

**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  
Thomas D. Harvey, North 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  
Emily Hjulstrom, Planning and Zoning

**I. CALL TO ORDER**

Mr. Rutherford called the meeting to order at 2:00 p.m. with five (5) 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**

*Wisteria Johnson, Shipman, VA*

Ms. Johnson noted she was speaking on behalf of the group working on the dedication of a bridge in Faber for Mr. Goffrey E. Miles. She thanked the Board for moving forward with the request to name the bridge. Ms. Johnson noted that Mr. Miles’ nickname was the Mayor of Faber, which said a lot about him. She explained that the Miles family had been a part of the community for many generations and they were a great family to commemorate through Mr. Miles. She noted that Mr. Miles’ wife, Mrs. Helen Miles was present, along with the initiator of the request, Mr. Clark Jackson. Ms. Johnson thanked Mr. Rutherford for allowing the resolution to be placed on the agenda as well as Ms. Spivey for her work putting everything together. She noted that they hoped the resolution passed.

*Lynne Simpson, Faber, VA*

Ms. Simpson stated that she was present to protect her tax dollars in regards to the Albemarle-Charlottesville Regional Jail renovation project. She noted that the project sounded wonderful but she was concerned about the cost as she was retired and couldn’t afford a tax increase to pay for the project. She pointed out that some of the presentations given by Moseley Architects showed the exterior improvements from other projects. She noted that she didn't think they needed to put money towards making the exterior of the jail look pretty. She agreed that safety and security were paramount for a jail but it should not be a pretty place, and shouldn’t have more amenities than the average Nelson resident had. She asked what a half million dollars could do if it were put towards a boys and girls club in Nelson, rather than a jail to house them later. Ms. Simpson cited a comment from a citizen during meeting that the HVAC system needed to be addressed immediately rather than waiting on an expansion. She agreed that those items should be taken care of and pointed out that there were large spaces in the jail that could be repurposed. She noted that she had not been to the jail in person, but she had seen pictures and the women’s area of the jail was in rough shape. She encouraged the Board to spend money needed to address immediate health and safety concerns at the jail and include funds to go toward programs that have been proven successful in reducing recidivism. She asked that the Board keep the tax rates low and livable.

*Grace Monger, Arrington, VA*

Ms. Monger stated that she was speaking on behalf of the Virginia Cooperative Extension in the County. She referenced an email sent to the Board earlier in the day to make public notification that there had been positive identification of the spotted lantern fly in Arrington, two weeks prior. She noted that the process took time. She stated that everyone with the Extension office and the Virginia Department of Agriculture and Consumer Services was working to protect the producers and to educate the public. She asked that the Board direct any questions or concerns to the Extension office.

*William Percy Lovington, VA*

Mr. Percy voiced his opposition to an R-cut at 29 and Food Lion. He suggested that people travel to Durham to witness how the R-cut works at Holly Springs Road and Highway 55. He asked it was possible to obtain information on the number of accident reports associated with R-cut intersections. Mr. Percy offered the idea of having a free access overpass that could possibly be dedicated to someone. He said they needed to move the speed limit signs further north on 29 so that people are not encouraged to speed through the intersection during the yellow light.

*Regina Campbell - Roseland, VA*

Ms. Campbell asked the Board to reflect on the fact that there had been three recent incidents involving four minors being charged with firearms in their possession in the last month. She noted that two of the minors were being charged with attempted murder. She cited school shootings in the past where parents never thought it would happen where they lived. She indicated that with the recent events, it was clear that there were children in their community with access to firearms, and they were not afraid to use them. Ms. Campbell explained that when she arrived to the Courthouse to attend the meeting, there was security at the door, she had to state her purpose, show her ID and walk through a metal detector to gain access to the building. She stated that it was absurd that the schools did not have the exact same safety measures in place. She stated that she believed that the first line of defense in protecting the schools was to have a fully staffed Sheriff's Office and a full-time School Resource Officer (SRO) at each school. She stated that it was neglectful of schools and community for any deputy positions to remain unfilled. Ms. Campbell noted that the starting pay of \$37,000 for a Sheriff's deputy fell short compared to the responsibilities and risks associated with the job. She asked the Board to implement measures to attract employees to law enforcement positions by increasing the starting pay and offering hiring bonuses. She felt that the minimum of starting pay for law enforcement officers should be \$45,000. Ms. Campbell also asked the Board to work with the School Board to determine funding needed to purchase additional security measures for the schools. She asked that the Board not wait until something happened to take action.

*Peter Bryan - Amherst, VA*

Mr. Bryan noted that he represented the Jefferson Council. He explained that the Jefferson Council was formed by University of Virginia alumni and other stakeholders. He noted the Jefferson Council dedicated to the preservation of the legacy of Thomas Jefferson, the Lawn, the honor code at the University of Virginia and the intellectual diversity that one would expect from Mr. Jefferson's University. He recognized that the topic of the Jefferson-Madison Regional Library name change was not on the agenda for the day's meeting. He noted that he had spoken at the previous meeting but had returned to provide a few more details. He reported that he had attended two meetings of the Jefferson-Madison Regional Library Board and it was clear that without unanimous consent of all five participants in the regional library, the name change was not possible. He noted that in spite of that fact, a committee had been formed to explore other options on the potential name change. He noted that support for retaining the name was overwhelming. He reported that Louisa County and Greene County had both passed resolutions in opposition to the name change. He requested that the Nelson County Board of Supervisors consider passing a resolution in support of retaining the name.

*Edith Napier - Arrington, VA*

Ms. Napier congratulated Ms. McGarry on her new position, noting that they were still making history in 2022. She thanked the Board and anyone else involved in the decision to host the Comprehensive Plan workshop at the Heritage Center. She noted that it was well attended and they were interested in the planning for the County. Ms. Napier cited concerns regarding overgrowth in the medians along Route 29 and noted that it needed to be better kept up. She asked that it be cut for better road safety. She also commented on the Jefferson-Madison Library name and urged the Board to remember that what Jefferson and Madison meant to people depended on what side of the fence you were on. She noted that the names did not mean the same to everyone. She noted that when they pass resolutions, they put forth the impression that the whole county believes the same thing.

There were no others wishing to speak under public comments.

### **III. CONSENT AGENDA**

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

A. Resolution – **R2022-46** Minutes for Approval

**RESOLUTION R2022-46  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MINUTES  
(May 10, 2022, May 18, 2022, and May 26, 2022)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **May 10, 2022, May 18, 2022, and May 26, 2022** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2022-47** Budget Amendment

**RESOLUTION R2022-47  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2022-2023 BUDGET  
August 9, 2022**

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

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 250,000.00	3-100-002404-0066	4-100-091030-5670
\$ 60,000.00	3-100-009999-0001	4-100-071020-8003
\$ 38,048.00	3-100-009999-0001	4-100-091050-7023
\$ 31,184.00	3-100-002404-0017	4-100-021060-3161
\$ 5,908.00	3-100-003303-0008	4-100-031020-3031
\$ 24,382.00	3-100-002404-0035	4-100-022010-7030
<u>\$ 70,194.00</u>	3-100-009999-0001	4-100-091030-5624
<b>\$ 479,716.00</b>		

**II. Transfer of Funds (General Fund Recurring Contingency)**

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 3,846.00	4-100-999000-9901	4-100-091030-5623
\$ 5,000.00	4-100-999000-9901	4-100-011010-3002
<u>\$ 50,000.00</u>	4-100-999000-9901	4-100-021040-3020
<b>\$ 58,846.00</b>		

Ms. McGarry then introduced Ms. Linda Staton as the new Director of Finance and HR. She noted that Ms. Staton had a combined 24 years of experience with the School Division and County Finance Departments. Ms. Staton stated that she was proud to serve the County and community, noting she looked forward to continued service for the next several years.

**IV. PRESENTATIONS**

A. VDOT Report

Mr. Daniel Brown of VDOT was present to report to the Board as Mr. Robert Brown was unable to attend the meeting.

Mr. Brown reported that the Rural Rustic project on Route 653 (Wilson Road) had been completed. He noted that Route 814 (Campbells Mtn Road) was currently under construction. He reported that the trees along 151 in Nellysford had been removed as requested. He noted that the mowing on Rose Mill Road was to be taken care of by the end of the following week.

Mr. Brown reported that VDOT would be providing some support for an upcoming fundraising event for the Piney River Volunteer Fire Department. He noted that message boards to be placed for the event.

Supervisors then discussed the following VDOT issues:

Mr. Rutherford:

Mr. Rutherford noted he had sent an email to Rick Youngblood about a road that he couldn't recall at the moment. He asked that Mr. Brown speak with Mr. Percy about the R-cut on his way out.

Mr. Barton:

Mr. Barton asked if there was a reason the grass had not been cut in the medians. Mr. Brown noted it had not been intentionally neglected. He explained that they followed the statewide mowing standards primary roads with medians. He noted if the median was 50 feet or less, they would mow the entire median but if it was wider than that, they went back to the statewide mowing standard, which was 18 feet back off the edge of the pavement. Mr. Brown noted that they would check crossovers, as they really needed to be cut back further for sight distance.

Mr. Harvey:

Mr. Harvey had no VDOT issues to discuss.

Mr. Reed:

Mr. Reed reported that on Route 151 just north of the entrance to Horizons Village, there was a deep rut off of pavement that needed to be filled in. He noted that on Spruce Creek Lane, about 150 feet from Route 151 on the north side, there were trees, leaves and overgrowth causing runoff into the roadway. He then noted that at the intersection of Spruce Creek and 151, the sight line to South was bad. He pointed out that cars came through the area pretty quick, even though flashing lights had been recently installed. He asked if VDOT could look at possibly cutting back the bank or clearing the vegetation to help improve sight lines.

Mr. Brown noted that they would start mowing primary roads again on August 15th to get them cleaned up for Labor Day.

Mr. Parr:

Mr. Parr noted that he saw crews mowing that day. He expressed concerns over the sight distance at the crossover near Blue Ridge Medical Center. Mr. Parr noted that the areas in front of schools were looking good. He then mentioned a gentleman on Lowesville Road in Piney River, Mr. Cottrell, who has a crossing over the creek and when the water gets up, it doesn't drain and backs up into the road. Mr. Parr stated that Mr. Cottrell was told by VDOT that they would handle the replacement if he purchased the pipe. Mr. Parr noted that Mr. Cottrell had purchased the pipe and had it for about two months. Mr. Parr asked Mr. Brown if he could work to get the project scheduled as it would improve the crossing for Mr. Cottrell and help with the water issues on Lowesville Road. Mr. Brown noted that he would get that project on the schedule and follow up.

The Board had no further items to report to VDOT. Mr. Brown noted that he was covering land use activity in Nelson temporarily until they could fill the position.

B. Comprehensive Plan Status Report

Ms. Bishop reported that initial phase of public engagement concluded on August 3rd. She noted that there were documents in the meeting packets that summarized engagement and outreach efforts, and outlined the feedback received from the community and also identified additional efforts. She reported that the nelson2042.com website was published in June and the site had gained over 100 subscribers. She noted that the idea wall had an active list of comments and the Berkley Group would be maintaining a log of all comments posted. She explained that a summary of the comments would be included in the Public Engagement Results Summary presented at the first Joint Work session of the Board of Supervisors and the Planning Commission which was currently planned for September.

Ms. Bishop explained that the Nelson 2042 website included information about all of the opportunities to participate in the process as well as background data, existing plans, and reports. She noted that as summaries and draft plan contact became available, they would be posted on the website. She indicated that email communication from the website was used to notify subscribers of upcoming opportunities to participate in public engagement.

Ms. Bishop reported that they did a Youth Art Challenge the last week of school, but it did not have much participation so they were trying again now that school is starting back up. She noted that the

public input survey was published online on July 1, 2022 with a deadline of August 31, 2022, unless the Board and Planning Commission decided to extend it. She reported that to-date, the survey had 540 responses. She noted that nearly 87% of those respondents were permanent residents of the County, with residents of Lovingston (41%) and Afton/Rockfish (23%) representing the majority of responses. She pointed out that Gladstone and Schuyler had the lowest representation with less than 1% and 1.4%. Ms. Bishop reported that the remaining responses were distributed evenly across other locations. She then noted that nearly 50% of respondents were over 65 years of age. She reported that the highest identified occupation is retired (45%) follow by work in Nelson (20%), work from home (12%) and work in Charlottesville/Albemarle (11%). She noted that 78% of respondents identified as white or non-Hispanic.

Ms. Bishop reported that hard copies of the surveys were available in locations across the County and by request. She provided a list of locations where hard copies were available and noted that it was also published on nelson2042.com, advertised at public workshops, and advertised through email correspondence. She reported that 29 hard copies of the survey had been received to date and those were also being entered into the system.

Ms. Bishop reported that three in-person workshops had been completed. She explained that the workshops were open to the general public and advertised through nelson2042.com, flyers and post cards, social media and word of mouth. She noted that each workshop had a brief presentation by the Berkley Group describing what a comprehensive plan was, why it was important, and how to participate in the process. Ms. Bishop explained that attendees worked in small groups to answer questions about the strengths, weaknesses, and opportunities in the County followed by specific questions related to Transportation and Infrastructure, Growth and Development, and Recreation and Outdoors. She noted that the data from the workshops was being tabulated and would be included in the Public Engagement Results Summary presented at the first Joint Worksession of the Board of Supervisors and Planning Commission. She noted that the first workshop was held on July 12, 2022 at the Nelson County High School with approximately 35 attendees, and the second workshop was held on July 20, 2022 at the Rockfish Elementary School with approximately 50 attendees. She reported that the third public workshop was held on August 3, 2022 at the Nelson Heritage Center with approximately 60 attendees.

Ms. Bishop reported that four stakeholder listening sessions had been held. She noted that the listening sessions were held as a roundtable discussion between representatives of specific industries and interest groups and the Berkley Group. She explained that County staff identified participants and issued invitations. She indicated that summaries of the listening sessions would be included in the Public Engagement Results Summary presented at the first Joint Worksession of the Board of Supervisors and Planning Commission. She noted that on July 13, 2022 a stakeholder listening session was held for Development and Housing; July 20, 2022 was for Hospitality, Lodging and Tourism; and on August 3, 2022, two sessions were held – Agriculture and Agritourism, and then Community Groups and Non-Profits. Ms. Bishop indicated that a lot of good conversation came out of the discussions.

Ms. Bishop described the outreach and advertising methods used to get the word out about the plan update and opportunities to participate. She noted that they utilized the Nelson 2042 website and email blasts, provided a link from the Nelson County website to the Nelson 2042 website, distributed flyers and post cards, and sent out a press release to news outlets. She reported that the Crozet Gazette and CBS19 advertised the website, survey and workshop dates. She also noted that the Nelson County Times covered the joint kickoff meeting and promoted the website. Ms. Bishop noted that Nelson County Tourism and Parks and Recreation both advertised the project through their social media platforms.

Ms. Bishop reported that as part of the engagement process the Berkley Group and County staff received comments and feedback from the community regarding the engagement and outreach process. She noted that comments were received verbally, through email, and through exit surveys completed at the end of the workshops on July 20<sup>th</sup> and August 3<sup>rd</sup>. She reported that most participants felt the workshops were effective and useful, but there were concerns regarding who was reached and who was participating in the process, specifically: public surveys were initially not readily available in print format; the County had not made adequate effort to reach all segments of the community and had relied too heavily on web-based advertisement; there was a lack of diversity in public workshop participants, particularly at the July 20<sup>th</sup> workshop at Rockfish Elementary.

Ms. Bishop noted that to address concerns regarding the survey, hard copy surveys were distributed to locations throughout the County, and the deadline for submitting the survey was extended to August 31, 2022. She reported that individuals attending the in-person meetings were encouraged to take surveys to distribute to their neighbors, employees, etc. Ms. Bishop explained that if the Board and Planning Commission desired to do so, the survey deadline could be extended into September to allow time for more participation.

Ms. Bishop reported that the Berkley group provided additional engagement efforts to ensure equitable participation in the plan update process and to confirm they were accurately understanding and capturing the point of view of Nelson's citizens, and aid in the drafting of the plan so that it would be successfully

adopted and used by the community. Ms. Bishop noted that the Board and Planning Commission could consider the different types of engagement, along with the associated costs. She reviewed the various options for engagement.

Engagement Effort	Description	Contract Status	Fee
Hands-On Workshops	1-2 additional in-person workshops in the same format as the three workshops conducted in July and August. Workshop locations may be planned for different districts and/or times than the previous workshops.	Included as Optional Add-on	\$3000 each
Engagement Results Confirmation Forum	1-2 additional public meetings to present the results of the engagement efforts including workshop and survey results. This would allow participants to validate results and identify any additional issues and opportunities. The public forum could be conducted as an in-person open house or virtually.	Included as Optional Add-on	\$3000 each
Stakeholder Listening Sessions	Additional stakeholder listening sessions on additional topics (e.g., diversity, inclusion, communication, health/environment/climate action, regional/federal agencies and authorities, youth).	Not included, will require a scope amendment	\$900/session
Topic Focused Work Groups	Convene topic-specific work groups comprised of stakeholders with interest and expertise to aid in data gathering, verification, and recommendation drafting. The number and topics addressed by these work groups would be determined based on consultation with County staff and input from the Board and Planning Commission.	Not included, will require a scope amendment	TBD based on number of work groups and meetings
Spanish Translation	Translation of survey and other materials; BG has a Spanish translator on staff and can provide these services if desired.	Not included, will require a scope amendment	TBD based on materials requiring translation
Student Involvement	Engage high school students by attending a government class or after-school program to share information about local government planning and administer the survey (pending school policy on survey administration).	County staff time	County staff time
Additional Promotion	Additional advertisement (e.g., notices in community and church bulletins, and distribution of flyers, post-cards, and surveys at back-to-school events).	County staff time	County staff time

Mr. Rutherford noted the option for additional workshops and wanted to make sure the Board did not miss the opportunity to further discuss it. Mr. Rutherford asked about the total number of responses. Ms. Bishop noted they had received 540 surveys online and about 30 hard copies in office. Ms. Bishop indicated that she was supportive of an additional workshop session to ensure that they were reaching everyone. Mr. Rutherford noted that he and Mr. Reed had discussed additional workshops. He thought it may be appropriate to have another workshop along 151 and another centrally located in the County. Mr. Rutherford suggested having the workshops on the weekend to draw in more people and allow more time. He noted that he felt the 5:30 p.m. start time was too rushed. He noted that they needed buy-in from Native Nelsonians. Mr. Rutherford noted he had been to all three workshops and the Heritage Center had a lot of born and raised Nelsonians but there were still some folks that they needed to reach. Ms. Bishop asked about the timeline for workshops.

Mr. Reed asked about the option for Engagement Results Confirmation Forum and whether they were public meetings. Ms. Bishop confirmed that they were open to the public. Mr. Reed felt this type of engagement would allow for people to see results and provide additional feedback. He asked Ms. Bishop about the timing for those types of meetings. Ms. Bishop noted they would possibly be held before the

joint session, maybe towards the beginning of September. Mr. Rutherford suggested looking at a Sunday at 3 p.m. and Mr. Reed agreed that would allow folks who weren't available on the Wednesday workshop dates. Ms. Bishop asked if the Board wanted to have two engagement results sessions, rather than roundtable work sessions. Mr. Rutherford noted that they need the roundtable work sessions because they were trying to target the group of people who had not participated yet.

Ms. Bishop asked about holding one roundtable work session and then one engagement results session. Mr. Reed noted that he wanted an option for engagement results to provide participants something to look at and comment on, rather than going back to the beginning. Mr. Reed preferred two engagement results confirmation forums, but noted that he was not opposed to another hands-on workshop. Mr. Rutherford felt that the Rockfish workshop was fairly representative of the people of Rockfish. He suggested that the 29 corridor and the South, East, and West Districts needed one more workshop. The Board discussed location options for the engagement results sessions. Mr. Reed suggested that since the engagement results session was for the entire County, it may be best to hold it in a central location. The Board was in agreement to hold one workshop and one engagement session, both centrally located in the County. Mr. Parr asked to avoid holding the engagement results at 5:30 p.m., noting how difficult it was for people leaving work in town at 5 p.m. to make it. The Board agreed to look at Sundays to hold both the workshop and engagement session. Mr. Rutherford suggested looking at the Nelson Center for the location. Ms. Bishop confirmed adding one workshop and one engagement session.

Ms. McGarry suggested possibly using Reverse 911 to target areas of County about the additional work session. Ms. Bishop asked the Board to reach out to their districts to spread the word. She welcomed any additional suggestions to reach the community. Mr. Harvey felt it may be good to use the 911 system. Mr. Reed asked about the joint meeting with the Planning Commission. Ms. Bishop noted it would likely be sometime in September but no date had been selected yet. She indicated that she would work on dates and send them out. She noted that Berkley Group would be sending an amendment to the contract to get the costs worked out.

## **V. NEW & UNFINISHED BUSINESS (AS PRESENTED)**

### **A. Consideration of Commemorative Naming of Bridge (R2022-48)**

Mr. Rutherford introduced the consideration of naming a bridge after Mr. Goffrey Miles. Mr. Rutherford spoke of Mr. Miles' noting that he was known for being a great butcher, but even more so for his kindness and faithfulness. Mr. Rutherford referenced Timothy 6:11 from the Bible, noting that it talked about how a man should carry himself and how Mr. Miles' exuded those qualities through public service to the County and to his family. He noted the appropriateness of naming the particular bridge in Faber as Mr. Miles' walked the tracks to work and crossed the bridge on his way to the fire department.

Mr. Rutherford read aloud Resolution **R2022-48** and made a motion to approve the resolution. Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

### **RESOLUTION R2022-48 NELSON COUNTY BOARD OF SUPERVISORS REQUEST FOR COMMEMORATIVE NAMING OF BRIDGE**

**A resolution requesting the Commonwealth Transportation Board (to) name the bridge structure over the Norfolk-Southern railroad on Route 6 in the Faber area of Nelson County as the "Goffrey E. Miles Memorial Bridge" in honor and recognition of an esteemed and universally respected and dedicated public servant of Nelson County.**

**WHEREAS**, the late Goffrey Edward Miles, a native son of Nelson County, was a committed, devoted and selfless public servant throughout his lifetime until his passing on February 16, 2021; and,

**WHEREAS**, Mr. Miles began working at the young age of 13 at Lambert's Store in Faber, walking the railroad tracks to work each day; and,

**WHEREAS**, Mr. Miles gave tirelessly of himself as a lifetime volunteer, serving more than 45 years with the Faber Volunteer Fire Department, as well as more than 30 years of service with the Nelson County Rescue Squad; and,

**WHEREAS**, Mr. Miles served as an Officer of Elections for decades, committed to promoting democracy and ensuring fair and impartial elections; and,

**WHEREAS**, Mr. Miles served on the Board of Zoning Appeals for Nelson County for nearly 30 years;

and,

**WHEREAS**, the Nelson County Board of Supervisors seeks to honor its native son, Goffrey Edward Miles with an enduring symbol to recognize and commemorate Mr. Miles, for his distinguished and outstanding service to Nelson County.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF NELSON COUNTY, VIRGINIA;**

That said Board of Supervisors hereby respectfully requests, pursuant to §33.2-213 of the Code of Virginia, that the Commonwealth Transportation Board name the bridge structure over the Norfolk Southern Railroad on Route 6 in the Faber area of Nelson County as the “Goffrey E. Miles Memorial Bridge”.

Mr. Rutherford noted that he wasn't sure how long it would take to get the signs, but they would work to hold something at the Rescue Squad building beforehand. Mr. Rutherford thanked Mrs. Miles, noting that everyone had been blessed by having Mr. Miles in their lives.

The Board took a brief recess.

**VI. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE**

**A. Reports**

**1. County Administrator's Report**

Ms. McGarry noted that she wished to clarify a few things that Ms. Campbell mentioned in her public comments. Ms. McGarry explained that the minimum wage of \$31,200 was for all other employees not including the Sheriff's Department. She reported that the starting pay for deputies was raised to \$46,000 and noted that the Board had also agreed to freeze one local position to allow for the attraction of seasoned employees, and the potential to offer sign-on bonuses if needed. She also noted that the Board funded four SRO positions and there had been difficulty filling all of those at the same time. She noted that the Sheriff's Department was actively recruiting all deputy positions. Ms. McGarry mentioned that the School Division did have a \$250,000 security grant that they were in the process of determining how to use the funds within the School Division.

Ms. McGarry then reported the following:

- A. Covid-19 (Coronavirus):** Current VDH data for Nelson County, as of August 5, 2022, based upon a 13-week average is 6 new cases of the Covid-19 virus and a seven (7) day average of new daily cases of 4.1. To date the County has had 2,897 case of the virus and 36 deaths. Per the CDC Nelson County's community risk level is Medium. She noted it had been at the Low level. CDC guidance for this level includes: 1) If you are at high risk for severe illness, talk to your healthcare provider about whether you need to wear a mask and take other precautions, (2) Stay up to date on Covid 19 vaccines; 3) Get tested if you have symptoms.
- B. Spotted Lanternfly Quarantine Expansion:** As the Board is aware, as of July 8, 2022 VDACS has expanded the spotted lanternfly quarantine areas to include some surrounding Nelson County, such as Lynchburg City, Rockbridge County, Augusta County, and Albemarle County. Businesses in these areas must now follow quarantine requirements which includes obtaining a permit from the VA Dept. of Agriculture and Consumer Services, Office of Plant Industry Services. Staff will be monitoring this for impact to Nelson's agriculture industry. Information regarding this issue is available on the County's website and also through VA Cooperative Extension.

Ms. McGarry reiterated Ms. Monger's comment earlier that the spotted lanternfly was now in Nelson County and the Virginia Cooperative Extension would be the lead agency dealing with the matter.

- C. Potential TJPDC Grant Participation:** The TJPDC was approached by several jurisdictions in our region asking if they would be willing to serve as the lead applicant for a multi-jurisdictional Safe Streets for All (SS4A) grant through the USDOT to **facilitate the development of either a regional comprehensive transportation safety action plan OR individual local comprehensive safety action plans**. So far, all jurisdictions have indicated that they are interested. The application deadline is September 15<sup>th</sup> and they need to know if they can incorporate Nelson into a scope of work and grant application. PDC Staff is reaching out to a consultant to see if they can 'scope' the project and give them estimated costs by jurisdiction and we are waiting to hear those results. There is a 20% in-kind and/or cash match and staff time associated with the project is allowable as match. More information is anticipated to be available later in August for a decision on

participation by Nelson requested at the September 13<sup>th</sup> meeting. Ms. McGarry noted that there was up to \$1 million dollars available in the program for FY22.

- D. Comprehensive Plan:** The project website of [www.Nelson2042.com](http://www.Nelson2042.com) has been launched and the citizen survey is available for completion through August. A status report will be given as an agenda item during the meeting.
- E. Piney River Water & Sewer System (Usecco Pump Station):** Installation of a new VFD (variable frequency drive) which operates one of the pumps is pending receipt of the VFD now expected in October. Staff obtained a pump station replacement estimate for planning purposes of \$140,000 to \$150,000 for model 4C3B\*1, 25HP to pump 350 GPM @ 120' with base plate, motors, controls and piping. This estimate does not include any site work, dismantling of the current operation or potential design work which could add another \$100,000+ per Paul Truslow.
- F. Local Detention Home Costs:** Our Detention Center costs are expected to be much higher than budgeted in FY23 (\$10,000). This is primarily due to the recent detention of three juveniles with serious criminal charges in Nelson County being held for an indefinite amount of time at the Detention Center, which is historically highly unusual. This is coupled with an increase in the Detention Center's Per Diem rate for FY23 (now \$330/day). The Court Services Unit staff could not provide me with an overall estimate at this time; however, they advised that the monthly costs for these three individuals was expected to be around \$30,000. Staff is monitoring this and will report back once more is known regarding their potential detention time frames; with additional budget amendment(s) forthcoming.
- G. Larkin Property Acquisition:** Staff and the County Attorney are working with the seller and their attorneys to establish a concurrent closing date on the property acquisition and the Bond financing for the property purchase.
- H. Repair of Termite Damage:** Pricing was provided by J-L's President, William Cook of \$15,500 including a \$3,000 allowance for mechanical, electrical, and plumbing work to relocate any utilities in the work area. A second estimate was obtained from a local contractor at almost three times the cost. J-L is providing the County with a small construction agreement in order to get this work underway in October/November 2022.
- I. New Office Building:** PMA Architecture is working on the conceptual package to be shared at a meeting sometime in August with the project team including staff from Administration, Buildings and Grounds, DSS, Building Inspections, Planning and Zoning and Mr. Barton and Mr. Parr. They are wrapping up the space needs assessments for the departments and have moved forward in developing the conceptual site analysis which includes suggested locations for the new building footprint, parking surfaces, and roads required to access the site. They have been in communication with their civil engineers, and are providing them the necessary information they need to continue working through their base map & programming studies.
- J. Director of Finance and HR Position:** After the conduct of interviews, Ms. Linda Staton of the Finance and HR Department was selected to fill the Director's position effective August 1<sup>st</sup>. Ms. Staton has 24 years of local government Finance and HR experience in Nelson County and will be a tremendous asset to the County in her new capacity. Thank you to Mr. Reed and Mr. Rutherford for participating in this hiring process. The hiring process has begun to fill Ms. Staton's former position of Finance Technician II – Payroll and HR.
- K. Public Safety Dispatch Hires:** Two certified Dispatchers have been hired; August Mason started work on July 18<sup>th</sup> and Michele Alger will start on August 9<sup>th</sup>, leaving 3 vacancies to fill – a 25% vacancy rate down from 42% in early July. The starting pay adjustments made by the Board for these positions was certainly helpful in their recruitment.
- L. Renaissance Ridge Housing Development: NO NEW INFORMATION to report:** The project developers have submitted a preliminary major site plan to the County's Department of Planning and Zoning. However, the site plan is incomplete and will not be reviewed until a final, fully completed site plan is submitted which could take several months (e.g. no state approvals from VDOT, DEQ or VDH have been received). As of the first week of July, plans and a revised traffic report have been submitted to VDOT, plans and permit applications for storm water management have been submitted to DEQ, and copies of these submissions along with E&S fees were submitted to Planning and Zoning and Building Inspections. The developer also reported that Army Corp of Engineers and FEMA LOMA permitting was in progress as was Environmental Reporting. The project proposes to construct 136 units in a phased development process.
- M. Fiscal Year 22-23 Budget:** Staff has completed its work to finalize the FY23 Fund Budgets within the accounting system and has generated adopted budget reports for staff, public posting, and for

roll-over to the new fiscal year. FY23 Revenue and Expenditure reports will be available in September.

**N. Staff Reports:** Department and office reports are included within the 8-9 agenda document.

Mr. Barton asked about details on the Larkin acquisition. Mr. Rutherford noted they were closing on August 12th and the paperwork was in process.

## 2. Board Reports

### Mr. Rutherford:

Mr. Rutherford noted that they were working on the short term rental conversation regarding enforcement. He reported that he had a brief meeting scheduled with the short term rental people to include Mr. Reed and Mr. Hauschner. He noted that the short term rental people would be helping to provide information to the Commissioner of Revenue for tax collection purposes. He noted they were working a September meeting date for the larger group to include staff and the Commissioner of Revenue to get final information on how they could assist. He reported that there was a state law coming into effect soon that would require all online platforms to pay any local taxes directly to the County. He hoped this would help collect taxes from the people who weren't currently paying their share.

Mr. Reed noted that he was appreciative of Mr. Rutherford's initiative. He asked to what degree of ability they had to regulate short term rentals in a way that benefited the County and ensured that all available housing did not turn into short term rentals. He asked Ms. McGarry to talk with Planning and Zoning about options available that are allowable statewide. He noted there were other counties that had gone through the same problems with short term rentals. Mr. Rutherford noted a new ordinance put into place at Wintergreen that required owners of short term rentals to report to Wintergreen. Mr. Rutherford suggested tasking Ms. Bishop and Ms. McGarry to see how something like that would work for Nelson.

Mr. Rutherford spoke regarding the TJPDC and the Rural Housing Partnership, noting he may be discussing rural displacement causation of younger groups leaving communities and how to possibly alleviate the issue. He noted there would also be a short term rental discussion. He noted that he would remind the Board as the dates were coming up.

Mr. Rutherford reported that he had spoken to the Lovingston Fire Department regarding the Christmas Parade. He noted that the Fire Department needed some assistance from the County in alleviating some of the costs. He reminded the Board that the fire department also assisted with the closure of the streets in Lovingston for Halloween. He indicated that he had received an email from Mr. Daniel Johnson asking for \$3,000 to \$5,000 to help offset costs and fuel. He explained they were trying to get prizes for the participants. He also reported that they were planning to hold the parade on December 10th, with a rain date of December 17th. Mr. Rutherford indicated that he was supportive of getting as close to \$5,000 as possible. Mr. Barton and Mr. Reed both felt that it was a good idea. Mr. Rutherford noted it was also a good thing for Lovingston as they had just had the rebirth of the Lovingston Village Association. He noted the newly painted murals on Front Street by Ms. Patty Avalon. He indicated that several committees had been created to talk about business development and beautification. Mr. Reed thought that the proposal was great and asked that some funding go towards promotion.

Mr. Barton moved to fund \$5,000 to the Lovingston Fire Department to assist with Christmas Parade costs. Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation. Mr. Rutherford asked staff to notify Mr. Johnson of the funding and offered assistance to help with the promotion of the event.

### Mr. Parr:

Mr. Parr had no report.

### Mr. Harvey:

Mr. Harvey had no report.

### Mr. Barton:

Mr. Barton asked about the Social Services building and how far along they were in the planning. Ms. McGarry noted the architects were looking at space needs and the engineers were looking at the site footprint, road access, and placement on site. She noted they were looking at scheduling a meeting at end of month or early September.

B. Appointments

**Nelson County Service Authority**

Mr. Rutherford noted they did not have an applicant for the South District representative on the Nelson County Service Authority. Mr. Barton indicated that he may have someone interested in serving.

**Region 2000 Service Authority**

Mr. Rutherford noted that since Mr. Carter had retired, they needed to appoint Ms. McGarry as the Board member and Ms. Spivey as the Board Alternate. Mr. Parr moved to appoint Ms. McGarry as the Region 2000 Service Authority Board member and Ms. Spivey as the alternate. Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

**Clerk to the Nelson County Board of Supervisors**

Mr. Rutherford indicated that they needed to now appoint Ms. McGarry as Clerk to the Board since Mr. Carter had officially retired. Mr. Harvey moved to appoint Ms. McGarry as Clerk to the Board and Mr. Parr seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

**Nelson County Library Advisory Committee**

Mr. Rutherford noted they still had a vacancy on the committee. Ms. Spivey indicated that they had gotten one phone call about the vacancy but no applications had been received. She noted that they planned to re-advertise the position.

C. Correspondence

The Board had no correspondence to discuss.

D. Directives

Mr. Barton asking if anything they to help Heritage Center with last legal hurdles before they could sign an agreement with the Health Department. McGarry noted that subject would be discussed under legal advice during closed session.

Mr. Barton noted that the Board needed to start talking about the kind of recreation facility they wanted to have once the property purchase was complete. Mr. Rutherford suggested holding a special meeting to specifically discuss the subject once they got past August 12<sup>th</sup>. He noted he could then work with Ms. McGarry to get a special meeting scheduled. Mr. Barton was in agreement. Mr. Harvey suggested that the full Board meeting and then a couple of Board members could work on it.

Mr. Parr noted that while the Board did not have any input on how the School Division would allocate the \$250,000 security grant, he did think it would be good to have a conversation with the Schools to see where their thoughts were on how the money would be spent. Mr. Parr noted that in the past, the School Board had concerns about installing metal detectors and the congestion problems they may create with students getting off of buses and entering the building, but that was years ago and things were changing. Mr. Parr reminded everyone that school was back in session the next day and reminded everyone to be on the lookout for school buses and increased traffic. He pointed out that with changing to one bus route, the traffic at Tye River would especially be busy and there was no help available from Sheriff's Department to help with that traffic. Mr. Harvey felt that the State Police could assist.

Ms. McGarry noted that she had a conversation with Dr. Hester about school safety. Ms. McGarry stated that Dr. Hester was in the process of having conversations with the Sheriff's Department about the use of metal detectors. Mr. Rutherford confirmed with Ms. McGarry that there were four funded SRO positions and asked if there had been any interviews. Ms. McGarry indicated that they were Sheriff's Department employees and the County did not know about them until they were hired. She noted that the Sheriff's Department was recruiting and it was a lengthy process. Mr. Parr noted that the lateral transfer option with the State Police had the potential to take officers away. Mr. Rutherford asked if an SRO had to be a certified road deputy. Ms. McGarry noted that she was unsure of the certifications needed to be in the SRO position.

**VII. CLOSED SESSION PURSUANT TO §2.2-3711 (A)(1) & (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)(1) – “Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body;” – Personnel

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

(A)(8) - "Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter."

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

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

Upon reconvening in public session, Mr. Reed moved 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 were 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 (5-0) by roll call vote to approve the motion.

**Announcement**

Mr. Rutherford announced that the Board accepted the resignation of Mr. Charles Miller from his role as Building Code Official.

**VIII. ADJOURN AND CONTINUE - EVENING SESSION AT 7PM**

At 4:31 p.m., Mr. Reed made a motion to adjourn and reconvene at 7:00 p.m. for the evening session. Mr. Parr seconded the motion. There being no further discussion, Supervisors voted by acclamation to approve the motion and the meeting adjourned.

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

**I. CALL TO ORDER**

Mr. Rutherford called the meeting to order a 7:00 p.m. with five (5) Supervisors present to establish a quorum.

**II. PUBLIC COMMENTS**

*Mark Franklin - Roseland, VA*

Mr. Franklin noted that the Board not considering increasing the transient occupancy tax (TOT) was lost revenue to the County. He explained that the additional revenue could provide more funding for departments and programs as well as raises to support staff. He pointed out that the funds would come from the tourist economy that the Supervisors created. He noted that it was a tax passed on to the visitors and would not cost the residents a dime. He pointed out that there were only five individuals present to speak against the tax increase and he strongly believed that it would just be passed on to the visitors. Mr. Franklin noted that Mr. Parr had given a good example of why it would not affect the residents, but then voted against the opportunity to create \$2 million in revenue for residents.

*Thomas Bruguiera - Roseland, VA*

Mr. Bruguiera reported that a new security system had been installed at Monticello High School that detects shapes not metals. He thought it would be great to put in at the schools. He noted that it would still need to be monitored but children could move right through the machine without it picking up belts and things like a regular metal detector. He reported they were only \$18,000 each but there should be some grant money to help with it. He explained that the system was on wheels could be moved for use at sporting events. He thought it was something that the Board should consider and noted that he could provide the information if necessary.

### **III. PUBLIC HEARINGS**

#### **A. Proposed Zoning Ordinance Amendment (Ordinance O2022-02)**

Consideration of Zoning Ordinance Amendments to amend current definition of “Kennel.” Remove from by-right use in A-1 (Agriculture) and SE-1 (Service Enterprise), add as Special Use Permit (SUP) in A-1 (Agriculture) and SE-1 (Service Enterprise). Keep as by-right use in M-2 (Industrial). Add as by-right use in B-1 (Business). Existing kennels, and kennels as a secondary use in conjunction with a dwelling (home occupation) remain permitted by-right.

Ms. Hjulstrum reported to the Board that this was the same information that had been brought before them during the last meeting and was the presented to the Planning Commission. She noted that the Planning Commission recommended option 3 for the Kennel ordinance amendment.

Ms. Hjulstrum presented the following report:

The Planning & Zoning Department has received two separate inquiries regarding permitting for a commercial kennel and a service dog facility as the primary use of property. Both propose to locate along Route 151. To facilitate and process these proposals, staff and Planning Commission recommend an update to the current definition for “Kennel,” and its use classification in A-1, SE-1, and B-1 zoning districts.

#### **CURRENT:**

*“Kennel:* A place prepared to house, board, breed, handle, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation.”

Currently a by-right use in the A-1 (Agriculture), SE-1 (Service Enterprise), and M-2 (Heavy Industrial); indoor kennel in connection with a veterinary hospital is by-right in B-2 (Light Business).

Not a Special Use Permit in any other district.

#### **PROPOSED AMENDMENT:**

She noted that Option 3 would amend the current definition of “*Kennel.*”

*“Kennel:* A place where the primary use is to house board, breed, handle, groom, train, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation. Kennels may include associated facilities necessary to support the operation including but not limited to office space, meeting space, and temporary lodging accommodations exclusive to those clients training with the animals.”

Remove from by-right use in A-1 (Agriculture) and SE-1 (Service Enterprise), add as Special Use Permit (SUP) in A-1 (Agriculture) and SE-1 (Service Enterprise). Keep as by-right use in M-2 (Industrial). Add as by-right use in B-1 (Business).

Existing kennels, and kennels as a secondary use in conjunction with a dwelling (home occupation) remain permitted by-right.

At their meeting on July 27, 2022, the Planning Commission voted to recommend approval of the proposed ordinance update.

Mr. Rutherford asked for clarification regarding home occupation. Ms. Hjulstrum noted that a home occupation kennel would not be able to be accessory to a business, but it would be able to be an accessory use to a dwelling where someone was living. She further noted that a kennel secondary to a home was a home occupation, while something where a kennel was stand alone, was more of a commercial situation. Mr. Rutherford clarified that this was directed at places where no one was residing on the property with the kennel, and driving there every day for work, but if it was a home occupation, it would not be affected. Ms. Hjulstrum noted that it was a little more than that, noting that home occupations were a little wiggly, but if it was a large commercial facility, it would obviously not be a home occupation. She pointed out that a home occupation was like someone who bred hunting dogs. Mr. Rutherford asked how a commercial kennel was defined. Ms. Hjulstrum explained that there was no firm difference. She explained that the main thing was whether it could be considered accessory to the family dwelling. Mr. Reed noted that in the report, the Planning Commission voted to recommend approval of the proposed ordinance update. He asked what the vote was. Ms. Hjulstrum indicated that the Planning Commission unanimously recommended approval.

Mr. Rutherford opened the public hearing:

*Thomas Bruguere - Roseland, VA*

Mr. Bruguere expressed his opposition to changing the by-right use in agriculture. He noted that this was a prime example of agricultural use. He noted that dogs were a business just like cattle, sheep, pigs and chickens. He asked what was next, would he have to have a special use permit to put a chicken coop in. He asked where it would stop, noting they were talking about having a large facility like the one in Cumberland County that housed 4,000 dogs. He felt it should remain by-right in agriculture, noting he was not concerned with Service Enterprise or Business. He felt they should do away with Service Enterprise.

*Amy Swope - Blue Ridge Canine Safehouse*

Ms. Swope stated that she had some questions and concerns. She noted main concern of definitions. She felt that the term Commercial kennel could be very broad. She noted that her kennel building was larger than her home and her kennel generated the money to allow her to live in her house. She indicated that her kennel could possibly be considered commercial. She noted that she wanted more clarification on commercial kennel. She asked if living off of the premises would make it a commercial kennel. She noted that her current setup was like a dog sanctuary – training – rehab facility. Ms. Swope noted that at some point, she may not always want to live on the property with the dogs and may want to hire an in-home manager. She asked if that would then make it a commercial kennel. She noted that she was all about regulations that kept people and animals safe. She noted that neighbors may be concerned about the noise. She asked if there could be limits attached to the number of dogs for commercial use in by-right areas.

*Denise Merricks - Piney River, VA*

Ms. Merricks introduced herself as the owner/operator of Camp Merricks Boarding and Daycare Training Facility in Piney River. She explained they were currently zoned agricultural and she was operating her kennel out of her home. She noted that they had anywhere from 30 to 50 dogs at a time. She noted that while they would be grandfathered in, what kind of impacts would there be if they wanted to do more later. She noted that they had considered adding an indoor daycare on the property and potentially placing it on the added parcel in front of their property. She stated that they seemed to have provided a valued service in the community and they wanted to be able to continue to do that.

*Peggy Law - Service Dogs of Virginia, Charlottesville, VA*

Ms. Law stated that the ordinance made sense. She noted that whether or not a business then gets the special use permit was a separate issue. She indicated that would be a time when people's objections could be heard. She felt that the current action was to pass the recommendation as written.

There being no others wishing to speak, Mr. Rutherford closed the public hearing.

Mr. Rutherford asked Ms. Hjulstrum to address the concerns mentioned. Ms. Hjulstrum explained that the real distinction between a home occupation and a commercial business was whether or not it could fit the definition of a home occupation. She noted it was somewhat subjective but that was how it was with all home occupations. She cited the definition of a home occupation, class B per the County code as "An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than four (4) persons are employed, other than members of the family residing on the premises, such as the tailoring of garments, the preparation of food products for sale,

and similar activities, beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.”

She noted that any existing kennels would be grandfathered in, but any kennel wanting to expand may need to do a site plan and that could trigger the need for a special use permit, depending on whether or not it could be considered a home occupation. She pointed out that a special use permit did not mean you couldn't do something, it just meant that the application would come before the Planning Commission and the Board. She noted each application would be reviewed by the Planning Commission and the Board of Supervisors on case by case basis.

Mr. Rutherford noted he was thinking about the businesses that had come forward, and that it was critical that they be able to continue what they are doing. He asked at what point was the definition of home occupation no longer subjective. Ms. Hjulstrum noted that some of the considerations for home occupations are traffic impacts, the number of employees, what may be needed on the premises, if there may be an addition of new buildings. She stated that if someone was constructing a building for a home occupation, it made Planning and Zoning look at it more closely to try and determine whether it was accessory or not in nature. She noted that was a determination, there was not something where she could lay out that set a limit that once you get to 50 dogs, something happens. She noted that was something they could consider adding into the ordinance. Mr. Rutherford thought that could be reasonable to consider.

Mr. Parr asked what triggered this change. Ms. Hjulstrum noted they had been approached with two different inquiries for kennels in the past year that may contain things like a training facility or boarding for the owners when they come in to do service dog training with the dogs. She noted that the goal was to broaden the definition of a kennel people with facilities like that would be able to apply. She noted that without the change, they would have to apply for several different special use permits separately. She pointed out that by making the definition so broad, they didn't want it to be a by-right use in A-1. She explained that was how they ended up with option three for consideration. Mr. Rutherford noted that Service Dogs of Virginia currently had no way to be in Nelson. Ms. Hjulstrum noted that was the very same reason for the solar ordinance as they previously had no way to take applications for solar farms.

Mr. Barton noted the purpose was not an encumbrance. Ms. Hjulstrum noted it was to allow more people to apply for a special use permit so that every new kennel would be looked at. She noted that there weren't that many new kennels coming into the County. Mr. Barton asked if there was anything M. Hjulstrum could add to assure that there would not be further encumbrances. Ms. Hjulstrum noted there would not be further encumbrances, but there was a chance that they would not get the special use permit. She explained that at that point, it would be up to the Board determine whether a proposed kennel was appropriate for a particular area. She noted that it was like a public garage in A-1, there were some locations in A-1 where it would be fine, but not all of them. Mr. Reed and Ms. Hjulstrum both noted that having a special use permit would allow for the public to participate in a public hearing for something in their neighborhood.

Mr. Rutherford noted the only reason to consider the amendment would be to allow groups to have an opportunity to come to Nelson that don't currently have a mechanism to do so currently. He noted that this would allow them to apply for a special use permit and the Board would have to vote on it. Mr. Rutherford noted that he wasn't worried as long as it didn't impact those already in existence. He stated that if they found out later that it did impact those already in existence, then they would quickly amend the ordinance. Ms. Hjulstrum noted it would not impact those already in existence unless they wanted to expand. Mr. Reed noted that if someone applied for a special use permit, the Board could put a condition on the special use permit that limited the number of dogs. She reminded the Board that every place was different and the definition would be much broader and allow them to look at each facility to evaluate if they are appropriate for the proposed location.

Mr. Rutherford asked the Board for input.

Mr. Barton noted that he thought this would be something that would enable. He saw that as a positive thing. Mr. Reed indicated that he had no objections.

Mr. Harvey felt that there were supposed to be some by-right options as property owners. Mr. Rutherford noted that some of the groups did not currently have a right to do any of the things they had discussed. Mr. Harvey noted concerns for hunting dogs. Mr. Rutherford explained that they were exempt as home occupations. Mr. Rutherford reminded the Board that if adopting the ordinance had a negative impact on those that already exist, it would quickly be amended.

Mr. Parr supported the idea that had brought the change about, citing the training of service dogs. He noted that it gave him heartburn making a change for someone to come in, at the expense of those already in Nelson. He understood making the change but was not happy about taking it away as a by-right use in A-1.

Mr. Rutherford noted that they could amend the proposed ordinance to a degree, but he didn't know what that would look like. Ms. Hjulstrum noted that there had been three options initially presented and option three was the one that was chosen. She noted that one option had separate definitions, but felt there was a reason for going with option three.

Mr. Reed felt the arguments made about having the use by-right in A-1 were also immediately applicable to a special use permit that would be applied for in A-1. He noted that this would allow for another step and public review, and recommendation by a Planning Commission.

Mr. Reed made a motion to adopt **Ordinance O2022-02**. Mr. Barton seconded the motion. Mr. Barton noted that he did not see any impacts to the concerns mentioned by Mr. Harvey. He stated that this was for people to be able to stay at the place where their dog was being trained. Mr. Rutherford that hunting dogs and their kennels were by-right. Mr. Barton reiterated that the ordinance was to allow people who are learning to use their service dogs to stay on site, and nothing else. Mr. Parr asked why the ordinance was written to remove by-right use from the Ag district if that was all it was for. He noted he had no issues with the proposal for the training facility, but did not agree with removing it from by-right use in A-1. Mr. Rutherford asked if they could keep the definition as proposed and not remove the by-right use from A-1. Ms. Hjulstrum indicated that they could. She explained that they had originally started with adding another definition to the code and keeping the original kennel definition. She noted the new definition was proposed to be by special use permit.

Ms. Hjulstrum then reviewed options 1 and 2 which were not up for consideration with the proposed ordinance presented. She explained that proposed option 1 was to update the definition of kennel to align with the state code which would mean "any establishment in which five (5) or more canines, felines or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling or showing" and keep it by-right in A-1 and SE-1 and then add it as by-right in B-1. She then explained that option 2 introduced a new use as "assistance dog facility" with a special use permit. She noted that the options provided to the Board in June were Options 1 and 2, Option 3, or Request Planning Commission recommendation. Mr. Rutherford noted that the Board could send it back to the Planning Commission again.

Ms. Hjulstrum noted that kennels weren't very common, while hunting dog kennels as a home occupation was common. She explained that stand alone kennels weren't common and would not likely provide that many additional special use permit applications. She reminded the Board that they weren't talking about hunting dogs or home occupations. She noted they were talking about commercial use. Mr. Rutherford stated that he did not see the ordinance impacting those currently in operation. He noted this was a mechanism to allow the other groups to come in. He noted if it did become an issue, they would change it.

Mr. Harvey wanted to re-advertise the ordinance so hunters knew what was coming. Mr. Rutherford noted that the hunters were held harmless in the situation. Mr. Barton stated that this would not inhibit the hunters. Mr. Rutherford and Ms. Hjulstrum confirmed that it would not affect dog hunters. Mr. Rutherford and Mr. Barton both stated that if it did affect dog hunters, they would change it.

Mr. Rutherford called the question. There being no further discussion, Supervisors voted (3-2) by roll call vote to approve the motion, with Mr. Harvey and Mr. Parr voting no, and the following ordinance was approved:

**ORDINANCE O2022-02  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA  
APPENDIX A, ZONING ORDINANCE**

**BE IT HEREBY ORDAINED**, by the Nelson County Board of Supervisors that the Code of Nelson County, Virginia Appendix A, Zoning is hereby amended as follows:

*Amend*

**Article 2. – Definitions**

~~Kennel: A place prepared to house, board, breed, handle, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation.~~ *A place where the primary use is to house board, breed, handle, groom, train, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation. Kennels may include associated facilities necessary to support the operation including but not limited to office space, meeting space, and temporary lodging accommodations exclusive to those clients training with the animals.*

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

4-1 Uses – Permitted by right.

*Remove*

~~4-1-9 Kennels.~~

Article 4-1-a Uses – Permitted by Special Use Permit only.

*Add*

*4-1-46a Kennels.*

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

8B-1 Uses – Permitted by right.

*Remove*

~~8B-1-6 Kennels~~

8B-1-a Uses Permitted by Special Use Permit only.

*Add*

*8B-1-10a Kennels.*

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

8-1 Uses – Permitted by right.

*Add*

*8-1-32 Kennels.*

**BE IT FURTHER ORDAINED**, that this ordinance becomes effective upon adoption.

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

The Board had no other business to discuss.

**V. ADJOURNMENT**

At 7:46 p.m., Mr. Barton made a motion 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.