board by separate communication.

Please be advised of the following information regarding Board Directives from the August 9, 2017 regular session.

**1. Recognition of Mr. David Thompson:** The September 12<sup>th</sup> agenda includes a resolution to recognize and honor Mr. Thompson's service to Nelson County. Following approval, the resolution will be placed on a plaque to provide to David's family.

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**2. Introduction of Solid Waste & Recycling Coordinator:** Mr. Rick Schall will attend the 9-12 meeting to be introduced to the Board.

**3. Treating of Ash Tree and other Courthouse landscaping:** A work order has been issued and a vendor is being retained to complete the preventative treating of landscaping at the Courthouse.

**4. Dumping of Tires in Piney River (23109 Patrick Henry Highway - All Season Tire):** The Company responsible for placing illegal numbers of tires in the Piney River area of Nelson County is currently removing the tires (transporting them, per VA-DEQ, to Emmanuel Tire, the recycling company the Count utilizes for tire recycling). The company, All Season Tire, is cooperating with VA-DEQ in order to avoid the Department's issuance of a legally binding Consent Order and, per Department staff, a fine for failing to bring the site in Piney River into compliance when DEQ (Valley Regional Office in Harrisonburg) staff first notified the company that the site had to be brought into compliance. County staff had contacted DEQ staff on this issue and deferred to the Department's enforcement authority upon being advised by DEQ staff that the Department was addressing this subject. Per a discussion with DEQ staff on 9-7, the company has removed 1,500 tires and has to have the site in complete compliance by 9-15 or face issuance of the Consent Order and accompanying fine. DEQ staff has agreed to keep County staff apprised of the status on the corrective action.

**5. Fourth of July Parade:** The County's Department of Parks and Recreation has been advised to facilitate the ensuing and future 4<sup>th</sup> of July Parades.

**6. Boat Launches/Landings:** Please see the attached status report from the Department of Parks and Recreation, inclusive of a very preliminary cost estimate(s) from staff of the Department of Game and Inland Fisheries. In conferring on this subject with E. Harper, Director of Parks and Recreation, additional work is required to provide for more definitive cost estimates, inclusive of any potential compensation to the owners of the private properties for easements, the cost of gravel parking lots, legal work related to the easements, and for the construction of the launch structures. The launch at VDOT's Rt. 29 Wayside may be the easiest to accomplish (E. Harper's report denotes a pending meeting with VDOT staff to move closer to a final project). However, an easement is required to enable exiting the Rockfish River before the (first) dam on the river is encountered. A "guesstimate" of the overall expense to accomplish installations on both the Rockfish and Tye rivers may easily be in the \$15-\$20-25,000 range dependent upon how the work is accomplished, inclusive of any payment requirements from property owners, as "may" be required. Board direction to proceed with these initiatives is required, inclusive of final approval once definitive information is in place.

River Canoe/Kayak Access Report 9/5/17

Rockfish River Access

Site 1: Woods Mill Wayside

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Met with Don Austin (VDOT) at this site. We chose a site near the gravel pile that makes an easy access to the river. This site requires for safety reasons that users enter the main parking area off Rte 29. VDOT approval is necessary

Construction will include:

1. A gravel road from the large existing parking area to access the parking area/boat ramp near the gravel pile.
2. Parking area for 5-6 vehicles
3. Slide ramp to access the river

Mr. Austin is coordinating a meeting onsite with Jeff Kessler (VDGIF) and me.

Site 2: Janet Hunter's property

Janet has agreed to give us an easement for the river access and parking.

The land is on Rockfish River Road before the first dam. It would give a takeout point before any portage.

Construction will include:

1. A short entrance road
2. Parking for 5-6 vehicles
3. Slide ramp to access the river

#### Tye River Access

Possible sites

Site 1: Tye River Depot just east on S. Powell's Island Rd

This site is being used at this time but is not developed

An easement with the current owner is needed

Site 2: 2 miles east on S. Powell's Island Rd

Site 3: Rucker's Run

This site has been an unofficial access for many years. The entrance to the water is quite steep. It is owned by the Prices. They are willing to discuss an easement with the County.

Construction would include:

1. Entrance from Variety Mills Rd
2. Parking area for 5-6 vehicles
3. Slide ramp to the river

Boat Launch Cost Estimate:

As for cost of a Hand-Launch access, I would suggest a cost of about \$25k to probably \$50k (Contracted). If volunteers or County staff were providing the labor, and equipment was either donated or County owned, the cost could be cut in half. That estimate does not include any entrance road or major excavation. Significant coordination and cooperation with local organizations and/or government agencies, the cost could drastically reduce the cash investment to materials only, which would probably cost around \$5k.

I hope this helps. Thanks.

Stephen A. Kesler | Boating Access Grants Manager | 8940 Bevils Bridge Road, Amelia, VA 23002 | (804)561-1447 - office | (804)840-9493 - cell | [steve.kesler@dgif.virginia.gov](mailto:steve.kesler@dgif.virginia.gov)

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Mr. Carter added that School accreditation information would be released the next day and he would follow up.

### **3. Broadband Attachment:**

Report to Nelson County Broadband Authority

Meeting Date: 9/12/2017

Prepared by Susan Rorrer

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#### I. Operational

Total Number of Connections on 6/30/2017:	344
Installations for July and August:	24
Total Number of Connections on 8/31/2017:	368
Pending Installations:	175
Total Customers on 8/31/2017:	543

#### II. Administrative

- Installation of the backbone and drops for Woods Mill neighborhood have been completed with a total of 20 customers.
- The VDOT permit for New Land neighborhood has been received and work has begun. It is estimated that the installation will be complete in 5 to 10 business days.
- Drawings are being completed for the Glass Hollow and Tanbark neighborhoods.
- Three additional neighborhoods are pending installation.

#### III. Financial attached

#### 2. Board Reports

##### Mr. Hale:

Mr. Hale reported that at the Sturt Property, Doug Coleman has been working with various groups and had succeeded in getting funding from the Sturt heirs. He noted the funding would be used for some trails that would be maintained (loop trail), a kiosk had been built that some

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notices could be put up in, and gravel would be spread on the side of Findlay Gap Road so people could pull off there. He noted that he appreciated the work being done on that and that there were many interesting aspects to the property. He reported that the Pine trees were growing steadily and in five years, there should be marketable timber there so they could put that money back into the property. Mr. Hale then noted that the property was posted for no hunting, it was approximately 350 total acres, and there could be a loop trail of about five miles or so. He added it would be similar to the one in Fortunes Cove.

Mr. Hale reported that the Department of Social Services held a meeting to look for foster families. He noted he did not attend; however he understood that there were prospective families there. He noted that this was one of the things the DSS Board had been working on as more local foster families were needed.

Mr. Hale reported attending a meeting of Unity in Community at DSS that brought together people that could provide help to those in need. He noted that Region Ten was there and that they had the expectation of the Lovington facility being open by April of next year.

Mr. Hale then reported that the issue of fencing in or fencing out of livestock came up all of the time in conversations and he noted in the past the Board was not interested in making livestock be kept in vs others keeping them out. Mr. Bruguire noted that his constituents that had cattle were happy with the way it was now. He noted that in speaking with Kevin Wright, it was a civil matter when cows got out and caused damage. Mr. Hale then noted for the public that Nelson County was a fence out community and that counties had the option of adopting an ordinance stating that livestock had to be fenced in. Mr. Hale noted that when the issue comes up, it is usually due to one or two irresponsible livestock owners being involved and they have had to pay insurance claims. He added that Kevin Wright said that the advantage was if the County had a fence in policy then people who were constantly having animals get out could get a citation.

Mr. Bruguire:

Mr. Bruguire reported that the Planning Commission had approved cell towers, had started reviewing the RVAP, and would hold work sessions. He noted that it could be adopted by the Board into the Comprehensive Plan.

Ms. Brennan:

Ms. Brennan reported attending the Piedmont Workforce Network Board meeting; which was related to the budget with some review of programs they have. She added that they encouraged people to attend the Go Virginia meeting on the 13<sup>th</sup>. She also reported that they were looking at projects to help students with job training in high schools.

Ms. Brennan reported attending the CIT meeting and noted that in mid-October BRMC and DSS would have a work shop on the increased drug problem that was affecting their clients. She added that the Assistant Commonwealth Attorney was there and spoke to the fact that it was a big problem; noting that last year, they had 250 cases related to felony drugs and over 400 this year. She noted that they advised that Meth was 90% of the problem and fentanyl was in the

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county now. Ms. Brennan then noted that they discussed where people could go when families could not care for those with serious mental health problems. She reported that there was an effort to install drug boxes in each locality where people could drop off prescription and illegal drugs. She added that drug disposal was a very complicated issue and throwing meds away or flushing them was a serious issue. In response to questions, she noted that the Sheriff did not attend the meeting; however Russell Gibson was there. She added that both the Sheriff and Major Cindrick usually attended.

Ms. Brennan inquired as to the status of EMS billing and Ms. McCann noted that for FY17, the County had come up about \$60,000 short of the budgeted amount. She advised that the billing company was steady and methodical in doing the billing and collection. She further advised that the County did not have a collection policy but rather had a soft billing policy. She noted that there was no issue with the billing company and it was a matter of transports per year.

Mr. Carter noted this would be looked at as an outcome of the EMS study and that Wintergreen had given notice that it would not continue to provide paid EMS services, therefore there would have to be a transition plan developed by the County.

Mr. Saunders:

Mr. Saunders reported working with the Gladstone Depot group.

Mr. Saunders reported that he did not attend the TJPDC meeting, he would not continue to attend, and he needed to be replaced as he did not agree with the other members.

Mr. Saunders reported he sent a picture around of the granite bench to be donated by Steve Meeker to the Courthouse for the outside area.

It was noted that the TJPDC meeting would be hosted at Veritas in October and with Mr. Saunders not attending, Ms. Brennan volunteered to go.

Mr. Harvey then inquired if there was any more thought by the Board to joining Region 2000 instead of the TJPDC. Mr. Carter noted not since the Board decided against it a while back and the County would probably have to have dual membership in both. Supervisors agreed by consensus to inquire about it again.

Mr. Hale noted that the legislative work done by David Blount of the TJPDC has had good value and they had also provided other valuable services to the County. Mr. Carter noted that since Chip Boyle became the Director, they had been much better to work with. He added that there may be an issue of member politics not their staff.

Mr. Harvey:

Mr. Harvey attended the Service Authority meeting and noted all was going well.

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Mr. Carter then confirmed for Mr. Harvey that the Recreation Department would be taking over the 4th of July parade as directed last meeting and he noted that he thought Tourism worked with the Christmas parade and maybe Halloween in Lovington. Mr. Carter advised that he thought Maureen Kelley was helping with that.

#### B. Appointments

Ms. McGarry reported that there was no change in the appointments for consideration from the last month and that a KNB candidate was still needed for the West District. Mr. Bruguere indicated he would work on that and no action was taken by the Board. The Board's consensus was to consider appointing these candidates as a group once a West District candidate was presented.

Ms. McGarry then reported having provided the Board with a resignation letter from Mark Stapleton, who resigned from the Piedmont Workforce Network Council. Ms. McGarry noted that Mr. Stapleton recommended that Nelson could be better served on the Board by someone from the local business community.

#### C. Correspondence

##### 1. RVCC Request for Solid Waste Disposal Exception

The following correspondence was provided to the Board for its consideration:

Steve:

Thank you for meeting with Rick Schall, Sara Taylor and me last week to discuss issues related to the Convenience Center here in Afton. We appreciated your candor and your willingness to consider our proposal regarding possible use of the facility for RVCC refuse and recycling. Like you have done, we have searched through our files here and can find no correspondence between the County and RVCC regarding this issue, and nobody here recalls it having been raised as an issue in the past. In the five years that Sara & I have been here, it has only recently come to our attention as a concern.

As we mentioned in our meeting, our custodial staff arranges for the disposal of trash from the public spaces at RVCC that they clean, and we dispose of the trash from our offices ourselves. Our tenants are responsible for disposing of their own trash, and are not permitted to use our trash containers. We recycle aluminum and plastic to the extent we can, we have designated bins for small electronics and cork recycling, and both Sara and I routinely recycle paper at the Convenience Center. We generate very little trash on a routine basis, with the exceptions being our larger events that are held 6-8 times per year. And yes, we have always dumped that trash in the dumpsters, as it generally totals only 2-3 bags per event. All others renting the facility for private or public events are explicitly instructed to take their trash with them when they leave, or else they forfeit their security deposit. The vast majority of the trash that RVCC must remove consists of the personal and household trash brought to the center by Nelson County residents and left in our trash cans or strewn across the grounds.



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The Treasure Chest is a part of RVCC, as you know, and receives donations five days a week during business hours. These donations are entirely composed of residential possessions which would otherwise be legally permitted for disposal at the Convenience Center *if we turn them away at the door*. We re-sell everything we possibly can, but some of the donations we receive are not sellable at all and must be discarded. Often, bags and boxes of donations are simply left on the store's doorstep overnight and on weekends. We try to inform donors when items are not suitable for resale, but as a practical matter we can't examine every box and bag when it is delivered to us. Thus, we end up having to dispose of a great many of items that should have gone into the dumpsters in the first place – or possibly the re-use shed or the clothes/shoes bins. Like the rest of RVCC, the Treasure Chest otherwise generates very little trash on its own.

As we discussed, we are writing to you to ask that you approach the Board of Supervisors, however you deem advisable, to communicate our request for an exemption from the commercial use ordinance governing trash disposal at the Afton site. We would ask this considering what we hope the Supervisors see as the positive contribution RVCC makes to our community and the County through our recreational, social, educational and cultural programming, and considering the very small amount of refuse we generate here in service to our residents. We ask this on behalf of RVCC and the Treasure Chest only, with the understanding that our tenants must make their own arrangements for trash disposal off-site.

We very much appreciate your forbearance in permitting us to continue use of the facility in the short-term while you consider this request, and we would be happy to discuss our request further with you or the Supervisors if you or they wish.

We look forward to your reply.  
Best regards,  
G. Stuart Mills  
Executive Director

Mr. Carter advised that his recommendation was for the Board not to act on the request and Mr. Bruguere noted that if they were given an exception, everyone else would want one too. Mr. Carter reiterated that he had suggested to them that they lease a dumpster to serve the businesses there; however they said that they did not generate enough solid waste and should be able to use the Rockfish site. He advised that the Ordinance says the Rockfish site is for residential waste only.

Following this brief discussion, no action was taken by the Board.

## 2. DEQ MOA for Erosion & Sediment Control Inspections of ACP

The following correspondence was provided to the Board for its consideration:

Mr. Stephen A. Carter  
County Administrator  
Nelson County  
P. O. Box 336  
Lovingson, Virginia 22949

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Re: Atlantic Coast Pipeline Project  
Erosion and Sediment Control and  
Stormwater Management Review

Dear Mr. Carter:

I'm writing to offer Nelson County the opportunity to work with the Department of Environmental Quality (DEQ) on review of the proposed Atlantic Coast Pipeline (ACP). Virginia law and regulations establish that land disturbance associated with pipeline construction activities must meet Erosion and Sediment Control (ESC) and Stormwater Management (SWM) requirements to protect surface water quality during and after construction completion. As you may know, state law further mandates that natural gas pipeline utilities (and certain other utilities) meet the requirements for ESC and SWM under a DEQ approved Annual Standards and Specifications Program rather than by the review and approval of the local Virginia Erosion and Sediment Control Program (VESCP) authority and the local Virginia Stormwater Management Program (VSMP) authority, if one has been established.

Under the Annual Standards and Specifications Program utilities are not required to submit site specific ESC and SWM plans to DEQ for approval. However, as an additional measure to ensure protection of state waters, DEQ has required the proposed ACP project to submit its site specific ESC and SWM plans to DEQ for review and approval.

Enclosed for your review and consideration is a Memorandum of Agreement (MOA) that establishes a cooperative relationship between DEQ and Nelson County in the review of ESC and SWM plans and future compliance and inspection activities related to the proposed ACP project. DEQ is inviting each locality in which there will be construction activity related to the proposed ACP project to consider signing this MOA.

I am glad to answer any questions you may have about the MOA and I can be reached at [melanie.davenport@deg.virginia.gov](mailto:melanie.davenport@deg.virginia.gov) or (804) 698-4038. Also, if you intend to sign the agreement please let me know so that I can provide a document that is specific to your county/city. I look forward to hearing from you.

Sincerely,  
Melanie D. Davenport  
Director, Water Permitting Division

Mr. Carter advised that the MOA allowed for the County to be notified when DEQ was doing inspections so the County could monitor it at their discretion. Ms. Brennan noted she would like another month to consider it. Mr. Carter noted he was luke-warm about it since the County had no real authority and not enough staff in the Building Inspections Department to really do it. He then noted there was no timetable for a decision.

Supervisors then agreed by consensus to table the matter.

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Mr. Harvey then inquired as to how the Building Inspections Department was getting along. Mr. Carter advised they were doing okay, Mr. Allen was taking classes, Ms. Slough was getting certifications, and Ms. Negley was still coming a couple of days per week. He added that he had not gotten any negative feedback on inspections or the quality of those and he would see if Mr. Allen could be certified as a Code Official and move on from there. He added that Mr. Allen would take those tests by the end of the year and if unsuccessful, the County would probably advertise the position. Mr. Carter noted that he had not gotten complaints on Ms. Negley directly, however, he had spoken with Mr. Allen about her being talkative and wanting to change some things. He noted that he had advised Mr. Allen that if it was a good change, then to go with it; however, she was not hired to make changes.

Ms. Brennan then noted that she liked Mr. Allen and Ms. Slough and remarked that they were timely and had good people skills.

Mr. Carter then advised that Ms. Negley was not permanent and she knew she was temporary and was brought in to fill the gaps in service provision. He added that Amherst County had informally allowed Nelson to consult with their Building Official and Jim had consulted with him on the Massies's Mill Carnival and may have on some E&S issues. He noted that the County was not going backwards and they were trying to make progress.

#### D. Directives

##### Ms. Brennan:

Ms. Brennan asked if the regulation of dogs in the New Lands Community could be done similarly to that of Wintergreen. It was noted that it could; however the Board would have to add it to the Ordinance. Ms. Brennan advised she would look into it. Mr. Harvey noted that hunting dogs were exempt anyway and Mr. Bruguere noted that it was bear chase season right now and the best thing Mr. Blake could do was to post his property and get the word out that his land was posted. He added that bears were everywhere now and dogs were after them.

Ms. Brennan then advised that she had read in the newspaper about all voting machines would not be touch screen and Mr. Carter noted that the County had taken care of replacing those and it had not been reported to staff that more were needed.

##### Mr. Hale:

Mr. Hale then asked for the date of the TJPDC meeting in the County and it was noted to be October 5<sup>th</sup> at Veritas Winery and the Board and Planning Commission were invited.

##### Mr. Bruguere:

Mr. Bruguere reiterated that the Board and the NCBA needed to have a work session on Broadband and it would be a called meeting. He noted that the County would have to fund some expansion and they needed to figure out where it would come from and how to do it. Mr. Saunders agreed and noted he thought expanding in Shipman could work. Mr. Hale questioned

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that given that it was already served wirelessly. Mr. Carter advised that SCS was also a fiber provider and if the cost to switch from wireless to fiber was negligible, then he thought most would switch over. Mr. Harvey added that switching would give SCS some equipment back and more bandwidth to use somewhere else.

Mr. Saunders and Mr. Harvey had no directives.

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

Mr. Hale then suggested that the pulled Consent Agenda items related to the CSA Coordinator job description and budgetary items be considered.

Mr. Harvey noted he thought they ought to go into executive session in order to discuss an individual employee and Mr. Hale agreed.

Mr. Carter advised that the CSA Program had transitioned back from being administered out of the Department of Social Services to the County and an approved job description was needed.

Mr. Hale then moved move that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code § 2.2-3711(A) (1): personnel matters involving compensation of County employees. Mr. Bruguere seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

The Board conducted the Closes Session and upon its conclusion, Mr. Hale moved to return to public session and Mr. Bruguere seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Upon reconvening in public session, Mr. Hale moved that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter 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. Harvey noted that being personnel and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

*CSA Coordinator – Part Time Job Description:*

Mr. Hale then moved to approve Resolution **R2017-46** Approval of Job Description – CSA Coordinator, Part-Time and Mr. Bruguere 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 R2017-46  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF JOB DESCRIPTION**

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**(CSA COORDINATOR- PART TIME)**

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

**WHEREAS**, there are seasonal and part-time positions that are already established which do not have formalized job descriptions;

**NOW THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors hereby incorporates the job description for CSA Coordinator – Part Time into the County of Nelson position classification plan and that the noted job description is attached is hereby made a part of this resolution.

**NELSON COUNTY JOB DESCRIPTION**

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Job Title: **Children’s Services Act Coordinator-Part Time  
CSA Funding**

Grade: **Subject to**

Supervisor’s Title: **County Administrator** FLSA Status: **Non-exempt**

Department: **Children’s Services Act** Date \_\_\_\_\_

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**Purpose of the Job:** Facilitate high-quality, child-centered, family focused, cost effective, community-based services to at-risk youth and their families within a government structure as organized under the Virginia Children’s Services Act (CSA). This individual serves as manager of the system process to create improved outcomes for children and families.

**Essential Responsibilities.** The major responsibilities that must be performed in order to accomplish the purpose of the job and that account for the majority (75% to 95%) of the employee’s time.

**Percentage of Time.** The percentage of the employee’s time that is typically devoted to meeting the responsibility over the course of a typical week, month or year.

**Importance.** The importance of each essential responsibility to the overall purpose of the job using the following scale:

Important 1 — 2 — 3 — 4 — 5 Very Important

	<b>Essential Responsibility</b>	<b>% of Time</b>	<b>Importance Rating</b>
1	Assist the Community Policy and Management Team (CPMT) with development, implementation and revision of program policies and procedures inclusive of fiscal operations.	10%	5
	Implement, in collaboration with local partner agency staff, policies,		

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2	procedures and guidelines adopted by the State Executive Council. Monitor local, state, and federal legislation that impact the operation of the CSA program.	10%	5
3	Responsible for planning, monitoring and projection of needs of the CSA budget. Ensure all CSA fiscal requirements are met in order for locality to receive state reimbursements.	15%	5
4	Develop and monitor a plan to evaluate service quality and effectiveness. Report results of evaluation to CPMT and develop measurable outcome for collecting and analyzing data.	10%	4
5	Provide training and technical assistance for CPMT and FAPT members, staff and parents. Lead in the development of best practices to better meet the needs of the children and families in the program. Identify areas for improvement in the service delivery system.	10%	4
6	Liaison with Family Assessment and Planning Team (FAPT) to provide information on vendors, services and treatment options. Prioritize family involvement in the FAPT process. Identify appropriate funding sources for services	10%	5
7	Processing POSO's and invoices for child and family specific services, submitting monthly pool reimbursement request, supplemental funding requests and accurate accounting of funds.	25%	5

**Formal Supervisory Responsibility.** Employees in the following positions report directly to the CSA Coordinator.

Job Title of Direct Reports	Number of FTE Employees In The Job
None	

**Routine Decision-Making.** The following reflect examples of specific decisions routinely made in this job.

Examples Of Specific Decisions Routinely Made
Determining the most appropriate source of funding to provide services.
Evaluating legislation to determine fiscal impacts to CSA program.
Makes decisions with regard to appropriate service utilization.
Develop meaningful measurable outcomes of services.

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**Formal Policy-Setting Responsibilities.**

No formal responsibility. The policies associated with the job's purpose and essential responsibilities are set by others.

Formally responsible for providing input into policies associated with the job's purpose and essential responsibilities.

Formally responsible for making recommendations regarding policies associated with the job's purpose and essential responsibilities.

Formally responsible for setting policy associated with the job's purpose and essential responsibilities.

**Required Knowledge.**

<b>Knowledge Or Information Required For Completely Satisfactory Performance</b>
General Knowledge of the human services system specializing in one related CSA area.
Knowledge and ability to develop and manage a program budget.
Knowledge of government structure, operation and regulatory function with regard to the children's service system of care.
Knowledge of local community resources and services available to assist at risk youth and their families.
Knowledge of office methods and record keeping.
Working knowledge of PC office software applications.

**Required Skills or Abilities.**

<b>Skills And Abilities Required For Completely Satisfactory Performance</b>
Ability to establish and maintain working relationships with individuals in a diversity of roles.
Ability to maintain detailed confidential and fiscal information in a secure manner.
Ability to work independently and problem solve.
Ability to multi-task and meet strict deadlines. Excellent organizational and time management skills.
Ability to communicate effectively with various individuals and groups in both written and oral forms.

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Proficient in the use of Microsoft software suite.

**Formal Education.** Formal education is usually associated (though not required) with completely satisfactory performance in this job.

- [ ] Less than a high school education                      [ X ] Four-year college education  
[ ] High school education                                      [ ] Graduate level education  
[ ] Technical or vocational school education            [ ] Professional school (e.g., law, medicine, etc.)  
[ ] Junior college/two-year college training            [X] Other (Please specify):

Experience with CSA/human services preferred.

**Working Conditions.** The conditions under which this job is usually performed do not subject the employee to a greater risk of physical discomfort or harm than a general office environment.

**EEOC Classifications.** The EEOC classification for this job is as noted below:

- Officials and managers.** Occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, department managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains, mates and other officers, farm operators and managers, and kindred workers.
- Professionals.** Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, teachers, surveyors and kindred workers.
- Technicians.** Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science) and kindred workers.
- Sales.** Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and brokers, stock and bond salesworkers, demonstrators, salesworkers and sales clerks, grocery clerks, and cashiers/checkers, and kindred workers.



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- Office and Clerical.** Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual through some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, collectors (bills and accounts), messengers and office helpers, office machine operators (including computer), shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.
- Craft Workers (skilled).** Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, painters (construction and maintenance), motion picture projectionists, pattern and model makers, stationary engineers, tailors and tailoresses, arts occupations, handpainters, coaters, bakers, decorating occupations and kindred workers.
- Operatives (semiskilled).** Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, sewers and stitchers, dryers, furnace workers, heaters, laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (manufactured articles), photographic process workers, truck and tractor drivers, knitting, looping, taping and weaving machine operators, welders and flame cutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, handpackers and packagers, and kindred workers.
- Laborers (unskilled).** Workers in manual occupations which generally require no special training who perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, groundskeepers and gardeners, farm workers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.
- Service Workers.** Workers in both protective and non-protective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, charworkers and cleaners, cooks, counter and fountain workers, elevator operators, firefighters and fire protection, guards, door-keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, amusement and recreation facilities attendants, guides, users, public transportation attendants, and kindred workers.

*CSA Budget Amendment Items:*

Mr. Hale then moved to approve Resolution **R2017-47**, the budget amendment items for CSA Coordinator and having the program transition back to the County. Ms. McCann noted this to be \$611,262, which was the amount budgeted for the CSA program less the amount for services paid in July. She added that this change began in August.

Mr. Bruguire seconded the motion and there being no further discussion, Supervisors voted

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(4-0-1) by roll call vote to approve the motion with Mr. Harvey abstaining. Ms. McCann noted that what was approved was not new money; but was monies appropriated within the DSS fund that was now being moved back to the General Fund. Mr. Hale added that the entire program was to be managed by the County whereas it was previously done by DSS.

Note: See the Consent Agenda section of the minutes for Resolution **R2017-47**, adopted in its entirety.

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

At 5:25 PM, Mr. Hale moved to adjourn and reconvene at 7:00 PM and Mr. Bruguire seconded the motion. There being no further discussion, Supervisors voted (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 7:05 PM with all Supervisors present to establish a quorum.

#### **II. Public Comments**

*Note: Public comments were considered after Agenda item III A.*

##### **1. Barbara Bond, Schuyler**

Ms. Bond noted she has been a Nelson resident of Schuyler for 21 years and that roaming aggressive dogs were a big problem there and in other various parts of the county. Ms. Bond advised that she was a long distance runner by hobby and had been bitten on two occasions, which had left scars, and had been attacked but not bitten on four other occasions. She noted on one of those occasions she fought off an attacking German Shepard with a tree limb that had fallen alongside the road. She added that she had been chased and growled at many times.

Ms. Bond then noted specifically that there were currently two aggressive Pit Bulls up the road whose owners refused to keep them on their property, that were terrorizing her and her children. She added that her children had also witnessed the offspring of said Pitt Bulls be hit and killed in the road. She noted that they could not ride bikes or walk down the road rendering them unable to pick up litter. She stated that Animal Control had advised her that they had nothing to enforce and that in the interest of public safety, it was long past time to look at neighbors such as Albemarle that have successfully passed a dog ordinance that addressed aggressive dogs.

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### III. Public Hearings

#### A. Class C Tower Permit #2017-15 – Waterworks Ln. / Verizon

Consideration of a Class C Tower Permit application requesting County approval to use the specified subject property for an “85’ steel monopole tower painted brown”. The subject property is located in Wintergreen on Waterworks Ln. Tax Map Parcel #11-A-2 (359.4 acres), owned by Wintergreen Property Owners Association and is zoned Residential Planned Community (RPC).

Ms. Shackelford reviewed the following staff report provided to the Board:

**BACKGROUND:** This is a request for a Class C Communications Tower on property zoned RPC (in the Multiple-Family Residential Sector) in accordance with §6-1-16, §7-5-3, and §20-13 of the zoning ordinance.

**Public Hearings Scheduled:** P/C – August 23, 2017; Board – September 12, 2017

**Location / Election District:** 41 Waterworks Lane / Central Election District Tax Map Number(s) / Total acreage: 11-A-2 / 359.4 acres +/- total.

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

**Comments:** The requested use is for a 85’ steel monopole communications tower to replace an existing wooden tower. The balloon test at the site occurred on August 10th. The applicants are requesting a waiver from §20-12.D.4 limiting the equipment attached to the tower. The requested increase in the size of the antennas will allow a few number of antennas to be used. The applicants are also requesting that the requirement to allow only three antennas per array be waived in order to install all six of the necessary antennas in a single array.

#### **DISCUSSION:**

**Land Use / Floodplain:** This area is high-density residential in nature. The property does not fall within any 100-year flood plains.

**Access and Traffic:** Property is accessed from Waterworks Lane, which is a private road that serves the water tower at the location, as well as several other existing towers. The proposed tower will not take impact the daily traffic once construction is completed. An existing road will be used to access the property during the construction of the tower.

**Utilities:** The proposed tower will not utilize water or septic/sewer services. There is an existing road serving the site.

**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

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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 plans submitted with the request.

**Comprehensive Plan:** The current Comprehensive Plan has this area identified as Rural and Farming. However, this appears to be an oversight since the area has been developed in a high-intensity mixed use fashion. 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, and furthermore, is replacing an existing tower with one that will provide better service.

**RECOMMENDATION:** The Planning Commission recommended approval of this request as presented by vote of 6-0 including recommending granting the waivers as requested by the applicants.

Ms. Shackelford showed various maps indicating the proposed tower location, surrounding zoning, and topography.

Mr. Harvey noted that he was under the impression that their approval was not necessary since the tower was in an area zoned RPC and was subject to the Wintergreen Master Plan. Mr. Payne advised that the RPC zoning Article eliminated the need to comply with certain parts of the Ordinance but not all of them; he added that they were not flatly exempt from the Zoning Ordinance and it was on a case by case basis.

Mr. Harvey noted that the Master Plan said they did not have to meet any other requirements and Mr. Payne noted that was correct; however, there were parts of the Zoning Ordinance that were not overcome by the Master Plan or that particular article. He reiterated that they had to look at things on a case by case basis.

Mr. Carter noted the Tower Ordinance provisions and that towers were not contemplated when that provision of the RPC was established. Mr. Hale agreed that cell towers were not addressed then. It was then noted that the understanding was that a replacement tower required review and approval by the Board.

Ms. Lori Schweller, Attorney representing Verizon Wireless, the applicant, then addressed the Board. She noted that a replacement monopole was being requested and it was considered a Class C tower because it was in the RPC. She added that it was only 89 feet tall and would meet the Class B tower criteria and they were also requesting a couple of waivers.

Ms. Brennan then confirmed that one tower was coming down and another was going up. Ms. Schweller confirmed that and noted that there were six (6) towers along the road going to the water tank. She noted that the old tower was 65 feet tall and the new one would be 20 feet taller; however the ground level was 8 feet shorter so it would not appear to be that

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much taller than the old one. She also confirmed that should the tower fall, it would not do so onto anyone's house or property.

There being no other questions for the applicant, Mr. Harvey opened the public hearing. There being no persons wishing to be recognized, the public hearing was closed.

Ms. Brennan then moved to approve Class C tower permit #2017-15 – Waterworks Ln. for Verizon with the waivers as submitted. Mr. Saunders seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

**B. Proposed Amendment to the Code of the County of Nelson, Appendix A – Zoning, Article 10 General Floodplain District (FP)**

Consideration of proposed text amendments to the Code of the County of Nelson, Virginia, Appendix A – Zoning, Article 10 “General Floodplain District (FP),” which would modify the County’s floodplain management regulations and provisions in accordance with the Code of Federal Regulations and the National Flood Insurance Program. The proposed amendments include: additions and modifications to the existing text for the purpose of achieving compliance and consistency with the minimum requirements contained in Virginia’s model ordinance (dated Feb. 2015). **(O2017-01)**

Mr. Carter indicated that Mr. Payne would over-view the proposed Ordinance.

Mr. Payne overviewed that this had been in process over the years coming from the Planning Commission. He noted the DCR guidance document that had been the tool for the work and that the Floodplain management requirements within the special flood hazard area were designed to prevent new development from increasing the flood threat and to protect new and existing buildings from anticipated flood events. He added that by entering the Federal program which DCR manages, the Federal Government makes flood insurance available for almost every building and its contents in the locality.

He then noted the purpose of the Ordinance was stated in the Ordinance; however he paraphrased that it was to ensure that sites that were typically constructed were reasonably safe from flooding and to prevent uses and development that would adversely affect the capacity of channels, floodways, and other drainage facilities.

He then noted the broad changes as follows:

-Ordinance was updated using the DCR model with principle changes being in definitions and the end of the draft in administrative provisions.

-Provides for Administrative approval for many applications rather than going through the SUP process with the BZA. The Floodplain Administrator would be able to approve something if it met criteria; with the exception being any structure or use placed in a category requiring a variance.

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-Ordinance replaces the variance SUP concept with the model code's variance procedure. He added that the standards for relief were the same. He noted the variance procedure followed the way the model Ordinance was created. He added it was not a huge change and the variance procedure was the proper approach to those things that in the past required an SUP.

- Provides that the Administrator may waive application requirements for listed non-structural uses such as grazing and gardening etc. in all of the zones. He noted the current Ordinance allowed it in one of the zones and this change would allow for what a lot of people were doing.

- Adds a section for higher standards and critical facilities. He noted the adoption of those changes would assist in the reduction of insurance rates. He noted the provisions were from the model Ordinance except that in section 10.15 F-1, the word transport was added regarding highly volatile, flammable, explosive, etc. materials.

- The height above base flood elevation regulations were increased to 18 inches from 12 inches and was above the minimum required by the model Ordinance. He noted the things in paragraph 5 were all things that were required above the model Ordinance, but would have the effect of contributing to the application for reduced insurance rates. He then noted that those particular uses in the proposed draft would require a variance granted by the BZA and were not subject to administrative approval.

There were no questions from Supervisors and Staff had nothing more to add to Mr. Payne's explanation. Mr. Harvey then opened the public hearing and the following persons were recognized:

1. Tom Eick, Roseland

Mr. Eick noted he had moved to the County in 1985 and although he missed Hurricane Camille, he had gotten out and heard stories. He noted that the fear of flooding was very strong in the county because of that history. He added that catastrophic weather events were not a thing of the past and it seemed prudent for the Board to take those steps to upgrade the Floodplain Ordinance. He noted that the changes were not severe and would give people the opportunity to afford flood insurance. He reiterated that it was a good opportunity and he thought the Board should adopt the higher standards as recommended by the Planning Commission.

2. Vicki Wheaton, Faber

Ms. Wheaton encouraged the Board to adopt the amendment to the Floodplain Ordinance and to invite DCR to come and explain the community rating system that offered discounted premiums to those that did adopt higher standards. She referenced the document from the Hazard Mitigation Plan that showed the total claims paid for Nelson in thirty-nine years. She added that there were ninety-five policies in Nelson County and the new Ordinance could increase that number as participating in the Community Rating System would

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decrease premiums. Ms. Wheaton advised that Nelson had a poverty rate of 14.7% and many residents were over sixty years old with limited resources and would benefit from reduced rates. Ms. Wheaton emphasized that the hardest hit areas of the County were those that were the least expensive and were inhabited by more vulnerable populations. She also noted that less than 2% of flood victims had flood insurance, the amendments only affected building critical facilities in the floodplain, and it would keep the floodplain from expanding.

3. Joyce Burton, Shannon Farm

Ms. Burton expressed concern that there was acreage at Shannon Farm that was in the Floodplain and extreme weather events were becoming more common. She noted that the Board should use thoughtful planning to mitigate their effects and she was grateful to the Planning Commission for crafting an Ordinance that would reduce the cost of insurance. She added that properties built in floodplains could have effects on others and they should guide development wisely and pass the Ordinance without delay.

4. Randy Whiting, Nellysford

Mr. Whiting noted he owned property in Nelson with half of it in the floodplain. He added that he had a neighbor who had a propane tank float up in a flood and lines were broken etc. He noted that he was in favor of property rights but not if it endangered other people. He added that variances could be sought and discussed, which he thought was fantastic. Mr. Whiting further noted that the County has had extreme weather and during Hurricane Camille there were chemical spills that affected fish for years. He concluded by stating that the County should learn from that and citizens needed to know they were safe.

5. Felicia Wheaton, Faber

Ms. Wheaton noted that she grew up in Nelson, had roots here, and now lived in Florida. She added that she had to evacuate Daytona Beach because of Hurricane Irma; the area flooded and she was not sure when she could go back. She added that the effects of Hurricane Harvey in Houston resulted from poor planning and she noted it was only a matter of when substantial flooding would happen again in Nelson. Ms. Wheaton then stated that critical facilities or hazardous materials should not be put in floodplains. She noted that the elderly and sick were most vulnerable in those situations and they could not just flee to a rooftop or a boat; many were confined, and she thought Critical Facilities should be held to a higher standard. Ms. Wheaton then urged the Board to reflect on it and pass the amended Floodplain Ordinance.

6. Amelia Williams, Afton

Ms. Williams note her agreement with the previous speakers' comments and stated that she was pleased with the Planning Commission's work on the revised Ordinance. She noted the economic aspects and the safety and environmental aspects were common sense and she urged the Board to approve it.

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7. David Collins, Nellysford

Mr. Collins noted not having much to add and reiterated that the County should be careful about allowing critical facilities in floodplains in looking at Virginia history. He added that there had been a steady roll of hurricanes over the past couple of year and he thought they would keep coming. Mr. Collins then described how a chemical plant in Houston blew up because it was in the floodplain and the County should avoid that. Mr. Collins then noted that the new regulations were not extreme and he dealt with them professionally in other counties.

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

Mr. Bruguire stated that he thought there was some more tweaking of the Ordinance to be done and he thought it could be done prior to the next Board meeting possibly during a work session. He then noted that the existing Ordinance did not allow structures in the floodplain and good points had been made; however he thought the Board should go over it in a work session.

Mr. Hale then inquired as to when the Planning Commission held its public hearing and it was noted possibly the previous winter. Mr. Hale then noted that the Ordinance had been worked on for a long time and the Board has been talking about it for a great length of time. He noted that the Board had previously agreed that anyone who had specific problems with the draft were to bring them forward and nothing had come from that. He added that he did not know that the Board would get any further by delaying and saying they would work on it, as there was not much evidence it would be done.

Mr. Saunders agreed a good job had been done; however he thought there were many things in the draft Ordinance that were more than what was required by the state and he would not vote for it the way it was.

Ms. Brennan stated that the standards in the Ordinance had been raised and it would give the County a better rating and reduce insurance costs by up to 45%. She noted she thought that was a significant factor in addition to the safety factors not required by the model Ordinance.

Mr. Saunders countered that he did not think more people would buy insurance because of the Ordinance. Ms. Brennan noted that the Community Rating System was complicated; however the Ordinance provided the ability to get more points for reduced costs. She added that the question was when Nelson would flood again and she was interested in helping people afford insurance as well as was concerned about the health, safety, and welfare of county citizens. She added she was especially concerned about the elderly population, which was many people in the county.

Mr. Harvey stated he was not sure anyone in Florida and Texas needed insurance, given the financial assistance of the government in those areas. He added he was not sure how much government could support.



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Mr. Hale reiterated that it was time to act on the proposed Ordinance, there were no onerous requirements incorporated in the document, and the Board should move ahead and pass it.

Mr. Hale then moved to approve Ordinance **O2017-01** Amendment of the Code of Nelson County, Virginia Appendix A, Zoning Article 10, General Floodplain District FP.

Ms. Brennan seconded the motion and there being no further discussion, Supervisors voted (3-2) by roll call vote to approve the motion with Mr. Bruguere and Mr. Saunders voting No and the following Ordinance was adopted:

**ORDINANCE O2017-01  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA  
APPENDIX A, ZONING ARTICLE 10.  
GENERAL FLOODPLAIN DISTRICT FP**

**BE IT ORDAINED**, by the Nelson County Board of Supervisors that in accordance with public necessity, convenience, general welfare, and good zoning practices, Appendix A, Zoning Ordinance of the Code of Nelson County, Virginia establishing Floodplain Districts; by requiring the issuance of permits for development; and by providing factors and conditions for variances to the terms of the ordinances be hereby amended as follows:

10.1 *Purpose.*

This ordinance is adopted pursuant to the authority granted to localities by Va. Code §15.2 – 2280. The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and necessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage.
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

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### 10.2 *Applicability.*

These provisions shall apply to all lands within the jurisdiction of Nelson County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

### 10.3 *Compliance and liability.*

A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations, which apply to uses within the jurisdiction of this ordinance.

B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.

D. This ordinance shall not create liability on the part of Nelson County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### 10.4 *Abrogation and greater restrictions.*

This ordinance supersedes any ordinance currently in effect in flood prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

### 10.5 *Severability.*

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect and for this purpose, the provisions of this ordinance are hereby declared to be severable.

10.6 *Penalties.*

- A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the Floodplain Administrator or any other authorized employee of Nelson County shall be guilty of a misdemeanor and subject to the penalties as provided in Section 15-2 of the Zoning Ordinance.
- B. In addition to the above penalties, all other actions are hereby reserved, including an action of equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue, and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this ordinance may be declared by the Board of Supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

10.7 *Definitions.*

For the purpose of this Article, words and terms are defined as follows:

*Appurtenant or accessory structure:* Accessory structures not to exceed 200 sq. ft.

*Base flood:* The flood having a one percent chance of being equaled or exceeded in any given year.

*Base Flood Elevations (BFE):* The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

*Basement:* Any area of the building having its floor sub-grade (below ground level) on all sides.

*Board of Zoning Appeals:* The board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this ordinance, and to review and approve Variances (as appropriate) as explicitly specified in this ordinance.

*Building:* Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or equipment of any kind.

*Critical facilities:* Structures, improvements, or uses that, by virtue of their importance to the community and/or their sensitivity to the risks of flooding, are prohibited from being located within any Special Flood Hazard Area unless a Variance is granted. Critical facilities include but are not limited to: emergency services and rescue squads, schools, medical facilities, senior care centers, evacuation centers, hazardous materials or fuel storage, and other similar improvements and uses. See 10.14 and 10.15.

*Development:* Any man made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*Drop-down Fence:* A fence design that gives way under the pressure of flood flows to lay flat on the ground, and which can be re-erected after the flood.

*Elevated building:* A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

*Encroachment:* The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Existing construction:* For the purposes of determining rates, structures for which the “start of construction” commenced before August 1, 1978. “Existing construction” may also be referred to as “existing structures.”  
**O2010-4**

*Existing manufactured home park or subdivision:* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community. **O2010-4**

*Expansion to an existing manufactured home park or subdivision:* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). **O2010-4**

*Flood or flooding:*

- (a) A general or temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) the overflow of inland or tidal waters; or
  - (2) the unusual and rapid accumulation or runoff of surface waters from any source; or
  - (3) mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in (a) (1) of this definition.

*Flood-prone area:* Any land area susceptible to being inundated by water from any source.

*Flood Insurance Rate Map (FIRM):* An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

*Flood Insurance Study (FIS):* a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

*Floodplain:*

- (a) A relatively flat or lowland area adjoining a river, stream or watercourse which is subject to partial or complete inundation;
- (b) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

*Flood-proofing:* Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

*Freeboard:* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

*Functionally dependent use:* A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade:* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure:* Any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
- (1) by an approved state program as determined by the Secretary of the Interior; or
  - (2) directly by the Secretary of the Interior in states without approved programs.

*Hydrologic and Hydraulic Engineering Analysis:* Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

*Letters of Map Change (LOMC):* A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), and Conditional Letters of Map Revision.

*Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by meets and bounds or structure is not located in a Special Flood Hazard Area.

*Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

*Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of Special Flood Hazard Areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

*Lowest adjacent grade:* the lowest natural elevation of the ground surface next to the walls of a structure.

*Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

*Manufactured home:* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

*Manufactured home park/subdivision:* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. **O2010-4**

*New construction:* For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after August 1, 1978 (the effective date of the initial FIRM) and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Such structure is also referred to as “post-FIRM.” **O2010-4**

*New manufactured home park or subdivision:* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. **O2010-4**

*Post-FIRM structures:* A structure for which construction or substantial improvement occurred after August 1, 1978.

*Pre-FIRM structures:* A structure for which construction or substantial improvement occurred on or before August 1, 1978.

*Recreational vehicle:* A vehicle which is:

- (a) built on a single chassis;
- (b) four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

*Repetitive Loss Structure:* A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

*Severe repetitive loss structure:* A structure that:

- (a) is covered under a contract for flood insurance made available under the NFIP; and
- (b) has incurred flood related damage –
  - (1) for which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
  - (2) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

*Shallow flooding area:* A Special Flood Hazard Area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Special Flood Hazard Area:* The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 10.8.A.1 of this ordinance. **O2010-4**

*Start of construction:* The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

*Structure:* For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **O2010-4**

*Substantial damage:* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its predamaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

*Substantial improvement:* Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (a) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) any alteration of a “historic structure,” provided that the alteration will not preclude the structures continued designation as a “historic structure.”
- (c) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined above, must comply with all ordinance requirements that do not preclude the structure’s continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer.



Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

*Suspended cable fence:* A steel cable or chain suspended across the waterway between two secured posts. From the cable a fence made of galvanized chain, chain mesh, galvanized mesh or prefabricated fencing or netting is attached. The suspended cable remains taut during the flood while the flood gate fence remains flexible and rises with the flow. Some variations of the flood gate fence have foam or plastic floats at the bottom of the fence to aid in flotation on the surface of the flood flow.

*Variance:* For the purposes of this Article 10, a variance is a grant of relief by a community from the terms of a floodplain management regulation.

*Violation:* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

*Watercourse:* A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

#### 10.8 *Establishment of Floodplain Districts.*

##### A. *Description of districts.*

1. *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Nelson County, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated June 18, 2010 and any subsequent revisions or amendments thereto.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Nelson County Planning and Zoning office.

2. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 4 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
3. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.

4. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated. For these areas, the one hundred (100)- year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.

*B. Overlay concept.*

1. The floodplain districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. Any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
3. In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

*10.9 Official Zoning Map.*

The boundaries of the floodplain districts are established as shown on the Flood Insurance Rate Map dated June 18, 2010 which is declared to be a part of this ordinance and which shall be kept on file at the Nelson County Planning and Zoning office.

*10.10 District boundary changes.*

The delineation of any of the floodplain districts may be revised by the Board of Supervisors where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

10.11 *Interpretation of district boundaries.*

Initial interpretations of the boundaries of the floodplain districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

10.12 *Submitting Technical Data.*

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but no later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

10.13 *Permit and Application Requirements.*

- A. *Permit requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Nelson County Subdivision Ordinance. Prior to the issuance of any such zoning permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws, and shall review all sites to assure they are reasonably safe from flooding.

Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

- B. *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.
- C. *Site plans and permits applications.* All applications for zoning permit for development in the floodplain district and all building permits issued for the floodplain shall incorporate the information contained in subparagraph 1., 2., 3., 4., and 5., and the Floodplain Administrator may require the applicant to furnish any and all of the following information in subparagraphs 6 through 8. As deemed necessary for determining the suitability of the particular site for the proposed use, the following is required:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel, floodway, and the flood protection elevation.
2. For structures to be elevated, the elevation of the lowest floor (including basement).
3. For structures to be flood proofed (nonresidential only), the elevation to which the structure will be flood proofed.
4. The elevation of the 100-year flood.
5. Topographic information showing existing and proposed ground elevations.
6. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
7. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
8. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

D. *Permitted Uses in the Floodway District.* The following non-structural uses and activities are permitted in any floodplain district and the Floodplain Administrator may waive the requirements for an application for a zoning permit, provided the uses are in compliance with the zoning provisions of the underlying area and are not prohibited by any other ordinance and further provided that they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas, but excluding golf courses and other recreational uses that cause change in land contours.
3. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
4. Flood warning aids and water measurement devices.

#### 10.14 *General Standards.*

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State anchoring requirements for resisting wind forces.

- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A. – H. above, in all Special Flood Hazard Areas (SFHA), these additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.
- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- K. Fences shall be installed parallel to a waterway. When a fence crosses a waterway, it shall be designed as a drop-down fence or a suspended cable fence.
- L. No zoning permit shall be administratively issued by the Floodplain Administrator for any proposed critical facilities as defined by this ordinance within any SFHA. See 10.7 and 10.15-E. Construction or operation of critical facilities within a SFHA requires a Variance pursuant to 10.21.
- M. No zoning permit shall be administratively issued by the Floodplain Administrator for the storage of hazardous materials for any time period longer than 30 days within any SFHA.

See 10.7 and 10.15-F. Storage of hazardous materials within a SFHA requires a Variance pursuant to 10.21.

- N. No zoning permit shall be administratively issued by the Floodplain Administrator for the placement of any non-native fill materials (such as fly ash or other waste by- products) within any SFHA. Only locally-borrowed mineral materials may be used as fill within a SFHA, and all such uses must first obtain the necessary permit approval(s) as required by this ordinance. Placement of non-native fill materials within a SFHA requires a Variance pursuant to 10.21.

#### 10.15 *Specific Standards.*

In all Special Flood Hazard Areas where Base Flood Elevations have been provided in the Flood Insurance Study or generated according to Section 10.18, the following provisions shall apply:

*A. Residential Construction*

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated eighteen (18) inches or more above the Base Flood Elevation.

*B. Non-Residential Construction*

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured/mobile home) shall have the lowest floor, including basement, elevated eighteen (18) inches or more above the Base Flood Elevation. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Floodplain Administrator.

*C. Elevated Buildings – Space Below the Lowest Floor*

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. Include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
  - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
  - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade;
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood

underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

*D. Standards for Manufactured Homes and Recreational Vehicles*

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Section 10.13 A. and B. and Section 10.15 A.
  2. All recreational vehicles placed on sites must either:
    - a. be on the site for fewer than 180 consecutive days, be fully licensed and ready or highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
    - b. meet all the requirements for manufactured homes in Section 10.15.D.1.
- E. Accessory structures in the Special Flood Hazard Area shall comply with the elevation requirements and other requirements of Section 10.15.B or, if not elevated or dry flood-proofed shall:
1. Not be used for human habitation;
  2. Be limited to no more than 600 square feet in total floor area;
  3. Be usable only for parking of vehicles or limited storage;
  4. Be constructed with flood damage-resistant materials below the base flood elevation;
  5. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
  6. Be anchored to prevent flotation;
  7. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
  8. Shall be provided with flood openings which shall meet the following criteria:
    - a. There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
    - b. The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
    - c. The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
    - d. Any louvers, screens, or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

In addition, the following higher standards which go beyond National Flood Insurance Program minimum requirements shall apply to all Special Flood Hazard Areas, pursuant to 44 CFR 60.1(d):

F. *Higher Standards and Critical Facilities.*

For some activities and uses, even a slight chance of flooding poses too great a threat to public health, safety, and welfare. Critical facilities, as defined in this ordinance, are examples of such activities and uses which require special regulation. Therefore, critical facilities are prohibited from being constructed or operated within a SFHA unless a Variance is granted pursuant to 10.21. The following list of critical facilities provides examples of uses or improvements which are prohibited in a SFHA:

1. Structures or facilities that produce, use, store, or transport highly volatile, flammable, explosive, toxic, and/or water-reactive materials.
2. Hospitals, nursing homes, or other housing likely to have occupants who may not be sufficiently capable of avoiding injury or death during a flood.
3. Police stations, fire departments, rescue squads, and/or emergency operations centers and equipment storage facilities which are needed for flood response activities before, during, and after a flood.
4. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

G. *Higher Standards and Hazardous Materials.*

Some items and products are extremely hazardous and vulnerable to flood conditions, and would pose an unacceptable risk to public health, safety, and welfare during flooding. Therefore, the following hazardous materials are prohibited as follows, unless a Variance is granted pursuant to 10.21:

1. The storage of Acetone, Ammonia, Benzene, Calcium carbide, Carbon disulfide, Celluloid, Chlorine, Hydrochloric acid, Magnesium, Nitric acid, Oxides of nitrogen, Phosphorus, Potassium, Prussic acid, Sodium, and/or Sulfur is prohibited in a SFHA.
2. The storage of Acetylene gas containers, Storage tanks, Lumber/buoyant items, Gasoline, Charcoal/coal dust, Petroleum products, and/or Natural gas for any time period longer than 30 days is prohibited in a SFHA.

10.16 *Standards for the Floodway District.*

The following provisions shall apply within the Floodway District:

- A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.



Development activities which increase the water surface elevation of the base flood may be allowed, provided that the property owner first applies and obtains the following:

1. Receives an endorsement from the State's Floodplain Program Engineer;
  2. Receives an endorsement from The Nelson County Board of Zoning Appeals for a Conditional Letter of Map Revision (CLOMR); and
  3. Receives the approval of the Federal Emergency Management Agency.
- B. If Section 10.19 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
- C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

10.17 *Standards for the Special Floodplain District.*

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within Nelson County.

Development activities in Zones A1-30, AE, and AH, on the Nelson County's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided the property owner first applies, with the Nelson County Board of Zoning Appeal's endorsement, for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

10.18 *Standards for Approximated Floodplain.*

The following provisions shall apply with the Approximated Floodplain District:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available.

Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S.

Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the Approximated Floodplain District the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated to eighteen (18) inches above the base flood elevation. During the permitting process, the Floodplain Administrator shall obtain:

- A. the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- B. the elevation (in relation to mean sea level) to which the structure has been flood- proofed if the structure has been flood-proofed in accordance with the requirements of this article.

10.19 *Standards for Subdivision Proposals.*

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- D. Base Flood Elevation data shall be provided for subdivision proposals and other development proposals (including manufactured home parks and subdivisions) that exceed eleven lots or five acres, whichever is the lesser.

10.20 *Design criteria for utilities and facilities.*

- A. *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- B. *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.
- C. *Drainage facilities.* All storm facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate large, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans.

The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

- D. *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- E. *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

#### 10.21 *Variances.*

Variances shall be issued by the Board of Zoning Appeals upon:

- A. A showing of good and sufficient cause;
- B. Determination by the Board of Zoning Appeals that failure to grant the variance would result in exceptional hardship to the applicant; and
- C. Determination by the Board of Zoning Appeals that the granting of such Variance will not result in:
  - 1. Unacceptable or prohibited increases in flood heights;
  - 2. Additional threats to public safety;
  - 3. Extraordinary public expense;
  - 4. Nuisances being created;
  - 5. Fraud or victimization of the public; or
  - 6. Conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No Variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the Base Flood Elevation (BFE).
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.

- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may, at the applicant's expense, refer any application and accompanying documentation pertaining to any request for a Variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variations shall be issued only after the Board of Zoning Appeals has determined that Variance will be the minimum required to provide relief from any hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a Variance, in writing, that the issuance of a Variance to construct a structure below the Base Flood Elevation: (a) increases the risks to life and property: and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all Variance actions, including justification for the issuance of the variances. Any Variance which is issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

#### 10.22 *Existing Structures in Floodplain Districts.*

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions but which is not in conformity with these provisions may be continued subject to the following conditions:

- A. Existing structures in the Floodway District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard

engineering practice that the proposed expansion would not result in any increase in the Base Flood Elevation.

- B. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.
- C. The modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value, shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code. O2010-003

### 10.23 Administration.

A. *Designation of the Floodplain Administrator.* The Nelson County Planning & Zoning Director (or authorized designee) shall be designated as the Floodplain Administrator and is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- 1. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the chief executive officer for Nelson County.
- 2. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- 3. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

B. *Duties and Responsibilities of the Floodplain Administrator.* The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- 1. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- 2. Interpret floodplain boundaries and provide available Base Flood Elevation and flood hazard information.
- 3. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- 4. Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

5. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (such as Virginia Department of Environmental quality and U.S. Army Corps of Engineers), and have submitted copies of such notifications to FEMA.
6. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
7. Approve applications and issue zoning permits to develop in Special Flood Hazard Areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
8. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
9. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
10. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Nelson County, within six months after such data and information becomes available if the analyses indicate changes in Base Flood Elevations.
11. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
  - a. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
  - b. Documentation supporting issuance and denial of zoning permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, inspection records, other required design certifications, Variances, and records of enforcement actions taken to correct violations of these regulations.
12. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
13. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a Variance, prepare a staff report and recommendation.
14. Administer the requirements related to proposed work on existing buildings:
  - a. Make determinations as to whether buildings and structures that are located in Special Flood Hazard Areas and that are damaged by any cause have been substantially damaged.
  - b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

15. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in Special Flood Hazard Areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
  16. Notify the Federal Emergency Management Agency when the corporate boundaries of Nelson County have been modified and:
    - a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
    - b. If the FIRM for any annexed area includes Special Flood Hazard Areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
  17. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of Variances issued for development in the SFHA.
  18. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).
- C. *Use and Interpretation of FIRMs.* The Floodplain Administrator shall make interpretations, where needed, as to the exact location of Special Flood Hazard Areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
1. Where field surveyed topography indicates that adjacent ground elevations:
    - a. Are below the base flood elevation, even in areas not delineated as a Special Flood Hazard Area on a FIRM, the area shall be considered as Special Flood Hazard Area and subject to the requirements of these regulations;
    - b. Are above the Base Flood Elevation, the area shall be regulated as a Special Flood Hazard Area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
  2. In FEMA-identified special flood hazard areas where Base Flood Elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other

flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

3. Base Flood Elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over Base Flood Elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
4. Other sources of data shall be reasonably used if such sources show increased Base Flood Elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
5. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
  - a. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
  - b. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 3.1.A.3. and used where no Base Flood Elevations and/or floodway areas are provided on the effective FIRM.
  - c. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary Base Flood Elevations or floodway areas exceed the Base Flood Elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

D. *Jurisdictional Boundary Changes.* The Nelson County Floodplain Ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards.

If the FIRM for any annexed area includes Special Flood Hazard Areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area



for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

- E. *District Boundary Changes.* The delineation of any of the Floodplain Districts may be revised by Nelson County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed LOMR is a record of this approval.
- F. *Interpretation of District Boundaries.* Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.
- G. *Submitting Model Backed Technical Data.* A community's Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- H. *Letters of Map Revision.* When development in the floodplain will cause or causes a change in the Base Flood Elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision. Example cases:
  - 1. Any development that causes a rise in the Base Flood Elevations within the floodway.
  - 2. Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the Base Flood Elevation.
  - 3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12)

10.24 *Enactment.*

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

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

*Introduced: Finance Director Salary Increase*

Mr. Hale noted there was an item of business that had to do with the pay study conducted by the County that found in the case of the Finance Director, her compensation was way out of line with the compensation of Finance Directors with similar responsibilities and duties. He added that he thought the Board wanted to recognize what had been beneficial to them and the County, which was the management of the County's finances under the direction of the Finance Director.

Mr. Hale then moved that the Board task the County Administrator with making an appropriate increase in compensation for the Finance Director and Ms. Brennan seconded the motion.

Ms. Brennan noted it was well deserved and Ms. McCann had looked out for the County for many years. Mr. Harvey noted that when looking at the rankings that Mr. Carter had given them, the state was worried about some localities that were below a 15% range and Nelson County as of 2016 was ranked #3 at the top at 89.7% and there were only two other localities in the state of Virginia that were ranked higher. He noted that definitely had to do with staff, the County Administrator, and a little bit of credit went to the Board. Mr. Harvey further noted that the County had been managed very well for a long time and he noted that back in 2014, the County was #10 and in 2015 moved to #5 and in 2016 moved to #3 in those rankings and that was still accounting for all that had been done with the schools and the courts and he appreciated what staff has done.

There being no other discussion, Mr. Harvey called for the vote and Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

**V. Adjournment**

At 7:50 PM, Mr. Saunders moved to adjourn and Mr. Hale 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.