

**AGENDA**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**March 8, 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 – **R2016-10** Minutes for Approval
- B. Resolution – **R2016-11** FY16 Budget Amendment
- C. Resolution – **R2016-12** COR Refunds
- D. Resolution – **R2016-13** Support of Buckingham Branch RR Co. Grant Application  
(Richmond & Alleghany Tie Replacement Project)
- E. Resolution – **R2015-14** FY16-17 VCA, Local Government Challenge Grant
- F. Resolution – **R2016-15** Local Government Education Week (April 3-9)

**III. Public Comments and Presentations**

- A. Public Comments
- B. VDOT Report
  - 1. 2016-2022 Secondary Six Year Plan & 2016 Rural Rustic Priority List
  - 2. Wayside Stand Entrance Requirements
- C. Presentation – Nelson Memorial Library (S. Huffman)
- D. Presentation - Proposed DHR Grant, Warminster Rural Historic District Survey (B. Carter)

**IV. New Business/ Unfinished Business**

- A. Employee Benefits – Health Insurance Rates (**R2016-16** Approval of Rate Structures)
- B. Proposed Amendments to County Code, Appendix A – Zoning “Wayside Stands and Farmers Markets”
- C. Proposed Amendment to County Code, Appendix A – Zoning, Addition of Article 24 “Temporary Events, Festival Grounds, Out-Of-Doors Accessory Uses”
- D. Closed Session Pursuant to State Code §2.2-3711(A) (7) Consultation with legal counsel and briefings by staff members pertaining to pending litigation, County of Nelson v. Crockett.

**V. Reports, Appointments, Directives, and Correspondence**

- A. Reports
  - 1. County Administrator’s Report
  - 2. Board Reports
- B. Appointments
- C. Correspondence
  - 1. RVCC –Request for Zoning Ordinance Amendment
- D. Directives

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

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

**I. Call to Order**

**II. Public Comments**

**III. Public Hearings**

- A. **Public Hearing – Proposed Amendments to Appendix A, Zoning “Bed & Breakfast Uses:** The proposed amendments include the definition or redefinition of numerous land uses related to transient lodging and dwellings and also include new or revised regulations regarding which zoning districts those uses are permissible in as a by-right use, as a special use, or as a use not permissible.

**IV. Other Business**

- A. Schedule Budget Work Session(s)

**V. Adjourn and Continue for FY16-17 Budget Work Session**

**RESOLUTION R2016-10  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MEETING MINUTES  
(February 9, 2016)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **February 9, 2016** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

Approved: March 8, 2016

Attest: \_\_\_\_\_, Clerk  
Nelson County Board of Supervisors

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**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 – Vice Chair  
Thomas H. Bruguiera, Jr. West District Supervisor  
Larry D. Saunders, South District Supervisor – Chair  
Thomas D. Harvey, North District Supervisor  
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 2:00 PM, with all Supervisors present to establish a quorum.

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

**II. Ring Presentation – Nelson Senior FFA National 3rd Place Forestry Team**

Mr. Hale presented rings to Brandy Campbell, Noah Fitzgerald, Colin Morris, Phillip Saunders, and Senior Advisor Ed McCann. Following the presentation, Phillip Saunders noted their appreciation to the Board for their continued support and the team distributed Louisville Slugger keychains to Supervisors and Staff. Phillip Saunders noted that these represented the Board being the key to their success. Mr. McCann then also thanked the Board for their support and reported that the team had been one point out of second place and Phillip Saunders had been nationally recognized as the second place individual in the Forestry Career Development Event and was a tenth of a point from first place.

**III. Consent Agenda**

Mr. Hale noted the consent agenda items for consideration and Ms. Brennan offered a correction to the spelling of a public speaker's name in the draft minutes presented; which was acknowledged by Ms. McGarry.

Mr. Hale then noted that the 2016 Big Read during the month of March at the Jefferson Madison Regional Library was "The Heart is a Lonely Hunter" by Carson McCullers.

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Ms. Brennan then moved to approve the consent agenda and Mr. Bruguiera 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 – **R2016-05** Minutes for Approval

**RESOLUTION R2016-05**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**APPROVAL OF MEETING MINUTES**  
**(January 12, 2016)**

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

B. Resolution – **R2016-06** FY16 Budget Amendment

**RESOLUTION R2016-06**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET**  
**NELSON COUNTY, VA**  
**February 9, 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)**

A. General Fund (FY16 Employee Salary/Benefit Adjustment)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$6,667.00	4-100-091030-5616	4-100-012010-1001
\$397.00	4-100-091030-5616	4-100-012010-1002
\$801.00	4-100-091030-5616	4-100-012010-2002
\$702.00	4-100-091030-5616	4-100-012010-2005
\$77.00	4-100-091030-5616	4-100-012010-2006
<u>\$318.00</u>	4-100-091030-5616	4-100-012010-2008
<b>\$8,962.00</b>		
\$1,914.00	4-100-091030-5616	4-100-012090-1001
\$10,981.00	4-100-091030-5616	4-100-012090-2005
\$4.00	4-100-091030-5616	4-100-012090-2006
\$113.00	4-100-091030-5616	4-100-012090-2009
<u>\$2,313.00</u>	4-100-091030-5616	4-100-012090-2013
<b>\$15,325.00</b>		

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\$4,268.00	4-100-091030-5616	4-100-012150-1001
\$831.00	4-100-091030-5616	4-100-012150-2001
\$384.00	4-100-091030-5616	4-100-012150-2002
<u>\$53.00</u>	4-100-091030-5616	4-100-012150-2006
<b>\$5,536.00</b>		

\$1,366.00	4-100-091030-5616	4-100-012180-1001
\$53.00	4-100-091030-5616	4-100-012180-2001
\$169.00	4-100-091030-5616	4-100-012180-2002
<u>\$15.00</u>	4-100-091030-5616	4-100-012180-2006
<b>\$1,603.00</b>		

\$1,482.00	4-100-091030-5616	4-100-013020-1001
\$330.00	4-100-091030-5616	4-100-013020-1003
\$263.00	4-100-091030-5616	4-100-013020-2001
\$184.00	4-100-091030-5616	4-100-013020-2002
<u>\$19.00</u>	4-100-091030-5616	4-100-013020-2006
<b>\$2,278.00</b>		

\$6,332.00	4-100-091030-5616	4-100-021060-1001
\$325.00	4-100-091030-5616	4-100-021060-1003
\$593.00	4-100-091030-5616	4-100-021060-2001
\$780.00	4-100-091030-5616	4-100-021060-2002
\$76.00	4-100-091030-5616	4-100-021060-2006
<u>\$90.00</u>	4-100-091030-5616	4-100-021060-2009
<b>\$8,196.00</b>		

\$6,636.00	4-100-091030-5616	4-100-022010-1001
\$511.00	4-100-091030-5616	4-100-022010-1003
\$640.00	4-100-091030-5616	4-100-022010-1006
\$205.00	4-100-091030-5616	4-100-022010-2001
\$818.00	4-100-091030-5616	4-100-022010-2002
<u>\$79.00</u>	4-100-091030-5616	4-100-022010-2006
<b>\$8,889.00</b>		

\$1,361.00	4-100-091030-5616	4-100-031020-1001
\$644.00	4-100-091030-5616	4-100-031020-1005
\$2,589.00	4-100-091030-5616	4-100-031020-1006
\$616.00	4-100-091030-5616	4-100-031020-1009
\$5,416.00	4-100-091030-5616	4-100-031020-2002
\$924.00	4-100-091030-5616	4-100-031020-2005
\$473.00	4-100-091030-5616	4-100-031020-2006
<u>\$3,910.00</u>	4-100-091030-5616	4-100-031020-7015
<b>\$15,933.00</b>		

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\$8,248.00	4-100-091030-5616	4-100-032010-1001
\$3,955.00	4-100-091030-5616	4-100-032010-2002
\$100.00	4-100-091030-5616	4-100-032010-2006
\$20.00	4-100-091030-5616	4-100-032010-2009
<u>\$403.00</u>	4-100-091030-5616	4-100-032010-2013
<b>\$12,726.00</b>		

\$1,704.00	4-100-091030-5616	4-100-032030-1001
\$177.00	4-100-091030-5616	4-100-032030-2001
\$209.00	4-100-091030-5616	4-100-032030-2002
<u>\$357.00</u>	4-100-091030-5616	4-100-032030-2006
<b>\$2,447.00</b>		

\$2,016.00	4-100-091030-5616	4-100-035010-1001
\$965.00	4-100-091030-5616	4-100-035010-1003
\$228.00	4-100-091030-5616	4-100-035010-2001
\$24.00	4-100-091030-5616	4-100-035010-2006
<u>\$248.00</u>	4-100-091030-5616	4-100-035010-2013
<b>\$3,481.00</b>		

\$2,471.00	4-100-091030-5616	4-100-042030-1001
\$6,898.00	4-100-091030-5616	4-100-042030-1003
\$1,534.00	4-100-091030-5616	4-100-042030-1005
\$508.00	4-100-091030-5616	4-100-042030-2002
<u>\$50.00</u>	4-100-091030-5616	4-100-042030-2006
<b>\$11,461.00</b>		

\$5,999.00	4-100-091030-5616	4-100-043020-1001
\$1,000.00	4-100-091030-5616	4-100-043020-1002
\$740.00	4-100-091030-5616	4-100-043020-2002
<u>\$69.00</u>	4-100-091030-5616	4-100-043020-2006
<b>\$7,808.00</b>		

\$2,760.00	4-100-091030-5616	4-100-071020-1001
\$579.00	4-100-091030-5616	4-100-071020-2001
\$340.00	4-100-091030-5616	4-100-071020-2002
<u>\$37.00</u>	4-100-091030-5616	4-100-071020-2006
<b>\$3,716.00</b>		

\$2,665.00	4-100-091030-5616	4-100-081010-1001
\$4.00	4-100-091030-5616	4-100-081010-2001
\$334.00	4-100-091030-5616	4-100-081010-2002
<u>\$37.00</u>	4-100-091030-5616	4-100-081010-2006
<b>\$3,040.00</b>		

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\$3,201.00	4-100-091030-5616	4-100-081020-1001
\$1,732.00	4-100-091030-5616	4-100-081020-1003
\$266.00	4-100-091030-5616	4-100-081020-2001
\$398.00	4-100-091030-5616	4-100-081020-2002
\$1,014.00	4-100-091030-5616	4-100-081020-2005
<u>\$44.00</u>	4-100-091030-5616	4-100-081020-2006
<b>\$6,655.00</b>		

**\$118,056.00 Total Employee Salary/Benefit Transfer**

B. General Fund (Other Transfers from Contingency)

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$2,500.00	4-100-999000-9905	4-100-021020-3012
\$5,000.00	4-100-999000-9905	4-100-091030-5659
<u>\$34,850.00</u>	4-100-999000-9901	4-100-032030-3005

**\$42,350.00 Total Other Transfers from Contingency**

**Total Transfers \$160,406.00**

C. Resolution – **R2016-07** Jefferson Madison Regional Library-“The Big Read” 2016

**RESOLUTION R2016-07**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**JEFFERSON-MADISON REGIONAL LIBRARY’S THE BIG READ 2016**  
**“THE HEART IS A LONELY HUNTER” BY CARSON MCCULLERS**

**WHEREAS**, The Big Read is designed to restore reading to the center of American culture and provides our citizens with the opportunity to read and discuss a single book within our community; and

**WHEREAS**, the Jefferson-Madison Regional Library invites all book lovers to participate in the Big Read that will be held throughout March 2016. The Library's goal is to encourage all residents of Central Virginia to read and discuss “The Heart is a Lonely Hunter” by Carson McCullers; and

**WHEREAS**, the novel tells a dramatic story of poverty and racism in a 1930s Georgia mill town, and explores themes such as isolation and deaf culture; and

**WHEREAS**, the Big Read is an initiative of the National Endowment for the Arts in partnership with Arts Midwest; and is supported by the Art and Jane Hess Fund of the Library Endowment;

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**NOW, THEREFORE**, be it resolved by the Nelson County Board of Supervisors, that The Big Read be observed during March 2016 and all residents are encouraged to read “The Heart is a Lonely Hunter” by Carson McCullers during this time.

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

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

###### **1. Charlie Wineberg, Ennis Mountain Rd., Afton**

Mr. Wineberg first commended VDOT on the great job they did clearing his road. He then noted the Board’s wish contained in the Retreat minutes that more citizens would provide them input on the Route 151 Corridor and he noted he would oblige them. Lastly he noted his primary comments pertained to there being no alternatives to shooting a dog if it is menacing you on your property. He noted the County did not have any leash laws and citizens could be menaced on their own property if there was no law. He then advised of a person he knew of on Old Stoney Creek who could not go outside because he was afraid of the neighbor’s dog. He then noted that if one protects them self on their property by shooting the dog, they could be charged with animal cruelty. He added that the state laws did not side with the victims of animal aggression unless actually attacked and damaged by the dog. He then encouraged the Board to explore and enact an aggressive animal ordinance.

###### **2. Eleanor Amidon, Afton**

Ms. Amidon noted that she had found a paper entitled “NEPA and Independent Regulatory Agencies” and she read the following: “The National Environmental Policy Act of 1969 is the primary instrument for federal agencies to consider environmental impacts caused by the decisions that they make pursuant to their statutory authority. NEPA requires all agencies to “stop, look, and listen” prior to taking significant actions that could affect the human environment. She noted that Section 101(b) states “that it is the continuing responsibility of the federal government to use all practicable means, consistent with other essential considerations of national policy” to avoid environmental degradation, preserve historic, cultural, and natural resources and “promote the widest range of beneficial uses of the environment without undesirable and unintentional consequences.” Also, NEPA created the Council on Environmental Quality (CEQ), a division of the Executive Office of the President which coordinates the environmental efforts of federal agencies and other White House offices in the development of environmental policies and initiatives. NEPA assigns CEQ the task of overseeing the environmental impact assessment process of federal agencies ensuring that agencies meet their obligations under the Act. Further, CEQ mediates disputes from time to time between agencies regarding the adequacy of assessments of environmental impact.”

Ms. Amidon noted that an interesting thing stated in the paper was that FERC was involved in a lawsuit where the final rule required public utilities to have on file open access nondiscriminatory tariffs that contained minimum terms and conditions of non-discriminatory service. She noted that in this case, FERC had initially concluded that no Environmental Assessment (EA) or Environmental Impact Statement (EIS) was necessary

because it was Categorically Excluded. She noted that FERC eventually acquiesced to the commenters and EPA and prepared an EIS. She noted that she was bringing this to the Board's attention because there were a lot of gray areas when something reasonable was requested from FERC and they say no. She added that they did not have to take no for an answer and they could request the programmatic environmental impact statement be done over and over because they may acquiesce and do the right thing. She then implored the Board to support the Programmatic Environmental Impact Statement needed with all agencies they could think of.

### 3. Shelby Bruguere, Nellysford

Ms. Bruguere noted she wanted to make the Board aware of a couple of issues pertaining to items on the agenda. She noted the resolution authorizing a public hearing for amendments to the Zoning Ordinance for Bed & Breakfasts and Wayside Stands and Farmer's Markets. She advised that Harley Joseph of VDOT would like to come to the March 8<sup>th</sup> Board meeting to speak with the Board on these items and entrance requirements. She added that she thought it would be beneficial for the Board to hear what he had to say before making a decision on these and he wanted to employ continuity between Nelson and other surrounding counties. She then noted that in Albemarle County, the first thing done by each applicant was to include with their application, a letter from VDOT that the entrance has been approved. She noted that doing this would save time, money and energy and would take a lot off of the Planning and Zoning Director's plate.

Ms. Bruguere then noted that she had just found out about a Bed & Breakfast, Limited Residential Lodging Act that had just passed the House that allowed people by right to do an Air B&B in any zone. She noted the vote was 75-22 and it was on the way to the Senate. She added that if passed, it would invalidate a large portion of the proposed Bed & Breakfast Ordinance.

### B. VDOT Report

Mr. Don Austin of VDOT reported the following:

- HB2 submittals have been scored and it appeared from the ratings and funding projections that two projects in Nelson would make the list. He noted these were the Colleen access management improvements and the right turn lane at Rte. 664 going up to Wintergreen. He added that the HSIP application was pulled because it was fully funded with other funds now. Mr. Austin noted that next the scoring would be validated and funding the projects would be looked at in the next few months.
- Updating the Secondary Six Year Plan (SSYP) would be upcoming and there was no other funding than usual. He then provided the list of 2015 priorities for the Rural Rustic program and noted that the first two had been completed. He noted that they had started on Wheelers Cove and it would be done over the summer. He then advised the Board that they could shift, add, or delete after that listing and any changes should be submitted to VDOT in March. Mr. Austin then advised that he

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could get the Board information on roads that were not on the list if needed and that a minimum traffic county of fifty (50) vehicles per day would be necessary for the road to be eligible. He further clarified that they could start at #4 on the list to make changes since there was no funding placed on those. He noted that #6, Greenfield Road or Drive in Norwood was added last year because of its high maintenance issues.

Ms. Brennan then inquired as to which part of Wheelers Cove Road was referred to and Mr. Austin noted it was the upper or north end.

Supervisors then briefly discussed the great job that VDOT had done in plowing the roads in the last snowstorm and Mr. Harvey noted that the biggest help was that people stayed off of the roads so VDOT could work.

C. Presentation – FY15 Audit Report - Robinson, Farmer, Cox Associates

Mr. David Foley, of Robinson, Farmer, Cox, Associates addressed the Board and noted he was the Audit Manager for FY15 Audit of the County. He first thanked Debbie McCann and County staff for their excellent work and preparation for them for the audit. He noted it took a lot of advance work to prepare for the audit and the County did an excellent job in that and also during the field work when they were on site.

Mr. Foley explained that there were three (3) main pieces of the audit; the audited financial statements, the County's internal controls, and the County's compliance on major federal grant programs. He added that there were three (3) different reports communicating these audit results. He noted the first was the Independent Auditors Report which talked about the responsibility of the Auditors and how the audit is performed in accordance with Generally Accepted Accounting Principles (GAAP). He noted that their opinion on the financial statements was issued and the County received the cleanest one that could be given.

Mr. Foley then noted that the other two (2) were located in the compliance section. He noted the first of these was the report that covered Internal Controls; which he noted was clean as well with no deficiencies or material weakness. He reported that the third was located on page 122 and was the compliance report on major federal programs. He added that there were many different compliance requirements with federal grants and this report was also clean with no deficiencies or material weakness.

Mr. Foley then reported that there were no other items to be noted in their management letter and that they had issued a communication letter that was standard, with no issues dealing with management; where these would have to be disclosed if they existed. He noted there were also no uncorrected misstatements and it was a very clean audit.

Supervisors had no questions for Mr. Foley and Mr. Carter then thanked the RFCA team. He added that the County had a strong relationship with them and they have always provided staff with assistance throughout the year. He stated that they were the best independent accounting staff in the state for local governments.

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Mr. Foley added that yes they did the annual field work; however they served as the County's auditors year round and were always available to help.

D. Presentation – Piedmont Virginia Community College, CY15 Annual Report

Mr. Hale announced that Dr. Frank Friedman, Piedmont Virginia Community College (PVCC) President would report to the Board and he then recognized Mr. Tom Proulx in attendance as the Nelson representative on the PVCC Board.

Dr. Friedman noted that Mr. Proulx was in his first term on the Board and hopefully would be with them for many years to come as he was a very active Board member.

Dr. Friedman then noted that enrollment was stable overall and also for Nelson County. He reported that the County had 275 enrolled; which was 4% of total enrollment. He added that 179 of these were taking at least one course online. He also reported that 47 students at Nelson County High School were taking dual enrollment courses. Dr. Friedman then noted that 7 of this year's High School graduates this May would also earn an Associate's Degree through the Early College Program at the same time as earning their High School Diploma.

Dr. Friedman then went on to report that their major emphasis right now was getting people to work and getting them the skills needed to get jobs. He noted that they had received a \$2 million dollar federal grant to work with low income people to get them into the education and training that led to jobs. He added that this was also an emphasis of the Governor as demonstrated by him budgeting the planning money for their next building on campus; the Advanced Technology Center. He noted that this building would expand these shorter term programs. Dr. Friedman stated that in the next year, they would plan the building and this would fiscally impact Nelson County since the seven localities served by the College would have to foot the site development costs for new buildings; which was spread over 4 years. He noted that in the past, localities contributed \$5,500 per year for this. He added that one year from now, they would request our share of the site development costs; which was proportional to enrollment. Dr. Friedman noted that the most recent science building cost \$9 million dollars and the new building was about double that. He assured the Board that they would try to keep costs to localities low.

Mr. Hale then opened the floor for questions from Supervisors.

Mr. Hale asked if the site for the new building had been selected yet and Dr. Friedman noted it had. He added that it was to go before the science building on the same side of the road as they were trying to keep the campus central by infilling.

Ms. Brennan inquired if they were still working to help train healthcare providers and Dr. Friedman noted they were. He added that they had another grant they were working on strictly for health careers. He noted that there were 180 people in entry level health careers,

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including CNA, Pharmacy Tech, sterilization of instruments and rooms etc. He noted this would be for short term programs that would serve that population.

**V. New Business/ Unfinished Business**

**A. Petition of Circuit Court for Writ of Election – Commonwealth Attorney Seat (R2016-08)**

Mr. Hale noted that Anthony Martin, Commonwealth Attorney, had resigned as of March 1st and the petition of the Circuit Court for Writ of Election was needed for a special election to be held. He added that the proposed resolution called for it to be held with the November general election.

Mr. Bruguiere asked if the Circuit Court Judge would appoint someone in the interim and it was noted that the Assistant Commonwealth Attorney, Jerry Gress had already been appointed as such.

Ms. Brennan noted the Code Section referenced applied to localities with a population threshold of less than 15,000 and she questioned its applicability since Nelson's population just exceeded 15,000. Mr. Carter noted that the recommendation was to go with a November 8th date to avoid any additional expense. He added that the population issue had been internally discussed; however Weldon Cooper's recent data showed Nelson at a population below 15,000 versus the older census data that showed it being over 15,000.

There being no further questions, Mr. Bruguiere moved to approve resolution **R2016-08**, Petition of Circuit Court for Writ of Election, Commonwealth Attorney Seat 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 resolution was adopted:

**RESOLUTION R2016-08  
NELSON COUNTY BOARD OF SUPERVISORS  
PETITION OF CIRCUIT COURT FOR WRIT OF ELECTION  
COMMONWEALTH ATTORNEY SEAT**

**WHEREAS**, the serving Commonwealth's Attorney, Anthony Martin, has submitted his resignation effective March 1, 2016; and

**WHEREAS**, the next regularly scheduled election for the office of Commonwealth's Attorney is in 2019; 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.

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**NOW, THEREFORE, BE IT RESOLVED**, that 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, to fill the unexpired term of the Commonwealth's Attorney's current term of office.

B. Proposed Amendments to County Code, Appendix A - Zoning "Bed & Breakfast" Uses (**R2016-09** Authorization for Public Hearing)

Mr. Padalino noted that it was possible these amendments could become moot based on General Assembly action. He added that direction to preempt the regulation was unwise and he noted that what had been crafted would be effective and an improvement over the current ordinance. He noted that he could only speak to what had been done to date and to the content of what had been forwarded to them from the Planning Commission.

Mr. Padalino noted that the existing Zoning Ordinance provisions for permitting and regulating "transient lodging" uses were problematic in multiple ways: they were unclear and somewhat contradictory; and they did not reflect or account for the current variety of lodging types that existed in Nelson County. After conferring on this matter multiple times over the course of 2015, County staff determined that the Planning Commission (PC) and Board of Supervisors should formally conduct a policy review of the existing provisions in the Zoning Ordinance in order to identify possible amendments. He noted that County staff believed a text amendment process could result in the following beneficial outcomes: it would ensure that provisions and regulations were appropriate for and reflective of the current economy, would ensure that provisions and regulations were clear, consistent, and reasonable, would minimize the amount of time and effort required of staff for interpreting and explaining the provisions and regulations which were contradictory, outdated, and otherwise insufficient, and would simplify and clarify the issues of property rights and permitting processes for local residents and businesses.

He then noted that the following steps had been taken in the review process:

**August 11, 2015:** BOS refers amendments to PC via BOS Resolution R2015-66

**August 26:** PC formally receives referred amendments and begins review

**September 23 and October 28:** PC continues review, proposes various modifications, and directs staff to advertise for a public hearing

**November 18:** PC conducts public hearing and requests three (3) month extension from BOS for continued review(s) prior to making recommendation to BOS

**December 8:** BOS grants requested three (3) month extension

**December 16:** PC continues review inclusive of additional proposed modifications

**January 27, 2016:** PC continues review and votes to formally recommend 12/28 draft of amendments

Mr. Padalino then advised that the following amendments were proposed. He noted that the definitions were amended to eliminate contradictions and to introduce new ones to represent what was currently occurring in the county.

## Article 2: Definitions

### *Delete the following:*

Boardinghouse, tourist home:

Tourist home:

### *Add the following:*

Bed and Breakfast, Class A: A use composed of transient lodging provided by the resident occupants of a dwelling that is conducted within said dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than five (5) guest rooms in the aggregate, and having not more than twelve (12) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the class A bed and breakfast, provided that the dining and meeting rooms are accessory to the class A bed and breakfast use.

Bed and Breakfast, Class B : A use composed of transient lodging provided within a single family dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than eight (8) guest rooms in the aggregate, and having not more than twenty-four (24) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the bed and breakfast provided that the dining and meeting rooms are accessory to the bed and breakfast use.

Boardinghouse: A use composed of a single building in which more than one room is arranged or used for lodging by occupants who lodge for thirty (30) consecutive days or longer, with or without meals, for compensation. A boardinghouse may be occupied by the owner or operator, but may not be operated on the same parcel as a bed and breakfast.

Tent: A structure or enclosure, constructed of pliable material, which is supported by poles or other easily removed or disassembled structural apparatus.

Transient: A guest or boarder; one who stays for less than thirty (30) days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Transient lodging: Lodging in which the temporary occupant lodges in overnight accommodations for less than thirty (30) consecutive days.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room. Vacation houses with more than five (5) bedrooms are subject to the requirements contained in Article 13, Site Development Plan.

***Amend the following:***

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

Dwelling: Any building which is designed for residential purposes (except boardinghouses, dormitories, hotels, and motels).

Dwelling, single-family detached: A building arranged or designed to contain one (1) dwelling unit.

Home Occupation, class A: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than one (1) person is employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Home Occupation, class B: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than four (4) persons are employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Hotel: Any hotel, inn, hostelry, motel, or other place used for overnight lodging which is rented by the room to transients, is not a residence, and where the renting of the structure is the primary use of the property.

Travel Trailer: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreational, and vacation uses. The term "travel trailer" does not include mobile homes or manufactured homes.

**Article 4: Agricultural District A-1**

***Amend as follows:***

*Section 4-1 Uses – Permitted by right.*

4-1-3 Boardinghouse

4-1-30 Bed and Breakfast, Class A

4-1-31 Bed and Breakfast, Class B

4-1-32 Vacation House

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

4-1-10a Campground

**Article 5: Residential District R-1**

***Amend as follows:***

*Section 5-1 Uses – Permitted by-right:*

5-1-17 Bed and Breakfast, Class A

5-1-18 Bed and Breakfast, Class B, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.

5-1-19 Vacation House, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.

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

5-1-4a Bed and Breakfast, Class B, if the provisions in 5-1-18 do not apply to the subject property

5-1-5a Vacation House, if the provisions contained in 5-1-19 do not apply to the subject property

**Article 6: Residential District R-2**

***Amend as follows:***

*Section 6-1-a Uses – Permitted by Special Use Permit only:*

6-1-3a Boardinghouse

6-1-4a Bed and Breakfast, Class A

6-1-5a Vacation House

**Article 7: Residential Planned Community District RPC**

***Amend as follows:***

*Section 7-5-2 Single-Family Residential Sector - SR*

In Single-Family Residential Sectors, the following uses will be permitted:

1. Single-family detached dwellings.
2. Single-family attached dwellings.
3. Other uses as permitted in Residential Districts R-1 and in Section 7-5-1(b); except that Vacation House shall be a permissible by-right use in the SR Sector of the RPC District and shall not require a Special Use Permit.

**Article 8: Business District B-1**

***Amend as follows:***

*Section 8-1 Uses – Permitted by right:*

8-1-25 Bed and Breakfast, Class A, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

8-1-26 Bed and Breakfast, Class B, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

8-1-27 Vacation House, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a  
*Section 8-1-a Uses – Permitted by Special Use Permit only:*  
8-1-13a Campground

**Article 8A: Business District B-2**

***Amend as follows:***

*Section 8A-1-a Uses – Permitted by Special Use Permit only:*  
8A-1-15 Hotel

**Article 8B: Service Enterprise District SE-1**

***Amend as follows:***

*Section 8B-1 Uses – Permitted by right.*

8B-1-3 Boardinghouse, vacation house, class A bed and breakfast, class B bed and breakfast, churches, church adjunctive graveyards, libraries, schools, hospitals, clinics, parks, playgrounds, post offices, fire department, and rescue squad facilities

*Section 8B-1-a Uses – Permitted by Special Use Permit only:*

8B-1-14a Campground

The Board then had the following questions:

Mr. Bruguere asked if a residence was changed to a vacation house, would they be subject to providing a site plan. Mr. Padalino noted that existing structures would not be subject to site plan requirements.

Mr. Hale then reiterated that the Board was not acting upon these proposed amendments; rather the consideration was authorizing a public hearing. He added that Supervisors could seek further clarification between now and the public hearing should it be authorized.

Mr. Hale then asked if the Home Occupation Classes changed. Mr. Padalino noted it would change and the phrase “rental of rooms to tourists” would be stricken. He added that the Class A and B were created to be cleaner and more clear. He also noted that the definition of Home Occupation removed B&B to a separate category and Mr. Hale clarified that there would now not be a Home Occupation where rooms were rented.

Ms. Brennan then asked if Mr. Padalino knew where the associated legislation was in the General Assembly and Mr. Padalino noted he was not tracking it. Ms. Brennan supposed they would know by the next meeting and Mr. Carter noted he had made note to check it and that staff did oppose the proposed legislation because it would take away lodging taxes.

Mr. Bruguere noted he posed his first question because in the Vacation House definition, it referred to a site development plan. Mr. Padalino noted that he and the Planning Commission discussed this and thought it not necessary to call it out in the definition. He noted this was covered in Article 13 in the current ordinance and was recommended by the

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Planning Commission. He added that it could be stricken and it would not do any harm; however they were reluctant to do so because they thought someone could build a large house that would be like a hotel to circumvent the ordinance. Mr. Bruguieri noted that if there was an existing structure, a site plan should not be needed and Mr. Padalino suggested that this could be clarified as only needed for new construction.

There being no further questions from the Board, Ms. Brennan moved to approve resolution **R2016-09**, Authorization for public hearing to amend the Code of Nelson County, Virginia Appendix A, Zoning Ordinance, Article 2-Definitions, Article 4 (A1), Article 5 (R1), Article 6 (R2), Article 7 (RPC), Article 8 (B1), Article 8A (B2), and Article 8B (SE1) to include “Bed and Breakfast Uses”.

Mr. Saunders seconded the motion and the Board had the following discussion:

Mr. Hale advised that the motion included holding the public hearing at the March 8<sup>th</sup> meeting at 7:00 PM to consider the matter. Mr. Harvey noted he did not see the need to rush on this or do anything until the State acted. He added it should be tabled until the Board knew what the State was doing. Ms. Brennan reiterated that the Board did not have to presently vote on it and Mr. Carter noted he would have to look to see if the proposed legislation encompassed everything there. He added that they may need to make changes to reflect the state code after the public hearing.

There being no further discussion, Supervisors voted (4-1) by roll call vote to approve the motion with Mr. Harvey voting No and the following resolution was adopted:

**RESOLUTION R2016-09**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION FOR PUBLIC HEARING**  
**TO AMEND THE CODE OF NELSON COUNTY, VIRGINIA**  
**APPENDIX A, ZONING ORDINANCE, ARTICLE 2- DEFINITIONS, ARTICLE 4-**  
**A-1, ARTICLE 5- R-1, ARTICLE 6-R-2, ARTICLE 7- RPC, ARTICLE 8- B-1,**  
**ARTICLE 8A-B2, AND ARTICLE 8B-SE1 TO INCLUDE**  
**“BED & BREAKFAST USES”**

**WHEREAS**, the Planning Commission has completed its review, held a public hearing, and has made its recommendation to the Board of Supervisors regarding proposed amendments to the Code of Nelson County, Appendix A, Zoning Ordinance, to include “Bed and Breakfast Uses”,

**NOW THEREFORE BE IT RESOLVED**, that pursuant to §15.2-1427, §15.2-2204, and §15.2-2285 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on Tuesday, March 8, 2016 at 7:00 p.m. in the General District Courtroom in the Courthouse in Lovingston, Virginia to receive public input on an ordinance proposed for passage to amend Appendix A, Zoning Ordinance, Articles 2, 4, 5, 6, 7, 8, 8A, and 8B to include items regarding “Bed and Breakfast Uses”.

C. Proposed Amendments to County Code, Appendix A – Zoning  
“Wayside Stands and Farmers Markets” (R2016-10 Authorization for  
Public Hearing)

Mr. Padalino noted that the Planning Commission and Board of Supervisors have undertaken a policy review of the Zoning Ordinance provisions for the retail sale of agricultural products at locations “off the farm.” He noted that this effort included the production of proposed text amendments, which were originally drafted to substantially revise and improve the existing “wayside stand” provision by creating new definitions and new application procedures; and establish a “farmers market” definition and corresponding land use regulations.

He noted that those proposed amendments were reviewed at a public hearing conducted by the Planning Commission on July 14, and at a public hearing conducted by the Board on October 13. He added that at the November 12 Board meeting, the Board directed Supervisor Bruguiera to convene a citizen’s working group to review the most recent version of the proposed amendments (dated November 5th), and to identify recommendations for improving those proposed text amendments. He noted that the citizen’s working group met on November 19, December 15, January 27, and February 5 and came up with the following recommendations:

Farmers Market:

Mr. Padalino noted that the proposed modifications to the amendments for “Farmers Market,” as proposed by the citizen’s working group, were intended to accomplish the following:

More flexibility: Create more economic opportunity for Farmers Market vendors by allowing a wider variety of products and items to be offered for sale, and by eliminating the requirement that the items being sold are principally cultivated, produced, processed, or created on the vendor’s farm.

Better balance: Create more flexibility for Farmers Market vendors, and establish an appropriate balance between:

- o Protecting the authenticity of what a Farmers Market is intended to be; and
- o Providing more economic opportunity for agricultural products to be made available to consumers, regardless of the origin of those ag products

Mr. Padalino added that this allowed the Nellysford Farmer’s Cooperative to have a producer only requirement; however this was decided on their own.

Mr. Padalino then noted that the proposed amendments would also modify the “wayside stand” provisions as follows:

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- Bring clarity and consistency to the current provision (§4-11-2), which is extremely vague and which currently lacks any clear methods or criteria for applying for, reviewing, approving, or denying these types of administrative permits.
- Create two separate categories or classes for the “wayside stand” land use, determined by the type of road it would be located on or accessed from.

- o This would allow for proposed wayside stands to be applied for, reviewed, and approved more easily (administratively) if they are located on smaller roads; and

- o This would require applicants to go through the Special Use Permit process if a wayside stand is proposed for a location associated with greater potential risk(s) to public health, safety, and welfare (such as a location on roads with higher traffic counts, higher rates of speed, or other transportation factors which inherently create more concerns regarding public safety and land use changes).

- Eliminate the “temporary” nature of wayside stands (and specifically eliminate the proposed limitation to 5 consecutive days), and would instead allow for a wayside stand to be operated for any duration or frequency throughout any given week, month, or year.
- Eliminate the requirement that all products offered for sale must have been produced by the seller; and allow for the sale of products obtained from other producers.
- Provide for the operation of class A and class B wayside stands as a by-right use in all three business districts (B-1, B-2, and SE-1); currently, wayside stands are only permissible in Agricultural (A-1) District.

Mr. Padalino then noted that the citizen’s working group recommended the **newly proposed modifications** as follows:

## **Article 2: Definitions**

*Remove the following definition:*

*Wayside stand, roadside stand, wayside market:* Any structure or land used for the sale of agriculture or horticultural produce; livestock, or merchandise produced by the owner or his family on their farm.

*Add the following definitions:*

*Farmers Market:* Any structure, assembly of structures, or land used by multiple vendors for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Farmers Markets may include the sale or resale of accessory products, including arts, crafts, and/or farm-related

merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products.

Wayside Stand: Any use of land, vehicle(s), equipment, or facility(s) used by a single vendor for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Wayside Stands may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products. The majority of products being offered for sale by the Wayside Stand operator must have been cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family. Wayside stands are a temporary (non-permanent) land use.

Wayside Stand, Class A: A Wayside Stand which is located on a Local or Secondary road, or other road which is not functionally classified (as defined by the Virginia Department of Transportation).

Wayside Stand, Class B: A Wayside Stand which is located on a Minor Collector, Major Collector, Minor Arterial, Principal Arterial, or other road which is functionally classified (as defined by the Virginia Department of Transportation), or located within three-hundred (300) feet of an intersection with any such road.

**Article 4: Agricultural District (A-1)**

*Revise the following provision in Section 4-11 "Administrative Approvals:"*

The Zoning Administrator may administratively approve a zoning permit for the following uses, provided they are in compliance with the provisions of this Article.

4-11-2 Wayside Stands. Wayside Stand, Class A, which provides one (1) year of approval. An approved Class A Wayside Stand may be renewed annually; no renewal fee or site plan resubmission shall be required with any request for annual renewal unless the layout, configuration, operation, vehicular ingress/egress, and/or scale is substantially modified. No Class A Wayside Stand permit may be approved or renewed unless the Planning and Zoning Director reviews and approves the following operational details regarding the safety and appropriateness of the proposed Wayside Stand:

(i) Signed affidavit declaring that the majority of products offered for sale at the Wayside Stand are cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family.

Delete: (ii) Proposed frequency and duration of Wayside Stand operations, which must be compliant with the following restrictions:

- a. may not exceed 5 consecutive days
- b. limited to a weekly maximum of 5 days per week total

Add: (ii) Location and type of proposed Wayside Stand equipment or facility:

- a. All Wayside Stand structures or facilities must be located outside of VDOT right-of-way
- b. All permanent Wayside Stand structures must comply with the required front yard setback areas of the applicable zoning district

(iii) Location and details of proposed signage:

- a. Maximum of one sign allowed, which may be double-sided
- b. Maximum of twelve (12) square feet of signage

(iv) Sketch site plan, including accurate locations and dimensions of:

- a. property boundaries and right-of-way
- b. proposed location of Wayside Stand equipment and/or facility(s)
- c. proposed signage
- d. proposed layout and provisions for safe vehicular ingress, egress, and parking
- e. lighting plan and lighting details (for any Wayside Stand request involving any proposed operation(s) after daylight hours)

(v) Review comments from Virginia Department of Transportation:

- a. VDOT review comments must include a formal “recommendation for approval” by VDOT before a Class A Wayside Stand permit can be approved by the Zoning Administrator

*Add the following provisions to Section 4-1-a “Uses – Permitted by Special Use Permit only:”*

**4-1-46a Wayside Stand, Class B**

**4-1-47a Farmers Market**

**Article 8: Business District (B-1)**

*Add the following provisions to Section 8-1 “Uses – Permitted by right:”*

**8-1-25 Wayside Stand, Class A and B**

**8-1-26 Farmers Market**

**Article 8A: Business District (B-2)**

*Add the following provisions to Section 8A-1 “Uses – Permitted by right:”*

**8A-1-15 Wayside Stand, Class A and B**

**8A-1-16 Farmers Market**

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

*Add the following provisions to Section 8B-1 “Uses – Permitted by right:”*

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**8B-1-4 Farming Agricultural Operations**  
**8B-1-25 Wayside Stand, Class A and B**  
**8B-1-26 Farmers Market**

Supervisors discussed the Wayside Stand classifications and Mr. Harvey noted he was not sure it made sense. Mr. Hale noted he thought it was appropriate to look at these when they were on a primary state highway. Mr. Padalino clarified that Special Use Permits were not required on secondary roads as they were not classified per VDOT. Mr. Padalino then noted the VDOT definitions of classified and non-classified noting that Minor and Major Collectors and Arterials would be functionally classified and Local and Secondary Roads were not classified. He noted that he could get more information on this if the Board deemed it important. He added that most busy roads would require an SUP because of the extra safety concerns.

Mr. Padalino was asked if he was able to not require an engineer to do the site plans for these and he noted that the working group looked at this in detail and he noted that for a Class A Wayside Stand, a sketch site plan was sufficient and a site plan done by an engineer was not needed. He advised that a Class B Wayside Stand did have that requirement as well as others. Mr. Bruguere stated that he thought if the sight distance was appropriate then a gravel entrance done without an engineer should be acceptable. He added that they needed to get away from VDOT and use some of their rules and regulations as a wayside stand should not get that much traffic.

Mr. Hale clarified that they were discussing Class B wayside stands which did require a Special Use Permit. He noted that these were on an interstate or state primary highway and would be the same thing. He then asked if VDOT required this review on a commercial entrance. Mr. Padalino advised that it was not clear, however VDOT had required an entrance plan on a project last year. Mr. Bruguere noted he did not see the difference between those selling on the Artisans Trail and those selling at wayside stands. Mr. Padalino noted he thought this was a good question and the Artisan Trail uses were treated as Home Occupations and these Wayside Stands were typically not.

Mr. Hale noted he was happy with the Farmers Market definition and he suggested they wait to see what VDOT had to say about entrances before acting on Wayside Stands. Mr. Bruguere noted there was no push for these amendments as no one else had a Farmer's Market yet.

Mr. Carter then advised that per the County Attorney, Phil Payne, a public hearing was not required on this as one had already been conducted. He noted subsequent action included finalizing the language and drafting the ordinance.

Mr. Bruguere again suggested that this matter be deferred until they heard from VDOT on the entrance requirements. He then asked for the Board's consensus to defer action on these recommendations, noting that he thought they were fairly sound and addressed issues that were lacking in the current ordinance.

Ms. Brennan then inquired of Mr. Padalino if there was a VDOT list of functional classifications. Mr. Padalino advised there was no list; however he could provide a map that showed which roads were functionally classified. Mr. Harvey noted this was based on traffic and if the traffic count was high, it would likely be a better road and everyone would want to be on a busy road for sales. Mr. Padalino noted he thought the process of analyzing this matter was good, the recommendations were solid and much less restrictive than originally introduced. Mr. Harvey then noted that staff has been trying to change the ordinance to suit specific conditions and he thought that weakened the ordinance. He added that they were accommodating ordinance violations by changing the rules and enforcement was greatly lacking.

Ms. Brennan noted she would like a better definition of site plan and what required a site plan. Mr. Hale countered that it was clear in the ordinance. Mr. Harvey added that they have had many problems with hand drawn site plans or sketches. He noted that he was all for the amendments; however he thought they were reactionary instead of being classified as planning. Mr. Padalino noted that it was an attempt to get ahead of it now since these issues had popped up in the last year.

Mr. Harvey then questioned whether or not the resident on Route 6 that puts out produce for sale, is a wayside stand and Mr. Bruguiere noted that there were different traffic patterns on Route 151 from Brent's Mountain to Route 250 and from Route 151 going south. Mr. Saunders then supposed it would be difficult to get the language perfect and Supervisors agreed by consensus to delay action until the next meeting. Supervisors then directed staff to invite Harley Joseph, the VDOT person who offered to come and speak to the entrance issues, to come and address the Board at the meeting.

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

### **A. Reports**

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

**1. Courthouse Project Phase II:** No major project issues to report. A change order was approved (\$6,960) to address several wastewater discharge lines and a sewer manhole that were located in the trench excavated for installation of the footer(s)/foundation for the small expansion of the Courthouse on the north side of the Clerk's office. County staff are coordinating with a vendor on state contracts to provide for total equipping (audio, video, recording, etc.) of the Circuit Courtroom. A contract has not yet been issued for this service but at a minimum the potential solution is in place and moving forward. The project is slightly behind schedule but Jamerson-Lewis staff anticipates getting back on schedule as the end of winter nears.

Mr. Carter referred to the noted meetings with the furniture vendor and Architectural Partners on finishes etc. and noted that the outcome of those meetings would be the creation of a board that would show colors etc. He added that the second meeting was because Judge Garrett could not meet during the first time slot.

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Mr. Hale then asked what the anticipated expense was for the courtroom Audio/Visual equipment and Mr. Carter reported it was currently in the \$90,000 to \$100,000 range. He added that staff along with Judge Garrett was trying to decide what was wanted and required. He noted that to date, staff has been trying to get specifications and cannot seem to make it work. He added that staff has identified a state contract vendor who said they could do all of the work and they were proceeding on that. He noted that Judge Garrett was looking at other courtrooms he works in to see what was needed. Mr. Harvey noted it would be less expensive to do it now rather than upgrade five years down the road. Mr. Saunders advised that they were also looking at installing the infrastructure for things that could be added later. Mr. Carter noted the smart podium as an example of this.

**2. Broadband:** County staff (Department of Economic Development & Tourism, Maureen Kelley and Lisa Shannon with input from Administration, Finance & HR and Information Systems) have developed and are implementing a marketing plan/program for the local Broadband Network. The outline of the plan is attached hereto.

Phase 1 (Rt. 6/151 to Rt. 1511664) of the CDBG/County funded Fiber Network Expansion Project is in process with approximately 2 of 5.2 miles of conduit installed. The project's contractor, Computer Cabling & Technology Services, Inc., has indicated that Phase 1 may be completed by the end of February and that Phases 2 and 3, which are pending initiation, will be completed in April (these projections are, of course, dependent on weather and field conditions, as the project progresses). The Broadband Strategic Planning Project is also in process.

Blacksburg based Design Nine (Dr. Andrew Cohill) is the project's consulting firm. The initiative is multi-faceted, has an approximate 6 month schedule with a primary component being a network expansion and related financing plan.

Mr. Carter reported on the issue of the conduit being placed on a private property owner's property and the corrections that were done. He reported that fiber cuts had happened and hopefully that was over with. He reiterated that an outcome of the broadband planning process may be to put out an RFP for outside plant service as that has been a constant headache for staff and they were continuously dealing with issues. Mr. Harvey noted there was more to it than met the eye and Mr. Carter agreed and noted that in the area where there have been cuts, Verizon had two cables and it was very tight within the VDOT right of way. He noted that Wintergreen was not happy with the outages.

Mr. Hale then reported that he had met with Joe Lee McClellan prior to the snow storm; who had explained to him what they were doing and said that there was a stretch where he wanted to let the NCBA use his conduit and in exchange NCBA would let him use ours. Mr. Hale inquired if that was possible and Mr. Carter noted that staff had discussed that and the potential for Nelson Cable to pull fiber through the NCBA conduit. He noted that the issue was that the lateral extensions were owned by the NCBA and NCBA wanted NCC to use the County's network to serve their customers and not incur the capital costs. Mr. Hale noted that they should be open to discussing it and clearly seeing what he had in mind. Mr. Carter advised he would be happy to meet with them to discuss it. He added that Shentel had gotten

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a contract with Amherst Schools and wanted to use the County's conduit to pull fiber through to get to their head end over on Route 64. He noted this needed to be evaluated and staff was open to these discussions if it would be advantageous to the network.

Mr. Carter then reported that Design Nine may come up in a couple of weeks and Mr. Hale noted he would like to participate in the meeting. He reported that staff has been providing them with GIS information etc. and the County was in really good hands. He noted that Mr. Cohill has been in business for 30 plus years and was a nationally recognized expert.

**3. BR Tunnel:** Work is continuing on completing by early May, 2016 all VDOT required submittals to enable a funding decision to then be made on allocating additional state funding for the overall completion of the project. If this effort is successful the project's Phase 2 (Tunnel Rehabilitation) and Phase 3 (Western Trail and Parking Area) would be consolidated into a single construction project that would likely be publicly bid in late 2016 or early 2017. It is noted that the project's consulting engineer, Woolpert, Inc., advised County staff on 2-4 of a change in the firm's project team. Woolpert's principal in charge of the project has assured County staff that the firm is committed to the project's successful completion, including meeting VDOT and DCR deadlines to meet requirements for funding currently in place and/or to secure the additional funding necessary to complete the project (as noted herein). VDOT staff (Lynchburg District) have been advised of the change in Woolpert's project team and have already provided assistance to enable the new project team to acclimate to the project as quickly as possible, as have County staff.

Mr. Carter advised that Mr. Pack was at the interviews for the project, was enthusiastic, and would come have a meeting with staff and the committee. He assured the Board that staff would stay in contact with them to move the project along.

**4. Lovingsston Health Care Center:** A meeting with Harrisonburg based Valley Care Management is pending. County staff provided a response on 1-18 to initial question VCM had for discussion at the proposed meeting and have followed up with VCM again, as of 2-3, on scheduling the meeting but the company has not, to date, responded.

**5. Radio Project** (Also see Dept. of Information Systems Report): Documentation close out of the Radio Communications Project is pending but nearing completion. Evaluation of Digital Vehicular Repeaters for Rockfish, Montebello and Wintergreen is pending completion. Analysis of the ability to utilize Bear Den Mountain (located in Albemarle County) is in process. County staff are working with Augusta County staff on Augusta's requested use of Nelson's public safety tower located at Devils Knob; a final agreement is pending.

Mr. Carter noted that staff was moving things to closure and he hoped to report project close out next meeting.

**6. CDBG Grant Application for Sewer Line Extension:** See attached report.

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Mr. Carter noted that the proposed project had become much more complicated than ever anticipated. He reported that staff meet with Aqua Virginia who provided answers to the follow up questions. He also noted that VDOT had introduced another consideration that the project could not just serve one customer if it were in the VDOT right of way and they would not issue a permit to just serve Wild Wolf. He added that Aqua Virginia would not facilitate the bid process and this would fall to the County as well as doing a preliminary engineering report.

Mr. Carter then advised that he had related all of this to Mary Wolf and she understood. He added that staff still wanted to speak with DHCD staff to see if the County would have to regroup and if they were amenable to a major budget revision to address these things.

Ms. Brennan asked if the Service Authority was involved at all and Mr. Carter noted they were not. He added that the for DHCD grant purposes, the service had to remain in effect for twenty years and Aqua Virginia's agreement allowed for this as long as Wild Wolf did not violate their loading regulations.

Ms. Brennan then asked if Wild Wolf could revisit the pump and haul solution and Mr. Carter noted that Ms. Wolf was working on an alternate solution.

Mr. Carter then reiterated that the proposed project was much more complex now than originally thought and this was related to Ms. Wolf. He added that he did not tell her that the County would not do it; however he cautioned her that it was highly complicated. He noted that staff needed to talk to DHCD to see if they had set aside funding for the project already and if so, where did things go from here.

Mr. Bruguiere noted that he would think Aqua Virginia would seek more business to make more money and Mr. Harvey noted they could only serve within their approved service area. Mr. Carter advised that Aqua Virginia said that they could serve Wild Wolf.

Mr. Saunders noted he was not sure he was in favor of continuing to look at this if it would only serve Wild Wolf.

Mr. Harvey noted his concern regarding the project if another draught in the area occurred because it would affect their discharge ability. Mr. Carter noted that this concern was raised with Aqua Virginia and they said it would not be an issue for them. He added that he thought there was a closer sewer system in Cedar Meadows that perhaps Ms. Wolf could tap into.

Mr. Hale noted that he has been opposed to the proposed project from the beginning, he thought it was doubtful that the CDBG grant funds would come through, and they should back out now and quit. Ms. Brennan noted her agreement and that the County had made an effort to help, however she thought they should not proceed.

Mr. Bruguiere noted he had been in favor of the project because his philosophy was that it would help a business and potentially other citizens there with contaminated wells. He

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noted he thought this would have been a good opportunity; however it had gotten too complicated now with the requirements.

Mr. Carter assured the Board that there would be a 25% local match and the project was going to get more expensive.

Ms. Brennan inquired again about the possibility of a pump and haul solution and Mr. Carter noted that the Virginia Department of Health was not amenable to that as a long term solution. Mr. Harvey supposed they would reconsider if the sewer line extension solution did not work. Mr. Carter noted that an issue with that solution was that the County would have to be the permit holder and accept the liability and the Board had previously not wanted to do that.

Ms. Brennan noted that she would like to see what the other options were before making a decision on the CDBG option. Mr. Saunders agreed; however he noted he thought the grant application as it was should be abandoned.

Mr. Carter then recommended keeping the grant option on the table until staff was able to confer with DHCD. Mr. Hale disagreed noting that he thought the problem was the owner's responsibility and Ms. Brennan noted she thought they should try to help a business.

Following discussion, no action was taken by the Board.

**7. FY 16-17 Budget:** In process. A specific date for submitting the draft budget to the Board has not been presently determined.

**8. Auction of Surplus Property:** The auction of surplus property resulting from the current Courthouse Project was completed on January 30th and resulted in \$10,833.62 in net proceeds to the County.

Mr. Hale asked about the refurbishing of the Calohill building and Mr. Carter reported that Paul Truslow wanted to replace the siding around it and he was working on how to do that; including getting specifications from Architectural Partners to get quotes. He added that the roofing contractor quoted it and was high. He noted that the siding was rusted around the bottom and the insulation had deteriorated. Mr. Saunders noted that staff was checking on the cost to raise the door so the bucket truck could get inside and he had offered to help Mr. Truslow with this. Mr. Carter noted that staff was not stuck; however was getting mired down by procurement policies and rules. Ms. Brennan asked about the cost of doing all of that and Mr. Carter noted it was in the \$40,000 range. He added that he was not sure if local contractors did that kind of work and that no one else had responded to Mr. Truslow's inquiry. Mr. Carter noted that for work up to \$50,000, staff could get quotes. In response to questions, he noted there was no hazardous materials there.

**9. Employee Recognition:** Staff are endeavoring to provide for recognition by the Board of

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Supervisors of recent retirees with long term tenures with Nelson County. An engraved plaque is proposed with a presentation ceremony to be conducted at either the March or April, 2016 regular (day) session.

Mr. Carter asked for direction from the Board on this and noted he was thinking about one standard plaque. Mr. Hale noted he had received a functional plaque with a clock in it from the Service Authority and added he thought for under ten years of service a paper recognition was appropriate and anything above that should be more substantial.

The Board and staff agreed that Mr. Carter and Mr. Hale would confer on this and there may be as many as eight retirees. Mr. Hale questioned whether or not these were retirees or not re-hires in the Sheriff's Department and it was noted that some did retire and some were not re-employed. Mr. Hale then clarified that this would be honoring retirees and not those who left positions for other reasons.

**10. Department Reports:** Included with the BOS agenda for the 1-12-16 meeting.  
Attachments

## 2. Board Reports

Mr. Saunders reported the following:

- Attended a Courthouse Progress meeting.
- Attended a TJPDC meeting. Mr. Hale noted a bonus of being on the TJPDC Board was the opportunity to talk with other County Supervisors.
- Suggested that the Board take a tour of the courthouse renovations, possibly at the April meeting.

Ms. Brennan reported the following:

- Attended Department of Social Services Board meeting- fully staffed and moving along there.
- Attended Community Criminal Justice Board meeting and heard a review of the retreat there. Noted they were looking at grants and projects they could do and were working closely with the Jail Superintendent to gather data.
- Attended Crisis Intervention Team meeting and noted there would be a big meeting at PVCC for everyone in March including a person who specializes in communicating with body language. She added this was for public defender type folks.
- Attended Pipeline meetings in Lexington on the Mountain Valley Pipeline.

- Inquired about the LOCKN dates changing and Mr. Carter noted he had heard this; however had not seen it in writing. He noted it may be at the end of August before Labor Day but he did not know why for sure.

Mr. Harvey reported he did not go to the Service Authority meeting. Mr. Hale asked Mr. Robert McSwain in attendance if there was anything to report from there and he noted the Auditors reported that they had a good audit report.

Mr. Bruguiere reported that he attended the Planning Commission meeting and they would meet again on Special Events before the next regular meeting. He added that they had asked Maureen Kelley to get input from those affected on what they needed in the ordinance. He referenced the Hodsons, Devil’s Backbone and LOCKN.

Mr. Hale reported the following:

- Attended a Blue Ridge Tunnel Foundation meeting, where they gave the approval to relocate the fence at the parking area for \$11,000. He added that they had over \$30,000 and now was a good opportunity to do it. He then noted that he would work with Paul Truslow on this and they were also working with Parks and Recreation, who would advertise some tours to visit the tunnel; with the first one being on April 9<sup>th</sup>.
- Is working with Emily Harper and Doug Coleman to come up with a strategic plan for the Sturt Property. He added that money was there if they could figure out how to use it.

B. Appointments

Ms. McGarry noted the following three Board vacancies; noting there were no interested applicants for the North District Seat on the Service Authority or the JABA Council on Aging and these would continue to be advertised. She advised that an application had been received from Gary W. Strong for the Central Seat of the Broadband Authority and he appeared to be well qualified. She stated that Mr. Strong was retired and was a Nellysford resident who had earned both a Bachelor’s and Master’s Degree in Electrical Engineering and a joint Doctorate Degree in Computer and Communication Sciences & Anthropology. Supervisors noted his volunteerism as well.

<u>(1) New Vacancies/Expiring Seats &amp; New Applicants :</u>					

<u>Board/Commission</u>	<u>Term Expiring</u>	<u>Term &amp; Limit Y/N</u>	<u>Incumbent</u>	<u>Re-appointment</u>	<u>Applicant (Order of Pref.)</u>
Nelson County Broadband Authority - Central	6/30/2017	4 Years/No Limit	Alan Patrick	N-Resigned	Gary W. Strong
Nelson County Service Authority - North	6/30/2018	4 Years/No Limit	Thomas Harvey	N	None
JABA Council on Aging	12/31/2015	2 Years/No Limit	David Holub	N	None

Ms. Brennan then moved to appoint Mr. Gary Strong for the Central District seat of the Broadband Authority and Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

C. Correspondence

Mr. Hale noted receipt of a letter on the 100th Anniversary of the National Park Service and their plan to invite young people. He added that the County could have Parks and Recreation sign on to the website and set something up.

Mr. Bruguiere noted the thank you letter from Ted Hughes on the \$5,000 donation for the Blue Ridge Trail caboose restoration.

Mr. Carter then reported on the Region 2000 Service Authority; noting that a citizen group was being very proactive about the odors at the landfill. He noted that the Authority had just approved an odor abatement system there and were working on advertising for a long term gas management system that would further help the situation. He then explained that the landfill was way below the regulatory threshold to do this and they were not required to do it; however it was being driven by the citizens there. Mr. Carter then noted the County's opposition to payment of the host fee to Campbell County when it could be used to pay for those improvements. He added that his position was that the Member Use Agreement needed to be amended to provide for payment of the host fee and if this were done, Nelson Could veto it. He then noted that at the last meeting, the Authority Board had voted 3-1, with Nelson dissenting, to include this in the financial policy. Mr. Carter reiterated that a Citizen group and the Campbell Board of Supervisors were getting more involved. He reported that the consultant's report stated in its conclusions that when they went off site, the gases were measured at less than normal thresholds for the average person to be able to smell them. He added that the Campbell Administrator stated that their citizens were highly

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above average. Mr. Carter then noted that he had questioned the odors coming from the cattle market, which was dismissed.

D. Directives

Mr. Bruguire and Mr. Harvey had no directives.

Ms. Brennan:

Ms. Brennan inquired as to how many Larkin property acres the County was trying to get. Mr. Carter noted it would be up to the Board; however the east side was approximately 667 acres and there were 300 plus acres on the west side. He noted there was an additional 50 acres on the southwest side of the High School area. He added that he would focus on the parcels from Lovington to the High School which was collectively about 1,000 acres.

Ms. Brennan noted it would be good to have another Wintergreen 2x2.

Ms. Brennan then thanked the 151 Group that picked up trash on Route 151.

Ms. Brennan inquired about the hazardous waste disposal date coming up in April and asked if staff could put this on the website. Mr. Carter noted it could be posted there and he noted the process of obtaining a voucher to be used on the disposal date.

Mr. Saunders:

Mr. Saunders pointed out that on the General Fund reports it appeared that the County has paid the County Attorney over half of the amount budgeted for the year.

Mr. Saunders noted he still took issue with the Residential Water and Wastewater connection fees; and he distributed a comparison of Nelson's with other localities. He added he was getting the rates on larger connections from the Service Authority. He reiterated that he thought Nelson's were too high and the Board should have a say so on these. Mr. Harvey and Mr. Carter noted that the County only had authority on the Lovington line and Piney River. Mr. Carter noted that the lowest metered connections were \$2,000 for water and sewer. Mr. Harvey then suggested that if a comparison was to be made then all of the customer base information should be considered. Mr. Bruguire noted he agreed they were out of line.

Mr. Carter then noted that the intent of the connection fee reimbursement to the County was to cover their debt. Mr. Harvey noted that the fees were tied to the debt issuances and were what was needed. Mr. Carter added that the Service Authority kept all fees except for the Lovington system.

Mr. Saunders noted that he thought that if they had lower fees, they would have more customers and more revenue. Mr. Harvey noted that the Board's hands were tied and they were trying to cover the costs of the expansions. Mr. Carter added that they had not covered one year's worth of debt service in connection fees returned to the County.

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Mr. Bruguere noted that these costs did not include installation costs.

Mr. Hale noted that this issue was not that different than some of the Broadband issues and it was a question of how much the County wanted to subsidize a utility. Mr. Carter noted that the goal of the Broadband Authority was to be self-supporting and Mr. Hale noted that was also the goal of the Service Authority. He added that the connection fees that were kept every year were not that significant.

Mr. Saunders reiterated that he thought in order to get growth, the fees needed to be lowered. Ms. Brennan suggested that it was worth speaking to Maureen Kelley about.

Mr. Saunders noted he had been asked by an Amherst resident why the walking trail had not been extended west. Mr. Carter noted that in 1998, the Martins owned the 8 mile easement and it was the only thing the County had been able to purchase to date. He added that the County's goal was to find an outlet on the east side. He also noted that the deterrent to expand west was that the railroad easements were privately owned.

Mr. Hale:

Mr. Hale directed staff to call Josh McVey of 1562 Afton Mountain Rd. regarding fiber expansion at 804-869-2889. He then noted that he would like to see continued marketing efforts of the network. Mr. Carter advised that the marketing plan was in the packet and consisted of advertising in the NC Times, Blue Ridge Life etc.

Mr. Hale stated he wanted to see about establishing a solid waste committee to look at the solid waste situation and he would be willing to be on it. He noted that he had heard concerns regarding questions on how to deal with products that they had not gotten answers to. He added that there had been the recurring request from the Planning Department to have more staff and he added that it may behoove the County to have a full time Solid Waste and Recycling Coordinator and move all of Mr. Massie's hours to Planning and Zoning and look at the Solid Waste Ordinance. Mr. Bruguere indicated he could work on it in a couple of months.

Mr. Carter noted it would be helpful for staff to understand the issues and then they could be addressed. Mr. Harvey stated that this may just need to be a one on one conversation and Ms. Brennan stated that she thought there was a need for a committee to look at the issues and then they may decide there is no need for it. Mr. Carter noted his agreement with Mr. Harvey and reiterated that if they were made aware of the issues, then they could be addressed. Mr. Hale then noted that he had asked innumerable times what was done with fluorescent tubes and had not gotten a clear answer. Mr. Carter noted the answer was that residents, not businesses, could throw them away at the collection site and all of the attendants had been trained on that and it had been addressed months ago. Mr. Hale then noted that the County needed to improve efforts with respect to recycling.

Supervisors agreed that the Solid Waste Committee would be Mr. Hale and Mr. Bruguere.

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Supervisors inquired about the progress on doing a truck tire amnesty day and Staff noted it had not been done because the Board directed not to do it yet.

Ms. Brennan's inquiry regarding the April hazardous waste disposal day was included under her directives.

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

At 5:20 PM, Mr. Harvey moved to continue the meeting until 7:00 PM and Ms. Brennan seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion.

### **EVENING SESSION**

#### **7:00 P.M. – NELSON COUNTY COURTHOUSE**

##### **I. Call to Order**

Mr. Hale called the meeting to order at 7:00 PM, with all Supervisors present to establish a quorum.

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

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

##### **III. Public Hearings**

**A. Public Hearing – Special Use Permit #2015-18 – “Banquet Hall” / Mr. Armand Thieblot:** Consideration of a Special Use Permit application made pursuant to Zoning Ordinance §4-1-4a (“banquet hall”). Specifically, the applicant wishes to “allow for subdivision of property to be used as a banquet hall”. The subject property is located in Schuyler at 1981 Salem Road; it is further identified as Tax Map Parcel #61-A-23 and is zoned Agricultural (A-1).

Mr. Padalino noted that the application was for a Special Use Permit made pursuant to Zoning Ordinance §4-1-4a (“banquet hall”). The requested SUP would allow for the renovation of an existing Quonset hut and its reuse as a space for educational exhibits, private events, and administrative facilities for a small number of staff. He added that the requested banquet hall use would be seasonal; it would not be continuously operated year-round. He then noted that the Minor Site Plan was prepared by Mr. Chris Sonne, PE, LEED AP, which portrayed the proposed configuration of all the site features, and which distinguished the existing site features and improvements from the proposed (additional) improvements.

Mr. Padalino then noted the location on a County map and its location within the Schuyler area; noting that the property was an approximately 440-acre parcel in Schuyler with frontage on Salem Road and also along the Rockfish River. He noted it

was further identified as Tax Map Parcel #61-A-23, which was zoned Agricultural (A-1) and which also contained General Floodplain overlay district (FP) in certain locations. Additionally, he noted the property was the site of an abandoned soapstone quarry and also a residential dwelling; and the property owner had declared the intent to formally divide a new 40-acre property for the “Quarry Gardens” (banquet hall and arboretum) out of the existing parcel of record. He added that currently, a large portion of the 440-acre parcel was held in a conservation easement.

Mr. Padalino read aloud the current definition of “banquet hall” as follows: “A facility for hosting public and/or private events, including, but not limited to, weddings, receptions, social events or parties, and/or workshops, which is used as a venue for social, cultural, recreational, and/or educational activities. Banquet halls do not include lodging accommodations”.

Mr. Padalino reiterated that they would renovate the existing Quonset hut for seasonal use from April through November and they estimated 1,000 visitors annually. Mr. Padalino explained that the Special Use Permit was initiated partly to remedy their non-compliance with the Zoning Ordinance since some of the site improvements were completed in 2015 without County review or approval. He noted that the applicants had been cooperative since they were notified of this. Mr. Padalino noted that they needed a Certificate of Occupancy for the Quonset hut and the land disturbance.

Mr. Padalino then noted the Site Plan Review comments from the staff report as follows:

VDOT: Mr. Jeff Kessler, Virginia Department of Transportation representative, provided written review comments on December 16th. Mr. Kessler’s initial review comments include the following:

– “Based on the size of the existing buildings (3,550 Sq. Ft.) and the proposed 20 parking spaces and one bus, an entrance design meeting VDOT’s Moderate Volume Commercial Entrance requirements will be needed. The Engineer, Chris Sonne, P.E., has presented such an entrance design, which he will need to verify [the following]:

- o that it will accommodate the turning movements for a bus as the design vehicle [and]

- o the location of the entrance must meet the minimum sight distance requirements (both stopping and intersection) for the existing speed limit. In this case, a 55 mph design speed for an unposted (statutory) speed limit. The measured intersection sight distance provided on plan sheet C2 does not [meet] the minimum requirements for this design speed, and no stopping sight distance was provided. If the applicant feels the actual travel speeds at the entrance are less than 55 mph, a speed study that is signed and sealed by a Professional Engineer may be considered to justify a lower design speed.”

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Mr. Kessler also wrote that, as part of the site plan review which follows, he will provide more detailed comments regarding the design of the commercial entrance, VDOT Plan Notes, and VDOT's signature block and disclaimer.

Nelson County Building Official: Mr. David Thompson provided written review comments on December 9th. Because this project has already been partially constructed (including site preparation and grading as well as construction of some site features), Mr. Thompson noted the following requirements:

- “A Nelson County Land Disturbing Activity Permit application and permit issuance is required prior to development.”
- “An erosion and sediment control plan shall be filed for a development and the buildings constructed within, regardless of the phasing of construction.”

And because this project involves the proposed reuse of an existing structure, inclusive of what the Building Official deems a “change in use,” Mr. Thompson noted the following:

- “Nelson County Building permits are required to authorize construction and a change of use for facilities, structures, and buildings regulated by the Uniform Statewide Building Code (USBC), unless specifically exempted.”
- “Existing agricultural buildings – No change of occupancy shall be made in any structure when the current USBC requires a greater degree of accessibility, structural strength, fire protection, means of egress, ventilation, or sanitation.
- “A certificate of occupancy from the Nelson County Inspections Department is required for a use other than agricultural.”

TJSWCD: Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District noted in writing on December 4th that a full Erosion & Sediment Control Plan is required. She also provided the following details:

- The E&SC Plan must include documentation of the total disturbed area (including previous areas of site disturbance as well as proposed / requested future areas of site disturbance). If the total disturbed area is over 1 acre, the applicants will need to apply for a Virginia Stormwater Management Program Permit.

*o Note: On December 7th, the applicant stated in writing that the total area of disturbance does not exceed the one acre threshold, and as such the project is not subject to VSMP regulations.*

- Because the construction of this project was started prior to obtaining County approval, Mrs. Sappington noted that “the E&SC controls are probably irrelevant at this point,” but also emphasized that “the stormwater computations for both E&SC & VSMP will need to include all previously disturbed areas.”

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VDH: Mr. Tom Eick of the Nelson County Health Department attended the meeting and has since been in communication with the co-applicants. His main points of discussion/review were:

1.) The provision of drinking water (the applicants stated their intention to provide bottled water in lieu of installing and permitting a public well) and 2.) The proper disposal of waste. Regarding the latter issue, both the applicant and property owner state that the site is entirely Un-suitable for private septic systems: the entire site contains no sufficient soils, as the former quarry only has bedrock under the surface. Therefore, the applicants wish to install a permanent structure next to the existing building containing two bathrooms (one handicap accessible) which would be pumped out periodically. The co-applicants and VDH continue to coordinate on this proposed alternative solution for waste disposal.

Mr. Padalino added that the Health Department was working with the applicants on the two (2) issues raised: providing drinking water in bottles and proper disposal of waste. He noted that there were no soils on site, just bedrock so as a result, they were working with VDH on a privy permit. He added that there was an existing one for Wintergreen Adaptive Sports so this has been done in the County.

Mr. Padalino showed pictures of the quarry and then discussed the Department's review of Section 12-3-2 evaluation criteria. He noted that the review had determined that there would be no change to the character of the location, the project would be in harmony with the district and would not harm neighbors, if a privy permit were obtained and coordination continued with VDOT that the proposed facility would be adequately served by essential services and it would not result in the destruction of a feature of ecological or scenic importance, but rather would reuse and celebrate the old quarries and provide wildlife habitats.

Mr. Padalino noted therefore, the opinion of Staff was that the requested Special Use Permit, as detailed in the application materials for SUP #2015-18, seemed to be acceptable relative to all four evaluation criteria (above) – conditional upon the following:

- Appropriate resolution of issues related to safe and proper disposal of waste, which is an issue most directly managed by the Department of Health; and
- Appropriate resolution of issues related to commercial entrance location and design, which is an issue most directly managed by VDOT and typically resolved during final site plan process

Mr. Padalino added that if the applicants eventually obtained SUP approval from the Board, the issue of the commercial entrance would still need to be resolved and approved by VDOT for site plan approval, which was required before the applicants could obtain approvals from Building Inspections, including a change in Use Permit and Certificate of Occupancy.

He then noted in conclusion that the Planning Commission conducted a properly-advertised public hearing on January 27<sup>th</sup> and one member of the audience, a resident of Schuyler,

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spoke in favor of the proposed project. He added that the Planning Commission then voted 5-0 to recommend approval of SUP #2015-18 to the Board of Supervisors.

Mr. Thieblot, the applicant was then invited to address the Board. He gave a PowerPoint slide show and narrated as follows:

Mr. Thieblot noted that “Banquet Hall” was the closest definition they could come up with. He explained that they had purchased the property in 1991 and had since added to it. He noted that they were separating out the 40 acres for the Quarry Garden project. Mr. Thieblot noted that the quarries were operated from 1955 to 1975 and had become the town dump thereafter. He noted that they had built roads around them for access and had begun cleaning them up, so they were more attractive now. He added that in 2013, they took a trip to Canada to some Gardens that were formerly an old cement quarry; however the gardens hid the quarry there. Mr. Thieblot noted that Land Planning and Design had done a master plan for them and they would use the old quarry access road into a parking area and then the walk was about 1 mile from the parking area around the North and South quarries and back.

Mr. Thieblot then noted that the acidity of the soil on site was high because of the soapstone dust content. He added that they had hired the services of a naturalist/geologist/botanist that did a survey of the area to establish native plant species. He noted that they had found 245 different ones that were cataloged. He further explained that their plan was that in Eco zones found they would intensify what was already there and in the Conservation Zones they would augment with native species introduced from surrounding areas. He added that they had already planted 10,000 plants and would put in 50,000 to 100,000 in the next year. He noted that many species of dragonflies and caterpillars were found as well as various bugs, leaches, and butterflies. He added that they found a smooth green snake; which was the only one recorded in Nelson County. Additionally, they came up with fourteen Eco zones and seven conservation areas that differed in geology and understrata.

Mr. Thieblot noted that they would have displays about soapstone throughout the project along with viewing platforms on the walking paths, natural rock staircases, and they had already installed two bridges on the paths. He noted that they intended to repurpose the Quonset hut as an administrative building and educational area with a gift shop; with the privy being outside of there with a covered walkway to it.

In conclusion, he noted they have a website and would be opening April 2017.

Supervisors had no questions and Mr. Hale opened the public hearing. There being no persons wishing to be recognized, the public hearing was closed.

Ms. Brennan noted her excitement about the project and that it was a wonderful addition for Nelson County.

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Mr. Harvey then moved to approve SUP #2015-18 and Ms. Brennan seconded the motion.

Mr. Hale added that he had visited the property, there were many quarries in the county and he thought it was a great idea to turn what was a dump into an attractive feature. He added that Schuyler had struggled over the years and he thought this was a great thing.

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

**IV.Presentation - American Cancer Society, Available Patient Services & NC Relay for Life (S. Blauch, Community Manager)**

Ms. Susanna Blauch of the American Cancer Society addressed the Board and noted that the American Cancer Society was able to save lives. She noted that their programs and services were free of charge. She added that there had been a 20% decrease in the cancer death rate since 1991; she added that was 500 people per day.

Ms. Blauch noted that the organization helped people get well and stay well through offering the following programs:

- Information: An 800 hotline that people can call for information 24 hours a day, seven days a week.
- Clinical Trials Matching Service: Available through the hotline where patients can be matched with clinical trials even if they are out of area.
- Transportation: The “Road to Recovery Program” which provides free rides to and from cancer treatment.
- Lodging: The Hope Lodge program provides free overnight lodging throughout the U.S. and although there were not any in Virginia, they partnered with several hotels. She added that there were eighteen locations near hospitals that were free of charge or were available at very reduced rates.
- Appearance: The Look Good Feel Better program offers programs that help patients manage appearance related side effects in order to restore confidence.

Ms. Blauch further noted that the American Cancer Society is the second largest funder of cancer research behind the US Government, providing \$6 Million in research grants in Virginia with half at UVA. She noted that citizens could fight back through participating in the American Cancer Society Can network that works with legislators to increase funding and smoke free laws etc., and by participating in Relay for Life. She noted that this would be held on June 4th in Nelson County at the High School and that survivors would be honored and a reception held.

In conclusion, Ms. Blauch noted that roughly 5,000 in 15,000 people or one third, will be diagnosed with cancer in their lifetime. She encouraged all to reach out if they knew

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someone who needed their services and she invited the Board to join Relay for Life in Nelson County.

Mr. Hale then reconfirmed the Nelson Relay for Life date as Saturday, June 4, 2016 and Ms. Blauch noted that this event would be marked by purple bows which represented the color of all cancers.

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

*Introduced: Early College Program*

Mr. Bruguiere referenced the information presented by Dr. Friedman of PVCC that there were seven (7) kids graduating from Nelson in spring with an Associate's Degree. He noted he would like for Mr. Carter to speak to Dr. Comer about tracking where these kids went after graduation as he would like to see what they did. Mr. Harvey commented that it saved the parents the money for two years of college.

**VI. Adjournment**

At 7:45 PM, Mr. Bruguiere moved to adjourn and Mr. Saunders seconded the motion. There being no further discussion, Supervisors voted unanimously by voice vote to approve the motion and the meeting adjourned.

**RESOLUTION R2016-11  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2015-2016 BUDGET  
NELSON COUNTY, VA  
March 8, 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>
\$ 1,831.00	3-100-002404-0015	4-100-032020-5648

Adopted: March 8, 2016

Attest: \_\_\_\_\_, Clerk  
Nelson County Board of Supervisors

## EXPLANATION OF BUDGET AMENDMENT

- I. The **Appropriation of Funds** reflects an appropriation request for additional aid to localities from the Virginia Fire Programs Fund in the amount of \$1,831. Receipts and the resulting disbursement to the EMS Council are anticipated to exceed the original budgeted amount by \$1,831.

**RESOLUTION R2016-12  
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>
\$94.54	2014&2015 PP Tax & License Fee	Christopher J. Neese 1135 Tanbark Drive Afton, VA 22920-2711
\$2,345.69	2013-2015 PP Tax & License Fee	Salvatore Mannino 6782 Welbourne LN Crozet, VA 22932
\$363.68	2015 PP Tax & License Fee	Hyundai Lease Titling Trust Attn: Property Tax P.O. Box 198069 Nashville, TN 37219
\$428.60	2015 PP Tax & License Fee	Corbett 1 Putt Inc. Daniel Webster Herlong 515 West Frederick St. Staunton, VA 24401

Approved: March 8, 2016

Attest: \_\_\_\_\_, Clerk  
Nelson County Board of Supervisors

COUNTY OF NELSON  
PAMELA C CAMPBELL  
COMMISSIONER OF REVENUE  
P. O. Box 246  
Lovington, VA 22949

Telephone: 434-263-7070  
Fax: 434-263-7074  
Email: [pcampbell@nelsoncountv.org](mailto:pcampbell@nelsoncountv.org)

January 17, 2016

Mr. Alan Hale, Chairman  
Nelson County Board of Supervisors  
P. O. Box 336  
Lovington, VA 22949

**Re: NEESE CHRISTOPHER JOHN  
1135 TANBARK DRIVE  
AFTON VA 22920 - 2711**

**RE: 1981 MACK R MODEL #4349**

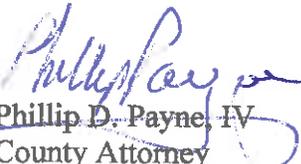
This letter shall serve as written request for 2014, & 2015 personal property tax & license fee refund in the amount of \$94.54 be issued to the above referenced taxpayer. The vehicle was sold 08/28/2014.

Respectfully requested,

  
Pamela C Campbell  
Commissioner of Revenue

---

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.

  
Phillip D. Payne, IV  
County Attorney

**COUNTY OF NELSON  
PAMELA C CAMPBELL  
COMMISSIONER OF REVENUE  
P. O. Box 246  
Lovington, VA 22949**

**Telephone: 434-263-7070  
Fax: 434-263-7074  
Email: [pcampbell@nelsoncounty.org](mailto:pcampbell@nelsoncounty.org)**

February 25, 2016

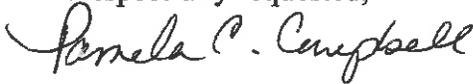
Mr. Alan Hale, Chairman  
Nelson County Board of Supervisors  
P. O. Box 336  
Lovington, VA 22949

**Re: MANNINO SALVATORE  
6782 WELBOURNE LN  
CROZET VA 22932**

**RE: 2006 TOYOTA TACOMA #1300  
2012 HONDA ODYSSEY #0199**

This letter shall serve as a written request for 2013, 2014, &2015 personal property tax & license fee refund in the amount of \$2,345.69 be issued to the above referenced taxpayer. The vehicle was garaged in Albemarle Co.

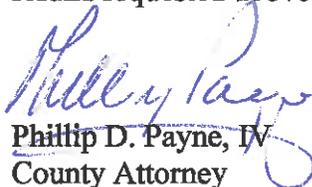
Respectfully requested,



Pamela C Campbell  
Commissioner of Revenue

---

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.



Phillip D. Payne, IV  
County Attorney

COUNTY OF NELSON  
PAMELA C CAMPBELL  
COMMISSIONER OF REVENUE  
P. O. Box 246  
Lovington, VA 22949

Telephone: 434-263-7070  
Fax: 434-263-7074  
Email: [pcampbell@nelsoncounty.org](mailto:pcampbell@nelsoncounty.org)

February 25, 2016

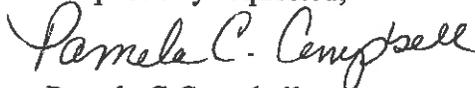
Mr. Alan Hale, Chairman  
Nelson County Board of Supervisors  
P. O. Box 336  
Lovington, VA 22949

**Re: HYUNDAI LEASE TITLING TRUST  
ATTN: PROPERTY TAX  
P O BOX 198069  
NASHVILLE TN 37219**

**RE: 2012 KIA OPTIMA #2498**

This letter shall serve as written request for 2015 personal property tax & license fee refund in the amount of \$363.68 be issued to the above referenced taxpayer. The vehicle was garaged in Loudoun Co for tax year 2015.

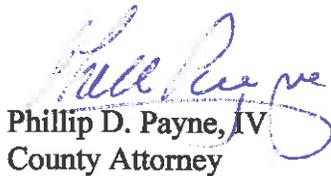
Respectfully requested,



Pamela C Campbell  
Commissioner of Revenue

---

The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.



Phillip D. Payne, IV  
County Attorney

**COUNTY OF NELSON  
PAMELA C CAMPBELL  
COMMISSIONER OF REVENUE  
P. O. Box 246  
Lovington, VA 22949**

**Telephone: 434-263-7070  
Fax: 434-263-7074  
Email: [pcampbell@nelsoncounty.org](mailto:pcampbell@nelsoncounty.org)**

February 29, 2016

Mr. Alan Hale, Chairman  
Nelson County Board of Supervisors  
P. O. Box 336  
Lovington, VA 22949

**Re: CORBETT 1 PUTT INC  
HERLONG DANIEL WEBSTER  
515 WEST FREDERICK ST  
STAUNTON, VA 24401**

**RE: 2004 FORD #8500**

This letter shall serve as a written request for 2015 personal property tax & license fee refund in the amount of \$428.60 be issued to the above referenced taxpayer. The vehicle was garaged in Staunton for 2015.

Respectfully requested,



Pamela C Campbell  
Commissioner of Revenue

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The undersigned has reviewed the request of the Commissioner and consents to the refund requested above.

Phillip D. Payne, IV  
County Attorney

**RESOLUTION R2016-13**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**ENDORSEMENT OF BUCKINGHAM BRANCH RAILROAD'S**  
**RAIL PRESERVATION GRANT APPLICATION FOR THE**  
**RICHMOND AND ALLEGHANY TIE REPLACEMENT PROJECT**

**WHEREAS**, the Buckingham Branch Railroad desires to file an application with the Virginia Department of Rail and Public Transportation for funding assistance for the **Richmond and Alleghany Tie Replacement Project**, which will replace mainline ties, switch ties, siding ties and mainline bridge deck ties. Work will also include adding ballast, tamping, surfacing and drainage improvements on the Buckingham Branch Railroad line located between MP 85.5 in Richmond and MP 276 in Clifton Forge, VA; and

**WHEREAS**, the Buckingham Branch Railroad estimates that this project will cost **\$10,000,000**; and

**WHEREAS**, the General Assembly, through enactment of the Rail Preservation Program, provides for funding for certain improvements and procurement of railways in the Commonwealth of Virginia; and

**WHEREAS**, Buckingham Branch Railroad is an important element of the **Nelson County** transportation system; and

**WHEREAS**, Buckingham Branch Railroad is instrumental in the economic development of the area, and provides relief to the highway system by transporting freight, and provides an alternate means of transportation of commodities; and

**WHEREAS**, the County of Nelson supports the project and the retention of the rail service; and

**WHEREAS**, the Commonwealth Transportation Board has established procedures for all allocation and distribution of the funds provided.

**NOW, THEREFORE, BE IT RESOLVED**, that the Nelson County Board of Supervisors does hereby request the Virginia Department of Rail and Public Transportation to give priority consideration to the **Richmond and Alleghany Tie Replacement Project** proposed by Buckingham Branch Railroad for inclusion in the projects funded in the Rail Preservation Program.

Adopted: March 8, 2016

Attest: \_\_\_\_\_, Clerk  
Nelson County Board of Supervisors



1063 Main Street  
P.O. Box 336  
Dillwyn, VA 23936  
434-983-3300 ext. 228

February 16, 2016 [www.buckinghambranch.com](http://www.buckinghambranch.com)

RECEIVED

FEB 17 2016

COUNTY ADMINISTRATOR'S  
OFFICE

Nelson County Administrator's Office  
Attn: County Administrator  
P.O. Box 336  
Lovingson, VA

Dear County Administrator :

Buckingham Branch Railroad Company is a family-owned short line railroad that operates 275 miles of railroad in Central Virginia. Buckingham Branch was founded in 1988 by Robert and Annie Bryant and ran its first train on March 6, 1989. Since then it has grown from a 17 mile line with two employees to its current size today of 275 miles of track.

Buckingham Branch leased 200 miles of track from CSX and commenced operations of the Richmond and Alleghany Division on December 20, 2004. This operating lease was for track from Clifton Forge, VA to Richmond, VA, including 9.9 miles known as the Orange Branch. Since that time we have leased 58 miles of track from Norfolk Southern Railroad and now operate our Virginia Southern Division which has tracks from Burkeville to Clarksville, Virginia.

We are requesting a resolution from Nelson County supporting Buckingham Branch Railroad Company's application for grant funds from the Virginia Department of Rail and Public Transportation Rail Preservation Fund. Buckingham Branch Railroad will provide all local matching funds for the grant.

The Richmond and Alleghany Tie Replacement project is a five year project which will help us replace mainline ties, switch ties, siding ties and mainline bridge deck ties. Work will include adding ballast, tamping, surfacing, and drainage improvements on the Buckingham Branch Railroad line located between MP 85.5 in Richmond Virginia and MP 276 in Clifton Forge, VA.

Work from the tie replacement project will help us to provide safe, reliable transportation of freight for you and all of the present and future industries located in the cities, towns and counties located on the Richmond and Alleghany Division of Buckingham Branch Railroad.

If you have questions or comments, please feel free to contact me at our Dillwyn office. Additional information about our company and operations may be found at our web site: [www.buckinghambranch.com](http://www.buckinghambranch.com)

We sincerely appreciate your past support. We look forward to many more years of serving your communities. Please do not hesitate to contact me if I can be of assistance.

A sample resolution and a map showing the location of our operations are included with this letter. A copy of the approved resolution should be sent to Mr. Claude Morris at the mailing address shown in the letterhead.

Sincerely,

Claude Morris  
Project Manager

Enclosure

SAFETY=SECURITY=SERVICE

## Support of Rail Preservation Application

### Buckingham Branch Railroad

WHEREAS, the Buckingham Branch Railroad desires to file an application with the Virginia Department of Rail and Public Transportation for funding assistance for the **Richmond and Alleghany Tie Replacement Project**, which will replace mainline ties, switch ties, siding ties and mainline bridge deck ties. Work will also include adding ballast, tamping, surfacing and drainage improvements on the Buckingham Branch Railroad line located between MP 85.5 in Richmond and MP 276 in Clifton Forge, VA; and

WHEREAS, the Buckingham Branch Railroad estimates that this project will cost **\$10,000,000**; and

WHEREAS, the General Assembly, through enactment of the Rail Preservation Program, provides for funding for certain improvements and procurement of railways in the Commonwealth of Virginia; and

WHEREAS, Buckingham Branch Railroad is an important element of the **Nelson County** transportation system; and

WHEREAS, Buckingham Branch Railroad is instrumental in the economic development of the area, and provides relief to the highway system by transporting freight, and provides an alternate means of transportation of commodities; and

WHEREAS, the **County of Nelson** supports the project and the retention of the rail service; and

WHEREAS, the Commonwealth Transportation Board has established procedures for all allocation and distribution of the funds provided.

NOW, THEREFORE, BE IT RESOLVED, that the **Nelson County Board of Supervisors** does hereby request the Virginia Department of Rail and Public Transportation to give priority consideration to the **Richmond and Alleghany Tie Replacement Project** proposed by Buckingham Branch Railroad for inclusion in the projects funded in the Rail Preservation Program.

ADOPTED: \_\_\_\_\_ DATE \_\_\_\_\_

Signed: \_\_\_\_\_

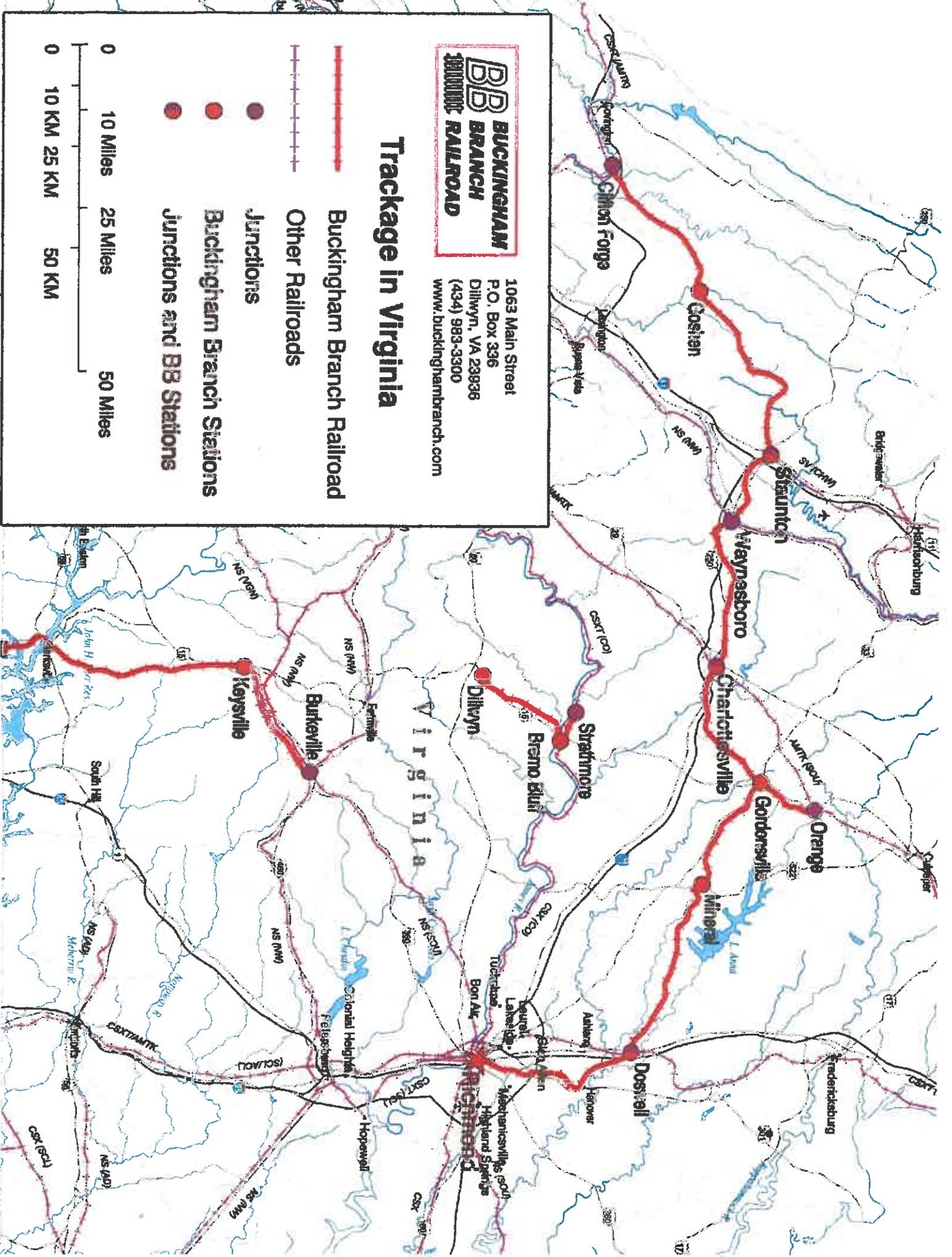
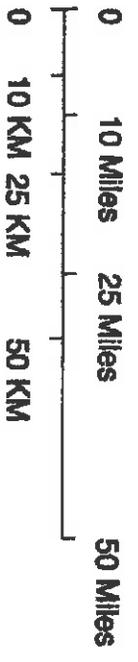
Title: \_\_\_\_\_



1063 Main Street  
 P.O. Box 336  
 Dilwyn, VA 23936  
 (434) 983-3300  
[www.buckinghambranch.com](http://www.buckinghambranch.com)

## Trackage in Virginia

-  Buckingham Branch Railroad
-  Other Railroads
-  Junctions
-  Buckingham Branch Stations
-  Junctions and BB Stations



**RESOLUTION R2016-14  
NELSON COUNTY BOARD OF SUPERVISORS  
VIRGINIA COMMISSION OF THE ARTS  
2016-2017 LOCAL GOVERNMENT CHALLENGE GRANT**

**BE IT RESOLVED**, By the Nelson County Board of Supervisors that the County Administrator is hereby authorized to sign and submit an application for 2016-2017 Local Government Challenge Grant funding to the Virginia Commission of the Arts.

**BE IT FURTHER RESOLVED**, said application is to include a local match of \$5,000.00 to be confirmed upon formal adoption of Nelson County's Fiscal Year 2016-2017 Budget by the Board of Supervisors.

Adopted: March 8, 2016

Attest: \_\_\_\_\_, Clerk  
Nelson County Board of Supervisors

## Purpose

To encourage local governments to support the arts.

## Description

The Commission will match, up to \$5,000, subject to funds available, the tax monies given by independent town, city, and county governments to arts organizations. The money, which does not include school arts budgets or arts programming by parks and recreation departments, may be granted either by a local arts commission/council or directly by the governing board.

## Eligible Applicants

Independent city, town, or county governments in Virginia.

## Eligible Activities

Grants to independent arts organizations for arts activities in the locality. The Commission does not match payments paid to performers for specific performances. Local governments seeking such funding should apply in the Performing Arts Touring Assistance Program.

## Deadline

**April 1, 2016 by 5:00 PM, for local government grants awarded in FY17 (July 1, 2016 – June 30, 2017)**

NOTE: A local government that has not approved its budget by the grant deadline may apply conditionally and confirm the application as soon as possible.

## Amount of Assistance

Up to \$5,000, subject to funds available. The local government match must be from local government funds; federal funds may not be included.

## Criteria for Evaluating Applications

- Artistic quality of the organizations supported by the city/county/town
- Clearly defined policies and procedures for awarding local funds to arts organizations
- Degree of involvement of artists and arts organizations in the local process of awarding grants
- Responsiveness to community needs
- Evidence of local government support of the arts

## Application/Review/Payment Procedures

1. Local governments submit complete application forms by the deadline (not a postmark deadline). The Commission does not accept application materials via fax or other electronic means (e.g. e-mail).
2. The Commission staff reviews each application for completeness and eligibility.
3. The Commission staff makes recommendations on levels of funding for each application.
4. The Commission board reviews the staff recommendations and takes final action on the applications in June.
5. After confirmation of the grant award, each local government will confirm in writing to the Commission that its governing board has appropriated the matching funds and the funds from the Commission. This confirmation must take the form of the appropriate page of the local government's approved 2015-2016 budget or a copy of the check (s) to the sub grantee (s). The Commission will pay the grant in full after receiving this confirmation no later than February 1, 2016.



# Local Government Challenge Grant 2016-2017

Applicants should read the [2016-2017 Online Guidelines for Funding](#) and Grant Conditions to ensure compliance with all conditions. **The grant application deadline is April 1, 2016.** *This is not a postmark date.*

**Mail Completed Application to:**  
Virginia Commission for the Arts  
1001 East Broad Street, Suite 330  
Richmond, VA 23219  
804.225.3132 (Voice/TDD)  
[www.arts.virginia.gov](http://www.arts.virginia.gov)

## INSTRUCTIONS

The Local Government Challenge Grant Application is an interactive, fillable form that has fields in which you must enter text. The boxes for the fields are highlighted. You must fill in every field in order for this application to be considered complete and ready for review. Once you complete the application, print and submit one hard copy with an original signature to the Commission office by 5:00 pm, April 1, 2016. **(This is not a postmark date)**. Save a copy for your files. There is no option to submit an electronic version of this form. For all questions, please contact the Commission staff at (804) 225-3132.

## GRANTEE INFORMATION

1. Applicant Local Government Name: County of Nelson			
2. Mailing Address: P.O. Box 336			
3. Physical Address if different: 84 Courthouse Square			
3. City: Lovington	4. County: Nelson	5. State: VA	6. Zip: 22949
7. Application Contact: Stephen A. Carter		8. Contact Title: County Administrator	
9. Contact Email: <a href="mailto:scarter@nelsoncounty.org">scarter@nelsoncounty.org</a>		10. Telephone/Extension: 434-263-7000	
11. Federal Employer ID #: 54-6001441		*12. DUNS Number: 052-255-1322	
**13. VA House #: 59	14. VA Senate #:25	15. VA Congressional District #: 5	

\* **All applicants must include their 9-digit DUNS number when applying for a grant.** This requirement is for the local government applicant only. Sub-grantee DUNS numbers are not required. For more information click here: <http://www.dnb.com/get-a-duns-number.html>

\*\* **Give the number of the Virginia House, Senate and the U.S. Congressional district in which the organization is located.** The specific street address of your organization determines these numbers. If you do not know the numbers of the State or U.S. Congressional district in which your organization is located, contact your County Election Commission office or visit: <http://whosmy.virginiageneralassembly.gov>

\*Do not list more than one (1) House, Senate or Congressional district in each space.

## GRANT AMOUNT REQUEST

Applicant governments must match the amount requested from the Commission on at least a dollar-for-dollar basis with local government funds up to \$5,000; federal funds may not be included. A local government that has not approved its budget by the grant deadline may apply conditionally. After the grant has been approved, any change in the allocation of funds sub-granted to local arts organizations must be approved by the Commission.

16. Amount of Virginia Commission for the Arts assistance requested for FY2017: **\$5,000**

17. Proposed local government arts appropriation for FY2017: **\$5,000**

## GRANT INFORMATION

18. What is the process for awarding the above grants?

The County of Nelson, Board of Supervisors, reviews and approves funding. The approval is based on the demonstrated ability of the organization to deliver programs that will positively impact the quality of life and enhance education in the County.

19. Who is involved in making these decisions?

Jeff Comer, Superintendent, Nelson County Schools has assigned Vickie Mays, Gifted Resource teacher, to evaluate school needs from available independent Virginia arts organizations, as defined by VCA Challenge Grant, paragraph 8.

20. What criteria are sought in evaluating applicants?

Nearly all of the artists are those vetted by VCA in the touring directory. We have never been disappointed in the quality of their performances. Their programs are joyful, inspiring, and educational, often reinforcing the Standards of Learning (SOLs).

21. List of current board/council members, if a board/council is involved in making funding decisions:

County of Nelson Board of Supervisors:

Allen M. Hale

Constance Brennan

Thomas H. Bruguere, Jr.

Thomas D. Harvey

Larry D. Saunders

22. Give a brief description of the arts organization(s) proposed to receive Commission assistance through the Local Government Challenge Grant in 2016-2017.

Wintergreen Performing Arts, Inc. is a not-for-profit corporation established to enhance the quality of life in the communities of Central Virginia, by providing cultural education and promoting an understanding and appreciation of, as well as participation in, the performing arts. Wintergreen Performing Arts, Inc. offers three programs to fulfill the above Mission Statement: The Performance Series concerts, The Wintergreen Summer Music Festival, and the Local Education Mission.

## SUBGRANTEE (S) INFORMATION

23. Please list which local independent arts organizations will receive the Commission grant money sub-grant. After the Commission grant has been approved, any changes in the allocation of sub-grants to local arts organizations must be approved by the Commission. **Note:** Sub-grants (grants made by the local government) of any Commission funds, not to exceed \$5,000, from the Local Government Challenge grant program may only go to independent Virginia arts organizations for arts activities in the locality. Virginia arts organizations are defined as those organizations whose primary purpose is the arts (production, presentation or support of dance, literary arts, media arts, music, theater, or visual or related arts), that are incorporated in Virginia, and have their headquarters and home seasons, or activities equivalent to a home season, in the state. Units of government and educational institutions cannot be considered arts organizations.

Name of Organization Physical Mailing Address	Sub Grantee Contact Name & Title	Sub Grantee Email Address	Proposed VCA \$ Grant Share
1. Wintergreen Performing Arts P.O. Box 816 Wintergreen, Virginia	Mary Jo Russell Education Chair	<a href="mailto:russmaryjo@msn.com">russmaryjo@msn.com</a> or <a href="mailto:karenquillen@wintergreenperformingarts.org">karenquillen@wintergreenperformingarts.org</a>	5,000
2.			
3.			
4.			
5.			
6.			

**Note:** Attach additional local independent arts organizations on a separate piece of paper if necessary.

## POPULATIONS BENEFITED

24. Select any categories that, by your best estimate, will make up 25% or more of the population that will directly benefit from the award during the period of support. These responses should refer to populations reached directly, rather than through broadcasts or online programming.

### Populations Benefited By Race

- N: American Indian/Alaska Native
- A: Asian
- B: Black/African American
- H: Hispanic/Latino
- P: Native Hawaiian/Other Pacific Islander
- W: White
- G: No single race/ethnic group listed above made up more than 25% of the population directly benefited.

### Populations Benefited By Distinct Groups

- D: Individuals with Disabilities
- I: Individuals in Institutions (include people living in hospitals, hospices, nursing homes, assisted care facilities, correctional facilities, and homeless shelters)
- P: Individuals below the Poverty Line
- E: Individuals with Limited English Proficiency
- M: Military Veterans/Active Duty Personnel
- Y: Youth at Risk
- G: No single distinct group made up more than 25% of the population directly benefit

### Populations Benefited By Age

- 1. Children/Youth (0-18 years)
- 2. Young Adults ((19-24 years)
- 3. Adults (25-64 years)
- 4. Older Adults (65+ years)
- 5. No single age group made up more than 25% of the population directly benefited

### Arts Education

*Choose the one item which best describes the funded activities.*

- 50% or more of the funded activities are arts education directed to K through 12 students, higher education students, pre-kindergarten children, and/or adult learners (including teachers and artists).
- Less than 50% of the funded activities are arts education directed to K through 12 students, higher education students, pre-kindergarten children, and/or adult learners (including teachers and artists).
- None of the funded activities involve arts education

## Certification of Assurances & Grant Conditions for Local Government Grantees

Virginia Commission for the Arts grantees are required to be non-profit Virginia organizations and exempt from federal income tax under Section 501(a), which includes the 501(c)3 designation of the Internal Revenue code, or are units of government, educational institutions, or local chapters of tax exempt national organizations.

No part of any Commission grant shall be used for any activity intended or designed to influence a member of Congress or the General Assembly to favor or oppose any legislation.

Each Commission grantee will:

- provide accurate, current and complete financial records of each grant;
- maintain accounting records which are supported by source documentation;
- maintain effective control over and accountability for all funds, property, and other assets ensuring that assets are used solely for authorized purposes;
- maintain procedures ensuring timely disbursement of funds;
- provide the Commission, or its authorized representatives, access to the grant-related financial records.

The grantee will expend any and all grant funds only for purposes described in the application form and attachments. The grantee must request permission in writing to make changes to the proposed sub grantees, budget, schedule, program and or personnel. The requested changes must be approved in advance by the Commission.

Each Commission grantee will comply with these federal statutes and regulations:

- Title VI, Section 601, of the Civil Rights Act of 1964, which provides that no person, on the ground of race, color or national origin, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- Title IX, Section 1681, of the Education Amendments of 1972, which provides that, with certain exceptions, no person, on the basis of sex or age, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.
- Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with physical or mental disabilities in federally assisted programs. Compliance with this Act includes the following: notifying employees and beneficiaries of the organization that it does not discriminate on the basis of handicap and operation of programs and activities which, when viewed in their entirety, are accessible to persons with disabilities. Compliance also includes maintenance of an evaluation plan developed with the assistance of persons with disabilities or organizations representing disabled persons which contains: policies and practices for making programs and activities accessible; plans for making any structural modifications to facilities necessary for accessibility; a list of the persons with disabilities and/or organizations consulted; and the name and signature of the person responsible for the organization's compliance efforts. ("ADA Coordinator")

No final report is required for the Local Government Challenge Grant. Each local government will confirm in writing to the Commission that its governing board has appropriated the matching funds. Confirmation of the match must include either a copy of the appropriate page from the city's/jurisdiction's approved FY2017 budget showing the amount of the award and match or a copy of the check (s) to the sub-grantee (s).

The Commission will pay the grant in full after receiving this confirmation. **The deadline for this confirmation is February 1, 2017.**

In all published material (printed programs, news releases, web news, email alerts, advertisements, flyers, etc.) and announcements regarding the particular activity or activities supported, acknowledgment of the Commission must be made. A suggested phrase is "(organization or activity) is partially supported by funding from the Virginia Commission for the Arts and the National Endowment for the Arts."

This application must be signed by an individual duly authorized by the governing body of the locality to act on its behalf and submitted with every grant application made to the Commission. The signature of the individual indicates the locality's compliance with all of the grant conditions listed above.

***The undersigned certifies to the best of his/her knowledge that:***

- the information in this application and its attachments is true and correct;
- the filing of this application has been duly authorized by the governing body of the applicant organization;
- the applicant organization agrees to comply with all grant conditions cited above.

***The undersigned further certifies that he or she has the legal authority to obligate the applicant locality.***

Name of Local Government: County of Nelson

Name of Authorizing Official: Stephen A. Carter

Title: County Administrator

Signature of Authorizing Official: \_\_\_\_\_ Date: March 9, 2016

Email of Authorizing Official: [scarter@nelsoncounty.org](mailto:scarter@nelsoncounty.org)

**NOTE: Only documents with original signatures will be accepted. Do not send copies or email/fax this application.**

**RESOLUTION R2016-15  
NELSON COUNTY BOARD OF SUPERVISORS  
LOCAL GOVERNMENT EDUCATION WEEK  
APRIL 3-9, 2016**

**WHEREAS**, since the colonial period, the Commonwealth of Virginia has closely held the institutions of local government; and

**WHEREAS**, local governments throughout the Commonwealth provide valuable services to the citizens of the communities they serve; and

**WHEREAS**, citizen services such as, law enforcement, public health and safety, recreational opportunities, and educating local children, are most often delivered at the local level; and

**WHEREAS**, in recognition of the work performed by local governments, the Virginia General Assembly, on February 29, 2012, designated the first week in April as Local Government Education Week in Virginia; and

**WHEREAS**, April 2, 1908 was the creation of the Council-Manager form of government in the City of Staunton thereby making the first week in April appropriate for this designation.

**NOW, THEREFORE, BE IT RESOLVED** by the Nelson County Board of Supervisors that April 1-7, 2016 is hereby designated as Local Government Education Week.

Adopted: March 8, 2016

Attest: \_\_\_\_\_, Clerk  
Nelson County Board of Supervisors

**HOUSE JOINT RESOLUTION NO. 93**

Offered January 11, 2012

Prefiled January 10, 2012

*Designating the first week in April, in 2012 and in each succeeding year, as Local Government Education Week in Virginia.*

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Patrons-- Marshall, D.W., Johnson and Merricks

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Referred to Committee on Rules  
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WHEREAS, local governments throughout the Commonwealth provide valuable services to the residents of the communities they serve; and

WHEREAS, local governments and their employees play a vital role in the health and vitality of communities through the enforcement of state and local laws, promotion of public health and safety, provision of recreational opportunities, and education of local children; and

WHEREAS, local government officials across the Commonwealth promote civic education and engagement to help citizens better understand their local government, foster a positive sense of community, and prepare the next generation of local government managers; and

WHEREAS, the designation of a statewide week devoted to educating individuals as to the role that local government plays in their life would more effectively recognize and promote civic education within school systems and in the larger community; and

WHEREAS, the first week of April is an appropriate week to designate, as it was on April 2, 1908, that the Council-Manager form of government was created in the City of Staunton; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the first week in April, in 2012 and in each succeeding year, as Local Government Education Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

Secondary System  
Nelson County  
Construction Program  
Estimated Allocations

Fund	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	Total
CTB Formula - Unpaved State	\$269,626	\$338,625	\$395,157	\$427,989	\$411,332	\$0	\$1,842,729
Formula Secondary State	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Secondary Unpaved Roads	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TeleFee	\$46,686	\$46,686	\$46,686	\$46,686	\$46,686	\$46,686	\$280,116
Residue Parcels	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$316,312</b>	<b>\$385,311</b>	<b>\$441,843</b>	<b>\$474,675</b>	<b>\$458,018</b>	<b>\$46,686</b>	<b>\$2,122,845</b>

Board Approval Date: May 12, 2015

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Residency Administrator

Date

-----  
*Stephanie A. Cook* 5/12/2015  
-----

County Administrator

Date

District: Lynchburg  
 County: Nelson County

### SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Board Approval Date: May 12, 2015

2015-16 through 2020-21

Route PPMS ID Accomplishment Type of Funds Type of Project Priority #	Road Name Project # Description FROM TO Length	Estimated Cost  Ad Date	Previous Funding  SSYP Funding Other Funding Total	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count Scope of Work FHWA # Comments
					2015-16	2016-17	2017-18	2018-19	2019-20	2020-21		
Rt.0006 104677 RAAP CONTRACT HSIP Minimum Plan 0001.00	ROCKFISH VALLEY HIGHWAY HSIP062S02 RTE 6/151 - CONSTRUCT LEFT TURNS LANE AT RTE 638 0.140 MILE SOUTH OF RTE 638 0.130 MILE NORTH OF RTE 638 0.3	PE \$200,000 RW \$300,000 CON \$1,000,000 Total \$1,500,000 11/8/2016	\$300,002 \$593,897 \$893,899	\$606,101	\$0 \$606,101 \$606,101	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0	7200 Safety 13021 REGULAR CONSTRUCTION	
Rt.0151 104676 RAAP CONTRACT HSIP Minimum Plan 0002.00	ROCKFISH VALLEY HIGHWAY HSIP062S01 RTE 6/151 - CONSTRUCT LEFT TURN LANE AT RTE 635 0.156 MILE SOUTH OF RTE 635 WEST 0.071 MILE NORTH OF RTE 635 WEST 0.2	PE \$300,000 RW \$300,000 CON \$900,000 Total \$1,500,000 11/8/2016	\$568,180 \$666,993 \$1,235,173	\$264,827	\$0 \$264,827 \$264,827	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0	7200 Safety 13021 REGULAR CONSTRUCTION	
Rt.0613 106288 STATE FORCES/HIRED EQUIPMENT No Plan 0003.00	LODEBAR ESTATES 0613062P01 RTE 613 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 151 RTE 612 0.4	PE \$0 RW \$0 CON \$110,000 Total \$110,000 7/20/2015	\$110,000 \$0 \$110,000	\$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0	320 Resurfacing 16005 UNPAVED CONSTRUCTION	
Rt.0654 106289 STATE FORCES/HIRED EQUIPMENT No Plan 0004.00	CEDAR CREEK ROAD 0654062P01 RTE 654 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 655 1.000 MILE WEST OF RTE 655 1.0	PE \$0 RW \$0 CON \$260,000 Total \$260,000 8/3/2015	\$10,143 \$0 \$10,143	\$249,857	\$249,857 \$249,857	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0	160 Resurfacing 16005 UNPAVED CONSTRUCTION	
Rt.0640 -15239 STATE FORCES/HIRED EQUIPMENT No Plan 0005.00	WHEELERS COVE ROAD 0640062P01 RTE 640 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 623 RTE 620 0.7	PE \$10,000 RW \$0 CON \$175,000 Total \$185,000 8/1/2016	\$0 \$0 \$0	\$185,000	\$66,455 \$0 \$66,455	\$118,545 \$0 \$118,545	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0	\$0	90 Resurfacing 16005 UNPAVED CONSTRUCTION	

District: Lynchburg  
 County: Nelson County

### SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Board Approval Date: May 12, 2015

2015-16 through 2020-21

Route PPMS ID Accomplishment Type of Funds Type of Project Priority #	Road Name Project # Description FROM TO Length	Estimated Cost  Ad Date	Previous Funding  SSYP Funding Other Funding Total	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count Scope of Work FHWA # Comments
					2015-16	2016-17	2017-18	2018-19	2019-20	2020-21		
RL0756 -15232 STATE FORCES/HIRED EQUIPMENT  No Plan 0006.00	WRIGHTS LANE 0756062P01 RTE 756 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 623 DEAD END 0.9	PE \$8,996 RW \$0 CON \$225,000 Total \$233,996  7/10/2017	\$0 \$0 \$0 \$0	\$233,996	\$0 \$0 \$0 \$0	\$233,996 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0	120 Resurfacing 16005 UNPAVED CONSTRUCTION	
RL0834 -15240 STATE FORCES/HIRED EQUIPMENT  No Plan 0007.00	OLD ROBERTS MOUNTAIN ROAD 0634062P01 RTE 634 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 619 RTE 754 1.7	PE \$10,000 RW \$0 CON \$425,000 Total \$435,000  8/6/2018	\$0 \$0 \$0 \$0	\$435,000	\$0 \$0 \$0 \$0	\$32,770 \$0 \$32,770	\$397,207 \$0 \$397,207	\$5,023 \$0 \$5,023	\$0 \$0 \$0 \$0	\$0	110 Resurfacing 16005 UNPAVED CONSTRUCTION	
RL0721 -15241 STATE FORCES/HIRED EQUIPMENT  No Plan 0008.00	GREENFIELD DRIVE 0721062P01 RTE 721 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) RTE 626 0.500 MILE WEST OF RTE 626 0.5	PE \$10,000 RW \$0 CON \$125,000 Total \$135,000  8/6/2018	\$0 \$0 \$0 \$0	\$135,000	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$135,000 \$0 \$135,000	\$0 \$0 \$0 \$0	\$0	50 Resurfacing 16005 UNPAVED CONSTRUCTION	
RL0814 -15247 STATE FORCES/HIRED EQUIPMENT  No Plan 0009.00	CAMPBELL'S MOUNTAIN ROAD 0814062P01 RTE 814 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) 0.990 MILE NORTH OF RTE 56 1.990 MILES NORTH OF RTE 56 1.0	PE \$10,000 RW \$0 CON \$250,000 Total \$260,000  8/5/2019	\$0 \$0 \$0 \$0	\$260,000	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$260,000 \$0 \$260,000	\$0 \$0 \$0 \$0	\$0	160 Resurfacing 16005 UNPAVED CONSTRUCTION	
RL0854 -15249 STATE FORCES/HIRED EQUIPMENT  No Plan 0010.00	FALLING ROCK ROAD 0654062P01 RTE 654 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) 1.00 MILE EAST OF RTE 657 RTE 661 1.9	PE \$10,000 RW \$0 CON \$475,000 Total \$485,000  8/3/2020	\$0 \$0 \$0 \$0	\$485,000	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$30,016 \$0 \$30,016	\$413,382 \$0 \$413,382	\$5,000 \$0 \$5,000	\$36,602	160 Resurfacing 16005 UNPAVED CONSTRUCTION

District: Lynchburg  
 County: Nelson County

## SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Board Approval Date: May 12, 2015

2015-16 through 2020-21

Route PPMS ID Accomplishment Type of Funds Type of Project Priority #	Road Name Project # Description FROM TO Length	Estimated Cost  Ad Date	Previous Funding  SSYP Funding Other Funding  Total	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete	Traffic Count Scope of Work FHWA # Comments
					2015-16	2016-17	2017-18	2018-19	2019-20	2020-21		
Rt.0680 -15250 STATE FORCES/HIRED EQUIPMENT  No Plan 0011.00	CUB CREEK ROAD 0680062P01 RTE 680 - RURAL RUSTIC (SURFACE TREAT NON- HARDSURFACE) 0.510 MILE WEST OF RTE 699 1.900 MILES WEST OF RTE 699 1.4	PE \$10,000 RW \$0 CON \$347,500 Total \$357,500  8/3/2020	\$0 \$0 \$0 \$0	\$357,500	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$5,000 \$0 \$5,000	\$362,500	70 Resurfacing 16005 UNPAVED CONSTRUCTION
Rt.4005 100010 NOT APPLICABLE S  0012.00	1204005 COUNTYWIDE ENGINEERING & SURVEY VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	PE \$0 RW \$0 CON \$0 Total \$0	\$0 \$178,728 \$0 \$178,728	(\$178,728)	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	(\$178,728)	0 Preliminary Engineering 16015 MINOR SURVEY & PRELIMINARY ENGINEERING FOR BUDGET ITEMS AND INCIDENTAL TYPE WORK.
Rt.4008 100319 NOT APPLICABLE S  0013.00	1204008 COUNTYWIDE RIGHT OF WAY ENGR. VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	PE \$0 RW \$0 CON \$0 Total \$0	\$0 \$15,000 \$0 \$15,000	(\$15,000)	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	(\$15,000)	0 Right of Way 16016 USE WHEN IMPRACTICAL TO OPEN A PROJECT: ATTORNEY FEES and ACQUISITION COST.
Rt.4007 99836 NOT APPLICABLE S  0014.00	1204007 COUNTYWIDE TRAFFIC SERVICES VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	PE \$0 RW \$0 CON \$0 Total \$0	\$0 \$80,895 \$0 \$80,895	(\$80,895)	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$44,636 \$44,636 \$0 \$44,636	\$44,636 \$44,636 \$0 \$44,636	\$44,636 \$44,636 \$0 \$44,636	\$36,686 \$0 \$36,686	(\$251,489)	0 Safety 16021 TRAFFIC SERVICES INCLUDE SECONDARY SPEED ZONES, SPEED STUDIES, OTHER NEW SECONDARY SIGNS

**NELSON COUNTY**  
**RURAL RUSTIC PRIORITY LIST - 7/1/2015**

PRIORITY	ROUTE	NAME	FROM	TO	LENGTH	TC - VPD	NOTES
1	613	LODEBAR ESTATES	ROUTE 613	RTE 612	0.40 Mi.	322	COMPLETE
2	654	CEDAR CREEK RD	RTE 655	1.0 Mi. W. RTE 655	1.00 Mi.	120	COMPLETE
3	640	WHEELERS COVE RD	RTE 623	RTE 620	0.70 Mi.	90	FUNDED FY 16/17 \$185,000
4	756	WRIGHTS LANE	RTE 623	DEAD END	0.90 Mi.	116	FUNDED FY17/18 \$233,996
5	634	OLD ROBERTS RD	RTE 619	RTE 754	1.70 Mi.	110	FUNDED FY 18/19 \$435,000
6	721	GREENFIELD RD	RTE 626	0.50 Mi. N RTE 626	0.50 Mi.	51	high maint FUNDED FY19 \$135,000
7	814	CAMPBELL'S MT. RD.	0.99 Mi. N. RTE 56	1.99 Mi. N. RTE 56	1.00 Mi.	109	high maint FUNDED FY19/20 \$260,000
8	654	FALLING ROCK	1.0 MI.E. RTE 657	RTE 661	1.90 Mi.	127	PARTIALLY FUNDED FY 20/21 \$475,000
9	680	CUB CREEK RD	0.51 W RTE 699	1.90 Mi W RTE 699	1.39 Mi.	71	high maint \$347,500
10	625	PERRY LANE	ROUTE 623	DEAD END	2.00 Mi.	118	\$500,000
11	653	WILSON RD	RTE 655	RTE 710	2.83 Mi.	60	\$707,500
12	645	AERIAL DR.	RTE 646 E	RTE 646 W	0.20 Mi.	55	\$50,000

Estimated cost /mile \$250,000

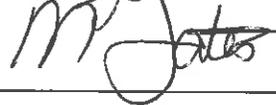
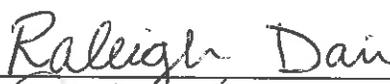
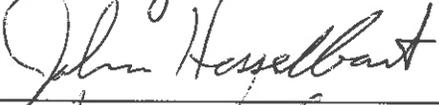
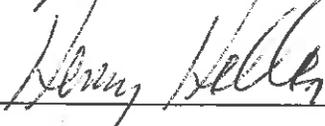
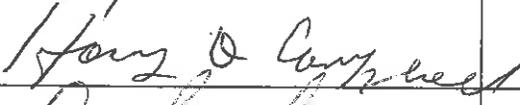
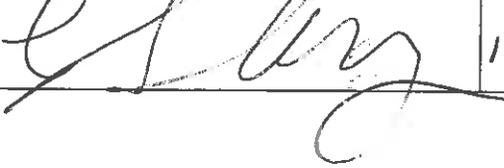
Six Year Plan Estimated Unpaved Road Allocation - \$1,600,000

TO: Nelson County Board of Supervisors  
 Regional Director Virginia Department of Transportation

RE: Proposal to pave Buck Creek Lane in Nelson County

1.6

Buck Creek Lane is the northern most ~~two~~ miles of State Route 617 and the only portion remaining unpaved. During the past two years the Lane has experienced significant property turnover, new building permits and additional residents. We, the following property owners and residents on Buck Creek Lane request that you consider, approve and schedule our proposal to pave Buck Creek Lane.

Printed Name	Signature	Street Number	Tax Map Code
R. A. Bennett		1781	35 A 3
TREW BENNETT		1781	35A 3
Lucas Hauscher		1787	35 A 3B
Lucas Longnecker		1787	35A 3B
MARCIE GATES		1787	35 A 3B
Damon Baussos			35 3 B
Raleigh Davis			35 3 B
John Hesselbart		524	35 1 1 35 A 3B 35 A 53 35 A 83
Harry Heller		1788	35 A 6
Harry Campbell			35 1 2 35 3 C
Mary Eiserman		1556	35 A 3C

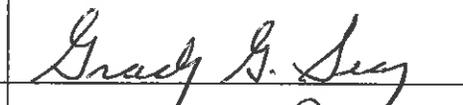
9

TO: Nelson County Board of Supervisors  
Regional Director Virginia Department of Transportation

RE: Proposal to pave Buck Creek Lane in Nelson County

1.6

Buck Creek Lane is the northern most ~~two~~ miles of State Route 617 and the only portion remaining unpaved. During the past two years the Lane has experienced significant property turnover, new building permits and additional residents. We, the following property owners and residents on Buck Creek Lane request that you consider, approve and schedule our proposal to pave Buck Creek Lane.

Printed Name	Signature	Street Number	Tax Map Code
Michael Eisemann		1556	35 A 3C
Scott FVES		1448	35 1 2
Francis S. LeBar			35 A 3A
Grady G. Seay		1788	35 A 6
Erica Stone		1787	35 A 3B

TO: Nelson County Board of Supervisors  
 Regional Director Virginia Department of Transportation

RE: Proposal to pave Buck Creek Lane in Nelson County

Buck Creek Lane is the northern most <sup>1.6</sup>~~two~~ miles of State Route 617 and the only portion remaining unpaved. During the past two years the Lane has experienced significant property turnover, new building permits and additional residents. We, the following property owners and residents on Buck Creek Lane request that you consider, approve and schedule our proposal to pave Buck Creek Lane.

Printed Name	Signature	Street Number	Tax Map Code
Thomas S. Carpenter			35 3 A
<del>Brittany Carpenter</del>	<del>Brittany Carpenter</del>		35 3 A

## § 33.2-331. Annual meeting with county officers; six-year plan for secondary state highways; certain reimbursements required

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.

The governing body of each county in the secondary state highway system may, jointly with the representatives of the Department as designated by the Commissioner of Highways, prepare a six-year plan for the improvements to the secondary state highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available to the county for expenditure in the six-year period on the secondary state highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan, the board of supervisors or other local governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks and posting notice of the proposed hearing at the front door of the courthouse of such county 10 days before the meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following the discussion, the local governing body, together with the representative of the Department, shall finalize and officially adopt the six-year plan, which shall then be considered the official plan of the county.

At least once in each calendar year, representatives of the Department in charge of the secondary state highway system in each county, or some representative of the Department designated by the Commissioner of Highways, shall meet with the governing body of each county in a regular or special meeting of the local governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department shall furnish the local governing body with an updated estimate of funds, and the board and the representative of the Department shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority and following generally the policies of the Board in regard to the statewide improvements to the secondary state highway system. Such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure outlined in this section, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department, shall adopt, as official, a priority program for the ensuing year, and the Department shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department, shall update the six-year plan of the county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the local governing body may request a revision in its six-year plan in order that such plan be amended to provide for the expenditure of the additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same

procedures as outlined herein for its initial preparation. Where the local governing body and the representative of the Department fail to agree upon a priority program, the local governing body may appeal to the Commissioner of Highways. The Commissioner of Highways shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of Highways of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a local governing body, with the concurrence of the representative of the Department, from combining the public hearing required for revision of a six-year plan with the public hearing required for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary state highway system, including those in the towns located in the county that are maintained as a part of the secondary state highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after the location and design for the project has been approved, such county shall reimburse the Department the net amount of all funds expended by the Department for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary highway allocations have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary highway allocation. The Commissioner of Highways may waive all or any portion of such reimbursement at his discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved highway improvements.

Code 1950; 1970, c. 322, § 33.1-70.01; 1977, c. 578; 1979, c. 64; 1981, c. 240; 1993, c. 802; 2001, cc. 105, 130; 2005, c. 645; 2011, cc. 434, 493; 2014, c. 805; 2015, c. 684.

## **Warminster Rural Historic District Survey Funding Request**

In September 2015, the Virginia Department of Historic Resources [DHR] found the Warminster Rural Historic District [WRHD] to be eligible for listing on the Virginia Landmarks Register and National Register of Historic Places.

DHR's finding confirms the historical and cultural significance of the WRHD as the cradle of Nelson County history, following a timeline that begins with pre-contact Native American settlement and the first European settlement at Swan Creek by Dr. William Cabell in ca. 1734, and continues through Warminster's changing role as a regional center of transportation, commerce and industry from the American Revolution through the mid 20<sup>th</sup> century. It affirms that the WRHD is worthy of the additional study and documentation required for official designation as a state and national landmark.

As the sponsor for the WRHD's nomination to the state and national registers, the Nelson County Historical Society is asking the Nelson County Board of Supervisors to approve partial funding for an architectural survey of the WRHD and to apply to the DHR for state matching funds and technical support for this project. The survey will record, map, photograph and assess the condition and significance of all standing buildings and structures within the boundaries of the proposed district.

As with previous architectural surveys in Nelson conducted for historic districts in Lovington, Schuyler, Norwood-Wingina and the South Rockfish Valley the cost of the proposed Warminster architectural survey will be shared by the County and by the Virginia Department of Historic Resources under the terms of DHR's statewide survey and planning cost share program.

To facilitate the application process, the Historical Society will complete DHR's required Cost Share Application for the County's submission to DHR. The Cost Share Application is due April 8, 2016, with a decision following by May 6, 2016.

If approved, the Virginia Department of Historic Resources will administer all funds and ensure that the survey is conducted to DHR standards and guidelines by qualified professionals. Based on the number of landowners, known resources and guidance of DHR staff, we estimate that the total cost of completing the architectural survey will not exceed \$ 10,000. We are asking the Board to provide matching funds not to exceed \$ 5,000.

If funded by the State, work on the survey project will begin before the end of September, 2016 and will be completed by June 2, 2017. The survey process will respect the rights of property owners and will include public meetings sponsored by the County and the Historical Society at the outset and conclusion of the project to which all property owners will be invited. The meetings will explain the purpose and methods of the survey, invite questions and explain that

historic district listing places no burden or restriction on a landowner. Register listing is honorary and educational. Listing opens the door to qualification for historic rehabilitation tax credits and historic easement tax credits, but only if a property owner elects to apply for such credits.

We believe that this survey project merits the County's support because the Warminster Rural Historic District represents the birthplace of Nelson County. The project will support good stewardship of Virginia's and Nelson County's historic resources and add to our knowledge of local, state and national history. It will advance the County's long term goal of documenting the county's historic resources and underscore Nelson County's status as important place in history and a great place to visit.

### WARMINSTER RURAL HISTORIC DISTRICT BOUNDARY AND MAPS:

As the maps below indicate, the District is roughly bounded on the north by the Slater Branch Creek, then up the left bank of the James River to Midway Mill and the old "Simpson House," then along the west bank of Mayo Creek as it meanders to Highway 56. It follows that road for a short distance to the old St Hebron-Warminster Road, then along that road northeast to a point, then directly to State Road 604 at the gap above Bugley Springs, and then back to its beginning. These boundaries may change slightly as we learn more about the historic resources that are preserved on the land. At present, the proposed WRHD consists of approximately 3,000 acres.



**FY17 Health Insurance Contribution Amounts**  
**Narrative Summary**

Health insurance rates through the Local Choice program administered by the state are shown in the attached tables. Overall rates for FY17 will increase by 9.2%. Employer contribution levels in the proposed table reflect 100% for individual coverage and a proportional share of the increase (9.14%) for those employees electing dual or family coverage. Even though employees with dependent coverage will have a significant premium increase, these employees do benefit by a significantly higher employer contribution amount than those employees with employee only coverage. The Key Advantage 250C plan continues to serve as the base plan for calculating the employer contribution amounts and those employees opting for the Key Advantage Expanded plan must "buy up" to cover the additional cost of the expanded plan. In FY16, the Local Choice Program required localities to offer an additional option for dental coverage. The county's base plan includes comprehensive dental coverage. The new required offering includes a preventive dental plan. These plans are differentiated in the chart with a C (Comprehensive) and a P (Preventive).

The health insurance program requires localities to conduct open enrollment from April 1-30. As such, we need to provide rates and employer contribution amount to employees such that they can make decisions about the coverage they will elect for the next fiscal year.

The below chart shows the overall increase in employee and employer contributions to health insurance. Based on the proposed employer contribution amounts, the county's cost will increase by \$47,664 in FY17.

Projected Health Insurance Costs	Employee	Employer	Total
FY17	\$211,152	\$693,996	\$905,148
FY16	\$182,820	\$646,332	\$829,152
Increase for FY17	\$28,332	\$47,664	\$75,996

**FY16 Monthly Health Insurance Employee/Employer Contributions**

<u>Active Employees</u>				<u>Active Employees</u>			
	Employee	Employer	Total		Employee	Employer	Total
<b>Key Advantage 250 C</b>				<b>Key Advantage 250 P</b>			
Individual	\$0	\$593	\$593	Individual	\$0	\$580	\$580
Dual	\$350	\$747	\$1,097	Dual	\$326	\$747	\$1,073
Family	\$700	\$901	\$1,601	Family	\$665	\$901	\$1,566
<b>Key Advantage Expanded C</b>				<b>Key Advantage Expanded P</b>			
Individual	\$57	\$593	\$650	Individual	\$44	\$593	\$637
Dual	\$456	\$747	\$1,203	Dual	\$431	\$747	\$1,178
Family	\$854	\$901	\$1,755	Family	\$819	\$901	\$1,720
<b>Retirees</b>				<b>Retirees</b>			
<b>Key Advantage 250 C</b>				<b>Key Advantage 250 P</b>			
	Retiree (before supplement)				Retiree (before supplement)		
Individual	\$593			Individual	\$580		
Dual	\$1,097			Dual	\$1,073		
Family	\$1,601			Family	\$1,566		
<b>Key Advantage Expanded C</b>				<b>Key Advantage Expanded P</b>			
	Retiree (before supplement)				Retiree (before supplement)		
Individual	\$650			Individual	\$637		
Dual	\$1,203			Dual	\$1,178		
Family	\$1,755			Family	\$1,720		
<b>Advantage 65 (no dental or vision)</b>	\$160			<b>Advantage 65 (no dental or vision)</b>	\$160		

**FY17 Proposed Monthly Health Insurance Employee/Employer Contributions**

<u>Active Employees</u>				<u>Active Employees</u>			
	Employee	Employer	Total		Employee	Employer	Total
<b>Key Advantage 250 C</b>				<b>Key Advantage 250 P</b>			
Individual	\$0	\$647	\$647	Individual	\$0	\$636	\$636
Dual	\$382	\$815	\$1,197	Dual	\$362	\$815	\$1,177
Family	\$764	\$983	\$1,747	Family	\$734	\$983	\$1,717
<b>Key Advantage Expanded C</b>				<b>Key Advantage Expanded P</b>			
Individual	\$63	\$647	\$710	Individual	\$52	\$647	\$699
Dual	\$499	\$815	\$1,314	Dual	\$478	\$815	\$1,293
Family	\$934	\$983	\$1,917	Family	\$904	\$983	\$1,887
<b>Retirees</b>				<b>Retirees</b>			
<b>Key Advantage 250 C</b>				<b>Key Advantage 250 P</b>			
	Retiree (before supplement)				Retiree (before supplement)		
Individual	\$647			Individual	\$636		
Dual	\$1,197			Dual	\$1,177		
Family	\$1,747			Family	\$1,717		
<b>Key Advantage Expanded C</b>				<b>Key Advantage Expanded P</b>			
	Retiree (before supplement)				Retiree (before supplement)		
Individual	\$710			Individual	\$699		
Dual	\$1,314			Dual	\$1,293		
Family	\$1,917			Family	\$1,887		
<b>Advantage 65 (no dental or vision)</b>	\$169			<b>Advantage 65 (no dental or vision)</b>	\$169		

**RESOLUTION R2016-16  
NELSON COUNTY BOARD OF SUPERVISORS  
FY17 HEALTH INSURANCE EMPLOYER CONTRIBUTION AMOUNTS**

**WHEREAS**, the local government participates in the Local Choice health insurance program and the premiums for fiscal year 2016-2017 have increased by 9.2%;

**BE IT RESOLVED** by the Nelson County Board of Supervisors that the local government's employer contribution amounts for health insurance are hereby established for coverage beginning July 1, 2016 as follows:

<u>Active Employees</u>			<u>Active Employees</u>				
Key Advantage 250 C	Employee	Employer	Total	Key Advantage 250 P	Employee	Employer	Total
Individual	\$0	\$647	\$647	Individual	\$0	\$636	\$636
Dual	\$382	\$815	\$1,197	Dual	\$362	\$815	\$1,177
Family	\$764	\$983	\$1,747	Family	\$734	\$983	\$1,717
Key Advantage Expanded C	Employee	Employer	Total	Key Advantage Expanded P	Employee	Employer	Total
Individual	\$63	\$647	\$710	Individual	\$52	\$647	\$699
Dual	\$499	\$815	\$1,314	Dual	\$478	\$815	\$1,293
Family	\$934	\$983	\$1,917	Family	\$904	\$983	\$1,887
<u>Retirees</u>		<u>Retirees</u>					
Key Advantage 250 C	Retiree (before supplement)	Key Advantage 250 P	Retiree (before supplement)				
Individual	\$647	Individual	\$636				
Dual	\$1,197	Dual	\$1,177				
Family	\$1,747	Family	\$1,717				
Key Advantage Expanded C	Retiree (before supplement)	Key Advantage Expanded P	Retiree (before supplement)				
Individual	\$710	Individual	\$699				
Dual	\$1,314	Dual	\$1,293				
Family	\$1,917	Family	\$1,887				
Advantage 65 (no dental or vision)	\$169	Advantage 65 (no dental or vision)	\$169				

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

From: Tim Padalino | Planning & Zoning Director

Date: March 2, 2016

**Subject: Citizen's Working Group Recommendations for Zoning Ordinance Amendments  
RE: "Wayside Stands" and "Farmers Markets" (off-farm agricultural retail sales)**

### **Issue Overview:**

The Planning Commission (PC) and Board of Supervisors (BOS) have undertaken a policy review of the Zoning Ordinance (Z.O.) provisions for the retail sale of agricultural products at locations "off the farm." This effort included the production of (proposed) Z.O. text amendments, which were originally drafted to:

- substantially revise and improve the existing "wayside stand" provision by creating new definitions and new application procedures; and
- establish a "farmers market" definition and corresponding land use regulations.

Those proposed amendments were reviewed at a public hearing conducted by the PC on July 14, and at a public hearing conducted by the BOS on October 13. Then, at the November 12 BOS meeting, the Board directed Supervisor Bruguiera to convene a citizen's working group to review the most recent version of the proposed amendments (dated November 5<sup>th</sup>), and to identify recommendations for improving those proposed text amendments.

### **Updates on Working Group Activities and Recommendations:**

Please review the following summary of the citizen's working group activities, which met four times: November 19, December 15, and January 27, and February 5 (when group consensus was reached on which modifications should be recommended to the BOS).

### **Working Group Recommendations to Improve Farmers Market provisions:**

These proposed modifications to the amendments for "Farmers Market," as proposed by the citizen's working group, are intended to accomplish the following:

- **More flexibility:** Create more economic opportunity for Farmers Market vendors by allowing a wider variety of products and items to be offered for sale, and by eliminating the requirement that the items being sold are principally cultivated, produced, processed, or created on the vendor’s farm.
- **Better balance:** Relax most restrictions on Farmers Market vendors, and establish an appropriate balance between:
  - Protecting the authenticity of what a Farmers Market is intended to be; and
  - Providing more economic opportunity for agricultural products to be made available to consumers, regardless of the geographic origin of those ag products

**Working Group Recommendations to Improve Wayside Stand provisions:**

These proposed amendments would also modify the “wayside stand” provisions as follows:

- Bring clarity and consistency to the current provision (§4-11-2), which is extremely vague and which currently lacks any clear methods or criteria for applying for, reviewing, approving, or denying these types of administrative permits.
- Create two separate categories or classes for the “wayside stand” land use, determined by the type of road it would be located on (or accessed from).
  - This would allow for proposed wayside stands to be applied for, reviewed, and approved more easily (administratively) if they are located on smaller roads; and
  - This would require applicants to go through the Special Use Permit process if a wayside stand is proposed for a location associated with greater potential risk(s) to public health, safety, and welfare (such as a location on roads with higher traffic counts, higher rates of speed, or other transportation factors which inherently create more concerns regarding public safety and land use changes).
- Eliminate the “temporary” nature of wayside stands (and specifically eliminate the proposed limitation to 5 consecutive days), and would instead allow for a wayside stand to be operated for any duration or frequency throughout any given week, month, or year.
- Eliminate the requirement that all products offered for sale must have been produced by the seller; and allow for the sale of products obtained from other producers.
- Provide for the operation of class A and class B wayside stands as a by-right use in all three business districts (B-1, B-2, and SE-1); currently, wayside stands are only permissible in Agricultural (A-1) District.

Specifically, the citizen’s working group recommends the **newly proposed modifications** shown below.

Please also reference the enclosed map, which distinguishes “functionally classified roads” (shown with darker, thicker lines) from roads that are not “functionally classified” by VDOT (shown in lighter, thinner lines). As shown on the map, “functionally classified” roads include:

- major highways such as Interstate 64, U.S. 29, U.S. 60, U.S. 250, VA 6, VA 56, and VA 151
- some secondary roads such as Beech Grove Road (Rte. 664), Oak Ridge Road (Rte. 650), Roseland Road (Rte. 655), Laurel Road (Rte. 639), Schuyler Rd. (Rte. 800), Howardsville Turnpike (Rte. 610), and a few others.

## ➤ **Article 2: Definitions**

*Remove the following definition:*

~~Wayside stand, roadside stand, wayside market: Any structure or land used for the sale of agriculture or horticultural produce; livestock, or merchandise produced by the owner or his family on their farm.~~

*Add the following definitions:*

**Farmers Market:** Any structure, assembly of structures, or land used by multiple vendors for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Farmers Markets may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products.

**Wayside Stand:** Any use of land, vehicle(s), equipment, or facility(s) used by a single vendor for the off-farm sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Wayside Stands may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products. The majority of products being offered for sale by the Wayside Stand operator must have been cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family. ~~Wayside stands are a temporary (non-permanent) land use.~~

**Wayside Stand, Class A:** A Wayside Stand which is located on a Local or Secondary road, or other road which is not functionally classified (as defined by the Virginia Department of Transportation).

**Wayside Stand, Class B:** A Wayside Stand which is located on a Minor Collector, Major Collector, Minor Arterial, Principal Arterial, or other road which is functionally classified (as defined by the Virginia Department of Transportation), or located within three-hundred (300) feet of an intersection with any such road.

## ➤ **Article 4: Agricultural District (A-1)**

*Revise the following provision in Section 4-11 "Administrative Approvals:"*

The Zoning Administrator may administratively approve a zoning permit for the following uses, provided they are in compliance with the provisions of this Article.

**4-11-2 Wayside Stands: Wayside Stand, Class A, which provides one (1) year of approval. An approved Class A Wayside Stand may be renewed annually; no renewal fee or site plan resubmission shall be required with any request for annual renewal unless the**

layout, configuration, operation, vehicular ingress/egress, and/or scale is substantially modified.

No Class A Wayside Stand permit may be approved or renewed unless the Planning and Zoning Director reviews and approves the following operational details regarding the safety and appropriateness of the proposed Wayside Stand:

(i) Signed affidavit declaring that the majority of products offered for sale at the Wayside Stand are cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family.

~~(ii) Proposed frequency and duration of Wayside Stand operations, which must be compliant with the following restrictions:~~

~~a. may not exceed 5 consecutive days~~

~~b. limited to a weekly maximum of 5 days per week total~~

(ii) Location and type of proposed Wayside Stand equipment or facility:

a. All Wayside Stand structures or facilities must be located outside of VDOT right-of-way

b. All permanent Wayside Stand structures must comply with the required front yard setback areas of the applicable zoning district

(iii) Location and details of proposed signage:

a. Maximum of one sign allowed, which may be double-sided

b. Maximum of twelve (12) square feet of signage

(iv) Sketch site plan, including accurate locations and dimensions of:

a. property boundaries and right-of-way

b. proposed location of Wayside Stand equipment and/or facility(s)

c. proposed signage

d. proposed layout and provisions for safe vehicular ingress, egress, and parking

e. lighting plan and lighting details (for any Wayside Stand request involving any proposed operation(s) after daylight hours)

(v) Review comments from Virginia Department of Transportation:

a. VDOT review comments must include a formal "recommendation for approval" by VDOT before a Class A Wayside Stand permit can be approved by the Zoning Administrator

*Add the following provisions to Section 4-1-a "Uses – Permitted by Special Use Permit only:"*

**4-1-46a Wayside Stand, Class B**

**4-1-47a Farmers Market**

## ➤ **Article 8: Business District (B-1)**

*Add the following provisions to Section 8-1 "Uses – Permitted by right:"*

**8-1-25 Wayside Stand, Class A and B**

**8-1-26 Farmers Market**

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

*Add the following provisions to Section 8A-1 "Uses – Permitted by right:"*

**8A-1-15 Wayside Stand, Class A and B**

**8A-1-16 Farmers Market**

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

*Add the following provisions to Section 8B-1 "Uses – Permitted by right:"*

**8B-1-4 ~~Farming~~ Agricultural Operations**

**8B-1-25 Wayside Stand, Class A and B**

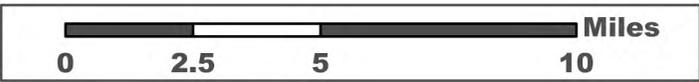
**8B-1-26 Farmers Market**

**Conclusion:**

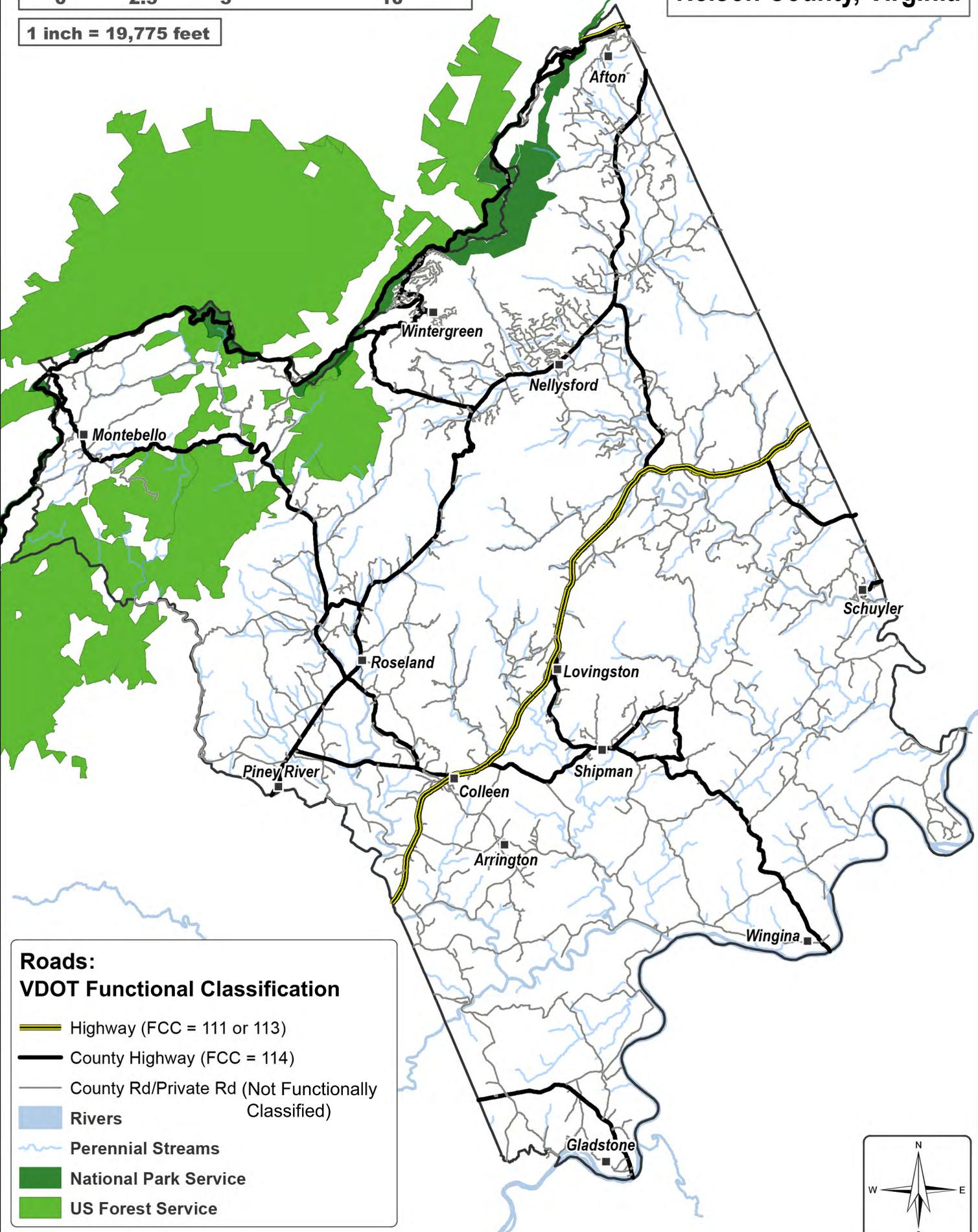
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Thank you for your attention to these recent modifications to the proposed Z.O. text amendments regarding "wayside stands" and "farmers markets." These modifications are presented to you for your review/consideration and possible enactment. Please contact me with any questions you may have regarding any of the information contained in this packet.

# Nelson County, Virginia

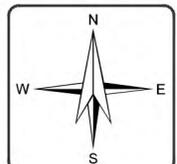


1 inch = 19,775 feet



## Roads: VDOT Functional Classification

-  Highway (FCC = 111 or 113)
-  County Highway (FCC = 114)
-  County Rd/Private Rd (Not Functionally Classified)
-  Rivers
-  Perennial Streams
-  National Park Service
-  US Forest Service



DEPARTMENT OF  
PLANNING & ZONING



PLANNING COMMISSION  
BOARD OF ZONING APPEALS

**To:** Chair and Members, Nelson County Board of Supervisors  
**From:** Tim Padalino | Planning & Zoning Director  
**Date:** March 2, 2016  
**Subject:** **PC Recommendations for Referred Zoning Ordinance Amendments –  
 “Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses”  
 (BOS Resolution R2015-68)**

#### **Issue Introduction:**

Given the recent successes and ongoing growth in the special events, tourism, and agritourism industries in Nelson County, the existing Zoning Ordinance provisions and regulations for “special events” have become outdated and insufficient. For example:

- *Lack of distinction between which activities require Special Events Permits, and which do not:* “Special events” are not defined in the ordinance; and there are no clear boundaries for types of activities which may be exempt from the permit requirement, or which types of events absolutely need to obtain permits. This lack of clarity will continue to be a recurring issue, based on the ongoing, successful proliferation of the agritourism and events industries.
- *Lack of distinction among events of varying scale, duration, and frequency:* The ordinance makes no distinction between small events (such as a brief daytime parade down Front Street in Lovingson) and major events (such as Lockn’ Festival or other multi-day mass gatherings). Currently, the same application procedures and same \$25 application fee apply to all events.
- *Lack of specific evaluation criteria to guide the County’s decision-making process during the review and approval/denial of Special Events Permit applications:* Staff have done the best we can to develop processes and apply common-sense criteria on a case-by-case basis; and the results have been mostly successful. But the decision-making process should be based on clear criteria that are consistently applied to each and every event.
- *Lack of comprehensive provisions and regulations:* The ordinance currently only contemplates a proposed special event in isolation, and does not account for multiple-date or repeat events or for how a venue or property should be regulated (especially if the special events, which are temporary, propose to include permanent improvements such as roads, utilities, structures, etc.).

Such limitations and omissions result in County staff regularly spending a significant amount of time and effort attempting to handle every inquiry, request, and application on a case-by-case basis *while also* attempting to be as fair, consistent, and accurate as possible. While this approach has worked reasonably well in recent years, it is far from perfect and it requires more time and effort of County staff than should be necessary.

Therefore, County staff believe the appropriate long-term solution is to amend the Zoning Ordinance with updated and improved provisions and regulations. A successful text amendment process would:

- benefit County staff by establishing a clear and consistent review process;
- benefit event promoters and members of the public by establishing a permitting process that is clearer, more straightforward, and more transparent; and
- benefit local businesses by exempting a large variety of activities from permit requirements.

Please see below for a summary of this text amendment review process to date, as well as a summary of the actual content of the proposed text amendments. The actual proposed text amendments, which include important modifications as formally recommended by the PC, and which are dated February 24, 2016, are enclosed for your detailed review.

**Summary of Review Process:**

<i>August 11, 2015:</i>	BOS refers amendments to PC via BOS Resolution R2015-68
<i>August 26:</i>	PC formally receives referred amendments and begins review
<i>September 23:</i>	PC continues review and discusses various possible modifications
<i>October 28:</i>	PC continues review and requests three (3) month extension from BOS for continued review(s) prior to making recommendation to BOS
<i>November 12:</i>	BOS grants requested three (3) month extension
<i>November 18 and December 16:</i>	PC continues review inclusive of additional proposed modifications
<i>January 27, 2016:</i>	PC conducts public hearing and continues review
<i>February 24:</i>	PC conducts work session, continues review, and votes to formally recommend (modified) amendments to BOS

**Brief Summary of (Modified) Referred Amendments as Recommended by PC:**

The enclosed Word document (dated February 24, 2016) contains the Planning Commission’s formal recommendations for the referred amendments, inclusive of several modifications specified by the PC. These amendments would substantially change the way events are regulated, such as:

- To help clarify when permits are needed (or not), these amendments identify numerous different types of events that would be specifically exempted from Temporary Event Permit requirements.
- See proposed §24-2-A “Exempt Events.”

- To provide for more appropriate regulations and permitting processes, three (3) categories of events would be established. The categorization of an event would be primarily determined by the number of attendees; and the different event categories would require different fee payment, application requirements, and permitting/review processes.
- See proposed §24-2-B “Temporary Event, Category 1,” §24-2-C “Temporary Event, Category 2,” §24-2-E “Temporary Event, Category 3,” and §24-3, “Issuance of Temporary Event Permits.”
- “Special Events Permits” would be redefined as “Temporary Event Permits,” to help avoid confusion with “Special Use Permits” and to emphasize that these events are primarily meant to be temporary activities, not permanent land uses.
- Please note that the proposed amendments, if enacted, would create a new “Article 24” in the Zoning Ordinance and would also amend existing Articles 4, 8, 8A, and 8B.

**Additional Staff Commentary on Proposed Amendments:**

Issue A: Temporary Events and Permanent Structures

While the Planning Commission recommendations represent a detailed review of a large number of issues, there was one additional topic which identified very late in their review process which they decided to not fully address or resolve, due to time limitations.

This additional topic relates to permanent structures used for temporary events and outdoor activities. There is currently no such definition or provision in the existing Zoning Ordinance, or in the proposed amendments as formally recommended by the PC.

Specifically, the Board may wish to consider the apparent need to establish a definition and provisions for a permanent “outdoor entertainment venue,” or “outdoor performing arts facility,” or a similar permanent use/structure. This may be necessary because, as written, the proposed amendments would only establish a definition and provisions for “festival grounds” use which, by definition, is a land use associated with Category 3 Temporary Events.

However, it may be prudent to establish a definition and corresponding provisions/regulations for permanent structures in association with other types of Temporary Events (such as Category 1, Category 2, or Exempt Events). Doing so would provide an opportunity for property owners to apply for zoning permits, site plans, and/or building permits that would authorize the construction and operation of a permanent structure for small- and medium-sized outdoor events and activities.

Issue B: Consideration of Establishing a ‘Citizen Working Group’

The PC review of these amendments included discussion of establishing a citizen working group to solicit additional public input, inclusive of local professionals in the events industry and agritourism industry. This step was explicitly requested by Mr. George Hodson representing Veritas Vineyard & Winery as well as Nelson 151, and was also requested by Mr. Dave Frey of Lockn LLC and Lockn Farm.

If the BOS determines to establish any such working group, I strongly recommend that at least one Planning Commissioner be included in that group, to provide continuity throughout the review process and to extract maximum benefit from the six months of effort conducted by the Planning Commission.

**Summary & Conclusion:**

The next step in this ongoing amendment process would be for the Board of Supervisors to formally authorize a public hearing, unless the Board determines that additional review is necessary or desired prior to conducting a public hearing.

In conclusion, please carefully review the enclosed amendments; and please contact me with any questions, concerns, or requests for assistance you may have leading up to the formal introduction of these amendments to the Board at the March 8<sup>th</sup> BOS meeting.

Thank you very much for your time and attention to these very important issues.

**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.

*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 small band 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) hosts less than 1,000 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.

*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 which is not open to the general public, such as weddings, receptions, and reunions, to which attendance does not exceed 300 people, conducted on property not zoned for commercial uses and for which the landowner charges a fee for the use of his property.

#### *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 less than 1,000 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 and Agritourism activities conducted between the hours of 7:00 a.m. and 7:00 p.m.

#### *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 less than 1,000 attendees, or,
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees, or,
- (iii) Farm winery or Agritourism activities conducted after 7:00 p.m. and having or projecting less than 1000 attendees.

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, for which admission is charged or at which goods and services are sold, having or projecting 1,000 or more attendees but less than 10,000 attendees. 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*

Each structure used for either a Category 1 or 2 event (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. 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.

#### *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 permanent structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible, subject to all other Zoning Ordinance provisions, including but not limited to Article 13 “Site Development Plan.”

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 restrict the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use.

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 will consider the following factors when determining whether a Temporary Event Permit will be issued:

1. If and how the proposed event would result in undue interference with other planned activities in the County;
2. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
3. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
4. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
5. Compliance with the requirements of other agencies and departments; and
6. 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:

1. Establish or modify times during which activities or amplified sound, or both, may be conducted;
2. Fix the permitted dates for the event;
3. Limit the number of attendees; and

4. Impose such conditions as are 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 Temporary Events, beyond the limits specified in the following chart, at a public hearing conducted by the Board of Supervisors.

<b>Type of Property</b>	<b>Category 1</b>	<b>Category 2</b>	<b>Category 3</b>
Eligible property(s) zoned A-1, B-1, B-2, or SE-1 with an aggregate acreage of less than 250 acres*	8	4	0
Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is less than 100 acres*	12	6	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	8	0
Any eligible property(s) zoned A-1 with an aggregate acreage equal to or greater than 250 acres*	16	8	4
<i>*Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.</i>			

24-3-D 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.

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

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-F 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).

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

➤ **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 fifty 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

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

- Festival Grounds

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

**Add the following:**

8-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

**Add the following:**

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

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

**Add the following:**

8B-1 – Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

**Closed Session Form Motion – Legal Advice, Pending Litigation**

1. Motion to Convene in Closed Session

**FORM MOTION FOR CONVENING CLOSED SESSION:**

***“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) (7): Consultation with legal counsel and briefing by staff members pertaining to pending litigation in the case of County of Nelson v. Crockett.”***

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.”***

## § 2.2-3711. Closed meetings authorized for certain limited purposes

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.
2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.
3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.
4. The protection of the privacy of individuals in personal matters not related to public business.
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.
9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.
10. Discussion or consideration of honorary degrees or special awards.
11. Discussion or consideration of tests, examinations, or other records excluded from this chapter pursuant to subdivision 4 of § [2.2-3705.1](#).
12. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.
13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.
14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.
15. Discussion or consideration of medical and mental health records excluded from this chapter pursuant to subdivision 1 of § [2.2-3705.5](#).
16. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § [58.1-4007](#) regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § [2.2-3705.3](#) and subdivision 11 of § [2.2-3705.7](#).
17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of records excluded from this chapter pursuant to subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be,

including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees. This exemption shall also apply when the foregoing discussions occur at a meeting of the Virginia Commonwealth University Board of Visitors.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or

negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of records excluded from this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

35. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.

41. Discussion or consideration by the Board of Education of records relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding

preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of records excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

44. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of records excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exemption shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1968, c. 479, § 2.1-344; 1970, c. 456; 1973, c. 461; 1974, c. 332; 1976, cc. 467, 709; 1979, cc. 369, 684; 1980, cc. 221, 475, 476, 754; 1981, cc. 35, 471; 1982, cc. 497, 516; 1984, cc. 473, 513; 1985, c. 277; 1988, c. 891; 1989, cc. 56, 358, 478; 1990, cc. 435, 538; 1991, c. 708; 1992, c. 444; 1993, cc. 270, 499; 1995, c. 499; 1996, cc. 855, 862, 902, 905, 1046; 1997, cc. 439, 641, 785, 861; 1999, cc. 485

, 518, 703, 726, 849, 867, 868;2000, cc. 382, 400, 720, 1064;2001, cc. 231, 844;2002, cc. 87, 393, 455, 478, 499, 655, 715, 830;2003, cc. 274, 291, 332, 618, 703;2004, cc. 398, 690, 770;2005, cc. 258, 411, 568;2006, cc. 430, 499, 518, 560;2007, cc. 133, 374, 566, 739;2008, cc. 626, 633, 668, 721, 743;2009, cc. 223, 325, 472, 765, 810, 827, 845;2010, cc. 310, 630, 808;2011, cc. 89, 111, 147, 536, 541, 816, 874;2012, cc. 476, 507, 803, 835;2013, cc. 571, 580, 695;2014, c. 225;2015, cc. 27, 38, 108, 169, 182, 549, 730.



29 February 2016

Nelson County Board of Supervisors  
P.O. Box 336  
Lovingsston, VA 22949

Sirs and Madam:

The Board of Directors of Rockfish Valley Community Center would ask your consideration of a number of amendments to the Zoning Ordinance of Nelson County that would more accurately define community centers, establish the districts in which they may exist by right, broaden the types of activities and structures that are permitted by special use on their grounds, and include them explicitly in the list of organizations that would be permitted Out-of-Door, Accessory Use activities in the amendments that will soon come under consideration by the BOS.

### ***Definition of Community Center***

The current definition of ‘Community Center’ in the code was written in 2005 in part to accommodate the business model of Rockfish Valley Community Center as it existed then:

*Community Center: A building and grounds used for recreation, social, educational, health, and 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 within the building for the sale of goods and services, offices subject to site plan approval, and any additional conditions that may be imposed to such sales of goods and services by the Planning Commission. The sale of goods and services may be carried on a profit basis or for charitable non-profit purposes by the owner or the owner's approved lessee or licensee. There can be no exterior indication of commercial activities at the center such as outside storage, sales area and signage, except for a principal sign identifying the center with a listing of its tenants. (Res. of 03/13/05)*

This definition is no longer adequate to meet the growing demand for programs, services and events at RVCC, and is unnecessarily restrictive regarding the kinds of activities that may take place on its property. We would ask your consideration of the following to replace the current definition:

*Community Center: A building and grounds used for recreation, social, educational, health, entertainment and cultural activities or events, open to the public and owned and operated by a public or private non-profit group or agency. The activities may involve,*

*but are not limited to, leasing of space within the building to businesses or individuals, and renting space within the building or on its grounds for temporary events.*

### ***Uses Permitted by right***

Community Centers, although a defined term, are not expressly provided in the Zoning Ordinance to be uses permitted by right in any zoning districts in Nelson County, including Residential District R-1, which is the zoning classification of RVCC's property. As community centers are by their nature central to the residential areas they serve, we ask that they expressly be provided to be permitted uses by right in both Agricultural A-1 and Residential R-1 Districts

### ***Define "Outdoor Entertainment Venue"***

The grounds of RVCC have been used for temporary outdoor events since it was the Rockfish Valley Elementary School, and we have continued that tradition by hosting such events that include live musical entertainment in response to community interest. Currently we must assemble/disassemble a temporary modular stage intended for indoor use for each event, and this structure is inadequate in size, height and stability, and lacks electrical service. We encourage approval of a new classification of structure called "Outdoor Entertainment Venue" that would be permitted special uses by any approved business in any zoning district in which they are located (ref. proposed Article 24, definition of "Out-of-Door, Accessory Use, below).

### ***Expand "Out-of-Door, Accessory Use" definition in proposed Article 24***

Text amendments to the Zoning Ordinance currently under consideration include the following definition of "Out-of-Door, Accessory Use":

*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 small band 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) hosts less than 1,000 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.

We would ask your consideration of expanding the list of establishments to include "Community Center" after "Banquet Hall," thus also extending the benefit and enjoyment of outdoor activities such as receptions, dining and entertainment to public spaces. We believe that this inclusion will provide a more balanced approach to the permitting of outdoor events, engendering and

supporting public spaces such as RVCC and enabling them to benefit from the same permissions that would be granted to commercial establishments in proposed Article 24.

***Clarify proposed text amendment 24-2-D***

The text as proposed currently reads:

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

Each structure used for either a Category 1 or 2 event (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. 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.

We ask your consideration of modifying the language of this section for purposes of clarification. Specifically we suggest amending the title to read "*Structures for Exempt Temporary Events and Category 1 and 2 Temporary Events*," and amending the first sentence to read, "No permanent structure shall be constructed for these temporary events without a building permit. Any temporary structure shall be removed from the site within 30 days after the event."

Please contact me at your convenience if you desire clarification of any of these suggested amendments, or if you require further information.

On behalf of our Board, I thank you for your consideration of these suggested Zoning Ordinance modifications.

Kind regards,



G. Stuart Mills  
Executive Director

/cc

Tim Padalino, Director of Planning & Zoning  
Steve Carter, County Administrator  
RVCC Board of Directors

**PUBLIC HEARING NOTICE  
NELSON COUNTY BOARD OF SUPERVISORS  
TO AMEND THE CODE OF NELSON COUNTY, VIRGINIA  
APPENDIX A, ZONING: ARTICLE 2- (DEFINITIONS), ARTICLE 4- (A-1),  
ARTICLE 5-(R-1), ARTICLE 6-(R-2), ARTICLE 7- (RPC), ARTICLE 8- (B-1),  
ARTICLE 8A-(B2), AND ARTICLE 8B-(SE1)  
TO INCLUDE “BED & BREAKFAST USES”**

Pursuant to §15.2-1427 and §15.2-2204, of the Code of Virginia 1950 as amended, the Nelson County Board of Supervisors will conduct a public hearing to be held on **Tuesday, March 8, 2016 at 7:00 p.m.** in the General District Courtroom in the Courthouse in Lovingston, Virginia. The purpose of said public hearing is to receive public input on an ordinance proposed for passage to amend Appendix A, Zoning, to include items regarding “Bed and Breakfast Uses”. A descriptive summary of the proposed amendments is as follows:

The definition or redefinition of numerous land uses related to transient lodging and dwellings in **Article 2, Definitions** as follows: “Bed and breakfast, Class A,” “Bed and breakfast, Class B,” “Boardinghouse,” “Campground,” “Dwelling,” “Dwelling, single-family detached,” “Home occupation, class A,” “Home occupation, class B,” “Hotel,” “Tent,” “Transient,” “Transient lodging,” “Travel Trailer,” and “Vacation House.” The existing “Boardinghouse, tourist home” and “Tourist home” definition would be eliminated.

New or revised regulations regarding which zoning districts those uses would be permissible in as a by-right use, as a special use, or as a use not permissible are as follows:

**Article 4: Agricultural District A-1**

<i>Section 4-1</i>	<i>Uses – Permitted by right.</i>
4-1-3	Boardinghouse
4-1-30	Bed and Breakfast, Class A
4-1-31	Bed and Breakfast, Class B
4-1-32	Vacation House

<i>Section 4-1-a</i>	<i>Uses – Permitted by Special Use Permit only:</i>
4-1-10a	Campground

**Article 5: Residential District R-1**

<i>Section 5-1</i>	<i>Uses – Permitted by-right:</i>
5-1-17	Bed and Breakfast, Class A
5-1-18	Bed and Breakfast, Class B, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.

5-1-19 Vacation House, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.

*Section 5-1-a* *Uses – Permitted by Special Use Permit only:*  
5-1-4a Bed and Breakfast, Class B, if the provisions in 5-1-18 do not apply to the subject property

5-1-5a Vacation House, if the provisions contained in 5-1-19 do not apply to the subject property

#### **Article 6: Residential District R-2**

*Section 6-1-a* *Uses – Permitted by Special Use Permit only:*

6-1-3a Boardinghouse

6-1-4a Bed and Breakfast, Class A

6-1-5a Vacation House

#### **Article 7: Residential Planned Community District RPC**

*Section 7-5-2* *Single-Family Residential Sector - SR*

In Single-Family Residential Sectors, the following uses will be permitted:

1. Single-family detached dwellings.
2. Single-family attached dwellings.
3. Other uses as permitted in Residential Districts R-1 and in Section 7-5-1(b); except that Vacation House shall be a permissible by-right use in the SR Sector of the RPC District and shall not require a Special Use Permit.

#### **Article 8: Business District B-1**

*Section 8-1* *Uses – Permitted by right:*

8-1-25 Bed and Breakfast, Class A, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

8-1-26 Bed and Breakfast, Class B, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

8-1-27 Vacation House, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

*Section 8-1-a* *Uses – Permitted by Special Use Permit only:*

8-1-13a Campground

#### **Article 8A: Business District B-2**

*Section 8A-1-a* *Uses – Permitted by Special Use Permit only:*

8A-1-15 Hotel

**Article 8B: Service Enterprise District SE-1**

*Section 8B-1 Uses – Permitted by right.*

8B-1-3 Boardinghouse, vacation house, class A bed and breakfast, class B bed and breakfast, churches, church adjunctive graveyards, libraries, schools, hospitals, clinics, parks, playgrounds, post offices, fire department, and rescue squad facilities

*Section 8B-1-a Uses – Permitted by Special Use Permit only:*

8B-1-14a Campground

The full text of the proposed ordinance amendments are available for public inspection in the Office of the County Administrator, 84 Courthouse Square and the Department of Planning & Zoning, 80 Front Street, both in Lovingston, VA, 22949, M-F, 9:00 a.m. to 5:00 p.m. For more information, call County Administration, (434) 263-7000, the Dept. of Planning & Zoning, (434) 263-7090, or toll free, (888) 662-9400, selections 4 and 1.

**BY AUTHORITY OF THE NELSON COUNTY BOARD OF SUPERVISORS**

DEPARTMENT OF  
PLANNING & ZONING



PLANNING COMMISSION  
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Board of Supervisors  
From: Tim Padalino | Planning & Zoning Director  
Date: March 2, 2016  
Subject: **Public Hearing for Proposed Zoning Ordinance Amendments –  
“Bed and Breakfast Uses” and Transient Lodging (BOS Resolution R2015-66)**

#### **Issue Introduction:**

The existing Zoning Ordinance provisions for permitting and regulating “transient lodging” uses are problematic in multiple ways: they are unclear and somewhat contradictory; and they do not reflect or account for the current variety of lodging types that exist in Nelson County. After conferring on this matter multiple times over the course of 2015, County staff determined that the Planning Commission (PC) and Board of Supervisors (BOS) should formally conduct a policy review of the existing provisions in the Zoning Ordinance in order to identify possible amendments.

County staff believe a text amendment process could result in the following beneficial outcomes:

- ensure that provisions and regulations are appropriate for and reflective of the current economy
- ensure that provisions and regulations are clear, consistent, and reasonable
- minimize the amount of time and effort required of staff for interpreting and explaining the provisions and regulations which are contradictory, outdated, and otherwise insufficient
- simplify and clarify the issues of property rights and permitting processes for local residents and businesses

As such, in August 2015 County staff provided the BOS with an introduction to these issues and presented a request of the BOS to make a text amendment referral to the PC. The BOS then acted to refer BOS Resolution R2015-66 “Bed and Breakfast Uses” to the PC. Please see below for a summary of the text amendment review process to date.

## Summary of Review Process:

<i>August 11, 2015:</i>	BOS refers amendments to PC via BOS Resolution R2015-66
<i>August 26:</i>	PC formally receives referred amendments and begins review
<i>September 23 and October 28:</i>	PC continues review, proposes various modifications, and directs staff to advertise for a public hearing
<i>November 18:</i>	PC conducts public hearing and requests three (3) month extension from BOS for continued review(s) prior to making recommendation to BOS
<i>December 8:</i>	BOS grants requested three (3) month extension
<i>December 16:</i>	PC continues review inclusive of additional proposed modifications
<i>January 27, 2016:</i>	PC continues review and votes to formally recommend 12/28 draft of amendments
<i>February 9:</i>	PC recommendations were presented to BOS which then authorized a public hearing for the 3/8 BOS meeting

## Commentary on Referred > Modified > Recommended Amendments:

The enclosed Word document (dated December 28, 2015) contains the most recent version of the referred amendments, inclusive of modifications formally recommended by the Planning Commission.

Specifically, these modifications were recommended by the PC as a result of:

- careful PC review and discussion over six (6) PC meetings and one (1) public hearing
- consideration of public comments received during the public hearing process
- consideration of written correspondence and phone calls from members of the public received throughout the overall PC review process

The following lists (below) provide a simplified summary of the amendments for your reference; please review the enclosed amendments (dated December 28, 2015) for complete details.

### (Proposed) Definition and Re-Definition of Uses in Article 2 “Definitions” –

- These amendments would eliminate the “tourist house” use and definition
- These amendments would resolve the existing contradictions between the definitions for “tourist house,” “home occupation,” and “dwelling”
- These amendments would also clarify uses that are currently provided for, as well as introduce new definitions for uses which are currently being undertaken in the County, such as:
  - “bed and breakfast class A” (*intended to replace “home occupation – rental of rooms to tourists”*)
  - “bed and breakfast class B” (*room-by-room rentals, up to 8 total guest rooms or up to 24 total transient lodgers, conducted within a dwelling and/or accessory structures*)
  - “vacation house” (rental of entire dwelling to transients)
  - “transient” and “transient lodging” (tourists lodging for less than 30 days)

(Proposed) District-by-District Regulation of Uses –

*Note: uses marked with (\*) remain unchanged from current Z.O. regulations / provisions*

- Agricultural (A-1):
  - *By-Right:* B&B (class A and class B), vacation house, boardinghouse\*
  - *Special Use:* hotel\*, campground\*
- Residential (R-1):
  - *By-Right:* B&B (class A)
  - *By-Right (if property is split-zoned):* B&B (class B), vacation house
  - *Special Use:* B&B (class B), vacation house (*if property is not-split-zoned*)
- Residential (R-2):
  - *Special Use:* B&B (class A), vacation house, boardinghouse
- Residential Planned Community (RPC):
  - *By-Right:* all R-1 By-Right uses\* PLUS vacation house (which otherwise requires a SUP in R-1)
- Business (B-1):
  - *By-Right:* hotel\*, boardinghouse\*, B&B (class A and class B), vacation house
  - *Special Use:* campground
- Business (B-2):
  - *By-Right:* boardinghouse\*
  - *Special Use:* hotel
- Service Enterprise (SE-1):
  - *By-Right:* boardinghouse\*, B&B (class A and class B)\*, vacation house
  - *Special Use:* hotel\*, campground

**Conclusion**

In conclusion, please contact me with any questions, concerns, or requests for assistance regarding March 8<sup>th</sup> public hearing for the “Bed & Breakfast Uses” amendments, originally referred to the Planning Commission via BOS Resolution R2015-66, and as recommended by the Planning Commission.

Thank you very much for your time and attention to this important subject.

➤ **Article 2: Definitions**

**Delete the following:**

~~Boardinghouse, tourist home:~~

~~Tourist home:~~

**Add the following:**

Bed and Breakfast, Class A: A use composed of transient lodging provided by the resident occupants of a dwelling that is conducted within said dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than five (5) guest rooms in the aggregate, and having not more than twelve (12) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the class A bed and breakfast, provided that the dining and meeting rooms are accessory to the class A bed and breakfast use.

Bed and Breakfast, Class B : A use composed of transient lodging provided within a single family dwelling and/or one or more structures that are clearly subordinate and incidental to the single family dwelling, having not more than eight (8) guest rooms in the aggregate, and having not more than twenty-four (24) transient lodgers in the aggregate, and which also may include rooms for dining and for meetings for use by transient lodging guests of the bed and breakfast provided that the dining and meeting rooms are accessory to the bed and breakfast use.

Boardinghouse: A use composed of a single building in which more than one room is arranged or used for lodging by occupants who lodge for thirty (30) consecutive days or longer, with or without meals, for compensation. A boardinghouse may be occupied by the owner or operator, but may not be operated on the same parcel as a bed and breakfast.

Tent: A structure or enclosure, constructed of pliable material, which is supported by poles or other easily removed or disassembled structural apparatus.

Transient: A guest or boarder; one who stays for less than thirty (30) days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by that guest or boarder.

Transient lodging: Lodging in which the temporary occupant lodges in overnight accommodations for less than thirty (30) consecutive days.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room. Vacation houses with more than five (5) bedrooms are subject to the requirements contained in Article 13, Site Development Plan.

***Amend the following:***

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

Dwelling: Any building which is designed for residential purposes (except boardinghouses, dormitories, hotels, and motels).

Dwelling, single-family detached: A building arranged or designed to contain one (1) dwelling unit.

Home Occupation, class A: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than one (1) person is employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Home Occupation, class B: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than four (4) persons are employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale, and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Hotel: Any hotel, inn, hostelry, motel, or other place used for overnight lodging which is rented by the room to transients, is not a residence, and where the renting of the structure is the primary use of the property.

Travel Trailer: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreational, and vacation uses. The term "travel trailer" does not include mobile homes or manufactured homes.

➤ **Article 4: Agricultural District A-1**

**Amend as follows:**

*Section 4-1*      *Uses – Permitted by right.*

- 4-1-3      Boardinghouse
- 4-1-30      Bed and Breakfast, Class A
- 4-1-31      Bed and Breakfast, Class B
- 4-1-32      Vacation House

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

- 4-1-10a      Campground

➤ **Article 5: Residential District R-1**

**Amend as follows:**

*Section 5-1*      *Uses – Permitted by-right:*

- 5-1-17      Bed and Breakfast, Class A
- 5-1-18      Bed and Breakfast, Class B, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.
- 5-1-19      Vacation House, if the subject property contains more than one zoning classification with a majority portion of the subject property zoned Agricultural A-1.

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

- 5-1-4a      Bed and Breakfast, Class B, if the provisions in 5-1-18 do not apply to the subject property
- 5-1-5a      Vacation House, if the provisions contained in 5-1-19 do not apply to the subject property

➤ **Article 6: Residential District R-2**

**Amend as follows:**

*Section 6-1-a*      *Uses – Permitted by Special Use Permit only:*

- 6-1-3a      Boardinghouse
- 6-1-4a      Bed and Breakfast, Class A
- 6-1-5a      Vacation House

➤ **Article 7: Residential Planned Community District RPC**

**Amend as follows:**

Section 7-5-2      Single-Family Residential Sector - SR

In Single-Family Residential Sectors, the following uses will be permitted:

1. Single-family detached dwellings.
2. Single-family attached dwellings.

3. Other uses as permitted in Residential Districts R-1 and in Section 7-5-1(b); except that Vacation House shall be a permissible by-right use in the SR Sector of the RPC District and shall not require a Special Use Permit.

➤ **Article 8: Business District B-1**

***Amend as follows:***

*Section 8-1 Uses – Permitted by right:*

- 8-1-25 Bed and Breakfast, Class A, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a
- 8-1-26 Bed and Breakfast, Class B, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a
- 8-1-27 Vacation House, if the subject property contains an existing non-conforming dwelling or has an approved Special Use Permit for dwelling units pursuant to 8-1-10a

*Section 8-1-a Uses – Permitted by Special Use Permit only:*

- 8-1-13a Campground

➤ **Article 8A: Business District B-2**

***Amend as follows:***

*Section 8A-1-a Uses – Permitted by Special Use Permit only:*

- 8A-1-15 Hotel

➤ **Article 8B: Service Enterprise District SE-1**

***Amend as follows:***

*Section 8B-1 Uses – Permitted by right:*

- 8B-1-3 Boardinghouse, vacation house, class A bed and breakfast, class B bed and breakfast, churches, church adjunctive graveyards, libraries, schools, hospitals, clinics, parks, playgrounds, post offices, fire department, and rescue squad facilities

*Section 8B-1-a Uses – Permitted by Special Use Permit only:*

- 8B-1-14a Campground