

May 17, 2023 (Regular Meeting)
(Page 1)

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on May 17, 2023 at 1:00 p.m. in Lane Auditorium on the Second Floor of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, VA 22902.

BOARD MEMBERS PRESENT: Mr. Jim Andrews, Mr. Ned Gallaway, Ms. Beatrice (Bea) J.S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, and Ms. Donna P. Price.

ABSENT: None.

OFFICERS PRESENT: Deputy County Executive, Trevor Henry; County Attorney, Steve Rosenberg; and Clerk, Claudette Borgersen.

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:00 p.m. by the Chair, Ms. Donna Price.

Ms. Price said that Albemarle County Police Officers Matt Riley and Jordan DeLange were present at the meeting to provide their services.

Agenda Item No. 2. Pledge of Allegiance.

Agenda Item No. 3. Moment of Silence.

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price stated she added an item to the consent agenda, a Resolution to Appoint Interim Director of the Economic Development Office.

Ms. McKeel requested to pull Item No. 8.3. Schedule a Public Hearing to Consider Compensation for Planning Commission and Other Boards for discussion

Ms. Price, hearing no other amendments, opened the floor for a motion.

Ms. Mallek **moved** to adopt the final agenda as amended.

Mr. Andrews **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

Agenda Item No. 5. Brief Announcements by Board Members.

Ms. Price stated that the County held a public service awards recognition on May 10, recognizing employees from five years of service to over 40 years of service. She said that there were 50 employees who had been employed by the County for more than 25 years, 55 for 20 years, 50 for 15 years, 69 for 10 years, and 148 for more than five years. She said that that continuity and corporate knowledge is what brought the great level of services that the County employees provided. She said that graduations started the following week, and announced that on June 4, the Kappa Alpha Psi fraternity was hosting an event at Mt. Zion First African Baptist Church to showcase essays.

Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6.a. Proclamation Declaring the First Friday in June as National Gun Violence Awareness Day.

Ms. Mallek **moved** to adopt the Proclamation Declaring the First Friday in June as National Gun Violence Awareness Day as she read it aloud.

Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

National Gun Violence Awareness Day

WHEREAS, every day, more than 120 Americans are killed by gun violence, alongside more than 200 who are shot and wounded, and on average there are nearly 17,000 gun homicides every year and Americans are 26 times more likely to die by gun homicide than people in other high-income countries; and

WHEREAS, Virginia has 1,121 gun deaths every year, with a rate of 12.8 deaths per 100,000 people and

has the 36th-highest rate of gun deaths in the US, and localities across the nation, including Albemarle, are working to end the senseless violence with evidence-based solutions; and

WHEREAS, protecting public safety in the communities they serve is local government's highest responsibility and support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories. Local officials and law enforcement officers know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and

WHEREAS, gun violence prevention is more important than ever as the pandemic aftermath and economic stress continues to exacerbate gun violence after more than three years of increased gun sales, increased calls to suicide and domestic violence hotlines, and an increase in gun violence; and

WHEREAS, anyone can join this campaign by pledging to Wear Orange on June 2nd, the first Friday in June in 2023, to help raise awareness about gun violence. By wearing orange, Americans will raise awareness about gun violence, honor the lives of gun violence victims and survivors, renew our commitment to reduce gun violence, pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, do hereby declare the first Friday in June to be National Gun Violence Awareness Day and encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

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Mr. Mike Fox, State Legislative Lead for the Virginia Chapter of Moms Demand Action for Gun Sense in America (MDAGSA), thanked the Board for its support. He stated that they hoped small actions such as the proclamation would provide solace to those grieving for victims of gun violence.

Ms. McKeel said that the figures in the proclamation were shocking, and they were experiencing gun violence within the County.

Mr. Andrews spoke about the severity of the statistics. He said that there were nearly 44,000 deaths due to guns per year in the US, including suicide and accidental injuries.

Mr. Gallaway echoed the previous comments. He said he was frustrated that gun violence continued to be mired in politics when the problem could be fixed with meaningful, reasonable solutions that did not infringe on constitutional rights. He said he hoped elected officials could find the backbone to take politics out of the issue to address the problem.

Ms. LaPisto-Kirtley said she agreed with the previous statements. She said she supported common-sense laws that kept guns away from those who should not have them. She said people should be held responsible because children were killed because of improperly secured guns. She said that the County should do what it could to address the problem.

Ms. Mallek thanked Mr. Fox and MDAGSA for their work in addressing gun violence and drafting the ordinance. She said the relationships MDAGSA built had helped make progress.

Ms. Price said thoughts and prayers did not end gun violence, and she was tired of thoughts and prayers. She said that the local government was limited in how it could take action, and she respected the 2nd Amendment. She said guns were the number one cause of death of children in the US, six times higher than the second-ranked country, and 20 times higher than the global average. She said that they were limited in how they could take action, but they were able to vote in every election as citizens to hope for change.

Ms. Price presented the proclamation to Mr. Fox.

Item No. 6.b. Proclamation Recognizing Mental Health Awareness Month.

Ms. Mallek **moved** to adopt the Proclamation Recognizing Mental Health Awareness Month.

Mr. Andrews **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

Mental Health Awareness Month

WHEREAS, Mental Health Awareness Month was founded in the United States in 1949 to educate the public about mental illness, and highlight of the importance of mental health and wellness for all

Americans; and

WHEREAS, the World Health Organization defines mental health as a state of mental well-being that enables people to cope with the stresses of life, realize their abilities, learn well and work well, and contribute to their community. It is a basic human right, and crucial to personal, community and socio-economic development; and

WHEREAS, according to the latest statistics available from the National Institute of Mental Health Disorders, part of the National Institutes of Health, it is estimated that 26% of Americans ages 18 and older, about 1 in 4 adults, suffers from a diagnosable mental disorder in a given year; and

WHEREAS, the County is committed to supporting mental health resources for our citizens and employees though our community partners, ongoing work with area non-profit agencies, and our Department of Social Services.

NOW, THEREFORE, BE IT RESOLVED, that we, the Albemarle County Board of Supervisors, do hereby recognize May as Mental Health Awareness Month, and confirm our commitment educating the community about mental wellbeing.

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Ms. Vanessa Stangil, Manager of Safety and Wellness, accepted the proclamation. She said that the proclamation was important to bringing greater visibility, understanding, and gravity to the importance of mental health. She said that the COVID-19 pandemic impacted millions of people's mental health, but there was a mental health crisis prior to the pandemic. She said that people needed to care for their mental health as they did their physical health. She said mental health impacted all facets of daily life, the ability to work, to care for families, and to care for oneself. She hoped that the response to the proclamation would be of greater compassion, empathy, and willingness to share support resources.

Ms. McKeel said that there was a thread in the budget cycle to support services for mental health and other needs of residents. She said she looked forward to the implementation of the HART (Human Services Alternative Response Team) group, which was responsible for responding to mental health calls.

Mr. Andrews echoed Ms. McKeel's comments. He noted that the HART team would help coordinate services. He said that 988 was an important number to call. He said that the theme for the month was "More than Enough," meaning everyone was worthy and more than enough of life, love, and health.

Mr. Gallaway said that there were connections between mental health and gun violence. He said that they should not view mental health as the reason for gun violence. He said that while there were stresses that could hit mental health that could lead to violent acts, it was not on those people. He said that there were ways to support people struggling with mental health disorders and ways to restrict access to firearms. He said that everyone at times struggled with their own mental health outside of diagnosed disorders. He said that people with diagnosed needs required additional help and care.

Ms. LaPisto-Kirtley said that the recognition was important and noted many people struggled from time to time with mental health stresses. She said that the HART program indicated they were moving forward as a County and trying to help everyone.

Ms. Mallek said that they all faced the challenge to help strengthen people's resilience. She said that there was so much the community could do to promote discussion, increase awareness, and reduce the stigma of seeking treatment. She said the HART team had helped set the stage to provide better access to treatment rather than jail.

Ms. Price stated that mental health issues did not cause gun violence, and gun violence could be committed by people without mental health problems. She said she considered committing suicide with a gun 15 years ago because of how she was treated as a transgender woman. She said in 2023, there had been 543 anti-trans bills proposed in state legislatures in 49 states. She said 70 bills had passed, and 372 were active.

Ms. Price stated that 18 states had blocked healthcare for transgender individuals, including Missouri and Oklahoma where they proposed to block care for individuals under the age of 26. She said that there was a difference between a mental illness and a mental health issue, and the distinction was important. She said that gun violence could not be blamed on mental disorders, but they could recognize that the easy access to weapons by people who were struggling made the US the leader in gun deaths and gun violence.

Ms. Price said that once she was able to transition, her concerns went away, and she could no longer imagine feeling suicidal. She thanked Ms. Stangil for bringing awareness to mental health. She said that in the Navy, she met many people who did not seek help for their mental health because they would lose their careers, and they ended up losing their lives. She said that mental health needed to be treated the same as physical health.

Ms. Price presented the proclamation to Ms. Stangil.

Item No. 6.c. Proclamation Recognizing May 14-20, 2023 as National Police Week.

Ms. LaPisto-Kirtley **moved** to adopt the proclamation recognizing May 14-20, 2023 as National Police Week as she read it aloud.

Mr. Andrews **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

Police Week May 14-20, 2023

WHEREAS, in 1962, President John F. Kennedy signed the first proclamation recognizing May 15th as Peace Officers Memorial Day and the week in which it falls as National Police Week, "to pay tribute to the law enforcement officers who have made the ultimate sacrifice for our country and to voice our appreciation for all those who currently serve on the front lines of the battle against crime," and

WHEREAS, the safety and well-being of Albemarle County residents being of the utmost importance to the prosperity and livelihood of Virginia's families and communities; and for forty years police officers of the Albemarle County Police Department have been dedicated to protecting and serving Albemarle County communities – our neighborhoods, schools, and families; and

WHEREAS, police officers risk their lives each and every day in order to ensure public safety and enforce the laws of the land; and

WHEREAS, Albemarle County values the courage and devotion of our police officers, as our collective prosperity depends on the integrity with which our law enforcement officers maintain peace and security; and

WHEREAS, Police Week and Peace Officers Memorial Day are opportunities to honor the officers who have fallen in the line of duty, and recognize the sacrifices made by the families of those officers and the families of those who continue to protect and serve our communities.

NOW, THEREFORE BE IT PROCLAIMED that we, the Albemarle County Board of Supervisors, do hereby recognize

**May 14 through May 20, 2023 as
POLICE WEEK**

and **May 15, 2023, as PEACE OFFICERS MEMORIAL DAY** in Albemarle County, and call these observances to the attention of all residents.

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Police Chief Sean Reeves thanked the Board for its continued support. He said the Albemarle County Police Department (ACPD) had been able to overcome significant challenges over the past year. He said they faced challenges related to workforce stabilization, but the Board had supported enhanced staffing to ensure services kept pace with demand and created the HART program. He said that it was a time of remembrance for those in law enforcement who had lost their lives. He said 246 law enforcement officers gave their lives in 2022, including seven officers from Virginia who lost their lives in the line of duty.

Chief Reeves listed the names of the fallen police officers in Virginia: Chief of Police Joe Carey, Brodnax Police Department (PD), end of watch December 16, 2022; Officer Trey Marshall Sutton, Henrico County PD, end of watch March 31, 2022; Officer Caleb Ogilvie, Covington PD, end of watch March 14, 2022; Sergeant John Joseph Donohue, Fairfax PD, end of watch February 23, 2022; Officer John Painter, Bridgewater College PD, end of watch February 1, 2022; Master Police Officer David J. Nieves, Virginia Beach PD, end of watch February 1, 2022; Sergeant Malek Z. Majzoub, Portsmouth Sheriff's Office, end of watch January 15, 2022. He said that the County was fortunate to have dedicated officers who were still willing to serve and protect despite the dangers.

Ms. McKeel said she was struck by how the officers died in small rural areas and in cities throughout the state. She said that the proclamations sent a message regarding guns, mental health, and police officer safety. She said that a celebration of the police force was warranted and thanked Chief Reeves for his service, as well as the families of the officers.

Mr. Andrews said he appreciated that Chief Reeves read the names of the officers who died. He expressed gratitude to the officers and their families.

Mr. Gallaway said he was deeply appreciative of the police officers and their service to the County. He said that his grandfather served as a police officer after returning from service in the Air Force, and though they had never met, the proclamation had reminded him of his grandfather.

Ms. LaPisto-Kirtley said that the police stood between chaos and democracy, and she

appreciated the sacrifices of the officers and their families. She said that they would not be what they were without the officers.

Ms. Mallek thanked Chief Reeves for his leadership. She said the ACPD showed courage and compassion, and they were able to quickly respond to danger. She said that they informed people how to keep themselves and neighbors safe. She said that citizens should be proud of the budget resources dedicated over the years to increase staff capacity and training.

Ms. Price said there was no other group in the County for which she held a closer affinity than the ACPD. She said that institutions were respected based on how individuals performed their duties, and the ACPD was held in high regard in the community because of how the officers performed their duties. She said that the ACPD used its authority honorably. She thanked the officers and their families for their service.

Ms. Price presented the proclamation to Colonel Reeves.

Item No. 6.d. Proclamation Celebrating Jewish-American Heritage Month.

Ms. McKeel **moved** to adopt the proclamation celebrating Jewish-American Heritage Month.

Ms. LaPisto-Kirtley **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

PROCLAMATION CELEBRATING JEWISH-AMERICAN HERITAGE MONTH

WHEREAS, Jewish American Heritage Month is a time for commemorating the history, contributions, and cultures of the diverse population of Jewish Americans; and

WHEREAS, the Jewish community has played an important role in shaping, advancing, and enriching the fabric of Albemarle County ever since the first Jewish family settled in Albemarle County in 1757; and

WHEREAS, Jewish Americans, due to their own long history of persecution, have often found common cause with movements working to expand civil rights, liberty, and human dignity for all; and

WHEREAS, the Jewish American experience has always been held together by the forces of hope, resilience, and striving for a better tomorrow.

NOW, THEREFORE, BE IT PROCLAIMED that we, the Albemarle County Board of Supervisors, do hereby recognize and celebrate Jewish American Heritage Month and renew our dedication to the work of building a fully inclusive tomorrow, one where a great diversity of origins is not only accepted but also celebrated here at home and around the world.

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Mr. Jesse Brookins, Director of Office of Equity and Inclusion (OEI), accepted the proclamation on behalf of Rabbi Vanessa Ochs, Professor of Religious Studies and Director of the Jewish Studies program at the University of Virginia, who was not able to attend the meeting. He said consistent with the theme everyone had shared, they all mattered. He said their safety, mental health, and their sense of community belonging mattered. He said that recognizing how they showed up within their culture, belief system, and standards was very important. He said that Rabbi Ochs was the author of seven books, and she and her husband lived in Charlottesville and were members of the congregation of Beth Israel. He said that they were honoring someone who continued to educate people on the significance and importance of culture and diversity, given the recent years of unfair persecution that was tied to a larger history rooted in hate,

Ms. McKeel said she recently watched a documentary called, "The Levys of Monticello." She said the documentary was about a Jewish family, the Levys, who purchased and maintained Monticello after Thomas Jefferson died. She said that the Levy family also purchased and remodeled what was to become the Levy Opera House, opening in 1888. She said that she was wearing her Star of David. She explained she found the Star of David in her father's jewelry after he died. She said the Star of David was engraved with a name and a date and her father's initials on the back, and it was from 1917.

Mr. Andrews said he appreciated that the proclamation was a celebratory motion.

Ms. LaPisto-Kirtley said that she was part of the Visitor's Bureau, so she would request to add the story of the Levy family to the Visitor Bureau's website. She noted that Mr. Levy was a Commodore in the Navy.

Ms. Mallek said that when she was five, the schools in the City were closed. She said that

mothers throughout the City and County of all religions and races had to work to organize schooling for children. She said that those same individuals strengthened the community, and their descendants were continuing to work to strengthen the community.

Ms. Price noted that Uriah P. Levy was the first Jewish person to serve as Commodore in the US Navy. She said that Mr. Levy was instrumental in ending the practice of flogging as punishment in the Navy. She said that she did not know of another demographic in the world that had been subject to persecution than those of the Jewish faith, but every service she had attended focused on love. She commended Jewish people for working toward peace.

Ms. Price read a statement delivered by Rabbi Ochs:

"It is moving that the Albemarle Board of Supervisors recognizes that when any particular segment of the community flourishes, they all flourish. At a time when there is an increase in acts of antisemitism in the United States, we recognize that our County is a place where it feels safe to be Jewish Americans. On behalf of the Charlottesville Albemarle Jewish community, I am honored to accept this proclamation."

Ms. Price presented the proclamation to Mr. Brookins.

Item No. 6.e. Proclamation Celebrating Asian-American and Pacific Islander Heritage Month.

Ms. Price **moved** to adopt the proclamation celebrating Asian-American and Pacific Islander Heritage Month.

Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

PROCLAMATION CELEBRATING ASIAN-AMERICAN AND PACIFIC ISLANDER HERITAGE MONTH

WHEREAS, May 2023 marks the 46th anniversary of the first submitted resolution to recognize the contributions and achievements of Asian Americans and Pacific Islanders; and

WHEREAS, May 2023 marks the 31st anniversary of the federal recognition of Asian American and Pacific Islander Heritage Month; and

WHEREAS, present-day inequities faced by Asian American and Pacific Islander communities are rooted in our nation's history of exclusion, discrimination, racism, and xenophobia; and

WHEREAS, Asian Americans and Pacific Islanders are a vital part of our community's history, making important contributions to the cultural, civic, and economic life of the County.

NOW, THEREFORE, BE IT PROCLAIMED that we, the Albemarle County Board of Supervisors, do hereby recognize and celebrate May 2023 as Asian American and Pacific Islander Heritage Month and encourage our community to observe this month by learning more about our collective history to create a more inclusive and equitable future for us all.

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Mr. Brookins accepted the proclamation. He said that the proclamation emphasized understanding the many stories in America and the challenges the Asian American and Pacific Islander (AAPI) community faced and continued to face in the US. He said in recent years, misinformation surrounding COVID-19 and attacks against the AAPI community were examples. He said that they should work to understand the history and build a better future.

Ms. McKeel said that May was a significant month for AAPI heritage. She explained that May honored two historical events—May 7, 1943, which marked the arrival of the first Japanese American immigrant to the US who was a 14-year-old sailor; and May 10, 1896, which marked the completion of the first transcontinental railroad where over 12,000 Chinese laborers worked on the construction. She said that the COVID-19 misinformation made people continue to target AAPI people. She said that AAPI people helped to build our nation, from railroads and sugarcane plantations to the Civil War.

Mr. Andrews said he looked up and found that the first Pacific Islanders went to California in 1587 and that people from India went to Jamestown in 1635. He said that he appreciated the celebration of AAPI heritage.

Mr. Gallaway said he wanted to celebrate the author, Celeste Ng. He said he had Ms. Ng as a student in his playwriting class when he taught in Shaker Heights, Ohio. He said that Ms. Ng approached her writing through human relationships, not plots and stories. He said he wanted to recognize the author

Eric Liu, who wrote, "The Accidental Asian." He said that Mr. Liu was a former speech writer for President Clinton and the former CO of Citizen University. He said that before the 1960s, the category for Asian American did not exist, and "The Accidental Asian" provided a history of how the Asian American and Pacific Islander identities were formed. He recognized the author Ronald Takaki, who wrote "A Different Mirror; A History of Multiculture America," and he read the last two paragraphs of the book.

Ms. LaPisto-Kirtley said that diversity was their strength. She said that all six Supervisors had been a teacher and who had taught at one time or another, and that they had a responsibility to educate children and adults to be more accepting. She said that traveling and experiencing different cultures enriched people's lives. She noted that even the food they ate would be vastly different without diversity.

Ms. Mallek said that from 1924 to 1929, her mother lived in a New York City apartment, and her best friend was a neighbor who was from a Japanese American family. She said her mother's stories and approaches to things and what she learned were very tied to that friend. She said that when she worked in Boston in 1971, one of the faculty members at Harvard Medical School was Susumu Ito, but she was not aware of his dramatic history until 2010 when she read an article about him in the Washington Post. She said that Mr. Ito's parents immigrated to the US for farm labor jobs. She said they pushed their children to study and achieve a high education, recognizing that they may not achieve their best outcome due to his ancestry, so he went to a community college before going into the Army. She explained that Mr. Ito served in WWII, and his Japanese American unit was the one to liberate the Dachau concentration camp. She said that Mr. Ito's family was interned in the US while he fought in WWII. She said that Mr. Ito ended up teaching at Harvard.

Ms. Price said that the proclamation recognized the past wrongs which had been committed against the AAPI community. She said that they lived in a time when acknowledging past wrongdoings was considered woke or politically correct, but she considered acknowledgment to be honesty and treating people with respect. She said that from 1863 to 1869, 20,000 Chinese immigrants built the transcontinental railroads, and they were then rewarded in 1882 with the Chinese Exclusion Act. She said that she and her family had a close connection with Asia and the Pacific ring, having lived overseas many times. She said that the US had historically not fulfilled its promises to Asian people, such as with Japanese internment in WWII, and the soldiers and sailors who fought in WWII and were denied the benefits they were promised. She said that they were making a small step effort to help show that the community was better than that.

Ms. Price presented the proclamation to Mr. Brookins.

Agenda Item No. 7. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

There were no speakers from the public.

Agenda Item No. 8. Consent Agenda.

Ms. Price stated she added a resolution to the consent agenda to appoint an interim director for the Economic Development Office (EDO). She noted that Ms. McKeel had pulled Item 8.3, Schedule a Public Hearing to Consider Compensation for Planning Commission and Other Boards.

Ms. Price said the floor was open for a motion.

Ms. McKeel **moved** to approve the consent agenda as amended.

Mr. Andrews **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

Item No. 8.1. Beaver Creek Dam Supplemental Watershed Plan Agreement.

The Executive Summary as forwarded to the Board states that the Rivanna Water & Sewer Authority (RWSA) operates the Beaver Creek Dam (the Dam) and Reservoir (the Reservoir) as the sole drinking water supply for the Crozet Area. The Dam, located on Albemarle County property, was constructed in 1963 under the authority of the Watershed Protection and Flood Prevention Act and was administered by the Natural Resources Conservation Service (NRCS). The project was sponsored at that time by the Thomas Jefferson Soil & Water Conservation District (TJSWCD) and the Albemarle County Board of Supervisors. The 1960 Watershed Work Plan Agreement and 1963 Supplemental Watershed Work Plan Agreement (Supplement No. 1) (collectively, Attachment A) designate these two sponsors as "Sponsoring Local Organizations" (SLO's or sponsors).

In the years since the Dam was completed, RWSA has assumed rights and responsibilities for operation and maintenance of the Dam and pumping facilities. Albemarle County retains ownership of the property surrounding the Reservoir and Dam. Changes to the Virginia Department of Conservation and Recreation (DCR) Impounding Structures Regulations prompted a change in hazard classification of the

Beaver Creek Dam from Significant Hazard to High Hazard. With this change in hazard classification, the Dam now requires an upgrade to increase the capacity of the Dam's spillway. To address this requirement, with funding and support from NRCS, the RWSA has developed a Supplemental Watershed Work Plan-Environmental Assessment (Plan-EA) for the rehabilitation of the Dam. The draft Plan-EA is currently under review by the NRCS.

RWSA expects final approval of the Plan-EA by the NRCS in May of 2023. A Supplemental Watershed Plan Agreement Amendment (Attachment B) is included in the Plan-EA and must be executed by the Sponsoring Local Organizations of the original agreement. Approval of an amendment is necessary in order for RWSA to seek additional funding to support continued design and subsequent construction. If so authorized, RWSA would be responsible for the execution of the project, as well as all associated design, construction, and operating costs. RWSA has submitted a funding request for final design of the Dam and spillway improvements which, if approved, would cover 100% of design costs. Under the current project schedule, final design will be completed in early 2025, with construction to begin later that year.

The proposed Supplemental Agreement notes that TJSWCD and the County are signatories for the sole purpose of substituting RWSA for them as Sponsoring Local Organizations. Neither TJSWCD nor the County bear any responsibility or liability pursuant to the Supplemental Agreement. Furthermore, neither TJSWCD nor the County will be a party to any future supplement to the Watershed Work Plan Agreement unless by mutual agreement.

All costs of this project not funded by grants will be fully borne by the RWSA.

Staff recommends that the Board approve a Supplemental Watershed Plan Agreement, and authorize the Chair to sign such an Agreement once approved as to form and substance by the County Attorney.

By the above-recorded vote, the Board approved a Supplemental Watershed Plan Agreement, and authorize the Chair to sign such an Agreement once approved as to form and substance by the County Attorney.

Item No. 8.2. License Agreement for Additional Northside Library Parking.

The Executive Summary as forwarded to the Board states that the Northside Branch Library of the Jefferson-Madison Regional Library (J-MRL) opened on March 15, 2015. Co-located in the building are the County's warehouse and the Albemarle County Public Schools' (ACPS) English as a Second or Other Language (ESOL) program and training room.

From the opening of the Northside Library, the amount of patron parking has been an issue. Site constraints limit the number of parking spaces on the premises to 80. To help mitigate the issue, the County entered into a license agreement with The Daily Progress on May 1, 2017, to use 21 parking spaces at 685 Rio Road West. The agreement with The Daily Progress expired on April 30, 2020. The County entered into another license agreement at that time with RRP Investments LLC, which had purchased the Daily Progress property.

RRP Investments LLC has proposed a new parking agreement, provided as Attachment A. The initial term of the proposed new agreement would commence May 1, 2023 and end April 30, 2024, with options to renew for two additional one-year terms.

The rent for the first term of the agreement would be \$18,900. This cost would be shared equally between the County, the ACPS, and J-MRL. Funding for the remainder of FY 23 is already included in their respective budgets. Funding for FY 24 is incorporated in the proposed FY 24 budget.

Staff recommends that the Board adopt the attached resolution (Attachment B) authorizing the County Executive to execute a new parking agreement on behalf of the County once it has been approved as to substance and form by the County Attorney.

By the above-recorded vote, the Board adopted the resolution as presented in Attachment B, authorizing the County Executive to execute a new parking agreement for Northside Library on behalf of the County once it has been approved as to substance and form by the County Attorney:

**RESOLUTION TO APPROVE A PARKING AGREEMENT
BETWEEN THE COUNTY AND RRP INVESTMENTS LLC**

WHEREAS, from the opening of the Northside Branch Library of the Jefferson-Madison Regional Library, patron parking has been an issue;

WHEREAS, the County first entered into a license agreement on May 1, 2017 to use 21 parking spaces on an adjacent site at 685 Rio Road West;

WHEREAS, after the initial agreement expired on April 30, 2020, the County entered into another agreement with RRP Investments LLC, the successor owner of the adjacent site; and

WHEREAS, RRP Investments LLC has proposed a new parking agreement that would

commence on May 1, 2023 and end on April 30, 2024, with options to renew for two additional one-year terms;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves entering into a new agreement with RRP Investments LLC for additional parking adjacent to the Northside Branch Library, and authorizes the County Executive to execute the agreement on behalf of the County once it has been approved as to form and substance by the County Attorney.

Item No. 8.4. Schedule a Public Hearing for an Ordinance to Amend County Code Chapter 2, to Provide Sign-on Incentives.

The Executive Summary as forwarded to the Board states that the Board approved County Police and Fire/Rescue uniformed employee sign-on incentive payments at its December 1, 2021 meeting to address workforce stabilization challenges. The County has provided sign-on incentive payments in the past and such payments have been successful in ensuring the County is competitive among public safety personnel.

Staff has proposed a revised Ordinance (Attachment A) by adding Sec. 2-909, Compensation and Sign-On Incentives. This request is to provide incentives beyond public safety where the offering can improve recruitment and vacancy rates due to market conditions. If the Board approves, staff will schedule a public hearing to consider the revised ordinance

There is no cost associated with adoption of this ordinance. Any sign-on incentive payments provided to new employees as a result of implementation of the ordinance will be absorbed in department operation budgets.

Staff recommends the Board schedule a public hearing to consider the adoption of the proposed ordinance (Attachment A).

By the above-recorded vote, the Board directed staff to schedule a public hearing to consider the adoption of the ordinance as presented in Attachment A.

Item No. 8.4.a. Appoint an Interim Director of the Economic Development Office.

By the above-recorded vote, the Board adopted the Resolution Appointing the Interim Director of Economic Development:

BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia ("Board"), that Johnathan Newberry ("Newberry") is hereby appointed the Interim Director of Economic Development ("Interim Director") for the County of Albemarle, Virginia effective retroactively to May 8, 2023, pursuant to Virginia Code § 15.2-512; and

BE IT FURTHER RESOLVED that, during the term of Newberry's appointment, he shall have all those powers and duties of a Director of Economic Development set forth in the Code of Virginia (1950), as amended, those powers and duties delegated or imposed by the Albemarle County Code and by duly adopted motions, resolutions, or ordinances of the Board, and those powers and duties as otherwise provided by general law; and

BE IT FURTHER RESOLVED that during the term of Newberry's appointment he shall continue to perform his duties as Assistant Director of Economic Development ("Assistant Director") to the extent practicable; and

BE IT FURTHER RESOLVED that Newberry's annual salary during the term of his appointment shall be fixed by the County Executive, in accordance with the County's recently completed Classification and Compensation Study prepared by Gallagher, the results of which were presented to the Board of Supervisors of Albemarle County on March 29, 2023, and subject to any cost-of-living or market adjustment increase provided to County employees generally; and

BE IT FURTHER RESOLVED that Newberry shall serve as Interim Director under the supervision of the County Executive and at the pleasure of the Board; and

BE IT FURTHER RESOLVED that, except as otherwise provided in this resolution, Newberry is entitled to all other rights and benefits that he would receive as Assistant Director; and

BE IT FURTHER RESOLVED that the term of Newberry's appointment shall not extend beyond the effective date of the appointment of a new permanent full-time Director of Economic Development or a different Interim Director; and

BE IT FURTHER RESOLVED that, upon the expiration of the term of Newberry's appointment, his resignation as Interim Director, or his removal as Interim Director by the Board, Newberry may return full-time to his position as Assistant Director unless he has committed an act that would warrant his termination from County employment.

Item No. 8.5. Facilities and Environmental Services Quarterly Report, **was received for information.**

Item No. 8.6. VDOT Monthly Report (May) 2023, **was received for information.**

Item No. 8.7. Board to Board, April 2023, A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

Item No. 8.3. Schedule a Public Hearing to Consider Compensation for Planning Commission and Other Boards, **pulled for discussion.**

The Executive Summary as forwarded to the Board states that Albemarle County Local Government provides compensation to members serving on the following Boards and Commissions, at rates codified in the County Code: the Architectural Review Board, the Board of Zoning Appeals, the Equalization Board, the Fire Prevention Board of Appeals/Local Board of Building Code Appeals, and the Planning Commission.

As part of the Board's Fiscal Year 2024 budget discussions, the Board requested staff to research when the boards and committees last received a compensation increase and to develop a recommendation for Fiscal Year 2024.

Adjustments to pay for the Planning Commission and other Boards have not been consistently applied over time. During the April 19 Board meeting, staff advised that no record of an increase in compensation has occurred since Fiscal Year 2001, and recommended that the Planning Commission and other Boards receive the same increase in compensation that the Board had during that period of time, including the increase planned for Fiscal Year 2024 as part of the budget process. In future years, staff intends to bring forward consideration of the Planning Commission and other Boards' compensation during the budget process.

If approved following the public hearing, the total cost increase for Fiscal Year 2024 would be \$28,956 and is included in the FY 24 Adopted Budget.

Staff recommends that the Board schedule a public hearing to consider increasing compensation for the Planning Commission and other Boards.

Ms. McKeel noted that the ordinance language for the Planning Commission omitted compensation for travel. She said that the original ordinance for the Commission did not include travel compensation. She requested that they include travel cost reimbursement when the item returned for public hearing.

Mr. Andy Herrick, Deputy County Attorney, responded that there had not been travel reimbursements in the past for commissioners. He said that at the Board's request, staff could draft an ordinance to include travel reimbursements for commissioners.

Mr. Steve Rosenberg, County Attorney, clarified that the notice for public hearing would include the addition of the travel reimbursement item.

Mr. Herrick said that was correct.

Ms. Price noted that there was consensus of the Board to include travel reimbursement for commissioners.

Ms. Price said the floor was open for a motion.

Ms. McKeel **moved** that the Board authorize the Clerk to schedule a public hearing to consider compensation for Planning Commission and other boards.

Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

Agenda Item No. 9. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Trevor Henry, Deputy County Executive, said that they began tying the report to the Strategic Plan a few months before. He said that the first item was tied to Goal #1, which was to encourage a vibrant community with economic and recreational opportunities that served all community members. He said that a new 18-hole disc golf course was opened at Chris Greene Lake. He said that the amenity was developed in a partnership between Parks and Recreation for space and in-kind services and the Blue Ridge Disc Golf Club for volunteer support.

Mr. Henry said that this item was tied to Goal #3, invest in infrastructure and amenities that create connection, opportunity, and well-being. He said that student researchers from the UVA Graduate School of Architecture contributed to the Regional Digital Equity Plan in development by the Broadband Accessibility and Affordability Office. He said that the work was done in partnership with community organizations, the City, and UVA. He said the analysis resulted in several key recommendations that would be incorporated into the final plan. He said that additional outreach would be conducted over the summer through focus groups, CACs (Community Advisory Committees), Albemarle County Public School (ACPS) families, and surveys.

Mr. Henry said that the next item supported Goal #4, encourage a vibrant community with economic and recreational opportunities that serve all community members. He said the Office of Economic Development (EDO) partnered with the City Office of Economic Development and the Central Virginia Small Business Development Center to offer educational programming to entrepreneurs and small business owners for a pitch competition. He said that of the 70 initial participants, 22 completed the preliminary pitch, and six finalists were selected to pitch to a panel of judges on May 11. He said that two County entrepreneurs, Philip Rich of Black Roses Landscaping and Christopher Chain of Season Report competed in the final round, and Mr. Rich took second place and a \$5 thousand prize.

Mr. Henry said that the next item fell under Goal #6, recruit and retain engaged public servants who provide quality government services to advance our mission. He said that a team of employees from several departments planned and implemented a weeklong internal campaign to celebrate the staff during the Public Service Recognition week. He said that they included an award ceremony to recognize staff for years of service and for individual and team contributions. He said that closing events were held at Darden Towe Park.

Mr. Henry said that the next item supported Goal #1, nurture a safe and healthy community. He said that the Central Virginia American Red Cross held its Celebration of Heroes Awards. He said the celebration included awarding Senior Firefighter Titus Castens as the 2023 First Responder Hero. He said that Colonel Lettie Bien received the 2023 Military Hero Award.

Mr. Henry said that the next item also supported Goal #1, nurture a safe and healthy community. He said that the ACPD (Albemarle County Police Department) representative for the HART (Human Services Alternative Response Team) team had been selected after an open process. He said the three members of the team were Senior Firefighter Titus Castens from ACFR (Albemarle County Fire Rescue), Steven Hitchcock from DSS (Department of Social Services), and Master Officer Brian Miller from ACPD. He said the team would be adjusting responses based on each situation to ensure the safety and best outcomes for the individuals involved. He said they were beginning training and developing protocols to implement the co-responder model.

Mr. Henry said that the next item supported Goal #3, to invest in infrastructure and amenities that create connection, opportunity, and well-being. He said that the County completed an archaeological study as part of the Courts project. He said that the study was performed in the vicinity of Courts Square due to the extensive history of the site in the County. He explained that in 1773, it was the former location of the Swan Tavern, an inn and pub owned by John Jouett Sr. He said that Rivanna Archaeological Services shared information about the unearthed samples of the materials that were discovered, including bowls, glass bottles, and a press pipe. He said that the materials were being cataloged, and a report was expected by the end of the year.

Mr. Henry said that the How-To Festival offered short presentations and demonstrations on a variety of topics for attendees. He said the Let's Talk Albemarle Van attended the event to teach people how to get involved in local government.

Mr. Henry said that several Supervisors attended the announcement of AgroSpheres, a company developing next generation, environmentally friendly crop protection products. He said the company would invest \$25 million to expand in the County. He said that the EDO (Economic Development Office) coordinated the announcement with the Governor, and the company would increase production and R&D (research and development) space at its operations based off Seminole Trail. He said 50 new jobs would be created. He said event speakers included the Governor, Chair Price, and Mr. Jeff Richardson.

Mr. Henry said that VDOT hosted an open house at the 5th Street County Office Building (COB-5th) for community members to learn about the plans for the 5th Street Station trails hub. He said that Facilities and Environmental Services (FES) and Parks and Recreation staff were present to provide updates on the planning and development of the future park at Biscuit Run.

Mr. Henry said that he attended a meeting with Deputy Chief Terry Walls, Animal Patrol Officer Mason Walsh, Deputy City Manager Sam Sanders, and a representative from CPD (Charlottesville Police Department) at the SPCA (Society for the Prevention of Cruelty to Animals). He said they met with senior staff and several board members to review the corrective action plan. He said they had received the FY22 audit results as required in the MOU (Memorandum of Understanding). He said they suggested that a formal presentation be scheduled before the Board in the first quarter of the next fiscal year.

Mr. Henry said he attended the ECC (Emergency Communications Center) Board meeting. He said that they expected, on average, 22,000 to 25,000 people per day in the region on Friday, Saturday, and Sunday as UVA hosted graduation.

Ms. McKeel asked if they knew when the HART team would be ready to respond to calls.

Mr. Doug Walker, Deputy County Executive, responded that they did not know at this time, but they could follow up with the Board. He said they had an estimate as to when the team would transition from training to the implementation period. He said that they wanted to be specific with the Board and the public so they could manage their expectations regarding when the team would be in the field.

Ms. Mallek thanked FES and the County Historic Preservation staff who were helpful in the archaeological study of Court Square.

Ms. Price said she appreciated the biographies of the new employees which were included in the report.

Ms. McKeel said she wanted to share the list of new employees with her CAC. She said that the new employees were related to the Strategic Plan and the Climate Action Plan. She said that all of the positions were needed in the County organization, and they would make a difference for the community.

Ms. Price said that her daughter was listed as the Classified Employee of the Year at the elementary school where she worked.

Ms. LaPisto-Kirtley said she was excited about the new street sweeper and that the County had purchased two Chevy Bolt EUVs (Electric Utility Vehicles).

Agenda Item No. 10. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Andrews stated he had received numerous letters and emails regarding ranked choice voting (RCV). He said that the Board was not intending to take action prior to the upcoming election, but that Arlington County had set up a website to inform the public and solicit opinions about RCV. He encouraged the Board to set up a similar website for the County to solicit community input.

Mr. Gallaway stated that they received an update at the TJPDC (Thomas Jefferson Planning District Commission) meeting on the Safe Streets for All grant. He said they were targeting the summer of 2025 for completion.

Ms. Mallek stated that next week, on Monday and Tuesday, was the Local Government Advisory Committee meeting for the EPA (Environmental Protection Agency) in DC. She said the meeting would feature a roundtable where public information officers could participate virtually. She said that it would be a tabletop exercise to work through some of the issues involved in risk communications, and the topic was particularly about PFAS (polyfluoroalkyl substances) and chemical contamination. She said that she shared the invitation with County staff regarding the meeting.

Ms. Price clarified that the County was looking to research more information and offer more education before making a decision regarding RCV.

Agenda Item No. 11. Closed Meeting.

There was none held.

Agenda Item No. 12. Certify Closed Meeting.

There was none.

Non-Agenda Item. **Recess.** The Board recessed its meeting at 4:37 p.m. and reconvened at 6:00 p.m.

Agenda Item No. 13. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

John Davidson introduced Isaac Bigler, Ian Miller, and Nathan Branch. He said that they were all seniors at Monticello High School, and they were speaking to highlight a traffic issue at the school. He explained that there were two student parking lots at the school, but there was only one exit. He said that it often took 10-15 minutes to exit the parking lot at the end of the day due to traffic congestion. He said that they had decided to take on the issue as their Government Class's Community Action project. He said they had made a presentation with all their data sources and a better description of the proposed plan. He said that they had provided copies of their proposal to the Board for it to review. He said he hoped that this issue could be discussed further so that they could get another exit installed.

Heather Rowland, Samuel Miller District, said she was speaking about concerns over the CASPCA (Charlottesville-Albemarle Society for the Prevention of Cruelty to Animals) controversy. She

said that the CASPCA had a toxic work environment and had mistreated animals in its care. She said the CASPCA Board had engaged McGuire Woods to investigate the allegations, and on April 21, a one-page executive summary was released. She said that the summary found the CASPCA concerns to be correct, the CASPCA Board had failed, and CASPCA management had failed.

Ms. Rowland stated that the CASPCA Board was required to undertake five actions to resolve the issues identified by the investigation. She said that the first action was underway, but that the Board had been more reticent about the others, and noticeably silent about the fourth action, the restructuring of and governments training for the CASPA Board and its need to be more involved in shelter operations. She said that the Board of Supervisors had power over funding for the CASPCA, and it could use that influence. She said that the CASPCA CEO had yet to be dismissed and was still receiving a \$190 thousand salary. She questioned whether the CASPCA deserved the Board's seal of approval.

Peter Krebs, participating virtually, said that the City had a tradition of celebrating Bike to Work in May. He said a larger coalition had worked to develop a Bike to Work Week. He said organizations were to include the County, the City, the Community Climate collaborative (C3), Livable Cville, the PEC (Piedmont Environmental Council), Rideshare at TJPDC (Thomas Jefferson Planning District Commission), and UVA Sustainability. He announced that three events would be hosted the following day. He said from 7:30 a.m. to 9:30 a.m. a snack station for cyclists would be at the UVA Aquatic and Fitness Center. He said that at the County Office Building (COB) there would be a snack and encouragement station from 7:30 a.m. to 9:30 a.m. He said that from 4 p.m. to 6 p.m. in the parking lot of the County Office Building (COB), there would be an e-bike demonstration. He said that more information was available at biketoworkcville.org.

Agenda Item No. 14. Action Item with Public Comment: Ordinance to Provide Grants or Loans for Affordable Housing. **Deferred from April 19, 2023.**

The Executive Summary as forwarded to the Board stated that in April 2019, the Thomas Jefferson Planning District Commission (TJPDC) released the Comprehensive Regional Housing Study and Needs Analysis. The report identified the need for an additional 10,070 affordable housing units in Albemarle County to be created by the year 2040.

On July 7, 2021, the Board of Supervisors approved Housing Albemarle, the County's new housing policy, but delayed implementation of the following elements until a package of developer incentives to support the construction of affordable housing was approved and implemented:

1. the increased percentage of affordable housing units in residential developments subject to rezonings or special use permits;
2. the increase in compliance periods for affordable housing units; and
- 3) the new price levels for both affordable for-sale and for-rent units.

Between June and October 2021, staff held four meetings with members of the developer community to discuss the components of an incentives package to support the provision of Affordable Dwelling Units (ADU) and developers' efforts to meet the County's affordable housing goals.

On February 16, 2022, the Board held a work session to discuss a proposal for an Affordable Housing Overlay. Based on feedback received during the work session, staff determined that an alternative approach to developer incentives was more appropriate.

On May 4, 2022, the Board held a second work session to discuss affordable housing incentive programs. The focus of this work session was on a possible ADU Program ordinance, which could include developer incentives. As a result of this work session, the Board directed staff to submit a Resolution of Intent (ROI) to consider amending the Albemarle County Zoning Ordinance to include an ADU Program.

On February 1, 2023, the Board held a work session to review and provide feedback on a proposed Affordable Rental Housing Grant Program to support the construction or preservation of affordable rental housing.

On April 19, 2023, the Board held a public hearing on the Affordable Rental Housing Grant Program. Following the public hearing, the Board directed staff to draft a revised ordinance that simply enables grants or loans, without references to any specific Affordable Rental Housing Grant program(s). The Board also directed further consideration of grant program specifics at a later date, following the convening of affordable housing stakeholders that includes members of the Board.

Staff has revised proposed Ordinance No. 23-A.2() (Attachment A) to remove references to the proposed Affordable Rental Housing Grant Program, as directed. If the revised ordinance is approved, staff will schedule a work session to discuss the specifics of a grant program to support the construction of affordable housing.

Implementation of the ordinance is anticipated in the staffing levels for a future incentive program. Any affordable housing grant or loan program developed will be brought forward for Board consideration and any budget impacts will be included in those program discussions.

Staff recommends the Board adopt the attached proposed ordinance (Attachment A) to enable

the County to make grants or loans to support the construction or rehabilitation of affordable housing.

Ms. Stacy Pethia, Housing Policy Manager, said they would talk about an ordinance that would authorize the County to provide grants or loans for affordable housing. She said they would go over a little bit of background, where they were today, and what they discussed in the work session the prior month. She said they would then look at the state enabling legislation and the ordinance.

Ms. Pethia said since July 2021, when the Board adopted Housing Albemarle, they had held work sessions on an affordable housing overlay and affordable dwelling unit (ADU) programs. She said they had a work session on an affordable rental housing grant program in February, which was presented to the Board at a public hearing in April. She said that the Board did not move forward with that program in April, as there were some changes they wanted to make.

She said that Housing Albemarle policy focused on the 60% - 80% area median income (AMI), especially the affordable rentals and home-ownership categories. She said when the Board adopted the policy in 2021, it included a delayed implementation of three actions; to increase the percentage of affordable unit set-asides from 15% to 20% in rezoning applications, changing the maximum sales and rental pricing for ADUs, and changing the affordability periods from 10 years to 30 years for rental housing and to 40 years for the for-sale homes. She said those actions were delayed until staff could come up with developer incentives to help developers meet these guidelines.

She said that during the April public hearing, they discussed a grant program that focused on the affordable rental housing category at 60% AMI. She said that the Charlottesville Metro Area AMI had just been increased to \$123,300 per year, which was an 11% increase over the previous year. She said that the grant program was helping developers reach the maximum affordable rents of 60% AMI level, providing 20% of ADU in new residential developments, and providing rental units as affordable units for a 30-year period.

The Board did not act on the ordinance in April, but requested that staff come back to look at the ordinance itself. She said that the ordinance needed to be adopted before a program could be implemented based on Virginia Code §15.2-958. She said that the proposed ordinance was written to align with the state enabling legislation. She said that staff proposed that the ordinance be included in the Zoning Ordinance as Appendix A.2, Grants or Loans for Affordable Housing, and that it allow future use of the full state enabling authority if desired.

She said that the original proposed ordinance included references to an affordable housing grant program, and those references were removed in the current proposed ordinance. She said that the original proposed ordinance included a 30-year affordability period. She said that the Board discussed changing it to 10 years to match the state enabling legislation to provide the County flexibility in any type of program that came out in the future. She said that the proposed ordinance included in the agenda package still included the 30-year period reference, and that Mr. Andy Herrick, Deputy County Attorney, had emailed to all Supervisors an alternative ordinance that changed the 30-year period to a 10-year period.

Ms. McKeel said that her takeaway from a conversation with Ms. Pethia earlier in the week was that the average homeowner would not be able to handle the 30-year period, and asked Ms. Pethia to expand on that.

Ms. Pethia said that, because the state enabling legislation and the ordinance included references to the County's ability to provide grants or loans to homeowners for housing rehabilitation projections. She said that it was one thing when there was a new buyer who purchased a home that the County had already placed a restriction on, and they knew they would not be able to sell that home at market price for 30-40 years. She said that a homeowner who had lived in their home for 20 years purchased that home with the knowledge that they could sell it for whatever they could get on the market in the future, so it would be difficult for the County to place that restriction on it for a 40-year period. She said that there were also some programs that sometimes were just not appropriate to keep affordable for that long.

Ms. McKeel said that the Board was frustrated with not being able to keep affordable houses on the market because they were constantly going to market. She said she was also hearing that a 10-year minimum would also allow them more flexibility and maybe more success with the program.

Ms. Pethia said that was correct. She said that even if the ordinance stated a 10-year minimum, they could set whatever they wanted in the program that the County designs.

Ms. McKeel said that various Supervisors had expressed frustration about getting the affordability to last as long as it possibly could, but that Ms. Pethia was explaining the flip side to say that some flexibility would be good, and that the minimum of 10 would not necessarily stop them from putting restrictions of 20 or 30 years.

Ms. Pethia said that was correct. She said that the proposed grant program discussed in April included a 30-year affordability period for rental housing because that was in line with the low-income housing tax credit compliance period, which was normally 30 years. She said that the legislation only allows the County to provide grants for new construction of rental housing, so they would need to find a different program to address affordable for-sale housing, but through whatever program that came out to

look like, they could attach whatever affordability they wanted to do.

Ms. McKeel confirmed that it may vary, and they would not have to set an absolute and say they would all be a certain way.

Ms. Pethia said yes, they could vary them program by program.

Mr. Andrews confirmed that the legislation did not distinguish the 10 years for a grant to a bigger development versus individuals for a rehabilitation district.

Ms. Pethia said that was correct, that it simply stated that the units needed to be affordable for a minimum of 10 years.

Mr. Gallaway said that they could create a program, and the more robust the incentive, could follow the longer timeframe.

Ms. Pethia said yes.

Ms. LaPisto-Kirley said that she agreed with Mr. Gallaway's statement, and asked if grants would affect that, or would it be the County's incentives for the developers that would allow them to go beyond the 10-year period.

Ms. Pethia said it would be the County's incentive program.

Ms. Mallek said that she was having a hard time using taxpayer money for something that was in the short term, and not going to stick, so she would need to be persuaded about that. She said that having something where there was a lot of flexibility, when it could be perceived as unequal opportunity, that sounded like a liability to her. She said to have a person deciding who would get 20 years and who would get 10 years, would it be to the County's advantage to have something that was clear.

Mr. Andy Herrick, Deputy County Attorney, said that the guidelines would still be uniform, it would just be a matter of the minimum time period in those guidelines. He said that he did not believe that shortening it to the 10 years that was allowed by statute would necessarily invite arbitrary or capricious decisions by the program administrator, it would just allow them to go with a shorter time period if that was what the Board wanted.

Ms. Mallek asked if having a higher number now would protect the County as it had for homestays, for examples, from further changes in the legislatures, where if they had a program that was already established, they would get to keep it.

Mr. Herrick said that it might, but that it was hard to say what changes there might be in the enabling legislation going forward. He said that at this point, localities had the discretion to set it as low as 10 years, but a higher threshold was allowed as well.

Ms. Mallek asked if there were concerns from people already in their houses making purchases under a certain set of assumptions. She asked about having this take effect after the adoption of the ordinance.

Mr. Herrick said that it was his understanding that this would apply to new programs going forward, and would not affect those who may be under existing programs.

Ms. Mallek said that this was raised as an obstacle to doing this tonight, and she was glad that it was not an issue anymore.

Ms. Price said the title indicates this was for grants or loans for affordable housing. She said she saw this as different from a typical application coming in and they looked at affordable housing under a different situation. She said she wanted to confirm that it applied to rehabilitation or producing, and she understood that rehabilitation referred to an existing house, like a fixer-upper, whereas producing would be a new structure.

Ms. Pethia said that was correct.

Ms. Price clarified that it was loans or grants, which was different than what they saw for a zoning map amendment application.

Ms. Pethia said that was correct, that they did not provide loans for housing projects, but that could be looked into in the future. She said they typically provide funds to developers as grants. She said the new construction applied to rental housing only, and that could also be rehabilitating a rental housing project, so that could be an apartment building that was 30 years old, and they asked for assistance to renovate the units to bring them back up to code and make them look better, and the rehabilitations for homeowners as well. She said that these funds could not be used to build affordable homeownership opportunities at this time.

Ms. Price said that Ms. Pethia mentioned an apartment building if someone was doing rehabilitation. She asked if they had a number of detached single-family, all considered to be the same project, would that be eligible for consideration under this program.

Ms. Pethia said they would have to check into that and look at how that was defined.

Ms. Mallek asked about the proposed ordinance section A.2-204.C, grants or loans may be provided ... She said that one of the criteria was to enhance the neighborhood and to reduce displacement of low- and moderate-income residents from the property. She asked if "reduced" was state code, and said that she would rather say "prevent."

Ms. Pethia said that was state code language. She said that it was focused on the homeownership loans to individual homeowners, and it was to help them to improve their property so they would not have to move.

Ms. Price asked the Clerk if anyone from the public was signed up to speak.

Ms. Borgersen said there were not.

Ms. Price said that the matter was back before the Board for comments.

Ms. McKeel said that she felt comfortable with the language of the minimum of 10 years and was supportive of where they were.

Mr. Andrews said he was supportive because of the reflection of this in the statute and the flexibility to expect a longer period.

Mr. Gallaway said they had to do this to allow them to have a program, and this did not define what the programs were, other than to say it had to be a minimum of 20% of units for a minimum of 10 years. He said their programs were still within their ability to create and define, and they needed to get this done because it was just one of the tools that Housing Albemarle was going after.

Ms. LaPisto-Kirtley said she was supportive.

Ms. Mallek said that she was satisfied that the real debate would be when the program was set up, but that she supported this.

Ms. Price said that she supported this, and that the floor was open for a motion.

Ms. Mallek **moved** that the Board adopt the alternate ordinance as amended, to enable the County to make grants or loans to support the construction or rehabilitation of affordable housing.

Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

ORDINANCE NO. 23-A.2(1)

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA BY ADDING APPENDIX A.2, GRANTS OR LOANS FOR AFFORDABLE HOUSING

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Appendix A.2, Grants or Loans for Affordable Housing is hereby added to the Code of the County of Albemarle, Virginia as follows:

By Adding:

Appendix A.2, Grants or Loans for Affordable Housing

Sec. A.2-200 Short title.

Sec. A.2-201 Purpose.

Sec. A.2-202 Definitions

Sec. A.2-203 Authority to make grants or loans.

Sec. A.2-204 Conditions and restrictions.

Sec. A.2-205 Administration by the County Executive; approval of certain loans and new programs by the Board of Supervisors.

Appendix A.2 Grants or Loans for Affordable Housing

Sec. A.2-200 Short title.

This appendix may be known and cited as the "affordable housing grant and loan program."

Sec. A.2-201 Purpose.

The purpose of this appendix is to enable the County of Albemarle to make grants or loans to owners of residential rental property occupied, or to be occupied, by persons of low and moderate income, for the purpose of rehabilitating or producing such property, and to make such grants or loans for the benefit of certain owner-occupied property. The preservation of existing housing in safe and sanitary condition and the production of new housing for persons of low and moderate income are public purposes and uses for which public money may be spent pursuant to state enabling authority.

Sec. A.2-202 Definitions.

For the purpose of this appendix, the following words and phrases have the meaning given to them in this section except where the context indicates a different meaning.

- (A) "Applicant" means an owner of residential rental property, or a person or entity that seeks to improve certain owner-occupied dwelling units, who submits a completed application in accordance with any loan or grant program guidelines adopted by the Board of Supervisors under this appendix, as amended and as applicable.
- (B) "Loan" means funds provided to an applicant under this appendix as a loan secured by a Deed of Trust to ensure repayment of the loan, and to ensure compliance with other conditions of the loan set forth in this appendix, to be used for the purposes set forth in this appendix.
- (C) "Grant" means funds provided to an applicant under this appendix, with conditions set forth in this appendix and (where applicable) a performance agreement, to be used for the purposes set forth in this appendix.
- (D) "Low- and Moderate-Income Persons" means persons or families whose combined income is:
 - (i) for purposes of rental properties, 60% or less of the Annual Median Income as determined by the United States Department of Housing and Urban Development for the Charlottesville Metropolitan Area, or
 - (ii) for purposes of owner-occupied properties, 80% or less of the Annual Median Income as determined by the United States Department of Housing and Urban Development for the Charlottesville Metropolitan Area.

Sec. A.2-203 Authority to make grants or loans.

The County may make grants or loans to owners of residential rental property occupied, or to be occupied, by persons of low- and moderate-income, or for the benefit of certain owner-occupied property, for the purposes set forth in this appendix. Such loans or grants will be subject to the conditions and restrictions set forth in this appendix.

Sec. A.2-204 Conditions and restrictions.

- (A) The County will condition any grant or loan on the applicant providing a minimum of 20 percent of the rental units for low- and moderate-income persons, as defined in the County's Housing Policy, for a minimum of 10 years, and (for loans) upon granting a deed of trust on the rental property for which the loan is made to secure repayment of the loan and/or compliance with the conditions and restrictions of the loan.
- (B) The County may provide grants or loans for site improvements essential to the development, preservation, or rehabilitation planned.
- (C) The County may provide grants or loans to owners or occupants to develop, preserve, and upgrade apartment buildings; to improve health and safety; to conserve energy; to prevent erosion; to enhance the neighborhood; and to reduce displacement of low- and moderate-income residents of the property.
- (D) The County may provide that the value of grant or loan assistance given by the County under subsections (B) and (C) be proportionate to the number of dwelling units rendered by the owner at reduced rents for persons of low- or moderate-income.
- (E) The County may make loans or grants of local funds to individuals for the purpose of rehabilitating owner-occupied residences or assisting in the purchase of an owner-occupied residence in designated conservation or rehabilitation districts. Any such loans or grants will be applied using the income guidelines issued by the Virginia Housing Development Authority for use in its single-family mortgage loan program financed with bonds on which the interest is exempt from federal income taxation. Financial institutions, as defined in Virginia Code § 6.2-204, will be offered the opportunity to participate in loans made under this subsection.

Sec. A.2-205 Administration by the County Executive; approval of certain loans and programs by the Board of Supervisors.

The grants and loans provided under this appendix to owners of residential rental property for the production or repair of residential rental property, or for the benefit of certain owner-occupied property, will be administered by the County Executive or his/her designee in accordance with the purpose and provisions of this appendix. The County Executive may adopt rules and regulations to ensure compliance with the integrity and legislative intent of this appendix, including but not limited to application process, use of funds, application review criteria, funding priority, application submission and review process, submission criteria, and required documentation. Any loan or grant program authorized by the Board of Supervisors under this appendix will be regulated and administered in accordance with the guidelines adopted by the Board of Supervisors at the time of establishment of such program.

(Ord. 23-A.2(1), 5-17-23, effective 7-1-23)

State law reference—Va. Code § 15.2-958.

Agenda Item No. 15. **2023 Community Development Block Grant (CDBG) Application Approval.** To review the County's intention to apply for Federal funds from the Virginia Community Development Block Grant (CDBG) program. Albemarle County proposes to utilize the requested funds to carry out the following activities for the CDBG program: Approximately \$1.075 million dollars to support the construction of new water and sewer infrastructure in Village 3 in the Southwood Redevelopment Project Phase 2. All interested citizens are urged to attend.

The Executive Summary as forwarded to the Board states that the Virginia Community Development Block Grant (CDBG) program is a federally-funded grant program administered by the Virginia Department of Housing and Community Development (DHCD). Since 1982, the DHCD has provided funding to eligible units of local government (in non-entitlement communities only) for projects that address critical community needs, including housing, infrastructure, and economic development. Albemarle County has received numerous grants in previous years to support housing and community improvement initiatives. The CDBG application process requires that two local public hearings be conducted. The first public hearing was held on May 3, 2022, at which time information was provided on eligible activities that may be funded by a CDBG grant, the amount of funding estimated to be available, past activities undertaken with CDBG funds, and the process for applying for funding. The purpose of this public hearing is to provide information on the proposed project application and to accept public comment on the application.

As part of the ongoing redevelopment of the Southwood Mobile Home Park, Habitat for Humanity of Greater Charlottesville (Habitat) is requesting the County submit a CDBG application to support new infrastructure installation in Village 3, the first village to be constructed in Phase 2 of the project. The total amount of grant funding to be requested is \$1.075 million, which includes \$1 million in project funding, and \$75,000 to cover the costs of grant administration services. If awarded, grant funds will provide water and sanitary sewer connections to serve the new, permanent homes of Southwood residents, the majority of whom are low- to moderate-income persons. The project will be shovel-ready by the end of Summer/beginning of Fall 2023, and the water/sewer services will become public infrastructure at the completion of construction.

If awarded, the County would receive \$75,000 to administer this grant. The balance of grant funds would support the infrastructure development. If awarded, the Board would be asked to appropriate the grant funding received. CDBG projects include various levels of funding to offset administrative costs by awarding such funds based on performance. Staff would administer the grant using a performance-based budget.

Staff recommends that the Board adopt the attached Resolution (Attachment A) approving the County's submission of the CDBG application for Village 3 of the Southwood Redevelopment Project Phase 2 and authorizing the County Executive to execute the application package, as well as any supporting or related contracts or documents required to obtain or accept this grant, once such package, contracts, and/or documents have been approved as to form and substance by the County Attorney, and to take any further action required for this application.

Ms. Pethia stated that the CDBG (Community Development Block Grant) program required two public hearings, the first of which was held on April 19, 2023, and the second was being held today. She said that at the first meeting they went over the general requirements of the program, including that funding was provided for projects that met one of three national objectives, which included to benefit low- and moderate-income persons or households, to aid in the prevention or elimination of slums or blight, and to meet community needs having a particular urgency.

Ms. Pethia said that during the first public hearing, they requested the community to submit proposals for CDBG applications to be submitted this year. She said that the Department of Housing and Community Development (DHCD) had approximately \$13.9 million available for the competitive grant application process, and Albemarle County was eligible to apply for up to \$1.25 million this year.

Ms. Pethia stated that two potential project partners contacted the County, but one was more appropriate for a planning grant, which did not require a public hearing to be held. She stated that staff had not yet spoken in depth with that potential project partner and should that look like it was an application they could move forward with, staff would come back with that application in the future.

Ms. Pethia said that tonight's item was a CDBG grant request of \$1,075,000 from the Habitat for Humanity of Greater Charlottesville for the Southwood project. She stated that they were requesting a \$1 million CDBG to provide infrastructure in Village 3 of the Southwood project, which was in Phase 2, or the area of the currently existing mobile home park. She stated that the extra \$75 thousand was for administrative funds the County kept for managing the grant application.

Ms. Pethia said that the total infrastructure cost was about \$3.8 million, and they were requesting \$1 million in CDBG funds for a structure that would serve 77 households in Village 3, 40 of which would be Habitat affordable homes, and the other 37 would be market rate houses. She stated that the 40 affordable units would include a mixture of condominiums, townhomes, single-family attached and single-family detached houses.

Ms. Pethia displayed an image of the project site on the screen. She said that it was in the existing mobile home park, where Village 1 was currently being built where it said Phase 1 on the bottom of the map, and the section they were looking at was in the top-left corner of the site. She said that it was proposed to complete infrastructure work, specifically the water and sewer lines, to replace the failing septic systems that residents were currently living with. She said that the total project cost of \$3.8 million would be used for environmental remediation and rough regrading. She said that the environmental remediation was in case there were old heating oil tanks buried at the site, in which case the toxic oil would need to be cleared out of the soil. The funds would also be used for water and sewer line installation, storm sewer, roads, curbing and gutters, and other site work. She said that Habitat would provide the additional \$2.85 million for the project from their own funds.

Mr. Andrews asked if there was an advantage to going with \$1 million rather than the allotment that was available.

Ms. Pethia said that there was currently an open CDBG with Southwood, and they were waiting for Habitat to submit additional invoices, and they were not quite at the \$1.25 million, they could get a little below that, so she chose the \$1 million as a safe zone.

Ms. Price opened the public hearing. There were no speakers, so the public hearing was closed, and the matter was brought back before the Board.

Ms. Price, hearing no comments from the Board, said that the floor was open for a motion.

Ms. Price **moved** that the Board adopt the resolution as presented in Attachment A approving the County's submission of the CDBG application for Village 3 of the Southwood Redevelopment Project Phase 2 and authorizing the County Executive to execute the application package, as well as any supporting or related contracts or documents required to obtain or accept this grant, once such package, contracts, and/or documents have been approved as to form and substance by the County Attorney, and to take any further action required for this application.

Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

RESOLUTION

WHEREAS, the County of Albemarle is committed to ensuring that safe, decent, affordable, and accessible housing is available for all residents, and to improving the livability of all neighborhoods;

WHEREAS, the County of Albemarle has recognized the redevelopment of the Southwood Mobile Home Park as a strategic priority;

WHEREAS, the County of Albemarle executed a public/private partnership agreement with the Habitat for Humanity of Greater Charlottesville (Habitat) in July 2019, to provide resources to Habitat to assist with redevelopment initiatives;

WHEREAS, after holding public hearings on May 3 and May 17, 2023, the County wishes to apply for up to \$1,075,000 in Community Development Block Grant (CDBG) funds to support the construction of new water/sewer infrastructure in Village 3 of the Southwood Redevelopment Project;

WHEREAS, the projected benefits of the Project are improved living conditions for low- and moderate-income households currently residing in the Southwood Mobile Home Village; and

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby endorses the County's submission of the CDBG grant application for Village 3 of the Southwood Redevelopment Project, and authorizes the County Executive to execute the application and any required certifications and assurances, as well as any supporting or related contracts or documents required to obtain or accept this grant, once such package, contracts, and/or documents have been approved as to form and substance by the County Attorney, and to take any further action required for this application.

receive public comment on the proposed Secondary Six-Year Plan for Fiscal Years 2024 through 2029 in Albemarle County, and on the Secondary System Construction Budget for Fiscal Year 2024.

The Executive Summary as forwarded to the Board states that the purpose of this public hearing is to receive input on the proposed Virginia Department of Transportation (VDOT) Secondary Six-Year Plan (SSYP) for Fiscal Years (FY) 24-29 (Attachment A).

The SSYP allocates funding for construction, maintenance, and improvement of roads in the state secondary system (roads with a route number of 600 or higher). The funds allocated to Albemarle County through the SSYP include state and federal funds for a variety of road improvements. The SSYP for Albemarle County is updated and approved annually and identifies the specific funding source, use, and levels allocated for the immediate fiscal year. The SSYP also identifies projected funding allocations for the five subsequent fiscal years.

The Board reviewed the proposed SSYP, priorities, and recommendations at its April 5, 2023 meeting. The Executive Summary (Attachment B) and the Report on the SSYP Recommendations (Attachment C) from April 5, 2023 are attached for reference. The FY 23 Albemarle County Priority List for Secondary Road Improvements, Unpaved Roads, is included as Attachment D.

Attachment A is the revised SSYP provided by VDOT, which includes an updated cost estimate for the Berkmar Drive Extended project, which increased from \$11,000,000 to \$17,100,000. Current funding does not cover the new cost, but Telefee funds have been allocated to address a portion of the shortfall. Staff continues to work with VDOT to identify options to advance this project and will return to the Board at a future date for a discussion.

The SSYP allocates funding to pave public unpaved roads from the County Priority List for Secondary Road Improvements, Unpaved Roads (Attachment D) that have been the subject of petitions by property owners and supported by the Board. Staff has received no public comment on the FY 24 - 29 SSYP.

The SSYP outlines the expenditure of the State/VDOT secondary road construction funds allocated to the County. The SSYP does not require the expenditure of County funds, unless the Board directs additional funding be appropriated to a project.

After the public hearing, staff recommends that the Board adopt the attached Resolution (Attachment E) approving the FY 24 - 29 Secondary Six-Year Plan and authorizing the County Executive to sign the FY 24-29 Secondary Six-Year Plan.

Mr. Alberic Karina-Plun, Transportation Planner, stated that he would give a brief overview of the Secondary Six-Year Plan (SSYP), the update on the Rural Rustic process, and they would end with a motion to adopt the SSYP. He said that this also served as the required public hearing to approve the FY 24-29 SSYP.

Mr. Karina-Plun explained that the SSYP was a document that applied to roads in the secondary system, which were roads that tended to connect local destinations and often labeled with a route number of 600 or higher and differed from primary roads that tended to connect cities and towns with each other. He said that the purpose of the SSYP was to identify the funding allocated to the County for the next fiscal year and to estimate the available funding for the next five fiscal years.

Mr. Karina-Plun stated that the funding programs included in the SSYP were Telefee and District Grant Unpaved Funds. He said that Telefee funds were fees that utility companies paid to have their infrastructure within the VDOT right-of-way and could be used for a broad range of secondary road improvements. He said that District Unpaved Funds were a much larger funding source and could only be used for hard surfacing of unpaved state secondary roads.

Mr. Karina-Plun said that between the two programs, there was just over \$1.2 million available in FY24 for Albemarle County projects. He stated that the SSYP also listed the Albemarle County projects that will receive funding from these sources, which were updated and adopted by the Board of Supervisors annually. He said that the list was in the Board materials as Attachment A.

Mr. Karina-Plun said that the SSYP list was heavily informed by the Albemarle County Priority List for Secondary Road Improvements – Unpaved Roads, which was a list created by County staff and listed all secondary roads, which a member of the public, a County department, or the Board of Supervisors had requested to be paved. He said that the process for determining the order on the list was from traffic counts, and roads with higher average daily traffic counts were prioritized. He said that this document was updated in May 2022 to now require demonstration of support from 2/3 of residential property owners along the road segment.

Mr. Karina-Plun presented a slide of the Rural Rustic updates, which were the roads recommended to be paved in FY24. He said that roads that had been added to the list since the May 2022 update already had the 2/3 support demonstrated, and included Arrowhead Valley Road, Blenheim Road, and Sutherland Road. He said that Beam Road, which had been added a few years back, had been provided with demonstration of support. He said that following the work session on April 5, letters had been sent out to residential property owners on the affected segments. He said that if the road was added since May 2022, the letter simply informed the residents of the upcoming paving project, and for

the roads added prior to May 2022, the letter requested responses from a minimum of 2/3 of residents to show support.

Mr. Karina-Plun said that they were still waiting for responses from residents of Stony Point East, Stony Point Pass West, and Old Dominion Road. He said that they were giving residents the opportunity to respond until early June, and at that time, they would return to the Board with resolutions recommending paving under the Rural Rustic Program and would provide them with any additional information they heard from residents at that time. He said that depending on the responses, it would likely be a consent agenda item.

Mr. Karina-Plum said that after the public hearing, staff recommended the Board adopt the resolution (Attachment E) approving and authorizing the County Executive to sign the FY24-29 Secondary Six-Year Plan.

Ms. McKeel asked if they were currently seeking input from the groups of people who lived on the three remaining roads so that they were aware.

Mr. Karina-Plun said yes, they had reached out to them.

Mr. Andrews said that he would like to see the materials that were mailed to residents to see what information was included.

Mr. Gallaway asked what the plans were for Berkmar Drive Extended to be completed.

Mr. Kevin McDermott, acting Planning Director, stated that they were working with VDOT to solidify the final cost estimate and were proposing they went after a Revenue Sharing grant to make up that difference in the upcoming Revenue Sharing application period. He said that final applications would be due this fall, and they did not want to delay the project, so they were going to try to work it out so that they could accelerate the future funding so that it was timed with the funding they had already gotten for the project. He said that the University Foundation had interest in this connection to see if there was any work that could be done collaboratively to share the costs.

Ms. LaPisto-Kirtley asked when the letters had been sent out to residents of the road segments.

Mr. Karina-Plun stated that they were sent out the first week of May.

Ms. LaPisto-Kirtley said that there were 15 residents on the west side and 20 on the east side of Stony Point Pass. She asked if they needed 2/3 approval from the 20 and 2/3 approval from the 15 separately.

Mr. Karina-Plun said that was correct.

Ms. LaPisto-Kirtley asked if they would be reaching out again, and if a list was available.

Mr. Karina-Plun said that the list was almost completed. He said that because it was a project for segments of the road rather than the entire road, they were still determining the best way to reach out to all of the residents of Stony Point and inform them while still keeping it fair for the people to vote and to have a fair way to express if they want to see the road paved or not.

Ms. LaPisto-Kirtley said that residents knew each other and could help. She said that if Mr. Karina-Plun waited in the lobby after the motion, there would likely be many Stony Point residents who would be able to tell him of their approval or disapproval then and there.

Mr. Karina-Plun said that he would be happy to do so.

Ms. Mallek said that there had been previous disagreement between neighbors on Blenheim Road about whether it should be paved, so it was interesting to see it now had consensus to be paved. She said that regarding the funding for the Berkmar extension, all of the Park and Tabor sidewalk funding had been given to the Berkmar extension project. She asked if the list included those previously listed projects that still had yet to be completed, and if the funding was available.

Mr. McDermott asked if Ms. Mallek was referring to what was happening to projects like the Park and Tabor sidewalks.

Ms. Mallek said yes.

Mr. McDermott said that the transportation priority list was currently being updated and was expected to be back before the Board. He said that they were reevaluating all of those projects, including the Park and Tabor sidewalk, which would be ranked and presented to the Board to use to direct future funding.

Ms. Mallek asked if no local transportation money would be allocated to these, and only outside funding would be used.

Mr. McDermott said that it was up to the Board to decide that matter.

Ms. Mallek asked if the transportation priority list would be completed this year.

Mr. McDermott said yes, and it would be presented as an agenda item in an August meeting with the Board of Supervisors.

Ms. Price said that Attachment D in the Board's materials, Item 8, Blenheim Road, in the third-to-last column, referenced private funds option, and she asked Mr. Karina-Plun to describe what that was.

Mr. McDermott said that he would like to check the information before confirming it with the Board, but he recalled that Blenheim Road had had an offer for private funds to help pay for that paving project, so that may be a holdover from when that happened, which was many years ago at this point. He said that because they could only use the District Grant Unpaved Roads funds for this use, they had more of that money than actually necessary, so a private funder was not essential at this time. He said that the reference was likely a leftover, but he would return to the Board to confirm that.

Ms. Price said that if there were 12 property owners on a road, for approval of 2/3 property owners, 8 of the 12 property owners would have to support it. She said that if only 9 responded and 6 or 7 supported the project, it still would not pass because it had to be 8 of the 12 property owners.

Mr. Karina-Plun said yes. He said that a non-response counted as a no vote, so if 9 people responded and only 6 said yes, it still would not pass.

Ms. Price said that the response was important, because no response was treated in a negative way.

Mr. Karina-Plun said that was correct.

Ms. Price said that those with negative responses should submit them.

Ms. LaPisto-Kirtley asked for this project, if they had the 2/3 vote from both sides, when the construction would be completed.

Mr. Karina-Plun said that he was unsure of the exact timeline of VDOT's construction.

Mr. McDermott said that the roads on the list were to be funded in FY24, so during the next fiscal year, VDOT expected to finish the project. He said that VDOT typically began preliminary work on the road in the fall and would do final paving in the springtime, but dependent on things like weather events, the timeline could last longer than that because VDOT was accomplishing this using entirely internal forces.

Ms. LaPisto-Kirtley said that she had heard from residents who wanted the road paved down to Pennybaker Lane, where school buses turned around and where dust and dirt was kicked up. She asked if the paving was approved, when would the next opportunity be to extend the paving should the other residents, VDOT, and the characteristics of the road permit it.

Mr. McDermott said that it was correct that it was a VDOT decision, and VDOT had expressed that they could pave it up to that point, which was 0.9 miles from Stony Point Road, Route 20. He said that if they wanted to extend that, they were happy to ask VDOT what the possibilities were, and if they could use these funds to do that. He said that depending on the length and cost, they may do it as a separate project next year, but if it were easy to do and could be done with existing funding, they may be able to do it as a part of the current project. He said that they could discuss it with VDOT and return to the Board with that information.

Ms. LaPisto-Kirtley said that she would appreciate it if VDOT could extend it further but understood that VDOT would decide whether to do that or not. She said that she appreciated Mr. McDermott raising the issue with VDOT.

Ms. Price opened the public hearing.

Mr. Alan Norford, Rivanna District stated that he had been a resident of the west side of Stony Point Pass since 1969. He said that in 2006, the road was put on the six-year plan to be paved in 2012, 1.9 miles on the west side and 1 mile on the east side. He said that sometime before 2012, it was taken off of the plan and none of the residents of the road knew, until last Wednesday when he was one of the three or four people who received a letter. He said that on the west side was the proposal of 0.9 miles on the west side, and 1.29 miles on the east side connected it to the existing 0.2 mile that was already paved.

Mr. Norford said that the concern was that just past the 0.9 miles were the two houses closest to the road, and if they paved to Pennybaker Lane, which was 1.1 miles, or another 0.2 mile, it would eliminate the dust that those homeowners experienced every day. He said that the school bus turned around at Pennybaker Lane and not at 0.9 mile. He said that they were all in favor of the road being paved and had been for many years. He said that they would do whatever they could, and residents were requesting at this time to add 0.2 mile to their side and complete it to Pennybaker Lane.

Mr. Tim MacDonnell, Rivanna District, stated that he was a resident of Stony Point Pass on the Route 231 side. He said that he was opposed to the paving project on the 231 side for three reasons. He said that first, traffic and the speed that people drove on 231 was frankly dangerous, and if the road were paved, especially given the contours of the road, the danger would be increased. He said that the second reason was that there was an increased danger of Stony Point Pass becoming a literal pass to Stony Point Road.

Mr. MacDonnell said that if Stony Point Pass became a pass-through to Stony Point Road, they would see a lot of the traffic from Route 231 making a cutover to get to Charlottesville, therefore increasing the traffic on a road that could not accommodate that sort of traffic. He said that whether it was paved or not, it had already been recognized that the contours and nature of the road would create a dangerous situation.

Mr. MacDonnell said that his third reason was the issue of the environmental impact of paving that road. He said that on the Route 231 side, there was a stream running along the road, and an intermittent wetland area that was part of Epona Farm. He said that if the effort were to move forward and do the paving, as a resident he would like to see the environmental impact investigation done as it related to the water along that road

Mr. Peter Krebs, Piedmont Environmental Council (PEC), stated that Albemarle County and its rural roads in their current state were important components to the County's cultural landscape and rural heritage. He said that in addition to being beautiful places, the gravel surface played an important role in reducing speed and cut-through, but also in maintaining the rural character of the County, which was a top priority. He said that because they were calm, beautiful, and significant places, they were also important places in people's lives for health and wellness reasons, and popular places for walking, biking, running, and riding horses.

Mr. Krebs said that they should be circumspect about paving their rural roads. He said that clearly certain ones mattered more than others, and on his current list, they were especially concerned about Stony Point Pass, and they also noted, as was mentioned earlier, a little surprised about Blenheim Road. He said that Stony met all the characteristics he mentioned, and in addition to being physically a great place to go, there were quite a few off-street places to park and did not have parking issues other gravel road issues in the County had.

Mr. Krebs recommended that the Board take a careful approach with Stony Point Pass and not pave it in a blanket way, rather than focusing on areas where there was erosion or environmental damage. He said that it was a significant resource to many and should be maintained in something like its current condition, certainly repaired but not replaced.

Mr. Fred Shackelford, Rivanna District, said that addressing one of Mr. Krebs' comments about recreation on gravel roads, he thought that was maybe true, but when he went jogging on the road in dry weather, he breathed in huge clouds of dust when cars passed. He said that he respectfully disagreed with the comment about recreation on gravel roads.

Mr. Wes Mitchell, Rivanna District, stated that he was a resident of Stony Point Pass West. He said that he had not planned to speak, but he and his family were in a unique situation because they lived equidistant on the road, so there was an equal distance to get to the end of Stony Point Pass East or West and transited both a lot. He said that his first comment was in response to the process of soliciting input; most of the people on his end of the roadway had not had input solicited in any way.

Mr. Mitchell said that it concerned him that if a no response by default was considered a no, and they had until early June, and most of the people had not been approached, it appeared that either by design or by default, it was tilted toward a no because there was not a sufficient or thoroughly aggressive process for proactively soliciting the input. He requested information on the process of soliciting input.

Mr. Mitchell said that he would not downplay the importance of the environment, but noted that in the current approach, when there was large road-grading equipment that came down the road to maintain and re-gravel the road, the emissions of those vehicles on a year-on-year basis would have to be weighed in the balance against the one-time paving and upkeep of the paving. He said that the current approach was not free of environmental impact, but the downsides to what was being done now would have to be weighed.

Ms. Patricia MacDonnell, Rivanna District, stated that she lived on Stony Point Pass East. She said that the dust was a concern and had an environmental impact. She said that she and her husband walked four miles a day, two miles down to the top of the mountain and back. She said that they saw the streams and were mostly concerned that the waterways immediately adjacent and the erosion that would happen with changing weather conditions must be corrected. She said that she advocated that all of the Board members walk along the roadway to see it for themselves, which was the only way they would see the issue.

Ms. MacDonnell said that they were also concerned the water would not be absorbed into the road, and they appreciated the rain which helped the dust. She said that she would like to see something

else. She said that the runoff from the street, once hard paved, would put petroleum products on the road into the waterways, which was of concern. She said that there were safety issues regarding snow and ice, and the speed on 600 was already very bad. She said that it was difficult to walk on that road because of the traffic, and more traffic would be worse.

Ms. Price asked if there were any additional speakers before closing that portion. She said they were not closing the public hearing yet.

Ms. McKeel asked if staff would like to address any of the public's expressed concerns.

Mr. Karina-Plun said that for outreach, the list provided was from County GIS (Geographic Information System) and was how they looked at residential properties, but they could do additional outreach if residents did not feel that they were thorough enough. He said that for the deadline, they would be happy to be deadline to incorporate future responses from residents as well, so they would continue to work with residents to make sure everyone had a chance to give input and respond.

Ms. McKeel asked if the outreach was by mail.

Mr. Karina-Plun said yes.

Ms. McKeel asked if they would be remailing the outreach letters to identified people.

Mr. Karina-Plun said that they could remail the letters to make sure that they covered everyone.

Ms. McKeel asked if the environmental concerns could be addressed.

Mr. McDermott said that they often heard of environmental concerns for projects such as this, and whenever VDOT performed these types of projects, they would perform an environmental analysis prior to any work. He said that for projects such as this, which were considered minor, it would be a high-level evaluation, and he had learned from doing these in the past that there were environmental benefits to both paving and not paving rural roads. He said that there could be problems with runoff when gravel had to be continually re-laid on gravel roads, and over time, the roads became less porous due to compaction, so there was not much difference in the amount of water runoff that came off an unpaved road versus a paved road.

Ms. McKeel asked if VDOT would be performing an environmental analysis as a part of this project.

Mr. McDermott said yes, VDOT performed an environmental analysis for every project.

Mr. Andrews asked about the process for extending the paving an additional 0.2 miles and if that had been considered.

Mr. McDermott said that VDOT had analyzed the road previously and stated that they could pave to the 0.9 miles from the Stony Point Roadside. He said that they were happy to ask VDOT to take another look and see if it were possible to pave further, and they would work with that information once received.

Mr. Andrews asked if that changed the notice requirements for those who had to approve it.

Mr. McDermott said that they could address that as well. He said that in that other section, these were large parcels, so there may be one or two additional owners that may be directly impacted by it. He said that they would work to get the 2/3 support as required.

Mr. Andrews said that if they were sending notices, they should ensure that everyone knew that they were considering that possibility.

Mr. McDermott said sure.

Mr. Gallaway asked if residents received a letter and the letter said to call or send an email.

Mr. Karina-Plun said yes, the letter stated to email or call himself at his work phone number or email. He said that if he received communication, he tried to respond and hear the concerns they had, and recording if they essentially supported or opposed it, as well as anything else they wanted to share.

Mr. Gallaway asked if there was a related landing page on the website. He asked if there were alternative methods to contacting residents if they did not receive a single communication in the mail.

Mr. Karina-Plun said that they had not attempted communication beyond sending letters but would be happy to look into other ways to give residents information they need to act on the road they lived on.

Mr. Gallaway said that in this instance, they were voting to apply funds to a project that relied on citizen approval, so that decision made by citizens was important. He said that they also wanted to make sure they had taken the proper means to get that feedback, especially when applying funds, so he hoped

that in the future, they could find other ways to facilitate citizen response. He asked if the funds were available for this project once the documentation was available. He asked if VDOT would understand the request to extend the paving another 0.2 mile.

Mr. Karina-Plun said yes. He said that the segments chosen were based on the feasibility of the restrictions on the Rural Rustic Program, which was meant to serve as a pave in place with minimal grading and minimal construction and environmental damage, working with the road already there to put down asphalt, so if a segment past that 0.9 mile was too narrow or had other problems that caused engineers to not put pavement down safely and securely, it would have to fall under a different type of paving project. He said that if VDOT deemed that this roadway segment did not meet the criteria to be paved under the Rural Rustic Program, they would not pave it, which was outside of the County's control.

Ms. LaPisto-Kirtley said that it was important to the residents that the pavement be completed as soon as possible, as it had been promised for years. She said that regarding gravel roads, she had received complaints on the east side from residents because VDOT put the gravel down and it eventually went on the sides of the roads. She said that when that happened, it got washed down into the culvert, and residents had called her to call VDOT to use their boring machine that cleared the culvert full of gravel from the gravel road.

Ms. LaPisto-Kirtley said that none of these decisions were without consequences. She said that if they could get it done this year, it would be fine, but they had to wait for residents on both the east and west side to approve it by a 2/3 vote. She said that she knew that residents here could discuss the issue with Mr. Karina-Plun after the meeting and he could share relevant information at that time, and some of those residents may help notify other neighbors to facilitate their responding.

Ms. Mallek asked if owners could donate right-of-way in places where the right-of-way was too narrow in order to solve that issue of the 0.2 mile.

Mr. Karina-Plun said that they would have to ask VDOT about the right-of-way.

Ms. LaPisto-Kirtley said that she had traveled Stony Point Pass a number of times, and she could not see the entire thing ever being paved because it was too narrow and steep, with problematic curves. She said that perhaps in the distant future, but the trip over the mountain was winding and precarious.

Ms. Price closed the public hearing, and the matter was brought back before the Board.

Ms. McKeel said that she was comfortable with the item as it stood.

Mr. Andrews said that he approved of the item because he thought they had a good process to get the 2/3 rate of approval. He said that he was concerned about the environmental issues as a separate important problem, but he also trusted that it was weighed as a part of this process.

Mr. Gallaway said that he would like to continue the work on Berkmar Extended and for the Board to receive updates as they learned more. He said that the next step for this was getting the documentation in, because they relied heavily on what the citizens had to say, so the local communities had to get together and respond, decide, and discuss among themselves. He said that the residents' desires were the reason why some roads remained unpaved and why others were paved, so that process had to be clean and effective in getting the proper communication and responses. He said that he as a Supervisor would always follow the wish of that process and what those folks had to say.

Ms. LaPisto-Kirtley said that she was very supportive of the project as long as the 2/3 vote was received.

Ms. Mallek said that she would support this item, but she cautioned that while paving roads such as this solved many issues related to grading and erosion, the pavement invited users such as trucks that should not be there. She said that a truck recently tipped over on Advance Mills Road and spilled its cargo into the North Fork of the Rivanna River because of the steep and sharp turns of the road. She said that those were things of concern when talking about paving a road and making it more inviting for trucks. She said that in the district she represented, all gravel roads that had been paved, especially those connecting two points of travel, absolutely became a freeway, which created a nightmare for neighbors attempting to take a walk or let their children ride their bicycles.

Ms. Mallek said that she wanted everyone to know that while they could not anticipate everything that would happen, there were certain things that would be likely to happen. She said that there was a form that had come out in the last several years that the Board had to certify when taking gravel road money that there were not properties along this road that would have increased density, but history indicated that paving was a de facto rezoning because it made more people want to live in a place with a paved road, and brought in pressures of people buying property on roads that were to be paved in the future.

Ms. Mallek said that she would like for staff to think about the criteria they would have to stipulate for the land along this road that would allow the Board to make that affirmation, which had not been talked about or paid attention to in the information related to this process, but was something they had to attest that it would not add more density along the road. She said that she understood all of these projects had to be more defined moving forward.

Ms. Price thanked the members of the public who came to speak on the matter. She said that there were conflicting interests on many matters that came before the Board, and many legitimate reasons why people felt one way or the other. She said that Supervisors had covered many of the concerns, and any decision or no decision was an action being taken one way or the other. She said that with paving or not paving the road, there were environmental consequences. She said that nothing was without some impact. She said that three Supervisors lived on gravel roads and three lived on paved roads, so they each experienced everything that members of the public had discussed tonight.

Ms. Price said that they had all experienced the dust of gravel roads, but they also acknowledged that paving roads encouraged further development, which was something they must consider as a part of their Comprehensive Plan and desire to keep development largely contained within Development Areas and not expanded through sprawl into the Rural Areas. She said that this was an area where the Board largely listened to what the property owners wanted to have happen out there.

Ms. Price said that the roads had been divided into two lists, with the top list having 2/3 affirmation from property owners, and the bottom ones did not yet have that information. She said that based on the information presented, she supported the resolution so that the property owners who had indicated their support by a 2/3 majority for the paving of those roads would have the roads paved, and if there was not 2/3 support, then the road would not be paved.

Ms. Mallek asked for clarification that if there was a large property owner or one owner with multiple parcels, they were still one vote.

Ms. Price said yes, it was one vote. She said that she appreciated that the County had moved from a simple majority vote to 2/3 vote, which made it more of a consensus.

Ms. Price said if there were no additional Board comments, the floor was open for a motion.

Ms. LaPisto-Kirtley moved the Board to adopt the Resolution (Attachment E) to approve the FY 24-29 Secondary Six-Year Plan and authorize the County Executive to sign the FY 24-29 Secondary Six-Year Plan.

Ms. Mallek **seconded** the motion.

In further discussion, Ms. Price asked the County Attorney if the additional 0.2 mile not currently on the six-year plan but mentioned as possibly being approved by VDOT required a separate motion from the Board or was tied into the recommunication of the property owners to address that.

Mr. Steve Rosenberg, County Attorney, said that it would not be addressed here separately because the direction to staff had been clear to explore the possibility of including that additional section with VDOT, and then it would come back to the Board to amend the six-year plan.

Ms. LaPisto-Kirtley stated that the Board of Supervisors had required the 2/3 vote due to there being conflicting positions of residents on the road so that the people on that road decided to pave or not pave the road. She said that VDOT did not require this rule.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, and Ms. Price.
NAYS: None.

**RESOLUTION TO APPROVE
THE SECONDARY SYSTEM SIX-YEAR PLAN (FY 24-29)**

WHEREAS, Virginia Code § 33.2-331 provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary System Six-Year Plan (SSYP);

WHEREAS, the Board has previously agreed to assist in the preparation of the SSYP, in accordance with the Virginia Department of Transportation (VDOT) policies and procedures, and participated in a public hearing on the proposed SSYP (FY 24-29), after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List;

WHEREAS, local and regional representatives of the VDOT recommend approval of the SSYP (FY24-29);

WHEREAS, the Secondary System Six Year Plan (FY24-29) is in the best interest of the County and of the citizens of the County; and

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby approves the SSYP (FY24-29) and authorizes the County Executive to sign the SSYP (FY 24-29); and

BE IT FURTHER RESOLVED, that the clerk of the Board shall forward a certified copy of this resolution to the District Administrator of the Virginia Department of Transportation.

Agenda Item No. 17. **ZMA202200010 Riverside Village Neighborhood Model Development: Block 1 Amendment.**

PROJECT: ZMA202200010 Riverside Village NMD: Block 1 Amendment

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 078G00001000A0

LOCATION: 610, 620, and 630 Riverside Shops Way, Charlottesville, VA 22911; property on the north side of the intersection of Stony Point Road (State Route 20) and Trailside Drive.

PROPOSAL: Amend the application plan and the code of development associated with previously approved application ZMA201600019.

PETITION: Request to amend the application plan and the code of development associated with ZMA201600019 to reduce the minimum required commercial area in Block 1 from 8,000 square feet to 4,800 square feet. Block 1 consists of one parcel of approximately 2.407 acres. No increase in the permitted number of residential units is requested.

ZONING: NMD Neighborhood Model District – residential (minimum of two housing types) mixed with commercial, service, and industrial uses; in accordance with ZMA201600019.

OVERLAY DISTRICT(S): Entrance Corridor, Steep Slopes – Preserved, Steep Slopes – Managed, Flood Hazard Overlay District

PROFFERS: No

COMPREHENSIVE PLAN: Urban Density Residential – residential (6-34 dwelling units/acre), religious assembly uses, schools and child-care, institutional. Secondary commercial/retail, offices. In Neighborhood 3, in the Pantops Master Plan area.

POTENTIALLY IN THE MONTICELLO VIEWSHED: Yes.

The Executive Summary as forwarded to the Board states that at its meeting on Tuesday, February 28, 2023, the Planning Commission (PC) conducted a public hearing and voted 5:1 to recommend denial of ZMA202200010. The PC's staff report, action letter, and meeting minutes are attached (Attachments A, B, and C).

At the PC meeting, staff recommended approval of the proposal to reduce the minimum required nonresidential space from 8,000 square feet to 1,600 square feet in Block 1. Staff noted that no specific minimum non-residential square footage is recommended in the Comprehensive Plan for the property and the maximum non-residential square footage of 36,000 would still be allowed in that block.

However, the PC determined that retaining more mixed-use and 8,000 square feet of non-residential space was an important element of the Riverside Village development and voted 5:1 to recommend denial of the request.

Since the PC public hearing, the applicant has revised the proposal to include a smaller reduction to the minimum required non-residential space. The proposal now includes a minimum of 4,800 square feet in Block 1 instead of the previously proposed minimum of 1,600 square feet. The revised project narrative and application plan/code of development are provided as Attachments D and E.

Additional written comments were provided after the PC staff report was published. These comments are included as Attachment F.

Staff believes the applicant has adequately addressed PC concerns with revisions made since the PC's public hearing. Staff recommends the Board adopt an ordinance to approve the proposed rezoning (Attachment G). If the Board wishes to deny the rezoning, a resolution to disapprove is also provided (Attachment H).

Mr. Andy Reitelbach, Senior Planner, stated that this was a rezoning request to amend a previously approved rezoning, ZMA2016-00019. He indicated the subject property displayed on the screen, which was on Stony Point Road, Route 20, in the Riverside Village neighborhood, south-southwest of Elk Drive and Darden Towe Park. He displayed an aerial view of the subject property and indicated the three buildings with white roofs and the parking lot behind them.

Mr. Reitelbach displayed a zoning map of the property, which was zoned Neighborhood Model District (NMD) with an associated code of development and application plan. He stated that with this request, the applicant was asking to amend both the application plan and the code of development that were approved with the original rezoning.

Mr. Reitelbach displayed on the screen the Comprehensive Plan designation for the property, which was in the Pantops Master Plan, and designated as Urban Density Residential, which recommended 6 to 34 units per acre for residential along with secondary commercial and institutional uses.

Mr. Reitelbach said that the Riverside Village development was originally approved in 2012 with ZMA2012-00002, with 69 residential units, a minimum of 16,000 square feet and maximum of 46,000 square feet of nonresidential in total. He said that Block 1, the subject of tonight's rezoning request, originally had a minimum of 16,000 square feet and a maximum of 36,000 square feet. He said that a few years later, in 2015, there was another amendment to allow affordable units in Block 5, including

accessory units, and in 2016, there was another request to allow for 26 additional units for a total of 105 residential units, and to reduce the minimum square footage of nonresidential space from 16,000 square feet to 8,000 square feet.

Mr. Reitelbach said that now, the applicant had come back with ZMA2022-00010 to further reduce the non-residential space from a minimum of 8,000 square feet to a minimum of 4,800 square feet. He stated that this was different from what was presented to the Planning Commission, when the request was to reduce the square footage to 1,600 square feet, but after the Planning Commission public hearing, the applicant returned with a revised request to reduce it to 4,800 instead. He said that the maximum nonresidential square footage would remain at 36,000 in Block 1 and a total of 46,000 for the entire Riverside Village development.

Mr. Reitelbach said that the positive aspects of the request was that the request was consistent with the land use recommendations of the Pantops Master Plan. He said since the Pantops Master Plan recommended the property as Urban Density Residential, they were looking at promoting those residential uses with secondary commercial uses.

Mr. Reitelbach said that staff had not identified any concerns, however neighbors had shared concerns throughout the review process about reductions to the minimum required nonresidential square footage. He said that they had stated that when this development was originally approved, it was expected there would be more commercial square footage permitted and required in this development to provide more of a mixed-use development.

Mr. Reitelbach said that when the application was originally submitted, the applicant had requested to reduce the minimum nonresidential square footage from the existing 8,000 square feet down to 1,600 square feet, and that request was taken to the Planning Commission public hearing on Tuesday, February 28, 2023. He said that at the public hearing, the Planning Commission voted 5-1 to recommend denial of that request, determining that retaining 8,000 square feet of non-residential space was an important element for the order of planning in the Riverside Village development. He said that however, after that public hearing, in March and April, the applicant revised the proposal, and instead of requesting a reduction down to 1,600 square feet, they were requesting a reduction to a minimum of just 4,800 square feet, so this was a reduction of 3,200 square feet from the current required minimum square footage, opposed to the original request of a reduction of 6,400.

Ms. McKeel asked if the request was due to the developer being unable to find commercial businesses to go into that space.

Mr. Reitelbach said that was his understanding. He said that the only commercial space currently in that area was Grit Coffee, which was 1,600 square feet in size, and the reason the original request of 1,600 square feet to ensure Grit still had that space while converting the other unfilled commercial areas into residential space.

Ms. McKeel asked if the current request allowed Grit to remain.

Mr. Reitelbach said yes.

Ms. McKeel said that the issue of flipping commercial space into residential space was a common occurrence at this time. She asked Mr. Reitelbach if the need for commercial space was caused by the pandemic and its effects on work and living habits. She said that they may need to relook at the NMD and what it encompassed. She asked Mr. Reitelbach if this was a temporary or permanently changed landscape.

Mr. Reitelbach said that different commercial users were looking for space in a changing landscape, and at the types of spaces they had. He said that the Economic Development Office (EDO) may have more information or data on that exact issue in the County.

Ms. McKeel said that it was a separate issue from this one, but it brought it to mind because this was the second or third of these that they had dealt with.

Mr. Andrews asked to see Slide 5. He said that it was reducing the minimum from 8,000 to 4,800 square feet. He asked how many square feet there was currently in the first-floor available commercial spaces.

Mr. Reitelbach said that it was 11,000 square feet of available commercial space.

Ms. LaPisto-Kirtley asked to see Slide 3. She asked which part of the property was Block 1. She said that next to Grit Coffee there was a failed restaurant that was soon to be replaced with a new restaurant with a three-year lease, compared to Grit Coffee's 13-year lease.

Mr. Reitelbach said that Block 1 included all three of those commercial buildings, but they did have apartments on the upper floors now. He said that the parking lot behind it was also included in Block 1. He said that Blocks 2 through 5 of Riverside Village were the various townhouses and condo building in the rear.

Ms. LaPisto-Kirtley asked if the empty space was in the middle section or if there was some on either end.

Mr. Reitelbach said that information that specific was not known at this time.

Ms. Mallek asked if commercial use was specifically designed for retail shops only, or if small office space was available.

Mr. Reitelbach said that the commercial use would follow the Riverside Village Code of Development, which allowed for a range of retail, restaurants, and small office spaces.

Ms. Mallek said that there lots of choices but had not found the right one.

Mr. Reitelbach said that there were some choices.

Ms. Price asked to see the slide showing the ZMA history reviewed the history. She clarified that when this rezoning was initially submitted, it was a request to eliminate the non-residential, which would bring it down to 0, and subsequently changed it to 1,600 square feet, and that was what went to the Planning Commission, and now they went to the Board with 4,800.

Mr. Reitelbach said that was correct.

Ms. Price opened the public hearing.

Ms. Kelsey Schlein, Planner with Shimp Engineering, stated that she was representing Stony Point Development Group, the applicant for this rezoning request and longtime owner and developer of Riverside Village. She indicated the image on the screen was an aerial view of Riverside Village, which was a development that appeared in several County planning documents because this project was a model for the NMD, and Stony Point had made a dedicated effort to bring nearly every element of the neighborhood model to fruition.

Ms. Schlein said that one element that they had struggled with providing was meeting the minimum commercial requirement despite having made a significant investment in building out the commercial space. She said that Stony Point had always had a considerable amount of vacant commercial space, which was largely the result of the friction between the NMD planning ideal and the reality of market factors. She said that she was present to request some additional flexibility in the code of development to allow vacant spaces the opportunity to be more than a shell.

Ms. Schlein said that they were specifically focusing on Block 1 and indicated the area on the slide. She said that the 69 units and other elements of the zoning history was largely applicable to the entire development, but the specific proposal was specific to Block 1, which contained the three buildings fronting on Stony Point Road and was specific to the minimum commercial square footage requirement and reducing that square footage requirement from 8,000 to 4,800 square feet.

Ms. Schlein said that Stony Point and Shimp Engineering had been largely involved throughout the process of development. She said that the original ZMA was submitted in 2012 and approved in 2013, and over time, the code of development and application plan had been amended to increase units and reduce square footage, with quite a few amendments that took place before much of the project was off the ground. She said that a major milestone was in 2019 when the Shops at Riverside Village was completed, and shortly thereafter, Grit and Riverbirch opened.

Ms. Schlein said that there were effectively six tenant spaces there. She said that there was 11,600 square feet total of commercial area, but a rough calculation of occupied commercial space, which was informed by the zoning clearance submitted for Grit Coffee was 1,600 square feet. She said that 1,600 square feet was used as their metric for each commercial tenant space when calculating things such as parking spaces.

Ms. Schlein said that in December 2019, four of the six tenant spaces were occupied, and in April 2022, the dance studio closed and had remained vacant since then, and in October 2022, Riverbirch closed, which occupied two commercial spaces in one of the end buildings. She said that there had been uncertainty in what was going to go on when they originally submitted the request in October 2022, so they wanted not to reduce it to zero but to allow for maximum flexibility for zoning in the future. She said that today, both Grit and the former Riverbirch space were occupied.

Ms. Schlein said that the original request was for a reduction to zero square feet as a requirement to maintain maximum flexibility. She said that after the neighborhood meeting, they heard a lot of concern that that meant that Grit would go away with no certainty that they would stay, so in response to that, they revised the application to 1,600 square feet after the community meeting to provide certainty that there would still be a minimum commercial square footage requirement.

Ms. Schlein said that after receiving feedback from the Planning Commission, they would have had a lot more support had they included the Riverbirch space in that presentation, which was reflected in the minutes. She said that they were before the Board tonight largely in response to feedback they had received with the 4,800 square feet.

Ms. Schlein said that the use was consistent with the Comprehensive Plan, which was listed as

Urban Density Residential, with commercial as a secondary use. She said that with the reduction, they still maintained that consistency with commercial as a secondary use. She displayed on the screen the various NMD principles that Stony Point significantly invested in, which included neighborhood center and mixture of uses and buildings and spaces of human scale, parks, recreational amenities, and open space, mixture of housing types and affordability, pedestrian orientation and multimodal transportation opportunities, and interconnected streets.

Ms. Schlein said that they built out the commercial space with a significant investment, but some of these commercial spaces had remained vacant for a long time, so they requested that if they were unable to be filled that they be able to convert those to residential in the future if they continued to remain vacant.

Ms. McKeel said that this process had been incremental and prolonged for the applicant, which the Board must have a larger discussion about.

Mr. Andrews said that he agreed they required a larger discussion about this difficult process. He asked how much retail space was available in each building currently.

Ms. Schlein said that roughly 1,600 to 2,200 per building was available. She said that the commercial floor plat itself was 11,600 across the six spaces in the three buildings.

Mr. Andrews said that they could have already converted one of these spaces to residential if they wanted to because they were limited to 8,000 square feet.

Ms. Schlein said that was correct.

Mr. Andrews asked how many residences they expected to add if they decided to do this in the future.

Ms. Schlein said that there was a maximum of 36 units allocated in Block 1 total and there were currently 24, so 12 additional units could be realized. She said that with 1,600 square feet in three available spaces, it would be more like six units.

Mr. Andrews asked if there would be 15% affordability.

Ms. Schlein said that was correct. She said that any additional units added on top of the 24 would kick in at 15% affordability for the new units as well.

Ms. LaPisto-Kirtley said that the lower units could be made accessible for elderly and handicapped individuals because they were on the first floor.

Ms. Schlein said yes.

Ms. Mallek asked if there was a plan for universal design for residential units on the first floor. She asked if there was an elevator.

Ms. Schlein said that in the middle-front building, there was an elevator. She said that any residential structure brought online had to comply with ADA (Americans with Disabilities Act) requirements, so there were some ADA-accessible units currently, despite there not being units on the first floor, but when they brought additional units online as well, they would still have to meet ADA accessibility for a certain number of those units.

Ms. Mallek asked if there was a code section for that.

Ms. Schlein said yes, it was a building code issue.

Ms. Mallek said that she had concerns when she saw what was originally planned to be mixed use to be turned into large residential developments with no services for residents. She said that originally planned was a riverfront restaurant that would have provided multiple benefits to the area and its residents but was later removed as part of including more residential units in the rezoning requests.

Ms. Mallek said that she did not believe that if this development originally appeared as residential-only that it would have been approved, and that was an issue. She said that there were certain commercial and office spaces that were needed by tenants so that people had a place to work, and she did not approve of seeing continual abandonment of commercial spaces when they had flexibility built in for light industrial and other uses.

Ms. Price said that it was not simple math, because the square footage was divided between buildings, and a single occupant covered two spaces. She asked when the new restaurant was scheduled to open.

Ms. Schlein said it would hopefully be open this month.

Ms. Price said that the building on the right would have the restaurant on the entire ground floor, and the building on the far left had Grit on the far left. She asked if there was potential for three residential units that could be added, one to the right side of the building to the far left, and two in the middle

building.

Ms. Schlein said that it was a potential of three of what was currently outfitted to be commercial space to residential, which could potentially be smaller units with partitions created.

Ms. Price asked if they could get more than those three with what would be the available space to convert to residential.

Ms. Schlein said that was correct.

Ms. Price asked if they converted it to residential, they would not be able to reconvert it to commercial as long as someone had a lease, and if someone had a multiyear lease, it would be years before they could consider converting it. She said that if multiple units were on the floor and one had a long-term lease, the entire space could not be converted. She said that by converting it to residential, they were eliminating converting it back to commercial.

Ms. Schlein said that it would depend on how everything played out, and there were many factors that played into that. She said that they knew people needed a place to live and was convenient to amenities, so it was likely residential demand would be there for a long time. She said that as far as construction, it was much harder to start with residential structures and convert them to commercial than vice versa. She said that they already had the shell which had commercial construction standards, so the possibility was there, but she imagined that these would be desirable to live in.

Ms. Price said that of all of the developments she had seen in Albemarle County, this was one of her favorites. She said that it had the mix that made it an attractive community, but she did not like it quite as much knowing that there originally was meant to be a riverfront restaurant there, and she was concerned about eliminating some of the other commercial uses.

Ms. Price said that she was not unaware of the economy today, but looking at the rezoning history, the pandemic only affected the time after 2020. She said that she was concerned about the impact of the loss of commercial, in which residents were led to believe there would be this commercial opportunity there. She said that looking at Block 1, it was less concerning, but looking at the development as a whole, it became a concern.

Ms. LaPisto-Kirtley said that this was only the second or third NMD in the County.

Ms. Schlein said yes, it was presented in 2012 and adopted in 2013. She said that more had come online since 2012, but in her experience of the smaller NMDs, they were evaluated in the context of the larger surrounding area.

Ms. LaPisto-Kirtley said that retail had been going south before the pandemic, including Toys R Us closing, Fashion Square closing, and Brook Hill was promised a skating rink that never happened. She said that there was a lot that happened before the pandemic, and that concerned her. She asked if it were true that the spaces could be changed back to retail should people want that.

Ms. Schlein said that was correct, if the request were approved to reduce the nonresidential square footage to 4,800, the current spaces outfitted above that 4,800 would have the flexibility to be designated as either or throughout the lifetime of the zoning on the property.

Ms. LaPisto-Kirtley asked if they would still maintain the 4,800 square feet.

Ms. Schlein said yes.

Ms. LaPisto-Kirtley asked how long it had been with empty commercial spaces in the buildings.

Ms. Schlein said that two tenant spaces had never been filled since the CO (Certificate of Occupancy) was issued in 2019.

Ms. LaPisto-Kirtley asked what they had done in those years to attract businesses.

Ms. Schlein said that they had negotiated rents, dropping them as much as 20%, and had gone through three different leasing agencies. She said that they tried to change how they were marketed and two spaces had never been rented out in those four years.

Ms. LaPisto-Kirtley asked if they continued to look for retail.

Ms. Schlein said yes. She said that the easiest conversion was to have commercial in there, but it had been difficult to secure.

Ms. LaPisto-Kirtley asked which use made more money when comparing commercial and residential uses.

Ms. Schlein said that commercial made more money by a significant amount.

Mr. Andrews said that parking requirements for residential were substantially less than commercial. He asked if they were planning on changing the parking.

Ms. Schlein said that the parking lot behind the buildings was allocated to Block 1, so there was sufficient parking there for a variety of commercial tenants and sufficient parking for residential residents.

Mr. Andrews clarified that there would be no change in parking.

Ms. Schlein said no, there would be no change in the parking area behind the building.

Ms. Price invited members of the public who had signed up to speak.

Ms. Sara Robinson, Rivanna District, stated that she was a resident of Riverside Village, one of the original builders there, and the past President of the Riverside Village Homeowners Association. She said that she was speaking in her own capacity today. She said that she was a poet as well, and poets tended to look at things in the big picture. She said that she was happy to see the image displayed on the screen, because she heard them speak with fondness about this. She said that poets may also look for giving people the great understanding, and sometimes when they could not use words to come to the great understanding, they had to use words to come to the great compromise.

Ms. Robinson said that Chris Henry had a vision and Stony Point Development Corporation had a vision, and everything he told her he was going to do as a prospective homeowner, he did. She said that he also went a little bit above, as he proffered almost 10 acres of park land next to the development, and through his and her efforts, they were pleased to form a dog park that went into a natural wetlands area, which should be preserved and used as what they hoped would be a continuance of the promenade park along Free Bridge Lane.

Ms. Robinson asked how long they should press them to keep coming up with options for this space. She said that they needed to move on and look to Chris Henry and others to develop the big concept there. She said that the restaurant was great, and they were happy with Grit and the living place they had. She asked the Board to accept the reduction requested and move onto the bigger picture.

Mr. Richard Allan, Rivanna District, said he was also a resident of Riverside Village. He said that he disagreed with Ms. Robinson. He said that he believed it was time to move on and give Stony Point a chance to turn the three vacant block units into residential uses. He urged the Board to delay the development for nine to 12 months. He said that Grit was busy. He said that the restaurant that went out of business had interior management problems, and that the new proposed restaurant would draw guests from all of Route 20 and from Riverside Village. He said that they needed small spaces for small businesses to locate their operations. He noted that the County was growing, and many people who were moving to the County were seeking small business locations. He said that the Board should approve of the planner's decision. He said the NMD was worth keeping and asked the Board to request that Stony Point postpone doing anything except seeking tenants for the next nine to 12 months.

Ms. Price said the applicant had 5 minutes for rebuttal.

Ms. Schlein stated that zoning was an imperfect tool, and market factors and realities influenced the decision. She said that a certain density of people was required to support the businesses. She said that 105 residences would not support the 11,000 square feet of commercial space. She said flexibility in spaces provided the most opportunity for what could come to fruition in certain spaces, that the proposal of 4,800 square foot minimum was thoughtful and responsive, that Stony Point worked diligently to get the restaurant space occupied, and that they were hoping for the greatest flexibility possible.

Mr. Andrews clarified that the requirement started at 16,000 square feet of commercial before the design and buildout was completed.

Ms. Schlein stated that the 16,000 square foot requirement was in place before Block 1 was completed.

Mr. Andrews clarified that the buildings were designed with about 11,600 square feet of first floor commercial space available.

Ms. Schlein said that was correct, in response to that modification.

Mr. Andrews said that the question was whether the space could be converted.

Ms. LaPisto-Kirtley asked if the lease was signed with the restaurant before or after the Commission meeting.

Ms. Schlein said it was signed after.

Ms. Mallek asked if the new rules would apply to the development in terms of the number of affordable units.

Mr. Reitelbach responded that it would remain at the 15% requirement as originally approved. He said that the application did not request an increase in the number of residential units, and the number of

units was already permitted. He said that the request only pertained to the amount of commercial space.

Ms. Mallek clarified that there were not 105 units in the development.

Ms. Schlein said that was correct.

Ms. Price closed the public hearing, and said the matter was back before the Board for comments.

Ms. McKeel noted the proposal was a compromise, and the reduction provided the needed flexibility while maintaining some of what the community wanted to see. She said she supported the project as presented.

Mr. Andrews said he supported the project. He said that the commercial space had been vacant long enough to warrant seeking other options.

Mr. Gallaway noted that the restaurant industry was a tough business, and the area was a tough area because of the commuter route. He said that a restaurant would demand a different level of activity than a coffee shop. He said that it was more lucrative to include commercial uses, so it meant something that the applicant was requesting a less-lucrative use. He said he had apprehensions regarding the NMD. He said that the proposal was a reasonable compromise.

Ms. LaPisto-Kirtley said she agreed with Mr. Gallaway. She said she did not know why retail businesses were not succeeding. She said she saw many empty storefronts. She said that they had to reconsider the NMD and pivot or else they would lose the business investment in the County. She said she spoke to her Planning Commission member, who said that he would have supported 4,800 square feet. She said that she hoped the applicant would continue to seek commercial businesses, and that she supported the project.

Ms. Mallek said she supported the item. She said she was concerned about the path to only residential developments. She said that there was not enough demand in the past to fill all the units in other developments. She suggested returning to the minimum acreage requirements of the NMD because smaller sites were not able to attract the commercial uses.

Ms. Price noted that non-residential uses extended beyond retail businesses. She noted that retail business suffered from online services such as Amazon. She said that they had to consider what was realistic for the NMD. She said that the subject property was the only site outside of the bypass in the area offering non-residential uses. She said she was concerned about the reduction in nonresidential property, and she respected the presentation, but did not support the proposal.

Ms. Price, hearing no other comments from the Board, said the floor was open for a motion.

Ms. LaPisto-Kirtley **moved** that the Board adopt an ordinance (Attachment G) to approve the zoning map amendment ZMA202200010 Riverside Village Amendment.

Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Andrews, Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, and Ms. McKeel.
NAYS: Ms. Price.

ORDINANCE NO. 23-A(5)
ZMA 2022-00010 RIVERSIDE VILLAGE AMENDMENT

AN ORDINANCE TO AMEND THE APPLICATION PLAN AND
CODE OF DEVELOPMENT APPROVED WITH
ZMA 2016-00019 FOR PARCEL ID 078G0-00-01-000A0

WHEREAS, the application to amend the application plan and code of development that were approved with ZMA 2016-00019 for Parcel ID 078G0-00-01-000A0 (the "Property") is identified as ZMA 2022-00010 Riverside Village Amendment ("ZMA 2022-10"); and

WHEREAS, ZMA 2022-10 proposes to amend the application plan and code of development for Block 1 that were approved with ZMA 2016-00019 to reduce the minimum required commercial square footage from 8,000 to 4,800 square feet; and

WHEREAS, staff recommended approval of ZMA 2022-10, provided that technical revisions were made to the application plan and the proffers; and

WHEREAS, the Planning Commission held a duly noticed public hearing on ZMA 2022-10 on February 28, 2023, and recommended denial based on the original application plan and code of development requesting a reduction of the minimum required commercial square footage from 8,000 to 1,600 square feet;

WHEREAS, following the Planning Commission public hearing, the applicant made all of the

staff-recommended revisions to the application plan and the code of development; and

WHEREAS, on May 17, 2023, the Albemarle County Board of Supervisors held a duly noticed public hearing on ZMA 2022-10.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2022-10 and their attachments, including the application plan and code of development dated October 17, 2022 and last revised on April 11, 2023, the information presented at the public hearings, any comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code § 18-33.6, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2022-10, with the revised application narrative entitled, "ZMA2022-00010 Riverside Village-Block 1 Amendment" dated April 11, 2023 prepared by Shimp Engineering, P.C., and the revised application plan and code of development dated October 17, 2022 and last revised on April 11, 2023.

Agenda Item No. 18. Closed Meeting

Agenda Item No. 19. Certify Closed Meeting.

These items were not held.

Agenda Item No. 20. Adjourn to June 7, 2023, 1:00 p.m. Lane Auditorium.

At 8:45 p.m., the Board adjourned its meeting to June 7, 2023, 1:00 p.m. Lane Auditorium. Opportunities for the public to access and participate in this meeting are posted on the Albemarle County website on the Board of Supervisors home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

Chair

Approved by Board
Date: 03/19/2025
Initials: CKB