

**Virginia:**

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

Present: Jesse N. Rutherford, East District Supervisor –Chair  
Robert G. “Skip” Barton, South District Supervisor – Vice Chair  
Ernie Q. Reed, Central District Supervisor  
J. David Parr, West District Supervisor  
Candice W. McGarry, County Administrator  
Amanda B. Spivey, Administrative Assistant/Deputy Clerk  
Linda K. Staton, Director of Finance and Human Resources  
Dylan M. Bishop, Director of Planning and Zoning  
Maureen Kelley, Director of Economic Development and Tourism

Absent: Thomas D. Harvey, North District Supervisor

**I. CALL TO ORDER**

Mr. Rutherford called the meeting to order at 2:00 p.m. with four (4) Supervisors present to establish a quorum.

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

**II. PUBLIC COMMENTS**

*Doreen Stapleton - Nellysford, VA*

Ms. Stapleton noted that she was speaking on behalf of the Beltie’s application in Nellysford. She encouraged the Board to approve the application. She noted the absence of breakfast opportunities along the 151 corridor. She reported that they did have Sweet Bliss and a food truck, and while they were great at what they did, there really was not a place to sit down and enjoy coffee and breakfast during any weather with friends and family. She noted of all of the activities that could be added, it had to be the most family friendly. She commented on Mr. Washburn’s success with Bold Rock, the fact that it blended in with its surroundings, and noted that it acted as meeting place for events and groups. She felt it was safe to assume that they would see the same sound business practices at the proposed location. She also noted that she understood the concern and respect for the neighboring property owner. Ms. Stapleton pointed out that the business will close daily at 2 p.m., so there would be no intrusion on the neighbor, Mrs. Dodd’s evenings. She commented that the immediate area was not rural and was already populated by businesses in the area like the Dollar General, the Credit Union, a dentist, medical clinic, auto repair shop, and the Italian restaurant. She commented that it made sense to offer a breakfast spot for workers and tourists. She commented on the historical status of the structure, noting that it had no federal designation, only an application that included the address. She noted that she had been driving past the house for 18 years and it had not improved. Ms. Stapleton was confident that Beltie’s would be a major improvement over the current statues of the building.

*Steve Bayne, Nellysford, VA*

Mr. Bayne asked the Board to deny the SUP for the restaurant in Nellysford. He stated that Aqua VA utilities should not be brought under Route 151. He felt it would open commercial development on that side of 151, which was all currently zoned residential or agricultural and within the South Rockfish Valley Rural Historic District. He stated that there should be no commercial development on that side of 151 unless directed by the new Comprehensive Plan. He commented that per the existing Comprehensive Plan, that side of 151 was and should remain a mix of residential and agricultural. Mr. Bayne commented that a drive thru was a fast food restaurant and should not be permitted as it would adversely change the character of the Nellysford town center. He commented that a fast food restaurant with a drive-thru would double the number of parking spaces required, noting that such numbers were not in the proposed SUP. He also pointed out that the proposed SUP use would bring major hardship to the neighbor Ms. Linda Dodd and the use would adversely affect the use of all neighboring property. He commented that in the November meeting the applicant reported that Mrs. Dodd was in agreement with the project, when she was in fact, not in agreement with the project. He also noted that the proposed use would result in destruction of the current property, which is of historic importance within the South Rockfish Valley Rural Historic District. He commented that there were multiple inconsistencies in SUP application process. He cited the comprehensive plan, summarizing that they must protect the character of the Nellysford town center, protect the uses permitted by-right in the zoning districts, and protect historically important properties. He concluded by asking that the Board deny the request.

*Paul Davis, Nellysford, VA*

Mr. Davis commented that he attended the Planning Commission meeting and the previous Board meeting related to the special use permit application, and he had also reached out directly to the Board members regarding his concerns. He explained that the proposed plan impacted the neighbor, Mrs. Dodd, the most. He pointed out that Mrs. Dodd was present for the meeting that day and noted that the Board had been provided with a letter written by Mrs. Dodd. Mr. Davis commented that Mrs. Dodd had lived at her current residence over 40 years. He explained that Mrs. Dodd preferred that the property remained as it was beside her home. He pointed out that she had only agreed to the trees as a buffer if the project was to be approved. He noted her concerns about what the project would do to her property values in the future if she needed to sell her home. Mr. Davis commented that his understanding of the Comprehensive Plan was to keep development on the other side of 151. Mr. Davis cited septic problems on that side of 151. He asked the Board to consider the project as if it were beside their home.

*David Clayton, Nellysford, VA*

Mr. Clayton commented that he was somewhat ambivalent about a breakfast/coffee spot in Nellysford. He pointed out that any business with a drive thru needed to consider effects on the climate and whether the line of running cars would be contributing to climate change. He noted that a breakfast/coffee shop might be a great thing, but hopefully without a drive thru.

*Nancy Kern, Nellysford, VA*

Ms. Kern commented that she was in favor of the proposed business and a breakfast lover. She noted that she ran the Java Depot across from Devil's Backbone Brewery until she had to close it due to personal issues. She stated that she had not spoken to anyone who did not want a breakfast place in Nellysford until the meeting. She commented that she worked the pancake breakfast at RVCC and noted that breakfast was a way for the community to get together. She pointed out that it was not alcohol business. She reiterated the need a breakfast place, noting that it was not a new thing just a change in location. She asked the Board to approve.

*James White, Nellysford, VA*

Mr. White commented that he had lived in Nelson for 20 years and had seen problems come and go with new development but he saw the breakfast place as a need. He explained that he had a large family and when they came to visit, there was currently no place to go out to breakfast. He felt that the proposed restaurant would be ideal and noted that the infrastructure problems could be worked out. Mr. White spoke in favor of the restaurant and noted that he would appreciate the Board approving it.

*Kelly Moser, Nellysford, VA*

Ms. Moser commented that she was also in agreement with the proposed restaurant. She stated that there was no breakfast place and nowhere to go as a community in the morning. She commented that Mr. Washburn's projects were always nice and clean, well taken care of and in favor of the community.

*Suzi Groves, Nellysford, VA*

Ms. Groves commented that she was located right around the corner from Bold Rock. She stated that she was in favor of the project. She noted that she owned Silver Fox Lavender Farm where they had weddings and parties. She commented that she was regularly asked by people visiting her farm if she was going to open up a breakfast place. She noted that was not quite in her genre as she did weddings and parties. She noted that Mr. Washburn's projects were always first rate. She hoped that the Board would highly consider the project as it would be great for the community and people visiting.

*Robert Ridder Nellysford, VA*

Mr. Ridder noted that he was also in favor of the restaurant. He commented that he lived nearby and also had family and friends who came to visit. He noted the need for a place to go to breakfast. He reiterated previous comments that Mr. Washburn had done a first rate job with Bold Rock.

*Mark Moser, Nellysford, VA*

Mr. Moser commented that he was 100% in favor of Mr. Washburn starting a new endeavor. He noted Mr. Washburn had done great work in the area and employed many people. Mr. Moser also noted there was no place in Nellysford for breakfast. He felt that it was an excellent proposal.

*Pamela Ridder Nellysford, VA*

Ms. Ridder stated that she was in favor of the restaurant. She noted that this was her first time attending a Board meeting and she had heard that the parking lot could affect the neighbor. She asked that if it were approved, that something be done to make things better for the neighbor.

*Judy Lo Piccolo, Giuseppe's Restaurant*

Ms. Lo Piccolo commented that she was owner of Giuseppe's Restaurant and had been serving the community for over 15 years. She noted they ran a family business and worked hard to provide for their family. She reported that they were previously owned by Todd of Stoney Creek Auto. She stated that Todd had gone behind their backs to partner with the proposed restaurant after they had purchased the restaurant from him two years ago. She commented that the proposed location did not have the ability to sustain traffic in that area. She noted that the proposed business would affect the neighbor, Mrs. Dodd. She also noted that the proposed restaurant could affect Giuseppe's business later, should they decide to serve more than just breakfast in the future.

*Anne Landry, Nellysford, VA*

Ms. Landry commented that building a drive thru fast food restaurant on that side of 151 and Adial Road in line with residential homes, was totally against the current Comprehensive Plan. She noted that comments on the new Comprehensive Plan showed that a majority agree on several points, and were most concerned about development, population growth, and the loss of natural resources. She commented that in 2015, the Board of Supervisors denied a sporting goods store along that same residential stretch of 151 because putting businesses next to homes affected quality of life, the Historical District adverse effects, and it did not follow the existing Comprehensive Plan. She noted that Mr. Washburn had not been truthful in his comments regarding commercial entrances along 151. She noted that Daniel Brown of VDOT had confirmed that VDOT would grant additional commercial entrances along that stretch if they met VDOT's conditions. She felt that if the special use permit were granted, it would open up that area for development and become a free for all. She asked where it would stop. She commented that Mr. Washburn had been untruthful about his third business partner who also owned the land. She noted that Troy Campbell was not included on the special use permit application. She noted that co-applicant Scott DeFusco has commented that the home on the property was not in the South Rockfish Valley Rural Historic District when in fact it was. She commented that she, along with Andy Wright of the Nelson Historical Society, had provided information via email to the Board confirming such. She pointed out that Mr. Washburn's plan only had 26 parking spaces while County ordinance required 52 parking spaces for a fast food restaurant. She commented that people were saying they needed a breakfast or lunch place. She noted local breakfast and lunch options already available. She noted that the local people and workers knew of these options but commented that the Wintergreen people must not get out.

*William Wallace, Nellysford, VA*

Mr. Wallace stated that he was for the restaurant. He commented that it was a simple addition to community and set a standard for the community. He noted there was a variety of architecture throughout Nellysford. He commented that Devils Backbone and Bold Rock were located within the historic and natural settings of Nellysford. Mr. Wallace stated that the restaurant would bring business and people to the area. He felt that Mr. Washburn has put his thoughts together for the project. He noted that there were other commercial properties on that side of the road.

*Noah Flood, Nellysford, VA*

Mr. Flood noted that he was speaking on behalf of himself and his wife, Francesca Flood. He noted that they did support the restaurant but asked that the Board give consideration to the concerns of Mrs. Dodd and any mitigation that could address those concerns.

*Donna Small, Nellysford, VA*

Ms. Small commented that she was not opposed to development in the community of Nellysford, but she was opposed to changes that were not sympathetic to the nearby residential property. She pointed out that it was the only residential area remaining in that section of Nellysford. She noted that if they followed the Comprehensive Plan, new development should be along other side of 151. She also commented that the Comprehensive Plan states that parking lots should be away from a neighborhood. She felt that sewer hookup would open up development. She commented that fast food and drive thrus should not be in an A-1 district, noting that this may be the first one. She felt that they may have a Comprehensive Plan to try and go by, and to help people like Mrs. Dodd.

*Dave Landry, Nellysford, VA*

Mr. Landry commented that he was surprised that a lot of people did not have kitchens, noting he had no problem finding breakfast. He noted that he was aware that Board members had gotten calls and messages from owners in Wintergreen who were in support of the project. He commented that there was a Facebook group of Wintergreen owners where they slammed the natives of Nelson County. He noted that the group included some of the previous speakers. He referenced a post that named the community as impoverished. Mr. Landry commented that he was taught to respect others and their homes. He noted that some others in Wintergreen had not learned that sentiment and their attitude may be that if the native Nelsonians did not like change, they should just move. He asked the Board to keep the native Nelsonians in mind when making their decision.

*Frank Clark - Lovingston, VA*

Mr. Clark commented that he was present regarding the situation at the parade. He asked how that would be addressed going forward to ensure that it did not happen again.

There were no others wishing to speak during Public Comments.

### **III. CONSENT AGENDA**

Mr. Parr moved to approve the Consent Agenda as presented and Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the following resolutions were adopted:

- A. Resolution – R2022-69 Minutes for Approval

**RESOLUTION R2022-69  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MINUTES  
(September 13, 2022)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **September 13, 2022** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

- B. Resolution – R2022-70 Budget Amendment

**RESOLUTION R2022-70  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2022-2023 BUDGET  
December 13, 2022**

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

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 16,734.90	3-100-002404-0006	4-100-022010-5419
\$ 1,293.00	3-100-003303-0026	4-100-033010-3002
\$ 405.00	3-100-002404-0036	4-100-035010-3016
\$ 10,000.00	3-100-002404-0060	4-100-081020-7062
\$ 56,250.00	3-100-002404-0032	4-100-081020-7066
<hr/>		
<b>\$ 84,682.90</b>		

**II. Appropriation of Funds (School Fund)**

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 250,000.00	3-205-002402-0016	4-205-064600-8000
\$ 395,000.00	3-205-003302-0030	4-205-063100-9303
<hr/>		
<b>\$ 645,000.00</b>		

**III. Transfer of Funds (General Fund Non-Recurring Contingency)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 6,240.00	4-100-999000-9905	4-100-091050-7023
<hr/>		
<b>\$ 6,240.00</b>		

C. Resolution – R2022-71 Amendment to Recreation Fee Schedule

**RESOLUTION R2022-71  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FEES AND PROGRAMS FOR  
NELSON COUNTY PARKS AND RECREATION**

**WHEREAS**, the Code of Nelson County, Virginia Chapter 2, Administration, Article VII gives the Board of Supervisors the authority to establish by resolution, fees for the operation and regulation of the County’s parks, recreation facilities, and playgrounds;

**WHEREAS**, on October 12, 2021, the Nelson County Board of Supervisors did approve Resolution R2021-56 for the establishment of fees for Nelson County Parks and Recreation;

**WHEREAS**, on December 14, 2021, the Nelson County Board of Supervisors did approve Resolution R2021-66 for the establishment of a rental fee for use of the Montreal Park and Shelter;

**WHEREAS**, Nelson County Parks and Recreation wishes to amend the recreation fees to add Lil Kickers Soccer League to the Sports/Programming, adjust the sibling discount to reflect the correct amount, and change the Summer Youth Sports Camp to accommodate camps for different lengths of time rather than a set fee;

**BE IT HEREBY RESOLVED**, by the Nelson County Board of Supervisors that the programs and fees listed in “Exhibit A,” as attached are hereby amended to include Lil Kickers as part of the Nelson County Parks and Recreation programs and service, adjust the sibling discount and change Summer Youth Sports Camp to accommodate camps for different lengths of time instead of a set fee.

## Nelson County Parks and Recreation Fees-December 2022

Amended to add: Lil Kickers Soccer League, Adjusted sibling discount, Summer Youth Sports Camp to accommodate camps for different lengths of time instead of a set fee.

SPORTS / PROGRAMMING	
Youth Soccer	\$30 Lil Kickers Program (4-5 yr olds) \$40 Regular Registration (6-14 yr olds) \$50 Late Registration \$5 sibling discount (for families with 2+ children)
Youth Baseball Spring	\$55 Regular Registration \$65 Late Registration \$5 sibling discount (for families with 2+ children)
Youth Baseball Fall	\$25 Tball, \$55 Regular Registration \$65 Late Registration \$5 sibling discount (for families with 2+ children)
Youth Basketball	\$40 Regular Registration \$50 Late Registration \$5 sibling discount (for families with 2+ children)
Youth Cheerleading	\$40 Regular Registration \$50 Late Registration \$5 sibling discount (for families with 2+ children)
Youth Flag Football	\$45 Regular Registration \$55 Late Registration \$5 sibling discount (for families with 2+ children)
Individual Youth Sponsorships	\$40 per child/sponsorship
Adult Kickball	\$150 per team
Adult Softball	\$350 max per team
Adult Volleyball	\$150 per team
Adult Ultimate Frisbee	\$125 per team
Adult Flag Football	\$150 per team
Adult Basketball	\$275 per team
Sports Team Sponsorship (youth and adult)	\$150 per team
*Scholarships for Youth	N CPR offers scholarships to youth participants in need of financial support. A completed application by a guardian is required along with proof of income/need. The fee is then based on a sliding scale depending on household size and eligibility.
Summer Youth Sports Camps	Varies based on length of Camp Instructor Fee + Supplies per person + 10% Rec fee Supplies include additional equipment needed purchased by N CPR and Camp shirts.

<b>SPECIAL EVENTS / RECREATIONAL PROGRAMS</b>	
Special Events (i.e. Piney River Triathlon, Nelson Downriver Race) General Recreation Programs	Varies Individual Expense (Instructor Fee + Supplies needed per person, etc.) Plus 20%.  Example: Instructor wants \$20 per participant. NCPR charges \$24 for registration.
<b>COUNTY MERCHANDISE</b>	
Future Blue Ridge Tunnel Merchandise	Product Cost + 25%
<b>COMERICAL USE PERMITS (ALL PROPERTIES)</b>	
Filming at BRT	Per Recommendation of County Administrator and Director of Parks and Recreation based on length of closure and exact needs of the group.
For-profit Tours	
Private Events	
<b>FACILITY RENTALS</b>	
Montreal Park & Shelter	\$40 per day. Full daily rate ONLY.

IV. Presentations

A. VDOT Report

Mr. Rutherford noted that there was no VDOT Report as there was a healthy crowd present. Mr. Rutherford noted that if the Board had any VDOT concerns, they could send them on to Mr. Brown or Ms. Spivey. Mr. Rutherford noted that Mr. Brown would be sending some correspondence to the Board regarding Bland Wade Road in Afton.

*Introduction of New Emergency Services Coordinator*

Ms. McGarry asked Mr. Rutherford if they could take a brief moment to introduce the new Emergency Services Coordinator to the Board. Ms. Staton introduced Mr. John Adkins as Nelson County’s new Emergency Services Coordinator. Ms. Staton noted Mr. Adkins was returning to work for Nelson with more than 40 years of experience in Public Safety. She reported that Mr. Adkins had obtained his Bachelor of Science in Criminal Justice and Homeland Security, noting he was well qualified to take over the role as Emergency Services Coordinator.

B. Drug Court Implementation

Commonwealth Attorney Daniel Rutherford and his Senior Assistant Commonwealth Attorney Will Flory were both present to provide updates on the Nelson County Drug Court. Mr. Daniel Rutherford noted that the funds had been accepted and they were working on Memorandums of Understanding (MOU's) between the County and Offender Aid and Restoration (OAR). He noted that OAR would be servicing and providing a full time drug court coordinator. Mr. Flory thanked the Board and reported that the grant funding had been received in the fall. Mr. Flory explained that the grant funding would provide for the full time salary of the drug court coordinator position. He reported that the coordinator would as the primary probation officer for the participants in the drug court, but they would also handle associated technical tasks including grant monitoring and other administrative tasks related to the drug court. He noted that was how it had worked with other jurisdictions. He explained that it was decided by the Commonwealth Attorney’s office and the County that OAR would employ that person. Mr. Flory noted that in order to accomplish this, they would need to enter into an MOU between the County, OAR, and the Commonwealth Attorney's office. He hoped to have the MOU completed in the coming weeks. He noted that the challenge would be hiring someone and they were hoping to do so within the next two to three months. He pointed out that they were going to miss the aspirational goal to open in January 2023, but he was hoping to begin accepting applicants in early spring once all of the technical details were sorted out.

Mr. Barton asked if the coordinator person would be just for Nelson. Mr. Flory confirmed that they wanted to have that person in Nelson full-time. Mr. Barton asked if there were any requirements for the position. Mr. Flory noted they would defer to OAR as they employ probations officers. Mr. Flory indicated that he would be on the hiring committee for the position. He noted that it was key to have someone with a background in professional probation. Mr. Reed asked what OAR was. Mr. Flory explained that it was Offender Aid and Restoration, noting they were a community based probation agency located in Charlottesville. Mr. Reed asked which jurisdictions OAR served. Mr. Flory reported that they covered

Greene, Fluvanna, Orange, Madison, Charlottesville, and Nelson. Mr. Reed asked if the money from grant would go directly to OAR for position and how long the position was funded. Mr. Flory noted that the grant money would go to OAR and it would fund the position for four years.

The Board had no further questions for Mr. Daniel Rutherford and Mr. Flory.

### C. JABA, Ginger Dillard

Ms. Marta Keane, CEO of JABA, was present in Ms. Ginger Dillard's absence to discuss the various programs offered by JABA. She reported that Nelson had the largest percentage of population over age 60. She noted that many of those people lived alone. She reported that JABA served approximately 1000 people in Nelson last year and they hoped to be able to support more going forward.

Ms. Keane reported that JABA offered a Senior Helpline for information and assistance, noting they also had a toll free line for those calling outside of the 434 area code. She explained that the Helpline directed calls within JABA, answered questions, and referred callers to the appropriate agencies for help. She noted that they had a 98% satisfaction rate for the Helpline. Ms. Keane announced that they had a new Aging Services Coordinator who would be working out of the Nelson Center. She noted that they had very good satisfaction rates with Aging Services. She commented that they kept working with people until they felt they had been helped.

She reported that Volunteer Service was an important piece of JABA. She noted that they had lots of volunteers in Nelson, with volunteers feeling connected to the community and feeling like they were making a difference. She commented that 677 volunteers provided almost \$400,000 in value to community with their service hours. She pointed out that this replaced the need for additional staff and kept them as efficient as possible in what they asked of from the Board.

She noted that the FISH mentor program was where mentors worked with the students in schools. She reported that during COVID, they were able to work online and still do some online work. She noted that teachers and families felt really good about the program. She reported that 80% of students improved, not just academically but also in their enthusiasm for school, social skills, and confidence.

Ms. Keane reported that they also had Health Services available out of the Nelson Center. She noted that they helped with the monitoring of vitals and reported a 92%-98% satisfaction rate. She also noted that they were excited about the grant funding that the Nelson Community Wellness Alliance received. She commented that they would be collaborating with them to see how they can help. She noted that they would be able to hire some of the community health workers once they were trained.

Ms. Keane noted that Danny Harris managed the Chronic Disease Self-Management Program, as well as the Community Centers. She noted that the Chronic Disease Self-Management Program was very important, particularly as more people were aging with chronic diseases. She reported that 73% of the people who completed the six classes were more motivated to take care of their health which translated to fewer ER and hospital visits, with possibly more doctor visits as they were more proactive about managing their health. She noted that they held classes in person, as well as virtually, for general chronic disease, pain management, and diabetes management.

She reviewed the Community Centers, noting that Nelson was located at the Nelson Center. She pointed out that people were overall satisfied with the Nelson Center. She noted that they liked the taste of the meals at the center, but seniors were not necessarily concerned about the nutritional value, they just wanted the food to taste good. She noted that the seniors enjoyed attending the center, the activities and connection, health and wellness. She also noted that when they added a third day in Faber, almost all of the attendees from the Nelson Center also came to Faber.

Ms. Keane explained that during COVID, they came up with "At Home with JABA" to help people feel connected. She noted that they started conference call Bingo where they sent out Bingo cards to participants and played Bingo over conference call. She reported that they mailed out activity packets, sent out informational emails, and even offered activities over Zoom and Conference Calls. She noted they also added trivia, TRIAD groups with Sheriff's office to talk about scams, and some Zoom classes. She indicated that they were looking to grow numbers with the At Home program, particularly for those who want to be engaged but don't get out. Ms. Keane reported that JABA had signed up for Sharebridge to offer educational classes for free to all seniors. She noted that they were setting up computers at Nelson Center for people to come in and use, she pointed out the need to use the internet for many things.

Ms. Keane discussed the Home Delivered Meals program, noting that 85% of the people were happy with the program. She explained that they worked with a company in Iowa that shipped flash fresh meals. She noted that they shipped two weeks' worth at a time and the meals were delivered by FedEx. She explained that the program was a different approach to Meals on Wheels and was a unique way to ensure they were getting nutritious meals to people.



Ms. Keane reported that JABA provided Insurance Counseling, especially those getting started with Medicare. She explained that they provided unbiased assistance and they helped about 50 people per week. She noted that they also helped people with Medicare Part D Prescription Plan assistance. She reported that she did not have the breakdown by county at the time but in total, they saw about 2300 people over eight weeks and saved \$1.6 million total for those whom they assisted. She pointed out that they had a high satisfaction rate for their Insurance Counseling Program.

Ms. Keane commented on the Adult Care Center, noting it had been renamed as a Respite and Enrichment Center. She noted they had high numbers of satisfaction on the survey. She noted that they also asked family members about their loved one's mood after spending the day at the center. She reported that about 70% stated that their loved one's mood improved after spending the day at the center.

Ms. Keane reported that in 2021-2022, JABA added Dementia Care coordinators. She noted that the purpose of the program was to support those with dementia and their caregivers. Mr. Barton noted that his wife had dementia and he cared for her for seven years before she passed away in 2017. He commented that he went to JABA because he was concerned about the help needed by people with dementia. He noted that COVID had stopped his efforts. He asked about satisfaction with the program. Ms. Keane noted they had made progress with their program and encouraged Mr. Barton to come back and visit. She commented that the addition of the Dementia Care coordinator position and more training had made it a much stronger program. She commented that they were learning about the different forms of dementia, noting that it was not one size fits all. Mr. Barton noted his experience and concerns for the caregiver. He commented that the caregiver also needed to know that their family member's state of mind dictated the state of mind for the person caring for them. Ms. Keane agreed that the caregiver had to be in the same place as those with dementia to work with them. She commented that they were able to work closely with people to help them do things that they had not been able to do for a long time. She noted they worked to find ways to help the caregiver have relationship back with their loved one.

Mr. Reed thanked Ms. Keane for her attendance. He noted that he loved serving on the JABA board. He commented that he had recently attended a staff meeting and was amazed at the quality of people. He asked about the webinar on the missing housing for age friendly communities. She noted that as part of the alliance and working with AARP, they were able to hold a webinar on housing. She reported that there would be another webinar on transportation coming up. She noted they were lucky to expand not only where they provided services, but they were also able to expand where they advocate. Ms. Keane thanked the Board for their time.

D. PVCC, Dr. Jean Runyon, President

Dr. Jean Runyon of Piedmont Virginia Community College was present at the meeting. She introduced herself to the Board as PVCC's sixth president, noting she had started her position in July. She was excited to join PVCC during its 50th anniversary celebration. She commented that PVCC was founded on the belief of access and the power of education. She explained that she had spent her first six months getting out in the community to meet people impacted by the college and power of education. She reported that over 250,000 students had attended the college, and over 17,000 had earned degrees or credentials. Dr. Runyon noted that many people attend the college to retrain as part of their workforce services. She reported that they served six different counties and the City of Charlottesville. She noted that last year almost 7,000 students attended the college and 238 students were from Nelson County. She reported that over 1,000 students graduated in 2022, and more than 4% were from Nelson. She was looking forward to expanding outreach and opportunities in the future. She noted that they valued their partnerships with public schools' to offer the dual enrollment program. She reported that 44 students at Nelson County High School participated in the dual enrollment program from 2021-22 and saved their families over \$41,000 in tuition.

Dr. Runyon discussed PVCC Workforce Services, noting they were continuing to find ways to business and industry needs through credentialing and workforce services. She noted the plan for continued success over the next 50 years at PVCC through the construction of a new Advanced Technology and Student Success Center. She indicated that the building was made possible in part from by the County's commitment and contributions of nearly \$40,000. She noted they were collecting responses to find out how they could better serve the region and provided a QR code with a link to the survey. She noted that PVCC remained committed to serving the community and indicated that they were working on the next strategic plan for 2027 into future. She thanked the Board for the opportunity to be present.

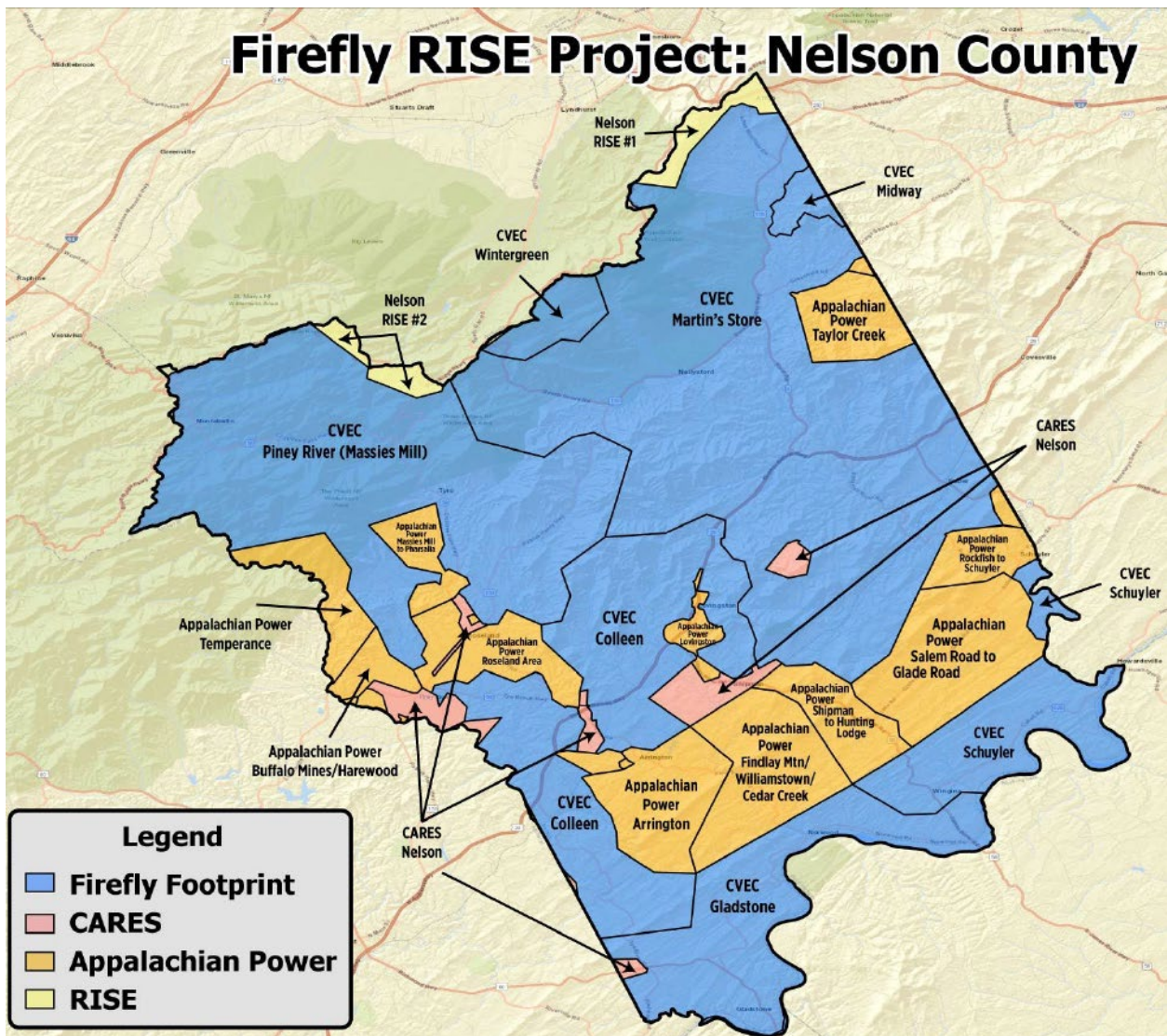
Mr. Barton asked what the Board could do to help. Dr. Runyon wanted to make sure that PVCC offered the appropriate programs that serve the community needs. She asked that if there were training, programming or needs in the schools, that those needs to be made known so they could see how to meet those needs. Mr. Rutherford noted interest in taking a tour of the campus. He expressed his appreciation for PVCC, noting their relationship with school system was a critical piece. He noted degrees needed in technology as rural communities became digitized. Mr. Rutherford thanked Dr. Runyon for her time.

E. Firefly Fiber Broadband Updates

Mr. Rutherford announced that they were moving item V. G. Special Use Permit #717 to the top of New and Unfinished business.

Mr. Galen Creekmore was present to provide a brief update from Firefly Fiber Broadband. He reported that they had finally completed the three railroad crossings in Arrington, Shipman and in Shipman at Doc's Lane, with the last crossing completed the week prior. He noted they had worked with Norfolk-Southern railroad for many months to complete the three crossings. Mr. Creekmore noted that he would be working with others to introduce legislation to help hold people accountable for getting the permitting process streamlined. He reported that each crossing cost \$15,000 just for permit just to cross the railroad.

Mr. Creekmore provided a project overview on the CVEC side of the fiber build. He reported that the main line fiber had been completed in Massies Mill and they were now working to connect customers. He then noted that in Schuyler, they were splicing fiber and installing service drops. He then displayed a map of the County to show the project areas.



Mr. Creekmore reported that the AEP areas were in a better place at year-end than originally planned. He noted challenges with labor shortages and delays on AEP's make ready work. He noted that each area on the map was currently in fiber construction. He explained that the only area they were waiting to release to construction was Salem road to Glade road. He pointed out that 99% of map was under construction. He noted that the only areas not completed on CVEC service were Massies Mill and Schuyler. He reported that the CARES areas were already in service. He reported that essentially all of the orange areas on right side of the map had to be lit with fiber crossing at 56, noting that the completion of the railroad crossing was important. He explained that they did not have to wait on the crossing to complete work because they were able to use artificial light to start the splicing process. Mr. Creekmore noted that with the railroad crossing complete, they could now focus on finishing fiber and service drops.

Mr. Reed asked for acronym meanings of CARES and RISE. Mr. Creekmore explained that the RISE Project was the Regional Internet Service Expansion Project, which encompassed 13 counties. He noted that RISE was primarily funded through a VATI grant partnered with the Thomas Jefferson Planning District Commission as lead applicant. He pointed out that Nelson was at the front end of the project because of the commitment from the Board of Supervisors and the Broadband Authority to put up matching

funds prior to receiving the VATI grant. He noted that the goal at the end of the RISE project was for every home with electric service would have fiber internet to the home service.

He reported at the end of Q1 next year, all of CVEC accounts would be connected and the AEP areas would lag by about six weeks. Mr. Creekmore indicated that they were connecting CVEC and AEP concurrently. He reported that the majority of AEP connections would be into early 2023.

Mr. Creekmore noted the CARES funding was COVID money from the federal government provided by the counties to Firefly near the end of 2020.

Mr. Barton asked how households were alerted when it was time for connections in their area. Mr. Creekmore noted that the provided map was on Firefly's website. He explained that on fireflyva.com, citizens could visit "Search your County" under the Projects tab. He noted that from there, citizens could click on their County's logo to view the different projects and a status tracker for each. He noted that there would also be direct mailings and communications sent to each household, letting them know where they are in the process. He noted they also send out pre-registration letters and a letter regarding a virtual town hall for their area. He explained that they were only connecting registered addresses while in the area, free of charge. Mr. Creekmore also noted that when contractors were working in the area, they would hang door hangers to let people know they were working near their homes.

The Board had no questions for Mr. Creekmore. Mr. Creekmore noted that Nelson County was in a great spot and he appreciated their partnership.

## **V. NEW & UNFINISHED BUSINESS**

### **G. Special Use Permit #717 – Restaurant**

Mr. Rutherford noted that Special Use Permit #717 had been moved to the top of New & Unfinished Business.

Ms. Bishop noted that the Board was familiar with the application for special use permit so she would not review her entire report, but the Board could ask for a review of the information if needed and stop her for questions. She reported that at the Board's November 7<sup>th</sup> meeting, they held a public hearing and deferred the application to the December 13<sup>th</sup> meeting. She noted there was discussion regarding the historical designation of the existing house, which was located within the South Rockfish Rural Historic District. She explained that staff consulted with Mike Pulice of the Department of Historic Resources (DHR), who indicated that while there were tax credits available, there were no local, state, or federal restrictions or requirements, and the property owner had the authority to make decisions for the property. She noted that an Asbestos Inspection Report by TJJ Environmental Health Consultants, Inc. was completed in 2020, and was submitted as requested by the Board, and was attached to her report. She also noted that a Structural Assessment Report by Master Engineers and Designers was completed in 2022 and was also included.

Ms. Bishop noted that she had also included in her report, public comments received following the November 7<sup>th</sup> public hearing. She had a correction on her report that there were 24 comments in favor and four opposed. She noted that in total, they had received 61 comments in favor, with 7 opposed.

Ms. Bishop reported that the owners had submitted an updated site plan which showed a staggered double row of evergreen plantings along the property line shared with Mrs. Dodd, as well as an example of the proposed architectural design of the proposed restaurant structure. She noted that the proposed design changed had from a barn style to a traditional classic farmhouse using salvageable materials from the existing house. Ms. Bishop addressed the parking on the site plan. She noted that the public floor area was 1,180 square feet. She explained that the drive-thru restaurant requirement for the parking ordinance required 2 spaces per every 100 square feet of floor area with a minimum of 15 spaces. She noted that the plan required 24 spaces and the plan had 36 spaces.

Ms. Bishop addressed water and sewer connections and noted that as a private utility, Aqua Virginia assessed each application on an individual basis and there was no requirement to connect for either the potential customer or Aqua Virginia.

Ms. Bishop noted that Planning Commission's vote to recommend approval of the special use permit failed with a 3-3 vote. She listed the conditions recommended by the Planning Commission:

1. Hours of operation shall be limited to 7:00 a.m. to 2:00 p.m. daily.
2. Landscaped screening (acceptable to the Director of Planning & Zoning) of the parking lot area from neighboring properties is required to be shown on the final site plan.
3. Lighting shall be directional and glare shielded to prevent light pollution onto adjoining roadways, properties, and the dark night sky.

4. Project shall be served by sewer through Aqua Virginia, Inc. and shall not be served by private septic.

Ms. Bishop indicated that if the application were approved, the applicant was requesting two years to begin construction. She noted that typically with a special use permit, there was a one-year requirement to diligently pursue construction of the project.

Ms. Bishop noted she had researched the sporting goods store that had been mentioned. She explained that the application was a rezoning from R-1 to A-1 of two parcels in the same area in 2015. She noted that after reviewing the meeting minutes, the concerns brought up were that the commercial entrance location was on Route 151 and the scale of the proposed building was inappropriate for the area. She noted that project had a proposed 8,000 square foot building. She noted that there was R-1 zoning on either side of the subject parcels in that application. She reported that the vote on that rezoning application was 2-2 with one abstention.

Ms. Bishop addressed ownership of the parcel. She stated that the zoning ordinance allowed property owners, contract purchaser with owner's consent, or the owner's agent to sign the application. She noted that Mr. Campbell as the minority partner with no decision making authority, allowed the two listed owner/applicants to act as the agents on the application. She reminded the Board that they shall act within one year of official submission of the application which would be the end of September 2023.

Mr. Barton asked about the conditions and how long they would stay in force. Ms. Bishop noted the conditions remain in perpetuity with the special use permit application. She reiterated that the conditions would follow the property if it were to change ownership. She noted conditions could be imposed by the Board that would address impacts on the community or neighboring properties. Mr. Barton asked if the conditions could be changed. Ms. Bishop noted the conditions could be changed if the property owner came back and requested that they be changed.

*Mr. John Washburn and Mr. Scott DeFusco, Applicants*

Mr. Washburn and Mr. DeFusco were both present and noted they were both full time residents of Nelson. Mr. Washburn stated that they intended to be good neighbors to Mrs. Dodd. Mr. DeFusco noted the changes from style of building were based on comments from community. He noted that the traditional classic farmhouse would fit in better with the aesthetic of community and allowed for them to incorporate materials from the existing house in the design. Mr. Washburn thought that the new design seemed to fit better and looked almost residential. Mr. DeFusco clarified that this was not a fast food restaurant. He noted that the drive thru was to provide an option for people to be able to having a place to stop and get some good home cooked style food with good coffee on their way to work or passing through. Mr. Washburn commented that it would not have optic of a drive thru and they would landscape to amend the visual aspect of the wrecked car yard across the road.

Mr. Reed asked the applicants about seating capacity inside the restaurant. Mr. DeFusco explained that they had to go through a redesign based on the new footprint. He anticipated having around 1,100 square feet of interior public space and they would have seating along the wraparound porch and sunroom. He noted there would be the same number of about 50 to 60 people in the public seating areas. Mr. Barton asked about the water and sewer. Mr. Washburn noted options for greenfield treatment. He noted one option was above ground but not obtrusive. He indicated that there were a lot of options discussed with engineering. Mr. Barton asked about the requirement for going under 151 for septic. Mr. Rutherford noted they could remove the condition of the sewer connection through Aqua Virginia. Mr. Barton asked if they could have a condition that did not allow connection to Aqua Virginia, citing concerns that bringing a connection under 151 may create further development along that side of the road.

Mr. Parr commented on connections going under the road, noting that he was not an engineer, but thought that that company would not bore a main line. He understood that they would bore a service line to one location. He commented that they would not be boring a main line to allow expansion and if someone else wanted to connect in the future at another location on the east side of 151, they would have to also bore under the road for a service line connection. Mr. Rutherford did not know if they had any way to put a condition in place to prevent a connection to sewer but noted they had the ability to not require the connection to Aqua Virginia. Mr. Parr noted that he did not necessarily support requiring the connection. Mr. Reed asked if Board had the authority to keep the connection requirement in place. Ms. Bishop noted that they could keep the requirement as a condition if they wanted. Mr. Rutherford was in agreement to eliminate condition number four.

Mr. Reed thanked all who commented on the project and noted that he was grateful that people in his district let their opinions be known. He thanked applicants for being so thoughtful and responsive to comments. Mr. Reed noted there were guides in place to help with their decisions - the Comprehensive Plan, guidance from the Planning Commission and the County's designation of that area as the South Rockfish Rural Historic District. He noted that the current Comprehensive Plan did not encourage development on the east

side of 151. Mr. Reed also noted that the Planning Commission did not vote to recommend the application. He referenced comments from Mr. Hauschner, Central District Planning Commissioner, that the proposed use violated three of the four criteria for special use permit review. Mr. Reed reviewed the special use permit criteria. He commented that he was not aware of any counties that allowed drive thru restaurants in A-1 by right. He noted that the drive thru was an important issue to him because it would share an entrance with an A-1 industrial entrance. He commented that VDOT did approve the entrance, noting it was not on 151, but a side road. He referenced the Mark Addy entrance, noting that traffic added to 151 was not considered as the entrance was not on 151.

Mr. Reed noted that the Aqua Virginia connection condition came about from North District Planning Commissioner, Ms. Proulx. He noted concern that when Aqua Virginia expanded its reach in the county, it reduced the ability of the County and others to advocate for sewer and water services in the area. He noted that the Service Authority had invested to improve water and sewer for the Wintergreen Resort area on the mountain.

Mr. Reed pointed out that if they chose to defer, they would another ten months to consider it. He reminded the Board that the Comprehensive Plan update was in process, pointing out that some of the comments received had indicated a desire to limit growth along the 151 corridor and in Nellysford. He pointed out there had also been a lot of support for the project. He noted that Mr. Harvey had not been able to participate in the conversation. Mr. Reed was concerned that people had not been able to discuss the project with Mr. Harvey. Mr. Reed stated that he was not in favor of voting in favor for project at the meeting that day. He acknowledged that the project had value but did not know if it was appropriate. He noted they could defer and not take action yet. He suggested they could also wait and see what direction the Comprehensive Plan took.

Mr. Rutherford understood concerns to have input from North District. He noted he was not necessarily agreeable to have applicants wait another 10 months and pointed that the Comprehensive Plan would take even longer. Mr. Rutherford discussed the conditions recommended by the Planning Commission. He was in agreement with having landscaping between the parking lot and Mrs. Dodd's property as well as conditions 1 and 3. He was supportive of removing condition #4 which required the connection to Aqua Virginia. Mr. Rutherford asked if they should change condition #2 to reflect his recommendation for landscaping. Ms. Bishop noted that could be done to state the landscaping would be in conformance with the dated site plan. Mr. Barton asked if screening requirement had to be finished before they could open the restaurant. Ms. Bishop noted the site plan acted as a back up to ensure conditions were being met and if they were not, the Board could revoke permit.

Mr. Barton asked about the connection condition. Mr. DeFusco noted they had been investigating alternative options for sewer. Mr. Rutherford indicated that the recommendation was given as condition from Ms. Proulx at the Planning Commission meeting.

Mr. Barton asked if drive thru was negotiable. Mr. DeFusco noted that the drive thru was not critical. Ms. Bishop commented that the Board could have a condition regarding the drive thru. Mr. Washburn preferred to keep the drive thru element, noting that the drive thru added 22% more profit. He suggested that the drive thru screening would also obscure the wrecked cars across the street. He pointed out that there were two banks with drive thrus. Mr. Washburn explained that several trades people wanted a drive thru so they did not have to stop and sit in a restaurant. Mr. Barton asked landscape screening for Mrs. Dodd. Mr. DeFusco explained that the trees would be double row staggered evergreens planted to screen and the trees would be fully mature and planted at the very start of the project. Mr. Washburn explained that they would work to keep up the landscaping and add irrigation. Mr. Rutherford confirmed that the landscaping should be included in the conditions.

Mr. Barton asked about connections to Aqua. Mr. Reed thought that any connections up 151, would also have to go under 151 to connect. Mr. Barton asked if the Board would be setting a precedent by approving the special use permit. Mr. Reed noted it was subjective. The Board discussed the options for conditions. Ms. Bishop noted the Board had unanimously approved a resolution of support to designate Nellysford as an Urban Development Area (UDA). She commented that if the development aspect of the area was part of the concern, that she would recommend possibly reviewing that resolution.

Mr. Barton noted he could think of a lot of worse things that could be there. He felt it would be nice for the community. Ms. Bishop reminded Mr. Rutherford that the applicant was looking at a two-year timeframe instead of one year to diligently pursue construction. Mr. DeFusco noted two years would be better but they could work with one year. Mr. Rutherford noted that the applicants could get some construction started within one year.

Mr. Rutherford reviewed conditions 1-3 as amended:

1. Hours of operation shall be limited to 7:00 a.m. to 2:00 p.m. daily.
2. Landscaped screening in conformance with site plan dated 11/2/22 shall be mature evergreen at time of planting prior to opening of restaurant.

3. Lighting shall be directional and glare shielded to prevent light pollution onto adjoining roadways, properties, and the dark night sky.

Mr. Rutherford noted that they would omit Condition #4.

Mr. Barton moved to approve Special Use Permit #717 with the following conditions:

1. Hours of operation shall be limited to 7:00 a.m. to 2:00 p.m. daily.
2. Landscaped screening in conformance with site plan dated 11/2/22 shall be mature evergreen at time of planting prior to opening of restaurant.
3. Lighting shall be directional and glare shielded to prevent light pollution onto adjoining roadways, properties, and the dark night sky.

Mr. Parr seconded the motion. There being no further discussion, Supervisors voted to approve the motion (3-1) by roll call vote with Mr. Reed voting no.

The Board took a brief recess.

Mr. Rutherford moved up Item V C. Funding Request from Gladstone Volunteer Fire & Rescue.

#### C. Funding Request from Gladstone Volunteer Fire & Rescue

Chief Arshag Humbles of Gladstone Volunteer Fire & Rescue was present. Ms. McGarry reported that the Emergency Services Council endorsed the department's request for the 80/20 support program to purchase and upgrade equipment for Gladstone Fire. She explained that the cost of the unit was \$215,000 for a Spitfire Attack Unit. She noted that the 80% for the County's portion would be \$172,000 and Gladstone Fire's 20% portion would be \$43,000. She noted that typically in the 80/20 program, a lot of the agencies made use of interest free loan program to cover their portion of the loan. She noted that the new unit would be replacing a 1996 M&W Tanker. Ms. McGarry indicated that 10% would be required for the down payment (\$21,500) when placing the order. She noted Chief Humbles had indicated that Gladstone may be able to cover the down payment and be reimbursed later. She noted that the balance would due at completion of vehicle. She pointed out that this would likely be an FY23 expense.

Chief Humbles reported that he had been chief for 15-16 years in Gladstone, noting he lived in Appomattox. He explained that the department had been looking at trucks. He explained that the proposed truck had a shorter body length and would fit in the building. He also noted that they had a rough time navigating driveways in Gladstone during bad weather and the truck would help with that. Chief Humbles indicated that they were one of the few departments with UTVs, and they have had to tow the UTV to Crabtree Falls to assist with calls. He noted that they needed a good unit to tow with. Mr. Rutherford asked if request had gone through EMS Council. Mr. Parr and Chief Humbles confirmed that it had gone to EMS Council and they had endorsed the request. The Board had no further questions for Ms. McGarry or Chief Humbles.

Mr. Parr moved to approve Gladstone Fire and Rescue's request as presented and Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

#### A. Commonwealth Attorney's Funding Request

Mr. Daniel Rutherford presented his request to the Board for supplemental funding in the amount of \$27,000 to allow for him to hire a part-time attorney from January 9, 2023 through June 30, 2023, and to provide temporary supplements for his employees during the same time period. He noted that the Reserve had called him up, which is why he has brought forth his request. He noted that he needed to be away and was asking for supplemental funding to have someone to fill in while he was out. Mr. Barton asked if government paid for a replacement when removing someone from their job. Mr. Rutherford confirmed that they did not.

Mr. Barton moved to approve the Commonwealth Attorney's request and Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

#### B. Authorization for Public Hearing on Proposed Relocation of Absentee Precinct (R2022-72)

Ms. McGarry presented Ms. Jackie Britt's request to relocate the Central Absentee Precinct (CAP) from the Nelson Memorial Library to the conference room in the Registrar's office at 571 Front Street in Lovington. Ms. McGarry explained that during COVID, the library was closed and the Central Absentee Precinct was relocated to the conference room at the Registrar's office and it worked very well. Ms. McGarry referenced Ms. Britt's memo, which explained that the Central Absentee Precinct requirements had increased and were more complicated with reporting by precinct and preprocessing. She noted that relocation of the CAP would help locate it to a central area familiar to the voters; avoid moving machines ballots and supplies to and from the Library; enable the workers to have better access to assistance from the Registrar as needed; and enhance the security of the precinct.

Ms. McGarry explained that if the Board authorized a public hearing to relocate the precinct, they would have to hold a 30-day public comment period, followed by the public hearing. She noted that staff proposed that the public comment period begin on January 1<sup>st</sup> and end on January 31<sup>st</sup>, with the public hearing to take place on February 14<sup>th</sup>. She noted that they would be in compliance with state code requirements.

Mr. Reed moved to approve **Resolution R2022-72** as presented and Mr. Parr seconded the motion. Supervisors approved the motion by vote of acclamation and the following resolution was adopted:

**RESOLUTION R2022-72**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION AUTHORIZING PUBLICATION OF NOTICE AND PUBLIC HEARING ON A**  
**PROPOSED ORDINANCE TO CHANGE CENTRAL ABSENTEE PRECINCT**

**WHEREAS**, pursuant to Title 24.2 Elections, Chapter 3, Election Districts, Precincts, and Polling Places, Article 3, of the Code of Virginia, 1950, local governments can change polling place locations by ordinance, provided public notice has been given in accordance with §24.2-306 and §24.2-129; and,

**WHEREAS**, a public hearing on the proposed ordinance is required.

**NOW, THEREFORE, BE IT RESOLVED**, that the County Administrator shall cause to be published on the County’s website the proposed ordinance and general notice of opportunity for public comment and also to give notice through such other media as will best serve the purpose and subject involved. Such notice shall be made at least 45 days in advance of the last date prescribed in the notice for public comment. Public comment shall be accepted for 30 days. The County Administrator is directed to give notice that, during this period, interested persons may submit data, views, and arguments in writing by mail, facsimile, or email.

**BE IT FURTHER RESOLVED**, that the Nelson County Board of Supervisors does hereby authorize a public hearing to be held at **7:00 o’clock p.m. on February 14, 2023**, to receive citizen comment on the proposed ordinance to change the Central Absentee Precinct from the Nelson Memorial Library to the Nelson County Voter Registration Office and that notice thereof be published according to law.

D. HOME-ARP Funds Allocation Plan

Ms. McGarry introduced the item, noting that Ms. Margaret Clair (Nelson County Community Development Foundation) and Ms. Christine Jacobs (TJPDC) were also present. Ms. McGarry noted that the TJPDC would be receiving \$2.4 million in HOME-American Rescue Plan Program funds and of those funds, each member jurisdiction of the TJPDC would receive \$347,405. She explained that the County may choose to administer the funds itself, pool funding with another member jurisdiction or partner with a current HOME sub recipient such as the Nelson County Community Development Foundation (NCCDF). She noted that the funds must be used to benefit individuals or families from the following qualifying populations: homeless, at-risk of homelessness, fleeing/attempting to flee domestic, dating or sexual violence and/or human trafficking and stalking, other populations experiencing housing instability, and veterans or families of veterans that meet one or more of these criteria. She noted that staff had been working with NCCDF and other stakeholders to put the plan together and present it to the Board for consideration.

Ms. Clair reported that NCCDF wanted to construct rental housing for qualifying populations. She noted that she just needed a consensus from the Board on whether they wanted to select an organization to receive the funds or group with other jurisdictions to do something on a larger scale. She noted that NCCDF and the Piedmont Housing Alliance were the two eligible organizations to receive the funding. She indicated that they would need to determine preferences and the populations they wanted to serve. Ms. Clair noted they would need to decide quickly as public hearings needed to take place and the plan needed to be developed. She displayed the GAP analysis on screen, pointing out that Nelson was 10 units shy of what was needed to cover the populations listed, and short 66 beds for adults.

She noted the need in Nelson was there and they could decide if it would be for under 80% AMI or lower. She pointed out that assisting Elderly and/or Disabled was on the top of their preferences, but also families with children. She noted in her experience with emergency vouchers, there was a need for housing for single parents with children.

Ms. Clair noted that Fluvanna and Louisa had plan ready to do single bedroom units in a quad plex. She explained that it would be eight units in a square. She noted that Fluvanna and Louisa were reaching out to elderly homeowners to see if they would sell their homes to their foundation for renovation for either sale or rental, and in exchange, the elderly person would have lifetime rights to one of the units. She noted that she did not see that happening much in Nelson, but it could be an option.

She showed the poverty numbers in Nelson from the 2020 ACS 5-year estimates, noting the poverty level was a different from AMI. She pointed out that there were significant differences in each district, noting that when you look at each district, rather than the entire County overall, it showed where there were needs. Mr. Barton noted he was surprised by the poverty levels in the East district. Mr. Reed felt that in looking at the North and Central Districts by age, there was no family poverty.

	North District	Central District	East District	West District	South District
<b>Persons in poverty</b>	<b>2.5%</b>	<b>4.7%</b>	<b>25.4%</b>	<b>8.1%</b>	<b>12.9%</b>
<b>Poverty under 18</b>	<b>0.0%</b>	<b>0.0%</b>	<b>24.0%</b>	<b>7.9%</b>	<b>14.1%</b>
<b>Poverty 18-64</b>	<b>3.6%</b>	<b>4.5%</b>	<b>25.6%</b>	<b>10.6%</b>	<b>14.5%</b>
<b>Poverty 65+</b>	<b>1.7%</b>	<b>7.2%</b>	<b>26.7%</b>	<b>3.6%</b>	<b>8.3%</b>

Ms. Clair reported that NCCDF currently had the duplexes in Shipman that were constantly rented. She noted that the proposed plan for Nelson was to build duplexes. She commented that she could not figure out how to build for less than \$200 per square foot, so they would have to fund additional money to build more than two duplexes.

Mr. Rutherford noted he would like to see the money utilized as a line of credit to develop the duplex and utilize some of the financing agencies to build more. Ms. Clair noted that she also wanted to hold some money as rental assistance funds. Mr. Reed asked if both the building and rental assistance funding could be done. Ms. Clair noted it depended on finding the additional funds. Ms. Clair noted that the rental assistance was just for gap funding.

She showed duplex floor plans and reported that they would build them to be accessible and as energy efficient as possible. She noted that 6 acres were owned by NCCDF in Roseland off of St. James Church Road. She indicated that they may need to look at the zoning to see how many could be placed, but she thought they could place three duplexes there. Mr. Reed asked if there were any ADA requirements. Ms. Clair noted that it was accessible. She also noted they had a few lots in Arrington as well.

Ms. Clair reviewed the funding information and confirmed that they had \$347,500 in HOME-ARP Funds, \$80,000-\$90,000 in NCCDF HOME funds, and \$30,200 in land value. She noted she would be looking for additional funding to supplement the project.

Mr. Rutherford asked Ms. Bishop how many duplexes could be put on six acres in property zoned A-1. She noted one per two acres.

Ms. McGarry noted that TJPDC had an allocation plan that they would need to submit to HUD. She noted that the TJPDC needed to know whether the County was going to partner with another eligible HOME entity such as the Nelson County Community Development Foundation, what eligible populations would be served, and the eligible activities they would like to entertain. Ms. McGarry noted that the details could be determined at a later date. She introduced the proposal that the County partner with NCCDF to use the funds to serve the eligible populations of homeless and those at risk of homelessness. She noted that the eligible activities would be the construction of rental housing for qualifying populations and possibly some supportive services. She indicated that she needed consensus from the Board to report back to the TJPDC for the plan.

The Board was in consensus to partner with the Nelson County Community Development Foundation on the HOME-ARP funds application. Ms. McGarry thanked Ms. Clair for her work.

E. Real Estate Tax Exemption Applications

Ms. McGarry reported that the Commissioner’s office received three applications for tax exemption pursuant to Article 9 of the County Code. She noted they had some tax exemption organizations that were



required to file an application triennially (every three years). She reported that they had an application from Wintergreen Nature Foundation and Synchronicity, as well as a new application from Piedmont Habitat for Humanity. She explained that the Commissioner and County Attorney had both reviewed the applications and had no concerns regarding them. Mr. Rutherford asked what the total tax impact would be. Ms. McGarry reported it would be about \$20,000 in real estate tax exemption for Synchronicity, \$8,605 for Wintergreen Nature Foundation, and, \$289 for Piedmont Habitat for Humanity. Ms. McGarry noted Synchronicity and the Wintergreen Nature Foundation had a long standing tax exemption status with the County.

Mr. Reed moved to approve the three applications for real estate tax exemption and Mr. Parr seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote.

F. County Website Redevelopment Proposals (R2022-73)

Ms. McGarry noted that the County’s .gov website had been losing functionality, primarily in the staff’s ability to update content. She reported that the issues were being caused by aging framework that supported the back end of the website. She noted that the framework was ten years old, widgets were not accessible and there has been a possible crash scenario. She reported that the website had been backed up and moved to another DNS server to preserve the website’s viability until it could be rebuilt. Ms. McGarry noted that Ms. Kelley issued a written solicitation for quotes and three proposals were received as follows: Convoy Graphic Design and Web Development out of the Charlottesville/Richmond area for \$49,050; Blue Cedar Partners out of Charlottesville for design only at \$75,000; and Hidden Pond Consulting in Afton with a not to exceed amount of \$19,400. Ms. McGarry reported that staff would recommend approval of Resolution R2022-73 to authorize the execution of a contract with Hidden Pond Consulting of Afton for up to \$19,400. She explained that funding for the un-budgeted expense was proposed to be covered through a transfer from Non-Recurring Contingency in the January budget amendment. Ms. McGarry noted that Ms. Kelley was present to answer any questions.

Mr. Reed asked about the not to exceed amount of \$19,400. Ms. McGarry noted that \$19,400 was the entire amount, they would not come back for more. Mr. Reed asked if the quality would be the same. Ms. Kelley noted the quality would be the great. Mr. Barton asked if the process would help people depend on service of website. Ms. Kelley noted the website would be easier to access, including online forms. Mr. Barton asked if it would be possible to have the sites joined with the Schools. Ms. McGarry noted there was a link to the school website on the County website. She explained that the County was doing so much and the School was also doing a lot, so she was unsure that the two websites would blend well functionally. Mr. Rutherford noted that the school calendar could be included with a link. Mr. Rutherford suggested that staff speak with the schools to see what a collaboration might look like. Ms. Kelley noted they would be relying on the Board’s input to make the improvements. Mr. Parr noted there could be some visually appealing additions to the website without attempting to mesh the two websites. He commented on the Nelson2042 website for the Comprehensive Plan, noting it showed opportunities for what they could do for the County website. Mr. Parr noted that the Schools could also have a link to the County webpage. Mr. Reed suggested that there could be some savings by simplifying and having both the County and Schools on the same platform. Ms. McGarry commented that having an online form would be beneficial for several departments like Human Resources, Planning and Zoning and Building Inspections. She noted that the calendar functionality had been lost and the meeting packets were being posted under the Announcements, she indicated that the issue would be rectified with the new site.

Mr. Parr moved to approve **Resolution R2022-73** as presented and Mr. Barton seconded the motion. Supervisors approved the motion by vote of acclamation and the following resolution was adopted:

**RESOLUTION R2022-73  
NELSON COUNTY BOARD OF SUPERVISORS  
AUTHORIZATION OF WEBSITE REDEVELOPMENT CONTRACT**

**WHEREAS**, the County’s website [www.nelsoncounty-va.gov](http://www.nelsoncounty-va.gov) is ten (10) years old and is experiencing framework degradation to the extent of diminished functionality and potential failure; and

**WHEREAS**, pursuant to the County’s Purchasing Policy guidelines, quotes were solicited for website redevelopment with the quotes received ranging from \$75,000 for web design only to an amount of up to \$19,400 for the full scope of solicited services;

**NOW THEREFORE BE IT RESOLVED**, by the Nelson County Board of Supervisors that the County Administrator is hereby authorized to execute a contract for website redevelopment with Hidden Pond Consulting of Afton, Virginia in an amount up to \$19,400 as presented.

## VI. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE

### A. Reports

#### 1. County Administrator's Report

Ms. McGarry reported the following:

**A. Comprehensive Plan:** The project website is [www.Nelson2042.com](http://www.Nelson2042.com). The 2<sup>nd</sup> of four scheduled joint work sessions of the Board of Supervisors and Planning Commission is scheduled for January 18, 2023; where draft content regarding Natural & Historic Resources and Community Facilities and Infrastructure will be reviewed. Subsequent joint meetings with the Planning Commission will be held on March 15, 2023, and May 17, 2023, with internal focus group meetings held in-between. A brief summary of the outcomes of the public engagement process was presented to the School Board at their December 8<sup>th</sup> meeting.

**B. Larkin Property Development:** A BOS work session was held on November 29<sup>th</sup> where follow up from the September work session was discussed and staff was directed to solicit a master planning proposal from Architectural Partners regarding development of the property. Staff has reached out to AP to initiate this course of action with a response pending.

Mr. Barton asked if the information from the November 29<sup>th</sup> meeting had been related to Architectural Partners. Ms. McGarry confirmed that it had. She noted that she had related an overall concept of what had been discussed, and had indicated that meetings would need to take place to further determine the priorities.

**C. HOME-American Rescue Plan (ARP) Program:** The TJPDC will receive \$2,452,270 in these funds, of which each member jurisdiction will receive \$347,404.92. The County may choose to administer these funds itself, pool funding with another member jurisdiction or partner with a current HOME sub recipient such as Nelson County Community Development Foundation. These funds must be used to benefit individuals or families from these qualifying populations: homeless, at-risk of homelessness, fleeing/attempting to flee domestic, dating, or sexual violence and/or human trafficking and stalking, other populations experiencing housing instability, and veterans or families of veterans that meet one or more of these criteria. Staff has been working with NCCDF and other stakeholders to present its proposed plan to the Board at the December meeting. See Agenda Item V.C

**D. Regional Library Agreement Review:** Every five (5) years the members of the Regional Library are tasked with reviewing the regional agreement. A meeting of the member localities and Library Director David Plunkett was held on November 3<sup>rd</sup> to conduct an initial review. The next meeting is scheduled for December 16<sup>th</sup>.

**E. Emergency Medical Services Licensure:** Every two years in October emergency medical services agencies re-apply for licensure and are inspected by the State Virginia Department of Health prior to recertification. Last month I reported that Gladstone Volunteer Fire and Rescue Service's EMS agency license and vehicle permits were extended through 11-30-2022; they met their extension deadline and were recertified as an Advanced Life Support transport agency for the next cycle ending in October 2024.

**F. Gladstone Depot TAP Grant:** Staff advised Mr. Jay Brown of the Lynchburg VDOT office that the County would like to have the agreement drafted by Central Office and provided to the County for the Board's formal consideration upon its receipt with a meeting with the Friends of Gladstone Depot to be scheduled in the meantime. Mr. Brown is discussing with VDOT staff their ability to administer the project on behalf of the County; which will be made part of the TAP Agreement provided and he is amenable to having a meeting with stakeholders sometime after the new year; prior to the Board's formal consideration of the project agreement.

**G. New Office Building:** Staff and PMA is proceeding with the Board's Directive from the November Meeting.

**H. Department of Justice FY22 Adult Drug Court:** The grant award of \$699,640 in Department of Justice grant funds for implementation of an Adult Drug Court in Nelson County has been accepted. The required local match for this grant over 4 years is \$309,696 of which 60.5% or approximately \$187,296 will be in-kind match and 39.5% or \$122,400 will be cash match. An MOU with Offender Aid Restoration (OAR) for management of the Drug Court is under development. Commonwealth Attorney's Office staff are scheduled to provide an update to the Board at the December meeting under agenda Item IV B.

**I. Short-Term Rentals:** A work-group meeting was held on November 30<sup>th</sup> to discuss short-term rental tax collection, reporting, and enforcement. The Group consists of 3 members of the short-term rental community, the Commissioner of Revenue, me, Maureen Kelley, Dylan Bishop, Supervisor Reed, Supervisor Rutherford, and Planning Commissioner Hauschner. All were present except for 1 STR community member and Planning Commissioner Hauschner. The County's website was reviewed and deemed to be in good shape regarding STR information provided. Commissioner of Revenue Campbell

provided various scenarios that her office is dealing with regarding payments. She advised that the Commissioners' Association was working on standardized forms and legislative language to be provided to legislators for the upcoming General Assembly session and Ms. Kelly advised that the Virginia Restaurant, Lodging, and Travel Association was also working on their legislative program. An informative letter to all property owners following tax season was proposed and it was noted that conversations regarding compliance issues would be forthcoming.

Mr. Reed noted at the TJPDC meeting, David Blount reported that lobbying was going on in Richmond on behalf of short term rentals and some of the legislation could limit the ability for jurisdictions to impose restrictions on short term rentals. Mr. Barton asked about the law passed requiring Airbnb to report on their taxes. Mr. Rutherford noted that it did pass but there was still some work to be done. Ms. McGarry noted Commissioner of Revenue had received an \$85,000 check from Airbnb with no idea as to who it was paying taxes for. Ms. McGarry noted that the public hearing taking place that night had an ordinance that would provide for Commissioner's office to be able to require that third party payers report who they are paying taxes for.

**J. Treasurer's Office Online Inquiry and Payments:** The Treasurer's office is currently in the testing phase of its Sturgis online inquiry and payment platform. They are using a Beta link to test information research, data transfer, and payment processing with going live implementation still a couple of months away.

**K. Albemarle-Charlottesville Regional Jail Renovation Project:** The Board of Local and Regional Jail's has approved the request for 25% reimbursement. The matter will now head to the General Assembly for a review and vote on or about April 2023. If approved, the project would then be brought back to the localities and Board Authority for inclusion in their capital improvement plan and budget in the spring of 2023. Then the ACRJ will procure architectural and engineering services and begin the final design process. Once the final design is approved by the Board Authority on or about the fall of 2023, they will then procure a contractor to begin construction with final completion in the fall or winter of 2025. An interim financing is proposed to be used to fund the initial phase of the renovation such as architectural and renovation fees. The estimated amount to be financed is approximately \$4.56 Million and Davenport and Company will brief the Board on the proposed Bond Anticipation Note. They will subsequently ask the ACRJ Members to approve the Note in Spring 2023. After a construction estimate is obtained, Davenport will come back to member localities to approve the final bond financing. There is no ACRJ meeting in December.

**L. Davenport Update on County's Debt Capacity:** With the County's FY22 audited financials to be completed in December, Davenport and Company, the County's financial advisor is planning to update the County's debt capacity once that is received and Mr. Kooch will report to the Board at its January meeting.

**M. Renaissance Ridge Housing Development:** Steve Driver of Terra Engineering provided an update to the Planning Department on the status of the Renaissance Ridge Development. The storm water management plan is currently in review with DEQ. They are having an environmental study done which will be sent to the Army Corps for review within the next few weeks. They are getting close to VDOT approval. They are applying for a letter of map amendment to FEMA to update the flood zone and are required to submit a Joint Permit Application with the Virginia Marine Resources Commission. There still has not been an official submission to the County.

**N. Staff Reports:** Department and office reports are included within the November 7th agenda document.

## 2. Board Reports

### Mr. Barton:

Mr. Barton on the sports committee meeting and noted that they were moving towards having a recreational center for the people of Nelson County and exchanging ideas together.

### Mr. Reed:

Mr. Reed also discussed the sports committee held on December 9<sup>th</sup>. He noted that it included an overview of the Larkin property and the needs assessment. He reported that the Athletic Director for Nelson County Public Schools, Greg Mullins, was present and also provided a list of desired items. He noted that they also looked at an entire range of needs and opportunities. He reported that a survey would be going out to the public to gain their input. Mr. Reed also reported that he had attended the JAUNT meeting via Zoom on November 9th. He noted he had been in contact with Nelson County representative for JAUNT, Dian McNaught, who provided him information about the current services offered versus the previous services provided by JAUNT. He noted they would be learning more about what it may cost for those services come budget time. Mr. Reed noted that he also attended a health fair that Here to Stay Wintergreen sponsored. He indicated that the health fair was really well attended.

He reported that he visited the Foothills Child Advocacy Center the number of children served was increasing. He indicated that there was a need in Nelson for local intake for children and forensic interviews. He thought that could be part of the future Social Services facility. He noted that he also attended the Regional Housing Partnership meeting and heard a presentation by Sally Hudson on bills being introduced that could help with housing. Mr. Reed reported that he attended the School Board meeting. He congratulated the Nelson County High School Advanced Drama class on their win at the 2022 VHSL Class II A Theater Championship. He noted his request to DEQ that there be a public hearing on the additional bio solids applications in the County, but his request was denied. He indicated that there was a total of 25,000 acres in the County to be treated with bio solids. He noted that DEQ sent a memo to him about the concerns that he raised. He noted the information included in the memo was interesting. He felt that the DEQ

Mr. Parr:

Mr. Parr reported that he attended the EMS Council and commented that it was nice to have Mr. Adkins present and engaged with the departments. He noted they had discussed the Gladstone truck that was approved. He noted they also discussion diesel prices increasing and the impact it would have on budgets.

Mr. Rutherford:

Mr. Rutherford noted he was saving up on his report for the next month.

B. Appointments

There were no appointments for December. Mr. Rutherford noted there were no appointments until the January organizational meeting.

C. Correspondence

The Board had no correspondence.

D. Directives

The Board had no directives.

Mr. Barton wanted to address the comments regarding the parade with a truck making a political statement. He discussed freedom of speech. He stated that it was disturbing that one person felt it was necessary to make a political statement at a Christmas parade that would upset others. He commented that people needed to learn to take responsibility for how they acted and be held accountable.

Mr. Reed noted that the Schools had streamed the parade so people could go back and watch it to see what it was all about. He agreed that anything that looked like a political endorsement should not be at a Christmas parade. He felt there should be something to prevent it from happening again.

Mr. Barton noted he attended the play in Charlottesville and commended the program. Mr. Reed also commended the NCHS drama teacher, Ms. Driver, for the drama program.

Mr. Rutherford noted the parade was bigger than the sign and he hated to see that it was dominated by one little thing. He noted live streaming was a great feature for those unable to attend in person.

**VII. CLOSED SESSION PURSUANT TO 2.2-3711 (A)(3) & (A)(7)**

Mr. Reed moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code Sections 2.2-3711

(A)(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; and,

(A)(7): Consultation with legal counsel and briefings by staff members pertaining to actual litigation, where such consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the public body – Litigation pertaining to the Region 2000 Services Authority.

Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Supervisors conducted the closed session and upon its conclusion, Mr. Reed moved to reconvene in public session. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Upon reconvening in public session, Mr. Reed moved that pursuant to the requirements of Chapter 37, Virginia Freedom of Information Act and Section 2.2-3712 of the Code of Virginia, that the Nelson County Board of Supervisors certify that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) to approve the motion.

### **VIII. ADJOURN AND CONTINUE – EVENING SESSION AT 7PM**

At 6:13 p.m., Mr. Parr made a motion to adjourn and reconvene at 7:00 p.m. and Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the meeting adjourned.

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

##### **I. CALL TO ORDER**

Mr. Rutherford called the meeting to order at 7:04 p.m. with four (4) Supervisors present to establish a quorum and Mr. Harvey being absent.

##### **II. PUBLIC COMMENTS**

*Phillip Purvis – Shipman, VA*

Mr. Purvis stated that he was interested to know what rules and guidelines regulated the Board of Supervisors. He noted that he assumed the Zoning Ordinance and Comprehensive Plan were part of it. He commented that the Board had spent thousands of dollars to update the Comprehensive Plan and it did not seem like they were following what was currently in place or the zoning ordinances. He noted that while he was in support of property rights, he had an issue with people buying property zoned for one purpose and then immediately making a request for a special use permit or rezoning. He felt that special use permits should be the exception, not the rule. Mr. Purvis suggested that the Board follow the Zoning Ordinances and Comprehensive Plan to take some of the pressure of decision making off of their shoulders. He commented that the special use permits were changing the landscape of Nelson County, particularly along 151. He noted that he understood that the Board did not respond to comments during Public Comments but he would like to know what governed the Board. Mr. Rutherford commented that Mr. Purvis could speak with County Administration following the meeting to get answers to his questions.

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

##### **III. PUBLIC HEARINGS**

###### **A. Ordinance O2022-05 - Amendment to Chapter 6, Licenses, Permits and Business Regulations, Article 4 General Business License**

The purpose of these amendments is to streamline sections 6-84 Definitions, and to include short term rental activities in the definition of a Business, in 6-86 Due Dates and Penalties, remove an invalid State Code section reference, in 6-88 Exemptions, clarification to the definition of a person engaging in the business of renting real property and repeal of a reference to the sale of bicentennial merchandise, and add new section 6-90 Application Requirements, which prescribes the requirements to obtain a business license.

Ms. McGarry introduced proposed Ordinance O2022-05. She explained that the purpose of the amendments was to streamline sections 6-84 Definitions, and to include short term rental activities in the definition of a Business, in 6-86 Due Dates and Penalties, remove an invalid State Code section reference, in 6-88 Exemptions, clarify the definition of a person engaging in the business of renting real property and repeal of a reference to the sale of bicentennial merchandise. She noted that the new section 6-90 Application Requirements prescribed the requirements to obtain a business license from the Commissioner of Revenue. She explained that staff had removed the proposed sign-offs for Building Inspections and Planning and Zoning, as requested by the Board when they authorized the public hearing.

The Board had no questions for Ms. McGarry.

Mr. Rutherford opened the public hearing. There being no persons wishing to speak, the public hearing was closed.

Mr. Reed made a motion to approve **Ordinance O2022-05** as presented and Mr. Parr seconded the motion. There being no further discussion, Supervisors approved the motion by unanimously (4-0) by roll call vote and the following ordinance was adopted:

**ORDINANCE O2022-05**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA**  
**CHAPTER 6, ARTICLE 4, GENERAL BUSINESS LICENSE**

**BE IT HEREBY ORDAINED**, by the Nelson County Board of Supervisors that the Code of Nelson County, Virginia, Chapter 6, License and Business, Article IV is hereby amended as follows:

*Amend*

Sec. 6-84. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Affiliated group* means:

- ~~(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:
  - a. Stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and
  - b. The common parent corporation directly owns stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.~~
- ~~(2) Two (2) or more corporations if five (5) or fewer persons who are individuals, estates or trusts own stock possessing:
  - a. At least eighty (80) percent of the total combined voting power of all classes of stock entitled to vote or at least eighty (80) percent of the total value of shares of all classes of the stock of each corporation; and
  - b. More than fifty (50) percent of the total combined voting power of all classes of stock entitled to vote or more than fifty (50) percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.~~

~~When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.~~

*Business* means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business; **or (iii) ownership of structures held out for transient occupancy, whether by the owner or a person engaged to do so by the owner, including by way of example bed and breakfast inns, vacation houses, apartments, and the like.**

*Definite place of business* means an office or a location at which occurs a regular and continuous course of dealing for thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to

be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

~~*Financial services* means the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities or other investments.~~

*License year* means the calendar year for which the license is issued for the privilege of engaging in business.

~~*Peddler at wholesale* means any person, firm or corporation, who or which sells or offers to sell goods, wares or merchandise to licensed dealers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers, or offers to deliver, the goods, wares or merchandise to the buyer. Any delivery made on the day of sale shall be construed as a delivery at the time of sale.~~

*Person* means individual, firm, corporation, co-partnership, partnership, company, association or joint stock association. Such term shall include any trustee, receiver, assignee or personal representative thereof carrying on or continuing a business, profession, trade or occupation, but shall not include a court appointed trustee, receiver or personal representative, in the liquidation of assets for immediate distribution, or sergeant or sheriff or any deputy, selling under authority of process of writ of a court of justice. Such term shall not include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational, and athletic facilities and facilities for the welfare of the residents of the area.

~~*Professional services* means services performed by architects, attorneys at law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the department of taxation may list in the BPOL guidelines promulgated pursuant to Section 58.1-3701 of the Code of Virginia, 1950, as amended. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.~~

~~*Real estate services* means providing a service with respect to the purchase, sale, lease, rental or appraisal of real property.~~

~~*Wholesale merchant* means any person who sells to others for resale or sells at wholesale to institutional, commercial or industrial users.~~

(Ord. of 9-10-96)

*Amend*

Sec. 6-86. Due dates and penalties.

- (a) Each person subject to a license fee shall apply for said license prior to beginning business, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the commissioner of the revenue.
- (b) A fee of thirty dollars (\$30.00) shall be paid with the application.
- (c) A penalty of ten (10) percent of the fee may be imposed upon the failure to file an application.
- (d) ~~Under the authority of Section 15.1-505 of the Code of Virginia, 1950, as amended, There is county~~ hereby imposed the penalty of a Class 3 misdemeanor and a fine of not more than five hundred dollars (\$500.00) for operating a business without a business license in the county. If the failure to file or pay was not the fault of the feepayer, the penalty shall not be imposed, or if imposed, shall be abated by the commissioner of the revenue. In order to demonstrate lack of fault, the feepayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the feepayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and (ii) the feepayer undertook significant steps to avoid or mitigate the failure, such as attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the feepayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for fee compliance; or the feepayer's reasonable reliance in good faith upon erroneous written information from the commissioner of the revenue who was aware of the relevant facts relating to the feepayer's business when he provided the erroneous information.

(Ord. of 9-10-96)

*Amend*

Sec. 6-88. Exemptions.

No license fee shall be required for:

- (1) Any public service corporation except as provided in Section 58.1-3731 which authorizes no fee greater than one-half of one percent (0.005) of the gross receipts of such companies accruing from sales to the ultimate consumer in the county or as permitted by other provisions of law;
- (2) Selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside the regular market houses and sheds of the county; provided, such products are grown or produced by the person offering such products for sale;
- (3) The privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three (3) months; provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;
- (4) A manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;
- (5) A person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in Sections 58.1-3712 and 58.1-3713 of the Code of Virginia, 1950, as amended, authorizing counties to levy a license tax on every person engaging in the business of severing coal, oil or gases from the earth;
- (6) A wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in the county; this subdivision shall not be construed as prohibiting the county from imposing the license fee on a peddler at wholesale;
- (7) Any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property, **excluding, however, any public or private hotel, inn, hostelry, tourist home or house, rooming house, dwelling unit, condominium, bed and breakfast inn, vacation house or other lodging place within the county offering lodging for compensation to any transient as defined in Article VI. – Transient Occupancy Tax;** ~~other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses and boarding houses;~~
- (8) ***Repealed***  
~~A wholesaler or retailer for the privilege of selling bicentennial medals on a nonprofit basis for the benefit of the Virginia Independence Bicentennial Commission or any local bicentennial commission;~~
- (9) Management, accounting or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Chapter 3, Article 2 (Section 13.1-312 et seq.), Title 13.1, of the Code of Virginia, 1950, as amended, or a member or subsidiary or affiliated association thereof, to other members of the same group; this exemption shall not exempt any such corporation from such license requirements to be measured by receipts from outside the group;
- (10) Receipts or purchases by a corporation which is a member of an affiliated group of corporations from other members of the same affiliated group; this exclusion shall not exempt affiliated corporations from such license measured by receipts or purchases from outside the affiliated group; this exclusion shall not preclude the county from levying a wholesale merchant's license fee on an affiliated corporation on those sales by the affiliated corporation to a nonaffiliated person, company or corporation; as used in this subdivision, the term "sales by the affiliated corporation to a nonaffiliated person, company or corporation" shall mean sales by the affiliated corporation to a nonaffiliated person, company or corporation where goods sold by the affiliated corporation or its agent are manufactured or stored in the commonwealth prior to their delivery to the nonaffiliated person, company or corporation;
- (11) Any insurance company subject to taxation under Chapter 25 (Section 58.1-2500 et seq.) of the Code of Virginia, 1950, as amended, or on any agent of such company;
- (12) Any bank or trust company subject to taxation in Chapter 12 (Section 58.1-1200 et seq.) of the Code of Virginia, 1950, as amended;
- (13) A taxicab driver, if the county has imposed a license fee upon the taxicab company for which the taxicab driver operates;



- (14) Any blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the visually handicapped, or a nominee of the department, as set forth in Section 63.1-164 of the Code of Virginia, 1950, as amended;
- (15) Reserved.
- (16) An accredited religious practitioner in the practice of the religious tenets of any church or religious denomination; "accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;
- (17) Charitable nonprofit organizations exempt to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code Section 511 et seq. For the purposes of this subdivision, "charitable nonprofit organization" means an organization which is described in Internal Revenue Code Section 501(C)(3) and to which contributions are deductible by the contributor under Internal Revenue Code Section 170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning.

(Ord. of 9-10-96)

*New*

***Sec. 6-90. Application requirements.***

*The Commissioner of Revenue shall develop an application which shall require the business name and any trade names, the federal identification number, the type of business and its description, the physical and mailing addresses of the business, the name of the individual signing the application together with his driver's license number and contact information, and such other information deemed necessary by the Commissioner for the processing of the application.*

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

**B. Ordinance O2022-06 – Amendment to Chapter 11, Taxation, Article 6 Transient Occupancy Tax**

The purpose of these amendments is to repeal the section 11-143 Creation of Registry for Short-Term Rental of Property which is negated by requiring a business license for this purpose, in 11-130 Definitions, including bed and breakfast inn and vacation houses in the definition of a hotel, in 11-133, adding specific requirements for third party collectors and their remittance of the TOT tax to the Commissioner of Revenue, and streamlining of language in 11-140 Enforcement and 11-141 Violations and Penalties.

Ms. McGarry introduced proposed Ordinance O2022-06. She explained that the purpose of the amendments was to repeal the section 11-143 Creation of Registry for Short-Term Rental of Property which was negated by requiring a business license for that purpose in Chapter 6, Business License. She explained that in 11-130 Definitions, bed and breakfast inn and vacation houses were included in the definition of a hotel, in 11-133, specific requirements were added for third party collectors and their remittance of the TOT tax to the Commissioner of Revenue, and streamlining of language in 11-140 Enforcement and 11-141 Violations and Penalties. She noted that in 11-133, language was added in relation to the remittance of tax by third party payers, requiring that an accompanying report shall list each owners name, property address, and the amount of the remittance for each.

The Board had no questions for Ms. McGarry.

Mr. Rutherford opened the public hearing. There being no persons wishing to speak, the public hearing was closed.

Mr. Reed made a motion to approve **Ordinance O2022-06** as presented and Mr. Parr seconded the motion. Mr. Parr asked if 11-133 would tie in with an earlier conversation that Airbnb was sending in payments without indicating who they were paying for. Ms. McGarry noted that was correct and the Commissioner would be able to require them to submit the information with the payment. She commented that enforcement could be a little difficult but they would see how things go. Mr. Rutherford commented that acting on the requirement may help when the state aligns their policy with third party payers. There being no further discussion, Supervisors approved the motion by unanimously (4-0) by roll call vote and the following ordinance was adopted:

**ORDINANCE 2022-06**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA**  
**CHAPTER 11, TAXATION, ARTICLE VI TRANSIENT OCCUPANCY TAX**

**BE IT HEREBY ORDAINED**, by the Nelson County Board of Supervisors that the Code of Nelson County, Virginia, Chapter 11, Taxation, Article VI is hereby amended as follows:

*Amend*

**Sec. 11-130. Definitions.**

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context clearly indicates a different meaning:

- (1) *Commissioner*: The commissioner of the revenue of the County of Nelson and his or her duly designated deputies, assistants, inspectors, clerks or other employees.
- (2) *Hotel*: Any public or private hotel, inn, hostelry, tourist home or house, rooming house, dwelling unit, condominium, ***bed and breakfast inn, vacation house*** or other lodging place within the county offering lodging, as defined in this section, for compensation to any transient, as hereinafter defined in this section.
- (3) *Lodging*: Room or space furnished any transient.
- (4) *Person*: Any individual, corporation, company, association, firm, co-partnership or any group or individuals acting as a unit.
- (5) *Transient*: Any person who, for a period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space at any hotel, for which lodging or use of space a charge is made.

(Ord. of 2-14-95)

*Amend*

**Sec. 11-133. Report of collection and remittance of tax.**

The person collecting any tax as provided in this article shall make out a report thereof, upon such forms and setting forth such information as the commissioner may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected and shall sign and deliver such reports with the remittance of such tax to the commissioner of the revenue. ***When the taxes are remitted by a person other than the owner of the hotel, the accompanying report shall list each owner's name and property address and the amount of the remittance for each.*** Such reports and remittances shall be made on or before the twentieth day of each month covering the amount of tax due and collected during the preceding month. Businesses which generate less than fifty dollars (\$50.00) per month in transient occupancy taxes may remit said tax and required report by the twentieth of the month following the end of each calendar quarter.

(Ord. of 2-14-95; Ord. of 11-14-95)

*Amend*

**Sec. 11-140. Enforcement.**

- (a) It shall be the duty of the commissioner to ascertain the name of every hotel offering lodging to a transient in the county liable for the collection of the tax imposed by this article, which fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The commissioner shall have issued a summons to such person responsible for the hotel offering lodging to a transient ***stating the nature of the violation of this ordinance.*** ~~such summons stating the name of the person so issued against, and the fact that such person fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article in violation of this article, the amount of such tax owed if known, and a date on which the person shall appear in the General District Court of Nelson County. The summons shall be served upon such person by a county sheriff or deputy sheriff in the manner provided by law.~~
- (b) In the event any transient as defined under this article refuses to pay the tax imposed by this article, the hotel operator may call upon the sheriff's office for assistance; and the investigating officer may, when probable cause exists, issue the transient a summons as described above returnable to the general district court as provided by law.

(Ord. of 2-14-95)

*Amend*

Sec. 11-141. Violations; penalty.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be guilty (1) of a Class 3 misdemeanor if the amount of the tax lawfully assessed is one thousand dollars (\$1,000.00) or less, or (2) a Class 1 misdemeanor if **(i)** the amount of the tax lawfully assessed is more than one thousand dollars (\$1,000.00) **or (ii) such person fails to provide information prescribed and required by the commissioner** and punishable as provided in Section 1-6 of the Code of Nelson County, as amended. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this article. Each violation or failure shall be a separate offense.

(Ord. of 2-14-95)

*Repeal*

Sec. 11-143 Creation of Registry for short term rental property.

~~(a) As used in this section:~~

~~—“Operator” means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.~~

~~—“Short term rental” means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.~~

~~(b) 1. The Commissioner of Revenue shall establish and maintain a short term rental registry and require operators within the county to register annually. The registration shall require the operator to provide the complete name of the operator and the address of each property in the county offered for short term rental by the operator. A fee of \$ \_\_\_\_\_ for such annual registration is imposed.~~

~~—2. A person is not required to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time Share Act (§ 55.1-2200 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.~~

~~(c) 1. A penalty of \$500.00 per violation shall be assessed against an operator required to register who offers for short term rental a property that is not registered with the locality. Unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short term rental. Upon repeated violations of this registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short term rental.~~

~~—2. An operator required to register shall be prohibited from offering a specific property for short term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short term rental.~~

~~—(d) Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).~~

State Code authority: *Va. Code* § 15.2-983.

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

**C. Special Use Permit #762 – Distillery**

Consideration of a Special Use Permit application requesting County approval to allow a Distillery use on property zoned B-1 Business and A-1 Agricultural. The subject property is located at Tax Map Parcels #21-A-85, #21-A-84, and #21-15-2 at 2461 Rockfish Valley Hwy in Nellysford. The subject property is 9.99 acres and owned by Nellysford Real Estate.

Ms. Bishop presented the following:

**BACKGROUND:** This is a request for a special use permit for a distillery use on property zoned B-1 Business.

*Public Hearings Scheduled:* P/C – November 16; Board – December 13

*Location / Election District:* 2461 Rockfish Valley Hwy / Central District

*Tax Map Number(s) / Total Acreage:* 21-A-84, 21-A-85, 21-15-2 / 9.99 +/- total

*Applicant Contact Information:* Three Notch'd Brewing Company (Scott Roth), 520 2<sup>nd</sup> Street SE, Charlottesville, VA 22902, 434-956-3141, scott@threenb.com

*Owner Contact Information:* Nellysford Real Estate, 520 2<sup>nd</sup> Street SE, Charlottesville, VA 22902, 434-956-3141, george@threenb.com

*Comments:* This property is currently home to the former Wild Wolf Brewing facilities, including the brewery, restaurant, and associated parking on three separate parcels, and was recently acquired by Three Notch'd Brewing Company. The applicants are proposing to utilize existing buildings on lot #21-15-2 for distillery production, and are not proposing any new structures for this use. They are proposing to produce "ready to drink" or "RTD" cocktails that will be sold onsite, to-go, and for distribution throughout Virginia, and anticipate that 80% of what is produced in the distillery will be removed for off-site purchase. The applicants intend to utilize the remainder of the property as it has been in the past.

**DISCUSSION:**

*Land Use / Floodplain:* This area is commercial, residential, and agricultural in nature. Zoning in the vicinity is A-1 Agriculture, R-1 Residential, B-1 Business, and RPC Residential Planned Community (Wintergreen). Businesses adjoining the parcel include an accounting office, insurance agency, and ice cream shop. There are no floodplains located on the property.

*Access / Traffic / Parking:* The property is accessed by an existing entrance on Rockfish Valley Hwy. Comments from VDOT indicate that the existing commercial entrance is sufficient and does not require any updates. There is sufficient parking as outlined in Section 12-7-6a of the Zoning Ordinance.

*Utilities:* The applicant is working with Aqua Virginia, Inc. on the project proposal to design and construct a private force main to convey domestic wastewater to the Aqua system. The applicant would be responsible for the design, construction, permitting, ownership and maintenance of the force main. Production wastewater from the brewery/distillery will be addressed at the meeting.

Ms. Bishop noted that production wastewater did not require a pump and haul permit from the Board as there was no sanitary waste included with that. She explained that was not regulated by the Health Department, it would be a DEQ item.

*Comprehensive Plan:* This property is located in Nellysford, an area designated Neighborhood Mixed Use on the Future Land Use Map in the current Comprehensive Plan. This development model is a "central gathering place able to fulfill the diverse needs and interests of nearby residents and visitors to the county, all within a focused, walkable and identifiable place." One principle is to "direct small-scale commercial and residential development into areas designated... Neighborhood Mixed Use..." Additionally, "parking lots should be placed behind buildings or in other areas where the impact of the lot on the neighborhood is minimized. Dark sky lighting and unobtrusive signage is appropriate for all new development." Appropriate land uses in this model include both single family and multifamily residential, a variety of commercial establishments, professional offices, civic and public uses, and parks or recreation facilities. Some of the preferred uses include a grocery store, restaurants, cultural and entertainment opportunities, a drugstore, doctor and dentist offices, and churches."

At their meeting on November 16, the Planning Commission recommended approval (6-0) of SUP #762 for a distillery with the following condition:

1. Property shall be served by sewer through Aqua Virginia, and the existing septic fields shall be abandoned.

The Board had no questions for Ms. Bishop.

Mr. Rutherford opened the public hearing. There being no persons wishing to speak, the public hearing was closed.

Mr. Rutherford invited the applicant to introduce himself. Mr. Scott Roth was present on behalf of Three Notch'd. Mr. Barton asked if there was a contract with Aqua Virginia. Mr. Roth explained that they had a contract with Aqua Virginia and were in the engineering component of it. He noted that they also had a building permit that had been approved and they were currently under construction. He explained that the domestic waste and the permit were scheduled to be complete sometime in May. Mr. Roth noted that the use would be very similar to what it had been in the past, but the distillery license allowed them to produce their own products instead of purchasing from Virginia ABC. He reported that they would use the property primarily for bourbon aging and production, as well as ready to drink production. The Board had no further questions for the applicant.

Mr. Reed moved to approve Special Use Permit #762 for Three Notch'd Distillery with the condition from the Planning Commission and Mr. Parr seconded the motion. There being no further discussion, Supervisors unanimously approved the motion (4-0) by roll call vote.

**D. Special Use Permit #764 – Campground**

Consideration of a Special Use Permit application requesting County approval to allow a 2-site Campground use on property zoned A-1 Agricultural. The subject property is located at Tax Map Parcel #41-A-32 on Crabtree Falls Hwy in Tyro. The subject property is 1.68 acres and owned by John H. and Roberta Fitzgerald.

Ms. Bishop presented the following:

**BACKGROUND:** This is a request for a special use permit for a campground use on property zoned A-1 Agriculture.

*Public Hearings Scheduled:* P/C – November 16; Board – December 13

*Location / Election District:* Crabtree Falls Hwy / West District

*Tax Map Number(s) / Total Acreage:* 41-A-32 / 1.68 +/- total

*Applicant/Owner Contact Information:* John H. Jr. and Roberta Fitzgerald, 266 Big Rock Road, Tyro, VA 22976, 434-941-8082 / 434-277-8044, thinpine@aol.com / rhfitz9701@aol.com

*Comments:* This property is currently vacant and located within the Regulatory Floodway. The owners currently use the lot for tent camping and fishing, and are proposing to rent out two portable tiny homes on wheels for short-term lodging. Section 10-13(D)2 of the Floodplain Ordinance allows public and private recreational uses and activities in the Floodway.

**DISCUSSION:**

*Land Use / Floodplain:* This area is residential and agricultural in nature. Zoning in the vicinity is A-1 Agriculture. The property is entirely located within the Floodway.

*Access / Traffic / Parking:* The property is accessed by an existing private entrance on Crabtree Falls Hwy.

*Utilities:* The applicant has existing electric service to the property and existing septic and well permitted by VDH.

*Comprehensive Plan:* This property is located in an area designated Rural and Farming in the current Comprehensive Plan, which would promote agricultural uses and compatible open space uses but discourage large scale residential development and commercial development that would conflict with agricultural uses. It would permit small scale industrial and service uses that complement agriculture and protection of usable farmland shall be encouraged.

At their meeting on November 16, the Planning Commission recommend approval (6-0) of SUP #764 for a campground the following condition:

1. There shall be no more than 2 sites, and the 2 units shall be provided by the property owner.

The applicant, J.H. Fitzgerald was present but did not have any additional comments.

Mr. Rutherford opened the public hearing. There being no persons wishing to speak, the public hearing was closed.

The Board had no questions for the applicant or staff.

Mr. Parr moved to approved Special Use Permit #764 Campground with the conditions from the Planning Commission. Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote.

**E. Special Use Permit #763 – Campground – **WITHDRAWN BY APPLICANT****

Consideration of a Special Use Permit application requesting County approval to allow a 2-site Campground use on property zoned A-1 Agricultural. The subject property is located at Tax Map Parcel #65-1-1A at 1939 Sleepy Hollow Rd in Roseland. The subject property is 6.699 acres and owned by Kyle and Krystal Hawke.

Mr. Rutherford noted that the applicant for Special Use Permit #763 had withdrawn his application, so the Board did not discuss the subject.

**IV. OTHER BUSINESS (AS PRESENTED)**

The Board had no other business to discuss.

**V. ADJOURNMENT**

At 7:21 p.m., Mr. Parr moved to adjourn the meeting and Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the meeting adjourned.