

**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  
Thomas D. Harvey, North District Supervisor  
Ernie Q. Reed, Central District Supervisor  
Robert G. “Skip” Barton, South 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  
John Adkins, Emergency Services Coordinator

Absent: J. David Parr, West District Supervisor – Vice Chair

**I. CALL TO ORDER**

Mr. Rutherford called the regular meeting to order at 2:05 p.m. with three (3) Supervisors present to establish a quorum and Mr. Harvey arrived shortly after. Mr. Parr was absent.

- 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 commented that she was present to speak on a new law regarding livestock management in Nelson County. She noted understood that there had been problems with animals getting out of their confines and causing harm, but there had been no procedure for restitution. She agreed that there was a need for a law, but asked that the Board carefully choose the language in the law so that it punished the willfully negligent or habitual offenders, rather than law abiding livestock owners. She pointed out that a misdemeanor charge could bring expense upon the average livestock owners. She reiterated her request that the Board carefully choose language that would still support the responsible livestock owners and punish the habitual offenders.

*William Percy, Lovingston, VA*

Mr. Percy thanked the Board for their time and service. He commented that he had attended a recent Electoral Board meeting and found that there was a proposition for additional personnel in the Registrar's office. He was unsure whether the request was coming into consideration for the budget. He noted that he was advocating in favor of the new position, noting the additional workload that had been placed on the Registrar due to the pandemic. He felt that the Registrar would not have requested the position if it was not necessary. He commented that Nelson County might suggest to the State to have some sort of quotient to measure what the cost of a vote was per precinct. He noted it could possibly determine a number to compare Nelson County to rest of localities in the state. He asked if the VDOT representative might be able to explain to the public how traffic options were simulated for intersections. He asked the Board to consider options in improve screen visibility for the YouTube stream. He also asked if the Board would make sure to speak into their microphones so that they could be better heard.

Mr. Harvey arrived and joined the meeting.

There were no other persons wishing to speak under public comments.

**III. CONSENT AGENDA**

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

- A. Resolution – **R2023-18** Minutes for Approval

April 11, 2023

**RESOLUTION R2023-18  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MINUTES  
(December 13, 2022)**

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

B. Resolution – **R2023-19** Budget Amendment

**RESOLUTION R2023-19  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2022-2023 BUDGET  
April 11, 2023**

<b>I. Appropriation of Funds (General Fund)</b>			
	<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$	347.36	3-100-002404-0002	4-100-032020-5650
\$	<u>347.36</u>		
<b>II. Appropriation of Funds (Piney River Fund)</b>			
	<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$	18,802.68	3-501-001608-0003	4-501-042040-3004
\$	38,992.50	3-501-004105-0001	4-501-042040-8004
\$	<u>57,795.18</u>		
<b>III. Transfer of Funds (General Fund Recurring Contingency)</b>			
	<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$	23,000.00	4-100-999000-9901	4-100-013010-1010
\$	176.00	4-100-999000-9901	4-100-013010-2001
\$	500.00	4-100-999000-9901	4-100-013010-5201
\$	3,600.00	4-100-999000-9901	4-100-013010-5401
\$	4,900.00	4-100-999000-9901	4-100-013010-5413
\$	1,450.00	4-100-999000-9901	4-100-013010-5501
\$	200.00	4-100-999000-9901	4-100-013020-5401
\$	36,000.00	4-100-999000-9901	4-100-091050-7074
\$	38,992.50	4-100-999000-9901	4-100-093100-9207
\$	<u>108,818.50</u>		

C. Resolution – **R2023-20** Authorization for Public Hearing on FY24 Budget

**RESOLUTION R2023-20  
NELSON COUNTY BOARD OF SUPERVISORS  
AUTHORIZATION FOR PUBLIC HEARING ON FY24 BUDGET**

**BE IT RESOLVED**, by the Nelson County Board of Supervisors, that pursuant to §15.2-2503, and §15.2-2506 of the Code of Virginia 1950 as amended that a public hearing on the FY24 Budget is hereby authorized to be held on Tuesday, May 9, 2023 at 7:00 PM in the General District Courtroom of the Courthouse in Lovingson, Virginia.

D. Resolution – **R2023-21** Establishment of 2023 Tax Rates

**RESOLUTION R2023-21  
NELSON COUNTY BOARD OF SUPERVISORS  
ESTABLISHMENT OF 2023 TAX RATES**

**RESOLVED**, by the Nelson County Board of Supervisors, pursuant to and in accordance with Section 58.1-3001 of the Code of Virginia, 1950, that the tax rate of levy applicable to all property subject to local taxation, inclusive of public service corporation property, shall remain effective until otherwise re-established by said Board of Supervisors and is levied per \$100 of assessed value as follows:

Real Property Tax	\$0.65
Tangible Personal Property	\$2.79
Machinery & Tools Tax	\$1.25
Mobile Home Tax	\$0.65

**IV. NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK (R2023-22)**

Mr. John Adkins, Emergency Services Coordinator was present and he thanked the Board for the invitation to attend. Mr. Adkins introduced Senior Telecommunications Officer, Raven Rose. He noted that Ms. Rose was also a TAC and the dispatch center’s QA lead. Mr. Adkins then introduced Amy Justus who was also a TAC and Senior Telecommunications Officer. He then introduced Lacey Vance, noting she had recently returned to the center. Mr. Adkins thanked the Board for honoring the work that his department did, 24 hours a day, seven days a week, helping to keep the public safe and answering those calls when help is needed. Mr. Rutherford thanked the telecommunicators for their service, noting that they were the unsung, unseen heroes.

Mr. Reed read **Resolution R2023-22** and moved to approve it as presented. Mr. Barton seconded the motion, and there being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-22**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK**  
**April 9-15, 2023**

**WHEREAS**, emergencies can occur at any time that require law enforcement, fire or emergency medical services; and

**WHEREAS**, when an emergency occurs the prompt response of law enforcement, firefighters and paramedics is critical to the protection of life and preservation of property; and,

**WHEREAS**, the safety of our first responders is dependent upon the quality and accuracy of information obtained from citizens who telephone into the Nelson County Emergency Communications Center; and

**WHEREAS**, Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and

**WHEREAS**, Public Safety Telecommunicators are the single vital link for our deputies and firefighters by monitoring their activities by radio, providing them information and insuring their safety; and

**WHEREAS**, each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year;

**NOW THEREFORE BE IT RESOLVED**, that the Nelson County Board of Supervisors declares the week of April 9-15, 2023 as National Public Safety Telecommunicators Week in Nelson County, in honor of the men and women whose diligence and professionalism keep our county and citizens safe.

**V. PRESENTATIONS**  
A. VDOT Report

Mr. Robert Brown of VDOT was present. Mr. Rutherford noted that they needed to remove Dutch Creek (Route 641) from the Rural Rustic List. He reported that the residents of Dutch Creek did not want it on the list.

Mr. Brown reported that the structure replacement on Route 623 off Route 151 had been completed and the roadway was open. He noted that Route 654 (Cedar Creek Road) was currently closed to thru traffic due to the Rural Rustic project underway. He explained that they were installing a new drainage structure which would take a few weeks to complete. He noted that upon completion of the structure, the road would reopen and they would begin working on the Rural Rustic Project, which was their first project of the year. He indicated that the completion of Cedar Creek's Rural Rustic Project would complete the paving of the entire road. Mr. Brown noted Mr. Barton's request from the last Board meeting and reported that VDOT was looking at additional, more effective warnings for the restricted underpass on Tye River Road. He noted that they were considering some sort of overhead warning system prior to the structure. He pointed out that it would be an expensive option, but noted the engineers would provide a recommendation on the best option. Mr. Brown also noted they were evaluating the intersection of Route 56 and 29, as there had been some recent accidents there.

Mr. Brown reported that VDOT's maintenance forces had been doing a lot of brush cutting, ditch cleaning and maintenance basics. He explained that they had a lot of metrics in maintenance that were becoming a factor in their business decisions and money. He noted that was a good thing as it would hopefully allow them to qualify for more maintenance dollars. Mr. Brown noted they would also be working on the Lovingson entry signs.

Supervisors then discussed the following VDOT issues:

Mr. Barton:

Mr. Barton commented that the residents of Cedar Creek Road were very happy.

Mr. Harvey:

Mr. Harvey had no VDOT issues to discuss.

Mr. Reed:

Mr. Reed noted that the 151 Corridor Study Meeting hosted by VDOT would take place on April 18th at RVCC from 4 to 6 p.m. He noted his appreciation for that meeting. Mr. Reed also thanked Mr. Brown for his office being so responsive to one of his constituents along Adial Road who had a few blocked culvert pipes. Mr. Reed noted that his constituent was so appreciative of the assistance when she called to report the issue, noting that VDOT was planning to take care of the problem the following day. Mr. Brown indicated that he would pass along the appreciation to Headquarters.

Mr. Rutherford:

Mr. Rutherford noted there would be continued discussions with VDOT on the entries into Lovingson and making them more attractive and welcoming.

Mr. Rutherford asked if changes could be made to the proposed Rural Rustic List and whether they could be made at the next meeting. Mr. Brown noted that the list was put together based on feedback from the Board, as well as some of the road needs seen by VDOT. He noted that the Board decided on the list by priority and it could be changed however they wanted.

**B. Secondary Six Year Plan Work Session (R2023-23)**

Mr. Brown reported that he had a draft of the Six Year Plan. He noted that they were not able to do a lot of programming in the plan because they did not yet have priority placed on the roads. He reported that Cedar Creek Road was going to be completed in the current year. He then noted that in the previous year, projects were completed on Wilson Road, Campbell's Mountain Road, and North Fork Road. He noted that the projects on Jack's Hill, Cedar Creek Road, Ball Mountain, Honey Suckle Lane and Cow Hollow should be completed this year.

Mr. Brown noted that the County would be receiving an allocation of \$628,098 in FY24 for designated Unpaved Road funding. He noted the allocation would increase to \$671,748 in FY25, but in the third year of the plan(FY26), the dollar amount dropped considerably, down to \$454,996. He noted the amount remained pretty close to the same for the rest of the plan. He explained that the decrease was not bad news. He noted that when the unpaved mileage was recalculated for a County, that determined how much funding was allocated. He indicated that the Board and VDOT had been proactive in building the roads, so there were fewer unpaved roads in Nelson County. Mr. Rutherford asked if Mr. Brown would be able to send a complete list. Mr. Brown noted he did not have a complete list, but he would send what he had. He

commented that they had about 90 miles of unpaved roads in Nelson County a few years earlier. He guessed there were about 40 miles or so remaining. Mr. Barton commented that when he moved to Nelson in 1980, half of the roads were unpaved. Mr. Brown noted he would look into the current unpaved road miles and get back to the Board.

Mr. Brown reported that they needed to finish the plan and asked that the Board prioritize the some of the roads on the list so they could program a few more years into the Six Year Plan. Mr. Brown reviewed the list that needed to be prioritized.

Hunting Lodge – He noted if that section was paved, it would pave Hunting Lodge down to Aerial Drive, which had been hard surfaced a few years ago.

Jenny’s Creek – Mr. Brown noted that was a cut-thru road off of 151 to 56 and was an important road.

Buffalo Station – He reported that it was a fairly long unpaved road with a lot of steep hills and grades. He indicated that it would be good to get the road paved as it would help decrease the maintenance costs.

Fork Mtn – Mr. Brown reported that the traffic count was high and noted that road had been provided by the Board as a request for paving by a citizen.

Berry Hill Road – Mr. Brown commented that there had a lot of development occurring along Berry Hill in recent years. He suggested that it would be a good road to prioritize high.

Wheelers Cove – Mr. Brown reported that the road had recently come up. He indicated that the road was long (about 4 to 6 miles), and they had received a request through the Board to do a section. He noted that completing 1.5 miles of Wheelers Cove would take care where most of the homes were located. Mr. Rutherford commented that it was done like that on purpose to not go any further than that section.

Mr. Brown commented that they had taken Dutch Creek off of the list.

Walk Around Lane – Mr. Brown noted that was the last section of unpaved road in Rhue Hollow.

Greenfield Drive – Mr. Brown reported that what was on the list to complete would tie the completed sections all together.

Gulleysville – Mr. Brown explained that there had been some serious drainage issues previously that required replacement of a culvert. He noted that VDOT wanted to pave a section of Gulleysville as the final step in completing that replacement. He explained that there had been a lot of water runoff in the area where the drainage issues were occurring and a lot of silt and gravel were being washed onto a citizen’s property. He indicated that was the main reason the section of road had been suggested for hard surfacing. He noted there was not much going on past that point, so they did not necessarily need to do it all. He noted they could do anything that the Board wanted to do. Mr. Brown understood that some people may not want the road paved. Mr. Reed noted he had a few opinions from people but that was a few years ago, so he needed to reach back out to those people to see how things were going. Mr. Reed asked about culvert and erosion work recently. Mr. Brown explained that they had replaced the culvert and done some ditch work as well, but the steepness of the grade caused the gravel to wash into the property owner’s yard during a flooding event. He reiterated that they did not need to complete the whole road, but that section was there due to the maintenance and to protect the citizen’s property. Mr. Reed asked if Mr. Brown could send him the citizen’s contact information so that he may reach out. Mr. Brown agreed to do so.

Mr. Rutherford asked about considering Eagle Mountain Drive (Route 648), noting issues in inclement weather and road width issues. He explained that it was a cut-thru road from Brownings Cove over to 56. He noted that he thought it had a pretty high traffic count as it was a quicker option to get to the top of the mountain for 56. He noted that it broke off of Brownings Cove and connected off of Coon Hollow Lane. Mr. Rutherford thought that Mr. Barton represented one side of the road; while he represented the other. Mr. Rutherford asked Mr. Brown to look into Eagle Mountain and asked if it could be put on the list in place of Dutch Creek.

Mr. Brown asked for the Board to place some priority on how the list would be set for the public hearing. Mr. Rutherford suggested grouping the roads on the list based on their proximity to one another. The Board put the roads in the following priority:

- 1 Hunting Lodge Road
- 2 Jenny’s Creek Road
- 3 Buffalo Station
- 4 Fork Mtn

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5 Gulleysville Lane  
6 Berry Hill Road  
7 Wheelers Cove Road  
8 Walk Around Lane  
9 Green Field Drive

Mr. Brown asked if Eagle Mountain would possibly be moved up the list if it had a high traffic count. Mr. Rutherford thought it would. He suggested putting it on the list and they could move it around at the public hearing if needed. Mr. Brown noted that he would email the traffic count to the Board. Mr. Reed noted he would reach out to the property owner on Gulleysville before the public hearing.

Mr. Harvey asked about unpaved roads in North District. Mr. Rutherford noted that Mr. Brown would be sending the full list of unpaved roads left and he could review and make any suggestions or additions.

Mr. Reed made a motion to approve **Resolution R2023-23** with the Rural Rustic Priority List as amended. Mr. Barton seconded the motion. There being no further discussion, Supervisors unanimously approved the motion (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-23**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION FOR PUBLIC HEARING**  
**FY24-FY29 SECONDARY SIX-YEAR ROAD PLAN**  
**AND CONSTRUCTION PRIORITY LIST**

**WHEREAS**, The Virginia Department of Transportation and the Board of Supervisors of Nelson County, in accordance with Sections 33.2-331 and 33.2-332 of the Code of Virginia, are required to conduct a public hearing to receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2024 through 2029 in Nelson County and on the Secondary System Construction Budget for Fiscal Year 2024,

**NOW THEREFORE BE IT RESOLVED**, that a public hearing will be held for this purpose in the General District Courtroom of the Nelson County Courthouse, 84 Courthouse Square, Lovingston, Virginia at 7:00 pm on Tuesday, May 9, 2023.

C. Opioid Abatement Authority Funds Application - Region Ten (**R2023-24**)

Ms. McGarry noted to the Board that the State Opioid Abatement Authority had funds available for competitive grant applications. She commented that as she had previously reported, the County had been talking to Region Ten about the multi-jurisdictional application. She reported that the application period would close on May 5<sup>th</sup>, and noted the Region Ten was present to discuss the application and provide a presentation. She noted that they would then ask the Board to consider adoption of Resolution R2023-24 to authorize the County's participation in the multi-jurisdictional application.

Ms. Shannon Wright, Senior Director of Developmental Disability and Rural Services for Region Ten was present to discuss the Opioid Abatement Authority Funding and Regional Proposal. She provided a history of the three waves of opioid epidemic, which began in the 1990's with the natural synthetic opioids and methadone being prescribed, and resulted in an increase in opioid related deaths with the prescribing of the new opioid OxyContin. She then explained that the rise in heroin deaths began in 2010, due to the heroin market expanding to attract users who were addicted to pain medication. She noted that in 2013, the rise of synthetic opioid deaths was significant, particularly with fentanyl. Ms. Wright reported that from 2019 to 2020, opioid related deaths increased by 38 percent. She then noted that prescription opioid deaths rose by 17 percent and synthetic opioid related deaths increased by 56 percent. She commented that pharmaceutical companies held some responsibility for the opioid epidemic because they were overprescribed for many reasons without any safety mechanisms in place. She noted that manufacturers failed to warn about the risks of addiction in their promotion of the products or on the packaging. She commented that OxyContin was fraudulently described as less addictive than the older opioids.

She reported that in 2016 to 2017, a collection of cases from the Appalachia region grew to over 3,000 cases in both state and federal courts. She noted that in 2017, the cases were combined into a multi-district litigation. She explained that the litigation was initiated against both the prescription opioid manufacturers and all the organizations in the supply/distribution chain. She reported that after three years a settlement was reached and in Virginia, only the state and its direct subdivisions (cities and counties) were able to directly participate in the settlement. She further noted that only organizations that are parties to the settlement could receive distributions and grants. She explained that cities and counties and state agencies could partner with various organizations to provide services, but they had to adhere to procurement laws and oversee the work. Ms. Wright reported that in Virginia, the Opioid Abatement Authority (OAA) was

developed as an independent body to abate and remediate the opioid epidemic in the Commonwealth through financial support from the fund, in the form of grants, donations, and assistance to treat, prevent and reduce opioid use disorder and misuse of opioids in the Commonwealth. She explained that compensation occurred through an application process. She noted that fund distributions would continue through 2038.

Ms. Wright reviewed opioid data specific to Nelson. She showed Nelson's EMS call for opioid related incidents from 2018 to February 2023. She reported that the calls grew to 175 by FY22, which was the highest rate in five years. She noted that the FY23 data was incomplete as it only went through February. She reviewed the Emergency Department Visits related to overdoses. She reported that for Nelson County, the rate of overdose for all drugs was the highest in the region in 2022 and exceeded the numbers across Virginia. She reported that the rate for opioid overdoses followed the same trend as the highest in the region and the highest in the state numbers. She then noted that for opioid related deaths, Nelson County was the lowest. She indicated that was good news about the efforts in the County already in place to address opioid deaths.

Ms. Wright reported that Region Ten served 598 Nelson County citizens in FY22 (406 adults and 192 children). She noted that number represented 7 percent of the total number that Region Ten served across their entire area. She reported that in Nelson County 55 percent of all adults served had a substance use disorder in their diagnosis, along with 6 percent of children who had a substance use disorder in their diagnosis. Ms. Wright reported that 88 percent of people who received outpatient counseling in FY22 reported that they were satisfied, or very satisfied, with their service from Region Ten. She commented that 96 percent of individuals who received case management from the Nelson Counseling Center, reported positive change or no change in their employment status. She noted that 87 percent of individuals who received substance use treatment reported no arrests in FY22.

Ms. Wright reported that Region Ten provided emergency response to anyone experiencing a psychiatric emergency, who made need inpatient psychiatric hospitalization. She indicated that Region Ten averages 9 emergency evaluations in Nelson County per month (with a low of 3 per month and high of 13 per month). She then reported an average of three (3) ECOs (Emergency Custody Orders) per month, which included law enforcement response. She then noted that of those three ECOs per month, 67 percent of the ECOs became TDOs (Temporary Detention Orders), which meant that someone went to a hospital.

Ms. Wright reported that the OAA established in 2021. She provided information on the distribution of settlement or award funds distributed to Virginia. She noted that three national level opioid settlements had been approved by Virginia state courts as of January 19, 2023, which resulted in payments to Virginia. She reported that 30 percent was paid directly to localities without flowing through the OAA, 15 percent was paid directly to the Commonwealth, and 55 percent was distributed to the OAA. She explained that of the OAA funds, the breakdown was 15 percent to localities, 35 percent to City/County partnerships, 15 percent to State agencies and 35 percent was unrestricted and helped cover the administrative costs of the OAA.

Ms. Wright reviewed the OAA funding requirements. She noted that the OAA Board was directed by statute to prioritize programs and organizations with an established record of success; programs and communities with high incidents of opioid abuse disorder or opioid death rate relative to population; programs in historically economically disadvantaged communities; and applications that included a monetary match from, or on behalf of the applicant, with higher priority given to effort with a larger matching amount. She reported that the funds must treat, prevent, or reduce opioid use disorder or the misuse of opioids. She noted that the efforts must be managed or conducted by any agency of the Commonwealth or participating locality; and the funding could not be used for existing expenditures or indirect costs.

Ms. Wright reported that Albemarle County has agreed to submit a cooperative application and has also agreed to act as fiscal agent for accessing the OAA funds in expanding services across the Region Ten area.

Ms. Wright discussed the proposed service expansion, noting there were three parts:

- Crisis response: She explained that crisis response would provide the appropriate level of assessment and support to people who are experiencing a psychiatric emergency while diverting from involuntary inpatient hospitalization where appropriate. She explained that it would be a new 23-hour bed program. She explained that 23-hour beds were defined as a period of up to 23 hours during which assessment and stabilization services are provided at less than an acute level of care. She noted these are generally indicated for those situations where a person appears to be at risk for harm to self or others, but does not clearly require admission to an inpatient setting. She noted an example would be someone with a substance use disorder who could be under the influence and exhibiting those behaviors but over time, another disposition could be reached. She explained that this level of care offered an opportunity for

reassessment and the gathering of additional data, and would decrease overall hospitalizations and improve community connections to resources and support.

- CITAC expansion (Crisis Intervention Team Assessment Center): Ms. Wright explained that the CITAC provided people in crisis an environment outside of the criminal justice system, for proper intervention, assessment, and care. She noted that the program accepted transfers of ECOs based on CITAC capacity and appropriate referral parameters. She explained that the service provided emergency assessment for psychiatric hospitalization and law enforcement transfer of custody for people who are under an emergency custody order and in need of an assessment for inpatient psychiatric hospitalization. She noted that the expansion would decrease reliance on law enforcement, divert from hospitalization and incarceration for people experiencing a psychiatric emergency, and increase connection to services and supports. She noted that law enforcement would need to work across jurisdictional lines for transfer of custody and how cooperative coverage would work.
- Community Outreach: Ms. Wright explained that the goal of community outreach was to provide support through responding to people in the community at the right time, in the right setting, with behavioral health expertise to support, engage and link to appropriate longer-term services. She noted that initially, the program would work out of Blue Ridge Center in Charlottesville, but with funding and staff, there would be an identified outreach team for each locality. She noted that they would provide community response to a local incident, episodic support for disconnected individuals who are not functioning well in the community, and outreach to consumers who would benefit from a high touch team to engage in services. She noted that this would provide increased connection to ongoing services that support people staying in the community.

Ms. Wright reported that the costs associated with Crisis Response and CITAC Expansion (23-hour bed) for Region Ten's entire service area would be a total of 1,063,661. She noted that the Community Outreach team would be an additional cost of \$300,300 for a total cost of \$1,363,961 for all three. She noted that all funding would expand existing programming, and while there were no monetary match requirements, the OAA did preference to localities who offered a monetary match.

Ms. Wright anticipated that Region Ten could divert to CITAC, all of the Nelson County emergency assessments under ECO that met clinical criteria. She noted that a 23-hour bed would divert primarily people under the influence and in crisis, but with support and time, they could be connected to services and stay in the community rather than going to an inpatient psychiatric hospital. She commented that Region Ten believed that any crisis response in which a person could be diverted from inpatient hospitalization with a 23-hour intervention would be served with the program. She reported that the expected outcomes were numbers served, risk reduction and connection to services.

Ms. Wright reviewed the next steps and timelines noting they would work to establish and distribute FAQs, have a stakeholder meeting, gather cooperative project agreement signatures, establish initial cross jurisdictional agreements. She noted that there would be a locality review of the application by May 2<sup>nd</sup> and the application deadline for submission was May 5<sup>th</sup>. She explained that the initial approval was for one year, with four automatic annual approvals. Ms. Wright noted that within 30 days of funding approval, MOUs (Memorandum of Understandings) would be established and signed.

Ms. Wright asked if Nelson County supported the need for the proposed expansion and development of the programs, and whether they would sign a cooperative agreement to be included in the proposal that Albemarle County would be submitting to OAA to fund the programs. She also asked if Nelson would support cross jurisdictional transfer of custody for the CITAC and whether additional information may be needed to support the initiative.

Mr. Barton asked who the settlement was between. Ms. Wright explained that the settlement was between the Commonwealth and three manufacturers. Mr. Barton asked if it was over. Ms. Wright noted that she was unsure how many pending cases there were. She explained that there would be distributions from the OAA through 2038. Mr. Barton asked if the services would be handled by Region Ten. Ms. Wright confirmed that they would. Mr. Barton asked how much money would be coming to Nelson. Ms. Wright noted that Region Ten not asking for Nelson's opioid funding, rather they were looking at applying for the funds with the OAA. She noted that Nelson County was additionally receiving funds directly. Ms. McGarry reported that Nelson County was receiving about \$48,000 in OAA funds in FY23, and an additional amount of about \$9,000 in budget for next year. She explained that the County's direct funding from OAA was separate from the funds being requested through a grant process for the multi-jurisdictional application. Ms. McGarry noted it was from the same settlement but different pots of money. Mr. Barton asked if a monetary value could be placed on the services Nelson County was expected to receive. Ms. Wright indicated that as part of the grant, Region Ten would be required to report on the number of people served and the outcomes. Ms. McGarry noted that Region Ten was asking the County to be co-applicant



with the other localities that Region Ten served, while Albemarle County would be the lead applicant and fiscal agent for the grant funding. Mr. Barton asked why they would have any objection to the proposal. Ms. McGarry noted that she was not sure, but it was for the Board to discuss.

Mr. Reed noted the total grant fund amount of \$1.363 million. He asked about the comment that there was a priority on those localities who offered a monetary match. Ms. Wright noted that the OAA has said they would give preference to localities that offered a monetary match. He asked if it was more competitive if there was no match. Ms. Wright thought that it would be. Mr. Reed asked what a match would look like for Nelson. Ms. Wright noted it would be up to the locality to decide. Ms. McGarry commented that her understanding from the Zoom meetings on the process was that they would not be asked for a monetary local match, rather some in-kind matching would be involved. Ms. McGarry pointed out that using the County's direct allocation of OAA funds could be done. She noted that the Board had not discussed any direct uses of those opioid funds other than matching some of the adult drug court's local expenses. Mr. Reed noted that Region Ten also provided services for the drug court.

The Board had no further questions for Ms. Wright.

Mr. Reed moved to approve **Resolution R2023-24** and Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the following resolution was adopted:

**RESOLUTION R2023-24**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION TO PARTICIPATE IN REGION TEN COMMUNITY SERVICES BOARD**  
**REGIONAL APPLICATION FOR OPIOID ABATEMENT AUTHORITY GRANT FUNDS**  
**WITH ALBEMARLE COUNTY SERVING AS**  
**LEAD APPLICANT AND FISCAL AGENT**

**WHEREAS**, the mission of the Virginia Opioid Abatement Authority (OAA) is to abate and remediate the opioid epidemic in the Commonwealth through financial support in the form of grants, donations, or other assistance; and

**WHEREAS**, the OAA operates a financial assistance grant program to support certain cooperative partnerships of cities and/or counties in Virginia that implement regional efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids; and

**WHEREAS**, in Nelson County, fifty-five percent (55%) of the adult client population served by Region Ten Community Services Board has a diagnosis of a Substance Abuse Disorder; and

**WHEREAS**, Nelson County desires to develop and jointly submit an application for regional cooperative partnership funding from the OAA in an approximate amount of \$1,363,931, with no local match required; and

**WHEREAS**, the regional grant application includes the following three priorities as a means of advancing services for substance use and co-occurring disorders:

**Crisis Response:**

To provide the appropriate level of assessment and support to people who are experiencing a psychiatric emergency while diverting from involuntary inpatient hospitalization where appropriate,

**CITAC Expansion:**

To provide support, assessment, and response to people who are experiencing a psychiatric emergency in a respectful, confidential setting,

**Community Outreach:**

To provide community outreach and support through responding to people in the community at the right time, in the right setting, with behavioral health expertise to support, engage and link to appropriate longer-term services; and

**WHEREAS**, Nelson County being a member jurisdiction of the Region Ten Community Services Board agrees to execute a legally binding agreement formalizing a cooperating partnership with the other Region Ten member jurisdictions and organizations if the application for financial assistance is approved; and

**WHEREAS**, Nelson County agrees that Albemarle County will serve as the lead applicant and the fiscal agent for the cooperative partnership if it is awarded;

**NOW, THEREFORE, BE IT RESOLVED**, the Nelson County Board of Supervisors authorizes the County's participation as an applicant in the regional application for funding assistance from the Opioid Abatement Authority in conjunction with the other member jurisdictions of the Region Ten Community Services Board and cooperating organizations; and

**BE IT FURTHER RESOLVED**, that Albemarle County as the lead applicant and designated fiscal agent, as well as the Nelson County Administrator, is hereby authorized to execute all documents in connection with said regional grant application.

D. Dolly Parton's Imagination Library – Nelson Memorial Library

Ms. Susan Huffman, Branch Manager of Nelson Memorial Library, was present to speak on Dolly Parton's Imagination Library. Ms. Huffman asked the Board to not think of her as a librarian or teacher, but rather as an individual speaking on behalf of Grown Nelson Library. She noted she was there because of her love for reading and love of children, and those two had to go together. She provided a statistic that if a person read to their child starting at birth, they would have over one million words in their vocabulary by the time they reached five years of age. She noted that just reading one picture book per day could add 78,000 words per year to a child's vocabulary. She also noted that reading to your children 20 minute per day would not only build their vocabulary, it would provide them with all of the pre-reading skills they needed to be successful in school.

Ms. Huffman reported that in 1995, Dolly Parton launched her Imagination Library in Sevier County, Tennessee to honor her father. She noted that the program has since spread across the United States, Canada, Great Britain and the Republic of Ireland.

Ms. Huffman explained the program noting that any child from birth to age five could enroll in the program as long as there was a program in their zip code area. She noted that once they were enrolled, a free book was mailed to them every month with their first book being "The Little Engine That Could" and the last being "Look Out Kindergarten Here I Come!" She reported that over 200 million books had been distributed since the program's creation.

Ms. Huffman explained that if a child enrolled at birth, they would receive 60 books before they age out at age 5. She noted that the books would be a mixture of classic and contemporary fiction and non-fiction, and selected as age appropriate. She indicated that infants would receive board books and older children would get longer books, to include themes such as nursery rhymes, safety, diversity and preparing for school.

Ms. Huffman reported that the cost of the books was covered by Dolly but someone needed to cover the cost of mailing the books and the organization of the program locally. She noted that in order to become an affiliate, they needed a 501(c)(3) organization to be the financial agent. She also noted that there needed to be a group to handle the sign-ups and paperwork. She noted they also needed an organization to do the kick-offs and reading events. She noted that they needed a funding source to be able to pay the \$2.20 per child per month for the mailing costs. She reported that United Way has agreed to be the 501(c)(3) for the Dolly Parton Imagination Library so they would receive all of the donations and then pay the invoices.

Ms. Huffman noted the cost was \$5,677 (about 60 percent of the population of children reached on average). She reported that there were 667 children in Nelson under age 5, and using the matrix, they would probably reach about 400 of them. She pointed out that State legislature would pay half of amount up front. She noted it would cost a little over \$2,000 locally. She also noted that the Nelson Memorial Library would handle all of the kick-off programs and events needed. Ms. Huffman noted that Grow Nelson would take care of all of the needed fundraising.

Ms. Huffman reported that other organizations may also be able help like the Rotary Club, Massies Mill Ruritan Club, and the Masonic Lodge. She noted that she had just found out that United Way was willing to pitch in as well.

Ms. Huffman asked if the Board would be able to contribute \$2,000 for the first year to get the seed money going. She asked for each year after, \$1,000 to put toward the program. She stressed the impact that the program would have on the preschool population in Nelson County before they even get to school.

Mr. Barton noted that it was a no brainer. Mr. Reed noted he had two grandchildren who went to Dollywood a week prior and it was so crowded, they could not get in but they were going back. He noted he had no questions.

Ms. McGarry asked if the \$2,000 could be funded prior to July 1st. Ms. Huffman noted that it could. Mr. Rutherford asked if it was included in the budget request. Ms. McGarry noted that it was not as it was considered a separate request from Jefferson Madison Regional Library (JMRL). She noted that should the Board choose to contribute the \$2,000 for the program, she could foresee Ms. Huffman submitting an annual budget request for the \$1,000 going forward.

Mr. Barton moved to approve the request for \$2,000 for the Imagination Library and Mr. Harvey seconded the motion. There being no further discussion, Supervisors unanimously approved the motion by vote of acclamation.

Ms. Huffman thanked the Board. Ms. McGarry asked to clarify whether the funding would come from FY23 funds. Mr. Rutherford noted that FY23 non-recurring funds made the most sense.

The Board took a brief recess.

## **VI. NEW & UNFINISHED BUSINESS**

### **A. Proposed Family Trust Zoning and Subdivision Ordinance Updates**

Ms. Bishop explained that the Board had two resolutions for proposed ordinance amendments, one for the Zoning ordinance and one for the Subdivision ordinance, with both relating to family divisions of land.

#### **1. Proposed Zoning Ordinance Amendments (R2023-25)**

Ms. Bishop reported that the proposed Zoning Ordinance Amendment would increase the minimum required lot area for family division lots in both A-1 Agriculture and R-1 Residential zoning districts from one (1) acres to two (2) acres. She noted that the amendment was recommended by the Planning Commission with a (3-2) vote to send to the Board of Supervisors.

Mr. Reed moved to approve **Resolution R2023-25** and Mr. Harvey seconded the motion.

Mr. Barton asked where the change was coming from. Ms. Bishop explained that the impetus was updating the subdivision ordinance to allow a family subdivision to be granted to the beneficiary of a family trust. She noted that the Planning Commission then decided to take at all family subdivisions. Mr. Reed clarified that the proposed change they were discussing did not deal with family trusts, rather it came out of the discussion that was had regarding the trust scenario to increase the size of the division rights.

Ms. McGarry asked if Ms. Bishop and Mr. Reed could explain the Planning Commission's thoughts behind going from a one (1) acre lot to a two (2) acre lot. Ms. Bishop noted her understanding was that by allowing a one (1) acre minimum lot size, it was effectively creating a non-conforming lot. She pointed out that the minimum lot size regularly was already two (2) acres. She explained that after the five-year period where it was prohibited from being transferred inside the family, it just became another lot like any other in Nelson County. She noted that a one-acre lot was non-conforming lot in the A-1 district as well as the R-1 district.

Mr. Rutherford called for a roll call vote, noting it was to authorize a public hearing at the next month's meeting. Supervisors approved the motion unanimously (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-25**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION FOR PUBLIC HEARING**  
**AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA**  
**APPENDIX A, ZONING, ARTICLE 4, AGRICULTURAL DISTRICT A-1**  
**AND ARTICLE 5 RESIDENTIAL DISTRICT R-1**

**BE IT RESOLVED**, that pursuant to §15.2-1427, §15.2-107, §15.2-2204, §15.2-2285, §15.2-2310, and §15.2-4307 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on **June 13, 2023 at 7:00 PM** in the General District Courtroom in the Courthouse in Lovingson, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Appendix A Zoning, Article 4, Agricultural District A-1 and Article 5, Residential District R-1. Proposed amendments to 4-2-1a would remove the provision for family subdivision lots to have a minimum lot area of one (1) acre and require that family subdivision lots to have a minimum lot area of two (2) acres. In 5-2-1, the amendment would include family subdivision lots and 5-

2-1a would be removed to reflect the required two (2) minimum lot size.

2. Proposed Subdivision Ordinance Amendments (**R2023-26**)

Ms. Bishop reported that the County’s Subdivision Ordinance currently required a minimum access width of thirty (30) feet, whereas the Code of Virginia only allowed localities to require no less than ten (10) feet and no more than twenty (20) feet for regular family subdivisions. She noted that Planning Commission proposed to reduce the access width requirement for a family subdivision from thirty (30) feet to twenty (20) feet in order to align local ordinance with Virginia code.

Ms. Bishop then reported that the other aspect of the amendment was to allow a family division of land to be sold or gifted to the beneficiary of a family trust with a fifteen (15) year restrictive covenant, meaning it could not be transferred outside of the family for fifteen (15) years. She noted that would also align the County’s ordinance with Virginia code.

Mr. Harvey asked what would happen if something came up and someone needed to sell the property within the fifteen (15) year. Ms. Bishop indicated that the Planning Commission could reduce the number of years required if change in circumstances required. Mr. Rutherford asked if they would have to come before the Planning Commission and then the Board. Ms. Bishop commented that it would just go before the Planning Commission for review. Mr. Rutherford asked what would happen if the Planning Commission denied the change. Ms. Bishop noted that there would then be an opportunity to appeal to the Board of Zoning Appeals if denied. Mr. Rutherford noted the process could take 60 to 90 days. Mr. Reed commented that if it were an emergency situation, the Planning Commission would probably take that into consideration. He noted that the purpose of the amendment was to not allow divisions within a trust and then have the property end up in the general public for distribution and then it would become a real estate scenario as opposed to a family scenario. Mr. Rutherford noted that they were only sending it to public hearing, they were not making a decision on the amendment in the current meeting. He indicated that he was supportive of sending it to public hearing and then they could make a decision at that time.

Mr. Reed moved to approve **Resolution R2023-26** and Mr. Harvey seconded the motion. There being no further discussion, Supervisors unanimously approved the motion (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-26**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION FOR PUBLIC HEARING**  
**AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA**  
**APPENDIX B SUBDIVISIONS**

**BE IT RESOLVED**, that pursuant to §15.2-1427, §15.2-107, §15.2-2204, §15.2-2285, §15.2-2310, and §15.2-4307 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on **June 13, 2023 at 7:00 PM** in the General District Courtroom in the Courthouse in Lovingson, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Appendix B Subdivisions, to reduce the required right-of-way width from thirty (30) feet to twenty (20) feet when a family subdivision results in the creation of a parcel of five (5) acres or less. Proposed amendments also include the addition of family subdivision provisions pertaining to a family land trust which indicate (i) that all trust beneficiaries must be immediate family members; (ii) all trust beneficiaries must agree that the land should be subdivided; and (iii) all beneficiaries agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. The proposed amendment includes a provisions that the Planning Commission may reduce the period of years prescribed in clause (iii) when changed circumstances so require.

B. Establishment of 2023 Personal Property Tax Relief (**R2023-27**)

Ms. McGarry clarified to the Board that the two resolutions authorizing public hearings on the proposed ordinance amendments set the public hearing dates for June 13<sup>th</sup>, rather than May. The Board was fine with the June 13<sup>th</sup> date as set.

Ms. McGarry reported that the setting of the Personal Property Tax Relief was done annually in conjunction with the tax rates. She noted that the Board was responsible for setting the Personal Property Tax Relief percentage by which the \$1.7 million the County receives from the State would be distributed among tax payers based on the State Code 58.1-3524. Ms. McGarry noted that the resolution was the same every year, other than the percentage specified. She noted she was proposing to keep the percentage at 39 percent. She noted that to date the personal property tax edit book, they would distribute \$1,585,147 of the \$1,708,030 in the State PPTRA that the County would receive. She reported that would leave about \$123,000 for

changes in the upcoming fiscal year. Ms. McGarry asked that the Board consider adopted the resolution as presented with the percentage at 39 percent.

Mr. Reed moved to adopt Resolution R2023-27 and Mr. Harvey seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-27  
NELSON COUNTY BOARD OF SUPERVISORS  
2023 PERSONAL PROPERTY TAX RELIEF**

**WHEREAS**, the Personal Property Tax Relief Act of 1998, Va. Code § 58.1-3524 has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly; and

**WHEREAS**, the Nelson County Board of Supervisors has adopted an Ordinance for Implementation of the Personal Property Tax Relief Act, Chapter 11, Article X, of the County Code of Nelson County, which specifies that the rate for allocation of relief among taxpayers be established annually by resolution as part of the adopted budget for the County.

**NOW THEREFORE BE IT RESOLVED** that the Nelson County Board of Supervisors does hereby authorize tax year 2023 personal property tax relief rates for qualifying vehicles as follows:

- Qualified vehicles with an assessed value of \$1,000 or less will be eligible for 100% tax relief;
- Qualified vehicles with an assessed value of \$1,001 to \$20,000 will be eligible for 39% tax relief;
- Qualified vehicles with an assessed value of \$20,001 or more shall be eligible to receive 39% tax relief only on the first \$20,000 of assessed value; and
- All other vehicles which do not meet the definition of “qualifying” (business use vehicle, farm use vehicle, motor homes, etc.) will not be eligible for any form of tax relief under this program.

**BE IT FINALLY RESOLVED** that the personal property tax relief rates for qualifying vehicles hereby established shall be effective January 1, 2023 through December 31, 2023.

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

A. Reports

1. County Administrator’s Report

Ms. McGarry presented the following report:

- A. **Comprehensive Plan:** The project website is [www.Nelson2042.com](http://www.Nelson2042.com). The last of four scheduled joint work sessions of the Board of Supervisors and Planning Commission will be held on May 17, 2023, time to be announced and will entail review of draft chapters pertaining to Land Use and Transportation. A focus group work session on these topics will be held on April 13<sup>th</sup> from 2pm to 4pm.
- B. **County Website Redesign:** We are at State Two of the nelsoncounty-va.gov website development. The full site framework is set up with completed content organization and (almost) finalized site hierarchy and navigation. All content from the current site is being cleaned and formatted into the new page templates. Edits have begun on HTML (HyperText Markup Language) and CSS (Cascading Style Sheets) for all imported content and testing is being done. A timeline for a demo to get the Board’s feedback is being developed. The current website continues to be limited in functionality.

Ms. McGarry indicated that the Board had received a memo from Maureen Kelley which detailed the format of the new website. Ms. McGarry noted that Ms. Kelley was asking for feedback by noon on April 17<sup>th</sup> if possible.

- C. **Nelson 151 Corridor Study:** Two public engagement sessions will be held within the study area, with the first being rescheduled to **April 18<sup>th</sup> at the Rockfish Valley Community Center from 4-6PM.**
- D. **Amherst County Solar Project:** On March 16<sup>th</sup>, Amherst County’s Planning Commission held a public hearing on a Special Exception Request by Piney River Solar, LLC for a utility-scale project on property in Amherst County that adjoins the Virginia Blue Ridge Railway Trail. Their Planning Commission unanimously recommended denial of the request in a (5-0) vote due to view shed and environmental concerns. Consideration of the Special Exception Permit now goes to the Amherst Board of Supervisors on May 16<sup>th</sup> at 7pm.

- E. **New Office Building:** PMA provided us with a timeline from Timmons for the geotech work and reporting for the DSS Callohill site as follows: The drilling is scheduled for 4/21 which should take approximately 3-4 days. Within 7-10 days after that, Timmons should have some preliminary boring logs. The full report would follow later on, after Geotech fully analyzes the results. Based on this, I estimate drilling work done by 4/25 and preliminary boring logs by around May 5<sup>th</sup> with the full report to follow. I am thinking that the report would likely be finalized and provided to us sometime in late May or early June but that is TBD.
- F. **FY24 Budget:** The Board and staff have conducted budget work session on March 28<sup>th</sup>, March 31<sup>st</sup>, April 3<sup>rd</sup> and April 4<sup>th</sup>, with other dates to be set at the April 11<sup>th</sup> regular meeting. Real Estate, Personal Property, Mobile Home, and Machinery and Tools tax rates will remain the same as set in 2022. The Board and School Board have scheduled a joint meeting on April 20<sup>th</sup> from 6pm to 7pm just prior to the School Board's regular meeting. The Board is being asked to authorize a public hearing on the budget to be advertised and held on the regular May 9<sup>th</sup> Board of Supervisors meeting at 7pm.

Ms. McGarry noted that the Board did authorize the public hearing earlier in the afternoon meeting under the Consent Agenda.

- G. **Proposed Tax Relief Ordinances:** The County attorney has drafted proposed Ordinance amendments, as discussed in budget work sessions, that would provide real property tax relief for the surviving spouse of any US Armed Forces member killed in action and any veteran who has a 100 percent service-connected, permanent and total disability. These provisions have been enabled by State Code; however, were not provided for in our Local Code. Staff will ask the Board to authorize a public hearing on these Ordinances at the May regular meeting for potential public hearings in June.
- H. **Gladstone Depot TAP Grant:** A meeting has been scheduled with County staff, VDOT staff, Mr. Barton, and Mr. Rutherford, and Friends of Gladstone Depot for April 18h at 10am to discuss the project and the draft TAP Agreement. The TAP Agreement will then be presented for consideration by the full Board at a subsequent meeting.
- I. **Growth and Accessibility Planning (GAP) Technical Assistance Program:** The County has been selected by the Office of Intermodal Planning and Investment (OIPI) to receive a GAP Technical Assistance grant for a Nellysford Small Area Development Plan. Planning activities include looking at: Connectivity of non-motorized networks and facilities, preservation of natural areas, mixed-use neighborhoods, including mixed housing types, with affordable housing to meet the projected family income distribution of future residential growth. The next step is working with OIPI staff to develop a detailed scope of services, at which time the dollar amount of up to \$100,000 in assistance will be determined.
- J. **Safe Streets and Roads for All (SS4A) Grant Award:** In September 2022, the Board authorized a letter of support for a regional grant application submitted by the TJPDC on behalf of its member jurisdictions to the US Department of Transportation. TJPDC was notified that it was selected to receive the grant for the development of a comprehensive safety action plan which will establish prioritized projects and strategies for each locality to effectively reduce roadway fatalities and serious injuries through consideration of policies and procedures, public education, and infrastructure investment. The next step is development of the scope of work by TJPDC with input from member localities, the establishment of a regional stakeholders group made up of jurisdictional representatives for project oversight, and the development of each jurisdiction's goals and targets to be adopted by each of the governing bodies. There is a local match based on a per capita basis of up to \$30,000, this is TBD for each locality.
- K. **Short-Term Rentals: No Change from the March Report.** The Commissioner and County staff have participated in three demos with vendors that provide STR tracking services. Staff is now in the process of checking references from current users in order to provide a recommendation regarding the procurement of such services. The approximate cost of this basic service (Address identification and compliance/rental monitoring) from 2 of the vendors is \$25,000 to \$35,000 with both offering additional services that can be added on. These companies utilize programs that "scrub" the internet for STR listings and provide dashboards of related data. The Commissioner's office is receiving payments from third party collectors such as VRBO and Airbnb with FY23 collections on track to exceed budget.
- L. **Regional Library Agreement Review: No Change from the March Report.** Every five (5) years the members of the Regional Library are tasked with reviewing the regional agreement. The paramount consideration is keeping or not the out of area (OA) fee and its impact on member library costs; which primarily impacts Charlottesville and Albemarle. This analysis was provided by JMRL Executive

Director Plunkett late last week for the committee's review and discussion. Any proposed amendment to the agreement will need approval by each of the Member governing bodies.

M. **Renaissance Ridge Housing Development: No Change from the March report.** 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 for April have been provided.

Mr. Barton asked how much of the County was connected to Firefly. Ms. McGarry noted that she would have to look into that information. She noted that Firefly had just celebrated their 20,000<sup>th</sup> connection across all of the jurisdictions that they served. She reported that one of the statistics they had been provided at the Firefly celebration was that they had laid enough fiber to stretch from Appomattox County to Anchorage, Alaska.

Mr. Reed asked about the GAP program and whether there was additional information on it. Ms. McGarry noted it was recently awarded and they were working to get more details on next steps. She commented that she likely had more information in her office that she could send out to the Board. She reported that they would be having an upcoming Zoom meeting to discuss it further. Mr. Reed asked to be kept in the loop.

Mr. Rutherford found information on Firefly, noting that service was available at all 9,000 plus locations with Central Virginia Electric (CVEC) meters in Nelson. He noted that about 650 that were not hooked up who were on electric service with CVEC. Mr. Rutherford noted that information did not have numbers for ApCo customers. He commented that in February, Firefly had indicated that they were installing service drops and making final connections in Arrington, Shipman, Findlay Mountain and Williamston. He noted there were 100 people in that area and 800 people pre-registered. He estimated that over 50 percent of the County had service.

## 2. Board Reports

### Mr. Barton:

Mr. Barton reported on the Jail Board meeting, noting that the money had been allocated to complete the architectural work for the renovation project. He noted that the Piedmont Workforce Network came to the job fair in Nelson.

### Mr. Harvey:

Mr. Harvey had no report.

### Mr. Reed:

Mr. Reed mentioned the Schuyler Wastewater Groundbreaking Ceremony. Mr. Rutherford noted it was at the Walton's Museum on April 20<sup>th</sup> at 1 p.m. and indicated that if the Board wished to attend, they needed to rsvp by April 12<sup>th</sup>. Mr. Reed asked Ms. McGarry to sign him up to attend. Mr. Rutherford noted that he planned to attend also. Mr. Reed noted that he attended the TJPDC meeting and the Regional Housing Summit.

### Mr. Rutherford:

Mr. Rutherford noted that he attended the TJPDC meeting but there was not much to report. He reported that Housing was a big topic and the need to talk more about solutions. He reported that the Regional Housing Summit went well. He noted that he was happy with the progress made on the budget.

## B. Appointments

### Economic Development Authority (EDA)

Ms. Spivey reported that there were two applicants interested in serving on the EDA, John Conway and Richard Averitt. Mr. Reed moved to appoint Richard Averitt to the EDA and Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

Agricultural and Forestal District Advisory Committee

Ms. Spivey reported that the Agricultural and Forestal District Advisory Committee had seven (7) terms expiring in May. She noted they were advertising the positions and indicated that several of the members wished to serve again. She also noted that many of the members interesting in serving again had met their term limits but the bylaws allowed for them to be appointed if there were no alternative candidates. She indicated that they would revisit the appointments in May and asked that if the Board knew any good candidates to have them apply. Mr. Reed noted his name on the list and asked what UT stood for. Ms. Spivey explained that Mr. Reed was serving an unexpired term, so he had served a first full term. Mr. Reed indicated that he wished to serve again.

C. Correspondence

Mr. Rutherford noted that they had received a thank you from Rappahannock County for their tour of the Courthouse.

D. Directives

The Board had no directives. The Board took a brief recess before going into closed session.

**VIII. CLOSED SESSION PURSUANT TO §2.2-3711 (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)(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. Mr. Barton 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. Barton 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 the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information Act cited in that motion. Mr. Barton seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Mr. Barton noted he had received a call from Edith Napier at the Heritage Center regarding a funding request for their Juneteenth event. It was suggested to have them come to the May meeting to discuss their request. Mr. Reed and Mr. Rutherford noted that the Board had received an email from Mr. Napier regarding the request. Mr. Barton noted someone was coming from UVA to give a presentation at the event. Ms. McGarry asked the Board to forward Ms. Napier’s email to staff for more detail so they could follow up.

**IX. ADJOURN AND CONTINUE – EVENING SESSION AT 7PM**

At 4:19 p.m., Mr. Reed moved to adjourn and continue to the evening session 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 evening session to order at 7:01 p.m. with four (4) Supervisors present and Mr. Parr being absent.

**II. PUBLIC COMMENTS**



*Phillip Purvis, Shipman, VA*

Mr. Purvis reported to the Board that he owned a home in Shipman that was situated closer than 75 feet from the center of the road. He understood that there was a setback ordinance in place and he was not opposed to the ordinance for new construction. He noted that many homes on Route 56 in Shipman were closer than 25 feet from the edge of the road. He mentioned the discussions on affordable housing. He noted that the home was just a four room home and if he could install a septic tank, he wanted to add on a few more rooms to give it a little more room. He reiterated that he was in favor of 75-foot setback for new construction. He felt that there should be an exemption for older homes from the current requirements that limit. He thought as long as there was enough room on the back of the home, they should be able to add on to it. He asked the Board to consider creating an exemption for existing homes.

*Dana Dolder, Arrington, VA*

Mr. Dolder reported that he had been a Nelson County resident for 6.5 years. He explained that his property was surrounded by several large properties where there was potential for development. He noted that he periodically stopping in Building and Zoning to see if anyone had pulled permits or submitted plans so that he could be aware of anything going on. He indicated that the last time had been by the office, he was told that they would no longer be able provide him with that information. He said that the office indicated that he would have to submit a FOIA request for review and it would take about two weeks to get the information. He asked why a simple task had gotten complicated. He noted it was public information and a public servant communicating with a citizen of the County. Mr. Rutherford noted that the Board could not communicate in the Public Comment setting but asked that Mr. Dolder reach out to staff.

There was no one else wishing to speak and Public comments were closed.

### **III. PUBLIC HEARINGS**

#### **A. Special Use Permit #867 – Restaurant**

Consideration of a Special Use Permit application requesting County approval to allow a restaurant use on property zoned A-1 Agricultural. The subject property is located at Tax Map Parcel #3-A-154B at 66 Saddleback Farm in Afton. The subject property is 28.1 acres and owned by Hodson Living Trust.

Ms. Bishop reviewed the following:

**BACKGROUND:** This is a request for a Special Use Permit for a restaurant on property zoned A-1 Agriculture.

*Public Hearings Scheduled:* PIC – March 22 / Board – April 11

*Location / Election District:* 72 Saddleback Farm (Afton) / North Election District

*Tax Map Number / Total acreage:* 3-A-154B / 28.1 acres +/- total

*Applicant/Owner Contact Information:* Hodson Living Trust (Patricia Hodson), 151 Veritas Lane, Afton, VA / (434) 531-7755 / patricia@veritaswines.com

*Applicant/Owner Contact Information:* Patricia Hodson, 291 Saddleback Farm, Afton, VA 22920

*Comments:* Rezoning #479 from R-1 Residential to A-1 Agriculture with concurrent SUP #480 for a restaurant was approved by the Board of Supervisors on January 11, 2022. At the time, an addition had already been constructed to be utilized as a restaurant, and required approval of a Special Use Permit to allow public access. Because this restaurant addition was attached to the existing bed and breakfast operation, there was difficulty determining an efficient and cost-effective method to comply with statewide building code requirements, such as firewall separation. The owners have diligently pursued a path forward, and have determined that the most appropriate way to proceed would be to construct an entirely separate facility for the restaurant use. Because the original SUP expired after one year, the owners are required to secure a new SUP for the new construction. Currently, food is prepared at the winery facility on an adjoining parcel, and transported to the Farmhouse for service to guests.

#### **DISCUSSION:**

*Land Use / Floodplain:* The Farmhouse currently operates as a bed and breakfast, a by-right use. The R-1 portion along Afton Mountain Road was rezoned to A-1 in 2022, to align the zoning with the existing vineyard use. This change has not yet been reflected on the County's GIS. There are no floodplains on the property. This area is primarily agricultural and residential.

*Access and Parking:* This property is accessed by an existing entrance from Afton Mountain Road, to Saddleback Trail, to Saddleback Farm. Previous comments from VDOT indicate that the current access from Afton Mountain Road is adequate for the planned use. Parking requirements pursuant to Section 12-7-6 are satisfied with existing parking.

*Utilities:* The owners continue to work with the Health Department regarding septic requirements, and the Office of Drinking Water regulates the public waterworks well. Any additional comments will be provided at the meeting.

*Erosion & Sediment Control / Stormwater:* When total land disturbance of a development exceeds 10,000 square feet, an Erosion and Sediment Control Plan is required to be approved by the Building Inspections Office.

*Comprehensive Plan:* This property is located in an area designated Rural and Farming, 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. The Rural and Farming District would permit small scale industrial and service uses that complement agriculture. Protection of usable farmland should be encouraged. Clustering of any new development in areas of a site without prime or productive soils will enhance the protection of prime or productive soils for future agricultural uses.

All applications for Special Use Permits shall be reviewed using the following criteria:

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

At their meeting on March 22, 2023, the Planning Commission voted (5-0) to recommend approval of this application to the Board of Supervisors.

Ms. Bishop had no additional comments from VDOT or in regards to Utilities. The Board had no questions for staff.

Applicant George Hodson, CEO of Veritas Vineyard and Winery, was present for the meeting. Mr. Hodson explained that in working through the details of the firewall and mixed use of the bed and breakfast, they had determined that a freestanding structure would be best moving forward. He indicated that a new building would have minimal impact on the farm and parking areas were already in existence. He noted that they had received a lot of positive feedback about the project and people were excited. He reiterated that the intent was for minimal impact with the project and noted that they had a great working relationship with the Building Official, Jeremy Marrs. He planned to start work as soon as possible. He expressed gratitude for the cooperation from the County, County staff and the Building official, noting they had a productive relationship. He indicated that Veritas wanted to be an asset to the County and continue to doing what they do.

The Board had no questions for the applicant.

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

Mr. Barton moved to approved **Special Use Permit #867 – Restaurant** as presented and Mr. Harvey seconded the motion. There being no further discussion, Supervisors unanimously approved the motion (4-0) by roll call vote.

**B. Ordinance O2023-01 Amendment to Chapter 3, Animals**

Consideration of an ordinance proposed for passage to amend Chapter 3, Animals, to incorporate provisions pertaining to the fence law, proposed fees and removal of sections that are duplicative of state law.

Ms. McGarry provided a presentation on the **Proposed Ordinance O2023-01** Amendments to Chapter 3, Animals, of the Code of Nelson County. She reported that the purpose of the proposed amendments was to remove references to outdated State Code sections; update definitions and remove unnecessary definitions; remove sections that are duplicative of State Laws in effect and locally enforced under those statutes; implement local fee changes and additions; and update penalties for violations to match State law and implement a civil penalty for certain violations. She also reported that proposed changes included amending Article V. Fence Law to amend existing Section 3-81 Boundaries declared lawful fences to include domesticated livestock or poultry. She noted the addition of Section 3-82 Unlawful for livestock to run at large; and the addition of Section 3-83 Recovery of Costs.

Ms. McGarry reviewed the updated and removed definitions, noting that the updated definitions were Animal, Livestock and Releasing Agency. She indicated that the removed definitions were Board, Pound, State Veterinarian, State Veterinarian's Representative and Treasurer.

Ms. McGarry reviewed the Sections (3-36, 3-37 and 3-39) removed as they were duplicative of State law. She noted that the laws remained in effect and continued to be locally enforced. She explained that Section 3-36: Dogs or Hybrid canines killing, injuring or chasing livestock or poultry as it was enforced under State Code Section §3.2-6583. She then noted that Section 3-37: Dangerous or vicious dogs was enforced under State Code Section §3.2-6583. She noted Section 3-39: Confinement and disposition of stray animals was enforced under State Code section §3.2-6546. She reported that Mr. Payne had recommended the removal of these sections as State Code changed all the time and there was no need to try and keep up with them on a local level as they could be enforced under State code.

Ms. McGarry reported that they had proposed fee changes to Section 3-40(b) as the current fees were 20 years old. She noted that the dog adoption fees included sterilization, Distemper/Parvo and Rabies vaccination. She reported that the current dog adoption fee was \$70 and the proposed fee was \$160. She noted that the basic SPCA fee was \$150. Ms. McGarry noted that the cat adoption fees included sterilization, Distemper and Rabies vaccination. She reported that the current cat adoption fee was \$65 and the proposed fee was \$90. She noted that the basic SPCA fee was \$80 for one cat or \$120 for two cats.

Ms. McGarry reviewed proposed changes to Section 3-40(d) Current daily confinement fee for licensed dog or other companion animal. She noted that the current fee was \$5 per day and the proposed fee would increase to \$10 per day. Ms. McGarry noted that Kevin Wright could not be present that evening but in talking to him, he had indicated that Animal Control did not do a lot of adoptions, as most of the adoptions were because a person had brought an animal to the shelter and asked to adopt it if it was unclaimed.

Ms. McGarry reviewed the proposed new fees in Section 3-40(d):

- Dog Pick-Up Fees
  - Licensed Dog: \$0 (waived)
  - Unlicensed dog: \$25
  
- Daily Confinement Fees
  - Unlicensed Dog: \$20 per day
  - Any companion animal for court related, rabies related, and/or isolation related reasons: \$25 per day

Ms. McGarry reviewed updated penalties for violations and proposed new civil penalty. She noted that Section 3-71 Unlawful acts; criminal penalties, was updated to reflect State Code §3.2-6587. She noted that proposed new section 3-72 Civil penalty for certain violations, was authorized by State Code §3.2-6543. She noted that it basically noted that a violation of any section of the chapter may be punishable by a civil penalty in the amount of \$150. She explained that it was not any type of misdemeanor, it was just a \$150 civil penalty. She indicated that the civil penalty shall not preclude an action for injunctive, declaratory, or other equitable relief. She noted that the section also stated that any monies raised pursuant to the section would be placed in the County's general fund. She also noted that a person would be able to waive trial and pay the civil penalty.

Ms. McGarry presented the proposed amendment to Section 3-81, Boundaries declared lawful fences. She explained that Ordinance 2019-02 was adopted in November 2019 to amend Chapter 3 to declare boundaries lawful fences; meaning that Nelson County went from a “fence out” locality to a “fence in” locality. She indicated that the proposed amendment would include domesticated livestock or poultry to read: “The boundary line of each lot or tract in this county is hereby declared a lawful fence to any domesticated livestock or poultry.”

Ms. McGarry reported that proposed new section 3-82, Unlawful for livestock to run at large, was authorized by Virginia Code Section §55.1-2820. She explained that when the County became a fence-in locality and declared property boundaries lawful fences, it enabled local legislation to prohibit dogs and livestock from “running at large”. She noted that Section 3-43 Dogs running at large was enacted in November 202 via Ordinance O2020-02 and amended in October 2022 via Ordinance O2022-03. Ms. McGarry explained that the purpose of proposed Section 3-82 was not to penalize the responsible livestock owner whose livestock occasionally get outside of their fences. She noted that it was to give Animal Control officers enforcement authority in cases where livestock are habitually roaming beyond their fences and are negatively impacting the public’s health, safety and welfare and/or causing property damage.

Ms. McGarry explained that proposed Section 3-82 provided that it was unlawful for the owner or manager to willfully and negligently allow domesticated livestock or poultry to run at large. She noted that any owner or manager allowing such animals to run at large would be in violation of the section which shall be punishable as a Class 1 misdemeanor.

Ms. McGarry reviewed proposed new Section 3-83, Recovery of Costs. She noted that the proposed section provided authority to recover costs associated with Animal Control dealing with livestock recovery and confinement. She noted that the costs would serve as a deterrent to those who willfully or negligently allow their livestock or poultry to run at large.

Mr. Reed asked for the presentation to be sent out. He noted that it was a very clear presentation compared to what was provided in the packet. He thanked staff and Animal Control.

Mr. Barton noted that there was no intention not to cooperate with farmers and only use in cases of negligence.

Mr. Rutherford noted that the people suffering from livestock at large, were truly suffering. He referenced someone coming face to face with a bull in their yard. He noted there were some parts of the County where livestock were continuing to get out. He commented that if there were issues with the ordinance later on, they would work to make corrections. Ms. McGarry indicated that this would allow Animal Control officers to have an enforcement mechanism in place. She noted that it would not affect the majority of the County’s farmers.

Mr. Rutherford opened the public hearing.

*ML Moore, Amherst, VA*

Ms. Moore spoke in support of the proposed ordinance. She commented that the elimination of the duplicative language simplified what was in the current code. She noted that the proposal would not negatively impact Nelson County farmers, however it would keep a few negligible owners from going scot free. She referenced instances of livestock at large that had taken place four days within one week. She pointed out that livestock at large damaged properties and were a safety concern. She thought that the updated ordinance would cure the behavior, help affected landowners, and provide Animal Control with the tools needed to uphold the law. She asked the Board to adopt the proposed ordinance.

There were no others wishing to speak and the public hearing was closed.

Mr. Reed moved to adopt Ordinance O2023-01 as presented. Mr. Rutherford suggested putting a start date for the ordinance to go into effect. He asked what the current start date was. Ms. McGarry noted that it was currently written to be effective immediately upon adoption. Mr. Rutherford suggested allowing Animal Control time to notify all of the habitual offenders so they could have one last chance to take care of their fences. Mr. Barton commented that if they were taking care of their fences, Animal Control would recognize that. Mr. Rutherford noted it could be effective immediately, he was just providing an option. Mr. Barton seconded the motion. Mr. Rutherford noted that the ordinance would take effect immediately and call for a roll call vote. There being no further discussion, Supervisors approved the motion (3-1) by roll call vote, with Mr. Harvey voting no and **Ordinance O2023-01** was adopted as presented.



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Director of Finance and  
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**ORDINANCE 02023-01**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AMENDMENT OF THE CODE OF NELSON COUNTY**  
**CHAPTER 3, ANIMALS**

**Chapter 3 ANIMALS<sup>1</sup>**

***ARTICLE I. IN GENERAL***

*Amend*

**Sec. 3-1. Bird sanctuary.**

- (a) The area of one-fourth (¼) acre, more or less, of land lying in the Schuyler Magisterial District of the county, fronting on Highway No. 29 and belonging as right-of-way property of the state department of highways and

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<sup>1</sup>Editor's note(s)—A resolution adopted October 10, 2000 amended Ch. 3 in its entirety, adding §§ 3-2 and 3-3, deleting former Art. II, Div. 1, §§ 3-26—3-45, and Div. 2, §§ 3-46—3-66, and adding new Arts. II and III as set forth herein. This resolution numbered Art. II as §§ 3-27—3-60; Art. II has been renumbered, at the editor's discretion, to begin with § 3-26, in keeping with the current numbering style of the Code.

Former Art. II pertained to dogs and cats. Former Div. 1 contained general provisions and derived from § 2 of an ordinance of March 8, 1961, § VI of a resolution of April 12, 1961, an ordinance of April 8, 1986, a resolution of August 9, 1994, an ordinance of July 11, 1995, an ordinance of April 12, 1998, an ordinance of May 12, 1998, and Res.(2) of November 11, 1980. Former Div. 2 pertained to rabies control and license, and derived from §§ 1—16 of an ordinance of March 8, 1961, §§ II—V of a resolution of April 12, 1961, Ord.(2) of October 10, 1962, § 1 of Res. (3) of October 10, 1962, an ordinance of December 13, 1972, an ordinance of June 8, 1982, Ord.(2) of May 12, 1987, and an ordinance of July 11, 1995.

Cross reference(s)—Motor vehicles and traffic, Ch. 7; zoning, App. A; noise control, § 8-26 et seq.

State law reference(s)—~~Comprehensive animal laws, Code of Virginia, § 3-1-796.66 et seq.; local animal control ordinances, Code of Virginia, § 3-1-796.94; county health regulations, Code of Virginia, § 15-1-510; offenses involving animals, Code of Virginia, § 18-2-403.1 et seq.—~~

transportation, and joining the property of W. F. Thurston, Faber, Virginia, whose permission is granted, is hereby designated as a bird sanctuary and every citizen is called upon to conserve bird wildlife through care, feeding and protection from danger of any kind and all kinds.

- (b) The area within two hundred (200) feet either side of the highway along Route 56 (Crabtree Falls Highway) from the intersection of Route 56 and Route 687 (North Fork Road) to the intersection of Route 56 and the Blue Ridge Parkway, is hereby designated as a bird sanctuary.

(Res. of 4-14-65, §§ 1, 2; Ord. of 5-11-2004)

## *Amend*

### **Sec. 3-2. Definitions.**

The following words as used in this chapter shall have the following meanings:

*Adoption* means the transfer of ownership of a dog or cat from a releasing agency to an individual.

*Agricultural animals* means all livestock and poultry.

~~*Animal* means any nonhuman vertebrate species except fish. For the purposes of Virginia Code Section 3.1-796.98, animal means any species susceptible to rabies, including fish except those fish captured and killed or disposed of in a reasonable and customary manner.~~

*“Animal”* means any nonhuman vertebrate species except fish. For the purposes of Virginia Code §3.2-6522, animal means any species susceptible to rabies. For the purposes of Virginia Code §3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

*Animal-control officer* means a person appointed as an animal control officer or deputy animal control officer as provided in Virginia Code Section 3.2-6558 ~~1-796.104~~.

*Animal shelter* means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, animal rescue group, or any other organization devoted to the welfare, protection, and humane treatment of animals.

~~*Board* means the board of agriculture and consumer services.~~

*Companion animal* means any domestic or feral dog, domestic or feral cat, non-human primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

*Euthanasia* means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

*Humane investigator* means a person who has been appointed by a circuit court as a humane investigator as provided in Virginia Code Section 3.2-6558 ~~1-796.106~~.

*Humane society* means any chartered, nonprofit organization incorporated under the laws of this commonwealth and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.

*Kennel* means 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.

*Law-enforcement officer* means any person who is a full-time or part-time employee of a police department or sheriff's office which is part of or administered by the commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of

the commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

~~*Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in Virginia Code Section 3.1-73.6; enclosed domesticated rabbits or hares raised for humane food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.~~

*"Livestock"* includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama or Vicugna; ratites; fish or shellfish in aquaculture facilities, as defined in Virginia Code §3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

*Other officer* includes all other persons employed or elected by the people of Virginia, or by any municipality, county, or incorporated town thereof, whose duty is to preserve the peace, to make arrests, or to enforce the law.

*Owner* means any person who: (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an animal.

*Person* means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

*Poultry* includes all domestic fowl and game birds raised in captivity.

~~*Pound* means a facility operated by the commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.~~

*Primary enclosure* means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

~~*Releasing agency* means a pound, animal shelter, humane society, animal welfare society, society for the prevention of cruelty to animals, or other similar entity that releases a dog or cat for adoption pursuant to Virginia Code Section 3.1-796-126:1.~~

*"Releasing agency"* means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

*Research facility* means any place, laboratory, or institution licensed by the U. S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

~~*State veterinarian* means the veterinarian employed by the commissioner of agriculture and consumer services as provided in Section 3.1-723.~~

~~*State veterinarian's representative* means an employee of the department of agriculture and consumer services who is under the direction of the state veterinarian.~~

*Sterilize* or *sterilization* means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

~~*Treasurer* includes the treasurer and his assistants of Nelson County designated by law to collect taxes in such county.~~

(Res. of 10-10-00)

### **Sec. 3-3. Enforcement.**

The provisions of this article shall be enforced by the animal control officers and the sheriff and his deputies, and may be enforced by any other law enforcement officer properly situated to do so.

(Res. of 10-10-00)

### **Sec. 3-4. Nelson County Animal Control Policies and Procedures Manual.**

Be it resolved, by the Nelson County Board of Supervisors that the document entitled Nelson County Animal Control Policies and Procedures (Manual) is hereby approved and authorized for incorporation as an appendix to the Nelson County Personnel Policies and Procedures Manual.

(Res. of 11-14-00)

Editor's note(s)—A resolution adopted November 14, 2000, enacted a provision which was not specifically amendatory of the Code. At the editor's discretion, this provision has been included herein as a new § 3-4, for classification purposes.

### **Sec. 3-5. Trapping, hunting, etc. of birds unlawful.**

- (a) It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or fowl or to rob bird nests or wild fowl nests. Such restrictions shall not prevent lawful hunting of game birds under authority of a permit issued pursuant to state law. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or a menace to health or property then said starlings or birds may be destroyed by the local residents affected by the nuisance; and
- (b) Anyone violating the provisions of this section shall be punished as a Class II misdemeanor.

(Ord. of 5-11-2004)

### **Secs. 3-6—3-25. Reserved.**

## ***ARTICLE II. DOGS AND CATS***

*Amend*

### **Sec. 3-26. Unlicensed dogs prohibited.**

It shall be unlawful for any person to own a dog four (4) months or older in this county unless such dog is licensed, as required by the provision of this article.

(Res. of 10-10-00)

~~State law reference(s) — Code of Virginia, § 3-1-796.85.~~

*Amend*

### **Sec. 3-27. How to obtain license.**

A resident of this county shall make written application to the treasurer accompanied by the amount of license tax then in effect and a current certificate of vaccination. Upon receipt of the application, which shall contain verification of the owner's residence in this county, the treasurer shall issue a license receipt for the tax and list thereon the name and address of the owner or custodian, the date of and amount of payment, the year for which issued, the serial number of the tag, the sex of the dog and whether neutered, or if a kennel, as the case may be, and deliver the metal license tags as provided for herein. The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid.

(Res. of 10-10-00)



~~State law reference(s) — Va. Code Sec. 3.1-796.86.~~

*Amend*

**Sec. 3-28. Amount of license tax.**

The annual license tax shall be collected as follows:

- (a) Spayed or neutered dogs: Five dollars (\$5.00).
- (b) Sexed dogs: Seven dollars (\$7.00).
- (c) Lifetime dog license: Thirty dollars (\$30.00).

A lifetime license shall be valid only for as long as the dog's owner resides in this county and the dog's rabies vaccination is kept current.

- (d) Kennels:

Five (5) to ten (10) dogs: Twenty-five dollars (\$25.00).

Eleven (11) to twenty (20) dogs: Fifty dollars (\$50.00).

Twenty-one (21) to fifty (50) dogs: Seventy-five dollars (\$75.00).

- (e) No license tax shall be levied on any dog that is trained and serves as (i) a guide dog for a blind person, (ii) a hearing dog for a person who is deaf or hard of hearing, or (iii) a service dog for a mobility-impaired or otherwise disabled person. As used in this section, "hearing dog," "mobility-impaired person," "otherwise disabled person" and "service dog" shall have the same meanings as assigned in Virginia Code Section 51.5-40.1.

(Res. of 10-10-00; Ord. No. O2021-04, 7-13-21)

~~State law reference(s) — Code of Virginia, § 3.1-796.87.~~

*Amend*

**Sec. 3-29. When license tax payable.**

The license tax on dogs shall be due and payable as follows:

- (a) On or before January 1 and not later than January 31 of each year, the owner of any dog four (4) months old or older shall pay a license tax as prescribed in section 3-28.
- (b) If a dog becomes four (4) months of age or comes into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid forthwith by the owner.
- (c) If a dog becomes four (4) months of age or comes into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner and such license shall protect such dog from the date of purchase.

(Res. of 10-10-00)

~~State law reference(s) — Va. Code Sec. 3.1-796.88.~~

*Amend*

**Sec. 3-30. Effect of dog not wearing collar as evidence.**

Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed, and in any proceeding under this chapter the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

(Res. of 10-10-00)

~~State law reference(s) — Va. Code Sec. 3.1-796.89.~~

**Sec. 3-31. What dog license shall consist of.**

A dog license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show the sex of the dog, the calendar year for which issued, and shall bear a serial number. The license tag for a kennel shall show the number of dogs authorized to be kept under such license and have attached thereto a metal identification plate for each of such dogs, numbered to correspond with the serial number of the license tag.

(Res. of 10-10-00)

*Amend*

**Sec. 3-32. Duplicate license tags.**

If a dog license tag is lost, destroyed, or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the original license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The treasurer or his agent shall endorse the number of the duplicate tag for any dog shall be one dollar (\$1.00).

(Res. of 10-10-00)

~~State law reference(s) — Va. Code Sec. 3.1-796.91.~~

*Amend*

**Sec. 3-33. Displaying receipts; dogs to wear tags.**

Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal control officer or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four (4) months or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section when (i) the dog is engaged in lawful hunting, (ii) the dog is competing in a dog show, (iii) the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) the dog is confined, or (v) the dog is under the immediate control of its owner.

(Res. of 10-10-00)

~~State law reference(s) — Va. Code Sec. 3.1-796.92 supp.~~

*Amend*

### **Sec. 3-34. Payment of license tax subsequent to summons.**

Payment of the license tax subsequent to a summons to appear before a court for failure to pay the license tax within the time required shall not operate to relieve such owner from the penalties provided.

(Res. of 10-10-00)

~~State law reference(s) — Va. Code Sec. 3.1-796.103.~~

*Amend*

### **Sec. 3-35. Rabies inoculation of dogs and domesticated cats; availability of certificate.**

The owner or custodian of all dogs and domesticated cats four (4) months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law enforcement officer, state veterinarian's representative, or official of the department of health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species.

(Res. of 10-10-00)

~~State law reference(s) — Va. Code Sec. 3.1-796.97:1 supp.~~

*Remove*

### **~~Sec. 3-36. Dogs or hybrid canines killing, injuring or chasing livestock or poultry.~~**

- ~~(a) It shall be the duty of any animal control officer or other officer who may find a dog, including a hybrid canine as defined in section 3-61, in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the dog to produce the dog.~~
- ~~(b) Any animal control officer who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned herein. Any animal control officer or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county, city or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be (i) killed immediately by the animal control officer or other officer designated by the court or (ii) removed to another state which does not border on the commonwealth and prohibited from returning to the commonwealth. Any dog ordered removed from the commonwealth which is later found in the commonwealth shall be ordered by a court to be killed immediately.~~

~~(Res. of 10-10-00)~~

State law reference(s) — Va. Code Sec. 3.1 796.116 and Sec. 3.1 796.126:10.

Remove

### Sec. 3-37. Dangerous or vicious dogs.

(a) — "~~Dangerous dog~~" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

(b) — Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Section 3.1 796.119 of the Code of Virginia.

(c) — No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

(d) — The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of fifty dollars (\$50.00) in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(e) — All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced in yard until the proper enclosure is constructed, and (iii) that the owner has at least one hundred thousand dollars (\$100,000.00) liability insurance that covers animal bites. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present

satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

- (f) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere the animal's vision or respiration, but so as to prevent it from biting a person or another animal.
- (g) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.
- (h) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined, (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to a different address.
- (i) The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class I misdemeanor.
- (j) All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance, shall be paid into a special dedicated fund in the treasury for the purpose of paying the expenses of any training course required under Section 3.1-796.105 of the Code of Virginia.

(Res. of 10-10-00; Ord. of 12-9-03)

State law reference(s) — Va. Code Sec. 3.1-796.93:1.

### **Sec. 3-38. Dogs in kennels prohibited from running at large.**

The owner of a kennel shall securely fasten the license tag to the kennel enclosure in full view and keep one (1) of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to any dog warden or other officer upon request. A kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding, trial or show. A kennel shall not be operated in such manner as to defraud the county of the license tax applying to dogs which cannot be legally covered thereunder or to in any manner violate other provisions of this article.

(Res. of 10-10-00)

*Remove*

### **Sec. 3-39. Confinement and disposition of stray animals.**

For purposes of this section:

*Animal* shall not include agricultural animals.

*Rightful owner* means a person with a right of property in the animal.

*Humane society* when referring to an organization without the commonwealth, means any nonprofit organization organized for the purpose of preventing cruelty to animals and promoting humane care and treatment or adoption of animals.

- (a) Cats for which there is no proof of rabies vaccination and dogs and hybrid canines, as defined in section 3-61, found running at large without the tag as required in section 3-33 or which are otherwise in violation of this chapter shall be seized and confined in the county's pound.

~~(b) An animal confined pursuant to this section shall be kept for a period of not less than five (5) days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof. The operator or custodian of the pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five (5) days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next forty eight (48) hours following its confinement.~~

~~(c) If an animal confined pursuant to this section has not been claimed upon expiration of the appropriate holding period as provided by subsection b, it shall be deemed abandoned and become the property of the pound or shelter. If such abandoned animal did not, when delivered to the pound, bear a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by:~~

~~(1) Sale or gift to a federal agency, state supported institution, agency of the commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the commonwealth, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five (5) days.~~

~~(2) Delivery to any humane society or animal shelter within the commonwealth;~~

~~(3) Adoption by any person who is a resident of the county and who will pay the required license fee, if any, on such animal;~~

~~(4) Adoption by a resident of an adjacent political subdivision of the commonwealth;~~

~~(5) Adoption by any other person, provided that no animal may be adopted by any person who is not a resident of the county for which the pound or animal shelter is operated, or of an adjacent political subdivision, unless the animal is first sterilized; or~~

~~(6) Delivery, for the purposes of adoption or euthanasia only, to a humane society or an animal shelter located in and lawfully operating under the laws of another state provided that such humane society or animal shelter (i) maintains records which would comply with Virginia Code Section 3.1-796.105; (ii) requires that adopted dogs and cats be sterilized; and (iii) has been approved by the state veterinarian or his designee as a facility which maintains such records, requires adopted dogs and cats to be sterilized, and provides adequate care and euthanasia.~~

~~If such abandoned animal, when delivered to the pound, bore a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by the methods described in subdivisions (2), (3), (4), or (5) of this subsection.~~

~~No pound or shelter shall deliver more than two (2) animals or a family of animals during any thirty day period to any one (1) person under subdivisions (3), (4), or (5) of this subsection.~~

~~If an animal is required to be sterilized prior to adoption pursuant to subdivision (5) of this subsection, the pound or animal shelter may require that the sterilization be done at the expense of the person adopting the animal.~~

~~(d) Nothing in this section shall prohibit the immediate destruction of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal destroyed pursuant to the provisions of this chapter shall be euthanized by one (1) of the methods prescribed or approved by the state veterinarian.~~

~~(e) Nothing in this section shall prohibit the immediate destruction or disposal by the methods listed in subdivisions (2) — (6) of subsection (c) of an animal that has been delivered voluntarily or released to a pound, animal shelter, animal control officer, or humane society by the animal's rightful owner after the rightful owner has, in writing, surrendered all property rights in such animal and has read and signed a statement (i) certifying that no other person has a right of property in the animal and (ii) acknowledging that the animal may be immediately euthanized or disposed of by the methods listed in subdivisions (2) — (6) of subsection (c).~~

~~(f) Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification which, based on the written certification of a disinterested person, exhibits~~

behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three (3) days, at least one (1) of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The certification of the disinterested person shall be kept with the animal as required by Virginia Code Section 3.1-796.105. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal to the facility.

(Res. of 10-10-00)

State law reference(s) — Va. Code Sec. 3.1-796.96.

*Amend*

### **Sec. 3-40. Fees.**

The following shall apply in connection with the adoption of an animal:

- (a) Each prospective owner shall complete an application prepared by the animal control officer.
- (b) In connection with the adoption of a dog the owner shall pay ~~seventy dollars (\$70.00)~~ one hundred sixty dollars (\$160.00), which fee shall include spaying or neutering of the animal, a rabies vaccination, a tattoo of the adoption number, and a license tag certificate. In the case of the adoption of a cat the owner shall pay ~~sixty five dollars (\$65.00)~~ ninety dollars (\$90.00), which fee shall include spaying or neutering of the animal, a rabies vaccination, and a tattoo of the adoption number.
- (c) A new owner will receive a license tag certificate when he is permitted to take possession of the adopted animal.

Such certificate must be presented promptly to the treasurer who thereupon shall issue to the owner a license tag.

- (d) In the event that any animal confined pursuant to the comprehensive animal laws adopted in this chapter is claimed by its rightful owner, including adopted owner, such owner shall be charged ~~five dollars (\$5.00)~~ a pick up fee and a daily confinement fee for each day of impoundment of such animal. as follows:

- (1) Licensed dog pick up fee: \$0.00 (waived)
- (2) Unlicensed dog pick up fee: \$25.00
- (3) Licensed dog or companion animal confinement fee: \$10.00/day
- (4) Unlicensed dog confinement fee: \$20.00/day
- (5) Court ordered confinement, rabies monitoring, or isolation fee: \$25.00/day

(Res. of 10-10-00)

### **Sec. 3-41. Female dog in season.**

It shall be unlawful for the owner of any female dog to not maintain such dog in an enclosed or fenced pen while such dog is known to be in season. The owner shall not permit such dog to stray from his premises while such dog is known to the owner to be in season.

(Res. of 10-10-00)

*Amend*

**Sec. 3-42. Dogs prohibited from running at large in designated areas.**

- (a) It shall be unlawful for dogs to run at large, or remain unconfined, unrestricted, or not penned up, in that portion of Nelson County known as the Wintergreen Development, comprised of ten thousand, nine hundred sixteen (10,916) acres, and more particularly, all that property encompassed by the master plan for Wintergreen as revised from time to time.
  - (b) For the purpose of this provision, a dog shall be deemed to run at large while roaming, running, or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.
  - (c) Any person within Wintergreen Development who permits his dog to run at large in Wintergreen Development, or remain unconfined, unrestricted, or not penned up, shall be deemed to have violated the provisions of this section which shall be punishable as a Class 1 misdemeanor. ~~and, upon conviction, shall be punished as provided in Section 3.1-796.128 of the Code of Virginia.~~
  - (d) Only law enforcement and animal control officers may initiate criminal proceedings for a violation of this section with the primary responsibility for enforcement lying with the Wintergreen Police Department.
- (Ord. of 9-10-02)

**Sec. 3-43. Dogs running at large.**

An owner shall not allow his/her dog to run at large in the county, subject to the following:

- (a) *When a dog is deemed to run at large.*
  - (1) For the purposes of this section, a dog is deemed to "run at large" while roaming or running off the property of its owner or custodian and is not under its owner's or custodian's immediate control. Under "immediate control" shall mean (i) secured by leash or lead, or (ii) under control of a responsible person and obedient to that person's commands, or (iii) within the real property limits of its owner or other person consenting to its presence.
  - (2) "Off the property of its owner or custodian" includes, the property of the dog's owner or custodian, or other person consenting to the dog's presence, in which a third party has a property right such as an easement for ingress and egress or for a public right-of-way, public road, public sidewalk, or public trail.
- (b) *When a dog is not considered to be running at large.*

A dog is not considered to "run at large" in the following circumstances:

*Dogs used for hunting.* Dogs used for hunting are exempted from the prohibitions of this section and shall not be deemed to be running at large provided any such dog is wearing a collar with a tag showing the name and telephone number of the owner of the dog.

*Field trials or training.* During field trials or formal obedience, agility, or similar training periods when the dog is accompanied by its owner or custodian.

*Fenced dog park or exercise area.* When the dog is in a securely fenced, specifically designated dog park or dog exercise area established by the county or another governmental entity, a homeowner's association, or a community organization, where the fencing is designed to prevent a dog from escaping.

*Service dog; when leashing is not required.* When the dog is a service animal whose handler, because of a disability, is unable to use a harness, leash, or other tether, or the use of such a device would interfere with the service dog's safe and effective performance of work or tasks, provided that the service dog is otherwise under the handler's control through voice control, signals, or other effective means.



*Public service training.* During search and rescue and similar public service training when the dog is accompanied by its owner or custodian, or by a qualified handler, provided the owner, custodian, or handler has the express permission of the owner or occupant of the property on which the dogs are being trained.

*Working farm dogs.* When the dog is a working farm dog that is either guarding or herding cows, fowl, goats, sheep, swine, or other domestic animals normally raised on a farm. When the dog is not engaged in guarding or herding farm animals, the exception does not apply.

(c) *Penalties.*

- (1) Except as provided in subsection (2) below, any person who permits his dog to run at large shall be deemed to have violated this section which shall be punishable as a Class 1 misdemeanor.
- (2) The owner or custodian of a dog found running at large in a pack shall be subject to a civil penalty of one hundred dollars (\$100.00) per dog so found. For the purpose of this section, a dog shall be deemed to be running at large in a pack if it is running at large in the company of one (1) or more other dogs that are also running at large. The civil penalty shall be deposited by the treasurer pursuant to the provision of Virginia Code § 3.2-6534.
- (3) Proceedings pursuant to this section may only be initiated by an animal control officer or other law enforcement officer.

(d) *Seizure, impoundment and disposition.* Any dog observed or captured while unlawfully running at large may be seized, impounded and disposed of by an animal control officer or other law enforcement officer pursuant to Virginia Code § 3.2-6546.

(Ord. No. O2020-02, 11-10-20; Ord. No. O2022-03, 10-11-22)

State law reference(s)—Code of Virginia, §§ 3.2-6538, 3.2-6543, and 3.2-6546.

**Secs. 3-44—3-60. Reserved.**

## ***ARTICLE III. HYBRID CANINES***

### **Sec. 3-61. Definitions.**

As used in this article:

*Adequate confinement* means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog pursuant to the Virginia Code of Virginia Section 3.1-796.93-1, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine, and (ii) provide a minimum of one hundred (100) square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

*Hybrid canine* means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law enforcement officer, animal control officer, humane investigator, official of the department of health, or state veterinarian's representative.

(Res. of 10-10-00)

*Amend*

**Sec. 3-62. Hybrid canine ordinance; penalty.**

- (a) No person shall keep or maintain a hybrid canine without a permit for each such animal.
- (b) No person may keep or maintain more than five (5) hybrid canines at any given time. Except as provided below, a person must, within seven (7) business days of first possessing a canine hybrid, obtain a permit therefore from the animal control officer, which permit shall be in addition to all other licenses required in this chapter. In the case of a hybrid canine pup, a permit therefrom must be obtained before the animal becomes four (4) months of age. The permit shall be issued upon receipt of ten dollars (\$10.00) payable to the Treasurer of Nelson County and shall expire, regardless of issuance, on December 31<sup>st</sup> of the year of issuance. Permits must be renewed each year during the month of December prior to the expiration date thereof.
- (c) The applicant shall provide to the animal control officer on a form to be provided the sex, color, height, weight and identifying marks for each hybrid canine for which a permit is sought.
- (d) An owner of canine hybrids shall provide adequate confinement for such animals satisfactory to the animal control officer. No hybrid canine shall be permitted to run at large, and while on the property of its owner or custodian hybrid canines shall be either under the direct supervision and control of the owner or custodian or adequately confined.
- (e) Should the owner fail to obtain a permit as required herein, or violate any other provision hereof, then the hybrid canine may be seized and disposed in accordance with applicable law. Notwithstanding the foregoing, a violation of this article shall be a Class 3 violation for the first violation and a Class I misdemeanor for a second or subsequent violation.

(Res. of 10-10-00)

State law reference(s)—Va. Code Sec. 3.2-6581 ~~1-796.126-9~~, 3.2-6582.

**Secs. 3-63—3-70. Reserved.**

***ARTICLE IV. PENALTIES***

*Amend*

**Sec. 3-71. Unlawful acts; criminal penalties.**

- ~~(a) The following shall be unlawful acts and constitute Class 4 misdemeanors:~~
  - ~~(1) *License application*—For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.~~
  - ~~(2) *License tax*—For any dog or cat owner to fail to pay any license tax required by this chapter before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog or cat.~~
  - ~~(3) *Rabies regulations*—For any person to fail to obey an ordinance passed pursuant to Virginia Code Section 3.1-796.98 and 3.1-796.100.~~
  - ~~(4) *Diseased dogs and cats*—For the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from his premises if such disease is known to the owner.~~
  - ~~(5) *Concealing a dog or cat*—For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.~~

~~(6) *Removing license tag* For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.~~

~~(7) *Other violations* Any other violation of this chapter for which a specific penalty is not provided.~~

~~(b) It shall be a Class 1 misdemeanor for any person to:~~

~~(1) Present a false claim or to receive any money on a false claim under the provisions of section 3-387 or~~

~~(2) Impersonate a humane investigator;~~

~~(3) Conceal or harbor a rabid animal unless directed to do so by competent authorities.~~

~~State law reference(s) – Va. Code Sec. 3.1-796.128 and 3.1-796.100.~~

~~(Res. of 10-10-00)~~

(a) The following shall be unlawful acts and are Class 4 misdemeanors:

(1) For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.

(2) For any dog or cat owner to fail to pay any license tax required by this chapter before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog or cat.

(3) Reserved.

(4) Unless otherwise punishable under subsection B, for any person to fail to obey an ordinance passed pursuant to §§ 3.2-6522 and 3.2-6525.

(5) For any owner to fail to dispose of the body of his companion animals in accordance with §3.2-6554.

(6) For the owner of any dog or cat with a contagious or infectious disease, other than rabies, to permit such dog or cat to stray from his premises if such disease is known to the owner.

(7) For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.

(8) For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.

(9) Any other violation of this chapter for which a specific penalty is not provided.

(b) It is a Class 1 misdemeanor for any person to:

(1) Impersonate a humane investigator.

(2) Permit a dog or cat that he owns or is in his custody to stray from his premises when he knows or has been told by the local health department, law-enforcement agency, animal control agency, or any other person who has a duty to control or respond to a risk of rabies exposure that the dog or cat is suspected of having rabies.

State law reference – Va. §3.2-6587.

*New*

#### Sec. 3-72. Civil Penalty for certain violations

Notwithstanding anything to the contrary in this chapter, a violation of any section of this chapter may be punishable by a civil penalty in the amount of \$150.00. The animal control officer or law enforcement officer's designation of a particular violation for a civil penalty shall be in lieu of criminal sanctions and preclude prosecution of such violation as a criminal misdemeanor. Imposition of a civil penalty shall not preclude an action for injunctive.

declaratory, or other equitable relief. Monies raised pursuant to this section shall be placed in the County's general fund. An animal control officer or law-enforcement officer may issue a summons for a violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the treasurer of the County issuing the summons or ticket prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

State law reference –Va Code § 3.2-6543.

**Secs. 3-73—3-80. Reserved.**

## ***ARTICLE V. FENCE LAW***

*Amend*

### **Sec. 3-81. Boundaries declared lawful fences.**

The boundary line of each lot or tract in this county is hereby declared a lawful fence to any domesticated livestock or poultry ~~domesticated by man~~.

(Ord. No. O2019-02, 11-14-19)

*New*

### **Sec. 3-82. Unlawful for livestock to run at large.**

It is unlawful for the owner or manager of any domesticated livestock or poultry to allow, willfully or negligently, any such animal, as to which the boundaries of lots or tracts of land have been constituted a lawful fence, to run at large beyond the limits of his own lands within the county. Any owner or manager who allows such animal to run at large shall be deemed to have violated this section which shall be punishable as a Class 1 misdemeanor.

State law ref: Virginia Code § 55.1-2820

*New*

### **Sec. 3-83. Recovery of Costs.**

When domesticated livestock or poultry running at large are recovered by animal control or law enforcement, then all costs associated with the recovery and confinement of such animals shall be the responsibility of the owner or manager. Such costs shall include, but are not limited to, the engagement of private citizens to capture the animals, fees for transporting the animals, boarding expenses for confinement by the county or on the property of others, and expenses incurred in connection with sale or other disposition of such animals.

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

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

The Board had no other business to discuss.

**V. ADJOURN AND CONTINUE TO APRIL \_\_\_\_\_, 2023 AT \_\_\_\_\_. FOR A BUDGET WORK SESSION.**

At 7:37 p.m., Mr. Reed made a motion to adjourn and continue the meeting to April 18, 2023 at 1 p.m. for a budget work session. Mr. Barton seconded the motion, and there being no further discussion, Supervisors approved the motion by vote of acclamation and the meeting adjourned.