A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on November 4, 2020 at 1:01 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection due to the COVID-19 state of emergency.

PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) J. S. LaPisto-Kirtley, Ms. Ann H. Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer, and Ms. Donna P. Price.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson, Deputy County Executive, Doug Walker, County Attorney, Greg Kamptner, Clerk, Claudette K. Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:01 p.m., by the Chair, Mr. Gallaway. This meeting was held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster" by electronic communication means using Zoom and a telephonic connection due to the COVID-19 state of emergency.

Agenda Item No. 2. Pledge of Allegiance.
Agenda Item No. 3. Moment of Silence.

Agenda Item No. 4. Adoption of Final Agenda.

Mr. Gallaway said two items needed to be pulled from the consent agenda: Item 8.4, which would be pulled for a separate vote and discussed at the end of the consent agenda; and Item 8.5, which would be pulled entirely from the agenda. He said if there were any questions about Item 8.5, they could be asked after the approval of the consent agenda and discussion of Item 8.4.

Motion was offered by Ms. Price to adopt the final agenda. Ms. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 5. Brief Announcements by Board Members

Ms. Palmer said the Cove Garden Ruritans club were holding their biggest fundraiser of the year that weekend. She said they did not know how this would go with COVID-19, but they are having their apple butter and apple harvest festival at Virginia Vintage Apples on 29 South. She said it is a usually big fair and production and that this year, because of COVID-19, they are doing drive-throughs from 10:00 a.m. to 2:00 p.m. on Saturday, November 7 and from 12:00-3:00 p.m. on Sunday, November 8. She said they will be selling apple butter and Brunswick stew, which can either be ordered online or upon arriving there. She encouraged people to attend and help support the Cove Garden Ruritans.

Ms. McKeel said the Supervisors had all received an announcement from the Charlottesville-Albemarle Convention and Visitors Burau (CACVB) that Charlottesville and Albemarle County were named the 2020 "Top Adventure Town" in *Blue Ridge Outdoors* magazine's annual contest. She said this was a great recognition.

Ms. Price said she wanted to give a round of applause and thanks to the Electoral Board and election officials, the many new volunteers, and the residents for engaging in an appropriate, peaceful election, which is the hallmark of democracy.

Agenda Item No. 6. Proclamations and Recognitions

Item No. 6.a. Digital Counties Survey Award

Mr. Trevor Henry, Assistant County Executive, said it was an honor for the County to once again receive this award. He said the Digital Counties Survey is conducted by the Center for Digital Government Partnership with NACo (National Association of Counties). He said the survey recognizes excellence in technology programs and plans to encourage government innovation and improve services to citizens. He said Albemarle County has been recognized as a Top 10 county for its population size for the past 18 years, which is a credit to the current Board, past Boards, and the County's Information Technology department (currently led by Mr. Mike Culp).

Mr. Mike Culp, Director of Information Technology, said he was honored to be part of an organization that works together with civility, patience, and forgiveness. He said much of the work they have been doing shows that they have been doing those things very well.

Mr. Culp said there were a couple of highlights the committee reviewed and brought to their attention as to why they were second (noting that they would love to be first). He said they have a new attention to cybersecurity, with a brand-new Cyber Incident Response Team as well as a plan, and so the committee highlighted the production and use of those things that are important to cybersecurity.

Mr. Culp said the second highlight was collaboration with the School Division in efforts to provide affordable and accessible broadband to all citizens and businesses in Albemarle County. He said this is a big goal for everyone they will continue to work on.

Ms. Palmer thanked Mr. Culp, adding that the Board appreciates him and his team on many different levels.

Ms. Mallek said she was able to be present at the presentation of this award in Nashville a couple years earlier and that this award is a very big deal. She said there were many counties that were very much in awe of what Albemarle and the staff had achieved. She said it was fun to be there and hear it from that outside perspective, to hear the feedback from other counties.

Ms. Palmer asked who was awarded as number one.

Mr. Culp replied that it was Mono County, California, which is a county similar in size to Albemarle. He thanked the County IT staff as well as County leadership for supporting them.

Ms. Price thanked Mr. Culp, echoing his appreciation, and sharing the credit with County staff and the IT team. She said they do a great job, and that she and Ms. Palmer had worked with Mr. Culp on the ABA board, which was another great indication of the work he has done for County residents.

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Item No. 6.b. Veterans Day Resolution.

Ms. Price said as a veteran herself, it was an extreme honor to have the opportunity to read the resolution of appreciation.

Ms. Price **moved** to adopt the Veteran’s Day Resolution of Appreciation and read it aloud.

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

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

Ms. Palmer asked what the estimated number of veterans were in Albemarle County.

Mr. Henry asked Ms. Palmer if she was referring to residents in Albemarle County.

Ms. Palmer said she supposed when taking into consideration the number at Rivanna Base, this heightens the number.

Mr. Henry said he believed it was several thousand, but he did not have a number in front of him.

Ms. Palmer said she did not need an exact number but wanted to point out that there are thousands of veterans in the community, and that they are of huge importance and are appreciated.

Ms. LaPisto-Kirtley expressed appreciation for veterans, having been raised in a military family.

Ms. McKeel said now that the Board is holding all their meetings by Zoom and holding the proclamations electronically, and while she was sure they have a process to get the recognition to the right person, they are used to having a person to hand the recognition to when they meet in the County Office Building. She asked how these are given to the person.

Mr. Morris replied that these are delivered by mail at the recipient’s request.

Ms. Mallek said since Ms. Price was going to attend the event at Post 74, she hoped she would read and deliver it there.

Ms. McKeel said this was a great idea.

Ms. Mallek said the post would appreciate this very much, and it has been done in the past.

Ms. Price said she would work with Mr. Gallaway and Mr. Morris to make sure she receives this and brings it to the American Legion Post the following Wednesday, November 11.

Ms. McKeel told Mr. Morris they need to make sure that when they are requested, staff asks about having it mailed.

Ms. Price said she would also like to have at least one additional copy, as she is a member of the VFW post in Scottsville and would like to be able to bring a copy to them as well as to the American Legion Post.

Ms. LaPisto-Kirtley said she would like a copy as well, as she was going to attend the VFW on

Pantops.

Ms. Mallek said she would take one as well and deliver it to 2044 in Earlysville.

Mr. Gallaway said to let him know when these would be available for signing at the Clerk's Office so that he could include his signature.

RESOLUTION OF APPRECIATION

WHEREAS, the United States of America, founded on the principles of liberty and justice for all, has called on her men and women in uniform to protect our national security and

WHEREAS, the preservation of our national interests, our rights and our freedom, has been ensured by the service of these individuals; and

WHEREAS, on Veterans Day we remember and pay tribute to the millions of patriots whose courage and sacrifice have secured our freedom and defended our values both at home and abroad; and

WHEREAS, over one hundred veterans continue to serve their country in public schools and government as teachers and other professionals providing services to the students and citizens of Albemarle County; and

WHEREAS, these veterans employed by Albemarle County Public Schools and Local Government deserve recognition for their continued service;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby recognizes all veterans and the men and women that are currently serving in our armed forces around the world; and

BE IT FURTHER RESOLVED, that the Albemarle County Board of Supervisors hereby appreciates and honors the continued contributions and sacrifices of the Armed Forces veterans employed by local government and public schools; and

FURTHER RESOLVED, that this Resolution celebrating Veterans Day, be adopted this 4th day of November 2020.

Signed this 4th day of November 2020.

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

Mr. Gary Grant (Earlysville area, Rio District) said he had more questions that, most likely, neither the Supervisors, nor the County staff, will ever answer. He first asked why the Board schedules their public hearings on changes to their Continuity of Government ordinances to a timeslot at night, near the end of the meetings. He asked if this was because they did not want reporters hearing the news before deadline. He said that evening was a prime example of where they would have to rescind their embarrassing, illegal action related to the Virginia Freedom of Information Act.

Mr. Grant asked how the Board, in good conscience, could contemplate approving the spending of thousands of COVID-19 CARES Act taxpayer dollars for broadband services instead of spending them on health and safety measures related to the pandemic.

Mr. Grant asked when the Board would include, in one of their meeting agendas, their ineffective, unhealthy, unsafe, and non-climate action compliant residential burning ordinance. He indicated that residents are choking out there.

Mr. Grant asked when the Board would publicly disavow the following statement made by Ms. LaPisto-Kirtley at the Board's September 6 retreat: "I think most of us, by the time we get there, if we've done our homework, we already know how we're going to vote." He asked if it would be before that evening's three public hearings on which the Rivanna Supervisor may apparently already know how she would vote.

Mr. Grant thanked the Board for spending taxpayer dollars to stream the meetings, and for his less-than three minutes of their time that day. He wished them a productive meeting.

Mr. Neil Williamson said he is President of the Free Enterprise Forum, a public policy organization focused on local government in Central Virginia. He said in his family, Thanksgiving is always a potluck partnership of complementary dishes. He reflected on how normally, early November is filled with phone calls regarding who will bring what to family dinner, with everyone bringing something to the table.

Mr. Williamson said as Albemarle County works towards its Rio-29 Form-Based Code, it is important to remember the partnership role local government must play for a form-based code to succeed. He said it is theorized that the County will partner with one or more landowners to implement the Rio-29 vision, one project at a time. He said selecting development partners requires an evaluation of each party in the partnership and the strengths and weaknesses they bring.

Mr. Williamson asked what Albemarle County, as a partner, should bring to the table – infrastructure, investment, land, financing, reduced fees, or streamlined approvals. He said the Free Enterprise Forum believes that the more the County can bring to the table, the more likely the partnership is to succeed.

Mr. Williamson said the Board's discussion that day focuses on the ownership and maintenance of proposed public spaces demanded by the form-based code. He said if these so-called amenities are mandated by the code, the Free Enterprise Forum strongly agrees with County staff's recommendation that these public spaces should be publicly owned and maintained. He said they take exception with the inclusion of the County Attorney's 2019 Service Districts Memo with the staff report. He said this well-researched memo outlines all the ways local government can place additional tax burden on property owners to provide additional, more complete, or more timely services of government.

Mr. Williamson said Planning staff has gone on the record opposing the inclusion of service districts in Rio-29. He said the Free Enterprise Forum opposed this super tax from the beginning. He said they believe it does not feel like much of a partnership if Albemarle County continues to flaunt the ability to super-tax the very area that they are seeking to drive development and investment. He said it will be difficult to make the form-based code vision a reality until all the potential partners understand what Albemarle will bring to the table. He said certainly, public space maintenance is just a start.

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Mr. Maynard Sipe said he is a land use attorney in the Albemarle-Charlottesville area. He said the Board may be familiar with him, as he has handled cases for many years. He said he was representing Mr. Derrick Harris with his special exception and, if the Chair did not mind, he would like to allow Mr. Harris to speak first, using his three minutes, and then he would follow him after he and Ms. Terry Bentley speak.

Mr. Gallaway asked if there were three people who wished to speak.

Mr. Sipe replied that three people wished to speak, and that they were at the same location, as they thought this would be easier. He said rather than logging in separately, they could each state their names and speak.

Mr. Gallaway asked them to go ahead. He asked each new speaker to introduce themselves by name, for the record.

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Mr. Derrick Harris said he is a business owner of Dependable Home Improvement. He said he lives in the Charlottesville area and was requesting a special exception permit. He said he has been working on a project at 2405 Northfield Road in Charlottesville and has been trying to meet with Board members to hear his side of the story. He said he purchased the property several years ago, with the goal of opening a B&B. He said it was not just to open up a business but was to build a home for him to stay and invite special guests to stay with him. He said he got this idea several years ago from a client of his, who told him that since he is good with people and it would be a good project for him.

Mr. Harris said he was trying to help the Board understand that he has a 1.2-acre lot and is close to Rio Road, in the second house on the left. He said he is currently running a B&B and is well-experienced in this. He said he would ask the Board to look at this closely and allow him to have the extra three bedrooms. He said he has plenty of parking and is close to the Rio Road area. He said he himself will live on the property and that he will always obtain to ensure good standards of his guests. He said he is renting to a different class of clients who want to come to town and experience Charlottesville.

Mr. Harris said he does not think he will be a bother to anyone in his neighborhood. He said he is in the second house when turning off of Rio Road, into his driveway. He said this is something he would like the Board to consider closely in making their decision.

Mr. Harris said he is following all the rules and guidelines for a special exception from staff, and that he has filled in all the blanks they have asked for him to apply for the special exception. He said if he cannot get the special exception the Board has put in place, he does not know why there would be any requests from anybody to ask for a special exception. He said he filed for the permit for the special exception and did everything the staff asked him to do. He said if he did everything that they asked him to, he did not see why he would be denied.

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Ms. Terry Bentley said she was speaking in support to allow for the three additional bedrooms at 2405 Northfield Road. She said she would provide some background information.

Ms. Bentley said Mr. Harris is also the owner of a five-bedroom home on Rookwood Drive in Albemarle County, which has been used for tourist lodging since 2017. She said this was approved under the prior ordinance, so there was no requirement for the owner to be on the premises, but there is a resident manager there. She said she assists with managing the property and also serves as the host.

Ms. Bentley said they focus on accommodating small groups, which consist of families and groups of friends who seek to spend quality time together in a home setting. She said this is not in any way a hotel, and they do not rent single bedrooms to guests. She said they offer an entirely different experience because they provide a high-end, comfortable place for small groups to stay while visiting Charlottesville who want to spend time with each other and are there because they are attending weddings and reunions, or visiting local wineries or Downtown Charlottesville. She said they are contributing to the economy and tourism in the community.

Ms. Bentley said despite what some people may have alleged, there have been no formal complaints from neighbors at all, but there have been many excellent reviews and comments from guests that have stayed that have earned her the designation of “Super Host” in Airbnb, and the Airbnb a consistent overall 5-star rating.

Ms. Bentley said she was sharing this information with the Board to help them understand that they already have the knowledge and experience because they are already doing this. She said Mr. Harris has met all the requirements needed for the Board to be able to approve the request for the special exception for the three additional bedrooms on Northfield Road, and so she hoped they would be able to do that.

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Mr. Maynard Sipe said he would add a few words that were more focused on the application and staff report. He said he would thank those who took the time to call him back or speak with him. He said he would also like to clarify for the Board that he felt there were some things regarding neighbors’ input received early on that had either been misunderstood, or there were some changes since it was first proposed.

Mr. Sipe said the most important thing is that Mr. Harris would be residing at the residence and will be making it his own home. He noted that in the emails the Board received, one of the residents said if they knew Mr. Harris was living there, they would withdraw their objection, which he believes makes a difference, at least for some of the residents.

Mr. Sipe said he also felt that perhaps the staff were swayed too much by some of that early input and did not necessarily give the Board the objective analysis they should have had in their staff report. He said he talked about this in a letter he sent to the Board, which he realized he sent out at the last moment but had wanted to get it in writing. He said he would brush on a couple of points he made in the letter.

Mr. Sipe said the staff recognized that this particular property is uniquely situated and found several things that were all factors desirable or favorable for the homestay use. He said the single-family residence is placed on a large parcel, at 1.2 acres. He said Mr. Harris has done an excellent job with fencing and landscaping the property, which he did to both protect his privacy and the privacy of his neighbors, as he believes in being respectful.

Mr. Sipe said the property backs up to a nonresidential use, which is a church that has an active daycare, so there is more activity there than would ever be at Mr. Harris’ site. He said it is also located among residential properties that are of similar size and scale. He said the house directly across the street is a large home with a three-car garage and a separate additional cottage on the property. He said size and scale of Mr. Harris’ home is not unique and fits in the neighborhood.

Mr. Sipe said there are two particular criteria in the ordinance that are supposed to be applied. He said one is that there is no detriment to an abutting lot, and another is that there is no general harm to the public’s health, safety, or welfare. He said the abutting owners have not made any complaints, nor filed any objections or comments to the County. He said the applicant believes the fencing, landscaping, and onsite parking that is screened protects the abutting lot owners.

Mr. Sipe said staff did not find anything wrong or point to anything specifically regarding public health, safety, or welfare. He said they particularly noted that all parking and safety requirements are met, as noted on page 1 of the staff report.

Mr. Sipe said the applicant feels that if the staff report is looked at objectively, the Board will find the request is in shape to be approved.

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Mr. Waki Wynn said he is a local 20-year resident of the Northfields subdivision and has lived in Charlottesville his entire life. He said he is a local Realtor with RE/MAX Realty Specialists and is also the Athletic Director at the Peabody School. He said he was speaking on behalf of Mr. Derrick Harris at 2405 Northfield Road and was asking the Board to grant Mr. Harris the special exception.

Mr. Wynn said he could say without a doubt, in his years in the neighborhood, that the improvements to the property by Mr. Harris were phenomenal. He said Mr. Harris has done an amazing job of fencing and landscaping the property and putting in parking. He said he could honestly say that he believes Mr. Harris is an example the Board could use for anyone, moving forward, for anyone who ever wants to be granted a special exception. He said Mr. Harris has followed every rule, regulation, and guideline the County has requested.

Mr. Wynn said that more importantly, he believes that Mr. Harris’ location within the neighborhood is critical. He said that because it is so close to Rio Road, there is not much drive-through traffic that would be coming through the community.

Mr. Wynn said he would say in the kindest of ways that, on behalf of himself and some other residents in the community, they have started to discuss that they feel there may be a racial component to what is happening with Mr. Harris. He said they do not believe the racial aspect involves the Board, but that it may be some of the other residents who are opposing Mr. Harris. He said he would kindly ask the Board not to allow themselves to be used by someone who has an agenda of that nature.

Mr. Wynn said on behalf of himself and the residents in the Northfields subdivision, he would kindly ask the Board to grant the special exception. He said if the Board members had the time, he would highly encourage them to drive by the property and see it for themselves, as it is phenomenal. He added that Mr. Harris has not had any complaints at his other Airbnb, and with the fact that Mr. Harris would be living there, this was more than enough for the Board to be able to grant the special exception.

Agenda Item No. 8. Consent Agenda.

Mr. Gallaway reminded the Board that they had removed Items 8.4 and 8.5.

Ms. Price **moved** to approve the consent agenda. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Item No. 8.1. Approval of Minutes: April 19, June 7, October 2, and December 11, 2019; and February 5, February 19, and March 11, 2020.

Mr. Gallaway had read the minutes of April 19, 2019; June 7, 2019; December 11, 2019; and February 5, 2020 and found them to be in order.

Ms. Palmer had read the minutes of October 2, 2019 and March 11, 2020 and found them to be in order.

Ms. LaPisto-Kirtley had read the minutes of February 19, 2020 and found them to be in order.

Item No. 8.2. FY 2020 Appropriations.

The Executive Summary forwarded to the Board states that Virginia Code §15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The total change to the FY 20 budget due to the appropriations itemized in Attachment A is $839,265.33. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the appropriations for local government and school projects and programs as described in Attachment A.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment B) to approve the appropriations for local government and school projects and programs as described in Attachment A:

Appropriation #2020078 **$839,265.33**

Source:	General Government CIP Fund fund Balance	$10,368,904.71
	School Division CIP Fund fund Balance	($9,532,337.40)
	Interest Earnings	$2,698.02

This request is to:

1. Temporarily transfer $10,368,904.71 from the Local Government Capital Improvement Program (CIP) fund balance to the School's CIP Fund balance to maintain positive balances in the CIP funds. This action is part of the County's financial management strategies, where borrowing for CIP projects is delayed when accumulated cash balances can be used in the interim. In the future, an additional appropriation will be requested to transfer the equivalent amount back to the Local Government CIP to restore the original fund balance. The County's next borrowing for CIP projects is scheduled for Spring 2021.

2. Reconcile the FY20 School CIP Fund for a lighting energy lease escrow project based on actual expenses and revenues for a net increase in the total County budget of $839,265.33.

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RESOLUTION TO APPROVE ADDITIONAL FY 2020 APPROPRIATION

BE IT RESOLVED by the Albemarle County Board of Supervisors:

1) That Appropriation #2020078 is approved; and

2) That the appropriation referenced in Paragraph #1, above, is subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2020.

* * *

APP#	Account String	Description	Amount
2020078	3-9000-69000-351000-510109-6599	SA2020078 CIP Funds Fund Balance Reconciliation	$10,368,904.71
2020078	3-9000-69000-351000-510100-6599	SA2020078 CIP Funds Fund Balance Reconciliation	-$9,532,337.40
2020078	4-9010-93010-493010-930027-9999	SA2020078 CIP Funds Fund Balance Reconciliation	$10,368,904.71
2020078	3-9010-51000-351000-510100-9999	SA2020078 CIP Funds Fund Balance Reconciliation	$10,368,904.71
2020078	3-9000-69000-315000-150103-6599	SA2020078 CIP Funds Fund Balance Reconciliation	$2,698.02
2020078	4-9000-96000-496000-800802-9999	SA2020078 CIP Funds Fund Balance Reconciliation	$839,265.33

Item No. 8.3. Schedule a Public Hearing to Consider Realignment of Galaxie Farm Lane.

The Executive Summary forwarded to the Board states that, following Board approval on November 8, 2000, the County purchased three parcels along or near Galaxie Farm Lane: Parcels 91-8B, 91-10, and 91-11, referenced in the 2000 Galaxie Farm Deed (Attachment A). Following Board approval on December 18, 2019, the County conveyed Parcel 91-11 to the School Board for a future proposed high school center. Galaxie Farm Lane, over which the County also acquired access in the 2000 purchase, remains the sole access to County-owned Parcel 91-10.

On December 4, 2019, the Board approved a rezoning of two neighboring privately-owned parcels (Parcels 09100000000900 and 09100000001500) from R-1 residential to Planned Residential Development (PRD), a higher density residential development with a mixture of unit types.

As part of its proposed development, the developer is seeking to relocate Galaxie Farm Lane from its current alignment along the southern boundary of Parcel 91-9 to a location squarely within that parcel, as shown on a proposed plat (Attachment B).

The developer has approached the County with a proposed agreement (Attachment C) guaranteeing access across the proposed new alignment in exchange for abandoning the existing private access. Once completed, the proposed new alignment would be dedicated as a public right-of-way.

Even though a new and improved alignment of Galaxie Farm Lane is being offered, the proposed “disposal” of the County’s access rights to the existing alignment of Galaxie Farm Lane requires a public hearing, under Virginia Code § 15.2-1800(B). County staff has reviewed the proposed plans for Galaxie Farm Lane and has no objections.

Any improvements will be funded by the developer. No budget impact to the County is expected.

By the above-recorded vote, the Board authorized the Clerk to schedule a Public Hearing to consider realignment of Galaxie Farm Lane.

Item No. 8.4. Southwood Community Development Block Grant (CDBG) Certifications.

The Executive Summary forwarded to the Board states that staff recommends that the Board schedule a future public hearing to consider the approval of the proposed realignment of Galaxie Farm Lane.

Albemarle County has been awarded $1 million in CDBG funds to support infrastructure work in Phase 1 of the Southwood redevelopment project. The use of CDBG funds is considered a “federal action,” which requires the local governing body receiving the funds to adopt and comply with several regulations, both general assurances and those specific to the proposed project.

The following Plans and Certifications are general requirements of the CDBG grant.

Non-Discrimination Policy (Attachment A) - The County has adopted a policy on Equal Opportunity which can be found in the County’s Personnel Policy Manual (P-21). Attachment A is a certification consistent with the County’s current policy that it will not discriminate against the listed protected classes.

Local Business and Employment Plan (Attachment B) - The County must approve a plan to designate the project area boundaries for the purpose of utilizing, to the greatest extent possible, businesses and lower-income residents located in the project area to carry out the CDBG-funded activities. The proposed Plan (Attachment B) designates the entire County as the project area and requires that the public be notified of this through publication of an advertisement in a local, widely circulated newspaper. While the Plan can cover any project, the ad soliciting Section 3 businesses and individuals will be project specific.

Fair Housing Certification (Attachment C) - This certification states the County will take at least one action annually to affirmatively further fair housing. The action must be from a list of Virginia Department of Housing and Community Development (VDHCD)-approved actions or must otherwise be approved by the VDHCD.

Residential Anti-Displacement and Relocation Assistance Plan Certification (Attachment D) - This certification states the County will notify the public and advise the State in the event a CDBG-funded activity will result in the demolition or conversion of residential units. Furthermore, should displacement occur, the County and/or the development owners will provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. An Anti-displacement and Resident Relocation Assistance Plan has been developed for the Southwood Phase 1 project and submitted to VDHCD for review.

Section 504 Complaint Procedures (Attachment E) - The County has previously adopted and published the County's intent to comply with Section 504 regarding handicapped accessibility. The Director of Human Resources is designated as the Section 504 Coordinator. The County is also required to have a procedure for any complaint related to Section 504. Attachment E is a revised complaint procedure which identifies responsibilities by positions rather than specific individuals. As noted, this procedure is specific to federally funded housing and community development programs.

There are no budget impacts associated with the approval of these items. The cost of the required Local Business and Employment Plan advertisement is a CDBG grant-eligible expenditure, which is reimbursable upon the execution of the CDBG contract.

Staff recommends that the Board:
1) authorize the County Executive to execute the Non-Discrimination Policy (Attachment A)
2) the Local Business and Employment Plan (Attachment B)
3) the Fair Housing Certification (Attachment C)
4) the Residential Anti-Displacement and Relocation Assistance Certification (Attachment D)
5) approve the Section 504 Complaint Procedure (Attachment E)

Mr. Gallaway said this had been requested to be approved for a separate vote.

Mr. Greg Kamptner (County Attorney) said this had been requested by staff because the wording in the Executive Summary was incomplete. He said some motion language was created to separately address this particular item.

Mr. Gallaway asked to clarify if the language was to execute Attachments A, B, C, and D, and that the Board approve Attachment E.

Mr. Kamptner said the language is to adopt and authorize the County Executive to execute Attachments A, B, C, and D, and to approve Attachment E.

Ms. Stacey Pethia said the change was made at the County Attorney's request to clarify the language, and these were simply the documents that need to be certified in order for the County to receive the Community Development Block Grant (CDBG) funds for the Southwood project.

Ms. McKeel asked if there had not been any significant changes.

Ms. Pethia replied this was correct. She said nothing had changed with the attachments whatsoever.

Ms. LaPisto-Kirtley **moved** that the Board take the following actions:

1) adopt and authorize the County Executive to execute the Non-Discrimination Policy (Attachment A)
2) adopt and authorize the County Executive to execute the Local Business and Employment Plan (Attachment B)
3) adopt and authorize the County Executive to execute the Fair Housing Certification (Attachment C)
4) adopt and authorize the County Executive to execute the Residential Anti-Displacement and Relocation Assistance Certification (Attachment D)
5) approve the Section 504 Complaint Procedure (Attachment E)

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

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

NON-DISCRIMINATION POLICY

The ***County of Albemarle*** or any employee thereof will not discriminate in employment, housing or accommodations because of race, color, religion, national origin, sex or gender, age, familial status, source of income, veteran status, disability, sexual orientation, or gender identity. Administrative and personnel officials will take affirmative action to ensure that this policy shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and selection for training.

Duly adopted at the regular meeting of the Albemarle County Board of Supervisors on November 4, 2020.

* * *

SECTION 3
BUSINESS AND EMPLOYMENT PLAN

1. The *County of Albemarle* designates as its Section 3 Business and Employment Project Area the County of Albemarle.

2. The *County of Albemarle*, its contractors, and designated third parties shall in utilizing Community Development Block Grant (CDBG) funds utilize businesses and lower income residents of the County in carrying out all activities, to the greatest extent feasible.

3. In awarding contracts for construction, non-construction, materials, and supplies the County of Albemarle, its contractors, and designated third parties shall take the following steps to utilize businesses that are located in or owned in substantial part by persons residing in the County:

    a. The *County of Albemarle* shall identify the contracts required to conduct the CDBG activities.

    b. The *County of Albemarle* shall identify through various and appropriate sources including:

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    the business concerns within the County which are likely to provide construction contracts, non-construction contracts, materials, and services which will be utilized in the activities funded through the CDBG program.

    c. The identified contractors and suppliers shall be included on bid lists used to obtain bids, quotes or proposals for work, or procurement contracts that utilize CDBG funds.

    d. To the greatest extent feasible the identified business and any other project area business concerns shall be utilized in activities that are funded with CDBG funds.

4. The *County of Albemarle*, its contractors, and its subcontractors shall take the following steps to encourage the hiring of lower income persons residing in the County:

    a. The *County of Albemarle* in consultation with its contractors (including design professionals) shall ascertain the types and number of positions for both trainees and employees that are likely to be used to conduct CDBG activities.

    b. The *County of Albemarle* shall advertise through the following sources:

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    the availability of such positions with the information on how to apply.

    c. The *County of Albemarle*, its contractors, and its subcontractors shall be required to maintain a record of inquiries and applications by project area residents who respond to advertisements and shall maintain a record of the status of such inquiries and applications.

    d. To the greatest extent feasible, the *County of Albemarle*, its contractors, and its subcontractors shall hire lower income project area residents in filling training and employment positions necessary for implementing activities funded by the Community Development Block Grant (CDBG).

5. In order to document compliance with the above affirmative actions and Section 3 of the *Housing and Community Development Act of 1974,* as amended, the *County of Albemarle* shall keep, and obtain from its contractors and subcontractors, *Registers of Contractors, Subcontractors and Suppliers* and *Registers of Assigned Employees* for all activities funded by the CDBG. Such

listings shall be completed and shall be verified by site visits and employee interviews, crosschecking of payroll reports and invoices, and through audits if necessary.

Duly adopted at the regular meeting of the Albemarle County Board of Supervisors on November 4, 2020.

* * *

FAIR HOUSING CERTIFICATION

Compliance with Title VIII of the Civil Rights Act of 1968

WHEREAS, the ***County of Albemarle*** has been offered and intends to accept federal funds authorized under the *Housing and Community Development Act of 1974*, as amended, and;

WHEREAS, recipients of funding under the Act are required to take action to affirmatively further fair housing;

THEREFORE, the ***County of Albemarle*** agrees to take at least one action to affirmatively further fair housing each grant year, during the life of its projected funded with Community Development Block Grant funds. The action taken will be selected form a list provided by the Virginia Department of Housing and Community Development.

* * *

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN CERTIFICATION

The ***County of Albemarle*** will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate income dwelling units as a direct result of activities assisted with funds provided under the *Housing and Community Development Act of 1974,* as amended. All replacement housing will be provided within three (3) years of the commencement of the demolition or rehabilitation relating to conversion.

Before obligating or expending funds that will directly result in such demolition or conversion, the ***County of Albemarle*** will make public and advise the state that it is undertaking such an activity and will submit to the state, in writing, information that identifies:

1. A description of the proposed assisted activity;
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the housing needs of low- and moderate-income households in the jurisdiction.

The ***County of Albemarle*** will provide relocation assistance to each low/moderate-income household displaced by the demolition of housing or by the direct result of assisted activities. Such assistance shall be that provided under Section 104(d) of the *Housing and Community Development Act of 1974*, as amended, or the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended.

The ***County of Albemarle's*** FY21 project includes the following activities:

> **The construction of 20 affordable homes and associated infrastructure (road, water and sewer lines). The homes will be available for purchase by low/ moderate-income households.**

The activities as planned will not cause any displacement from or conversion of occupiable structures. As planned, the project calls for the use of existing right-of-way or easements to be purchased or the acquisition of tracts of land that do not contain housing. The ***County of Albemarle*** will work with the grant management staff, engineers, project area residents, and the Department of Housing and Urban Development to ensure that any changes in project activities do not cause any displacement from or conversion of occupiable structures.

In all cases, an occupiable structure will be defined as a dwelling that meets local building codes or a dwelling that can be rehabilitated to meet code for $25,000 or less.

* * *

SECTION 504 COMPLAINT PROCEDURE
FOR FEDERALLY FUNDED HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

The County of Albemarle has adopted the following complaint procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Department of Housing and Urban Development's (HUD) 24 CFR 8.53(b) implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794). Section 504 states, in part, that "no otherwise qualified handicapped individual . . . shall solely by reason of his handicap, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. . . ."

Complaints regarding alleged discrimination in the implementation of Community Development Block Grant funded programs should be addressed to: Director of Community Development, 401 McIntire Road, Charlottesville, VA 22902, who shall assist the designated Section 504 Coordinator with Section 504 compliance efforts.

1. A complaint should be filed in writing or verbally containing the name and address of the person filing it and briefly describing the alleged violation of the regulations.
2. A complaint should be filed within **fifteen (15) days** after the complainant becomes aware of the alleged violation. Alleged violations occurring prior to the adoption of this complaint procedure will be handled on a case-by-case basis.
3. An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation will be conducted by the Section 504 Coordinator or his/her designee in a manner that is informal but thorough allowing opportunities for all parties to submit evidence relative to the complaint.
4. A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by the Section 504 Coordinator and/or the Director of Community Development and a copy forwarded to the complainant no later than **forty-five (45) days** after its filing.
5. The Section 504 Coordinator shall maintain the files and records of the County of Albemarle related to the complaints filed.
6. The complainant can request reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within **ten (10) days** and addressed to County Executive, 401 McIntire Road, Charlottesville, VA 22902.
7. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as filing of a Section 504 complaint with HUD. Utilization of this complaint procedure is not a prerequisite to the pursuit of other remedies.
8. These rules shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards, and to assure that the County of Albemarle complies with Section 504 and HUD regulations.

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Item No. 8.5. Resolution for Free State Road Abandonment (vacated portion only) from the State Secondary System for Maintenance.

This item was pulled from the agenda under Agenda Item No. 4. Adoption of the Final Agenda.

Mr. Kamptner said this item may not need to come back at all, or that it may need to come back after some procedural requirements are satisfied.

Ms. Mallek said when looking at the maps, it looked as if the old dotted line was an old road layout and that the new one shows where the roads and old bridge actually are. She asked if this was correct.

Mr. Kamptner replied that this was one of the reasons that led him to pull the item, as there was some uncertainty about this as well as about the process.

Mr. Gallaway asked if there was no need for action and if the item would come back if necessary.

Mr. Kamptner said this was correct.

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Item No. 8.6. SE202000005 Avon Park II Development – Special Exception.

The Executive Summary forwarded to the Board states that the applicant is requesting minor changes to the Application Plan for Avon Park II. This is the first variation request for this development. Specifically, the applicant is proposing the following changes:

- Modification to the unit mix of the development and clustering. The approved application plan depicted 22 single-family detached units and 8 single family attached units. The proposed unit mix has been modified for more single family attached units (28 units) and two larger single-family detached units at the bottom of the property where the existing house will remain on one of the lots.

- Modification to the building setbacks. All front yard setbacks will be 10' minimum from the right of way and all garages shall be 18' from the right of way or edge of sidewalk. All rear yard setbacks adjacent to Avon Park I and the southern properties shall be a minimum of 10' in addition to the open space/landscaping easement areas behind the lots. The building separation will be a minimum of 10' for all proposed development lots.
- A realignment of the internal road system. The proposed upper cul-de-sac has been removed. The cul-de-sac/turn-around areas is proposed to be replaced with a similar cul-de-sac/parking area matching the lower parking lot/turnaround area. This design allows for roadway frontage and access to the proposed clustered lots at the top of the development area and provides additional parking areas for the townhouse units. Additionally, a 12' paved emergency access road is being provided for a second point of connection to the development for emergency services. The original approved application plan included this 12' roadway but showed it as a gravel road instead of a paved access roadway.
- A smaller and efficient underground stormwater management facility is proposed on the site in lieu of the original stormwater management facility.

County Code §18-8.5.5.3 and §18-33.49 allow special exceptions to vary approved Application Plans upon considering whether the proposed variation: (1) is consistent with the goals and objectives of the comprehensive plan; (2) does not increase the approved development density or intensity of development; (3) does not adversely affect the timing and phasing of development of any other development in the zoning district; (4) does not require a special use permit; and (5) is in general accord with the purpose and intent of the approved application. County Code § 18-33.49 requires that any request for a variation be considered and acted upon by the Board of Supervisors as a special exception.

This request is consistent with the above noted considerations. Please see Attachment B for staff's full analysis.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the special exception request with the following conditions. Please note that this intensified planting area does not negate the required landscaping area elsewhere on the application plan associated with ZMA2014-6 or required by the proffers.

1. All variations shall be as depicted on the Initial Site Plan and Subdivision Plat for the Avon Park II Development prepared by Collins Engineering and last revised on October 5, 2020.

2. The applicant shall provide landscape screening in accordance with County Code § 18-32.7.9.7, or landscaping as approved by the agent, in the open space/landscaping easement areas as shown on the depiction entitled "Intensified landscaping area for screening created by the Community Development Department on 10-13-20."

By the above-recorded vote, the Board adopted the attached Resolution (Attachment D) to approve the special exception request with the conditions contained therein:

RESOLUTION TO APPROVE
SE202000005 AVON PARK II DEVELOPMENT

NOW BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.5.3 and 18-33.49, the Albemarle County Board of Supervisors hereby approves SE202000005 Avon Park II Development to vary the Application Plan approved in conjunction with ZMA201400006 Avon Park II for the mix of unit types, setbacks, road alignment, and stormwater management, subject to the conditions attached hereto.

* * *

SE202000005 Avon Park II Development Conditions

1. All variations shall be as depicted on the Initial Site Plan and Subdivision Plat for the Avon Park II Development prepared by Collins Engineering and last revised on October 5, 2020.

2. The applicant shall provide landscape screening in accordance with County Code § 18-32.7.9.7, or landscaping as approved by the agent, in the open space/landscaping easement areas as shown on the depiction entitled "Intensified landscaping area for screening created by the Community Development Department on 10-13-20."

Item No. 8.7. County-supported Thomas Jefferson Soil and Water Conservation District Programs Update, **was received for information**.

Item No. 8.8. Board-to-Board, October 2020, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information**.

Agenda Item No. 9. **Action Item –** HS201900026 Northfield Manor.

The Executive Summary forwarded to the Board states that the applicant requests one special exception pursuant to County Code § 18-5.1.48(i) for a proposed homestay at 2405 Northfield Road:

1. To increase the number of guest rooms permitted in a homestay pursuant to County Code § 18-5.1.48(j)(1)(iii) from two (2) to five (5).

Please see Attachment A for full details of staff's analysis and recommendations.

Staff recommends that the Board adopt the attached Resolution (Attachment G) to deny the special exception application. If the Board chooses to approve the special exception, staff recommends that certain conditions be imposed.

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Mr. Bart Svoboda, Zoning Administrator, said the applicant was Mr. Derrick Harris, who had spoken earlier. He said the application was received on December 10, 2019, and that there were a number of deferrals while Mr. Harris worked through the process. He said this included the remodel of the existing home and an additional dwelling on the property, which is a garage with a residence above. He said he mentioned this only to say that the garage dwelling was not subject to this particular request, and so this homestay would not affect that particular dwelling.

Mr. Svoboda presented the location map, noting that the blue star represented the location of the property. He said the property is near Rio Road and that the church mentioned earlier is located up or to the north of the property. He said there are residential houses surrounding the other three sides.

Mr. Svoboda said the property is zoned R2 Residential as he presented the zoning map, with the blue star again representing its location.

Mr. Svoboda presented the Comprehensive Plan, noting this was referenced in the staff report. He noted the blue star and location. He said the property is designated Neighborhood Density and is outside the centers for the Rio-29 Small Area Plan. He said he wanted to let everyone know, as they are working so closely by on that other project.

Mr. Svoboda said this area does not have a tourism zone as there is in Crozet for those areas around Crozet proper, which is the only place that a tourism designation exists.

Mr. Svoboda said this is a residentially zoned property and so for homestays, by right, the applicant is allowed to have two guest rooms and must meet primary structure setbacks, with no accessory structures to be used. He said there is a maximum of one homestay use per parcel, and there can be no whole-house rental. He said it must be owner-occupied and the applicant must obtain a zoning clearance, provide onsite parking (as on-street parking is prohibited), and provide neighbor notice for the reasonable agent and annual safety inspections. He said holding special events that serve those other than attendees are permitted.

Mr. Svoboda said the only special exception being requested here was an increase in the number of guestrooms (up to 5). He said in this area, the by-right use is two guestrooms, and the applicant is requesting an increase to five.

Mr. Svoboda presented a list of factors and standards to consider for special exceptions. He said as mentioned earlier, two things the Board will want to consider under Section 18-5.1.4(8)I2 is that there is no detriment to an abutting lot and no harm to public safety, health, or welfare.

Mr. Svoboda presented an aerial photograph from the County's system, noting that it was somewhat dated. He said the construction is now more complete. He explained that there is a gate and a paved area, and that the photo represents what the property looks like. He said the building to the right is the garage with the residence over the top. He indicated to the main house (the proposed homestay and owner's residence).

Mr. Svoboda said currently, the property is still under construction. He said there are no finals on either building, but rough-in inspections that have been passed, and they are in the process of completing those permits.

Mr. Svoboda said there was public comment included in the Board's packet, with some comments favorable and some not favorable. He said the majority of the concerns expressed were compliance with the homestay covenants, the scale of the proposed homestay (three bedrooms upstairs, with five master suites downstairs in the basement where the homestay would take place), and concerns related to the operation of the homestay (going back to the volume of bedrooms). He said this particular application would be the first one the County would have in a residential district that is above five bedrooms, with the exception of the one in Crozet that the County dealt with in late 2019 which is within a tourism zone.

Mr. Svoboda presented a list of factors from the staff report. He said the nearest homes are situated 60 feet, 150 feet, and 280 feet away. He said the property is near a church, and the commercial portion is on the north side while the other three sides are surrounded by residential properties. He said the property is fenced and gated.

Mr. Svoboda said the unfavorable factors are that the property is designated for Neighborhood Density and is not in the Places29 Master Plan for either commercial or tourism development; and the number of homestay rooms for rent exceeds the recently established by-right number by three. He said this is a newly adopted ordinance, and the by-right level is two. He said three is in addition to what is allowed by right.

Mr. Svoboda presented staff's summary of their report, which stated that although the property is located near a nonresidential use, the other three sides have residential property. He said this fact, along with the increase in guestrooms from two to five, could result in additional traffic, noise, and other outdoor activity on the property that would adversely impact the abutting properties and the surrounding neighborhood. He said therefore, staff does not report the request for additional guestrooms and does recommend denial of the request.

Mr. Svoboda said contained within the Board's packet was Attachment G (Resolution to deny the special exception), but that there were additional conditions proposed as well if the Board so chooses to go in that direction

Ms. Palmer asked Mr. Svoboda to confirm if she was correct that any special exception the Board grants for this property would go with the property and not with the individual owner.

Mr. Svoboda said this was correct.

Ms. Palmer said she wanted to make sure those listening to the meeting understand that this is not about the owner's business acumen, but is something that if the property were to be sold, they would have a different owner and they would still have this right if the special exception were granted.

Mr. Svoboda said yes.

Ms. Palmer said this was her only question. She said she could make comments, but would wait for after the other questions.

Ms. McKeel said she was going to ask the same question Ms. Palmer had because the Board is aware that the land is where the special exception stays, and not with the individual owner. She said she had a question about the map that Mr. Svoboda presented of the property. She said she recognized he said the map was old. She said where Mr. Svoboda was referencing the fence and gate was right behind the house, where his cursor was located. She asked if the property was fenced-in and gated.

Mr. Svoboda replied yes. He said there is an additional gate in the front as well now.

Ms. McKeel said she had a question about the large back lot. She asked if this special exception were granted and the approval goes with the lot, if this would open up the back lot in some way. She said this is a large piece of property and looked as if it was currently being used for equipment storage. She said she was curious as to how the special exception would impact the back lot.

Mr. Svoboda said that without any conditions to prohibit use of that area for the homestay, then this area would be able to be utilized for the property owner or an owner in the future. He said if it were considered an impact in that back lot, they would have to develop a condition to prohibit or limit use.

Ms. McKeel asked Mr. Svoboda to clarify for her the distance between the closest house, and asked if this was 60 feet. She said Mr. Svoboda had listed the distance between the homestay and the closest neighbor lot. She asked what the County's standard had been.

Mr. Svoboda replied that 125 feet is in the Rural Areas, and there is no standard in this area. He said in the Residential Districts, the main structure setbacks apply to a use like this. He said when they talk about 125 feet, that particular rural requirement does not apply in this zoning district.

Ms. McKeel said this was a good clarification for her and something else the Board probably needed to discuss at another time.

Ms. Mallek said in following up on previous questions about the approval going with the land, as a business operation, it has to be licensed to an individual. She asked if this was correct. She said in terms of the newly adopted controls about complaints that ended up ceasing operations, those were all ways she thought they were going to be able to make sure that good behavior continues as property changes hands. She said she would like feedback from Mr. Kamptner about that.

Ms. Mallek said she would like to know if there is also a list of conditions for approval because if this is the way to deal with concerns about the back lot, she wanted to know what discussions were held with the applicant about the back lot, as she did not remember seeing this in the staff report. She said she now better understood the setback question regarding 125 feet that Ms. McKeel just asked.

Ms. Mallek said she would like to know about the licensing and the list of conditions for approval, as the noise and nuisance ordinance would always apply, regardless of the use on the property.

Ms. Mallek said she remembered that when the homestay ordinance was being developed, there was large support for flexibility in places where there is a large amount of space or where the capacity is happening to have more than two bedrooms. She said it was not that they wanted people with five bedrooms on a one-tenth-acre lot having no places to park and the impacts that go with that.

Ms. Mallek said if requesting a special exception is actually considered a negative or unfavorable when it actually is part of the ordinance process, then she was confused about that. She said the homestay is a residential accessory use, and so this is where she was tripping up on all of this. She said there seemed to be inconsistency in the staff report in the way the answers were derived.

Mr. Kamptner said he could answer the first couple of questions. He said the license being referred to is a business license, which is essentially an administerial license that allows the County to track those businesses that are subject to the BPOL tax. He said each business operator would have to come in and get that license if their gross receipts exceed the minimum threshold that subjects them to the BPOL license.

Mr. Kamptner said on page 5 of the document that is called “Staff Analysis” are conditions if the Board were to approve. He said Condition 1 does limit the homestay use to the five specified guestrooms. He said if the Board is inclined to approve the special exception, that condition is included.

Mr. Kamptner said he wasn’t sure if Ms. Mallek’s third question was directed to him or to Mr. Svoboda.

Mr. Svoboda said this was regarding special exceptions and if they are allowed. He said staff views these like special permits, and some of the uses are primary while other uses say that other home occupation permits are accessory or part of the use. He said with this being a special exception, it would depend on the character of the area. He said staff analyzes this in that they look at how it affects the neighborhood. He said this same particular setup on a 10-acre parcel, or a 5-acre parcel, has different buffering than it does on the same size lot that may not have residences next door or may not be sandwiched between two streets. He said as staff goes through the process, they try to figure out if it is a fit.

Mr. Svoboda said special exceptions are special and not guaranteed. He said if they were guaranteed, they would be written into the ordinance. He said that at the Board of Zoning Appeals, for instance, when they do many variances or there are many variance requests for a certain thing, staff analyzes it and if it should be 20 feet instead of 25 feet, then they make that recommendation.

Mr. Svoboda said similarly with homestays, in the future they will likely have a discussion about the 125 feet setback requirement in the Rural Area, as they seem to be granting a lot of those special exceptions. He said they can determine what the amount would be so they can adjust the ordinance and not have so many special exceptions if this is permissible. He said it is the same matter with the number of bedrooms, where if they find they have granted a number of five-bedroom exceptions, perhaps it is better to go back to five bedrooms. He said if they have only granted an average of three, perhaps the bottom line should be three bedrooms as opposed to two. He said he hoped this helped.

Ms. Mallek said it did help, but that she thinks the current rules are what they are acting under. She said she is supportive of individual considerations of the setbacks as well as the bedroom numbers because this is what allows the Board to know about the different areas and neighborhoods and which ones have busy streets, commercial uses, schools, churches, or law offices across the street or nearby. She said it is different than if the lot was 20 parcels down farther in Northfield, in the middle of the completely residential area. She thanked Mr. Svoboda for the answers.

Ms. Price said Mr. Svoboda showed two overhead aerial shots and that she wanted to look at both of them.

Mr. Svoboda showed one of the aerial shots on the screen.

Ms. Price said her understanding is that the property in question is the entire property between Old Brook and Northfield. She asked if this was correct.

Mr. Svoboda said this was correct.

Ms. Price said the view on the screen appeared to show a back gate on Old Brook Road.

Mr. Svoboda said yes.

Ms. Price asked Mr. Svoboda to show the other overhead view.

Mr. Svoboda showed the photo on the screen.

Ms. Price said now, it appears that the back gate has been blocked. She said she also counted five trucks and a Bobcat in the backyard. She said there were two trucks and a Bobcat in the front yard. She asked if the back fenced-in area or backyard was being used as commercial vehicle storage. She said it actually looked as if there were two Bobcats back there. She said those did not appear to be associated with the redevelopment of the home itself.

Mr. Svoboda replied that at the time the photograph was taken, the construction was in full bore. He said staff did not have anything that would tell them otherwise. He said currently, the area shown on the previous photograph is actually open, and VDOT has issued an entrance permit to the back. He said when he was there the week before when he met with the applicant there, there were two trucks and a trailer, and one of the Bobcats was on the trailer with some material. He said there was quite a bit of things that were shown in the photo that are not currently there. He said currently, the house is under construction, and it appeared to staff that the equipment there presently is related to the renovation.

Ms. Price said previously, it looked like much more that was not parked close to the house. She said from this view, it looked like it had been used for commercial equipment and vehicle storage in a residential area. She said this was just her observation.

Ms. Price said she drove by the property a couple of times earlier that week and that visually, it was beautifully rebuilt and very different from how it looked before. She said she did have some questions about whether it was appropriate in that location, given the size.

Ms. Price said this information answered her questions and that she would have comments later during the discussion.

Ms. LaPisto-Kirtley said she passes by this residence about once a week or so, so she is very familiar with it. She said it is a residential neighborhood, and the house itself is beautiful. She said she went there the day before and a gentleman working there gave her a tour. She said the backyard and parking look exactly like the photo presented. She said it is a residential neighborhood, and she was concerned regarding the five bedrooms because she thought when they passed the homestay ordinance, they would stick to two bedrooms but if there was a house in the middle of 10-20 acres, it would not be a big deal to have additional bedrooms because of the acreage.

Ms. LaPisto-Kirtley said although the house is beautiful, she is concerned that the five bedrooms would be setting a precedent for a residential neighborhood.

Mr. Gallaway said for the back-lot piece where conditions for use came up, the Board could put conditions on the usage. He asked if it was theorized what those uses would be. He said one cannot build any additional structures for use, and he did not know if another structure could be used for some other purpose. He said one could not build another Airbnb because of the way the conditions were stated. He asked if this was correct.

Mr. Svoboda replied that the ordinance would not allow for a second homestay. He said as far as the ancillary uses of sitting on the back porch and how far away this is from the house, or whether or not all the people staying there in a group (as Mr. Harris stated) are having a get-together or cookout in that back space, he did not have discussions with Mr. Harris about limiting any part of the back space.

Mr. Gallaway said looking at the aerial picture, on the other side of the fence, there did appear to be a covered area.

Mr. Svoboda said there is a gazebo there.

Mr. Gallaway said the intent is that once all of that is cleared out, perhaps this is a space for occupants to use, or for Mr. Harris to use, as a resident, for his own personal reasons. He asked if more parking would be allowed back there.

Mr. Svoboda replied yes. He said that without conditions, they would not prohibit this. He moved his cursor over the aerial photo on the screen, explaining that everything the Board would see his cursor going around (from a wall up to the fence) was all now blacktop. He said the photograph indicates that one could probably park 6-8 cars there already. He said the back portion of the lot was mostly gravel at that point. He said there may be some overflow parking required if guests show up separately that would be occupying the same guestroom as opposed to one vehicle.

Mr. Gallaway asked if the area behind the house had a patio.

Mr. Svoboda replied yes. He indicated to the area of the patio, which is directly accessible from the basement (where the homestay guestrooms are located).

Mr. Gallaway said Mr. Svoboda made a comment about the tourism zone and trying to find an example of another one the Board worked on. He asked if the compelling reason the Board had approved that property in Crozet was because it was in a tourism zone.

Mr. Svoboda replied yes. He said in staff’s report, this was one of the factors cited as favorable (that it was located in that zone).

Mr. Gallaway asked if there are other tourism zones.

Mr. Svoboda said he believed the only one is in the Crozet area.

Mr. Kamptner said this was correct.

Mr. Gallaway said there was some communication about discrepancies with HOA covenants. He asked if the Board were to approve this and there was something disobeying covenants, then the County would not supersede or override any disagreements with HOA covenants.

Mr. Kamptner replied that the zoning regulations and HOA covenants exist independently.

Mr. Gallaway said regardless of the Board's decision, this was a separate item that would have to be worked out with the HOA.

Mr. Kamptner said yes.

Mr. Gallaway said if he recalled correctly, in the staff report, some of the conditions for approval included limiting parking locations. He asked if they were trying to say that parking cannot be in the front.

Mr. Svoboda replied yes, explaining that this was in order to mitigate some of the impacts of having a lot of cars out front, where it would look more commercial than residential. He said the photograph that the Board had seen that had no guest parking was about trying to mitigate by having parking behind the house or the fence.

Mr. Gallaway asked Mr. Svoboda to again show the overhead picture.

Mr. Svoboda showed the picture on the screen.

Mr. Gallaway said he was trying to put himself in staff's shoes. He said if this were approved and the Board limited the parking locations, limited to 10 guests, and proposed that potentially each guest would have a car, if this were 10 vehicles, it seemed as though there would be room for that. He asked if this was the logic.

Mr. Svoboda replied yes. He indicated on the screen to two places where there are gates. He said there is a single-family dwelling that has a three-car garage underneath. He said the space in front of the dwelling would not be able to be utilized as parking (although it would be up to the owner), as people would need to be able to get in and out. He said this was a separate use. He indicated to a place on the photo where one could put cars in the back.

Mr. Gallaway asked if this was being used by the owner and was not being proposed as anything but office or personal space.

Mr. Svoboda replied that the way Mr. Harris described it when he met with him onsite was that it was his personal space, although it does contain all the components that qualifies it as a single-family house.

Mr. Gallaway said he noted that Mr. Harris was proposing to make the whole residence piece. He asked if "proposing" meant that the residence had already been established, or if it would happen. He asked if the applicant had already turned this into his own residence.

Mr. Svoboda replied that currently, both structures have active building permits and have not been finalized.

Mr. Gallaway clarified that Mr. Harris could not be living there currently.

Mr. Svoboda replied yes. He said the applicant cannot occupy it yet, but it is the intent.

Mr. Kamptner said Condition 4 in the alternative motion requires the residency.

Ms. McKeel said her additional question was based on some of the conversations about the back lot. She said she has had several community members mention to her that they know the applicant and speak very favorably of him, but that he works with them or for them with different enterprises. She said in going back to the back lot, it seemed like Mr. Harris had some work going on that he runs through home occupations. She said she was wondering if this back lot was being used for some of the other occupations. She said it seemed like an awful lot happening there on 1.2 or 1.3 acres. She said she was trying to get at the home occupations and what else would be happening on that back lot.

Mr. Svoboda said currently, Mr. Harris has a permit for a home occupation at his other residence (or soon-to-be previous residence). He said if he were to want to do that here, he would have to apply for the home occupation permit and meet the conditions that would go along with that. He said the property is currently under construction, and the vehicles there are construction vehicles and earth-moving equipment. He said they were still doing some grading in the back the last time he was there, which was the week prior.

Ms. McKeel said her understanding or thinking was that one of Mr. Harris' home occupations uses equipment. She said she was just looking at the size of the property and if, in fact, Mr. Harris is going to move to this house and keep his home occupation, he would have to operate it out of this facility.

Mr. Svoboda said Mr. Harris would have to reapply and qualify under this district. He said it is similar zoning, and the same conditions would apply as his previous residence. He said it would be an administerial act as far as staff approving if the applicant meets the checklist of conditions there.

Ms. McKeel said she was just thinking about this property and how much would be going on there. She said Mr. Svoboda answered her question.

Ms. Mallek said she asked originally, then forgot to push for it, what discussions have been had between staff and the applicant about the use of the back lot. She said the Board could imagine all sorts of pluses and minuses, but unless there were really some facts there, she felt like she was out in left field. She said it would be a lovely place to have gardens and trees and to improve the desirability and use of the homestay, but unless she had facts, she was just wishing for this.

Ms. Mallek said she thought the home occupation was something that one did inside the building and did not have employees coming and going, unless it was a higher-level one. She said many people with nurseries and the like have been thrown out because they had employees and equipment coming and going, and so she could not imagine that a contractor yard is considered a home occupation for someone who lives in that area. She said perhaps someone could clarify that for her as well.

Mr. Svoboda said Ms. Lisa Green could speak to those particulars as far as the difference between the contractor storage yard and what would be a home occupation. He said Ms. Rebecca Ragsdale was present as well.

Ms. Lisa Green said there are conditions and different levels of home occupation permits, depending on the zoning district. She said typically, yes, the home occupation is just that – one that operates out of the home. She said there are occasions where there are to-and-from work truck(s) and possibly a trailer that would be allowed with the home occupation as long as it is parked on the property. She said it is a different level of home occupation if there are employees reporting to the site, but that this would come before the Board.

Mr. Kamptner said if the Board was concerned about the intensity of the use if the homestay were approved and then a home occupation was sought, the Board can impose a condition that would not allow any home occupations.

Ms. McKeel said she has had trouble in the Urban Ring with some types of home occupations and staff needing to go out and enforce them. She said at times, it is very difficult to enforce.

Ms. Mallek said she would still ask a third time what conversations have been had between the applicant and staff about the back lot. She said from what Ms. Green was describing, this is very different than someone giving piano lessons (which is her idea of what a home occupation is) or an accountant who works at home and occasionally has someone visit.

Mr. Svoboda said in his discussions with the applicant, they did not address the back lot, and it was more about perhaps sitting out by the gazebo or not. He said Ms. Ragsdale has also had conversations with the applicant. He asked her if she had anything to add.

Ms. Ragsdale said staff has been to the site several times over the course of the review, and what has been mentioned for the back lot is parking for the residences or homestays and completing it with landscaping. She said as Mr. Svoboda said, a portion of it has been paved, and the applicant has added a gazebo area. She said staff has gone over with the applicant what the home occupations limitations are – that they could move there and have the home office, and they would be limited to one truck and one trailer as a Class A home occupation.

Ms. Ragsdale said when staff was looking at it, they did not go further in terms of limiting the use of the back lot because it is fenced and landscaped. She said they suggested conditions of approval that might be appropriate, and they did not feel like a home occupation accessory use with a home office, one truck, and one trailer (given this property) would be something that they would need to prohibit.

Ms. Ragsdale said when staff looked at this, they were trying to keep the guest activity area central to the property, which is why it was suggested that guest parking be centralized. She said this is what staff was thinking about in terms of internal activity to the site. She said it is a 1.2-acre parcel, and the applicant did not propose anything specific other than parking, landscaping, or a space for croque or cornhole. She said they have not broached that subject with the applicant in terms of anything further being proposed.

Ms. Mallek said this was great and that it sounded more positive than negative, that there would be landscaping, and a backyard type of element created to make the gazebo useful other than having it look like a gravel parking lot. She said it did not sound like the back-lot use was of concern to staff.

Ms. Palmer said her concern was that this goes with the land, as staff pointed out, and that the business license is administerial. She said the applicant did not come in for three guestrooms, but for 2.5 times what the ordinance says. She said she knows this Board went through great pains in trying to figure out the number of guestrooms, and they have since then gone through great pains in figuring out the special exception concerns.

Ms. Palmer said to her, five guestrooms were just too much intensity for this residential area, and she would definitely vote against it. She said this had nothing to do with the applicant, nor the applicant's record in the area, nor anything the neighbors have said. She said her decision is clearly on the intensity of the use here, and she appreciated staff articulating this in their report.

Ms. McKeel said she agreed with Ms. Palmer in that she is very concerned that again, it goes back to the same issue they have talked about with other applications, that the approval goes with the land. She said the Board spent almost 18 months to two years crafting and talking about the ordinance around homestays (emphasizing the word "homestay"). She said they talked about the number of rooms and people and had concerns about opening up too many rooms in neighborhoods for large numbers of people.

Ms. McKeel said she was still confused about the LLC, but to her, a homestay is not something that would qualify as an LLC. She said she believed this had been resolved and was fine.

Ms. McKeel said she may be the only Board member that has experienced the applicant's property on Rookwood, and she was not going to bring this up at all, but the applicant keeps bringing up that facility or party house.

Ms. McKeel said she was invited to a party there. She said she has no idea how many people were on the guest list, but it was many dozens there. She said she was told to park at the high school and take a small bus that was busing people in. She said she did not actually attend the event. She said she was curious and drove over to the neighborhood, and what she saw were neighborhoods with cones and signs in front of their house and on their driveway that said, "No Parking." She said she saw a couple of neighbors standing on their porches in the yards with their hands on their hips, frustrated.

Ms. McKeel acknowledged that this was a one-time snapshot and one day, but that this was her experience. She said she was appalled, turned around, and went home because she was not going to attend the event that was creating so much confusion and frustration on that cul-de-sac.

Ms. McKeel said this is separate from this issue, but she is still concerned that they will be opening up this property in a neighborhood that can create that kind of event. She said this would be permanent because the approval will go with the land.

Ms. McKeel said she has friends who have said the applicant is a lovely person. She said she did not personally know him. She said this had nothing to do with the applicant but was about the approval of the land and what would or could be happening on it. She said she was very concerned.

Ms. Mallek said she thought what Ms. McKeel said was very powerful as far as explaining clearly the concern that all the Supervisors have about all the decisions they make, and especially ones in neighborhoods. She said she would go back to the fact that they have included this as a special exception for this very reason; that when there is lots of space to totally accommodate something on the property, they should consider it.

Ms. Mallek said otherwise, they should have just included only three guestrooms in the ordinance, and that two with the option of one more may have been a more fair solution than offering this larger amount, which there was great support for. She reminded the Board they had said they cannot be too restrictive and have to have the option for people to go to five guestrooms. She said that to her, this was a time when this might work well.

Ms. Mallek said she also had great determination that they will get their homestay registry going and will have great control over owners with "two strikes and you're out" and that they would lose their ability to function if they do not have their operation running spotlessly, as a way to provide benefit to everyone in this sector.

Ms. Mallek said another thing (which was personal) is that when her family of three generations has traveled (two sets of adults, three grandchildren, and maybe a couple of friends), it is great to have four or five bedrooms so that they do not have the kids sleeping on the floor all the time. She said in the rare occasion this may help a family, it would be great. She said her guess is that this would be much more a family occasion rather than five couples who travel somewhere together, but that this was just a guess on her part.

Ms. Mallek said she tended to support the special exception with the conditions that describe the landscaping and backyard use for the back lot, so there was no concern about that, as well as all the other conditions staff has already thought of.

Ms. Price said she had many notes that she would follow in a logical order and try to cover them all. She said she would mostly concur with the comments from Ms. Palmer and Ms. McKeel. She repeated that she did drive by the property a couple times earlier that week and thought it was absolutely beautifully rebuilt, without question.

Ms. Price said her concerns were about homestays in general, and about the adverse impact they can have, particularly in residential neighborhoods. She said when she looks at it and compares the scale with some of the surrounding properties, to her, it does not appear to fit in this neighborhood, given the scale. She said it is a special exception and not a by-right use.

Ms. Price said she also listened very carefully to the applicant's comments, and her concept of the intent of homestays is that they are accessory uses to residences. She said this is not just five bedrooms, but as pointed out, it has five master bedroom suites. She said typically residential homes do not have five master bedroom suites.

Ms. Price said in her view, it has clearly been built primarily to be an Airbnb, which is actually different from her concept of what a homestay is. She said a homestay is a residential accessory use, and when one is in a neighborhood like this, it becomes important to look at the scale. She said she did not see the scale as either fitting the size of the property on the lot in a residential neighborhood, nor the fact that it has five master bedroom suites.

Ms. Price said when she looks at this, it essentially looks like a very beautiful luxury hotel and in her mind, this does not fit the concept of what a homestay is supposed to be, as an accessory use of a residential property. She said there is a precedent she thinks it would set and, as the staff has reported and other Supervisors have commented (where there is one location in Crozet that has been approved, in a tourist district), this is not in a tourist district. She said she does not think it fits in her concept of what a homestay should be for this location, for that scale, and so she would not be able to support it.

Ms. LaPisto-Kirtley said she concurred with Ms. Palmer and Ms. Price regarding the comments. She said when they created the homestay ordinance, she understood that this was an opportunity to be able to give people a chance to earn a little extra money by being able to rent out one or two bedrooms. She said this seemed to her like a larger commercial business. She said the fact that it is in a residential area, in her opinion, is such that it does not fit. She said if it were on 10, 20, or 30 acres, she would not have a problem with it because they would not be affecting anyone. She said this is close enough to neighbors nearby, however, where it looks like it could be.

Ms. LaPisto-Kirtley said she thinks Ms. Mallek is correct that it will mainly be used for family gatherings, but it could also be used for large UVA gatherings and events. She said mainly because it is a residential area and it outsized for its use in that area, she did not want to set a precedent in a residential area. She acknowledged that the ordinance is new and that the Board would be looking at it again in a year, but said she was not ready to set a precedent for a neighborhood area for something of this size.

Ms. LaPisto-Kirtley said she heard nothing but praise for the applicant from people who know him. She said the request simply did not work for her.

Mr. Gallaway said when Ms. McKeel was talking about events, a question came to mind. He asked what would prevent events like that from happening regardless of the circumstance or whether or not there is an Airbnb there. He asked if he had an event at his house that had the same impacts, if there was anything that said he could not do that.

Mr. Kamptner replied that there was not.

Mr. Gallaway said with an Airbnb, they are looking at specific occupants and the conditions of the people residing there. He said even if the special exception is denied and the by-right use is for two rooms, that is still allowed to move forward because it is a by-right allowance under the current ordinance.

Mr. Svoboda said this was correct.

Mr. Gallaway said the Board denying the special exception would not prevent any large-scale events from taking place there.

Mr. Svoboda said personal and private parties, like birthday parties and family reunions, would be permitted as part of the accessory to residential.

Mr. Gallaway said generally speaking, if there are parking traffic concerns, street blockages, and the like, there is not much an HOA covenants can do (even with covenants). He said he was thinking of his own HOA, and when people have events and parties, there is parking on the street, which some people tolerate, and some do not. He asked what recourse one has when those issues, such a street or road blockages, come up. He said there is a noise ordinance in place, but he was trying to think of what things are in place, if an event is held, that can be used to help accommodate negative impacts that emanate from the event.

Mr. Svoboda said he did not want to throw the police department under the bus, but depending on when and how it happens, and being conscious of the load on the police officers, if there is a safety concern about the road being congested or impassible, this is something where someone would call the police department for something on a public road, as it is something that affords public access. He said if it is a private road, one could get into trespassing issues. He said in this particular case, because they are dealing with two public roads on either side, they would call the police department and state concerns about vehicular traffic being blocked.

Mr. Svoboda said the same was true for noise. He said if it were a nuisance noise, Zoning would likely be involved the following week to see if there were any zoning issues (e.g. if there were tickets sold for the event where it became more commercial in nature). He said that typical birthday and graduation parties, however, are permitted.

Mr. Gallaway said at those types of large-scale events, there are problems relative to an impact, but it is not just attached to having an Airbnb there. He said there is the notion that the Airbnb residents themselves could become an event if they invited people in, which is where the conditions and impacts have to be mitigated or attempted to be mitigated.

Mr. Svoboda said yes. He said typically, at a residence, there is not a graduation or the like every weekend. He said this is an occasional use as opposed to what could be a weekly or a couple times a month use.

Mr. Gallaway said the biggest issue that gave him pause was precedence and the concern over that. He said he had to admit that the special exception process is designed to bring individual items to the Board, and when they come before him, he can only speak for himself, but he does not think about how he voted for four or five of those. He said he simply looks at the individual application and knows that he has the ability to make the decision based on the particular circumstances of that application.

Mr. Gallaway said he was not discounting or undermining the precedence issue, and if he were living in the neighborhood, he would be worried about others coming in and setting up a similar type of enterprise. He said many of those fears and sentiments were suggested when the Board was working on the ordinance, and so he agrees and appreciates that. He said in this particular property and spot, he thinks the location is unique in many ways so that even eight houses in, or another quarter mile or half-mile down the road, is different.

Mr. Gallaway said he does have residents who communicated their reasons for being against this, and there have been some that have been in support. He said as this is in his district, he has had to think about how to approach this. He said he would try to apply consistency in how he thought about this and in going through the Airbnb ordinance itself.

Mr. Gallaway said he was very much a proponent of having the special exception process in place to allow people outside the Rural Area to be able to come to the Board and ask for more than two rooms. He said he did not have this property in mind at the time. He said there was another property near the EcoVillage that he did not know would ever proceed, but this had been the one in his mind where he could see a special exception being applied.

Mr. Gallaway said he did recall that at the time, when they were talking about omitting rooms in the Residential and Development Areas, he was focused more on impacts and how the limited impacts could then limit what one could allow occupancy-wise in their house. He said the off-street parking requirement, for him, was what helped mitigate the impact that deals with the nuisance in the neighborhood. He said if he does not have the room to provide onsite parking, then he can only rent out so many rooms he has available to him. He said as soon as the off-site parking is done, it becomes a compliance and enforcement issue, which is not exactly easy currently, but is how he had thought about it at the time.

Mr. Gallaway said this particular application is able to address the parking through having off-street parking, which seems to be an ample amount.

Mr. Gallaway said in terms of outdoor activity or noise relative to staying there, this can be applied based on the noise ordinances just as if two bedrooms move forward. He said with the additional three rooms, while there are more people that can potentially be there and could increase the noise if they are all outside, if there is the same issue with two bedrooms at times of day when it shouldn't be happening, there are other things in place to be able to mitigate that.

Mr. Gallaway said traffic gives him some concern, and that the whole Rio Road Corridor is a traffic concern. He said the whole place needs to be studied, and these are not safe intersections to be traversing through. He said when he looks at the entrance and exit of the site, it looks like the ability to turn in and loop one's car around, with separate parking and if the turnaround is not being used for parking, it seems that traffic would be able to enter and exit. He said he hopes that even if this is by right, the applicant goes to some extent to inform people who are coming in of taking the care for the left-hand turn in, then being mindful of sight lines when leaving and anything that can be done to help that along.

Mr. Gallaway said he could be supportive of the project just based on going back and reflecting on how he thought about the ordinance itself. He said there were votes taken that he was not in the majority on in setting up the ordinance, and the way he was thinking about those votes being applied here would allow him to make a "yes" vote to approve the special exception.

Mr. Gallaway said he would defer a different motion than him putting one forward for approval if one wanted to make the motion.

Ms. Palmer **moved** that the Board adopt the attached resolution (Attachment G) to deny the special exception application. Ms. Price **seconded** the motion.

Mr. Kamptner proposed one change to the motion. He said that because comments were received on this matter verbally that day, the word "written" could be stricken from line 2 to note that the Board considered all the comments rather than just the written ones.

Ms. Palmer **amended** her motion to reflect this change.

Ms. Price **seconded** the amended motion to deny the special exception. Roll was called and the motion carried by the following recorded vote:

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

Mr. Gallaway confirmed with Mr. Svoboda that this decision would be communicated properly to the applicant.

Mr. Svoboda replied yes.

RESOLUTION TO DENY SPECIAL EXCEPTION APPLICATION FOR HS2019-00026 THE MANORS LLC

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby denies the special exception application to modify the number of guest rooms permitted in a homestay from two to five for HS2019-00026 The Manors LLC.

Recess. At 2:50 p.m. the Board recessed its meeting. The Board reconvened at 3:06 p.m.

Agenda Item No. 10. **Work Session –** Rio29 Form Based Code and Public Spaces.

The Executive Summary forwarded to the Board states that the Board adopted a resolution of intent directing staff to begin work on the Rio29 Form Based Code (FBC) on March 6, 2019. During 2019, staff developed a draft framework for the FBC based upon rigorous stakeholder and community engagement as well as staff research, which the Board endorsed on December 18, 2019. In 2020, staff has been working to develop the framework into a complete draft FBC that can be adopted into the County's Zoning Ordinance. This work has included collaboration with the Form Based Code Institute (FBCI) to conduct scenario modeling and a peer review of the draft ordinance language. Staff is continuing to refine the draft FBC document to prepare for Planning Commission review at an upcoming work session on November 17 and review by the Board at a December work session. The Community Development Work Program anticipates adoption of the Rio29 FBC in the first quarter of 2021.

The importance of public spaces is emphasized throughout the Rio29 Small Area Plan. The Plan envisions a network of pedestrian-friendly streets complemented by urban parks and plazas. The Plan calls for these amenities to be vibrant, active, and sustainable public places (Attachment A). Consistent with the vision in the Rio29 Plan, staff has included requirements within the draft FBC to require civic spaces, streets, and street amenities such as landscaping, sidewalks, and street furniture with future development in Rio29. The importance of these public spaces and the corresponding regulations in the draft FBC have been validated through recent peer review feedback from the FBCI. FBCI reviewers emphasized the importance of public ownership of these urban amenities, to both help incentivize development and to provide quality control. Staff has also found that public ownership of these spaces is common practice amongst localities with contexts similar to the mixed-use future envisioned in the Rio29 Plan.

At this work session, staff is seeking Board direction on the long-term maintenance and ownership of the required civic spaces and street amenities within Rio29. Staff recommends that these spaces within Rio29 be publicly owned and maintained. Streets should continue to be publicly owned and maintained by VDOT, consistent with current practice, but street amenities that are outside of VDOT jurisdiction, which may include certain sidewalks, street lighting, landscaping, and street furniture, should be owned and maintained by the County. Similarly, staff is recommending that future civic spaces required to be built through the FBC, such as urban parks and plazas, be owned and maintained by the County. This model will require a collaboration across County departments, including Community Development (CDD), Facilities and Environmental Services (FES), and Parks and Recreation to ensure proper maintenance, funding, and programming of these spaces.

It is expected that funding impacts will be incremental as development occurs over time and evaluated on a case-by-case basis. For the initial development proposals under the Rio29 FBC, staff recommends funding be set aside as development proposals are submitted for site plan review. CDD, FES and Parks & Rec staff will evaluate the costs of future maintenance for eligible public spaces shown on site development plans and request capital funds be set aside for future maintenance at that time. The time required for development review and construction will allow the Board time to allocate funding before the County takes over ownership and incurs any maintenance costs for the public facilities. As proposed, the public spaces will be designed in accordance with the requirements of the FBC and constructed by the private developer.

Long term, as a critical mass of development and public spaces are constructed, the County can evaluate other tools to ensure a sustainable revenue source. The establishment of service districts is an example of a financial tool that the County could consider, when the need or demand for such tools arises. More information on service districts is provided for the Board's information in Attachment B, but no decision on use of these programs is expected at this time.

Staff is seeking Board direction on maintenance and ownership of public spaces to draft regulations for the Rio29 FBC and is recommending that the specific resource needs for the ownership and maintenance of these public spaces be evaluated over time. Form-based codes are only one regulatory tool that can be used to achieve the vision of the Rio29 Small Area Plan. Staff and our internal partners, including the Economic Development Office, will continue to explore opportunities for implementation and anticipate an ongoing dialogue with the Board about how the County can be a partner in the reimagining of the Rio29 area.

Resource needs are not expected in the current or upcoming budget cycles. Future costs associated with routine maintenance, cleaning, repairs, and replacement of facilities would be expected on an on-going basis, after the County commences ownership and maintenance of eligible public spaces.

Staff is seeking Board direction on staff's recommendation for the County to assume future ownership and maintenance of required civic spaces and street amenities within Rio29 after eligible spaces are constructed.

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Ms. Rachel Falkenstein, Principal Planner, said she was joined by Ms. Lea Brumfield, Senior Planner II, and Ms. Michaela Accardi, and that they would lead a discussion on public spaces related to the Rio29 area.

Ms. Falkenstein said the goal of the discussion was to seek the Board's feedback and support on the recommendation that the County take over ownership and maintenance of future public spaces within Rio29. She said staff was looking for the Board's feedback on this so that they could draft the Form-Based Code regulations accordingly. She said they planned to come back in December with the draft code based on the feedback they would hear that day.

Ms. Falkenstein said the discussion would include a 20-minute presentation from staff to share the project background and status update with the Board. She said they would then have plenty of time for discussion and Q&A at the end, with several staff present to help with the Q&A portion.

Ms. Falkenstein said she would turn the presentation over to Ms. Accardi to provide some project background and a status update.

Ms. Accardi said the planning history for the area around Rio Road and Route 29 began with the Places29 Master Plan, which was adopted in 2001 and where there is a recommendation for a small area plan. She said it also identifies Rio29 as a priority investment area.

Ms. Accardi said in December 2018, the Board adopted the small area plan, where there is a recommendation to pursue a form-based code as a mechanism to achieve the plan's vision. She said staff began work in early 2019.

Ms. Accardi said the slide shown included some quotes from the small area plan's vision. She said there are different chapters in the plan, Character, Connectivity, and Conservation, each of which speak to public spaces. She said read aloud quotes from the plan: "a connected network of complete streets, which are designed for all users"; "a network of sustainable and usable public spaces that enrich community"; and, "vibrant and diverse mixed-use." She said the photos on the slide were also from the small area plan, and staff wanted to share this information to show that public space is a key aspect of the small area plan's vision.

Ms. Accardi said the small area plan recommends an update to the Zoning Ordinance as a way to implement that vision, primarily by pursuing form-based code as a mechanism to do so. .

Ms. Accardi presented a slide showing a recap of the 2019 community engagement process. She said, after the Board directed staff to begin work on the form-based code, staff led a rigorous engagement process that was comprised of steering committee meetings, online and in-person public workshops, focus groups with the development community and property owners, and a series of work sessions with the Planning Commission and Board of Supervisors. She said external work was also paired with internal staff working groups.

Ms. Accardi said the external and internal work resulted in a draft framework, or outline, for the form-based code that staff shared with the Board in December of 2019 and heard support for this draft framework and direction to pursue drafting an ordinance that is detailed and ready to adopt in 2020.

Ms. Accardi presented a slide showing an update on work that staff has been doing in 2020. She said Community Development staff in Planning, and Zoning have been collaborating across the County with departments that will have a role in implementation of the form-based code, including Parks and Recreation, Facilities and Environmental Services (FES), the County Attorney's Office, Economic Development Office, and more; as well as external partners (especially transit partners).

Ms. Accardi said staff has also been working with the Form-Based Codes Institute to coordinate what is called a "peer review" of the draft code. She said the Form-Based Codes Institute has helped convene a team of about eight reviewers who are architects, developers, code reviewers, and public officials to provide feedback on the code, some of which would be shared with the Board that day. She said they are also working to model development based on this code in the area with the Form-Based Codes Institute. She said they recently held a virtual Rio29 Steering Committee meeting, and have several work sessions planned with the Planning Commission and Board of which this is the first, as well as some broad stakeholder engagement to update the draft.

Ms. Accardi said the next slide included some themes pulled from peer review comments related to public space. She said the first is that the reviewers strongly recommended considering incremental redevelopment of the existing sites, acknowledging that development will happen over time at an incremental pace. She said they also strongly recommended being very clear about who will maintain the public spaces in this area to ensure that the way they are built and maintained over time is in alignment with the plan's vision, which is related to the conversation that day.

Ms. Accardi said based on the feedback, staff posed a question to the Rio29 Steering Committee about ownership and maintenance of the public elements of the Rio29 area. She said Ms. Brumfield would talk about this more, but this was about streets that are outside of VDOT's typical maintenance and public spaces.

Ms. Accardi read aloud a quote from the Steering Committee meeting on the slide, noting that staff felt this was representative of the feedback they heard: "County ownership and maintenance of streets and civic spaces seems like a reasonable approach at this time. Each development would need individual analysis as to what any developer can make work and how far a developer can go towards doing what is feasible to further the objectives at the time."

Ms. Accardi concluded the project update and turned the presentation over to Ms. Brumfield to talk about the draft form-based code.

Ms. Brumfield said, taking into account the feedback staff received from internal departments, the Steering Committee and, in particular, their draft peer reviewers, staff has made edits to the draft code. She said she would highlight some of the feedback as well as some of the key aspects of the code they wanted to focus on that day.

Ms. Brumfield said, in particular, staff is expanding the "Purpose and Intent" section, at the suggestion of the peer review. She said this section should highlight the intention of the form-based code, and they are hoping that by expanding this, they can emphasize both the goals that Ms. Accardi mentioned earlier and inform both the property owners and developers when they approach the code, as well as direct administrative review.

Ms. Brumfield said staff has worked very closely with consultant reviewers, as well as with Parks and Recreation and FES, to create conditions for activated, safe, inviting streetscapes that are both attainable and well-managed. She said some of these include sidewalks between 6-8 feet in most locations; landscape separation zones between sidewalks and streets, which were shown on the screen in the draft illustration; accommodations for bicycles; accommodations for transit; and street furniture and lighting, including benches, trash and recycling cans, and the things that create an environment that welcomes people onto the street and out of their cars.

Ms. Brumfield said the street furniture would be an aspect of the code that staff reviewers and internal departments have spent a great deal of time talking about, as these elements do require continued maintenance, which staff is aware of. She said, in particular, the reviewers have emphasized that these elements are an integral part of the urban landscape the County is trying to create.

Ms. Brumfield said dovetailing with those requirements are what staff is calling "civic space requirements." She said under their definition, "civic space" is an area dedicated to public use, designed for gathering, socializing, and recreation. She said civic space is usually in the form of an outdoors open space but may also be in the form of indoor civic gathering spaces.

Ms. Brumfield said each parcel redeveloped under the form-based code would be required to dedicate either a portion of the parcel to public use as a civic space; or, for very small parcels where it would be very impractical to dedicate a physical portion of the space, they can contribute funds towards larger County-identified parks that are highlighted on the regulating plan. She said this is fairly similar to the way the County currently requires open spaces for new developments, but these types of spaces would be more active and dynamic, and would be more for the public as opposed to the individuals who are benefitting from the development.

Ms. Brumfield said these spaces would range from indoor civic spaces (e.g. public art galleries or meeting spaces, like City Space in Charlottesville) to linear parks (like the Chicago 606 Greenway) to squares, plazas, and small parks.

Ms. Brumfield said the different spaces and forms of the civic spaces would have different requirements for different uses. She said a square would require areas to sit and a focal element, such as a fountain or art installation, or something that would draw people there. She said a green is a different type of a different size and would not require the same elements as a square, but would require a large, open grass space lawn for a different kind of use.

Ms. Brumfield said many of the civic spaces are envisioned to have active programming, which is something staff also wanted to emphasize. She said Parks and Recreation, other local organizations, nonprofits, schools, or even businesses could have events in these spaces. She presented images of example events. She said there could be movie nights and markets, and the integral part of that is having public access and the ability to program the spaces to make them active and open to everyone, whether they live there, work there, or are just visiting there. She said they want these to be truly public spaces regardless of income, residence, or occupation.

Ms. Falkenstein said she would talk about the staff recommendation. She said as Ms. Brumfield mentioned, they were talking about those spaces defined as civic spaces and streetscape elements that may be outside of what VDOT would typically maintain. She said when talking about streets, they were not necessarily talking about the entire street, but portions of the pedestrian realm that are above and beyond VDOT's normal standards that they may not agree to maintain. She said this may include wider sidewalks with the street furniture that Ms. Brumfield talked about.

Ms. Falkenstein said form-based code will include regulations about the streets and civic spaces such as their dimensions, materials, designs, and where they should be located. She said staff will review those elements with the Board in December, when they come back. She said at present, staff was looking for guidance on the future ownership of those spaces so they can draft the regulations accordingly in the form-based code.

Ms. Falkenstein said staff's recommendation is that the streets and civic spaces in Rio29 be publicly owned and maintained. She said they see several benefits of doing so. She said it supports the small area plan vision that Ms. Accardi talked about earlier, that these spaces be vibrant, usable, and active spaces. She said this also ensures these spaces will also be open and accessible to all people, regardless of where they live or where they may shop.

Ms. Falkenstein said it also has the benefit of allowing the County to be an active participant in how the space is used in terms of the public programming piece that Ms. Brumfield mentioned. She said staff sees being able to partner and host events in these spaces is an advantage to bringing the area and vision to life.

Ms. Falkenstein said this will also show the County's commitment to investment in this area. She said staff heard from several stakeholders from the development community and property owners that the County should be an active partner in the investment of the area and the implementation of the vision. She said adopting a form-based code is one thing but going beyond that and showing some investment in the area, and owning and maintaining the public spaces, shows that commitment from the County.

Ms. Falkenstein said staff's proposed process for funding for the spaces is that they would need to handle funding on a case-by-case basis, especially for the initial development proposals that would come in. She said that during site plan review, staff would review the public elements proposed for a proposed development and form-based code, which would be in the future after they have an adopted code. She said they would identify the capital needs that might be required for the future maintenance of the space.

Ms. Falkenstein said the development review time is when staff would come to the Board for a request for funding for these spaces. She said staff believes the time it takes to get through the development review process, then the time for construction, would be sufficient enough for the County to allocate appropriate funds for the maintenance.

Ms. Falkenstein said staff is proposing that the developers would build the facilities according to the regulations within the form-based code and that after completion, they would dedicate the facilities to the County.

Ms. Falkenstein said she also wanted to touch on long-term funding options. She said staff was not looking for a decision or direction at that time about long-term funding, but they did want to mention it. She said they think it is important to continue to explore options for sustainable revenue sources for funding of these spaces, especially once a critical mass of development is achieved in the area.

Ms. Falkenstein said options that the Board could consider and continue to explore in the future as development occurs would be for service districts. She added that staff attached the County Attorney's memo about service districts for the Board's information. She said this was not new information and that the Board had discussed it before. She said another option is public-private partnerships with future property owners, current property owners, or developers in the area. She said there could be opportunities to explore partnerships in that area.

Ms. Falkenstein reminded the Board that while form-based code is a big step in implementing the vision of Rio29, it is just one step and one tool. She said achieving the vision will take additional tools and partnerships with property owners and stakeholders in the County.

Ms. Falkenstein asked for the Board's support of staff's recommendation that the County own and maintain future public spaces in Rio29 after they are constructed. She said this recommendation was developed in partnership with several staff, who were present that day and could help answer any questions the Board may have. She said there were staff present from FES, Parks and Recreation, Economic Development, and the County Attorney's Office who had worked with them on this recommendation.

Ms. Falkenstein paused for questions or comments from the Board.

Ms. Palmer said she wholeheartedly supports the County's ownership of the public spaces and believes it is a must. She said for those who were not around many years ago, someone running for office at the State level decided that, because they could not find public space, they would hand out leaflets in front of the old location of Whole Foods. She said there were complaints, and the property owner had the candidate arrested for trespassing. She said this blew up into quite the community discussion about the fact that the County has no public spaces. She said she thinks they are incredibly important and hopes that when the time comes, which she knows is far into the future, the County will consider political demonstrations and the like to be allowed in the space.

Ms. Palmer said that as far as the service districts are concerned, she thinks this is a great thing to look into. She said when she was on the Albemarle County Service Authority Board of Directors, they had a service district to pay for the sewer in the North Pointe development, which is still in the works for development. She said the reason was that the sewer connections and infrastructure were so expensive, they did not feel it was appropriate to have all the rate payers pay for it, and so there was a surcharge put on each building that would eventually be built in the area. She said it was somewhat complicated and she was not going into the details, but they did develop the service district for that purpose, which seemed like a reasonable thing to do.

Ms. McKeel thanked staff for the presentation, adding that she found the information in the packet helpful and easy to read. She said she agreed, and that her comment would be “yes” to the ownership of public spaces, although she did have some questions about that and the details. She said she did believe, however, that that discussion shows once and for all that Albemarle County has urbanized and they are there. She said while the County has Rural Areas, they really need to think about the Urban Areas as urbanized rather than moving that way.

Ms. McKeel said she has not had as much experience with the service districts as Ms. Palmer. She said she thinks the only way the service district would really work is if it is established from the very beginning. She said perhaps this is a question for Ms. Falkenstein; if they come in and try to overlay a service district after the fact might not work very well. She said people need to know exactly what they are getting into, and she did not know if they would ever be able to get a Board to implement a service district once this project has started.

Ms. Falkenstein replied that from the research she has done and the conversations she has had, service districts often start as more grassroots efforts, rather than top-down approaches. She said from the conversations she has had, it helps if there is a willing group of property owners who have banded together to say they would like to do something to help pay for some extra services or facilities in their area. She said staff does not feel they are currently at that point with Rio29 but potentially in the future, once they have new development, this might be an opportunity to revisit that discussion.

Ms. McKeel said she supposed Ms. Falkenstein was saying what she was saying when she said, “grassroots.” She said Ms. Falkenstein was not saying that there would be citizens who live in the area who would come to the Board and say they want a service district to help pay for something. She said Ms. Falkenstein was talking about beginning to work with the developers and partners in the area, which made sense to her.

Ms. Falkenstein replied that she believed it would be more business-oriented than residential or homeowners.

Ms. McKeel asked if this was the first attempt in Albemarle County at looking at a public utilities department in the future when talking about maintenance and taking care of roads. She said she was trying to figure out what lane they were in and where they might be going with this.

Ms. Falkenstein replied that the County currently does some of this on a very small scale. She said there is a street in Crozet where they maintain the sidewalks and landscaping. She said there is a plaza in Crozet, and they are in the process of pulling together County ownership and maintenance for this. She said there were staff present who may be better situated to answer the question, and that she was not sure where the tipping point was. She asked if Mr. Doug Walker or Mr. Lance Stewart could speak to this.

Mr. Doug Walker, Deputy County Executive, said that from his perspective, it was clear that they are going to be providing more urban types of services. He said the example Ms. Falkenstein provided of streetscape improvements in Crozet. He said there are other examples, both on the ground with the recent addition of the pedestrian bridge across Moores Creek at Woolen Mills and the improved partnership with the Barnes Lumber project, which will also include some public spaces and continued discussions about how they will maintain them. He said the Board is aware of the County’s maintenance requirements associated with the GSI project, with additional amenities that will not be maintained by VDOT but will be maintained by the County.

Mr. Walker said recently, the County has worked with the City to expand street sweeping. He said these are all things one would expect of urban areas, and so if not fully stepping into this, he does think they are stepping into that area and that he expects this will continue as they continue to understand what it means to have attractive, appealing, viable, productive, activated urban spaces.

Ms. McKeel said she appreciated Mr. Walker’s answer because she thinks they need to recognize that this is eventually where they are going, and this is another step in that direction. She said the only other comment she would make is that she appreciates seeing the term “multimodal transportation stops.” She said they are getting away from CAT (Charlottesville Area Transit) stops or bus stops, and that talking about multimodal is great, which includes pedestrian, bicycle, and perhaps other types of transit. She said she is very excited about the proposal.

Ms. Mallek said this is really exciting and that 5 or 8 years before 2011 is all in the rearview mirror.

Mr. Gallaway interrupted Ms. Mallek to inform her there were technical difficulties and that it was very hard to understand her with the feedback. He proposed she log out and log back in to try and resolve the issue.

Ms. Mallek agreed and left the meeting at 3:27 p.m.

Ms. Price thanked staff for the presentations. She said she totally supports the County assuming ownership and long-term maintenance of the public spaces as well as the other matters staff discussed. She said the only question she had was when it was mentioned that the developer would be required to build, she wanted to know what type of process or system the County would have that takes into account how much they expect a developer to have to pay for some of these things. She said many of the images in the presentation were quite beautiful, and some were somewhat extensive. She said she wanted to be sure there was not an undue burden placed upon the developer as far as the costs of the construction.

Ms. Falkenstein replied that there would be minimum requirements within the form-based code for the spaces. She said they also have a regulating plan that identifies a few of the civic space types the County wants in certain areas. She said for some of the spaces that would be more extensive to build (such as a plaza or square), they will make sure to split it over property lines so that a developer can build half of the space and build it up to their property line, then have the next developer come in to finish off the space. She said staff has seen this in other localities they have researched and that this seems to work well in that they avoid overburdening a single property owner with an extensive space.

Ms. Mallek re-joined the meeting at 3:30 p.m.

Ms. Mallek said she heard the last part of what Ms. Price had said, and perhaps Ms. Price asked the same question she herself was about to ask. She said when she was studying the staff report, she copied a snippet into her notes: “As proposed, the public spaces will be designed in accordance with the requirements of the FBC and constructed by the developer.” She said if this is to be rigidly done, and while she understood the shared concept Ms. Falkenstein just mentioned, her problem with this is that public spaces without income-producing features cannot be banked. She said unless there is an incredibly deep-pocketed developer, they cannot afford the money to do this and possibly keep rents low, or achieve whatever their goal is for the rest of the process.

Ms. Mallek said she would rather that this be more of a partnership description and not written in stone that the developer must do this. She said this held the County up for five years in Crozet with the plaza until they got owner buy-in on the fact that this was something where $1 million to $2 million for a public space, in addition to all the other things that had to be done, was not something that could be applied to the project. She said this was something for staff to consider.

Ms. Mallek said her quick reaction to the shared work concept was that if things are being done over 20 years, as she would expect they will be, she wanted to know if there is a way they could figure out if the work can be done at one time, whether the County pays for the part the developer is not doing on his side, or on the other side of the line if the next person isn’t ready, and then the next project would reimburse the County later. She said otherwise, the County will have many half pocket parks that stop at some property line, which will be less than useful.

Ms. Mallek said one model that is good that the County has already is the constructed wetland in Downtown Crozet, which is providing stormwater. She said it was built with a $600,000 grant from the EPA. She said when development happens in Crozet and the landowner or the Crozet Library, for example, does not have space on their property to do their stormwater, they buy into the stormwater wetland, which is a way to provide future maintenance and offset the $200,000 of County money that also went into the project. She said something like this may be useful, and she worries about the shared operation being one more headache that gets in the way of people being able to carry something out.

Ms. Mallek said she agrees completely with the examples given about where the County is doing maintenance now. She said when they did the streetscape in Crozet, which was started before she came on the Board and finished about five years later, VDOT would not allow the wider sidewalks that were needed and wanted, especially around the area of the trestle bridge and the 4-way stop.

Ms. Mallek said eventually, the only way to get over that obstacle was to have the County take over the maintenance so there is snow-shoveling and light bulb replacement. She said when the lovely plantings along the streetscape that do the stormwater maintenance get to be too tall in the summer, Mr. Stewart will send someone out there to get them under control so that the pedestrians are visible again. She said she hopes this has been limited in burden and tremendously helpful and beneficial to the community. She said she sees this as a way to step forward a little bit at a time in these kinds of approaches.

Ms. Mallek said she tremendously supports future ownership of the County because preserving open access to these places and allowing a restaurant to chain a place for their tenants only, as happens on the Downtown Mall, is something she hopes they can avoid. She said if they want to develop their outdoor space, they should do this separately.

Ms. Mallek asked staff if they were interested that day in the matters relating to street standards and vibrant streets that were in the staff report, or if they wanted to save this for another day. She said she would actually provide her comment about this. She said when it talks about trees and the elevations shown for what the complete streets will look like, she would ask staff to add the phrase “appropriately sized trees” to the tree ordinances. She said what they are finding now, and the trap she is trying to help people avoid, is the planting of trees that need lots of space in places where they do not have it. She said this becomes a misery of maintenance for everyone around there, including the tree.

Ms. Mallek asked if in the front end of this, rather than having to go back and fix something later or get into a big fight as they are doing now with developments all over the White Hall District, which have put in monstrous trees that cannot be sustained, they could avoid this with the Rio29 Small Area Plan and make this distinction right away. She said she has talked to Mr. Charles Rapp about this, who understands what the issue is about.

Ms. Mallek said she did not know if anyone had sat on the concrete benches at Stonefield, but she has, and they are remarkably comfortable and easy to maintain. She said she believes they just need a power-washing every couple of years, and no one will be able to carry them away. She recalled expressing her surprise when she first sat on one of the benches and had a positive experience.

Mr. Gallaway asked Ms. Mallek if she needed any reactions or response from staff.

Ms. Mallek said she expressed her support for the ownership and her concern about requiring that the developers build everything.

Mr. Gallaway asked staff if they wanted to react.

Ms. Falkenstein said there is nothing in the code that says the developer would have to build it. She said the County could step in and build any of these civic spaces that they wanted to at any point, so long as they are able to obtain the property to do so. She said the expectation is that when a development comes in, the developer will build it, but a partnership opportunity is certainly something that the County could pursue. She said if they have a willing developer or partner, they can look at capital funds to help fund a space.

Ms. Falkenstein said as far as letting other developers buy in, staff is including this in the draft code. She said Ms. Brumfield mentioned the small parcels that might contain a small development, and staff would not want to overburden them with having to build a civic space on their small site. She said they can instead contribute funds to spaces adjacent to them to help pay for the spaces. She said staff is trying to build in options as much as they can.

Ms. Mallek asked staff to keep in mind that they do not want to get themselves into the trap they have with affordable housing where someone can pay $16,000 and get credit for an affordable housing unit, which never goes anywhere towards building one. She said this is the math that staff will have to work on.

Ms. LaPisto-Kirtley said she supports the County owning and maintaining the spaces. She said she loved the presentation and the idea of the open spaces in form-based code. She said she wanted to make sure they realize, since this will be an additional cost for the developers, that the developers may ask for an increase in density. She said in her opinion, if this is the price the County must pay in order to get these spaces built, she personally thinks it would be worth it.

Ms. LaPisto-Kirtley asked if there are large parcels of land and the County owns them, if this pertains to anything current or only to things that are newly developed.

Ms. Falkenstein replied that it would be for properties that would be newly developed under the form-based code.

Mr. Gallaway said he was supportive of having spaces that the County would then take ownership of and maintain. He said he believes there is quite a bit that needs to be thought about in making that decision. He said it seems like an easy one to make, knowing that potential costs of this support would not come into play for a long time. He said this is like funding things outside of the budget process and determining where the dollars will come from, and to what extent.

Mr. Gallaway said when he starts thinking about what this would look like, he does not know what the hit to Operations would be. He said he does not know if staff (in exploring what pocket parks or street maintenance and other similar areas look like) has determined, if there is a pocket park of a certain size, how much this would cost in terms of maintenance and staffing.

Ms. Falkenstein said she did not have those numbers for Mr. Gallaway at that time, but she could tell him that it would be hypothetical and dependent on the scale of the development. She said staff would be happy to do some research, get some samples of parks, and look at those numbers. She said Mr. Stewart and her team have talked about the possibility of doing this but have not had the opportunity to do so yet. She said she knows Mr. Stewart has had a lot of experience in other localities where he has maintained spaces like this before and that he could easily provide some magnitude-of-scale costs for different types of spaces.

Mr. Gallaway said as they go through this, it would be helpful to think about the cost involved with maintenance and upkeep of things (e.g. the planters at Rio Rd and Rt 29). He said there are four or six planters there, and they could look at the scale of these things and multiply that if there are things that are much larger than plantings. He said Ms. Mallek spoke to items in Crozet, and that there are cost items their staff could potentially look at.

Mr. Gallaway said to him, the bigger point is that if they are thinking about long-term operational, maintenance, or facilities (e.g. the County building a pocket park), the question is at what point this conversation needs to get injected into the CIP process.

Mr. Gallaway said he was thinking about his time on the School Board when they would have a placeholder that was perhaps 6-8 years out for a school. He said they did not necessarily know where the school was, but they knew that they would need an elementary school (based on the numbers) and would put a placeholder in. He said for years, there was a placeholder for a future high school. He said it wasn't that there was a space involved, but there was money there for planning purposes so that when the CIP process continued, it was thought of.

Mr. Gallaway said at some point, when they are closer to form-based code becoming a reality and they get past getting this all put into place, they need to consider how this gets put into a CIP process, as he believes this is even where long-term maintenance could potentially be for this, especially if they are thinking an investment for building an actual facility, whether they are paid back for it or not. He said they would hate to have an opportunity come up and then start having to consider other alternative funding methods on the fly versus having the conversation 5, 10, or 15 years out so that it is on the radar.

Mr. Gallaway said he did believe they could start to get a good sense of what the operational or construction costs would be. He said someone mentioned the street-sweeping pilot going on. He said if this were fully built out, street sweeping would be something to consider, and they may need to buy a machine or extend costs to have another locality do it (as they are doing with the pilot).

Mr. Gallaway said there is a lot there to be fleshed out that he was not expecting to have there that day, but that it was worthwhile to get into those conversations so that they know what it means when they say they will assume ownership and long-term maintenance. He said the question is if this means hundreds of thousands of dollars or more and what the annual operational costs look like. He said he did not want to saddle a future Board with decisions of how to fund because the present Board decided to do this without giving it consideration.

Mr. Gallaway said there was a comment in the presentation about wide sidewalks and that they were above and beyond what VDOT would agree to. He said he thinks that sometimes, the County thinks about not having public streets and are concerned when they are private because there are questions about who will do the maintenance or upkeep. He said then, staff took this in the other direction because they said they will build a facility that is beyond what VDOT would be willing to do. He asked if this would happen throughout the entire area as a standard or only in certain places.

Ms. Falkenstein replied that it would be in certain places. She said there is a Core area where they have higher standards for sidewalks because they expect more activity in those areas. She said there, they would recommend a wider sidewalk. She said VDOT typically looks at 5-foot to 6-foot sidewalks for their streets, and staff is looking at an 8-foot sidewalk standard. She said initial conversations with VDOT indicated that they would likely not agree to maintain that wide of a sidewalk.

Mr. Gallaway said he had questions about the service districts. He said the draft said one could be assessed on residential or commercial, and so one could nitpick the different types of uses and say which ones could be assessed or taxed in a service district.

Mr. Kamptner replied yes.

Mr. Gallaway said "general government services" was one it said it could not be used for, and so he assumed this meant that the Department of Social Services couldn't be taxed to help a housing fund. He asked if this would fall under "general government services."

Mr. Kamptner replied that this seemed to fall within the scope of the other types of services that are excluded from service districts (e.g. schools, police).

Mr. Gallaway asked if a service district is needed to specify other taxes for a specific use in an area.

Mr. Kamptner replied that there is enabling authority outside of the service district law that allows additional taxes to be imposed for things such as sidewalks.

Mr. Gallaway said he knew that at one point, when he was Chair of the School Board, there was support for a state law that gave counties the ability to use cigarette tax, and the specific nature was that the cigarette tax could perhaps be slotted for education. He said the monies from a tax could go to a specific area, and so he was trying to think of mechanisms other than a service district that could potentially be a tool.

Mr. Kamptner said there are other tools out there. He said they are briefly summarized in Section 7 of Attachment B.

Mr. Gallaway said he did not know if one could take a meals tax or cigarette tax and say they are going to apply it to a very specific area and use the income for a specific purpose (e.g. a utilities department or sidewalk maintenance).

Mr. Kamptner asked Mr. Gallaway if he was talking about earmarking the revenues generated, or about having the tax apply in a specific area.

Mr. Gallaway said he supposed it could be earmarking.

Mr. Kamptner agreed.

Mr. Gallaway said he was just asking the questions to understand it, and that he did not think they had to necessarily only come up with public dollars through additional taxation areas. He said an argument could be made in the Urban Areas and Development Areas about the lack of public meeting spaces, parks, and areas for outdoor enjoyment, as those are certainly not there. He said he thinks that some of the tax money that is being paid now should be directed to some investment in the Urban Areas where they can have outdoor enjoyment, and that he was seeing this throughout the plan.

Mr. Gallaway said he did not want to make it sound like he only thinks additional taxation is how they get there. He said they have to acknowledge there is a void in these areas for these facilities and enjoyment areas, and it is contingent upon the Board and their CIP process to try to figure out that an investment in a pocket park in a big area goes a long way, for the similar reason that they have parks and trails in other areas of the County. He said he thinks this is a legitimate use of public dollars, which is why he would hope they can start getting this into the CIP conversation so it can be a placeholder down the road when things like this come to fruition.

Ms. Mallek said she loved Mr. Gallaway's idea about where to trigger this on the CIP. She said all the different districts (but especially Rio Road, Pantops, and Crozet) are all saying the same thing, that for 15 years, they have been promised this work, and they now have thousands more people in all three of those places, and the question is where the infrastructure is. She said this is a concern that is not going away, and so if this is part of that, everyone should think of a better solution. She said when something experiences zoning changes or when a certain number of Certificates of Occupancy are done, there should be a structure that allows a certain amount of investment to be put in.

Ms. Mallek said an example that Old Trail did all by themselves was they charged an extra $500 per house from the very beginning and put that money into a separate fund to provide the development at Western Park, in addition to giving the land and the money for the initial design for the park. She said they have accumulated quite a nest egg to be able to support that. She said this is not a tax and it was certainly paid for by the people who will live the closest and hopefully benefit from it as well.

Ms. Mallek said there must be ways that are somewhat less burdensome than a service district where they can get there faster. She said the Board did look at service districts some number of years ago, and one of the things that was used as a scenario was the Eastern Avenue Bridge. She said $10 million was far too large of a burden to be affordable for a community such as the Crozet Growth Area. She said this needs to be focused on things that are very local and smaller, more affordable things so they are within the realm of reason.

Ms. Mallek said she loved the idea of allocating certain percentages of increased revenue to these projects, and perhaps something similar to the TIF things they have done where the value of the property is going to go up, and so a certain percentage of that increased revenue from the very beginning should be allocated in a certain away towards amenities for that area. She said it is less painful if they put it aside before they get it into the big general service pot. She said she was sure that better financial minds than hers could figure out much better ways to go about this.

Ms. Mallek said when Ms. LaPisto-Kirtley talked about increasing density as a caveat for these things, she would disagree to the point that when they have rezonings now, there are basic rules that everyone must comply with such as open space percentages, street trees, parks, and playgrounds. She said this is just the basic starting line, and she hopes they will think about the other advantages people have by taking advantage of the small area plan process, which is anticipated to be a much simpler process. She said this will be the benefit they get instead of always trying to up the ante on all the other things. She said they must be careful, as the quality of life of the areas the County is building is important to their success.

Ms. LaPisto-Kirtley said she did not disagree. She said she did not know if they were asking the developers to do something above and beyond what they are already requiring, which would cause even more development. She said she was not talking about much more, but a little bit more to get something nice out of it.

Ms. Falkenstein said the form-based code is being structured in a way that will allow much more development potential for the properties in Rio29 that currently exist in their existing zoning. She said density was mentioned earlier, and that many of the properties do not even allow residential on them right now. She said with the form-based code, they will have the option to put residential and mixed-use development on the property that the current zoning does not allow.

Mr. Gallaway said the Board answered the question posed by staff and asked if there was other information they needed to provide.

Ms. Falkenstein replied no. She said staff had the feedback they needed to move forward. She said she would wrap up with a summary of next steps.

Ms. Falkenstein said staff had alluded much to the draft form-based code, acknowledging that it was not before the Board. She said it was coming, however. She said in the next month or so, staff would be holding community engagement on the form-based code, with virtual sessions planned with property owners and tenants of the Rio29 area coming up. She said in mid-November, there will be a Planning Commission work session to get their feedback on the draft form-based code, and that staff will then come back to the Board with a draft at the December 16 work session, hopefully with some time to incorporate the feedback they will have heard.

Ms. Falkenstein said staff's work program calls for adoption in the first quarter of 2021 and that they are doing their best to meet that goal.

Ms. Mallek emphasized that getting things right was better than getting them fast.

Agenda Item No. 11. Closed Meeting.

At 4:04 p.m., Ms. LaPisto-Kirtley moved that the Board go into a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1):
  1. To discuss and consider the annual performance of the County Executive; and
  2. To discuss and consider appointments to the Monticello Area Community Action Agency Board and five County advisory committees.

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

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

Agenda Item No. 12. Certify Closed Meeting.

At 6:01 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. The motion was **seconded** by Ms. Palmer.

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

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

Agenda Item No. 13. Boards and Commissions.

Item No. 13. a. Vacancies and Appointments.

Ms. Price **moved** that the Board make the following appointments:

- **Appoint**, Juliana Arsali to the Monticello Area Community Action Agency (MACAA) Board with said term to expire October 31, 2023.
- **Reappoint**, Lonnie Murray to the Natural Heritage Committee with said term to expire September 30, 2024.
- **Appoint**, Leah Jung to the Natural Heritage Committee with said term to expire September 30, 2024.
- **Appoint**, Anthony Pagnucco to the Places 29 (North) Community Advisory Committee with said term to expire August 5, 2022.
- **Reappoint**, Audrey Kocher to the Places 29 (Rio) Community Advisory Committee with said term to expire September 30, 2022.
- **Appoint**, Margaret Eldridge to the Solid Waste Alternatives Advisory Committee (SWAAC) with said term to expire May 31, 2023

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

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

Agenda Item No. 14. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Agenda Item No. 15. **Action Item –** Draft 2021 Thomas Jefferson Planning District (TJPD)

Legislative Program

Mr. David Blount, Director of Legislative Services for the Thomas Jefferson Planning District, said for those who had been on the Board for some time, they may notice that the draft included in their packets was a slimmed-down version of its previous self and that there were just three legislative priorities, including a new priority addressing the COVID-19 health emergency. He said the accompanying Legislative Positions section had been significantly curtailed in order to focus on those most critical positions and recommendations in other areas in the region and individual localities where there are concerns.

Mr. Blount said the first of the three top priorities was support for recovering communities. He said this is a new priority and supports action at the federal, state, and local levels to protect local communities and ensure their viability in the face of COVID-19. He said it is very aspirational in its wording, but he felt that this needs to be addressed during the times they are currently in.

Mr. Blount said the second priority relates to budgets and funding, and it is a revised position that consolidates several previous priorities and speaks to continuing support of enhanced state aid for localities as well as for K-12 public education. He said it contains statements that they oppose unfunded mandates and the costs shifting from the state to localities. He said they also urge continued enhancement of local revenue authorities and options, adding that they were able to make some progress on that front during the 2020 Regular Session.

Mr. Blount said the third and final priority relates to broadband, which continues to be critical, as the pandemic has put a punctuation mark on the need for expanding broadband, whether talking about for homes, businesses, K-12 education, or telemedicine.

Mr. Blount said he thought it was a good time, and perhaps past time, to streamline the program to tighten their focus on fewer priorities. He said with regard to the Legislative Positions segment, he did find that there were a number of position statements that were either outdated, no longer relevant, or more aspirational in asking the state to do something that was not necessarily related to legislation or to regulatory actions. He said the remaining position statements do speak to the issues that are the most critical that they need to take a stand on.

Mr. Blount concluded his presentation and offered to answer any questions before asking the Board to approve the program.

Ms. Palmer said the program looked appropriate.

Ms. McKeel agreed.

Ms. Mallek asked where the statement “We oppose legislation mandating expansion of the Chesapeake Bay Preservation Act coverage area” came from, and what sort of study process was done, as this was news to her. She said she did not know what contact with local governments happened before that position was developed.

Mr. Blount replied that this has actually been in the positions statement for a number of years.

Ms. Mallek asked if this was true for the PDC.

Mr. Blount replied yes. He recalled that this position was one that perhaps dated back prior to Ms. Mallek’s service on the county board, where they had to negotiate amongst the counties because some of the more rural counties did not want to see something mandated. He said he did not think it precluded Albemarle, on their own initiative, implementing certain provisions of that act, but it was not a new statement and had been included for a number of years.

Ms. Mallek said she was on the commission for eight years and did not remember it at all.

Mr. Blount said this was certainly the prerogative of the Board, but the City probably shares a stance similar to Albemarle County on that issue, and when they are adopting their City legislative program, they make it a point to say that they have a different opinion than the regional program with regard to that particular issue. He said this was something the Board may want to consider for the next time around.

Ms. Mallek agreed, adding this could happen when the Board has had a chance to discuss it first.

Ms. Price said she had no questions for Mr. Blount at that time.

Ms. LaPisto-Kirtley also said she had no questions.

Mr. Gallaway said there is a line that says, “We believe localities need an adequately defined SOQ so that state funding better aligns with what school divisions are actually providing in their schools.” He said in Albemarle, they are providing beyond what the SOQ requires but in so many localities, this means they are cutting perhaps a principal from being in each building (with one principal over two or even three schools), counselor services, and the like. He said sometimes PhysEd and Arts programs come into play there as well, and so he was thrilled about this position.

Mr. Blount thanked Mr. Gallaway, adding that the Board of Education has tried to recognize what is actually in place and has been able to support that as a result of the position.

Mr. Gallaway said the importance to a local government is that if a state if funding an adequately defined SOQ, this will free up local dollars to be used in different ways.

Mr. Blount agreed.

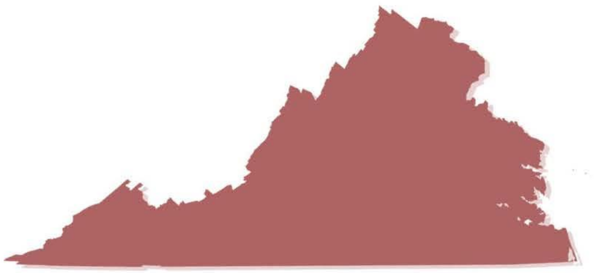
Ms. Palmer said her comment was not directly related to what Mr. Blount brought before the Board. She said she saw that what was passed by state legislature in 2019 was a committee to develop a wildlife corridor plan for the state. She said she thought this was fascinating and has apparently come out of VDOT's work on trying to keep deer from colliding with cars. She asked Mr. Blount if he knew anything about this or had any comments. She said perhaps she could bring it up to the Board members for a discussion at a later time, as she thought it was an interesting idea and because they have talked about wildlife corridors for different reasons.

Mr. Blount said he did not have any updates but would look into this. He said perhaps this was something that had fallen behind due to the events of the last several months. He said he would get back to Ms. Palmer about this.

Ms. Palmer **moved** to approve the Draft 2021 Thomas Jefferson Planning District (TJPD) Legislative Program. Ms. Price **seconded** the motion.

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

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



Thomas Jefferson Planning District

2021 LEGISLATIVE PROGRAM

Albemarle County | City of Charlottesville
Fluvanna County | Greene County
Louisa County | Nelson County

DRAFT

October 2020

Dale Herring, Chair
Chip Boyles, Executive Director
David Blount, Director of Legislative Services

TOP LEGISLATIVE PRIORITIES

Support for Recovering Communities

PRIORITY: The Planning District's member localities support action at the federal, state and local levels to protect local communities and to ensure their viability in the face of the COVID-19 health emergency.

The ongoing public health emergency has Virginia communities facing new challenges to their post-COVID local economies and the ability to restore and strengthen them. Coupled with worries about stalling national and state economies, localities are bracing for revenue collections that may fall millions of dollars short of expectations. Small businesses face a long and difficult recovery. Action, investment and creative solutions are needed, at the federal, state and local levels, to protect these local communities and to ensure their viability.

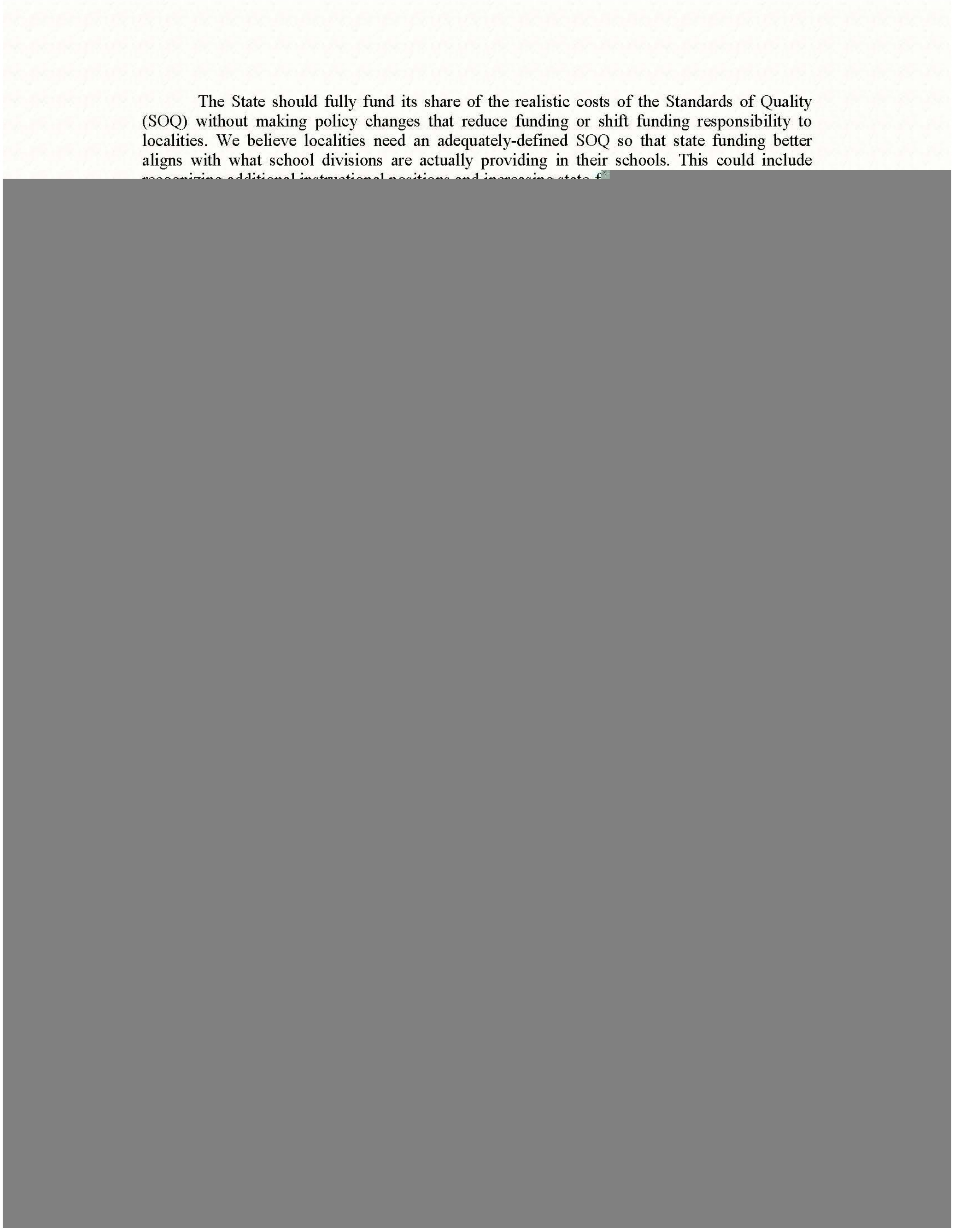
We believe retention of current businesses is crucial. Small businesses, which have accounted for two-thirds of net new jobs since the Great Recession, need support systems that link them to resources to aid them in the next 18 to 24 months. Local governments also need flexibility to work with local businesses to develop and implement strategies necessary to implement public health standards and combat the coronavirus. Making expenditures now to support local economic development would also deliver a healthier and more stable tax base in the months ahead.

While needs are many and varied, support in the following additional areas should be realized as we continue to navigate the pandemic: 1) Funding for public health emergency needs and functions; 2) tools and supplies necessary to maintain safe and effective education services – in person or virtually; 3) additional dollars for local and regional governments to keep public buildings and facilities both safe and cleanly; and 4) federal legislation that provides financial assistance to local governments and that allows local governing bodies to replace lost local revenues with the additional federal money until the economic recovery takes hold.

Budgets and Funding

PRIORITY: The Planning District's member localities urge the governor and legislature to enhance state aid to localities and public schools, to not impose mandates on or shift costs to localities, and to enhance local revenue options.

As the State develops revenue and spending priorities during the ongoing pandemic, we encourage support for K-12 education, health and safety, economic development and other public goals. Localities continue to be the state's "go-to" service provider and we believe state investment in local service delivery must be enhanced. Especially in these critical times, the State should not expect local governments to pay for new funding requirements or to expand existing ones on locally-delivered services, without a commensurate increase in state financial assistance.



The State should fully fund its share of the realistic costs of the Standards of Quality (SOQ) without making policy changes that reduce funding or shift funding responsibility to localities. We believe localities need an adequately-defined SOQ so that state funding better aligns with what school divisions are actually providing in their schools. This could include

[redacted]

LEGISLATIVE POSITIONS

Children's Services Act

The Planning District's member localities urge the State to be partners in containing Children's Services Act (CSA) costs and to better balance CSA responsibilities between the State and local governments. Accordingly, we take the following positions:

- We support local ability to use state funds to pay for mandated services provided directly by the locality, specifically for private day placements, where the same services could be offered in schools; additionally, we support rate setting by the state for private day placements.
- We support the state maintaining cost shares on a sum sufficient basis by both the State and local governments; changing the funding mechanism to a per-pupil basis of state funding would shift the sum sufficient portion fully to localities, which we would oppose.
- We support enhanced state funding for local CSA administrative costs.
- We support a cap on local expenditures (with the State making up any gaps) in order to combat higher costs for serving mandated children.
- We support the State being proactive in making residential facilities, services and service providers available, especially in rural areas, and in supporting locality efforts to provide facilities and services on a regional level.
- We oppose state efforts to increase local match levels and to make the program more uniform by attempting to control how localities run their programs.

Economic and Workforce Development

The Planning District's member localities recognize economic development and workforce training as essential to the continued viability of the Commonwealth. Policies and additional state funding that closely link the goals of economic and workforce development and the state's efforts to streamline and integrate workforce activities and revenue sources is crucial. Accordingly, we support the following:

- Enhanced coordination with the K-12 education community to equip the workforce with in-demand skill sets, so as to align workforce supply with anticipated employer demands.
- Continuing emphasis on regional cooperation in economic, workforce and tourism development.
- Continuation of the *GO Virginia* initiative to grow and diversify the private sector in each region.
- State job investment and small business grants being targeted to businesses that pay higher wages.
- Increased state funding for regional planning district commissions.

Education

The Planning District's member localities believe that, in addition to funding the Standards of Quality (as previously noted), the State should be a reliable funding partner with localities by recognizing other resources necessary for a high-quality public education system. Accordingly, we take the following positions:

- We believe that unfunded liability associated with the teacher retirement plan should be a shared responsibility of state and local government.
- We support legislation that 1) establishes a mechanism for local appeal to the State of the calculated Local Composite Index (LCI); and 2) amends the LCI formula to recognize the land use taxation value, rather than the true value, of real property.
- Concerning school facilities, we urge state financial assistance with school construction and renovation needs, and that the State discontinue seizing dollars from the Literary Fund to help pay for teacher retirement.

Environmental Quality

The Planning District's member localities believe that environmental quality should be funded and promoted through a comprehensive approach, and address air and water quality, solid waste management, land conservation, climate change and land use policies. Such an approach requires regional cooperation due to the inter-jurisdictional nature of many environmental resources, and adequate state funding to support local and regional efforts. Accordingly, we take the following positions:

- We oppose legislation mandating expansion of the Chesapeake Bay Preservation Act's coverage area. Instead, we urge the State to provide legal, financial and technical support to localities that wish to improve water quality and use other strategies that address point and non-point source pollution.
- We support the option for localities, as a part of their zoning ordinances, to designate and/or reasonably restrict the land application of biosolids to specific areas within the locality.
- We support legislative and regulatory action to ensure effective operation and maintenance of alternative on-site sewage systems and to increase options for localities to secure owner abatement or correction of system deficiencies.
- We support dam safety regulations that do not impose unreasonable costs on dam owners whose structures meet current safety standards.
- The State should be a partner with localities in water supply development and should work with and assist localities in addressing water supply issues, to include investing in regional projects.
- The State should not impose a fee, tax or surcharge on water, sewer, solid waste or other local services to pay for state environmental programs.
- As the move to non-carbon sources of energy continues, we support the creation of stronger markets for distributed solar and authority for local governments to install small solar facilities on government-owned property and use the electricity for schools or other government-owned buildings located nearby.

General Government

The Planning District's member localities believe that since so many governmental actions take place at the local level, a strong local government system is essential. Local governments must have the freedom, flexibility and tools to carry out their responsibilities. Accordingly, we take the following positions:

- We oppose legislation that would single out internet-based businesses and services for special treatment or exceptions. Rather, the State should support local authority concerning collection and auditing of taxes, licensing and regulation.
- We oppose intrusive legislation involving purchasing procedures; local government authority to establish hours of work, salaries and working conditions for local employees; matters that can be adopted by resolution or ordinance; procedures for adopting ordinances; and procedures for conducting public meetings.
- The state should maintain the principles of sovereign immunity for local governments and their employees, to include regional jail officers.
- Localities should have maximum flexibility in providing compensation increases for state-supported local employees (including school personnel), as local governments provide significant local dollars and additional personnel beyond those funded by the State.
- We urge state funding to address shortfalls in elections administration dollars, as elections administration has become more complex and federal and state financial support for elections has been decreasing. Specifically, we request that the State adequately fund costs associated with early voting requirements.
- We request that any changes to FOIA preserve 1) a local governing body's ability to meet in closed session; 2) the list of records currently exempt from disclosure; and 3) provisions concerning creation of customized records.
- Local and regional public bodies should be allowed to conduct electronic meetings as now permitted for state public bodies, and to use alternatives to newspapers for publishing various legal advertisements and public notices.
- We support expanding local authority to regulate smoking in public places.
- We support enhanced state funding for local and regional libraries.

Health and Human Services

The Planning District's member localities recognize that special attention must be given to helping the disabled, the poor, the young and the elderly achieve their full potential. Transparent state policies and funding for at-risk individuals and families to access appropriate services are critical. Accordingly, we take the following positions:

- We support full state funding for the local costs associated with Medicaid expansion, including local eligibility workers and case managers, but oppose any shifting of Medicaid matching requirements from the State to localities.
- The State should provide sufficient funding to allow Community Services Boards to meet the challenges of providing a community-based system of care.
- We support the provision of sufficient state funding to match federal dollars for the administration of mandated services within the Department of Social Services, and to meet the staffing standards for local departments to provide services as stipulated in state law.
- We support continued operation and enhancement of early intervention and prevention programs, including the Virginia Preschool Initiative and Part C of the Individuals with Disabilities Education Act (infants and toddlers).

Housing

The Planning District's member localities believe that every citizen should have an opportunity to afford decent, safe and sanitary housing. The State, regions and localities should work to expand and preserve the supply and improve the quality of affordable housing for the elderly, disabled, and low- and moderate-income households. Accordingly, we take the following positions:

- We support the following: 1) local flexibility in the operation of affordable housing programs and establishment of affordable dwelling unit ordinances; 2) grants and loans to low- or moderate-income persons to aid in purchasing dwellings; 3) the provision of other funding to encourage affordable housing initiatives; and 4) measures to prevent homelessness and to assist the chronic homeless.
- We support incentives that encourage rehabilitation and preservation of historic structures.

Land Use and Growth Management

The Planning District's member localities encourage the State to resist preempting or circumventing existing land use authorities, and to support local authority to plan and regulate land use. Accordingly, we take the following positions:

- We support the State providing additional tools to plan and manage growth, as current land use authority often is inadequate to allow local governments to provide for balanced growth in ways that protect and improve quality of life.
- We support broader impact fee authority for facilities other than roads, authority that should provide for calculating the cost of all public infrastructure, including local transportation and school construction needs caused by growth.
- We support changes to provisions of the current proffer law that limit the scope of impacts that may be addressed by proffers.
- We oppose legislation that would 1) restrict local oversight of the placement of various telecommunications infrastructure, and 2) single out specific land uses for special treatment without regard to the impact of such uses in particular locations.
- We request state funding and incentives for localities, at their option, to acquire, preserve and maintain open space and support greater flexibility for localities in the preservation and management of trees.

Public Safety

The Planning District's member localities encourage state financial support, cooperation and assistance for law enforcement, emergency medical care, criminal justice activities and fire services responsibilities carried out locally. Accordingly, we take the following positions:

- The Compensation Board should fully fund local positions that fall under its purview. It should not increase the local share of funding for Constitutional offices or divert money away from them, but increase dollars needed for their operation.

- We urge state funding of the HB 599 law enforcement program in accordance with *Code of Virginia* provisions.
- We support Virginia's transition to Next Generation 911 (NG 911) in a way that does not unfairly burden localities.
- We support funding for mental health and substance abuse services at juvenile and adult detention facilities.
- We encourage consideration of programs that supplement law enforcement responses to help individuals in crisis to get evaluation services and treatment, and state funding for alternative transportation options for such individuals.
- Jail per diem funding should be increased to levels that better represent the costs of housing inmates, and be regularly adjusted for inflation. The State should not shift costs to localities by altering the definition of state-responsible prisoner.
- We support the ability of local governments to adopt policies regarding law enforcement body worn cameras that account for local needs and fiscal realities. The State should provide financial support for localities using such camera systems.

Transportation

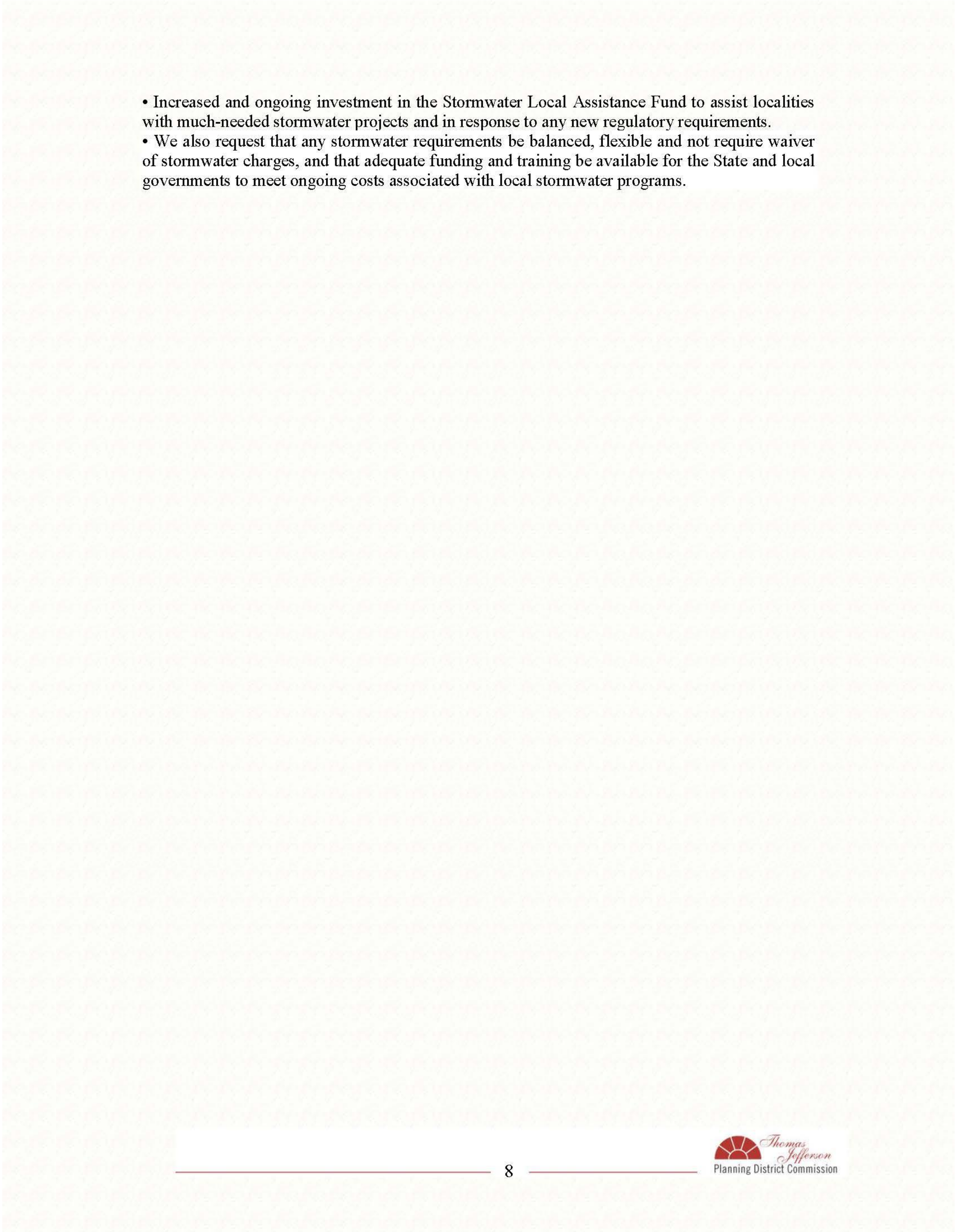
The Planning District's member localities recognize that revenues for expanding and maintaining all modes of infrastructure are critical for meeting Virginia's well-documented transportation challenges and for keeping pace with growing public needs and expectations. In the face of revenues failing to meet projections, we encourage the State to prioritize funding for local and regional transportation needs. Accordingly, we take the following positions:

- As the State continues to implement the "Smart Scale" prioritization and the funds distribution process, there should be state adequate funding, and local authority to generate transportation dollars for important local and regional projects across modes.
- We support additional authority to establish mechanisms for funding transit in our region.
- We support the Virginia Department of Transportation utilizing Metropolitan Planning Organizations and regional rural transportation staff to carry out local transportation studies.
- We oppose attempts to transfer responsibility to counties for construction, maintenance or operation of current or new secondary roads.
- We support ongoing state and local efforts to coordinate land use and transportation planning, and urge state and local officials to be mindful of various local and regional plans when conducting corridor or transportation planning within a locality or region.

Water Quality

The Planning District's member localities support the goal of improved water quality, but as we face ongoing costs for remedies, we believe major and reliable forms of financial and technical assistance from the federal and state governments is necessary if comprehensive improvement strategies are to be effective. Accordingly, we support the following:

- Aggressive state investment in meeting required milestones for reducing Chesapeake Bay pollution to acceptable levels.
- Dollars being targeted for permitted dischargers to upgrade treatment plants and for any retrofitting of developed areas and to aid farmers with best management practices through the cost share program.



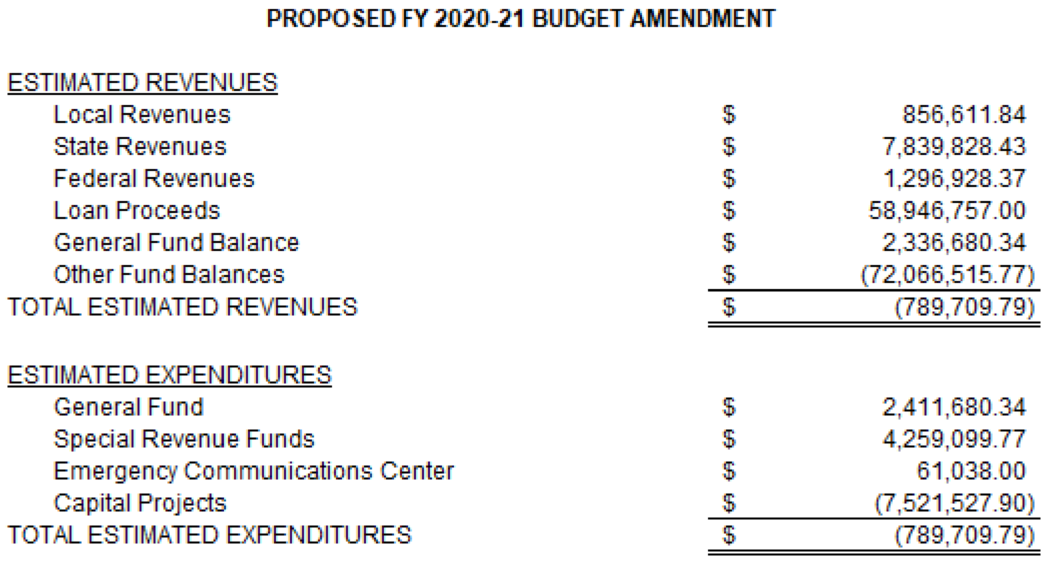
- Increased and ongoing investment in the Stormwater Local Assistance Fund to assist localities with much-needed stormwater projects and in response to any new regulatory requirements.
- We also request that any stormwater requirements be balanced, flexible and not require waiver of stormwater charges, and that adequate funding and training be available for the State and local governments to meet ongoing costs associated with local stormwater programs.

Agenda Item No. 16. **Public Hearing – <u>FY 2021 Budget Amendment and Appropriations</u>**. *(Advertised in the Daily Progress on October 25, 2020)*

The Executive Summary forwarded to the Board states that Virginia Code §15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The cumulative total of the FY 2021 appropriations itemized below is ($789,709.79). A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget. However, staff recommends that a public hearing be held for transparency purposes in this unique circumstance where 1) appropriation #2021035, if considered by itself, would require a public hearing as a decrease in the budget greater than one percent; and 2) all other appropriations, if considered without #2021035, would require a public hearing as an increase greater than one percent.

The FY 2021 Budget Amendment totals ($789,709.79). The estimated expenses and revenues included in the proposed amendment are shown below:



PROPOSED FY 2020-21 BUDGET AMENDMENT

ESTIMATED REVENUES		
Local Revenues	$	856,611.84
State Revenues	$	7,839,828.43
Federal Revenues	$	1,296,928.37
Loan Proceeds	$	58,946,757.00
General Fund Balance	$	2,336,680.34
Other Fund Balances	$	(72,066,515.77)
TOTAL ESTIMATED REVENUES	$	(789,709.79)
ESTIMATED EXPENDITURES		
General Fund	$	2,411,680.34
Special Revenue Funds	$	4,259,099.77
Emergency Communications Center	$	61,038.00
Capital Projects	$	(7,521,527.90)
TOTAL ESTIMATED EXPENDITURES	$	(789,709.79)

The budget amendment is comprised of a total of eleven (11) separate appropriations. Three (3) have already been approved by the Board as indicated below:

- One (1) appropriation approved 9/16/2020
- Two (2) appropriations approved 10/7/2020
- Eight (8) appropriation requests for approval on November 4, 2020 are the remaining as described in Attachment A.

After the public hearing, staff recommends that the Board adopt the attached Resolutions (Attachment B and Attachment C) for local government and school projects and programs as described in Attachment A.

_____

Mr. Andy Bowman, Budget Manager with the Department of Finance and Budget, presented. He said this is a public hearing and action item, and that he had two slides of information to present.

Mr. Bowman said under the Virginia Code, the County is required to hold a public hearing before it amends the budget when the total amount of change in the budget exceeds 1% of the currently adopted budget. He said the amendment that evening was a total decrease to the budget of $0.8 million. He said a public hearing is required because within that net change of $0.8 million, there are items that do exceed 1% of the currently adopted budget.

Mr. Bowman said he would walk through the highlights of Attachment A, with the first being a $7.7 million decrease to the capital budget. He emphasized that this was not a change in the projects that are to be provided or the programs but rather, it is Step Two of a two-step process that takes place every year. He said under the current Virginia Code for the County Executive form of government, all appropriations lapse on June 30 and, as the Board is aware, many capital projects are multiyear, which can be a problematic situation.

Mr. Bowman said in July, he was before the Board to reappropriate project balances to ensure they had adequate appropriation authority to pay bills and allow work to go on, knowing that they would be there at a later time to anticipate a future adjustment. He said at present, what they were doing with the $7.7 million decrease was reconciling the FY 21 project budgets that were appropriated in July with the actual FY 20 balances.

Mr. Bowman said to give an example, if they had a hypothetical capital project balance of $1 million in June, then in July, they would carry forward that $1 million balance while bills would continue to be paid for the work done in June, and throughout July and August as they close out the fiscal year. He said essentially, the amount of bills being paid during that time were now being reduced through the action that evening.

Mr. Bowman noted that unrelated to the dollars in the capital budget carry-forward resolution, there is County Executive authority for administrative budget adjustments under very specific circumstances. He noted that whenever this is used, it comes back to the Board as part of their quarterly financial reports. He said the next quarterly financial report will be coming to the Board on November 18.

Mr. Bowman said he would highlight this as he does in the initial appropriation of the budget, in the late spring and early summer, for the purpose of transparency in terms of how this works. He said this is included as part of the resolution, again under very specific circumstances where that is an option.

Mr. Bowman said in terms of other highlights of the budget amendment, there are reappropriations of the prior fiscal year (FY 20) to the current fiscal year (FY 21). He said there is $2.3 million in the General Fund, which includes items that are contracts for projects across fiscal years (such as Community Development studies) and items that are smaller (such as equipment that was anticipated to be delivered in FY 20, but for whatever reason (e.g. supply chain issues related to the pandemic) has actually been received in FY 21) where the budget needs to be moved forward to coincide with an expense.

Mr. Bowman said that of the $2.3 million, the largest chunk of this is $750,000 that carries forward to the Climate Action Reserve that the Board had approved in a prior year, and that this brings it forward to FY 21.

Mr. Bowman said in addition to the General Fund, there is $3.9 million in Special Revenue and Other Funds, which includes the Housing Fund, Economic Development Authority and Economic Development Fund, as well as some CARES funding. He said the funds are detailed in Attachment A.

Mr. Bowman noted for the public's awareness that the initial information that went up on the website the week prior with the agenda included a number of $4.2 million, which was a typo. He said it has been corrected in all attachments and on the website, and the Board was notified. He said the correct number is $3.9 million and that the numbers have been updated in the Board's resolution that evening.

Mr. Bowman said there were other items in Attachment A, for grants, but he would not be going through those in detail unless there were questions.

Mr. Bowman said that after the public hearing, staff would recommend that the Board adopt the resolutions (Attachments B and C).

There were no comments from the Board.

Mr. Gallaway asked Mr. Morris if there were any sign-ups for public comment for this item.

Mr. Morris replied there were not.

Mr. Gallaway brought the matter back before the Board for further discussion, questions, or a motion.

Ms. Price asked Mr. Bowman if there were two Attachments (B and C), as she only saw one attachment in her packet.

Mr. Bowman replied that there were two attachments. He said there was one resolution to approve the appropriations, and a second attachment for the carry-forward resolution of capital projects.

Mr. Gallaway said the language he had for the motion was that the Board adopt the attached resolutions (B and C) for government and school projects and programs described in Attachment A.

Ms. Price said she now saw the attachment and that it had not been marked as "C" in her packet.

Ms. LaPisto-Kirtley **moved** that the Board adopt the attached Resolutions (Attachment B and Attachment C) for local government and school projects and programs as described in Attachment A. Ms. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Mr. Jeff Richardson (County Executive) said he wanted to take a moment to recognize Mr. Bowman for his hard work. He said the Board may recall that during their budget work session the week prior with Schools, Mr. Bowman lost internet service right before he was supposed to present. He said Mr. Bowman drove to a high school parking lot and presented from his car. He said he thought this was an example of swift ingenuity, to respond on the fly and get where he needed to be to meet his obligations.

Mr. Richardson said Mr. Bowman was presenting from his office in the County Office Building that evening. He said he was excited to see Mr. Bowman that evening and appreciated him being there.

Appropriation #2021032 $2,336,680.34

Source:	General Fund fund balance	$2,336,680.34

At the end of FY 20, the General Fund's fund balance is equal to a) the audited balance from the prior fiscal year (FY 19); b) plus the actual revenues during FY 20; and c) less actual expenditures during FY 20.

Of that total amount of General Fund fund balance, amounts are held in reserve for:
- Policy Uses: in accordance with the County's financial policies, a 10% unassigned fund balance and a 1% Budget Stabilization Reserve.
- Appropriated and Obligated Uses: The County's FY 21 Adopted Budget and any other appropriations to date that include General Fund fund balance as a revenue source.

The remaining amount is defined as the County's Unobligated General Fund Fund Balance and any subsequent uses are approved by the Board of Supervisors.

The Unobligated General Fund Fund Balance includes an amount for expenses approved in FY 20 that were not completed in FY 20. For example, equipment or purchase orders ordered in FY 20 that were delivered in FY 21 are classified as an FY 21 expense; or contracts for certain work may cross fiscal years based on the timeline of a project. In these circumstances, the County has FY 20 expenditure savings that are added to the General Fund's fund balance, which are then requested for re-appropriation from the General Fund's fund balance in FY 21 to complete the expenditure.

The proposed use of the General Fund fund balance will not reduce the County's 10% unassigned fund balance or 1% Budget Stabilization Reserve; however, it does reduce the amount of FY 20 undesignated funds that would be available for uses in the future.

Clerk of the Circuit Court
- Requests the re-appropriation of $4,006.60 for purchase orders initiated in FY 20 that will be completed in FY 21.

Commonwealth's Attorney
- Requests the re-appropriation of $20,000.00 for part-time wages for a temporary attorney and an intern.
- Requests the re-appropriation of $2,433.94 for purchase orders initiated in FY 20 that will be completed in FY 21.

Community Development Department
- Requests the re-appropriation of $150,420.65 in contract services to complete the Crozet Transportation Analysis, Crozet Parking Study, Peer Review of the Albemarle County Draft Form-Based Code and Design Scenarios for Rio29, Rivanna River Corridor Phase 2, and Community Development Plan Review.

Economic Development Office
- Requests the re-appropriation of $25,400.00 for contract and professional services for projects initiated in FY 20 anticipated to be completed in FY 21, such as the Broadway Blueprint project.

Executive Leadership
- Requests the re-appropriation of $233,124.00 in purchase orders initiated in FY 20 for cross-departmental training efforts, project management support, the citizen survey, and the website redesign project that will be completed in FY 21; and $4,800.00 in part-time wages.

Facilities and Environmental Services
- Requests the re-appropriation of $119,772.35 for equipment and purchase orders initiated in FY 20 that will be completed in FY 21; and $13,424.44 for an Innovation Fund project anticipated to be completed in FY 21.
- Requests the re-appropriation of $750,000.00 in Climate Action Pool funding. Of this amount, $250,000.00 is for low income weatherization improvements. The remaining $500,000.00 is for implementation of other Climate Action Plan initiatives.

Finance and Budget
- Requests the re-appropriation of $120,000.00 for grants management, Capital Improvement Program, and chart of accounts project support approved in FY 20 that will be completed in FY 21; $40,000.00 to cover e-check fees to encourage online payment; and $7,035.00 for an Innovation Fund project anticipated to be completed in FY 21.

Fire Rescue Department
- Requests the re-appropriation of $135,181.54 for equipment, supplies, and purchase orders initiated in FY 20 that will be completed in FY 21; $68,451.00 from insurance payments received in FY 20 for repairs that will completed in FY 21; $36,000.00 in contract services to complete strategic planning work initiated in FY 20 that will completed in FY 21; and $13,521.49 for donations received and not expended in FY 20.

Information Technology

- Requests the re-appropriation of $35,631.00 for purchase orders initiated in FY 20 that will be completed in FY 21.

Parks and Recreation Department

- Requests the re-appropriation of $21,695.28 of improvement funds for the Charlotte Humphris Park.
- Requests the re-appropriation of $62,010.88 for purchase orders initiated in FY 20 for Riverside Village Park Master Plan, equipment, and a vehicle.

Police Department

- Requests the re-appropriation of $58,134.80 for purchase orders initiated in FY 20 that will be completed in FY 21.
- Requests the re-appropriation of $63,436.60 for the electronic summons system from the net program revenues. These revenues are intended to only fund the electronic summons system operations and are not for general local government operations.
- Requests the re-appropriation of $10,765.80 for traffic safety programs from the net revenues received in prior years related to the PhotoSafe Program. These revenues are intended to only fund traffic safety programs/operations and are not for general local government operations.

Sheriff's Office

- Requests the re-appropriation of $304.97, which is the balance remaining in collected fingerprinting fees at the end of FY 20, to purchase volunteer reserves' uniforms, equipment, and other operating expenses.

Voter Registration and Elections

- Requests the re-appropriation of $32,800.00 for ballot scanning machines and associated equipment, licenses, and maintenance.
- Requests the re-appropriation of $6,270.00 for handicap voter/curbside voting signs and ballot boxes.
- Requests the re-appropriation of $1,710.00 for office furniture.

Non-Departmental

- Requests the re-appropriation of $300,350.00 remaining in the Business Process Optimization Reserve at the end of FY 20. This will be used to support ongoing organizational initiatives in FY 21.

Appropriation #2021033 $75,000.00

Source:	Donations	$ 75,000.00

This request is to appropriate $75,000.00 in donations made to the Office of Equity and Inclusion (OEI) for OEI projects.

Appropriation #2021034 $58,333.00

Source:	State Revenue	$ 58,333.00

This request is to appropriate $58,333.00 from the Virginia Department of Agriculture and Consumer Services (VDACS) Office of Farmland Preservation to reimburse the County for part of the costs incurred for acquisition of the Harlow conservation easement, property appraisal, and title insurance. The purchase, through the County's Acquisition of Conservation Easements (ACE) program, totals $159,416.40. Since Farmland Preservation funding was limited last year due to budget constraints, the $58,333.00 is not a full 50/50 matching grant.

Appropriation #2021035 $ (7,653,490.90)

This request is to de-appropriate $7,653,490.90 as described in the Resolution for the County's On-Going Multi-Year Capital Projects (Attachment C). This reduction in special revenue project and capital project funds reflects the reconciliation of FY 20 balances after the year end close out for a net amount of $70,944,231.40, which is $7,653,490.90 less than the $78,597,722.30 carried forward on July 1, 2020.

The resolution (Attachment C) authorizes the County Executive to do the following:

- Adjust this amount, if necessary, to accurately reflect the actual encumbered amounts and actual unencumbered capital and special revenue project amounts at the end of FY 20; and
- Allocate funding from the below identified classifications to appropriate capital projects line-items for expenditures:
  - Sidewalk Program Contingency
  - NIFI (Neighborhood Improvements Funding Initiative) Contingency
  - Transportation Leveraging Program; and
- Close out a Capital project and transfer any unencumbered residual funds to the Capital Improvement Fund fund balance.

In accordance with current practice for other County Executive authorization, all of these transfers or distributions will be reported to the Board of Supervisors as part of the County's quarterly financial reports.

Appropriation #2021036 $73,630.00

Source:	Proffer Fund Balances	$ 73,630.00

This request is to appropriate $73,630.00 from proffer interest earned to provide funding for a completed public sewer connection to the Hollymead Fire Rescue Station 12. This reimbursement is pursuant to proffers approved by the Board of Supervisors, last amended on March 10, 2010 with ZMA200500003, in association with the University of Virginia Research Park.

Appropriation #2021037 $3,854,793.77

Source:	Local Revenue	($ 19,954.65)
	Federal Revenue	$ 279,534.55
	Special Revenue and Other Funds' fund balances	$3,595,213.87

This request is to re-appropriate the following Special Revenue and Other Funds:

Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF)

- This request is to re-appropriate $279,534.55 in federal revenue from the Coronavirus, Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) for necessary CARES CRF eligible expenses such as, but not limited to, human and community services, economic development, technology, and general County services. Prior to execution, all programs will be reviewed by the County's CARES CRF Compliance and Documentation Team.

Economic Development Authority (EDA) Fund

- This request is to re-appropriate $390,000.00 in EDA Fund fund balance to the EDA Fund. The Albemarle County EDA is a political subdivision of the Commonwealth of Virginia, operating in partnership with the Albemarle County Board of Supervisors to improve the quality of life for citizens of the County through responsible and sustainable economic development practices, using the County's Comprehensive and Strategic Plans for guidance, along with the County's Economic Development Strategic Plan. The County serves as the fiscal agent for the EDA.

Economic Development Fund

- This request is to re-appropriate $200,000.00 in Economic Development Fund fund balance to the Economic Development Fund's Investment Pool. This amount was previously identified in FY 20 to support a Microloan Program in response to the COVID-19 emergency. These expenses were able to instead be funded by federal revenue, CARES Coronavirus Relief Funds.

Housing Fund

- This request is to re-appropriate $2,525,000.00 from Housing Fund fund balance as follows:
  - $1,700,000.00 Reserve for the Performance Agreement between the County, Economic Development Authority, and Habitat for Humanity of Greater Charlottesville approved by the Board of Supervisors at its June 19, 2019 meeting. This funding is held in reserve and will be distributed pursuant to the terms of the agreement.
  - $825,000.00 in a Housing Fund Reserve that is intended to support housing initiatives that are one-time costs and will support the County's strategic and housing goals. This Reserve amount includes funding reallocated from prior appropriated uses that are no longer needed:
    - $325,000.00 was previously identified to support Piedmont Housing Alliance's (PHA) purchase and renovation of the Park's Edge Apartments. The PHA is no longer purchasing the Park's Edge property.

  - $172,567.00 was previously identified in FY 20 to support the sheltering of homeless during the COVID-19 pandemic. These expenses were able to instead be funded by other sources through December 30, 2020.

Old Crozet School Fund

- This request is to appropriate $44,289.75 for expenses related to the Old Crozet Elementary School by re- appropriating unexpended rental revenue (fund balance) received in prior years and adjusting anticipated rental revenue in FY 21.

Seized Assets Funds

- This request is to re-appropriate $227,548.82 in Seized Asset Monies received from State and Federal Agencies for the Commonwealth's Attorney and the Police Department. These funds will be used for eligible expenses.

Vehicle Replacement Fund

- This request is to re-appropriate $188,420.65 from the Vehicle Replacement Fund fund balance for use in FY 21 for Police Department vehicle replacements.

Appropriation #2021038 $12,718.00

Source:	Federal Revenue	$ 12,718.00

This request is to appropriate $12,718.00 in federal revenue from a U.S. Department of Justice grant to support additional community policing projects and activities by providing funds for officers' overtime hours to prevent crime, build community relationships, and enhance safety. There is no local match for this grant.

Appropriation #2021039 $323,280.00

Source:	Federal Revenue	$ 323,280.00

This request is to appropriate $323,280.00 in federal revenue from a Federal Emergency Management Agency (FEMA) Staffing for Adequate Fire and Emergency Response (SAFER) grant to fund 10 firefighters to staff two daytime engines in FY 21 (Crozet Volunteer Fire Department – Station 5 and Pantops Public Safety Station – Station 16). This is a three-year grant for personnel salary and benefits costs which totals $1,939,680. The remaining grant funding will be budgeted in the appropriate year during each annual budget process. There is no local match for this grant for personnel salary and benefits, and the FY 21 Adopted Budget included funding for related costs not covered by the grant.

RESOLUTION TO APPROVE ADDITIONAL FY 2021 APPROPRIATIONS

BE IT RESOLVED by the Albemarle County Board of Supervisors:

1) That the FY 21 Budget is amended to decrease it by ($789,709.79);

2) That Appropriations #2021032; #2021033; #2021034; #2021035; #2021036; #2021037; #2021038; and #2021039 are approved; and

3) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.

RESOLUTION TO APPROPRIATE FY 21 ON-GOING FUNDING OF MULTI-YEAR CAPITAL PROJECTS

For the Fiscal Year Ending June 30, 2021
Appropriation # 2021035

Whereas, capital and special revenue projects that are not completed within one fiscal year necessitate the budgeting and appropriation of the remaining balance of project funds from one fiscal year to the succeeding fiscal year; and

Whereas, on July 1, 2020, the total amount of estimated June 30, 2020 end-of-year capital project balances and special revenue project balances was $78,597,722.30; and

Whereas, this amount is reconciled after the year end close out, and the net reconciled amount totals $70,944,231.40.

Therefore, this appropriation request is to reduce the carry forward amount by $7,653,490.90, set forth as follows:

Total School Division Capital Improvement Fund:

School Division Capital Improvement Fund Appropriations

	Budget Carried Forward on 7/1/20	Proposed 11/4/2020 Budget Adjustment	Proposed Net FY 21 Carry forward Budget
Charlottesville-Albemarle Technical Education Center (CATEC) Contingency	$144,700.00	$0.00	$144,700.00
Crozet Elementary Addition Design	$1,091,966.58	($182,208.40)	$909,758.18
High School Capacity & Improvement Modernization	$75,693.07	$0.00	$75,693.07
High School Capacity Improvements - Center #2	$1,953,767.00	$0.00	$1,953,767.00
Learning Space Modernization	$482,154.37	($19,508.37)	$462,646.00
Red Hill Elementary Phase 2: Additions & Improvements	$5,868,144.51	($12,809.88)	$5,855,334.63
School Bus Replacement Program	$1,565,555.54	($433,526.00)	$1,132,029.54
School Maintenance/Replacement Program	$8,183,736.11	($2,578,306.36)	$5,605,429.75
School Security Improvements Program	$4,395.00	($4,395.00)	$0.00
School Technology Program	$2,089,539.37	($684,936.13)	$1,404,603.24
Scottsville Elementary School Addition & Improvements	$10,613,575.52	($897,522.87)	$9,716,052.65
State Technology Grant	$686,902.56	($686,902.56)	$0.00
Western Albemarle High School Environmental Studies Academy Phase 2	$897,863.63	($172,421.73)	$725,441.90
Total	**$33,657,993.26**	**($5,672,537.30)**	**$27,985,455.96**

School Division Capital Improvement Fund Sources

	Budget Carried Forward on 7/1/20	Proposed 11/4/2020 Budget Adjustment	Proposed Net FY 21 Carry forward Budget
Use of Fund Balance	($41,088,552.74)	$20,185,847.70	($20,902,705.04)
Transfer from General Government Capital Fund	$74,746,546.00	($25,858,385.00)	$48,888,161.00
Total	**$33,657,993.26**	**($5,672,537.30)**	**$27,985,455.96**

Total General Government Capital Improvement Fund:

General Government Capital Improvement Fund Appropriations

	Budget Carried Forward on 7/1/20	Proposed 11/4/2020 Budget Adjustment	Proposed Net FY 21 Carry forward Budget
Acquisition of Conservation Easements (ACE) Program	$313,950.00	$0.00	$313,950.00
Advancing Strategic Priorities	$3,566,299.00	($10,000.00)	$3,556,299.00
Berkmar Bike/Pedestrian Improvements	$2,890,026.00	$0.00	$2,890,026.00

Biscuit Run Park	$340,778.50	$0.00	$340,778.50
City-County Owned Facilities Maintenance/Replacement	$689,302.12	($59,018.38)	$630,283.74
City-County Owned Parks Maintenance/Replacement	$138,393.51	$0.00	$138,393.51
County Office Building McIntire Windows Replacement	$2,887.30	($2,887.30)	$0.00
Cost of Issuance	$1,993,800.80	($837,982.03)	$1,155,818.77
County Owned Parks Maintenance/Replacement	$879,615.64	$0.00	$879,615.64
County Server Infrastructure Upgrade	$296,783.47	($161,842.59)	$134,940.88
County-Owned Facilities Maintenance/Replacement	$1,173,745.00	$0.00	$1,173,745.00
Court Facilities Addition/Renovation	$5,330,405.99	$0.00	$5,330,405.99
Eastern Avenue Bridge Preliminary Study	$272,736.88	($56,328.79)	$216,408.09
Emergency Communications Center (ECC) Integrated Public Safety Technology Project CAD	$411,844.95	($180,763.36)	$231,081.59
ECC Regional 800 MHz Communication System	$6,809,520.99	($25,720.08)	$6,783,800.91
Fire Rescue Apparatus Replacement Program	$3,902,329.02	($1,339.73)	$3,900,989.29
Fire Rescue Burn Building Training Center	$6,771.00	($0.49)	$6,770.51
Fire Rescue Mobile Data Computers Replacement	$119,626.16	($1,536.93)	$118,089.23
Fire Rescue Station Alerting System Replacement	$610,733.64	($399,217.97)	$211,515.67
Geographic Information Systems (GIS) Project	$118,081.69	$0.00	$118,081.69
Ivy Recycling Convenience Center	$350,000.00	($52,947.72)	$297,052.28
Keene Landfill	$10,000.00	$0.00	$10,000.00
Neighborhood Improvements Funding Initiative (NIFI) - Albemarle-Jouett-Greer	$577,927.24	$0.00	$577,927.24
NIFI - Mountain View Elementary School	$451,808.47	($2,499.00)	$449,309.47
NIFI – Greenbrier	$161,395.83	($430.00)	$160,965.83
NIFI - Rivanna Greenway Stabilization	$26,587.42	($183.09)	$26,404.33
NIFI - The Square	$1,431,184.67	($26,217.28)	$1,404,967.39
NIFI Contingency Fund	$159,507.71	($685.88)	$158,821.83
Office of Voter Registration Relocation	$19,275.00	($19,275.00)	$0.00
Pantops Public Safety Station	$202,159.02	($2,745.02)	$199,414.00
Parks Restroom Renovation/Modernization	$17,169.89	$5,800.11	$22,970.00
Pilot Fundraising Parks Project	$11,311.03	$0.00	$11,311.03
Police County 800Mhz Radio Replacements	$23,351.48	$0.00	$23,351.48
Police Evidence Processing and Specialty Vehicle Storage	$41,236.00	($626.00)	$40,610.00
Police Mobile Data Computers Replacement	$82,089.25	$0.00	$82,089.25
Police Patrol Video Cameras Replacement	$78,595.00	$0.00	$78,595.00

Sidewalk Program Contingency	$126,083.89	($16.20)	$126,067.69
Sidewalk, Commonwealth & Dominion Drive	$3,221,777.62	($1,199.20)	$3,220,578.42
Sidewalk, Ivy Road (US Route 250 West)	$1,722,998.63	$0.00	$1,722,998.63
Sidewalk, Rio Rd. Avon St. Rt 250	$3,002,704.82	($111,405.25)	$2,891,299.57

General Government Capital Improvement Fund Appropriations (continued)

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Time and Attendance System	$180,485.77	($8,210.00)	$172,275.77
Transfer to School Capital Improvements Program (CIP) -Borrowed Proceeds	$74,746,546.00	($25,858,385.00)	$48,888,161.00
Transfer to Water Resources CIP-Borrowed Proceeds	$425,296.00	($425,296.00)	$0.00
Transportation Revenue Leveraging Program	$2,600,132.00	$0.00	$2,600,132.00
Volunteer Facilities Maintenance Program Pilot	$253,336.00	$0.00	$253,336.00
Total	**$119,790,590.40**	**($28,240,958.18)**	**$91,549,632.22**

General Government Capital Improvement Fund Sources

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Use of Fund Balance	$119,790,590.40	($96,499,261.25)	$23,291,329.15
Revenue from Other Local Sources	$0.00	$801,566.49	$801,566.49
Borrowed Proceeds	$0.00	$58,946,757.00	$58,946,757.00
Revenue from the Commonwealth	$0.00	$7,409,882.43	$7,409,882.43
Revenue from the Federal Government	$0.00	$613,087.82	$613,087.82
Transfer from Tourism Fund	$0.00	$250,000.00	$250,000.00
Transfer from Proffer Funds	$0.00	$237,009.33	$237,009.33
Total	**$119,790,590.40**	**($28,240,958.18)**	**$91,549,632.22**

Total Water Resources Capital Improvement Fund:

Water Resources Capital Improvement Fund Appropriations

	Budget Carried	**Proposed 11/4/2020**	**Proposed Net FY 21 Carry**
Drainage Infrastructure Maintenance/Repair Program	$43,439.19	($10,615.00)	$32,824.19
Water Quality NON-Mandated TMDL Program	$53,182.56	($13,061.42)	$40,121.14

Total	**$96,621.75**	**($23,676.42)**	**$72,945.33**

Water Resources Capital Improvement Fund Sources

	Budget Carried	**Proposed 11/4/2020**	**Proposed Net FY 21 Carry forward**
Use of Fund Balance	($328,674.25)	$30,006.58	($298,667.67)
Revenue from the Commonwealth	$0.00	$371,613.00	$371,613.00
Transfer from General Government Capital Fund	$425,296.00	($425,296.00)	$0.00
Total	**$96,621.75**	**($23,676.42)**	**$72,945.33**

Total Special Revenue Funds:

Proffer Fund Appropriations

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Avinity Proffer Fund	$0.00	$122,413.00	$122,413.00
Avon Park Proffer Fund	$0.00	$64,596.33	$64,596.33
Willow Glen Proffer Fund	$0.00	$50,000.00	$50,000.00
Total	**$0.00**	**$237,009.33**	**$237,009.33**

Proffer Fund Sources

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Use of Fund Balance	$0.00	$237,009.33	$237,009.33

Tourism Fund Appropriations

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Tourism Fund Transfer to General Government Capital Improvement fund	$0.00	$250,000.00	$250,000.00

Tourism Fund Sources

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Use of Fund Balance	$0.00	$250,000.00	$250,000.00

Total Belvedere Bond Default Project Fund:

Belvedere Bond Default Project Fund Appropriations

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Belvedere Bond Default Project	$221,248.00	$0.00	$221,248.00

Belvedere Bond Default Project Fund Sources

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Use of Fund Balance	$221,248.00	$0.00	$221,248.00

Resolution to Appropriate FY 21 On-going Funding of Multi-Year Capital Projects

Total Stillhouse Bond Default Project Fund:

Stillhouse Bond Default Project Fund Appropriations

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Stillhouse Ridge Default Bond Project	$3,110.89	$0.00	$3,110.89

Stillhouse Bond Default Project Fund Sources

	Budget Carried Forward on 7/1/20	**Proposed 11/4/2020 Budget Adjustment**	**Proposed Net FY 21 Carry forward Budget**
Use of Fund Balance	$3,110.89	$0.00	$3,110.89

TOTAL PROPOSED 11/4/20 ADJUSTMENT, LESS INTER-FUND TRANSFERS ($7,653,490.90)

Whereas, approval of an estimated remaining balance amount at the beginning of the fiscal year facilitates the payment of outstanding bills and ensures continuity of ongoing projects; and

Whereas, a properly advertised public hearing was held on November 4, 2020 on the proposed amendment to the FY 21 Budget and all citizens who asked to speak were heard.

Now, therefore, be it resolved that the Albemarle County Board of Supervisors:

1. Does hereby budget and appropriate the balance of $70,944,231.40 for capital and special revenue project balances, as set forth above; and

2. Does hereby authorize the County Executive to adjust this amount, if necessary, to accurately reflect the actual encumbered amounts and actual unencumbered capital and special revenue project amounts at the end of FY 20; and

3. Does hereby authorize the County Executive to allocate funding from the below identified classifications to appropriate capital projects line-items for expenditures:

    A. Sidewalk Program Contingency

    B. NIFI (Neighborhood Improvements Funding Initiative) Contingency

    C. Transportation Leveraging Program; and

4. Does hereby authorize the County Executive to close out a Capital project and transfer any unencumbered residual funds to the Capital Improvement Fund fund balance.

This resolution shall become effective on November 4, 2020.

APP#	Account String	Description	Amount
2021032	4-1000-12013-412010-600120-1001	SA2021032: Telemedia Productions Contract	$2,200.00
2021032	4-1000-12019-412010-312391-1001	SA2021032: Citizen Survey	$20,000.00
2021032	4-1000-12019-412010-568920-1001	SA2021032: Historic Marker Program	$10,000.00
2021032	4-1000-12017-412010-301210-1001	SA2021032: TechDynamism PO Carry Forward	$90,970.00
2021032	4-1000-12017-412010-312701-1001	SA2021032: Granicus PO Carry Forward	$35,723.00
2021032	4-1000-99900-499000-999956-9999	SA2021032: Carry Forward from FY20	$300,350.00
2021032	4-1000-12010-412010-130000-1001	SA2021032: Technical Writer	$4,800.00
2021032	4-1000-12010-412010-580500-1001	SA2021032: Tyler St. Clair and Harassment Prevention	$65,231.00
2021032	4-1000-12010-412010-312700-1001	SA2021032: Novak Consulting PO Carry Forward	$9,000.00
2021032	4-1000-81021-481020-312210-1008	SA2021032: Crozet Transp. Analysis, Crozet Parking Study, Form Based Code Rio29, Riv Cooridor Phase 2, CD Plan Review	$150,420.65
2021032	4-1000-32011-432010-312210-1003	SA2021032: FR Strategic Plan	$36,000.00
2021032	4-1000-32011-432010-332900-1003	SA2021032: FR Equipment, Supplies, POs	$495.43
2021032	4-1000-32012-432010-600000-1003	SA2021032: FR Equipment, Supplies, POs	$15,933.90
2021032	4-1000-32012-432010-800100-1003	SA2021032: FR Equipment, Supplies, POs	$41,853.22
2021032	4-1000-32013-432010-360000-1003	SA2021032: FR Equipment, Supplies, POs	$3,253.90
2021032	4-1000-32013-432010-580330-1003	SA2021032: FR Equipment, Supplies, POs	$5,859.50
2021032	4-1000-32013-432010-800100-1003	SA2021032: FR Equipment, Supplies, POs	$2,182.00
2021032	4-1000-32014-432010-600900-1003	SA2021032: FR Insurance Repairs	$68,451.00
2021032	4-1000-32015-432010-600000-9980	SA2021032: FR Equipment, Supplies, POs	$12,502.29
2021032	4-1000-32015-432010-601104-1003	SA2021032: FR Equipment, Supplies, POs	$36,011.00
2021032	4-1000-32015-432010-601380-1003	SA2021032: FR Equipment, Supplies, POs	$7,091.75
2021032	4-1000-32015-432010-601400-1003	SA2021032: FR Equipment, Supplies, POs	$9,998.55
2021032	4-1000-32016-432010-580015-1003	SA2021032: FR Donations	$13,521.49
2021032	4-1000-81050-481050-312210-1008	SA2021032: EDO Re-appropriation contract and prof services	$12,800.00
2021032	4-1000-81050-481050-310000-1008	SA2021032: EDO Re-appropriation contract and prof services	$12,600.00
2021032	4-1000-43201-443200-301200-1004	SA2021032: Solid Waste program analysis and study	$54,552.00
2021032	4-1000-43201-443200-310000-1004	SA2021032: Re-app Facilities Master Plan	$46,355.35
2021032	4-1000-43202-443200-800700-1004	SA2021032: Spectrum - Video upgrades room 241	$10,865.00
2021032	4-1000-43202-443200-800100-1004	SA2021032: Bicycle Storage - Innovation Fund	$13,424.44
2021032	4-1000-43202-443200-800100-6113	SA2021032: Generator Installation	$8,000.00
2021032	4-1000-43207-443200-510145-1004	SA2021032: Re-app Climate Action Pool	$500,000.00
2021032	4-1000-43207-443200-510145-1554	SA2021032: AHIP weatherization	$250,000.00
2021032	4-1000-12143-412140-320000-1001	SA2021032: Temp Services for Payroll	$30,000.00
2021032	4-1000-12143-412140-301210-1001	SA2021032: Citrin Cooperman - grants, cip, coa support	$90,000.00
2021032	4-1000-12142-412140-317000-1001	SA2021032: Homestay Innovation Fund Project	$7,035.00
2021032	4-1000-12142-412140-312380-1001	SA2021032: e-check fees	$40,000.00
2021032	4-1000-12200-412200-312701-1001	SA2021032: Windows 2008 server migration $10,480.00 & Laserfiche forms workflow $5,180.00	$15,660.00
2021032	4-1000-12220-412200-800718-1001	SA2021032: SharePoint migration	$19,971.00
2021032	4-1000-21060-421060-332130-1002	SA2021032: Clerk CC - Case Imaging System (CIS) final payment	4,006.60
2021032	4-1000-22010-422010-130000-1002	SA2021032: Comm Atty - part-time salaries for temporary atty $8K & minority intern $12K	20,000.00
2021032	4-1000-22010-422010-800200-1002	SA2021032: Comm Atty - POs - file closet equipment office chairs	2,433.94
2021032	4-1000-71012-471010-800101-1007	SA2021032: Parks - POs John Deere Bunker and Field Rake	13,771.20
2021032	4-1000-71011-471010-392000-1007	SA2021032: Parks - Charlotte Humphris improvements	21,695.28
2021032	4-1000-71012-471010-800500-1007	SA2021032: Parks - POs Truck	41,552.78
2021032	4-1000-71011-471010-950527-7100	SA2021032: Parks - Riverside Village A and E contract	6,686.90
2021032	4-1000-31013-431010-690020-1003	SA2021032: PD - Electronic Summons System	63,436.60
2021032	4-1000-31013-431010-690010-1003	SA2021032: PD - Photo Safe	10,765.80
2021032	4-1000-31013-431010-310000-1003	SA2021032: PD - POs - Thomas & Means	12,000.00
2021032	4-1000-31013-431010-601011-1003	SA2021032: PD - POs - Gun Shop ammo	30,098.40
2021032	4-1000-31013-431010-800101-1003	SA2021032: PD - POs - Atlantic Tactical - vests	

		$8,674.40 & gas mask canisters $388.80 & Lawmen Supply - gas masks $6,973.20	16,036.40
2021032	4-1000-21070-421070-301235-1002	SA2021032: Sheriff - Fingerprinting	304.97
2021032	4-1000-13020-413020-800100-1001	SA2021032: Voter Registration - 5 DS200 ballot scanning machines	32,800.00
2021032	4-1000-13020-413020-390000-1001	SA2021032: Voter Registration - 30 signs $5,070.00 & 6 ballot boxes $1,200.00	6,270.00
2021032	4-1000-13020-413020-800200-1001	SA2021032: Voter Registration - office furniture	1,710.00
2021032	3-1000-51000-351000-510100-9999	SA2021032: Routine Re-appropriations	$2,336,680.34
2021034	3-9010-24000-324000-240766-1007	SA2021034: ACE VDACS Grant Reimbursement - Harlow	$58,333.00
2021034	4-9010-81010-481020-580409-1240	SA2021034: ACE VDACS Grant Reimbursement - Harlow	$58,333.00
2021036	3-8547-51000-351000-510100-9999	SA2021036 Use of Fund Balance Proffer Interest Earnings Revenue	$17,536.52
2021036	4-8547-93010-493010-930010-9999	SA2021036 Transfer to Gen. Govt. CIP	$17,536.52
2021036	3-8578-51000-351000-510100-9999	SA2021036 Use of Fund Balance Proffer Interest Earnings Revenue	$29,902.86
2021036	4-8578-93010-493010-930010-9999	SA2021036 Transfer to Gen. Govt. CIP	$29,902.86
2021036	3-8522-51000-351000-510100-9999	SA2021036 Use of Fund Balance Proffer Interest Earnings Revenue	$9,431.87
2021036	4-8522-93010-493010-930010-9999	SA2021036 Transfer to Gen. Govt. CIP	$9,431.87
2021036	3-8575-51000-351000-510100-9999	SA2021036 Use of Fund Balance Proffer Interest Earnings Revenue	$16,758.75
2021036	4-8575-93010-493010-930010-9999	SA2021036 Transfer to Gen. Govt. CIP	$16,758.75
2021036	3-9010-51000-351000-512047-9999	SA2021036 Hollymead Sewer Connection	$17,536.52
2021036	3-9010-51000-351000-512083-9999	SA2021036 Hollymead Sewer Connection	$29,902.86
2021036	3-9010-51000-351000-512057-9999	SA2021036 Hollymead Sewer Connection	$9,431.87
2021036	3-9010-51000-351000-512089-9999	SA2021036 Hollymead Sewer Connection	$16,758.75
2021036	4-9010-81021-481020-800605-3145	SA2021036 Hollymead Sewer Connection	$73,630.00
2021037	3-1200-51000-351000-510100-9999	APP2021037: Re-app Housing Fund	$2,525,000.00
2021037	4-1200-89000-489000-563110-1008	APP2021037: Re-app Housing Fund	$1,700,000.00
2021037	4-1200-99900-499000-999999-1008	APP2021037: Re-app Housing Fund	$825,000.00
2021037	4-6850-91095-491095-580000-1008	APP2021037: Re-app EDA Fund	$390,000.00
2021037	3-6850-51000-351000-510100-9999	APP2021037: Re-app EDA Fund	$390,000.00
2021037	3-1820-51000-351000-510100-1008	APP2021037: Re-app ED Fund	$200,000.00
2021037	4-1820-99900-499000-999954-1008	APP2021037: Re-app ED Fund	$200,000.00
2021037	4-1100-99900-499000-999999-9999	APP2021037: Re-app CARES Fund	$279,534.55
2021037	3-1100-33050-333000-330050-1000	APP2021037: Re-app CARES Fund	$279,534.55
2021037	4-9200-31013-412560-800500-9999	APP2021037: Re-app PD Veh. Replace-Trailer 11,477.60 /Truck 12,675/Van 26,062.21/Surplus 138,205.84	188,420.65
2021037	3-9200-51000-351000-510100-9999	APP2021037: Re-app PD Surplus Vehicle Replacement Fund	$188,420.65
2021037	3-8610-15000-315000-150262-9999	APP2021037: Adjust Rent	-$19,954.65
2021037	3-8610-51000-351000-510100-9999	APP2021037: Re-app Old Crozet School Fund	$64,244.40
2021037	4-8610-91081-496010-331000-9999	APP2021037: Re-app Old Crozet School Fund	$1,900.00
2021037	4-8610-91081-496010-331200-9999	APP2021037: Re-app Old Crozet School Fund	$2,621.00
2021037	4-8610-91081-496010-332100-9999	APP2021037: Re-app Old Crozet School Fund	$422.00
2021037	4-8610-91081-496010-332200-9999	APP2021037: Re-app Old Crozet School Fund	$62.00
2021037	4-8610-91081-496010-390000-9999	APP2021037: Re-app Old Crozet School Fund	$5,000.00
2021037	4-8610-91081-496010-510300-9999	APP2021037: Re-app Old Crozet School Fund	$320.00
2021037	4-8610-91081-496010-800949-9999	APP2021037: Re-app Old Crozet School Fund	$33,964.75
2021037	3-1234-51000-351000-510100-9999	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Com. Atty	$81,222.49
2021037	4-1234-22010-422010-320000-1002	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Com. Atty	$46,222.49
2021037	4-1234-22010-422010-550100-1002	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Com. Atty	$7,000.00
2021037	4-1234-22010-422010-600100-1002	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Com. Atty	$3,000.00
2021037	4-1234-22010-422010-800200-1002	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Com. Atty	$5,000.00
2021037	4-1234-22010-422010-800700-1002	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Com. Atty	$20,000.00
2021037	3-1235-51000-351000-510100-9999	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Federal	$23,618.78
2021037	4-1235-39000-439000-580905-1003	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - Federal	$23,618.78
2021037	3-1236-51000-351000-510100-9999	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - State	$81,685.53

2021037	4-1236-39000-439000-580905-1003	APP2020037: Re-approp 6/30/20 Fund Balance - Drug Seized Assets - State	$81,685.53
2021037	3-1238-51000-351000-510100-9999	APP2020037: Re-approp 6/30/20 Fund Balance - Federal Assets	$41,022.02
2021037	4-1238-31013-431010-800100-1003	APP2020037: Re-approp 6/30/20 Fund Balance - Federal Assets	$41,022.02
2021038	3-1607-33000-333000-330412-1003	SA2021038 -PD JAG Grant-Community Policing	$12,718.00
2021038	4-1607-31013-431010-120000-1003	SA2021038 -PD JAG Grant-Community Policing	$11,968.00
2021038	4-1607-31013-431010-210000-1003	SA2021038 -PD JAG Grant-Community Policing	$750.00
2021039	3-1525-33000-333000-330001-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$323,280.00
2021039	4-1525-32015-432010-110000-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$212,140.00
2021039	4-1525-32015-432010-210000-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$28,470.00
2021039	4-1525-32015-432010-222110-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$25,905.00
2021039	4-1525-32015-432010-231000-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$43,090.00
2021039	4-1525-32015-432010-232000-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$1,200.00
2021039	4-1525-32015-432010-241000-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$2,780.00
2021039	4-1525-32015-432010-270000-1552	SA2021039 - FEMA SAFER Grant - Crozet & Pantops	$9,695.00

Agenda Item No. 17. **Public Hearing – Appalachian Power's Request for Easement (Former Keene Landfill).** To consider granting an easement to Appalachian Power Company across the former Keene Landfill property owned by the County (TMP 12900-00-00-002A0). The easement has been proposed to provide residential electrical service to the adjacent property (TMP 12100-00-00-05800). *(Advertised in the Daily Progress on October 26, 2020)*

The Executive Summary forwarded to the Board states that Appalachian Power has requested an underground easement (Attachment A) on County-owned Parcel 12900-00-00-002A0, a portion of the former Keene Landfill. The landfill was in operation from 1968 to 1990. Closure activities were completed in 1994 and were followed by a 10-year post-closure care period, which ended on November 16, 2007.

Virginia Code § 15.2-1800(B) requires a public hearing for this proposed disposal of County property.

The proposed easement would allow Appalachian Power to bring electrical service to the adjacent parcel 12100-00-00-05800. The County purchased the proposed easement location in 1998 as a buffer to improve its ability to maintain and protect the landfill. The deed conveying the property to the County (Attachment B) also included a right-of-way for access by the owners (and their successors) to Parcel 121-00-00-05800.

The proposed easement follows the course of that right-of-way and would not further impact the County’s use of the property. Based on County assessments, staff determined that $187.19 was a fair and reasonable value of this proposed easement. Appalachian Power’s customer has agreed to pay that amount (Attachment C).

Approving the easement would result in $187.19 of revenue.

Staff recommends that the Board adopt the attached Resolution (Attachment D) approving the easement and authorizing the County Executive to sign the easement agreement.

Mr. Michael Freitas, Chief of Public Works, presented. He said the item under consideration for the Board that evening was a request for Appalachian Power’s easement across the former Keene Landfill. He said he was joined by Mr. Barry Burnett from Appalachian Power. He said he would be prepared to answer questions after his presentation.

Mr. Freitas said Appalachian Power is requesting the easement in order to bring power to an adjacent property. He said currently, there is no utility easement, and the proposed easement will bring power from Fortune Lane (State Route 704), which is the closest source.

Mr. Freitas said the proposed easement crosses the parcel where the Keene Landfill is sited. He said this portion of the property was purchased as a buffer after the landfill closed and had not been used for waste disposal.

Mr. Freitas presented a map, noting that the large parcel on the slide was the landfill property. He said the majority of the waste was disposed of in the open area, approximately center mass of the parcel. He said directly to the north is the property requiring electrical service. He said the red line on the map is the approximate location of the proposed easement.

Mr. Freitas presented another map that provided a closer view of the proposed easement area.

He said the road, which runs from Fortune Lane across the property, is an existing deeded of right-of-way for access to the adjacent property. He said the proposed easement would follow the general route of this access road and would not further restrict existing use of the property.

Mr. Freitas said staff has determined that the fair and reasonable value of the proposed easement is $187.19, which Appalachian Power's customer has agreed to pay.

Mr. Freitas said after conducting a public hearing on the proposed easement, staff recommends that the Board approve the request for easement and authorize the County Executive to sign the easement agreement. He welcomed any questions.

Ms. Palmer asked Mr. Freitas if he could again pull up the slide showing Fortune Lane and the easement. She said this was Fortune Lane coming off of Esmont and asked if they would not be clearing trees on Esmont Road.

Mr. Freitas presented the slide. He indicated on the slide to the cul-de-sac that is the terminus of Fortune Lane, explaining that this location is where the right-of-way easement intersects Fortune Lane.

Ms. Palmer asked if Esmont Road, then, was nowhere near there.

Mr. Freitas replied no.

Ms. Mallek asked if the County already has power available on its land and if not, if they would get a drop as part of this process.

Mr. Freitas replied that they did not have power and have not had the need for it.

Ms. Mallek said it would not hurt to have the power just in case, as the utility was going by there anyway.

Ms. LaPisto-Kirtley said it would be nice to get an answer to Ms. Mallek's question.

Mr. Freitas said he would defer the question to Mr. Burnett. He said the County could get power but would still have to establish a service like they would on any of their other properties.

Mr. Burnett said it should not be a problem to have service coming from this, as it would already be there.

Ms. Palmer said she would assume this would only be the case if they had some reason to put the power there, and it would not be any different whether they did it now or had a reason to later.

Mr. Burnett said this was correct.

Ms. Mallek said she was not asking to have the power delivered, but that she would like free power when they want it. She said she did not want to spend $10,000 later because she did not ask that day.

Mr. Burnett said he understood. He said if they pull off of this, they would probably need another easement to pull to where they would want to go from that line.

Ms. LaPisto-Kirtley asked if this includes internet access.

Mr. Burnett replied no.

Mr. Gallaway opened the public hearing.

Mr. John Watkins (Samuel Miller District) said he is a lifelong resident of Albemarle County. He said he began the process of requesting the utility easement with Appalachian Power that was under review that evening.

Mr. Watkins said he is open to buy the adjacent parcel to the County land, which is currently owned by the Jackson Family Partnership. He said he managed this property and the adjacent 500 acres for the Jacksons from 2008 until the farm sale in 2019. He said that during this time, as a steward and resident, he developed a deep-seeded love and respect for the land and forged a career in agriculture which, to date, finds him working near Keene as a vineyard manager at Blenheim Vineyards.

Mr. Watkins said he would now like to put down his own roots and build a house on this land he holds dear and hopes that the Board will see it fit to grant the easement.

Mr. Gallaway closed the public hearing and brought the matter back to the Board.

Ms. Palmer **moved** that the Board adopt the attached Resolution (Attachment D) approving the easement and authorizing the County Executive to sign the easement agreement. Ms. Price **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

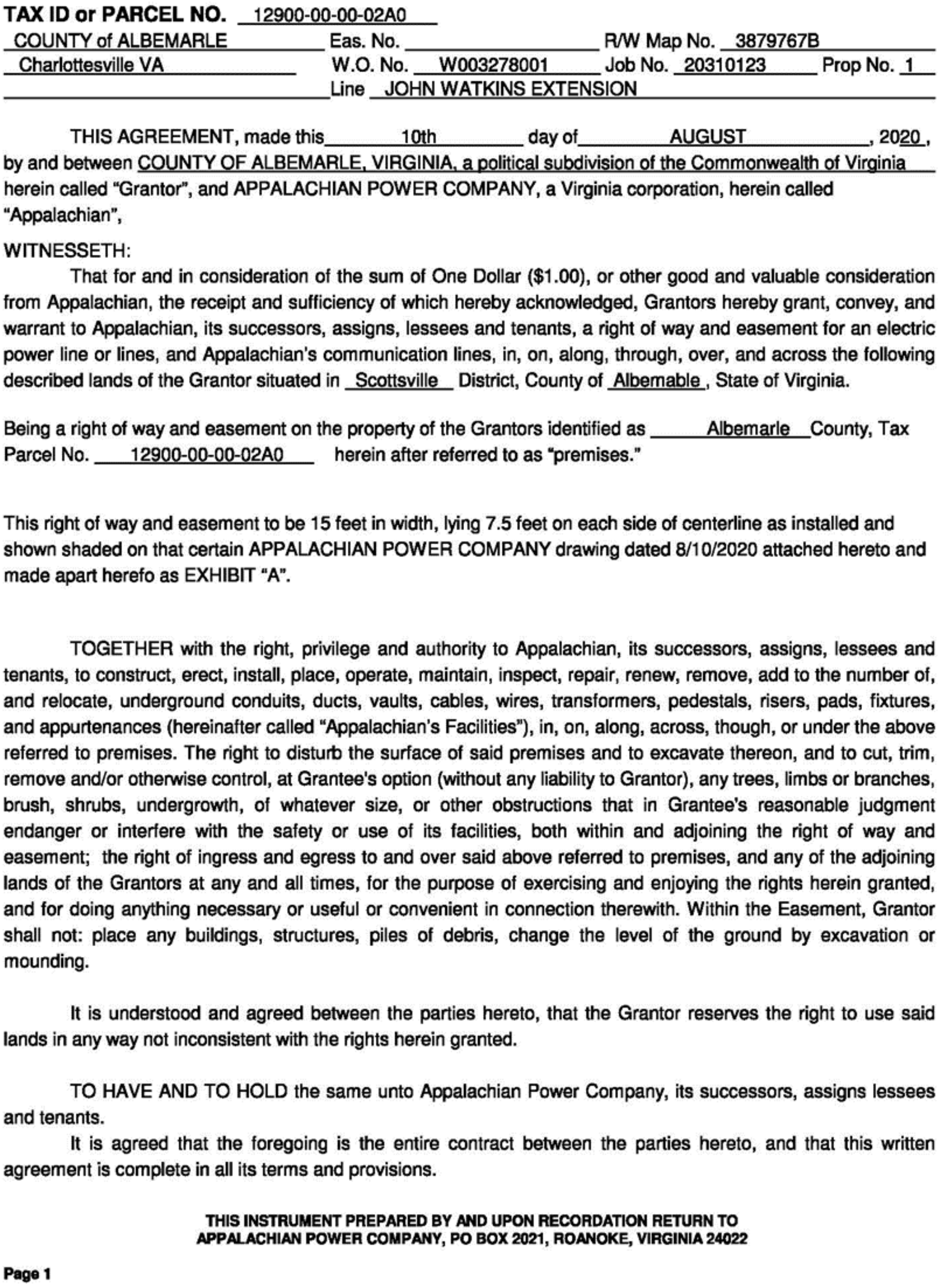
AYES: Mr. Gallaway, Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, and Ms. Price

NAYS: None

RESOLUTION TO APPROVE GRANTING AN EASEMENT TO THE APPALACHIAN POWER COMPANY ON TAX PARCEL 12900-00-00-002A0

WHEREAS, the Board of Supervisors finds it is in the best interest of the County to approve granting an easement to the Appalachian Power Company on a portion of Tax Parcel 12900-00-00-002A0, the former Keene Landfill property, for the purpose of providing electrical service to an adjoining property, Tax Parcel 12100-00-00-05800.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby approves granting an easement to the Appalachian Power Company on a portion of Tax Parcel 12900-00-00-002A0 for the purpose of providing electrical service to Tax Parcel 12100-00-00-05800, and authorizes the County Executive to execute a plat and any related documents on behalf of the County after such documents are approved as to substance and form by the County Attorney.



TAX ID or PARCEL NO. 12900-00-00-02A0
COUNTY of ALBEMARLE Eas. No. R/W Map No. 3879767B
Charlottesville VA W.O. No. W003278001 Job No. 20310123 Prop No. 1
Line JOHN WATKINS EXTENSION

THIS AGREEMENT, made this 10th day of AUGUST, 2020, by and between COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia herein called "Grantor", and APPALACHIAN POWER COMPANY, a Virginia corporation, herein called "Appalachian",

WITNESSETH:

That for and in consideration of the sum of One Dollar ($1.00), or other good and valuable consideration from Appalachian, the receipt and sufficiency of which hereby acknowledged, Grantors hereby grant, convey, and warrant to Appalachian, its successors, assigns, lessees and tenants, a right of way and easement for an electric power line or lines, and Appalachian's communication lines, in, on, along, through, over, and across the following described lands of the Grantor situated in Scottsville District, County of Albemable, State of Virginia.

Being a right of way and easement on the property of the Grantors identified as Albemarle County, Tax Parcel No. 12900-00-00-02A0 herein after referred to as "premises."

This right of way and easement to be 15 feet in width, lying 7.5 feet on each side of centerline as installed and shown shaded on that certain APPALACHIAN POWER COMPANY drawing dated 8/10/2020 attached hereto and made apart herefo as EXHIBIT "A".

TOGETHER with the right, privilege and authority to Appalachian, its successors, assigns, lessees and tenants, to construct, erect, install, place, operate, maintain, inspect, repair, renew, remove, add to the number of, and relocate, underground conduits, ducts, vaults, cables, wires, transformers, pedestals, risers, pads, fixtures, and appurtenances (hereinafter called "Appalachian's Facilities"), in, on, along, across, though, or under the above referred to premises. The right to disturb the surface of said premises and to excavate thereon, and to cut, trim, remove and/or otherwise control, at Grantee's option (without any liability to Grantor), any trees, limbs or branches, brush, shrubs, undergrowth, of whatever size, or other obstructions that in Grantee's reasonable judgment endanger or interfere with the safety or use of its facilities, both within and adjoining the right of way and easement; the right of ingress and egress to and over said above referred to premises, and any of the adjoining lands of the Grantors at any and all times, for the purpose of exercising and enjoying the rights herein granted, and for doing anything necessary or useful or convenient in connection therewith. Within the Easement, Grantor shall not: place any buildings, structures, piles of debris, change the level of the ground by excavation or mounding.

It is understood and agreed between the parties hereto, that the Grantor reserves the right to use said lands in any way not inconsistent with the rights herein granted.

TO HAVE AND TO HOLD the same unto Appalachian Power Company, its successors, assigns lessees and tenants.

It is agreed that the foregoing is the entire contract between the parties hereto, and that this written agreement is complete in all its terms and provisions.

**THIS INSTRUMENT PREPARED BY AND UPON RECORDATION RETURN TO
APPALACHIAN POWER COMPANY, PO BOX 2021, ROANOKE, VIRGINIA 24022**

Page 1

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, Grantor has caused its corporate name and seal to be hereto affixed the day and year first above written.

COUNTY OF ALBEMARLE ,VIRGINIA ,

By: ______________________________
Jeffery B. Richardson, County Executive,

STATE OF VIRGINIA)
) To-wit:
COUNTY OF ____________)

The foregoing instrument was acknowledged before me this ____________ day of ____________, 20 ____, by Jeffery B. Richardson, County Executive on behalf of the COUNTY of ALBEMARLE,VIRGINIA, a political subdivision of the Commonwealth of Virginia

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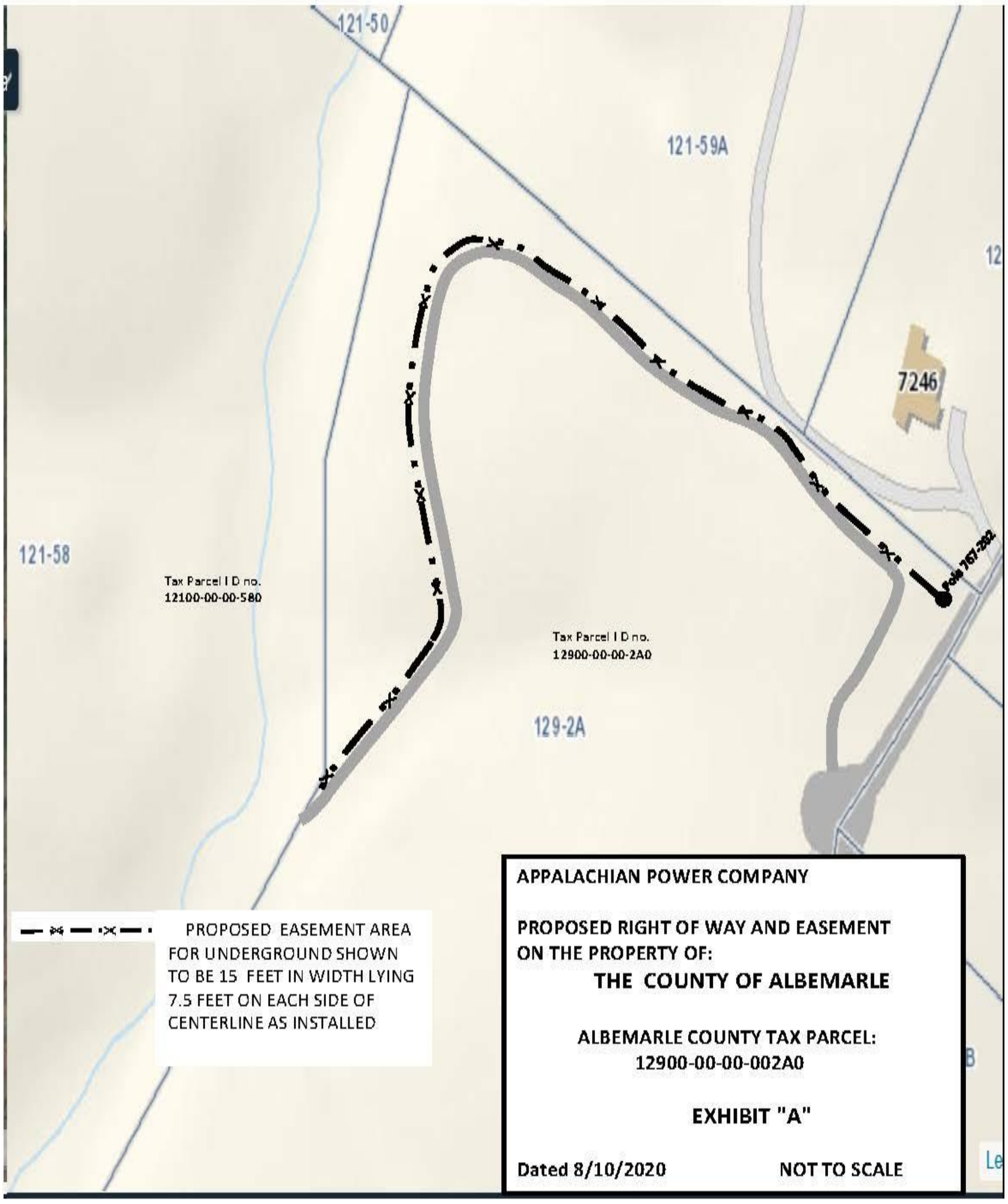
Notary Public/Commissioner

My Commission expires:

____________________ Notary Registration # - ____________________
(For Va. Only)



Agenda Item No. 18. **Public Hearing – <u>Ordinance to Amend Section 7, Deadlines, of Ordinance No. 20-A(14), An Ordinance to Ensure Continuity of Government During the COVID-19 Disaster.</u>** To receive public comment on its intent to adopt an ordinance to amend Ordinance No. 20-A(14), An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster, as authorized by Virginia Code § 15.2-1413 during the novel coronavirus (COVID-19) disaster. The proposed amendments would amend Sec. 7 pertaining to the deadlines to respond to requests for public records pursuant to the Virginia Freedom of Information Act.

The Executive Summary forwarded to the Board states that, on March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency, and Governor Ralph S. Northam declared a state of emergency, both because of the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19 ("COVID-19"), and the resulting COVID-19 pandemic. On March 27, 2020, the Board adopted Ordinance No. 20-E(3), an emergency ordinance to ensure the continuity of County government. The Ordinance has since been amended several times since then, both as emergency and non-emergency ordinances, to keep up with changing conditions and new information.

Section 7 of the Ordinance pertains to various deadlines imposed by State law and the circumstances under which they may be extended. The proposed amendment is limited to the deadlines to respond to requests for public records established under the Virginia Freedom of Information Act ("FOIA").

The Ordinance has always stated the Board’s intention that the County would endeavor to meet all deadlines established by FOIA and other State laws. Nonetheless, because of the uncertainty as to how the COVID-19 pandemic would affect County operations and its ability to meet certain deadlines, the original version of the Ordinance authorized the County to extend those deadlines indefinitely, i.e., for an unspecified period. In fact, the County has been able to timely respond to requests for public records under FOIA. Therefore, when the Ordinance was amended in September, Section 7 was revised to refine the circumstances under which a deadline could be extended - one example being when a State lockdown would make it unlawful for County employees to leave their homes to retrieve physical public records in response to a request for records under FOIA.

Two months later, staff is confident that it will continue to be able to timely respond to records requests and it now recommends that Section 7 be amended to remove the deadline extension for records requests. If conditions of the COVID-19 pandemic dramatically worsen such that, for example, timely responding to records requests becomes legally impossible, staff may return to the Board with an emergency ordinance to address the situation.

Any increased workload could be managed by existing staff.

Staff recommends that the Board adopt the attached proposed Ordinance (Attachment A).

_____

Mr. Greg Kamptner, County Attorney, said this was the sixth time that the Board had this ordinance before it, beginning with the emergency ordinance that was adopted on March 27 when the pandemic was in the early stages.

Mr. Kamptner said Section 7 of the ordinance established some flexibility in a number of state and county-imposed deadlines, with one of those being the deadline for responding to requests for records under the Freedom of Information Act. He said at the time, given the uncertainty of what they would be facing and the County’s ability to respond to requests, as well as the ability for staff to work remotely, a maximum amount of flexibility was inserted into the ordinance, allowing them to extend deadlines indefinitely. He said that in this context, “indefinitely” was always intended to mean without any specific date.

Mr. Kamptner said as it has turned out, County staff has been able to timely respond to the overwhelming majority of requests. He said that in circumstances when this has not been possible, the requesters have fortunately been flexible in allowing additional time to respond. He said as the County has gained some experience with the pandemic, the deadline provisions were revised to narrow their scope, and some factors were inserted that would be applicable for staff in determining whether any of the deadlines would be extended.

Mr. Kamptner said an example of when a deadline could be extended was if there was a state or federal lockdown in place that prohibited travel and a staff person would have to leave their home to either work on an application or locate physical records.

Mr. Kamptner said now they are further down the line and unfortunately have good experience in working through the pandemic, staff is recommending that the deadline extensions for FOIA requests be removed in their entirety. He said if the pandemic conditions deteriorate, they can respond in a way that would allow a very specifically tailored ordinance to be put in place that would deal with the specific conditions of both the pandemic and the County’s operations.

Mr. Kamptner said staff was recommending approval of the ordinance (Attachment A).

Ms. Mallek said she believed there were still many documents in storage at the Northside Library, which is a situation where it is not as easy as clicking on an internet link. She said she suspected this was the category Mr. Kamptner was referring to where he would need to make some special arrangements in the future, and that this was what he was originally thinking about when they planned this.

Mr. Kamptner said yes.

Ms. Mallek said she was in favor of the changes and believed it had somewhat gotten carried away in the way it was being perceived in the community.

Ms. Price thanked Ms. Mallek for her comments, as it is important that the constituents recognize that the actions were taken towards efficiency of government, given the pandemic, and not in an effort to avoid responsibility for responding. She said she appreciated all the work Mr. Kamptner and his staff have done throughout the pandemic with the number of revisions to ordinances.

Mr. Gallaway asked Mr. Kamptner to confirm that under the circumstances, they still met the deadline or, if it was problematic, they worked with the requester and they were flexible.

Mr. Kamptner said yes.

Mr. Gallaway asked if they went past the deadline, or worked with the requester to extend the deadline, which they granted.

Mr. Kamptner said, for the public's understanding, that this happens even under normal conditions. He said there are times when requested records are difficult to track down. He said the requester is not demanding that the records are produced within the time, and they are fine with agreeing upon a date by which the records will be produced.

Mr. Gallaway said at the time, it did seem reasonable (based on everything they were dealing with early on), and it was a good example of seeing that in reality, based on their own actions, it was not necessary. He said the state was not enforcing Virginia state inspection stickers if they were expired. He said in his industry, if he issued a temp tag and the temp tag was expired because of DOT delays, one would not get pulled over if they had an expired temp tag. He said there were many things the state gave some flexibility on, and he was curious if this one was for other reasons other than practicality where it was handed down from the Attorney General.

Mr. Gallaway opened the public hearing and asked Mr. Morris if anyone from the public was signed up to speak.

Mr. Morris replied there was not.

Mr. Gallaway closed the public hearing and brought the matter back before the Board.

Ms. LaPisto-Kirtley **moved** that the Board adopt the attached proposed Ordinance (Attachment A). Ms. Palmer **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

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ORDINANCE NO. 20-A(16)

AN ORDINANCE TO AMEND SECTION 7, DEADLINES, OF ORDINANCE NO. 20-A(14), AN ORDINANCE TO ENSURE THE CONTINUITY OF GOVERNMENT DURING THE COVID-19 DISASTER

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus, SARS–CoV–2, and the disease it causes, commonly referred to as COVID-19, a pandemic (for reference in this ordinance, this virus and the disease that it causes are referred to as "COVID-19"); and

WHEREAS, on March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency because of the COVID-19 pandemic pursuant to his authority under Virginia Code § 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020; and

WHEREAS, also on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One ("EO" and "51") declaring a state of emergency for the Commonwealth of Virginia because of the COVID-19 pandemic; and

WHEREAS, EO 51 acknowledged the existence of a public health emergency arising from the COVID-19 pandemic and that it constitutes a "disaster" as defined by Virginia Code § 44-146.16 because of the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, EO 51 ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive "any state requirement or regulation" as appropriate; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency in response to the spread of COVID-19; and

WHEREAS, on March 17, 2020, Governor Ralph S. Northam and the Virginia State Health Commissioner issued an Order of the Governor and State Health Commissioner Declaration of Public Health Emergency (amended on March 20,2020) limiting the number of patrons in restaurants, fitness centers, and theaters to no more than 10 per establishment; and

WHEREAS, on March 18, 2020, the Board of Supervisors consented to the County Executive, acting as the Director of Emergency Management, issuing an amended declaration of local emergency to refer to the COVID-19 pandemic as not only an emergency, but also as a "disaster," as the Governor had included in Executive Order Fifty-One, and the County Executive issued the amended declaration on March 20, 2020; and

WHEREAS, on March 20, 2020, the Attorney General for the Commonwealth of Virginia issued an opinion in which he concluded that the COVID-19 pandemic, which the Governor declared is a "disaster" as defined in Virginia Code § 44-146.16, is also a "disaster" as that term is used in Virginia Code § 15.2-1413; and

WHEREAS, Virginia Code § 15.2-1413 provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to "assure continuity in its government" in the event of a disaster for a period not to exceed six months after the disaster; and

WHEREAS, COVID-19 spreads person to person and, at this time, it appears that COVID-19 is spread primarily through respiratory droplets, which can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; spread is more likely when people are in close contact with one another (within about six feet); and

WHEREAS, COVID-19 is extremely easy to transmit, can be transmitted by infected people who show no symptoms, and the population has not developed herd immunity; and

WHEREAS, the COVID-19 disaster continues; and

WHEREAS, the Board of Supervisors finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a "disaster" as defined by Virginia Code § 44-146.16 and within the meaning of Virginia Code § 15.2-1413; and

WHEREAS, the General Assembly recognizes the extreme public danger created by contagious diseases such as COVID-19 by enabling counties, through the exercise of their police powers expressly granted in Virginia Code § 15.2-1200, to "adopt necessary regulations to prevent the spread of contagious diseases among persons" and to adopt "quarantine regulations" affecting persons; and

WHEREAS, Virginia § 15.2-1413 authorizes the County, by ordinance adopted by the Board of Supervisors, to "provide a method to assure continuity in its government" in the event of a disaster such as the COVID-19 disaster, and that this authority is granted "[n]otwithstanding any contrary provision of law, general or special"; and

WHEREAS, the Board has tailored this ordinance to "assure continuity in [the County's] government" during the COVID-19 disaster by attempting to vary from existing State law and County Code procedures and requirements to the minimum extent necessary, recognizing the danger to public health and safety posed by public bodies physically assembling to conduct public meetings, and the difficulty in adhering to all of the procedures and deadlines imposed on the County and its public bodies by State law and the County Code, which are routine during normal governmental operations but some of which may be impossible to completely and timely satisfy during the disaster because most County staff are working remotely and, at various stages of the COVID-19 disaster, significant staff resources were and continue to be dedicated to redesigning County government to address the unique issues arising daily during the disaster while continuing County operations and fulfilling its purposes, duties, and responsibilities; and

WHEREAS, the Board has identified in Section 4 of this ordinance the functions of County government that it deems to be essential in order for it to continue during the COVID-19 disaster and, in doing so, observes that State and local government is complex, and the powers, duties, and obligations imposed on localities by the State to promote the public health, safety and welfare of their residents are numerous and varied and must continue without interruption, and that they extend well beyond merely those functions related to survival during a disaster; and

WHEREAS, this ordinance is solely in response to the disaster caused by the COVID-19 pandemic, promotes and protects the public health, safety, and welfare of the residents of the County, the City of Charlottesville, and the Commonwealth of Virginia, and is consistent with the laws of the Commonwealth of Virginia, the Constitution of Virginia, and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that:

Sec. 1. Purpose

The purpose of this ordinance is to ensure the continuity of the government of the County of Albemarle, Virginia, during the COVID-19 disaster, which is currently a pandemic, by identifying the many essential governmental functions that must continue and establishing regulations to ensure these functions continue by providing for: (1) the succession of elected officials and appointed officers; (2) meeting procedures that allow the County's public bodies, whose members are elected or appointed, to meet and conduct business in a manner that is safe for the members of the public bodies, staff, and the public, and allow the public to participate in these meetings to the fullest extent practicable given the current circumstances; (3) provide alternative deadlines for certain matters that are different than those provided by State law or the County Code when it is impractical or dangerous to safely meet those deadlines because of the COVID-19 disaster; (4) establish the method for resuming normal governmental operations; and (5) other matters related to the foregoing.

The requirements, procedures, deadlines, and other provisions of this ordinance vary from those that apply to County government under normal governmental operations. However, for the reasons explained in the recitals, these alternative regulations are deemed to be essential in order to ensure the continuity of County government during the COVID-19 disaster without further risking the health and lives of the public and County officers, appointees, and employees resulting from exposure to the COVID-19 virus and its further spread. The regulations that apply during normal governmental operations will be followed to the extent they can be in a manner that is consistent with State and

Federal orders and declarations and without risking the health and lives of the public and County officers and employees.

Sec. 2. Authority

This ordinance ensures the continuity of government during the COVID-19 disaster and is authorized by Virginia Code § 15.2-1413, which enables the Board of Supervisors to provide by ordinance "a method to assure continuity in its government."

Sec. 3. Scope

This ordinance applies not only to the government of the County of Albemarle, Virginia, but also to the Albemarle County Public Schools, the County's authorities identified in this ordinance, public bodies established pursuant to a joint exercise of powers agreement or other agreements, and other public bodies and offices described in Section 4.

Sec. 4. Essential Governmental Functions

Under the county executive form of government, Virginia Code § 15.2-502 provides that the "powers of the county as a body politic and corporate" are vested in the Board of Supervisors. Any actions of the Board in which it exercises its powers are essential governmental functions that must be performed to ensure the continuity of County government. By providing vital support for the Board, the activities of the Clerk of the Board and her office are also essential governmental functions that must be performed to ensure the continuity of County government.

The Board of Supervisors also finds that the essential governmental functions that must be performed in order to ensure the continuity of government during the COVID-19 disaster are those activities or functions of the County established by Virginia Code § 15.2-518 (departments of finance, social services, law enforcement, education, records, and health), those that the Board has previously deemed to be "necessary to the proper conduct of the business" of the County pursuant to Virginia Code § 15.2-518, the authorities that provide essential public services, the County public bodies that oversee the proper administration and enforcement of State laws and the County Code, and the other public bodies and offices that facilitate the proper administration and implementation of State laws and the County Code to the extent necessary and practicable during the COVID-19 disaster.

A. Essential governmental functions provided by County offices and departments. The following offices and departments provide essential governmental functions that must be performed to ensure the continuity of County government as described below:

1. County Executive's Office. The County Executive is the administrative head of the County, whose duties include executing and enforcing all Board resolutions and orders, that all laws of the Commonwealth required to be enforced through the Board, or some other County officer subject to the control of the Board, are faithfully executed, and performing other duties as may be required by the Board and as may be otherwise required by law. *Virginia Code § 15.2-516.* The functions of the Office of Equity and Inclusion and the Communications and Public Engagement Office, which exist within the County Executive's Office, are included in this designation. The Project Management Office is also within the County Executive's Office, but its functions are identified separately below.

2. County Attorney's Office. The County Attorney is the legal advisor to County government whose duties are to advise the Board and "all boards, departments, agencies, officials and employees" of the County on civil matters, draft or prepare ordinances, and defend or bring actions in which the County or any of its boards, departments, agencies, officials, or employees are a party; and in any other manner advising or representing the County, its boards, departments, agencies, officials and employees. *Virginia Code § 15.2-1542(A)*.

3. Department of Finance and Budget. The Director of Finance's duties include administering the financial affairs of the County, including the budget; assessing property for taxation; collecting taxes, license fees, and other revenues; being the custodian of all public funds belonging to or handled by the County; supervising the expenditures of the County and its subdivisions; disbursing County funds; keeping and supervising all accounts; and performing other duties as the Board of Supervisors requires. *Virginia Code § 15.2-519.* The Budget Division is also within the Department of Finance and Budget, but its functions are identified separately below.

4. Economic Development Office. This office is responsible for promoting the economic development of the County and the region, consistent with the County's Economic Development Strategic Plan, and providing staffing assistance to the Economic Development Authority. During the COVID-19 disaster, this office also is providing economic assistance to County businesses, and its services will also include any additional State or Federal assistance or services programs, either on its own or in its work with the Economic Development Authority.

5. Department of Community Development. This department oversees a wide range of functions related to the physical development of the County, including developing proposed plans for the physical development of the County, reviewing all types of land use-related applications,

ensuring that its zoning, subdivision, and water protection regulations are current and continue to be reasonable, and enforcing the Albemarle County Zoning, Subdivision, and Water Protection Ordinances, and administering and enforcing the Virginia Uniform Statewide Building Code and other related codes are essential functions.

6. Department of Facilities and Environmental Services. This department maintains and operates the County's buildings, manages the lands owned by the County, manages County capital projects and administers related construction contracts, and oversees environmental-related County responsibilities including, but not limited to, ensuring the County's compliance with the County's Clean Water Act permit, and its obligations as a municipal separate storm sewer system **(MS4)** program.

7. Department of Fire Rescue. This department provides fire protection and emergency medical services and, through the Fire Marshal, administers and enforces the Virginia Fire Prevention Code.

8. Department of Human Resources. This department provides human resources support for the County and Albemarle County Public Schools. The department provides services in seven key human resources functional areas: (1) recruitment/staffing support; (2) classification and compensation; (3) benefits and leave administration; (4) training and development; (5) employee relations; (6) workplace safety; and (7) teacher licensure and certification.

9. Department of Parks and Recreation. This department protects, maintains, and operates the County's parks and provides numerous recreational programs, which during normal governmental operations, are essential to the public health and welfare.

10. Department of Social Services. This department provides a range of: (1) child welfare services including child protective services, family support, family preservation services, a foster care program, and adoption services; (2) economic assistance for those in need, including administering the supplemental nutritional assistance program (SNAP), the temporary assistance to needy families (TANF) program, energy assistance, and auxiliary grants; (3) self-sufficiency services, including services related to employment training, career services, and child care services; (4) health care services, including administering the Medicaid program; (5) adult and elder care services, including adult protective services; (6) housing assistance; and (7) language assistance. During the COVID-19 disaster, these services also include any additional State or Federal assistance or services programs.

11. Budget Division. This division, which is part of the Department of Finance and Budget, has the following responsibilities: (1) developing and implementing the County's operating and capital budgets; establishing budget policies, and monitoring departmental and agency budgetary and program performance; (2) preparing the five-year Financial Plan, five-year Capital Improvement Plan, and the long range Capital Needs Assessment; (3) developing and managing the performance management system; and (4) managing the local government grants application and awards process.

12. Police Department. This department provides law enforcement and community safety services.

13. Project Management Office. This office, which is part of the County Executive's Office, provides planning, organizational, and management responsibilities for the County's project portfolio, including organizational projects, strategic plan objectives, and technology solutions. This office also plays a critical role in planning, organizing, and managing a range of projects related to the County's response to the COVID-19 disaster.

14. Department of Information Technology. This department provides, manages, and supports the use of critical technology that allows the County to operate and communicate internally and with the public.

B. Albemarle County Public Schools. Under the County Executive form of government, the County is required to have a "department of education." *Virginia Code § 15.2-518*. The "department of education" is composed of the Albemarle County School Board, the Superintendent of the "school division," and the "officers and employees thereof." *Virginia Code § 15.2-531.* Article VIII, Section 1 of the Constitution of Virginia states: "The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained." Albemarle County Public Schools provide essential governmental functions that must be performed to ensure the continuity of County government.

C. Authorities. The following authorities and their boards provide essential governmental functions:

1. Albemarle Conservation Easement Authority. The Albemarle Conservation Easement Authority ("ACEA") was created as a parks and recreational facilities authority by resolution adopted by the Board of Supervisors on November 20, 1989 pursuant to the Public Recreational Facilities Authority Act (Virginia Code § 15.2-5600 *et seq*.). The ACEA was called the Public Recreational Facilities Authority until its name was changed by resolution

adopted by the Board of Supervisors on July 11, 2018. The ACEA's articles of incorporation state that its purpose is to accept, hold, and administer open-space land and interests therein under the Open-Space Land Act (Virginia Code § 10.1-1700 *et seq.*). *Amended Articles of Incorporation adopted July 11, 2018*. The types of interests held include open-space easements that are donated by landowners, easements acquired by the County under its Acquisition of Conservation Easements ("ACE") program, and easements created pursuant to Rural Preservation Developments allowed under the County's zoning regulations. The functions of the ACEA include monitoring and enforcing these easements.

2. <u>Albemarle County Broadband Authority</u>. The Albemarle Broadband Authority ("ABBA") was created as a wireless service authority "to provide qualifying communications services as authorized by Article 5.1 (Virginia Code § 56-484.7:1 *et seq.*) of Chapter 15 of Title 56 of the Virginia Code." One of the primary functions of ABBA is to facilitate the ongoing deployment of broadband infrastructure and services in the underserved areas of the County.

3. <u>Albemarle-Charlottesville Regional Jail Authority</u>. The Albemarle-Charlottesville Regional Jail Authority ("Jail Authority") was created as an authority under the Jail Authorities Law (Virginia Code § 53.1-95.2 *et seq.*) by agreement among the County, the County of Nelson, and the City of Charlottesville on November 15, 1995. The Jail Authority replaced the Regional Jail Board as the operator of the Albemarle-Charlottesville Joint Security Complex.

4. <u>Albemarle County Service Authority</u>. The Albemarle County Service Authority ("ACSA") was created as an authority under the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 et *seq.*). The ACSA's articles of incorporation state that its purpose is to undertake projects for distributing and selling potable water to retail customers, collecting wastewater from retail customers, and delivering the wastewater to the Rivanna Water and Sewer Authority. *Amendment to the ACSA Articles of Incorporation, dated December 16, 1985; County Code § 2-701*.

5. <u>Economic Development Authority of Albemarle County, Virginia</u>. The Economic Development Authority ("EDA"), officially identified as the "Economic Development Authority of Albemarle County, Virginia," was created as an industrial development authority (now, an economic development authority) by ordinance adopted by the Board of Supervisors on May 12, 1976 pursuant to the Industrial Development and Revenue Bond Act (Virginia Code § 15.2-4900 *et seq.*). *County Code § 2-600*. The EDA has all of the powers of such an authority under the Act. The EDA operates in cooperation with the County pursuant to a Memorandum of Understanding and the Albemarle County Economic Development Strategic Plan, also known as Project ENABLE (Enabling a Better Life Economically). The functions of the EDA include promoting the economic development of the County as it is enabled to do pursuant to Virginia Code § 15.2-4900 *et seq.*, providing economic assistance to County businesses within the scope of its enabling authority, and providing any services related to any additional State or Federal assistance or services program either on its own or in its work with the Economic Development Office.

6. <u>Rivanna Solid Waste Authority</u>. The Rivanna Solid Waste Authority ("RSWA") was created on November 5, 1990 by the Solid Waste Organizational Agreement entered into between the County and the City of Charlottesville, together with a concurrent resolution of the Charlottesville City Council and the Albemarle County Board of Supervisors and the RSWA's articles of incorporation, all pursuant to what is now the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The RSWA's articles of incorporation state that its purposes are to "develop a regional refuse collection and disposal system, as such terms are defined in Virginia Code Section 15.2-5101 of the Virginia Water and Waste Authorities Act, including development of systems and facilities for recycling, waste reduction and disposal alternatives with the ultimate goal of acquiring, financing, constructing, and/or operating and maintaining regional solid waste disposal areas, systems and facilities, all pursuant to the Virginia Water and Waste Authorities Act." *Concurrent Resolution of the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of the County of Albemarle, Virginia to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority, dated November 6, 2009.*

7. <u>Rivanna Water and Sewer Authority</u>. The Rivanna Water and Sewer Authority ("RWSA") was created on June 7, 1972 by the City of Charlottesville and the County pursuant to what is now the Virginia Water and Waste Authorities Act (Virginia Code § 15.2-5100 *et seq.*). The RWSA's articles of incorporation state that its purpose "is to acquire, finance, construct, operate and maintain facilities for developing a supply of potable water for the City of Charlottesville and Albemarle County and for the abatement of pollution resulting from sewage in the Rivanna River Basin, by the impoundment, treatment and transmission of potable water and the interception, treatment and discharge of wastewater, together with all appurtenant equipment and appliances necessary or suitable therefore and all properties, rights, easements or franchises relating thereto and deemed necessary or convenient for their operations. *Concurrent Resolution of the City Council of the City of Charlottesville, Virginia and the Board of Supervisors of the County of Albemarle, Virginia to Amend and Restate the Articles of Incorporation of the Rivanna Solid Waste Authority, dated May 5, 2017.* The RWSA operates five reservoirs at Ragged Mountain, Sugar Hollow, South Fork Rivanna, Totier Creek, Beaver Creek, along with five water treatment plants, and wastewater treatment plants.

D. Public bodies existing under joint exercise of powers agreements. The following public bodies exist under joint exercise of powers agreements, and they and their boards exercise essential governmental functions:

   1. Charlottesville-Albemarle Convention and Visitors' Bureau. The Charlottesville-Albemarle Convention and Visitors' Bureau ("CACVB") has existed in various forms for more than 20 years. Its current iteration was established by the County and the City on June 28, 2018, and it became effective July 1, 2018. Individually, both the County and the City are enabled by Virginia Code § 15.2-940 to "expend funds from the locally derived revenues of the locality for the purpose of promoting the resources and advantages of the locality." The purpose of the CACVB is to jointly promote the resources and advantages of the County and the City, including marketing of tourism and initiatives that attract travelers to the City and County, increase lodging at properties located within the City and County, and generate tourism revenues within the City and County. *Second Amended Agreement to Operate a Joint Convention and Visitors' Bureau, dated October 2, 2019*. The County and the City contribute funds to support the CACVB's facilities and operations from their respective transient occupancy tax revenues. During the COVID-19 disaster, the CACVB also supports the County's hospitality business sector.
   2. Emergency Communications Center. The Emergency Communications Center ("ECC") was established by the County, the City of Charlottesville, and the University of Virginia on January 20, 1984. The ECC was established to provide a centralized dispatching facility for the respective parties' law enforcement and emergency service providers operating in the County and the City, and to provide a 911 emergency system. *Agreement By and Among the County of Albemarle, Virginia, the City of Charlottesville, Virginia, and the Rector and Visitors of the University of Virginia, dated January 20, 1984*. The ECC also provides coordination and assistance in emergency management for the Emergency Operations Plan adopted by its participating agencies.

E. Jefferson Madison Regional Library. The Jefferson Madison Regional Library ("JMRL") system was established by an agreement entered into on August 11, 1972 (the current agreement is dated January 1, 2013) among the County, the City of Charlottesville, and the counties of Greene, Louisa, and Nelson pursuant to the enabling authority in Virginia Code § 42.1-37 *et seq.* JMRL provides essential governmental functions by maintaining a regional free library system pursuant to the terms of the agreement.

F. Other public bodies and offices. Other public bodies and offices of the County also exercise essential governmental functions. They include, but are not limited to, the Planning Commission, the Architectural Review Board, the Board of Equalization, the Board of Appeals, the Board of Zoning Appeals, the Electoral Board, any advisory bodies established by the Board of Supervisors, and the office of the General Registrar.

Sec. 5. Succession

This section establishes the procedures to fill vacancies in elected and appointed offices arising during the COVID-19 disaster in order to ensure the continuity of County government. This section also applies to Albemarle County Public Schools and may be applied by the authorities and the other public bodies identified in Section 4 to the extent practicable. The Albemarle County School Board, in its discretion, may establish by resolution its own procedures to fill vacancies in elected offices arising during the COVID-19 disaster.

A. Elected officials. When a vacancy occurs either on the Board of Supervisors or the Albemarle County School Board, the vacancy shall be filled according to the procedure generally established by Virginia Code § 24.2-228, as modified below:

   1. Appointment by remaining members. When a vacancy occurs, the remaining members of the Board, within 45 days of the office becoming vacant, may appoint a qualified voter of the magisterial district in which the vacancy occurred to fill the vacancy. If a majority of the remaining members of the Board cannot agree, or do not act, the vacancy must be filled by judicial appointment as provided in Virginia Code § 24.2-227.

   2. If a qualified voter from the magisterial district cannot be found. If the Board is unable to find and appoint a qualified voter from the magisterial district in which the vacancy exists after a reasonable effort, it may appoint a qualified voter from any other magisterial district.

   3. Duration of appointment. The person so appointed shall hold office only until the qualified voters fill the vacancy by special election pursuant to Virginia Code § 24.2-682 and the person so elected has qualified.

   4. Effect of being appointed. Any person appointed to fill a vacancy holds office the same way as an elected person, is authorized to exercise all powers of the elected office, and this includes having that person's vote be considered the vote of an elected member.

   5. Majority of seats are vacant. If four or more seats on the Board are vacant, the vacancies must be filled by judicial appointments as provided in Virginia Code § 24.2-227.

6. Holding over. If, during the COVID-19 disaster, a general election cannot be held, any member whose term expires may continue to hold over in office until a successor is appointed.

7. Temporary vacancies. If a member is unable to participate in any meeting of the Board for more than 30 days and the number of members available to meet and act falls below that required for a quorum as provided in Section 6, and action by the Board is determined to be essential to continue the functions of the County or the Albemarle County Public Schools, as applicable, the remaining members may, in their discretion, appoint a qualified voter to temporarily exercise the powers and duties of the office until the permanent member is able to participate.

B. Appointed officers. This subsection applies to the County government and not to Albemarle County Public Schools, which is recommended to establish its own succession plan for appointed officers.

1. If the County Executive and the Deputy County Executive are incapacitated. If the County Executive and the Deputy County Executive are both incapacitated such that they cannot perform the duties of the County Executive, the Board of Supervisors may appoint any person it deems qualified to serve as Acting County Executive.

2. If the County Attorney and the Deputy County Attorney are incapacitated. If the County Attorney and the Deputy County Attorney are incapacitated such that they cannot perform the duties of the County Attorney, the Board of Supervisors may appoint any person it deems qualified to serve as Acting County Attorney.

3. If the Clerk and the Senior Deputy Clerk are incapacitated. If the County Clerk and the Senior Deputy County Clerk are incapacitated such that they cannot perform the duties of the County Clerk, the Board of Supervisors may appoint any person it deems qualified to serve as Acting County Clerk of the Board of Supervisors.

4. If any department head and deputy department head or equivalent position are incapacitated. If any department head and any deputy department head, or any equivalent position are incapacitated, the County Executive may appoint any person he deems qualified to serve as the acting department head.

Sec. 6. Public Meetings

This section establishes the procedures for public meetings of the Board of Supervisors, the Planning Commission, the Architectural Review Board, the Board of Equalization, the Board of Appeals, the Board of Zoning Appeals, the Electoral Board, and any advisory bodies established by the Board of Supervisors to transact any business statutorily required or necessary to continue operations of the public body, and the public bodies' discharge of their lawful purposes, duties, and responsibilities. These procedures may also be applied by the Albemarle County Public Schools, the authorities, and the other public bodies identified in Section 4 to the extent this section is practicable for those public bodies. References to the "Board" and the "Supervisors" in this section should be modified as appropriate when applied by public bodies other than the Board of Supervisors.

A. The need to change how meetings are conducted during COVID-19. The Board fully endorses the statements in Virginia Code § 2.2-3700, which is the introductory section of the Virginia Freedom of Information Act, that the "affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government," and that unless an exception to open meetings is invoked "every meeting shall be open to the public." The regulations in this section for conducting public meetings are necessary because the COVID-19 disaster makes it impracticable or unsafe for public bodies, as well as their staff and the public, to physically assemble in one location or to conduct meetings in accordance with normal practices and procedures. Although the regulations in this section establish rules for conducting public meetings that are different from normal practices and procedures, the regulations are intended and designed to achieve the policies expressed in Virginia Code § 2.2-3700.

B. Applicability. This section applies when some or all of the persons participating in the meeting are connected to the meeting by electronic communication means (defined as "hybrid" and "virtual" meetings in the Board of Supervisors' Rules of Procedure for Virtual and Hybrid Meetings (adopted September 2, 2020), provided that if a quorum of the Board is physically assembled in one location, participation by any other Supervisor by electronic communication means is permitted only as provided in Virginia Code § 2.2-3708.2 and Rule 8 of the Board of Supervisors' Rules of Procedure (adopted January 8, 2020).

C. Meeting format. Any meeting to discuss or transact business may be held through real time electronic communication means (including audio, telephonic, video, or any other practical electronic medium) without a quorum physically assembled in one location.

D. Agenda. The agenda for a meeting conducted pursuant to this section (an "electronic meeting") should: (1) state that the meeting is being held pursuant to this ordinance; and (2) identify the opportunities for the public to access and participate in the electronic meeting. The failure to state these items on the agenda neither makes the electronic meeting illegal nor invalidates any action taken at the meeting.

E. Notice. Before holding a regular electronic meeting, the Clerk must provide notice at least three days in advance of the meeting, and this notice must be provided to the public contemporaneously with the notice provided to the Supervisors. The notice must: (1) state that the meeting is being held pursuant to this ordinance; and (2) identify the opportunities for the public to access and participate in the electronic meeting, including the opportunity to comment on those matters for which comments from the public will be received. Any notice provided before the effective date of this ordinance, for a public meeting or public hearing after its effective date, that complied with the law when it was given but which is inconsistent with this ordinance, including with respect to the location of the meeting or the public hearing, is deemed to satisfy any notice requirements and no action taken at that meeting or regarding any public hearing is invalid for that reason.

F. Statement by the Chair. At the beginning of the meeting, the Chair should: (1) state that the meeting is being held pursuant to and in compliance with this ordinance; (2) identify the Supervisors physically and electronically present; and (3) identify the opportunities for the public to access and participate in the electronic meeting. The failure to state these items neither makes the electronic meeting illegal nor invalidates any action taken at the meeting.

G. Public participation. Any electronic meeting must be open to electronic participation by the public. In addition, for any matters requiring a public hearing, public comment may be solicited by electronic communication means in advance and must also be solicited through telephonic or other electronic communication means during the electronic meeting. The public comments received before the electronic meeting will be provided to the Supervisors at or before the electronic meeting and made part of the record for the meeting.

H. Postponing certain matters. Any non-emergency public hearing and action item on the Board's agenda may be postponed to a later date provided that public notice is given so that members of the public are aware of how and when to present their views.

I. Quorum. If three Supervisors are unable to participate in a public meeting because each of those three Supervisors is sick from the COVID-19 virus, and at least one temporary vacancy has not been filled pursuant to Section 5, a quorum of the Board of Supervisors to conduct business is reduced from four to three for any matter that a vote is required by the Board at that meeting in order to ensure the continuity of County government. If four or more Supervisors are unable to participate in a public meeting for the reasons stated above, the only action that the participating Supervisors may take is to adjourn the meeting until the temporary vacancies can be filled.

J. Voting. State laws, as may be implemented in the County Code, may impose different voting requirements.

1. Vote required to act. Although most actions require the majority vote of those Supervisors present and voting, there are some actions that require a supermajority vote, the majority vote of the elected members, or impose some other requirement. These different voting requirements continue to apply unless: (1) one or more Supervisors is sick from the COVID-19 virus; (2) the sick Supervisors are unable to participate in the public meeting; (3) the temporary vacancy has not been filled pursuant to Section 5 and the voting requirement imposed by State law or the County Code cannot be complied with; and (4) a vote is required by the Board at that meeting in order to ensure the continuity of government. If all four of those prerequisites are satisfied, the Board may approve the matter on the affirmative vote of those Supervisors present and voting. Following are examples of different voting requirements for certain matters, and how they are addressed if the four prerequisites are satisfied:

   a. When the affirmative vote of the elected members is required. Article VII, Section 7 of the Constitution of Virginia and its statutory companion in Virginia Code § 15.2-1428 require, among other things, the affirmative vote of a majority of all members elected to the governing body on certain matters. As provided in Section 5(A)(4), and based on language in Virginia Code § 24.2-228, any appointed Supervisor's vote is considered to be the vote of an elected Supervisor.

   b. When a supermajority vote is required. Virginia Code § 15.2-2405 requires a two-thirds vote of the elected Supervisors to impose taxes in a service district. The Board is unique because it is a six-member Board and, for it, a majority vote is also a supermajority when a two-thirds vote is required. There are no service districts in the County. If another matter requires a supermajority under Virginia law, the Board may approve a matter by a majority of the Supervisors participating and voting.

   c. When the vote by those present and voting is required. The requirement that a matter be approved by a majority vote of those present and voting is common, one example being found in Virginia Code § 15.2-1427(A). For the purposes of this voting requirement, any Supervisor who is participating in the matter is "present."

2. Roll call vote. A roll call vote should be taken on all matters requiring a vote and must be

taken on any action on an ordinance and any other matter requiring a roll call vote pursuant to State or Federal law.

K. Closed meetings. The Board may have a closed meeting for any purpose authorized by Virginia Code § 2.2-3711(A).

L. Minutes. Minutes of a meeting must be in writing and include: (1) the date, time, and location of the meeting; (2) the Supervisors recorded as present or absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; (4) a record of any votes taken; (5) the fact that the meeting was held by electronic communication means because of the emergency created by the COVID-19 disaster; and (6) the type(s) of electronic communication means by which the meeting was held.

M. Recordings. An audio recording, video recording, or verbatim transcript of any electronic meeting must be made and retained as provided by law. The recording must be posted on the County's website.

N. Other requirements not modified. Any requirements for conducting a public meeting in Virginia Code §§ 2.2-3700 *et seq*. and 15.2-1400 *et seq*. that are not modified by this section, including those pertaining to special and emergency meetings, apply to conducting a public meeting.

O. Alternative authority. If Section 6 is determined to be unconstitutional or invalid by a valid judgment or decree of a court of competent jurisdiction, the authority for public bodies to meet by electronic communication means conferred by the budget amendments in HB 29 and HB 30 of the Commonwealth of Virginia's 2020-2022 biennium budget is deemed to apply, as applicable, on and after May 21, 2020.

Sec. 7. Deadlines

This section applies to the County government. State law and the County Code impose many deadlines by which the County, Board of Supervisors, and other public bodies must act. The following deadlines may be extended to the earliest date thereafter practicable when it is impractical or dangerous to safely meet those deadlines because of the COVID-19 disaster, with the proviso that the Board of Supervisors and the County will endeavor to the extent practicable to meet the deadlines established by State law and the County Code. Subsections (D) and (E) may be applied by the Albemarle County Public Schools, the authorities, and the other public bodies identified in Section 4.

A. The tax rates. It is the intention of the Board to meet all of the deadlines established by State law to fix the tax rates. However, the May 15 deadline established by Virginia Code § 58.1-3321(E) for fixing the real estate tax rate, and the June 30 deadline to fix other tax rates established by Virginia Code § 58.1-3001, may be extended by the Board to the earliest dates thereafter practicable in order to allow the tax rates to be fixed.

B. The budget. It is the intention of the Board to meet all of the deadlines established by State law to approve the County's annual budget. However, the May 15 deadline established by Virginia Code § 22.1-93 requiring the Board to "prepare and approve an annual budget for educational purposes by May 15 or within 30 days of the receipt by the county . . . of the estimates of state funds, whichever shall later occur," and the July 1 deadline to approve the budget established by Virginia Code § 15.2-2503 ("the date on which the fiscal year begins"), may be extended by the Board to the earliest date thereafter practicable in order to approve the County's annual budget.

C. Land use applications. Any deadline established by State law or the County Code for action by the County, the Board of Supervisors, or any County public body within the scope of Chapter 14, Subdivision of Land, Chapter 17, Water Protection, or Chapter 18, Zoning, may be extended by the County, the Board, or other County public body to the earliest date thereafter practicable to allow any public body or County staff to act. Any provision in State law or the County Code to deem the failure of any County action to be timely taken to be approval of the pending matter is of no force or effect.

D. Factors to be considered in determining whether the COVID-19 disaster prevents a deadline from being met. In determining whether the COVID-19 disaster prevents a deadline from being met, the following factors should be considered: (1) whether a federal or State lockdown is in place prohibiting necessary travel to conduct business; (2) whether COVID-19 illnesses prevent the Board, any County public body, or County staff from meeting or conducting business; (3) whether County buildings where applications, documents, and other public records are kept are closed because of COVID-19 contamination; and (4) other similar reasons that prevent the Board, any County public body, or County staff to meet or conduct its business without endangering their health or the health of others.

E. Hold harmless. The failure to meet any deadline imposed by State law, including the Prompt Payment Act, or the County Code does not constitute a default, violation, approval, recommendation or otherwise.

F. Other deadlines may be extended. Any other deadlines not extended by this section may be extended by a separate ordinance.

Sec. 8. Procurement

This section pertains to procuring goods and services by the County. This section also may be applied by the Albemarle County Public Schools, the authorities, and the other public entities identified in Section 4 that do their own procurements, to the extent this section is practicable for their public entities. References to the "County Executive" and other County-specific references in subsections (A) and (C) should be modified as appropriate when this section is applied by public entities other than the County.

A. Authority to modify requirements or procedures for procurements not directly related to the COVID-19 disaster. The County Executive is authorized to modify any requirement or procedure imposed pursuant to the Virginia Public Procurement Act (Virginia Code § 2.2-4300 *et seq.*), the Albemarle County Purchasing Manual, or by custom, that requires or allows any procurement-related documents to be hand-delivered or delivered by a carrier to the County Office Building, or that requires or allows bidders and vendors to physically assemble for bid openings and other steps in the procurement process. Requirements or procedures may be modified as follows:

   1. Documents. Any modification pertaining to documents should require electronic documents to be submitted by any person submitting an inquiry, or responding to a request for information, request for proposals, an invitation for bids, or any other solicitation.

   2. Physical assemblies. Any modification pertaining to physical assemblies should require any steps in the procurement process by which people would otherwise physically assemble to participate through electronic communication means or to be conducted in a location that complies with any County, State, and Federal orders or declarations regarding gatherings.

B. Authority of the County Executive for COVID-19 disaster related procurements is unaffected. Subsection (A) does not affect the County Executive, acting as the Director of Emergency Management pursuant to Virginia Code § 44-146.21(C), to "enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster, and proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and other expenditures of public funds, provided such funds in excess of appropriations in the current approved budget, unobligated, are available."

C. Notice. Modifications to requirements or procedures made under this section do not need to be published in the Albemarle County Purchasing Manual to be effective. Notice reasonably calculated to make the public aware of these changes, including on the Albemarle County Purchasing Department's website, is sufficient.

Sec 9. Duration

This ordinance is effective immediately and expires not later than six months after the COVID-19 disaster ends. The COVID-19 disaster will be deemed to be ended when the Board of Supervisors adopts a resolution ending the declared local emergency.

Sec. 10. Method for Resuming Normal Governmental Authority and Operations

A. When normal governmental authority and operations will resume. Normal governmental authority and operations will resume after the County Executive, acting as the Director of Emergency Management, reports to the Board of Supervisors that all emergency actions that can be taken by the County have been taken, the Board ends the local emergency, the Governor ends the state of emergency, and the State Health Commissioner advises that it is safe for people to once again gather in public so that normal governmental authority and operations, including normal public meetings (or words to that effect), may be re-established.

B. Method to resume normal governmental authority. When the events in subsection (A) have occurred, normal government authority will resume as follows, subject to further amendment to this section as may be necessary:

   1. Succession. The appointment of any person to the Board pursuant to Section 5(A)(2) or 5(A)(7) terminates and any resulting vacancy will be filled as provided by law.

   2. Public meetings. Section 6 will no longer apply.

   3. Deadlines. Section 7 will no longer apply, subject to the County Executive establishing revised guidelines to allow for a reasonable transition period back to full normal County operation.

   4. Procurement. Section 8 will no longer apply to any steps in the procurement process that have not already been completed or been substantially completed.

Sec. 11. Effect of this Ordinance on the Powers of the Director of Emergency Management

This ordinance does not affect the powers of the County Executive, acting as the Director of

Emergency Management, pursuant to Virginia Code § 44-146.21 during the COVID-19 disaster. The intention of the Board of Supervisors is that this ordinance and any powers exercised by the Director complement one another.

Sec. 12. Effect of this Ordinance on Albemarle County Courts and Constitutional Officers

This ordinance does not apply to the Albemarle County Circuit Court, General District Court, or Juvenile and Domestic Relations District Court. This ordinance also does not apply to the offices of the Albemarle County Clerk of the Circuit Court, Commonwealth's Attorney, or Sheriff.

Sec. 13. This Ordinance Supersedes Prior Continuity of Government Ordinances; Exception

This ordinance supersedes any previous continuity of government ordinance adopted by the Board of Supervisors.

Sec. 14. Severability

It is the intention of the Board of Supervisors that any part of this ordinance is severable. If any part is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity does not affect any other part of this ordinance.

Sec. 15. Liberal Construction

Because its purpose is to ensure the continuity of government, this ordinance should be liberally construed to accomplish this purpose and to facilitate the performance of the governmental functions and related services determined by the Board of Supervisors, either expressed or implied, to be essential.

State law reference – Va. Code § 15.2-1413.

Agenda Item No. 19. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek asked everyone to continue to think very cautiously about any changes they may make to their careful operations on November 18. She said with the way things were going around the country, they were not alone and not an island. She said every day, she thinks there could be massive numbers that would change. She said she was quite happy with the way things were and hoped all would consider leaving things alone.

Agenda Item No. 20. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said there was no report that evening and that there would be one at the second meeting in November

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Agenda Item No. 21. Adjourn.

At 6:40 p.m., the Board adjourned their meeting to a budget work session on November 18, 2020 at 1:00 p.m., which would be an electronic meeting held pursuant to Ordinance No. 20-A(14), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster."

Chair

Approved by Board

Date 07/07/2021

Initials CKB