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**RESOLUTION OF THE AUGUSTA COUNTY BOARD OF SUPERVISORS
TO ASSERT ITS RIGHTS TO THE POSSESSION, CUSTODY, AND CONTROL
TO PUBLIC RECORDS FROM BOARD MEMBER DR. SCOTT SEATON**

WHEREAS, the Augusta County Board of Supervisors finds it necessary to meet in closed meeting from time to time as a public body; accordingly, each Board Member is admitted because he or she is a member of the public body's governing board.

WHEREAS, the purpose of closed meetings by the Board of Supervisors is to transact public business; and, therefore, recordings and notes of closed meetings are records that this Board asserts belong to the public body.

WHEREAS, the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700, *et seq.* ("VFOIA"), defines "public records" as "all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees, or agents in the transaction of public business." *See* Virginia Code § 2.2-3701.

WHEREAS, the Board of Supervisors asserts that surreptitious recordings of closed meetings of the Board of Supervisors by a Board Member may be public records and as such belong in the possession, custody, and control of the County and not an individual board member, although such recordings may be lawfully exempt from disclosure to others not in attendance at such closed meetings.

WHEREAS, the Board of Supervisors of Augusta County has determined that certain public records pertaining to closed session, including but not limited to recordings of closed meetings, are in the possession, custody, and control of Board Member Dr. Scott Seaton.

WHEREAS, Dr. Seaton has been asked by individual board members in an open meeting for copies of recordings of closed meetings to be shared with other members of the Board but has thus far failed, or refused, to share such public records with other board members.

WHEREAS, the VFOIA applies to records regardless of whether they are created and/or stored on a device owned by the public body or a personal device or a device owned or controlled by another entity.

NOW THEREFORE, IN LIGHT OF THE FOREGOING, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF AUGUSTA COUNTY, VIRGINIA that:

1. The Board, on behalf of the County, is hereby asserting its right to possession, custody, and control of any and all public records (as that term is defined in the VFOIA) pertaining to closed meetings of the Board of Supervisors. These records include but are not limited to any and all public records created during a closed meeting, public records created outside of any closed meeting but pertaining to the subject of a closed meeting, any and all communications pertaining to the subject of a closed meeting, and any and all communications mentioning information distributed and/or discussed during a closed meeting, and recordings —regardless of any VFOIA exemption that might apply.
2. The Board is hereby further requesting, without waiving any lawful exemption(s), that Dr. Scott Seaton turn over to the County any and all public records as that term is defined in the Virginia Freedom of Information Act and cases and opinions interpreting the VFOIA, which are in his possession, custody, or control pertaining to closed session as described above.
3. Such records being requested include but are not limited to recordings and/or communications such as texts, emails, messages, voicemail(s), letters, memorandum, and any other medium meeting the definition of “public record” under the VFOIA.
4. Such records being requested include any and all records that fall within the definition of “public record” regardless of the ownership of the device or server upon which the record was created and/or stored.
5. Such records being requested include any and all public records from January 1, 2020, to present.
6. If Dr. Seaton refuses this request or fails to provide the public records within 7 business days of this resolution, the Board hereby authorizes the Chair to submit a request to Dr. Seaton on behalf of the Board for the aforementioned records pursuant to the VFOIA.

This Resolution shall take effect immediately upon its adoption.

Adopted: _____

Michael Shull, Chairman
Augusta County, Virginia
Board of Supervisors



**Staunton Augusta
Waynesboro**
Metropolitan Planning
Organization

112 MacTanly Place
Staunton, VA 24401

Phone (540) 885-5174
Fax (540) 885-2687

Policy Board Meeting Agenda June 7, 2023, at 10:00 a.m.

Central Shenandoah Planning District Commission
112 MacTanly Place, Staunton, VA 24401

OR

Zoom Video Conference

Web Link: [https://us06web.zoom.us/j/85387651524?](https://us06web.zoom.us/j/85387651524?pwd=SzdCY3hrYWppc0c1TE54aXFMenJ0UT09)

[pwd=SzdCY3hrYWppc0c1TE54aXFMenJ0UT09](https://us06web.zoom.us/j/85387651524?pwd=SzdCY3hrYWppc0c1TE54aXFMenJ0UT09) Dial In (Audio Only): 1-301-715-8592 • Meeting ID:

853 8765 1524 • Passcode: 424129

1. Call to Order
2. Public Comment
3. Approval of Minutes of the May 3, 2023, Policy Board Meeting*
4. Approval of FY24 Unified Planning Work Program (UPWP) (BAF #23-05)*
5. Approval of FY21-24 Transportation Improvement Program (TIP) Amendment (BAF #23-06)*
6. Approval of FY24-27 Transportation Improvement Program (TIP) Amendment (BAF #23-07)*
7. Presentation: SAWMPO Potential for Safety Improvement (PSI) Study Summary and Recommendations – Dana Trone, Senior Vice President, WRA
8. Agency Updates
 - VDOT
 - DRPT
 - BRITE & Afton Express
 - Localities
9. Other Business
10. Upcoming Meetings
 - June 21, 2023 – Technical Advisory Committee Meeting, CSPDC Office, 2:00 p.m.
 - July 5, 2023 – SAWMPO Policy Board Meeting, CSPDC Office, 10:00 a.m.
11. Adjournment

*Action Required





**Policy Board
Regular Meeting Minutes
May 3, 2023, 10:00 a.m.**

Central Shenandoah Planning District Commission*
112 MacTanly Place, Stanton, Virginia

Voting Members		Non-Voting Members		Others	
	City of Staunton		VA DRPT		Others
✓	Brad Arrowood	✓*	Grace Stankus		Josh Dunlap, VDOT
✓	Amanda Kaufman		Wood Hudson		Brad Reed, VDOT
	John Blair (Alt)		VRT		Staff (CSPDC)
	Augusta County	✓*	Steve Wilson	✓	Bonnie Riedesel
	Scott Seaton, Vice Chair		Phil Thompson (Alt)	✓	Ann Cundy
✓	Tim Fitzgerald		FHWA	✓	Zach Beard
	Pam Carter (Alt)		Kevin Jones	✓	Devon Thompson
	City of Waynesboro		FTA		Paula Melester
✓	Jim Wood		Michele DeAngelis	✓	Ansley Heller
✓	Todd Wood		VA DOA		
	Michael Hamp (Alt)		Rusty Harrington		
	VDOT		CTB		
✓	Todd Stevens		Mark Merrill		
✓	Adam Campbell (Alt)				
✓	Don Komara (Alt)				
	Matt Dana (Alt)				
*Zoom Participants					

Call to Order

The May 3, 2023, meeting of the Policy Board of the Staunton-Augusta-Waynesboro Metropolitan Planning Organization (SAWMPO) was called to order at 10:00 a.m. by Brad Arrowood, Chairperson. Pursuant to §2.2-3708.2 of the Code of Virginia, SAWMPO Policy Board members may participate in meetings of the SAWMPO or its committees through electronic communication means. Those who attended virtually are indicated by an asterisk; all others attended in-person.

Public Comment

Chairperson Seaton opened the floor for public comment. There were no public comments.

Approval of Minutes

Chairperson Arrowood presented the minutes from the April 5, 2023, Policy Board meeting. Mr. Tim Fitzgerald moved, seconded by Mr. Todd Wood, to approve the minutes as presented. The motion was carried by unanimous vote.

FY24 Unified Planning Work Program (UPWP) Release for Public Comment (Board Action Form #23-02)

Chairperson Arrowood introduced the FY24 Unified Planning Work Program (UPWP) agenda item. Ms. Ann Cundy provided an overview of the UPWP, reminding the Board that it is the annual budget for the MPO. Ms. Cundy explained that each year SAWMPO receives grant funding from Federal Highways along with a match from VDOT as well as a grant from Transit Administration with a match from DRPT. The budget is made up of these grants and agency matches as well as carryover from FY 22. Ms. Cundy explained that the FY 24 UPWP would fund a small area study and fund the beginning activities for the SAWMPO 2050 LRTP Update.

Ms. Cundy explained the UPWP is broken down into several work categories; Administrative Activities, Long Range and Multimodal Planning, Shortrange Planning, Local, State, & Federal Assistance, Transit Planning, and Bike & Ped Planning. Ms. Cundy informed the Board that there is additional language in the FY24 UPWP to document that the SAWMPO is meeting requirements of the Bipartisan Infrastructure Law to dedicate a minimum of 2.5% of the total annual budget to Complete Streets planning activities. Ms. Cundy stated that the MPO already plans with Complete Streets activities in mind, and that no major changes will take place because of this change. Ms. Cundy went on to inform the Board that the Technical Advisory Committee (TAC) reviewed the UPWP at their April 19th meeting and recommended that the UPWP be sent to the Policy Board for approval of release to public comment.

Ms. Cundy concluded by asking that the Policy Board approve the FY 24 UPWP be released for 21 days of public comment. The motion to release the UPWP for public comment was made by Mr. Tim Fitzgerald and seconded by Mr. Todd Wood. The motion was carried by unanimous vote.

FY 21-24 Transportation Improvement Program (TIP) Amendment Release for Public Comment (Board Action Form #23-03)

Chairperson Arrowood presented the FY 21-24 TIP Amendment agenda item. Mr. Zach Beard reminded the Board that the TIP is federally required and that it documents transportation projects that receive federal funding, require federal action, or are projects deemed regionally significant. The TIP highlights the schedule

of federal transportation funds coming in the MPO and documents highway projects receiving funding from the Federal Highway Administration and transit projects receiving funds from the Federal Transit Authority. Mr. Beard explained to the Board that the TIP is a dynamic document that can be modified or amended throughout the year.

Mr. Beard informed the board that VDOT sent the MPO three updated project maintenance groupings in April. These updated project maintenance groupings highlight the Staunton district's projected funding obligations based on state revenue projections and state of good repair funding. Mr. Beard explained that the money in these groupings fund maintenance activities between FY 21-24, with funding allocated every year. and invited Mr. Adam Campbell of VDOT to give more detail. Mr. Campbell reiterated that the funds in these groupings are updated every year based on forecasts and are thought of as a reserve of obligations that can be drawn down from for maintenance projects. Mr. Campbell also noted that these maintenance groupings are for the entire Staunton planning district, including the Harrisonburg-Rockingham MPO and the Winchester-Frederick County MPO. Mr. Beard informed the Board that the TAC reviewed the FY 21-24 TIP Amendment at their April 19th meeting and recommended that the Board release the item for 21 days of public comment.

Mr. Beard requested that the Policy Board release the FY 21-24 TIP Amendment for 21 days of public comment. A motion to release the item for public comment was made by Todd Wood and seconded by Tim Fitzgerald. The motion was carried by unanimous vote.

FY 24-27 Transportation Improvement Program (TIP) Amendment Release for Public Comment (Board Action Form #23-04)

Chairperson Arrowood presented the FY 24-27 TIP Amendment agenda item. Mr. Beard explained that the SAWMPO is managing the current FY 21-24 TIP as well as creating the FY 24-27 TIP at the same time. Mr. Beard reiterated that the TIP is a short-range planning document that is created every four years, that highlights federally funded highway and transit projects. Mr. Beard explained that every MPO has its own TIP for projects happening within their boundaries, and that the state has a statewide TIP (STIP). The STIP combines all of the MPO TIPS into a single document. On October 1st 2023 VDOT will submit the STIP to the Federal Highways Administration for approval.

Mr. Beard explained that the MPO has worked with DRPT and VDOT to develop the FY 24-27 TIP, reviewing the projects, project groupings, and funding for Highway and Transit projects. Mr. Beard explained that the TAC reviewed the FY 24-27 TIP at their April 19th meeting and recommended that the Board release the item for public comment.

Mr. Beard requested that the Policy Board release the FY 24-27 TIP Amendment for 21 days of public comment. A motion to release the item for public comment was made by Todd Wood and seconded by Tim Fitzgerald. The motion was carried by unanimous vote.

Presentation: The Port of Virginia Port Overview Mr. Thomas Cross

The SAWMPO Policy Board meeting continued with Mr. Thomas Cross, the director of state and local government affairs for Virginia Port Authority, giving an overview of the Port of Virginia. Mr. Cross began his presentation with an overview of the Port of Virginia, explaining that it is made up of six terminals across the Commonwealth: Norfolk International Terminals, Virginia International Gateway, Richmond Marine Terminal, Virginia Inland Port, Portsmouth Marine Terminal, and Newport News Marine Terminal. Mr. Cross specified that the offshore of Portsmouth Marine Terminal is the future home for offshore wind and is currently under construction at about 27% complete. Mr. Cross explained that the two main container terminals are the Virginia International Gateway and the Norfolk International Terminals. The Norfolk International Terminals is the largest terminal. Mr. Cross noted that automation and technology has been the driver of success for the Virginia Inland Port, allowing quicker, more efficient, and safer conditions for those working at the Port.

The Port of Virginia is successful due to technological investments, geographic location, and rail connectivity. Having connectivity with Norfolk Southern and CSX railroads allows goods to be shipped from the Port of Virginia to the western U.S. Beyond location and technical resources the Virginia Ports are able to be successful and flexible during moments of high demand due to “The Virginia Model.” As explained by Mr. Cross, the benefit of The Virginia Model is that there is a single port authority and a single operating entity that can assign contracts. This consolidated power structure allows the Port to be more flexible and to unload cargo at many different locations if necessary.

Plans to continue the growth and success of the Port of Virginia include a 55’ channel deepening and widening of the Norfolk Harbor. This widening and deepening will make the Port the only port on the East Coast that can have two way traffic. Over the next few years there will also be around \$90 million in investments in the central rail yard that will raise capacity from 350,000 annual container lifts to 610,000.

In addition to technological and practical advantages the Port is also making efforts to decrease their carbon footprint. By 2024 the Port will see a 65% absolute reduction in green house gas emissions since 2017 as well as having 100% of port operations be powered by clean energy. The overall goal is to have net zero carbon emissions by 2040.

Mr. Cross concluded by reiterating that improvements in the ports themselves and improvements in operations are intended to increase functionality and profitability of The Port of Virginia and will help increase

the profitability of the Commonwealth at large. Mr. Cross opened the floor for questions and discussion ensued.

Agency Updates

Virginia Department of Transportation (VDOT)

Mr. Adam Campbell of VDOT Staunton District Planning provided the following update:

- The spring VDOT public meeting is scheduled from May 3rd from 4:00 p.m. to 6:00 p.m. This meeting will be an opportunity for the public to speak with CTB members about the draft Six Year Improvement Program (SYIP). The CTB is accepting comments online until May 24th.
- Revenue sharing application window will begin soon and VDOT will share their schedule once it is made available.
- Transportation alternatives application windows will begin on May 15th

Mr. Don Komara provided the following VDOT Harrisonburg Residency updates:

- Staunton Crossing is about 27% complete with an expected May 2024 completion date.
- Dual lefts going into Millplace is going to advertisement.
- 262, widening from 613 to 252, went to add in May and will open up in June.
- The Waynesboro connector went out for bids in April and will be opened in May.
- Public hearing is planned to be held sometime this summer for the slip lane and roundabout on 250 towards the Woodrow Wilson school with a 2024 advertisement date.
- I-64 East bound over the mountain will be overlaid. This will be completed this summer by SL Williamson.
- Advanced warning about fog conditions on the mountain will be put in the pavement to record speed and alert drivers to the fog.
- VDOT is beginning mowing operations for the Spring and Summer.
- Mr. Komara encouraged the Policy Board to attend the VDOT public meeting.

Mr. Todd Stevens provided an update from VDOT about the I-81 project.

- The project has a contract and is in a design build. The hope is that the shoulder widening part of the project will begin this fall, and spring 2024 lane restrictions and barriers will begin.



Department of Rail and Public Transportation (DRPT)

Ms. Grace Stankus gave the following DRPT updates:

- FY-24 draft STIP went live in April and is available on the DRPT open data portal for review.
- Discover transit marketing campaign is back and more information is available on the connectingva.org site.

Transit

Ms. Devon Thompson gave the following BRITE Transit and Afton Express updates:

- The FY24 Draft Six-Year Improvement Program has been released and is available for public comment. The CSPDC applications recommended for funding include Urban and Rural Operating and Capital, and Commuter Assistance Operating funds and Technical Assistance for a Strategic Plan.
- The BTAC approved reducing evening hours on the Blue Ridge Community College Shuttles. The decreased hours will be implemented on June 5. Pop-up events were hosted at BRCC, JMU, and Stanton Lewis Street Hub last month to notify riders of the changes and gather their comments and feedback.
- The BRITE Transit Facility hosted the statewide Community Transportation Association of Virginia (CTAV) Paratransit Roadeo on April 29. Drivers from around the state competed to highlight their driving skills related to passenger and operations safety. The winner receives paid way to the national competition.
- CSPDC staff is updating the BRITE Title VI Plan. Plans are required to be updated and submitted to FTA every three years.
- The design and engineering phase of the Lewis Street Hub rehabilitation project continues to move forward. CSPDC staff received the 30% plans from Kimley-Horn and are working through comments and an informal city review. The next step will be a value engineering workshop with DRPT.
- Afton Express ridership for the month of April is strong – the route is averaging 68 passenger trips per day, which is up from 62 in March. CSPDC staff continues to work with UVA to market the expanded times to UVA hospital employees (last evening run is steady with about 2-3 passengers per day, with one day seeing 7 passengers).



Locality Updates

There were no updates from the City of Staunton or the City of Waynesboro. Tim Fitzgerald of August County informed the Policy Board that the Verona sidewalk project has gone to bid for the fourth time.

Other Business

Chairperson Arrowood asked if there was any other business. Ms. Ann Cundy informed the Policy Board that the joint MPO meeting with the SAWMPO and the Charlottesville-Albemarle MPO will resume on September 27th.

Upcoming Meetings

Chairman Arrowood announced that the next scheduled TAC meeting will be held on May 17, 2023, at 2:00 p.m., and the next Policy Board meeting is scheduled for June 7, 2023, at 10:00 a.m.

Meeting Adjournment

There being no further business to come before the Policy Board, Chair Arrowood asked for a motion to adjourn the meeting. The motion was made by Tim Fitzgerald and seconded by Todd Wood and the meeting was adjourned at 11:04 a.m.

Respectfully submitted,

Ann W. Cundy
Director of Transportation



TO: Staunton-Augusta-Waynesboro MPO Policy Board
FROM: Ann Cundy, Director of Transportation
MEETING DATE: June 7, 2023
RE: **Board Action Form #23-05: Approval of the FY24 Unified Planning Work Program (UPWP)**

RECOMMENDATION

Recommend that the Policy Board approve the FY24 UPWP.

BACKGROUND

The UPWP is the annual MPO work program and budget based on annual VDOT and DRPT planning fund allocations. The Policy Board released the draft FY24 UPWP for the 21-day public comment period at the May 3, 2023 meeting, following review by the TAC and the Board. Staff has not received any public or agency comments during the comment period.

The budgets for the current and upcoming fiscal years are below:

Revenues	FY 2023	FY 2024
FHWA PL	\$172,753	\$182,112
FHWA PL Carryover	\$100,552	\$118,197
FTA 5303	\$102,363	\$103,287
FTA 5303 Carryover	\$48,617	\$50,000*
Total	\$424,285	\$452,672

*Estimate

The draft FY24 UPWP focuses on completing the FY23 PSI Intersections Study, beginning a new small area study, and beginning the 2050 Long Range Transportation Plan (LRTP) update. The document includes three important changes from FY23 activities:

1. More funding for staff hours and consultant support is allocated for long-range planning to account for the 2050 LRTP update;
2. The Public Outreach work element is now included under the Administrative Activities work element 1.0; and
3. The UPWP commits a minimum of 2.5% of the annual budget (\$11,316) to Complete Streets planning activities as required under the Bipartisan Infrastructure Law (BIL).

ATTACHMENTS

[FY24 UPWP](#)



**Staunton Augusta
Waynesboro**
Metropolitan Planning
Organization

112 MacTanly Place,
Staunton, VA 24401

Phone (540) 885-5174
Fax (540) 885-2687

TO: Staunton-Augusta-Waynesboro MPO Policy Board
FROM: Zach Beard, Senior Planner
MEETING DATE: June 7, 2023
RE: **Board Action Form #23-06: Approval of the FY21-24 Transportation Improvement Program (TIP) Amendment**

RECOMMENDATION

Recommend that the Policy Board approve the FY 21-24 TIP amendment.

EXECUTIVE SUMMARY

The TIP is the region's fiscally-constrained four-year programming document for all transportation and transit projects receiving federal transportation funds, requiring federal action, or considered "regionally significant."

The Policy Board approved release of the draft FY 21-24 TIP Amendment at the May 3, 2023 meeting for a 21-day public comment period. Staff did not receive any public or agency comments. The amendment includes the following Highway Maintenance section grouping block adjustments from the FY22 – FY26 Statewide Transportation Improvement Program (STIP):

1. Traffic and Safety Operations Grouping – Reflects changes in funding from FY21 through FY24;
2. Preventive Maintenance for Bridges – Reflects changes in funding from FY21 through FY24; and,
3. Preventive Maintenance and System Preservation – Reflects changes in funding from FY21 through FY24.

The changes are included in Appendix A: TIP Amendments and Administrative Modifications – Highway under "May 2023 Amendment" on page 26 of the document.

ATTACHMENTS

[FY 21-24 TIP Amendment](#)

—



**Staunton Augusta
Waynesboro**
Metropolitan Planning
Organization

112 MacTanly Place,
Staunton, VA 24401

Phone (540) 885-5174
Fax (540) 885-2687

TO: Staunton-Augusta-Waynesboro MPO Policy Board
FROM: Zach Beard, Senior Planner
MEETING DATE: June 7, 2023
RE: **Board Action Form #23-07: Approval of the FY 2024 – 2027
Transportation Improvement Program (TIP)**

RECOMMENDATION

Recommend that the Policy Board approve the FY 2024-2027 Transportation Improvement Program (TIP).

EXECUTIVE SUMMARY

The Virginia Department of Transportation (VDOT) and the Department of Rail and Public Transportation (DRPT) requested the SAWMPO review and approve the FY 2024 – 2027 TIP. The TIP is the region’s fiscally-constrained four-year programming document for all transportation and transit projects receiving federal transportation funds, requiring federal action, or deemed “regionally significant.”

The Policy Board approved release of the draft FY 2024-2027 TIP at the May 3, 2023 Board meeting for a 21-day public comment period. No comments were received.

BACKGROUND

Under CFR Titles 23 and 49, all transportation projects and programs receiving federal funding in the MPO region are required to be documented in the TIP and in the Statewide TIP. Funding identified in the SAWMPO TIP is intended to be obligated for the federal fiscal years 2024 – 2027. A project or program must be documented in the SAWMPO’s Constrained Long Range Plan (CLRP) to be included in the TIP. The FY 2024 – 2027 TIP contains two main updates:

- The Highway TIP, provided by VDOT and reviewed by MPO staff; and
- The Transit TIP developed by MPO staff in partnership with BRITE and human mobility service providers (FTA Section 5310 applicants).

The appendices document compliance with MAP-21 Performance-Based Planning and Programming (PBPP) requirements, and how the TIP helps an MPO meet the Safety, Transit Asset Management, Pavement and Bridges, and Highway System Performance targets.

ATTACHMENT

[SAWMPO FY 2024 - 2027 TIP](#)

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

VIRGINIA ANIMAL OWNERS ALLIANCE,)
RHIANNAN VITIELLO,)
CASSY NEWELL-REED, IRINA BARRETT)
and NAJEH ABEDJALIL,)
)
)
)
Plaintiffs,)

v.)

Case No. 22-00450-PTG-JFA

JASON S. MIYARES, in his official capacity as)
Attorney General for the State of Virginia,)
SHERIFF ALAN M. JONES, Sheriff for)
Charles City County Virginia, in his official)
capacity; SHERIFF J.S. WALTON, Sheriff of King)
William County Virginia, in his official capacity;)
SHERIFF JEREMY A. FALLS, Sheriff of Fauquier)
County Virginia, in his official capacity; SHERIFF)
FRED S. CLARK, Sheriff of Halifax County)
Virginia, in his official capacity;)
ROBERT H. TYLER, the Commonwealth’s)
Attorney for Charles City County Virginia,)
in his official capacity; MATHEW R. KITE, the)
Commonwealth’s Attorney for King William)
County Virginia, in his official capacity;)
SCOTT HOOK, the Commonwealth’s Attorney)
for Fauquier County Virginia, in his official)
capacity; TRACY Q. MARTIN, the)
Commonwealth’s Attorney for Halifax County)
Virginia, in her official capacity; and VIRGINIA)
ANIMAL FIGHTING TASK FORCE.)

FIRST AMENDED
COMPLAINT
JUDGMENT AND
INJUNCTIVE RELIEF

Defendants.)

_____)

AMENDED COMPLAINT

Plaintiffs, by and through their undersigned attorneys, bring this complaint against the above-named Defendants and in support thereof allege the following:

PRELIMINARY STATEMENT

1.

This is an action for declaratory and injunctive relief challenging the constitutionality of several Virginia laws that, as described below, permit law enforcement to seize animals while unconstitutionally denying due process to animal owners within the State of Virginia.

2.

This action challenges Virginia Code § 3.2-6568 and § 3.2-6569 as violative of the Fourth and Fourteenth Amendments to the U.S. Constitution. Section 3.2-6568 authorizes the issuance of a warrant for the search of private property without a demonstration of probable cause that a search is justified. Issuance of a warrant on the basis of “reasonable cause” to believe laws may have been violative is far too expansive a standard that fails to meet the more rigorous standard of “probable cause” required under the Fourth Amendment.

3.

Virginia Code § 3.2-6569 is unconstitutional because it fails to afford a pre-deprivation hearing to owners before their animals are seized. Second, the post-

deprivation hearing that § 3.2-6569 does afford owners, within ten days of the seizure, fails to meet minimum standards of due process because an owner does not have time to subpoena records and witnesses in his or her defense. Third, § 3.2-6569(E) violates due process by not providing for a meaningful right to appeal. The appellate right is unequal on the basis of poverty as only those owners who can first afford to pay a court-imposed surety bond may appeal. The statute does not consider the owner's ability to pay or whether the owner is found guilty.

4.

Fourth, § 3.2-6569 (F) is unconstitutional because it fails to specify that animal owners are entitled to hearings before suffering the irreparable harm of having their animals euthanized. Fifth, § 3.2-6569 (A) is unconstitutional because it allows any law enforcement officer to seize and impound any animals that have been "cruelly treated" but the term is vague and thus gives an unrestricted delegation of power to law enforcement officers to define in their minds what conduct violates the statute.

5.

Plaintiffs seek a declaratory judgment that Virginia Code § 3.2-6568 and § 3.2-6569 are unconstitutional for failure to provide due process and that the state of Virginia, through Defendant Attorney General, Jason S. Miyares, in his official capacity, and other Defendants, be enjoined from enforcing the statutes.

6.

To prevent Virginia's unconstitutional statutes from inflicting further harm on themselves and other animal owners, Plaintiffs bring this civil rights action pursuant to 42 U.S.C. § 1983 on behalf of themselves and the Virginia Animal Owners Alliance. Sections 3.2-6568 and 3.2-6569 grant an unrestricted power to Virginia law enforcement officials to search for and to seize animals in violation of Plaintiffs' Fourteenth Amendment due process rights.

JURISDICTION AND VENUE

7.

Jurisdiction of this court is based on federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3).

8.

Plaintiffs' action for declaratory judgment and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202 and by Rules 57 and 65 of the Federal Rules of Civil Procedure.

9.

Venue is proper under 28 U.S.C. § 1391(b) because certain of the Defendants, who are sued in their official capacities, carry out their official duties at offices located in this District.

PARTIES

10.

Plaintiff Virginia Animal Owners Alliance is an organization composed of zoo owners, farm owners, and pet owners. Among the members of the Virginia Animal Owners Alliance are several zoo owners: Fort Chiswell Animal Park is operated by Jeff Archer and Heidi Crosky and is home to approximately 200 animals; Natural Bridge Zoo is operated by Karl and Debbie Mogensen and is home to approximately 650 animals; and, Roer's Zoofari is operated by Jacob and Vanessa Roer and is home to approximately 580 animals. The Virginia Animal Owners Alliance's purpose is to promote and preserve animal ownership in the Commonwealth. Alliance members work at both the legislative and regulatory levels to encourage transparency and accountability of the agencies that govern animal owners in the Commonwealth. They also work to educate lawmakers and state regulators to the realities of animal ownership and how the decisions made in Richmond affect everyday citizens and the animals in their care. The VAOA works to educate the public through the Facebook page, Alliance website, and local newspaper ads. They advocate for ownership rights – especially the right of equal treatment under the law. Unfortunately, under the challenged statutes, Alliance members are treated as though they operate criminal enterprises.

11.

Plaintiff Rhiannan Vitiello is a United States citizen and a citizen of the state of Virginia. At all times relevant to this Complaint, Ms. Vitiello was the owner of a farm in Charles City County, Virginia and is a registered member of the Virginia Animal Owners Alliance.

12.

Plaintiff Cassy Newell-Reed is a United States citizen and a citizen of the state of Virginia. At all times relevant to this Complaint, Ms. Newell-Reed was the owner of a farm in Aylett in King William County, Virginia and is a registered member of the Virginia Animal Owners Alliance.

13.

Plaintiff Irina Barrett is a United States citizen and a citizen of the state of Virginia. At all times relevant to this Complaint, Ms. Barrett was the owner of property in Fauquier County, Virginia and is a registered member of the Virginia Animal Owners Alliance.

14.

Plaintiff Najeh Abedeljalil is a United States citizen and a citizen of the State of Virginia. At all times relevant to this Complaint, Mr. Abedeljalil owned and operated a retail pet store in Halifax County, Virginia, and is a registered member of the Virginia Animal Owners Alliance.

15.

Defendant Jason S. Miyares is the Attorney General of the State of Virginia. The Attorney General has general responsibility for enforcing the laws of the state of Virginia. The Attorney General's office has specific responsibility for handling appeals in criminal matters and often assists as a special prosecutor when requested by Commonwealth attorney. He is sued in his official capacity.

16.

The Virginia Attorney General's Office Animal Law Unit ("ALU") assists prosecutors' offices across the Commonwealth by acting as a special prosecutor in animal cruelty cases. According to local Commonwealth attorneys, attorneys for the Animal Law Unit, including Michelle Welch, a Senior Attorney for the Animal Law Unit, are widely regarded throughout the Commonwealth as experts on understanding and enforcing Virginia's animal laws and responsible for drafting amendments to Virginia animal laws. Upon request from Commonwealth attorneys, lawyers from the ALU prosecute forfeiture hearings pursuant to 3.2-6569.

17.

Defendant Sheriff Alan M. Jones is the Sheriff for Charles City County, Virginia. As Sheriff, Mr. Jones has the authority to search and seize animals under § 3.2-6568 and §3.2-6569. He is sued in his official capacity.

18.

Defendant Sheriff J.S. Walton is the Sheriff for King William County, Virginia. As Sheriff, Mr. Walton has the authority to search and seize animals under § 3.2-6568 and §3.2-6569. He is sued in his official capacity.

19.

Defendant Sheriff Jeremy A. Falls is the Sheriff for Fauquier County, Virginia. As Sheriff, Mr. Falls has the authority to search and seize animals under § 3.2-6568 and §3.2-6569. He is sued in his official capacity.

20.

Defendant Sheriff Fred S. Clark is the Sheriff for Halifax County, Virginia. As Sheriff, Mr. Clark has the authority to search and seize animals under § 3.2-6568 and §3.2-6569. He is sued in his official capacity.

21.

Defendant Robert Tyler is the Commonwealth Attorney for Charles City, Virginia. As Commonwealth Attorney, Mr. Tyler has the authority to investigate and assist with searches and seizures of animals and prosecute civil forfeitures of animals pursuant to § 3.2-6568 and § 3.2-6569. He is sued in his official capacity.

22.

Defendant Mathew R. Kite is the Commonwealth Attorney for King William County, Virginia. As Commonwealth Attorney, Mr. Kite has the authority to

investigate and assist with searches and seizures of animals and prosecute civil forfeitures of animals pursuant to § 3.2-6568 and § 3.2-6569. He is sued in his official capacity.

23.

Defendant Scott Hook is the Commonwealth Attorney for Fauquier County, Virginia. As Commonwealth Attorney, Mr. Hook has the authority to investigate and assist with searches and seizures of animals and prosecute civil forfeitures of animals pursuant to § 3.2-6568 and § 3.2-6569. He is sued in his official capacity.

24.

Defendant Tracy Q. Martin is the Commonwealth Attorney for Halifax County, Virginia. As Commonwealth Attorney, Ms. Martin has the authority to investigate and assist with searches and seizures of animals and prosecute civil forfeitures of animals pursuant to § 3.2-6568 and § 3.2-6569. She is sued in her official capacity.

25.

Defendant Virginia Animal Fighting Task Force is a 501(c)3 non-profit organization made up of current and retired animal control officers, law enforcement officers, prosecutors and attorneys, licensed veterinarians, and animal welfare workers. The Defendant non-profit's members actively assist in Virginia law enforcement investigate alleged animal cruelty, assist on warrants

and raids, and prosecute animal fighting. Its principal officer is animal control officer Amy K. Taylor and its mailing address is PO Box 25248 Richmond, VA 23260. Michelle Welch is also the President of the Virginia Animal Fighting Task Force. Through this nonprofit, Ms. Welch is directly connected to John Goodwin who is well-known in the agricultural community as a radical animal rights activist. Mr. Goodwin is famous for stating in an online forum that his “goal is the abolition of all animal agriculture.”

26.

Members of Defendant Virginia Animal Fighting Task Force were acting under the color of state law when they participated in raids because they were acting jointly or in conspiracy with state officials. *See Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 51 U.S. 288, 296 (2001).

FACTUAL ALLEGATIONS

27.

A. The Attorney General’s office has trained and advised local prosecutors and, through the Animal Law Unit, directly led investigations and prosecutions

Prior to creating the ALU, the Office of the Attorney used the expertise and resources of the Attorney General’s office to train prosecutors and law enforcement officers for prosecuting animal welfare cases. In November 2014, the Attorney General’s office led a statewide Law Enforcement Conference on

Combating Animal Fighting in Virginia. The event trained nearly 100 prosecutors, police officers, and sheriffs' deputies on how to identify and investigate animal fighting, strategies for building a case against suspected animal fighters, and tactics for successfully prosecuting animal fighting cases. Michelle Welch, ALU's Director, earned a reputation for overzealous prosecution even before formation of ALU. Prior to the creation of the unit, its Director prosecuted a board member of the Roanoke Valley SPCA over a stray dog she was trying to help. Paula "Poo" Wyche was on the board of the Roanoke Valley SPCA when she was arrested and charged with animal cruelty for trying to help a stray dog with a skin condition and dental issues. She was prosecuted by Michelle Welch who was reported by the Roanoke Times as stating to the judge, "Under the Code, your Honor, all she had to do was euthanize this dog and she'd be OK..." The judge saw things differently. The Roanoke Times reported how the judge came to his decision to not convict Paula. He stated that such a decision would mean that "any citizen of the commonwealth can be prosecuted" in spite of doing their best to look after an animal. He went on to state, "I cannot believe that anyone in this commonwealth, including the General Assembly, would hold anyone to that standard." The judge's decision saved Paula, but it did not stop or deter

Michelle Welch. Within a couple of years, she was successful in getting her Animal Law Unit established. Animals continue to be defined by her experts as "neglected" when they simply have physical imperfections such as a loss of feathers or obesity. She is also using pet sickness or accidents as reason to charge people.

28.

Former Attorney General Mark R. Herring announced the creation of the ALU in January 2015. It was the first of its kind in the nation.

29.

The ALU assists prosecutors and law enforcement agencies with investigating and prosecuting animal welfare cases. While the power to initiate an investigation or prosecution remains with local agencies, the ALU assists with investigations or prosecutions upon request from a Commonwealth attorney or law enforcement agency.

30.

Local commonwealth attorneys have often relied on the ALU and Senior Attorney Michelle Welch's assistance in prosecuting and investigating animal welfare cases.

31.

Anthony Spencer, Caroline County Commonwealth's Attorney, stated "As

the Commonwealth's Attorney of Caroline County, I have relied on Michelle Welch on many occasions to help me in navigating Virginia's laws regarding animals and in prosecuting serious charges of dog fighting and animal cruelty.”

32.

Ms. Welch has spoken at conferences around the country, appearing on panels with groups such as PETA and the ALDF.

33.

Commenting on the state of Virginia’s Animal Cruelty code, Ms. Welch has expressed her comfort with the state euthanizing animals: “If you have any of the things in my cruelty code that you did... and the dog lives, its only a Class I misdemeanor. The dog has to die or has to be euthanized (and it’s a dog or a cat) has to be euthanized for me to actually charge you with a felony.” The ALU has engaged in an aggressive campaign to investigate, prosecute, and assist Commonwealth attorneys in investigating and prosecuting animal owners under the state’s animal welfare laws.

34.

In 2017, the ALU secured at least eight convictions in animal cruelty cases in Mecklenburg, Buckingham, Charles City, and Lunenburg counties.

35.

Ms. Welch and Assistant Attorney General Kelci Block prosecuted the eight

cases for the ALU and the Office of the Attorney General.

36.

Among the cases prosecuted by Ms. Welch and Kelci Block in 2017 were:

- Plaintiff Rhiannan Vitiello, age 27, of Charles City County, Va. She was found guilty by jury and sentenced on April 21, 2017 and she was remanded into custody. She received two years in jail from the jury and a probation revocation. She was prohibited from owning, possessing and caring for horses for ten years.
- Samuel Downs, age 42, of Crewe, Va. Downs pled guilty in Mecklenburg Circuit Court to animal cruelty and received thirty days in jail with all thirty days suspended, on the condition that he could not work with animals for one year. Downs also pled no contest to animal cruelty in Buckingham Circuit Court and received thirty days with all thirty days suspended, on the condition that he could not work with animals for one year.
- Tyrone Delaney, age 44, of Amelia, Va. Delaney pled guilty in Mecklenburg Circuit Court to two counts of animal cruelty and received twelve months in jail with all twelve months suspended on the condition that he did not work with animals for one year. Delaney also pled no contest to two counts of animal cruelty in Buckingham Circuit Court and received twelve months in jail with all twelve months suspended on the condition that he did not work with animals for one year.
- Robin Bowen, age 61, of Crewe, Va. Bowen pled guilty in Mecklenburg Circuit Court to twelve months in jail with all twelve months suspended, and he could not work with animals for one year. Bowen also pled no contest to animal cruelty in Buckingham Circuit Court and received twelve months in jail with all twelve months suspended on the condition that he did not work with animals for one year.
- Jacob Sorrell, age 21, of Redford, Ny. Sorrell pled guilty in Mecklenburg Circuit Court to two counts of animal cruelty and received twelve months in jail with all twelve months suspended on the condition that he could not work with animals for five years.
- William Atkins, age 43, of Rice, Va. Atkins pled no contest to animal cruelty in Mecklenburg Circuit Court and received thirty days with

all thirty days suspended, on the condition that he not work with animals for one year. Atkins also pled no contest to animal cruelty in Buckingham Circuit Court and received thirty days in jail with all thirty days suspended on the condition that he could not work with animals for one year.

- Judy Atkins, age 62, of Rice, Va. Atkins pled "facts sufficient to convict" in Buckingham Circuit Court, and had her case taken under advisement for one year on the condition that she not work with animals for one year.
- Trent Johnson, age 56, of Drakes Branch, Va. Johnson pled no contest to animal cruelty in Buckingham Circuit Court and received thirty days in jail with all thirty days suspended for two years on the condition that he not supervise any crew working with animals for two years. Johnson was also found guilty in Lunenburg Circuit Court in June 2017 of two counts of cruelty to animals for mistreatment of chickens at the Tyson breeder farm which he owned. He was sentenced to thirty days in jail with all thirty days suspended for a period of two years.
- The investigation of the Tyson breeder farm undoubtedly uncovered instances of animal cruelty. Nevertheless, the investigation also led to prosecutorial overreach where a farm employee is video recorded modifying the beaks of male birds. This is a common practice at broiler farms where a piece of plastic is inserted through the nostrils of a male bird to limit them from eating food intended for female birds. It is known as "boning." Michelle Welch on her own initiative has declared the practice to be animal cruelty strictly on the basis of the broad authority with which she believes to be endowed. She stated, "I'm really proud, because we took a chance on the boning. Because I looked at it and I know it's a standard animal husbandry practice, but I think it's cruel . . . I'm standing the ground. I think that's cruel and it's my choice, right? Cause I'm indicting."

37.

In Fall 2019, the ALU claimed credit for investigating and achieving an indictment against Keith A. Wilson, the owner of Wilson's Wild Animal Park, by a grand jury in Frederick County.

38.

A press release by the Attorney General's office claimed that the "Animal Law Unit secured custody of 119 animals" that were seized from Mr. Wilson's zoo. In fact, only Mr. Wilson's most valuable animals were seized, those of lesser value were left in his possession.

39.

In the Wilson case, Michelle Welch was appointed special prosecutor and handled the prosecution for the civil seizure and impoundment of the animals.

40.

Two primates were euthanized during the seizure without being health tested. A memorandum obtained through a FOIA request revealed that the euthanization occurred when the macaques could not be immediately placed.

41.

In May 2018, Ms. Welch and Assistant Attorney General Kelci Block prosecuted Isaias Andrade Andiola and Juan Jose Benitez for gamecock fighting. More than 300 birds were seized from Isaias Andrade Andiola and Juan Jose Benitez.

42.

Upon information and belief, all 300 birds were euthanized.

B. The challenged statute fails to provide sufficient due process to protect animal owners, such as members of the Alliance

43.

The Alliance has many members throughout the state. Its members include some of the largest private animal owners in Virginia.

44.

As owners of zoos, farms, and animals generally, the members of the Alliance regularly engage in feeding, watering, and providing medical attention to their animals.

45.

Section 3.2-6569 fails to provide members of the Virginia Animal Owners Alliance sufficient due process before they are prosecuted in a civil trial and their animals are seized and impounded. Animals are seized and impounded prior to investigation. Owners are then summoned to a civil asset forfeiture hearing within ten (10) days wherein they are relieved of their property without just compensation and without an opportunity to present a defense based on an exchange of discovery. FOIA requests are denied by prosecutors, including Ms. Welch of the ALU, due to “an ongoing criminal investigation.” Although the asset forfeiture hearing is supposed to be conducted as a misdemeanor trial, prosecutorial misconduct denies animal owners due process of law.

46.

The members of the Virginia Animal Owners Alliance fear that, once their

animals have been seized, § 3.2-6569(F) authorizes a local governing body to euthanize their beloved animals.

47.

Code § 3.2-6569(F) permits local governing bodies to deprive animal owners of their property through euthanasia without providing a realistic opportunity to appeal the trial court decision. Animal owners are required to pay substantial cost bonds to file an appeal – money to defray the cost of care of the animals while they are in state custody – but many owners are unable to afford the bonds.

C. An overview of the Alliance

48.

The Alliance held its first Animal Ownership Lobby Day on January 22, 2020 for animal owners to speak with their legislators about animal ownership issues.

49.

Among its other activities, the Alliance initially worked to oppose Senate Bill 1030 and its direct targeting of the only privately-owned elephant in the Commonwealth. Senator Hanger later introduced an amendment to have the word “elephant” entirely dropped from the Bill. The VAOA supported this amendment and the majority of the Senate voted in favor of it. Asha the elephant was ultimately not deemed “dangerous” and her ability to interact with the public was preserved.

50.

Were it not for the actions of the ALU, the members of the Alliance could devote more time and resources to sharing their animals with the general public and educating key influencers in the Commonwealth. Instead, the VAOA has had to divert most of their efforts to defend against the aggressive investigations and prosecutions of the ALU under § 3.2-6568 and § 3.2-6569.

51.

Alarmed by the raids and prosecutions of the ALU, carried out pursuant to § 3.2-6568 and § 3.2-6569, the Alliance spent substantial sums on phone bills as it networked with people from across the nation to inform people of how the ALU threatens to take away the Alliance members' beloved animals.

52.

Alarmed by enforcement of the statutes at issue by the ALU, on its first Animal Ownership Lobby Day on January 22, 2020 the Alliance met with lawmakers to ask for their vote for House Bill 1416, a bill seeking to strengthen the due process afforded animal owners under state law.

53.

The Alliance also hired an attorney to attend and speak to a subcommittee about HB 1416.

54.

When the Alliance had legislation sponsored in the 2020 General Assembly to give animal owners more due process under the law, Michelle Welch appeared before the subcommittee and spoke against it. She told the legislators the “3.2-6569 allows for due process” and that owners “have to have a hearing before anyone can take any animal from any person.” However, this is not true and not what his happening to animal owners in the Commonwealth.

During the 2022 General Assembly session, the alliance worked on 11 bills. Alliance members stood in support of HB 53, which sought to reform the Code regarding the seizure of animals. The original intent was to give all animal owners more due process under the law. It would have raised the standard from "reasonable cause" to "probable cause" and removed the precrime language of the current code. Delegate Orrock (who represents parts of Caroline and Spotsylvania counties) was concerned and objected to this language in the House subcommittee. He said that probable cause is a "much higher bar" and he did not want to upset the current standard practice. He recommended "..some greater protections to zoo facilities and petting zoos, but not changing it for everybody." The majority of the House subcommittee agreed with Delegate Orrock and stripped the due process language from the bill. Although a stakeholder group is being formed in regards to zoos and petting zoos, the most important aspect of the legislation was destroyed. Lawmakers

continue to ignore that ALL animal owners are treated differently under the law when it comes to due process and obtaining a search warrant.

The VAOA also supported HB 1330 which required veterinarians, public and private animal shelters, and releasing agencies to scan for a microchip before euthanizing or selling (aka adopting) a companion animal. The bill passed and will take effect in July 2022. The VAOA opposed SB 89, because it would have removed an owner's decision to breed their dog or cat if they purchased from a pet store. The bill was continued to next session. The VAOA opposed SB 535, because it would have turned the regulatory relationship on its head. The bill was tabled in the House subcommittee.

Members also opposed multiple bills that sought to ban predator management practices that are essential to farmers and pet owners throughout the Commonwealth. All of these bills failed to become law. The Alliance also opposed HB 373 in regards to feral cats, because members believed it was not the solution to the feral cat problem. The bill was tabled in the House subcommittee. The VAOA stood in support of SB 604, because members are opposed to selective enforcement and believe that it makes sense to put dogs and cats in the companion animal category. The bill passed and will become effective in July 2022.

55.

Members of the Alliance have traveled to other States to speak about the

problems threatening animal ownership. Members of the Alliance have been hosted by the West Virginia Gamebreeders Association and the Kentucky Gamebreeders Association.

56.

Members of the Alliance estimate they have spent approximately 200 hours and substantial sums in lobbying and educating lawmakers (including costs for an attorney to attend and speak at a subcommittee hearing).

57.

And the Alliance, in addition to the expense of phone calls, has spent approximately 500 hours on networking, traveling, presenting at meetings, and providing handouts, to inform the public about the ALU's actions.

58.

In addition, the Alliance has expended substantial sums on legal fees and researching the proposed language for HB 1416 and HB 53— legislation intended to amend the standard required for issuance of a warrant under § 3.2-6568 and for when animals can be seized and impounded under § 3.2-6569.

D. The raid on Rhiannon Vitiello's farm

59.

Rhiannan Vitiello, a resident of Charles City, Virginia, has owned horses for years. She has also faced harassment from Charles City animal control authorities.

60.

On February 22, 2016, local and state authorities raided her farm at 9500 Sturgeon Point Road, known as "Hidden Hollow." Charles City animal control officer ("ACO") Brandy Colgin alleged that she observed what appeared to be malnourished horses and no hay for feed in the fields. A warrant was issued based on the officer's "reasonable cause" to believe a violation may have occurred, pursuant to § 3.2 -6568.

61.

Ms. Vitiello's horses were seized and impounded in a civil forfeiture hearing under § 3.2 -6569.

62.

Ms. Vitiello has used Hidden Hollow for clients who board horses there. She provides lessons, training, evaluations, and consignment services to horse owners, as well as therapy riding for mentally or physically disadvantaged individuals. Ms. Vitiello has also worked as a breeder.

63.

The events leading to the February raid began with a business dispute. Ms. Vitiello assisted Joey Wade-Howard with finding a buyer for Wade-Howard's appaloosa horse.

64.

Ms. Vitiello was also in a business relationship with Norman Davis. Mr. Davis previously rented a farm in Louisa County, which Ms. Vitiello leased following his tenancy. Ms. Vitiello allowed Mr. Davis to stay on the farm as farm manager. In February 2016, Ms. Vitiello was in the process of relocating all of her supplies, feed, and horses from Hidden Hollow to the Louisa County farm.

65.

While the horses were on the Louisa County farm Davis was responsible for the care of the horses.

66.

Davis then sought to relocate all of the horses on the Louisa County farm back to Hidden Hollow.

67.

On February 14-15, 2016, Davis transported eighteen horses at night in an ice storm to Ms. Vitiello's farm, despite Ms. Vitiello's instructions not to move the

horses to her property. The horses were delivered with no food, water, buckets, or supplies.

68.

At the time, Ms. Vitiello had only made arrangements to care for five horses. However, paddock E of her farm had hay bales and she was awaiting another delivery of a hay shipment.

69.

On February 18, 2016, Wade-Howard alleged to the Charles City ACO, Colgin, that her horse had been stolen by Ms. Vitiello. Wade-Howard did not file a stolen horse report.

70.

ACO Colgin filed a search warrant stating that she was seeking evidence of a stolen “appaloosa horse” in Ms. Vitiello’s possession.

71.

During the week of February 13-21, Ms. Vitiello received threatening and harassing text messages from Wade-Howard. Ms. Vitiello filed a cyber-bullying and cease-and-desist complaint against Wade-Howard.

72.

On February 22, 2016, Hidden Hollow was raided by Charles City animal control, led by ACO Colgin, under the auspices of a search warrant seeking

evidence of a stolen appaloosa horse. This was despite the fact that no stolen horse report had been filed by Wade-Howard.

73.

Ms. Vitiello provided sales receipts, transportation papers, and other evidence showing that the horse in question was not stolen but had been sold, per Ms. Vitiello and Wade-Howard's business agreement, and that horse was already residing with its new owner in New York state.

74.

During the raid, Ms. Vitiello was detained in a patrol car for up to twelve hours.

75.

During the raid, one of Ms. Vitiello's horses was suffering from colic and began to show obvious signs of distress around noon. During the twelve-hour raid Ms. Vitiello was unable to provide treatment to the horse because she was detained in a patrol car.

76.

Ms. Vitiello has experience in animal husbandry and can provide medical care for equines in most major medical situations.

77.

Ms. Vitiello requested that she be permitted to call her veterinarian who could come to the farm and provide care to the horse suffering from colic.

78.

Under the pretense of calling Ms. Vitiello's veterinarian, ACO Colgin took Ms. Vitiello's Iphone, opened the phone, and read through text messages on the phone.

79.

The phone contained text messages showing that Ms. Vitiello and Wade-Howard had agreed that Ms. Vitiello would sell an appaloosa horse to a buyer in New York for \$2,0000.

80.

ACO Colgin never called Ms. Vitiello's veterinarian to attend to the horse suffering from colic.

81.

There were four veterinarians at the scene – a Dr. Robert Lee, Dr. Abby Sage, Dr. Jody Collins, and Dr. Stacy Grovell. These veterinarians ignored the horse that was suffering from colic.

82.

These four veterinarians later testified at Ms. Vitiello's criminal trial.

83.

Under cross-examination, each veterinarian admitted that they were not state licensed veterinarians in the state of Virginia.

84.

None of the veterinarians met the statutory requirements under § 3.2-6569 (A) or (B) to order the seizure of the horses.

85.

For example, Dr. Collins acted as the lead veterinarian but she was not an equine expert and therefore, under the statute, she lacked the ability to make the decisions.

86.

An anti-inflammatory painkiller was administered to the horse suffering from colic. But by then it was too late. The horse collapsed, twisted a gut, which caused the intestines to lose arterial supply and become necrotic, it suffered tissue damage due to blood deprivation and finally sepsis set in. Dr. Lee euthanized the horse at approximately 9 pm. Ms. Vitiello was charged with a felony for starving the horse to death.

87.

Upon information and belief, the veterinarians accompanying the law enforcement officials delayed providing care to the horse in order to build a

stronger case against Ms. Vitiello for animal abuse or cruelty.

88.

Upon information and belief, assistant attorney general Michelle Welch of the ALU attended meetings with these veterinarians for up to a month before the February 2016 raid on Ms. Vitiello's property. The purpose of the meetings was to plan and discuss how to seize Ms. Vitiello's horses.

89.

In March 2016, law enforcement officials dug up an old compost pile that was thirty years old or more. They dug up old bones of animals that had died on the farm.

90.

The warrant to dig up the compost pile was signed by Sgt. Green.

91.

Upon information and belief, Michelle Welch was also present at the scene when law enforcement dug up the compost pile.

92.

Based on horse bones recovered from the compost pile, the district attorney brought additional charges for animal cruelty, arguing that bone marrow from the bones revealed that at the time when the animals passed away, they were malnourished.

93.

Twenty horses were seized from Ms. Vitiello's farm.

94.

Law enforcement also seized Ms. Vitiello's cell phone.

95.

Less than ten days later, in March of 2016, Ms. Vitiello's horses were declared to be the property of the county in a civil forfeiture hearing.

96.

The ten-day interval made it difficult for Ms. Vitiello to find legal counsel, conduct the legal research necessary to defend herself, or to subpoena witnesses or send out FOIA requests to support her defense.

97.

In April of 2016, ACO Colgin was fired from her position with Charles City County for allegedly conducting county business without authorization.

98.

On May 1, 2016, Ms. Vitiello was arrested and indicted under §3.2-6570 with twenty-three misdemeanor animal cruelty charges and two felonies. Her bond was placed at \$15,000.

99.

On April 5, 2017, Ms. Vitiello was tried in Charles City Circuit Court. Ms. Vitiello was prosecuted by Michelle Welch of the ALU.

100.

As a result of Ms. Vitiello's prosecution by Michelle Welch, Ms. Vitiello is prohibited from owning horses for a period of ten years. Therefore, Ms. Vitiello continues to suffer an ongoing harm.

E. The raid on Cassy Newell-Reed's farm

101.

On January 24, 2019, the Spotsylvania County Sheriff's Office and King William County Sheriff's Office seized thirty-three horses from Cassy Newell-Reed. There was no animal welfare check prior to the raid. In fact, no animal control officers were in contact with Ms. Newell-Reed for over two years prior to the raid.

102.

Deputy Richard Samuels with the Spotsylvania County Sheriff's Office alleged that he did surveillance of Ms. Newell-Reed's property on December 26, 2018 and January 19, 2019. He alleged that the Ms. Newell-Reed's horses were too thin.

103.

An officer for the Spotsylvania County Sheriff's Office told Ms. Newell-Reed that they were going to do a search and seizure on property. Within five minutes of entering the premises, an officer disconnected the cable to the property's security system.

104.

Law enforcement officers never told Ms. Newell-Reed what was wrong with the horses. The warrant cited a Virginia statute for animal fighting. However, at the time of the raid the warrant was not shown to Ms. Newell-Reed, and, during the raid, she was denied access to her lawyer, who was waiting just off the property.

105.

Ms. Newell-Reed has worked with horses for forty-five years.

106.

In January of 2019, the local hay season has been bad because of wet weather. Ms. Newell-Reed often bought hay bales in small. She fed her horses two to three times a day, once in the morning and at one or two various times per day.

107.

Ms. Newell-Reed also supplemented the hay with mineral supplements, food pellets, mush and beet pulp.

108.

The day of the seizure Ms. Newell-Reed was expecting a delivery of two round bales of hay and was going to pick up an additional twenty square bales of hay that day.

109.

Officers were on her property until 4:00 p.m. that afternoon.

110.

Michelle Welch, of the Attorney General's ALU, assisted in the raid on Ms. Newell-Reed's property. Michelle Welch was present on the property and even personally examined several of the horses.

111.

In total, law enforcement seized thirty-three horses from Ms. Newell-Reed.

112.

The thirty-three horses have been kept for three years.

113.

On February 12, 2019, Ms. Newell-Reed's animals were taken from her in a civil forfeiture hearing held in King William General District Court.

114.

Michelle Welch prosecuted the seizure hearing.

115.

Ms. Newell-Reed was told that she had to pay a \$50,000 bond to appeal the civil forfeiture decision. The \$50,000 bond was to cover the care of thirty-three horses for nine months at \$20 a day and for the \$9,900 the county had already expended on care.

116.

Ms. Newell-Reed was unable to afford the bond and thus could not appeal the seizure of her animals.

117.

Just prior to expiration of the statute of limitations Ms. Newell-Reed was indicted on three counts of animal cruelty.

118.

On May 19, 2021, Ms. Newell-Reed got the charges against her thrown out because she won a Franks hearing and of the evidence against her was thrown out.

119.

Commonwealth attorneys still have Ms. Newell-Reed's thirty-three horses, cell phones, paperwork, and other items taken from her in the initial seizure.

F. The raid on Irina Barrett's home

120.

Irina Barrett raised championship quality Dobermans since 2009 in Fauquier County. She operated a professionally built and licensed kennel on property surrounding her home. Ms. Barrett's Dobermans have won in shows across the nation and internationally and are in homes around the world.

121.

On January 14, 2020, Ms. Barrett rushed a Doberman puppy named Yeva to a veterinary clinic in Maryland as she appeared to be ill. Following inconclusive x-ray imaging, exploratory surgery revealed that Yeva had swallowed a piece of plastic that had ruptured her intestines – a common enough occurrence with dogs of any breed. Emergency measures were taken to repair the damage to Yeva intestines. Unfortunately, Yeva did not recover and died following six days of treatment. Ms. Barrett checked on Yeva throughout this ordeal.

122.

Within a week of Yeva's death, and without any reasonable investigation or probable cause, Ms. Barrett's property was raided by Sheriff Deputies and Animal Control Officers. Ms. Barrett's Dobermans were loaded onto trucks and hauled away. Ms. Barrett was handcuffed and detained. She was informed at the scene that she was under arrest for cruelty to Yeva.

123.

Law enforcement officers seized all of Ms. Barrett's dogs as well as those that she was boarding for other people. They seized her son's mixed-breed, pet dog and her daughter's bulldog and spaniel. They seized the Barrett families' parakeets and guinea pigs, and, for good measure, they seized chickens belonging to Ms. Barrett's husband.

124.

The search of Ms. Barrett's property and the seizure of her animals and other property (i.e, business and veterinary records) under § 3.2 -6568 and § 3.2 -6569 were undertaken without probable cause or legal justification of any kind. Ms. Barrett's home was stripped of family laptops and phones. The equipment was eventually returned. However, all of the doors to Ms. Barrett's home were broken in, and the entire 4,000 square foot home was turned upside down. Bags of dog food were opened and dumped on the floor. Trash bags were ripped open and dumped and dog medicines were strewn about the floor.

125.

Ms. Barrett has been arrested on three occasions and is still facing criminal charges for animal cruelty. Commonwealth prosecutors have offered to drop all criminal charges if Ms. Barrett agrees to permanently surrender her animals.

G. The raid on Mr. Abedeljalil's pet store

126.

Mr. Abedeljalil was the owner of a pet store located in Halifax, Virginia.

127.

Animal Control officers conducted a raid of the pet store based on an accusation that two (2) baby bearded lizards (hatchlings) that were recently delivered from California in a batch of hatchlings had died.

128.

Animal Control Officers under the supervision of Amy Taylor of the ALU unlawfully entered the pet store when it was closed and not publicly accessible without a warrant. Ms. Taylor demanded entry to the premises to conduct an "administrative" search. Two birds, one ferret and four puppies were impounded without good cause. The puppies had only recently been purchased and had been fully examined by a vet and found to be healthy just days prior to the raid.

129.

One puppy died from electrocution while in the care of Animal Control approximately one month after the raid. The State of Virginia, through Michelle Welch, offered to settle with Mr. Abedeljalil for the fair-market value of the puppy.

130.

Mr. Abedeljalil attended a hearing in the General District Court of Halifax County to determine whether he violated state law for neglect and abuse of animals under Section 3.2-6569 and should retain custody of the seized animals.

131.

Mr. Abedeljalil demonstrated the puppies were examined by a vet only days prior to the seizure and found to be healthy. The District Court ruled that two (2) puppies and the ferret must be returned to Mr. Abedeljalil. The Commonwealth appealed that decision following the death of one of the puppies in its care and Mr. Abedeljalil's refusal to settle.

132.

The Circuit Court ultimately ruled for the Commonwealth and required Mr. Abedeljalil to pay a \$16,000 appeal bond.

133.

Just prior to the statute of limitations running, almost one year after the seizure, Mr. Abedeljalil was charged with misdemeanor offenses.

E. Members of the Alliance continue to own animals and fear that their animals will be seized

134.

Other members of the Alliance continue to own animals and fear that their animals will be seized.

135.

Members of the Virginia Animal Owners Alliance (including Jeff Archer and Heidi Crosky of Fort Chiswell Animal Park; Karl and Debbie Mogensen of Natural Bridge Zoo; and, Jacob and Vanessa Roer of Roer's Zoofari) fear they will be raided and treated as criminal enterprises by law enforcement, and that their animals will be seized, impounded, resold or euthanized.

136.

The continuing seizure of animals from law abiding Virginia animal owners makes it likely that in future raids the Commonwealth of Virginia will not stop with seizures but will euthanize animals when their owners either do not have an adequate opportunity to challenge or cannot afford to challenge such an irreversible decision.

COUNT I
DECLARATORY AND INJUNCTIVE RELIEF
SECTION 1983 VIOLATION OF DUE PROCESS PURSUANT TO THE 14TH
AMENDMENT OF THE U.S. CONSTITUTION
(Against all Defendants in their official capacities)

137.

The allegations of the above paragraphs 1 through 136 are re-alleged and incorporated by reference as if fully set forth herein.

138.

Virginia Code § 3.2-6568 violates the Plaintiffs' due process rights under the Fourth and Fourteenth Amendments to the United States Constitution. Section 3.2-6568 permits issuance of a warrant to search a citizens private property on the basis of an officer's "reasonable cause" to believe illegal activity may occur at the property. This is a subjective standard that is too expansive and vague to be constitutionally acceptable. On its face and by its use, it falls well below the constitutional standard of probable cause.

139.

Virginia Code § 3.2-6569 violates the Plaintiffs' due process rights under the Fourteenth Amendment to the United States Constitution. First, Virginia Code § 3.2-6569 is unconstitutional because it does not offer a pre-deprivation hearing to owners before their animals are seized. None of the individual Plaintiffs received pre-deprivation hearings before their animals were seized.

140.

Second, the post-deprivation hearing that is afforded by § 3.2-6569, offered within ten days of the seizure, fails to meet minimum standards of due process because an owner does not have time to subpoena records and witnesses in his or her defense.

141.

Third, § 3.2-6569(E) violates due process by not providing for a meaningful right to appeal. The appellate right is unequal on the basis of poverty as only those owners who can first afford to pay a court-imposed surety bond may appeal. The statute does not consider the owner's ability to pay or whether the owner is found guilty.

142.

Fourth, § 3.2-6569 (F) is unconstitutional because it fails to specify that animal owners are entitled to hearings before suffering the irreparable harm of having their animals euthanized.

143.

Finally, § 3.2-6569 (A) is unconstitutional because it allows any law enforcement officer to seize and impound any animal that has been "cruelly treated" but the term is vague and thus gives an unrestricted delegation of power to law enforcement officers to define in their minds what conduct violates the statute.

144.

Plaintiffs and other members of the Virginia Animal Owners Alliance continue to live in fear that their beloved animals will be seized and euthanized without receiving due process.

145.

Based on the facts incorporated to support this Count, Plaintiffs request that this Court both declare the statute at issue as unconstitutional while also enjoining Defendants from enforcement actions pursuant to said statutes. The harm being caused is ongoing while also causing non-monetary irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request:

- (a) Order summons to be issued for service of process upon all Defendants;
- (b) Order that a jury determine all issues not settled by this Court;
- (c) Declare that Va. Code Ann. § 3.2-6568 and § 3.2-6569 violate the Foruth and Fourteenth Amendment to the United States Constitution.
- (d) Enjoin Defendants, their employees, agents, and successors in office enforcing § 3.2-6568 and § 3.2-6569, as described *supra*;
- (e) Award Plaintiffs costs and attorneys' fees pursuant to 42 U.S.C. § 1988;
- (f) That Plaintiffs receive such other and further relief as the Court deems
- (g) just and proper.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted this 13th day May 2022,

/s/ Mario B. Williams
Mario B. Williams

HDR, LLC
44 Broad Street NW
Suite 400
Atlanta, GA 30303
(404) 254-0442
Fax (404) 935-9391
mwilliams@hdrattorneys.com

Counsel for Plaintiffs

Message History (4)

✉ On 8/21/2023 4:27:07 PM, AUGUSTACOUNTYVA Support wrote:

Subject: [Records Center] County Records Request :: C000395-081023

Body:

RE: PUBLIC RECORDS REQUEST of August 03, 2023, Reference # C000395-081023.

Dear Scott Cline,

The County of Augusta, Virginia received a public records request from you on August 03, 2023. Your request mentioned:

“Please provide under FOIA all notes, written records, emails, TEXT messages (from cell 434-466-6150 or other cell or electronic device under your controll), letters or any information written or electronic that are on or in your possession that contain the following keywords or phrases that were sent or received between March 10th, 2023 to present.

1. Morelli
2. Seaton
3. transmit
4. sexual
5. harassment
6. censure

Also please provide any and all documents that would explain your statement on August 2, 2023 board of supervisors meeting in which you used the word or words about transmitting. More specifically please provide any proof or any documents, statements or any "proof" that you relied upon in order to indicate that Wayne District Board Member Dr. Seaton was using a surreptitious transmitter in order to transmit closed door board meetings to person(s) known or unknown outside of the closed door session.

Please provide any and all documents, text messages, emails, letters, written or electronic information that you relied upon that lead you to believe that Wayne District Board Member Dr. Seaton disclosed "confidential information, that had only been discussed in a closed session meeting" as outlined in a Resolution to formally censure Dr. Scott Seaton.

Thank you for your timely response to this request.”

The County of Augusta, Virginia has reviewed its files and has located 106 responsive records to your request. The County is withholding 27 emails in their entirety pursuant to the following exemptions:

Three emails are withheld pursuant to the personnel exemption in Va. Code Sect. 2.2-3705.1(1) and the closed meeting exemption in Va. Code Sect. 2.2-3705.1(5).

Four emails are withheld pursuant to the real estate exemption in Va. Code Sect. 2.2-3705.1(8) and the closed meeting exemption in Va. Code Sect. 2.2-3705.1(5).

Twenty emails are withheld pursuant to the legal exemptions, Attorney-Client Privilege in Va. Code Sect. 2.2-3705.1(2) and Attorney Work Product in Va. Code Sect. 2.2-3705.1(3). To the extent that any of the emails

contain information that was also the subject of a closed meeting, the County also invokes the closed meeting exemption under Va. Code Sect. 2.2-3705.1(5).

The remaining 79 emails are being released to you. Four emails that contain the name of a juvenile in relation to social services are being redacted pursuant to Va. Code Sect. 2.2-3705.5(3) and are being provided to you in redacted form.

Please log in to the Public Records Center at the following link to retrieve the responsive records.

[County Records Request - C000395-081023](#)

If you have any questions, or wish to discuss this further, please contact me.

Sincerely,

Jennifer Whetzel
Deputy County Administrator
County Administration

✉ On 8/10/2023 3:32:02 PM, AUGUSTACOUNTYVA Support wrote:

Subject: [Records Center] County Records Request :: C000395-081023

Body:

RE: PUBLIC RECORDS REQUEST of August 03, 2023, Reference # C000395-081023

Dear Scott Cline,

The County of Augusta, Virginia received a public information request from you on August 03, 2023. Your request mentioned:

“Please provide under FOIA all notes, written records, emails, TEXT messages (from cell 434-466-6150 or other cell or electronic device under your controll), letters or any information written or electronic that are on or in your possession that contain the following keywords or phrases that were sent or received between March 10th, 2023 to present.

- 1. Morelli**
- 2. Seaton**
- 3. transmit**
- 4. sexual**
- 5. harassment**
- 6. censure**

Also please provide any and all documents that would explain your statement on August 2, 2023 board of supervisors meeting in which you used the word or words about transmitting. More specifically please provide any proof or any documents, statements or any "proof" that you relied upon in order to indicate that Wayne District Board Member Dr. Seaton was using a surreptitious transmitter in order to transmit closed door board meetings to person(s) known or unknown outside of the closed door session.

Please provide any and all documents, text messages, emails, letters, written or electronic information that you relied upon that lead you to believe that Wayne District Board Member Dr. Seaton disclosed "confidential information, that had only been discussed in a closed session meeting" as outlined in a Resolution to formally censure Dr. Scott Seaton.

Thank you for your timely response to this request.”

The County is working diligently to respond to your FOIA request, but we need additional time to complete the response. The County hereby invokes a 7-working-day extension pursuant to Virginia Code Section 2.2-3704.

Sincerely,

Jennifer Whetzel
Deputy County Administrator
County Administration

✉ On 8/10/2023 10:46:35 AM, AUGUSTACOUNTYVA Support wrote:



Dear Scott Cline:

Thank you for your interest in public records of the County of Augusta, Virginia. Your request has been received and is being processed in accordance with the Virginia Freedom of Information Act (FOIA). Your request was received in this office on 8/3/2023 and assigned the reference number C000395-081023 for tracking purposes.

Records Requested: Please provide under FOIA all notes, written records, emails, TEXT messages (from cell 434-466-6150 or other cell or electronic device under your control), letters or any information written or electronic that are on or in your possession that contain the following keywords or phrases that were sent or received between March 10th, 2023 to present.

1. Morelli
2. Seaton
3. transmit
4. sexual
5. harassment
6. censure

Also please provide any and all documents that would explain your statement on August 2, 2023 board of supervisors meeting in which you used the word or words about transmitting. More specifically please provide any proof or any documents, statements or any "proof" that you relied upon in order to indicate that Wayne District Board Member Dr. Seaton was using a surreptitious transmitter in order to transmit closed door board meetings to person(s) known or unknown outside of the closed door session.

Please provide any and all documents, text messages, emails, letters, written or electronic information that you relied upon that lead you to believe that Wayne District Board Member Dr. Seaton disclosed "confidential

information, that had only been discussed in a closed session meeting" as outlined in a Resolution to formally censure Dr. Scott Seaton.

Thank you for your timely response to this request.

Augusta County may assess reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, searching for requested records, or developing a cost estimate. If you would like a cost estimate, please let us know promptly before we provide a response to your request. Please note if we do not hear from you promptly, we will continue to process your request, and you may be responsible for any charges incurred.

During processing, your request will be forwarded to the relevant department(s) to locate the records you seek and to determine the volume of those records and any costs associated with responding to your request. You will be contacted about the availability of records and/or provided with copies of the records in question.

PLEASE NOTE: The Virginia Freedom of Information Act (FOIA) does not require a governmental body to create records, to do legal research, or to answer questions about the records we might provide.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

County of Augusta, Virginia

To monitor the progress or update this request please log into the [Public Records Center](#)



✉ On 8/10/2023 10:46:35 AM, AUGUSTACOUNTYVA Support wrote:

Request was created by staff

Kathleen Keffer

From: Pam Carter <pcarter@co.augusta.va.us>
Sent: Thursday, April 27, 2023 2:16 PM
To: Timothy Fitzgerald
Subject: Fw: [EXTERNAL]Taking Complaints of DSS Public

Are you taking care of this?
Pam

From: Margie Olson <1337mom4@gmail.com>
Sent: Tuesday, April 25, 2023 12:03 PM
To: board <board@co.augusta.va.us>
Subject: [EXTERNAL]Taking Complaints of DSS Public

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Someone wants to keep my Grand son illegally thru CPS. Everything done bounders on Harassment. Stainton county Circuit court already said she gets her son [REDACTED] soon.

I suspect Abuse of Discretion to give my grand son to a 3rd party by Forcing separation between the mother and child. I have played Nice But Not anymore. I have contacted tv stations, etc.

Also, thru the biological father, CPS has slander my name and character which is a Civil Action. I will address that with them soon thru a lawyer.

I already contacted one board member who assured me this unfairness will stop.

Voters, which elect county officials, pay closely to Voters' Reactions.

I, already, contacted DSS in Richmond, Virginia.

I expect my grandson back with his family and my grand daughter and family left Alone.

*** VIRGINIA FREEDOM OF INFORMATION NOTICE ***

This e-mail and any of its attachments may constitute a public record under the Virginia Freedom of Information Act. Accordingly, the sender and/or recipient listed above may be required to produce this e-mail and any of its attachments to any requester unless certain limited and very specific exemptions are applicable.

Augusta County Guest List

RWRMF 2023

6/22/2023

*list applicable to each day of festival - Friday, Saturday, and Sunday - unless otherwise listed

last updated - -

6/22/2023

NAME (County Official/Staff)	GUEST/S NAMES (if known at this time)	POSSIBLE TOTAL ADMISSIONS	SPECIFIC DAY
<i>Board of Supervisors:</i>			
Mike Shull (Chairman) & Guest		2	
Jeff Slaven (Vice-Chairman & NR District Rep) & Guest		2	
Carolyn Bragg & Guest		2	
Grafton (Butch) Wells & Guest		2	
Gerald Garber & Guest		2	
Dr. Scott Seaton & Guest		2	
Pam Carter & Guest		2	
<i>Parks & Rec Commission:</i>			
Larry Curry (Chairman) & Guest		2	
Kirk Barley & Guest		2	Saturday
Sally Williams & Guest		2	
Ernie Landes & Guest		2	Saturday
<i>County Staff:</i>			
Jennifer Whetzel (Deputy County Administrator) & Guest		2	
Rusty Sprouse (Director of Facility Management) & Guests		3	
Mia Kivilighan (Communications Manager) & Guests		4	Saturday
Rebekah Castle (Director of Economic Development) & Guest & children		4	
Julia Hensley (Project Manager - Economic Development) & Guest		3	
Scott Farris (<i>P&R -Parks Services Manager</i>) & Guest	Jane Farris	2	Saturday
Charley Schillinger (<i>P&R Program Coordinator</i>) & Guest	Patrick Austin-Good, James Austin	3	FRI & SAT
Pam Mowery (<i>P&R Administrative Secretary</i>) & Guest	Mowery family - Shannon, JR, Mckenzie, Mikalah	5	FRIDAY
Garrett Nichols (<i>Maintenance - Supervisor</i>) & Guest	Kristi Nichols, ???	3	

From: Mary Pat Lane <mplane58@gmail.com>
Sent: Friday, March 10, 2023 2:05 PM
To: board
Subject: [EXTERNAL]Re: Meeting agenda item

Dear Board Members,

If you happened by Estate Lane recently, you probably are wondering what on earth I am complaining about. It looks clean enough.

But, in the last couple of days, without our neighbors knowing that my husband and I had contacted VDOT and you, performed a road cleanup and field cleanup on their own, yielding more than 5 large black trash bags full of waste, cardboard, and debris. They realized, too that the amount of trash had multiplied. Just wanted you to know that. We all noticed a van today at the end of the road, doing a cleanup. Thank you so much.

Sincerely, Mary Pat Lane

On Wed, Mar 8, 2023, 3:30 PM Mary Pat Lane <mplane58@gmail.com> wrote:

Dear Members of the Aug. Co. Board of Supervisors,

My husband and I were planning to attend this evening's meeting at the Government Center. We were at Quantico National Cemetery yesterday, attending the funeral service of a Marine friend of ours, with many people in attendance. My husband has picked up a "bug" and does not feel well this afternoon. He wanted to be able to attend tonight but he and I will need to make plans to attend another session. Mr. Morelli has given us hope that something will be done about the waste and litter issue here on Tinkling Spring Road. We look forward to seeing an improvement.

Thank you for your attention and your service to our community.

Sincerely, Mary Pat Lane

On Tue, Mar 7, 2023 at 4:44 PM Mary Pat Lane <mplane58@gmail.com> wrote:

Dear members of the Augusta County Board of Supervisors,
Thank you for your attention to my email.

My name is Mary Pat Lane. My husband and I, along with 3 other families, live on Estate Lane, a half-mile lane found between Barterbrook and Christians Creek (the dump road), off Tinkling Spring Road in the Stuarts Draft area. We have lived here for nearly 16 years. My husband and I would like to speak tomorrow night at your March 8th meeting regarding the amount of waste, refuse, and litter found on Tinkling Spring Road, particularly the strip of road between Barterbrook and Christians Creek. The problem of litter and waste material has grown exponentially in the last 2 years and we have made multiple contacts with VDOT asking for help and now find ourselves bringing this matter to your attention. Tinkling Spring Road is a main thoroughfare between Fishersville and Stuarts Draft and with the addition of the Amazon building less than 2 miles away, we can only imagine that the traffic will increase and the problem escalate.

Several factors have contributed to the severity of the problem:

- 1) VDOT no longer uses incarcerated members to perform road clean-ups;
- 2) VDOT reports that they do not have the manpower at the present time to perform road clean-ups;
- 3) the Hearn family (who have "Adopted" this section of Tinkling Spring) have grown older, (as have my husband and I) and getting out on Tinkling Spring Road, where trucks, trailers, buses, cars, and cars with trailers traveling 55-60 mph barely notice someone picking up trash with an orange vest on, makes a road clean up for all of us a very unsafe endeavor;
- 4) that stretch of land is the tip of a knoll between two small valleys where the wind lifts trash right out of uncovered or poorly covered trucks and trailers and lands it right in the ditches of this area or often times right in the middle of Tinkling Spring Road;

- 5) Waste Management, who took over the contract, has not done its due diligence with enforcing the cover rule of their trucks;
- 6) less manpower has cut back on the Sheriff's Department issuing citations to those who do not cover their trucks and trailers as they make their way to the County Dump;
- 7) and finally, although we appreciate the fairly new formed Litter Patrol, we realize they are probably overworked, underpaid, and understaffed.

The waste material effects the property values of our homes, is an eye sore to view every day, stinks worse than a skunk, and is out of control. Thank you for allowing us to speak on this matter tomorrow night. If you have any questions, please do not hesitate to call or email me or my husband.

Sincerely,

Mary Pat and Jerome Lane 540-448-5437 or 540-294-0469

Concerned, proud, tax paying members of Augusta County, VA

From: Kacee Fridley <kacee.fridley@gmail.com>
Sent: Thursday, June 1, 2023 6:16 PM
To: board@co.augusta.va.us; CityCouncil@ci.staunton.va.us;
CityCouncil@ci.waynesboro.va.us; tfitzgerald@co.augusta.va.us;
lbeauregard@ci.staunton.va.us; mhamp@ci.waynesboro.va.us
Subject: [EXTERNAL]Dr. Scott Seaton and No Augusta County Ordinance for Tax Payer
Fees/Fines for Stray Animals

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

TO WHOM IT MAY CONCERN:

It has come to my attention that the Board of Supervisors members are aware that Augusta County DOES NOT have, nor has it ever had, an ordinance that allows the county to LEGALLY CHARGE its citizens' stray animal fees/fines.

I find it rather appalling to learn that the county administrator, as well as the county legal counsel, has admitted to knowing that no such ordinance existed and that these fees/fines were illegal. Their failure to correct and eliminate the fees/fines for stray animals while continuing to charge Augusta County citizens is an utter disgrace and a significant breach of trust.

I am writing to state my utmost support for Dr. Scott Seaton, Supervisor, Wayne District.

Dr. Seaton is doing the job he was ELECTED to do.

Dr. Seaton listened intently as numerous constituents and county citizens shared their concerns/complaints about the daily operation of SVASC and the questionable care, welfare, and safety of the animals housed there.

Dr. Seaton did not "sweep it under the rug" as too often happens in the political realm.

Dr. Seaton RESEARCHED and INVESTIGATED these issues for the people he represents and the citizens of Augusta County. Dr. Seaton has found wrongdoing and has made the public aware that the county has had no legal standing to charge its citizens for the stray animals picked up and housed at SVASC.

It sickens me that Dr. Seaton is now being admonished and worse by his peers for simply doing the JOB he was ELECTED to do!

The Wayne District is extremely blessed to have such a committed, dedicated, and trustworthy supervisor as Dr. Seaton! We should all be so lucky!

This issue is not going to go away! The years-long practice of illegally charging the citizens of Augusta County for its stray animals must cease.

The BOS must publicly acknowledge that mistakes were made and correct these mistakes by whatever means necessary.

I can assure you that any attempts to “throw Dr. Seaton under the bus” for simply doing the job his constituents ELECTED him to do will NOT win the BOS any accolades!

Sincerely,

Kacee Fridley

From: Dave Briggman <briggman@gmail.com>
Sent: Thursday, June 15, 2023 12:26 AM
To: board@co.augusta.va.us
Subject: [EXTERNAL]Seaton's fixation on the "animal issue" comes straight from two frivolous "animal" lawsuits Nexus filed over in the Eastern District of Virginia....both of which were dismissed.
Attachments: Nexus Animal Complaint 2.pdf; Nexus Animal Complaint.pdf

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

Attached are the two lawsuits.

Seaton sounds like he's telegraphing a possible new, frivolous lawsuit from attorneys who are working for Nexus...you know, the attorney who issued subpoenas to you folks this week, with the notable exception of Seaton...his conduct tonight would seem to be grounds for removal under § 24.2-233 of the Code of Virginia. Hopefully, someone will draft a Petition to Remove him and secure at least 189 signatures to get him into Court....it should truly concern all of you, as well as citizens of Augusta County that Seaton seems to have quite the close relationship with the criminal enterprise operating in Verona.

Best regards, folks...

From: Zach Beard <Zach@cspdc.org>
Sent: Tuesday, June 6, 2023 7:44 AM
To: AdamF.Campbell@vdot.virginia.gov; Ann Cundy; Ansley Heller; Ben Mannell (Ben.Mannell@VDOT.Virginia.gov); Bonnie Riedesel; Brad Arrowood; Brad Reed ; Chelsea Beytas (chelsea.beytas@dot.gov); Devon Thompson; Don Komara (donald.komara@VDOT.Virginia.gov); grace.stankus@drpt.virginia.gov; Ivan Rucker (ivan.rucker@dot.gov); Jim Wood; Amanda Kaufman; John Simkins (john.simkins@dot.gov); Josh Dunlap (josh.dunlap@vdot.virginia.gov); Julia Bortle (bortleje@ci.waynesboro.va.us); keseckerka@ci.staunton.va.us; Kevin Jones (kevin.jones@dot.gov); Leslie Beauregard (beauregardlm@ci.staunton.va.us); Mark Merrill (markm765@comcast.net); Matt Dana (matt.dana@vdot.virginia.gov); Michael Fulcher (Michael.Fulcher@VDOT.Virginia.gov); Michael G. Hamp II (hampmg@ci.waynesboro.va.us); Michele DeAngelis (Michele.DeAngelis@dot.gov); Pam L. Carter (pcarter@co.augusta.va.us); Paula Melester; Phil Thompson (phil@vatransit.org); Rusty Harrington (Rusty.Harrington@DOAV.Virginia.gov); Scott Seaton (sseaton@co.augusta.va.us); Steve Wilson (steve@vatransit.org); Timothy Fitzgerald (tfitzgerald@co.augusta.va.us); Todd Stevens (todd.stevens@vdot.virginia.gov); Todd Wood (woodtd@ci.waynesboro.va.us); jim.diamond@vdot.virginia.gov
Cc: AdamF.Campbell@vdot.virginia.gov; Alisande Tombarge (TombargeAM@ci.waynesboro.va.us); Brad Reed ; Chad Rambo (ramboco@ci.waynesboro.va.us); Don Komara (donald.komara@VDOT.Virginia.gov); Doug Wolfe (dwolfe@co.augusta.va.us); Elizabeth Goodloe; grace.stankus@drpt.virginia.gov; Jeff Lineberry (jeff.lineberry@vdot.virginia.gov); Jeff M. Johnston; Josh Dunlap (josh.dunlap@vdot.virginia.gov); Kevin Jones (kevin.jones@dot.gov); Leslie Tate; Lyle M. Hartt; Michael Fulcher (Michael.Fulcher@VDOT.Virginia.gov); Phil Thompson (phil@vatransit.org); Rodney Rhodes (rhodesrs@ci.staunton.va.us); Rusty Harrington (Rusty.Harrington@DOAV.Virginia.gov); Scott Kesecker (KeseckerWS@ci.waynesboro.va.us); Steve Wilson (steve@vatransit.org); Tim Hartless (hartlessta@ci.staunton.va.us); Alidia Vane; Rita Whitfield; Trone, Dana; Holst, John
Subject: [EXTERNAL]REMINDER: SAWMPO Policy Board Meeting for June 7, 2023
Attachments: 2023-06-07 SAWMPO Policy Board Mailout.pdf

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

Good morning,

A reminder that the Policy Board meeting is **tomorrow, Wednesday, June 7 at 10:00 a.m.** If you're a voting member, and haven't already done so, let me know if you will be attending.

Here's the Zoom log-in for those attending virtually:

- Web Link: <https://us06web.zoom.us/j/85387651524?pwd=SzdCY3hrYWppc0c1TE54aXFMenJ0UT09>
- Dial In (Audio Only): 1-301-715-8592
- Meeting ID: 853 8765 1524

- Password: 424129

Thanks,

Zach

Zach Beard, AICP

Senior Planner

Central Shenandoah Planning District Commission

112 MacTanly Place

Staunton, VA 24401

540.885.5174 ext. 117 | cell: 540.560.0968



From: Zach Beard

Sent: Wednesday, May 31, 2023 4:53 PM

To: AdamF.Campbell@vdot.virginia.gov; Ann Cundy; Ansley Heller (ansley@cspdc.org) <ansley@cspdc.org>; Ben Mannell (Ben.Mannell@VDOT.Virginia.gov) <Ben.Mannell@VDOT.Virginia.gov>; Bonnie Riedesel <bonnie@cspdc.org>; 'Brad Arrowood' <arrowoodbd@ci.staunton.va.us>; Brad Reed <Brad.Reed@vdot.virginia.gov>; 'Chelsea Beytas (chelsea.beytas@dot.gov)' <chelsea.beytas@dot.gov>; Devon Thompson <devon@cspdc.org>; Don Komara (donald.komara@VDOT.Virginia.gov) <donald.komara@VDOT.Virginia.gov>; grace.stankus@drpt.virginia.gov; Ivan Rucker (ivan.rucker@dot.gov) <ivan.rucker@dot.gov>; 'Jim Wood' <jwood@ci.waynesboro.va.us>; Amanda Kaufman <kaufmanac@ci.staunton.va.us>; John Simkins (john.simkins@dot.gov) <john.simkins@dot.gov>; Josh Dunlap (josh.dunlap@vdot.virginia.gov) <josh.dunlap@vdot.virginia.gov>; Julia Bortle (bortleje@ci.waynesboro.va.us) <bortleje@ci.waynesboro.va.us>; keseckerka@ci.staunton.va.us; Kevin Jones (kevin.jones@dot.gov) <kevin.jones@dot.gov>; Leslie Beauregard (beauregardlm@ci.staunton.va.us) <beauregardlm@ci.staunton.va.us>; Mark Merrill (markm765@comcast.net) <markm765@comcast.net>; Matt Dana (matt.dana@vdot.virginia.gov) <matt.dana@vdot.virginia.gov>; Michael Fulcher (Michael.Fulcher@VDOT.Virginia.gov) <Michael.Fulcher@VDOT.Virginia.gov>; Michael G. Hamp II (hampmg@ci.waynesboro.va.us) <hampmg@ci.waynesboro.va.us>; Michele DeAngelis (Michele.DeAngelis@dot.gov) <Michele.DeAngelis@dot.gov>; Pam L. Carter (pcarter@co.augusta.va.us) <pcarter@co.augusta.va.us>; Paula Melester <paula@cspdc.org>; Phil Thompson (phil@vatransit.org) <phil@vatransit.org>; Rusty Harrington (Rusty.Harrington@DOAV.Virginia.gov) <Rusty.Harrington@DOAV.Virginia.gov>; Scott Seaton (sseaton@co.augusta.va.us) <sseaton@co.augusta.va.us>; Steve Wilson (steve@vatransit.org) <steve@vatransit.org>; Timothy Fitzgerald (tfitzgerald@co.augusta.va.us) <tfitzgerald@co.augusta.va.us>; Todd Stevens (todd.stevens@vdot.virginia.gov) <todd.stevens@vdot.virginia.gov>; Todd Wood (woodtd@ci.waynesboro.va.us) <woodtd@ci.waynesboro.va.us>; 'jim.diamond@vdot.virginia.gov' <jim.diamond@vdot.virginia.gov>

Cc: 'AdamF.Campbell@vdot.virginia.gov' <AdamF.Campbell@vdot.virginia.gov>; 'Alisande Tombarge (TombargeAM@ci.waynesboro.va.us)' <TombargeAM@ci.waynesboro.va.us>; 'Brad Reed ' <Brad.Reed@vdot.virginia.gov>; 'Chad Rambo (ramboco@ci.waynesboro.va.us)' <ramboco@ci.waynesboro.va.us>; 'Don Komara (donald.komara@VDOT.Virginia.gov)' <donald.komara@VDOT.Virginia.gov>; 'Doug Wolfe

(dwolfe@co.augusta.va.us)' <dwolfe@co.augusta.va.us>; 'Elizabeth Goodloe' <egoodloe@co.augusta.va.us>; 'grace.stankus@drpt.virginia.gov' <grace.stankus@drpt.virginia.gov>; 'Jeff Lineberry (jeff.lineberry@vdot.virginia.gov)' <jeff.lineberry@vdot.virginia.gov>; 'Jeff M. Johnston' <johnstonjm@ci.staunton.va.us>; 'Josh Dunlap (josh.dunlap@vdot.virginia.gov)' <josh.dunlap@vdot.virginia.gov>; 'Kevin Jones (kevin.jones@dot.gov)' <kevin.jones@dot.gov>; 'Leslie Tate' <TateLC@ci.waynesboro.va.us>; 'Lyle M. Hartt' <hartt1m@ci.staunton.va.us>; 'Michael Fulcher (Michael.Fulcher@VDOT.Virginia.gov)' <Michael.Fulcher@VDOT.Virginia.gov>; 'Phil Thompson (phil@vatransit.org)' <phil@vatransit.org>; 'Rodney Rhodes (rhodesrs@ci.staunton.va.us)' <rhodesrs@ci.staunton.va.us>; 'Rusty Harrington (Rusty.Harrington@DOAV.Virginia.gov)' <Rusty.Harrington@DOAV.Virginia.gov>; 'Scott Kesecker (KeseckerWS@ci.waynesboro.va.us)' <KeseckerWS@ci.waynesboro.va.us>; 'Steve Wilson (steve@vatransit.org)' <steve@vatransit.org>; 'Tim Hartless (hartlessta@ci.staunton.va.us)' <hartlessta@ci.staunton.va.us>; 'Alidia Vane' <avane@co.augusta.va.us>; Rita Whitfield <rita@cspdc.org>; 'Trone, Dana' <dtrone@wrallp.com>; Holst, John <Jholst@wrallp.com>
Subject: SAWMPO Policy Board Meeting for June 7, 2023

SAWMPO Policy Board Members and Attendees,

The next SAWMPO Policy Board meeting is **Wednesday, June 7, 2023 at 10:00 a.m. at the CSPDC**. The meeting materials are attached. Voting member attendance is required for a quorum. Voting members please let me know if you won't be attending. Non-voting members can attend in-person or via Zoom.

Zoom Log-in:

- Web Link: <https://us06web.zoom.us/j/85387651524?pwd=SzdCY3hrYWppc0c1TE54aXFMenJ0UT09>
- Dial In (Audio Only): 1-301-715-8592
- Meeting ID: 853 8765 1524
- Password: 424129

See you next Wednesday.

Zach

Zach Beard, AICP

Senior Planner
Central Shenandoah Planning District Commission
112 MacTanly Place
Staunton, VA 24401
540.885.5174 ext. 117 | cell: 540.560.0968



From: Pam Carter <pcarter@co.augusta.va.us>
Sent: Thursday, July 13, 2023 12:01 PM
To: William H. Tuning
Subject: Re: [EXTERNAL]Dr. Seaton

Mr Tuning, disagreeing with someone is absolutely ok. That was not the reason for the censor. I would be happy to talk with you about it if you send me your phone number.

Thanks
Pam

Sent from my iPhone.

On Jul 13, 2023, at 10:39 AM, William H. Tuning <mdolphins22@gmail.com> wrote:

***** CAUTION *****

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Pam as a registered voter of Augusta County I don't like the fact that you voted to censor Dr.Seaton. it appears that you along with the other Supervisor's don't like it when someone disagree's with you. Dr. Seaton has his right to his opinion just like the rest the Board. He was doing what he was voted to do unlike the rest of the board. He was represented his voter's. I will not support you when time comes for you to be re-elected. William Tuning

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From: Zach Beard <Zach@cspdc.org>
Sent: Monday, July 3, 2023 2:56 PM
To: Ann Cundy; AdamF.Campbell@vdot.virginia.gov; Amanda Kaufman; Ansley Heller; Ben Mannell (Ben.Mannell@VDOT.Virginia.gov); Bonnie Riedesel; Brad Arrowood; Brad Reed ; Chelsea Beytas (chelsea.beytas@dot.gov); Cody Huffman; Devon Thompson; Don Komara (donald.komara@VDOT.Virginia.gov); grace.stankus@drpt.virginia.gov; Ivan Rucker (ivan.rucker@dot.gov); Jim Wood; John Simkins (john.simkins@dot.gov); Julia Bortle (bortleje@ci.waynesboro.va.us); keseckerka@ci.staunton.va.us; Kevin Jones (kevin.jones@dot.gov); Leslie Beauregard (beauregardlm@ci.staunton.va.us); Mark Merrill (markm765@comcast.net); Matt Dana (matt.dana@vdot.virginia.gov); Michael Fulcher (Michael.Fulcher@VDOT.Virginia.gov); Michael G. Hamp II (hampmg@ci.waynesboro.va.us); Michele DeAngelis (Michele.DeAngelis@dot.gov); Nathaniel Cline; Pam L. Carter (pcarter@co.augusta.va.us); Paula Melester; Phil Thompson (phil@vatransit.org); Rusty Harrington (Rusty.Harrington@DOAV.Virginia.gov); Scott Seaton (sseaton@co.augusta.va.us); shane.mccabe@vdot.virginia.gov; Steve Wilson (steve@vatransit.org); Timothy Fitzgerald (tfitzgerald@co.augusta.va.us); Todd Stevens (todd.stevens@vdot.virginia.gov); Todd Wood (woodtd@ci.waynesboro.va.us)
Subject: [EXTERNAL]CANCELLATION REMINDER: July 5, 2023 SAWMPO Policy Board Meeting

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

A reminder that the Policy Board meeting for July 5 is cancelled. See you at the next scheduled meeting on August 2.

Zach

Zach Beard, AICP

Senior Planner

Central Shenandoah Planning District Commission

112 MacTanly Place

Staunton, VA 24401

540.885.5174 ext. 117 | cell: 540.560.0968



From: Ann Cundy <ann@cspdc.org>

Sent: Wednesday, June 28, 2023 3:12 PM

To: AdamF.Campbell@vdot.virginia.gov; Amanda Kaufman <kaufmanac@ci.staunton.va.us>; Ann Cundy <ann@cspdc.org>; Ansley Heller <ansley@cspdc.org>; Ben Mannell (Ben.Mannell@VDOT.Virginia.gov) <Ben.Mannell@VDOT.Virginia.gov>; Bonnie Riedesel <bonnie@cspdc.org>; Brad Arrowood <arrowoodbd@ci.staunton.va.us>; Brad Reed <Brad.Reed@vdot.virginia.gov>; Chelsea Beytas (chelsea.beytas@dot.gov) <chelsea.beytas@dot.gov>; Cody Huffman <cody.huffman@vdot.virginia.gov>; Devon Thompson <devon@cspdc.org>; Don Komara (donald.komara@VDOT.Virginia.gov) <donald.komara@VDOT.Virginia.gov>; grace.stankus@drpt.virginia.gov; Ivan Rucker (ivan.rucker@dot.gov) <ivan.rucker@dot.gov>; Jim Wood <jwood@ci.waynesboro.va.us>; John Simkins (john.simkins@dot.gov) <john.simkins@dot.gov>; Julia Bortle (bortleje@ci.waynesboro.va.us) <bortleje@ci.waynesboro.va.us>; keseckerka@ci.staunton.va.us; Kevin Jones (kevin.jones@dot.gov) <kevin.jones@dot.gov>; Leslie Beauregard (beauregardlm@ci.staunton.va.us) <beauregardlm@ci.staunton.va.us>; Mark Merrill (markm765@comcast.net) <markm765@comcast.net>; Matt Dana (matt.dana@vdot.virginia.gov) <matt.dana@vdot.virginia.gov>; Michael Fulcher (Michael.Fulcher@VDOT.Virginia.gov) <Michael.Fulcher@VDOT.Virginia.gov>; Michael G. Hamp II (hampmg@ci.waynesboro.va.us) <hampmg@ci.waynesboro.va.us>; Michele DeAngelis (Michele.DeAngelis@dot.gov) <Michele.DeAngelis@dot.gov>; Nathaniel Cline <ncline@virginiamercury.com>; Pam L. Carter (pcarter@co.augusta.va.us) <pcarter@co.augusta.va.us>; Paula Melester <paula@cspdc.org>; Phil Thompson (phil@vatransit.org) <phil@vatransit.org>; Rusty Harrington (Rusty.Harrington@DOAV.Virginia.gov) <Rusty.Harrington@DOAV.Virginia.gov>; Scott Seaton (sseaton@co.augusta.va.us) <sseaton@co.augusta.va.us>; shane.mccabe@vdot.virginia.gov; Steve Wilson (steve@vatransit.org) <steve@vatransit.org>; Timothy Fitzgerald (tfitzgerald@co.augusta.va.us) <tfitzgerald@co.augusta.va.us>; Todd Stevens (todd.stevens@vdot.virginia.gov) <todd.stevens@vdot.virginia.gov>; Todd Wood (woodtd@ci.waynesboro.va.us) <woodtd@ci.waynesboro.va.us>; Zach Beard <Zach@cspdc.org>

Subject: Cancellation: July 5, 2023 SAWMPO Policy Board Meeting

Good Afternoon SAWMPO Policy Board members,

On the heels of Independence Day and without action items for the Policy Board, SAWMPO staff is cancelling the July 5, 2023 Policy Board meeting. Our next meeting will be at the CSPDC on August 2, 2023, at 10:00 a.m.

See the following MPO updates below:

1. CTB Approves Six Year Improvement Plan (SYIP)

The Commonwealth Transportation Board (CTB) approved the Fiscal Years 2024 to 2029 Six-Year Improvement Program, which allocates about \$6.3 billion in funding to transportation programs over the next six years. The program is supported by the Commonwealth Transportation Fund, which uses a methodology to distribute funding to highway, bridge, rail, transit, transportation demand management, ports, aviation, and space flight projects. The SYIP funds pay for more than 4,700 projects. For more information on what is in the Six-Year Improvement Program, visit the [SYIP searchable database](#) or [DRPT's Open Data Portal](#).

2. SAWMPO TAC Supports SAWMPO Study Focused on Addressing Regional Transportation Barriers

At the June 21, 2023 TAC meeting, MPO staff presented a potential FY24 planning study focusing on regional transportation access barriers for disadvantaged and underserved communities such as the elderly and disabled to inform future planning efforts. The study would focus on targeted public outreach efforts such as surveys and focus groups to better understand the unique transportation barriers that disadvantaged populations confront. The study data and recommendations would inform and streamline the 2050 LRTP public engagement process, and also be utilized in the BRITE transit micro transit study in FY25.

The TAC expressed support for the Transportation Barriers Study, and MPO staff will next develop a detailed scope of work. The study will be developed in addition to the Afton Mountain Renaissance Transportation study, and beginning the 2050 LRTP in early 2024.

3. Vulnerable Road User Safety Assessment Survey

The Virginia Vulnerable Road User Safety Assessment (VRUSA) is a new requirement of the USDOT Bipartisan Infrastructure Law (BIL) and is part of the Highway Safety Improvement Program (HSIP) to help identify high-risk areas for vulnerable road users (including pedestrians and bicyclists), and provide a set of projects and strategies to reduce safety risks in high-risk areas.

VDOT is conducting study survey requesting information on how to best reach underserved communities, and what data is most helpful when planning bicycle and pedestrian safety. The Virginia VRUSA will conduct crash analysis and update the [VDOT Pedestrian Safety Action Plan \(PSAP\)](#) corridors and crash clusters (including bicyclists) to include crash data and associated risk factors for 2018-2022. [The survey closes on June 30, 2023.](#) Reach out to Stephen Read, Highway Safety Engineer, VDOT Traffic Operations Division, at Stephen.Read@VDOT.Virginia.gov with questions.

4. Agency Updates

VDOT

Transportation Alternatives Program (TAP) and Revenue Sharing (RS) Pre-applications Due

The [TAP](#) and [RS](#) pre-applications are due on June 30, 2023. The final application window opens August 15, 2023, and the final submission deadline is October 2, 2023. Contact Brittany Voll, VDOT Local Assistance, at Brittany.voll@vdot.virginia.gov for TAP questions, and Michele Piccolomini, VDOT Local Assistance, at michele.piccolomini@vdot.virginia.gov for RS questions.

BRITE

Title VI Plan Updated

CSPDC staff [updated the BRITE Title VI Plan](#) to assure compliance with the rules and regulations associated with Title VI and subsequent nondiscrimination laws, Environmental Justice, and Limited English Proficiency. Plans are required to be updated, approved, and submitted to FTA every three years. The Draft Plan was available for public comment in June 2023, and was approved at the CSPDC Board of Commissioners meeting on June 20, 2023.

Lewis Street Hub 60% Plans Reviewed

The design and engineering phase of the BRITE Lewis Street Hub rehabilitation project continues to move forward. 60% plans have been completed and reviewed, and a value engineering workshop with DRPT was held June 14, 2023.

Afton Express

Ridership Hits Record Numbers through Promotions, Word-of-Mouth

Afton Express continues to record increasing ridership each month, with a record high of 93 passenger trips in one day in June 2023. Promotions and word-of-mouth advertising are leading to new passengers. CSPDC staff continue to work with the University of Virginia's Parking and Transportation office to target market the service to university employees, and CSPDC staff will attend the Groovin' at the Greenway concert on July 29, 2023 in Waynesboro to promote the service with informational materials, prizes, and giveaways.

Public Radio Features Afton Express

Afton Express was featured on a Virginia Public Radio segment highlighting CARES funding throughout the Commonwealth. The story aired on RadiolQ across the state on Wednesday, June 21, 2023. [Listen to the story online.](#)

We wish you a safe July 4th, and look forward to seeing you at the next Policy Board meeting on August 2, 2023.

Ann

Ann W. Cundy, AICP
Director of Transportation
Central Shenandoah Planning District Commission

112 MacTanly Place
Staunton, VA 24401
540-885-5174 ext 116



From: Pam Carter <pcarter@co.augusta.va.us>
Sent: Saturday, July 15, 2023 1:27 PM
To: McQueen-Dever, Darby
Subject: Re: [EXTERNAL]Office of Congressman Ben Cline - Confirmation of July 17, 2023 Farm Bill Roundtable Discussion

Darby, I was just informed that Scott Seaton will not be allowed to attend this function. Is that correct?
Pam Carter

Sent from my iPhone.

On Jul 14, 2023, at 12:01 PM, McQueen-Dever, Darby <Darby.McQueen-Dever@mail.house.gov> wrote:

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

Good Afternoon!

I am writing to confirm your attendance for Congressman Ben Cline's roundtable lunch discussion on Monday, July 17, 2023, at Maple Springs Farm, 529 Burketown Road, Weyers Cave, Virginia, 24486. The entire event will take place outdoors.

We will be discussing the upcoming Farm Bill and are looking forward to getting your input! The format of the event will follow a roundtable style with Congressman Cline leading the conversation. If you would like to bring any handout materials to share, please feel free to do so. We will provide a notepad and pen for each attendee.

The lunch will begin at noon, so we ask that you arrive by 11:45 am to get checked in. We expect the event to last until 2:30 pm.

When arriving, please enter at the second driveway. There will be signs posted at the correct driveway entrance.

For day-of assistance, please reach out to me at 202-981-1394 or my colleague, Jon Hartsock, at 540-613-2862.

Thanks,

Darby McQueen-Dever
Legislative Assistant

Office of Congressman Ben Cline (VA-06)
2443 Rayburn House Office Building
O: 202-225-5431 | C: 202-981-1394

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From: Keep Augusta Great <keepaugustagreat@gmail.com>
Sent: Tuesday, July 25, 2023 9:04 AM
To: Pam Carter
Subject: Re: [EXTERNAL]Call back

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

I just got off the phone with Mr. Garber. As I suspected the dates are incorrect as I suspect that you knew but unwilling to admit to.

As a public official I would expect that you would have made sure on something so important and potentially damaging to one's reputation that you would have gone the extra mile to ensure that everything was correct prior to voting..... however you did have to suspend the rules in order to get it out.

Thanks
Scott

On Tue, Jul 25, 2023, 7:26 AM Keep Augusta Great <keepaugustagreat@gmail.com> wrote:
Ms. Carter,

Thanks for the VERY short response. AS an elected official your vote to remove the Wayne District Supervisor affects every voter in this county. AND YES I have attempted to reach out to the Chair with no success and my supervisor was going to look into it but had no response as of yet to why the dates were wrong.

You didn't tell me to go talk with the chair or my supervisor when I supported you in your last two elections and for someone who only won by 159 votes to Tracy Piles, I would think you need support from across the board in all districts. As for me not approaching you at the meeting, you seemed very busy talking to the Sheriff's supporters.

Again I will ask you the same simple question that you have ignored since YOU voted on this matter:

- In the Resolution to formally censure Dr. Seaton the dates that were referenced in the resolution are May 20th and May 22nd of 2023. In looking at the minutes and agenda items, as well as what the Chairman of the Board stated about "board members were asked about sexual harassment" it appears that the resolution has a grave error in the dates. In speaking with Gerald Garber, he did confirm that "the disclosure" of matters discussed in closed session were in reference to "Morelli" who resigned on MARCH 20th not MAY 20th and did not occur in a "closed meeting" but dealt with a email that was sent out prior to the closed meeting but would have been covered by the closed meeting code sections according to the county attorney.

You SHOULD know what YOU voted for and AS AN ELECTED OFFICIAL you are responsible for what YOU signed and voted on. You should know if the dates are right..... or the voters should know you are attempting to deceive them. By not answering it does seem that you and the rest of the board have something to hide. There should be a

very simple answer.....Yes the dates are correct or No I didn't get it right.....or did you turn into a YES person like they wanted in Higgs. I look forward to a truthful and fast response. Thanks for your transparency.

Scott Cline

On Mon, Jul 24, 2023, 11:10 AM Pam Carter <pcarter@co.augusta.va.us> wrote:

Mr Cline,

I have received your calls and I suggest you reach out to your Supervisor or the Chair, Mr, Shull with your questions.

I wonder why you didn't attempt to talk to me at the Republican Committee meeting on Wed evening. You were 5 feet from me.

Pam

From: Keep Augusta Great <keepaugustagreat@gmail.com>

Sent: Friday, July 21, 2023 11:12 AM

To: Pam Carter <pcarter@co.augusta.va.us>

Subject: [EXTERNAL]Call back

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

Dear Ms. Carter,

I have attempted to call you over the past 20 plus days with no response or call back. I called on June 29th at 10:37 and then four other times since. I trust you are a very busy person, however I have several questions in reference to your position on the Board of Supervisors.

My most pressing question is the same question that can not be answered by any board member to date:

- In the Resolution to formally censure Dr. Seaton the dates that were referenced in the resolution are May 20th and May 22nd of 2023. In looking at the minutes and agenda items, as well as what the Chairman of the Board stated about "board members were asked about sexual harassment" it appears that the resolution has a grave error in the dates. In speaking with Gerald Garber, he did confirm that "the disclosure" of matters discussed in closed session were in reference to "Morelli" who resigned on MARCH 20th not MAY 20th and did not occur in a "closed meeting" but dealt with a email that was sent out prior to the closed meeting but would have been covered by the closed meeting code sections according to the county attorney.

So my question to you is two fold.....was the disclosure in fact in reference to Morelli and did the resolution purposely written in order to withhold information from the public or was it simply a "typo". No other board member to date has been able to explain this, however it was very clear that this matter of disclosure has to deal with "sexual harassment". If in fact it has to deal with a current board member or past board member the public has a right to know. If it has to do with a county employee, I would agree that that would be an internal personnel issue.

I would hope that you would agree, that any public official that is accused of sexual harassment, whether its a elected official or constitutional officer that transparency trumps that elected official or constitutional officers privacy. AND

YES, the victims should never be identified, yet Mr. Morelli or any constitutional officer could run again for office without the public knowing of their transgressions.

What is clear, the minutes and agenda does not match anything in the dates of the Resolution and the statement ;by the Chair that it has something to do with sexual harassment leaves more questions than answers. If you and the board can't even get the dates right or the facts correct in a Resolution, no wonder you and the board along with the county attorney don't know how to read the code and know when the county is in violation.

I will close with this thought.....Most of the comments that you can read online, as well as the many people from across the county all have the same common theme, and that is "what does the board have to hide", sunlight and transparency would solve that. Also IF Dr. Seaton has truly been recording the closed door sessions, I would think that something would have been disclosed before now if that was the intent of Dr. Seaton, but you damn well know what kind of person Dr. Seaton is and not only as a veteran but as a medical doctor his word is his bond and he certainly would not compromise his integrity in any way shape or form. I hope the rest of the board can say the same.

Thanks for your time in this matter.

Scott Cline
540-480-7740

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County of Augusta.

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From: Jen Weaver <jweaver@theshenandoahvalley.com>
Sent: Wednesday, July 19, 2023 10:43 AM
To: pcarter@co.augusta.va.us; jhalasz@lexingtonva.gov; HitchinGE@ci.waynesboro.va.us; sullendx@jmu.edu; carmstrong@rockinghamcountyva.gov; Peirce.Macgill@harrisonburgva.gov; jfrench@shenandoahcountyva.us; bflint@rockbridgecountyva.gov; rburns@bathcountyva.org; jtyree@bvcity.org; mark.stroupe@ramtool.com; dimeoah@ci.staunton.va.us; bonnie@cspdc.org; BCornelius@FCVirginias.com; Keith.May@cottonwood.com; greg.godsey@atlanticunionbank.com; GassK@brcc.edu; Swartz, Nicholas - swartznj; charles@thegainesgroup.com; andy@appealproduction.com; jshank@dynamicaviation.com; lbotkin@flyshd.com; lcade@svec.coop; Chris.A.Ellis@truist.com; MMannix@AugustaHealth.com; cweaver@lantzcc.com
Cc: Jay Langston; Nathan Garrison; Bekka Harsh
Subject: [EXTERNAL]SVP Annual Meeting and Board Meeting 7.28.23
Attachments: SVP Bylaws Adopted April 22 2022.docx

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

Good morning SVP Board of Directors!

In preparation for our brief Board meeting next Friday, July 28th, I am attaching a copy of the SVP by-laws. As part of the Conflict of Interest procedure (highlighted on last pages of by-laws), Directors are requested to annually review the policy and sign an agreement of understanding and compliance. Those statements of agreement will be distributed at next week's Board meeting for your signature. If you are unable to attend, I will follow up via email for your signature the following week.

Please let me know if you have any questions on this policy. I appreciate your valuable leadership and hope to see you at the Annual Meeting/Board meeting!

Jen

From: Jen Weaver
Sent: Thursday, July 13, 2023 1:57 PM
Subject: SVP Annual Meeting and Board Meeting 7.28.23

Good afternoon SVP Board of Directors! Warm welcome to our newest members!

We hope many of you will be attending our Annual Meeting on Friday, July 28th, starting at 9:00a.m. SVP has lots of exciting news to share! If you have not yet registered, the invitation is below.

The Board will plan to briefly meet immediately following the Annual Meeting. We are anticipating 10:45 – 11:15a.m. Please plan to stay and participate in the Board meeting.

Let me know if you have any questions. Look forward to seeing you!

Jen

From: Linda Dickerson <ldickerson@ntelos.net>
Sent: Wednesday, July 19, 2023 11:53 AM
To: board@co.augusta.va.us
Subject: [EXTERNAL]censure and removal from boards of Dr. Seaton

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

Dear Board of Supervisors,

I was aghast when I read in the paper that our supervisor from Wayne District had been censured and removed from the boards and commissions he was serving on. You have not only treated a man of integrity shamefully, but you have also deprived the citizens of the Wayne District of equal representation on the Board by eliminating our voice on the Staunton Augusta Waynesboro Planning Organization and the Community Action Partnership of Staunton, Augusta, and Waynesboro.

The Board admits that recording the closed sessions was not against the law. What are you trying to hide? You could pass a rule against recording your speech in the future instead of making the citizens of Wayne 2nd class citizens.

Dr. Seaton also angered the Board by advocating for fair treatment of pets and their owners. He cares about all life. He recently helped lead a successful fund drive to obtain 2 new ultra sound machines for Comfort Care. He cares about unborn lives too.

I have lived in Augusta County for 52 years and in the Wayne District for 20 years. My former husband's ancestor was in the Rockbridge Calvary and fought to protect the Valley throughout the Civil War. He married a local woman and helped work her father's farm. Ever since his descendants have lived in Augusta County. In other words, my family cares about the Valley. Dr. Seaton and I have belonged to the same church for 20 years. He is a hard-working, honest, responsible blessing to our community. The citizens of Wayne District want our Supervisor to be re-instated to his rightful positions on the various boards and commissions. The Supervisors need to work together instead of behaving like authoritarian dictators against a fellow Board member with whom they have disagreements.

I am praying that all the members of the Board can come together and forget retaliation and revenge and work out their problems like reasonable, intelligent men.

Linda Dickerson
87 Lindburgh Dr.
Waynesboro, VA 22980

For identification purposes my home phone is 540-942- 2735.

From: Timothy Fitzgerald <tfitzgerald@co.augusta.va.us>
Sent: Tuesday, August 1, 2023 4:50 PM
To: Michael Shull; Jeffrey Slaven; Pam Carter; Butch Wells; Gerald Garber; Scott Seaton; Carolyn Bragg
Subject: 8-1-23 RESOLUTION -CLOSED MEETING RECORDS.docx
Attachments: 8-1-23 RESOLUTION -CLOSED MEETING RECORDS.docx

The County Attorneys office just sent the attached resolution for consideration at tomorrow's meeting.

Thanks
Timmy

*** VIRGINIA FREEDOM OF INFORMATION NOTICE ***

This e-mail and any of its attachments may constitute a public record under the Virginia Freedom of Information Act. Accordingly, the sender and/or recipient listed above may be required to produce this e-mail and any of its attachments to any requester unless certain limited and very specific exemptions are applicable.

Kathleen Keffer

From: Timothy Fitzgerald <tfitzgerald@co.augusta.va.us>
Sent: Tuesday, May 2, 2023 1:45 PM
To: Butch Wells; Carolyn Bragg; Gerald Garber; Jeffrey Slaven; Michael Shull; Pam Carter; Scott Seaton
Subject: FW: [EXTERNAL]complaint

All of you received the e-mail below from Ms. Olsen. I have been working with Social Services on her questions and they have not heard anything from Ms. Olsen. As you can see below Ms. Shiflett has reached out to her to see if she can answer her questions.

Thanks
Timmy

From: Shiflett, Lisa (VDSS) <Lisa.Shiflett@dss.virginia.gov>
Sent: Monday, May 1, 2023 5:20 PM
To: 1337mom4@gmail.com
Cc: Harris, Anita (VDSS) <Anita.Harris@dss.virginia.gov>
Subject: [EXTERNAL]complaint

***** CAUTION *****

This message came from an EXTERNAL address. DO NOT click on links or attachments unless you know the sender and the content is safe.

Ms. Olsen,

I understand from the email below that has been forwarded to me that you have concerns regarding CPS. We have not spoken and the supervisors of the services programs have not heard from you recently, so we are unclear as to what your specific needs are at this time. I would be happy to discuss any concerns that you have currently. Please feel free to reach out to me at 540-245-5838 or through this email.

Thank you,

Lisa Shiflett

*Assistant Director, Service Programs
Shenandoah Valley Social Services*

Augusta County, Staunton and Waynesboro

540-245-5838

From: Margie Olson <1337mom4@gmail.com>
Sent: Tuesday, April 25, 2023 12:03:57 PM
To: board <board@co.augusta.va.us>
Subject: [EXTERNAL]Taking Complaints of DSS Public

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Someone wants to keep my Grand son illegally thru CPS. Everything done boundaries on Harassment. Stainton county Circuit court already said she gets her son [REDACTED] soon.

I suspect Abuse of Discretion to give my grand son to a 3rd party by Forcing separation between the mother and child. I have played Nice But Not anymore. I have contacted tv stations, etc.

Also, thru the biological father, CPS has slander my name and character which is a Civil Action. I will address that with them soon thru a lawyer.

I already contacted one board member who assured me this unfairness will stop.

Voters, which elect county officials, pay closely to Voters' Reactions.

I, already, contacted DSS in Richmond, Virginia.

I expect my grandson back with his family and my grand daughter and family left Alone.

This e-mail transmission may contain information that is proprietary, privileged and/or confidential and is intended exclusively for the person(s) to whom it is addressed. Any use, copying, retention or disclosure by any person other than the intended recipient or the intended recipient's designees is strictly prohibited. If you are not the intended recipient or their designee, please notify the sender immediately by return e-mail and delete all copies. Thank you. County of Augusta.

*** VIRGINIA FREEDOM OF INFORMATION NOTICE ***

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Kathleen Keffer

From: Timothy Fitzgerald <tfitzgerald@co.augusta.va.us>
Sent: Thursday, April 27, 2023 4:11 PM
To: Pam Carter
Subject: Re: [EXTERNAL]Taking Complaints of DSS Public

Yes. This is the same lady that emailed a month or so ago. I have social services looking into it again.

Timmy

From: Pam Carter <pcarter@co.augusta.va.us>
Sent: Thursday, April 27, 2023 2:16:23 PM
To: Timothy Fitzgerald <tfitzgerald@co.augusta.va.us>
Subject: Fw: [EXTERNAL]Taking Complaints of DSS Public

Are you taking care of this?

Pam

From: Margie Olson <1337mom4@gmail.com>
Sent: Tuesday, April 25, 2023 12:03 PM
To: board <board@co.augusta.va.us>
Subject: [EXTERNAL]Taking Complaints of DSS Public

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

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Kathleen Keffer

From: Margie Olson <1337mom4@gmail.com>
Sent: Tuesday, April 25, 2023 12:04 PM
To: board@co.augusta.va.us
Subject: [EXTERNAL]Taking Complaints of DSS Public

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

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Attorney & Counselor at Law
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LAW FIRM CONTACT:

Firm Tel.: ☎ 757.777.3441
Firm Text: 📠 757.239.3961
Firm Fax: 📠 757.282.7808
Firm Website: 🌐:
Website: www.aminalaw.com

AMEERA MATHENY, PARALEGAL - Email: Ameera@AminaLaw.Com; Cell: 757-633-9891

June 16, 2023

PRESERVATION / SPOILIATION NOTICE; and
NOTICE OF INTENT TO SUE

James R. Benkahla, Esquire

Augusta County Attorney
18 Government Center Lane
Verona, Virginia 24482

Via First Class Mail

Via UPS – Signature Requested

Via Email: ctyatty@co.augusta.va.us

Jacqueline C. Nash

Augusta County Treasurer
18 Government Center Lane
Verona, Virginia 24482

Via First Class Mail

Via UPS – Signature Requested

Via Email: jnash@co.augusta.va.us

W. Jean Shrewsbury

Augusta County Commissioner of the Revenue
18 Government Center Lane
Verona, Virginia 24482

Via First Class Mail

Via UPS – Signature Requested

Via Email jshrewsbury@co.augusta.va.us

Timothy Fitzgerald

Augusta County Administrator
18 Government Center Lane
Verona, Virginia 24482

Via First Class Mail

Via Email: tfitzgerald@co.augusta.va.us

Michael Shull

Augusta County Offices
18 Government Center Lane
Verona, Virginia 24482

Via First Class Mail

Via Email: mshull@co.augusta.va.us



AMINA MATHENY-WILLARD, P.L.L.C
Attorney & Counselor at Law



Jeffrey A. Slaven
Augusta County Offices
18 Government Center Lane
Verona, Virginia 24482
Via First Class Mail
Via Email: jslaven@co.augusta.va.us

G.L. "Butch" Wells
Augusta County Offices
18 Government Center Lane
Verona, Virginia 24482
Via First Class Mail
Via Email: bwells@co.augusta.va.us

Gerald W. Garber
Augusta County Offices
18 Government Center Lane
Verona, Virginia 24482
Via First Class Mail
Via Email: ggarber@co.augusta.va.us

Pam L. Carter
Augusta County Offices
18 Government Center Lane
Verona, Virginia 24482
Via First Class Mail
Via Email: pcarter@co.augusta.va.us

Carolyn Bragg
Augusta County Offices
18 Government Center Lane
Verona, Virginia 24482
Via First Class Mail
Via Email: cbragg@co.augusta.va.us

Scott Seaton
Augusta County Offices
18 Government Center Lane
Verona, Virginia 24482
Via First Class Mail
Via Email: sseaton@co.augusta.va.us



AMINA MATHENY-WILLARD, P.L.L.C
Attorney & Counselor at Law



Steven Morelli

Former Supervisor
104 Fall Ridge Drive
Stuarts Draft, VA 24477

Via First Class Mail

Via UPS – Signature Requested

Via Email: stevenmorelli61@comcast.net

Donald L. Smith

Augusta County Sheriff
127 Lee Hwy
Verona, VA 24482

Via First Class Mail

Via UPS – Signature Requested

Via Email: dsmith@co.augusta.va.us

RE: Preservation / Spoliation Notice: Donovan, Moore, Orlando v. Augusta County, VA, Nash, Shrewsbury, Fitzgerald, Shull, Slaven, Wells, Garber, Carter, Bragg, Seaton, Morelli, and Smith

Firm Case #: 400062023

Dear Addressees:

I write on behalf of my clients, Mr. Micheal Donovan, Mr. Richard Moore and Mr. Samuel Joseph Orlando, in reference to a prospective matter which is going to be filed in the United States District Court for the Western District of Virginia against you.

It has come to our attention, through comprehensive investigation, that there have been violations of my clients' First and Fourth Amendment rights, related to the April 3rd, 2023, seizure of their vehicles pursuant to a “warrant” issued by the former Augusta County Treasurer. The findings indicate a suspected conspiracy involving the Board of Supervisors and other Constitutional officers. Furthermore, our investigations suggest the existence of a broader conspiracy amongst the prospective Defendants to deprive the Plaintiffs, their families, and their businesses of their civil rights.

In the light of this, this letter serves to formally notify you of your duty to preserve all evidence, in every format, directly or indirectly related to my clients, their businesses, or their interests. This obligation extends to documents, data, and tangible things in the possession, custody, or control of all the named parties and extends to information reasonably anticipated to be subject to discovery in this action. This includes, but is not limited to, any correspondence, communications, reports, email messages, text messages, voicemails, memos, phone records, videos, photographs, or any other forms of data



AMINA MATHENY-WILLARD, P.L.L.C
Attorney & Counselor at Law



which could potentially contain relevant information. To be blunt, if it mentions my clients, their businesses or their interests, you need to preserve it.

Each of you may be sued in your individual capacities, and thus, this demand includes the preservation of records relevant to your **personal** email accounts, phone records, and social media accounts.

It is important to stress that the law imposes severe sanctions for the spoliation or any alteration of evidence. If it is found that evidence relevant to this case has been negligently or intentionally destroyed or altered, we will seek all appropriate remedies available under the law.

I urge you to promptly disseminate a "**litigation hold**" to all persons who may have custody or control of potentially relevant evidence to ensure the preservation of such evidence.

Your immediate attention to this serious matter is appreciated. Please provide a written response within ten (10) days acknowledging that you have received this notice and are undertaking the necessary steps to ensure the preservation of potentially relevant evidence.

Please feel free to reach out if you have any questions or require any additional information.

Lastly, we are in possession of communications amongst the Board of Supervisors and the County Administrator that indicate the existence of pending actions against my clients for "unpaid taxes". Augusta County, through its Commissioner of the Revenue, fraudulently overstated one of my client's business revenue generated from Augusta County. Notice has been provided of the fraudulent assessment, and through this letter we reaffirm this notice. Continued dissemination of this fraudulent information will result in additional claims related to defamation and fraud. Please govern yourselves accordingly.

Thank you in advance for your anticipated cooperation.

Sincerely,

Amina Matheny-Willard
Attorney and Counselor at Law



AMINA MATHENY-WILLARD, P.L.L.C
Attorney & Counselor at Law



AMW/am

cc: Zachary Lawrence, Esquire
Lawrence Law Firm PLLC
598 E. Main Street
Little Falls, New York 13365

Micheal Donovan
Richard Moore
Samuel Joseph Orlando

**BYLAWS OF
SHENANDOAH VALLEY PARTNERSHIP, INC.**

**ARTICLE I
NAME**

The name of this corporation is the Shenandoah Valley Partnership, Inc. (hereafter called "the Partnership").

**ARTICLE II
PURPOSE**

This Partnership is formed for the following civic purpose: The purpose of the Partnership is to improve the quality of life of the citizens in the Shenandoah Valley through increased business investment and higher paying jobs. The Partnership will accomplish this by developing the economy in the heart of the Shenandoah Valley in coordination and cooperation with the localities, development agencies, organizations, businesses, and industries so as to heighten the effectiveness and efficiency of economic development activities, provide mutual assistance and exchange of ideas, and stimulate development through a diverse marketing program including, but not limited to, marketing outside the region, collaborating with workforce partners, facilitating resources with existing businesses, coordinating with the region's tourism partners and otherwise promoting a strengthened economy.

**ARTICLE III
POWERS**

The Partnership shall have the powers to do all such other things as are incidentally proper, necessary, or conducive to the attainment of the above purpose, and to have and exercise, unlimited by the delineation of the specific purpose above, all the powers conferred by the Laws of the Commonwealth of Virginia upon Non-Stock Corporations as such laws are now in effect or may at any time hereafter be amended.

**ARTICLE IV
COMMITTEES**

The Partnership shall have an Executive Committee comprising Directors fairly represented between the public and private sectors. The Executive Committee shall include all officers as described in Article VI, a representative from JMU, a city economic development designee, a county economic development designee, and if elected at the Board meeting, the immediate past chair. The Executive Committee, when necessary, may act ad interim for the Partnership submitting the action to the next meeting of the Board of Directors for ratification. The Executive Committee will be responsible for issues pertaining to program development, budget and audit oversight and strategic planning, with the Vice-Chair chairing any ad hoc committees related to that purpose. The Executive Committee will serve as both the Audit Committee and the Nominating Committee. **A simple majority of the current members of the Executive Committee shall constitute a quorum for all Executive Committee meetings.**

Any special or regular meeting of the Executive Committee may be held through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. An Executive Committee member participating in a meeting by this means is deemed to be present in person at the meeting.

As allowed generally by law, the Partnership's Board of Directors may establish committees with such purposes, mandates and structures as it may, from time to time, determine to be in the Partnership's best interest. Standing committees shall advise and report back to the Executive Committee.

No standing committee shall have authority not specifically granted by the Partnership. The Partnership may establish ad hoc committees as it deems necessary or desirable.

In advance of at least 60 days prior to the Annual Board Meeting, the Executive Committee officers to which a committee reports shall nominate a Chair and Vice Chair for their standing committee for consideration to the nominating committee. Term of office shall be (1) year with the incumbent eligible to be re-elected to office for one additional term. After two full consecutive terms, a Committee Chair must have a break in consecutive service of at least a year before being re-appointed.

ARTICLE V BOARD OF DIRECTORS

1. The business of the Partnership shall be managed by the Executive Director, appointed by the Executive Committee and voted on by the Board of Directors. The Board of Directors shall exercise policy-making authority over all of the activities and programs of the Partnership. The number of Directors shall be up to twenty-six (26) and shall consist of one (1) member appointed by each locality member and a remaining number of non-locality or private sector partners to achieve a 50% public and 50% private membership or as close thereto and as close to such proportions as circumstances reasonably allow.
2. The Board of Directors shall appoint non-locality or private sector members to serve on the Board after receiving recommendations from the Nominating Committee, ensuring that the non-locality or private sector appointments meet geographic and sector diversity. Non-locality or private sector members shall be individuals employed in businesses, industry, or organizations that work within the region. Locality members are appointed by the local governing body and do not have to meet the requirements of recommendation through the Nominating Committee. All Board members shall have full rights and privileges.
3. The term of office for all non-locality and partner Directors shall be three consecutive years with one-half of the public and private sector representation to be for a staggered period of three years effective July 1 of each year. After one full consecutive term, a non-locality and partner Director must have a break in consecutive service of at least a year before being re-appointed. Locality Directors do not have term limits and are appointed under the direction of the respective political subdivision. Vacancies on the Board of Directors for unexpired terms resulting from death, resignation, or retirement shall be filled by the respective political subdivision in the case of a locality appointment or by the Board of Directors in the case of a non-locality or partner appointment. One third of the number of Directors in office of which four are members from independent political subdivisions when action is taken shall constitute a quorum for the transaction of any and all business of the Board.
4. The annual meeting of the Board of Directors shall be held within sixty (60) days after the end of the preceding fiscal year, at such time and at such place as may be fixed by the Board of Directors. Regular meetings of the Board of Directors shall be held at such intervals and at such times and places as may be fixed by the Board. A special meeting may be held at any time upon the call of any officer who is a director or any two directors upon five (5) days written notice. No special form of notice shall be necessary to hold a special meeting but the notice shall state the purpose of the meeting.
5. Any special or regular meeting of the directors may be held through the use of any means of communication

by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

ARTICLE VI OFFICERS

1. The Board of Directors shall elect a Chair, a Vice Chair, an Immediate Past Chair (optional) and a Treasurer/Secretary at a meeting of the Board of Directors, before the end of the fiscal year.
2. The Chair, Vice Chair and Treasurer/Secretary shall represent a non-locality or private sector Board of Director.
3. The term of office shall be effective upon election for all officers. The term of office for the Chair, Vice Chair & Immediate Past Chair positions shall be from July 1 to June 30, with the incumbent eligible to be re-elected to office for one additional term. The term of office for the Treasurer/Secretary will be one three year term from July 1 to June 30, with the incumbent not eligible to be re-elected for additional terms. No person shall hold more than one office with the Partnership, nor an office for more than two consecutive years.
4. It shall be the duty of the Chair to preside at all meetings of the Executive Committee and Board of Directors, and shall perform those duties which are incident to the office, or which are directed by the Board. The remaining officers shall perform those duties, which are incident to the office they hold and shall carry out all other duties, which may be required of them by the Board of Directors or the Chair.
5. It shall be the duty of the Vice Chair, in the absence of the Chair or in the event the Chair is unable to complete a term, the Vice Chair shall assume the duties thereof. Should a vacancy occur in any other office, it shall be the Executive Committee's responsibility to nominate a replacement to the Board of Directors. Receipt by the Executive Director of a majority of affirmations, either electronically or by mail or during a regular Board meeting, shall ratify the selection.
6. The Treasurer/Secretary shall oversee the maintenance of all financial records and audits on behalf of the Board of Directors and Executive Committee.
7. The Executive Committee shall appoint on behalf of the Board of Directors an Executive Director who shall perform those duties required to implement the policy directives assigned by the Board of Directors and the Executive Committee. The Executive Director may retain staff to implement a program of work and perform duties.

ARTICLE VII MISCELLANEOUS PROVISIONS

1. Seal: The seal of the Partnership shall be established by the Executive Committee if necessary.
2. Fiscal Year: The fiscal year of the Partnership shall commence on the first day of July of each year.
3. Indemnification: Every person now or hereafter a director or officer of the Partnership (and his or her heirs, executors and administrators) shall be indemnified by the Partnership to the full extent as permitted or required under Virginia law and, in addition, he or she shall be indemnified further against all liabilities, judgments, fines, penalties and other costs and expenses, including all attorney's fees, imposed upon or

reasonably incurred by him in connection with or resulting from any action, suit, proceeding or claim to which he or she is or may be made a party by reason of his or her being or having been a director or officer of the Partnership (whether or not a director or officer at the time such costs or expenses are incurred by or imposed upon him or her) except in relation to matters as to which he or she shall have finally been adjudged in such action, suit or proceeding to be liable by gross negligence or willful misconduct in the performance of his or her duties as such director or officer. Such right of indemnification, and the power of the Partnership to make all such indemnity, is hereby created pursuant to Code of Virginia, 1950, as amended, § 13.1-883 and shall exist independently of, and without the requirements of determination and authorization under, Code of Virginia, 1950, as amended § 13.1-880. Such right of indemnification shall not be deemed exclusive of any right to which he or she may be entitled under any other bylaw agreement, or otherwise.

4. Amendment: The Board of Directors shall have the power to amend or repeal these Bylaws upon thirty (30) day written notice to the full membership of the Board.
5. Audit: An annual audit shall be made of the Partnership's financial accounts and records at least once each year by a certified public accountant approved by the Board of Directors. The Audit Committee will coordinate this activity, and provide a report annually to the Board of Directors.

ARTICLE VIII INTERNAL POLICIES

In a highly competitive economic environment, the foundation of long-term success lies in business excellence, consistent with the highest ethical standards and compliance with law. The membership and staff of the Partnership hold ourselves to the highest ethical standard and consistently apply this ethical standard to our business relationships. Underlying this responsibility is a philosophy of respect for the individual, fair treatment for employees, and a concern for the position of the Partnership in the broader community.

Board membership and employment with Shenandoah Valley Partnership require that each member or employee stand accountable for:

1. Becoming familiar with and conducting SVP business in compliance with applicable laws and ethical policies. Should there be a question of how to comply with an ethical standard, the SVP Executive Committee shall be consulted and considered the final arbiter.
2. Treating all customers, suppliers, contacts, Board Members, and staff in an honest and fair manner.
3. Avoiding situations where personal interests are, or in the mind of the reasonable person appear to be, in conflict with SVP interests.
4. Safeguarding and properly using SVP proprietary information, assets and resources.
5. Maintaining confidentiality on information and not acting on such information for personal gain.

Gifts, Favors, Entertainment and Payments to Employees

Partnership board members and employees shall not seek or accept any gifts, payments, fees, services, valuable privileges, vacations or pleasure trips, loans (other than conventional loans from lending institutions) or other favors from any person or business organization that does, or seeks to do business with the Partnership. No board member or employee shall accept anything of value in exchange for referral of parties to any person or business organization that does, or seeks to do, business with the Partnership.

- Employees may accept common courtesies of nominal value (less than \$50) usually associated with accepted business practices for themselves and their families, provided acceptance does not violate any

- applicable laws or regulations.
- An especially strict standard is expected with respect to gifts, services or considerations of any kind from suppliers or vendors. Entertainment at the expense of suppliers or vendors beyond that contemplated by (a) above should not be accepted under any circumstance.
 - It is never permissible to accept a gift in cash or cash equivalents of any amount except as noted below under “external remuneration.”
 - This policy does not preclude the acceptance of courtesies extended to board members or employees of the Partnership in their official capacities, such as gratis hotel rooms for business purposes (but not for personal use) in conjunction with meeting and travel activities.
 - This policy will be communicated to persons and organizations doing, or seeking to do, business with the Partnership.
 - Any courtesies accepted should not embarrass the Partnership, the Board Member, or the employee if publicly disclosed.

External Remuneration:

Employees and Board Members of the Partnership may receive compensation, gratuities, or remuneration for services provided to other agencies, organizations, or associations. Such payment is recognized as a courtesy extended in the business community. Acceptance of payment shall occur under the following provisions:

- Payment was not solicited.
- A memorandum regarding the compensation received is submitted within 10 working days of receipt to the Executive Committee detailing the compensating organization, services rendered, and payment amount.
- Employees, following such notice, will annually submit a separate accounting of all monies received to the Executive Committee. Employees will treat the income in accordance with federal tax law and are expected to account for such income in their personal income statements. The Partnership will not be held responsible for the proper payment of withholding taxes on unsolicited compensation.
- Board Members, following such notice, are expected to handle the payment in a manner acceptable with federal tax law and generally accepted accounting procedures. Board Members are expected to account for such income in their personal income statements. The Partnership will not be held responsible for the proper payment of withholding taxes on unsolicited compensation.

Internal Controls:

The Partnership will establish control standards and procedures to ensure that assets are protected, are properly used and that records and reports are accurate and reliable. Employees share in the responsibility for maintaining and complying with required internal controls.

Reporting Integrity:

All financial reports, accounting records, research reports, expense accounts, time sheets and other documents must accurately and clearly represent the relevant facts or the true nature of the transaction. Improper or fraudulent accounting, documentation or financial reporting are contrary to this policy and may also be in violation of federal or state law. Intentional accounting misclassifications and improperly accelerating or deferring expenses or revenues are examples of unacceptable reporting practices.

Travel and Entertainment:

Travel and entertainment should be consistent with the needs of the Partnership. It is the intent of the Partnership that neither Board Members nor employees gain or lose financially as a result of business travel and entertainment.

Each person that travels or entertains on behalf of the Partnership is responsible for the propriety and reasonableness

of expenditures, for ensuring that expense reports are submitted properly and that receipts and explanations properly support reported expenses.

Valuing Individual Diversity:

In the conduct of business, employees and Board Members will respect the rights and cultural differences of individuals. The Partnership does not discriminate against any employee or applicant for employment because of age, race, religion, color, gender, disability, national origin, ancestry, marital status, or veteran status. Harassment of any type will not be tolerated

ARTICLE IX CONFLICT OF INTEREST POLICY

1. Purpose.

The purpose of the conflict of interest policy is to protect Shenandoah Valley Partnership, a tax exempt organization (Organization) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any application state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

2. Definitions.

a. Interested Person

Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

b. Financial Interest

A person has a financial interest if the person has, directly or indirectly through business, investment, or family:

- i. An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- ii. A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
- iii. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

3. Procedures

a. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

b. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested

person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

c. Procedures for Addressing the Conflict of Interest

- i. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- ii. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- iii. After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- iv. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

d. Violations of the Conflicts of Interest Policy

- i. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- ii. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

4. Records of Proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

- i. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- ii. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

5. Compensation

- i. A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to the member's compensation.
- ii. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- iii. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

6. Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- i. Has received a copy of the conflicts of interest policy,
- ii. Has read and understands the policy,
- iii. Has agreed to comply with the policy, and
- iv. Understands the Organization is tax exempt and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

7. Periodic Reviews

To ensure the Organization operates in a manner consistent with tax exempt purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- i. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
- ii. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further tax exempt purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

8. Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.