

June 13, 2023

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
J. David Parr, West District Supervisor – Vice 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

I. CALL TO ORDER

Mr. Rutherford called the meeting to order at 2:04 p.m. with five (5) Supervisors present to establish a quorum.

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

II. PUBLIC COMMENTS

Edith Napier – Nelson County Department of Social Services Board Chair

Ms. Napier reminded the Board about the Juneteenth celebration on June 18th at 3 p.m. at the Heritage Center. She urged the Board to have VDOT cut the grass at the southern end of Route 29. She commented that the grass was tall and presented a danger to those using the crossovers. She commented that it appeared that the southern end of the County was underserved. Ms. Rose thanked the Board for their support at the retirement celebration for former Nelson County Social Services Director, Angela Rose, who retired after 40 years of service to Nelson County. Ms. Napier introduced the new Director of Social Services, Brad Burdette. She highlighted Mr. Burdette’s experience working in Social Services, noting that he was well versed in all aspects of Social Services. Ms. Napier reported that Mr. Burdette lived in Nelson County with his wife Johnette Burdette and their two children.

Brad Burdette – Director of Nelson County Department of Social Services

Mr. Burdette thanked the Board and the local Social Services Board for the opportunity to serve the citizens of Nelson County. He noted that he had a warm welcome and he was looking forward to serving the County.

Grace Puskas - Blue Ridge Medical Center

Ms. Puskas introduced herself as the Community Health Worker for Blue Ridge Medical Center (BRMC). She noted that she had started her job at Blue Ridge in November. She announced that Blue Ridge Medical was hosting a Nelson Community Health Fair on July 15th at the Heritage Center. She commented that they would be providing free sports physicals, children’s back to school immunizations, and school supplies. She explained that it was a health fair combined with a back to school event. She noted that there would be many health and human service agencies present at the event. Ms. Puskas commented that the goal to engage with the community and to share all of the available resources that the citizens have access to, with the intention to reduce health disparities in Nelson County. She reported that there would be prizes, food trucks, games and fun for all ages. She asked for the Board’s continued support and help in promoting event.

Stephen Bayne Nellysford, VA

Mr. Bayne stated that he was there to provide feedback regarding the FY24 County budget. He indicated that he was concerned at the amount of capital expenditures that the County would need for infrastructure needs beginning soon. He commented that residents needed to have confidence that the Board has effectively planned for those infrastructure needs, including when they would be needed, what they would cost, and that they would be fully funded. He was concerned that the recurring contingency reserve at \$500,000 was too low. He reiterated that residents needed to have confidence that the Board has planned effectively, with fiscally responsible reserves. He noted that he was also concerned that the Board was missing an opportunity to increase the transient occupancy tax rate from 5 percent to 7 percent. He noted that the increased revenue would be an efficient revenue source to strengthen the weaknesses in the proposed budget. Mr. Bayne commented that he was also concerned that the Board was missing an opportunity to reduce the real estate tax rate for FY24, which would keep the real estate tax rate flat for residents who have struggled with inflation, spiking interest rates and the economic slowdown. He noted that many other counties had focused on providing that relief. He noted that he was also concerned with the lack of evidence that the Board performed detailed due diligence regarding the Schools budget request. He commented that he supported the public schools, and it was important that the Board confirm that the

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budget request was fiscally responsible and truly what was needed. He commented that the proposed 5 percent salary increase for County employees was very high. He stated that residents needed to have confidence that the Board's diligence with pay studies truly warranted the level of increase across all positions. He stated that he was also concerned about the County's debt facility in light of severely increasing interest rates.

Bill Percy, Lovington, VA

Mr. Percy thanked Mr. Rutherford for his Facebook post asking for comments about road situations. He echoed Ms. Napier's comments about the grass. Mr. Percy noted that he would like to see improvements to the left turn lane coming off of 29 South entering Lovington at Northside. He commented that the left turn lane was too short. He also commented that improvements needed to be made at the median just south of Outback Brewery. He also suggested that a longer deceleration lane was needed for the median on Route 29 at the Heritage Center, as well as on the other side of 29 when turning onto Morse Lane.

Anne Landry - Nellysford, VA

Ms. Landry asked the Board to consider providing additional funds to Animal Control. She suggested instead of euthanize particular animals, that the animals be transported by one of the volunteer groups to states where they would be adopted. She asked that the Board carve out \$3,00 from the bloated school budget to help cover transportation costs. Ms. Landry commented that the Schools were not being transparent about why they needed additional funds. She did not believe that the Board had seen a line items budget of what the Schools were spending their money on. She commented that the Schools wanted more money year after year and noted the declining student enrollment.

Thomas Bruguiera, Roseland, VA

Mr. Bruguiera commented that the road from Fleetwood up to the collection center was loaded with refuse and tires. He asked that the County to take care of the issue in some way.

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

Mr. Rutherford asked the Board to move the budget items VI D and VI E to top of New and Unfinished Business on the agenda. The Board was in consensus to make the adjustment to the agenda.

III. CONSENT AGENDA

Mr. Parr 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 adopted:

A. Resolution – **R2023-36** Minutes for Approval

**RESOLUTION R2023-36
NELSON COUNTY BOARD OF SUPERVISORS
APPROVAL OF MINUTES
(March 7, 2023, March 14, 2023 and March 15, 2023)**

RESOLVED, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **March 7, 2023, March 14, 2023 and March 15, 2023** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2023-37** Budget Amendment

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RESOLUTION R2023-37
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF FISCAL YEAR 2022-2023 BUDGET
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I. Appropriation of Funds (General Fund)		
<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 1,095.54	3-100-002404-0001	4-100-031020-5419
\$ 3,078.00	3-100-002404-0035	4-100-031020-7036
\$ 669,374.52	3-100-002401-0045	4-100-053600-3164
\$ 82,000.00	3-100-003303-0043	4-100-081020-7063
<u>\$ 755,548.06</u>		

II. Appropriation of Funds (Piney River Fund)		
<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$ 10,900.00	3-501-001608-0003	4-501-042040-3004
<u>\$ 10,900.00</u>		

III. Transfer of Funds (Employee Benefits and Departmental)		
<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 3,550.00	4-100-091030-5616	4-100-011010-5501
\$ 1,450.00	4-100-091030-5616	4-100-011010-5504
\$ 2,481.00	4-100-091030-5616	4-100-012150-3005
\$ 919.00	4-100-091030-5615	4-100-012150-3005
\$ 656.00	4-100-091030-5615	4-100-012150-2005
\$ 15,010.00	4-100-091030-5615	4-100-012040-3002
<u>\$ 24,066.00</u>		

IV. Transfer of Funds (General Fund Non-Recurring Contingency)		
<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 25,000.00	4-100-999000-9905	4-100-032020-5415
\$ 29,516.64	4-100-999000-9905	4-100-043040-5408
<u>\$ 54,516.64</u>		

V. Transfer of Funds (General Fund Recurring Contingency)		
<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
\$ 50,000.00	4-100-999000-9901	4-100-043040-5415
\$ 305,253.48	4-100-999000-9901	4-100-053600-3164
\$ 6,000.00	4-100-999000-9901	4-100-012130-3125
<u>\$ 361,253.48</u>		

IV. RESOLUTION – Earl Hamner Jr. and Jimmy Fortune Day (R2023-38)

Mr. Rutherford introduced the subject, noting that Mr. Hamner and Mr. Fortune both played critical roles in Nelson County in both how they were raised and the manner in which they lived their lives. Mr. Rutherford asked Mr. Woody Greenberg to report on the upcoming event at the Nelson County Historical Society.

Woody Greenburg – Nelson County Historical Society Board of Directors Arrington, VA

Mr. Greenberg reported that the Historical Society was planning to unveil large bronze statues of Earl Hamner and Jimmy Fortune on Saturday, July 8, 2023 at Oakland Museum. He explained that the statues were being donated to the Society through the efforts of a long-time fan of Jimmy Fortune, named Linden Cook. Mr. Greenberg noted that when Mr. Cook asked Jimmy Fortune about statue, Mr. Fortune asked the fan to honor Earl Hamner as well. Mr. Greenberg reported that the event would begin at 11 a.m. with speakers - Kami Cotler and Eddie Witt. Mr. Greenberg invited Mr. Rutherford to speak at the event also. Mr. Greenberg asked that the Board pass a resolution declaring July 8th as “Earl Hamner, Jr. and Jimmy

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Fortune Day”, in recognition of the honor that both gentlemen had brought to the County. Mr. Greenberg reported that following the unveiling ceremony, they would be opening two new exhibits at the museum. He explained that one exhibit would be on Earl Hamner’s writings, and the other was called “Rhythms of Yesterday and Today,” on the County’s musical heritage. He noted that the musical heritage exhibit would feature Jimmy Fortune, along with the late Curtis Mathews, Ral Satterwhite, and the Toms Sisters. Mr. Greenberg also invited the Board to a concert that same evening at the Heritage Center with Jimmy Fortune headlining, along with several others.

Mr. Rutherford read and moved to approve Resolution R2023-38 and Mr. Parr seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2023-38
NELSON COUNTY BOARD OF SUPERVISORS
DECLARATION OF JULY 8, 2023 AS
EARL HAMNER, JR. AND JIMMY FORTUNE DAY**

WHEREAS, Earl Hamner, Jr. and Jimmy Fortune have brought great honor to Nelson County nationally; and,

WHEREAS, Mr. Hamner’s novel and film “Spencer’s Mountain,” and his creation of the Emmy Award winning “The Homecoming” and “The Waltons” television series, are all set in Nelson County; and,

WHEREAS, national recognition of Mr. Hamner has brought thousands of visitors to the county to see his boyhood home, a museum dedicated to “The Waltons,” and other business enterprises associated with Mr. Hamner’s contributions to American popular culture; and,

WHEREAS, Jimmy Fortune, is a country and gospel music singer from Nelson County who sang with The Statler Brothers for 21 years, and wrote the song "Elizabeth" for the group as well as several other number one country hits; and,

WHEREAS, Mr. Fortune has been inducted with The Statler Brothers into the Gospel Music Hall of Fame, and the Country Music Hall of Fame, and was also inducted twice into the Virginia Music Hall of Fame, and continues to perform as a solo artist; and,

WHEREAS, both Mr. Hamner and Mr. Fortune continue to bring honor and recognition to the county of their births and upbringing; and,

WHEREAS, the Nelson County Historical Society has arranged to honor these two Nelson County citizens with life-size bronze statues at Oakland Museum;

NOW THEREFORE BE IT RESOLVED, that the Nelson County Board of Supervisors hereby declare that Saturday, July 8, 2023, be known as “Earl Hamner Jr. and Jimmy Fortune Day”.

Mr. Barton commented that speaking about Mr. Hamner and Mr. Fortune reminded him that in the last week, two citizens of Nelson County had passed away and they were both named John. Mr. Barton noted that Johnny Roberts was the former horticulture teacher at the high school for many years. He explained that at Mr. Roberts funeral, his granddaughters read an essay that he had written about Nelson County in 2007 which described what Nelson County was like in 1957. Mr. Barton then described Mr. John Martin, noting he had probably attended more high school sporting events than any other person in the County. He commented that Mr. Martin had coached, and also participated in recreational sports. He noted that he was one of the people that bound the County together. He commented that Mr. Martin was also a County employee in Maintenance department for many years and was a wonderful person.

V. PRESENTATIONS

A. VDOT Report

Mr. Robert Brown of VDOT was present.

Mr. Rutherford commented that he had gone on social media the day before to ask the community at large what their problems with the roadways were. He reported that mowing was a primary concern. He asked Mr. Brown if VDOT had a mowing schedule. Mr. Brown reported that VDOT had been mowing secondary roads. He noted that they started mowing four lane primaries on 29 the day before, near Woods Mill. He noted that they would continue mowing until they finished 29 and then get back to secondary and two-lane primary roads. He estimated that they should finish four lane mowing by the Fourth of July. Mr. Brown noted that he had seen a lot of the comments on Facebook. He commented that he understood the concerns,

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and noted that they could not be everywhere at once. He reported that they had started mowing secondary roads on May 1st and they would stay at it until it was all cut back.

Mr. Barton noted that there was an event at the Heritage Center coming up that weekend. He asked if it would be possible to have that mowed before the event, to help with traffic visibility. Mr. Parr noted other high traffic crossovers like the two in Colleen, one at Route 56, and the other at the Dairy Isle. He noted that Route 56 going to Montebello was pretty overgrown as well.

Mr. Brown reported that they had finished hard surfacing on Cedar Creek and were now working on Honeysuckle. He noted that they hoped to then move on to Jack's Hill in July to continue the Rural Rustic hard surfacing program. He commented that they also had a significant drainage structure to install on Jack's Hill. Mr. Brown reported that they had received some additional maintenance funds for Nelson County. He noted they were able to get some more replacement stone for some of the unpaved roads. He also noted that he had a mowing contract out for bid. He said he could not fund it in FY23, but he was hoping to get bids for FY24 to mow the secondary system.

Mr. Parr:

Mr. Parr commented that they had discussed shoulder work on Saunders Hill previously. He reported that Roseland Road also needed some attention.

Mr. Reed:

Mr. Reed had no VDOT issues to discuss.

Mr. Harvey:

Mr. Harvey had no VDOT issues to discuss.

Mr. Barton:

Mr. Barton reported that he had gotten a call from a citizen in Gladstone, who was under the impression that if the Board designated that area as a residential community, the speed limit could be reduced to 15 mph. Mr. Barton asked if that were true. Mr. Brown did not know, noting he did not think that was the case, but he would have to ask someone. Mr. Barton asked if it would be a problem to designate it a residential community. Ms. McGarry noted that would have to be looked into. Mr. Brown noted that they had spoken with the Gladstone resident, Mr. Brown, previously. He commented that a traffic study had been done on that road and there were 70 vehicles per day. He also noted that it was currently 25 mph and there had been zero crashes in the last seven years. He also indicated that both ends of the road had curves to calm traffic and there had been no success in approving anything lower than the existing 25 mph speed limit. Mr. Harvey thought that if they wanted to lower the speed limit further, there was a certain amount of criteria they had to meet. Mr. Brown noted he would look into the matter further and report back to Mr. Barton.

Mr. Rutherford:

Mr. Rutherford noted he would send his list via email.

Mr. Barton noted he had spoken to Paul Zelinsky and Mr. Zelinsky noted he could do the work that was needed to have the designation done for the area in Gladstone.

Mr. Rutherford asked about the Lovington sign and what the sight distance was in the right of way. Mr. Brown noted he would check, but he guessed it was probably 55 feet from the center of the road.

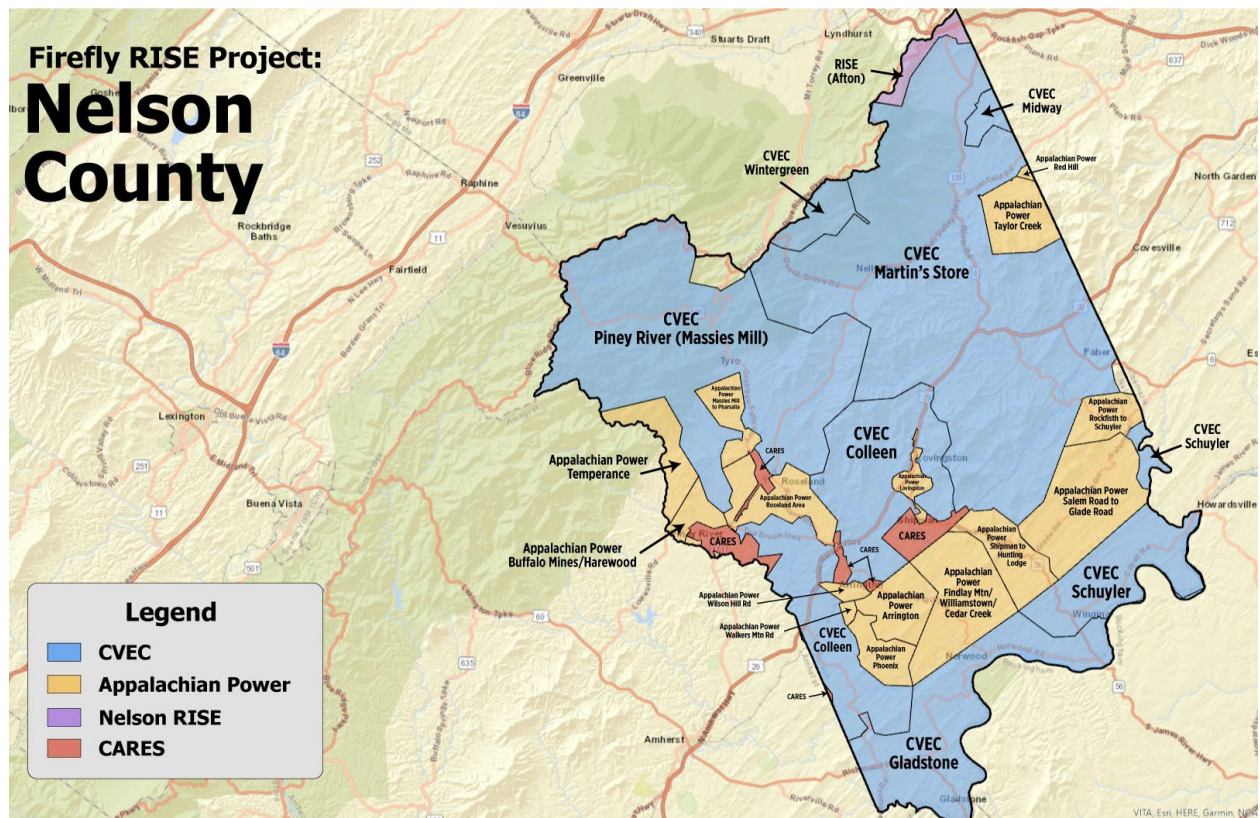
Mr. Brown provided the phone number 1-800-367-ROAD, noting that anyone could call to report any road condition 24/7. He commented that the operator got the information directed to the right person immediately. Mr. Rutherford also noted that there was an avenue online to report road issues.

B. Firefly Broadband Internet Report – Status Update

Mr. Gary Wood was of Central Virginia Electric Cooperative and Firefly was present to provide an update on Firefly's fiber buildout progress. He noted that Nelson County was ahead of the game. He reported that the CVEC substation areas of Colleen, Gladstone, Martin's Store, Midway and Wintergreen had been completed and they were still connecting people in those areas that sign up for service. He reported that the Massies Mill area out of the Piney River substation had about 60 pre-registered people left to connect.

He noted there were about 100 people left in Schuyler to connect. He reported that they were actively connecting and finishing up in those two areas (Massies Mill and Schuyler).

Mr. Wood then discussed the fiber build out for Appalachian Power (ApCo/AEP) customers. He reported that they were basically finished with all of the fiber construction in the County, except for the end of Phoenix Road and Falling Rock where ApCo was finishing up some make ready work. He explained that once the make ready work was complete, and the fiber would be put up. He estimated that it would be another month or two before they started making final connections in those areas. He noted that part of the construction had been finished from Hunting Lodge Road down to Glade Road, however, Firefly found that ApCo had left off a few make ready sections. He reported that ApCo had gone back to finish those sections, which were about 6 to 7 miles total. He reported that they were making progress on final connections in all areas. He noted they had made some progress on final connections in Arrington, Shipman, and Williamstown. He reported that they had about half of the people connected on Roseland Road, as well as half on Taylors Creek Road. Mr. Wood indicated that they still had a good amount left to connect on Buffalo Mines, Henderson's Store and Cow Hollow. He reported that in the Piney River area, there were about 100 people left to connect, with about 50 of those being located on the Nelson County side. He noted that the total number of people left to connect was about 850 with most of the construction being completed in those areas, with the exception of the last 7 to 8 miles that the construction is being finished up and spliced.



Mr. Wood reported that they had 10,500 passings to date. He indicated that there were 5,250 people with Firefly service in the County. He estimated that there was probably another 1,500 people with service through another provider. He commented that when they were finished with connections sometime in the fall, Nelson County should have around 8,000 out of 10,000 connected, noting that everyone who wanted service would have service. He noted the exception of Afton Mountain which about 200 homes were served by Dominion. He noted those folks would have Firefly the following year. He then noted the area of Love which had about 25 homes served by Shenandoah Valley Electric Cooperative. He explained that they would build the fiber off of the CVEC system and get those folks connected by next year. He noted that other than those in the areas of Afton Mountain and Love, everyone else in the County who wanted fiber should have it by the fall.

Mr. Wood then reported that in the State of Virginia, the new FCC broadband maps showed there were less than 350,000 locations with access to fiber optics. He indicated that Firefly provided service to 40,000 locations. He noted that Nelson County would have all but 250 locations with fiber this year. He noted there were about 2.5 million total locations in the state of Virginia and 350,000 of those locations had access to fiber. He commented that Nelson was way ahead. He pointed out that Northern Virginia, Richmond and Virginia Beach had good cable internet, but fiber internet was the next level. He congratulated the County and thanked the Board for all of their support to get this far. He reported that in terms of total construction, CVEC put in \$33 million into the County in fiber and fiber related structures, and Firefly put another \$8 million into the County so far. He noted that construction started in 2019 in Nelson County. Mr. Rutherford commented that CVEC had estimated \$25 million at the start of the project. Mr. Wood noted that there were more costs, some related to getting the work done quicker and some additional costs were necessary.

Mr. Wood commented that they were working until all were connected and they would continue to work after to connect anyone else who decided to connect. He noted that last calls were going out soon to CVEC members for free installations.

He noted they could offer 10GB to businesses, or even a home if they wanted to pay for it. He pointed out that it cost more money to change out the electronics but the fiber was good to go. He noted that when construction started in 2019, they projected to complete CVEC in 2023 and ApCo in 2024. He pointed out that they were going to finish up a year early.

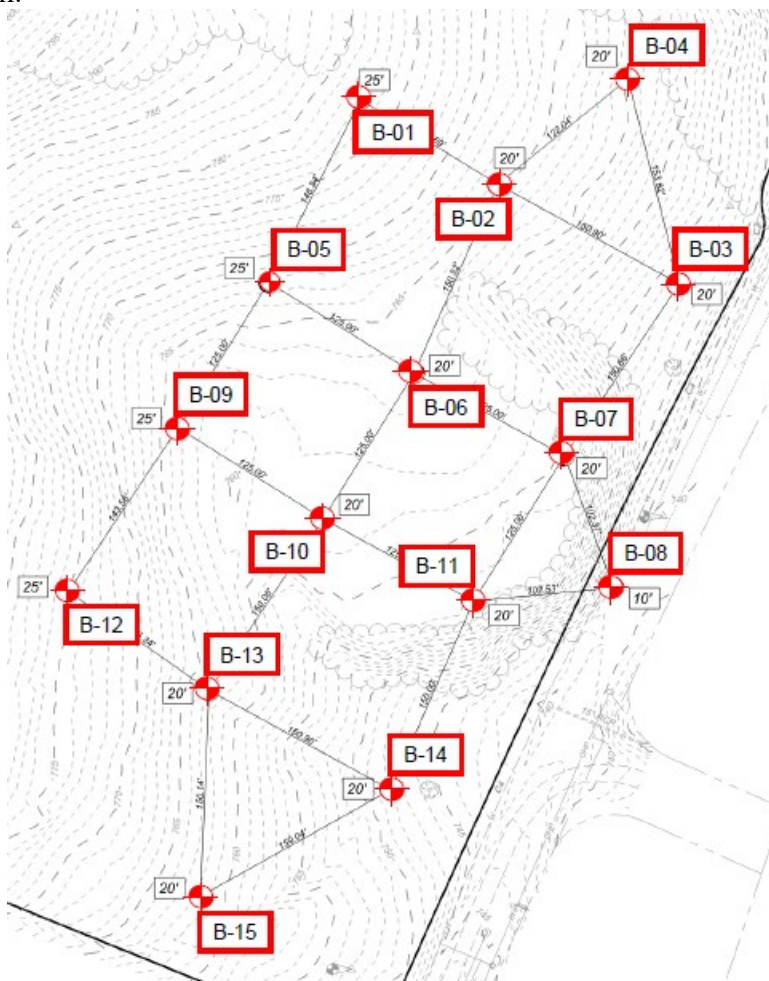
Mr. Barton asked how ApCo customers would hear about how they could get connected. Mr. Wood noted that Ms. Melissa Gay, who was in charge of Member Service and Communications at CVEC, as well as Firefly. Ms. Gay was present and explained that letters went out to ApCo members just like CVEC members. She noted that they held town halls to help people learn more about signing up and the process to get service installed. She explained that once service was in place and the hardware was on the outside of the home, the homeowner would get a call and email from Firefly to schedule an appointment to connect. She noted that the installation was still available with \$0 installation fee for those who signed up for service while they were working in the area. She noted that the hardware was still provided free of charge also, no contracts and symmetrical up and down data. Mr. Wood noted that it was still the same price they had started with.

Mr. Parr asked whether the maintenance crews and installation crews were the same or different people. Mr. Wood noted internal Firefly employees did the work inside of the homes, and outside of the homes they had line techs who did the fiber maintenance and trouble shooting. He noted that they supplemented line techs with subcontractors when there were large outages. Mr. Parr asked if the fiber techs were pulled from fiber construction when there was an outage. Mr. Wood indicated that contractors did all of the work for construction.

The Board had no other questions.

C. Callohill Building Project Update – PMA Architecture

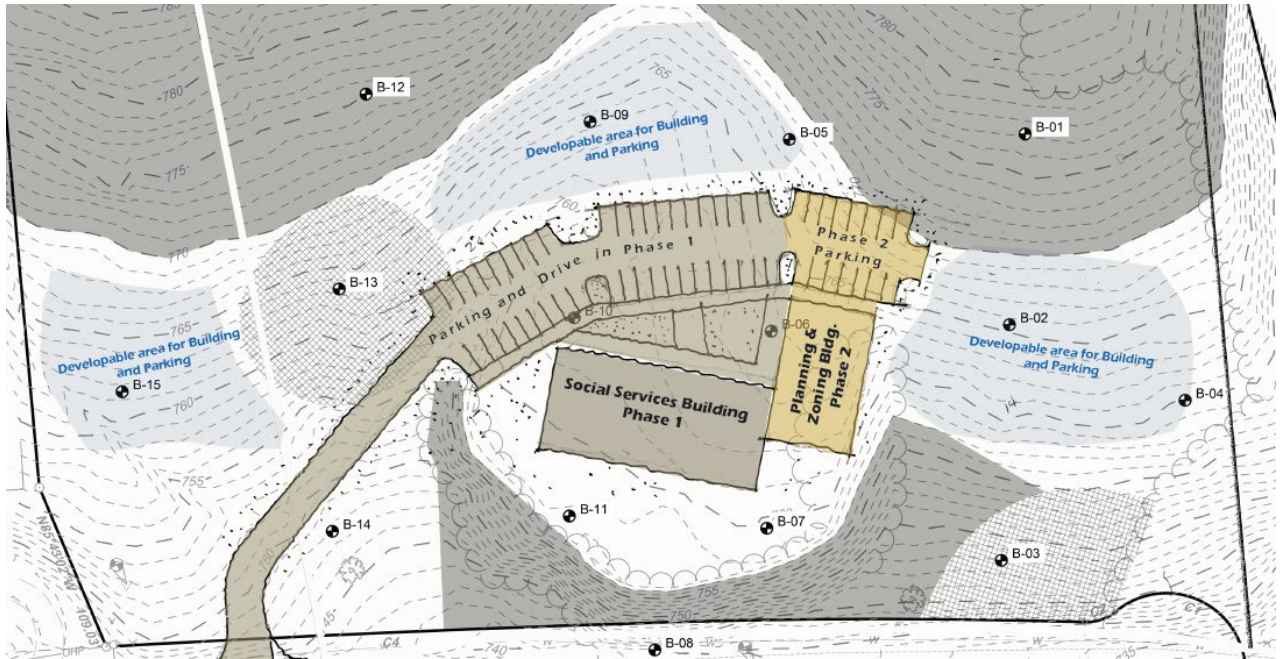
Mr. Jeff Stodghill of PMA Architecture was present to provide an update to the Callohill building site. He reported that Timmons Group had been doing a geotechnical study of the property. He noted that they performed 15 soil borings to see where rock was located on the site. Mr. Stodghill showed the boring locations at Callohill.



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Mr. Stodghill reported that the boring produced good news for the project. He indicated that the middle of site was mostly fill. He explained that there was some accumulated fill in middle, and there were rocks at upper and lower parts of site. He reported that the middle of the site was very developable and they had found reasonably good stiff soil around four to six feet down. He did not anticipate a lot of rock removal.

Mr. Stodghill showed a site map with potential building areas and areas to not use.



He pointed out that the shaded areas had steep slopes, which PMA felt it best to avoid developing in those areas. He noted that trying to use the middle part of site was best and they had come up with some viable strategies for coming off of Callohill. He showed the other areas for potential parking or building. He indicated that the blue labeled areas were also developable areas of the site. Mr. Stodghill pointed out that it was more expensive to get further up the hill. He reported that a full geotechnical report would be available by July 1st. He noted that next steps would be to look at starting the design and confirming a site construction budget. He explained that the engineers would need to start design to determine the costs for storm water and utilities. He noted that they felt that improvements were needed on the road to the entrance site and those costs would also need to be determined. He thought that they could consolidate construction and the construction area could be less than they previously anticipated. He noted that the site work was about one-quarter of the costs for the project.

Mr. Stodghill noted that he and Mr. Burdette had met earlier in the day. Mr. Rutherford asked Mr. Stodghill if he saw any cost modifications in the coming 12 to 24 months. Mr. Stodghill noted that they did not see any improvements/reductions in construction costs. He noted that most of the costs were being noted that sometimes it took a recession to push the costs. Mr. Stodghill commented that he did not see the costs getting any better, but they had some choices to make that could help with the costs.

Mr. Reed asked about gray crosshatched areas (B-13 and B-03) on the site. Mr. Stodghill noted those areas had rock near the surface and they were trying to keep the parking and building areas out of those places. He said it was not unbuildable, but they were trying to avoid using those areas. Mr. Reed asked if the full report would have further detail on those areas. Mr. Stodghill noted they would be in detail, along with the boring logs. Mr. Stodghill felt that the report would be very thorough and provide the information needed to make good decisions.

Ms. McGarry reported that a meeting had taken place with Mr. Burdette and staff to review everything that had been done to date. She noted that Mr. Burdette was going to review the space needs study with his Social Service Board. She noted that staff would meet with Mr. Burdette again to ensure that they were ready to proceed with the space needs. She indicated that they would later seek approval from the Board to move forward with design of the site.

D. Planning & Zoning Report - Cluster Housing Work Session

Ms. Bishop presented the following report:

The Planning & Zoning Department met with developers in October 2022 that were interested in cluster style housing development, with a proposed higher density than is currently allowed by Nelson County Zoning Ordinance. The Board of Supervisors passed a Resolution in November 2022 referring the current *Cluster Housing Development Ordinance (Article 21)* to the Planning Commission for review and

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development of a report, including but not limited to, the requirements of Section 21-2 Area and Density, to the Board of Supervisors for consideration.

The Planning Commission held a work session on the topic on May 16, 2023. There was much discussion relating to density, minimum area, minimum lot size, units per lot, open space management and requirements, utilities and infrastructure, conservation and design criteria, targeted locations, affordable housing, and review and approval process. There was discussion regarding water and sewer availability and capacity, or the current lack thereof. The Planning Commission addressed the fact that much of the information that is and will be needed to make a complete and informed analysis and recommendation, is currently being worked through in the Comprehensive Plan Update process, and subsequent recommendations for Zoning and Subdivision Ordinance updates. They determined that they are not recommending any changes to the current ordinance at this time.

Mr. Rutherford felt it was appropriate to wait on addressing cluster housing until after the Comprehensive Plan was complete and ordinance recommendations had been received from the Berkley Group. The Board had no questions for Ms. Bishop.

VI. NEW & UNFINISHED BUSINESS

D. FY24 Budget Adoption (**R2023-40**)

Ms. Staton presented the FY24 Budget adoption resolution. She noted that no changes had been made to the proposed budget adoption resolution that was presented at the May 9th public hearing, nor after a subsequent budget work session. She reported that the FY24 budget presented to the Board of Supervisors at the public hearing on May 9th was balanced. She noted that the General Fund Revenues equaled the Expenditures at \$50,222,334. She indicated that all funds were balanced within the total FY24 budget of \$93,052,486. She reiterated that no budgetary changes had been made since the public hearing on May 9th. She noted that as regulated by the Code of Virginia §15.2-2503, a budget public hearing was required at least seven (7) days prior to budget approval (§15.2-2503). She pointed out that the public hearing on May 9, 2023 more than adequately met that requirement and the Board could now make a decision in the day's meeting on the adoption of the budget.

Mr. Barton noted that he thought the transient occupancy tax (TOT) was going to be discussed but it was not on the agenda. He said it was fine to deal with budget but he asked to include the TOT on the July meeting agenda. Mr. Reed also noted that he was hoping to discuss the TOT also, but he was ready to approve the budget. Ms. McGarry noted they could adopt the budget and would be able to make amendments to the budget after July 1st as needed. Ms. McGarry apologized for not having the TOT on the agenda for the day's meeting. She noted that it was her understanding from the last work session was that the Board would advise her when they wanted to place it on the agenda again. Mr. Rutherford indicated that was the general consensus, but if the Board wanted to put it on the agenda for July, they could add it in. Mr. Barton commented that he would like that. Mr. Rutherford confirmed that they would add the TOT to the July agenda.

Mr. Parr moved to approve **Resolution R2023-40 Adoption of Budget** as presented and Mr. Reed seconded the motion. There being no further discussion, Supervisors unanimously voted (5-0) to approve the motion by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-40
ADOPTION OF BUDGET
FISCAL YEAR 2023-2024
(JULY 1, 2023 - JUNE 30, 2024)
NELSON COUNTY, VIRGINIA**

WHEREAS, pursuant to the applicable provisions of Chapter 25, Budgets, Audits and Reports of Title 15.2 of the Code of Virginia, 1950, the Board of Supervisors of Nelson County, Virginia has prepared a budget for informative and fiscal planning purposes only and has also established tax rates, as applicable, for Fiscal Year 2023-2024 (July 1, 2023 - June 30, 2024); and

WHEREAS, the completed Fiscal Year 2023-2024 Budget is an itemized and classified plan of all contemplated expenditures and all estimated revenues and borrowing; and

WHEREAS, the Board of Supervisors has published a synopsis of the budget, given notice of a public hearing in a newspaper having general circulation in Nelson County and, subsequent thereto, convened a public hearing on the Fiscal Year 2023-2024 Budget on May 9, 2023.

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NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Nelson County, Virginia that the Fiscal Year 2023-2024 Budget be hereby adopted in the total amount (all funds, revenues and expenditures) of **\$93,052,486**. The individual fund totals are denoted as follows:

<u>Fund</u>	<u>Budget</u>
General	\$ 48,111,255.00
VPA(DSS)	\$ 2,111,079.00
Debt Service	\$ 6,341,318.00
Capital	\$ 705,251.00
School	\$ 34,694,395.00
Textbook	\$ 595,000.00
Cafeteria	\$ 299,280.00
Piney River Water/Sewer	\$ 194,908.00

- 1) The General Fund includes \$2,894,977 in COVID-19 Stimulus Funding and \$24,066,135 in local funding transferred to: The Reassessment Fund \$85,000, the Debt Service Fund \$3,325,284 (\$3,165,368 debt service and \$159,916 reserve), the Piney River Water & Sewer Fund \$0, and the School Fund \$18,544,772 (\$18,379,837 for general operations and \$164,935 allocated for school nurses). Also included is \$2,111,079 in local, state, and federal funds transferred to the VPA Fund (DSS) and contingency/reserve funds of: Recurring Contingency \$509,702, Non-Recurring Contingency \$399,920, and School Capital Reserve \$0.
- 2) The School Fund includes a transfer of \$184,803 to the Textbook Fund and \$3,884,299 in Federal COVID-19 Stimulus Funding.

BE IT LASTLY RESOLVED, that adoption of the Fiscal Year 2023-2024 Budget shall not be deemed to be an appropriation and no expenditures shall be made from said budget until duly appropriated by the Board of Supervisors of Nelson County, Virginia.

E. FY24 Budget Appropriation (**R2023-41**)

Ms. Staton noted that the budget appropriation reflected exactly what was decided in the budget itself through all of the work sessions and it was identical to what was presented for the budget adoption.

Mr. Reed moved to approve **Resolution R2023-41 Appropriation of Funds**, as presented. Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2023-41
FISCAL YEAR 2023-2024
APPROPRIATION OF FUNDS**

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

WHEREAS, the Nelson County Board of Supervisors has heretofore approved the Fiscal Year 2023-2024 Budget (July 1, 2023 to June 30, 2024) for the local government of Nelson County and its component units; and

WHEREAS, the Board of Supervisors now proposes to appropriate the funds established in the Fiscal Year 2023-2024 Budget;

NOW, THEREFORE, BE IT RESOLVED by the Nelson County Board of Supervisors that the Fiscal Year 2023-2024 Budget be hereby appropriated on an annual basis by fund category, as follows:

<u>Fund</u>	<u>Revenue(s)</u> <u>(All Sources)</u>	<u>Expenditure(s)</u> <u>(All Departments)</u>
General	\$48,111,255.00	\$48,111,255.00
VPA (DSS)	\$ 2,111,079.00	\$ 2,111,079.00
Debt Service	\$ 6,341,318.00	\$ 6,341,318.00
Capital	\$ 705,251.00	\$ 705,251.00
School	\$34,694,395.00	\$34,694,395.00
Textbook	\$ 595,000.00	\$ 595,000.00
Cafeteria	\$ 299,280.00	\$ 299,280.00
Piney River Water/Sewer	<u>\$ 194,908.00</u>	<u>\$ 194,908.00</u>

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\$93,052,486.00

\$93,052,486.00

BE IT FURTHER RESOLVED by the Board of Supervisors that:

1. The General Fund appropriation includes \$2,894,977 in COVID-19 Stimulus Funds and the transfer of: \$2,111,079.00 (4-100-093100-9201) to the VPA Fund (DSS) (3-150-004105-0001); 3,325,284.00 (4-100-093100-9204) to the Debt Service Fund (3-108-004105-0100), \$18,544,772 (4-100-093100-9202/Nursing \$164,935, 4-100-093100-9203/Operations \$18,379,837, 4-100-093100-9205/Buses \$0, 4-100-093100-9206/Capital \$0) to the School Fund (3-205-004105-0001); \$0 (4-100-093100-9114) to the Broadband Fund (3-114-004105-0100); \$85,000 (4-100-93100-9101) to the Reassessment Fund (3-101-004105-0001); and \$0 (4-100-093100-9207) to the Piney River Water & Sewer Fund (3-501-004105-0001).
2. The amounts transferred from the General Fund to the VPA Fund (DSS), Debt Service Fund, School Fund, and Piney River Water & Sewer Fund are also included in the total appropriation for each of these funds.
3. The School Fund includes \$3,884,299 in Federal COVID-19 Stimulus Funding.
4. The Textbook Fund appropriation includes the allocation of \$184,803 from the School Fund.
5. The Debt Service Fund includes \$3,165,368 in current debt service and \$3,175,950 in debt service reserve.
6. The appropriation of funds to the School Fund, Textbook Fund, Cafeteria Fund, and VPA Fund (DSS) shall be in total and not categorically.
7. The appropriation and use of funds within the General, Debt Service, Capital, and Piney River Water & Sewer funds shall adhere to the amounts prescribed by the Board of Supervisors for each department therein unless otherwise authorized by the Board of Supervisors.

Mr. Rutherford commented that they had gotten through another budget year down. He noted that it was Ms. Staton's first budget and she did a great job.

A. Nelson County Service Authority Request to Amend Articles of Incorporation (**R2023-39**)

Ms. McGarry noted that the Nelson County Service Authority (NCSA) request was a housekeeping matter. She reported that the County code was amended in 2002, however the newly adopted Articles of Incorporation were not sent to the SCC as they should have been. She noted that they were asking the Board to conduct a public hearing that would amend the Articles of Incorporation of the Nelson County Service Authority. She reported that in practice there have been five (5) members, one appointed from each district from within the County. She explained that the public hearing would be to amend the Articles of Incorporation formally. She asked that the Board adopt **Resolution R2023-39** to authorize a public hearing on August 8, 2023 at 7 p.m. She reported that 15.2-5104 required the public hearing notice be at least 30 days prior to the public hearing, which was why August 8th was the proposed hearing date. Mr. Rutherford asked if there had originally been only four (4) members on the Authority. Ms. McGarry noted there had always been five (5) members, with one member being for the Wintergreen community. She noted that was amended to just have five members, one from each district.

Mr. Reed moved to approve **Resolution R2023-39** as presented and Mr. Harvey seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the following resolution was adopted:

RESOLUTION R2023-39
NELSON COUNTY BOARD OF SUPERVISORS
AUTHORIZATION FOR PUBLIC HEARING
AMENDMENT TO ARTICLES OF INCORPORATION
OF THE NELSON COUNTY SERVICE AUTHORITY

BE IT RESOLVED, that pursuant to §15.2-5104 of the Code of Virginia 1950 as amended, the County Administrator is hereby authorized to advertise a public hearing to be held on **August 8, 2023 at 7:00 p.m.** in the General District Courtroom in the Courthouse in Lovingson, Virginia. The purpose of the public hearing is to receive public input on a Resolution proposed for passage to amend Section Three of the Articles of Incorporation of the Nelson County Service Authority, to provide that the powers of the Authority shall be exercised by a Board consisting of five members, one appointed by the Board of Supervisors from each of the now five election districts of Nelson County. The County since amending §12-27 of the Code of Nelson County on July 9, 2002, has been consistent in appointing Board members

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of the Authority, one appointed from each of the five election districts.

B. LVFD Reimbursement Request for Generator at Wingina Fire Station

Mr. Danny Johnson of the Lovingson Volunteer Fire Department was present to make a request for reimbursement to the Board. He reported that all of the generators at the firehouses and rescue squad buildings in the County were all 20 to 30 years old. He noted that they had replaced a few at Wingina and the Board had reimbursed for that a few years ago. He reported that he and John Adkins had submitted a grant application through the Virginia Department of Emergency Management (VDEM) to help replace all of the generators in the County, with the exception of Wintergreen, for the price of one generator. He noted that they were waiting to hear back soon.

Mr. Johnson reported that the Wingina generator failed after they had been having many issues with it. He noted that it needed to be replaced and a new one would cost about \$11,208. He noted that the Lovingson Volunteer Fire Department paid for the replacement. He pointed out that since that location was an evacuation shelter and emergency building, they were asking for reimbursement. Mr. Rutherford asked if this subject had gone before the EMS Council. Mr. Johnson noted that the Council was aware but since it was an emergency repair, they did not need to do a formal vote to approve it. He noted that it not a planned exchange, but an emergency repair.

Mr. Reed asked about the pending grant application. Mr. Johnson noted that the current generator replacement happened before the application. Mr. Johnson reported that John Adkins applied for grant, and if they were awarded funds, they could get as much as \$250,000 for 11 generators. He noted the replacement in Lovingson would upgrade it to a full evacuation center. He noted that if the grant went through, Lovingson, Rockfish and Faber would have fully operational buildings. Mr. Johnson confirmed that the current request did not fall into the grant application because it had already gone bad.

Mr. Parr moved to approve the reimbursement request for the Wingina generator. Mr. Harvey seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

Mr. Johnson thanked the Board for their support.

C. Commonwealth Attorney's Funding Request – Part Time Employee Extension

Mr. Erik Laub, Assistant Commonwealth Attorney was present regarding a request for a part time employee extension. He noted that it was an extension of a prior request for Mr. Beliles. He noted that the numbers in court were staying steady and when going from an office of three attorneys, to what would be one and a half, some assistance was needed. Mr. Laub commented that he thought Mr. Beliles had worked out really well. Mr. Laub indicated that additionally, Mr. Beliles had asked for a slight increase in his hourly rate from \$45 per hour to \$50 per hour. Mr. Laub noted that it was up to the Board to decide as to whether to consider the additional request. Mr. Laub indicated that they would continue to ask the Compensation Board to reimburse the County. He noted that in speaking with the Compensation Board, it seems that would continue to happen, although it was never guaranteed.

Ms. Staton stated that she was unaware of the increase being requested. She reported that Mr. Beliles' current rate at \$45.60/hour for July 1st through September 30th at 16 hours per week for 13 weeks with FICA would cost a total of \$10,210.39. She indicated that to date, all (six months) had been reimbursed by the Compensation Board as requested. Ms. Staton was unsure if the Compensation Board would do that for an increase in pay.

Mr. Barton felt it was reasonable. Mr. Parr noted that it was a nine (9) percent raise. Mr. Reed cited concerns about the raise as it may not be covered by the Compensation Board. Ms. Staton commented that she did not know if the increase would not be covered, but she could check into it. Mr. Reed asked if a decision needed to be made that day. Ms. Staton noted that Mr. Beliles' current contract ended on June 30th. Mr. Reed and Mr. Rutherford noted that they could keep it at \$45.60 for now. Ms. Staton asked Mr. Laub if he knew what the Compensation Board might do. Mr. Laub commented that he was not aware of the increase in pay request until the morning of the meeting. He noted that when he spoke with the Compensation Board, the pay was at the \$45.60 per hour amount and they indicating that it was likely that they would continue to cover the cost, but not guaranteed.

Mr. Laub reiterated that he had not discussed any increases with the Compensation Board. He noted that the Compensation Board was fiscally conservative so they may not cover an increase. Mr. Laub noted that he was asking for an extension until September 30th when Daniel Rutherford would be back in the office. Mr. Barton noted that Mr. Beliles was being paid by the hour and asked if he was going to work any hours over a set amount. Mr. Laub noted that Mr. Beliles had a set amount of hours per week that he would be paid for, and any time beyond that would be at his own volunteer basis. Mr. Laub commented that Mr. Beliles was very valuable and helpful. Mr. Laub noted that Mr. Beliles was primarily handling lower

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priority cases in General District and J&D courts, which allowed Mr. Laub to focus on the felony cases that would go to Circuit Court.

Mr. Reed commented that it was tough to okay a raise on the spot. Mr. Reed suggested keeping Mr. Beliles at the same amount of \$45.60/hour until they could hear back from the Compensation Board. Mr. Laub agreed with Mr. Reed's suggestion. Ms. McGarry noted that the Board could wait until their joint work session with the Planning Commission on June 29th. She noted it would be at the eleventh hour, but they could wait to make a decision once staff had more information. Mr. Rutherford suggested approving the extension at the \$45.60 rate for the time being and staff could work to obtain more information. Mr. Laub noted that he could reach out to the Compensation Board.

Mr. Parr moved to approve the request for an extension of Mr. Beliles' part-time employment at his current pay of \$45.60 per hour. Mr. Reed seconded the motion.

Ms. Staton confirmed that it was a 13-week extension through September 30th at 16 hours per week. Mr. Reed asked since they had approved the extension at the current rate, whether they would be able to get information from the Compensation Board if they were considering a raise, as opposed to approving a raise. Mr. Laub indicated that he had a good contact at the Compensation Board, Robin Desocio, who could provide him with an unofficial position on the matter of a possible increase in pay.

Ms. Staton noted that when Mr. Beliles first started working in January, no one knew that the Compensation Board would cover his pay, and the Board had authorized him to work through June. She noted that the County was able to get that money back from the Compensation Board.

There being no further discussion, Supervisors approved the motion by vote of acclamation.

The Board took a brief recess.

Mr. Rutherford noted that Mr. Parr had to leave early.

VII. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE

A. Reports

1. County Administrator's Report

Ms. McGarry reported the following:

- A. Comprehensive Plan:** The project website is www.Nelson2042.com. An additional joint work session of the Board of Supervisors and Planning Commission will be held on June 29, 2023 at 6:00 PM and will entail review of the final draft chapters and implementation matrix.
- B. FY23 Budget Status:** Most expenditures are tracking as expected with a few exceptions that are higher than budgeted and were included for adjustment in the Budget Amendment. These increases were able to be fully covered by remaining contingency funds. As of June 12, 2023, Local Revenues exceeded budgeted amounts by 1.46% or \$529,194. This is primarily due to the exponential growth in lodging tax revenue and interest on investments. State revenues exceed budgeted amounts by .29% or \$14,939 primarily due to the State's reimbursement of its share of increased CSA expenses. Federal revenue received is less than budgeted by about 30.77% or \$394,451 primarily due to lower than anticipated reimbursement for lower expenditures related to Department of Social Services administration. End of fiscal year expenditure payments will be made over the next couple of days; with final payments made at the end of the month.
- C. FY24 Budget (State): NO CHANGE** There has been no additional work by the State on the FY24 State budget since the passage of the "skinny budget" which makes required deposits to the state's Revenue Stabilization ("rainy day") Fund, provides some surplus revenue from the prior fiscal year to capital projects and the Virginia Retirement System as they had agreed to do in last year's budget agreement, makes technical updates to K-12 funding, and provides \$16.8 million toward fixing the \$201 million math error by the State Department of Education.
- D. NC Adult Drug Court:** The NC Drug Court Coordinator, Christopher Weidl was hired and began work on May 31st. The first team meeting was held and they began doing referrals last week. The team is waiting to hear back from a number of defendants about their interest in the program and they are working to identify more potential participants with the hope to get the first participant into the program before the end of the month. This Court will be conducted weekly on Tuesdays at 12:30 in Circuit Court.
- E. Opioid Abatement Authority Grant Award:** The regional application to the State Opioid Abatement Authority that would benefit the member localities of Region Ten including Nelson, Charlottesville, Albemarle, Fluvanna, Greene, and Louisa was approved contingent upon an

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operational agreement/MOU being put in place with all partners, prior to disbursement of funds. The grant will fund the expansion of Region Ten Crisis Response and CITAC services, and Community Outreach services that are currently available to its members.

Ms. McGarry indicated that the grant amount was about \$1.3 million.

- F. Virginia Outdoors Foundation PTF Grant – Sturt Park:** The County was notified that the Board of Trustees of the Virginia Outdoors Foundation (VOF) did not select our project, Sturt Nature Park, for funding this grant round. In the Spring 2023 grant round, VOF received 26 applications for Preservation Trust Fund (PTF) Program. We were advised that the selection process included a review of applications as well as an analysis of community demographics, valuable ecological, historic, and cultural resources, recreational opportunities, and environmental justice data. Jerry West will be scheduling an application feedback session with VOF for some time this week. The Fall 2023 grant round will be announced in late June or early July and approximately \$1.8 million will be available for the PTF Program. Grant awards will be made at the Board of Trustees meeting in October 2023.

Ms. McGarry reported that they planned to reapply for the Fall 2023 grant round.

- G. Larkin Property Master Planning:** Feedback from the Board on scheduling a work session with Architectural Partners related to Master Planning is requested.

Mr. Barton commented as soon as possible. Mr. Rutherford suggested corresponding with Mr. Parr to make sure everyone could be present. He thought the month of June could work. Mr. Barton asked what the meeting would entail. Ms. McGarry noted that Architectural Partners would return and review some preliminary master planning based on the priorities provided by the Board at the last work session with them. She noted that they would have some options visually for layouts on the property. She also suggested that they would be able to mix parts of the options together to see how they meshed. She noted that Architectural Partners would be able to provide the pros and cons of the options presented. Ms. McGarry indicated that she would coordinate schedules.

- H. VLGMA Conference:** Last week I attended the VA Local Government Managers Association conference and met a variety of my counterparts from across the State. The theme of the conference was “Thinking Outside the Box” which included interactive sessions on personal and interpersonal wellness, creative management approaches for celebrating our differences and promoting unity, outside the box thinking in economic development and community revitalization (regional collaboration), intergovernmental relations in a new era for the VA General Assembly, OAA grant opportunities and best practices for securing grants collaboratively, and urban place-making and community development to celebrate diverse perspectives.

- I. Juneteenth Celebration:** A community Juneteenth celebration will be held at the Nelson Heritage Center on **June 18th at 3pm** supported by a funding contribution of the Board. The celebration will include a formal program “Discovering Our Roots” and will feature an art exhibit, photographs and stories from a local family, and an exhibit on the history of Nelson County Public Schools’ integration. This will be followed by lunch and activities on the lawn.

- J. Fourth of July Celebrations:** The Lovingson Volunteer Fire Department has organized community Fourth of July celebration events including a parade in Lovingson on **July 2nd from 5:30pm to 8:00 pm** and with funding from the Board of Supervisors, a fireworks display to be held at **sunset (9:15-9:20 pm) on July 3rd** at Nelson County High School. Spectators will be parked in the front parking lot and adjacent field in front of the school to provide for safe distancing from the launch area.

- K. NCSA Rate Increase Public Hearing:** The Nelson County Service Authority is holding its public hearing on proposed rate increases on June 15th at 8:30 am at their administrative offices in Colleen.

- L. Staff Reports:** Department and office reports for May have been provided.

2. Board Reports

Mr. Barton:

Mr. Barton had no report as the Jail Board had not met yet.

Mr. Harvey:

Mr. Harvey had no report.

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Mr. Reed:

Mr. Reed reported that he and Ms. Bishop would be on a Zoom meeting with a committee for the Regional Transit Governance Study. He explained that the committee was trying to put together the best mechanism to generate and manage additional funding for the region. He noted that the interesting part was that they were proposing to have more of a focus on rural than they have in the past.

Mr. Rutherford:

Mr. Rutherford reported that he had attended the TJPDC meeting and they had discussed the Regional Housing Partnership. He noted that they were looking to do another study on affordability metrics.

B. Appointments

Nelson County Economic Development Authority

Mr. Harvey moved to re-appoint Larry Saunders and John Bruguere to the Nelson County Economic Development Authority for a four-year term. Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

Thomas Jefferson Area Community Criminal Justice Board

Ms. Spivey reported that Jim Hall had served 6 terms on the Thomas Jefferson Area Community Criminal Justice Board and he was ready to let another person serve. Ms. Spivey reported that they had an application from Edith Napier.

Mr. Reed moved to appoint Edith Napier to the Thomas Jefferson Area Community Criminal Justice Board and Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

Nelson County Library Advisory Committee

Ms. Spivey reported that they were waiting on application for the Nelson County Library Advisory Committee and hoped to have it by the next month. She noted that she had an interested party and the appointment was done by district. She indicated that this vacancy was for the Central District. Ms. Spivey explained that Jane Strauss had been serving in the role but she had passed away. Ms. Spivey noted that Ms. Strauss' husband was interested in serving, they were just waiting on his application.

Nelson County Social Services Board

Ms. Barton moved to re-appoint Claudia Van Koba to the Nelson County Social Services Board as the South District representative. Mr. Reed seconded the motion and there being no further discussion, Supervisors approved the motion by vote of acclamation.

JABA Board of Directors

Mr. Reed moved to re-appoint Dana Quillen to the JABA Board of Directors and Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

Amherst-Nelson Joint Committee

Ms. Spivey confirmed that the purpose of the Amherst-Nelson Joint Committee was for workforce development. She reported that Mr. Parr had indicated that he would like to serve as one of the Supervisors on the committee. Mr. Rutherford noted that he could serve if needed. Mr. Harvey indicated that he would also like to serve. Mr. Barton made a motion to appoint Mr. Parr and Mr. Harvey to the Amherst-Nelson Joint Committee with Mr. Rutherford serving as an alternate. Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation.

Mr. Rutherford reported that he had gotten an email from Farm Bureau asking two Board members to attend their July 27th meeting at 6 p.m. Mr. Rutherford noted that Mr. Parr and himself would like to attend unless anyone else wanted to go. The Board was in agreement that Mr. Parr and Mr. Rutherford would attend the Farm Bureau meeting.

Albemarle-Charlottesville Regional Jail Authority Board

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Ms. Spivey noted that the County had three representatives on the Albemarle-Charlottesville Regional Jail Authority Board, with Mr. Barton as the third representative. She explained that when the new member was voted in, the Board had made the position to be either a Board member or citizen member. She noted that Mr. Barton's term would expire the following month and with the flexibility of the position, he could continue to serve another term. Mr. Reed moved to re-appoint Mr. Barton to the Albemarle-Charlottesville Regional Jail Authority Board and Mr. Harvey seconded the motion. There, being no further discussion, Supervisors approved the motion by vote of acclamation.

Agricultural & Forestal District Advisory Committee

Ms. Spivey reported that they were re-advertising the producer vacancy on the Agricultural & Forestal District Advisory Committee since Mr. Reed was now serving as the Board of Supervisors member. She noted that the appointment was not by district.

C. Correspondence

Mr. Rutherford noted that he would forward road comments and concerns to VDOT.

Mr. Rutherford had correspondence to inquire on the method of assessment for personal property. Mr. Rutherford noted in his conversation with the Commissioner of Revenue that the County utilized JD Power to assess vehicles, and not another entity such as Kelly Blue Book. Mr. Rutherford asked who chose the method for assessment. Ms. McGarry thought it was the Commissioner's choice on who to use. Ms. McGarry reported that the Commissioner used 90 percent of retail for vehicle values. Mr. Rutherford asked if mileage was taken into consideration. He noted that he wanted to understand the method and asked staff for help.

Mr. Barton asked about antique vehicles, Mr. Harvey noted it was different.

Mr. Rutherford asked if it would be possible to create a graph of year over year transient occupancy tax revenues. He commented that he wanted to see how enforcement changes in October 2022 had impacted collections in comparing May 2022 to May 2023. Ms. McGarry noted the numbers reported in the financial accounting system may not match up exactly with the Commissioner of Revenue report. She noted she would have to check. Mr. Reed noted it would be good to look at business license trends for short term rentals. Ms. McGarry noted business license revenue was greater than budget, which was possibly due to short term rentals getting business licenses.

Ms. Rutherford suggested checking to see what surrounding localities used for the assessment of personal property also.

D. Directives

The Board had no directives.

VIII. ADJOURN AND CONTINUE – EVENING SESSION AT 7PM

At 4:02 p.m., Mr. Harvey made a motion to adjourn and continue to the evening session at 7 p.m. and Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion and the meeting adjourned.

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

I. CALL TO ORDER

Mr. Rutherford called the meeting to order at 7:00 p.m. with four (4) Supervisors present to establish a quorum and Mr. Parr being absent.

II. PUBLIC COMMENTS

Bo Delk - Roseland, VA

Mr. Delk requested to have it included in the Board minutes that John Aubrey Roberts, Jr, also known as Johnny, had passed away. Mr. Delk noted that Mr. Roberts had grown up on Hickory Creek in Faber and worked in the apple orchards and worked with cattle. Mr. Delk reported that Mr. Roberts graduated in 1957 from Nelson County High School, served in the Army for two years before attending Virginia Tech and graduating. Mr. Delk noted that Mr. Roberts returned to Nelson County and started teaching shop,

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horticulture and FFA in the middle school and high school. He noted that Mr. Roberts spent 30 years teaching in Nelson County Schools. Mr. Delk noted that in retirement, Mr. Robert was the Nelson County High School class reunion organizer. Mr. Delk spoke well of Mr. Roberts, noting that he was an outstanding person and a true friend of Nelson County.

Mr. Harvey agreed with Mr. Delk that Mr. Roberts was an outstanding person.

There were no other persons wishing to be recognized and Public Comments was closed.

III. PUBLIC HEARINGS

A. Special Use Permit #898 – Vacation House

Consideration of a Special Use Permit application requesting County approval to allow a vacation house use on property zoned R-1 Residential and A-1 Agricultural. The subject property is located at Tax Map Parcel #3-A-136 at 795 Afton Mountain Rd in Afton. The subject property is 2.16 acres and owned by Richard R. Ealy and Nancy K. Ealy.

Ms. Bishop presented the following:

BACKGROUND: This is a request for a Special Use Permit to allow a vacation house on split zoned property, of which the majority is zoned R-1 Residential.

Public Hearings Scheduled: P/C – April 26; Board – June 13

Location / Election District: 795 Afton Mountain Road / North District

Tax Map Number(s) / Total acreage: 3-A-136 / 2.16 acres +/- total

Applicant/Owner Contact Information: Richard (Deke) and Nancy Ealy, 104 Carrsbrook Court, Charlottesville, VA 22901, 434-531-5794 / 434-760-4037, dekealy@yahoo.com / nealy@k12albemarle.org

Comments: This property is recently subdivided and contains an existing single-family dwelling. The narrative provided by the applicants indicates that the dwelling has been vacant for at least 20 years, and requires significant renovation to be deemed livable again. The narrative also indicates that the owners intend to use it as a personal residence over the long term, and are currently located less than half an hour away. The owners have recently acquired the property and are proposing to utilize this dwelling as a vacation house, defined below:

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room...

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

Section 5-1-19 provides vacation house as a by-right use, if the subject property contains more than one zoning classification with a majority of the property zoned A-1 Agriculture. Section 5-1-5a requires a Special Use Permit for a vacation house use in the R-1 Residential district when the former provision does not apply. Since this property is majority zoned R-1 Residential, a Special Use Permit is required.

With 2.16 acres, this property is not permitted to be subdivided, or to place a second dwelling.

DISCUSSION:

Land Use / Floodplain: This area is residential in nature, with some agricultural uses as well. This property is located near the intersection of Afton Mountain Road, Avon Road, and Critzer Shop Road. Zoning in the vicinity is R-1 and A-1. There are no floodplains located on this property.

SUP #690 for a vacation house in R-1 on Afton Mountain Road was approved by the Board of Supervisors in 2022.

Access / Traffic / Parking: This property is accessed by an existing private entrance on Afton Mountain Road.

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Utilities: There is existing septic and well on the property, and a reserve drainfield area has also been identified on the attached plat / site plan as required by the Subdivision Ordinance.

Comprehensive Plan: This property is located in an area designated Rural Residential on the Future Land Use Map, which “would allow low density residential and compatible nonresidential uses in rural areas where agriculture is not the predominant use... These sites are adjacent to identified development areas and adjacent to existing institutional or small-scale industrial uses.”

RECOMMENDATION: At their meeting on April 26, the Planning Commission recommended approval (5-0) of SUP #898 to the Board of Supervisors, with an additional year to establish the use (two years from date of approval).

The approval of special use permits should be based on the following factors:

1. The use shall not tend to change the character and established pattern of development of the area or community in which it proposed to locate.
2. 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.
3. The proposed use shall be adequately served by essential public or private water and sewer facilities.
4. The proposed use shall not result in the destruction, loss or damage or any feature determined to be of significant ecological, scenic or historical importance.

The applicants Richard Ealy and Nancy Ealy were present. Mr. Ealy thanked the Board for their work in keeping Nelson County great. Mr. Ealy explained that he and Ms. Ealy had enjoyed Nelson for over 40 years and were looking to eventually retire but they were still a few years out. He described the house on the property as part of the fabric of Nelson County. He explained that the farmhouse was in need of a lot of work. Mr. Ealy noted that in order to cover the renovation costs, they needed to be able to rent it out as a vacation home until they could retire. He reported that they planned to be in Nelson frequently and they were about a half hour or so from the property. He noted that they wanted to be good neighbors because the people would be their neighbors for a long time in the future. Mr. Ealy commented that there were currently no homes on the adjacent properties. He ensured that the renters would have rules and the neighbors would have their phone numbers to reach them if there were any issues.

Mr. Ealy noted there were concerns from people about losing existing housing to short term rentals. He commented that the current condition of the home would not permit anyone residing in it at its current state.

The Board had no questions for the applicants.

Mr. Rutherford opened the public hearing. There were no persons to speak and the public hearing was closed.

Mr. Harvey moved to approve **Special Use Permit #898 – Vacation Home** with the condition from the Planning Commission to allow an additional year to establish the use (two years from the date of approval) as presented. Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

B. Special Use Permit #899 – Outdoor Entertainment Venue

Consideration of a Special Use Permit application requesting County approval to allow an outdoor entertainment venue use on property zoned A-1 Agricultural. The subject property is located at Tax Map Parcel #86-A-41 at 3578 S Powells Island Rd in Arrington. The subject property is 111.57 acres and owned by Zachary and Daryl Morse.

Ms. Bishop introduced the following:

BACKGROUND: This is a request for a Special Use Permit to allow an outdoor entertainment venue for weddings on property zoned A-1 Agriculture.

Public Hearings Scheduled: P/C – April 26; Board – June 13

Location / Election District: 3578 S. Powells Island Road / South District

Tax Map Number(s) / Total acreage: 86-A-41 / 111.57 acres +/- total

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Applicant / Engineer Contact Information: Accupoint Surveying & Design, LLC (Amy Seipp),
6200 Fort Ave, Lynchburg, VA 24502, 434-610-4334, aseipp@accupointsurveying.com

Owner Contact Information: Zachary Morse, 3767 S. Powells Island Rd, Arrington, VA 22922,
301-992-0576, morsezachary@aol.com

Comments: This property currently contains an existing single-family dwelling. The owner is proposing to construct a 5,000 square foot venue for the purpose of hosting weddings. An outdoor entertainment venue is defined as "the non-temporary use of any land, including the erection or use of non-temporary structure(s) or the installation of non-temporary infrastructure, for the hosting and operation of Category 1 and Category 2 Events, Exempt Events, or other entertainment activities for cultural, artistic, social or recreational purposes."

Category 1 and Category 2 Events, Exempt Events such as Social Temporary Events (defined below) are all permitted by-right in the A-1 Agriculture district without permanent facilities or infrastructure. The construction of the venue constitutes the need for the Special Use Permit.

"Exempt Events" are exempt from permitting requirements in *Article 24 – Temporary Events...*

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

The owner is also proposing to construct four (4) one-bedrooms cabins to be utilized as vacation houses. Dwellings and the short-term rental of those dwellings are permitted by-right in the A-1 Agriculture district, and should not be considered with the SUP request for the venue.

DISCUSSION:

Land Use / Floodplain: This area is residential and agricultural in nature. Zoning in the vicinity is A-1 Agriculture. There are no floodplains located on this property. Should this SUP be ultimately approved, a Major Site Plan would be required to be submitted to the Planning Commission for review, because the proposed structure is at least 5,000 square feet.

Access / Traffic / Parking: This property is accessed by an existing entrance on S. Powells Island Rd. The speed study submitted by Accupoint was accepted by VDOT, and will be utilized for the design of the commercial entrance. Parking requirements in the Zoning Ordinance indicate 1 space for each 100 square feet of area used for assembly is required for clubs, lodges, assembly halls and similar uses without fixed seats. This calculation will be confirmed upon formal site plan submittal (if approved).

Utilities: There is existing septic and well on the property that serves the existing dwelling. New proposed septic and drainfield would serve the proposed event venue, as well as the proposed cabins. The engineer is currently working with the Health Department.

Erosion & Sediment Control and Stormwater Management: The site plan indicates that the approximate limit of disturbance is 1.75 acres, which requires approval of an Erosion & Sediment Control Plan by the Building Inspections Department, and approval of a Stormwater Management Plan by VA Department of Environmental Quality (DEQ).

SUP #326 for a similar event venue use on Irish Rd. was approved by the Board of Supervisors without conditions in August 2021. The Board granted a one-year extension on the SUP approval to allot enough time for the DEQ Stormwater Plan review and approval. This allowed the owner up to 2 years to diligently pursue construction of the approved use. The associated site plan was approved in January 2023.

Comprehensive Plan: This property is located in an area designated Rural and Farming on the Future Land Use Map, 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."

RECOMMENDATION: At their meeting on April 26, the Planning Commission recommended

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approval (5-0) of SUP #899, with an additional year to establish the use (two years from date of approval).

Mr. Rutherford invited the applicant to speak. Ms. Amy Seipp, principal engineer and majority partner of Accupoint Surveying and Design, along with the property owner Mr. Zachary Morse, was present. Ms. Seipp noted that the venue would be agricultural in nature. She commented that because there was 111 acres, the Morse family wanted to keep it in the nature of farmland. She indicated that the owners were also considering conservation along with other types of farming. Ms. Seipp noted that Mr. Morse's brother Daryl Morse owned the adjacent property. She explained that the drainfields had been evaluated and found to be sufficient for the proposed cabins and the event barn. Ms. Seipp indicated that they were requesting an extension of one year for a total of two years because of the DEQ timeframe.

Property owner Zachary Morse commented that he grew up in Nelson County and was away for 40 years, and had come back to retire. Mr. Morse commented that he had always wanted to be a farmer. He noted Agritourism, and the need to bring people to the farm to help be successful in the agriculture business. He commented that he still planned to farm but he also needed to make decisions to make some money. He asked the Board for their support to help him achieve this goal.

Mr. Barton thought it was a very ambitious thing and he thought they could do it. He felt that it would be something great for that part of the County.

Mr. Rutherford opened the public hearing. There were no persons wishing to speak and the public hearing was closed.

Mr. Barton moved to approve **Special Use Permit #899 Outdoor Entertainment Venue** with the condition from the Planning Commission for an additional year to establish the use (two years from date of approval). Mr. Harvey seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) to approve the motion by roll call vote.

C. Special Use Permit #927 – Single Family Dwelling

Consideration of a Special Use Permit application requesting County approval to allow an addition to an existing single family dwelling on property zoned B-1 Business. The subject property is located at Tax Map Parcel #97B-1-E-4 at 117 Center Hill Ln in Gladstone. The subject property is approximately 0.14 acres and is owned by Ricky and Judith McFadden.

Ms. Bishop presented the following:

BACKGROUND: This is a request for a Special Use Permit to allow an addition to an existing single-family dwelling on property zoned B-1 Business.

Public Hearings Scheduled: P/C – May 24; Board – June 13

Location / Election District: 117 Center Hill Lane (Gladstone) / South District

Tax Map Number(s) / Total Acreage: 97B-1-E-4 / 0.14 acres +/- total

Applicant/Owner Contact Information: Ricky and Judy McFadden, 117 Center Hill Lane, Gladstone, VA 24553, 434-907-4375

Comments: This property contains an existing single-family dwelling that was constructed in 1955. Single-family dwellings require a Special Use Permit in the B-1 Business zoning district, therefore the use is considered nonconforming. *Article 11 – Nonconforming Uses* from the Zoning Ordinance states that a nonconforming use cannot be expanded or enlarged in any way that increases its nonconformity, therefore the Special Use Permit is required to permit the requested addition. There are no side yard setback requirements in the B-1 District when adjoined by other B-1 zoned property. Additionally, the applicant owns adjoining property.

DISCUSSION:

Land Use / Floodplain: This area is residential in nature, with some agricultural uses as well. This area adjoins the railroad and the James River in Gladstone. Zoning in the vicinity is B-1 Business, A-1 Agriculture, and R-1 Residential. There are no floodplains located on this property.

Access / Traffic / Parking: This property is accessed by an existing private entrance on Center Hill Lane from Gladstone Road.

Utilities: There is existing septic and well on the property and no improvements are required.

Comprehensive Plan: This property is located in an area designated Rural and Farming on the Future Land Use Map, 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.”

RECOMMENDATION: At their meeting on May 24, the Planning Commission recommended approval (5-0) of SUP #927 to the Board of Supervisors.

Applicant Ricky McFadden was present. Mr. McFadden stated that the reason he was applying was because they needed to add on a handicap accessible addition for aging parents.

Mr. Rutherford opened the public hearing. There were no persons wishing to speak and the public hearing was closed.

Mr. Barton moved to approve **Special Use Permit #927 – Single Family Dwelling** as presented and Mr. Reed seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

D. Special Use Permit #928 – Brewery

Consideration of a Special Use Permit application requesting County approval to allow a brewery use on property zoned B-1 Business. The subject property is located at Tax Map Parcel #21-5-1C at 2188 Rockfish Valley Hwy in Nellysford. The subject property is 3.23 acres and is owned by Sarah Phillips, Jacob Phillips, and Zachariah Phillips.

Ms. Bishop presented the following:

BACKGROUND: This is a request for a special use permit on property zoned B-1 Business to allow a brewery use within an existing structure.

Public Hearings Scheduled: P/C – May 24; Board – June 13

Location / Election District: 2188 Rockfish Valley Highway / Central District

Tax Map Number(s) / Total Acreage: 21-5-1C / 3.23 acres +/-

Applicant Contact Information: James Eli Ebrahimi, 5311 Hedge Hall Lane, Coveseville, VA 22931, 310-270-5682, jmeebrahimi@gmail.com

Owner Contact Information: Sarah Phillips (Valleymont Holdings LLC), 2188 Rockfish Valley Hwy, Nellysford, VA 22958, 434-826-9005, valleymontholdingsllc@gmail.com

Comments: SUP #2019-03 was approved by the Board of Supervisors on January 14, 2020, with the condition that the total square footage for both public space and production area is not to exceed 1,200 square feet. The former owner was not able to establish the use within the required one-year time frame before he passed away, and therefore the SUP expired. The applicant has proposed the same request to carry out Mr. Fred Phillips’s vision.

DISCUSSION:

Land Use / Floodplain: This area is commercial, residential and rural in nature. Current uses on the property include multiple long-standing commercial operations, residential units, storage and agricultural buildings. The western boundary of the property is located within a 100-year flood plain, however no structures are located within the floodplain.

Access and Traffic: The property is accessed from Rockfish Valley Highway. The entrance directly north of the car wash has been closed, as previously recommended by VDOT. VDOT did not have any additional comments.

Utilities: Property is served by private well and septic systems. The Health Department indicated that an engineer will be required to assess the current operation and capacity of the system to determine if it is sufficient or requires modification for the proposed brewery use.

Comprehensive Plan: The Nellysford area is designated as the County’s only “Neighborhood

Mixed Use Development Model.” It is further identified as a “primary development area.” This model supports a central gathering place able to fulfill the diverse needs and interests of nearby residents and visitors to the county, all within a focused, walkable, and identifiable place. However, the exact language in the *Comp Plan* is unclear as to whether or not the “primary development area” extends to this area of Nellysford.

Additionally, the Future Land Use Plan includes an area labeled “South of Nellysford” which is designated as a “Rural Residential District Model.” This district “would allow low density residential and compatible non-residential uses in rural areas where agriculture is not the predominant use.”

RECOMMENDATION: At their meeting on May 24, the Planning Commission recommended approval (5-0) of SUP #928 to the Board of Supervisors, with the condition that the total area for the brewery is limited to 1,200 square feet maximum, and contingent on Health Department approval.

Ms. Bishop noted that the applicant was not able to be present for the public hearing.

Mr. Barton asked Ms. Bishop what her recommendation was. Ms. Bishop noted that the Planning Commission had unanimously recommended approval of the special use permit. She explained it was the same request that had previously been approved in 2019. She stated that since it was the same application as before, staff recommendation would be to approve the request.

Mr. Rutherford opened public hearing. There were no persons wishing to speak and the public hearing was closed.

Mr. Harvey moved to approve **Special Use Permit #928 Brewery in B-1** with the condition from the Planning Commission that the total area for the brewery is limited to 1,200 square feet maximum, and contingent on Health Department approval. Mr. Reed seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

E. Special Use Permit #934 – Vacation House

Consideration of a Special Use Permit application requesting County approval to allow a vacation house use on property zoned R-1 Residential. The subject property is located at Tax Map Parcel #6-16-6 at 333 Sunrise Drive in Afton. The subject property is 0.29 acres and is owned by James III and Nicole Boyer.

Ms. Bishop presented the following:

BACKGROUND: This is a request for a Special Use Permit to allow a vacation house use in an existing dwelling on property zoned R-1 Residential.

Public Hearings Scheduled: P/C – April 26; Board – June 13

Location / Election District: 333 Sunrise Drive (Afton) / North District

Tax Map Number(s) / Total Acreage: 6-16-6 / 0.29 acres +/- total

Applicant/Owner Contact Information: James and Nicole Boyer, 19302 Falls Road, Hampstead, MD 21074, 443-388-3490 / 443-633-3968, jboyer1856@gmail.com / npruiks@gmail.com

Comments: This property contains an existing single-family dwelling. The narrative provided by the applicants indicates that they primarily utilize the dwelling as a second home to visit family in the area, and in the long term intend to relocate there for retirement. They are requesting to utilize the dwelling as a vacation house, or short-term rental, with a maximum of 4 guests. According to the application, the adjoining dwellings are currently utilized as long-term rentals, and the aforementioned family in the area would be caretakers of the home when the owners are not in town.

Vacation House: A house rented to transients. Rental arrangements are made for the entire house, not by room...

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

Section 5-1-5a of the Zoning Ordinance requires a Special Use Permit for a vacation house use

in the R-1 Residential district.

DISCUSSION:

Land Use / Floodplain: This area is residential in nature, with some agricultural uses as well. The north side of Sunrise Drive is zoned A-1 Agriculture, while the south side of the road is zoned R-1 Residential for a distance of approximately 200 feet. There are no floodplains located on this property.

Access / Traffic / Parking: This property is accessed by an existing shared entrance on Sunrise Drive.

Utilities: There is existing septic and well on the property.

Comprehensive Plan: This property is located just south of Avon, an area designated Rural Residential on the Future Land Use Map, which “would allow low density residential and compatible non-residential uses in rural areas where agriculture is not the predominant use... These sites are adjacent to identified development areas and adjacent to existing institutional or small-scale industrial uses.”

RECOMMENDATION: At their meeting on May 24, the Planning Commission recommended approval (4-1) of SUP #934 to the Board of Supervisors.

Mr. Barton asked what the objection of the Planning Commission member who voted against it. Ms. Bishop noted that it was not stated specifically but from what she understood, they felt it was not an appropriate land use for the area.

Applicants Jim Boyer and Nicole Boyer were present. Mr. Boyer noted they wanted to be able to offset some expenses in their home. He indicated that there was parking on the property for three vehicles even though it was a shared driveway. He noted that three spaces should be sufficient for a maximum of four occupants. Mr. Boyer reported that they had spoken with the Weyers at 331 and the Parson at 381, and both were supportive of the request. Mr. Boyer reported that in Afton there were 164 Airbnbs with only eight available for the upcoming weekend. Ms. Boyer noted that she had lived on Sunrise Drive for a few years and rented. She noted that she had moved up to Maryland but they were hoping to relocate to Nelson in the future as she had lots of family in the area.

Mr. Barton asked about the Airbnb information Mr. Boyer provided. Mr. Boyer noted that he used AirDNA to find that Afton had 164 Airbnbs with only eight under \$300 that were available for the upcoming weekend, and a total of 17 Airbnbs available that weekend.

The Board had no other questions for the applicants.

Mr. Rutherford opened the public hearing. There were no persons wishing to speak and the public hearing was closed.

Mr. Harvey moved to approve **Special Use Permit #934 - Vacation Home** as presented and Mr. Reed seconded the motion. There was no further discussion and Supervisors approved the motion unanimously (4-0) by roll call vote.

F. Rezoning #938 – A-1 Agricultural to M-2 Industrial

Consideration of a Rezoning application requesting County approval to rezone property from A-1 Agricultural to M-2 Industrial for a storage warehouse use in an existing building. The subject property is located at Tax Map Parcel #34-A-12 at 1890 River Rd in Faber. The subject property is 0.2 acres and owned by Regeneration Holdings LLC.

Ms. Bishop noted that the applicant for Rezoning #938 – A-1 Agricultural to M-2 Industrial had withdrawn the application that afternoon and the public hearing on Rezoning #938 – A-1 Agricultural to M-2 Industrial was not held.

G. Ordinance O2023-02 Amendments to Appendix A Zoning, Article 4, Agricultural District A-1 and Article 5, Residential District R-1

Consideration of an ordinance proposed for passage to amend Appendix A Zoning. 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

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(2) acre minimum lot size.

Ms. Bishop reported that they had two ordinances that evening, one was a Zoning Ordinance and one was a Subdivision ordinance. She noted that the impetus of this was, for a family subdivision, it had to be granted from an individual to an individual – father to son, husband to wife. She explained that it could not be done from an entity such as an LLC or a Trust. She reported that State Code allowed localities to adopt an ordinance that permitted a family division to be gifted to the beneficiary of a trust. She explained that was pretty much to align the County Code with State code. She noted that they would revisit that subdivision ordinance amendment in a few minutes.

Ms. Bishop explained that the Zoning ordinance was an afterthought of the Planning Commission. She noted that the Planning Commission was proposing to increase the minimum lot size for family divisions from one (1) acre to two (2) acres in both A-1 and R-1 zoning districts. She explained that currently, for a regular subdivision the minimum lot size was two (2) acres for both A-1 and R-1. She noted that the proposed zoning ordinance O2023-03 would increase the minimum lot size for family divisions from one (1) acre to two (2) acres.

Ms. Bishop reported that in March, the Planning Commission voted 3-2 to recommend approval of the proposed Zoning ordinance, with some dissent on the minimum lot size issue.

Mr. Rutherford opened the public hearing for Ordinance O2023-03. Mr. Rutherford noted that there was a numbering correction to Agenda items G and H. He indicated that they should be O2023-03 (G) and O2023-04 (H).

Mark Franklin - Roseland, VA

Mr. Franklin spoke against increasing the lot size of family divisions, noting that in a county with housing affordability issues, it further hindered people's ability to have housing opportunities.

Russ Nixon - Nixon Land Surveying

Mr. Nixon commented that he was President of the Virginia Association of Surveyors Southern Chapter and also on the Board of Zoning Appeals for Campbell County. He noted that he was not a Nelson County resident but he felt strongly about protecting family unity. He commented that when the family subdivision regulations were established by the state of Virginia, the main goal was to protect the family unity and allow families to subdivide land in a more streamlined process, as well as make the property more affordable for people to own and retain the property their families bought to share with the family. He noted the proposal to increase the family subdivision lot size to two (2) acres. He indicated that Nelson County's ordinance currently was a two (2) acre minimum lot size in agricultural and R-1. He stated that was a huge contrast from other localities on area size. Mr. Nixon commented that he understood the two (2) acre minimum lot size in agricultural, but he did not understand the two (2) acre minimum lot size in residential zoning. He noted that most residential lots were typically smaller. He noted the County's current ordinance allow 30,000 square feet lot size if there was existing sanitary and sewer. He pointed out that sanitary and sewer were not prevalent in Nelson County, noting that did cause some issues. Mr. Nixon commented that he would like to see the Board reduce the minimum lot size in R-1 down to a smaller lot and allow the Virginia Department of Health drain field designs to dictate the size of the parcel. Mr. Nixon explained that the minimum lot size in R-1 in Campbell County was one acre if there was not water/sewer. He noted that agricultural in Campbell County had a two and a half (2.5) acre minimum lot size. He explained that in Campbell County, someone could have three (3) acres and have a family subdivision to provide a family member with a half (1/2) acre lot and retain two and a half (2.5) acres. Mr. Nixon urged the Board to turn down the two (2) acre minimum lot size for family subdivisions. He thought the proposed change would hurt people in the long run. He noted that he had brought the full statutes from the State if the Board had any questions. He then referenced State Code 1§5.2-2244-2.

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

Mr. Rutherford noted many family divisions provided a relative the ability to have a home. He felt that the family division was to help lower income families. He noted that he understood the anxiety with two (2) acre versus one (1) acre as it related to concerns regarding septic systems. He commented that it was likely that someone would not subdivide a one (1) acre lot if it did not have a reasonable perk.

Mr. Barton noted in New Jersey as a kid they moved to suburbs. He noted that an ordinance passed to increase the minimum lot sizes. He commented that when he went to his 50th high school reunion, no one lived there anymore because they could not afford it. Mr. Barton stated that he did not want to approve the proposed ordinance, he preferred to keep the lot size at one acre.

Mr. Reed noted that the world was different place than it was 20, 30, or 40 years ago. He noted that the financial pressures on a person who gets a subdivided property could turn into flipping the property, which

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would increase pressures on the area that were not intended. He pointed out that the two (2) acre minimum would make it more uniform across the zones.

Mr. Rutherford understood the idea of uniformity across the zones but he would still leave it at (1) acre.

Mr. Rutherford noted that the threshold of time was five (5) years for a family subdivision before the property could be passed on. Ms. Bishop noted the family division minimum lot size was one (1) acres with a five (5) year restricted covenant where the owner could not transfer the property outside of the family. She noted that regular subdivisions were two (2) lots. Ms. Bishop explained that any time lots were created or lot lines were changes, it had to go through Planning and Zoning for review. She noted that Planning and Zoning was not permitted to approve a subdivision until the Health Department has approved the drain field and reserve area. Ms. Bishop noted they did quite a few family subdivisions but not often at one (1) acre.

Mr. Reed made a motion to approve **Ordinance O2023-03** as presented. There was no second.

Mr. Barton made a motion to deny Ordinance **O2023-03**. Mr. Harvey seconded the motion. There being no further discussion, Supervisors approved the motion (3-1) by roll call vote with Mr. Reed voting no and the following ordinance was **disapproved**:

DISAPPROVED
ORDINANCE O2023-03
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY
APPENDIX A ZONING, ARTICLE 4, AGRICULTURAL DISTRICT A-1
AND ARTICLE 5, RESIDENTIAL DISTRICT R-1

Amend

ARTICLE 4. AGRICULTURAL DISTRICT A-1

4-2-1a

The minimum lot area, *including family subdivision lots*, shall be two (2) acres (eighty-seven thousand one hundred twenty (87,120) square feet) or more for single and two-family detached dwellings. ~~For family subdivision lots, the minimum lot area shall be one (1) acre (forty three thousand five hundred sixty (43,560) square feet) per dwelling unit.~~ (Ord. No. O2014-04, 7-8-14)

Amend

ARTICLE 5. RESIDENTIAL DISTRICT R-1

5-2-1

The minimum lot area shall be two (2) acres (87,120 square feet) or more per dwelling unit for lots being served by individual wells and septic systems, *including family subdivision lots*. The required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

5-2-1a

~~The minimum lot area shall be one (1) acre (43,560 square feet) per dwelling for a family subdivision lot. The required area for any such use shall be approved by the health official. The Administrator may require a greater area if considered necessary by the health official.~~

Reserved.

Ms. Bishop confirmed that the minimum lot size for family divisions in A-1 and R-1 would remain at one (1) acre.

H. Ordinance O2023-03 Amendments to Appendix B Subdivisions, Section 3, Administration

Consideration of an ordinance proposed for passage to amend Appendix B Subdivisions. Proposed amendments would 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

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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 provision that the Planning Commission may reduce the period of years prescribed in clause (iii) when changed circumstances so require.

Mr. Rutherford noted that the correct ordinance number was O2023-04.

Ms. Bishop presented the following:

Subdivisions of land, cluster subdivisions, boundary line adjustments, lot line vacations, and family divisions of land are all reviewed administratively by the Department of Planning and Zoning or Planning Commission.

The Code of Virginia provides certain protections to reduce requirements for family divisions of land. The current Nelson County Subdivision Ordinance requires a minimum access width of 30 (thirty) feet, whereas the Code of Virginia only allows localities to require no less than 10 (ten) feet and no more than 20 (twenty) feet. The Code of Virginia also allows localities to adopt an ordinance that would permit family divisions of land to beneficiaries of trusts.

The purpose is consideration of Subdivision Ordinance Amendments 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, and reduce the access width requirement for a family division from thirty (30) feet to twenty (20) feet, to align local Ordinance with Virginia Code.

At their meeting on March 22, 2023, the Planning Commission held a public hearing and voted (3-2) to recommend approval of the proposed Subdivision Ordinance Amendments to the Board of Supervisors. On April 11, the Board of Supervisors referred this proposed amendment to public hearing.

Mr. Harvey asked about the sale outside of the family. Ms. Bishop noted they would either have to wait fifteen (15) years, or go to the Planning Commission to ask for a reduction based on their circumstances. She explained that if someone was a beneficiary of a trust and was gift a lot, they would have to hold on to it within the family for fifteen (15) years, or if something came up and they need to sell the lot for some reason, they could come to the Planning Commission and explain why they needed to sell the land and the Planning Commission could let them out of that covenant. She indicated that they could appeal to the Board of Zoning Appeals if the Planning Commission said no.

The Board had other questions.

Mr. Rutherford opened the public hearing.
Bo Delk signed up but did not wish to speak.

Russ Nixon – Nixon Land Surveying

Mr. Nixon asked a question on behalf of fellow surveyor Taze Crowder. He commented that the U.S. average duration of ownership of properties or housing was about seven to eight years. He noted that the state code did recommend the fifteen (15) year timeline however the locality may reduce or provide exceptions when change of circumstances require. Mr. Nixon noted that they had seen so many changes in the last three years since COVID in how people owned property and what they needed to do. He also noted that people had situations come up in life. He explained that he had cancer at age 27 and had to sell his first home. He encouraged the County to allow for an out that could allow for the applicant to come back to ask the Planning Commission for permission to sell if needed. He noted that he did not have a problem with the fifteen (15) year covenant because it did meet state statute, but he wanted to make sure it was easy for people to go to the Planning Commission to ask for permission to sell if they needed to.

Mark Franklin, Roseland VA

Mr. Franklin asked the Board to pass the ordinance amendment in order to match state code and make it easier for families to reach goals with their land use.

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

Mr. Rutherford asked about the timeframe for fifteen (15) years. He that many of his clients wanted to move up in equity. He asked if the fifteen (15) years would impact them and require them to own a doublewide for fifteen years. Ms. Bishop explained that the fifteen (15) years was only when the lot was

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being gifted or sold to the beneficiary of a family trust. She noted that they have to own that property, or they could transfer it in the family under the trust but they could not list it on the regular MLS market. Mr. Rutherford noted that he did not like that. He commented that the next part of homeownership was realizing gains in equity and upgrading in life. He was concerned that it would not allow people to move up. He wondered if banks would have an issue, particularly if they needed to foreclose. Ms. Bishop noted in that scenario, they could come to the Planning Commission to reduce the number of years prescribed if change in circumstances so require. Mr. Rutherford asked if the bank came forward to request the change or the homeowner. Ms. Bishop thought the bank would need to ask permission.

Mr. Nixon recommended doing same thing as a family subdivision.

Mr. Rutherford noted that fifteen (15) years was a long time. Mr. Barton commented that families did not always get along and he thought a compromise may work better.

Mr. Harvey suggested studying the ordinance further to make sure they got it right. Mr. Rutherford did not have a problem waiting a month.

Mr. Reed stated as it was written, it did not preclude that. Mr. Rutherford noted it basically said that he had to ask permission to sell his house and possibly wait two months before being able to do it.

Mr. Reed noted that there was a reason that fifteen (15) years was in the state code, and continuity with state code did have value. He commented that if they were not going to do something that was consistent with State Code, they needed to have a really good reason for doing it. Mr. Reed noted that Planning and Zoning could walk people through the options to get out of it.

Mr. Rutherford cited concerns with someone defaulting on their mortgage and then the bank would own their home and end up putting it up for sale on MLS.

Ms. Bishop noted that she could look into it further if the Board chose to defer it. She did not think they had the authority to reduce the number of years in the ordinance. She reviewed the State Code. Mr. Rutherford asked Ms. Bishop to confirm that. Mr. Barton suggested to wait.

The Board chose to take no action on **Ordinance O2023-04** and decided to revisit it in July.

Mr. Reed referenced the previous ordinance that was not adopted and noted the clause that had to do with land held in a trust. He noted that was still an unresolved issue since that had not been adopted. Mr. Reed referenced the final paragraph of the ordinance noting that there was still an unresolved issue regarding the trust provision. Ms. Bishop noted that she did have one person waiting for the trust provision to be passed. She indicated that they would not be able to permit any of those until or unless the Board passed the ordinance.

Ms. Bishop noted that the lot size piece was not an issue any more as the Board had denied the zoning ordinance.

Ms. Bishop explained that if there was no action that evening on the subdivision ordinance, then there could not be family division to the beneficiary of a trust, yet. She noted that the Board would have to vote on the proposed ordinance to adopt it. Ms. Bishop reiterated that her current understanding was that the Board would take no action that evening and revisit the ordinance in July, and she would confirm whether or not they could they could change the fifteen (15) year number. Mr. Rutherford confirmed that was it. Ms. Bishop noted that the road width was part of the ordinance as well.

Ms. McGarry asked if the Board would prefer to reconsider the ordinance at the June 29th meeting. The Board agreed to reconsider **Ordinance O2023-04** at the June 29th meeting.

IV. OTHER BUSINESS (AS PRESENTED)

The Board had no other business.

V. ADJOURN AND CONTINUE TO JUNE 29, 2023 AT 6 P.M. FOR A JOINT WORK SESSION WITH THE PLANNING COMMISSION.

At 8:15 p.m. Mr. Reed moved to adjourn and continue to June 29, 2023 at 6 p.m. for a joint work session with the Planning Commission. Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the meeting adjourned.