

**Virginia:**

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

Present: Jesse N. Rutherford, East District Supervisor –Chair  
Robert G. “Skip” Barton, South District Supervisor – Vice Chair  
Ernie Q. Reed, Central District Supervisor  
Thomas D. Harvey, North District Supervisor  
J. David Parr, West District Supervisor  
Stephen A. Carter, County Administrator  
Amanda B. Spivey, Administrative Assistant/Deputy Clerk  
Candice W. McGarry, Director of Finance and Human Resources  
Emily Hjulstrom, Planner, Planning and Zoning

**I. CALL TO ORDER**

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

Mr. Reed moved to add to the motion for convening in Closed Session to include 2.2-3711 (A)(3) and (A)(6). Mr. Parr seconded the motion, and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

**II. PUBLIC COMMENTS**

- 1. Charles Edwards, Nellysford, VA

Mr. Edwards spoke in opposition of the special use permit, noting he was an adjacent property owner. He voiced his concerns that a commercial establishment in residential neighborhood would negatively affect property values as well as the rural qualities of the area. He noted that the applicants had cited Getaway Shenandoah in Greene County as an example of the type of business they wanted to have on Truslows. Mr. Edwards reported that he had visited Getaway and found that the campground was not located near a residential area or viewable from the roads that served the area, it had a good entrance road as opposed to those leading to Truslow Lane, it also had 24/7 on-site management. He agreed that Getaway was a great example of how a tiny house campground should look and operate, but it was not what the applicants were proposing. He urged the Board to deny the request and protect the property owners of Truslows Lane, Bottom Lane and Berry Hill Road.

- 2. Michael Walters, Lovingston, VA

Mr. Walters reported that he has a bar in his neighborhood and it is a staple in his neighborhood. He stated that the zoning board and VDOT helped created a liability at the Old Ridge Road entrance off of Route 29 North. He noted that Old Ridge Road cannot support two-way traffic and there were 50 homes on Old Ridge Road. He stated he had reached out to VDOT but had not gotten a response. He asked the Board if they could assist with having a road counter placed on the road by fall.

- 3. William Pearcy - Lovingston, VA

Mr. Pearcy spoke to acknowledge the Project Pipeline Survey that was available online. He encouraged citizens to take advantage of the survey to provide feedback on options presented to improve the intersection of 29 and Front Street. He asked if the Board could help provide feedback from the survey to the citizens. He noted that none of the options included an overhead roundabout that would allow traffic on 29 to travel without the impediment of a stoplight.

- 4. Nancy Edwards Nellysford, VA

Ms. Edwards noted her property fronts the part of the proposed campground. She voiced concerns over road safety leading to Truslows on Virginia, Lodebar, Tuckahoe and Berry Hill. She also noted a blind intersection at Truslows and Bottom Lane. Ms. Edwards stated that many residents walked along Truslows and there was no room to get off to the side of the road for oncoming traffic. She estimated that there were 30 homes on Truslows and 10 more on Bottom Lane, noting it was a dead end road with a 55 mph speed limit. She said with 80 vehicles already traveling on the road, it was a bad idea to add anything else without lowering the speed limit and making improvements to the road. She asked the Board to deny the permit.

5. Frank Bishop Nellysford, VA

Mr. Bishop spoke in opposition to the special use permit. He said he had purchased his home on Truslow because of the country setting, views, and rural atmosphere. He noted that he had been told by neighbors that the water could be an issue. He indicated that his well had minimal gallons per minute and that some wells on Truslow were drilled over 1000 feet with minimal gallons per minute. He was concerned that if sufficient water was found for the six trailers, it could affect the neighbors water. Mr. Bishop noted that the applicants had indicated the tiny homes would have water saving devices. He indicated that he also had water saving devices in his home and knew that some neighbors would run out of water if using the bathroom and washing dishes within the same time period. He felt that the trailers would be eyesores on the property. He noted concerns on the septic systems.

6. Joan Farrell Nellysford, VA

Ms. Farrell stated she was opposed to the tiny homes. She noted that she and her husband had searched for some time to find a quiet neighborhood to live in once they retired. She voiced concerns that the campground could potentially expand onto the vacant lot that adjoins her property. She asked if the property were to sell in the future, would an approved permit remain in place for the new owners. She also voiced concerns about tenants staying on the property unsupervised, traffic and roads, water access, and the look and size of tiny houses. She noted there was no clear picture of what the tiny homes would actually look like and the water drainage study indicated two bedroom homes, rather than one bedroom as she had understood. She wrapped up her comments, noting that a tiny campground did not belong in a residential neighborhood.

7. Bill Hudson, Nellysford, VA

Mr. Hudson spoke in opposition to SUP application #516, noting he was a resident of the neighborhood. He asked that the application be denied as it failed to comply with three of the four general standards and criteria for a special use permit as specified in Appendix A in the Nelson County Zoning regulations. He cited criteria a, b, and c of paragraph 12-3-2. He pointed out that the trailers would change the established neighborhood, they were not in harmony with the primary uses of the zoning district. Mr. Hudson questioned the ability to adequately serve the proposed use, citing concerns about the roads, additional water usage, and the possibility of that the sewage drain system could pollute the stream at bottom of property. He commented that the applicants had been vague and contradictory about their plans for the property. He reiterated his request that the Board deny the special use permit.

8. John Muhler Nellysford, VA

Mr. Muhler reviewed the selection of the Berkley Group to help update the comprehensive plan for \$160,000. He noted discussions with Berkley Group were scheduled to begin later in the month. He pointed out that the County had hired the firm to help the County balance economic growth with rural preservation and quality of life for the residents. He asked the Board to deny the special use permit #516 because comprehensive plan is in the process of being updated. He stressed that the input of residents must be respected, as their quality of life will be affected on a daily basis if the request is approved.

9. Janet Brugh Nellysford, VA

Ms. Brugh noted she was object to several things if the project were approved. She expressed concern that if the project fails, the residents would be stuck with a campground in the neighborhood. She noted that with six homes on the property and up to 12 cars coming and going, the nighttime serenity would be lost. She stated that no commercial site should be allowed in a residential area.

10. Susan Swink, Nellysford, VA

Ms. Swink noted that the proposal of tiny homes had come up in the past during discussion of affordable housing. She pointed out that these were not to be used as homes, noting that a tiny home has to be 400 square feet or less. She also noted that a home is on a foundation, while these tiny homes would be on wheels, and considered a recreational vehicle. She closed by stating the project was a commercial business in established area of homes and asked the Board to vote no.

11. Alice Eberwein, Nellysford, VA

Ms. Eberwein noted she and her husband purchased 23 acres of the prettiest land where they live and enjoy picnics with the Rockfish River bordering on three sides. She stated she did not want a campground on the property. She noted that her sister lives off of Old Stoney Creek Road, and the Airbnb next door has been a nightmare to deal with.

12. Kathy Kristiansen, Nellysford, VA

Ms. Kristiansen presented a petition of 75 signatures from the neighbors requesting that the Board deny Special Use Permit #516. She commented that it was a fine idea, but not at the proposed location. She stated that the developers did nothing to mitigate the concerns of the neighbors. She noted the vote was deferred from last meeting to allow more information on water availability and VDOT approval of adequacy of site for a commercial entrance. She pointed out that there was no engineering stamp on the Ecosystem LLC report from November 2021, rendering the report unreliable. She asked that the Board deny special use permit #516 as it is not the right location. She noted that if the permit was approved, residents requested the following conditions be required: no more than 6 sites, no campers, RVs, tents or transient lodging, all tiny homes setback a minimum of 100 feet, double row of evergreen trees at a minimum of four feet high or alternatively 6-foot-high fence and a single row of evergreen trees, submitted groundwater plan and aquifer testing plan, outdoor lighting restrictions, onsite host, contact information for onsite host to be provided to the adjacent property owners, no more than four people per tiny home, two vehicles per site, quiet time after 10pm. She also indicated passive recreational use, and no motorcycles or ATVs allowed. She noted use of local firewood only. She asked the Board to consider the impacts to the neighborhood and vote no.

**III. CONSENT AGENDA**

Mr. Parr moved to approve the Consent Agenda as presented and Mr. Reed seconded the motion. There being no further discussion, Supervisors unanimously (5-0) by roll call vote to approve the motion and the following resolutions were adopted:

A. Resolution –**R2022-13** Minutes for Approval

**RESOLUTION R2022-13  
NELSON COUNTY BOARD OF SUPERVISORS  
APPROVAL OF MINUTES  
(January 11, 2022 and January 31, 2022)**

**RESOLVED**, by the Nelson County Board of Supervisors that the minutes of said Board meeting conducted on **January 11, 2022 and January 31, 2022** be and hereby are approved and authorized for entry into the official record of the Board of Supervisors meetings.

B. Resolution –**R2022-14** Budget Amendment

**RESOLUTION R2022-14  
NELSON COUNTY BOARD OF SUPERVISORS  
AMENDMENT OF FISCAL YEAR 2021-2022 BUDGET  
NELSON COUNTY, VA  
March 8, 2022**

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

<u>Amount</u>	<u>Revenue Account (-)</u>	<u>Expenditure Account (+)</u>
\$2,445.00	3-100-002404-0035	4-100-031020-7043
\$24,382.00	3-100-002404-0035	4-100-022010-7030
\$7,500.00	3-100-003303-0055	4-100-093100-9206
<u>\$1,249.00</u>	3-100-002404-0001	4-100-031020-5419
<b>\$35,576.00</b>		

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

<u>Amount</u>	<u>Credit Account (-)</u>	<u>Debit Account (+)</u>
<b>\$24,140.77</b>	4-100-999000-9905	4-100-012040-3016

C. Resolution – **R2022-15** Endorsement of VCA Grant – Wintergreen Performing Arts

**RESOLUTION R2022-15  
NELSON COUNTY BOARD OF SUPERVISORS  
VIRGINIA COMMISSION OF THE ARTS  
FY22-23 CREATIVE COMMUNITIES PARTNERSHIP GRANT  
(FORMERLY LOCAL GOVERNMENT CHALLENGE GRANT)**

**BE IT RESOLVED**, by the Nelson County Board of Supervisors that said Board endorses the County’s submission of an application to the Virginia Commission of the Arts for 2022-2023 Creative Communities Partnership Grant funding (formerly Local Government Challenge Grant).

**BE IT FURTHER RESOLVED**, said application includes a local match of \$4,500.00 to be confirmed upon formal adoption of Nelson County’s Fiscal Year 2022-2023 Budget by the Board of Supervisors.

**IV. PRESENTATIONS**  
A. VDOT Report

Mr. Robert Brown reported the following:

Mr. Brown reported the tree and debris clean-up was still ongoing and they hoped to complete the work in a few weeks.

He noted that each year, they updated the Secondary Six Year Plan, and he had done some preliminary work on the Rural Rustic Priority List. Mr. Brown indicated that the Board would need to prioritize roads on the list that had not yet been prioritized. Mr. Rutherford asked what the deadline for completion would be. Mr. Brown indicated that a public hearing would need to be schedule but he wanted to provide the information to the Board so they may think about how they want to prioritize the rest of the roads on the list. He noted that the Board did not prioritize all of the roads in the previous year, and they would need to add projects to the plan.

Mr. Barton:

Mr. Barton thanked Mr. Brown for the curve warning sign that had been placed, noting it was appreciated.

Mr. Harvey:

Mr. Harvey had no VDOT issues to discuss.

Mr. Reed:

Mr. Reed referenced Mr. Walters comments on Old Ridge Road regarding traffic counts, and asked if it was a possibility. Mr. Brown noted that there was an existing traffic count on Old Ridge but the 2021 counts were not yet available. Mr. Brown noted he could pass along the 2020 counts for Old Ridge Road.

Mr. Parr:

Mr. Parr had no VDOT issues to discuss.

Mr. Rutherford:

Mr. Rutherford voiced his appreciation for the tree cleanup. He asked Mr. Brown to look at one tree on corner across from Brownings Cove and Laurel Road in Shipman. He noted it was a tight turn and asked Mr. Brown if he could look at removing it.

Mr. Brown reported that VDOT had placed one ADA compatible porta john, one regular porta john at Wayside. He noted that VDOT was taking over the Wayside porta johns for the County.

Mr. Rutherford asked Mr. Brown to catch up with Bill Searcy regarding the survey reported during Public Comments.

**V. NEW & UNFINISHED BUSINESS**  
A. Special Use Permit #516 – Campground on Truslows Lane

Mr. Rutherford invited the applicants to address the Board.

Daniel Rickerd, Lovingson, VA - applicant

Mr. Rickerd reported to the Board that he and his business partner, Mike Patterson, had met with residents to listen to the community's input on the project and to better communicate their project plans. He noted that one question raised was why they had chosen tiny houses. Mr. Rickerd asked what the alternative could be. He noted they were only looking to place six tiny houses. He indicated that the alternative could be something without needing approval from the Board or Planning Commission. Mr. Rickerd indicated that by-right, the property could be subdivided at least seven times creating the possibility for seven large permanent homes that would each need well and septic. He elaborated that larger homes would have more bedrooms for more guests. He pointed out that the current plan would disturb less than two acres, while permanent homes would require heavier use on water and septic, along with ground disturbance, more vehicle traffic. He pointed out that a tiny house would accommodate a couple with one vehicle.

Mr. Rickerd noted that Hilltop Berry Farm across the street was a commercial use. He pointed out that the location of the proposed property was at the beginning of Truslow Lane and the homes of all residents that were present at the meeting, were all past their proposed location. He explained that the proposed entry had a 300-foot view on either side of driveway. He reiterated that seven homes could be built by-right, without any approval from the Board of Supervisors. He stressed that mountain views would be blocked in some locations with the construction of larger homes. He explained that they had chosen tiny homes because of the low impact to the environment around them. He explained that they would use minimal water, have fewer occupants, and not be visible from any neighbors' homes. He stated that they wanted highlight all that Nelson County had offer and compliment the rural beauty. Mr. Rickerd noted that he was willing to uproot his family and move just down the road from the site to be close by to manage it.

Mike Patterson, Henrico County, VA - applicant

Mr. Patterson addressed the petition that had been presented during public comments. He pointed out that not everyone was willing to sign it, so he didn't want the impression to be that everyone on Truslow Lane was opposed to the project. He did not understand how the residents had issues with the beautiful tiny homes they were proposing, but not the trash and abandoned properties that had been in the neighborhood for years. Mr. Patterson referenced Getaway DC that had been mentioned earlier in the meeting. He noted the goal of their project was similar to that of Getaway, in that they wanted to provide a way to unplug, escape, and retreat. He clarified that they were not asking for 45 tiny homes, they were only asking for 6 tiny homes. Mr. Patterson assured the Board that they would not return in the future with a request to expand. He noted that the current owners would sell to someone else if the permit was not approved. He reiterated that Mr. Rickerd was committed to stay in Nelson and that the project was a way for him to provide a better future for his young family.

Mr. Reed expressed his concerns about the availability of water. He asked if there was potential to use the pond on the property, in the event they were unable to get the groundwater to fulfill what is needed. Mr. Rickerd noted they had not considered the pond or any other options yet. He noted they had spoken with some residents who have great water, while others have had problems in the past. He indicated that he had found multiple spots to locate water and he was sure they could find water. Mr. Patterson noted they had spoken with the soil surveyor to get his opinion on the availability of water. Mr. Patterson indicated that the surveyor recommended buying the land because they should be able to locate water within the lower areas of the property.

Mr. Barton explained that people chose to live in Nelson for many reasons, one of which was to live in a rural area. He felt that if someone chose to live in a place located one or two miles from the main road, they should be assured that no commercial entity would be in their neighborhood. He noted that he had no disagreement with the project concept, but felt that if it could be located closer to 151 and in an area where it would not affect others, it would be great. He stated he could not support a commercial operation in a place where people had come to live without them.

Mr. Reed stated he addressed project at length many times between the Planning Commission and the Board. He found that the comments reflected the tone of the community on the project, and the matters of concern. He felt that the residents did a good job explaining their concerns with water and traffic. He noted that the water issue was significant. He felt the comments had been well presented and articulated, particularly the inadequacy of the current zoning to address a use like tiny homes, as well as the ability transfer the permitted use to a subsequent buyer. Mr. Reed asked to hear from rest of the Board before making a motion.

Mr. Harvey pointed out that by-right, multiple homes could be placed on the property. Mr. Rutherford asked Ms. Hjulstrom to come forward to clarify. Ms. Hjulstrom confirmed that with 29 acres, they could create a subdivision of seven parcels. She noted that if they were to just build houses on the property,

they could build one house per two acres, but a major site plan would be required for three or more houses on one parcel and only the Planning Commission would have to review.

Mr. Rutherford stated that there were several areas with sensitive aquifers in Nelson. He reiterated that the property had the ability by-right to build 6-7 homes. He noted that the topography could impact the number of homes they were able to have. He felt that larger houses would have a more intense use of water. He did not necessarily think that the 6 tiny homes would be more impactful than 7 homes. He indicated that he was generally in support with stipulations if approved.

Mr. Barton asked the Board to think about what someone considers when moving into Nelson County and what the assurances were that it would remain rural. He thought the comprehensive plan could address that in the long run. He noted that the Board represents the people of Nelson County. Mr. Rutherford noted that comprehensive plan had no teeth, it was to be used as a guide. He further noted that where the teeth and the by-right uses come from are with the zoning.

Mr. Reed noted what was proposed is not by-right, hence the special use application. He pointed out that the criterion in the Code was supposed to reflect whether what someone could do by special use permit, would be approved. He did not see that the proposal fit that criterion. Mr. Reed noted that just because they could develop the property by-right, doesn't mean they would be able to, because you can't develop property if you don't have water. Mr. Harvey noted that no property could guarantee water. Mr. Reed asked if anyone did not think the character and pattern of the community would be changed. Mr. Rutherford noted that placing anything on a field changed the character.

Mr. Barton commented on the rights of property owners, noting that the applicants did not currently own the property, they wanted to own it.

Mr. Reed made a motion to deny Special Use Permit #516 – Campground on Truslows Lane, and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted (3-2) by roll call vote to approve the motion, with Mr. Harvey and Mr. Rutherford voting no.

The Board took a brief recess.

## VI. REPORTS, APPOINTMENTS, DIRECTIVES AND CORRESPONDENCE

### A. Reports

#### 1. County Administrator's Report

Mr. Carter reported the following:

**A. Covid-19 (Coronavirus):** Current VDH data for Nelson County, as of March 3<sup>rd</sup> is five (5) new cases of the Covid-19 virus and a seven (7) day average of new daily cases of two (2). The new case trend line is steadily declining from a daily high of 45 cases on January 14<sup>th</sup> to a low of minus one (-1) on March 1<sup>st</sup>. To date the County has had 2,679 cases of the virus, 70 hospitalizations and 32 deaths from the virus. Current CDC guidance is: "People may choose to mask at any time. People with symptoms, a positive test or exposure to someone with Covid-19 should wear a mask". Per the CDC, Nelson County is at a "medium risk" level for the virus.

**B. 2022 General Reassessment of Real Estate:** The local Board of Equalization conducted an organizational meeting on February 24<sup>th</sup>. During the meeting the Board also set its hearing calendar, which will begin on March 21<sup>st</sup>, including an initial work session with G. Eanes of Wampler-Eanes. The application deadline for appeals to the BOE is April 15<sup>th</sup>.

**C. Planning:** 1) Comprehensive Plan Project – County and Berkley Group staff will conduct a project kick off meeting via zoon on March 14<sup>th</sup>. 2) Smart Scale – County staff will work with TJPDC staff with input from VDOT-Lynchburg staff for the planned submittal of three smart scale applications. The proposed County projects include: a) Intersectional Improvement at Rt. 29 and Callohill Drive; b) Round-about at the intersection of Routes 151 and 6 (Martins Store); c) grading improvement at Rt. 151 and Tanbark Drive. Pre-applications are due to VDOT by April 1 at 5 p.m.

Mr. Carter noted that final applications were due to VDOT in late July/early August.

**D. Region 2000 Services Authority:** A hearing on the excess revenue issue was conducted on February 25<sup>th</sup> at the Campbell County Circuit Court. The court's decision is anticipated by the week of March 14<sup>th</sup>.

**E. New County Office Building:** County staff issued an RFP for architectural services for the design and construction of a new County office building that at present will include the departments of Social Services, Building Official and Planning & Zoning. The deadline for receipt of proposals from architectural firms is March 25<sup>th</sup> at 2 p.m.

**F. Piney River Water & Sewer System:** The effort to restore Pump #1 to service at the Rt. 56 primary (Usefco) pump station failed. As such, the purchase of a new pump is in process.

**G. FY22-23 Budget:** The initial presentation and work session on the FY22-23 Budget is proposed to be conducted in a continued meeting on March 10<sup>th</sup> (time TBD). The draft budget is balanced. The initial decision the Board will have to make is on the real estate tax rate. County staff have presently equalized the tax rate in relation to the results of the 2022 General Reassessment. Should the Board decide to retain real estate revenue that exceeds one percent (1%) of the current revenue tax base, it is imperative that the Board determine this decision immediately in order to comply with Code of VA notice requirements and to complete the budget approval process by not later than June 30<sup>th</sup>.

Mr. Barton asked about budget revenues and when the Board would know how much money to expect. Mr. Carter noted that the information would be reported at the budget work session that Thursday, along with yields the reassessment. He noted that staff were proposing to equalize the tax rate based on the reassessment results. Mr. Reed asked when the Board would need to set the rate. Mr. Carter indicated that the deadline was March 17<sup>th</sup>, noting they were working with notice requirements. Mr. Barton stated the Board didn't even know what the budget was yet. Mr. Carter and Mr. Rutherford assured that all budget information would be provided that Thursday. Mr. Carter noted that the budget anticipated significant capital improvements.

Mr. Reed asked about the comprehensive plan rollout meeting. Mr. Carter noted that staff would follow up with details.

**H. Staff Reports:** Department and office reports are included within the 3-8 agenda document. Additional information on any other subjects the Board requests information on will be responded to during the 3-8-22 Board meeting.

## 2. Board Reports

### Mr. Barton:

Mr. Barton had no report.

### Mr. Harvey:

Mr. Harvey had no report.

### Mr. Reed:

Mr. Reed reported that the Service Authority was holding a ground breaking ceremony on the Wintergreen Wastewater Treatment Plant that Friday at 11a.m. at the current water treatment plant. He expressed that the project was a big deal for the Service Authority and had been a long time in the making. He noted it would be a state of the art facility and a great improvement to the mountain community.

### Mr. Parr:

Mr. Parr had no report.

### Mr. Rutherford:

Mr. Rutherford had no report.

## B. Appointments

Ms. Spivey reviewed the following table:



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public session. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Upon reconvening in public session, Mr. Reed moved pursuant to the requirements of Chapter 37, Virginia Freedom of Information Act and Section 2.2-3712 of the Code of Virginia, that the Nelson County Board of Supervisors certify that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

**RETURN TO OTHER BUSINESS**

Mr. Reed moved that advertisement begin for the position of County Executive and that the nominating committee consist of Mr. Rutherford, Ms. Spivey, and himself, with the intent to have a nominee by the Board meeting in May. Mr. Parr seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

**IX. ADJOURNMENT (NO EVENING SESSION WILL BE CONDUCTED, CONTINUE TO MARCH 10, 2022 AT \_\_\_\_\_ FOR A BUDGET WORK SESSION)**

At 4:48 p.m. Mr. Barton made a motion to adjourn and continue to March 10, 2022 at 10 a.m. for a budget work session. Mr. Harvey seconded the motion, and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion and the meeting adjourned.