

**Virginia:**

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

Present: Jesse N. Rutherford, East District Supervisor –Chair  
Thomas D. Harvey, North District Supervisor  
Ernie Q. Reed, Central District Supervisor  
Robert G. “Skip” Barton, South District Supervisor  
Candice W. McGarry, County Administrator  
Amanda B. Spivey, Administrative Assistant/Deputy Clerk

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

**I. CALL TO ORDER**

Mr. Rutherford called the meeting to order at 2:00 p.m. with four (4) Supervisors present to establish a quorum and Mr. Parr being absent. Mr. Rutherford asked everyone to continue to keep the law enforcement community and Officer Wagner’s family in their prayers.

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

**II. PUBLIC COMMENTS**

*Rev. James Rose - Wingina, VA*

Mr. Rose spoke on behalf of the Gladstone Senior Center. He thanked the Board for their support in the past. He requested \$3,000 for a defibrillator for the Gladstone Senior Center. He noted the need for a defibrillator at the center as seniors gathered there and many had health problems. He commented that two members in the group knew how to use a defibrillator. He reported that Blue Ridge Medical Center had volunteered to train other members of the center. Rev. Rose noted that a member had recently fallen and fractured her hip. He reported that it took almost an hour for EMS to arrive as they had to come from Wintergreen. He noted that this was the reason for the request for the defibrillator as it could help save lives.

*James Bibb - Arrington, VA*

Mr. Bibb addressed the use of ATE (automated traffic enforcement) in the County. He commented that the lines of law enforcement and revenue generation should never be blurred. He noted that ATE was not law enforcement and was not deployed or marketed as such. He commented that it was also not a tool to increase public safety rather it was a method of revenue generation. He pointed out that cons included incorrectly ticketed drivers, as it did not identify the driver, only the vehicle. He commented that the privatization of traffic enforcement would incentivize companies to prioritize profits over public safety.

*William Percy - Lovingston, VA*

Mr. Percy thanked the Board for their participation with fireworks the Lovingston Volunteer Fire Department, noting that it was a real success. He hoped to see it continue. He also thanked the Board for the resolution for Jimmy Fortune and Earl Hamner Day. He asked if the YouTube audio and video of the Board meetings could be improved. He asked if they could use some of the School Board equipment like the Promethean and the sound system for Board meetings. Mr. Percy thanked VDOT for their grass cutting efforts. He encouraged VDOT to be more proactive in widening the roads and extending left turn lanes. He referenced an email that he had sent to the Board about Riverside Park in Waynesboro and suggested that the Board take a look at the park as they consider options at the Larkin property.

*Edith Napier - Arrington, VA*

Ms. Napier thanked the Board for their service and apologized to them for times when they were confronted in public regarding complaints. She noted that she would make an effort, and hoped others would also do the same, to channel concerns in the right manner. She commented that at last month’s meeting, she had come before the Board regarding grass cutting on the southern end of the County. She noted that the grass was not cut for Juneteenth. She then reported that a week later, an accident had occurred at Route 29 and Napier Loop in middle of day. She commented that the grass was extremely tall then. She noted that the traffic had to be re-routed from Route 29 through a small neighborhood road. She noted concern that because VDOT was negligent on cutting the grass, they endangered the citizens in that neighborhood in

order to keep traffic moving. She asked the Board to impress upon VDOT the importance of cutting the grass in a timely manner, especially on Route 29. She noted that the southern portion of Route 29 seemed to be a neglected area. She did not want to wait until someone was killed before they figure out that cutting the grass could make a difference.

**III. CONSENT AGENDA**

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

A. Resolution – **R2023-43** Minutes for Approval

**RESOLUTION R2023-43  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MINUTES  
(March 28, 2023)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meetings conducted on **March 28, 2023** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution – **R2023-44** Amendment to Recreation Fee Schedule

**RESOLUTION R2023-44  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF NELSON COUNTY PARKS AND  
RECREATION  
FEE SCHEDULE FOR FACILITY RENTALS  
ADDITION OF NELSON CENTER AND RYAN BALLFIELDS**

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

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

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

**WHEREAS**, to assist in covering the costs to maintain and operate the Nelson Center and Ryan ballfields, Nelson County Parks and Recreation wishes to amend the established fee schedule to include a facility rental fee for the use of these sites;

**NOW, THEREFORE BE IT RESOLVED**, by the Nelson County Board of Supervisors that the Nelson County Parks and Recreation Schedule of Fees, is hereby immediately amended to include the Nelson Center and Ryan ballfields as part of the facility rentals managed by the Parks and Recreation Department, including the associated facility rental fees as shown in the attached July 2023 Fee Schedule.

**Nelson County Parks and Recreation Fees-July 2023**

**Amended to add: Nelson Center and Ryan Complex Baseball/Softball Field Rentals**

<b>SPORTS / PROGRAMMING</b>	
Youth Soccer	\$30 Lil Kickers Program (4-5 yr olds) \$40 Regular Registration (6-14 yr olds) \$50 Late Registration \$5 sibling discount (for families with 2+ children)

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

<b>SPECIAL EVENTS / RECREATIONAL PROGRAMS</b>	
Special Events (i.e. Piney River Triathlon, Nelson Downriver Race) General Recreation Programs	Varies Individual Expense (Instructor Fee + Supplies needed per person, etc.) Plus 20%.  Example: Instructor wants \$20 per participant. NCPR charges \$24 for registration.
<b>COUNTY MERCHANDISE</b>	
Future Blue Ridge Tunnel Merchandise	Product Cost + 25%
<b>COMERCIAL USE PERMITS (ALL PROPERTIES)</b>	
Filming at BRT	Per Recommendation of County Administrator and Director of Parks and Recreation based on length of closure and exact needs of the group.
For-profit Tours	
Private Events	
<b>FACILITY RENTALS</b>	
Montreal Park & Shelter	\$40 per day. Full daily rate ONLY.
Nelson Center & Ryan Baseball/Softball Fields	Weeknight (After 5pm): \$20 per night Full Day: \$100/day (No half day option) Light Usage: \$10/day Flat Fee

**IV. RESOLUTION – Honoring Officer Wagner and Support for Legislative Changes to LODA (R2023-45)**

Mr. Rutherford noted that Nelson County had recently lost one of their own in the line of duty, Mr. Chris Wagner of the Wintergreen Police Department. Mr. Rutherford noted that the Board wanted to honor Mr. Wagner and his service to the community. He reported that himself, Mr. Parr and Ms. McGarry visited Wintergreen following the incident and learned that licensed police officers who work for private police departments did not get Line of Duty Act (LODA) benefits. He noted that having the benefit of LODA would allow the family members of an officer killed in the line of duty to benefit from something similar to a life insurance policy. Mr. Rutherford pointed out that that LODA benefit did not exist for Mr. Wagner. He noted that Mr. Wagner's family would also struggle financially in his absence. He explained that the proposed resolution came about based on discussions with the Wagner family and state legislators. He felt that the decision was a no brainer and thought that Nelson County wanted to take care of their own. Mr. Rutherford wanted to honor Mr. Wagner's memory and begin working on legislation. Mr. Rutherford reported that he had been speaking with State Senators and Delegates and noted that there was already legislation in the works to hopefully be on the agenda for the next session. He noted that Senator Mark Peake and Delegate Ellen Campbell were both involved with moving the legislation forward. Mr. Rutherford indicated that there were several other localities that have agreed to adopted a resolution in Mr. Wagner's memory and to support legislation.

Mr. Reed thanked Mr. Rutherford for taking the initiative on the matter and moving it forward. Mr. Reed noted that he and the rest of the Board had received an email from Jay Roberts expressing his gratitude and support for the resolution.

Mr. Reed read aloud **Resolution R2023-45** and made a motion to adopt **Resolution R2023-45** as presented. Mr. Harvey seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-45  
NELSON COUNTY BOARD OF SUPERVISORS  
RESOLUTION HONORING OFFICER MARK CHRISTOPHER WAGNER, II  
AND REQUESTING AMENDMENT OF THE LINE OF DUTY ACT**

**WHEREAS**, Mark Christopher Wagner II served for seven years with the Massanutten Police Department, beginning his law enforcement career as a Gate Attendant and in May of 2019, earned Police Officer status following his graduation from Central Shenandoah Police Academy; and

**WHEREAS**, Officer Wagner joined the Wintergreen Police Department in August of 2020 and diligently served the Wintergreen Community with unwavering honor and commitment; and

**WHEREAS**, Officer Mark Christopher Wagner II was killed in the line of duty on June 16, 2023, in his capacity as a law enforcement officer employed by the Wintergreen Police Department, a private police department; and

**WHEREAS**, the Line of Duty Act, Virginia Code § 9.1-400 *et seq.*, excludes private Police Officers from the benefits of that Act; and

**WHEREAS**, by definition under the Code of Virginia private Police Officers are law enforcement officers; and

**WHEREAS**, private Police Officers, just as their counterparts employed by a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, are responsible for the prevention and detection of crime and the enforcement of the penal laws and are exposed to the same risks of injury or death; and,

**WHEREAS**, it is the sense of the Nelson County Board of Supervisors that the Line of Duty Act should be amended to afford private Police Officers the benefits available under the Act.

**NOW, THEREFORE, BE IT RESOLVED**, the Nelson County Board of Supervisors hereby honors Officer Mark Christopher Wagner II of Wintergreen Police Department for his heroism and honorable service to the citizens of Wintergreen and the County, for whom he made the ultimate sacrifice, and

**BE IT FURTHER RESOLVED**, the Nelson County Board of Supervisors hereby calls upon the General Assembly to amend the Code of Virginia to afford private Police Officers the benefits available under Virginia Code § 9.1-400 *et seq.*, Line of Duty Act, and

**BE IT FINALLY RESOLVED**, said Board hereby directs that a copy of this Resolution requesting these State Code amendments be delivered forthwith to the County's representatives in the General Assembly.

Mr. Rutherford noted that they had Mr. Russell, Mr. Sheets and Ms. Harris present from Wintergreen. He noted that the Board was there for them and supported them as well as the law enforcement community.

**V. PRESENTATIONS**

**A. VDOT Report**

Mr. Robert Brown of VDOT provided the following report:

Mr. Brown reported that VDOT had been mowing in Nelson County. He noted that they had mowed pretty much everything on the west side of Route 29. He reported that they were still working on the east side of Route 29 and now mowing into Shipman and Wingina. He hoped that the mowing would be completed in the next few weeks. Mr. Brown also reported that they had spent the last month working to resolve the issues and concerns brought up in the Facebook post.

Mr. Brown reported on Rural Rustic hard surfacing projects in Nelson. He noted that Honeysuckle Lane and Ball Mountain were both completed. He reported that they were starting to work on Jack's Hill to install a drainage structure. He noted that the road would be closed while the drainage structure was installed and then it would be reopened. He reported that VDOT had been doing a lot clean up from trees and flood damage. He noted that ditching work had been completed on Route 56 and Roseland Road. Mr. Brown noted that he had not received anything from VDOT's traffic engineers regarding any additional warning signs or a detection system for the Tye River Road railroad underpass. He noted that he was pushing for the engineers to provide something so they could see what would be involved and the costs to install it.

Supervisors then discussed the following issues:

Mr. Barton:

Mr. Barton mentioned the area on Route 56 close to the Buckingham bridge and asked when they may finish paving that area. Mr. Brown indicated that the lower section of Route 56 was set to be paved around 2025. He noted that they would try to make some improvements to make it last until then.

Mr. Harvey:

Mr. Harvey had no VDOT issues

Mr. Reed:

Mr. Reed noted that Parks and Recreation was actively exploring possibilities to develop the Sturt property on Findlay Gap Road. He commented that they hoped to take steps to make it a usable park and noted that people needed to be able to get there. Mr. Barton noted it was an unpaved area with five (5) creeks to cross and there were no culverts. Mr. Brown noted that Findlay Gap was a long road and he hoped that the County would consider asking for proffers to improve the road. Mr. Brown noted the available funding sources which consisted of secondary road construction funding, most of which was already designated for unpaved roads; tele fees; and County safety money. He commented that if there was going to be a need for a major road improvement, the County and VDOT needed to keep their eyes open for opportunities for funding. Mr. Reed noted that the success of whatever Parks and Recreation put on the property would depend on the ability for people to get there safely. Mr. Brown indicated that VDOT would look at the road to determine any deficiencies and then determine any corrections that could be made. Mr. Barton commented that the road was in good shape at the river end.

Mr. Reed reported that one of his constituents had reached out to him regarding a culvert that was just replaced on Dutch Creek Lane. Mr. Reed noted that the constituent had found that the pumps used to divert the water were leaking oil significantly on the ground. He noted concerns regarding any possible creek pollution. Mr. Brown noted that he would contact the crew to see about fixing or replacing the pumps.

Mr. Reed noted that he had not heard any recent updates on the 151 Corridor Study. He reported that the County was working on the final draft of Comprehensive Plan and the data from the study was critical to helping with the plan. He asked if it would be possible to make sure that the information from the 151 Corridor study was available as soon as it could be, so that the information could be included in the plan. Mr. Brown noted that he would speak with Rick Youngblood regarding the completion date for the study.

Mr. Barton asked about setting a priority of cutting grass, particularly in the southern part of the County. He noted there were areas in the Southern end of the County where grass blocked the view at crossovers. He asked if grass could be a priority sooner in the process. Mr. Brown noted that Routes 29 and 151 were treated with a growth retardant to keep growth down so that mowing of the four lanes did not need to take place until mid-June or thereabouts. He noted that they typically started mowing two lane primaries around late April and then started on secondary roads around the beginning of May. He commented that he understood the concerns mentioned. Mr. Brown explained that the southern end of Nelson was maintained by the Amherst VDOT Headquarters and they typically started in the Gladstone area first because there was a lot of Johnson grass down there. He noted that the Bryant area Headquarters mowed the west side of Route 29 and the Shipman Headquarters mowed the east side of Route 29. Mr. Brown did report that VDOT planned to award a mowing contract so that a contractor could help mow secondary routes in Nelson, Amherst, Appomattox and Campbell. Mr. Brown noted that VDOT did not have the people or resources to take care of the mowing like they wanted to. He reported that the Shipman Headquarters had three vacancies in addition to having a few folks out on medical leave. Mr. Barton reiterated that the grass was a problem at the crossovers in the southern end of the County. Mr. Brown noted he understood the concerns and assured that VDOT did not want the vegetation to be the cause of any accident.

Mr. Rutherford related a concerns for Mr. Parr in his absence. He indicated that Mr. Parr had a question regarding a foot bridge on Rose Mill Road. Mr. Rutherford related Mr. Parr's appreciation for the repairs to shoulders. Mr. Rutherford asked if Mr. Brown had been able to look into an email regarding a culvert. Mr. Brown noted that the culvert did need to be replaced under 151 as it was non-functioning. Mr. Rutherford noted for the record that Mr. Parr was absent from the meeting due to a surgery that had been planned for quite a while, but he would be back on his feet in no time. Mr. Rutherford asked Mr. Brown to follow-up with Mr. Parr via email on the concerns mentioned.

Mr. Rutherford noted the need for mowing in the East District, particularly Schuyler. Mr. Brown noted that they had a tractor mowing that day. Mr. Rutherford mentioned a few potholes between Gordons Crossing (Laurel Road) and Ball Mountain that had been patched a few times and were coming back. He asked if there was a repaving schedule for those roads. Mr. Brown was uncertain when they would be on the schedule but noted that they typically made the repairs prior to hard surfacing.

The Board had no other VDOT items to discuss.

#### B. Automated Speed Enforcement in School Zones – Blue Line Solutions

Ms. McGarry introduced Greg Hogston with Blue Line Solutions. She noted he was present to discuss automated speed enforcement program for school zones. She noted that following the presentation, the Board could consider authorizing a public hearing the get input from the public on the program, or they could move forward, or take no action.

Mr. Hogston thanked the Board for the opportunity. He reported that he resided in Washington County and had retired from law enforcement after having served from 1996 until 2021. He noted that he then started his second career working in his passion traffic safety. Mr. Hogston explained that the Virginia General Assembly passed legislation §46.2-882.1 in 2020 which would allow automated speed enforcement in school zones and highway work zones.

Mr. Hogston provided background information on Blue Line Solutions, noting that they had over 200 years combined in law enforcement experience. He described the Click It or Ticket program, which was the most successful program launched by National Highway Traffic Safety Administration (NHTSA) and noted that as part of the program, 100 drivers were observed to see whether they were wearing their seatbelts at all times while operating a motor vehicle. He noted that following the reporting phase to DMV, a public information and education phase followed. He commented that the success of any enforcement program was dependent on how well the audience effected was educated. He noted that in the Click It or Ticket program, following education, they moved to the enforcement phase for two weeks and following enforcement, they returned to the same location at the same time and day to perform the same observation of drivers wearing seatbelts to determine how the seatbelt usage rates increased. He commented that the reason the Click It or Ticket program had been so successful, was due to the combined use of public education and enforcement. Mr. Hogston explained that the owner of Blue Line used the Click It or Ticket model to develop the model used for their automated School Zone enforcement program.

Mr. Hogston explained that Blue Line Solutions performed a five-day independent, unscrewed data driving report in interested localities' school or work zones using a radar box to capture the flow of vehicles and violations within that zone for a week. He noted that the data was then shared with the Sheriff, Board of Supervisors and School Board, along with the solution for problem. Mr. Hogston reported that data was collected in Nelson County in September 2022 in all three school zones from Tuesday, September 27<sup>th</sup> through Monday, October 3<sup>rd</sup> during the hours of 7:30 a.m. until 4:00 p.m.

Mr. Hogston reported that during the five-day study at the Nelson County Middle School and High School Zone, there were a total of 45,282 vehicles of which there were 5,314 recorded speeding violations. He explained that per §46.2-882.1, a speeding violation for photo speed enforcement could not be considered unless it was 11 miles per hour or above the school zone speed limit. He showed a pie chart which indicated that a little over 1,000 vehicles exceeded the posted speed limit by 11-14 miles per hour over the posted speed limit. He noted that the orange section showed the number of vehicles exceeding the speed limit by 15-20 miles per hour. He pointed out that anything in the gray part of the chart was considered to be reckless driving by speed which goes from a traffic infraction to a Class 1 Misdemeanor by speed.

Mr. Hogston then reviewed the school zone data at Rockfish Elementary School noting there was a total of 23,387 vehicles passing through during the five-day period. He reported that there were a total of 2,241 speeding violations recorded. He noted that each school zone varied. He pointed out that about 1,700 violations were speeding 11-14 miles over the posted speed limit, with 454 speeding 15-20 miles per hour over the speed limit, and 39 violators going 21 miles per hour over the speed limit or more.

Mr. Hogston then reviewed the Tye River Elementary School data. He reported that there were a total of 48,351 vehicles during the five-day period, with 4,203 of those being in violation of the speed limit. He noted that there were about 2,500 vehicles exceeding the speed limit by 10-14 miles per hour, 941 vehicles exceeding by 15-20 miles per hour, and 702 vehicles exceeding by 21 miles per hour or more.

Mr. Hogston explained that the General Assembly made automated speed enforcement available in two zones: School Zones and Work Zones. He noted that by code, the civil penalty was set at one hundred dollars (\$100.00) per violation. He indicated that there were no points assessed, so it did not go on someone’s driving record as a demerit point violation, and it did not go to the driver’s insurance. He noted that it would not go to court unless someone followed the rebuttal process by code. He commented that the Supreme Court set the fine high enough to deter bad driving behavior.

Mr. Hogston reviewed the Town of Bridgewater data from the Pre-Program Survey through the Enforcement phase. He explained the 30-day warning period in which speeding violators received warning citations as part of the Public Information and Education phase. He also noted that they used free radar feedback signs which flashed the driver’s speed as they entered the area. Mr. Hogston noted that the program was not about revenue generation and collection, it was about speed reduction in the school zones.

Mr. Hogston provided the data for John Wayland Elementary in Bridgewater, which started with 1,095 violations, after the education phase dropped down to 97 violations, and then following the warning phase dropped to 86 violations. He noted that in the enforcement phase the violations went back up to 94. He reported a 91 percent total reduction in speeding violations. He explained that they continuously tracked the data and provided it to the locality so they could see the success of the program. He noted during the summer, they started another round of public information and education to prepare people for when schools start back and remind drivers to slow down.

	Pre-Program (Phase 1)	PI&E (Phase 2)	Warning (Phase 3)	Enforcement (Phase 4)
<b>JOHN WAYLAND ELEMENTARY</b>	1,095	97	86	94
<b>TOTAL</b>	1,095	97	86	94
<b>PROGRAM WEEKLY AVERAGE</b>	219	19	17	19
<b>% REDUCTION PER PHASE</b>		<b>91%</b>	<b>92%</b>	<b>91%</b>
<b>% TOTAL REDUCTION</b>			<b>91%</b>	

Mr. Hogston then discussed Blue Line’s first account in Virginia, Wythe County. He reported that Wythe County currently had three active schools, with the fourth school launching in the fall. He indicated that the program in Wythe County had reduced the number of speeding vehicles by 96 percent. Mr. Hogston explained that the VDOT regions across the state had different rules on how they implement programs. He noted that the purpose of photo speed enforcement was to have traffic slow down. He pointed out that the process was non-biased means of enforcement that only saw the violation. Mr. Hogston explained that if someone received the violation in the mail and was not driving the vehicle at the time, they would be able to go online and complete a transfer of liability form or file an affidavit to have their case added to the General District Court docket. Mr. Hogston reported that they had seven (7) active accounts, with five (5) more in negotiation.

Mr. Rutherford asked about the data on the Nelson County Middle and High School Zone, noting that in five days, they had 5,314 violations. Mr. Hogston explained that the length of time the lights flashed was determined by the code and left up to the School Superintendent. He noted that based on the times when the lights were flashing, they would subtract out the middle of the day total to get the numbers of School

Zone violations (5,314 minus 871). Mr. Hogston then explained that the fee set by the Supreme Court of Virginia was \$100 per violation as a civil penalty. He noted that the fee from Blue Line's services was \$25 per violation and \$75 of the \$100 would come back to the locality. Mr. Hogston also noted that each violation had to be certified by a sworn law enforcement officer. Mr. Rutherford estimated that after subtracting 871 from 5,314, they would have about 4,400 violations and at \$100 per violation, that was nearly a half million dollars. Mr. Rutherford noted that Blue Line would get 25 percent of that, or about \$100,000. Mr. Hogston noted that Mr. Rutherford was looking at the base line numbers. He pointed out that you could not predict driving behavior. He then explained that there could be a 90 percent reduction through proper education and information, along with proper placement of radar feedback signs. He noted that the goal was 100 percent compliance.

Mr. Rutherford commented that Route 29 was an interstate of sorts. He noted that they could only educate the local population, not those passing through. Mr. Hogston noted that was true but they wanted to educate the populous that the enforcement was going to affect. Mr. Hogston asked why drivers from other localities did not take into consideration the flashing lights for the Nelson County students. He noted that the feedback signs would flash their speed as they entered the school zone also. He explained that the photo enforcement was a safer option than having traditional enforcement where an officer enters into traffic to catch up to a speeder and pull them over. He noted that they were trying to correct driver behavior through automated means of enforcement. He confirmed that in looking at the bottom line number, there was potential for revenue from the program. Mr. Rutherford noted that his hesitation was that safety was not a money making mechanism.

Mr. Barton asked how the system worked. Mr. Hogston explained that the LIDAR (Light Detection and Ranging) system was a single beam, single lane device on a stationary fixed pole that emitted a beam of radiation into the roadway. He noted that if a vehicle broke the beam at 11 miles per hour over the speed limit or greater when the lights were flashing in the school zone, a violation was issued to registered owner of the vehicle. He noted that the violation was issued to the vehicle owner, not the driver. He then explained that a summons would be sent in the mail to the owner and if they were not driving the vehicle that day and their spouse was, the owner could go to website on the summons to complete a transfer of liability form. Mr. Barton asked what would prevent someone from simply throwing away the ticket. Mr. Hogston explained that the Sheriff had the authority under State Code to request a civil summons for those living in the State of Virginia with an unpaid violation. Mr. Hogston noted if the person resided outside of the Commonwealth, Blue Line had a partnership with a government collections agency that they would turn it over to after 60 days of non-payment. Mr. Hogston explained that the fee was paid to Blue Line and then Blue Line would retain the \$25 per violation fee and the County would receive \$75 per violation. He stated that there was no cost at all to the County for the program. Mr. Barton noted that there was always a cost involved, it may not be money, but there was a cost. Mr. Barton commented that there was a benefit also.

Mr. Barton referenced the comment made that it was the privatization of law enforcement. Mr. Barton noted the privatization of prisons and commented that most people would consider that a disaster, even though in the beginning it looked good. Mr. Hogston suggested that the County may want to reach out to other localities working with Blue Line. Mr. Barton asked when the program could possibly be implemented. Mr. Hogston commented that if the program were approved, the most consuming part of the process was the permitting with VDOT. He noted that Blue Line had a former VDOT contracted construction safety engineer handling the permitting, and it usually took a few months for the VDOT residency engineer to turn the permit around. Mr. Hogston commented that the only thing that the County would have invested as far as man-power, would be making the final approval of a violation as required by state code. Mr. Hogston noted the officer handling approvals in Wythe County takes his time reviewing violations and it took about one minute to approve a violation.

Mr. Rutherford asked if Blue Line had any school zones similar to the traffic count on Route 29. Mr. Hogston reported that the Town of Bridgewater school was on a four lane highway and they had over a 90 percent reduction in speeding violations.

Sheriff Hill commented that speed enforcement was one of the biggest complaints made to the Sheriff's Office. He noted that when the studies were conducted, there were deputies in the school zones at that time and the numbers were astronomical. He noted that education and warnings would help. He stated that they did not have the manpower to always be there.

Mr. Reed noted his first response was that he was against it as a revenue generator, and he really did not like surveillance. He commented that if he were looking for a best case scenario to accomplish the same type of results the program has, he could not envision one. He noted the 151 corridor, commenting that having any kind of deterrent that could create a safer corridor along 151 would be worth thinking about. Mr. Reed noted if they were considering safety alone and nothing else, he could not think of another scenario to come up with better results. Mr. Reed thought it would be a good program to consider.



Mr. Hogston noted that privacy concerns were frequently brought up, and he reported that the way the code was written, the information could only be used for the violation captured by code and nothing else. He noted that they wanted the program to be successful for all involved and safety was the priority.

Mr. Barton asked if the program was approved, what the time frame would be to get out of it. Mr. Hogston explained that it was a two-year contract. He explained that they set it up for two years because any needed sign updates per code would be updated by Blue Line, at no cost to the School Division or County. He noted that it took two years for Blue Line to make up the infrastructure costs invested in the locality. He noted that before the program could begin, a resolution had to be adopted by VDOT to establish a school zone and flashing lights had to be in place.

Ms. McGarry noted there would be some pro-rated costs that the County would be responsible for, should they choose to exit the contract early.

Mr. Rutherford asked Mr. Hogston if they had any examples of a major throughway other than Virginia. Mr. Hogston indicated that he could check with the other states they have programs in, noting they were in Tennessee, Georgia, Louisiana and Iowa. Mr. Rutherford noted he looked at the two intersections that Mr. Hogston referenced (Bridgewater) and they both had 45 miles per hour speed limits and stoplights. Mr. Rutherford commented that Nelson had a speed limit of 60 on Route 29 and then School Zone speed limit was 35. He wanted to have examples similar to what was in Nelson County. Sheriff Hill noted that having signage posted sooner could help. Mr. Hogston noted that signage placement signs were dependent on State Code and the VDOT district.

Mr. Rutherford noted he was still hesitant and he asked the preference of the rest of the Board. Mr. Reed was in favor of public hearing to get feedback from the public. He noted it was important to be thoughtful.

Mr. Reed moved to hold a public hearing on the subject at the September Board meeting. Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote.

The Board took a brief recess.

## VI. NEW & UNFINISHED BUSINESS

### A. Proposed Amendment to Transient Occupancy Tax Rate (**O2023-02**)

Ms. McGarry reported that the Board had requested that the Transient Occupancy Tax (TOT) be placed on the July agenda. She indicated that this was for consideration of Ordinance 2023-02, Amendment of the Code of Nelson County, Virginia, Chapter 11, Taxation, Article VI Transient Occupancy Tax. She noted that the public hearing was held on May 9, 2023. She reported that the amendment would propose to move rate from 5 percent to 7 percent.

Mr. Barton moved to adopt **Ordinance O2023-02** to increase the transient occupancy tax from 5 percent to 7 percent. Mr. Reed seconded the motion. Mr. Rutherford confirmed that the effective would be January 1, 2024. He stated he did not feel it was necessary to raise the tax at the current time.

Mr. Reed noted that there were a lot of big picture things in front of the County with the Larkin property, the Callohill Drive development for the new office building for Social Services and Planning and Zoning. He noted the last time increasing the TOT was up for consideration, it was to help fund the schools. He commented that the State had made school funding more difficult and the locality had to bear the burden of ensuring schools were properly funded. Mr. Reed noted that since no action was previously taken on the TOT, a stakeholder team had been created which consisted of himself and Mr. Rutherford. He noted they had met with members of the short term rental community. He also noted that business licenses were now required for short term rentals and that was being tracked more closely. He commented that in the Commissioner of Revenue's report, 36 short term rental business licenses issues were issued last month. He pointed out that part of that increase could be that they had people with a short term rental but did not have a business license. He also noted the costs associated with providing services to people staying in Nelson. Mr. Reed estimated that there were roughly 1,000 short term rentals in the Central District alone. He noted with Nelson's population of about 15,000, there could be another 3,000 people in the County visiting and using services that they were not paying taxes for.

Mr. Reed reviewed the rates charged in other localities:

- Roanoke - 8 percent
- Charlottesville - 8 percent
- Albemarle County - 8 percent
- Richmond - 8 percent
- Loudon County - 8 percent

- Harrisonburg was at - 7 percent
- Staunton - 6.7 percent
- Lynchburg - just over 7 percent
- Augusta County - 6 percent
- Waynesboro - 6 percent

Mr. Reed thought that increasing the transient occupancy tax would provide the County the ability to accomplish some of the things they wanted to do. He noted the County's good credit rating and pointed out that they had a good vision to have the debt capacity to do things. Mr. Reed indicated that he was strongly in favor of increasing the transient occupancy tax to seven (7) percent. He pointed out that the current budget decreased the amount of money they had planned to have in debt service. He noted that this would provide an opportunity to build that back up so they could be on track to do the things discussed during capital planning over the last few years.

Mr. Barton commented that he concurred with Mr. Reed. He pointed out that it was not a tax that the people of Nelson County would pay, rather it was a tax that people coming to enjoy Nelson County would pay. He noted that people enjoyed Nelson because it was beautiful and clean, and all of those things incurred costs. He commented that the extra money could be used by the County for debt service, noting that the Contingency fund was less than the last year. He did not see the short term rental industry slowing down, as it seemed to be very profitable. He noted that this additional revenue would provide the opportunity to do things for the people of Nelson without increasing taxes to the people of Nelson County. Mr. Barton strongly supported implementing the tax increase.

There was no further discussion and Mr. Rutherford called for a roll call vote. Supervisors voted (2-2) and the motion failed, with Mr. Harvey and Mr. Rutherford voting no.

#### B. Proposed Pay Study Implementation (R2023-46)

Ms. McGarry presented the following report on the Proposed Pay Study Implementation information:

**Background:**

The last compensation study was performed in 2016 and implemented in 2017. In January of 2022, the Board of Supervisors authorized the conduct of a classification and compensation study through contracting with Management Advisory Group International, Inc. (MAG) in order to perform a periodic comprehensive employee compensation review. The study encompassed all County, Constitutional Office, and Department of Social Services positions.

***Study methodology included:***

- collection of current personnel, human resources and organizational background information;
- review/analysis of current class/job descriptions;
- identification of classification benchmarks;
- conduct a market review of the County's market position;
- monitoring of Job Analysis Questionnaires completed by employees;
- review of the job data provided by employees; and,
- analysis with recommendations concerning the relative ranking of included County positions to develop a classification plan that will ensure internal equity.

***Organizations typically included as competitors in a market review are those that are:***

- competing with County government for employees, for either lower level or higher-level positions;
- geographically situated in such a fashion as to almost automatically be considered a competitor;
- structured similarly to the County, or providing similar types of services;
- attractive to highly valued employees for one reason or another; and,
- within a reasonable commuting distance.

***Organizations surveyed and reviewed include:***

- Albemarle County
- Augusta County
- Amherst County
- Appomattox County
- Bedford County
- Buckingham County
- Campbell County
- Fluvanna County
- Greene County
- Lynchburg
- Orange County

- Powhatan County
- Staunton
- Waynesboro

**Status:**

The Board was provided with a presentation on the preliminary results of the pay study by MAG at its regular meeting on February 14, 2023 including cost of implementation. These preliminary implementation costs were used to assist the Board in FY24 budgetary planning to implement 2 of the 3 components recommended in the Study; 1) a 5% across the Board Cost of Living Adjustment, and/or 2) movement to the minimum of the newly recommended pay bands for each position, whichever is greater. The third element, **currently not budgeted for in FY24** includes an equity/market adjustment based on time in position to address compression.

Since the initial presentation, staff has worked with MAG to refine the recommended pay structure and a memo is attached that details those adjustments. These adjustments are anticipated to be addressed within the Employee Benefits funding currently in the adopted FY24 budget. Staff would like the Board to possibly consider implementation of the third pay adjustment component – the equity/market adjustment to address compression, sometime during the fiscal year; possibly in December 2023.

**Action Requested: Consideration of the adoption of proposed resolutions R2023-46 and R2023-47.**

**Resolution R2023-46** provides for adoption of the proposed pay plan which is necessary in order to establish position pay ranges for each County, Constitutional Office, and Registrar’s Office position and a basis for which to move applicable employees to the minimum pay for their position.

**Resolution R2023-47** amends the salary and classification system based on the 2 elements of the pay study that are funded within the FY24 budget and describes how those are applied to County employees, Constitutional Officers and Registrar and their employees in order to establish new rates of pay effective July 1, 2023.

**Potential Future Action:**

- Implementation of the third pay adjustment component recommended in the pay study - equity/market adjustment to address compression.
- Implementation of the new position descriptions developed by MAG; to be reviewed by staff and presented for Board approval and implementation.

Ms. McGarry reported that adjustments to position classifications as recommended by department heads and administration were included in the attached report dated July 5, 2023. She noted that these changes more accurately represent the level of duties and responsibilities associated with the positions relative to those in similar class codes and corresponding pay grades within the study. She stated that no new positions were created by these changes. She reported that expenses relative to the changes listed were shown on the last page of the Implementation Report Summary.

She reported on the individual changes addressed as follows:

- Animal Control Officer (Grade #110), now Grade #111.
- Animal Control Supervisor (Grade #114), now Director of Animal Control Grade #116.
- Sheriff’s Department Administrative Assistant I (Grade #109), reclassified as Administrative Assistant II Grade #111.
- Information Systems Specialist (Grade #115) represents both non-exempt positions in the Information Systems Department.
- Parks & Recreation Technician (Grade #108), now Parks & Recreation Specialist Grade #110.

*Ms. McGarry noted that they were trying to be more uniform with titles by using specialist instead of technician.*

- Supervisor of Building, Grounds & Maintenance (Grade #120), now Director of Public Works Grade #121.
- Maintenance Worker (Grade #106), now Maintenance Technician I (Grade #107) and Maintenance Technician II (Grade #109); allows more flexibility within the department based on experience and knowledge.

- Finance Technician II (A/P) (Grade 107), and Finance Technician II (Payroll & HR) (Grade #109), both now are Finance & HR Specialist positions (Grade #110).
- Director of Planning & Zoning (Grade #124), now Grade #123 (classified with Director of Information Systems and Director of Tourism & Economic Development.
- Constitutional officers are not included in pay classifications due to their status as elected officials whose pay is determined by the state according to each locality's population size.
- Pay adjustments for FY24 (July 1, 2023 – June 30, 2024) will be at a 5% increase over FY23 salaries plus and adjustment to minimum (if needed) to meet the new salary scales as presented in the MAG compensation study.
- Finally, the adjustment toward maximum recommended in the study by MAG addressing equity adjustments for employment experience represents an additional future cost of \$96,807 plus benefits for a total of \$117,437. Staff recommends this component be revisited in December 2023 to consider for January 2024, reducing the current fiscal year budget cost to \$58,719.

Ms. McGarry reviewed the new pay scale which included the adjustments she just presented. She noted that the pay scale included the current grade, along with the proposed title for the position, the minimum, midpoint and maximum pay range for each class of positions. She asked that the Board consider the new pay ranges.

Mr. Rutherford asked if it would impact part-time positions. Ms. McGarry noted that it would. Mr. Rutherford asked if there were a lot of part-time positions. Ms. McGarry reported that they did, particularly in Solid Waste with the Convenience Center attendants. Mr. Rutherford asked if part-time positions received full benefits, or if those were only for full-time positions. Ms. McGarry reported that only full-time positions received benefits beyond FICA and Medicare. Ms. McGarry explained that during the budget process, the Board provided the funding for the 5 percent Cost of Living Adjustment (COLA) and moving people to the minimum of the new pay scales if they were not already there. She explained that these changes provided the framework to be able to move people to the minimum, by having the newly established pay ranges.

Mr. Rutherford confirmed that the movement to the minimums had already been budgeted. He asked about the actions needed for the resolutions. Ms. McGarry noted that they would be adopting Resolution R2023-46 to adopt the pay plan as presented, or amended if the Board chose to make changes. Mr. Reed asked whether any amendments to the budget would be needed to cover the change. Ms. McGarry commented that staff felt the adjustment could be handled within the budgetary funding that was approved. Mr. Reed asked about the recommendation to revisit in December. Ms. McGarry explained that staff would like the Board to consider compression adjustment. She noted that when they moved people to the minimum and there are vacancies, people would be hired at the new minimum, which would mean that people with no experience would be making the same amount of money as someone who may have been working a few years. suggested at least looking at compression issues later on. She noted that the compression component is what would possibly be considered in the future.

Mr. Reed moved to approve **Resolution R2023-46** 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 R2023-46  
NELSON COUNTY BOARD OF SUPERVISORS  
ADOPTION OF FY2023-2024 PAY PLAN**

**WHEREAS**, implementation of appropriate compensation practices is instrumental to the County's ability to attract, motivate, and retain qualified employees, and

**WHEREAS**, Nelson County in recognizing the importance of its workforce of dedicated and talented professional staff, is committed to promoting the organizational values of exceptional service to the public, consistent and excellent performance, innovation, good fiscal, social, and environmental stewardship; and ethical behavior; and

**WHEREAS**, the County strives to administer pay and benefits in a way that is fair and transparent, and that does not consider race, ethnicity, religion, sex, gender, sexual orientation, gender identity or expression, or other factors unrelated to work performance; and

**WHEREAS**, in order to provide competitive, sustainable, and responsible compensation, it is a recognized best practice that employee compensation should be reviewed periodically to ensure that salary levels are competitive with other employers in the appropriate labor market; and

**WHEREAS**, since the last such employee compensation review was performed in 2016, in January 2022, the Board of Supervisors authorized the conduct of a classification and compensation study through contracting with Management Advisory Group International, Inc. (MAG) in order to perform said periodic employee compensation review; and

**WHEREAS**, the proposed pay plan as attached is a product of that study and establishes position pay ranges based on: market reviews, current organizational structure, discussions with human resources professionals and management, job analysis based on current class/job descriptions and completion of job analysis questionnaires by incumbent employees, and internal equity and external competitiveness considerations;

**NOW, THEREFORE BE IT RESOLVED**, the Nelson County Board of Supervisors does hereby adopt the FY2023-2024 Pay Plan as proposed and/or amended as attached, effective July 1, 2023.

C. FY23-24 Salary and Classification System (**R2023-47**)

Ms. McGarry asked the Board if they had any questions regarding the proposed resolution. There were no questions by the Board.

Mr. Reed moved to approve **Resolution R2023-47** 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 R2023-47**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**FY2023-2024 AMENDMENT OF SALARY AND CLASSIFICATION SYSTEM**

**WHEREAS**, implementation of appropriate compensation practices is instrumental to the County's ability to attract, motivate, and retain qualified employees, and

**WHEREAS**, the Board of Supervisors authorized the conduct of a classification and compensation study through contracting with Management Advisory Group International, Inc. (MAG) in order to perform said periodic employee compensation review; and

**WHEREAS**, the Board of Supervisors in the adoption and appropriation of its FY24 budget, included funding for employee salary adjustments resulting from the MAG classification and compensation study consisting of either a five percent (5%) salary increase or movement to the minimum of the newly established and approved positional pay ranges as applicable; whichever is greater,

**NOW THEREFORE BE IT RESOLVED**, by the Nelson County Board of Supervisors that the local government's "Salary and Classification System" is hereby amended to incorporate the following:

Salary adjustments shall be hereby authorized for Nelson County personnel (full-time and regular part-time) employed pursuant to the County's salary classification and pay plan, effective on July 1, 2023. The pay ranges assigned to each position classification shall be pursuant to those established within the 2022-2023 pay study and included herein as Attachment A. Employee compensation adjustments will be based upon five percent (5%) of current salary, or the minimum pay for the position classification, whichever is greatest. Salaries as of July 1, 2023 shall be calculated based upon the salary in effect on June 30, 2023.

Additionally, a five percent (5%) salary adjustment shall be authorized for all regular part-time employees and all full-time employees employed by a Constitutional Officer, inclusive of the Officer and Registrar. The five percent (5%) for all Constitutional Officers and their Compensation Board funded permanent staff positions shall be calculated based upon the salary in effect on June 30, 2023 (Compensation/Electoral Board and local supplement). Constitutional and Registrar office positions are also included in Attachment A position classifications. Salaries as of July 1, 2023 shall be calculated based upon the salary in effect on June 30, 2023 (Compensation Board and local supplement).

Finally, as part of the classification and compensation study results, employee equity/market adjustments were recommended using several factors including years in current position and applicable education. This adjustment may be considered for implementation at a later date and will be based upon the differential of the adjusted FY24 salary at July 1, 2023 to the equity/market salary placement as designated by position within the pay study results.

D. Proposed Amendments to Chapter 2, Article I, Section 2-2 Safety Program (R2023-48)

Ms. McGarry discussed the proposed amendment to Chapter 2, Article I, Section 2-2 Safety Program. She provided the following report:

**Background:** There are two ways localities can obtain Line of Duty Act Coverage; one is to participate in and contribute to the State’s Line of Duty Act Trust Fund managed by the Virginia Retirement System; the second is to elect to directly fund the cost of benefits provided under the State statute and not participate in the Fund. At some point, when provided the option, Nelson County opted for the latter and obtained this coverage offered through our insurance carrier, VACORP.

The County is and has been paying for Line of Duty Act (LODA) coverage through VACORP, for Sheriff’s department deputies and volunteer fire and rescue agencies including the career EMS staff. During the annual insurance renewal process, active deputies and fire and EMS rosters are verified with each covered agency and these are provided to VACORP for coverage.

LODA benefits paid are subject to approval by the State and may include:

- Death Benefit of \$100,000 (\$25,000 for presumptive causes if within 5 years after retirement)
- Continuation of Health Insurance coverage for:
  - o Officer (in case of Permanent Disability)
  - o Spouse (in case of Officer Death or Permanent Disability)
  - o Children (in case of Officer Death or Permanent Disability) to age 26

The State LODA Statute (9.1-400) applies to “members of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county.” Chapter 2, Article 1, Section 2.2 of the County Code provides these named entities recognized by the County under this statute; however, this was last done in 1996 and some of the named entities have changed names since then. Leaving this “as is” could cause an issue should the State question a claimant’s coverage under an improperly named entity within the County Code and could potentially compromise these members’ access to these benefits.

**Action Requested:** Adoption of the proposed resolution R2023-48, which authorizes a public hearing to be held on August 8, 2023, to amend the County Code, Chapter 2, Article 1, Section 2.2 Safety Program, to reflect the current proper organizational names that are recognized by the County as an integral part of the official safety program of the County and therefore covered by the County’s LODA insurance coverage. Active rosters for these entities provided to VACORP would also be updated to reflect the current organizational names, if needed, ensuring continuity between the active organizational rosters on file with VACORP and the covered entities listed in the County Code.

**Potential Future Action:** Should the effort prevail to amend the State Code to include private police departments and animal control officers in the definition of law enforcement under the LODA statute, this County Code section may need to be amended. However, the State Code amendment may be a year away from becoming effective and therefore it is recommended the proposed County Code change be considered now.

Mr. Barton moved to approve **Resolution R2023-48** as presented and Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the following resolution was adopted:

**RESOLUTION R2023-48**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AUTHORIZATION FOR PUBLIC HEARING**  
**AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA**  
**CHAPTER 2, ADMINISTRATION, ARTICLE I, SECTION 2-2 SAFETY PROGRAM**

**BE IT RESOLVED**, that pursuant to §15.2-1427 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 PM** in the General District Courtroom in the Courthouse in Lovingson, Virginia. The purpose of the public hearing is to receive public input on an Ordinance proposed for passage to amend Chapter 2, Administration, Article I, Section 2-2 Safety Program. Proposed amendments to Section 2-2 are to update the names of the entities covered by the Line of Duty Act as some of the names have changed.

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

A. Reports

1. County Administrator’s Report

Ms. McGarry noted that she had a few additional items not included with her report. She reported to the

Board that Former Nelson County Finance Director Ella Browning passed away. Ms. McGarry reported that Ms. Browning had been employed by the County for 27 years (July 1973 to December 2000). She noted that Wells-Sheffield was handling the arrangements and any information would be provided to the Board.

Ms. McGarry then thanked the Lovingson Volunteer Fire Department and the School Division for their collaboration on the 4<sup>th</sup> of July fireworks display. She noted that the County had received a lot of positive feedback on the event.

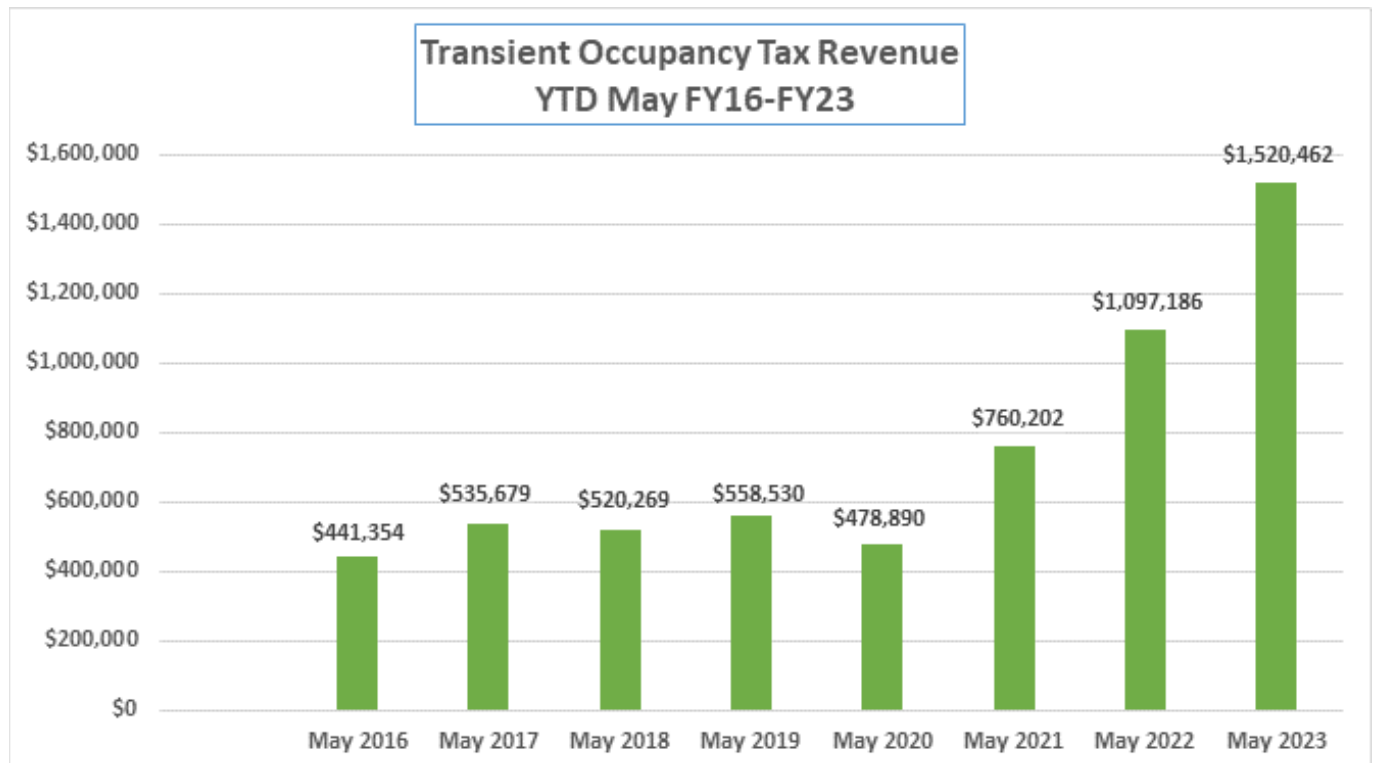
Ms. McGarry reported that the new County website has launched. She noted that most of the site was complete and functional, but they were still in the process of making some updates and adding in documents. She asked for any feedback or suggestions using the link on the website. Mr. Reed noted that the website looked really nice.

Ms. McGarry then presented the following:

- A. **Comprehensive Plan:** The project website is [www.Nelson2042.com](http://www.Nelson2042.com). Draft chapters and the implementation matrix were reviewed at a joint work session of the Board of Supervisors and Planning Commission. There is much work still to be done and more public engagement to be had. There will be a Public Open House on the latest full draft plan on August 29<sup>th</sup> at 6:30pm – 9pm at the Nelson Center in Lovingson.
- B. **Personal Property Tax Valuation:** In follow up on a question posed by the Board at the June meeting, the Commissioner of Revenue uses 90% of the retail value of vehicles provided by the JD Powers pricing guide. State Code section 58.1-3103 vests the Commissioner of Revenue with the authority “to assess, at fair market value, all subjects of taxation in his county or city each year.” Section 58.1-3503(B) states, “However, assessment ratios shall only be used with the concurrence of the local governing body.”

Mr. Rutherford asked about the assessment ratio (90% value) and who set the ratio. Ms. McGarry noted that the Commissioner of Revenue set the ratio but it was usually done in partnership with the Board. Mr. Rutherford asked when the 90 percent was set. Ms. McGarry noted that she would have to check as it had been that way for a while. Ms. McGarry confirmed that the assessment method was at the discretion of the Commissioner of Revenue.

- C. **Short Term Rentals: 1) Business Licenses:** In follow up on a question posed by the Board at the June meeting, the Commissioner’s Office is tracking the number of business licenses issued for short term rentals and they will be providing me with that information to be distributed to the Board. **2) Graph of 8-year history of Transient Occupancy Tax receipts on a cash basis for May year over year:**



July 11, 2023

**D. Status of VDH Renovations at Heritage Center:** Ms. Johnette Burdette, Heritage Center Director emailed me an update that included challenges they have faced through the pandemic that has driven up their costs from those originally expected: 1) cost of the renovation has more than doubled since initial estimates 2) bid costs were substantially more than original estimates due to increase in supply and labor costs while DGS (Department of General Services) worked on a lease for VDH, 3) Increased interest rates presented a problem with their debt to income ratio. They have been working with Virginia Community Council in securing the required funding for the project and are now working on lease amendments with DGS amid staffing transitions in both DGS and VDH. They anticipate a new completion date of December 2023 and will share a revised construction schedule once they have it. Ms. Burdette would like to come and provide the Board with an official update at the August regular meeting.



- E. NC Adult Drug Court:** NC Drug Court informational flyers are being sent to area attorneys, magistrates, and ACRJ in order to get the word out that court is ready for participants. The court currently has two referrals, one of which is in the screening process and the other's intake is being hampered by their attorney's slow response. Coordination meetings are taking place between the Coordinator, Clinician, and Region Ten in order to iron out the evaluation process as they start to get referrals. The Coordinator's office has been established in one of the former advisement offices near the Circuit court and is in the process of getting furnished and drug testing supplies have been ordered. These costs are covered by the DOJ implementation grant. As a reminder, this Court will be conducted weekly on Tuesdays at 12:30 in Circuit Court.
  
- F. Virginia Outdoors Foundation PTF Grant – Sturt Park:** Jerry West participated in an application feedback session with VOF and is scheduling a small stakeholder meeting to review the feedback and collaborate on ways to improve the application prior to the next submission deadline of August 7<sup>th</sup>. Areas of improvement include:
  - A. Public Access
    - a. With it being in a rural area away from foot access, how will we promote access and bring people in to visit. (field trips, etc.)
  - B. Plan Alignment
    - a. How will it best benefit an underserved community?
    - b. How does it align with the new comprehensive plan?
    - c. Given a master plan has not yet been developed, what are the next steps and how will it best fit community needs.
  
- G. Larkin Property Master Planning:** A work session with Architectural Partners related to Master Planning is being considered for either **Tuesday, August 1<sup>st</sup> or Wednesday August 2<sup>nd</sup>. BOS input on these dates is requested.**

The Board decided to plan for Wednesday, August 2<sup>nd</sup> at 2 p.m., pending confirmation from Mr. Parr during the break for dinner.

- H. NCSA Rate Increase:** The Nelson County Service Authority held its public hearing on proposed rate increases on June 15<sup>th</sup> with the new rates being adopted as advertised and effective July 1, 2023. The new rate schedule is available upon request.
  
- I. Courthouse Complex Trees Evaluation:** Paul Truslow is having several tree specialists (arborists) evaluate and make recommendations regarding the health of trees on the Courthouse lawn. Of particular concern are the large pin oak at the right-hand corner of the entrance road and the sugar maple on the opposite side (left-hand) of the entrance road. These evaluations and recommendations will be shared with the Board for consideration at a future meeting.
  
- J. Staff Reports:** Department and office reports for May have been provided.

Mr. Rutherford commented that he had spoken with Mr. Truslow regarding the trees at the Courthouse. He asked about the large ash tree being treated at the front of the Courthouse. Ms. McGarry confirmed that it has been treated and continues to be treated. Mr. Rutherford asked if that was the only ash tree the County

had. She noted that was the only ash tree she had been shown and it was in pretty good health. She noted it had some cabling.

## 2. Board Reports

### Mr. Barton:

Mr. Barton reported that the jail meeting would take place that Thursday.

### Mr. Harvey:

Mr. Harvey had no report.

### Mr. Reed:

Mr. Reed had no report.

### Mr. Rutherford:

Mr. Rutherford had no report.

## B. Appointments

### Nelson County Library Advisory Committee – Central District

Ms. Spivey reported that Mr. Chuck Strauss had applied for the Nelson County Library Advisory Committee – Central District representative position. She noted that Mr. Strauss was the husband of Mrs. Jane Strauss who had served in that position previously.

Mr. Reed moved to appoint Chuck Strauss to the Nelson County Library Advisory Committee. Mr. Barton seconded the motion and there being no further discussion, Supervisors approved the motion by vote of acclamation.

### Agricultural and Forestal District Advisory Committee

Ms. Spivey reported that they were still looking for a producer member for the Agricultural and Forestal District Advisory Committee. Mr. Reed commented that he had served as the producer previously and suggested that if another Board member wished to serve in the Board member position, he could serve again as producer.

Mr. Barton moved to appoint Mr. Rutherford as the Board member representative and Mr. Reed as a producer member on the Agricultural and Forestal District Advisory Committee. Mr. Harvey seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote.

## C. Correspondence

Mr. Barton noted Rev. Rose's request for money to buy a defibrillator. He thought it was a good idea. Mr. Rutherford commented that he had no issue with it. Mr. Harvey not in favor, as everyone would be requesting money for one. Mr. Barton noted the isolation of Gladstone. Rev. Rose noted the seniors met in Fire and Rescue building on Wednesdays but there was no one there from the Rescue Squad. Mr. Barton noted that they had a call for one of the seniors in Gladstone and it took Rescue an hour to get there. Mr. Harvey noted that was a problem that needed to be dealt with. Mr. Barton commented that this would be one way to deal with it. Mr. Rutherford suggested that staff look into the cost of a defibrillator and also reach out to Gladstone Fire and Rescue to see if they may have a defibrillator that could be made accessible to the Gladstone Senior Group. Mr. Rutherford noted that staff may also reach out to the EMS Council. Mr. Reed noted that two seniors already knew how to use the defibrillator and Blue Ridge Medical had offered to train the group on how to use it. Mr. Rutherford noted that Ms. McGarry would communicate with Gladstone Fire and Rescue, and then they would work from there.

#### D. Directives

Mr. Barton indicated that he had spoken with several people who were reporting that the dumpsters in Gladstone were a mess. He asked whose duty it was to keep them clean since he had heard that it was not the duty of the person opening and closing the gate. Ms. McGarry explained that when a report was received that the dumpsters were a mess, someone from either Maintenance or the Transfer Station would then go and clean it up. Mr. Barton asked if there could be a regular process to take care of the site. Mr. Harvey suggested that most of the trash was coming from Amherst County. Ms. McGarry noted that if the Board wished, staff could look at what it would take to have another manned site. She pointed out that there would be costs associated with it, but benefits as well. Mr. Rutherford noted that Gladstone was shared by three counties: Appomattox, Amherst and Nelson. Mr. Barton asked how the County intended to take responsibility for it and make clean up a routine. Ms. McGarry noted that they had an issue with people leaving large items at the site like furniture and mattresses. Mr. Rutherford suggested that a long term solution was a manned site, if Amherst was willing to participate. He noted he could reach out to Amherst if the Board wanted. Ms. McGarry reported that they had used cameras in the past to try and determine who was misusing the site, but it was time consuming and did not accomplish much. She noted that other cameras had been knocked down in the past.

Mr. Barton asked for a discussion on the transient occupancy tax included on the agenda for August. Mr. Rutherford and Ms. McGarry noted that they had already voted on it that day. Ms. McGarry explained that it was a tie vote and it was basically killed. Mr. Barton asked when it could be considered again. Ms. McGarry noted that she could find out when it could be considered again.

Mr. Reed asked about the process on the Callohill building, and where things stood. Ms. McGarry noted that PMA would be working with the new Director of Social Services, Brad Burdette, on any space needs adjustments so they could then determine any impacts to cost estimates. She indicated that it was on her radar to follow up and see where they were in the process. She noted that once that was complete, she thought PMA would then be able to proceed with conceptual plans for the space. She commented that her understanding was that the Board was not quite ready to proceed with having the Building Inspections and Planning and Zoning facility up there. She noted that if the Board did want to proceed with that, it would follow a similar process. Mr. Reed suggested that the before they committed to a site plan or infrastructure building out, the Board should consider the other parts of Callohill that could possibly be used for development. He noted that they may be able to coordinate the site development to cut down on costs. He suggested that they have Planning and Zoning, Social Services and someone from the Community Development Foundation present at a meeting to discuss the possibilities for the site. Mr. Rutherford asked if Building Inspections was included in the Social Services building committee. He suggested it would be

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good to have them present in a professional capacity to attend the development meetings for the Social Services building, as well as the Larkin property development.

Mr. Reed noted staff discussions with the Nelson County Service Authority regarding the Comprehensive Plan. He wondered about moving forward with conversations in using Larkin for possible water impoundments. Ms. McGarry noted it would likely take some engineering and hydrology evaluation. Mr. Reed agreed and suggested that the Service Authority may be able to help guide the County on who to reach out to.

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

At 5:03 p.m., Mr. Reed moved to adjourn and continue the meeting to 7:00 p.m. Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the meeting adjourned.

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

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

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

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

There were no persons wishing to speak under Public Comments.

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

#### **A. Ordinance O2023-05 – Amendment to Chapter 11, Taxation, Article II Real Property Tax**

Consideration of an ordinance proposed for passage to amend Chapter 11, Taxation, Article II, Real Property Tax. The proposed amendments would provide for real property tax relief for they surviving spouse of any United States armed forces member killed in action. Additionally, the amendments would provide for real property tax relief for any veteran who has a 100 percent service-connected, permanent and total disability, and would also allow a surviving spouse to be eligible to qualify for the exemption. These provisions have been enabled by State Code; however, have not been provided for in the County Code.

Ms. McGarry introduced the proposed Ordinance O2023-05. She referenced Virginia State Code §58.1-3219, which provided for the proposed amendment. She noted that Article 2.3 provided exemption for disabled veterans and Article 2.4 provided exemption for surviving spouses of members of the Armed Forces killed in action. Ms. McGarry explained that the purpose of the amendment was that the County had been administering and providing the real property tax relief exemptions per the State Code; however, they were not added to the County Code as required. She reported that the proposed ordinance amendments mirrored the language of the State Code provisions. She noted that the proposed Division 4 of Chapter 11, Taxation, Article II Real Property Tax of the County Code would be added, providing real property tax exemptions for the surviving spouse of any member of the U.S. armed forces killed in action and disabled veterans and/or their surviving spouses.

Ms. McGarry explained that **new Sec. 11-68** Real Property tax exemption for surviving spouse of any member of the armed forces of the United States who was killed in action, would apply to tax years beginning on or after January 1, 2015. She indicated that the total tax exemption applied to those dwellings with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year on property zoned single family residential. She noted that if applicable, the portion of the value in excess of the average assessed value was taxable. Ms. McGarry indicated that the surviving spouse qualified for the exemption as long as they did not remarry.

Ms. McGarry explained that **new Sec. 11-69** detailed the application for the exemption. She reported that the surviving spouse claiming the exemption under Sec. 11-68 must file an application with the Commissioner of Revenue that provides the stated information. Ms. McGarry noted that the surviving spouse was required to refile the information originally provided only if the principal place of residence changed. She reported that the surviving spouse was required to promptly notify the Commissioner of Revenue of any remarriage.

Ms. McGarry explained that **new Sec. 11-70** was the exemption for disabled veterans and surviving spouse. She reviewed the exemptions:

- Applied to tax years beginning on or after January 1, 2015
- Applied to veterans rated by the US Department of Veterans Affairs to have a 100 percent service-connected, permanent, and total disability on or after January 1, 2011
- Applied to said disabled veteran's principal place of residence and land not exceeding 1 acre
- Applied to surviving spouse of an eligible veteran under this section as long as the death of the veteran occurred on or after January 1, 2011
- Surviving spouse qualifies for the exemption as long they do not marry
- Qualifying surviving spouse is not restricted from moving to a different principle place of residence

Ms. McGarry explained that **new Sec. 11-71** provided for the application for exemption. She noted that the veteran or surviving spouse claiming the exemption under Sec. 11-70 must file an application with the Commissioner of Revenue that provided the stated information. She indicated that the veteran was required to refile the information originally provided only if the veteran's principal place of residence changed. She then noted that the surviving spouse claiming exemption was required to provide documentation that the veteran's death occurred on or after January 1, 2011.

Ms. McGarry noted that an optional additional section that was not currently included in the proposed ordinance was relative to appeals. She explained that it would be the Board's option to add **Sec. 11-72**, which detailed how someone could appeal to the Department of Veterans Services regarding their application. She indicated that State law reference for that optional section was Virginia code §58.1-3219.7.

Ms. McGarry explained that next steps would be to conduct the public hearing to receive citizen input on the proposed ordinance. She noted that the Board could consider including the optional additional section: Sec. 11-72 Appeals. She then noted that the Board would consider adoption of the proposed Ordinance O2023-05 as presented (which was required) or as amended to include option Sec. 11-72 Appeals.

Mr. Reed and Mr. Rutherford were in agreement to approve the ordinance with added section 11-72.

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

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Mr. Reed moved to approve **Ordinance O2023-05** as amended to include Section 11-72 Appeals. Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote and the following ordinance was adopted:

**ORDINANCE O2023-05**  
**NELSON COUNTY BOARD OF SUPERVISORS**  
**AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA**  
**CHAPTER 11, TAXATION, ARTICLE II REAL PROPERTY TAX**

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

*New*

DIVISION 4. EXEMPTIONS FOR VETERANS AND/OR SURVIVING SPOUSE

**Sec. 11-68. Real property tax exemption for surviving spouse of any member of the armed forces of the United States who was killed in action.**

A. For tax years beginning on or after January 1, 2015, there is hereby exempted from taxation the real property described in subsection B of the surviving spouse (i) of any member of the armed forces of the United States who was killed in action as determined by the U.S. Department of Defense and (ii) who occupies the real property as his principal place of residence. For purposes of this section, such determination of "killed in action" includes a determination by the U.S. Department of Defense of "died of wounds received in action." If such member of the armed forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date that such member of the armed forces is killed in action, then the exemption for the surviving spouse shall begin on the date that such member of the armed forces is killed in action. However, the county shall not be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by § 11-69. If the surviving spouse acquires the property after January 1, 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Va. Code § 58.1-3360.

B. Those dwellings in the county with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single family residential shall qualify for a total exemption from real property taxes under this article. If the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single family homes, condominiums, town homes, manufactured homes as defined in Va. Code § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet this requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption.

If the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

For purposes of determining whether a dwelling, or a portion of its value, is exempt from county and town

real property taxes, the average assessed value shall be such average for all dwellings located within the county that are situated on property zoned as single family residential.

C. The surviving spouse of a member of the armed forces killed in action shall qualify for the exemption so long as the surviving spouse does not remarry. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.

D. The exemption from real property taxes applies to (i) the qualifying dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B, and (ii) except land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 of the Va. Code and as listed in Va. Code § 58.1-3504 and (ii) for other than a business purpose.

E. For purposes of this exemption, real property of any surviving spouse of a member of the armed forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has 1 as a numerator and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by the surviving spouse, and as a denominator, 100 percent.

State law reference—Va. Code § 58.1-3219.9

*New*

#### **Sec. 11-69. Application of exemption.**

A. The surviving spouse claiming the exemption under Section 11-68 shall file with the commissioner of the revenue on forms to be supplied by the county an affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint owners of the real property, and (iii) certifying that the real property is occupied as the surviving spouse's principal place of residence. The surviving spouse shall also provide documentation from the United States Department of Defense or its successor agency indicating the date that the member of the armed forces of the United States was killed in action. The surviving spouse shall be required to refile the information required by this section only if the surviving spouse's principal place of residence changes.

B. The surviving spouse shall promptly notify the commissioner of the revenue of any remarriage.

State law reference—Va. Code § 58.1-3219.10

*New*

**Sec. 11-70. Exemption for disabled veterans and surviving spouse.**

A. For tax years beginning on or after January 1, 2015, there is hereby exempted from taxation the real property, including the joint real property of married individuals, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his principal place of residence. If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, the County, shall not be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's filing of the affidavit or written statement required by § 11-71. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Va. Code § 58.1-3360.

B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, and the surviving spouse does not remarry. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.

C. The exemption from real property taxes applies to the qualifying dwelling pursuant to this section and to the land, not exceeding one acre, upon which it is situated. If the veteran owns a house that is his residence, including a manufactured home as defined in Va. Code § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, such house or manufactured home shall be exempt even if the veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 of the Va. Code and as listed in Va. Code § 58.1-3504 and (ii) for other than a business purpose.

D. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (a) held by the veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the



property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a denominator, 100 percent.

State law reference—Va. Code § 58.1-3219.5

*New*

### **Sec. 11-71. Application for Exemption**

Application for exemption. — The veteran or surviving spouse claiming the exemption under this article shall file with the commissioner of the revenue of the county, city, or town or such other officer as may be designated by the governing body in which the real property is located, on forms to be supplied by the county, city, or town, an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by married individuals, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

State law reference -Va. Code § 58.1-3219.6

*New*

### **Sec. 11-72. Appeals**

The Commissioner of the Department of Veterans Services shall hear and decide appeals by veterans residing in the Commonwealth from a denial of their application pursuant to Sec. 11-71 by a commissioner of the revenue or other assessing officer. However, such appeal shall be limited to appeals based upon a finding of fact regarding eligibility criteria set forth in subdivision (a) of Section 6-A of Article X of the Constitution of Virginia and Article 2.3 of the Code of Virginia. The Commissioner of the Department of Veterans Services shall not be authorized to hear or decide appeals regarding a dispute over the assessed value of any property. Nothing in this section shall be construed to limit the appeal of a decision of the Commissioner of the Department of Veterans Services by either party to the circuit court in the locality in which the veteran resides.

State law reference – Va. Code § 58.1-3219.7

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

**B. Review of Special Use Permit #2017-01 – “Festival Grounds” (R2023-49)**

Consideration of a review of existing Special Use Permit 2017-01 requesting County approval to use specified subject properties for a “Festival Grounds” land use. The application involves a total of seven (7) subject properties located in the Arrington area of the South District, including: Tax Map Parcel #77-A-1, which is an approximately 390-acre parcel owned by Lockn, LLC; and Tax Map Parcels #67-4-18, #67-4-18A, #67-4-20, and #77-5-15, which are owned by The Estate of Rhonda Holland & JoAnn Nesson and which total 514.02 acres; and Tax Map Parcels #67-A-74A and #67-A-74B, which are a total of 70.8 acres owned by James Goodwin. All subject properties are zoned Agricultural (A-1) and total 974.82 acres.

Ms. McGarry presented the following:

On April 11, 2017, the Board of Supervisors approved SUP 2017-01 for a Festival Grounds use on property zoned A-1 Agriculture located in Arrington (Lockn, Oak Ridge, Goodwin). Festival Grounds are defined in Article 24 of the Zoning Ordinance as “the use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events. The minimum acreage for a Festival Grounds is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage; if contiguous parcels are under different ownership or control, the owner or agent for each parcel must formally authorize the application for a Festival Grounds Special Use Permit.”

Ms. McGarry noted that Special Use Permit 2017-01 covered a total of 974.82 acres. She showed the parcels on a map.



Category 3 Temporary Events are those events having or projecting more than 10,000 attendees, and requires a Festival Grounds SUP. The approval of SUP 2017-01 authorized the properties for Festival Grounds use, however each individual event requires individual permitting. This means that each event requires a new application and fee with current transportation plan, safety plan, and site plan.

Section 24-2-E-2 requires that a Festival Grounds SUP “shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which the Board may revoke or modify the terms and conditions of the SUP...”

At the time of approval, the only modification was an adjustment to event time limits, which is detailed on page 2 of the attached 2017 staff report. There were no additional conditions. The owners have confirmed that there are no changes in ownership to the associated parcels.

Ms. McGarry noted that Ms. Reagan Holland Thompson was not able to attend but she had provided a narrative included in the packet. Ms. McGarry noted that Mr. James Clinton Bibb was present on behalf of all of the property owners.

Mr. Bibb confirmed that he was present on behalf of all of the property owners, but he was a direct employee of Lockn’. Mr. Bibb noted that Lockn’ Farm was a 390-acre property in Arrington, Virginia. He commented that the farm had hosted many events such as the Lockn’ Festival, The Festy, Blue Ridge Rock Fest, Spartan Race, Overland Experience, along with several other music shows, community events and weddings. He explained that Lockn’ Farm worked with its cohorts of the Special Use Permit symbiotically to produce venues that are suitable for many applications, which allowed them to pivot if the need arises, due to weather or traffic concerns. He reported that Lockn’ had invested millions in infrastructure upgrades on the farm to ensure a facility that is fully capable. He explained that Lockn’ Farm had an office building with a bunk house, farmhouse, storage buildings, several miles of gravel roads, a sculpted grassed amphitheater, a private well-fed 50,000-gallon potable water distribution system, a large septic dispersal system, a Fiber optic network, and an extensive underground electrical grid, all while restoring and maintaining the historical value and charm of the property.

Mr. Bibb commented that over the last number of years, the hosted events have contributed immensely to the local economy and community, both directly and indirectly. He noted that they worked with all local agencies to ensure a cohesive community with the county entities, its residents and the event itself. He commented that they continued to look toward the future of the property with various events and upgrades.

The Board had no questions for the applicant.

Mr. Rutherford opened the public hearing.

*Eric Keane - Arrington, VA*

Mr. Keane commented that he was trying to unravel the multiple layers of Special Use Permits in that area. He noted that there were exemptions associated with by-right ag use, and there were permits associated with the fairgrounds. Mr. Keane indicated that his main concern revolved around Wilson Road, the bridge on Wilson Road and the use of that area and structure inappropriately. He referenced the Blue Ridge Rock Fest and noted that thousands of cars ending up coming through Wilson Road and crossing the bridge over the railroad tracks. He noted that there were other events using Wilson Road and the bridge that should not be impacting his immediate residential area. He did not want to speak against approval, but he wanted to recognize that there were approval processes that were not encompassing the resources being used by the permits. He noted that he would appreciate that the Board and other approving officials would look at all

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aspects of the usage, not just what was located in the immediate areas of Route 29, Oak Ridge Road and Diggs Mountain. He was concerned that due diligence was not being done when it came to approval of certain events in the area, in terms of the usage of the bridge and Wilson Road. Mr. Keane noted that the bridge structure going over the railroad tracks on Wilson Road was decrepit and it did not make sense to send additional traffic through there.

*Heather Goodwin, Arrington, VA*

Ms. Goodwin was present on behalf of Oak Ridge. She noted that she had not planned to speak but she hoped to answer some of Mr. Keane's concerns. She reported that it was Oak Ridge's understanding that VDOT was in the process of finalizing construction plans for the bridge and the design had been completed. She indicated that VDOT was in negotiation with Oak Ridge on having a lay down area for the construction. She pointed out that as a result of the bridge construction, the pathway from Oak Ridge Road down to Wilson Road would be shut down for a considerable amount of time while the change is made. She noted that they were in agreement that the bridge was unsafe and she had seen the images from underneath the bridge it was frightening. She reported that from Oak Ridge's standpoint, they complied with any recommendations and regulations from any of the entities (VDOT, Health Department, Planning and Zoning). She noted that the process allowed the property owners to engage in a more expedient fashion with larger events that come in for brief periods of time, provide lodging and meal tax revenues and an influx of individuals to spend money in the County. She asked that the Board proceed with the renewal of Special Use Permit 2017-01

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

Mr. Rutherford reviewed the options for Resolution R2023-49 noting the Board could approve the resolution with one of the following options: Option 1: re-approve Special Use Permit 2017-01 without modifications; Option 2: re-approve Special Use Permit 2017-01 with modifications; or Option 3: revoke Special Use Permit 2017-01. He suggested the Board approve the resolution with Option 1, reapprove Special Use Permit 2017-01 without modifications.

Mr. Barton made a motion to approve **Resolution R2023-49 with Option 1** to re-approve Special Use Permit 2017-01 without modifications. Mr. Harvey seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2023-49  
NELSON COUNTY BOARD OF SUPERVISORS  
FIVE-YEAR REVIEW OF  
SPECIAL USE PERMIT 2017-01 FESTIVAL GROUNDS**

**WHEREAS**, on April 11, 2017, the Nelson County Board of Supervisors approved Special Use Permit 2017-01 for a Festival Grounds use on 974.82 acres of property, zoned A-1 Agriculture consisting of seven (7) subject properties located in the Arrington area of the South District, including: Tax Map Parcel #77-A-1, which is an approximately 390-acre parcel owned by Lockn, LLC; and Tax Map Parcels #67-4-18, #67-4-18A, #67-4-20, and #77-5-15, which are owned by The Estate of Rhonda Holland & JoAnn Nesson and which total 514.02 acres; and Tax Map Parcels #67-A-74A and #67-A-74B, which are a total of 70.8 acres owned by James Goodwin.; and

**WHEREAS**, Section 24-2-E-2 of the Code of Nelson County provides that a Festival Grounds Special Use Permit "shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every

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five (5) years after the initial issuance, and after which hearing the Board may revoke or modify the terms and conditions of the Special Use Permit in accordance with [Article 12, Section 3](#) "Special Use Permits."; and

**WHEREAS**, the owners of the parcels in said special use permit have confirmed that there are no changes in ownership to the associated parcels and the owners desire to maintain the special use permit as approved on April 11, 2017; and

**WHEREAS**, the Nelson County Board of Supervisors conducted a public hearing on July 11, 2023 and reviewed Special Use Permit 2017-01 Festival Grounds;

**NOW THEREFORE BE IT RESOLVED**, that the Nelson County Board of Supervisors hereby re-approves Special Use Permit 2017-01 Festival Grounds without modifications, and;

**BE IT FURTHER RESOLVED** that the Nelson County Board of Supervisors shall conduct a review of Special Use Permit 2017-01 Festival Grounds at a public hearing in five years' time.

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

The Board had no other business to discuss.

#### **V. ADJOURNMENT**

At 7:22 p.m., Mr. Reed moved to adjourn and continue to August 2, 2023 at 2 p.m. Mr. Barton seconded the motion. There being no further discussion, Supervisors approved the motion by vote of acclamation and the meeting adjourned.