

AGENDA
NELSON COUNTY BOARD OF SUPERVISORS
August 9, 2016
THE REGULAR MEETING CONVENES AT 2:00 P.M.
IN THE GENERAL DISTRICT COURTROOM
AT THE COURTHOUSE IN LOVINGSTON

- I. Call to Order**
 - A. Moment of Silence
 - B. Pledge of Allegiance

- II. Consent Agenda**
 - A. Resolution – **R2016-50** Minutes for Approval
 - B. Resolution – **R2016-51** FY17 Budget Amendment

- III. Public Comments and Presentations**
 - A. Public Comments
 - B. Presentation – Jerry Gress, Interim Commonwealth Attorney
 - C. Presentation - Rockfish Valley Area Plan Update
 - D. VDOT Report

- IV. New Business/ Unfinished Business**
 - A. Commissioner of Revenue Refunds – Request for Change in Processing (**R2016-52**)
 - B. Draft Ordinance Amendment – CH 9, Article 5 Addition to Greenfield Ag Forestal District (**R2016-53**)
 - C. Draft Zoning Ordinance Amendment – Article 24 Temporary Events, Festival Grounds, Out-of-Doors Accessory Uses (**R2016-54**)
 - D. Draft Zoning Ordinance Amendment – Article 10 General Floodplain (**R2016-55**)
 - E. Draft Ordinance Amendment – Unclaimed Personal Property Held By the Sheriff (**R2016-56**)
 - F. Closed Session as permitted by Virginia Code § 2.2-3711(A)(3), a matter involving the disposition of publicly held real property (Old Lovingston Healthcare Center) because discussion in an open meeting would adversely affect the County’s bargaining position.

- V. Reports, Appointments, Directives, and Correspondence**
 - A. Reports
 - 1. County Administrator’s Report
 - 2. Board Reports
 - B. Appointments
 - C. Correspondence
 - 1. Central VA Economic Dev. Partnership – Go Virginia Initiative (**R2016-57**)
 - 2. Nelson County High School FFA Funding Request
 - D. Directives

- VI. Adjournment – No Evening Session**

**RESOLUTION R2016-50
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(June 14, 2016 and July 12, 2016)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **June 14, 2016 and July 12, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

Approved: August 9, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

June 14, 2016

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

Absent: None

I. Call to Order

Mr. Hale called the meeting to order at 2:04 PM, with all Supervisors present to establish a quorum.

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

Mr. Hale noted that two (2) items would be added under new business; item E would be consideration of requests for funding by the Sheriff's Department and item F would be accident and sickness coverage for fire and rescue personnel.

II. Resolution Commending the Public Service of the Late Kitty Lyle (R2016-33)

Mr. Hale noted this item and asked Mr. Saunders to read the proposed resolution aloud. Afterwards, Mr. Saunders moved to approve resolution **R2016-33**, Resolution Recognizing the Community Service of the Late Katherine "Kitty" Lyle and Ms. Brennan seconded the motion. Mr. Hale commented that Ms. Lyle always had things worked out and did a wonderful job.

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 R2016-33
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION RECOGNIZING THE COMMUNITY SERVICE OF
THE LATE KATHERINE "KITTY" LYLE**

June 14, 2016

WHEREAS, Ms. Katherine “Kitty” Lyle, longtime Nelson County community servant has recently passed; and

WHEREAS, Ms. Lyle’s outstanding leadership and extensive commitment to the citizens of Nelson County was evident not only through her service as a cafeteria worker in the Nelson County School system but also through her public service as a leader and member of the Gladstone Senior Center and as a founding member and Treasurer of the Nelson County Triad; a joint endeavor between law enforcement, senior residents, and senior organizations to reduce senior-based crimes;

NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby recognize and commend the late Katherine “Kitty” Lyle for her many years of public service that served to greatly enhance the Community of Gladstone and all of Nelson County.

III. Resolution Honoring the Late Earl Hamner, Jr. (R2016-34)

Mr. Hale noted the proposed resolution, moved to approve resolution **R2016-34**, Resolution Honoring the Late Earl Hamner, Jr., and proceeded to read it aloud. He noted Mr. Hamner was from Schuyler and they had met on several occasions. Following the reading of the resolution, Mr. Harvey seconded the motion and noted that *The Waltons* program still ran on satellite TV. Mr. Hale commented that he had attended lunch at the Walton’s Museum that day and it still received visitors on a daily basis.

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 R2016-34
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION RECOGNIZING THE LATE EARL HAMNER, JR.

WHEREAS, Mr. Earl Hamner, Jr., renowned author and writer who grew up in the Nelson County Village of Schuyler has recently passed; and

WHEREAS, Mr. Hamner’s life in Nelson County was the basis for the TV family drama *The Waltons* running on CBS from 1972 until 1981; and

WHEREAS, Mr. Hamner was recognized by the 2013 Virginia General Assembly for his “many contributions to the cultural landscape of the Commonwealth and nation through his many literary accomplishments in radio, television, film, and print” including: *Fifty Roads to Town* published in 1953, *Spencer’s Mountain* published in 1961, *The Homecoming* published in 1970; the creation of *Falcon Crest* a prime-time soap opera; episodes of *The Twilight Zone*; an Australian series, *The Man From Snowy River*; and co-author of the book, *Odette: A Goose of Toulouse*; and;

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WHEREAS, these many accomplishments earned him awards such as: a Television-Radio Writers Award, the George Foster Peabody Award for Distinguished Journalism, Virginian of the Year Award from the Virginia Press Association, Man of the Year Award from the National Association of Television Program Executives, a Virginia Association of Broadcasters Award, the Frederic Ziv Award for Outstanding Achievement in Telecommunications from the University of Cincinnati, the Literary Lifetime Achievement Award from the Library of Virginia, and an Emmy Award for Outstanding Drama Series for The Waltons,

NOW, THEREFORE, BE IT RESOLVED, the Nelson County Board of Supervisors does hereby echo the sentiments of the 2013 General Assembly and further recognizes and celebrates the late Earl Hamner Jr. for his portrayal of rural life in Nelson County as well as his lifetime of illustrious literary achievements.

IV. Consent Agenda

Prior to consideration of the Consent Agenda, the Board agreed by consensus to have staff post draft minutes on the website; labeling them as such.

Mr. Harvey then moved to approve the consent agenda and Mr. Bruguiere seconded the motion.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

A. Resolution – R2016-35 Minutes for Approval

**RESOLUTION R2016-35
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(April 12, 2016, April 19, 2016, April 26, 2016, and May 3, 2016)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **April 12, 2016, April 19, 2016, April 26, 2016, and May 3, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – R2016-36 FY16 Budget Amendment

**RESOLUTION R2016-36
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
June 14, 2016**

June 14, 2016

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$650.00	3-100-009999-0001	4-100-022010-5419

II. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$19,324.00	4-100-999000-9901	4-100-033010-6001

C. Resolution – **R2016-37** COR Refunds

**RESOLUTION R2016-37
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS**

RESOLVED, by the Nelson County Board of Supervisors that the following refunds, as certified by the Nelson County Commissioner of Revenue and County Attorney pursuant to §58.1-3981 of the Code of Virginia, be and hereby are approved for payment.

<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$77.50	2014-2015 Vehicle License Fee	Julia T. Dixon 304 Howardsville Tpke Stuarts Draft, VA 24477-2818
\$53.25	2015 PP Tax	Barbara O. Carter 344 Piedmont Rd. Gladstone, VA 24553-3201
\$116.25	2013-2015 Vehicle License Fee	Terrance L. Warren Kathy H. Warren 484 Lonesome Pine Rd. Shipman, VA 22971
\$561.09	2014-2015 PP Tax & Vehicle License Fee	VW Credit Leasing LTD

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1401 Franklin Blvd.
Libertyville, IL 60048-4460

V. Public Comments and Presentations

A. Public Comments

1. Donna Adams, Shipman VA

Ms. Adams described in detail a dispute she has with her right of way to a piece of property she owns. She noted that a neighbor to the property had applied for a building permit for a building that would be located on her right of way; which had been relocated in 2014. She reported that she had spoken to the Planning and Zoning Department who advised her that they could not block the neighbor from constructing the building and she questioned how the County could permit this building that would land-lock her property.

Mr. Hale noted that the Board could not address this issue presently and they would check with the Building Official and Planning and Zoning. He reiterated that there would be follow up and she could expect a call from the Planning and Zoning Director, Mr. Padalino. Mr. Harvey then suggested that Ms. Adams also seek legal advice.

2. Judy Smythers, Circuit Court Clerk

Ms. Smythers thanked the Board for the opportunity to speak and for their support. She then advised that she was resigning her position effective August 1st for personal reason and she added in light of recent events, there were no skeletons in her closet. She added that it was time; she had been Clerk in Nelson County for sixteen and a half years and a Clerk for thirty-four and half years. She noted that she had lost her brother recently after a lengthy battle and this had taken a toll on her. She noted that from that she had learned that at her age, she needed to spend precious time with her family and church. Ms. Smythers then noted that according to state statute, the Chief Deputy would be named the interim Clerk on August 1, 2016 and the permanent vacancy would be on the November ballot; thus avoiding the cost of a special election. She added that she wanted to make the transition with Judge Garrett and she noted the office construction to be in a good enough place now for her to step down. She noted that the Board had always been so gracious to her and her staff and she would always be grateful. She concluded by noting that she would be in office until July 29th and she hoped in the future she would be able to serve the County in some other capacity.

Mr. Hale then noted from personal experience, as a land surveyor having worked with her and two of her predecessors, that the office was important and her work was greatly appreciated. He added that the public had always been happy with their public service and they understood; however the County would miss her. Ms. Brennan then thanked Ms. Smythers for everything and noted it had been an honor to have her as part of this wonderful place.

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B. Presentation – VDOT 2017 HB2 Funding & Applications (R. Youngblood)

Mr. Rick Youngblood, District Planning Manager of the Lynchburg VDOT office, addressed the Board.

He noted that the Commonwealth Transportation Board had approved the next Six Year improvements using HB2 funding and these were improvements at Route 655 in Colleen, and a turn lane at Route 664. He noted that these had been identified as being important safety projects. He then noted that the name of the funding program had been changed from HB2 to SMART Scale, which stood for: System Management Allocation Resources for Transportation. He added that the scale represented six (6) categories of metrics that projects were scored upon.

Mr. Youngblood then reported that he had met with staff on the next round of submittals and had discussed submitting an application for the Route 6 and Route 151 intersection, which was ranked #4 in terms of safety issues, and an application for a second project at Colleen for access management. He noted that projects were data driven and the investment in the Route 151 Corridor Study had paid off. He advised that \$7 Million worth of projects had come out of the study to increase safety; recognizing the economic development potential in those areas.

Mr. Youngblood went on to say that there would be \$31.5 Million in district program funds available in the next round and that in this year they had thirty-three (33) applications with twenty-three (23) projects approved. He noted that the department was identifying quality projects that would compete well and that after this year, they would go to a two-year cycle and monies would increase over time; creating more opportunities to submit projects. He added that each project was funded fully in the SYIP, so there were no partially funded projects and there was construction money in 2019 and beyond.

Mr. Youngblood then advised that he would provide data sets for the two (2) proposed projects later in the week and that his team was there to provide technical assistance. He noted that they had a great working relationship with staff and the TJPDC.

Mr. Harvey then advised that at Route 664, someone had purchased property there on the inside turn and he recommended that they speak with her quickly because she had some plans. Mr. Youngblood replied that they would work with her to be sure her plans worked with the safety aspect and her economic development efforts.

Mr. Youngblood then noted that the Colleen project would be more about access management and they had discussed having a community meeting with stakeholders on this to get buy-in; so if the application were successful, it would not be a surprise to anyone. He added that after that they would work with the Board on other areas. He advised that the TJPDC was updating the Rural Long Range Plan and there may be some new projects to come out of that. He noted that the Culpeper District was taking the lead on the Route 250 and Route 151 intersection which was Nelson County's gateway into the corridor even

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though it was in Albemarle. He added that it would be beneficial to have Nelson's perspective and he would have them reach out to the County. He noted this intersection was a number one priority even for Albemarle County.

Ms. Brennan then inquired about the Rural Long Range Plan from 2008-2009 that prioritized projects. Mr. Youngblood showed a district-wide map and noted he would provide an electronic copy to staff to distribute.

Ms. Brennan then asked Mr. Youngblood to elaborate on the current Colleen project and then the subsequent application. Mr. Youngblood noted that the current Route 655 intersection would involve turn lane improvements, adding into there and looking at how turns there affected traffic movements. He noted there would be improvements to the right lane and existing lanes. He noted that these were intersection specific safety improvements. He then noted that the Corridor had been identified as needing safety improvements and entrances could be realigned and cross overs limited to improve safe efficient turning movements.

Supervisors then asked how this project meshed with the LOCKN traffic study. Mr. Youngblood noted that the LOCKN study would look at Route 29 and the secondary road system there for improvements that could be made in relation to what would like to be done there. He noted they would explore ingress/egress options and the initial study included looking at an event management plan. He noted that VDOT had done plans with Wolftrap in Northern Virginia to see if they could develop a baseline and grow it based on the potential of increased events; to see how the road system was impacted. He added then they could determine what improvements needed to be made. He noted that they were looking at this from a grand scale and he was looking forward to a successful outcome. Mr. Youngblood then advised that the study would not be done for this year's LOCKN; but they could use the data from it. He then noted they would look at different funding sources for the recommended improvements.

Mr. Bruguiere then noted that at the Route 250 and 151 intersection, the problem stemmed from tractor trailers turning onto Route 64 from Route 29 where they sat and backed up 29 south heading northbound. Mr. Harvey noted that the back-up was 90% commuter traffic at the intersection of Route 151 and 250 and not necessarily large trucks. He noted that many companies would not let their trucks travel through there now.

Mr. Saunders then noted that in Colleen people misjudged things there and he questioned how they could make people think smarter. Mr. Youngblood noted they could not necessarily, however there were things that could be done there to improve safety. Mr. Harvey noted that that the Dairy Isle was taking drivers' attention too there and it was hard to judge how far away cars were in certain areas on Route 29. Mr. Youngblood agreed and noted that Route 6 and Route 29 was similar in that respect.

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C. VDOT Report

Mr. Carter noted that Mr. Austin had advised he was unable to attend the meeting and to send any concerns through him. Supervisors noted no VDOT issues to report.

VI. New Business/ Unfinished Business

A. Adoption of FY16-17 Budget – All Funds (**R2016-38**)

Mr. Hale noted that the Board needed to adopt the budget that day unless they wanted to do it at a special meeting later in the month. Mr. Carter then advised that they could go ahead with approval of the budget and then if the Board was amenable to the Sheriff's proposal; the budget would then be amended in July. Mr. Harvey clarified that they were considering adoption of the advertised budget.

Mr. Harvey then moved to approve resolution **R2016-38**, Adoption of Budget Fiscal Year 2016-2017, July 1, 2016 – June 30, 2017 and Mr. Bruguere seconded the motion.

Mr. Hale noted that the required budget adoption process had been followed. Ms. Brennan then questioned whether or not there was a concern over the state budget and the County providing raises to staff. Mr. Carter noted that unless they wanted to hold up the proposed adjustments effective July 1, 2016, the State would determine this in August or September. He noted that the Board's indication was to proceed regardless of what the State did. Ms. McCann noted that the gap to be filled in would be \$60,000 - \$70,000 should the State not provide the raise.

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 2016-38
ADOPTION OF BUDGET
FISCAL YEAR 2016-2017
(JULY 1, 2016-JUNE 30, 2017)
NELSON COUNTY, VIRGINIA**

WHEREAS, pursuant to the applicable provisions of Chapter 25, Budgets, Audits and Reports of Title 15.2 of the Code of Virginia, 1950, the Board of Supervisors of Nelson County, Virginia has prepared a budget for informative and fiscal planning purposes only and has also established tax rates, as applicable, for Fiscal Year 2016-2017 (July 1, 2016-June 30, 2017); and

WHEREAS, the completed Fiscal Year 2016-2017 Budget is an itemized and classified plan of all contemplated expenditures and all estimated revenues and borrowing; and

WHEREAS, the Board of Supervisors has published a synopsis of the budget, given notice of a public hearing in a newspaper having general circulation in Nelson County and, subsequent thereto, convened a public hearing on the Fiscal Year 2016-2017 Budget.

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NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Nelson County, Virginia that the Fiscal Year 2016-2017 Budget be hereby adopted in the total amount (all funds, revenues and expenditures) of \$74,458,103. The individual fund totals are denoted as follows:

<u>Fund</u>	<u>Budget</u>
General	\$37,497,639.00
VPA	\$ 1,955,745 .00
Debt Service	\$ 3,581,397.00
Capital	\$ 898,230.00
School	\$27,327,312.00
Textbook	\$ 587,409.00
Piney River (Operations)	\$ 218,279.00
Courthouse Project	\$ 2,392,092.00

1) The General Fund includes \$19,457,284 in local funding transferred to the Broadband Fund (\$100,000), the Debt Service Fund (\$3,581,397), the Piney River Water & Sewer Fund (\$40,000), and the School Fund (\$14,985,887 for general operations, \$235,000 allocated for school nursing, \$190,000 allocated for school buses, and \$325,000 allocated for facility corrections mandated by civil rights regulations). Also included is \$1,955,745 in local, state, and federal funds transferred to the VPA Fund.

2) The School Fund includes a transfer of \$209,164 to the Textbook Fund.

BE IT LASTLY RESOLVED, that adoption of the Fiscal Year 2016-2017 Budget shall not be deemed to be an appropriation and no expenditures shall be made from said budget until duly appropriated by the Board of Supervisors of Nelson County, Virginia.

B. Appropriation of FY16-17 Budget – All Funds (**R2016-39**)

Mr. Hale noted that this resolution was for the appropriation of funds and it mirrored the previous one noting Revenue and Expenditure amounts of \$ 74,458,103.00.

Mr. Harvey moved to approve resolution **R2016-39**, Fiscal Year 2016-2017 Appropriation of Funds and Mr. Bruguere seconded the motion.

Mr. Bruguere asked if Supervisors got a raise and Mr. Hale noted this could be addressed at any point. Mr. Carter clarified that there were two methods in the State Code for providing a raise to Supervisors.

Mr. Hale then clarified that the Local amount of the budget was roughly a third of the \$75 Million. Mr. Carter advised that the General fund drove all of the other budgets and the other things were subsets of that. He noted that the total budget amount shown was

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somewhat misleading; however that was how it added up to roughly \$74.5 million. Ms. McCann advised that \$37 Million was General Fund monies. Mr. Saunders then noted that it was hard for him to keep increasing the School's budget when they had a school that had not been accredited for seven (7) years. He added that Tye River Elementary had not been accredited since he became a Supervisor. He noted that the Board kept giving them funds and they did not seem to care. Ms. Brennan explained that they had a difficult population there and it was complicated.

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 R2016-39
FISCAL YEAR 2016-2017
APPROPRIATION OF FUNDS**

WHEREAS, the applicable provisions of Chapter 25, Budgets, Audits and Reports of Title 15.2 of the Code of Virginia, 1950 require the appropriation of budgeted funds prior to the availability of funds to be paid out or become available to be paid out for any contemplated expenditure; and

WHEREAS, the Nelson County Board of Supervisors has heretofore approved the Fiscal Year 2016-2017 Budget (July 1, 2016 to June 30, 2017) for the local government of Nelson County and its component units; and

WHEREAS, the Board of Supervisors now proposes to appropriate the funds established in the Fiscal Year 2016-2017 Budget;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors that the Fiscal Year 2016-2017 Budget be hereby appropriated on an annual basis by fund category, as follows:

<u>Fund</u>	<u>Revenue(s) (All Sources)</u>	<u>Expenditure(s) (All Departments)</u>
General	\$ 37,497,639.00	\$ 37,497,639.00
VPA	\$ 1,955,745.00	\$ 1,955,745.00
Debt Service	\$ 3,581,397.00	\$ 3,581,397.00
Capital	\$ 898,230.00	\$ 898,230.00
School	\$ 27,327,312.00	\$ 27,327,312.00
Textbook	\$ 587,409.00	\$ 587,409.00
Piney River (Operations)	\$ 218,279.00	\$ 218,279.00
Courthouse Project	<u>\$ 2,392,092.00</u>	<u>\$ 2,392,092.00</u>
	\$ 74,458,103.00	\$ 74,458,103.00

BE IT FURTHER RESOLVED by the Board of Supervisors that:

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1. The General Fund appropriation includes the transfer of \$1,955,745 (4-100-093100-9201) to the VPA Fund (3-150-004105-0001), \$3,581,397 (4-100-093100-9204) to the Debt Service Fund (3-108-004105-0100), \$15,735,887 (4-100-093100-9202/Nursing \$235,000, 4-100-093100-9203/Operations \$14,985,887, 4-100-093100-9205/Buses \$190,000, 4-100-093100-9215/Facility Correction) to the School Fund (3-205-004105-0001), \$100,000 (4-100-093100-9114) to the Broadband Fund (3-114-004105-0100), and \$40,000 (4-100-093100-9207) to the Piney River Water & Sewer Fund (3-501-004105-0001). The amounts transferred from the General Fund to the VPA Fund, Debt Service Fund, School Fund, and Piney River Water & Sewer Fund are also included in the total appropriation for each of these funds.
2. The Textbook Fund appropriation includes the allocation of \$209,164 from the School Fund.
3. The appropriation of funds to the School Fund, Textbook Fund, and VPA Fund shall be in total and not categorically.
4. The appropriation and use of funds within the General, Debt Service, Capital, Piney River Water & Sewer, and Courthouse Project Funds shall adhere to the amounts prescribed by the Board of Supervisors for each department therein unless otherwise authorized by the Board of Supervisors.

C. Proposed Revision to Retiree Health Insurance Assistance Program
(R2016-40)

Ms. McCann noted that during the budget process, staff was directed to revise this policy to equalize the health insurance credit; since it was paid by the locality as part of the VRS rate. She noted that she had added Paragraphs 2 and 3 so that all employees would effectively receive a total of \$75 for this credit. She added that those already receiving this credit would be grandfathered in.

Ms. Brennan noted a typo in the resolution and verified that things would stay the way it was for those already retired and that anyone going forward would be subject to the new policy.

Mr. Bruguiere then moved to approve resolution **R2016-49**, Approval of Section 10.4, Retiree Health Insurance Assistance Program, Appendix B, Nelson County Personnel Policies and Procedures Manual. Mr. Saunders 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:

RESOLUTION R2016-40
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF SECTION 10.4, RETIREE HEALTH
INSURANCE ASSISTANCE PROGRAM, APPENDIX B,

June 14, 2016

**NELSON COUNTY PERSONNEL POLICIES
AND PROCEDURES MANUAL**

WHEREAS, the County of Nelson, currently provides retiree health insurance assistance to retirees with fifteen (15) or more years of creditable County service, as approved September 14, 1999; and

WHEREAS, the Virginia Retirement System also provides a health insurance credit to only certain groups of employees (General registrars and their employees, constitutional officers and their employees, and local social services employees);

WHEREAS, the benefit provided by the local program and the Virginia Retirement System health insurance credit program affords a greater total benefit to certain groups of employees;

NOW THEREFORE, BE IT RESOLVED, that the current retiree health insurance assistance program is amended effective July 1, 2016 to equalize benefits for all retirees as herein attached to this resolution;

NOW THEREFORE, BE IT FURTHER RESOLVED, that the Nelson County Board of Supervisors hereby incorporates the Retiree Health Insurance Assistance Program as amended into the Nelson County Personnel Policies and Procedures Manual. It shall be referenced in Section 10.4, Employee Benefits, Retiree Health Insurance Assistance Program as Appendix B.

D. Consideration of Preliminary Motorola Proposal – Radio Network

Ms. Susan Rorrer, Director of Information Systems presented the proposal. She noted that they had issued the purchase order for the vehicular repeater system and this was now in process. She added that the estimated delivery was six to eight weeks and installation would be a one or two day job.

She then reported that the addition of a tower site in Afton proposed to address the coverage issues in the area. She referred to a few maps provided to the Board that showed what coverage would be with the additional tower site. She noted that in spring, they had visited five (5) tower sites in the Afton area and had evaluated them for suitability of use. In evaluating these, they originally wanted to use the Bear Den Mountain site; however that site had inter-modulation issues that prevented this and the Rockfish Fire Station tower provided comparable coverage. She noted that the Martin Store site did nothing additional or very little in the Afton area and the same in Nellysford area. She added that the thought was this site primarily covered an area already covered by another site.

Ms. Rorrer then noted that Motorola had prepared the preliminary cost proposal and staff was asking the Board if it was an option they wanted to pursue and if it was, Motorola would prepare a final proposal inclusive of a contract for pricing.

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Ms. Brennan asked if the problems at the Bear Den Mountain site could be fixed and Ms. Rorrer noted they could not as there could not be frequencies that did not play well on the same tower and the Virginia State Police had so many that it was difficult to mesh with.

Ms. Rorrer noted that according to the coverage maps provided, the coverage of the proposed Rockfish tower was good along the Route 151 corridor. She added that the areas of issue were: Glass Hollow, Chapel Hollow, and Taylor's Creek. She noted these areas had been improved; however they were hard to get to.

Mr. Hale then deferred to Mr. Harvey for his perspective on this and he noted that cutting back to narrow-banding was the issue as was not penetrating the Quiet Zone. He added that Afton was the pocket hurt the most by this in the county. Ms. Rorrer noted that the Sugar Loaf site provided coverage there in the past and now because of power restrictions, it did not cover there now. She added that if they could raise the power back up it would work and that the National Radio Astronomy Organization (NRAO) was in charge of the Quiet Zone and this was an unregulated agency.

Mr. Bruguiere inquired if they would put up additional antennas on the Rockfish Tower and Ms. Rorrer confirmed they would. She added that they would go on the Broadband Authority's tower and would have to be able to talk to the microwave network.

Mr. Carter then advised that if the Board decided to move forward, staff would come back with options on how to pay for it.

Mr. Hale then confirmed that Staff was asking for direction on the preliminary proposal and then Motorola would come back with a finalized proposal. Mr. Harvey added that approval of the project was being sought.

Mr. Saunders asked what happened if it were not done and Mr. Harvey noted that the County would have danger zones where public safety entities could not communicate. He added that this happened when the County had to go to the new narrow-banding system that sliced frequencies in half and reduced power. Mr. Carter reiterated that doing this was a federal mandate.

Ms. Brennan asked about the site development being so costly and Ms. Rorrer advised that was related to R56 grounding and certain site conditions and was the expense related to protecting the site from lightning and such. She added that the site was not a radio site, so this was not done previously. She clarified that the site was grounded but not to radio standards and there was no generator there. She noted that Blue Ridge Internetworks, the Authority's Network Operator, would bring one out if necessary for broadband purposes. She noted that she had included generators in the budget; however she had been holding off on that. Ms. Rorrer then advised that AT&T was on the tower there now and they had backup power in a self-contained building with power and generator.

Mr. Carter noted that staff had briefly discussed ways to negotiate down the consultant costs; which was currently twice the cost of the equipment.

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Mr. Hale commented that it is with frequency that site development seemed to be way out of proportion to other costs. He then questioned if there was any competition in this industry. Ms. Rorrer noted that staff was just looking into this now; however it was difficult because Motorola had their own electricians etc. She noted that site development also included equipment etc. and that the coverage issues affected the Sheriff's Department also; not just fire and rescue.

Mr. Harvey noted that there was a significant cost and the issue was a portable radio problem, not a mobile issue. He added that the County already had the Motorola system and staff was dealing with the only company they could deal with.

Mr. Hale suggested issuing cell phones to cover those areas and Mr. Harvey advised that could not be done because they had to be able to communicate with everyone involved in the incident at the same time. He added that this had been handed down from above and they had to communicate regionally.

Mr. Carter advised that staff would go back and get the expense down if possible.

Mr. Harvey then moved that Staff be given the go-ahead to proceed with the project and to negotiate what could be negotiated; with not much delay in moving forward.

Ms. Brennan seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

E. Added: Sheriff Department Request for Funding

The following information was provided to the Board:

Sheriff's Department Considerations:

- 1) Additional Salary/Benefit Funding for local Position - Salary offer of \$38,400 (salary funding available is \$33,189) Cost: \$6,176
- 2) Additional Salary/Benefit Funding for local Position - Make part-time speed enforcement position full time as Drug Enforcement position. All deputies would share responsibility for speed enforcement. Funding available in FY17 is \$26,646. Cost: \$19,890
- 3) Unanticipated Vehicle Replacement (totaled vehicle-flood damage) - Insurance reimbursement is \$3,750. Total cost for vehicle is \$27,900 plus equipping of \$7,500. Cost: \$31,650.

Total Cost: \$57,716

Mr. Carter reported meeting with the Sheriff's Department to discuss compensation for another employee they wanted to retain and also changing a part time postilion to a full time

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position. He added that they had also lost a vehicle due to flooding; when the vehicle was driven through high water in Lovington and they wanted to replace it with a new vehicle. He noted that they had interest from an individual who was certified and working with the Virginia State Police who would make an immediate impact if they were able to hire them and they would like the Board's approval to offer \$6,176 more than their available funding.

Mr. Carter also noted that the Department had an interest in becoming a member of a regional drug task force and also in making a part time clerical position full time. He noted that they had proposed to use funding for part time traffic enforcement to make these changes and they would assign someone to the regional task force.

Mr. Carter noted that the Board had approved two new vehicles in the new fiscal year budget and they were now down two vehicles and would like consideration to purchase these.

Mr. Carter then advised that the additional funding for the new person and moving the part time to full time would be beneficial to the County and he supported that. He further noted that participation in the regional task force would give the County 16% of any asset forfeitures made by the task force. He advised that the assigned individual would not necessarily work with them full time, but rather from time to time and it was clear that the Sheriff and Captain were committed to improving the efficiency of the department. Mr. Carter noted that he had not studied the vehicle situation; however the totaled vehicle was a 2009 Dodge Charger with a couple hundred thousand miles on it.

Mr. Carter then advised that vacancy savings and supplemental savings was \$34,000 and that would offset costs this year; however they would have to amend next year's budget. Mr. Harvey suggested they use nonrecurring funds to purchase the car. Mr. Carter then advised that they had proposed purchasing three cars and now they needed four because of the one that was totaled. Staff and Supervisors then discussed them transferring whatever equipment was possible.

Mr. Carter then advised that he supported the additional compensation, joining the task force, making the part time position full time, and to purchasing one more vehicle.

Mr. Saunders noted he thought they should proceed with the proposal.

Mr. Carter added that the department had independently contracted with the LOCKN festival and they would work with them to establish a cost for use of the County's equipment for that; and they may realize some revenue from it.

Ms. Brennan then noted her support for the whole proposal. Supervisors then agreed by consensus to proceed with the proposal and with providing three new vehicles, not four.

F. Added : Accident and Sickness Coverage for Fire and Rescue Volunteers

Ms. McCann provided the Board with the following information:

Overview of Accident and Sickness Coverage for Fire & Rescue Volunteers

As a Benefit to its members, VACORP now offers Accident and Sickness Coverage for fire and rescue volunteers. The attached chart shows side by side comparisons for our current policy through Hartford and the proposed policy through VACORP. VACORP is able to provide this coverage as self-insurance coverage eliminating the necessity for procurement.

The proposed coverage provides better coverage at a lower price. Options are also provided for making the VACORP policy as the primary coverage policy meaning the policy pays first before any other collectable insurance or making the VACORP policy a secondary policy paying after primary coverage. Since health insurance coverage has become mandatory, it is recommended that Option 2 be selected with the \$0 deductible. Even in situations where a volunteer does not have health insurance coverage, medical expense would still be covered up to the medical limits of the policy. This option would yield savings of approximately \$14,000 annually.

Hartford Insurance would like to provide a competitive proposal but we do not anticipate until next week. Staff would request permission to move forward with the recommended coverage from VACORP unless Hartford can provide comparable coverage with a lower premium than we are currently paying.

Schedule of Benefits-Volunteer Life and Accident Insurance

	Schedule of Benefits	Proposed	Current Coverage
		VACORP	HARTFORD
	Class 1 Benefits (volunteer members of the organization)	Limit	Limit
1)	Loss of Life Benefits:		
	Accidental Death Loss Benefit	\$75,000	Same
	Seat Belt Benefit	\$20,000	Same
	Dependent Child Benefit	\$5,000	None
2)	Lump Sum Living Benefit:		
	Accidental Dismemberment	\$100,000	\$75,000
	Vision Impairment	\$100,000	\$75,000
	Cosmetic Disfigurement	\$100,000	\$75,000
	HIV Positive	\$100,000	\$75,000
3)	Weekly Income Benefits		
	Total Disability weekly amount actively work	\$600	Same
	Total Disability maximum payment period	To age 70	Same
	Total Disability weekly amount do not actively work	\$100	Same
	Total Disability maximum payment period	104 weeks	Same
	Partial Disability Benefit actively work	Pro-rated	Same

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	Partial Disability Benefit maximum payment period	To age 70	Same
4)	Vocational Rehabilitation Benefit	\$20,000	Same
5)	Medical Expense Benefits		
	Accidental Medical Expense	\$500,000	Same
6)	Heart or Circulatory Malfunction Benefits		
	Accidental Death Benefit	\$50,000	Same
	Accident Medical Expense	\$250,000	Same
	Total Disability weekly amount actively work	\$600	Same
	Total Disability maximum payment period	104 Weeks	Same
	Total Disability weekly amount do not actively work	\$100	Same
	Total Disability maximum payment period	104 Weeks	Same
7)	Influenza, La Grippe, and Pneumonia Benefit		
	Accidental Death Benefit	\$50,000	None
	Accident Medical Expense	\$100,000	Same
	Total Disability weekly amount actively work	\$500	None
	Total Disability maximum payment period	26 Weeks	None
	Total Disability weekly amount do not actively work	\$100	None
	Total Disability maximum payment period	26 Weeks	None
8)	Contagious and Infectious Disease Benefit		
	Accidental Death Benefit	\$50,000	None
	Accident Medical Expense	\$100,000	Same
	Total Disability weekly amount actively work	\$500	None
	Total Disability maximum payment period	26 Weeks	None
	Total Disability weekly amount do not actively work	\$100	None
	Total Disability maximum payment period	52 Weeks	None
9)	Class 2 Benefits (registered Junior members of organization)		
	Accidental Death Benefit	\$25,000	\$10,000
	Accident Medical Expense	Same as Class 1	Same
10)	Class 3 Benefits (members of Auxiliary of the organization)		
	Accidental Death Benefit	Same as Class 1	Same
	Accident Medical Expense	Same as Class 1	Same

		Annual Premium	Annual Premium
	Cost of Coverage:		Per FY17 Budget Estimate
	This policy is Primary		
	Option 1: \$0 Medical Deductible	\$39,220	\$47,000
	Option 2: \$5,000 Medical Expense Deductible	\$29,150	N/A
	This policy pays after other insurance		
**	Option 1: \$0 Medical Expense Deductible	\$32,860	N/A
	Option 2: \$5,000 Medical Expense Deductible	\$22,525	N/A

**** Recommended Option**
 Volunteer's health insurance is primary and pays first.
 All co-pays, coinsurance and deductibles would be covered by insurance up to policy limits. If the volunteer does not have insurance, medical expenses would still be covered up to policy limits.

Ms. McCann explained that VACorp could now offer this coverage which the County currently had through Hartford Insurance. She noted the comparison chart and stated that the proposed VACorp policy provided a greater benefit than the current one with Hartford.

She noted that there was an option given for VACorp to be the secondary coverage rather than primary and it had a cheaper premium. She added that the current budgeted amount for Hartford was \$47,000 and through VACORP, the premium would be \$39,220 with them being primary. She noted that the premium would be \$32,860 if VACORP was considered secondary.

Ms. McCann then reported that she had spoken with Hartford and they said that they wanted to submit a proposal and she noted the County had to notify them by July 1, 2016 if it would renew or not. She added that she did not anticipate that they could reduce costs without reducing coverage.

Mr. Harvey then asked if the proposal should be run by the Emergency Services Council and Mr. Hale noted he thought they should proceed given the coverage was greater. Ms. Brennan asked if they should give Hartford the opportunity to match and Ms. McCann suggested that they give them a week or two and see what they offered.

Ms. Brennan then moved to direct staff to find the best coverage at the best cost and Mr. Bruguire seconded the motion.

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Mr. Harvey then suggested that they inform the Council on what staff was doing and Mr. Hale noted he did not see why they would object. Ms. McCann then confirmed that the Board was okay with the policy being secondary.

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

VII. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

1. Courthouse Project Phase II: The project is proceeding very well. Roofing of the building addition is nearing completion. Framing of the Phase 1 office area on the second floor 1940s building addition (for County Administration, Finance and HR, and Information Systems) is in process. A contract with BT Conferencing for overall equipping of the Circuit Court has been executed with work in process. Upgrades of building utilities (electrical, hvac, backup generator) are all nearing completion. The May-June Project Progress Meeting has been rescheduled to June 15th at 1 p.m. (due to scheduling conflicts). Project completion is at present February 2017 but may slip somewhat due to the very inclement weather conditions in May. However, Jamerson-Lewis is endeavoring to maintain the project completion schedule.

2. Broadband: A) Expansion Project – Construction of Phase 1 (RT. 151& 6 to RT. 151 & 664) is nearing completion. Conduit installation is approaching Route 664 and fiber has been pulled to the Nellysford area. The project contractor, CCTS, stated on 6-2 that all phases of the project would now be completed by not later than 7-30-16 (possibly by 7-15). CCTS is also working on service connections to Horizons Village (21-23 new connections), Bold Rock Cider and Devils Backbone Brewery. Phase 2 and 3 permit applications have been resubmitted to VDOT for approval. The project's overall job count for compliance with CDBG grant requirements will likely be more than three times the 12 new jobs required for grant compliance.

Mr. Carter reported that thirty-five (35) plus new customers should be coming on board and that Horizons Village was paying for their own connections aside from the NCBA discount and amortization program.

B) Broadband Planning Project – Scheduling of a June work session with Design Nine to work towards project completion at the staff level is pending. Thereafter, staff will coordinate scheduling a work session(s) with the Broadband Authority pertinent to project outcomes and recommendations.

Mr. Carter noted that a build out plan and proposed changes to the rate structure would be included.

C) Broadband Other – Stewart Computer Services/Acela Net has become the third Internet Service Provider (ISP) on the local middle mile network and has begun the process of

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marketing to and signing new service agreements. The planned Community Connect program application to USDA-RUS was tabled following a conference call with RUS staff, as County and Design Nine staff agreed that the County's project proposal would have less than minimal chance for success. County staff conducted a conference call with federal NTIA staff on 5-13 for the primary purpose of maintaining lines of communication between the County and NTIA. County staff also had a conference call with federal FCC-E-rate staff to discuss the E-rate program's funding criteria. The discussion with the FCC staff, which included Dr. J. Comer of the County's School Division, was very disappointing as FCC staff strongly stipulated that neither the County nor the School Division could require use of the local middle mile network in the Division's solicitations for internet/broadband services. Vendors seeking to serve the Division can use the local network as a basis for its services proposal but, as noted, neither the County nor the School Division can require use of the local network in issuing RFPs for E-rate supported services. A consideration may be that the NCBA become an E-rate provider. Following the discussion with FCC staff, County staff submitted a statement of concern to Sen. M. Warner's office and will discuss this with the Senator's staff the week of 6-13.

3. BR Tunnel Project: The County hosted on 5-17 a very successful tour of the western portal and Tunnel area for the members of the Commonwealth Transportation Board and VDOT staff. Staff Woolpert, Inc. (the project's engineering consultant) and from Buckingham Branch Railroad assisted with the tour. The CTB met in Staunton earlier on 5-17 and made a preliminary decision (to be finalized in June) to provide additional funding to Nelson County with which to complete the Tunnel Project. Woolpert, Inc. is currently working to finalize all project related submittals to VDOT to enable the project to be approved for construction bidding. This work will very likely encompass a modification of the western trail, which is anticipated to reduce construction costs and lessen the steepness of a section of the western trail. Assuming the final funding is approved by the CTB in June, the next steps will be completion of a new project agreement with VDOT (which may require 60-90 days after 7-1) and VDOT/FHA approval of the construction plans.

4. Lovingson Health Care Center: County staff has followed up on May 20th with Valley Care Management to request a detailed proposal from the company to provide for its acquisition of the Center. No response has been received to date from VCM.

Mr. Carter related that PHA had just contacted him to say they were still interested in the property. He noted he would follow up in providing them with information.

5. Radio Project: Issuance of a purchase order to Motorola, Inc. for the acquisition of vehicle repeater systems is in process (and will be completed by 6-14). The Board's June 14th meeting agenda includes a preliminary proposal from Motorola, Inc. to utilize the County tower located at the Rockfish Valley. Vol. Fire Department to provide for enhanced radio network communications in the Route 151 Corridor. Additional work on the agreement is necessary. And, a plan to provide for purchase of the equipment, etc. from Motorola is also necessary (the current cost proposal exceeds \$600,000).

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6. Region 2000 Service(s) Authority: The Authority's Work Group on future operations, comprised of staff from the Authority's four local government members (C. McGarry is the County's representative), continues to meet and plans to submit its recommendations for next steps to the Authority on 6-23. Subject to receipt of the Work Group's recommendations, the County's representative on the Authority Board is opposed to the Authority incurring significant additional expenses to consider future operational options, as the Authority has previously expended significant time and investment to plan for its future operations, which are currently being challenged by residents of Campbell County and, to some extent, the County's local government, which is a primary beneficiary of the Authority's operations.

Mr. Carter noted he would insist that Campbell County make a decision about the future of the landfill there and then proceed.

7. FY 15-16: The current fiscal year ends on June 30th. Staff will work towards completing and submitting a preliminary year-end balance report to the Board for the July 12th regular session.

8. Department Reports: Included with the BOS agenda for the 6-14-16 meeting.

Added: Mr. Carter reported that the County may issue an RFP in early July for the 2018 reassessment and staff was checking the current contract.

2. Board Reports

Mr. Saunders had no report.

Ms. Brennan reported the following:

Ms. Brennan reported that she called the Valley Care Management people and left them a voice mail with no response to date. She added that she was discouraged and thought the County should start talking with PHA.

Attended a CIT meeting that day and noted that Major Larry Cindrick was also there. She noted that he had said it was the most powerful and meaningful training he had in his career and they would set up training for dispatchers etc. She added that the shortage of Dispatchers was statewide.

Attended an Atlantic Coast Pipeline meeting as a panelist on Memorial Day at Wintergreen. She noted there were hundreds of people there and it was sponsored by Friends of Wintergreen. She noted they had sent in information to FERC regarding other routes they had identified. She advised that she had reported to the group what the Board had done on this subject and she noted there was a lot of concern about property values and the Realtors there were talking about it.

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Attended a public informational meeting on Bio-solids. She noted the DEQ presenter was very good and he had a map showing where all of the applicants were in the county. She noted that he would not comment on his perspective on biosolids. She advised that an increased number of applications had been made and there was concern about water contamination. She added that no baseline testing had been done and the local government had no say about it.

Mr. Bruguire reported that the Planning Commission was working on the Flood Zone Ordinance and should be finished soon. He noted there was a lot included that he was not sure the Board would approve of. He noted he thought shortcuts could be taken that would still provide service to those in the floodplain.

Mr. Bruguire then reported that Maureen coupled with the Farm Bureau in Richmond were to have a video shoot of the Nelson County Fruit Loop. He noted this would air on PBS and you-tube featuring Nelson County.

Mr. Bruguire then noted that the Board may receive a request to fund the Land Use panel more so they could do more investigation of those properties. He added that some of those were used for other things besides agriculture and needed to be looked at. Mr. Carter noted he would have to check their budget to see if they needed funds and he would speak to the Commissioner of Revenue about it.

Mr. Harvey reported that the Service Authority had two projects; one being refitting of the Schuyler water plant by August. He noted there had been a wastewater issue in Gladstone due to rain events and the INI permit being exceeded there and that George Miller was looking at it. Mr. Robert McSwain in attendance noted that VDOT was not the problem and this issue was probably from the private laterals to the houses. Mr. Bruguire noted that with the recent rains, the reservoir at Blackwater Creek had red mud in it and he wondered how they got the silt out of there. It was noted there had been 10-12 inches of rain in a three day period there.

Mr. Hale asked about the TJPDC meeting and Mr. Saunders noted it was held the night the County had the flooding and he had not attended.

Mr. Hale reported the following:

Attended a Blue Ridge Tunnel tour with Emily Harper and Ben Ford, who has written an updated archeological report that he will send to Woolpert. He noted that Woolpert was moving more toward the original trail alignment and that cultural resources could be gone over and Woolpert would now have that information. He noted that the new trail alignment was looking very good and it would save money. Mr. Carter noted he had not heard back about the proposed change in the width of the trail and that there may be an exemption or exception process that could be pursued.

Reported that the Temporary Events Committee has been meeting and has been very productive. He noted they were working successfully to cover all of the different sized

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events while eliminating the excess language and it would eventually come back to the Board for consideration.

Attended the Senior Lunch that day and noted that Junior Tyler and his wife were eighty (80) years old and had done it for seven (7) years. He noted that they could not continue to do this anymore and were ready to give it up. He noted that the other problem was that the kitchen in the basement used propane and they had an ancient stove. He noted that they were exploring the possibility of having it at the Rescue Squad building on Route 6. Mr. Hale added that they did also deliver lunches to people. He then commended the Tylers for their work and noted there were 60-70 people there that day. He noted that this was done once per month and that other Senior Centers had invited them to join them; however, they did not want to go anywhere else. He then noted that they had written a check back to the County for the balance of funds that were unexpended.

Visited the Mexican restaurant under construction to see how things were going. He noted that it was shaping up and could open in June except they were waiting for the sprinkler system installation and it may open at the end of July. He then noted that he hoped the Board would consider rebating their water connection fee of \$40,000.

Attended the VACO Legislative Forum with Mr. Carter and he noted that only one Legislator, Senator Garret, came out of the eight or ten that were invited.

B. Appointments

Ms. McGarry reviewed the following table:

(1) New Vacancies/Expiring Seats & New Applicants					
<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term & Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointment</u>	<u>Applicant (Order of Pref.)</u>
Ag Forestal District Advisory Committee	5/13/2016	4 Years/ 3 Term Limit	Bill Halvorsen (T2)	Y	
Board of Building Appeals	6/30/2016	4 Years/ No Limit	Shelby Bruguere	TBD	
			Steven C. Crandall	TBD	
			Kenneth H. Taylor	TBD	

Jefferson Madison Regional Library Board	6/30/2016	4 Years/ 2 Term Limit 14, 2016	Marcia McDuffie (T1)	Y	Mary S. Cunningham (3)
N.C. Economic Development Authority	6/30/2016	4 Years/ No Limit	R. Carlton Ballowe Emily H. Pelton	Y Y	Deborah L. Brown Mark L. Stapleton (1)
N.C. Library Advisory Committee - West District	6/30/2016	4 Years/ No Limit	Audrey Evans	Y	
N.C. Service Authority Board - 3 Districts	6/30/2016	4 Years/ No Limit	Edward Rothgeb - S David S. Hight - W Tommy Harvey - N	N Y	Gary L. Sherwood
N.C. Social Services Board - Central	6/30/2016	4 Years/ 2 Term Limit	Clifford Savell (T2)	N	Mary S. Cunningham (1) North Darlene Smith - Central Mark L. Stapleton (3) - Central
Piedmont Workforce Network Board	6/30/2016	3 Years/ No Limit	James S. Turpin	N	Mark L. Stapleton (2)
N.C. Planning Commission - 2 Districts	6/30/2016	4 years/ No Limit	Mary K. Allen - S Michael Harman - W	Y Y	
Region Ten Community Services Board	6/30/2016	3 Years/ 3 Term Limit	Patricia Hughes (T2)	Y	Mary S. Cunningham (2)
(2) Existing Vacancies:					
Board/Commission	Terms Expired	Term & Limit Y/N	Number of Vacancies		
JABA Council on Aging	12/31/2015	2 Years/No Limit	1- David Holub	N	None

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She then asked the Board how they would like to proceed and Mr. Hale noted he would like to reappoint everyone who would like to be reappointed in one fell swoop unless other members would like to pull any off. He then read these aloud.

Ms. Brennan then moved to appoint all of the incumbents who wished to continue and Mr. Bruguieri seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the appointments.

Supervisors then looked at those seats whose incumbents did not seek reappointment as follows:

Nelson County Service Authority: It was noted that Gary L. Sherwood had submitted an application. Mr. Saunders suggested this be table as he had not yet spoken to Mr. Sherwood.

Mr. Hale then suggested that if a seat was district specific, then the Supervisor from that district should have the first say in an appointment.

Nelson County Social Services Board: Ms. Brennan nominated applicant Darlene Smith for appointment and there was no second. The chair called for the vote and Supervisors voted unanimously (5-0) by roll call vote to approve the appointment.

Piedmont Workforce Network Board: Ms. Brennan noted she had spoken with Mr. Stapleton and she nominated him for this seat. There was no second, the chair called for the vote, and Supervisors voted unanimously (5-0) by roll call vote to approve the appointment.

C. Correspondence

1. Bernard McGinnis – County Lease of The McGinnis Building

Supervisors discussed the following correspondence

Bernard L. McGinnis
P.O. Box 38
Shipman, Virginia 22971

County Administrator, Clerk of the Board of Supervisors
P.O. Box 336
Lovingson, VA 22949

Re: County of Nelson lease- The McGinnis Building 80 Front Street Lovingson, VA 22949

Mr. Carter:

Please allow this letter to serve as notice that the current lease with Nelson County, expiring June 30, 2016 will not be renewed. The County may continue to lease the property on a month-to-month basis at the current lease rate. Either party may terminate with thirty days' written notice.

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The property will be marketed for sale commencing July 1, 2016. The County will be given a one-time Right of First Refusal to match any bona fide, third party offer deemed acceptable to Seller. The County will have five (5) business days to respond with its intent to decline or exercise its Right of First Refusal. If the County exercises said right, conveyance of the property shall be under the same terms and conditions of the third party offer.

Please do not hesitate to call me at 434-263-5895 or email - bkmcgi@aol.com with any questions.

Sincerely,
Bernard L. McGinnis

Supervisors were also provided with the following staff evaluation of the McGinnis building:

McGinnis Building
80 Front St, Lovington
Deficiencies:

1: Severe settling on the Northeast and Southeast corners of building, settling has caused parapet wall to severe and pull away from roof structure 2.25". Settling has caused exit doors in rear of building to become out of adjustment and very hard to open. Cracks in bathroom sheetrock have been documented and growth of cracks are very apparent

2: Maintenance staff has unclogged 4" waste line from women's bathroom on several occasions from what's believed to be a settling issue also.

3: Building needs new roof and gutters as soon as possible, this was reported to landlord several years ago.

4: HVAC equipment has been a constant issue of break downs and repair. Technician/contractor has stated to county staff that he has told landlord units **need** to be replaced.

Mr. Harvey stated that the County departments should prepare to leave the building. Mr. Bruguere suggested that they stay until the building was sold and then go from there and he noted he could not see the County buying the building with the current issues. He added that the County should suggest to Mr. McGinnis that it would continue to rent the building until he sold it.

Mr. Harvey noted that they both had the option of a thirty-day notice and the Board agreed by consensus to rent the building until it was sold.

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Mr. Saunders then noted that the County's rental payments totaled \$97,000 annually, not including the rent paid on the Health Department. He noted that the County had not gotten any response for the Lovingson Healthcare Center building and it was sitting there.

He noted that a question was brought up about putting it back on the books and he noted that \$1 Million in value only provided \$7,000 per year in taxes. He then suggested the County could renovate it in phases with annual debt being \$131,000 for \$2 Million borrowed and that did not include rental savings. He noted that the County was paying almost \$100,000 per year in rent and could renovate the old healthcare building for \$1.5 Million for that annual payment. He added that it was foolish to give the building away and still pay rent. He then noted rent was being paid for the McGinnis building, the Department of Social Services, Recreation, the Registrar, and Extension offices. He added that the County had a lease for the Health Department until 2019 with Blue Ridge Medical Center for the local share of \$25,500 and the County may be able to use the State subsidy for them if they relocated.

Ms. Brennan noted she thought it would be impossible to phase the use of the building and she was interested in finding something that would provide meaningful services to the community.

Mr. Hale questioned the renovation number used by Mr. Saunders and he noted that he was estimating \$2 Million; however he thought they could do it in phases and could make it so that it would cover all of the departments that were paying rent, for that amount.

Mr. Hale supposed that was something to think about especially if there was no buyer. Mr. Harvey noted there was not likely to be a buyer but rather a taker. Mr. Saunders and Mr. Harvey agreed that the Board needed to set some type of time limit on this.

Mr. Harvey stated that the County had to have space and it was crazy to keep paying these rents. Mr. Hale noted that of the \$98,000 in rent, \$59,000 went to the Nelson Center and this had been a partnership with the County. It was noted that the County did not pay rent for the Economic Development and Tourism office since the County owned the Library building.

Mr. Harvey noted that the County gave the Nelson Center the building and they were to raise money and they did not, so they borrowed money. He added that the County then leased space there to pay for the amount borrowed and it should be paid by now. Mr. Carter advised that the loan was front loaded and now the debt service payment had decreased from 5-7 years ago and was less than \$7,500 per year.

Mr. Harvey noted he thought that the Lovingson Healthcare Building was a better location and could give new life to the town of Lovingson.

Ms. Brennan then asked for some more time to work on it.

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Mr. Carter advised that Piedmont Housing Alliance had emailed him the previous day to indicate their renewed interest and they may be interested in a partnership with Region Ten. He added that they were partners with JABA at the Ryan School Apartments.

Mr. Hale noted he was in agreement that it made sense to not pay rent and to have County offices in County buildings. He noted his concern was that the LHCC building was old and maybe it should be demolished and they should start all over designing something that suited. He noted the County needed to analyze this. Mr. Carter reminded the Board that Architectural Partners had taken a look at the building and said it would take \$4.5 Million to renovate it to suit, based on a two hour walk through.

Mr. Hale noted that a sentiment was expressed that some conclusion be reached and he suggested they give the rest of the summer to gather proposals.

Mr. Saunders then moved to give sixty (60) more days to entertain offers and after that, look at doing something else and Mr. Bruguere seconded the motion.

Mr. Saunders stated he did not want to give the building away. Ms. Brennan noted that she thought giving sixty (60) days to continue looking for a provider to provide services that were sorely needed in the community was really bad.

Mr. Carter advised that Ms. Brennan and Staff had made a concerted effort to make it work; however it was very difficult and no one was interested in the building. Mr. Saunders then clarified that he agreed a concerted effort had been made; however he thought it was time to move on.

Mr. Hale noted he had reservations about the County taking on another substantial capital project when it was just finishing one. He agreed that the County needed to do something and Mr. Saunders stated that this capital project had the potential to pay for itself.

There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Ms. Brennan voting No.

2. Added: Peter Agelasto Email Correspondence

Mr. Harvey noted correspondence received from Peter Agelasto that referenced the Rockfish Valley Historic District as a reason for FERC to reconsider the route of the Atlantic Coast Pipeline. He questioned how Mr. Agelasto could create the historic district without property owners knowing about it. Ms. Brennan noted that she went to meetings about it, many people were there, and property owners did know about it. She added that the Historical Society had looked into it and enough properties were identified. She noted that the district was a valid thing even though Mr. Dodd was opposed to it and he nor anyone else was required to participate in it.

Mr. Bruguere noted that the problem with the historic district designations was that it was unknown what the subsequent Boards would do in terms of setting restrictions. He noted

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that currently once these were created, homeowners could go after taxpayer money to fix their own house.

Mr. Hale then noted that this correspondence did not require the Board to take action and Mr. Harvey noted that the correspondence was in response to the Atlantic Coast Pipeline.

Mr. Hale then commented that he has seen a number of historical treasures torn down and if these had been identified and valued by citizens they may still be there. He added that he was referring to the bank building on the corner in Lovington and Midway Mills on the James.

3. Added: Correspondence from TJEMS

Ms. Brennan noted the correspondence on TJEMS funding sent from Bill Keene. Mr. Harvey noted he thought Staff took the wrong impression from the meeting with TJEMS. He added that the County got a tremendous amount of services from them and the issue was that the County could not provide enough people to train. He noted he was not sure how they would operate if they were not given the funding they asked for.

Mr. Carter advised that the TJEMS Director told staff that they had not provided any services in the County in two (2) years. Mr. Harvey noted that according to the Director, he was mistaken and he wanted to ask the Board to reinstate the full funding.

Mr. Harvey then noted he has served on their Board and the State EMS Board and it was a good organization. Mr. Carter then noted that if the funding was restored, Nelson would be paying more than anyone else in the region. Mr. Harvey then suggested that the TJEMS Director and Bill Keene come and present to the Board. Supervisors agreed by consensus and asked Staff to invite them to the afternoon session in July.

D. Directives

Mr. Bruguere, Mr. Harvey, and Mr. Saunders had no directives.

Ms. Brennan asked about the status of the Wild Wolf sewer system issues and Mr. Carter noted that Ms. Wolf was working with a consultant and the Health Department to move forward with a private system.

Mr. Hale inquired about the status of Oceanwide Seafood paying its delinquent meals taxes and Mr. Carter noted that he understood that the Commissioner was going over there to discuss it and Mr. Bruguere added that he thought they had worked out a payment plan.

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

At 5:15 PM, Mr. Bruguere moved to adjourn and reconvene at 7:00 PM. Mr. Saunders seconded the motion and there being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

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

I. Call to Order

Mr. Hale called the meeting to order at 7:19 PM with four (4) Supervisors present to establish a quorum and Mr. Harvey being absent. Mr. Hale apologized for the Board being late getting back from the break and noted that Mr. Padalino would not be present and Mr. Carter would be presenting the Special Use Permit request.

II. Public Comments

Mr. Hale opened the floor for public comments and the following persons were recognized:

1. Marta Keene and Kim Peele, JABA

Ms. Keene distributed a Spring Update brochure for April 2016. She noted the front page story regarding insurance counseling and noted that JABA was sending a counselor to Nelson County once per week. She noted that this person had specifically volunteered to come to Nelson. She then noted story #2, "Senior Centers Keeping a Watchful Eye Out" which gave examples of a caring group looking out for each other. She then noted that they had made greater outreach efforts in Rosewood Village and would soon be sharing those stories.

III. Public Hearings

A. Special Use Permit #2016-01 - Ms. Elizabeth Jackson, Tax Map Parcel #7-A-25: Pursuant to Zoning Ordinance Article 5 ("Residential District R-1"), Section 5-1-2a ("Double-wide mobile home mounted on a permanent concrete or block foundation"), the applicant requests approval to replace a former single family dwelling, damaged in a fire, with a double-wide manufactured home. The subject property is a 2.0-acre parcel zoned Residential (R-1) and Agricultural (A-1), located in Afton at 1617 Avon Road.

Mr. Carter noted that the Board was asked to consider Special Use Permit #2016-01 for Ms. Elizabeth Jackson, Tax Map #7-A-25 located at 1617 Avon Road in Afton. He noted the subject property was two (2) acres in size and had split zoning of R-1 and A-1. He advised that fire had destroyed the single family detached home and because the new structure would be located in the R-1 area of the property, it had to have a special use permit per Section 5-1-2a of the Zoning Ordinance.

Mr. Carter reported that the minor site plan had been waived, the Health Department had okayed the septic system for new use, and the setbacks could be met. Mr. Carter then noted that the four (4) criteria considered for these had been met as follows:

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- A. *The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate.*
- B. *The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property.*
- C. *The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities.*
- D. *The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.*

He then noted that following their public hearing, the Planning Commission had recommended approval of the special use permit subject to Health Department approval and subject to compliance with all setback requirements.

The Board then indicated they had no questions for Mr. Carter or the applicant. Mr. Hale noted that Mr. Padalino had provided each member with a detailed report including photos etc. so they were very familiar with it.

He then opened the public hearing and there being no persons wishing to be recognized, the public hearing was closed.

Mr. Bruguiere moved to approve Special Use permit #2016-01 and Ms. Brennan seconded the motion. Mr. Hale noted that it certainly made sense and the request was understandable and he thought it appropriate that it be approved.

There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

IV. Other Business (As May Be Presented)

There was no other business considered by the Board.

V. Adjournment

At 7:30 PM, Ms. Brennan moved to adjourn and Mr. Bruguiere seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

July 12, 2016

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

Absent: None

I. Call to Order

Mr. Hale called the meeting to order at 2:14 PM, with four (4) Supervisors present to establish a quorum and Ms. Brennan joining the meeting shortly thereafter.

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

II. Resolution Honoring Judy S. Smythers, Retiring Clerk of Circuit Court (R2016-41)

Mr. Hale introduced the resolution and noted that Ms. Smythers could not be there and that the resolution would be presented to her at a later date. He then read the resolution aloud.

Mr. Harvey moved to approve resolution **R2016-42**, Resolution Recognizing the Honorable Judy S. Smythers, Nelson County Circuit Court Clerk, and Mr. Bruguiera seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2016-41
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION RECOGNIZING
THE HONORABLE JUDY S. SMYTHERS
NELSON COUNTY CIRCUIT COURT CLERK**

July 12, 2016

WHEREAS, after sixteen (16) years, the Honorable Judy S. Smythers is retiring from her position as Nelson County Circuit Court Clerk on August 1, 2016; and

WHEREAS, Mrs. Judy Smythers grew up in Nelson County and started her career in law; working in the Nelson County Commonwealth Attorney's Office from 1971-1975; and

WHEREAS, Mrs. Smythers has been Clerk for Juvenile & Domestic Relations Court (1982-1991) as well as Clerk for General District Court for the City of Lynchburg (1991-1999), then coming back to Nelson County as Circuit Court Clerk in 2000; and

WHEREAS, Mrs. Smythers is the only Clerk in Virginia that has served as Clerk to Circuit, General District, and Juvenile and Domestic Courts; and

WHEREAS, Mrs. Judy Smythers is an active and important part of her profession and community as a Charter Member of the Rotary Club of Nelson County, as well as an active member of Rockfish Presbyterian Church; and

WHEREAS, it is fitting and proper that the Nelson County Board of Supervisors recognizes Mrs. Judy Smythers who has been a truly competent and passionate clerk as well as a great asset to Nelson County and the Commonwealth, who always shows compassion and friendship to everyone she encounters,

NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby recognize and extend their appreciation to the Honorable Judy S. Smythers for her combined twenty (20) years of dedicated and exemplary service to Nelson County and does hereby wish her health and happiness in the years to come.

III. Resolution Commending the Public Service of Edward L. Rothgeb (R2016-42)

Mr. Hale asked Mr. Harvey to read aloud the proposed resolution honoring Edward L. Rothgeb. Mr. Harvey then read aloud the resolution and Mr. Saunders moved to approve resolution **R2016-42**, Resolution Commending the Public Service of Edward L. Rothgeb and Ms. Brennan 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 R2016-42
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION RECOGNIZING EDWARD L. ROTHGEB**

WHEREAS, Edward Rothgeb has served on the Nelson County Service Authority since July 2005; and

WHEREAS, Mr. Rothgeb stepped down from the Service Authority as of May 2016; and

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WHEREAS, The Nelson County Service Authority has acquired, constructed, improved, extended, operated, and maintained water and sewage systems in Nelson County since 1986; and

WHEREAS, Mr. Rothgeb is an important part of Nelson County, dedicating his time to Nelson County Schools and the Service Authority for many years;

NOW, THEREFORE, BE IT RESOLVED, that the Nelson County Board of Supervisors does hereby recognize and commend Edward Rothgeb for his years of public service with Nelson County and wishes him well in his future endeavors.

Following adoption of the resolution, Mr. Harvey noted that he first met Mr. Rothgeb when he was very young and he had never forgotten the football practices that were held in the gym. He added that he has had the privilege of working with Mr. Rothgeb on the Nelson County Service Authority Board and he added that the years he has given to the school system was amazing.

Mr. Hale also noted it had been a privilege serving on the Service Authority Board with Mr. Rothgeb and he added that he was fun to be with.

Mr. Bruguiere noted he first met Mr. Rothgeb when he was in the eighth grade and he taught Science etc. He added that he was principle when his wife Sandy started teaching and she loved him as principle. He then noted his appreciation for Mr. Rothgeb's service.

Mr. Harvey then presented the adopted resolution to Ms. Joan Rothgeb, Mr. Rothgeb's wife and his daughter Shannon Powell, who received the resolution on Mr. Rothgeb's behalf.

IV. Consent Agenda

Mr. Hale noted that staff had requested that item F. FY17 Salary Classification System Adjustment be considered separately. He then noted the other items for consideration.

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

A. Resolution – **R2016-43** Minutes for Approval

RESOLUTION R2016-43
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MEETING MINUTES
(May 10, 2016 & May 26, 2016)

July 12, 2016

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **May 10, 2016 & May 26, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2016-44** FY16 Budget Amendment

RESOLUTION R2016-44
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET
NELSON COUNTY, VA
July 12, 2016

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2015-2016 Budget be hereby amended as follows:

I. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$982.00	4-100-999000-9901	4-100-083010-1001

C. Resolution – **R2016-45** FY17 Budget Amendment

RESOLUTION R2016-45
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2016-2017 BUDGET
NELSON COUNTY, VA
July 12, 2016

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2016-2017 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$14,595.00	3-100-002404-0009	4-100-022010-1006
\$16,624.00	3-100-002404-0009	4-100-022010-1007
\$830.00	3-100-002404-0009	4-100-022010-5413
\$3,006.00	3-100-002404-0009	4-100-022010-5415
\$(23.00)	3-100-002404-0009	4-100-022010-5506
\$7,500.00	3-100-999000-0001	4-100-043040-5409
\$24,150.00	3-100-999000-0001	4-100-043040-7005
<u>\$3,750.00</u>	3-100-004101-0001	4-100-043040-7005
\$70,432.00		

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II. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$5,211.00	4-100-999000-9901	4-100-031020-1001
\$4,363.00	4-100-999000-9901	4-100-031020-1009
\$2,771.00	4-100-999000-9901	4-100-031020-2001
\$3,459.00	4-100-999000-9901	4-100-031020-2002
\$9,788.00	4-100-999000-9901	4-100-031020-2005
\$474.00	4-100-999000-9901	4-100-031020-2006
\$10,156.00	4-100-999000-9901	4-100-091030-5606
\$2,866.00	4-100-999000-9901	4-100-083010-1001
<u>\$982.00</u>	4-100-999000-9901	4-100-083010-2002
\$40,070.00		

D. Resolution – **R2016-46** COR Refunds

RESOLUTION R2016-46
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF COMMISSIONER OF REVENUE REFUNDS

RESOLVED, by the Nelson County Board of Supervisors that the following refunds, as certified by the Nelson County Commissioner of Revenue and County Attorney pursuant to §58.1-3981 of the Code of Virginia, be and hereby are approved for payment.

<u>Amount</u>	<u>Category</u>	<u>Payee</u>
\$590.75	2016 PP Tax & License Fee	Gelco Fleet Trust Personal Property Tax 3333 Hesper Road Billings MT 59102
\$377.10	2013-2015 PP Tax & License Fee	Sheila B. Robinson 12185 Clipper Dr. #2114 Woodbridge, VA 22192

E. Resolution – **R2016-47** Petition of Circuit Court for Writ of Election
Clerk of Circuit Court Seat

RESOLUTION R2016-47
NELSON COUNTY BOARD OF SUPERVISORS
PETITION OF CIRCUIT COURT FOR WRIT OF ELECTION
CLERK OF CIRCUIT COURT SEAT

July 12, 2016

WHEREAS, the serving Clerk of the Circuit Court, Judy S. Smythers, has submitted her resignation effective August 1, 2016; and

WHEREAS, the next regularly scheduled election for the office of Clerk of the Circuit Court is in 2023; and

WHEREAS, a special election to fill a vacancy in any constitutional office shall be held promptly pursuant to Virginia Code § 24.2-682; and,

WHEREAS, Virginia Code § 24.2-228.1 directs that the governing body of the county in which the vacancy occurs shall, within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Virginia Code Sections 24.2-226, 24.2-228.1 and 24.2-682, the County Attorney be and hereby is directed to petition the Circuit Court of Nelson County requesting the issuance of a Writ of Special Election for Tuesday, November 8, 2016, being the same day as the general election, to fill the unexpired term of the Clerk of the Circuit Court's current term of office.

F. Resolution – **R2016-48** FY17 Salary Classification System Adjustment

Ms. McCann noted that a correction needed to be made to the proposed resolution. She added that at the time it was drafted, the County was not officially notified that that the State did not make its revenue projections and therefore would not be providing funding for a 2% raise. She suggested removing the sentence referencing the state raise and keeping the language regarding Compensation Board adjustments and the raise being a locally funded increase.

Mr. Harvey then confirmed that the County was giving a raise even though the State was not. Staff noted that this was the case and it included all Constitutional Officers and Compensation Board positions. Mr. Carter advised that an email had been sent out the previous day regarding the fact that the requirements were not met by the State to give a raise. He further noted that the Board would be fully funding a 2% raise for the entire year for all employees. Ms. McCann then noted that she had determined the shortfall to be \$81,719 for all groups. She added that she was not entirely sure of the associated VRS amounts. Mr. Hale then noted that this was another example of how the General Assembly and the Governor were not able to match revenues. Ms. Brennan noted they did not have complete control over revenues; however they did have control over the budget.

Mr. Bruguiere then moved to approve resolution **R2016-48** and Ms. Brennan seconded the motion. Mr. Harvey reminded staff of the need to modify the sentences as discussed 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:

RESOLUTION R2016-48
NELSON COUNTY BOARD OF SUPERVISORS

July 12, 2016

SALARY AND CLASSIFICATION SYSTEM

BE IT RESOLVED by the Nelson County Board of Supervisors that the local government's "Salary and Classification System" is hereby amended to incorporate the following:

A two percent (2%) salary adjustment shall be hereby authorized for Nelson County personnel (full time and regular part-time) employed pursuant to the County's salary classification and pay plan, effective on July 1, 2016. Additionally, a two percent (2%) salary adjustment shall be authorized for all regular part-time employees and all full-time employees, inclusive of the elected/appointed official, employed in a Constitutional Office or Office of the Registrar and their Compensation Board funded permanent staff positions. The two percent (2%) shall be calculated based upon the salary in effect on June 30, 2016 (Compensation Board and local supplement). All Compensation Board salary adjustments shall be calculated pursuant to the governance established for this purpose and approved by the Board of Supervisors on November 21, 2006.

Attachment: Fiscal Year 2016-2017 Salary Scale (Full Time & Part-Time)

V. Public Comments and Presentations

A. Public Comments

1. Reverend James Rose, Wingina

Mr. Rose spoke on recent national tragedies and noted that there would be a prayer vigil at Nelson County High School that Thursday night at 7:00 pm and he was asking Ms. Brennan and the Sheriff to speak. He noted that the Ministers Alliance had been formed and had met and would continue to meet to discuss how they could come together as one in the County. He noted that in speaking for himself, he believed that county government had a role to play as things moved forward in the county. He added that he was asking that a task force be set up consisting of faith based leaders, County government leaders, law enforcement, and business people in the community to discuss issues.

Mr. Rose then encouraged the Board to engage themselves in the community more. He noted that Nelson County was not immune from the likes of the recent national tragedies and he implored them to not wait until something happened. He reiterated his belief that they all had a role to play in coming together to resolve some issues.

Mr. Rose then stated that this had not been discussed, however he encouraged the Board to support Sheriff Hill if he wanted to equip the deputies with body cameras. He added that they could and would come together to make the county better in which to live.

2. Sheriff Hill

Sheriff Hill acknowledged that tensions and emotions were high and he thanked the Board for their support of the department. He added that it would grow stronger with time and he

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noted that the world and technology was changing. He noted that these things took money and he was a firm believer that they could only be as strong as the community allowed them to be. He again thanked the Board for their support and noted he wanted to publicly thank them.

B. VDOT Report

Mr. Don Austin gave the following update:

1. HB2 submittals were approved: Lovington sidewalk improvements, the turn lane to Route 664, and Route 665 access management in Colleen. He noted that they would have the sidewalk contract done this year, the turn lane at Route 664 was a couple of years out, and he was not sure about Colleen. He then noted that the HB2 program was now called SMART Scale and the next cycle of applications was starting in August. Mr. Carter noted that staff has met on the projects for submittal and there would be three (3) applications for the Board to endorse.

2. Dark Hollow Road: VDOT has ordered new pipe and will add extra protection around it to keep it from washing out. He noted that they looked at putting in a box culvert but that got out of scope and they will look at anchoring the new pipe. He noted they were hoping the road would be back open by September 1, 2016 and that it would not be open by the start of school.

3. Canoe launch at wayside: Mr. Austin noted he would be meeting with Parks and Recreation Director Emily Harper that day after the meeting. He noted that the entrance at the wayside was an issue there and they could not use the one closest to the bridge. He advised that they may combine the boat launch entrance with the wayside entrance rather than use a separate entrance. He added that they would also have to look at parking. Mr. Hale mentioned that it may be a good time to revisit having a permanent bathroom facility there.

4. LOCKN: Mr. Austin noted that the festival was moved to August and VDOT was meeting on site the following week about traffic.

Mr. Harvey then inquired about the sidewalk project and Mr. Austin noted that they would be installed straight to Route 29 from Family Dollar, tying in the sidewalk and replacing the substandard sidewalk up to Front Street and then would go from the corner down to the Post Office. It was noted that John Bradshaw Jr. was making improvements to the corner building and they should coordinate with him. Mr. Austin noted they would and that they would also do some work on other drop inlet areas of the sidewalk with safety funds.

Supervisors then discussed the following VDOT issues:

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Mr. Harvey:

Mr. Harvey reported that there was a small tree leaning over the road on Route 6 and Route 151 before the bridge.

Mr. Harvey reported that on Route 635 above Route 633 going to Taylor's Creek, the overgrowth was getting way over the road and blocking views from the driveways there.

Mr. Bruguiera:

Mr. Bruguiera reported that a culvert on Dickie Road was stopped up and needed opening.

Mr. Bruguiera inquired as to whether or not VDOT would have to obtain additional right of way for the Route 664 turn lane project and why it would take a couple of years to do. Mr. Austin noted it was because of the way the funding was set up and they could not do work until some funding was received. Mr. Bruguiera then supposed they could clean out the area to get more sight distance in the meantime. Mr. Austin noted that they could cut the right of way; however past that, someone else would have to do it. He added that they could get a temporary agreement to cut it.

Mr. Saunders:

Mr. Saunders noted the pipe on Fletcher's Lane and Route 29 was not opened up.

Mr. Saunders noted that there was a tree on Wilson Hill Road laying over about mid-way down.

Mr. Saunders noted that local people had cut the grass in the crossover at Colleen so they could see. Mr. Austin advised that they call VDOT if this happened and they would come out and cut it. He added that VDOT was working on mowing secondary roads now.

Ms. Brennan:

Ms. Brennan thanked Mr. Austin for the signs at the stop light.

Ms. Brennan noted that trees had become overgrown at Buck Creek Lane crossing to go north and one had to pull way out into the highway to see.

Ms. Brennan thanked Mr. Austin for repairing the median strip at Twin Poplars; however it had collapsed again. Mr. Austin advised that they would put a new pipe in, let it settle, and then resurface it.

Ms. Brennan reminded Mr. Austin to look at passing on Route 6 east. He noted that he had not heard anything on that yet; however VDOT would check the whole length of it.

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Ms. Brennan asked if VDOT got reports on incidences where people have run off of the road. Mr. Austin advised that they only got reports on these if property damage occurred. He clarified that this data was entered into their system; however they did not get these automatically. He then speculated that there was a lot of distraction and most run off the road types involved sleepy, intoxicated, or distracted driving. He added that 50% of fatalities were unbelted people. Mr. Austin then noted that traffic studies pulled the accident data and if there were a lot of people running off of the road at a particular location, they would look at it. Mr. Bruguere speculated these could be deer-related and Mr. Austin noted that many were due to over-correction.

Mr. Hale:

Mr. Hale inquired how VDOT could do work in areas such as on Route 617 and Route 639, where two streams ran together and Mr. Austin noted it was difficult as there were environmental issues associated with that.

Mr. Hale noted that traveling southbound coming into the County, the vegetation was covering the Welcome to Nelson County sign. He noted it was above and around the sign and Mr. Austin noted they would look at it.

Mr. Hale noted that on Route 617, between Rockfish Depot and Route 29, a logging road was installed along with a culvert and water was pooling there. He asked if there was any way for it to drain and noted they had not done any logging yet.

Mr. Hale noted that he would like to see the Sheriff's Department start slowing people down approaching the Food Lion intersection. He added that the southbound traffic was the biggest issue and he asked if the speed limit could be reduced. Mr. Austin noted that section of road did not meet the criteria for a reduced speed limit and he was unsure that anyone would heed any other warnings there.

Mr. Hale referred to a piece of property at the intersection of Route 56 and Route 29 in Colleen, and noted that he had spoken to the property owner about an entrance there and asked if he could refer him to Mr. Austin. Mr. Austin said he could; however he would then refer them to Jeff Kessler. Mr. Saunders advised that there was once a road coming out of the property years ago and now guardrail had been placed across it and the property owner would like it moved so he could get a tractor in and out. Mr. Austin confirmed that he would speak to the owner.

VI. New Business/ Unfinished Business

A. Proposed Agreement- Lynchburg Juvenile Detention Center (R2016-49)

Mr. Carter referred to the following synopsis of the County's relationship with the Detention Center:

Detention Home Agreement Summary

July 12, 2016

Original Agreement: July 1996; 20 Year Term – Expired in April 2016 and Extended to June 30, 2016

Proposed Agreement: July 2016; 3 Year Term Expiring June 30, 2019

Members: Counties of Amherst, Appomattox, Bedford, Campbell, and Nelson as well as the City of Lynchburg. Charlotte County has elected not to be a party to the new agreement due to low utilization.

Detention Home Information:

- 48 Bed Capacity, 25 Bed Funded Capacity, and 23 Guaranteed Beds for Member Jurisdictions
- Nelson County is Guaranteed 1 Bed; NC utilized 56 total bed days in FY2016 out of a total of 4,866 utilized bed days. The six-year average utilization for Nelson is 0.27 beds.
- Employs 45.12 FTEs
- Implementation of a *Community Placement Program (CPP) in FY2017 and other less significant cost saving measures have reduced the budgeted FY2017 Operating Cost Per Diem from \$269 to \$138. FY17 budgeted non-contract Per Diem is \$263 (applies to non-member jurisdictions).
- The CPP is implemented through a contract with the Virginia Department of Juvenile Justice and guarantees 8 beds for the program. This yields revenue of \$225 per bed/day for a total FY17 budgeted revenue of \$657,000. The program contract term is July1, 2016 – June 30, 2017 and is renewable annually for up to five (5) years.
- The Debt Service Per Diem for FY2017 is budgeted at \$25. Annual Debt Service reduces significantly in 2019, again in 2021, and the obligation ends in 2030. As of 2016, the balance of debt remaining on the facility's initial 20 year bond that was refinanced in 2010 is \$500,854.
- The Combined operational and debt service Per Diem budgeted for FY17 is \$163 vs. FY16 of \$305. FY17 combined Per Diem without the Community Placement Program is \$291.
- The FY17 Detention Home budget allocates costs of \$9,019 to Nelson. FY17 Nelson Budgeted funds for the Detention Home is \$30,000.
- Historical Detention Home costs: FY13: \$47,164, FY14: \$16,864, FY15: \$13,141, and FY16 through March 2016: \$18,329

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He then noted that the original agreement had come to conclusion and the Advisory Board and Center has been working on a new one. He noted that the new agreement essentially replicated the old one except for the new term being shorter. He advised that Nelson County was still guaranteed one bed and the debt on the center was low. He added that the County historically budgeted \$30,000 for this expense and it had varied over the years; with the FY17 projection from them being \$9,019.

Mr. Carter then noted the primary elements of the agreement and that there was a resolution authorizing staff to proceed in executing it for the Board's consideration.

In response to questions, Mr. Carter noted that staff regularly attended the Advisory Board meetings which mostly involved reporting on the Center's operations. Mr. Carter reiterated that there had been times when the end of year reconciliations provided for payment of more funds and he had no issues with the draft agreement.

Ms. Brennan then moved to approve resolution **R2016-49** Authorization to Execute Agreement, Lynchburg Juvenile Detention Center and Mr. Bruguiere seconded the motion.

There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

RESOLUTION R2016-49
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION TO EXECUTE AGREEMENT
LYNCHBURG JUVENILE DETENTION CENTER

RESOLVED, by the Nelson County Board of Supervisors that Stephen A. Carter, County Administrator, is hereby authorized to execute the proposed agreement on behalf of Nelson County as a member jurisdiction of the Lynchburg Juvenile Detention Center; with said agreement being effective July 1, 2016 and expiring June 30, 2019.

B. Proposed Lease of County Owned Conduit Space

Mr. Carter reported that the County has been approached by Shentel to secure an Indefeasible Right of Use (IRU) for 20 years to place their fiber within the County's fiber optic conduit. He noted that they had originally proposed a price of \$2 per foot and staff consulted with Design Nine who suggested it should be significantly higher. He advised that Shentel then came back with a \$4 per foot offer amount; which would be approximately \$500,000 and the Broadband work group thought it was worthy of consideration.

Mr. Carter advised that the County had to get NTIA's questions addressed in order to secure approval from them for a possible agreement. He noted that a benefit to the process was if Shentel was serious, they would have to be more open and detailed on their purpose for using the conduit. He noted that they have indicated that they wanted to get from Amherst or their headquarters to Waynesboro. He added that they had an agreement with Amherst County Schools as well as Nelson's and they wanted to be able to serve them over their

fiber. He further noted that they also wanted to connect the towers acquired from Ntelos along the Route 29 corridor and to serve larger customers such as the Schools and Saunders Brothers. He noted that the question was whether or not NTIA and the Board would approve this. He noted that staff would need approval from both the Board of Supervisors and the Nelson County Broadband Authority since the County owned the network and the Authority operated it.

Ms. Brennan inquired if this included towers between Woods Mill and the southern end of the County and Mr. Carter noted that Shentel had not provided any details. He then advised that NTIA wanted to know how they would use the conduit and an explanation of how this agreement would comply with the intent of the original project. He noted that the monies gotten from the agreement could help to expand the network. He then noted that they could use a percentage of construction cost of the network to compute the fee to be charged. He added that Shentel has said they did not want to serve residential customers in the county at this point.

Mr. Carter advised that he would distribute the email from Elaine Sloan of NTIA and he noted that any future changes would have to be approved by NTIA and the IRU would spell out the details.

Mr. Bruguiere asked if they could use the network's fiber and Mr. Carter noted they could and that had been proposed. He noted that they wanted to own their own fiber and may also want an IRU for dark fiber. He reiterated that consideration for them was connectivity of their corporate facility to Amherst and they have said they would build their own infrastructure if this did not work out; however it would be cheaper if they could have an agreement. Mr. Carter then advised that if they used conduit space, there would be room left for more fiber in the future.

Mr. Bruguiere noted he thought this should be pursued. Mr. Carter advised that the consensus at the last Broadband work group meeting was that it would not threaten County operations and could be helpful.

VII. Reports, Appointments, Directives, and Correspondence

A. Reports

1. County Administrator's Report

1. Courthouse Project Phase II: The project is proceeding well. The current focuses of construction are completion of the small addition on the north side of the 1940s building addition, which includes the reconstruction of the second floor area that formerly was the location of the Gen. District and J&D Courts and Clerk. This second floor area will become the offices of County Administration, Finance and HR and Information Systems. Jamerson-Lewis's objective is to have rough-in inspection approvals within the ensuing three weeks, which will help to expedite interior work and, possibly, the project's completion (currently in the February-March 2017 time range). Other construction focuses are completing HVAC, electrical and networking services (all in process).

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2. Broadband: A) Expansion Project - Phase 1 (Routes 6 & 151 at Martins Store to Routes 151 and 664) is completed (as of July 1st). The project contractor, CCTS, is working to complete installations along Phase 1, including Horizons Village (17-21 connections), Devils Backbone Brewery (connected), Bold Rock Cider (connected). Permit applications to VDOT for Phase 2 (Route 151 north to Albemarle County Line) and Phase 3 (Routes 6 and 151 to Saddleback Lane on Rt. 6) have been submitted and VDOT review comments are being addressed. It is anticipated that work on Phase 2 will begin the week of July 11th. A potential issue with Phase 3 is VDOT may only have a 'prescriptive easement" in the Route 6 project area, which may require obtaining approvals from property owners along the project route.

There are currently 159 service connections, 34 service connections in process and a significant number of interest statements for service and requests for quotes that are also in process. The NCBA's FY 17 Budget projects the addition of 85 new connections. It is quite possible or probable that this is a conservative estimate!

Mr. Carter added that Ms. Rorrer was working on six (6) neighborhoods which could mean one hundred new connections.

B) Broadband Planning Project - The project remains in process (longer than anticipated). Specific outcomes which will be action recommendations to the NCBA include: 1) re-structuring of the current fee/rate schedule, 2) improvements to the overall tower network, 3) market demand (based) growth model, 4) unbundling network operations from retail services. The project may entail additional strategies as an outcome of 1) possible agreement with Shentel for the company's use of the local middle mile (fiber) network and 2) a forthcoming announcement from CVEC of the ability of broadband service providers to utilize the Cooperatives infrastructure free of make ready expenses (i.e. no cost) to deploy broadband services.

3. BR Tunnel Project: The project's engineering consultant, Woolpert, is working to complete all required construction submittals to VDOT and to Augusta County to enable the project to be approved for receipt of construction bids. The submittals to Augusta County (construction plans, stormwater, etc.) will be sent to the County the week of 7-11. The submittals to VDOT are in a comment period (VDOT to Woolpert). It is probable that VDOT comments will be acceptably addressed by not later than 7-31. As to final project approval by VDOT, FHA and Augusta County and, thereafter, construction bidding and award of the project, it is very possible that this period will encompass five to seven months (but still TBD).

Mr. Hale noted his frustration that VDOT has not answered questions regarding changing the width of the trail and Mr. Carter noted he would follow up with Greg Parsons.

4. Lovingson Health Care Center: Valley Care Management was contacted after the Board's June 14th meeting and advised of the Board's establishment of a 60 day period from the June to August for receipt of proposals on the Center after which the Board would

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endeavor to decide the future of the property. Thereafter, VCM was advised by Supervisor Brennan that the company's proposal had to be received by July 8th or the County would interpret a non-response as the company's position of no interest in the property. As of today, 7-8, VCM has not responded or provided any information to the County. As to other interest in the Center, staff of Piedmont Housing Alliance has reiterated PHA's "possible" interest in the property albeit as a housing project (not an assisted living/memory care operation). County staff advised PHA staff of the BOS's 60 time line and has also provided PHA with information on the LHCC for review/use.

Mr. Hale inquired about the status of Region Ten's interest and Mr. Carter advised that he had not spoken to them again regarding their initial proposal. Ms. Brennan suggested that he touch base with them again and she noted that PHA may be interested in a partnership with them. Mr. Carter noted he had referred them to Marta Keane of JABA.

Mr. Hale then advised that someone has expressed interest in the property for a project and he thought the building should be auctioned off; establishing a set minimum price.

Following brief discussion, no action was taken and Supervisors agreed to wait the sixty (60) days as previously agreed to.

5. Region 2000 Service(s) Authority: Please see the attached information on the Authority's strategic planning project. An ensuing project consideration is the designation of up to 15 County residents to represent the County in the project's focus group component.

Mr. Carter reviewed what would be happening over the next six months according to the following schedule:

MONTH	KEY ACTIVITIES
July	<ul style="list-style-type: none">• Develop website and identify possible content and/or links.• Collect baseline information on existing operations for Authority and member programs.• Working Group members to work with their locality to identify potential Focus Group invitees and individuals to interview.• Working Group to consider mailing lists that may exist or links to inform public of project.
August	<ul style="list-style-type: none">• Working Group meeting to review information prepared in July. Determine target groups for email.• Activate website. Include short simple survey to assess interest.• Develop instructional information for Focus Groups.• Prepare for Informational Forum; send out invitations, press releases etc.• Authority meeting to discuss progress on project.
September	<ul style="list-style-type: none">• Working Group meeting to review information prepared in August.• Member jurisdictions send out invitations to potential Focus Group members. Provide instructional information.

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	<ul style="list-style-type: none">• Send out invitations to Informational Forum.• Hold Informational Forum.• Schedule and hold Focus Group meetings and individual interviews.• Develop Survey to assess interest in criteria• Conduct interviews
October	<ul style="list-style-type: none">• Working Group meeting to review information prepared in September.• Determine final options and criteria for assessment of options• Prepare draft summary information for review and comment by Working Group.• Authority meeting to discuss preliminary findings.
November	<ul style="list-style-type: none">• Working Group meeting to review information prepared in October and comments on draft documents.• Finalize documents and submit to Authority for review and comment.
December	<ul style="list-style-type: none">• Authority meeting to discuss final information.• Present proposal for next task(s)

Mr. Carter noted that an upcoming component of work was the use of a focus group from each member locality within the group starting in September. He added that he would like to see if the Board could have a member from each District and/or staff could come up with potential participants. He then reported that he voted against proceeding with the study because he still thought the future of the Authority was using the Bennett Property that was previously purchased. He noted that the Solid Waste Authority was effectively addressing the odor problem now; however citizens surrounding the landfill did not want the landfill to stay there.

Mr. Saunders then inquired about the potential for the County to partner with Amherst County in dealing with solid waste. Mr. Carter advised that he had some conversations with them around three months ago and would need to know parameters and cost etc. He noted that the status was that they were working on it and would get back to him and then staff could evaluate the option. He noted that cost would be a key consideration and there would also be a cost to leave the Solid Waste Authority.

Mr. Carter then asked the Board to consider one or two people from their districts to participate on the focus group, noting that the County could have up to fifteen people.

Mr. Carter then advised that the Landfill was getting complaints every day from residents regarding bad odors and when they would go out to check, nothing was detected. He reiterated that the gas collection system had reduced the number of complaints so far. He noted that the system collected methane gas that could be sold or used on site for energy; noting that Lynchburg City sold methane to a local company for energy.

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6. Warminster Historic District Project: V A-DHR staff has advised County staff that the Department will not award state cost share funding for the proposed WHDP. DHR staffs' comment was further review was required and that the project may be more of an archaeological initiative than a historic district project.

7. Route 29 Corridor Study: County staff are meeting today, 7-8, with staff of TJPDC to work towards a possible application to VA-DHCD for a CDBG Planning Grant to develop an economic development plan/assessment for the Rt. 29 Corridor. A specific strategy has not yet been developed but discussion will entail inclusion of business district revitalization (Lovingston and Colleen) as well as an overall plan for the corridor.

Mr. Carter noted that the TJPDC would re-scope their proposal and then submit it to DHCD to see if the County could do a planning grant. He noted that AEP also had grant funds for up to \$20,000 for planning. He added that Ms. Kelley had suggested looking at an area from Woods Mill to Colleen in order to encompass some of the new businesses along there. Mr. Saunders then suggested that the area to look at should be the Albemarle County line to Colleen.

Added:

Radio Project: Mr. Carter noted that Motorola was working on concluding the radio project.

McGinnis Building: Mr. Carter reported that the McGinnises had hired a real estate agent and had asked the County for a copy of the lease agreement and for permission to speak to their real estate agent. He added that they would be marketing the building for sale.

2. Board Reports

Ms. Brennan:

Attended a Rockfish Valley Area Plan (RVAP) meeting, which was well attended. She noted that Tim Padalino had done an excellent job of clarifying what the plan was and wasn't. She noted that the next step was a work group meeting in early August to evaluate the information and survey results.

Attended a GIS meeting in Richmond and noted that the Virginia Association of Surveyors was there and expressed concern over whether or not the maps generated by VGIN were legally acceptable for more than just planning. She noted that there was a disclaimer on the maps that they were for planning purposes only and she questioned if communities were using the VGIN maps inappropriately. She noted that a Delegate in attendance noted he would like to see the maps being generated used in farming.

Mr. Bruguere:

Mr. Bruguere noted he thought that the aerial maps being generated could be being done in violation of one's personal property rights. Ms. Brennan noted she did not think these VGIN

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maps were doing that and his concern was more related to the use of drones. Mr. Carter noted that these digital maps were accessible and the County used them.

Mr. Saunders:

Visited Gladstone Fire and Rescue with Mr. Harvey to discuss their issues and answer questions.

Mr. Hale:

Attended an EDA meeting along with Mr. Saunders with the purpose of working to sort out the maintenance issues of Calohill Drive.

Attended a meeting with Grant Massie and Mr. Bruguere on solid waste and noted that the County would have two tire amnesty days on July 16th and July 23rd. He advised that they would take a maximum of twenty-five car tires less than 20 inches in size per citizen and it was on the website.

Reported that tours of the Blue Ridge Tunnel had been given and there was a lot of interest there. He added that the tours filled up quickly and there was a waiting list so he suggested doing more of these in September, October, and November. He advised that those that went on the tours provided a donation to the Blue Ridge Tunnel Foundation. Supervisors agreed by consensus that the tours should continue and it was noted that these had been led by Emily Harper and Mr. Hale as well as some others. He then noted that most of the tour-goers were from Waynesboro, Stuarts Draft, and Crozet and each had made a \$10 donation. He noted that the tours met at 10:00 am and were one and a half hours long.

Mr. Carter then reported that there were videos from people that came in to the trail off of the tracks through the West side and then of them going through the pipes within the tunnel and out of the other side. He added that the videos were out there on the Internet.

Reported working with the Temporary Events Permits working group and noted they hoped to have it ready by the next Board meeting. He added that they were working on honing it down to only necessary things such as clarifying issues and making the fees in line with the amount of work required.

Mr. Bruguere reported working on the Floodplain Ordinance and issues. He added that they would be clearing up some things with DHR and it would most likely come to the Board the following month.

Mr. Harvey:

Attended the meeting in Gladstone with Mr. Saunders and noted he hoped they were working things out.

Attended the Service Authority meeting which was standard.

B. Appointments

Ms. McGarry reviewed the following table regarding board and commission appointments:

<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term & Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointment</u>	<u>Applicant (Order of Pref.)</u>
Board of Building Appeals	6/30/2016	4 Years/ No Limit	Shelby Bruguire	N	None
			Steven C. Crandall	Y	None
			Kenneth H. Taylor	Y	None
N.C. Service Authority Board - South	6/30/2016	4 Years/ No Limit	Edward Rothgeb - S	N	Gary L. Sherwood
JABA Advisory Council	12/31/2015	2 Years/ No Limit	David Holub	N	Mary S. Cunningham
JABA Board of Directors	7/15/2016	2 Years/ No Limit	Diane Harvey	Y	None

Board of Building Appeals:

Mr. Harvey moved to re-appoint Mr. Crandall and Mr. Taylor and Mr. Bruguire seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Nelson County Service Authority:

Mr. Saunders asked that this appointment be deferred as he had not yet spoken with Mr. Sherwood.

JABA Advisory Council:

Ms. Brennan moved to appoint Mary Cunningham to the JABA Advisory Council and Mr. Bruguire seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

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JABA Board of Directors:

Ms. Brennan moved to re-appoint Diane Harvey and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

C. Correspondence

There was no correspondence considered by the Board.

D. Directives

Mr. Harvey had no directives.

Ms. Brennan:

Ms. Brennan noted she would like the County to better communicate with the public and she directed staff to think about what could be done besides Internet use or the newspaper. She suggested the possible use of the Reverse-911 system. Mr. Carter advised that citizens could sign up for alerts through the County's website and he suggested that the Board consider conducting town hall meetings.

Ms. Brennan noted she was worried about people coming through the fence at the Blue Ridge Tunnel and she questioned the County's liability. Mr. Carter advised that this was considered trespassing so there was less grounds for liability. He added that the property was posted and any lawsuits would be made in Circuit Court. Mr. Hale then noted that the greater risk was people trespassing on the active line and Mr. Harvey suggested that the Railroad should be pursuing this.

Mr. Saunders:

Mr. Saunders noted to the Sheriff in attendance that he had a concern with farm use tags on vehicles out on the road. He noted that these did have to have insurance and he wanted to see some enforcement of that. He added that use of these tags began with the right purpose in mind. Mr. Hale noted that he observed writing on vehicles instead of tags and he supposed enforcement of this would be detrimental to the Sheriff's re-election.

Mr. Bruguere:

Mr. Bruguere inquired of the Sheriff in attendance his thoughts on the use of body cameras by his department. Sheriff Hill noted that they had looked into these and they were pretty expensive; however they had a sales representative come in. He advised that they did have patrol car cameras in most of their cars and recently had to troubleshoot and fix some issues. He noted some of it was related to networking and it had been worked out with Andrew Crane. Sheriff Hill then noted that that the body cameras ranged in cost from \$600 to \$1500 per camera and outfitting each deputy (3-6 per shift) would cost a lot of money. He noted

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that they may be able to use Asset Forfeiture funds for this in the future and he did think they would be an added benefit and would be helpful in evaluating complaints. He added that it would be protection for them and the community. He related that some cameras showed a certain degree of viewpoint and even past that of human peripheral vision. Sheriff Hill then advised that the lifespan of the current patrol car cameras installed in 2014 was about a year and these were \$3,000 each to replace.

Mr. Harvey noted that he had attended a session at the VACO conference on body cameras and they said that the last thing needed was these cameras. He noted that the speaker was from Henrico County and he had advised that there were so many things to consider policy-wise and he would be a good person to talk to. Staff noted that they could possibly forward this 2015 session information to the Sheriff. Sheriff Hill then noted he was concerned about having to buy the software updates as well for the cameras. He noted that he would want the in-car cameras and the body cameras to be in sync with each other so that they could capture two dimensions.

Sheriff Hill then reported that on August 1, 2016 a former Department of Game and Inland Fisheries Officer would be joining them and he would not need training. He also noted that new hire Zach Clarkson was in the Police Academy and would be ready to go in December.

VIII. Adjournment – No Evening Session Will Be Held

At 4:25 pm, Mr. Harvey moved to adjourn and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

**RESOLUTION R2016-51
AMENDMENT OF FISCAL YEAR 2016-2017 BUDGET
NELSON COUNTY, VA
August 9, 2016**

BE IT RESOLVED by the Board of Supervisors of Nelson County that the Fiscal Year 2016-2017 Budget be hereby amended as follows:

I. Appropriation of Funds (General Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 598.00	3-100-009999-0001	4-100-022010-5419
\$ 1,267.00	3-100-003303-0008	4-100-031020-7046
\$ 141.00	3-100-009999-0001	4-100-031020-7046
<u>\$ 258,386.00</u>	3-100-009999-0001	4-100-093100-9206
\$ 260,392.00		

II. Transfer of Funds (General Fund)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 5,500.00	4-100-999000-9901	4-100-032020-5647

III. Appropriation of Funds (School Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 258,386.00	3-205-004105-0001	4-205-066100-9305

IV. Appropriation of Funds (CDBG Fund)

<u>Amount</u>	<u>Revenue Account</u>	<u>Expenditure Account</u>
\$ 50,422.00	3-503-003201-0013	4-503-094720-9114

Adopted: August 9, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

EXPLANATION OF BUDGET AMENDMENT

- I. The **General Fund Appropriation** reflects an appropriation request by the Commonwealth Attorney for asset forfeiture funds in the amount of **\$598** for out of town witness expenses. Also included is a total request for **\$1,408** which is \$1,267 from the Byrne Justice Assistance Grant program and the required local match of \$141. This grant may be utilized by the Sheriff's Department for various types of law enforcement expenses. Also included is an appropriation of an additional transfer to the School Fund in the amount of **\$258,386** for priority school improvement projects which represents FY15 unexpended balance that was appropriated to the School Division in FY16 but not fully expended. The amount not expended is now requested for re-appropriation.

- II. The **Transfer of Funds** reflects a **\$5,500** request from the EMS Council relative to Gladstone Fire & Rescue. The base funding for this agency was included in the budget request as a single fire-only agency. However, per the recent request the agency should have been entitled to receive an additional \$5,500 in base funding. After this request, \$1,628,438 remains in the General Fund Contingency of which \$966,038 is recurring revenue.

- III. The **School Fund Appropriation** reflects a transfer from the General Fund in the amount of **\$258,386**. The funding indicated as unexpended in FY15 was appropriated in FY16 for capital projects and the unexpended portion is now requested for re-appropriation in FY17. It is anticipated that project work will be completed and paid in FY17.

- IV. The **CDBG Fund Appropriation** reflects funding for the Broadband expansion project. It was originally anticipated that the project would be completed in FY16. However, the project grant balance of **\$50,422** is now requested.



Thomas Jefferson Planning District Commission
 POB 1505, 401 E. Water St, Charlottesville, VA 22902 www.tjpd.org
 (434) 979-7310 phone • (434) 979-1597 fax • info@tjpd.org email

Memorandum

To: Nelson County Board of Supervisors
 From: Wood Hudson, Sr. Planner, TJPDC
 Date: August 4th, 2016
 Re: Update on the Rockfish Valley Area Plan

Purpose: Nelson County staff and staff from the Thomas Jefferson Planning District Commission are working towards developing an area plan for the Rockfish Valley. Currently, the project team is wrapping up Phase 1 of the project (Area Analysis & Community Engagement). Members of the project team will present to the BOS a summary of progress to date; and will ask the Board for guidance on how to best finalize Phase 1 documents, and how to best initiate Phase 2 tasks.

Background: Initially begun in 2014, and reinitiated in 2016, the Rockfish Valley Area Plan is a joint long-range planning effort between Nelson County and the TJPDC. The planning effort has been broken into two phases, with Phase I concentrations focusing on an analysis of current conditions in the project study area; reviewing and summarizing existing plans and previous studies; and soliciting feedback from the community on their visions for the future of the Rockfish Valley. Phase II will focus on developing recommendations and strategies, based on findings from Phase I. This planning effort aims to identify the community's concerns, desires, and priorities and help facilitate short- and long-term goal implementation that strikes a balance between future growth and rural preservation.

Summary: Provided below is a summary of current deliverables, ongoing deliverables, and next steps. Links are provided to documents under the current milestones heading.

Current Milestones and Deliverables (Phase I):

Summary of Existing Plans: The Summary of existing plans provides a summary of plans and other relevant documents that have addressed aspects of the Rockfish Valley area. It includes such documents as the Comprehensive Plan, Green Infrastructure Plan, Economic Development Strategies and the 151 transportation corridor study. [*The "Summary of Existing Plans" report can be accessed here.*](#)

"Open House" Public Meeting: On June 28th the planning team held the first of two public meetings. The meeting was attended by approximately 125 members of the public. The meeting consisted of an open house with five topical comment stations manned by staff. Public comments were collected by way of interactive maps, posters, and comment cards. [*The June 28th Open House "Meeting Summary" can be accessed here. Meeting Materials \(posters\) can be accessed here.*](#)

Public Survey: The public survey was an effort to engage the community and solicit responses from the public about priorities, concerns, and values for the Rockfish Valley. The survey was made available online and in paper format from May 23rd to July 15th. 431 responses were submitted; 95% of respondents were from Nelson County. [*The Survey Summary can be accessed here. The Survey Written Comments can be accessed here. The Survey Questions can be accessed here.*](#)

SWOT Analysis: Comments from the Public Survey, Open House Public Meeting, and Stakeholder Interviews were consolidated, categorized, and analyzed. An evaluation of this public input, combined with evaluation of the existing Comprehensive Plan, were used to develop a list of strengths, weaknesses, opportunities, and threats as well as a list of action items for addressing them. [*A copy of the SWOT Analysis can be accessed here.*](#)

Asset Inventory: The asset inventory will specify and map all the Rockfish Valley's most valuable physical resources, features, and amenities. The community's assets represent some of the most important and relevant opportunities for maintaining a strong place-based local economy, and for maintaining and improving the local quality of life and sense of place. The Asset Inventory will focus on Green Infrastructure Assets (natural resources); Cultural & Historical Assets (community amenities); Infrastructure Assets (public services); and Intangible Assets. A copy of the Asset Inventory will be available on the project webpage when it is completed:

<http://www.nelsoncounty-va.gov/departments/planning-zoning/rockfish-valley-area-plan/>

Ongoing Tasks:

Zoning Permit Actions: The project team is working towards developing a set of maps and graphics that show the location and type of permitting actions (rezoning, special use permits, site plans, and conditional use permits) that have been granted in the Rockfish Valley.

Fiscal Analyses: The project team is working with staff from the Department of Tourism and Economic Development and the Commissioner of Revenue to develop a tax revenue and employment analysis for the Rockfish Valley.

Developable Lands Inventory: The project team is developing criteria for identifying developable lands in the Rockfish Valley. The mapping analysis is based on parcel size; parcel location and access to road frontage; and other barriers to development such as conservation easements, steep slopes in excess of 25%, and natural features such as wetlands and floodplains.

Next Steps (Phase II):

- Incorporate Board of Supervisors and Planning Commission feedback,
- Finalize SWOT Analysis,
- Conduct Code and Ordinance Review,
- Conduct second public meeting,
- Finalize planning report and strategic recommendations

Actions: No formal action is required. This item is included as a discussion item. If any members have questions about these items, please contact County staff or TJPDC staff at whudson@tjpd.org or at (434)-979-7310 x 320.

Please reference the project webpage, now and in the future, as project documents and announcements will be available:

<http://www.nelsoncounty-va.gov/departments/planning-zoning/rockfish-valley-area-plan/>

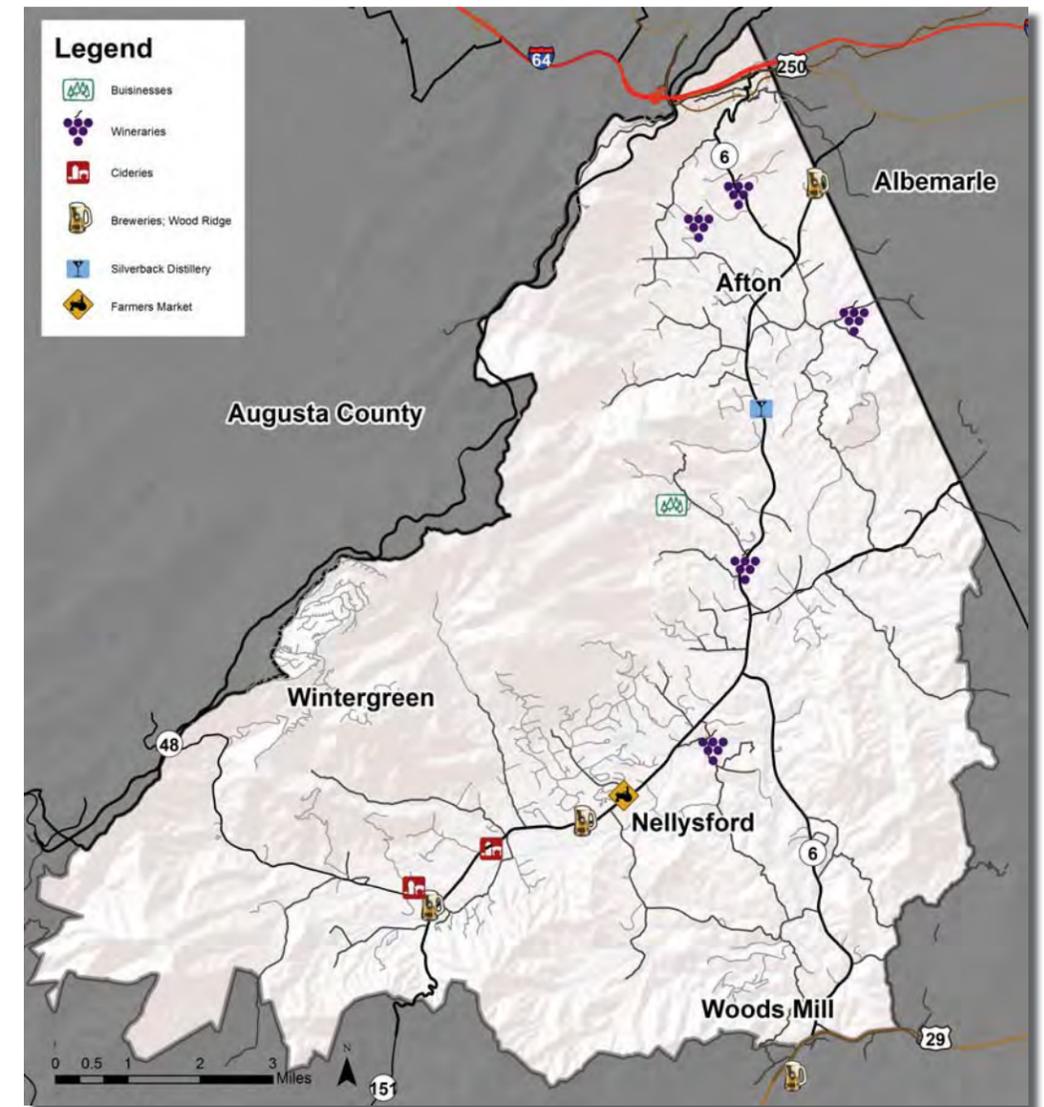


Overview

The Rockfish Valley supports a thriving agribusiness and agritourism economy, including numerous award-winning craft breweries, cideries, wineries, and a distillery. The area is also home to more traditional agricultural activities including orchards, raising cattle, the production of forage, crops, nurseries, and timber harvesting. The area's agricultural industry and landscapes help to define the authentic rural character that is such an important part of the community. Working farmlands also benefit the region by protecting open spaces and natural habitats, and providing recreation opportunities for hunting, fishing, and hiking. Most agricultural activities in the area are concentrated in the valley floors, where the flattest and most fertile agricultural land can be found. Further up slope, agricultural lands transition from fields and pastures to orchards and vineyards, which benefit from the rocky soil, cooler temperatures, and desirable solar aspect.



Agritourism Destinations

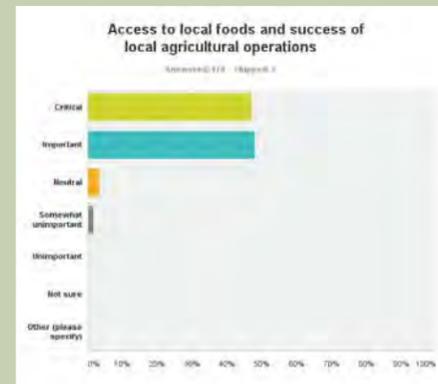


Facts and Figures

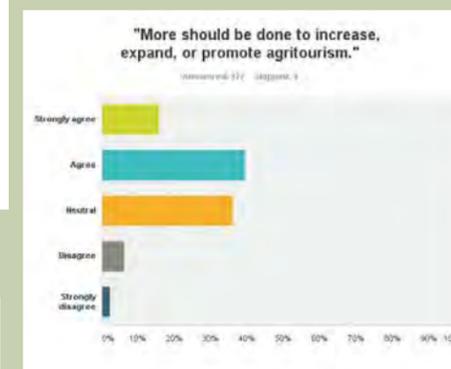
- Amount of land in agriculture: 8,243 acres (13%)
- Total value of agricultural products sold: \$15,807,000 (Countywide)
- Total value of livestock: \$5,430,000 (Countywide)
- Cattle: \$4,785,000 (Countywide)
- Total value of crops: \$10,377,000 (Countywide)
- Fruits, tree nuts and berries: \$463,900 (Countywide)
- Timber Harvest Value: \$2,845,360 Ranked 29th in the state (VDOF 2012)



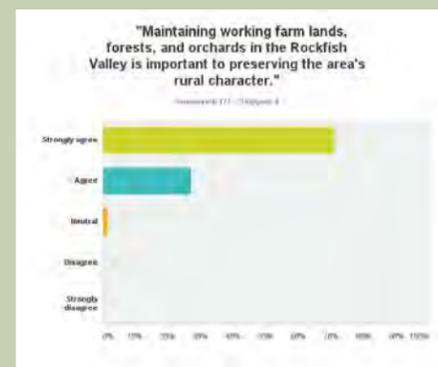
Public Survey Results: What is the community saying about Ag? Do you agree with the results of the survey?



Over 90% of respondents said local foods and local ag are important.



55% of respondents were supportive of more agritourism.



Over 95% of respondents agreed that working agricultural lands are important to the area's character.

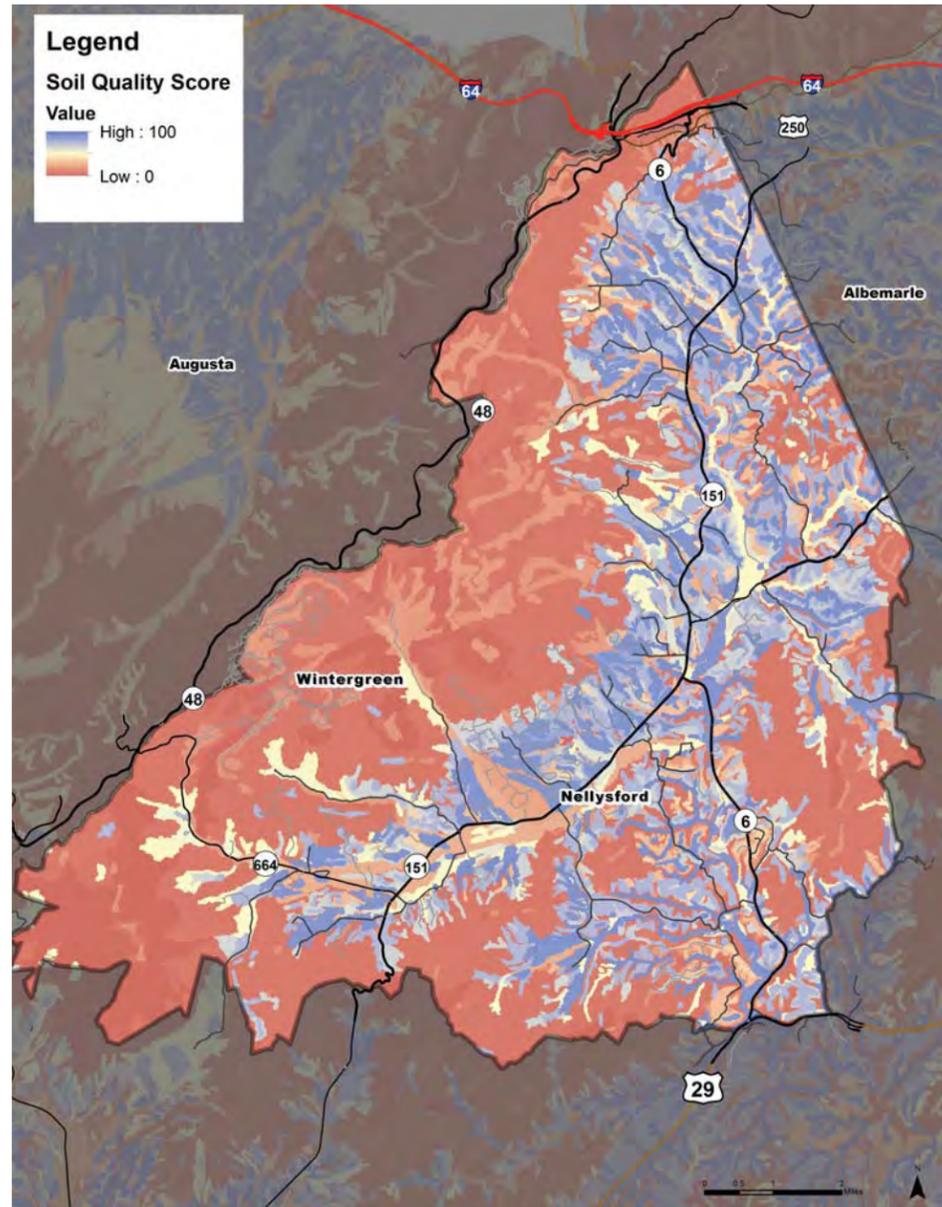


Agriculture

The Rockfish Valley's authentic agricultural heritage is an essential element of the area's sense of place. Traditional agriculture and the growing agritourism industry are vitally important components in the local economy.

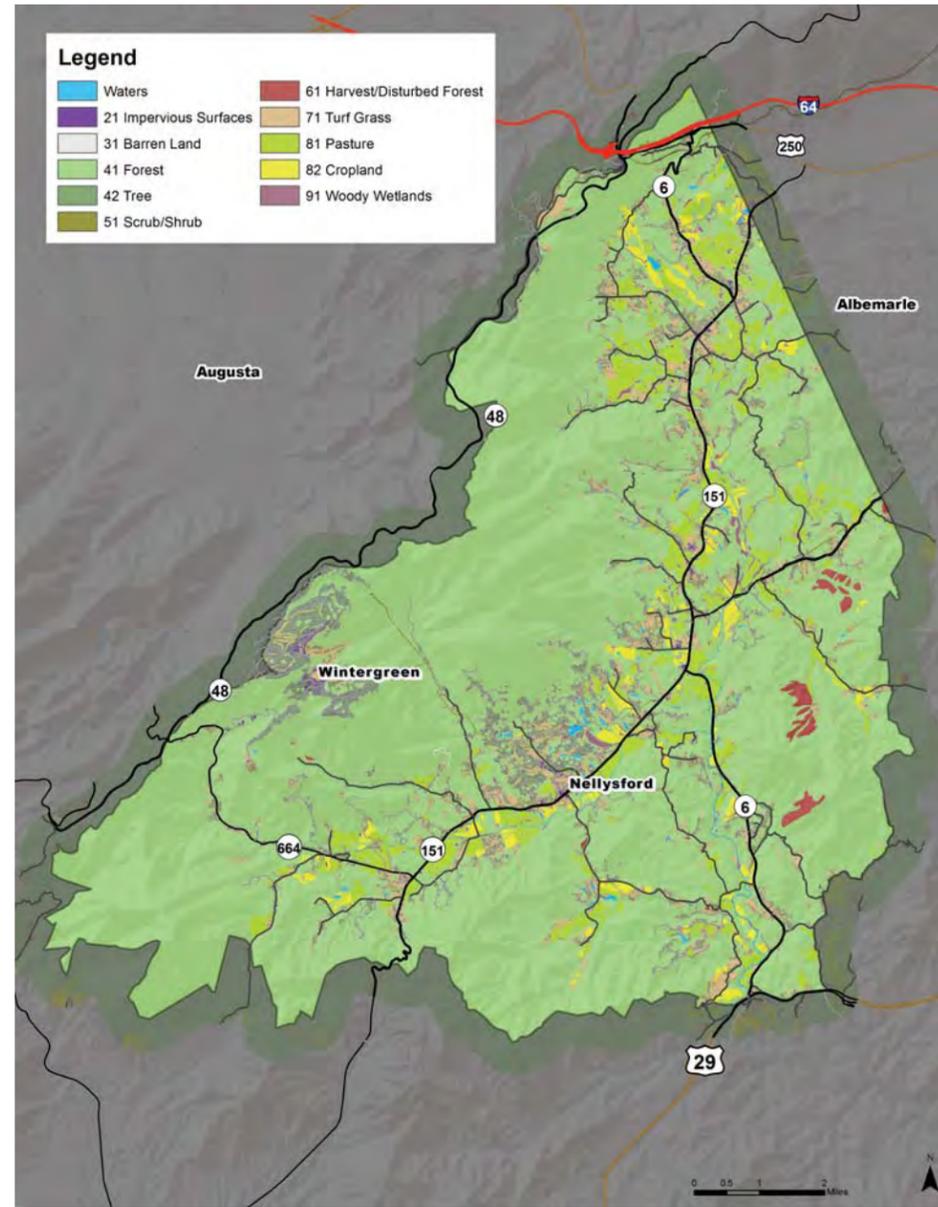


Soil Quality



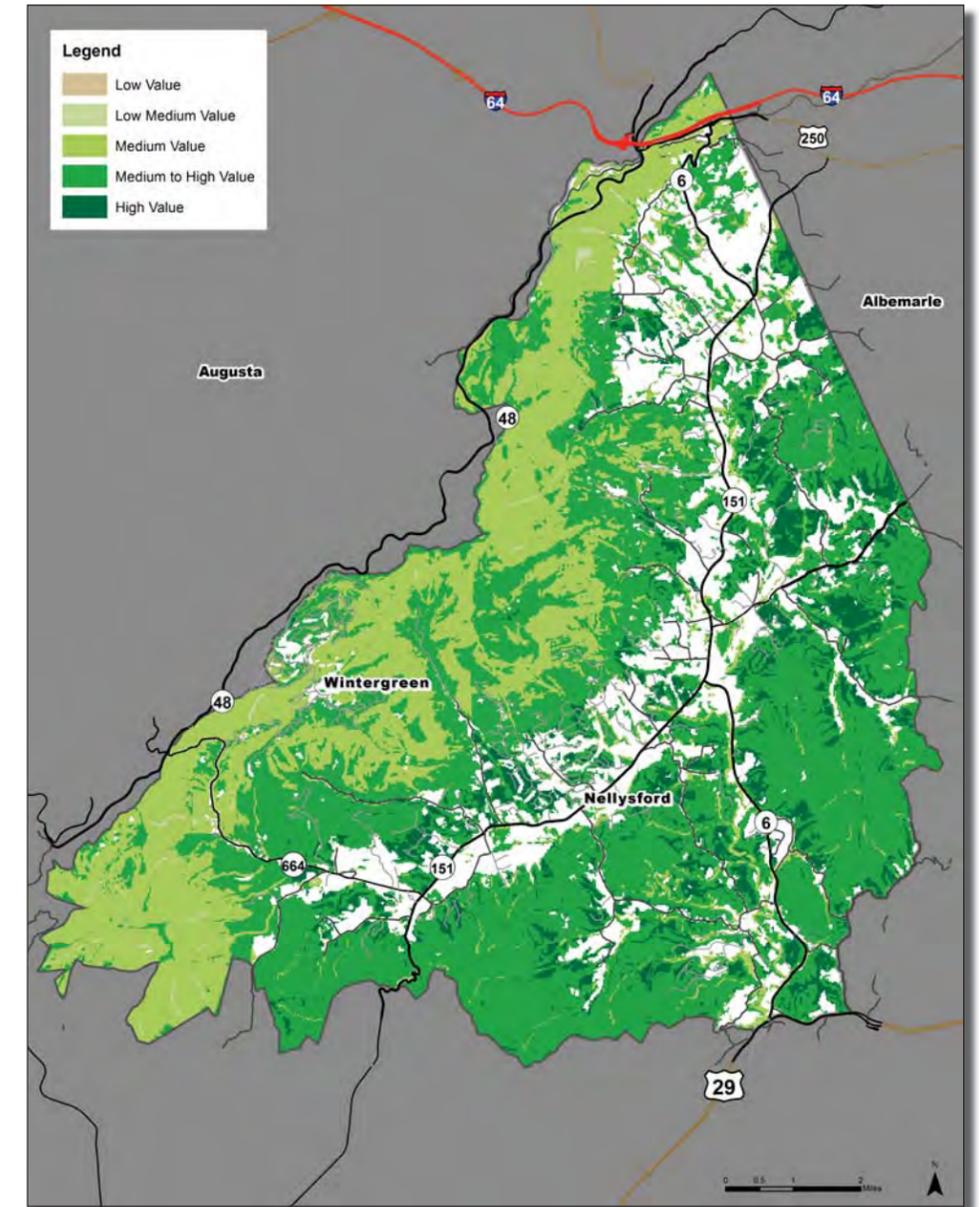
The Soil Quality Index is a map produced by the Department of Conservation and Recreation. The dataset combines several factors relating to soil quality for agricultural uses. These include prime agricultural soils, the threat of flooding, soil type, and terrain. The index scores range from 100 (optimal) to 0 (unsuitable for agriculture). This map demonstrates that high-quality soils are primarily concentrated along streams and river bottoms.

Land In Agriculture



This map uses the Virginia statewide land cover dataset to highlight different types of land cover (i.e. forest, pastures, and cropland) across the Commonwealth. This map highlights where agricultural land uses are occurring in the study area. Most of the agricultural land uses are located in the valley bottoms in close proximity to areas of growth and development, which are represented as impervious surfaces.

Forest Economics Model



The forest economics model was developed by the Department of Conservation and Recreation and the Department of Forestry to highlight forest lands with economic value. The data classifies forest blocks into five values ranging from high to low. Forest value was determined based on a combination of environmental and access factors. The dataset can help guide land management and planning decisions by highlighting which areas of forest have a high economic value.



Overview

Several plans and studies have included the Rockfish Valley, but very few have specifically focused on the study area as this Area Plan attempts to do. Previous plans - including the 1972 and 2002 Nelson County Comprehensive Plans - recognized the area's unique attributes, but provided only a limited roadmap for the community's future growth and development. Other plans and studies include the Route 151 Corridor Study (2013); the Nelson County Green Infrastructure Plan (2010); the Rockfish Valley Corridor Water and Sewer Study (2002); the Region 2000 Water Supply Plan (2011); the TJPDC Regional Bike and Pedestrian Plan; Nelson County's Broadband Project Plan, Economic Development Authority Plan, and DRIVE Tourism Plan; and the VA Tourism Plan (2013) and VA Outdoors Plan (2013).

Facts and Figures

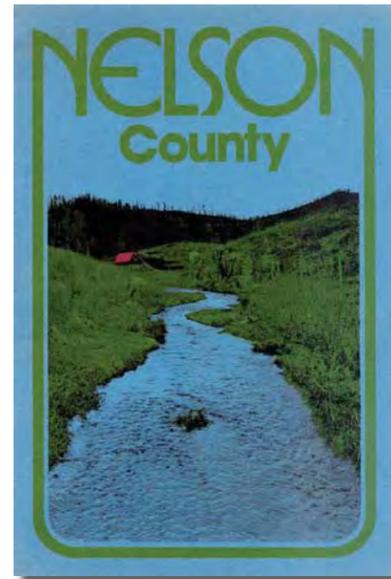
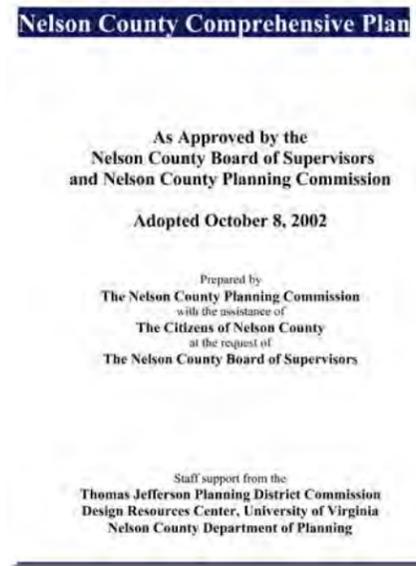
- Current Zoning Map: adopted in 1977 (as amended)
- Current Comprehensive Plan: adopted in 2002
- Study Area Population Density: 32 persons per acre
- Median Age of Residents in Study Area: 51
- Median Income of Residents in Study Area: \$57,230
- Properties on the National Register of Historic Places: 5



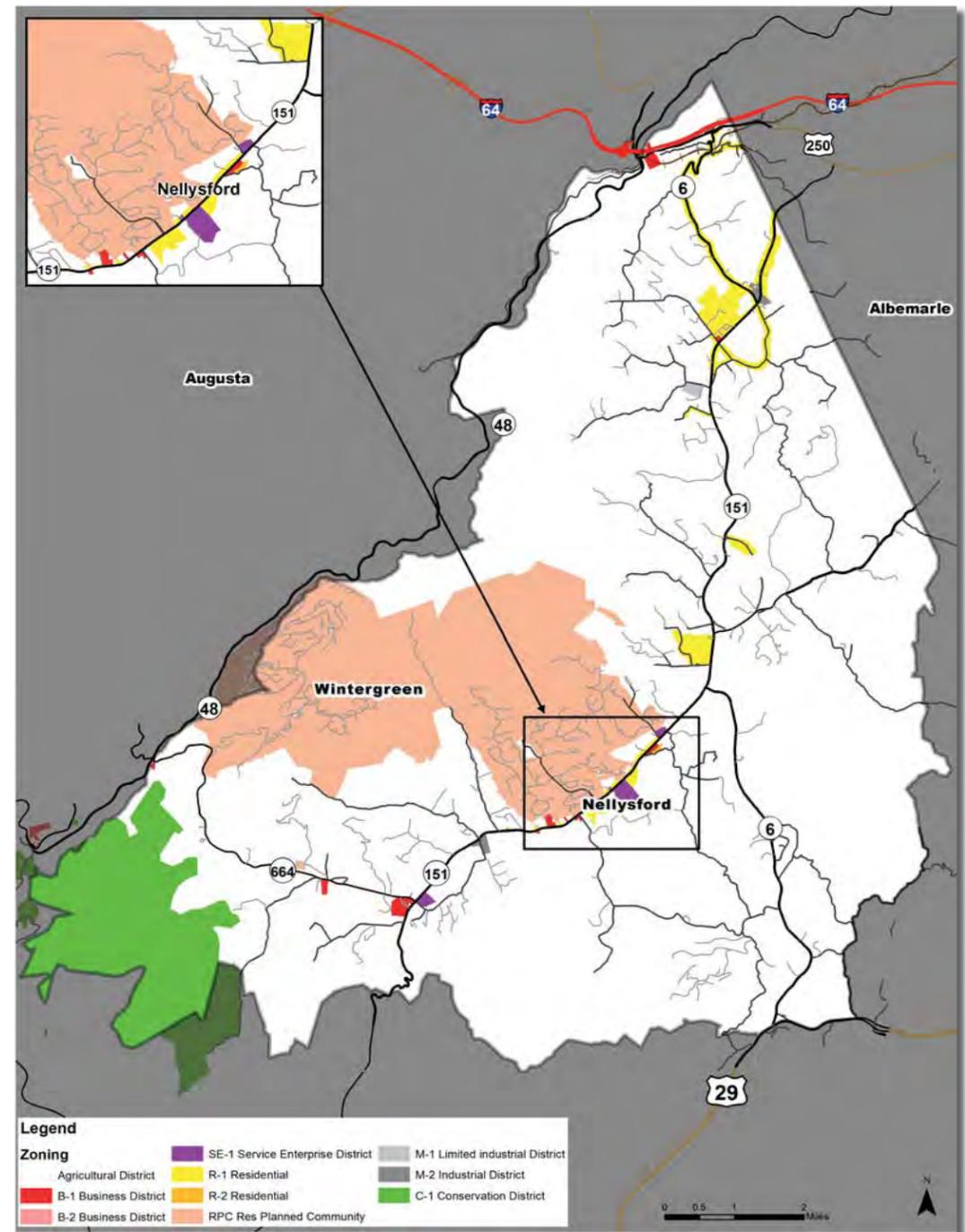
Next Steps

Planning policies and land use regulations are the two main tools that are available to local governments for shaping a community's current and future conditions. As a result, they are the overriding elements that have the ability to impact all the other topic areas. Upcoming Area Plan tasks include a review of existing zoning codes, ordinances, and relevant comprehensive plan sections; and recommendations for possible updates.

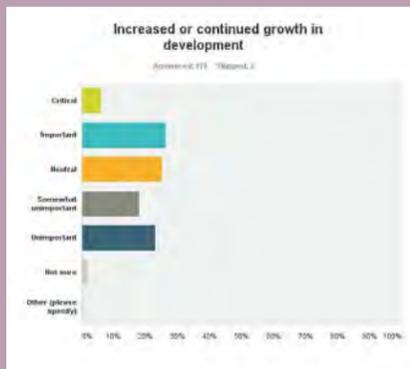
Previous Plans & Existing Studies



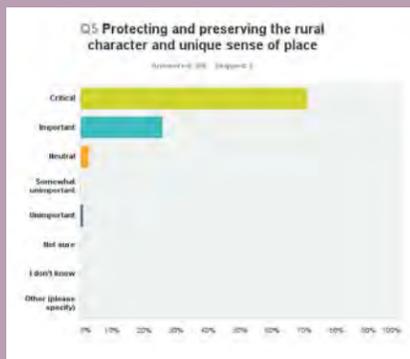
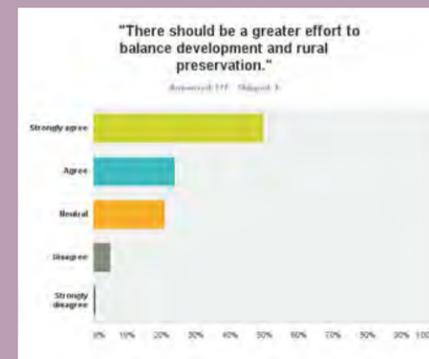
Nelson County Current Zoning Map



Public Survey Planning: What is the community saying about Planning? Do you agree with the results of the survey?



A question about the importance of continued increased growth produced widely mixed responses.



Over 70% said it is critically important to preserve rural character; and over 70% agreed on the need for greater efforts to balance growth and preservation.

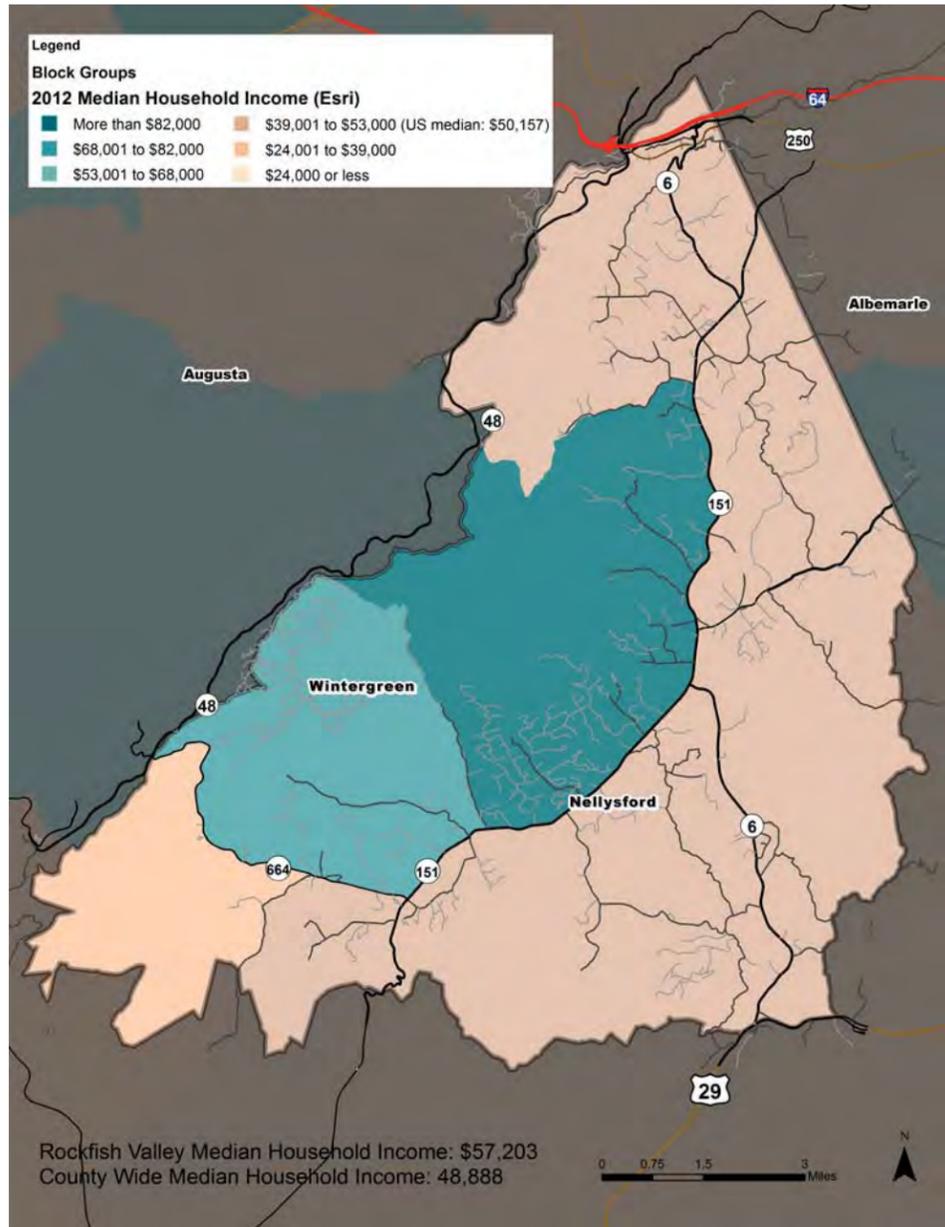


Community

Community needs should reflect the short-term and long-term goals of the local residents. To better understand a community's current trends and issues, it is important to look at demographic data such as age, income, and employment.

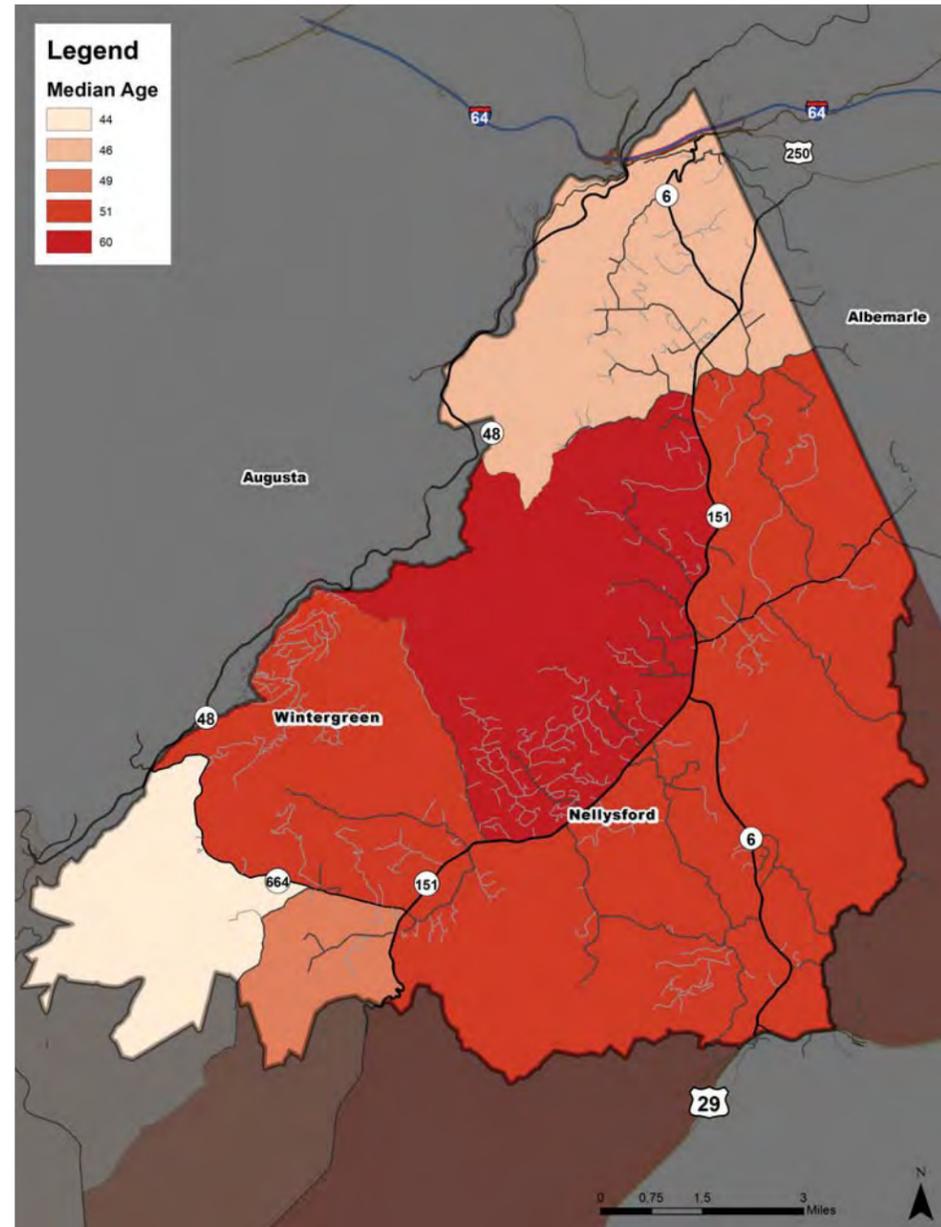


Median Income



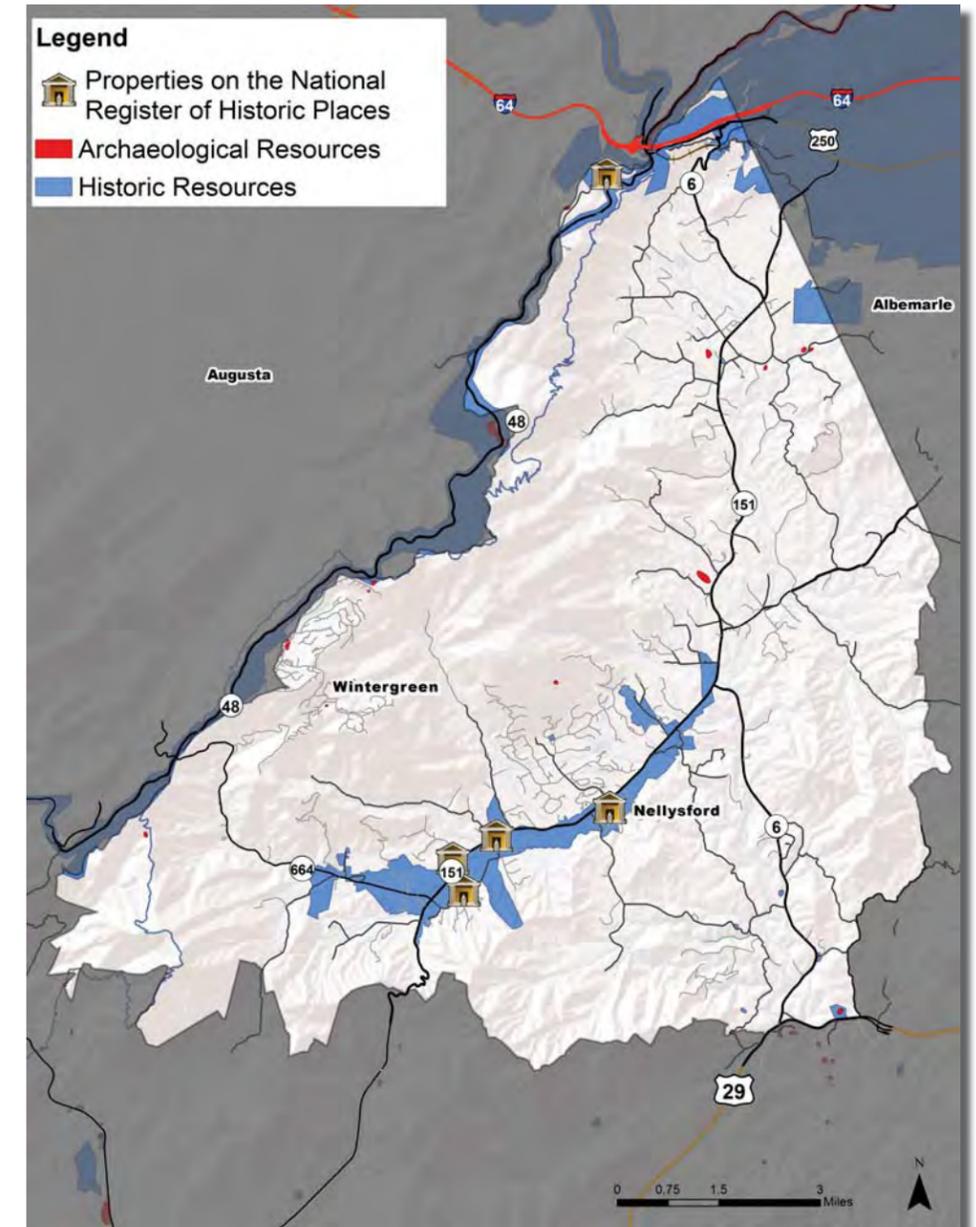
Mapping median income provides a view of how income and poverty are distributed across the study area. It provides guidance for which parts of the community might need more services, or which areas might benefit from strategic investment and employment opportunities. This data source is the US Census American Community Survey 2012.

Median Age



Mapping median age illustrates how a community is aging. It is especially useful for identifying what types of resources a community might need over the mid-term, and where; for example, more nursing homes or more playgrounds for a given location. The median age in the area is 51, which is higher than the state average of 37. The highest median age is 59, which is found in the Nellysford area.

Historic Resources



Mapping historic resources provides a better understanding of how resources individually and collectively contribute to cultural landscapes and a sense of place. This data source is the Virginia Department of Historic Resources, and includes the location of properties listed on the National Register of Historic Places as well as others deemed to be eligible or historically significant.



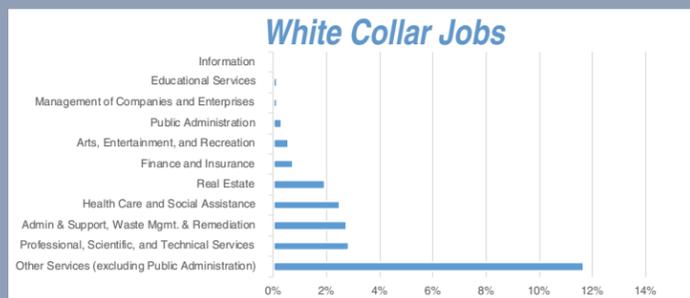
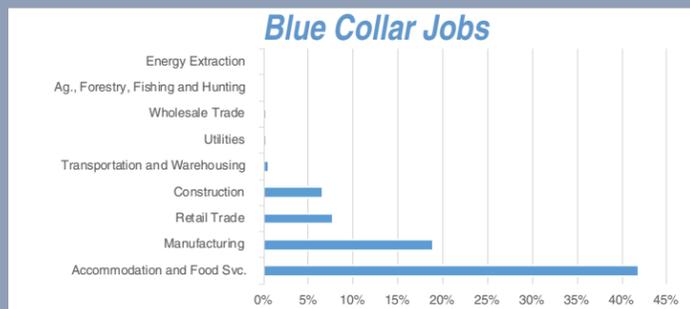
Overview

The economy of the Rockfish Valley is interconnected with its natural beauty and rural identity. The stunning vistas, ag heritage, and outdoor destinations attract a significant number of tourists and vacation home owners. Of the 1,593 jobs in the area, the largest proportion (40%) are in the accommodation and food service industry. The largest entities are Wintergreen Resort and the area's agribusiness sector, which includes numerous world-class breweries, cideries, wineries, and distillery. The vast majority of businesses have located on the 151 corridor, with concentrations in Nellysford, Afton, and Wintergreen. The area has a daily out-commuting pattern for employment, with area residents' destinations including Albemarle County (18%), Charlottesville (12%), Augusta (4%) and Waynesboro (3%).

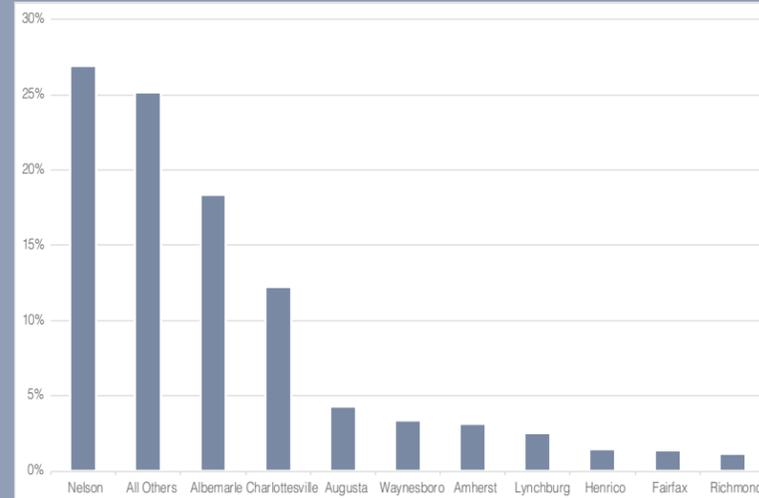
Facts and Figures

- Median Household Income in Nelson County: \$48,888
- Median Household Income in Study Area: \$57,203
- Population in Study Area: 7,749 people
- Population Density in Study Area: 32 persons per square mile
- Unemployment Rate: 3.4%

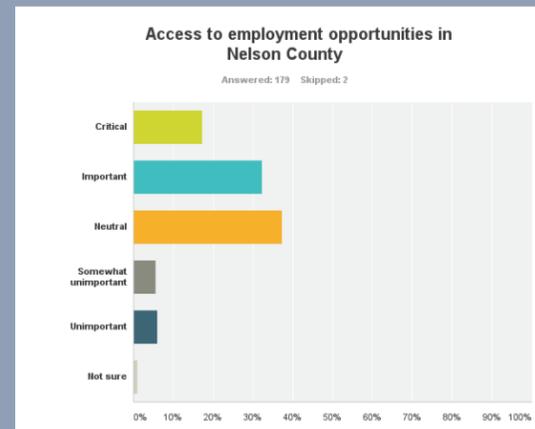
Employment by Sector



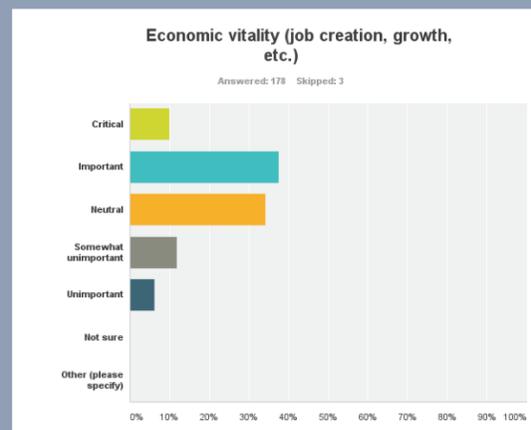
Commuting Destinations



Public Survey Results: What is the community saying about the Economy? Do you agree with the results of the survey?

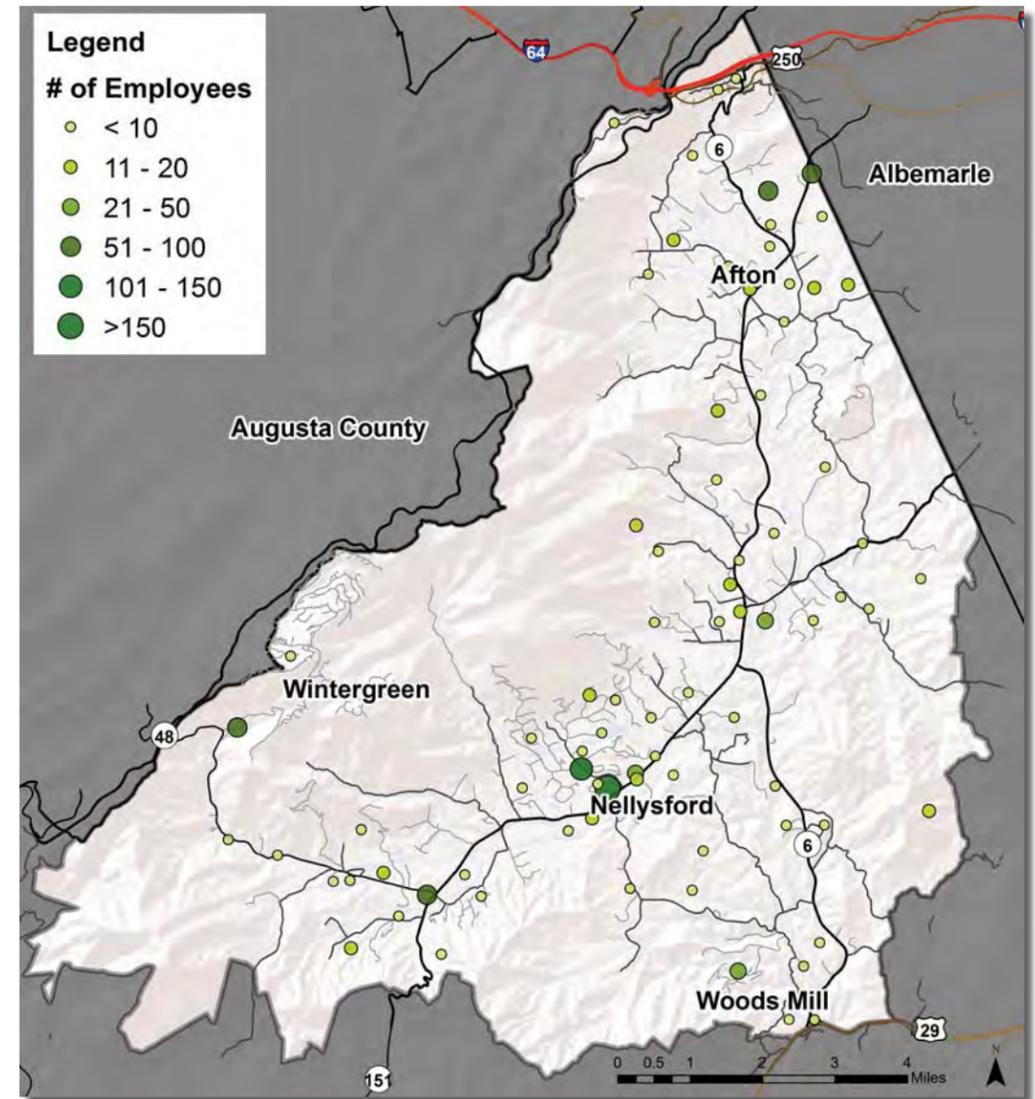


Approximately 50% said access to employment in Nelson County is important; while 35% said they are neutral on that issue.



Approximately 45% said economic vitality in the Rockfish Valley is important; while over 30% said they are neutral on that issue.

Employment Numbers by Location

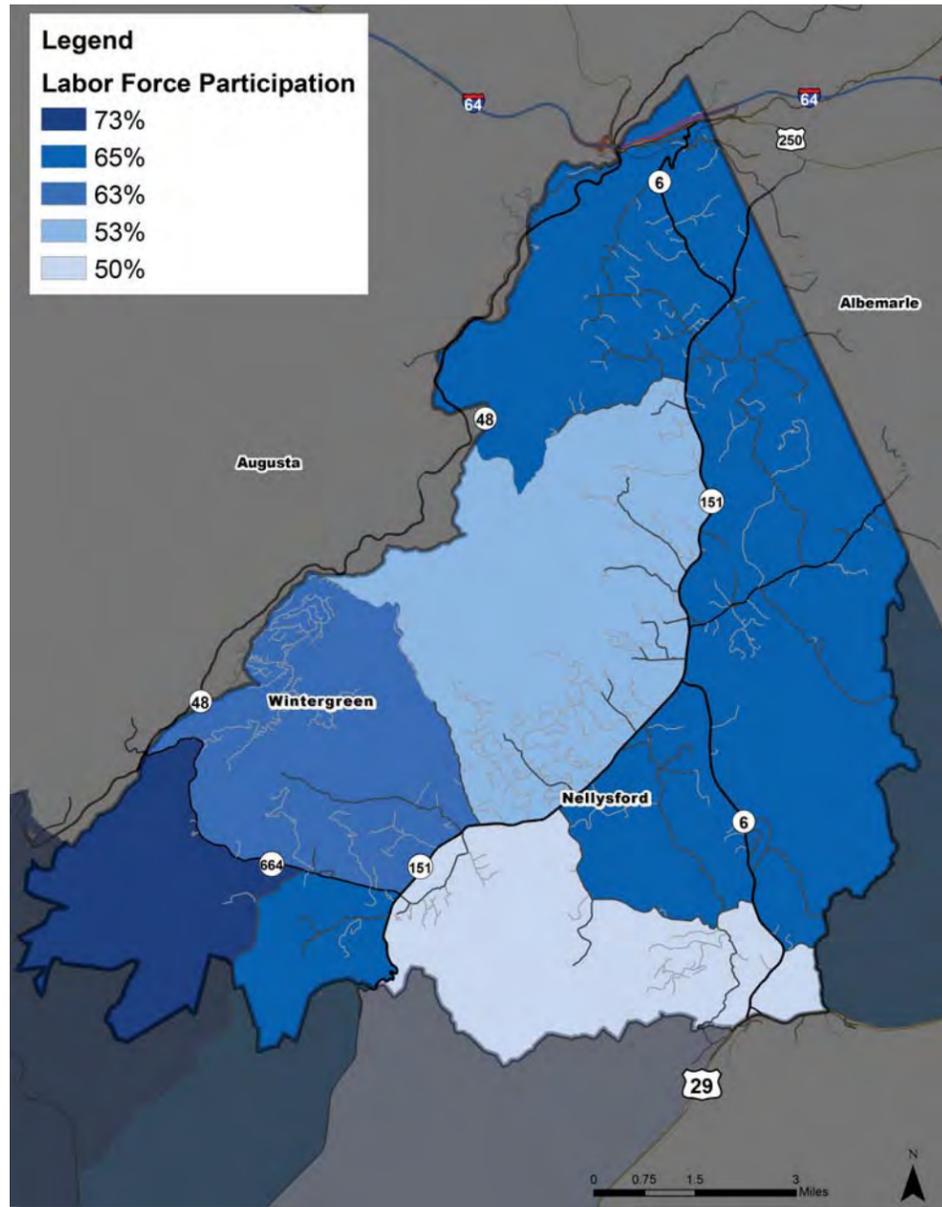


Economy

The Rockfish Valley is a vibrant, economically diverse area with numerous local family-owned businesses and successful entrepreneurs. The area supports a thriving agribusiness, agritourism, and resort tourism economy while maintaining its authentic rural character.

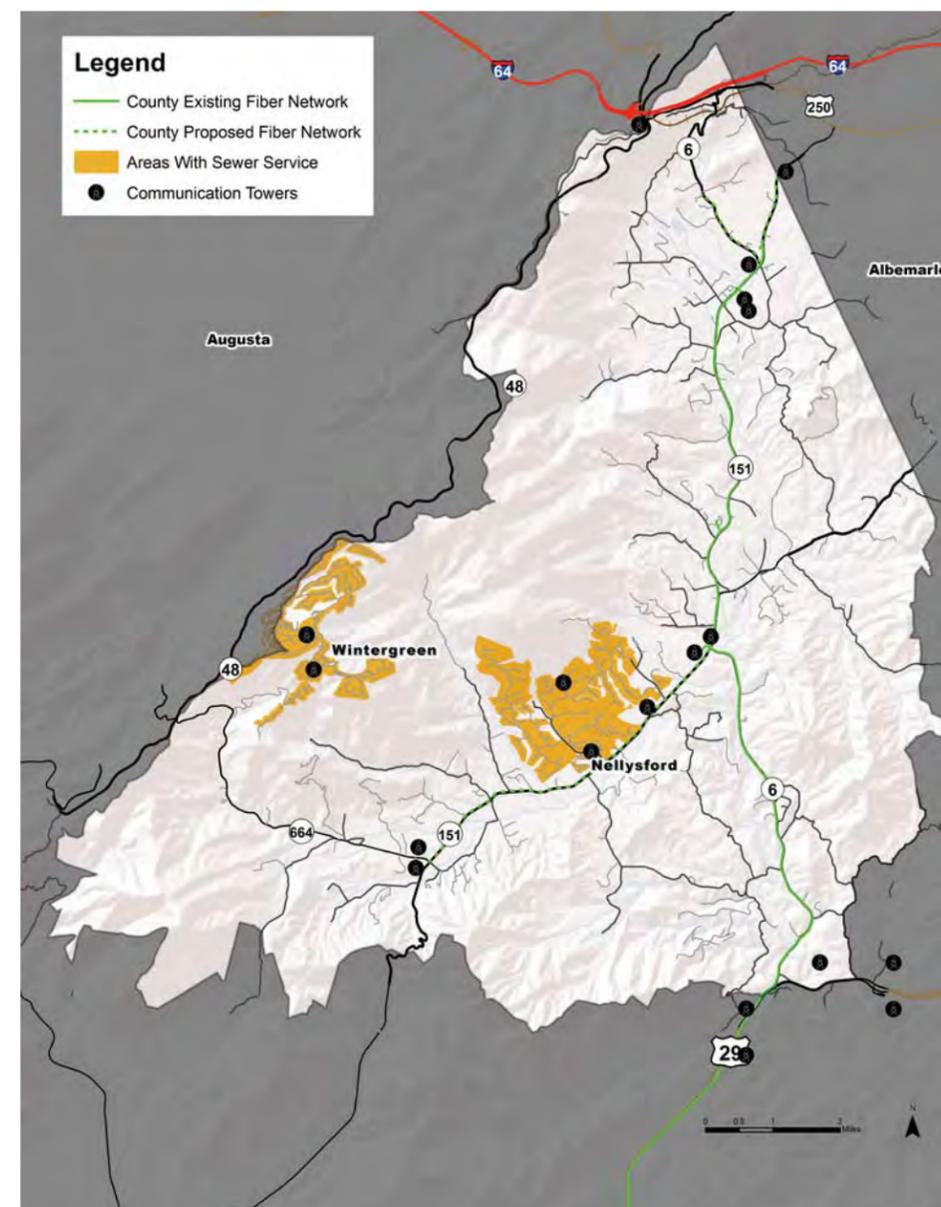


Labor Force Participation



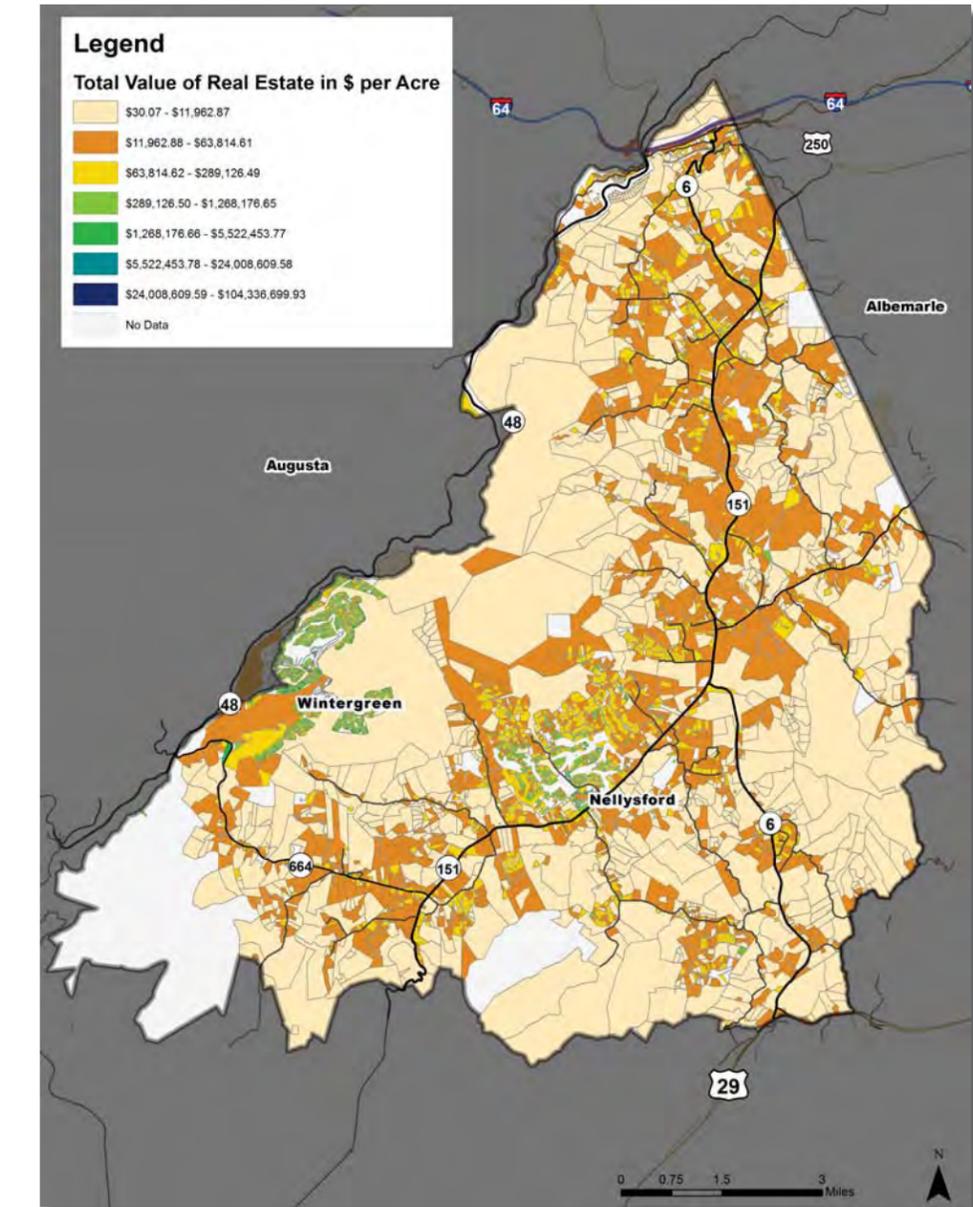
This map looks at the percent of the population 16 years and over that is participating in the labor force. This measure is an indication of areas with high unemployment rates; areas with concentrations of people who have dropped out of the labor force due to disability or long-term unemployment; and concentrations of people who are not participating because they are full-time students or retired. The state average participation rate is 66.4%

Utility Availability



This map highlights major utility availability in the area. Access to utilities is an important factor for new and existing businesses. Access to water, sewer, broadband, and other utilities also benefit residents by: reliably providing safe, clean drinking water; reducing water quality impacts from sewage; and providing broadband internet for education and teleworking.

Value of Real Estate



This map highlights the distribution of real estate values in the Rockfish Valley expressed in total dollars per acre. This value includes both the underlying land value and the value of any improvements, such as dwellings and other structures. Note: data was not available for all parcels; and the data does not represent a taxable value of real estate. Data was sourced from Nelson County assessor records from the first quarter of 2016.



Overview

The natural environment is a defining characteristic of the Rockfish Valley. The study area is defined by its stunning vistas, babbling brooks, misty mountain forests, and wild places. It is these natural features that have drawn many residents and tourists to the Rockfish Valley. These environmental resources also provide recreational opportunities on public and private lands. People are drawn to the area because of the access and proximity to the Blue Ridge Parkway, Appalachian Trail, and George Washington National Forest; and locals value the area's rural landscapes, working farms, and woodlots which maintain access to hunting and fishing opportunities. The study area is largely free of large-scale residential and commercial development such as what is found throughout neighboring counties. Most development in the study area fronts along the Routes 151, 6, and 664 corridors.

Facts and Figures

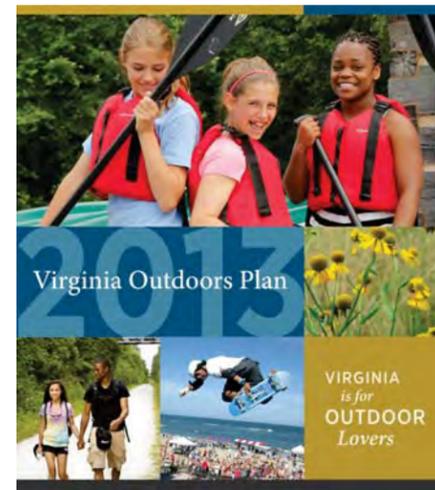
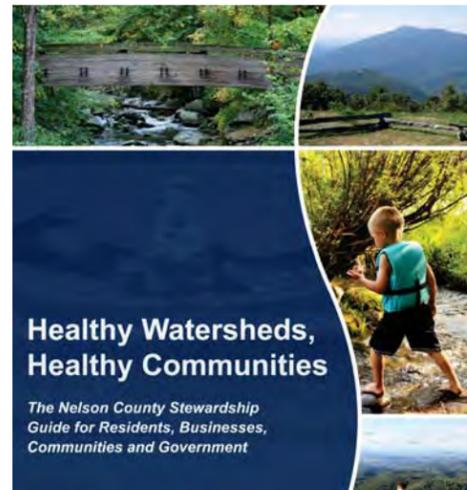
- Total conservation lands in study area: 37.5 square miles
- Total length of streams in study area: 171 miles
- Total area of wetlands in study area: 414 acres
- Total forest cover in study area: 86 square miles (83%)



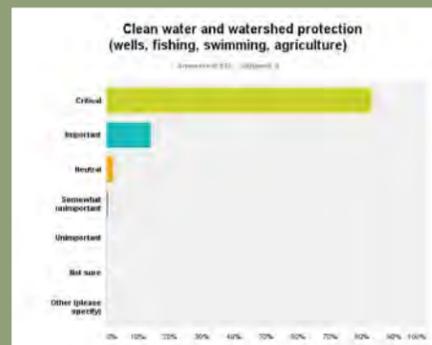
Current Recommendations

Several previous studies have focused on the Rockfish Valley's natural resources and environmental features. These include the Green Infrastructure Plan (2010), which evaluated environmental assets countywide, and which illustrated the value of conserving local natural resources while also sustaining existing local agricultural and timber industries. The Rockfish Valley was also featured in the statewide Virginia Outdoors Plan (2013), which highlighted the area's many outdoor recreation activities such as hiking, rock climbing, hunting, fishing, bird watching, winter snow sports, and cycling. The area's green infrastructure network and continued economic vitality are fundamentally interconnected.

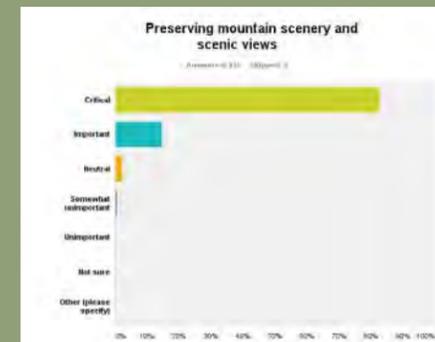
Previous Plans & Existing Studies



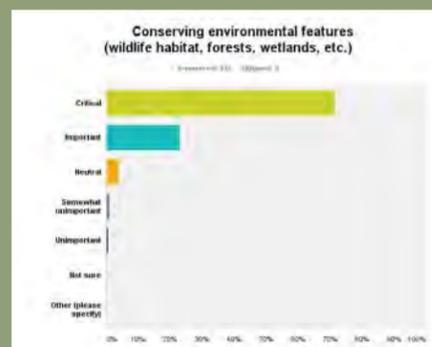
Public Survey Results: What is the community saying about the Environment? Do you agree with the results of the survey?



95% said clean water and watershed protection are important; over 80% said they are critically important.

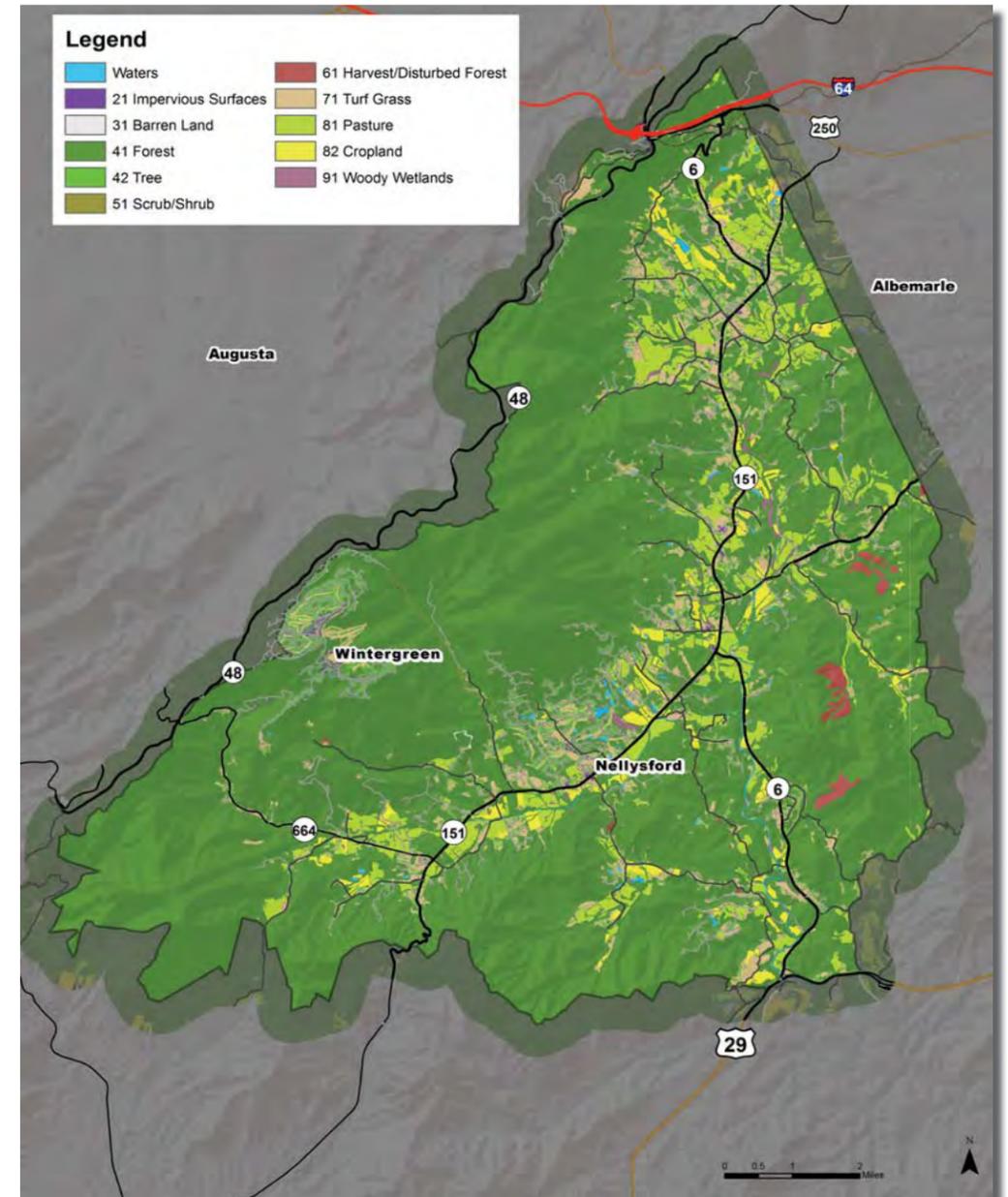


95% said scenic preservation is important; over 80% said it is critically important.



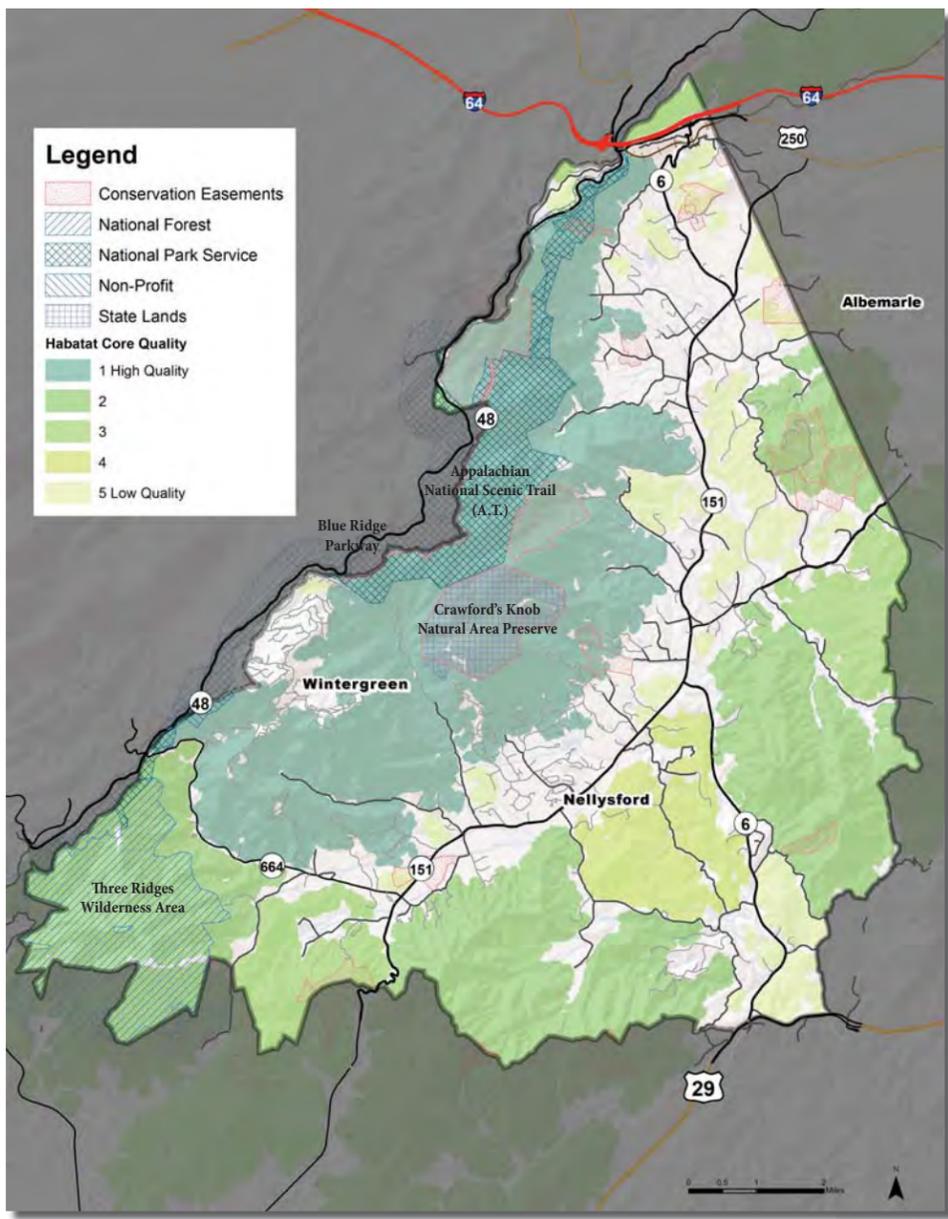
Over 90% said conserving local environmental features is important; over 70% said it is critically important.

Land Cover Map



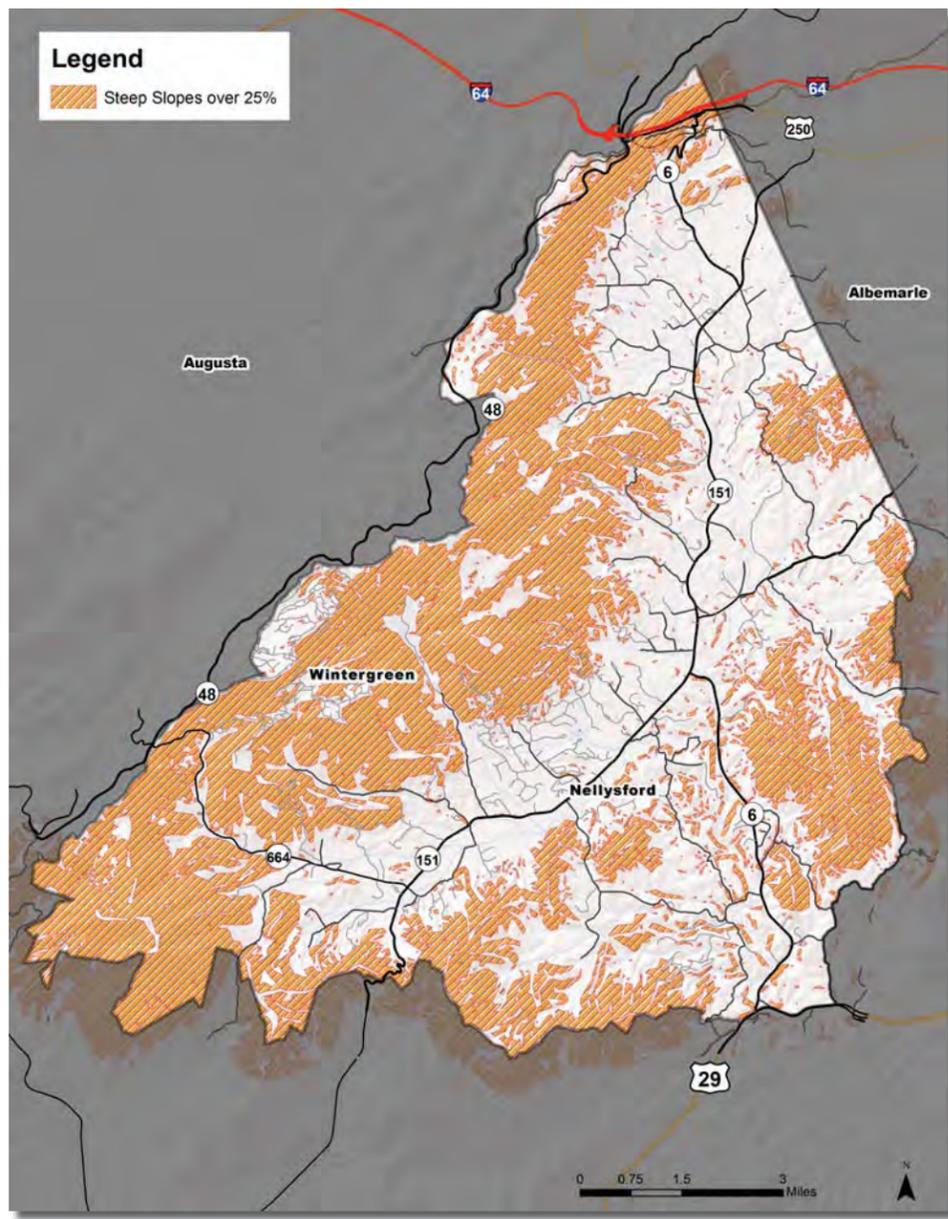


Conservation Land & Habitat Cores



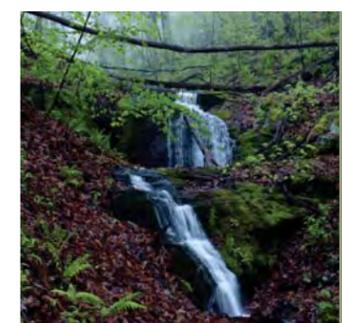
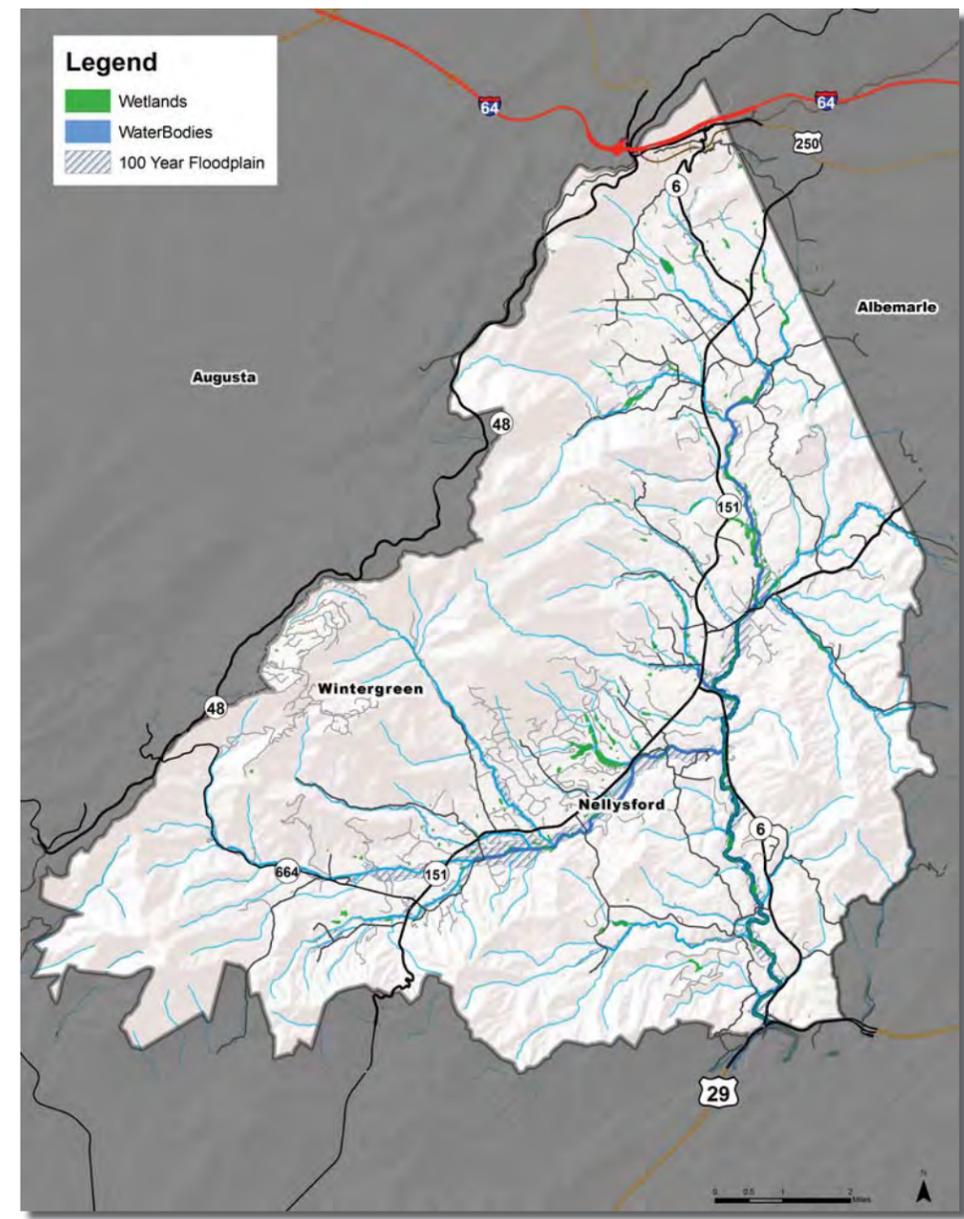
This map identifies the quality of natural landscape cores, as well as land in conservation easement or in public ownership (State, Federal, and nonprofit). These protected landscapes provide critical wildlife habitat and ecosystem services. They also provide recreation opportunities and act as a draw for tourists. Recreation activities like hiking, wildlife viewing, hunting and fishing, photography, and scenic touring have proven to create positive economic impacts.

Steep Slopes



Steep slopes are defined as land areas with slopes greater than 25% in grade. These slopes tend to be found at higher elevations in the study area. Land with steep slopes is more difficult to access and develop; and when developed, there are increased chances for erosion. Steep slope areas also represent some of the most important natural views and vistas in the study area, creating another reason to avoid development of steep slopes.

Streams and Wetlands



Streams, rivers, wetlands, and floodplains are vital components of the green infrastructure network. They provide residents with important ecosystem services such as aquifer recharge, water quality protection, a reliable source of safe drinking water, flood mitigation, and riparian habitat. They also create recreation opportunities for fishing and boating. Given the mountainous terrain of the study area, most wetlands and floodplains are in lower elevation river bottoms.

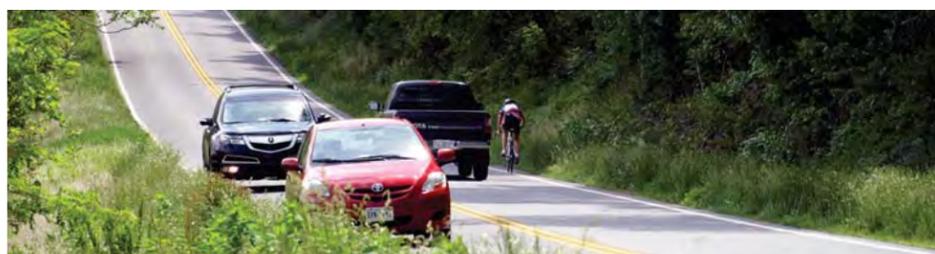


Overview

The transportation network in the Rockfish Valley consists of State-maintained rural routes and rural two-lane arterial highways. The major corridors are Route 151 (which runs north-south) and Route 6 (which runs east-west). Both routes are designated Virginia Scenic Byways; and Route 151 is a designated bicycling route. Route 151 is also the location of much of the area's recent commercial development and an growing number of special events. Route 6 has experienced less growth, but has the most heavy vehicle traffic in the study area, with 9% of vehicles on the route being heavy vehicles (trucks, busses, tractor trailers).

Facts and Figures (VDOT Data: 2012-2014)

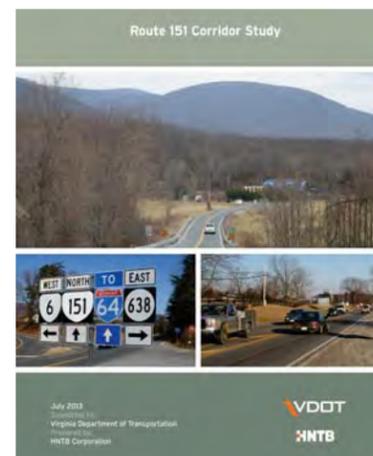
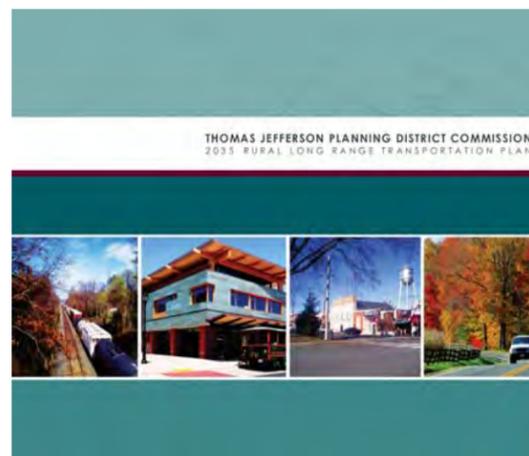
- Total road miles: 224
- Total number of crashes (between 2012-2014): 302
- Most congested routes: Route 151 and I-64
- Number of crashes involving alcohol (between 2012-2014): 26
- Annual Average Daily Traffic (AADT): 8,161



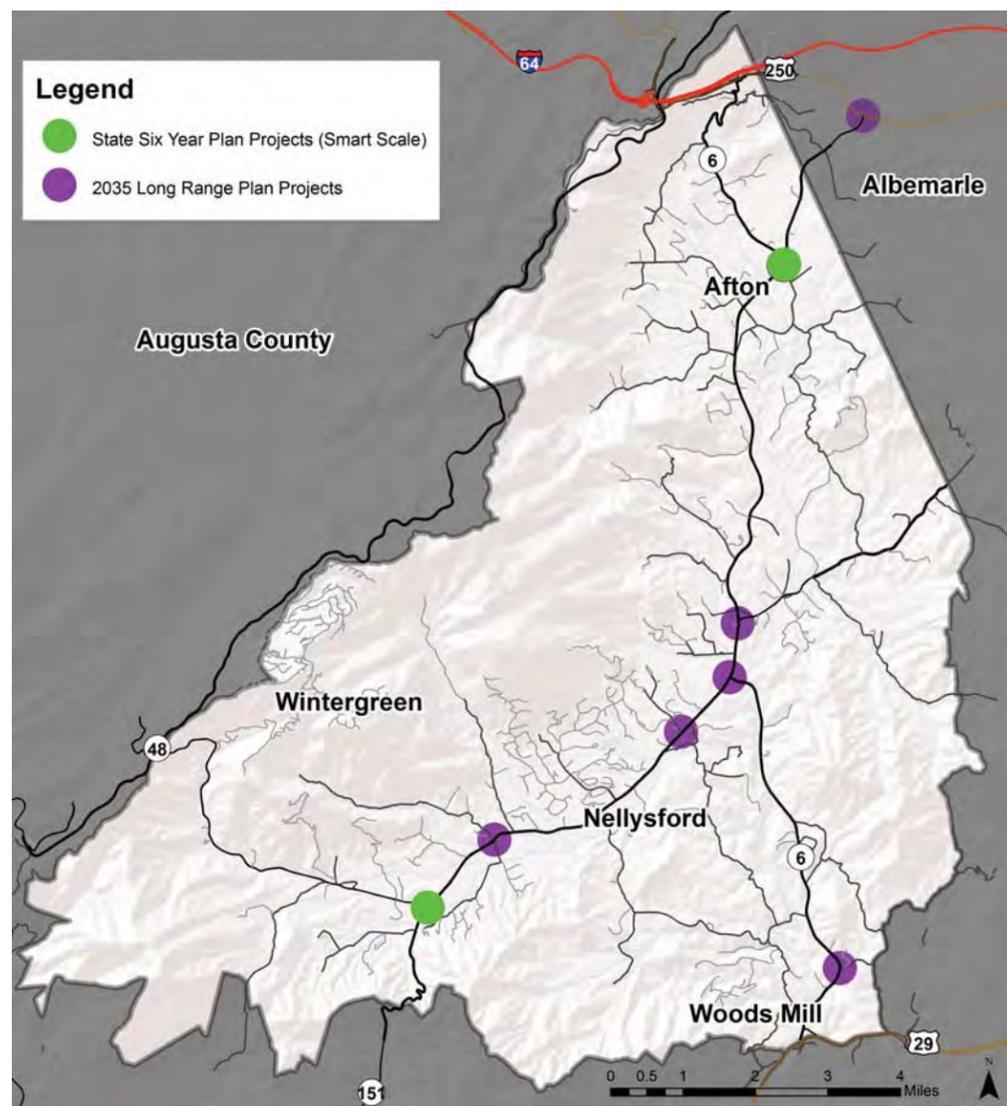
Current Recommendations

Several studies have evaluated the transportation networks in the Rockfish Valley and identified recommendations for improving safety and reducing congestion. Recommendations from these plans have been incorporated into the Regional Long Range Transportation Plan (RLRP-2035). Most recently, the VDOT Route 151 Corridor Study (2013) identified strategies for improving problematic intersections all along Route 151. Two such projects in the corridor were recently awarded construction funds through the Highway Safety Improvement Program (HSIP).

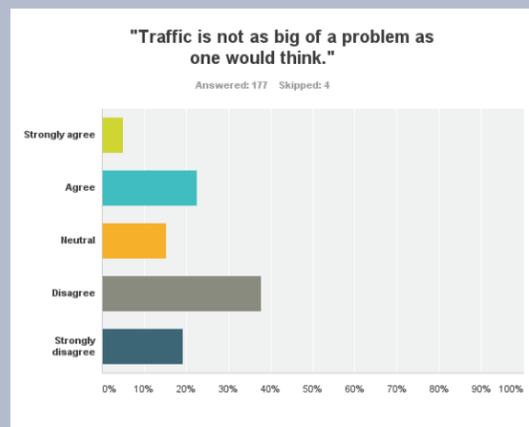
Previous Plans & Existing Studies



2035 Rural Long Range Plan Recommendations Map

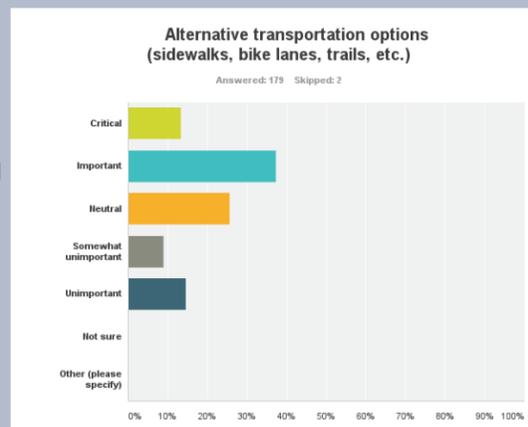


Public Survey Results: What is the community saying about Transportation? Do you agree with the results of the survey?



55% disagreed with the statement that "Traffic is not as big of a problem as one would think." Approximately 28% said they agree with that statement.

Approximately 50% said alternative transportation options in the Rockfish Valley are important. Approximately 23% such options are somewhat unimportant or unimportant.

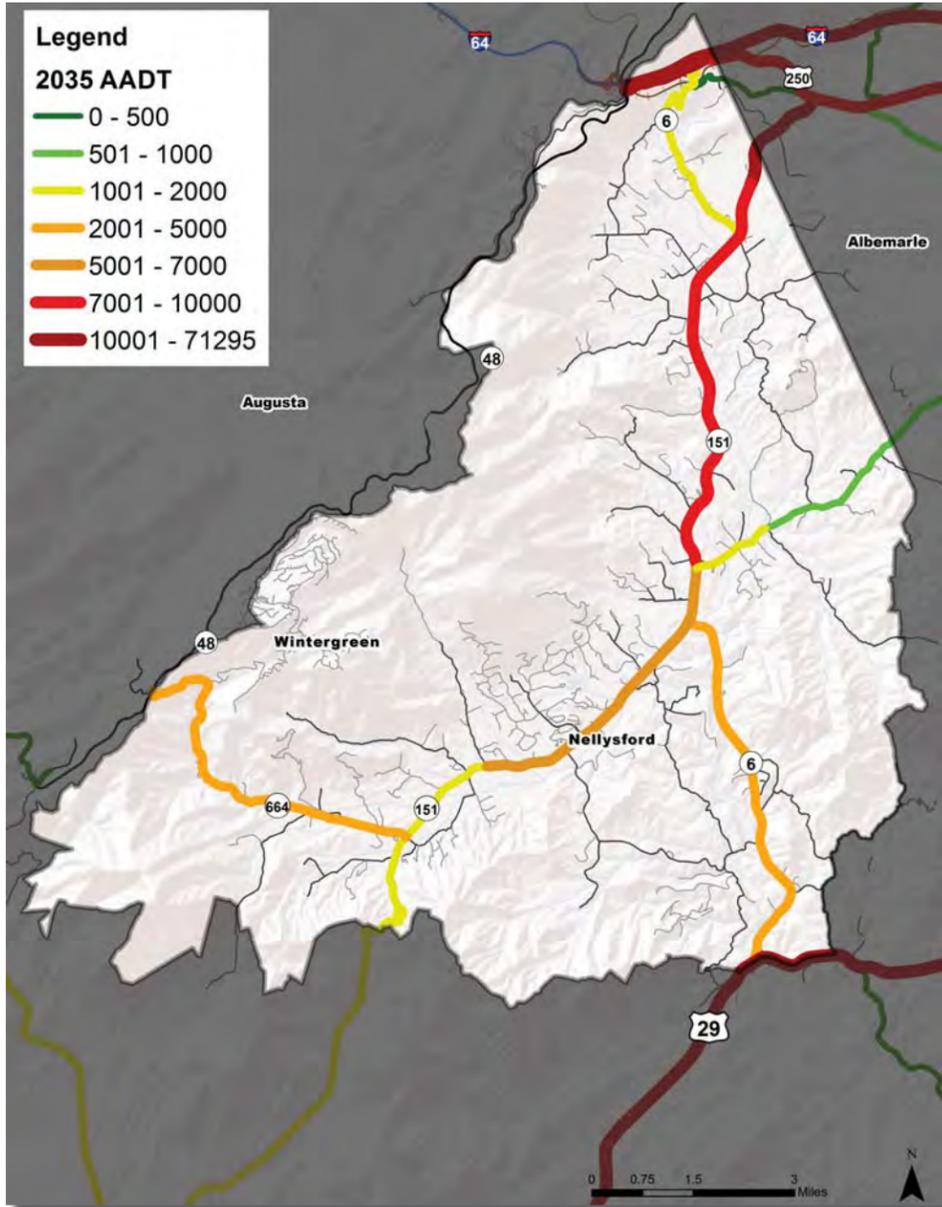


Transportation

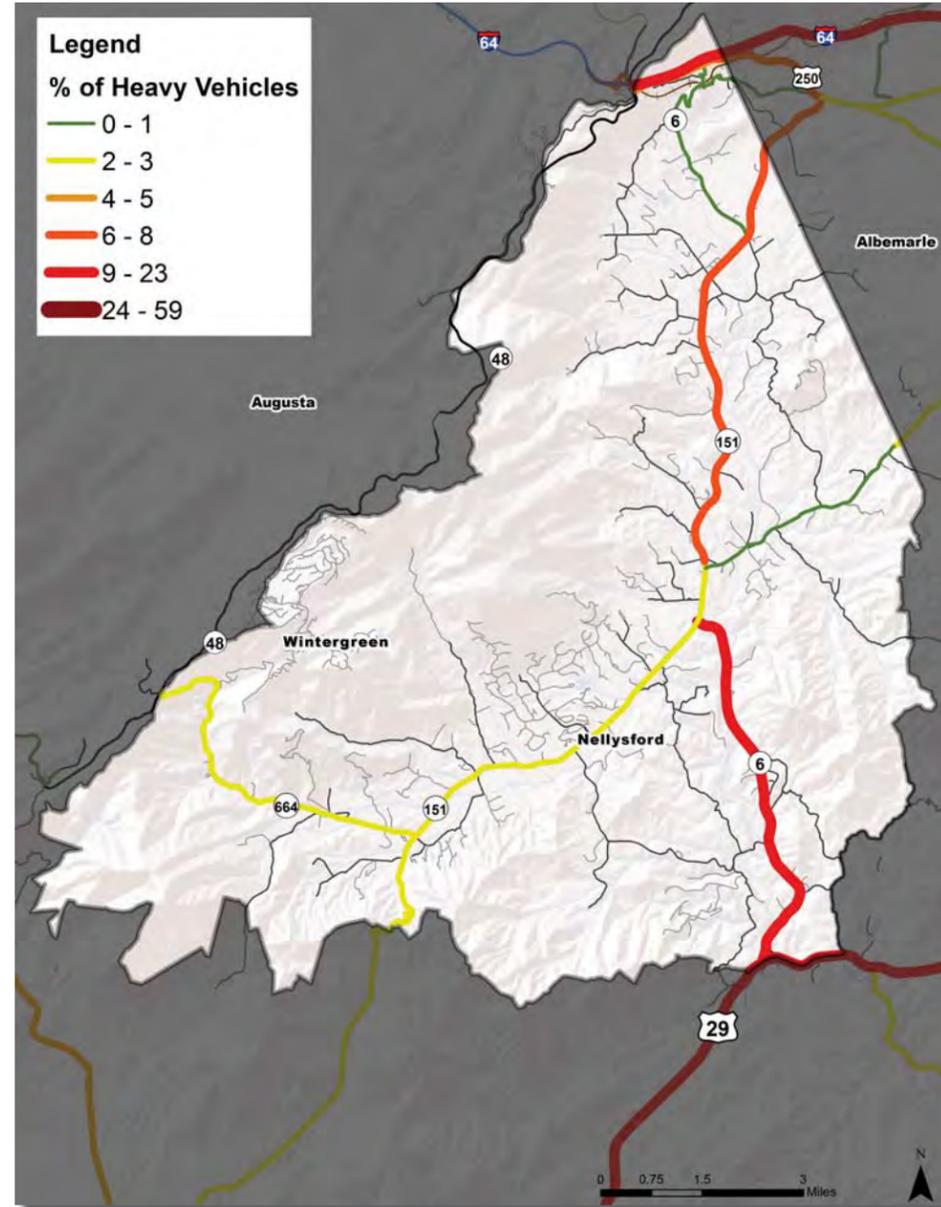
Transportation networks are evaluated on their safety, access to the community, and ability to adequately carry traffic. The maps on this poster highlight the current traffic conditions, the percentage of traffic that is heavy vehicles (trucks), and crash hotspots.



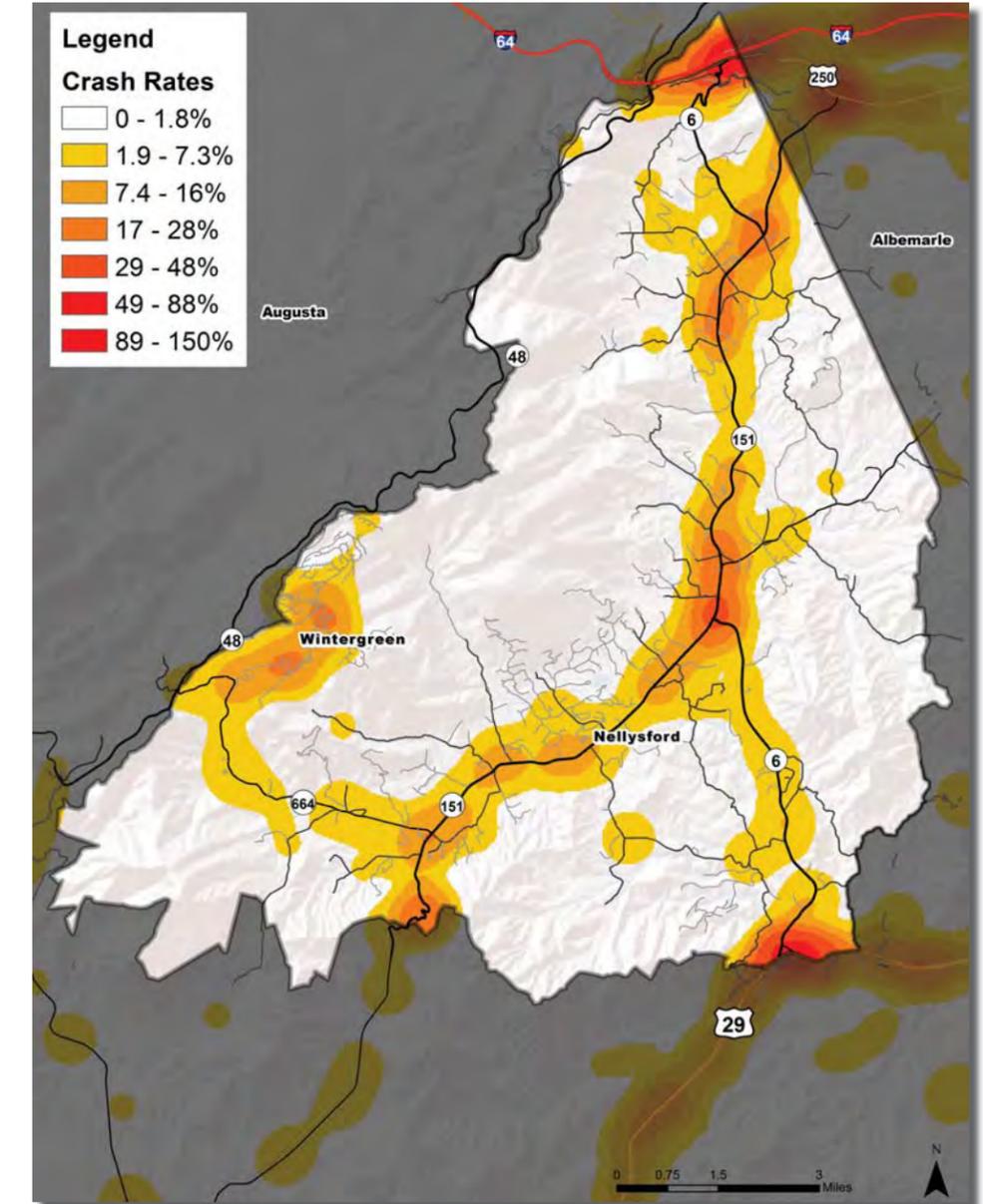
Traffic Volumes



Percent Truck Traffic



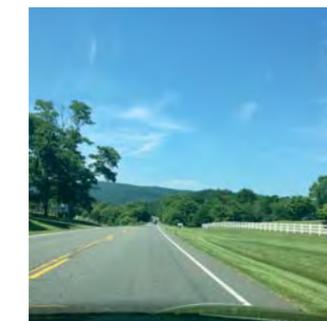
Crash Hotspots



Annual average daily traffic (AADT) is a measure of traffic volume on a section of roadway. AADT data is collected by VDOT for major roadways. VDOT collects the data using electronic counting equipment placed in the roadway. Counts are normally done during the week (Tuesday-Thursday) to represent "normal" weekday traffic - and therefore data might not fully represent weekend traffic increases. Data in this map shows current trends forecasted out to 2035.



Percent truck traffic is derived from the same counts as AADT, but sensors on the counting equipment distinguish vehicles by weight. This data provides information on the percentage of the traffic on a roadway that is made up of heavy vehicles. Heavy vehicles include busses, box trucks, large farm equipment, semi-trailers and other combination axle vehicles. Currently, the highest truck traffic rate in the study area is on River Road (Route 6) at 9%.



Crash hotspot mapping is a method used to identify areas with clusters of crashes. Crash data is reported to VDOT with location information, severity, and the type of incident. Crash data can be mapped and analyzed using specialized software that identifies hotspots. This map illustrates crashes from 2012-2014; darker colors indicate greater crash numbers. Most hotspots are clustered around intersections along Routes 151, 6, and 29.

COUNTY OF NELSON
Pamela C Campbell
COMMISSIONER OF REVENUE
P.O.BOX 246
LOVINGSTON, VA 22949

Telephone 434-263-7070
Fax 434-263-7074

August 4, 2016

*Allen Hale, Chairman
Board of Supervisors
County of Nelson
Lovingston, Va 22949*

Dear Mr. Hale,

I would like to request that The Board review the process of refunds. We now write a letter and have it signed by The County Attorney by the time it gets to you and approved it takes anywhere from 45 to 60 days for the taxpayer to receive the refund with interest. I would like to send the request to the Treasurer and have the check processed that week. I am enclosed a copy of the code regarding this subject. We would still send request to The Board for refunds over a set amount.

Sincerely,



*Pamela C Campbell
Commissioner of Revenue*

Code of Virginia

Title 58.1. Taxation

Chapter 39. Enforcement, Collection, Refunds, Remedies and Review of Local Taxes

§ 58.1-3981. Correction by commissioner or other official performing his duties.

A. If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that he has erroneously assessed such applicant with any such tax, he shall correct such assessment. If the assessment exceeds the proper amount, he shall exonerate the applicant from the payment of so much as is erroneously charged if not paid into the treasury of the county or city. If the assessment has been paid, the governing body of the county or city shall, upon the certificate of the commissioner with the consent of the town, city or county attorney, or if none, the attorney for the Commonwealth, that such assessment was erroneous, direct the treasurer of the county, city or town to refund the excess to the taxpayer, with interest if authorized pursuant to § 58.1-3918 or in the ordinance authorized by § 58.1-3916, or as otherwise authorized in that section. However, the governing body of the county, city or town may authorize the treasurer to approve and issue any refund up to \$2,500 as a result of an erroneous assessment.

B. If the assessment is less than the proper amount, the commissioner shall assess such applicant with the proper amount. If any assessment is erroneous because of a mere clerical error or calculation, the same may be corrected as herein provided and with or without petition from the taxpayer. If such error or calculation was made in work performed by others in connection with conducting general assessments, such mistake may be corrected by the commissioner of the revenue.

C. If the commissioner of the revenue, or other official performing the duties imposed on commissioners of the revenue under this title, is satisfied that any assessment is erroneous because of a factual error made in work performed by others in connection with conducting general reassessments, he shall correct such assessment as herein provided and with or without petition from the taxpayer.

D. An error in the valuation of property subject to the rollback tax imposed under § 58.1-3237 for those years to which such tax is applicable may be corrected within three years of the assessment of the rollback tax.

E. A copy of any correction made under this section shall be certified by the commissioner or such other official to the treasurer of his county, city or town. When an unpaid erroneous assessment of real estate is corrected under this section and such real estate has been sold at a delinquent land sale, the commissioner or such other official making such correction shall certify a copy of such correction to the clerk of the circuit court of his county or city; and such clerk shall note such correction in the delinquent land book opposite the entry of the tract or lot for the year or years for which such correction is made.

F. In any action on application for correction under § 58.1-3980, if so requested by the applicant, the commissioner or other such official shall state in writing the facts and law supporting the action on such application and mail a copy of such writing to the applicant at his last known address.

Code 1950, § 58-1142; 1956, c. 598; 1958, c. 585; 1960, c. 547; 1974, c. 362; 1975, c. 257; 1977, c. 99; 1980, c. 657; 1982, c. 332; 1984, c. 675; 1995, c. 108; 1998, c. 529; 1999, cc. 624, 631, 677.

RESOLUTION R2016-52
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR CHANGE IN COMMISSIONER OF REVENUE
REFUND PROCESSING

BE IT RESOLVED, that pursuant to §58.1-3981, of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors hereby authorizes the Treasurer to approve and issue any refund up to \$_____ as a result of an erroneous assessment; and

BE IT FURTHER RESOLVED that pursuant to §58.1-3981, of the Code of Virginia 1950 as amended, said refund shall be predicated upon certification of the Commissioner of Revenue with the consent of the County Attorney.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
 CC: Mr. Stephen A. Carter | County Administrator
 From: Tim Padalino | Planning & Zoning Director, AFD Program Administrator
 Date: July 28, 2016
 Subject: **Agricultural and Forestal District Application #2016-01
 (Proposed Additions to Greenfield AFD / Mr. Marc Chanin)**

Summary of Application(s)

<u>Site Address / Location:</u>	Greenfield / Afton / North District
<u>Tax Parcel(s):</u>	#13-10-1 (2.43 acres) and #13-10-3 (11.45 acres)
<u>Parcel Size:</u>	13.88 acres (total)
<u>Zoning:</u>	Agricultural (A-1)
<u>Applicants:</u>	Mr. Marc Chanin
<u>Request:</u>	Introduction of PC recommendations for AFD Application #2016-01, and BOS authorization to conduct a public hearing as required by County Code
<ul style="list-style-type: none"> ▪ <i>Application Received On: May 31, 2016</i> 	

On May 31st the Department of Planning & Zoning received an application from Mr. Marc Chanin requesting an expansion of the existing Greenfield Agricultural and Forestal District (AFD). Specifically, AFD #2016-01 proposes the addition of two parcels of record, totaling 13.88 acres, into the existing Greenfield AFD:

- Tax Map Parcel #13-10-1 (2.43 acres, zoned A-1)
- Tax Map Parcel #13-10-3 (11.45 acres, zoned A-1)

This application was initially forwarded to the AFD Advisory Committee for their review and recommendation to the Planning Commission, pursuant to Code of Nelson County Virginia, Chapter 9, Article V, Section 9-201. The AFD Advisory Committee convened on Tuesday, July 19th, and voted unanimously to recommend approval of AFD #2016-01. *Please see the enclosed meeting minutes, as well as a footnote (below) about the relationship between AFD designation and Land Use taxation.*

The Planning Commission then conducted a properly-advertised public hearing on July 27th, and after reviewing the application, the PC voted 5-0 to recommend to the Board of Supervisors approval of AFD #2016-01.

As required by County Code and State Code, the Board of Supervisors must conduct a public hearing on the application before being able to vote on whether or not to add the proposed lands to the existing Greenfield AFD as applied for, or with any modifications it deems appropriate. As such, **the requested action is to decide if and when to conduct a public hearing for AFD #2016-01**, and to direct staff to advertise for any such hearing as may be applicable.

Please reference Section 9-201 "*Evaluation criteria*" for a list of factors to be considered by the Advisory Committee, Planning Commission, and Board of Supervisors when reviewing the application for AFD #2016-01, as follows:

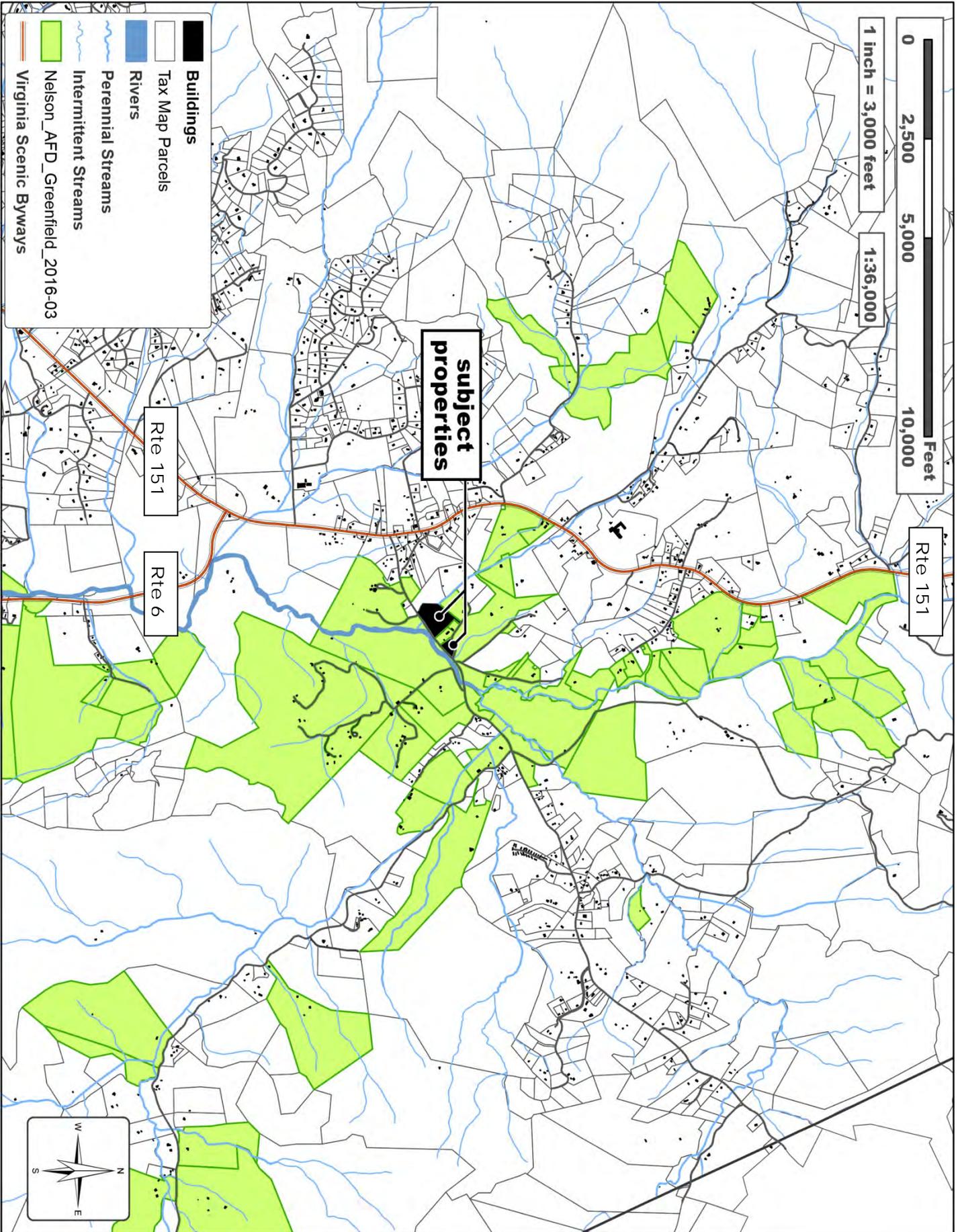
- a) *The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;*
- b) *The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;*
- c) *The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;*
- d) *Local developmental patterns and needs;*
- e) *The comprehensive plan and, if applicable, zoning regulations;*
- f) *The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and*
- g) *Any other matter which may be relevant.*

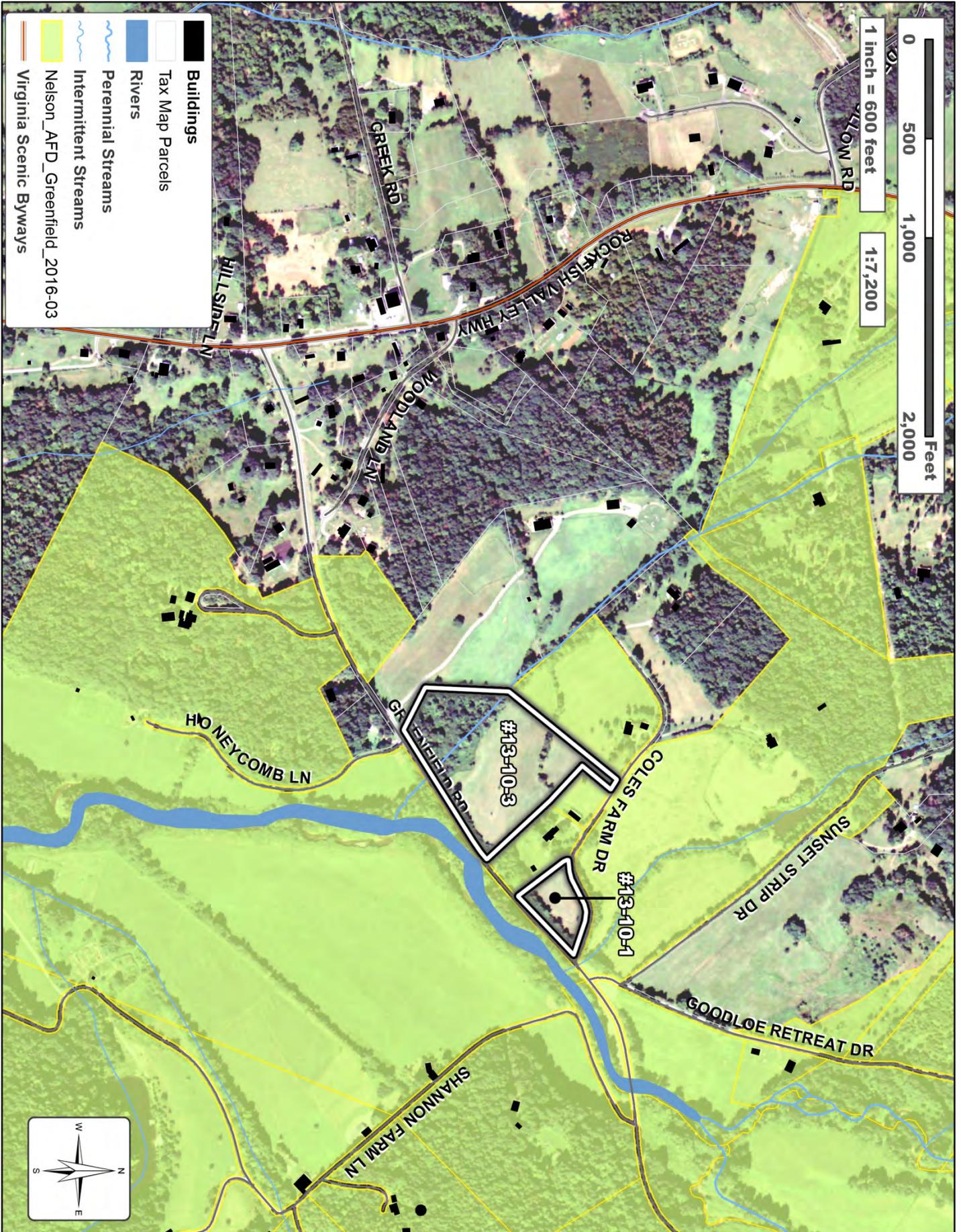
In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant.

In conclusion, please contact me with any questions, concerns, or requests for assistance regarding AFD #2016-01. Thank you very much for your time and attention to this application.

Note: Nelson County's Commissioner of Revenue, Mrs. Pam Campbell, attended the July 19th AFD Advisory Committee meeting and provided an important clarification regarding the relationship between AFD designation and the Land Use Assessment (LUA) tax rate.

Mrs. Campbell explained that putting land into an AFD does not automatically make it eligible for LUA. To receive LUA tax breaks, an AFD property must still meet the requirements in one of the three categories authorized by Nelson County: agricultural, horticultural, or forestal. In order to be eligible, a landowner must apply for LUA and pay an application fee. If the land is deemed to meet the requirements, it is taxed at the land use value for the next six years. If the LUA property remains in an AFD, then the LUA is automatically renewed after six years without a fee. If an LUA property is pulled out of an AFD, it again becomes subject to the LUA application process and fee.





**APPLICATION FOR AN ADDITION TO AN AGRICULTURAL
AND FORESTAL DISTRICT**

This completed form and required maps shall be submitted by applicant landowners to the Nelson County Planning Department on or before June first of the calendar year in which the District is to be created. Included with the submission shall be a map or aerial photograph that clearly shows the boundaries of the District and the boundaries of each individual parcel that is to be included in the District.

TO BE COMPLETED BY APPLICANT

1. *Name of the District:* Greenfield Agricultural and Forestal District

2. *General Location of the District:* Centered along Greenfield Road (Rte 635) near Shannon Farm Lane (Rte 843), the original Greenfield Ag/Forestal District roughly follows the route of the North Fork of the Rockfish River starting near the intersection of Rte 151 and Pounding Branch Road (Rte 709), extending due south in a nearly continuous swath for approximately 5.1 miles, and ending just south of the river's North/South Fork confluence (near the intersection of Rte 6 and Hill Hollow Road/Rte 810). Additionally the District extends NW and SE to include properties flanking Rte 633 (Blundell Hollow and Taylor Creek Roads).

Current proposed addition to the Greenfield Ag/Forestal District is consists of two parcels that border Rte 151 and are contiguous on multiple sides with lands already in the District.

3. *Total Acreage in the District Addition:* 13.88 acres

4. *Landowners applying for the District:* Marc Chanin

5. *Designated Landowner Contact:* Marc Chanin, 224 Coles Farm Drive, Afton VA 22920
(434-361-1222)

6. *The Proposed Conditions to Creation of the District Pursuant to §15.2-4309 of the Code of Virginia:*

As a condition to creation of the district, the requirements stated in Section 9-202 of the Code of Nelson County will apply; in addition, the following conditions will also apply:

- a. No parcel within the District shall be developed to a use more intensive than that existing on the date of creation of the district, other than uses resulting in more intensive agricultural or forestal production;

b. Parcels of land within the District may only be subdivided by purchase or gift to immediate family members. However, subdivided parcels shall remain in the District for at least until the time of the next scheduled District renewal; and

c. Parcels of land within the District may be sold in their entirety to a non-family member during the term of the District. However, the parcel under new ownership shall remain in the District at least until the time of the next scheduled District renewal..

d. Membership in this AFD does not preclude building a home on land on which no structure exists, or construction of guest house, garage, workshop, barn or similar auxiliary structure as allowed by County Regulations.

7. *Proposed Period before First Review*: Approximately four years (in order to be in sync with review schedule for rest of Greenfield Ag/Forestal District).

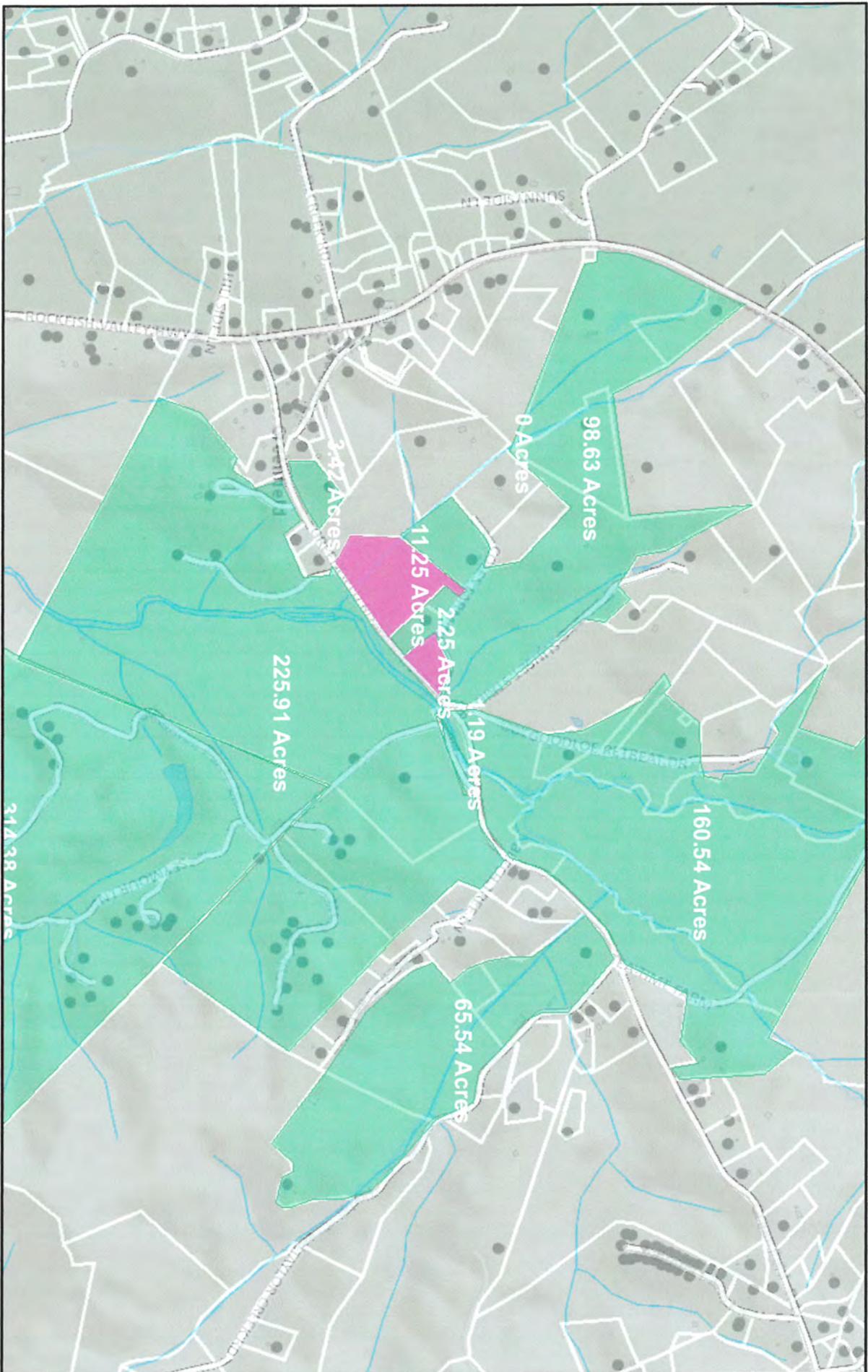
8. *The Date of Application*: 5/22/2016

SECTION B: TO BE COMPLETED BY LOCAL GOVERNING BODY

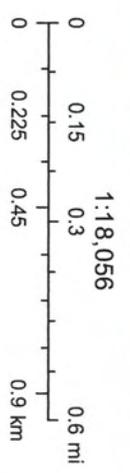
1. Date submitted to the Board of Supervisors:
2. Date referred to the Planning Commission:
3. Date referred to the Advisory Committee:
4. Date of action by the Board of Supervisors:

Approved ___ Modified ___ Rejected ___

Chanin Addition In Context



May 22, 2016



Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri, Japan, METI, Esri China (Hong Kong), Esri (Thailand),

Agricultural & Forestal District Advisory Committee
County Courthouse - Old Board of Supervisors room

Minutes for the July 19, 2016 Meeting

Committee members present: Joyce Burton, Pam Campbell, Andre Derdeyn, Susan McSwain, Billy Newman, Andy Wright

Absent: Connie Brennan, Bill Halverson

Meeting was called to order at 4:04 p.m. by Mr. Wright, chairperson. Mr. Wright verified that all Committee members had received copies of the agenda and the application under consideration via email ahead of the meeting.

Consideration of application to add two parcels to the Greenfield AFD

Ms. Burton reported that Mark Chanin has applied to add two parcels to the Greenfield AFD. Mr. Chanin already has another parcel in the AFD, and he now wants to add TM 13-10-1 (2.43 acres) and TM 13-10-3 (11.43 acres), for a total of 13.86 acres. Ms. Burton pointed out that these parcels are adjacent to and surrounded by the existing AFD. Addition of these parcels will fill "holes" in this part of the AFD, and thus make the AFD a more cohesive unit. She is pleased that this AFD will become part of the planning process as the County completes the study of the Rockfish Valley.

A motion was made (Newman) and seconded (Derdeyn) to recommend to the Planning Commission and the Board of Supervisors that they approve the addition of parcels 13-10-1 and 13-10-3 to the Greenfield AFD.

During the following discussion, Ms. McSwain noted that small parcels have been important in other AFDs as well when they bridge gaps between other, larger properties.

With no further discussion, the vote was unanimous to approve the motion. Ms. Burton and Mr. Wright offered to attend the Planning Commission meeting on July 27.

Clarification of Land Use Assessment vs. AFDs

Mr. Wright noted that Tim Padalino requested the Committee to discuss Land Use Assessment (LUA) as it relates to land that is in an AFD. It is easy to confuse the two topics, but one does not equate with the other.

In localities that have enabled LUA, a tax break is available to landowners based not on "fair market value," but on the value of land according to its use. LUA regulations are made by the State Lands Evaluation Advisory Council, which is made up of the State Forester, and the Directors of Taxation, Agriculture, and Conservation and Recreation. Four categories are available - agricultural, horticultural, forestal, and open space. Nelson County has authorized the first three of those categories, and each category has its own requirements.

Ms. Campbell clarified that putting land into an AFD does not make it eligible for LUA unless it meets the requirements in one of the authorized categories. In order to be eligible, a landowner must apply for LUA and pay an application fee. If the land is deemed to meet the requirements, it is taxed at the use value for the next six years, at which time the landowner must reapply and pay another application fee to have

the property re-authorized under LUA. Ms. Campbell stated that the only time LUA is automatically renewed without a fee is when land is under permanent conservation easement or in an AFD. If land is pulled out of an AFD, it again becomes subject to the application process and fee.

Mr. Newman pointed out that some counties require a landowner to obtain a Forestry Management Plan in order to qualify their land for LUA under the forestal category. During the ensuing discussion, a number of people agreed with the principle that if someone is receiving a tax break, they should be practicing Best Management Practices for both forestry and agriculture.

In at least one county in VA (Northampton), LUA is only available to property that both qualifies in one of the LUA categories and has also been placed in an AFD. In counties like Nelson, one benefit of placing land in an AFD is that LUA qualified land in an AFD would be grandfathered and continue to be eligible for the lower tax assessment even if the county were to subsequently discontinue LUA.

Ms. McSwain noted that there is at least one parcel that has been in the Dutch Creek AFD since it was created in 2003 that does not qualify for LUA. The owner of this parcel joined the AFD as a way to support his neighbors in maintaining the rural, agricultural, and forested condition of the area.

Conservation Easement Meeting

Ms. McSwain announced that the Central VA Land Conservancy (CVALC) will hold an informational meeting about conservation easements in Nelson during September at the Nelson Center. She will notify other Committee members once the date has been finalized. The meeting will be co-sponsored by Conservation Partners, LLC, which is based in Lexington. CVALC promotes land conservation in a 4-county region which includes Nelson, and the organization will host additional meetings this fall in Amherst, Appomattox, and Campbell counties.

Blue Ridge PRISM (Partnership for Regional Invasive Species Management)

Mr. Wright announced that a new organization has been created to address invasive plant species in a ten county region in VA, which includes Nelson. Several landowners in the Dutch Creek AFD have already been fighting Ailanthus and other invasives for a number of years, and they have now organized under PRISM as the Dutch Creek Area Steward Group. Mr. Wright encouraged Committee members to read about PRISM on line at <http://blueridgeprism.org/> and let people in other AFDs know about the effort.

Ms. Burton said that she read a notice from Wild Virginia about a PRISM meeting to be held in Charlottesville on July 20. Ms. McSwain mentioned that she is on the VA Master Naturalist committee for PRISM, and that there would be a lot of information available later this year. She noted that while PRISM is the first Cooperative Weed Management Area (CWMA) to be created in VA, they already exist in quite a few other states. These organizations work with both private individuals and organizations to combat invasive species.

New Century Forest Program

Mr. Wright brought to our attention the fact that there has been a program in VA for a number of years to recognize and honor farms that have been in the same family for over 100 years. The VA Dept. of Agriculture and Consumer Services has now created a new program to recognize forest properties that have been in the same family for at least 100 years and operated for silvicultural purposes. Mr. Wright passed out some information on the program, which is listed online at <http://www.vdacs.virginia.gov/conservation-and-environmental-virginia-century-farms.shtml> He would like to spread the word in Nelson County.

With no other new business, the meeting was adjourned at 4:39 p.m.

Minutes prepared by Ms. McSwain, AFD Committee secretary.

RESOLUTION R2016-53
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 9 “PLANNING AND DEVELOPMENT,” ARTICLE V,
“AGRICULTURAL AND FORESTAL DISTRICTS”
EXPANSION OF THE GREENFIELD
AGRICULTURAL AND FORESTAL DISTRICT

BE IT RESOLVED, that pursuant to §15.2-4303 - §15.2-4309 §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingson, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Chapter 9 “Planning and Development”, Article V, “Agricultural and Forestal Districts” to expand the existing Greenfield Agricultural and Forestal District.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

**NOTICE OF PUBLIC HEARING
NELSON COUNTY BOARD OF SUPERVISORS
ADDITION TO GREENFIELD AGRICULTURAL AND FORESTAL DISTRICT**

In accordance with the Code of Virginia, 1950, as amended, §15.2-1427, §15.2-2204, §15.2-4303 §15.2-4307, and §15.2-4309, the Nelson County Board of Supervisors will hold a public hearing at 7:00 p.m., Tuesday, September 13, 2016 in the General District Courtroom of the Nelson County Courthouse located at 84 Courthouse Square, Lovingston. The purpose of said public hearing is to receive public input on an Ordinance proposed for passage that would include application #2016-01 requesting voluntary expansion of the existing Greenfield AFD by 13.88 total acres, pursuant to the Chapter 9 “Planning and Development,” Article V, “Agricultural and Forestal Districts” of the Code of Nelson County.

Application #2016-01 requests inclusion of the following parcels to the Greenfield AFD:

Tax Map Parcel #13-10-1 – Marc Chanin – 2.43 acres (zoned A-1)

Tax Map Parcel #13-10-3 – Marc Chanin – 11.45 acres (zoned A-1)

Following the public hearing, action by the Board may include taking a vote to approve, modify, or reject this application.

The full text of the proposed Ordinance and copies of the above files are available for review in the County Administrator’s Office or the Dept. of Planning & Zoning, 84 Courthouse Square or 80 Front Street, Lovingston, Virginia, M-F, 9am to 5pm. For more information, call (434) 263-7000 or (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1. EOE

BY AUTHORITY OF NELSON COUNTY BOARD OF SUPERVISORS

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4303. Power of localities to enact ordinances; application form and fees; maps; sample form.

A. Each locality shall have the authority to promulgate forms and to enact ordinances to effectuate this chapter. The locality may charge a reasonable fee for each application submitted pursuant to this chapter; such fee shall not exceed \$500 or the costs of processing and reviewing an application, whichever is less.

B. The locality shall prescribe application forms for districts that include but need not be limited to the following information:

1. The general location of the district;
2. The total acreage in the district or acreage to be added to an existing district;
3. The name, address, and signature of each landowner applying for creation of a district or an addition to an existing district and the acreage each owner owns within the district or addition;
4. The conditions proposed by the applicant pursuant to § 15.2-4309;
5. The period before first review proposed by the applicant pursuant to § 15.2-4309; and
6. The date of application, date of final action by the local governing body and whether approved, modified or rejected.

C. The application form shall be accompanied by maps or aerial photographs, or both, prescribed by the locality that clearly show the boundaries of the proposed district and each addition and boundaries of properties owned by each applicant, and any other features as prescribed by the locality.

D. For each notice required by this chapter to be sent to a landowner, notice shall be sent by first-class mail to the last known address of such owner as shown on the application hereunder or on the current real estate tax assessment books or maps. A representative of the local planning commission or local governing body shall make affidavit that such mailing has been made and file such affidavit with the papers in the case.

1977, c. 681, § 15.1-1509; 1978, c. 604; 1979, c. 377; 1984, c. 20; 1987 c. 552; 1997, c. 587; 2005, c. 667; 2011, cc. 344, 355.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4304. Agricultural and forestal districts advisory committee.

A. Upon receipt of the first agricultural and forestal districts application, the local governing body shall establish an advisory committee which shall consist of four landowners who are engaged in agricultural or forestal production, four other landowners of the locality, the commissioner of revenue or the local government's chief property assessment officer, and a member of the local governing body. The members of the committee shall be appointed by and serve at the pleasure of the local governing body. The advisory committee shall elect a chairman and a vice-chairman and elect or appoint a secretary who need not be a member of the committee. The advisory committee shall serve without pay but the locality may reimburse each member for actual and necessary expenses incurred in the performance of his duties. Any expenditures of the committee shall be within the amounts appropriated for such purpose by the local governing body. The committee shall advise the local planning commission and the local governing body and assist in creating, reviewing, modifying, continuing or terminating districts within the locality. In particular, the committee shall render expert advice as to the nature of farming and forestry and agricultural and forestal resources within the district and their relation to the entire locality.

B. The local governing body may designate the planning commission to act for and in lieu of an agricultural and forestal districts advisory committee if the membership of the planning commission includes at least four landowners who are engaged in agricultural or forestal production.

1977, c. 681, § 15.1-1510; 1987, c. 552; 1989, c. 52; 1997, c. 587; 2011, cc. 344, 355.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4305. Application for creation of district in one or more localities; size and location of parcels.

On or before November 1 of each year or any other annual date selected by the locality, any owner or owners of land may submit an application to the locality for the creation of a district or addition of land to an existing district within the locality. Each district shall have a core of no less than 200 acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district (i) if the nearest boundary of the parcel is within one mile of the boundary of the core, (ii) if it is contiguous to a parcel in the district the nearest boundary of which is within one mile of the boundary of the core, or (iii) if the local governing body finds, in consultation with the advisory committee or planning commission, that the parcel not part of the core or within one mile of the boundary of the core contains agriculturally and forestally significant land. No land shall be included in any district without the signature on the application, or the written approval of all owners thereof. A district may be located in more than one locality, provided that (i) separate application is made to each locality involved, (ii) each local governing body approves the district, and (iii) the district meets the size requirements of this section. In the event that one of the local governing bodies disapproves the creation of a district within its boundaries, the creation of the district within the adjacent localities' boundaries shall not be affected, provided that the district otherwise meets the requirements set out in this chapter. In no event shall the act of creating a single district located in two localities pursuant to this subsection be construed to create two districts.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4306. Criteria for evaluating application.

Land being considered for inclusion in a district may be evaluated by the advisory committee and the planning commission through the Virginia Land Evaluation and Site Assessment (LESA) System or, if one has been developed, a local LESA System. The following factors should be considered by the local planning commission and the advisory committee, and at any public hearing at which an application that has been filed pursuant to § 15.2-4303 is being considered:

1. The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;
2. The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;
3. The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;
4. Local developmental patterns and needs;
5. The comprehensive plan and, if applicable, the zoning regulations;
6. The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and
7. Any other matter which may be relevant.

In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4307. Review of application; notice; hearing.

Upon the receipt of an application for a district or for an addition to an existing district, the program administrator shall refer such application to the advisory committee.

The advisory committee shall review and make recommendations concerning the application or modification thereof to the local planning commission, which shall:

1. Notify, by first-class mail, adjacent property owners, as shown on the maps of the locality used for tax assessment purposes, and where applicable, any political subdivision whose territory encompasses or is part of the district, of the application. The notice shall contain (i) a statement that an application for a district has been filed with the program administrator pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the clerk of the local governing body; (iii) where applicable a statement that any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the local planning commission within thirty days of the date of the notice; (iv) a statement that any owner of additional qualifying land may join the application within thirty days from the date of the notice or, with the consent of the local governing body, at any time before the public hearing the local governing body must hold on the application; (v) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the local governing body, at any time before the local governing body acts pursuant to § 15.2-4309; and (vi) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter;
2. Hold a public hearing as prescribed by law; and
3. Report its recommendations to the local governing body including but not limited to the potential effect of the district and proposed modifications upon the locality's planning policies and objectives.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4309. Hearing; creation of district; conditions; notice.

A. The local governing body, after receiving the report of the local planning commission and the advisory committee, shall hold a public hearing as provided by law, and after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate.

B. The governing body may require, as a condition to creation of the district, that any parcel in the district shall not, without the prior approval of the governing body, be developed to any more intensive use or to certain more intensive uses, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains within the district. Local governing bodies shall not prohibit as a more intensive use, construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner, or divisions of parcels for such family members, unless the governing body finds that such use in the particular case would be incompatible with farming or forestry in the district. To further the purposes of this chapter and to promote agriculture and forestry and the creation of districts, the local governing body may adopt programs offering incentives to landowners to impose land use and conservation restrictions on their land within the district. Programs offering such incentives shall not be permitted unless authorized by law. Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four years but not more than ten years from the date of its creation. In prescribing the period before the first review, the local governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

C. The local governing body shall act to adopt or reject the application, or any modification of it, no later than 180 days from (i) November 1 or (ii) the other date selected by the locality as provided in § 15.2-4305. Upon the adoption of an ordinance creating a district or adding land to an existing district, the local governing body shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the State Forester, and the Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the local governing body shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 1998, c. 833; 2011, cc. 344, 355.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 43. Agricultural and Forestal Districts Act

§ 15.2-4310. Additions to a district.

Additional parcels of land may be added to an existing district at any time by following the process and application deadlines prescribed for the creation of a new district.

1977, c. 681, § 15.1-1511; 1979, c. 377; 1981, c. 546; 1984, c. 20; 1985, c. 13; 1987, c. 552; 1993, cc. 745, 761; 1997, c. 587; 2011, cc. 344, 355.

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors
Appointed Members, “Temporary Events Work Group”
Mr. Stephen A. Carter, County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: July 26, 2016

Subject: **Revised text amendments re: “Temporary Events and Festival Grounds” as recommended by Work Group Members and County Staff**

Quick Guide to Contents of Staff Report:

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p. 4	Summary of recommended modifications identified during County Staff review...(7/13)
pp. 5-6	<u>Background information</u> : overview of topics and issues that were discussed during Work Group Meetings and County Staff review (<i>Note – these discussions were the basis for the proposed modifications summarized in pages 2-4 and contained in the enclosed text amendments</i>)
(enclosed)	<u>Proposed Z.O. Amendments</u> (Work Group and County Staff recommendations; dated 7/29)

Brief Review of Purposes and Benefits of Proposed Zoning Ordinance Amendments:

[Purposes] A comprehensive update to the existing provisions for “Special Events” is necessary. Consider the following:

- Currently, Special Event Permits are issued administratively for “temporary events not otherwise a permitted use.” These approval(s) of commercial activities at properties not zoned for commercial activities – which have been increasing in number and scale over the previous several years – raise concerns about “*de facto rezonings*” and the protection of property rights for nearby landowners in A-1 and R-1 zoning districts.
- Currently, the Special Events Permits section of the ordinance contains no review criteria for making an administrative decision (approval or denial). This leaves the Zoning Administrator with almost no foundation for making legally defensible decisions. See Z.O. 4-11-3, which has become overly simple and inadequate with respect to the number and type of special events occurring in the County.

[Benefits] A successful text amendment process would:

- benefit local businesses by exempting a large variety of activities from permit requirements;
- benefit event promoters and members of the public by establishing a permitting process that is clear, consistent, and transparent;
- benefit County staff by establishing a clear and consistent application and review process; and
- benefit everyone by ensuring a balance of property rights Countywide:
 - o property rights to utilize land for commercial enterprise and economic vitality
 - o property rights to enjoy stable sense of place, rural community character, and a comfortable quality of life

Summary of Proposed Modifications as Discussed by Work Group at Meeting #1 on 3/30:

- **Modify the “Exempt Events” section**
 - separate “Farm Winery” from “Agritourism Activities”
 - replace “7Am to 7PM” clause with language about public health, safety, and welfare
 - reduce from 1,000 to 500 the number of attendees permissible at any one time at “Exempt Non-Profit Temporary Events”
 - o *Note: Non-Profit Temporary Events could have more than 500 attendees, but such events would no longer be eligible as “exempt” and would require the appropriate Temporary Event Permit (either Category 1 or Category 2).*
- **Modify the “number of attendees” as it relates to the classification of Cat. 1 and Cat. 2 Temp. Events, Exempt Events, and Out of Door Accessory Uses**
 - Out-of-Door Accessory Use: up to 300 attendees at any one time (formerly 1,000 attendees)
 - Exempt Events:
 - o Non-Profit Temp Events up to 500 attendees at any one time (formerly 1,000);
 - o Farm Winery activities with no substantial impact(s);
 - o Agritourism Activities with no substantial impact(s)
 - Category 1 Temporary Event:
 - o All “non-exempt” Temporary Events up to 500 attendees at any one time (formerly 1,000);
 - o Non-Profit Temporary Events with more than 500 attendees at any one time (formerly 1,000 attendees) but less than 1,000 attendees at any one time;
 - o Farm Winery or Agritourism Activities causing substantial impact(s) and having up to 1,000 attendees
 - Category 2 Temporary Event:
 - o all “non-exempt” Temporary Events with more than 500 attendees but less than 10,000 attendees;
 - o Non-Profit Temporary Events with more than 1,000 attendees at any one time but less than 10,000 attendees at any one time;
 - o Farm Winery or Agritourism Activities causing substantial impact(s) and having more than 1,000 attendees but less than 10,000 attendees at any one time

- Category 3 Temporary Event:
 - all “non-exempt” Temporary Events with 10,000 or more attendees (remains unchanged)
- **Modify the “maximum number of events” chart in 24-3-C**
 - increase the maximum numbers of permissible non-exempt Temporary Events
 - clarify that this chart only limits the number of non-exempt Temporary Events, and does not affect (limit) the number of activities that qualify as Exempt Temporary Events
 - insert “Residential (R-1)” as an eligible type of property for non-exempt Temporary Events
 - (Temporary Events would only be permissible in R-1 in coordination with the proposed addition of “Outdoor Entertainment Venue” as a permissible use in R-1, requiring a Special Use Permit and only in connection with a public or semi-public use)
- **Modify the “Structures for Category 1 and 2 Temporary Events” section**
 - distinguish the use of existing structures from the use of proposed new structures
 - clarify that new structures may be constructed, if all required permits are properly obtained
 - include clause about removing temporary structures within ten (10) days after event ends
- **Modify the existing definition for “Community Center”**
 - eliminate the clause about the leasing of space being restricted to “within the building”
 - eliminate the clause about Planning Commission establishing conditions
 - insert clause about Temporary Events being permissible (subject to other regs)
 - modify the language re: the total prohibition of “exterior indication of commercial activities”
- **Define “Outdoor Entertainment Venue” and establish it as a permissible use**
 - permissible by-right in: N/A
 - permissible by SUP only in: A-1, B-1, B-2, SE-1, and R-1 in connection with public or semi-public use pursuant to Z.O. 5-1-4
- **Modify the number of “Social Temporary Events” permissible by-right**
 - permissible twelve (12) times per year by-right in A-1 district (formerly 50 times per year)

Summary of Proposed Modifications as Discussed by Work Group at Meeting #2 on 5/19:

- **Further modify 24-1 “Definitions”**
 - Revise the proposed redefinition of “Community Center” –
 - establish separate signage regulations for (non-temporary uses and activities) versus (temporary events and outdoor entertainment venues)
 - establish separate regulations for outdoor activities and displays in connection with (permissible non-temporary uses) versus (temporary events)
 - Replace “and” with “or” in the first sentence
 - Add “structures” to sentence about Community Centers being subject to site plan approval
 - Recommendation to remove final sentence prohibiting “exterior indication of non-temporary commercial activities” – (*note: request received June 30th*)

- Revise the proposed new definition of “Out-of-Door, Accessory Use” –
 - Eliminate the phrase “small band performances” and replace with “or other cultural performances”
 - Increase “300” attendees to “500” attendees to be consistent with other language in the proposed Article
- Relocate proposed definitions for “Community Center” and Outdoor Entertainment Venue” from proposed Article 24 to existing Article 2 (as these definitions pertain to more than just Temporary Events)
- **Modify 24-3-B “Issuance of Temporary Event Permits”**
 - Revise the proposed section about the Planning & Zoning Director imposing conditions –
 - Delete item 1 (establishing time limits), item 2 (fixing the dates), and item 3 (limiting the number of attendees)
 - Combine item 4 (protecting health, safety, and welfare of attendees and residents of the County) into the first sentence
- **Delete 24-3-C (“maximum number of properly-permitted non-exempt events”)**
 - This chart was eliminated due to Work Group members insisting it was too permissive and “ripe for abuse,” too complicated to enforce, and too restrictive for certain types of properties.

Summary of Proposed Modifications as Discussed During County Staff Review on 7/13:

- **Modify “evaluation factors” in Z.O. 24-3 (“Issuance of Temporary Event Permits”):**
 - include a clear connection to the responsibility to ensure “public health, safety, and welfare”
 - reference specific factors such as size and location of events, frequency of events, number of attendees, hours of conduct, etc.
 - insert new criteria that allows the Zoning Administrator to evaluate whether or not events would “alter the character of the area or circumvent the ordinance” (similar to the existing language in Z.O. 4-11-3) and evaluate the proposed event relative to the property’s primary use
- **Modify definition and regulations for “social temporary events”:**
 - Revise definition to clarify that “social temporary events” are defined and regulated separately from “agritourism activities” and “farm wineries”
 - Create a new special use provision in A-1 for “more than 12 social temporary events per year”
 - Up to 12 social temporary events per year would still be permissible by-right in A-1

Requested Actions & Next Steps:

The requested action at the August 9th BOS meeting, and the required next step in this ongoing Z.O. text amendment process, is for the BOS to authorize a public hearing for the September 13th BOS meeting, and to receive public comments from all interested or concerned members of the public. Hearing from the public will allow the BOS to make a well-informed decision regarding these proposed amendments.

Please do not hesitate to contact me with any of your questions and/or requests for assistance. Thank you very much for your time, attention, energy, and effort towards these important and complex issues.

BACKGROUND INFORMATION

Brief Overview of Issues Identified by Work Group Members during Meeting #1 (3/30):

- *Revising the (proposed) Farm Winery regulations:*
 - Ensure that all proposed local regulations are harmonious with State Code provisions, with particular emphasis on state protections for “usual and customary” activities (see Code of Virginia §15.2-2288.3 – “License farm wineries; local regulation of certain activities.”)
 - Reconsider “7AM – 7PM” clause (previously contained in proposed 24-2-A-9).
- *Revising the (proposed) list of Exempt activities:*
 - Consider separating “farm winery” and “agritourism” provisions (in proposed 24-2-A-9).
 - Consider eliminating “hours of operation” or “acreage” as criteria for determining which specific activities are exempt; maintain “number of attendees” as most important criteria.
- *Revising the (proposed) limitation on maximum number of Temporary Events permissible by-right in a given calendar year:*
 - Ensure that any such limitation is both appropriate and necessary.
 - Determine how to best categorize different properties as it pertains to this limitation; and determine what maximum number makes sense for each different property type.
 - Maintain procedure by which applicants can arrange a public hearing with the Board of Supervisors to request County approval for conducting additional (extra) Temp. Events.
- *Addressing the need to provide for permanent land use provisions and regulations in connection with the conduct of all types of temporary events:*
 - Consider how to include provisions for land uses, structures, and infrastructure associated with Cat. 1 and Cat. 2 Temp. Events (as a corollary to “Festival Grounds” provision for Cat. 3 Temp. Events).
- *Identifying opportunities to simplify the (proposed) provisions and regulations:*
 - Consider if/how the amount of text can be reduced through simplification.
 - Avoid over-complication and avoid over-regulation.
- *Additional miscellaneous points of discussion and topics of further discussion:*
 - Consider how to accommodate public and semi-public institutions (and to not focus solely on commercial establishments).
 - Consider how to best define (categorize) various Temp. Event classifications: determine the best and most appropriate “break points” for distinguishing Exempt Events from Cat. 1 Temp. Events; distinguishing Cat. 1 Temp. Events from Cat.2 Temp. Events; etc.
 - Consider how to best protect rural character, sense of place, and quality of life while also maximizing economic opportunities and promoting rural economic vitality.
 - Consider striking a slightly different balance by having:
 - additional/expanded rights and exemptions for “agritourism operations,” “farm wineries,” “farm breweries,” and “farm distilleries”; and
 - comparatively less rights and exemptions for other properties which do not qualify as any of the above land uses, and which are zoned Agricultural A-1, and which are located within areas designated as “Rural Areas” (“Rural Residential District” and “Rural and Farming District”).

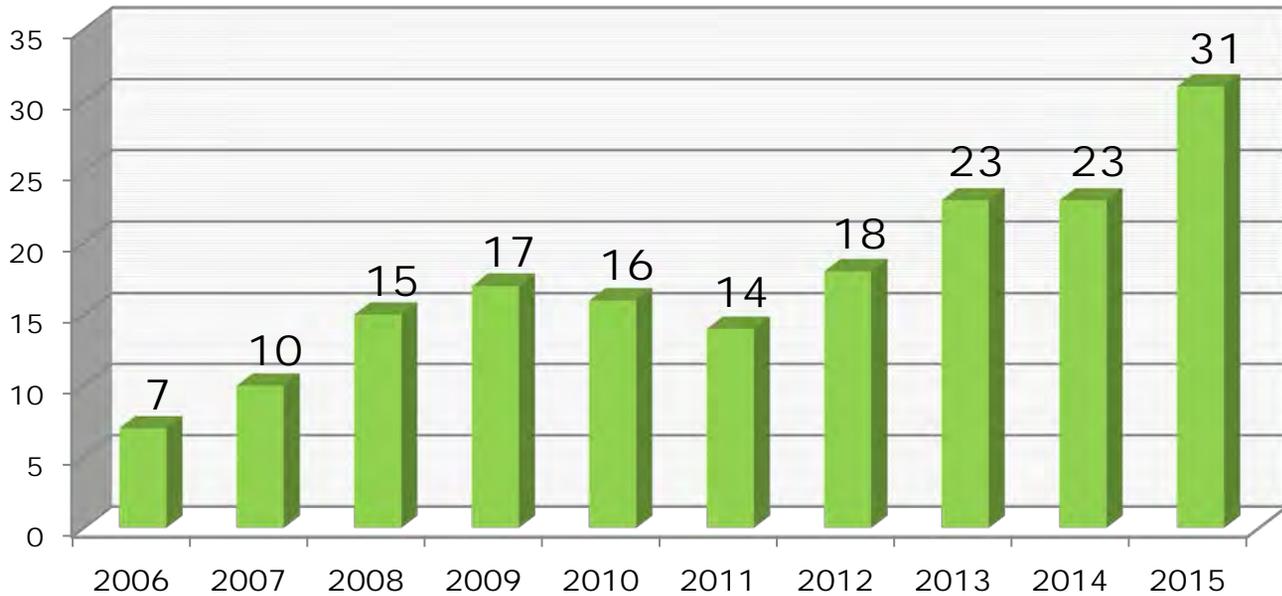
Brief Overview of Issues Discussed by Work Group Members During Meeting #2 (5/19):

- *Carefully consider the role and effects of these proposed new regulations:*
 - Recognize the existence and importance of “self-policing” – Work Group members explained that it is in their own best interest to be “good neighbors” and to not tolerate “bad actors”
 - Recognize the difficulty of defining “substantial impact,” and recognize that there are other important factors beyond just the scale/size of any given event, such as:
 - the frequency and number of multiple temporary events (for recurring events)
 - the presence or absence of overnight camping (versus day trips only)
 - other site-specific or property-specific issues
- *Be sensitive to existing events:*
 - Determine if these proposed new regulations would apply to all properties and all events, if there would be opportunities for “grandfathering,” or if the concept of “vested rights” is applicable.
 - Review and reference the list of existing (recent) special events, and understand what proportion of those would be exempt under the proposed new regulations versus what proportion would be subject to permitting requirements.

Brief Overview of Issues Discussed During County Staff Review (7/13):

- *Ensure that the “review factors” contained in the “Issuance of Temporary Event Permits” section (proposed Z.O. 24-3) are sufficient and appropriate:*
 - include a clear connection to the responsibility to ensure “public health, safety, and welfare”
 - specify factors which could impact public health, safety, and welfare, such as size and location of events, frequency of events, number of attendees, hours of conduct, etc.
 - insert new criteria that allows the Zoning Administrator to evaluate whether or not events would “alter the character of the area or circumvent the ordinance” (similar to the existing language in Z.O. 4-11-3)
- *Try to find a better balance between how many “social temporary events” should be permissible on a property zoned A-1 (which is not an “agritourism operation”):*
 - Maintain a low number (currently proposed as 12 per year) for what is permissible by-right
 - Create a new special use in A-1 for “more than 12 social temporary events per year”
 - this would create business opportunities for landowners, but would allow County Supervisors to set conditions (if necessary) to protect property rights of nearby landowners

Annual Number of Special Event Permits: 2006 - 2015



Over the previous ten years (2006 – 2015), there has been a steadily increasing number of Special Event Permit applications being received, processed, reviewed, and approved by the Planning & Zoning Department. Please note the following:

- From 2006 – 2012, the average number of SEPs issued each year was 14. In 2015, the Planning & Zoning Department coordinated and approved more than double that figure.
- A significant increase in the number of approved SEPs began in 2013.
- In addition to this increase in the total number of events, the Planning & Zoning Department also began reviewing and approving Special Event Permits for a notably larger-scale event (Lockn Festival “mass gathering”) in 2013.
- Through the first 7 months of 2016, the Planning & Zoning Department has processed twenty-one (21) SEP applications.

BOS Referral 2015-68 > PC Recommendations >
Work Group and County Staff Recommendations
JULY 29, 2016

**ARTICLE 24. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS
ACCESSORY USES**

Statement of Intent

This Article provides regulations designed to address temporary uses in districts where such uses would not otherwise be permissible, establishes criteria for the approval or disapproval of such temporary uses, and provides requirements for the permitting and conduct of such uses. The Article also requires for the issuance of a Special Use Permit for properties where the intended use envisions large scale events, and provides for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. The Article is not intended to regulate, and does not regulate, the traditional non-commercial use of property by its owners; such use is subject to other provisions of this Ordinance, the Noise Ordinance, and other applicable law.

24-1 *Definitions*

Agritourism Activity: any activity carried out on a farm or ranch engaged in bona fide Agricultural Operations that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Community Center: A building and grounds used for recreation, social, educational, health, or cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space, for the sale of goods and services, offices, and Temporary Events in conjunction with Article 24 of this ordinance and subject to applicable zoning district regulations. The sale of goods and services may be carried on a for-profit basis or for charitable non-profit purposes by the owner or the owner's approved lessee or licensee. Community Center uses, structures, and activities are subject to site plan approval, Signage conveying information about permissible Temporary Events and/or a permitted Outdoor Entertainment Venue is permissible, subject to applicable regulations and approval requirements contained elsewhere in this Ordinance. There can be no other exterior indication of non-temporary commercial activities at the center, such as outside storage, sales area, or signage, except for a principal sign identifying the center, a single changeable letter sign, and additional small wayfinding and directional signs which may include identification of tenants.

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Comment [TMP1]: Relocate "this definition to Zoning Ordinance Article 2 ("Definitions")

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events. The minimum acreage for a Festival Grounds is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage; if contiguous parcels are under different ownership or control, the owner or agent for each parcel must formally authorize the application for a Festival Grounds Special Use Permit.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or other cultural performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays, and (iii) host no more than than 500 attendees at any one time during the activity. Unless otherwise specified in (ii), all such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

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Outdoor Entertainment Venue: The non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Temporary Events, Exempt Events, or other entertainment activities for cultural, artistic, social, or recreational purposes.

Comment [TMP2]: Relocate "this definition to Zoning Ordinance Article 2 ("Definitions")

Temporary Event: The temporary use of property that is not otherwise a by-right use or use permitted by special or conditional use permit.

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours, or similar activities which are conducted in connection with a property of historical or natural value when there is either (i) no admission or (ii) a nominal admission dedicated to preservation, restoration, or charitable purposes.

Temporary Event, Non-Profit: An event conducted by local non-profit community service organizations such as fire departments, rescue squads, schools, fraternal organizations, faith-based organizations, or community centers.

Temporary Event, Social: A one day private social event, such as weddings, receptions, and reunions, which is conducted on property not zoned for commercial uses and not a farm winery or agritourism activity venue, which is not open to the general public, to which attendance does not exceed 300 people, and for which the landowner charges a fee for the use of his property.

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24-2 Temporary Event Permits

A Temporary Event Permit is required for Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A Exempt Events

The following Temporary Events are exempt from Temporary Event Permit requirements and fees:

1. Private non-commercial functions conducted on the property of the host

- 2. Social Temporary Events where permitted by right
- 3. Historical Property Temporary Events
- 4. Non-Profit Temporary Events having or projecting no more than 500 attendees at any time during the event
- 5. Athletic and sporting events conducted on sites approved for such events
- 6. Political gatherings
- 7. Religious gatherings
- 8. Out-of-Door Accessory Uses
- 9. Farm winery activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.
- 10. Agritourism activities that, by virtue of the number of attendees, size and location of property, or hours of conduct, do not cause any substantial impact(s) on the health, safety, or general welfare of the public.

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24-2-B Temporary Event, Category 1

A Category 1 Temporary Event is any event which is neither an otherwise permitted use nor exempt and:

- (i) for which admission is charged or at which goods and services are sold, having or projecting no more than 500 attendees at any time during the event, or,
- (ii) Non-Profit Temporary Events having or projecting more than 500 attendees and less than 1,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which – by virtue of the number of attendees, size and location of property, or hours of conduct – cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting less than 1,000 attendees at any time during the event.

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Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

24-2-C Temporary Event, Category 2

24-2-C-1 A Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt:

- (i) for which admission is charged or at which goods and services are sold, and having or projecting more than 500 attendees but less than 10,000 attendees, or
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event, or,
- (iii) Farm winery activities or Agritourism activities which – by virtue of the number of attendees, size and location of property, or hours of conduct – cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or

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projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event,

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Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

24-2-D Structures for Category 1 and 2 Temporary Events

The installation of temporary structures and facilities, such as tents and portable lavatories, is permissible in connection with approved Temporary Event Permits, subject to all applicable laws and regulations. All such temporary structures and facilities shall be lawfully removed within ten (10) days of the approved end date.

No new non-temporary structure(s) used for either Category 1 or 2 Temporary Event(s) shall be installed or constructed unless all required zoning permit approvals and building permit approvals are obtained, as may be applicable.

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Existing non-temporary structures proposed for use for either Category 1 or 2 Temporary Event(s) (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size, and (ii) shall be a lawful conforming properly permitted structure and shall support or have supported a lawful use of the property.

24-2-E Temporary Event, Category 3

24-2-E-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use to be obtained pursuant to Article 12, Section 3 “Special Use Permits” and Article 13 “Site Development Plan” and also a Temporary Event Permit. The erection of non-temporary structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible in connection with a Festival Grounds Special Use Permit, and subject to all other required zoning permit approvals and building permit approvals, including but not limited to Zoning Ordinance Article 13 “Site Development Plan.”

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24-2-E-2 A Festival Grounds Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which hearing the Board may revoke or modify the terms and conditions of the Special Use Permit in accordance with Article 12, Section 3 “Special Use Permits.”

24-2-E-3 A Category 3 Temporary Event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday,

Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday and Sunday morning. Without limiting the general authority of the Board of Supervisors under Article 12, the Board of Supervisors may impose additional conditions or further modify the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use.

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24-2-F For the purposes of this Article 24, “applicant” includes the members of an applicant’s immediate family or an affiliated business entity relationship. An affiliated business entity relationship exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

24-3 Issuance of Temporary Event Permits

24-3-A The Planning and Zoning Director shall evaluate Temporary Event Permit applications to determine if any substantial impacts to public health, safety, or welfare would be reasonably likely to occur, due to the proposed event’s operational details such as location, size, or number of attendees; frequency of events; or hours of conduct.

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Specifically, the following factors shall be considered when determining whether a Temporary Event Permit will be issued:

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1. The completeness of the Temporary Event Permit application as specified in Section 24-3-D;
2. If and how the proposed event would alter the character of the area or circumvent the ordinance;
3. The relationship between the proposed event and the permitted primary use(s) of the property;
4. If and how the proposed event would result in undue interference with other planned activities in the County;
5. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
6. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
7. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
8. Compliance with the requirements of other agencies and departments; and

9. The prior history of compliance by the applicant or landowner with this article, the zoning ordinance, and applicable conditions. Prior or existing non-compliance may be grounds for the denial of a permit.

24-3-B In issuing the permit, the Planning and Zoning Director, may, after consideration of the foregoing factors, modify the terms of approval, as may be necessary to protect the health, safety and welfare of attendees and residents of the County.

~~24-3-C The maximum number of properly permitted non-exempt Temporary Events which may be conducted in a calendar year on the same subject property, or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property, is limited as specified in the following chart. Event promoters and/or property owners may formally request approval to conduct additional non-exempt Temporary Events, beyond the limits specified in the following chart, at a public hearing conducted by the Board of Supervisors.~~

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 Establish or modify times during which activities or amplified sound, or both, may be conducted;¶
 Fix the permitted dates for the event;¶
 Limit the number of attendees; and¶
 Impose such conditions
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Type of Property	Category 1	Category 2	Category 3
Eligible property(s) zoned A-1, B-1, B-2, SE-1, or R-1 with an aggregate acreage of less than 250 acres*	10	6	0
Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is less than 100 acres*	12	8	0
Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is equal to or greater than 100 acres but less than 250 acres*	16	10	0
Any eligible property(s) zoned A-1 with an aggregate acreage equal to or greater than 250 acres*	18	12	4

**Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.*

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24-3-C The Director may issue a single Temporary Event Permit for more than one Temporary Event if he determines that each Temporary Event is substantially similar in nature and size and that a single set of conditions would apply to each Temporary Event. ~~Any such combined Temporary Event Permit shall not have the effect of allowing more Temporary Events than the limits set forth in the preceding subsections.~~

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24-3-D A Temporary Event Permit application requires the following submissions to be considered a completed application:

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1. Temporary Event Permit application signed by the property owner(s) and the event promoter or sponsor, who shall collectively constitute the “Applicant”;
2. Temporary Event Permit application fee, as follows:
 - a. Category 1 Temporary Event Permit application = \$100
 - b. Category 2 Temporary Event Permit application = \$500
 - c. Category 3 Temporary Event Permit application = \$2,500
3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations; except that Category 3 Temporary Event Permit applications require a Site Plan to be prepared in accordance with Article 13 “Site Development Plan” and Article 24-2-E-1 and submitted with the Festival Grounds Special Use Permit application in accordance with Article 12, Section 3 “Special Use Permits.”
4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);
5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
6. Any other event information deemed necessary by the Director of Planning and Zoning.

24-3-E After formal approval of a Temporary Event Permit, and in the event of unforeseen circumstances outside of the event promoter’s control or causation, the Planning & Zoning Director has the authority to formally approve modifications to the Temporary Event Permit and/or the various event plans specified in the preceding subsection, in consultation with the applicable law enforcement and regulatory agencies and with the event promoter(s).

Deleted: F

In addition to the proposed introduction of Article 24 (above), the following amendments are also proposed for existing Articles:

➤ Article 2. Definitions

Modify the following:

Community Center: A building and grounds used for recreation, social, educational, health, or cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space for the sale of goods and services, offices, and Temporary Events in conjunction with Article 24 of this ordinance and subject to applicable zoning district regulations. The sale of goods and services may be carried on a for-profit basis or for charitable non-profit purposes by the owner or the owner’s approved lessee or licensee. Community Center uses, structures, and activities are subject to site plan approval. Signage conveying information about permissible Temporary Events and/or a permitted Outdoor Entertainment Venue is permissible, subject to applicable

regulations and approval requirements contained elsewhere in this Ordinance. There can be no other exterior indication of non-temporary commercial activities at the center, such as outside storage, sales area, or signage, except for a principal sign identifying the center, a single changeable letter sign, and additional small wayfinding and directional signs which may include identification of tenants.

Add the following:

Outdoor Entertainment Venue: The non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Temporary Events, Exempt Events, or other entertainment activities for cultural, artistic, social, or recreational purposes.

➤ **Article 4. Agricultural District (A-1)**

Remove the following:

4-11-3 Temporary events not otherwise a permitted use may be allowed pursuant to a Special Events Permit for a specified time period. [...]

Add the following:

4-1 Uses – Permitted by right:

- Agritourism Activity
- Social Temporary Event, provided that there are no more than twelve such events in a calendar year and that the event complies with the County Noise Ordinance
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

Deleted: fifty

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

- Festival Grounds
- Social Temporary Event, in excess of twelve such events in a calendar year and provided that the event complies with the County Noise Ordinance
- Outdoor Entertainment Venue

➤ **Article 5. Residential District (R-1)**

Add the following:

5-1-a Uses – Permitted by Special Use Permit only:

- Outdoor Entertainment Venue in connection with a permissible public or semi-public use pursuant to 5-1-4

➤ **Article 8. Business District (B-1)**

Add the following:

8-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

8-1-a Uses – Permitted by Special Use Permit Only:

Outdoor Entertainment Venue

➤ **Article 8A. Business District (B-2)**

Add the following:

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

8A-1-a Uses – Permitted by Special Use Permit Only:

Outdoor Entertainment Venue

➤ **Article 8B. Service Enterprise District (SE-1)**

Add the following:

8B-1 – Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

8B-1-a Uses – Permitted by Special Use Permit Only:

Outdoor Entertainment Venue

RESOLUTION R2016-54
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
APPENDIX A ZONING ORDINANCE, ARTICLE 24 TEMPORARY EVENTS,
FESTIVAL GROUNDS, AND OUT-OF-DOORS ACCESSORY USES

BE IT RESOLVED, that pursuant to §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovington, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Appendix A, Zoning Ordinance, Article 24 Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors (BOS)
Mr. Stephen A. Carter, County Administrator

From: Tim Padalino | Planning & Zoning Director

Date: August 4, 2016

Subject: Planning Commission Recommendations for Proposed Zoning Ordinance Amendments: Article 10 (“General Floodplain District FP”)

Summary of Overall Review Process:

<i>August 11, 2015</i>	Staff presented proposed (draft) amendments to BOS
<i>December 8</i>	BOS voted to refer amendments to PC
<i>January 27, 2016</i>	PC received referred amendments
<i>February 24</i>	PC continued review
<i>March 23</i>	VA DCR staff attended PC meeting to assist with policy review/amendment process
<i>April 27</i>	County Attorney attended PC meeting to assist with policy review/amendment process; PC formally requested 100-day extension to continue review process
<i>May 6</i>	Original deadline for PC to provide BOS with recommendations (per Code of VA)
<i>May 10</i>	BOS approved PC’s 100-day extension request
<i>May 25</i>	PC continued review and directed staff to advertise for 6/22 public hearing
<i>June 22</i>	PC conducted properly-advertised public hearing
<i>July 27</i>	PC voted on formal recommendations to BOS
<i>August 14</i>	Extended deadline for PC to provide BOS with recommendations

The Planning Commission has reviewed the proposed amendments that were referred to them by the Board of Supervisors (BOS) on December 8, 2015; and has reviewed additional materials provided by Mr. Charles Kline, (former) Floodplain Planner for Virginia Department of Conservation and Recreation (VA DCR). The PC review process also included assistance from Mr. Charley Banks, National Floodplain Insurance Program Coordinator for VA DCR, and also from Mr. Phillip D. Payne, County Attorney for Nelson County.

Based on their extensive review process, the Planning Commissions conducted a public hearing on June 22nd for the version of the proposed text amendments dated May 26th. After the hearing was conducted, the PC further reviewed and discussed the amendments and made one additional modification (to add a definition of “Variance”), before voting on July 27th to formally recommend to the BOS the version of proposed amendments dated July 14th.

Summary of Proposed Amendments:

Please reference the proposed amendments to Zoning Ordinance (ZO) Article 10 (“General Floodplain District FP”), as recommended by the Planning Commission, and dated July 14th. This version includes the original referred amendments (items A – F, below) as well as the PC’s proposed modifications (items 1-4, below). Overall, the July 14th version of the proposed text amendments would modify the existing Floodplain Ordinance regulations as follows:

(Summary of Proposed PC Modifications to Amendments Referred by BOS):

(1) *Separate “Special Use Permit” and “Variance” Procedures and Requirements:*

- The existing Section (10.22) which addresses the issuance of “Special Use Permits” and “Variances” has been modified to closely reflect the state model ordinance. Per PC request, the revised language in 10.22 no longer contains reference to “Special Use Permits.” This section now only addresses the procedures and requirements for “Variances.” Other sections which previously referred to “Special Use Permits and/or Variances” have also been modified to reflect this proposed separation.
 - *Affected sections – please see:* 10.14 “General Standards” and 10.22 “Variances and Special Use Permits”

(2) *Define “Variance” as applicable to ZO Article 10 (only):*

- In connection with eliminating the “Special Use Permit” language from the Floodplain Ordinance, the Planning Commission agreed by consensus that Article 10 should contain a definition for “Variance” that would increase consistency between local floodplain ordinance and the state model ordinance.
 - *“Variance:* For the purposes of Article 10, a variance is a grant of relief by a community from the terms of a floodplain management regulation.”
- This would be a different definition of “Variance” than what is generally applicable in other portions of the Zoning Ordinance. There are no legal issues with having a definition pertain specifically (and only) to Article 10, without affecting the rest of the Zoning Ordinance.
- Adding a definition for “Variance” would not alter the review process, evaluation criteria, or other factors associated with Variance requests made pursuant to (proposed) Article 10, Section 22 (“Variances”).
 - *Affected sections – please see:* 10.7 “Definitions”

(3) Replace the “Special Use Permit” requirement for “all uses, activities, and development” with a requirement to obtain an administrative “zoning permit”:

- The existing requirement to obtain a SUP for all uses, activities, and development within any floodplain district would be eliminated; instead, a zoning permit would need to be obtained administratively.
- The proposed use, activity, structure, or other development would still need to comply with all of the floodplain management standards set forth in the ordinance – but the applicant would not need to obtain a SUP from the BZA. (Note: Uses or structures which would be permissible by Special Use Permit only, based on the zoning district regulations, would still need to obtain a SUP from the Board of Supervisors, as applicable.)
 - *Affected sections – please see: 10.13 “Permit and Application Requirements”*

(4) Modify the (proposed) “higher standards” to be less restrictive:

- The original proposed amendments in 10.14 (“General Standards”) were written so as to completely and totally prohibit the issuance of “Special Use Permits or Variances” for critical facilities, hazardous materials, or waste-by-products as fill material within any Special Flood Hazard Area (SFHA).
- However, while the PC’s recommendations would prohibit the issuance of administrative zoning permits for those types of uses within a SFHA, they do not include any prohibition relating to the issuance of Variances for those uses (if a Variance would be appropriate, as would be determined by the BZA in connection with the criteria contained in 10.22).
 - *Affected sections – please see: 10.14 “General Standards”*

In summary, the PC’s recommended modifications (as contained in the July 14th version of the amendments) would:

- (1) separate and “untangle” the SUP and Variance procedures and standards, which are not reflective of the model ordinance, and which create difficulty in administration and interpretation;
- (2) eliminate the automatic requirement for “all uses, activities, and development within any floodplain district” to require a Special Use Permit, and would instead only require an administrative zoning permit (if applicable); and
- (3) prohibit the issuance of administrative zoning permits in connection with certain high-risk uses, activities, structures, and development subject to “higher standards” – but would not explicitly or entirely prohibit the issuance of Variances for such uses, activities, or development (if applicable); and
- (4) establish a new definition for “Variance” that would create the possibility of “relief from floodplain management regulations,” if the petitioner can demonstrate that their project would comply with the existing standards and criteria contained in the floodplain ordinance (specifically: Z.O. 10-22).

(Proposed Text Amendments as Referred by BOS):

A. Increase freeboard from existing 12” requirement to 18” requirement:

- This would require the lowest floor (including basement) of any new construction or substantial improvement to be located a minimum of 1.5 feet above the Base Flood Elevation. This would be an increase from the existing requirement of 1 foot minimum.
- *Affected sections – please see:*
 - 10.15-A “Specific Standards – Residential Construction”
 - 10.15-B “Specific Standards – Non-Residential Construction”

B. Define “critical facilities” and prohibit them in all Special Flood Hazard Areas:

- This would prohibit the issuance of administrative zoning permits for the placement of critical facilities – such as emergency services and rescue squads, schools, medical facilities, hazardous materials and fuel storage, and other uses, structures, and improvements – within any SFHA.
- *Affected sections – please see:*
 - 10.7 “Definitions”
 - 10.14-L “General Standards”
 - 10.15-E “Specific Standards – Higher Standards and Critical Facilities”
 - 10.22-M “Variances and Special Use Permits”

C. Restrict “hazardous materials” and fuels in all Special Flood Hazard Areas:

- This would prohibit the issuance of administrative zoning permits for the storage of some hazardous materials (such as Ammonia, Hydrochloric acid, and other chemicals or chemical compounds) in any SFHA that would exceed a period of thirty (30) days; and would prohibit the issuance of administrative zoning permits for the storage of some other hazardous materials (such as lumber, gasoline, petroleum products, natural gas, and other raw materials and fuels) in any SFHA for any amount of time.
- *Affected sections – please see:*
 - 10.14-M “General Standards”
 - 10.15-F “Specific Standards – Higher Standards and Hazardous Materials”
 - 10.22-N “Variances and Special Use Permits”

D. Limit land uses in the Floodway to only non-structural uses:

- This would prohibit any and all structures from being located within the Floodway, but would allow other non-structural uses within the portion of the floodplain designated as Floodway. The Floodway is, “*the designated area of the floodplain required to carry and discharge flood waters*” and is generally the lowest-lying area in the middle of the floodplain which actually conveys surface waters.
- *Affected sections – please see:* 10.17 “Permitted Uses in the Floodway District”

E. Modify the requirements for when the Base Flood Elevation needs to be identified and included on subdivision plats:

- This would change the threshold for when applicants need to identify and include the Base Flood Elevation (BFE) on a plat of division. Currently, this BFE information needs to be included for subdivisions containing more than fifty lots or more than five acres, whichever is lesser. Specifically, the recommended amendments would lower the reporting threshold from “more than fifty lots or more than five acres, whichever is lesser” to “more than eleven (11) lots or more than five acres, whichever is lesser.”
- *Affected sections – please see:* 10.20-D “Standards for Subdivision Proposals”

F. Restrict the placement of fill in all Special Flood Hazard Area (SFHA):

- This would prohibit certain fill materials from being placed within any designated SFHA, and would only allow for locally-borrowed mineral materials to be used as fill within an SFHA (and would still be subject to the proposed requirement that an administrative zoning permit be obtained prior to placing any such fill in a SFHA).
- *Affected sections – please see:* 10.14-N “General Standards”

(* Editorial revisions intended to bring existing ordinance into compliance with state model ordinance:

- There are numerous amendments to satisfy all applicable “minimum requirements” as required by the state model ordinance, including:
 - adding a statement about the authority of the county to have a floodplain management program and floodplain ordinance;
 - adding a section specifying the administration of the floodplain ordinance;
 - creating consistency with the model ordinance by replacing “Planning & Zoning Director” title with “Floodplain Administrator” title throughout the ordinance;
 - revising or introducing definitions as contained in the model ordinance “Glossary;” and
 - ensure that terminology was accurate and consistent throughout the ordinance by capitalizing “Special Flood Hazard Area” and “Base Flood Elevation,” and by using the term “Conditional Letter of Map Revision” to replace outdated terms.
- *Affected sections – please see:*
 - 10.1 “Purpose”
 - 10.6 “Penalties”
 - 10.7 “Definitions”
 - 10.11 “Interpretation of district boundaries”
 - 10.13-A “Permit and Application Requirements – Permit requirement.”
 - 10.13-C “Permit and Application Requirements – Site plans and permits applications.”
 - 10.14 “General Standards”
 - 10.15-C “Specific Standards – Elevated Buildings”
 - 10.16 “Standards for the Floodway District”
 - 10.18 “Standards for the Special Floodplain District”

- 10.19 “Standards for Approximated Floodplain”
- 10.24 “Administration”
- 10.25 “Enactment”

Additional PC Recommendations:

Please note that, as part of their formal vote on July 27th, the PC also recommended that the BOS authorize Planning & Zoning staff to schedule a “Floodplain Workshop” chaired by Mr. Charley Banks (National Flood Insurance Program Coordinator – VA DCR), which would be open to County residents who are interested in learning about the National Floodplain Insurance Program.

The author would personally recommend that a decision about any such workshop should be made in conjunction with any consideration and decision about the Community Ratings System program, since a community workshop would generate “points” under the CRS which would further reduce insurance premiums. It would be beneficial to ensure that any public workshop would be credited towards CRS participation, if the County wants to participate in that program.

Summary & Conclusion:

Please carefully review this staff report, and the accompanying proposed amendments (showing “track changes” and “comments” dated July 14th), in advance of the August 9th BOS meeting. These amendments are being introduced to the Board for consideration of authorizing a public hearing, in order to receive valuable input from all interested members of the public.

Please also note that pages 7-9 of this report contain “Background Information” about this ongoing amendment process, including:

- Purpose of the Floodplain Ordinance
- State Review of the Floodplain Ordinance
- Floodplain Ordinance and “Community Ratings System”

Additionally, copies of informational materials provided by DCR in 2015 can be provided for your reference. Please notify Planning & Zoning staff of any request(s) you may have regarding:

- VA DCR recommendations from their “audit” of the existing floodplain ordinance;
- Virginia’s “Example Floodplain Management Ordinance” (model ordinance - Feb. 2015);
- VA DCR’s “Guidance for Local Floodplain Ordinance in VA” document, which includes information about “Higher Standards” in Section XII.

Please contact with me any questions you may have regarding the information contained in this staff report, or regarding the issue of floodplain management in general. Thank you for your attention to this important topic, and for your participation in this ongoing amendment process.

BACKGROUND INFORMATION

This information may provide useful context regarding the origins and importance of this overall policy review and amendment process.

Purpose of the Floodplain Ordinance:

The Nelson County Zoning Ordinance contains provisions for floodplain management and land use regulations within Article 10, “General Floodplain District FP.” Referred to as the County’s “Floodplain Ordinance,” this set of regulations contained in the Zoning Ordinance is the local (municipal) manifestation of federal floodplain management regulations.

These regulations are very important for property owners: in order for properties in any given locality to be eligible for flood insurance policies through the National Flood Insurance Program (NFIP), the local government must adopt, administer, and enforce a Floodplain Management Program [including a Floodplain Ordinance that meets or exceeds the minimum requirements, as specified in the “model ordinance”].

As explained to me on January 12, 2015 by Mr. Charley Banks, NFIP Coordinator for Virginia Department of Conservation & Recreation (DCR): the National Floodplain Insurance Program is a voluntary program, stemming from Chapter 44 of the Code of Federal Regulations, which enables localities to opt-in to the FEMA floodplain management program (in order for property owners to be eligible to obtain federally-subsidized flood insurance through the NFIP). Participation in the NFIP is critical for property owners; hence, most localities (including Nelson County) voluntarily participate in the NFIP.

Mr. Banks also explained that being in the NFIP means that the participating locality must codify floodplain management regulations into their local zoning ordinance or county code (and similar regulations are also placed in the building code and enforced by the building official). He stated that the NFIP – a federal program – was initially set up to be administered and enforced through local zoning ordinances or county code; and that this original arrangement of local administration and local authority remains in effect.

Mr. Banks emphasized that for all localities participating in the NFIP, the local government has the authority and the responsibility to enforce their codified floodplain management regulations.

State Review of the Floodplain Ordinance:

County staff recently reviewed the Floodplain Ordinance with the assistance of Virginia DCR. That review, which included an “audit” of the existing Nelson County Floodplain Ordinance as well as an introduction to “higher standards” information produced by DCR, led to the recommendation of numerous amendments, as summarized in this staff report (see pages 3-5).

More specifically, Mr. Charles Kline, (former) Floodplain Program Planner for DCR, reviewed the existing ordinance and provided recommendations in an email dated June 10th. Mr. Kline's recommendations can generally be grouped into two categories, as follows:

- recommendations for how the existing ordinance should be amended to properly contain the regular standards ("minimum requirements") as specified in the "Example Floodplain Management Ordinance" dated February 2015 (a.k.a. "model ordinance")
 - Note: "minimum requirements" are the floodplain management regulations which must be codified in a locality's Floodplain Management Program (floodplain ordinance) in order to be compliant with NFIP requirements and to enable local property owners to be eligible for flood insurance subsidies through NFIP.
- recommendations for how the existing ordinance could be amended to include some of the higher standards contained in the "Guidance for Local Floodplain Ordinances in VA" document prepared by DCR's Dam Safety and Floodplain Program in February 2014.
 - Note: "higher standards" are supported by the Code of Federal Regulations: "Any community may exceed the minimum criteria by adopting more comprehensive floodplain management regulations..." [44 CFR 60.1(d)];
 - Note: "higher standards" are encouraged by the Commonwealth: "[Minimum requirements] may not be all of the necessary measures to protect health, safety and welfare in your community. Therefore, states and communities are encouraged to enact more restrictive requirements where needed to better protect people and properties from the local flood hazard." ("Guidance for Local Floodplain Ordinances in VA" – page 33).
 - Note: "higher standards" would improve safety and protect properties, and may also produce financial savings for flood insurance policy holders: "Many of these more restrictive requirements are eligible for credit under the Community Rating System (CRS), a program which provides insurance premium discounts to policyholders in communities with more restrictive floodplain management programs." ("Guidance for Local Floodplain Ordinances in VA" – page 33).

In total, Mr. Kline recommended twelve (12) new higher standards to be included in the Floodplain Ordinance. After reviewing and discussing all of those recommendations, County staff originally recommended adoption of six (6) new higher standards. The Planning Commission has since formally recommended that those six higher standards be included (summarized as items A-F, above – pages 4-5), with some important recommended modifications (described as items 1-4, above – pages 2-3).

Floodplain Ordinance and "Community Rating System" Program:

Please also note the (potential) connection between a locality's adoption and enactment of higher standards for Floodplain Management, and eligibility for participation in the "Community Rating System."

Specifically, Mr. Kline noted in his June 10th email that, *“Enacting even a few of these higher standards would also make Nelson County a great candidate for participation in the Community Rating System (CRS). CRS is a program for communities that already run a compliant NFIP program and go above and beyond. The more they do for managing their floodplains, the more points they receive. The more points they receive, the more money their citizens can save on flood insurance premiums. Citizens also receive a line item in their insurance bill showing these savings.”*

Mr. Kline also provided a hypothetical scenario showing potential savings on flood insurance premiums, depending on how many higher standards Nelson County incorporated into the Floodplain Ordinance. It would be difficult to determine how much premium can be saved without more formally exploring CRS participation in specific detail.

Although participation in the CRS is a somewhat separate issue and process, it would be beneficial – and the County should carefully consider the potential values and benefits in possible CRS participation (and thus possible cost savings on flood insurance premiums) while considering whether or not to adopt higher floodplain management standards into the Floodplain Ordinance.

APPENDIX A - ZONING

Draft: **July 14 2016**

ARTICLE 10. GENERAL FLOODPLAIN DISTRICT FP

ORDINANCE NO.

AN ORDINANCE AMENDING APPENDIX A OF THE CODE OF THE COUNTY OF NELSON, VIRGINIA: THE ZONING ORDINANCE OF NELSON COUNTY, VIRGINIA, BY 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 IT ENACTED AND ORDAINED BY THE COUNTY OF NELSON, VIRGINIA, 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.

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.

Comment [CBK1]: Need citation of statutory authority – see Model Ordinance 1.1.

Need section for administration – see Model Ordinance Article 2.

FEMA reviewers will need to see adoption date and date ordinance went into effect as well as signatures of officials certifying this adoption. See Model Ordinance Article VII.

Comment [TMP2]: Statutory authority cited (15.2-2280); Administration is proposed Section 10.24; Enactment clause is proposed Section 10.25.

APPENDIX A - ZONING

- 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.

Deleted:

Deleted: Planning and Zoning Director

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.

Deleted: Planning and Zoning Director

10.7 *Definitions*

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

Comment [CBK3]: Include definitions from model ordinance glossary.

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

APPENDIX A - ZONING

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. 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

APPENDIX A - ZONING

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.

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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).

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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.

Deleted: An examination, evaluation and determination of 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.

Deleted: The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

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

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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

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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 (2) 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.

Deleted: A structure subject to federal regulations which is transportable in one or more sections, is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site, is built on a permanent chassis, is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required facilities, and includes the plumbing, heating, air conditioning and electrical system contained in the structure.

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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 –

(i) 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

(ii) 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

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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

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incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) 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
- (2) any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as a "historic structure."
- (3) 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.

Deleted: This term includes structures, which have incurred "structural damage" regardless of the actual repair work performed.

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 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.

Deleted: Code of Federal Regulations, Title 44: Emergency Management and Assistance, Part 60-Criteria For Land Management and Use, Subpart A-Requirements for Land Management Regulations, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5)

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

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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.

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- 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

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Comment [TMP4]: These revisions include language taken directly from model ordinance dated Feb. 2015.

Comment [CBK5]: Needs to include permit review to ensure development is 'reasonably safe from flooding'.

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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.

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

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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 granted for any proposed critical facilities as defined by this ordinance within any SFHA. See 10.15-E.~~
- M. ~~No zoning permit shall be granted for the storage of hazardous materials for any time period longer than 30 days within any SFHA. See 10.15-F.~~
- N. ~~No zoning permit shall be granted 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.~~

- Comment [TMP6]: "zoning permit" to replace "Special Use Permit or Variance"
- Comment [TMP7]: "zoning permit" to replace "Special Use Permit or Variance"
- Comment [TMP8]: "zoning permit" to replace "Special Use Permit or Variance"

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**

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- Comment [CBK9]: RECOMMENDED: Increase freeboard to at least 18 inches.
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- Comment [CBK10]: RECOMMENDED: Increase freeboard to at least 18 inches.
- Deleted: one foot
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- Comment [CBK11]: Recommend changing to "Space Below the Lowest Floor" to avoid confusion. See Model Ordinance 4.3C

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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;
 - b. be fully licensed and ready for 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,

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- c. meet all the requirements for manufactured homes in Section 10.13 and Section 10.15 D.

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):

E. 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. 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.

Comment [TMP12]: This clause ("or transport") was added to these recommendations by staff and is not explicitly listed in the VA DCR "Guidance for Local Floodplain Ordinances in VA" document.

F. 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:

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.

Comment [TMP13]: This specific hazardous material ("Natural gas") was added to these recommendations by staff and is not explicitly listed in the VA DCR "Guidance for Local Floodplain Ordinances in VA" document.

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

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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.

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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.

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10.17 *Permitted Uses in the Floodway District.* The following non-structural uses and activities are permitted, provided they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials or equipment:

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- A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- B. 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.
- C. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas;
- D. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.
- E. Flood warning aids and water measurement devices.

10.18 *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

APPENDIX A - ZONING

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.

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10.19 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.

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

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When such base flood elevation data is utilized, the lowest floor shall be elevated to one foot above the base flood elevation. During the permitting process, the Floodplain Administrator shall obtain:

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1. the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
2. 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

10.20 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.

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APPENDIX A - ZONING

10.21 *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.

10.22 *Variances*

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

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- 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.

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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

APPENDIX A - ZONING

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:

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- 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.

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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.

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Variances 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.

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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.

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APPENDIX A - ZONING

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.

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10.23 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

10.24 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

APPENDIX A - ZONING

- 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 floodproofed, 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.

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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:

APPENDIX A - ZONING

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

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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 flood plain 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:
- Any development that causes a rise in the Base Flood Elevations within the floodway.
 - 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.

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- 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)

10.25 Enactment.

Enacted and ordained this day of , 20 . This ordinance, number of Nelson County, Virginia, shall become effective upon passage.

Signature

Title

Attested

RESOLUTION R2016-55
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
APPENDIX A ZONING ORDINANCE, ARTICLE 10
GENERAL FLOODPLAIN DISTRICT FP

BE IT RESOLVED, that pursuant to §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Appendix A, Zoning Ordinance, Article 10 General Floodplain District FP.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

County Unclaimed property ordinance

Sec. _____. Unclaimed Personal Property Held by the Sheriff.

(a) Disposition of Certain Unclaimed Personal Property.

(1) In connection with unclaimed personal property held by the sheriff, other than personal property disposed of pursuant to subsections (b) and (c) of this ordinance, the sheriff is authorized to either (i) conduct a public sale in accordance with the provisions of this section or (ii) retain for use by the sheriff's department any such unclaimed personal property which has been in the possession of its law-enforcement agencies and unclaimed for a period of more than 60 days, after payment of a reasonable storage fee to the sheriff or other agency storing such property. No storage fee shall be charged or accounted for if such property has been stored by and is to be retained by the sheriff's office or other law-enforcement agency. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner, and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Va. Code § 55-210.1 *et seq.*).

(2) Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the sheriff or his duly authorized agents shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in Nelson County once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the law-enforcement agency, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The sheriff or his duly authorized agents shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the law-enforcement agency shall become the property of the County served by the agency and shall be retained only if, in the opinion of the chief law-enforcement officer, there is a legitimate use for the property by the agency and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

(3) If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining funds shall be deposited in the general fund of the County and the retained property may be placed into use by the law-enforcement agency. Any such owner shall be entitled to apply to the County within three years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the County shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any

suit, action or proceeding be instituted for the recovery of such funds or property after three years from the date of the sale.

(b) Optional Disposition of Unclaimed Bicycles, Electric Power-Assisted Bicycles, Mopeds, and Electric Personal Assistive Mobility Devices.

(1) The sheriff is authorized to provide for the public sale or donation to a charitable organization of any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped that has been in the possession of the sheriff's department, unclaimed, for more than thirty days. The procedures for sale shall be the same as provided in Subsection (a) above.

(2) Any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped found and delivered to the sheriff's department by a private person that thereafter remains unclaimed for thirty days after the final date of publication as required herein may be given to the finder; however, the location and description of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be published at least once a week for two successive weeks in a newspaper of general circulation within the County. In addition, if there is a license, tag, or adhesive license decal affixed to the bicycle, electric personal assistive mobility device, or electric power-assisted bicycle, or moped, the record owner shall be notified directly.

(c) Optional Disposal of Unclaimed Firearms or Other Weapons in Possession of the Sheriff.

(1) The sheriff may elect to destroy unclaimed firearms and other weapons which have been in the possession of law-enforcement agencies for a period of more than 120 days. For the purposes of this section, "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Va. Code § 55-210.1 *et seq.*).

(2) At the discretion of the sheriff, or his duly authorized agents, unclaimed firearms and other weapons may be destroyed by any means which renders the firearms and other weapons permanently inoperable. Prior to the destruction of such firearms and other weapons, the sheriff, or his duly authorized agents shall comply with the notice provision contained in subsection (a) above.

(3) In lieu of destroying any such unclaimed firearm, the County may donate the firearm to the Department of Forensic Science, upon agreement of the Department.

State law reference--Virginia Code §§ 15.2-1719, 15.2-1720, and 15.2-1721.

RESOLUTION R2016-56
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
UNCLAIMED PERSONAL PROPERTY HELD BY THE SHERRIF

BE IT RESOLVED, that pursuant to §15.2-1427, and §15.2-2204, of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on September 13, 2016 at 7:00 PM in the General District Courtroom in the Courthouse in Lovingson, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend the Code of Nelson County to provide for disposition of unclaimed personal property held by the Sheriff.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1719. Disposal of unclaimed property in possession of sheriff or police.

Any locality may provide by ordinance for (i) the public sale in accordance with the provisions of this section or (ii) the retention for use by the law-enforcement agency, of any unclaimed personal property which has been in the possession of its law-enforcement agencies and unclaimed for a period of more than 60 days, after payment of a reasonable storage fee to the sheriff or other agency storing such property. No storage fee shall be charged or accounted for if such property has been stored by and is to be retained by the sheriff's office or other law-enforcement agency. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.). Unclaimed bicycles and mopeds may also be disposed of in accordance with § 15.2-1720. Unclaimed firearms may also be disposed of in accordance with § 15.2-1721.

Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the chief of police, sheriff or their duly authorized agents shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the locality once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the law-enforcement agency, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police, sheriff or their duly authorized agents shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the law-enforcement agency shall become the property of the locality served by the agency and shall be retained only if, in the opinion of the chief law-enforcement officer, there is a legitimate use for the property by the agency and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining funds shall be deposited in the general fund of the locality and the retained property may be placed into use by the law-enforcement agency. Any such owner shall be entitled to apply to the locality within three years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the locality shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three years from the date of the sale.

1982, c. 163, § 15.1-133.01; 1994, c. 144; 1997, c. 587; 2010, c. 333.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1720. Localities authorized to license bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices; disposition of unclaimed bicycles, electric power-assisted bicycles, mopeds, and electric personal assistive mobility devices.

Any locality may, by ordinance, (i) provide for the public sale or donation to a charitable organization of any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped that has been in the possession of the police or sheriff's department, unclaimed, for more than thirty days; (ii) require every resident owner of a bicycle, electric power-assisted bicycle, electric personal assistive mobility device, or moped to obtain a license therefor and a license plate, tag, or adhesive license decal of such design and material as the ordinance may prescribe, to be substantially attached to the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped; (iii) prescribe the license fee, the license application forms and the license form; and (iv) prescribe penalties for operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped on public roads or streets within the locality without an attached license plate, tag, or adhesive decal. The ordinance shall require the license plates, tags, or adhesive decals to be provided by and at the cost of the locality. Any locality may provide that the license plates, tags, or adhesive decals shall be valid for the life of the bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds to which they are attached or for such other period as it may prescribe and may prescribe such fee therefor as it may deem reasonable. When any town license is required as provided for herein, the license shall be in lieu of any license required by any county ordinance. Any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped found and delivered to the police or sheriff's department by a private person that thereafter remains unclaimed for thirty days after the final date of publication as required herein may be given to the finder; however, the location and description of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be published at least once a week for two successive weeks in a newspaper of general circulation within the locality. In addition, if there is a license, tag, or adhesive license decal affixed to the bicycle, electric personal assistive mobility device, or electric power-assisted bicycle, or moped, the record owner shall be notified directly.

Code 1950, § 15-554; 1962, c. 623, § 15.1-133; 1968, c. 24; 1970, c. 285; 1975, c. 76; 1986, c. 52; 1994, c. 449; 1997, c. 587; 2001, c. 834; 2002, c. 254; 2013, c. 783.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1721. Disposal of unclaimed firearms or other weapons in possession of sheriff or police.

Any locality may destroy unclaimed firearms and other weapons which have been in the possession of law-enforcement agencies for a period of more than 120 days. For the purposes of this section, "unclaimed firearms and other weapons" means any firearm or other weapon belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.).

At the discretion of the chief of police, sheriff, or their duly authorized agents, unclaimed firearms and other weapons may be destroyed by any means which renders the firearms and other weapons permanently inoperable. Prior to the destruction of such firearms and other weapons, the chief of police, sheriff, or their duly authorized agents shall comply with the notice provision contained in § 15.2-1719.

In lieu of destroying any such unclaimed firearm, the locality may donate the firearm to the Department of Forensic Science, upon agreement of the Department.

1990, c. 324, § 15.1-133.01:1; 1997, c. 587; 2015, c. 220.

Closed Session Form Motion
Real Property Disposition – Lovington Healthcare Center

1. Motion to Convene in Closed Session

FORM MOTION FOR CONVENING CLOSED MEETING

“I 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) (3) disposition of publicly held real property (Old Lovington Healthcare Center) because discussion in an open meeting would adversely affect the County’s bargaining position.”

2. Conduct Closed Session
3. Motion to Reconvene in Public Session
4. Motion to Certify Closed Session

CERTIFICATION MOTION AFTER RECONVENING IN PUBLIC SESSION:

(Requires recorded roll call vote)

“I move that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information act cited in that motion.”

4 August, 2016

To: Board of Supervisors
From: S. Carter, County Administrator
Re: County Administrator's Report (August 9, 2016 Meeting)

1. Courthouse Project Phase II: The project is proceeding very well with no reported issues or concerns. Mr. Jim Vernon of Architectural Partners completed a site visit on 8-2 and reported a similar status to County staff. A copy of AP's Field Report #10 was emailed to the Board on 7-25. Change Orders to date total \$23,362 increasing the original construction contract amount of \$4,879,900 to \$4,899,447 (.004%). The next project progress meeting is on 8-10 At 1 p.m.

2. Broadband: A) Expansion Project – Phase 1 is complete with new connections either installed or in process. Phase 2 (just north of Routes 6 and 151 to County line with Albemarle County) has had conduit installed with vaults and fiber installation to be completed by 8-12. Phase 3 (Route 6 & 151 to Saddleback Lane) will commence construction within the ensuing ten business days (thanks to Supervisor Harvey's efforts to secure easements agreements from adjacent properties) and will likely be completed by not later than the end of August. Current new jobs credited to the project total 35, which exceeds the 21 total required by the CDBG grant.

B) Broadband Planning Project – County staff are working with Design Nine to confirm completion of all project objectives. Once done, a meeting with the NCBA will be scheduled.

C) CVEC RFI: The regional electric cooperative has issued a Request for Information solicitation for provision of broadband services to its 38,000 subscribers using the Cooperative's pole infrastructure. County staff with input from Design Nine is discussing the potential for a limited response from the Nelson County/NCBA (TBD).

3. BR Tunnel Project: Woolpert, Inc. (G. Harnish) has submitted the project plans and project manual to VDOT for review and comment. These submittals significantly encompass the information VDOT requires to approve the project for competitive bidding albeit following the required reviewed of (the) Federal Highway Administration (the source of VDOT's TAP grant funding). Another step prior to bid issuance is a new project agreement with VDOT, which is pending receipt.

4. Region 2000 Service(s) Authority: The Authority's strategic planning project is in process. The Board is reminded of the need for representatives (up to 15) from Nelson County to serve on the initiative's focus group.

5. Radio Project: Motorola, Inc. staff are in process with a revised proposal to provide for the installation and networking of equipment on the County's communications tower located at the RVFD. The proposal may be received prior to 8-9 and, if so, staff will endeavor to introduce it to the Board on that date for possible approval consideration.

6. Tire Amnesty: The County completed a second tire amnesty program on July 16 and 23. A total of 23.65 tons was processed (recycled) during the event.

7. Emergency Services: Nelson County hosted a regional tabletop exercise on 8-3 at the RVFD. A total of 103 persons participated in the exercise, including representatives from VDEM, VDH, TJEMS, Albemarle, Augusta and Nelson counties, Waynesboro, etc. VDEM staff who worked with County staff noted that this exercise was highly successful with a participation rate that far

exceeded expectations. An additional benefit of the exercise was the determination by Albemarle and Augusta counties staff of communications equipment each locality has that will, following deployment, facilitate regional emergency communications. Much credit to Jaime Miller who was instrumental in the success of the exercise.

8. 2016 Lockn' Festival: County staff are coordinating the annual approval process for issuance of the Temporary Event Permit for the 2016 Festival. A kick-off meeting is scheduled for August 18 at 10 a.m. at the Oak Ridge Carriage House.

9. Maintenance Facility: Work is in process on the complete residing and insulation of the building and is expected to be finished on 8-5. Next steps include finishing the roof installation (this entails connecting the installed roof to the new siding), installation of HVAC and re-installation of electrical service. Overall completion is 30 to 60 days.

10. 2018 General Reassessment: The RFP solicitation was sent to the NC Times for advertisement in the newspaper's 8-4 edition, posted to the County's web site and forwarded to four assessor firms. A 60 day period is anticipated for selection of an assessor.

11. Personnel: Anna Bell has been employed as a part-time ACO Shelter Attendant, starting work on 7-21. Advertisements have been placed for the full time Animal Control Officer Information Systems Specialist positions.

12. VDOT - Smart Scale (Formerly HB 2) Program: County staff met on 6-8 with Rick Youngblood of VDOT to discuss potential applications to the Department's Smart Scale Program for 2016. The projects recommended by Rick and subsequently presented to TJPDC staff to assist the County with the application process include: a) Intersection improvements at Route 6 (River Rd) and Route 151 (RV Hwy) at Martin's Store substation area b) Access management and intersection improvements for Route 29 corridor in Colleen and, 3) (possible): Intersection improvements at Route 6 (River Rd) and Route 29 (TN Hwy) at Woods Mill area. Next steps will address the application process with TJPEC.

13. Department Reports: Included with the BOS agenda for the 8-9-16 meeting.

July 18, 2016

The Honorable Allen Hale
Chair
Nelson County Board of Supervisors
PO Box 336
Lovingston, VA 22949

Dear Chairman Hale:

The Central Virginia Partnership for Economic Development (Partnership) is a nonprofit, public/private partnership of businesses, higher education institutions, and local governments. The organization serves as the regional economic development organization for all of Planning District 10 (Charlottesville and the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson) and for 3 of 5 counties in Planning District 9 (Counties of Culpeper, Madison and Orange).

Over the past several months, the Partnership's Board has taken an active interest in the GO Virginia initiative. On December 18, 2015, Frank Atkinson, Chairman of McGuireWoods Consulting, gave an overview presentation to the Board and facilitated discussion on how our region could prepare to take advantage of the initiative. This year, the Board unanimously approved the attached resolution of support for GO Virginia on February 19. Chris Lloyd, Senior Vice President of McGuireWoods Consulting, gave an update to the Partnership Board on the legislation and potential next steps on April 22.

At the Partnership's 20th Anniversary Celebration and Annual Meeting on June 24, the Partnership Board adopted the recommendation of its GO Virginia Planning Team. Assuming that Planning Districts 9 and 10 are combined into one GO Virginia region, the Board has requested to serve as the lead organization for GO Virginia and, with required Board modifications, its Regional Council. The Thomas Jefferson Planning District Commission and the Rappahannock-Rapidan Regional Commission will provide regional planning coordination with the Regional Council and each Planning District Commission will have a seat on the Regional Council. The remaining seats on the Council will be determined once the guidelines are released in October.

We are writing to request that the Board of Supervisors of Nelson County supports the Central Virginia Partnership as the lead organization for GO Virginia should Planning Districts 9 and 10 be combined. As a regional economic development organization, the Partnership's main focus – fostering collaboration to promote economic growth and job creation in the region – aligns exactly with the GO Virginia initiative. The Partnership has led a successful collaboration of public, private and educational stakeholders for two decades and is uniquely positioned to foster the regional cooperation required to successfully executive GO Virginia.

We are glad to answer any questions and look forward to partnering with Nelson County to make GO Virginia in our region a success.

Best regards,



Helen Cauthen
President
Central Virginia Partnership
for Economic Development



Chip Boyles
Executive Director
Thomas Jefferson Planning
District Commission



Patrick Mauney
Executive Director
Rappahannock-Rapidan
Regional Commission

cc: Steve Carter

RESOLUTION OF SUPPORT
Virginia Initiative for Growth & Opportunity
GO Virginia

WHEREAS, the Virginia Initiative for Growth and Opportunity in Each Region (GO Virginia) was initiated to encourage collaboration on private-sector growth and job creation by business, education, and government in each region; and

WHEREAS, the GO Virginia coalition's work is guided by three main points: (1) Virginia urgently needs strong private-sector growth; (2) Growth in Virginia's diverse regions requires collaboration; and (3) State government must be a catalyst and partner; and

WHEREAS, GO Virginia supports a voluntary, incentive-based approach as the best way to encourage regional cooperation on private-sector growth; and

WHEREAS, Governor Terry McAuliffe on December 17, 2015 announced his proposed Fiscal Years 2017-2018 state budget that included \$38.9 million in funding for the Growth and Opportunity Grants for GO Virginia; and

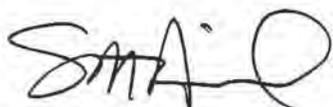
WHEREAS, the Central Virginia Partnership for Economic Development's mission is to foster job creation and increase capital investment in the region. And, to achieve this mission, the Partnership collaborates with business, nine localities (the Counties of Albemarle, Culpeper, Fluvanna, Greene, Louisa Madison, Nelson and Orange and the City of Charlottesville), and higher education (University of Virginia, Piedmont Virginia Community College, and Germanna Community College); and

WHEREAS, the Partnership agrees that the success and sustainability of Virginia's economic future depends on strong private-sector growth and supports state policies that encourage business, education, and local government to work together to create jobs and achieve shared economic development goals.

THEREFORE BE IT RESOLVED, that the Central Virginia Partnership for Economic Development supports the GO Virginia initiative to strengthen Virginia's economy in each region.

Adopted the 19th day of February, 2016 by the Board of Directors of the Central Virginia Partnership for Economic Development being duly assembled.

ATTESTED:



Steve M. Nichols
Chairman
Central Virginia Partnership for
Economic Development

RESOLUTION R2016-57
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION OF SUPPORT FOR
VIRGINIA INITIATIVE FOR GROWTH & OPPORTUNITY - GO VIRGINIA

WHEREAS, the Virginia Initiative for Growth and Opportunity (GO Virginia) was initiated to encourage collaboration on private-sector growth and job creation by business, education, and government in each region; and

WHEREAS, the GO Virginia coalition's work is guided by three main points: (1) Virginia urgently needs strong private-sector growth; (2) Growth in Virginia's diverse regions requires collaboration; and (3) State government must be a catalyst and partner; and

WHEREAS, GO Virginia supports a voluntary, incentive-based approach as the best way to encourage regional cooperation on private-sector growth; and

WHEREAS, the General Assembly has approved \$35.95 million for GO! Grants, enacted legislation effective on July 1, 2016 and directed that guidelines be developed to implement the legislation by October 15, 2016; and

WHEREAS, as a regional economic development organization, the Central Virginia Partnership for Economic Development's main focus – fostering collaboration to promote economic growth and job creation in the region – aligns exactly with the GO Virginia initiative; and

WHEREAS, the Partnership has led a successful collaboration of public, private and educational stakeholders for two decades and is uniquely positioned to foster the regional cooperation required to successfully execute GO Virginia; and

WHEREAS, the Nelson County agrees that the success and sustainability of Virginia's economic future depends on strong private-sector growth and supports state policies that encourage business, education, and local government to work together to create jobs and achieve shared economic development goals; and

WHEREAS, it is anticipated that Planning Districts 9 and 10 will be combined to serve as a single region for the GO Virginia program and both Planning District Commission Directors have agreed to be integrally involved in supporting the Partnership in this endeavor;

NOW, THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors supports the GO Virginia initiative to strengthen Virginia's economy in each region and, in the event that Planning Districts 9 and 10 are combined to serve as one of the defined regions for implementation of GO Virginia, supports the Central Virginia Partnership for Economic Development as the lead organization for GO Virginia in our region.

Adopted: _____, 2016

Attest: _____, Clerk
Nelson County Board of Supervisors

Nelson Senior FFA



Nelson County High School
6919 Thomas Nelson Highway
Lovingsston, VA 22949
(434) 263 -8317 Fax: (434) 263-5987

August 3, 2016

Mr. Steve Carter
County Administrator-Nelson County
P.O. Box 336
Lovingsston, VA 22949

Dear Mr. Carter,

It is with a great deal of pride and satisfaction that I write to you and the Nelson County Board of Supervisors. This past spring the Nelson County High School FFA Forestry Team did very well competing against the best teams from across the state.

This team won their local, federation, regional, and last, but not least, the State contest on May 11, 2016. The team and the county were recognized in Blacksburg, at VA Tech, during the State FFA Convention in June. The students that will be competing in Indianapolis, Indiana that are on my Forestry team are Ruth Fitzgerald, Jacob Phillips, Kelsy Fitzgerald, and Steven Tyree. While at the national FFA Convention, Nelson Senior FFA will be recognized in front of over 65,000 FFA members as being a multiple star chapter, one of the top programs in the nation. This is the highest degree of recognition our FFA chapter can receive. Three members will be receiving that award on behalf of our FFA chapter, the High School, and the County of Nelson. These members are, Brandy Campbell who placed second in the state, in the FFA Computer Applications in Agriculture contest, Melandy Mawyer was the top individual in the State on our State second place Avian Bowl team, and Danielle Saunders who placed second in the State Senior FFA Prepared Public Speaking contest.

In past years, the Nelson County Board of Supervisors has money budgeted for state winning teams that are traveling to compete in Nation Competitions. The past trips would not have been possible without the Nelson County School Board's support. These children have spent most of the late spring and summer preparing to go to the National FFA Convention and compete in Indianapolis, Indiana October 17-22, 2016. The months, and yes for some the years, of preparation has paid off for these young citizens of our county. These students will be representing Nelson County and Virginia in the National contest and convention activities.

The chapter has been working hard to raise the funds necessary to send the forestry team and the National Chapter Award delegates for the high school and to Indianapolis. The anticipated cost for these students alone is of over \$11,000. We have started planning our 10th Annual FFA Bluegrass benefit that will be held October 8th and will be starting our 30th annual FFA Apple Butter sale later this month. Unfortunately due to the current state of the economy, I am afraid this will not be enough to fund the trip. I feel that with the chapter's hard work and community support we can raise over half of the expected costs by the time the national contest begins on October 17, 2016.

My request is to ask the Board if they would once again assist me with the transportation cost of my students to the National Contest and the convention for these students who are on a state winning team that will be competing in the national finals. In past years, when needed, the Nelson County Board of Supervisors has provided up to \$2,000.00 to assist my team members in their travel expenses to competitions that they had earned the right to compete in by becoming the state champions. On behalf of the chapter members, I would like to ask you to consider assisting the High School FFA chapter with their travel expenses in the amount of \$2,000.

I appreciate any assistance that you and the Board members can provide me in this matter. The Board's tradition, of rewarding students that distinguish themselves and the County of Nelson above all other localities in the State, is a key motivating factor for these students. I appreciate the Board's generosity in the past and look forward to working with you in the future.

Sincerely,

Edward W. McCann Sr.
FFA Advisor, Nelson County High School