

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 21, 2021 at 1:00 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection due to the COVID-19 state of emergency.

BOARD MEMBERS PRESENT: Mr. Ned Gallaway, Ms. Beatrice (Bea) LaPisto-Kirtley, Ms. Ann Mallek, Ms. Diantha McKeel, Ms. Liz Palmer, and Ms. Donna Price.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; County Attorney, Greg Kampfner; 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 1:00 p.m. by the Chair, Mr. Ned Gallaway.

Mr. Gallaway said the meeting was being 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." He said that the opportunities for the public to access and participate in the electronic meeting were posted on the Albemarle County website, on the Board of Supervisors' homepage, and on the Albemarle County calendar. He stated that participation included the opportunity to comment on those matters for which comments from the public would be received.

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

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Agenda Item No. 4. Adoption of Final Agenda.

Mr. Gallaway said two items needed to be added including the Fair Housing Month Proclamation under #16, Proclamations and Recognitions, as well as an item for discussion under #19, Matters from the Board, Legislative Agenda Timing and the Addition of Speed Cameras at Ms. LaPisto-Kirtley's request.

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

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

Ms. Price announced that the town of Scottsville would soon be receiving a DMV Select office and to watch the town of Scottsville information coming out. She said this would be a real boon to the residents of the southern part of the County as well as adjacent Counties.

Ms. Price said as she was preparing for the Board meeting, it caught her eye that 13 months ago, there were 75 total deaths and 4,200 total cases from the COVID-19 pandemic. She said that today there are over 33 million cases with over 580,000 deaths; 25 million have recovered, with roughly a 2% death rate from the pandemic. Ms. Price said they are now seeing a dichotomy where older Americans have been vaccinated and are having a much lower infection rate, whereas with spring coming and more people being out and the vaccination rate, there has been a significant increase in the infection rate among younger adults. She mentioned this strange situation where over the last week or so, total infection numbers within the country have remained relatively stable because older Americans are less likely to get infected and die, but younger Americans are seeing an upsurge, so though there is light at the end of the tunnel, everyone still needs to remain vigilant.

Ms. Mallek echoed Ms. Price in asking everyone to pay attention because of the importance of protecting others, as the best kind of compassion one can have is to take care of one's neighbors and to follow all of the guidelines for COVID protection.

Ms. Mallek said that last week, DMV on the Go, which is a very convenient operation, happened to be at its twice-a-year visit at North Fork Research Park, so in addition to the wonderful office in the southern part back in October, again, they will be returning to the northern part of the County, and people should watch for that. She said she thought she was going to get her Real ID, and it turned out she needed to have a certified copy of her marriage license, which she did not have, so she will be going back next October to start all over again.

Ms. Mallek announced that Crozet Arts and Crafts Festival for its 37th year will be outdoors May 8th and May 9th with 500 people allowed to be on the huge property at one time now. She said there would be pop-up tents for the vendors rather than a big tent, so there will be loads of room for people to come, and hopefully it will be a beautiful sunny day and people will have a chance to get out. She said there will also be small events all around the western part of the district including different galleries doing

special things and maps available when people leave them, a big festival, so there will be a whole day of other activities to do in the County.

Ms. Mallek congratulated the FES (Facilities and Environmental Services) department on their report highlighting the steps taken toward weatherization and reduced utility consumption. She said back in 2010, this County Office Building received its energy star rating, and they have certainly come a long, long way since then, and she was appreciative of that.

Ms. Mallek said her minutes were of September 18, which was a really great meeting, and many, many citizens came to talk about their support for working forward in climate change and ways to focus on this including the ability of farmers to have solar panels, which is easy to do now and already possible, and also focusing on a circular economy, or what one of the local architecture firms calls cradle-to-cradle design, where they are designing the ultimate reuse of materials at the end of a life as much as they are at the beginning for it to be used. She said it is important to include this in the climate change discussions and in purchasing and procurement and to be very conscious of the amount of residue and trash being generated, especially with big purchases, and avoid those whenever possible.

Ms. Palmer said the e-Waste collection at Ivy MUC (Materials Utilization Center) would be Saturday from 9:00 a.m. to 3:00 p.m. She said registration is required and can be done on the Rivanna Solid Waste Authority website. Ms. Palmer said spring household hazardous waste collection would be Friday, April 30th. She said registration is not required, and the times are on the website. She said it is also on Saturday, May 1st, from 9:00 to 2:00, and then there is a commercial household hazardous waste collection Thursday, April 29th, by appointment. She said the spring bulky waste amnesty days were upcoming with furniture and mattresses May 8th, appliances May 15th, and tires May 22nd. She said this is all very popular for road cleanup at no cost to get rid of old mattresses that people have left on the side of the road along with tires and old washing machines and whatnot. She mentioned that she lives on a dump road and is very much aware of the wonderful old furniture acquired there from time to time.

Ms. Palmer referred to Ms. Price's mention of COVID and said she is incredibly impressed at how fast the community, with the health department and help of County staff and UVA, is getting through these vaccines now since people 16 years of age and older are now being accepted. She said she is getting all kinds of calls from people exclaiming over the ease of registration and even next-day appointments, and she expressed thanks for the great operation that they are running in this community.

Ms. LaPisto-Kirtley said that hopefully next weekend, working with Parks and Rec and the scout group from Stony Point, they should be planting about 3,000 milkweed seeds around Darden Towe and perhaps other areas, maybe some areas in Stony Point near the Ruritan, and they are calling it Save the Monarch (butterfly). She said they are very happy to be working with the scouts to plant the seeds that were donated and are looking forward to that because there is an actual natural monarch path that goes through Darden Towe, where, when they migrate, they actually come through that area. She said it is a parking lot right now, but they are hoping to replenish the milkweeds around that area so that the Monarch population will continue to grow.

Ms. Mallek added to Ms. LaPisto-Kirtley's announcement about the milkweed that it is heartbreaking to see in October when the milkweed plants are four feet tall that so many people mow them down, including VDOT, when milkweeds should be left standing until Thanksgiving. She noted that migration is four different generations every single year with the northbound migration stopping here in June while the southbound migration babies are born here in October, and they really need those tall milkweed plants to be standing in order to survive, so everyone needs to try to think about that and just leave those plants standing until they are totally dried up.

Ms. LaPisto-Kirtley thanked Ms. Mallek and said that in the areas where the milkweed is being planted at Darden Towe, the maintenance and facilities people will only mow once a year in the winter.

Mr. Gallaway commented that it was also national poetry month, in addition to the other proclamations and recognitions for the month. He encouraged everyone to find their favorite poem and read it and observed that poetry had been popping up out of nowhere this month in unexpected places, likely because it was national poetry month, so he thought he would mention that.

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Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6.a. Proclamation Celebrating Arab American Heritage Month.

Ms. Price **moved** to adopt the proclamation recognizing Arab American Heritage Month and read it aloud. 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.

Ms. Siri Russell said she was representing Dr. Binte-Farid and wanted to extend gratitude and introduce Dr. Hanadi Al-Samman, who is the associate professor of Arabic language and literature and the interim director of the Institute of the Humanities and Global Cultures at the University of Virginia, as well as Mr. Ilyas Saltani, who is a third-year student at the University of Virginia and the chair of diversity engagement for UVA Student Council.

Dr. Hanadi Al-Samman thanked Ms. Russell for the introduction and thanked the members of the Board of Supervisors for allowing her the opportunity to speak on behalf of their support of the Arab American heritage month. She said the Arab Americans in this country have been part and parcel of the U.S. fabric and story even before the U.S. became a nation; in fact, the first soldier to die in the Revolutionary War was an Arab American who had migrated from Syria in 1776, and the first nation to actually acknowledge the nascent USA as a nation was the country of Morocco, which was the first to acknowledge the USA as an independent nation in 1787.

Dr. Al-Samman said the migration of Arab Americans from all countries and walks of life started in the U.S. from the 1870s in the first wave until the 1920s, and these people came basically seeking shelter and freedom and opportunity and the promise of what the USA could give them. She said they were Christians and Muslims and came from all colors of the rainbow, white, brown, black, some people from North Africa, so really they represent America. She noted there are luminaries of Arab Americans in the U.S. that some recognize as Arab Americans, and some do not. She said Steve Jobs is one of them, as are politicians such as Ralph Nader and Donna Shalala, artists such as Paula Abdul, even Casey Kasem, who is a Lebanese American. She said actually part of the problem of Arab Americans in this country has been that they assimilated so well into the fabric of the USA that nobody knows that they are Arab American. She said that oftentimes happens in her classroom where she is not recognized as an Arab American. Dr. Al-Samman said the problem has been that they have assimilated themselves into invisibility as most pass as white.

Dr. Al-Samman said that part of what they are trying to do in Arab American heritage month is to acknowledge their heritage, acknowledge their contributions to the U.S. as an independent entity like any minority, and as a minority, they are proud of their culture but are also proudly Americans. She said they are actually an Albemarle County constituency with over 2,000 Arab Americans who are doctors, business owners, students, teachers, and community leaders. She thanked the Board for its bold move to vote for the adoption of this resolution and proclamation is in line with what Albemarle County has been doing in being pioneer in adopting progressive decisions towards inclusivity and really celebrating and embracing all divisions and all peoples of all colors. She thanked the Board of Supervisors for the opportunity to speak and offered to entertain any questions.

Mr. Saltani thanked the Board of Supervisors for inviting him there today. He said with Ramadan, everyone is celebrating or practicing this month as well. He extended his gratitude for the Board's appreciation of the Arab American community, especially in Albemarle County. He said the Arab American community continues to face bigotry and discrimination in many forms, so at a minimum, this recognition has an immense impact for the community in validating their experiences and in expressing solidarity.

Mr. Saltani said the Arab community is not a monolith and is, in fact, a beautifully diverse range of different races and religions spanning from Northwest Africa, like himself, a Moroccan American, to Southern Europe and even reaching as far as Southeast Asia. He said they represent an array of Christians, Muslims, Jewish people, and many more religions as well. He said he hoped to uplift the narratives of his fellow community members from all these backgrounds, and he welcomed the Board to join him in celebrating this diversity that not only enriches the community but allows for a truly holistic sense of community building which values the unique experiences and narratives of all its members.

Mr. Gallaway thanked them both and asked Supervisors for questions or comments.

Ms. LaPisto-Kirtley expressed congratulations and support and said that her oldest brother was born in Oran, Algeria, and is very proud of that, as are she and all her siblings. She said she was glad Dr. Al-Samman and Mr. Saltani were there and was glad the Board could do this for them.

Ms. Palmer said she had no real questions because she does not think she knows enough. She said she had no idea that the first person that was killed in the Revolutionary War was Arab. She said that clearly she had a lot to know about Arab history in very early America. She thanked them both and said she would work on that offline.

Ms. Price thanked Dr. Al-Samman and Mr. Saltani and said she also has Arab relatives. She said she has nieces who trace their lineage back to Kuwait, and American families come from all over the world. She said she is very pleased to have had the opportunity for the Board and for herself personally to be able to read that proclamation. She said many people may not realize that Arabic is the third most common language spoken in the home in Albemarle County outside of English and Spanish. She said the community has literally hundreds of Arab Americans who have received the Iraqi or Afghani special immigrant visas, and it is important for the community to know these are individuals who put their lives and the lives of their families at risk in support of American operations in those countries. Ms. Price wanted everyone to think for a moment about what it takes to risk what those individuals did in full support of the American government well before they would have ever known that they had a chance to come to America, so she thanked them for being here and shared in the joy of the community for embracing this.

Ms. Price also thanked the Office of Equity and Inclusion as they mature and continue to expand the impact that they are having. Ms. Price offered as a humorous sidenote that everyone around the world everyday knows that there has been a contribution to their life from the Arab community if for no other reason than Arabic numerals, and so every time she writes a check or balances her checkbook, she is reminded of how great this world is, and she thanked them for being there tonight.

Dr. Al-Samman thanked Ms. Price and said it was heartwarming.

Ms. McKeel joined the other Supervisors in appreciating that Dr. Al-Samman and Mr. Saltani came today and said she was so glad that they could do this. She said certainly Arabic has been one of the languages at Greer Elementary School that has been spoken over the years and that represented that school population, and she added it is always wonderful to have a student from UVA come before the Board. She said that was a real treat, and she wished they could get more students from UVA to come to the meetings at times. She thanked them both and said she appreciated them taking the time to help educate her because she had learned a lot from their remarks. She agreed with the other Supervisors that she needed to do some more homework and educate herself a little bit better.

Ms. Mallek agreed with the other comments and said she was very fortunate in the 1950s that two of her parents' best friends was an immigrant couple who left Persia, now Iran, in 1952 to come to the University of Virginia and found the foreign relations department. He was a professor, and she was a chef who taught dance and other wonderful art things to people here in Charlottesville. She said her favorite cookbook is Nesta's cookbook that was a wedding present back in 1971. She said listening at the table to those conversations was a tiny bit of learning. She said certainly she has learned many, many things today. She said her sister-in-law was Iranian Christian and actually had to emigrate out of the country about 20 years ago. She said it is a wonderful example of the mixing pot they have here. She said her younger daughter's favorite culinary teacher is from Lebanon and remarked that Albemarle is fortunate to be a place where people feel welcome to come but also want to come for various business and opportunities as well as education and share what they have.

Mr. Gallaway echoed and endorsed all the comments of his fellow Supervisors and thanked Dr. Al-Samman and Mr. Saltani. He expressed appreciation for their taking the time to be there today to receive this proclamation and asked them to join the Board sometime soon if they so desired.

Dr. Al-Samman expressed gratitude for the opportunity to talk with the Board today and said this is what makes Albemarle County great to live in. She said she had been a resident here for the last 15-16 years and would love to stay here for many years to come.

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#### **Proclamation Celebrating Arab American Heritage Month**

WHEREAS, the National Arab American Heritage Month is recognized in April and is a time for celebrating the history, contributions, and cultures of the diverse population of Arab Americans; and

WHEREAS, Arab American men and women have played an important role in shaping, advancing, and enriching the fabric of Albemarle County and our nation by making immense contributions to all areas of life including government, business, arts and sciences, medicine, law enforcement, technology, and the military; and

WHEREAS, Arab American issues, such as civil rights abuses, harmful stereotyping, and bullying must be combatted in the forms of education and awareness; and

WHEREAS, Arab Americans join all Americans in the desire to see a peaceful and diverse society, where every individual is treated equally and feels safe.

NOW, THEREFORE, BE IT RESOLVED, that we, the Albemarle County Board of Supervisors, honor and celebrate Arab American Heritage Month and continue to affirm our commitment to an inclusive Albemarle County.

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#### **Item No. 6.b. Proclamation Supporting the Goals of Sexual Assault Awareness Month.**

Mr. Gallaway said with them today, they had Renee Branson, the executive director of the Sexual Assault Resource Agency (SARA).

Ms. Price said there was an inadvertent omission in the original drafting of this resolution, and the word "women" has now been included.

Ms. McKeel **moved** to adopt the proclamation recognizing Sexual Assault Awareness Month and read the proclamation aloud. 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.

Mr. Gallaway told Ms. Renee Branson that the Board was grateful she was there and gave her the opportunity to make some remarks.

Ms. Branson thanked the Board for their support and that wonderful proclamation. She said not just today and not just this month, but throughout the year, they certainly feel the support. She said on a personal note as the new executive director, in the position just since January, it is a delight to be able to get to see some new faces and learn new names, and hopefully they will all have an opportunity to be together in person. She said outside of a global pandemic, they are usually doing a lot of public events

this month really working to draw awareness, and not only awareness around sexual violence but also in the prevention of that. She said that SARA was in the business of putting themselves out of business ideally, and so having the support of the Board was deeply meaningful, and she hoped to have an opportunity as time goes forward to work more closely together.

Ms. Branson said that just in the last week or so, they had gotten the good news that they are allowed once again to be going back into the ER to meet with survivors, which had to be put on hold because of COVID protocols, but with the majority of their staff now vaccinated, they would be able to go in person to sit by the side of survivors, where they want and need to be. She said throughout this whole last more than a year now, they are proud to say that even though some services have had to be through telehealth, zoom, and other platforms, or over the phone, they have never missed a step at meeting survivors' needs but are so grateful to be able to be with them in person again. She said she was happy to answer any questions or provide more information about SARA either here or directly at director@saracville.org.

Ms. LaPisto-Kirtley said she was happy to support this. She said the organization is doing a wonderful job and thanked Ms. Branson for being there for the people and women that need it.

Ms. Palmer concurred with Ms. LaPisto-Kirtley and thanked Ms. Branson. Ms. Palmer said that she knew the organization had been around quite a while, and she congratulated Ms. Branson on her new job and hoped she could take the organization even further if that were possible.

Ms. Price thanked Ms. Branson for being there. She said this is a topic that has weighed heavily on her heart throughout the 42 years of her legal career with countless cases involving sexual abuse of any person, especially on a child, the most vulnerable. She said the work they do is priceless, and as a community and a society, people must remind themselves to never blame the victim and instead hold the perpetrators accountable. She thanked Ms. Branson for what she does to help those victims as they heal.

Ms. McKeel thanked Ms. Branson for joining the Board meeting and congratulated her on her new job. She said the Board looked forward to seeing her often. Ms. McKeel said that as a retired nurse who had spent many years with the Department of Gynecology, the 6,000 to 8,000 students is a shocking number but unfortunately does not surprise her. She said it is a real issue and a real concern, and she does not know where all the victims would be in the community without the resource of SARA, and their work in the community was appreciated.

Ms. Mallek echoed what others had said and said she was so glad that the organization was there to provide assistance and shelter for people when they desperately need it.

Mr. Gallaway thanked Ms. Branson again for being there to receive this proclamation and, as she was three months in, wished her good luck as she continues in her new role.

Ms. Branson thanked the Board and said she would be sure to pass along the well wishes to the staff who are on the front lines every day.

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#### Proclamation Supporting the Goals of Sexual Assault Awareness Month

**WHEREAS**, Sexual Assault Awareness Month was commemorated nationally for the first time in April 2001 in order to raise awareness and support prevention of sexual assault, harassment, and abuse; and

**WHEREAS**, sexual assault does not discriminate on any basis and can affect any individual in the United States, including children, people with disabilities, people of color, men, immigrants, students on school and college campuses, youth in the juvenile justice system, undocumented persons, LGBTQIA individuals, those who serve in the Armed Forces, and others; and

**WHEREAS**, the local branch of the Sexual Assault Resource Agency (SARA) serves the residents of Albemarle County and the surrounding areas and provides free services to all survivors regardless of race, gender, sexual orientation, gender expression or identity, age, economic status, education, parenthood, physical and/or mental abilities, national origin, immigration/documentation status or any other status, reaching 550 survivors and 6,000-8,000 students each year;

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Albemarle County Board of Supervisors, do hereby affirm our commitment to raise awareness within residents of Albemarle County about sexual violence, including how to recognize it, prevent it, and how to support survivors; and we further commit to elevating the voices, leadership, and needs of historically and currently disenfranchised and underserved communities in the effort to eliminate sexual violence and support all survivors.

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#### Item No. 6.c. Proclamation Recognizing Fair Housing Month

Ms. McKeel **moved** to adopt the proclamation recognizing Fair Housing Month. 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.

Mr. Gallaway said that Keith Smith would accept the proclamation. He said Mr. Smith is the chair of the Regional Housing Partnership, among many other things.

Mr. Smith thanked the Board and said he was honored to be there. He said he was thinking as the two other presenters were talking about the Arab American heritage month and the sexual assault awareness month that it also helped highlight the importance of fair housing and why everybody needs to be treated fairly and equally. He said he knew the Board had a busy agenda, and he would be brief, but he did want to report that every one of Albemarle's fellow jurisdictions within the MPO (Metropolitan Planning Organization), including the City of Charlottesville, had agreed to adopt the same proclamation. He said he had worked with each one of the Board members independently, and they were doing some great work, so he just wanted to say thank for the opportunity.

Ms. LaPisto-Kirtley said this was also very personal for her because her first cousin has been working in fair housing for nearly 25 years.

Mr. Smith told Ms. LaPisto-Kirtley to thank her cousin and quipped that he wished she did not have to have a job.

Ms. Palmer thanked Mr. Smith for being there and all the work that he does in all the different venues that he is involved in.

Ms. Price thanked Mr. Smith for being there, and she was learning yet another role that he plays. She said in 1989, when she was driving with her family through Alexandria, Virginia, her then 7-year-old daughter, who now has just turned 39, asked why so many black people lived in such poor housing. Ms. Price said even at 7 years old, she recognized the effects of discrimination in housing, and there followed a long conversation about things like redlining and discrimination. She said the need for the fair housing policies and laws has not gone away; if anything, they must be reenforced. She thanked Mr. Smith for being there and thanked the Supervisors for supporting this incredibly important message that they send out.

Ms. McKeel agreed with the Supervisors and thanked Mr. Smith. She said that it really is true that shining a light on this and talking about it leads to doing something to address the problem, and it is especially important that these proclamations be discussed and talked about. She said she was glad the surrounding jurisdictions have done the same.

Ms. Mallek said that fairness is a powerful word; it is important for children on the playground and in school, and it is incredibly important for adults for their sense of safety and privacy to be able to have a safe place to live and have access to that housing. She thanked Mr. Smith for all the work he is doing and to carry on.

Mr. Gallaway said he also appreciated the fact that Mr. Smith had taken some time to be there at the Board meeting. He said he did not think Mr. Smith oftentimes got the recognition he deserved for being at the forefront of leading the entire region in addressing affordable housing as chair of Regional Housing Partnership and other endeavors that he has been involved with. Mr. Gallaway said that the Board of Supervisors appreciates and looks forward to continuing to work with Mr. Smith on solving the housing issues in the region.

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**PROCLAMATION  
FAIR HOUSING MONTH**

**WHEREAS**, The Fair Housing Act, enacted on April 11, 1968, enshrined into federal law the goal of eliminating racial segregation and ending housing discrimination in the United States; and

**WHEREAS**, The Fair Housing Act prohibits discrimination in housing based on race, color, religion, sex, familial status, national origin, and disability, and commits recipients of federal funding to affirmatively further fair housing in their communities; and

**WHEREAS**, Albemarle County is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all; and

**WHEREAS**, Our social fabric, the economy, health, and environment are strengthened in diverse, inclusive communities; and

**WHEREAS**, More than fifty years after the passage of the Fair Housing Act, discrimination persists, and many communities remain segregated and acts of housing discrimination and barriers to equal housing opportunity are repugnant to a common sense of decency and fairness.

**NOW, THEREFORE, BE IT PROCLAIMED** that that we, the Albemarle County Board of Supervisors do hereby declare the month of April 2021 as

**Fair Housing Month**

in Albemarle County as an inclusive community committed to fair housing, and to promoting appropriate activities by private and public entities to provide and advocate for equal housing opportunities for all residents and prospective residents of Albemarle County.

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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 said he was from the Rio district and asked how it is in this era of equity and inclusion that the all-white, all-Democrat Albemarle plantation of supervisors has not seen fit to actively practice equity of opportunity in elections for their Democrat party colleagues of color. He asked why no incumbent of the all-white, all-Democrat Albemarle plantation of supervisors has seen fit to take affirmative action to promote for election this fall one of their Democrat party colleagues of color who lives in the Rio, Jack Jouett, or Samuel Miller districts. He asked why none of the other three all-white, all-Democrat Albemarle plantation of supervisors from the Rivanna, White Hall, and Scottsville district has seen fit to convince one, two, or three of their all-white, all-Democrat Albemarle plantation of supervisor members to step aside from reelection to demonstrate equity and inclusion on behalf of their Democrat party colleagues of color. He asked if it could be that the current members of the Albemarle plantation of supervisors are comfortable with the color of their power and with the color of their hired hands. He asked how white Albemarle's plantation government is. He answered that the all-Democrat Albemarle plantation of supervisors is all white. He asked if this all-white, all-Democrat Albemarle plantation of supervisors hired a white County executive as their overseer. He asked who their white executive has helping Albemarle's all-white, all-Democrat plantation of supervisors. He asked if it could be a white deputy executive, white assistant's executive, white attorney, white police chief, white fire chief, white personnel director, white community engagement director, white finance and budget director, white tax assessor, white economic development director, white community development director, white project management director, white organizational development manager, white manager of housing, white social services director, and how many others of this same dermatological persuasion. Mr. Grant said the question that should be asked again, or better yet answered, was how come no incumbent of the all-white, all-Democrat Albemarle plantation of supervisors had seen fit to take affirmative action to seek out and promote for election this fall one of their Democrat party colleagues of color who lives in the Rio, Jack Jouett, or Samuel Miller districts instead of their own white selves.

Mr. Gallaway closed Matters From the Public.

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Agenda Item No. 8. Consent Agenda.

Ms. Price **moved** to approve the Consent Agenda as amended. 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.

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Item No. 8.1. Approval of Minutes: September 18 and October 16, 2019; March 17 and March 27, 2020.

**By the above-recorded vote, the Board approved the minutes of September 18 and October 16, 2019; March 17 and March 27, 2020.**

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Item No. 8.2. FY 2021 Appropriations.

The Executive Summary as 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 21 budget due to the appropriations itemized in Attachment A is \$0.00. 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 projects and programs described in Attachment A.

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

<u>Appropriation #2021060</u>	<u>\$0.00</u>
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Source: Transportation Leveraging Program\* \$ 1,100,000.00

\*This portion of the appropriation does not increase or decrease the total County budget.

This request is to appropriate \$1,100,000.00 from the Transportation Leveraging Program to the Rio Road - Avon Street - U.S. Route 250 West Sidewalks Project to cover bids that exceeded the currently appropriated construction budget. This project consists of three sections of sidewalks:

The Rio Road Sidewalk Improvement project will connect the Stonehenge residential neighborhood to the John Warner Parkway and Rio Road sidewalk system.

The Avon Street Walkway/Crosswalks Improvement project will provide sidewalks on the east side from Swan Lake Drive to Mill Creek Drive and then to Mountain View Elementary School, and on the west side from Stoney Creek Drive to Arden Drive.

The US 250 West-Crozet project will consist of the construction of sidewalk and crosswalks from Cory Farms to the Clover Lawn commercial area and Blue Ridge Shopping Center.

Current bids received for the project are over the currently appropriated budget. After reviewing the current bids, coordinating with Virginia Department of Transportation (VDOT) and engineering firms, and reviewing the comparisons to regional bid results, staff believes that the over-budget pricing received for this project is in alignment with the current market and therefore requests additional funding to complete this project.

**Appropriation #2021061** **\$0.00**

Source: Advancing Strategic Priorities Reserve\* \$ 100,000.00

\*This portion of the appropriation does not increase or decrease the total County budget.

This request is to appropriate \$100,000.00 from the Advancing Strategic Priorities Reserve in the Capital Budget to the Community Development Department for an expanded scope of the Rio Road Corridor Study pursuant to the Board of Supervisor's discussion at the budget work session on March 29, 2021.

On July 15, 2020, the Board of Supervisors appropriated \$120,000.00 to the Community Development Department for the Rio Road Corridor Study. This appropriation provides a second phase that would evaluate Rio Road East from the John Warner Parkway to the County/City line at the intersection with Melbourne Road. The study would include a detailed focus on the transition from an older rural roadway to a more urban condition by identifying missing segments of sidewalks, crosswalks, and bike lanes as well as potential improvements to turning movements at existing subdivisions and primary intersections.

This would bring numerous individual concepts together into a complete roadway design that provides the level of detail needed to move forward with the implementation of prioritized projects.

**RESOLUTION TO APPROVE  
ADDITIONAL FY 2021 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2021060 and #2021061 are approved;
- 2) That the appropriations referenced in Paragraph #1, 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.

\* \* \* \*

APP#	Account String	Description	Amount
2021060	4-9010-41350-441200-950525-9999	SA2021060 Rio Avon 250 Additional Funding	\$1,100,000.00
2021060	4-9010-41020-441200-950081-9999	SA2021060 Rio Avon 250 Additional Funding	-\$1,100,000.00
2021061	4-9010-99900-499900-999955-9999	SA2021061 ASPR Funding to Rio Road Corridor	-\$100,000.00
2021061	4-1000-81021-481020-312210-1008	SA2021061 ASPR Funding to Rio Road Corridor	\$100,000.00
2021061	4-9010-99900-499000-930009-9999	SA2021061 ASPR Funding to Rio Road Corridor	\$100,000.00
2021061	3-1000-51000-351000-512031-9999	SA2021061 ASPR Funding to Rio Road Corridor	\$100,000.00

Item No. 8.3. Mutual Aid Agreement for Fire and Rescue Services Between Albemarle County and Louisa County.

The Executive Summary as forwarded to the Board states that at its April 5, 2000 meeting, the

Board adopted a mutual aid agreement for fire and rescue services with Louisa County. This agreement establishes the terms under which fire and rescue assistance is provided between the two jurisdictions.

In 2021, Louisa County asked Albemarle County to review and update the agreement. The County Attorney and Albemarle County Fire Rescue have reviewed and approved the updated agreement (Attachment A).

The intent of the mutual aid agreement is to continue the cooperative approach to address the occasional need both parties have for additional resources. Nothing in this agreement will require either party to respond to a request for service from the other party.

The approval of the proposed mutual aid agreement will have no budget impact.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the mutual aid agreement for fire and rescue services with Louisa County (Attachment A) and to authorize the County Executive to execute the agreement once it has been approved as to substance and form by the County.

**By the above-recorded vote, the Board adopted the Resolution (Attachment B) the Mutual Aid Agreement for Fire and Rescue Services between Albemarle County and Louisa County:**

**RESOLUTION TO APPROVE THE FIRE AND RESCUE  
MUTUAL AID AGREEMENT BETWEEN THE COUNTY OF ALBEMARLE  
AND THE COUNTY OF LOUISA**

**WHEREAS**, the Board finds it is in the best interest of the County to enter into a Mutual Aid Agreement with the County of Louisa to continue the fire and rescue assistance provided between the Counties of Albemarle and Louisa.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby approves the Mutual Aid Agreement between the County of Albemarle and the County of Louisa, and authorizes the County Executive to execute the Agreement on behalf of the County once it is approved as to form and substance by the County Attorney.

\* \* \* \* \*

**MUTUAL AID AGREEMENT**

**COUNTY OF LOUISA  
and  
COUNTY OF ALBEMARLE**

THIS MUTUAL AID AGREEMENT ("the Agreement") is entered into May 21, 2021, by the County of Louisa, a political subdivision of the Commonwealth of Virginia, and the County of Albemarle, a political subdivision of the Commonwealth of Virginia (collectively sometimes "the parties").

WHEREAS, it is deemed to be mutually beneficial to both parties to enter into this Agreement concerning mutual aid with regard to the provision of firefighting and emergency medical services by the parties; and

WHEREAS, the parties desire that the terms and conditions of provision of services be established.

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived by the parties from this Agreement, the parties agree to the following:

1. The parties will endeavor to provide each other firefighting and emergency medical services, along with disaster response assistance, to include use of available emergency shelters, within their respective capabilities available at the time a request for service is made.
2. Nothing in this Agreement shall be intended, interpreted, or construed to compel or require either party to respond to a request for service from the other party when the services of the party to whom the request is being made are already needed or are in use at the time the request is made, nor shall any such request compel or require the party to whom the request was made to continue to provide service to the other party when its resources are needed to meet its own responsibilities.
3. The parties recognize that they are both fully capable of providing the services which are the subject of this Agreement within their respective boundaries, under normal circumstances, and that this Agreement is for use only in limited circumstances involving extraordinary demands on resources of either party.

4. Neither party shall be liable to the other for any loss, damage, personal injury, or death, including claims of contribution or indemnity, resulting from the performance of this Agreement including but not limited to acts or omissions which occur (1) during joint emergency response activities or (2) while in transit to or from an emergency response scene.
5. Each party shall be responsible for its own personnel, including expenses related to salary, benefits and workers' compensation and other claims. When a party responds to a request for assistance pursuant to this Agreement, its personnel shall not become employees of the party making such request for purposes of the Workers' Compensation Act, or for any other purpose.
6. Neither party shall be obligated to reimburse the other for costs incurred pursuant to this Agreement.
7. Either party requiring assistance pursuant to this Agreement shall make a request to the dispatch center of the other party.
8. Notwithstanding anything to the contrary contained in this Agreement, nothing in this Agreement is intended or shall be construed to require either party to indemnify or save or hold harmless the other party, including its officers, agents, and employees, from any liability for any act or omission occurring during or in connection with the performance of this Agreement.
9. Nothing contained in this Agreement shall confer any right upon any person other than the parties to this Agreement. This Agreement is entered into solely for the benefit of the parties named in this Agreement.
10. This Agreement supersedes any previous mutual aid agreements between the parties.
11. This Agreement shall be in effect until terminated. The Agreement may be amended in writing, signed by an authorized representative of each party, and may be terminated at any time by either party giving thirty (30) days written notice to the other party.
12. This Agreement is for use by the parties to address the occasional need for additional resources, including personnel and equipment. In the event of a local or other emergency declared pursuant to applicable laws, including Title 44 of the

Virginia Code, procedures shall be used which conform to requirements of those laws and related regulations and funding requirements.

13. Any notice required by this Agreement shall be deemed effective if given by receipted mail or delivery service, to the names and at the addresses given below; provided that change of address shall be effective if given in accordance with this paragraph.

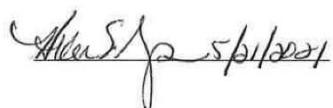
County of Louisa: Chief Administrative Officer  
Louisa County  
P. O. Box 160  
Louisa, Virginia 23093  
(540) 967-3491 Fax (540) 967-3498

County of Albemarle: County Executive  
Albemarle County  
401 McIntire Road  
Charlottesville, Virginia 22902  
(434) 296-5841 Fax (434) 296-5800

The signatures of the authorized representatives of the parties are set out below in acknowledgement of this Agreement.

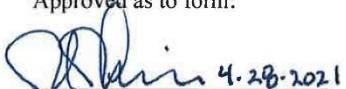
**COUNTY OF LOUISA**

Approved as to form:



By:  (SEAL)  
Name: Christopher R. Gammie  
Title: 5/21/21

Approved as to form:



**COUNTY OF ALBEMARLE**

By:  (SEAL)  
Name: Jeffrey B. Richardson  
Title: COUNTY EXECUTIVE

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Item No. 8.4 Berkmar to Lewis and Clark Connector Revenue-Sharing Project Agreement.

The Executive Summary as forwarded to the Board states that in October 2019, the County applied for Revenue Sharing funding for a new roadway connection of Berkmar Drive extending to Lewis and Clark Drive, which would include pedestrian facilities, bike lanes, and a roundabout at the Airport Road/Lewis and Clark Drive/Berkmar Drive intersection. The application was approved and recommended for funding in December 2020.

This project would be administered by VDOT, which requires project agreements for all projects that it administers. The project Agreement (Attachment A) outlines the County's commitment of the local share of the project and VDOT's administration of the project. If and when the Agreement were fully executed, VDOT would continue the preliminary engineering stage, which is at 30% design. The proposed Resolution (Attachment B) would provide the County Executive with signature authority.

In the Revenue Sharing application, the County already committed Transportation Leveraging funds totaling \$4,403,987 and TeleFee funds available through the Secondary Six Year Program. Because the State funded this project at a lesser amount than was requested, the County contribution has increased by \$888,728, for a total of \$5,292,715. The total amount would be due to the State over Fiscal Years 2023 to 2025 (FY 23 to FY 25). This amount also would require all future Telefee funding through FY 23 to make up the additional \$2,288,226 necessary to complete Preliminary Engineering and Right-of-Way phases.

The awarded Revenue Sharing funding is available in FY 25 for construction phase and completion of project.

Staff recommends that the Board of Supervisors adopt the attached Resolution (Attachment B) approving the attached Agreement (Attachment A).

**By the above-recorded vote, the Board adopted the Resolution (Attachment B) approving the agreement for the Berkmar to Lewis and Clark Connector Revenue-Sharing Project Agreement:**

**A RESOLUTION FOR THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA TO ENDORSE THE BERKMAR TO LEWIS AND CLARK CONNECTOR REVENUE SHARING PROJECT AND TO APPROVE A PROJECT ADMINISTRATION AGREEMENT**

WHEREAS, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project in the County of Albemarle, Virginia.

NOW, THEREFORE, BE IT RESOLVED, that the County of Albemarle, Virginia requests the Commonwealth Transportation Board to establish a revenue-sharing project for the construction of the Berkmar to Lewis and Clark Connector.

BE IT FURTHER RESOLVED THAT the County of Albemarle, Virginia hereby agrees to provide its share of the total cost for preliminary engineering, right-of-way and construction of this project in accordance with the project financial documents, subject to appropriation.

BE IT FURTHER RESOLVED THAT the County of Albemarle, Virginia hereby agrees to enter into a project administration agreement with VDOT and provide the necessary oversight to ensure the project is developed in accordance with all applicable federal, state and local requirements for design, right-of-way acquisition, and construction of the project.

BE IT FURTHER RESOLVED THAT, if the County of Albemarle, Virginia subsequently elects to cancel the project, the County of Albemarle, Virginia hereby agrees to reimburse VDOT for the total amount of costs expended by VDOT through the date VDOT is notified of such cancellation. The County of Albemarle, Virginia also agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration or VDOT.

BE IT FURTHER RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia hereby grants authority for the County Executive to execute the Project Administration Agreement, as well as other documents necessary for the approved project.

\* \* \* \* \*

**-VDOT ADMINISTERED – LOCALLY FUNDED-  
PROJECT ADMINISTRATION AGREEMENT**

Project Number	UPC	Local Government
9999-002-R98	116905	Albemarle County

THIS AGREEMENT, is hereby made and executed the date of the last signature set forth below, by and between the COUNTY OF ALBEMARLE, VIRGINIA, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT. The DEPARTMENT and the LOCALITY are collectively referred to as the "Parties".

**WITNESSETH**

WHEREAS, the LOCALITY has expressed its desire to have the DEPARTMENT administer the work as described in Appendix B, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds as shown in Appendix A have all been allocated by the LOCALITY to finance the Project; and

WHEREAS, the LOCALITY has requested that the DEPARTMENT design and construct this project in accordance with the scope of work described in Appendix B, and the DEPARTMENT has agreed to perform such work; and

WHEREAS, both parties have concurred in the DEPARTMENT's administration of the project identified in this Agreement and its associated Appendices A and B in accordance with applicable federal, state, and local law and regulations; and

WHEREAS, the LOCALITY's governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 33.2-338 of the Code of Virginia authorizes both the DEPARTMENT and the LOCALITY to enter into this Agreement;

NOW THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

A. The DEPARTMENT shall:

1. Complete said work as identified in Appendix B, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties.
2. Perform or have performed, and remit all payments for, all preliminary engineering, right-of-way acquisition, construction, contract administration, and inspection services activities for the project(s) as required.

3. Provide a summary of project expenditures to the LOCALITY for charges of actual DEPARTMENT cost.
4. Notify the LOCALITY of additional project expenses resulting from unanticipated circumstances and provide detailed estimates of additional costs associated with those circumstances. The DEPARTMENT will make all efforts to contact the LOCALITY prior to performing those activities.
5. Return any unexpended funds to the LOCALITY no later than 90 days after the project(s) have been completed and final expenses have been paid in full.

B. The LOCALITY shall:

1. Provide funds to the DEPARTMENT for Right-of-Way (ROW) no less than 90 days prior to the start of ROW and for Construction (CN) no less than 90 days prior to advertisement as shown in the Appendix A.
2. Accept responsibility for any additional project costs resulting from unforeseeable circumstances, but only after concurrence of the LOCALITY and modification of this Agreement.

C. Funding by the LOCALITY shall be subject to annual appropriation or other lawful appropriation by the Board of Supervisors.

D. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.

E. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, received a true copy of such

agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

- F. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
- G. Should funding be insufficient and LOCALITY funds be unavailable, both parties will review all available options for moving the project forward, including but not limited to, halting work until additional funds are allocated, revising the project scope to conform to available funds, or cancelling the project.
- H. Should the project be cancelled as a result of the lack of funding by the LOCALITY, the LOCALITY shall be responsible for any costs, claims and liabilities associated with the early termination of any construction contract(s) issued pursuant to this agreement.
- I. This Agreement may be terminated by either party upon 60 days advance written notice. Eligible expenses incurred through the date of termination shall be reimbursed to the DEPARTMENT subject to the limitations established in this Agreement.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors and assigns.

THIS AGREEMENT may be modified in writing upon mutual agreement of both parties.

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VDOT ADMINISTERED – LOCALLY FUNDED Project Administration Agreement  
Locality: Albemarle County  
Project Number: 9999-002-R98, UPC 116905

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by their duly authorized signatures below, acknowledging and agreeing that any digital signature affixed hereto shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

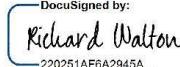
**COUNTY OF ALBEMARLE, VIRGINIA:**

**Jeffrey B. Richardson**  Digitally signed by Jeffrey B. Richardson

Date: 2021.05.04 15:50:15 -04'00'  
Digital Signature

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this Agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:**

DocuSigned by:  
 Richard Walton  
220251AF6A2945A...

6/14/2021 | 10:15 AM EDT

Chief of Policy  
Commonwealth of Virginia  
Department of Transportation

Digital Signature

**Attachments**

Appendix A - UPC 116905  
Appendix B - UPC 116905

## Appendix B

**Project Number: 9999-002-R98 (UPC 116905 ) Locality: Albemarle County**

<b>Project Scope</b>	
<b>Work Description:</b>	<b>Design and construct connector road from Berkmar Road Extended to Airport Road.</b>
<b>From:</b>	<b>Rte. 1721 – Timberwood Blvd</b>
<b>To:</b>	<b>Rte. 649 – Airport Road</b>

Locality Project Manager Contact Info: Kevin McDermott [kmcdermott@albemarle.org](mailto:kmcdermott@albemarle.org) 434-296-5841  
Department Project Coordinator Contact Info: Michael Jacobs [mike.jacobs@vdot.virginia.gov](mailto:mike.jacobs@vdot.virginia.gov) 540-829-7502

<b>Detailed Scope of Services</b>
Design and construct 0.41 miles of new roadway from intersection Rte. 1721 (Timberwood Blvd.) and Berkmar Road Extended to intersection of Innovation Drive and Rte. 649 (Airport Road). The proposed project will consist of 2 travel lanes (and turn lanes) with sidewalk and bicycle facilities. Typical section will include curb and gutter with drainage system and will address stormwater management. Acquisition of right way will be required and utilities relocated to accommodate the proposed construction.

This attachment is certified and made an official attachment to this document by the parties of this agreement

 Digitally signed by Jeffrey B.  
Richardson  
Date: 2021.05.04 15:50:42 -04'00'  
LPA Digital Signature - Authorized Locality Official

 Digitally signed by Cooley Gregory b8b4758  
DN: CN=Cooley Gregory,b8b4758, OU=VDOT,  
OU=Eng-Users, OU=COV-Users, DC=coy,  
DC=virginia, DC=gov  
Date: 2021.05.04 15:50:42 -04'00'  
VDOT District - A Digital Signature

April 21, 2021 (Regular Meeting)  
(Page 19)

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VDOT Administered, Locally Funded Appendix A					Date: 3/18/2021
Project Number: 9999-002-R98	UPC: 116905	CFDA# N/A	Locality: Albemarle County		
Project Location ZIP+4: 22911-5616		Locality DUNS #066022047		Locality Address (incl ZIP+4): 401 McIntire Road Charlottesville, VA 22902-4501	
<b>Project Narrative</b>					
Work Description	New Roadway with bicycle and pedestrian accommodations to continue Berkmar Dr to Airport Rd where a roundabout will be constructed to connect to Innovation Dr/Lewis and Clark Drive.				
From: Rte. 1721 (Timberwood Blvd)					
To: Rte. 649 (Airport Road)					
Locality Project Manager Contact info:	Kevin McDermott	kmcdermott@albemarle.org	434-296-5841		
Department Project Manager Contact Info:	Michael Jacobs	mike.jacobs@vdot.virginia.gov	540-829-7502		
<b>Project Estimates</b>					
Phase	Estimated Project Costs	Estimated Start Date (month/day/year)	Estimated End Date (month/day/year)	Total Number of Months per Phase	
Preliminary Engineering	\$946,120				
Right of Way & Utilities	\$1,811,580				
Construction	\$8,338,500				
Total Estimated Cost	\$11,096,200				
<b>Project Cost</b>					
Phase	Project Allocations	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	
Preliminary Engineering	\$946,120	State Funds	0%	\$0	
				\$0	
Total PE	\$946,120			\$0	
Right of Way & Utilities	\$1,342,106	State Funds	0%	\$0	
	\$469,474	Revenue Sharing	50%	\$234,737	
				\$0	
Total RW	\$1,811,580			\$234,737	
Construction	\$6,898,690	Revenue Sharing	50%	\$3,449,345	
	\$1,439,810	Local Funds	100%	\$1,439,810	
				\$0	
Total CN	\$8,338,500			\$4,889,155	
Total Estimated Cost	\$11,096,200			\$5,123,892	
<b>Total Maximum Reimbursement / Payment by Locality to VDOT</b>					\$5,123,892
<b>Project Financing</b>					
Revenue Sharing State Match	Revenue Sharing Local Match	State Funds	Local Funds		Aggregate Allocations
\$3,684,082	\$3,684,082	\$2,288,226	\$1,439,810		\$11,096,200
<b>Payment Schedule</b>					
FY 2024	FY 2025				
\$234,737	\$4,889,155				
<b>Program and Project Specific Funding Requirements</b>					
<ul style="list-style-type: none"> <li>This is a limited funds project. The locality shall be responsible for any additional funding in excess of \$5,972,308.</li> <li>All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.</li> <li>VDOT has billed the LOCALITY \$0 for this project as of March 10, 2021.</li> <li>VDOT has received \$0 from the LOCALITY for this project as of March 10, 2021.</li> <li>The locality will be billed their estimated locality RW phase share cost of \$234,737 after the project scoping phase is complete for the estimated RW costs.</li> <li>The locality will be billed their estimated locality CN phase share cost of \$4,889,155 (RS Local \$3,449,345 + \$1,439,810 Local Funds) prior to advertisement for the estimated CN costs.</li> </ul>					

This attachment is certified and made an official attachment to this document by the parties to this agreement

Jeffrey B.  
Richardson

Digitally signed by Jeffrey B. Richardson  
Date: 2021.05.04 15:51:18 -04'00'

Authorized Locality Official and Date

Banks Gregory  
uos15545

Digitally signed by Banks  
Gregory uos15545  
Date: 2021.05.26 15:01:02 -04'00'

Authorized VDOT Official and Date

\_\_\_\_\_  
Typed or printed name of person signing

\_\_\_\_\_  
Typed or printed name of person signing

Revised: February 1, 2019

Item No. 8.5 Resolution to accept road(s) in the Sparrow Hill Subdivision into the State Secondary System of Highways.

**By the above-recorded vote, the Board adopted the resolution to accept road(s) in the Sparrow Hill Subdivision into the State Secondary System of Highways:**

**R E S O L U T I O N**

WHEREAS, the street(s) in **Sparrow Hill Subdivision**, as described on the attached Additions Form AM-4.3 dated **April 21, 2021**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Sparrow Hill Subdivision**, as described on the attached Additions Form AM-4.3 dated **April 21, 2021**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

\* \* \* \* \*

### Report of Changes in the Secondary System of State Highways

Project/Subdivision: Sparrow Hill Subdivision

Addition - New subdivision street §33.2-705

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width
1878	Sparrow Hill Lane	Rt 1879, McKinley Lane	0.02 Miles East to CDS	0.02	2	DB 5087: PG 716-720	36
1878	Sparrow Hill Lane	Rt 250, Rockfish Gap Turnpike	0.19 Miles North to Rt 1879, McKinley Lane	0.19	2	DB 5087: PG 716-720	36
1879	McKinley Lane	Rt 1878, Sparrow Hill Lane	0.14 Miles South to CDS	0.14	2	DB 5087: PG 716-720	36

Item No. 8.6. SE202000027 Special Exception for Proposed Antenna Array at an Existing Wireless Facility (1066 Goodwin Farm Lane).

The Executive Summary as forwarded to the Board states that a special exception has been submitted by Crown Castle on behalf of AT&T, along with an associated building permit application, to replace an existing array of three antennae with an array of six antennae.

County Code § 18-5.1.40(a)(12) allows special exceptions to waive or modify the requirements of County Code § 18-5.1.40 for personal wireless service facilities. This request is to modify County Code § 18-5.1.40(b)(2)(c), which requires that antennas be mounted so that the closest point of the back of the antenna be no more than 12 inches from the facility and that the farthest point of the back of the antenna be no more than 18 inches from the facility.

Staff analysis of the requests is provided in Attachment A.

Staff recommends that the Board adopt the attached Resolution (Attachment E) approving the special exception with the following condition:

1. No antenna authorized by this special exception may project more than four (4) feet from the face of the monopole to the farthest point of the back of the antenna.

**By the above-recorded vote, the Board adopted the Resolution (Attachment E) to approve SE202000027 Special Exception for Proposed Antenna Array at an Existing Wireless Facility (1066 Goodwin Farm Lane):**

### RESOLUTION TO APPROVE SE202000027 FOR PROPOSED ANTENNA ARRAY AT AN EXISTING WIRELESS FACILITY (1066 GOODWIN FARM LANE)

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 §§ 18-5.1.40 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the requirements of County Code § 18-5.1.40(b)(2)(c) for SE2020-00027, subject to the condition attached hereto.

**received for information.**

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**Agenda Item No. 9. Action Item: Update on Completion of Courts Project Programming Phase.**

The Executive Summary forwarded to the Board states that on December 17, 2018, Albemarle County and the City of Charlottesville executed an intergovernmental agreement to redevelop the Levy Opera House and site located at 350 Park Street to serve as a co-located General District Court (GDC) and to house the Albemarle Commonwealth's Attorney (ACA) offices.

This project includes the design, demolition, renovations and new construction associated with the joint City-County General District Court operations. The project also includes renovation of the historical Albemarle County Courts Complex to serve the Albemarle County Circuit Court.

On July 2, 2020, the design services contract with Fentress Architects was fully executed. The Programming Phase of design began with review and confirmation of three programming studies from 2012, 2015, and 2017. This work also included multiple stakeholder meetings, review of population and courts caseload data, and consultations with the Virginia Judicial System and Thomas Jefferson Area Community Criminal Justice Board.

The focus of the presentation will be on the Programming Phase of design. Programming requirements are the biggest factor in determining the size and layout of the facilities for this construction project. The programming is paired with adjacency blocking and stacking diagrams, which allow the project team to create the best "fit" of use, space, personnel, furnishings, and equipment.

During the presentation to the Board, staff will provide an introduction to the architectural firm, Fentress Architects, and programming consultant, Fentress Inc. The project team will share details pertaining to how the programming was conducted, the results, the impact those results have on anticipated schematic design of the General District and Circuit Courts, and a milestone schedule and budget update.

There is no budgetary impact beyond the funds currently appropriated to this project

Staff recommends that the Board receive this update and approve moving into the Schematic Design phase of this project.

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Mr. Trevor Henry, Assistant County Executive, said it was his honor to tee up the conversation on Courts. He said that Mr. Lance Stewart was controlling the PowerPoint and asked him to go to the next slide. Mr. Henry said he did not believe they had formally been in front of the Board or the public on Courts Project since the Board had taken action back in December of 2018 and signed the Memorandum of Agreement with the City of Charlottesville and gave staff direction to initiate this phase of work. He said there had been a great deal of work done to move this project forward, and he was excited to be part of a fantastic team that would be presenting to the Board with a blend of staff and consultants that would be speaking through this agenda item.

Mr. Henry said that as Mr. Gallaway had noted, this meeting was an action item. He said project staff would present the methodology and results of the programming and planning analysis phase, which includes an overall evaluation of court caseloads, both actual and projection; interviews and feedback and input from all users and stakeholders of the courts; and a thorough review of previous studies and updates to those studies. He said all this work culminates in developing what the architects call a blocking and stacking analysis, which really is what then sets up the design process and creates the building footprint (the number of floors, the configuration, the adjacencies, and the form and flavor of the different types of rooms, etc.) that would be in the building.

Mr. Henry said this work takes into account the best practices for courts, it reflects the impacts of operational changes that have been observed through the pandemic that will likely continue into the future, and it is grounded in the guidelines from the Virginia courthouse facility guidelines.

Mr. Henry said the next step of the design process would broaden out to include work and planning for the site, a master plan of the site and the court's campus, and then moving into the actual detailed drawings of the architectural site design that ultimately leads to what would be the constructed project. He said that at the end of the work session after answering the Board members' questions, staff would ask the Board to consider the following action, which is to accept the staff recommendation to approve the program as basis of design and then to authorize staff to proceed to the schematic design phase.

Mr. Henry provided some background and context to the project since this had not been formally in front of the Board for a couple of years. He said they have provided updates of this project via their FES (Facilities and Environmental Services) Quarterly Report but had not been in more of a public setting on this. He said this is a 44 million dollar plus investment by the County and they believe the largest capital investment the County has made in decades. He said the future of the courts has been in discussion in this arena for over 20 years with a great deal of study, analysis, options, many of which members of this Board participated in since 2010.

Mr. Henry presented a slide representing a summary of what is driving this need, why now and

why it is important to have updated, modernized, and expanded courts. He said the courts have maintenance needs as well, and this project will address all of those. He said County staff, the Board, and the stakeholders have spent countless hours working through options and scenarios that ultimately led to the direction by the Board several years ago to create the Memorandum of Agreement (MOA).

Mr. Henry noted that the project that they are developing will not only address the current-day issues that are laid out in the summary but will be a long-term solution for the decades to come for the community.

Mr. Henry presented an eye chart for of what he had mentioned about the significant due diligence the Board of Supervisors has done over the past couple of decades related to the work of the court system and which also highlights the investments that have been made by the County in courts since 2000. Mr. Henry noted the partnership that has been developed with the City of Charlottesville, and they will be co-locating their clerk's office and general district court to this new co-located site. He said this partnership helps not just in reducing some of the overall costs but also would allow the improvement of the general district court operations, how the judges currently work together and manage their dockets to be as efficient and as effective as possible because of that co-location. He said this would definitely improve the experience by both Albemarle County and City community members.

Mr. Henry presented his last slide to remind the Board and the public of the magnitude of this project. He said at 44 million dollars, it is a significant part of the CIP over the next five years. He said this project has committed funding currently that has been the source of the funding for studies and this initial part of the design phase with a large funding augment planned in FY 22, and the current recommended 2022 budget of the Board, if approved, will fund primarily the general district court construction and allow that to move forward and would also allow the completion of the circuit court design. He said the circuit court construction funding is scheduled for a couple of years out based on the timeline and the sequence of the project.

Mr. Henry said this is an important project for the community that does involve some programmatic changes based on the analysis that the team has done, and that is primarily in the general district court, but the overall footprint and the cost are still tracking to the original or baseline budget for size and for cost. He said as they proceed through this design process, they will continue to update budget, schedule, etc., in their quarterly report to the Board, and then there will be future scheduled Board check-in updates as future milestones are reached.

Mr. Henry thanked the Supervisors for their time and interest today and said this was a big project, and he was excited they were there and ready to move into the next phase. He said he would turn it over to their Chief of Facilities Planning and Construction, Mr. Blake Abplanalp. He said that Mr. Abplanalp has been with the County for nine years and has served admirably in the role of chief of the project management team for the past five. Mr. Henry said that Mr. Abplanalp would introduce the architectural team in total and then introduce those who would be speaking and would help move into what really is the key and most important part of today's agenda.

Mr. Henry said it has been a while since Mr. Abplanalp had been in front of the Board, and he wanted to acknowledge the work that Mr. Abplanalp has done personally for his involvement in getting this project launched and getting it off the ground to where things are today. He said that Mr. Abplanalp had done fantastic work for the community and told the Board he looked forward to their questions, concerns, and hopefully an endorsement to move on into design at the end of this action item.

Mr. Abplanalp introduced himself as chief of FES Facilities Planning & Construction. He said he was excited about the opportunity to share information on the great work the team has been doing on the court's complex project. He said the planning work that the team is doing now will be the key to success on this project. He said dozens of design team members, stakeholders, and project team members have been working diligently to establish a solid foundation for the project. He said that he recently looked at his outlook calendar and found that since January 1, 2020, he has personally been involved in 176 courts-related meetings.

Mr. Abplanalp said before turning things over to the project design and programming team, he thought that a quick refresher about Fentress Architects and their team would be beneficial. He said the Fentress team was selected from a group of 10 outstanding design firms by a committee that included County and City facilities personnel, Board's clerks, sheriff's department representative, and even included a judge on a nonvoting advisory basis. He said the decision to select Fentress Architects was primarily based on their extensive courts and historical renovation experience and the experience and expertise of their programming consultant, Fentress Inc. He pointed out it was strictly a coincidence that these two firms have the same name, and there is no connection there.

Mr. Abplanalp said that Fentress Architects has done 14 courthouses with over 355 courtrooms, and they also specialize in historic renovations. He said Fentress Inc. has done over 1,000 courthouses, and thousands of court projections are done by their firm each year, and they are a specialist in that area of planning.

Mr. Abplanalp said that Fentress also has a local partner, Dalgliesh Gilpin Paxton Architects (DGP), and they specialize in historic renovations and have performed over 70 historical renovation projects. He said their office is literally half a block from the court square jobsite, so when problems arise, which cannot be avoided particularly with work on older buildings, they would be able to respond in a timely manner. He said it was a real asset to have that in place.

Mr. Abplanalp said they had two gentlemen for the presentation today, the principal and studio director of Fentress Architects, Washington DC office, Mr. Steve White, and Mr. Kurt Schlauch, who is a senior consultant for Fentress Inc. programming firm.

Mr. Abplanalp presented a slide that included some examples of some of the outstanding courts design work that Fentress has done in the past. He pointed out the relatively new Norfolk court building that has 24 courtrooms in it and is particularly relevant to this project because it is similar to the general district court portion of the project in that it is a multiphase constrained urban environment with limitations on space and doing the programming fit. Mr. Abplanalp said that one would see one of Fentress Architects' most iconic designs, which is the Marine Corps Museum at Quantico, while driving north on I-95 to Washington DC. He said that is one of the very impressive buildings that they have designed in that particular branch.

Mr. Abplanalp showed a slide with the overhead of the site. He said the Board would hear reference during the rest of the presentation to west site/east site. He said the west site on the left-hand side of the screen is the historic court square which currently houses the County circuit and general district court operations as well as the Albemarle County Commonwealth Attorney's offices. He said renovating the building to serve the circuit court would be the second major phase of construction. He said this work will take place after the new general district courthouse has been completed and the circuit court operations are temporarily relocated to the east site, or the Levy site. He said the east site is where construction will begin. He said behind the Levy building renovation tag, there is a connector corridor and then also an annex behind that, and those two pieces will be demolished. He said that would be the first thing done, creating room for the new general district court building, and the Levy building would be renovated to house the County's Commonwealth Attorney's Office.

Mr. Schlauch with Fentress Incorporated thanked the Board for the opportunity to share their information with them and thanked Mr. Abplanalp and said it had been a pleasure to work with this team thus far. Mr. Schlauch said Fentress Inc. is the court planner on this project.

Mr. Schlauch provided background on space programming. He said space programming forms the design; it provides somewhat of a foundation or road map. He said he hoped to illustrate the interplay between the analytical and some of the qualitative information that is collected in the space programming phase and how that translates ultimately into what the design team is seeing as they begin to think from a spatial perspective. He said two related areas of focus in space programming are caseload and personnel and then space itself. He said they look at how much business each court handles on an annual basis and look at the trends, then the number of judgeships and staff that are required to manage that caseload and handle and process that caseload and interface with the public and efficiencies that are entailed in that public service, so caseload and personnel, and then they look at the space.

Mr. Schlauch said once they have identified the quantity of judgeships and staff that maps to that magnitude of caseload, then they look at the spatial needs to house those individuals and also operations. He said there is a lot more than just the offices or even the chambers that goes into a well-functioning and properly designed courthouse. He said there are design guidelines that they looked at as part of that process and industry best practices from having a decent knowledge base from the extent of their company's work on courthouses nationwide. He said a very important point as far as their role and entry point into the timeline was that they were asked to come in and validate and really pick up where prior planning studies had left off. He said a lot of good work had already been done when their team entered the picture, and so their directive was to really take a close look at the projections that were done, in some cases several years ago, approaching a decade, to collect recent data, new data, updated data, but the request was to please not start from square one.

Mr. Schlauch said when they look at a space program, not only are they quantifying needs, they are looking at individual office spaces, individual chambers, and counting those up, looking at the necessary size but also looking at functional needs, and that comes from discussions with stakeholders to correct the existing deficiencies.

Mr. Schlauch said it was interesting timing for them to come onto this project because it was the middle of the pandemic, so the idea of how space planning might change and what technologies might be involved in the future that maybe have not been involved in the past were items that were front and center.

Mr. Schlauch spoke about their process and said they first look at numbers. He said they collected updated population figures from UVA and collected updated caseload figures from the courts and matched those up against trends that were already prepared in association with this project. He said they married up that quantitative information with qualitative information gathered from the stakeholders, which would have been the judges of all the courts involved, the clerks, other court managers, the sheriff's office representatives, the Commonwealth Attorney's Office, and also outside the immediate administrative housing of the court but whose feedback was instrumental, a gentleman named Neal Goodloe with the local criminal justice planning board.

Mr. Schlauch said they had some important conversations with Mr. Goodloe about recent trends in law enforcement and prosecution locally and what some of the numbers they were seeing meant and which they wanted to confirm, and Mr. Goodloe did confirm that he was seeing the same thing in their numbers. Mr. Schlauch said as they went through that part of the process, they were integrating both quantitative data from the numeric information they collected and feedback from this stakeholder group

though two rounds, once in about July done virtually and then once in the October timeframe in person. He said they would be sharing the results of that process with the Board. He said they had some iterative review both with the design team and the ownership group, and once concurrence was achieved, that got them to where they are today.

Mr. Schlauch said there are two distinct portions to this project. He said the first is the west site, or the historic circuit court. He said the circuit court here is part of the 16th judicial circuit statewide. He said there are currently six judgeships, and of particular importance is Judge Higgins, who is a full-time judge focused exclusively in Albemarle County case draw, and Judge Worrell, whose time is split (40% in Albemarle, 40% in Greene, and 20% of his case draws from Charlottesville). Mr. Schlauch said there was a statewide comprehensive workload assessment conducted in 2017, and in addition to the prior planning studies, that report really helped to inform some of the analysis. Mr. Schlauch said from the perspective of the circuit court, sharing a few metrics here, the compilers of that report identified just short of six judgeship or judicial FTEs at the time for the 16th circuit, and it even specified that they would consider that as an authorization for six judgeships; at that time, there were only five funded. Mr. Schlauch said the last bullet point on the slide was just an anecdotal benchmark and not policy nor derived from the 2017 report, but a reasonable planning benchmark based on statewide averages from the Albemarle Circuit Court planning study from 2012 that roughly 1,825 case filings translates into an additional judgeship.

Mr. Schlauch summarized what they found when they put all the numbers together for the circuit court. He said unfortunately between 2012 and 2013, there was a change in the way cases were classified, and additional data going back before 2010 would not be apples to apples. He said the caseload projection from the 2012 report versus the revised projection done with the new data had some separation but really not a lot considering that the prior projection was almost a decade old. He said that seemed to show that not a whole lot had changed with regard to the magnitude of the circuit court's caseload. He noted that interestingly, the 16th judicial circuit was right on the cusp of picking up that sixth judgeship, and that ended up being Judge Worrell in 2019. He said the clerk of the circuit court, John Zug, made the point in the stakeholders' sessions that that really culminated a decade of need where one full-time judgeship just was not enough to manage the caseload here. Mr. Schlauch said that assertion was supported as right at the end of the decade hitting 2018 and 2019, they had gone above a threshold that the 2012 report outlined as about when one would expect to see another judgeship come on board. He said from their perspective and again looking through that validation lens, the circuit court figures are tracking almost exactly the way that the prior research from 2012 indicated they would, and where that left them was at 1.4 judgeships currently and potentially seeing that second judgeship go full time over the long term, though not there yet, but from a spatial perspective, 1.4 is what they started working with. He said Mr. White would share some of the spatial manifestations of this research and some of the other information gathered from the stakeholders.

Mr. Steve White with Fentress Architects said it was a pleasure to be with this esteemed group today and an honor to be of service to the Board through this court project. He said that Mr. Schlauch had laid out the projections for the west site for the circuit court and that he would walk the Board through what happens with that data with regard to the program and the blocking and stacking of that program.

Mr. White discussed particular key space programming considerations taken into account as they start to lay out these spaces; he likened these to sort of an umbrella that is reaching out over top of everything. He said the first is that the operation of the courthouse really drives the design, so when they organize the pieces, it is important for the public to be in a building that they feel comfortable in, where they know where they are going, for the judges and staff to feel safe going from their chambers and offices to the courtrooms, and for the detainees and sheriffs to feel safe in transporting from holding cells to the actual courtroom.

Mr. White said the second component is separate, safe, and secure, which are absolutely paramount for a well-designed courthouse and what they would be providing for both the west and east site.

Mr. White said the third element is technology and really just creating a backbone of technology that would change, but they would harness what they could and create as much flexibility as possible. He said there are a lot of things that actually COVID has accelerated, for instance, video arraignments that are now very common as a result and actually safer environments; then, of course, in the jury boxes and witness stands, they have videos for evidence as well as the docket schedule monitors and things of that nature, all of which enhance the security and the operation of the facility.

Mr. White said they had taken the projections from Fentress Inc. and that manifestation or these numbers for the west site, and they essentially are broken into seven elements. He said there are two courtrooms, one for Judge Higgins, the other for Judge Worrell's position. He said they have their associated chambers, space for the public, space for the clerks, space for detainees and sheriffs, and then all the other support spaces that go with the building.

Mr. White said the next slide would show the manifestation of that to scale color coded for simplicity. He demonstrated the public zones in blue that include the courtrooms, public areas, jury assembly, and things of that nature; the restricted that include the clerk's office and judges' chambers and related staff spaces; the secure zone, which is where the detainee cells are in their transport; and the fourth is just the building maintenance and operation in gray.

Mr. White presented another slide with further detail to demonstrate the small spaces that fit

within that larger space. He noted that the big ones pop out such as the new courtrooms, the vehicle sallyport, the record storage, but the slide gives a sense of all the different moving pieces and the relationship of those pieces.

Mr. White presented the next slide and pointed out the west site, describing north to the right, where at the bottom of the page is the original 1803 structure that is such a cherished historic resource for the County. He said when he learned of this project, he thought it phenomenal that they had made the decision to stay in the court square and not move out. He praised the decision and said he thought for generations to come, they would appreciate having made that decision.

Mr. White pointed out the 1935 administrative building at the top of the page, the blue public zones, and the larger spaces that are the courtrooms. He said they had nested Judge Worrell's courtroom in the top right, which requires some structural gymnastics but is nevertheless possible to do. He pointed out the elevators and red and manila squiggly lines to reflect transport of judges on the right and detainees in the red and then to their elevators to get either down to the basement for the detention or up to the chambers and also down. He said the judges will come in through the back door in the mornings. He said these pictures were to give an understanding of the layout of the court building at least as it relates to the first floor.

Mr. White said the next slide was a diagrammatic stacking diagram which is a section through the courthouse. He said on the left is the 1935 administrative and on the right is the original courthouse. He said the bottom is the basement, where there is a lot of maintenance stuff down there. He said moving up to the first floor are the two courtrooms and jury rooms and pointed out the connector between the two buildings, and then moving up further is where clerks and chambers are with the remainder of clerks up in that third half-story attic with dormers that is there currently.

Mr. White said that brought them to where they are currently with the west site. He said the Board had been given a lot of information to digest, but he would defer to Mr. Henry to lead through questions.

Ms. Palmer said she was happy to hear that arraignments over video have become commonplace. She said she was on the Board along with some other current Board members in 2014 when she first heard of this court project. She said she knew it was going on long before that, but that is when she first got involved. She said one of the conversations at that time was how as a whole the court system in Virginia was behind in embracing technology and had a lot of work to do on that. She asked if they could speak to whether it was the case that Virginia is behind many other states in using video conferencing and technology generally speaking.

Mr. White said his personal experience had not been that Virginia is behind. He said their experience with Virginia has been limited to Norfolk and Charlottesville, but in their experience with Norfolk, they were harnessing technology just as much then as now. He said that it was about 8 years ago, so obviously things have changed even in that short period of time, but he did not have the perception that Virginia was behind.

Ms. Palmer said that was good to know.

Mr. White said they are doing courts across the country currently, Kansas and Tennessee and California and Maryland, and are not finding that Virginia is behind, and if it were, they would let the Board know.

Ms. Palmer asked about the old courtroom upstairs in the front of the building as you enter. She asked if that tiny courtroom would still be there or if it would be going away with this plan.

Mr. White said that it was a tough spot and that they have been looking at various options. He said he believed the option that seemed to be getting the most traction would require that they do a small service elevator to get up there; right now, it is an inaccessible space, which makes it challenging to do any kind of modernization, and it has to be accessible according to the Americans with Disabilities Act. He said right now, they have considered that space for jury assembly and have also considered it for ancillary space for the clerks, but right now, it is not very well suited for the services and needs of the court with regard to particularly its narrow width where it would be difficult to get any detainees in that space.

Ms. Price thanked them all for the presentations. She noted that they had been talking about courthouse square but asked Mr. Henry if the City of Charlottesville still has general district court spaces on Market Street.

Mr. Henry said they do currently.

Ms. Price asked if they will still maintain those spaces.

Mr. Henry said it was his understanding that they would not. He said once the new east site is built, the City will relocate their Clerk and their Court to that new location. He said he is not fully aware of what they plan to do with that vacated space, so there still may be functions that remain there, but he is just not versed on that and could look it up and get back to her.

Ms. Price said she was trying to determine if these two buildings, the east and west site, would be

the totality of the court spaces for both the City of Charlottesville and Albemarle County or whether the City of Charlottesville would still have some court spaces outside of these two facilities.

Mr. Henry said it was the latter; the City will maintain its own Circuit Court and, in fact, has just recently done a significant renovation project on that. He said that currently, those that are co-funded and co-located are the Juvenile and Domestic Relations Courts (J&DR) that will continue to serve in that function. Mr. Henry said it really will be kind of a congregate of all the courts, but the two that will be really colocation are the existing J&DR and then the future general district court. He said that Mr. Lance Stewart may know the answer to the plan for the City once they relocate out of the current site.

Ms. Price said she appreciated that because when looking at the cost differential with a total of 44.5 million approximately and Charlottesville paying 6.8 million and Albemarle County 37.7 million, Charlottesville is paying about 15% of the cost but has about 30% of the population, but since the City of Charlottesville will maintain other court facilities separate from this, that helps explain why the percentage of costs here is not closer aligned with the percentage of population.

Mr. Henry said that was a great observation and a great question that ties to MOA (Memorandum of Agreement), which really was around the square footage utilization of just the general district court component, not the total project at all.

Ms. Price said she appreciated that because she thinks it is important for community members to understand that there was a fair allocation of costs in relation to the fair allocation of spaces, but if you just look at those figures and look at the population, that would not be clear.

Ms. Price commented that she was very familiar with the Norfolk court system as she was an attorney in Norfolk for about 17 years, and the east site would be somewhat comparable to Norfolk in that it is a small space and new construction, but the west site would be very different from Norfolk in that it is an existing site that is being remodeled. She noted she was also very familiar with the Marine Corps Museum at Quantico as her youngest son is a second lieutenant in the Marine Corps there, and she had visited it several times and would say that both of those projects are absolutely beautiful.

Ms. Price referred to slide 14 and said she was very pleased to see the specific coverage of the separate, safe, and secure aspects with regard to the segregation and separation of the judiciary, confinees, jurors, and witnesses. She said the slide, though, was so small that even trying to use a magnifying glass, she was not able to fully see some of the features. She asked if there were juror deliberation rooms, witness sequestering rooms, separation for those sorts of things in the west site area in addition to the pathways which were shown for the judiciary versus the sheriff's department and the confinees as she could not make it out on the chart.

Mr. White thanked Ms. Price for her astute comments and asked Mr. Stewart to go back to the plan slide. He said with both courtrooms, they were working the best with what they have, but the general district court was a more ideal situation. He described Judge Higgins' location in the historic court at the bottom of the page and on the upper left of that portion of that building mass was the current jury deliberation room, so there would not be a separate segregated pathway for those jurors; they would have to be escorted in that public space. He said the complexity of this being a 200-year-old building that was really built as a single room courthouse certainly adds challenges. He said if they had their druthers, they would certainly look at some sort of addition that would be probably towards the back on the right-hand side, and that was a scenario that was studied years ago, but the historic nature of the structure just does not allow for that kind of addition.

Ms. Price said that it does look like it is the white square in the upper left corner of the lower part of the building.

Mr. White confirmed that was correct.

Ms. Price said it does appear that that corridor can be closed off and that the jurors can be escorted to and from the courtroom separated from any public.

Mr. White agreed that was true. He said it would require some operational sequencing in terms of most of the public entrance right now and security queuing is all on the upper portion of the building in the 1935 structure on the left, so all of that queuing and sequencing would take place in that upper left corner and then go down the page towards the old courtroom, so there would have to be a sequence of vestibule doors that sheriffs could utilize to keep that secure while they are in transit to their space.

Ms. Price stated that was for the jury deliberation room and asked in terms of any witness sequestration rooms if there was anything such as that in this design.

Mr. White replied that he did not recall having that in their program.

Mr. Schlauch said that he did not know if that had surfaced as a functional requirement either from the stakeholders or from the design guidelines. He said that is something they could look at, though there is not a lot of real estate in that area. He said he knew that they did go back and forth on grand jury, and the sequestration of witnesses is something that would go hand-in-hand with grand jury, and that is probably where that discussion either went or maybe where it had to end. He asked if Mr. White recalled where grand jury would be managed at this juncture.

Ms. Price said that she would appreciate their continuing to look at that. She said when she was a trial judge, one of the issues they had was where the jurors, witnesses, accused, and spectators were all crisscrossing paths with each other down the hallway during recesses or other breaks and going to the same restrooms, and it is not a good thing. She said she did appreciate that they were operating within a defined and confined space without the luxury or flexibility of some of those things, but these are situations that in particular trials become extremely important, though they may just have to be as flexible as they can, given this particular site. She said because this is operating under an existing building and the other one would be new and with their experience, she did not think they would run into a situation she had run into one time where the designer and the architect were on different pages and ended up having a courtroom column built almost square in the middle of the courtroom, which totally destroyed it.

Ms. Price said a couple of areas that have routinely been problematic are air-handling units that are too noisy, making it difficult for the different courtroom participants to be able to understand what is being said, which is important not only for what is happening during the trial but also for the record of the trial. She said she was pleased to see that they are building in technology upgrade potential, that lines of sight do not appear to be an issue here, lighting of course being another major issue, but from what she could see, she thinks they are doing a very good job in this very limited space.

Ms. McKeel said she was sure there were some safety parameters or safety considerations being built in at the entrance but was curious if they could describe those. She said she was not sure what the best practice is these days and noted that Ms. Price was more familiar with courtrooms probably than she, but she did have concerns about first keeping the courthouse grounds as neutral as possible, which was probably not within their purview, and the safety of people coming into the building. She noted also that she had been on several juries, and there was a lot of mixing as Ms. Price had described, just walking around currently, but she wondered how that might work when people are coming into the building.

Mr. White responded that the main entrance would have security screening that would be a dedicated space; it would have a lot more real estate than it currently does. He said they would be checking with a magnetometer and x-ray machine there, and then they would also have lockers for cellphones and things of that nature that are not allowed in the courtroom. He said one thing that will be significantly different is that whereas now you may see Judge Higgins walking through the space, that would not happen anymore, unless she wanted to, but that would no longer happen that you would see her or her staff, nor would you see a detainee with a sheriff, which you would see today. He said he had actually seen someone carted out the front door to a police car, and that would not happen under any circumstances in the new layout. He said in terms of mixing of the various folks that are in the gallery, that will inevitably happen, including folks that are serving on juries; if they are in grand jury, there are special requirements for those that would be sensitive, and they would be handled differently.

Ms. McKeel said she really liked the idea of lockers as one time at the federal courthouse, she had to walk all the way back to her car to leave her phone because they had no place for them to be left.

Mr. White said the Federal Government still does not allow for cellphone lockers.

Ms. McKeel said that she understood the limitations of being able to anticipate technology and video streaming in the future, and she understood they were attempting to build in as much flexibility as possible. She asked if they had reached out or were talking in any way to the regional jail, who has to provide that for video streaming and some of these other perhaps newer technologies down the road. She wondered if there was any communication at all or if it is just too soon and not necessary at this point.

Mr. White said the latter, that it was too soon, but it will be necessary and very important. He also said they have direct communications with the Supreme Court in Richmond, so there are several backbone discussions that they have had with Mr. Abplanalp over the last several months that will ramp up inevitably as they get into the weeds of the design.

Ms. McKeel said with Albemarle-Charlottesville Regional Jail, they are in the process of a facilities study and will be renovating the jail facility, and it would be nice when talking about technology and video streaming or whatever might be done in the future to look as best as possible at how they might be connecting and making sure all are on the same page as much as possible, though she recognized it is hard to predict.

Mr. Abplanalp told Ms. McKeel in reference to her previous question regarding the entrance and security, he should point out also that they have discussed as a potential design option in the future an entrance that would be between the two buildings and whether to put in kind of a centralized entrance there, and that was one of the concept options that was under discussion. He said it is early to get into those decisions, but they are looking at different ideas like that to try to provide the utmost security possible. He said the top security priority was circulation, and that was a big one because people need to be separated to make it more secure, and he thinks that has been achieved, but they are also looking hard at how else to improve the security.

Ms. McKeel thanked Mr. Abplanalp and said she appreciated the presentation, and it was nice to have an update today.

Ms. Mallek said if she was understanding and following the conversation correctly, most of these recent questions have been based upon the renovation for the future circuit court use. She said she was

going to jump back across to the new building behind the Levy site. She said she thought she heard them saying that they basically picked up where the previous concept design stopped, for which a lot of work, especially the new building, had gone on, to make sure they had smaller and more numerous rooms for mediators as opposed to a large meeting room where two or three people would use up a lot of real estate that was not then available for others. She said she hoped that was still in the front of their minds.

Ms. Mallek said she remembered from the previous iterations the large changes in caseloads when just one business, the Martha Jefferson Hospital, moved from the City to the County. She noted the County caseloads went up by monstrous numbers and therefore then changed the County's whole future need, and she asked if that was something that one just expects to happen and if it happens often enough that the designers are thinking about how this is going to go forward in 10 years. She noted that so much of this decision seems to be based upon the need for the three court sets eventually and the functioning of a certain level of numbers of cases, so she asked how one predicts when these big moves are going to happen and what other categories besides hospital collections would be big influencers on general district court.

Ms. Mallek said she appreciated the changes that are proposed for the access and separation for all the various participants and elements in there. She said she has had only one experience in 45 years of having to go to court as a victim, and they were using the small upstairs that was about the size of a one-car garage with a hundred people packed in there. She had thought that was not ideal, and it always comes to mind when she hears really good planning discussions about separating the various participants and categories in the court.

Mr. Henry replied to Ms. Mallek that they were great questions but asked to hold until after the next discussion on the east site around the general district court. He said the programming changes most apply to that site, and they were going to go into a little bit of depth on the court cases from what was predicted to what actually has played out and some of the whys behind that, and then what that has resulted in is actually a pretty big increase in some of the meeting rooms Ms. Mallek had just mentioned and not the bigger court set that had previously been conceived.

Mr. Henry said part of this presentation was really to help the Board understand the methodology. He said they would move more quickly now into the analysis, the results, and then some adjustments in the programming and then hopefully get it back to the Board for questions.

Mr. Schlauch said they would follow the same logic trail with a little introduction, a look at the caseload, a look at what that means spatially, and then hit questions at the end. He thanked Ms. Mallek and said she could not have set that up any more perfectly.

Mr. Schlauch provided background on the general district court for both the County and the City, saying both were part of the 16th Judicial District, four judgeships covering the nine jurisdictions, and the two with which they are concerned were Judge Quatrara and Judge Sneather, they occupy those positions currently. He said Judge Quatrara has a full case draw from the County and Judge Sneather draws 80% from Charlottesville and 20% from Greene County. He said in the 2017 judicial workload assessment, the district was seen as basically being right spot on at the four judgeships, so unlike the circuit, where they were on the cusp of picking up another judgeship, they are pretty much right where they need to be in terms of the metrics that the state uses, and again, not a policy, but the planning benchmark from the 2015 study and also the 2017 update is that give-or-take 25,000 case filings is where you might be considering an additional judgeship.

Mr. Schlauch referred to the next slide and said this is what they saw when they looked at the County cases. He said the blue bars are criminal; the orange bars are traffic; and the gray bars are civil. He pointed out the little red circled area and said among the contributing factors to that sort of prolonged area of escalation of the caseload perhaps was the UVA medical billing enforcement and payment pursuit cases. He said there was some traffic involved there as well, and the sense is that traffic does just kind of ebb and flow over time; there may be particular enforcement initiatives and a focus at various times, new academy classes will often result in at least temporary fluctuations in the traffic docket, but the long and the short of what they saw and can be seen visually is that the projections that were done in the 2012 and the 2015 studies were so similar to one another that they almost look like one forecast, but that is where the trend had been going and you can see where the trend now is going, considerably lower, 61% in the case of 2019, just to be very specific with what that percentage refers to, the total of those three dockets in 2019 compared to the 2019 projected value from the prior studies.

Mr. Schlauch said that looking through their validation lens, they put the brakes on when they saw this. He said it was a significant departure; it was a sustained trend, and it really caused them to go back and collaborate with each other and eventually the stakeholders to ask "what does this mean?" The last point here on this slide is that for the County, what it really does mean is that one full judgeship for that County caseload appears that it will be sufficient both in the short term and at this juncture even in the long term.

Mr. Schlauch said a couple of interesting additional thoughts are that when the Charlottesville caseload is added in, which they did there, so going from the previous slide to this slide brings in the Charlottesville cases, and the percentage difference is about exactly the same; if one added the forecast from the prior studies and then looked at the actual value today, it is in the neighborhood of 63% below, so again the upper green is the prior forecast, the lower blue is the updated forecast, and again the red circled area on that higher dotted line both on the prior slide and on this slide is where the caseload would

need to be for another full judgeship to be considered, and that was the parlance of the study. He said that one could even say that maybe a fractional judgeship is something that ought to be looked at, but even that, if a line were drawn across at about 60,000 to 65,000 cases which is where it would need to be for a fractional judgeship, it is really not there and not trending there. Mr. Schlauch said looking at the caseload of both courts together, over time with some ebbs and flows, the workload of these two jurisdictions together taken collectively really hovers at right around 50,000 cases, and the one judgeship for Albemarle and the fractional judgeship at the moment for Charlottesville do not only address that caseload in a current context, but as per the last couple of points on the slide, it builds in some growth, looking at 1.9 to maybe 2.1 judgeships long term. Mr. Schlauch said they pulled the slide from the presentation because they thought this one addresses the point very well, but if you just look at Charlottesville in isolation, it is the exact same thing; their cases are down as well. He said they confirmed all of this with the judges and the stakeholders and also just because this is such a significant departure from the prior projections did confirm that both with the criminal justice planner and also with the chief judge of the 16th district as well.

Mr. Schlauch said this was just a food for thought and kind of a footnote that they wanted to include visually because the question does come up that the population is growing. He said they pulled a quote from that 2017 Virginia judicial workload assessment that says, "...changes in population are only weakly associated with changes in the number of case filings." Mr. Schlauch said that population and workload do not always track together, and what is seen in the general district court over the last decade is exactly that, where they are moving in opposite directions.

Mr. Schlauch said they had already hit on a couple of reasons for those, the shift in the UVA cases on the civil side and then just the cost of filing a case was seen by some of the stakeholders as a contributor. He said on the criminal side, the regional focus on evidence-based decision-making and really a trend toward rehabilitative-type services rather than punitive enforcement is seen as a contributing factor as well. Mr. Schlauch reemphasized that it was something that they saw as a significant departure and felt like they engaged the stakeholders in very focused discussions on this topic, and where they landed on their space program was saying that the number of judgeships moving forward combined and looking from a co-location perspective at the east site would be different than what had been seen previously, and with the functional efficiencies and the technology efficiencies that sort of rose to the surface from the stakeholder discussions, this finding really allowed them and Steve as a designer to focus in that area as he engaged the site. Mr. Schlauch said he would pass off to Mr. White to go through a similar discussion of what was done on the other site.

Mr. White said he would go through a very similar exercise, very similar chart, very similar components. He said one key difference with the general district court is it does not have a jury, but it does have prisoner transport, although detainee transport is not as significant, in part because of the video arraignments that occur. He said one could see how these add up, and essentially looking at the courtrooms and ancillary spaces, #2, that is for two courtrooms. He said he would get into some very specifics about that and then how they are supporting those courtrooms, but it is a total of 36,000 roughly square feet, and then because this is a new building structure in addition to the Levy building, when that is grossed out, it is in and around 55,000 square feet.

Mr. White presented a slide that showed the east site second floor blocking and stacking. He said essentially was is seen there is a court set, and one key difference between this court set and what was done three or four years ago is that each of these courtrooms is now 400 square feet larger per courtroom, and the reason for that is in discussions with the two judges that the volume of traffic court is highly efficient if they can get as many people in the courtroom as possible, so the galleries were made considerably larger to deal with large volumes of people.

Mr. White said secondly, looking between the two big blue boxes, they have what they call a cattle chute, which is essentially once someone is processed and has a fine for a traffic ticket, they are escorted through that door rather than the door they came in because they are essentially held hostage until arrangements have been made for payment. He explained that if they go out the front door, there is always that chance that someone will either forget or cannot find the office where they pay or conveniently forget, and what happens then is a summons has to happen, and the sheriff has to go to their house, resulting in a lot of extra paperwork and a lot of extra time. He said using that cattle chute is maximizing efficiency. Mr. White said it is also with DUIs for signing up for support services and other functions of that nature to get people help; they all happen within that cattle chute, so all those transactional things like signing up or payments can be made.

Mr. White said the other thing here that is really important that Mr. Schlauch touched on is there is a synergy by putting the City and County together. He said both Judge Sneather and Quatrara have a wonderful working relationship, and they actually share caseload. He said now that they will be next to each other, it is going to grow that ability to share caseload on heavy days to be able to share space. Mr. White said he would get into some specifics later, but there are lots of small meeting rooms that are supportive rooms for attorney-client conferences and things of that nature.

Mr. White said downstairs are the clerk spaces, but something that is new to the program are the hearing rooms, and hearing rooms are a modern-day phenomenon where the functions of a courtroom are created without the need for all of the space that is in a normal courtroom. He described that the hearing rooms will have the ability to have mediation; the ability for the clerk to run some court functions where the judge is not needed; video arraignments can occur so that the judge could come down and take care of a half-dozen video arraignments while the bailiff is getting the court set up for traffic court, and then the judge takes the elevator upstairs and off they go, and the courtroom is ready to go and there

is no waiting. He said it also allows for a visiting judge; if there is a particularly heavy load, the visiting judge can utilize that miniature courtroom. Mr. White said in terms of future flexibility, they do have the ability to take those two boxes and turn them into a single courtroom even though the caseload projections do not predict that. He said sort of as a belt and suspender, that could also become a smaller courtroom. Mr. White said as a sidenote to that, they are looking at the floor-to-floor ceiling height for this floor to accommodate a little extra height in order to do just that, so that conversion to a courtroom could be done if needed way down the road from now.

Mr. White showed a stacking diagram and described that the big box on the left is the new court facility; the small box on the right is the Levy House. He said there is a basement that is envisioned for the east site; that is being studied now where they may not do a basement and have it go up a floor in lieu of, but it is similar services at the lower level as on the west site where they had sally port, sheriff space, mechanical space, and in this case secure parking. He said going up will be the lobby and the hearing rooms and the clerks, and then on the top floor is all the court business. He said the Commonwealth Attorney for the County is all housed in the Levy building as a separate standalone, and the public will access the public counter of the County Commonwealth Attorney in the connector between the two buildings.

Mr. White showed a slide of a breakdown within that program and said they were new items that have been added to the program since 2017 that are specific to smaller function meeting and conference room space: victim advocate, offender aid and restoration; the two hearing rooms; various clerk conference and consultation rooms; and attorney-client conference rooms that are all now new to the program. He said as a result, the size of the building is very comparable to where they were thinking in 2017, but there are two large courtrooms and two hearing rooms in these ancillary spaces to create a more streamlined, more 21st century functional building than what was previously envisioned.

Mr. White said the next slide showed a little cartoon of what is to come; he said they have a massing model. He described the west site in the foreground, the old building with the cupola, a little row of trees and Park Street, the Levy building, and then the new building. He noted the slides are only a manifestation of the stacking, so they have not really started what the architecture will be yet, but just to give an idea of the massing, the volume, the size of what the building would be and the way it would be nested in the site. He said one key feature of this scenario is the forecourt that is at the front of the building that allows for an anteroom for conversations and events and things of that nature.

Ms. LaPisto-Kirtley said she was impressed with the fact that they are also designing this to look toward the future, like raising the ceiling in case it is needed for other uses. She said it was an excellent presentation.

Ms. Palmer said she was a little bit confused during the discussion of increased square footage of the district court space. She asked whether that was referencing an increase in design from previous or an increase from the current district court space. She asked for clarification as to how much bigger this new district court space is relative to what is being used right now.

Mr. White said he was referencing the 2017 planned space that was 1800 square feet, and the current planned is 2200 square feet, but the existing is considerably smaller than both of those and also considerably more narrow and quite cramped where the bench barely fits across the back of the wall.

Ms. Palmer said she had wanted to make sure it would be considerably bigger. She said in talking to one of the district court judges a few years back, he was commenting on the caseload and how difficult it was to manage 25,000 cases per year. She wondered if Virginia were any different or if that was something that other states do, whether that was an average or were the judges loaded up a bit much.

Mr. Schlauch thanked Ms. Palmer for the question. He said each state would handle that a little bit differently. He said the courts of general jurisdiction in each state do not always cover the same things, so apples to apples is tough, but Virginia handles it in a very similar manner to other states. He explained the way it is done and said that in the 2017 workload assessment, a cross-disciplinary committee of individuals with some oversight at the state level dug into the minutiae of each court's docket, and they will assign a weight to each type of case, and that leads them to a calculation of full-time equivalent; a judicial full-time equivalent essentially means that they add up that docket based on the amount of time that from their perspective it should take to manage each individual type of case, and that results in how many judges or judgeships are allocated to each court.

Mr. Schlauch said the point he made for Albemarle and Charlottesville as part of the 16th judicial circuit is that right now currently, or at least as of the 2017 report, from the state perspective, they are kind of spot on with four judgeships. He said that Ms. Palmer made a very good point about the 25,000 benchmark but stressed that is not policy. He said he did want to make that distinction; that is sort of a planner benchmark as a statewide average, because at the time that 2012 report was done, for example, they would not have had access to the case weights and the minutiae that the folks at the state level would be able to put together. He said you could probably find one docket for a judge who has 25,000 cases that does not feel overwhelmed because of the case composition and another judge who also has 25,000 cases that feels snowed under because that docket would have a higher percentage or concentration of the "busy cases" or the heavy lifting. Mr. Schlauch said boiling it down, it would be difficult to generalize an answer to that question, but bringing it back to this project, Judge Quatrara at this point in time did not feel that the Albemarle County docket was daunting on a day-to-day, week-to-week basis; there are times when maybe things tick up a little bit, but he and Judge Sneather seem

extremely collaborative and willing to make the tradeoff with one another if they have a busy week.

Ms. Palmer said that addressed her question beautifully. She asked how it would work with the City and the County both using the same District Court building with the sheriff's department when right now the City sheriff's department deals with the City District Court and County with the County District Court.

Mr. Henry said that the assumption that was built into this project and memorialized in the agreement is that the County is responsible for the maintenance and operations of this facility; however, the City's sheriff's department is a stakeholder in this and will have some responsibilities within the court itself for the City. He said that is big picture, and for more details, he would defer to Mr. Stewart on that, who has been in more of the engagement on that with the City at length.

Ms. Palmer said that was okay for right now but thought it was something that she would like to understand, whether more sheriff's deputies would need to be hired. Ms. Palmer said she was told by the Commonwealth's attorney once that a lot of people do not end up in court for traffic court because they forget to pay their traffic fines or their speeding tickets. She asked if there would be a kiosk for quick payment in the lobby of this district court.

Mr. White said the Clerks have the most volume of interaction with the public, more than the Courts, so that is why the Courts are on the upper floor and the Clerks are on the first floor, and there is a whole transaction counter. He said he was sure at some point they would have a discussion about whether to have electronic kiosks or not, but all that sort of thing would happen down on that first floor.

Ms. Palmer said she thought automation of that would be great if not being done already.

Ms. Price thanked them for the presentation. She said this really shows with the east site the easier situation about things like security than with the west site, where you can have a centralized security point coming in. She said the design structure of the two buildings on the west site blocking make a single security point much more complex with being able to segregate the jurors and the jury room and things like that. She said she wanted to follow up on Ms. Palmer's comments. She asked if there was space, or would there be space, in either of these two facilities for the sheriff's office or would they be in a different location.

Mr. White answered that the sheriffs have their main office across the street over by JDR, but this facility will house essentially a place to hang your hat, so to speak, for all the deputies that are servicing both the west and the east site so they will have a check-in place.

Ms. Price said she presumed that all these upgrades will include things like bulletproof glass and doors and interior security here at the east site and on the pathway from the Commonwealth's attorney's office building in the Levy Opera into this new courthouse facility that there will be ample security cameras and things like that. She noted a much easier path forward on the east side with the new building than maintaining the integrity of the west site.

Ms. Mallek said she was intrigued by the chute where people would go to settle up their bills before they get out of the building. She asked if that was going to be used for both City and County clients or whether there were two chutes back-to-back so that the clerks have their own spaces to work.

Mr. White responded that it was a shared cattle chute, so the hallway is a single hallway to both courtrooms, and one has a City processing room and the other a County processing room, and one would come off of the courtroom on the side there, and it will take care of everything.

Ms. Mallek said she was also intrigued by one of the slides that said basement sally port and parking may push up to be above ground. She said she understood they changed entirely really the numbers of cases expected, so while they were planning for three County court sets and one for the City, it looks like they are now planning for one and one plus the two little hearing rooms that could be shared by either jurisdiction. She asked if they were taking off a floor because they were having four stories, three above and one below ground, because that sounds like considerable cost reduction if that is actually happening.

Mr. White replied that the intent there is if they were to pull the garage functions up, all of the program would remain exactly the same; it is just the building would rise up out of the ground. He said one would still enter at grade and have all the ceremonial lobby space; it is just that up and sort of behind a wall would be the sheriff's office and the parking and sally port and things of that nature. He said a lot of that is driven by the cost and the unforeseen conditions that are associated with digging holes in old urban sites.

Ms. Mallek said that was a great concern five years ago of what would they find in there, and the cost uncertainty of the contingency was going to have to be pretty horrible.

Mr. Henry told Ms. Mallek she had articulated well the base assumption of the potential three court sets for the County and one for the City. He said what this reflects is the reconfiguration of additional spaces that will be utilized differently; at a gross square footage level, the 2017 study, which this really was baselined on, had it at 60,000 gross square feet; the current programming has it at 57,000, so it is really within that same kind of small order of magnitude. He said the dimensions have changed and the space slicing is different, but at the end of the day, it is still tracking to the same square footage; it

will just look a little different than what was thought four or five years ago.

Ms. Mallek said in some ways it is a good thing it was not built five years ago because it would not be doing what it needed to do today, so live and learn.

Mr. Henry said the last slide of the presentation was for consideration to accept the staff recommendation to approve the programs as a basis of design and authorize staff to proceed to the schematic design phase, which he would also note is within our funding that has been currently appropriated, and they can just keep rolling with the Board's permission.

Ms. Mallek **moved** to accept staff's recommendation to approve the programs as a basis of design and authorize staff to proceed to the schematic design phase. 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.

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**Non-Agenda Item: Recess.**

The Board recessed its meeting at 3:28 p.m. and reconvened at 3:37 p.m.

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**Agenda Item No. 10. Action Item: Amendment to WillowTree Performance Agreements.**

Item No. 10.a. Amendment to WillowTree Virginia Jobs Investment Program Match Grant Funding Agreement.

The Executive Summary forwarded to the Board states that in 2018, Albemarle County and its Economic Development Authority (EDA) partnered with the Commonwealth of Virginia to support the redevelopment of the historic Woolen Mills site and the retention and expansion of WillowTree, Inc. The partnership with the Commonwealth utilized two different state grant programs - the Commonwealth Development Opportunity Fund (COF) and the Virginia Jobs Investment Program (VJIP).

The VJIP program provides funding to companies creating new jobs or experiencing technological change to reduce the human resource development costs for new companies, expanding companies, and companies retraining their employees. Unlike the COF grant program, the VJIP grant program does not require a match from the local government where the business is located.

On September 18, 2018, the Board authorized the County Executive to execute a performance agreement allowing the County and the EDA to provide a combined maximum of \$200,000 to match the Commonwealth's VJIP grant. For each new full-time job created in Albemarle County, the Commonwealth provides a \$1,000 grant. To match it, the County provides \$500 per job and the Albemarle County EDA provides \$500 per job. The agreement provides a match for a maximum of 200 jobs (see Attachment A). The current agreement expired on March 1, 2021.

Due to the COVID-19 crisis and state-mandated restrictions regarding social distancing and other protections, WillowTree has been unable to make full use of their new headquarters. WillowTree requested a 15-month extension from the Virginia Economic Development Partnership to highlight their current posture (see Attachment B). VEDP granted a 15-month extension to the VJIP performance date (Attachment C).

The First Amendment to the VJIP Match Grant Funding Agreement (Attachment D) extends the performance date to match VEDP's agreement.

There is no budget impact as a result of this amendment. The \$200,000 VJIP match has been previously budgeted, and \$100,000 will come from the County's Economic Development Opportunity Fund and \$100,000 will come from the EDA's budget.

Staff recommends that the Board adopt the attached Resolution (Attachment E) to approve the Amended VJIP Match Grant Funding Agreement and to authorize the County Executive to sign the Amended Agreement on behalf of Albemarle County once it has been approved as to substance and form by the County Attorney.

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Mr. Roger Johnson, Director of Economic Development, thanked the members of the Board and said he would introduce Abby Cook after setting the stage. He said they were here today because the performance agreements with WillowTree have been impacted by COVID, and the purpose of this discussion is to hopefully propose amendments to the agreement. He said they would address both items concurrently.

Mr. Johnson introduced Abby Cook, Liberty University graduate, a certified public accountant and the controller at WillowTree. He said she would talk about the status of WillowTree and some other general information.

Ms. Cook thanked the members of the Board. She introduced herself as the controller at

WillowTree. She said she had been there a little over five years and in the Albemarle-Charlottesville area for the last 15. She shared her appreciation for the Board having her there today and for all of the Board's support for WillowTree over the last few years. She said she would use a few minutes to introduce WillowTree to anyone not familiar with them and share some photos of their new space at Woolen Mills.

Ms. Cook said they call themselves a digital product consultancy, although that is a very fancy way of saying that they build software for Fortune 500 companies; that may mean helping Anheuser-Busch build software to help distribute products across the United States or helping Fox stream the Super Bowl to millions of users. She said they do that with a team of about 550 people, half of whom are headquartered in Charlottesville, which is where they were founded, and that team works together to build these products.

Ms. Cook said the reason they describe themselves as a consultancy is that they not only help their clients build software but help them figure out what to build in the first place. She said they then help them to adapt their own processes and even organization sometimes to support these products themselves. She said they work across a variety of verticals bringing industry expertise to the table from the start.

Ms. Cook said that one of their key verticals is hospitality and restaurants, industries that were hit particularly hard last year by COVID-19. She said while that swift hit to their projects and therefore revenue created uncertainty at the time, they are seeing the demand for digital products rebound stronger than ever and have restarted many of the projects that were paused last spring.

Ms. Cook said their processes rely on their teams being able to work quickly, collaboratively, and creatively to solve problems for their clients. She said that can be difficult when working remotely, as everyone had experienced over the last year. She said while they were able to maintain their same level of service over the last year working from home, they believe it was because they had built a strong foundation of working together in person over the last decade. She said they have demonstrated their ability to do that by being one of the few companies that are certified technology partners with some of the largest names in mobile and web and by continuously being recognized for both their work and their team.

Ms. Cook said that the part they were most excited about this year was bringing the team back to their new office at Woolen Mills. She said they spent two years building out 85,000 square feet of beautiful office space, and their team is excited to come back there. She said they built this space for growth; it has a total capacity of about 550, which serves them well as they transition back to in-person work because they have plenty of space available for the teams.

Ms. Cook said they also have a variety of workspaces to help facilitate some of the working styles people may have including large conference rooms for collaboration or smaller booths for heads-down time. She said they also have outdoor spaces that they are excited about both within their office and the adjacent wool factory for people to utilize. She said pictured on the right was one of their libraries which will give a light but quiet space for people to work.

Ms. Cook said they are excited about this new chapter of WillowTree, although it is one that will look different than what they are used to. She said after Labor Day, the plan will be to move to a hybrid working model, being able to work from home a few days a week as needed or preferred. She said that prior to 2020, they did not allow working from home because their core belief is that the best work happens when you are sitting together solving problems real time with people that you know; however, they recognize that the work environment is different now, and many people have benefited from being able to have more flexibility in their workday. She said they are still 100% committed to growing and using the Charlottesville office and look forward to bringing more people to the community, which will certainly be made easier when they can visit both the space and the area in person. She said with that, she would pass things over to Mr. Johnson.

Mr. Johnson said most recently, they had amended the performance agreement to Woolen Mills, the site itself. He said as a general update that all the built elements are complete, and now the bridge has been given a certificate of occupancy. He said today they would talk about amending the performance agreements with WillowTree, the company, which includes the Virginia Job Investment Program commonly called VJIP and the Commonwealth's Development Opportunity Fund often referenced as COF.

Mr. Johnson showed pictures of what Woolen Mills looked like previously. He demonstrated trees growing inside the building, broken glass, a dilapidated building, just really in a state of disrepair.

Mr. Johnson demonstrated what it looked like during construction versus the examples Ms. Cook had shown of what the building looks like today; it is completely a world-class campus. He said they were proud of what WillowTree and the County have worked together to accomplish.

Mr. Johnson said they were there to talk about the VJIP grant incentive, which is the incentive to create jobs. He said they were also there to talk about the Commonwealth Opportunity Fund grant match program, which is required of the local municipality in order for WillowTree to receive a governor's award as well. He said as a quick update, the governor has awarded \$500,000 as a match, and the County is required to match that, and that is being done through a rebate of 50% of the BPOL taxes and 50% of the real estate taxes. He said he wanted to make clear to the Board that while they are proposing an

amendment, the financial projections remain unchanged from 2018; they are not suggesting in any way they change or increase or decrease the amounts WillowTree would be eligible for.

Mr. Johnson said he would talk about VJIP. He said as an update, the state is providing \$1,000 for each new job created as of March 1, 2018. He said previously, the County agreed to match the state's grant with \$500 from the County and \$500 per job from the Economic Development Authority. He said most recently, the state extended the performance period in recognition of COVID impacts until April 9, 2022. Mr. Johnson said that they were proposing that the County also amend their existing agreement to align with the state's and have a deadline period of April 9, 2022.

Mr. Johnson said he would talk about the details of the Commonwealth Opportunity Fund. He said that currently, the existing performance agreement cannot be met due to the pandemic. He said the current agreement required employees of WillowTree to actually work on site; obviously, the pandemic impacted that. He said the proposed agreement protects the County's interests and enables the company to safely meet performance targets.

Mr. Johnson said that WillowTree has received \$500,000 from the Commonwealth Opportunity Fund; the existing performance agreement requires 75% of the employees be located in Woolen Mills. He said the County desires employees remain in the area to realize the full economic impact. He said a couple of years ago, they had Dr. Terry Rephann from the University of Virginia's Weldon Cooper Center conduct an IMPLAN analysis; it is an input/output method that deduced that the direct, indirect, and imputed or induced impacts are around 132 million dollars annually.

Mr. Johnson noted it is a lot of money that WillowTree is bringing from outside the area into the community. Mr. Johnson said that in order to realize that, they had wanted to find a way for those jobs and those folks who are employed by WillowTree to remain in the area, so they are proposing that the existing workplace requirement be replaced with a workforce residency requirement whereby 75% of all WillowTree employees in the community must reside within the metropolitan statistical area and must do that for years 2020 and 2021; in year 2022 of the contract, WillowTree would be asked to have 75% of their employees remain in the metropolitan statistical area and also have 50% of their workforce return and be assigned to the Woolen Mills site; in years 2023 and 2024, WillowTree would be required to have 75% of their employees assigned to work out of the Woolen Mills factory.

Mr. Johnson said it is a nuanced difference than what was discussed with the Board before. He said this is supported by the Economic Development Authority; they thought it was important to have vibrancy on the Broadway corridor, so the requirement now would be that 75% be assigned to reside out of Woolen Mills headquarters, and that is the purpose of that nuanced change.

Mr. Johnson said there were a couple of things about WillowTree that he wanted to highlight. He said they have a 10-year lease for 85,000 square feet that far exceeds the 40,000 square feet required in the current agreement. He said mostly he wanted to illustrate that they had exceeded the performance agreement already. He said they have committed to add 260 net new jobs; of those, they have already hired 107 of those 260. He said they have attested that over 75% of their employees already reside locally; some of their leaders took pay reductions, and they had no layoffs during the pandemic. He said they have been good corporate citizens; they have been engaged in the Broadway corridor study and have followed public health suggestions and recommendations and even have things to help with the environment to include electric vehicle charging stations and over 12 million dollars of indirect investment in upgrades to Woolen Mills. He said, as Ms. Cook illustrated, this is a beautiful campus, and already 15% to 20% of their employees currently work in the office out of Woolen Mills.

Mr. Johnson said in summary, they are asking the Board to extend the Virginia Jobs Investment Program to match the Commonwealth's schedule and proposing to amend the Commonwealth Opportunity Fund grant to account for the pandemic, and again, this does not increase or decrease the County's financial obligations.

Mr. Johnson said staff recommends adopting resolution in Attachment D to amend terms of the contract for the Commonwealth Opportunity Fund match. He said staff also recommends that the Board adopt resolution in Attachment E to amend the VJIP amendment for a 13-month extension.

Mr. Johnson said he would be glad to answer any questions.

Ms. LaPisto-Kirtley thanked Mr. Johnson and Ms. Cook for the presentation. She asked if her understanding was correct that they are changing the residential requirement to an on-site requirement of 75%.

Mr. Johnson said that was correct and that would change over time, recognizing that it is unknown exactly how the pandemic is going to impact the workforce for the next couple of years. He said they decided it would be in everyone's best interests to allow basically a two-year period for them to evolve into a normal or more hybrid workplace where they have people working more frequently out of their office.

Mr. Doug Walker added a point of clarification that the actual change from the existing contract to the new contract is a change from the on-site requirement to a residency requirement and then reverting back to the accommodation of on-site residency over a period of three to five years.

Mr. Johnson thanked Mr. Walker for the clarification.

Ms. LaPisto-Kirtley asked if that affected the monies that the County receives in any way or the benefit to the County monetarily.

Mr. Johnson said he would not expect that to be the case. He said that some of the revenues are contingent on BPOL taxes, and so that aggregation of BPOL taxes may be delayed based off of the impacts of the pandemic, but overall, they fully expect to realize all of the funds that they spoke to the Board about in 2018.

Ms. LaPisto-Kirtley repeated that by amending this contract, there would be no adverse situation that happens on the part of the County.

Mr. Johnson said that was correct.

Mr. Walker said that the only implication that they have talked about and are acknowledging is that part of the County's interest was in activating the Woolen Mills area—and having all those employees on site every day, all day obviously helps in that regard. He said the pandemic with the consequences of that and obviously as they continue not knowing what the future is, has complicated that quite a bit, and so if there is an intention or a goal that the County had on the front end that they are not quite sure how to meet right now working through the pandemic, that would be it—how to try to find that balance. Mr. Walker said they do believe that this combination of in-the-area residency that keeps the employees working locally, spending money locally, contributing to the economy locally as well as over time getting back on site is a good balance that does respect the challenges that the company is facing and the County's interest in trying to help the company and activate the area.

Ms. Cook said she thought Mr. Walker clarified the point of how the original agreement was structured, and then the change, and then it goes back to that.

Ms. Palmer asked when the lease on the building began.

Ms. Cook said it began June or July of last year, and she would have to confirm 100% but believed it was June.

Ms. Palmer said 2020, so they have the lease until 2030.

Ms. Cook confirmed.

Ms. Palmer asked what the timeline was on the original VJIP agreement.

Mr. Johnson said March 1, 2018, and it was extended 13 months, and asked if Mr. Newberry had that handy.

Mr. Newberry said the existing agreement in Attachment A for the VJIP item notes that it would last until March 1, 2021.

Ms. Price commented that life is what happens while you are making plans and commented on the effects of the pandemic. She thanked Ms. Cook, Mr. Johnson, and Mr. Walker. She said she had no questions and fully supported both of these, and as the Supervisor of the district in which they were located, she would be pleased to make the motion when the time comes.

Ms. McKeel said she was very supportive. She told Ms. Cook that the whole development is just lovely. She said she appreciated their flexibility, and they are trying really hard to have everybody work together. She echoed Ms. Price's sentiments about best-laid plans, who would have known they would have been in the middle of a pandemic, and they just have to figure out how to deal with it.

Ms. Mallek said she fully supports this also. She said the picture that was provided about what it used to look like, which she remembered very well when she went to the old security storage there, demonstrated that they have already covered their bases so strongly in just the increased real estate assessment and the quality of the work that has been done there and the quality of the jobs being offered, so she is excited and thanked them for finding the solution that will make it work.

Mr. Gallaway asked if he had that right that the bridge is up and running now.

Mr. Johnson said it has been completed and given the certificate of occupancy.

Mr. Gallaway remembered the last time they were down there, they were not allowed on that bridge, so he would be thrilled to go down there and be able to walk the bridge.

Ms. Price said she was down there a few weeks ago and had dinner at the restaurant with Ms. LaPisto-Kirtley, and it was a wonderful experience.

Ms. LaPisto-Kirtley agreed that it was very good.

Ms. Price **moved** that the Board adopt the attached Resolution (Attachment E) to approve the Amended VJIP Match Grant Funding Agreement and to authorize the County Executive to sign the Amended Agreement between the County, the Economic Development Authority, and WillowTree, Inc.

on behalf of Albemarle County once it has been approved as to substance and form by the County Attorney.

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.

\* \* \* \* \*

**RESOLUTION TO APPROVE THE AMENDMENT TO THE VJIP MATCH GRANT FUNDING AGREEMENT BETWEEN THE COUNTY, THE ECONOMIC DEVELOPMENT AUTHORITY, AND WILLOWTREE, INC.**

**WHEREAS**, WillowTree, Inc. is participating in the Virginia Jobs Investment Program New Jobs Program (hereinafter "VJIP") with the Commonwealth of Virginia, and the County and the EDA entered an agreement dated September 18, 2018, with WillowTree, Inc. to provide certain match grants upon terms and conditions with an expiration date of March 1, 2021, and allowing for a mutually agreed upon extension; and

**WHEREAS**, the Commonwealth of Virginia agreed to extend the term of its VJIP agreement with WillowTree Inc. because of the COVID-19 pandemic and resulting state and local emergency/disaster declarations; and

**WHEREAS**, the Board of Supervisors finds it is in the best interest of the County to amend the VJIP Match Grant Funding Agreement with WillowTree, Inc. to remain eligible for the match grant funding from the County and the EDA.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby approves the Amendment to the VJIP Match Grant Funding Agreement and authorizes the County Executive to execute the Amended Agreement on behalf of the County once it has been approved as to substance and form by the County Attorney.

\* \* \* \* \*

**THIS AMENDMENT TO AGREEMENT** is made and entered into on the 30<sup>th</sup> day of June, May, 2021, by and among the **COUNTY OF ALBEMARLE, VIRGINIA** (hereinafter “the County”), a political subdivision of the Commonwealth of Virginia, **WILLOWTREE, INC.** (hereinafter “the Company”), a Virginia corporation, and the **ALBEMARLE COUNTY ECONOMIC DEVELOPMENT AUTHORITY** (hereinafter “the EDA”), a political subdivision of the Commonwealth of Virginia.

WITNESSETH:

**WHEREAS**, the Company is participating in the Virginia Jobs Investment Program New Jobs Program (hereinafter “VJIP”) with the Commonwealth of Virginia wherein the VJIP agreed to provide the Company with one thousand dollars (\$1,000.00) for every new full-time job created by the Company that is filled for ninety (90) consecutive days in order to reduce the Company’s human resources costs; and

**WHEREAS**, the Commonwealth of Virginia agreed to extend the term of the agreement to April 9, 2022, upon the Company’s request because of the COVID-19 pandemic and resulting state and local emergency/disaster declarations; and

**WHEREAS**, the County and the EDA entered an agreement dated September 18, 2018, with the Company to provide certain match grants upon terms and conditions with an expiration date of March 1, 2021, and allowing for a mutually agreed upon extension; and

**WHEREAS**, the stimulation of the additional tax revenue and economic activity to be generated by the Company’s creation of new full-time jobs remains a valid public purpose for the expenditure of public funds and is the animating purpose of the EOF Grant and the EDA Match.

**NOW THEREFORE**, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

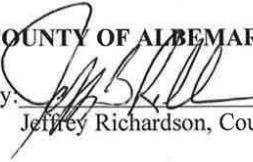
**Section 1. Amendment of Section 4.** The parties agree the Agreement shall be in effect from March 1, 2018, until April 9, 2022. The parties may extend the term of this Agreement for one (1) calendar year upon written amendment signed by each party agreeing to be bound.

**Section 2. Incorporation of Agreement dated September 18, 2018.** All other terms, conditions, and obligations of the Agreement dated September 18, 2018, other than Section 4, a true copy of which is attached, are incorporated fully herein and made a part of this Amended Agreement.

[Signature Page Follows]

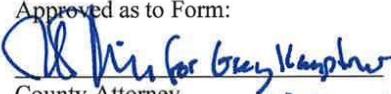
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

COUNTY OF ALBEMARLE, VIRGINIA

By:   
Jeffrey Richardson, County Executive

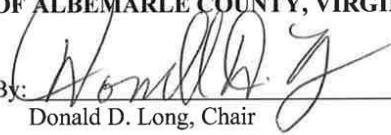
Date: 6/30/21

Approved as to Form:

  
Christopher M. Kappeler  
County Attorney

28 June 2021

ECONOMIC DEVELOPMENT AUTHORITY  
OF ALBEMARLE COUNTY, VIRGINIA

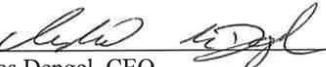
By:   
Donald D. Long, Chair

Date: 6/23/21

Approved as to Form:

  
Christopher M. Kappeler  
County Attorney for EDA

WILLOWTREE, INC.

By:   
Tobias Dengel, CEO

Date: June 16, 2021

Item No. 10.b. Amendment to WillowTree Commonwealth's Development Opportunity Fund Match Performance Agreement.

The Executive Summary forwarded to the Board states that in 2018, Albemarle County and its Economic Development Authority (EDA) partnered with the Commonwealth of Virginia to support the redevelopment of the historic Woolen Mills site and the retention and expansion of WillowTree, Inc. The partnership with the Commonwealth utilized two different state grant programs - the Commonwealth's Development Opportunity Fund (COF) and the Virginia Jobs Investment Program (VJIP).

The COF matching grant is considered a "deal-closing" fund to be employed at the Governor's discretion to secure a company location or expansion in Virginia. A significant portion of the financial support for the partnership came through the COF matching grant program. The COF provided a \$500,000 grant to support the retention and expansion of WillowTree, Inc., based on an expected amount of capital investment and job creation. The COF requires a \$500,000 matching grant from the County.

The County matched the COF grant by pledging to rebate 50% of future tax revenues accrued through BPOL and real estate taxes. At that time, WillowTree, Inc. was at significant risk of relocating out of state. Both the Commonwealth and County determined that the stimulation of the additional tax revenue and economic activity constituted a valid public purpose for the partnership. The COF Performance Agreement for the COF grant includes the specific targets and timelines for capital investment and job creation that must be met to remain eligible for this financial support (see Attachments

A and B).

The COVID-19 pandemic resulted in severe impacts to economic activity at a local, national, and worldwide scale. Like many businesses, WillowTree, Inc. quickly pivoted to virtual operations at the onset of the pandemic to ensure the safety of their employees and customers, and to comply with the Commonwealth's limitations on businesses. As the public health crisis continues, WillowTree, Inc. remains committed to following the recommended best practices and limitations on businesses as set forth by the Governor's executive orders (last revised on March 23, 2021).

As a result of these limitations, WillowTree, Inc. is unable to meet certain workforce location requirements under the COF Match Performance Agreement. Due to the COVID-19 crisis and state-mandated restrictions regarding social distancing and other protections, WillowTree has been unable to make full use of their new headquarters. Staff has worked closely with WillowTree, Inc. to amend the existing COF Match Performance Agreement language to protect the County's interests under the partnership, but also hold the company harmless for the public health crisis and adherence to the Commonwealth's limitations. To do so, the proposed amendment provides temporary relief from the requirement that "baseline jobs" and "new jobs" must be located "at the [Woolen Mills] Facility" (see Attachment C).

It is important to note that WillowTree, Inc., has received the COF grant payment. The company has fulfilled and exceeded its initial Lease Obligation. Although it has not been able to meet the Workforce Location Commitment for the stated reasons, WillowTree reports 80% of its full-time Virginia workforce ("the workforce") lives in the Charlottesville Metropolitan Statistical Area (MSA). The company's CEO publicly acknowledged his commitment to locating the workforce at the Albemarle County facility at the appropriate time and according to public health guidelines.

Under the amended COF Match Performance Agreement, the Workforce Location Commitment will require 75% of the workforce to reside in the MSA in 2020 and 2021. In 2022, 50% of the full-time, Virginia-based employees must work at the Woolen Mills site AND 75% of the workforce must reside in the Charlottesville Metropolitan Statistical Area (MSA). Then, in 2023 and 2024, at least 75% of the full-time, Virginia-based employees must work at the Woolen Mills site. Importantly, these amendments ensure that the County's goals are achieved, while making it possible for the requirements of the COF Match Performance Agreement to be met.

There is no budget impact associated with this amendment. The County's total financial obligation to WillowTree does not change as a result of the proposed amendment.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve the First Amendment to the Commonwealth's Development Opportunity Fund Match Performance Agreement, and to authorize the County Executive to sign the Amended Agreement on behalf of Albemarle County once it has been approved as to substance and form by the County Attorney.

\* \* \* \* \*

Ms. Price **moved** that the Board adopt the Resolution (Attachment D) to approve the amendment to the Commonwealth's Development Opportunity Fund Match Performance Agreement, and to authorize the County Executive to sign the Amended Agreement between the County, the Economic Development Authority, and WillowTree, Inc. on behalf of Albemarle County once it has been approved as to substance and form by the County Attorney.

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.

\* \* \* \* \*

**RESOLUTION TO APPROVE THE AMENDMENT TO THE  
COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND MATCH  
PERFORMANCE AGREEMENT BETWEEN THE COUNTY, THE ECONOMIC DEVELOPMENT  
AUTHORITY, AND WILLOWS, INC.**

**WHEREAS**, WillowTree, Inc., received a grant from the Commonwealth of Virginia pursuant to the Commonwealth's Development Opportunity Fund Performance Agreement dated September 18, 2018; and

**WHEREAS**, the County and the Economic Development Authority entered a Performance Agreement dated September 18, 2018 with WillowTree, Inc. to provide certain match grants to the Commonwealth's Development Opportunity Fund Performance Agreement upon terms and conditions; and

**WHEREAS**, the occurrence of the COVID-19 pandemic and resulting disaster declarations have made it impossible for the Company to achieve the required Workforce Location Commitment targets through no fault of its own; and

**WHEREAS**, the Board of Supervisors finds that it is in the best interest of the County to amend the Workforce Location Commitment to accommodate legal, regulatory, and safety requirements resulting

from the pandemics and disaster declarations in order for WillowTree, Inc., to remain eligible for the match grant funding from the County and the EDA.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby approves the Amendment to Commonwealth's Development Opportunity Fund Match Performance Agreement and authorizes the County Executive to execute the Amended Agreement on behalf of the County once it has been approved as to substance and form by the County Attorney.

\* \* \* \*

#### **FIRST AMENDMENT TO PERFORMANCE AGREEMENT**

**THIS FIRST AMENDMENT TO PERFORMANCE AGREEMENT** is made and entered into on the 30<sup>th</sup> day of May, 2021, by and among the **COUNTY OF ALBEMARLE, VIRGINIA** (hereinafter "the County"), a political subdivision of the Commonwealth of Virginia, **WILLOWTREE, INC.** (hereinafter "the Company"), a Virginia corporation, and the **ALBEMARLE COUNTY ECONOMIC DEVELOPMENT AUTHORITY** (hereinafter "the Authority"), a political subdivision of the Commonwealth of Virginia.

**WITNESSETH:**

**WHEREAS**, the Company received a grant from the Commonwealth of Virginia pursuant to the Commonwealth's Development Opportunity Fund Performance Agreement dated September 18, 2018; and

**WHEREAS**, the County and the Authority entered a Performance Agreement dated September 18, 2018, with the Company to provide certain match grants to the Commonwealth's Development Opportunity Fund Performance Agreement upon terms and conditions; and

**WHEREAS**, the occurrence of the COVID-19 pandemic and resulting disaster declarations have made it impossible for the Company to achieve the Workforce Location Commitment through no fault of its own; and

**WHEREAS**, the Company has undertaken legal obligations related to the size of its leasehold and duration of tenancy that greatly exceed those required by the Performance Agreement with the County and the Authority and remains committed to attaining the original Workforce Location conditions when the effects of the pandemic recede, legal restrictions are lifted, and prudence and workplace safety best practices permit; and

**WHEREAS**, the Company remains committed to supporting and creating economic vitality to the Broadway Street corridor by maintaining a significant workforce and its worldwide headquarters in Albemarle County;

**WHEREAS**, the County and the Authority recognize that the stimulation of additional tax revenue has been realized and the continued expected increase in economic activity remain valid public purposes for the expenditure of public funds and continue as the animating purpose of the Commonwealth's Development Opportunity Fund Performance Agreement and the Performance Agreement with the County and the Authority.

**NOW THEREFORE**, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this First Amendment to Performance Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

**Section 1. Amendment of Section 1; Lease Obligation.** The parties agree the Company began leasing and occupying the Property as July 1, 2020. The Lease Obligation shall continue for at least five (5) years from that date. All other terms and conditions related to the Lease Obligation remain unchanged and in full force and effect.

**Section 2. Amendment of Section 1; Workforce Location Commitment.** The parties agree the Company will satisfy the Workforce Location Commitment under the following circumstances:

- a. **Workforce Residency Requirement:** For the years 2020, 2021, and 2022, at least seventy-five percent (75%) of the Company's full-time Virginia employees must reside in one of the following Virginia localities: Albemarle, Buckingham, Fluvanna, Greene, Nelson, or Charlottesville;
- b. **Certification of Workforce Residency:** Prior to the County or the EDA making any match grant payment under the Agreement, as amended herein, the Company's CEO or CFO must attest in writing by February 28<sup>th</sup> of each year (May 28, 2021, for year 2020) to the County's Department of Finance and Budget, the percentage of full-time Virginia employees residing in the noted jurisdictions as of the last day of the prior calendar year and must provide the numbers forming the basis of the calculation. Grant payments will not be made until the County receives the attestation; and
- c. **Workforce Onsite Location Requirement:** For the year 2022, in addition to the Workforce Residency Requirement, at least fifty (50%) percent of the Company's full-time Virginia employees must be assigned to work at the Property as their designated home office. In the years 2023 and 2024, at least seventy-five percent (75%) or 270, whichever is lower, of its full-time Virginia employees must be assigned to work at the Property as their designated home office; and
- d. **Certification of Workforce Onsite Location Requirement:** For years 2022, 2023, and 2024, before the County or the EDA disburses any match grant payment under the Agreement, as amended herein, the Company's CEO or CFO must attest in writing by February 28<sup>th</sup> of each year to the County's Department of Finance and Budget, the percentage of full-time Virginia employees assigned to work at the Property as their designated home office as of the last day of the prior calendar year and must provide the numbers forming the basis of the calculation. Grant payments will not be made until the County receives the attestation.

e. **Administrative Extension:** The County Executive may extend the Workforce Residency Requirement from year to year if legal, public health, and liability restrictions related to the COVID-19 pandemic continue to prevent the Company from locating a sufficient number of employees at Property or the Company can demonstrate that employee health, safety, and welfare and best employment practices militate against from locating a sufficient number of employees at the Property. In deciding whether to extend the Workforce Residency Requirement, the County Executive must consider and weigh heavily officially published guidance from the United States Center for Disease Control and the United States Occupational Safety and Health Administration.

**Section 3. Payment Schedule:** Upon the Company's satisfaction of terms and conditions, the County and the Authority will disburse to the Company the Real Estate and BPOL tax refund grants in one annual payment as follows:

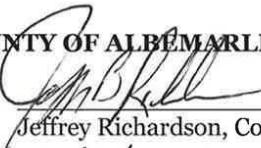
- a. **2020 Tax Payments:** County payment to Authority due by June 30, 2021. Authority payment to the Company due within thirty days after receipt.
- b. **2021 Tax Payments:** County payment to Authority due by June 30, 2022. Authority payment to the Company due within thirty days after receipt.
- c. **2022 Tax Payments:** County payment to Authority due by June 30, 2023. Authority payment to the Company due within thirty days after receipt.
- d. **2023 Tax Payments:** County payment to Authority due by June 30, 2024. Authority payment to the Company due within thirty days after receipt.
- e. **2024 Tax Payments and Final Payment:** County payment to Authority due by June 30, 2025. Authority payment to the Company due within thirty days after receipt.

**Section 4. Incorporation:** All other terms, conditions, and obligations of the Performance Agreement dated September 18, 2018, a true copy of which is attached, are incorporated fully herein and made a part of this Amendment to Performance Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

COUNTY OF ALBEMARLE, VIRGINIA

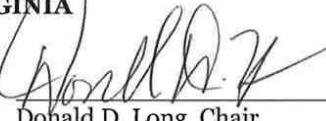
By:   
Jeffrey Richardson, County Executive

Date: 6/30/21

Approved to Form & Substance:

  
Albemarle County Attorney 28 June 2021

ECONOMIC DEVELOPMENT  
AUTHORITY OF ALBEMARLE COUNTY,  
VIRGINIA

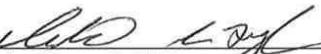
By:   
Dohald D. Long, Chair

Date: 6/23/21

Approved to Form & Substance:

  
Albemarle County Attorney for EDA 22 Jun 2021

WILLOWTREE, INC.

By:   
Tobias Dengel, CEO

Date: June 16, 2021

4

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Agenda Item No. 11. **Presentation:** Rivanna Water and Sewer Authority (RWSA) Quarterly Report.

Mr. Mawyer, Executive Director, RWSA, said he had a short presentation and then would be glad to answer any questions. He said in the water, sewer, refuse, and recycling world of Rivanna, the first thing that is happening is that starting this weekend, they begin their eWaste collection program that the County helps sponsor followed by the commercial household hazardous waste program, and next weekend is the spring residential household hazardous waste program followed on the third weekend by the bulky waste amnesty days where people can dispose of furniture, mattresses, appliances, and tires. He said this is a very well used program that the County and the City support, so that is appreciated. He said they do this in the spring and in the fall.

Mr. Mawyer said they also are excited to get working on the Keene convenience center for the County, which is going to be a recycling and residential bagged refuse collection site down in the Keene area where it is planned. He said they are starting the design now and hope to have the construction completed next summer around July.

Mr. Mawyer said that there are five drinking water supply reservoirs that serve the water treatment plants, and the good news entering the warm summer is that all of the reservoirs are full except Sugar Hollow, which on purpose has been lowered four to five feet as the rubber gate that sits on top of the dam is replaced, and that gate does maintain a water level in the reservoir, but it allows this rubber bladder to be lowered when a storm is pending and more water needs to be passed across the dam allowing that flexibility, so that device is going to be installed in the next month or so, and this project is expected to be completed around July.

Mr. Mawyer said they also have a project that is well underway in Crozet, a wastewater storage tank, and this stores excess wastewater that gets in the sewer system when it rains. He said they do not intend for rainwater to be in the sewer system, but it gets in there, and of course, they pump all the wastewater from Crozet back to the Moores Creek Wastewater Treatment Plant. Mr. Mawyer said out in the Route 240/250 area, they are going to build a storage tank, and that helps to store about one million gallons of wastewater when the flows in the system are excessive, and then the wastewater is put back in the system after the wastewater flow subsides.

Mr. Mawyer discussed the South Rivanna to Ragged Mountain pipeline that is planned to support the water supply plan. He demonstrated on the map the black areas of the line where easements have been obtained on most of this line now. He said he was assuming the Albemarle County School Board is going to grant an easement tomorrow night—they have already had the first reading of that proposal—so RWSA expects to have a substantial portion of this waterline under their control as far as an easement or an agreement with VDOT. He demonstrated a small green area where there are two private owners that are transitioning properties. He said they have one property near Barrack's Road and the Sugarday Farm they have yet to come to agreement with, but most substantially, they have UVA Foundation, who owns the property near St. Anne's-Belfield, and down below the Birdwood Golf Course is also UVA Foundation property, and they are working with them to acquire the easements.

Mr. Mawyer said the waterline along Birdwood Golf Course has already been built, and there is a small section where they plan to build in the next two years which would extend from Birdwood north under 250 and under Old Garth Road, so there is a plan to get that work done.

Mr. Mawyer said they are budgeting and have proposed budgets to their two boards. He said on the water and sewer board, they have proposed an operating budget of 38.9 million dollars. He said they have a five-year CIP of about 170 million dollars to build the major water and sewer infrastructure, and they have 96 employees proposed that are needed to operate that authority. He said that similarly for the solid waste authority, which manages the Ivy landfill facility and the transfer station as well as McIntire recycling facility, that authority has a proposed budget of 5.4 million dollars, of which the County supports about 2.2 million, and that authority will have 21 employees as proposed for next year.

Mr. Mawyer said that all is going well at the Water and Sewer Authority and the Solid Waste Authority. He did want to present a quick report and answer any questions.

Ms. LaPisto-Kirtley said it was an excellent presentation and she had no questions.

Ms. Palmer said that Gary O'Connell for the Albemarle County Service Authority is going to talk about rate raises coming up, and of course Rivanna's CIP is a huge portion of that. She asked Mr. Mawyer if he could comment on the major drivers because it is a lot of aging infrastructure that is being replaced, older infrastructure and updating things, and she thought a quick comment might be of benefit to the Board.

Mr. Mawyer said they have three major water treatment plants under renovation which had not been renovated for many years, and that is about 53 million dollars. He said those include the Crozet Water Treatment Plant, which is just about finished, and the South Rivanna and Observatory Water Treatment Plants are under major renovation right now. He said the pipeline shown on the slide between Ragged Mountain Reservoir and the Observatory Treatment Plant had very old pipe, and the plan is to replace that in the next few years and build a pumping station, and that is about 24 million dollars. He said in addition, they have many projects at Moores Creek, electrical, lighting, and equipment replacement totaling about 25 million dollars. He said on the regulatory driver that they have, the Beaver Creek Dam spillway needs to be expanded and the pump station relocated, and that is about 27 million dollars. He said for the Crozet flow equalization tank, the wastewater tank that he had mentioned, regulation is really driving that because if wastewater is allowed to flow out of the sewer system, they have made an environmental violation, and so that is a regulatory driver here. Mr. Mawyer said between aged infrastructure and regulation, that is what is driving their immediate CIP for the next five years.

Ms. Palmer added that the pipeline demonstrated in the picture of the water supply plan actually is replacing two pipes from Ragged Mountain Reservoir over to O-hill, but as Mr. Mawyer had mentioned at Board meetings several times, they are 100 years old and 70 years old, so this is some of the oldest water infrastructure in the system.

Mr. Mawyer said it has served them well, but its life cycle is expiring, and it needs to be replaced. He said he had not added all of those numbers up, but clearly they can get to about 100 million dollars in expenditures for replacing aged infrastructure in the immediate five years.

Ms. Price thanked Mr. Mawyer. She said food, shelter, and clothing were the three things as a child she was told were needed, and water falls right in there in the food category, and nothing is more critical. She said she knew this area has previously experienced drought conditions, as has Atlanta where she grew up, so the work that is being done to improve the infrastructure is incredibly important. She said she trusted that built into the infrastructure plan will be sufficient security in terms of fencing and cameras but also technological protections to prevent hacking into the water system and disrupting the supply.

Mr. Mawyer agreed and said that security is an important component of all their programs now. He mentioned that they had given Ms. Price a tour along with the Service Authority of the Scottsville

Water and Wastewater Plants, and that was a great opportunity to show her those facilities, and in addition, last week, they made a presentation to the Scottsville Town Council to let them know about the wastewater and water treatment facilities serving the town of Scottsville. He thanked Ms. Price for coming out and seeing the facilities.

Ms. Price thanked Mr. Mawyer and said that he had clearly demonstrated during that tour, if she did not understand before and everyone needs to understand, that water is not free; what has to be done to prepare that water, to make sure it is clean and safe and reliable requires an incredible system, and she really compliments him as well as Albemarle County Service Authority for the work they do.

Ms. McKeel added that the community is very lucky to have its own watershed and agreed with Ms. Price that it is a very, very valuable resource. She said the community is very lucky to be in the position they are in when it comes to water. She said the pipeline does need to get finished at some point, though. Ms. McKeel asked if the lack of getting right-of-way from those locations was slowing things down considerably or if things were running pretty much on time.

Mr. Mawyer said that the schedule is to start construction around 2029 or 2030, and they are still on that schedule despite the ones they have not obtained an easement from yet, but that is not holding up construction.

Ms. Price said since one of those was in her district, she would be interested in staying in that loop if they have more information.

Mr. Mawyer agreed and said if they do not get resolution with the property owners soon, they will be glad to let her know.

Ms. Price said she would like to follow that and thanked Mr. Mawyer and said she appreciated the update.

Ms. Mallek thanked Mr. Mawyer and said it was an exciting report because it is decades they have been working to get to this place, and just to hear the pipeline described as something which is "underway" with right-of-way makes her heart sing because even though it is a very high-dollar amount, the fact of replacing the 13-mile, almost 100-year-old pipeline from Sugar Hollow, which is leaking water all over the place into farmers' fields and people's backyards, is just a wonderful thing to have happen, so 2029 cannot come fast enough for her for this particular element.

Ms. Palmer said not to contradict in any way Mr. Mawyer's explanation of where the pipeline is to actual construction in the planning, but she wanted to point out that some of this infrastructure that has to do with the water supply plan is going in sooner than that; for instance, the Ragged Mountain to O-Hill and the pump station which will actually receive the water from this pipe gets segments of the pipe done when there is construction in those areas, and Rivanna has been very proactive in looking for developments that are being redone so that they can move in to put the line in, for instance, this small little section across to Ivy Road.

Mr. Gallaway said he appreciated Mr. Mawyer's report and update.

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**Agenda Item No. 12. Presentation: Albemarle County Service Authority (ACSA) Quarterly Report.**

Mr. Gary O'Connell said he had sent a written report in advance, so most of what he was going to cover was in the report, but he would highlight a couple of things. He thanked the Board for letting them come and talk about what is going on with Albemarle County Service Authority. He mentioned Ms. Price's comment and said he just wanted to reiterate that their job is all about safe, clean, reliable Albemarle water at a good value. He said Mr. Mawyer covered all the things being done to try to improve water quality, and it is a lot of different projects. He said he included with the Board packet a spring customer newsletter that was sent out to all the customers that emphasized some water conservation tips around Fix a Leak and also about the My Water program, which is really using technology to try to improve customer service.

Mr. O'Connell said the biggest issue going on right now is the retail bills for the customers, and they have presented a proposed budget and rates to their Board. He said the recommendation is a 5% average rate increase. Mr. O'Connell said with the results of Rivanna's capital projects bill that included the 170 million dollars for the water treatment plants, water system upgrades, wastewater, etc., their charges to the Service Authority this coming year will be an estimated 15.5% increase. He said they are looking at close to double-digit rate increases over the next five years. He said they have been anticipating that to some extent for several years and have built up a reserve to try to help with rate stabilization; that is how they get from the 15.5% Rivanna charges to the 5% average that will be passed on to the customers.

Mr. O'Connell said the good news is having as good a drinking water quality as any place in the country, good water source and the end result, and all the testing that is done throughout the year, an estimated 400,000 tests, is to assure that they do deliver that good quality. He said the budget rate proposal is in front of their board and goes into effect July 1; they will take it up at the May and June meetings, and there is a public hearing at the June board meeting. He said he also included a budget and rate customer newsletter that will be going out with the May bills that announces the public hearing in

June. He said there is also a chart in there that is a summary of a statewide utility survey. He said even with the projected increase, they continue to be below the statewide average for comparable bills, which is pretty remarkable given the level of water quality and all of the improvements that are going on.

Mr. O'Connell said they are in the midst of the My Water program he had talked about, and the first really big project is the advanced metering called AMI. He said they are completing the first phase of that probably tomorrow; that is about 500 meters and radio devices that have been installed in the Pantops and Avon area. He said they have been very successful and feel good about that. He said they are doing a lot of testing to be sure that everything technologically is working right. He said they have given customers advance notice both in terms of a letter and a card; there are no appointments needed, and amazingly, they have not gotten a single phone call from the customers, so that project is going very well. He said they now have 19,500 meters into the fall and radio installation work that has to occur as part of that process, so they have about a year's worth more of work to complete that project. He reminded the Board that the major benefit is almost real-time leak notification, which is a huge water conservation benefit. He provided an example that out of the first 30 meters, they had a leak show up that was 25,000 gallons a month.

Mr. O'Connell said that the next My Water project that they are working on is online bill payment to improve the system; in surveys and customer comments, the system is not very modern to say it mildly. They have a target date for a brand-new system to come online in May; that will be another improvement, probably the one most desired by many of their customers. He said they also have a capital improvements program with the current year 6.9 million dollars and proposed over 11 million dollars. He said they are investing in their system, particularly large aging water mains, and updates for all those projects are in the report. He said the new projects that are proposed have been identified, and in the next one of these quarterly reports, he will go through that in some detail.

Mr. O'Connell said that Dr. Palmer had asked him about smoke tests in the sewer system that were mentioned in the report, and he would try to give a quick context of that. He said ongoing every day they send two CCTV trucks with little robotic cameras into the system looking for problems, so they are trying to be very proactive. They also have an ongoing "pick a drainage basin" and look in detail at that drainage basin. He said one of the tools and techniques that they use is the smoke test. He said to give an idea of the magnitude of what they are doing, the Hollymead drainage area is 67,000 linear feet of pipe and 368 manholes, so they are inspecting every one of those, and the smoke test helps identify some of those. He said the big culprits, which are really aging, are manholes, and they usually find a number of sewer cleanouts that have gotten damaged in one way or the other.

Mr. O'Connell said Dr. Palmer was asking about roof leaders and if any were identified, and they have not. He said he went back and did a little history; and they have had one in 10 years, so that is not a common problem, but they do look for that as they do these detailed studies. He said the goal in all these studies is to prevent what is called infiltration and inflow (I&I) or any kind of sewer overflow that might occur if it gets surcharged during a big storm, so they are being proactive to be sure there is a very tight sewer system, though they always have some level of leaks that they are constantly chasing to try to identify and rehabilitate.

Ms. LaPisto-Kirtley thanked Mr. O'Connell and said she had no questions.

Ms. Palmer said to Mr. O'Connell that it is known that people are using less water than they were expected to according to the demand analysis that was done several years ago by AECOM. She said given that the cost of water is being increased, she wondered if he could tell the Board anything about the actual amount that people are paying for their water given that they are using a lot less and how that compares with, for instance, 5 or 10 years ago, or whatever period makes sense, however far he has gone back. She said that would be interesting for the Board to see because as costs go up 5% per year for several years, Board members are probably going to hear about that from constituents.

Mr. O'Connell said he could get more detailed information, but they are continuing to see the average household use go down, though it obviously varies by household. He said with all the water conservation techniques and all the things that are going on in homes and changeouts that people are doing, they are continuing to see that reduction. He said that overall, their system is continuing to see a growth; it is about 2% a year in terms of overall water use, which is clearly because of all the new construction and new customers that they have added. He said he could get the Board some numbers that kind of show that trend over the last 10 years. He said there are some good charts that are in the water supply plan that do that, and then they have some internal numbers that can be added to that.

Ms. Palmer said it would be interesting to see what the average family was paying for water—their actual bill—several years ago, 10 years ago, versus now since they are using so much less water, but the price of water has gone up.

Mr. O'Connell said about 10 years ago, the average household use was about 4,000 gallons and he would have to find out what the cost was. He said now the average household use is about 3,200 gallons, so that shows how much people have figured out ways to conserve water, on average.

Ms. Price thanked Mr. O'Connell for the information he had presented both before as well as today and thanked Mr. Mawyer and his staffs respectively for the time that they took to show her around to see the protections being taken to ensure that clean, safe, reliable, dependable water is provided to the community.

Ms. McKeel thanked Mr. O'Connell and Mr. Mawyer for their presentations. She thanked Mr. O'Connell for his work with VDOT around timing.

Mr. O'Connell said that hopefully they get it right on this next project.

Ms. McKeel said she understood it does not work all the time, but over the years, they were really trying to coordinate with VDOT so that VDOT does not go in and pave, and then it needs to be dug up again. She said they have improved a lot with that communication, and she appreciates Mr. O'Connell's efforts on that part. She reminded people that the community does really have wonderful water, and they could save a bunch of money instead of buying a lot of bottled water to drink by giving the water a try, as it is absolutely wonderful.

Ms. Mallek said on the AMI, she thought she understood Mr. O'Connell to say that they do not notify people before showing up but do send them a card to say that they were coming sometime. She asked if there was a way for those few people, or some number of people, who are electrosensitive and cannot have it to opt out, and she knew he had explained over the years that they do have an opt-out. She asked how one does that so that it is not forgotten, and then they have to go back and get it switched back again later.

Mr. O'Connell said they were sending regular information to all of their customers about the project to give them the bigger picture. He said 30 days before being out in the field installing the meter, they send a letter to each individual household; 10 days out, which means about 5 days before the installation, they get a card saying the same thing, then if they show up and see any use going on in the meter, they will stop and come back at a later time. He said from those letters, they have had a couple of customers that have special needs, some commercial customers and some residential, that want to schedule an appointment, and they have done that to accommodate their own particular needs. He said if somebody has a desire to opt out, and they have gotten one of those calls so far, they take them through the opt-out process put in place to assist them with that if that is their choice.

Ms. Mallek said that someone asked her recently if the meters act as repeaters for other people's data the way that the Dominion meters do for electricity, so if it were just one person's data going directly to somewhere, that is different than 10,000 pings a day, which is what she was told by the Dominion people is how much goes through a smart meter on the side of a house, so she did not know if Mr. O'Connell had that kind of information.

Mr. O'Connell said the way the system works is each individual meter goes to a radio device that communicates that in the end to their computer server; it is encrypted in all kinds of ways and is zeros and ones and has no individual information on it, so it cannot be hacked into or used in any fashion, and it is not picking up any other information that is out there.

Ms. Mallek said the devices operating without the repeater is a huge benefit.

Mr. Gallaway thanked Mr. O'Connell for the report.

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**Agenda Item No. 13. *Closed Meeting.***

At 4:27 p.m., Ms. LaPisto-Kirtley moved that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (6), to discuss and consider the investment of public funds in a volunteer fire company where bargaining and negotiation is involved and where, if made public initially, the financial interest of the County would be adversely affected; and
- Under Subsection (7), to consult with legal counsel and briefings by staff members pertaining to actual litigation of the Board against the Scottsville Volunteer Rescue Squad, and a separate action brought by Virginia companies challenging a decision of the Board, where consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the Board in both cases; and
- Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice relating to a volunteer fire company.

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.

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**Agenda Item No. 14. *Certify Closed Meeting.***

At 6:03 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.

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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Agenda Item No. 15. 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.

Due to technical difficulties, Mr. Gallaway said they would attempt to return to public comment again after the first public hearing item.

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**Agenda Item No. 16. Public Hearing: SP202000007 Rappahannock Electric Cooperative.**

PROJECT: SP202000007 Rappahannock Electric Cooperative

MAGISTERIAL DISTRICT(S): Rio, White Hall, Rivanna

TAX MAP/PARCEL(S): 02100-00-00-01200, 02100-00-00-012D0, 02100-00-00-01500, 02100-00-00-015G0, 02100-00-00-015B0, 02100-00-00-016C0, 02100-00-00-01600, 02100-00-00-017C0, 02100-00-00-017A0, 02100-00-00-01900, 02100-00-00-007A0, 02100-00-00-007A0, 02100-00-00-00700, 02100-00-00-006B0, 02100-00-00-006E2, 02100-00-00-006D0, 02100-00-00-006I1, 02100-00-00-006H0, 02100-00-00-006A0

LOCATION: Parallel to the west side of Route 29 (Seminole Trail) from the southwest side of the intersection of Dickerson Lane and Route 29, north to the Greene County municipal boundary, a corridor of approximately 1.6 miles.

PROPOSAL: Install "pole topper" extensions on existing power line poles to increase the height of the poles from an average of 46 feet to a new height of an average of 82 feet in order to install a new 115-kiloVolt powerline, on an existing transmission line route of approximately 1.6 miles, along an existing utility easement proposed to increase from 40 feet in width to 75 feet in width.

PETITION: Energy and communications transmission facilities under Section 26.2(a) and Section 10.2.2(6) of the Zoning Ordinance, on 19 parcels of land totaling approximately 216.62 acres. No dwelling units proposed.

ZONING: LI – Light Industrial, which allows industrial, office, and limited commercial uses (no residential use). RA Rural Area, which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

ENTRANCE CORRIDOR: Yes

OVERLAY DISTRICT(S): Airport Impact Area; Steep Slopes – Managed

COMPREHENSIVE PLAN: Office/R&D/Flex/Light Industrial – commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging; residential is a secondary use (no maximum density), within the Community of Piney Mountain of the Places29 Master Plan area. Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

The Executive Summary forwarded to the Board states that at its meeting on February 2, 2021, the Planning Commission voted 6:0 to recommend approval of SP202000007, with conditions. The Planning Commission staff report, action letter, and minutes are attached (Attachments A, B, and C).

At its public hearing, the Planning Commission had several questions for the applicant, primarily about the proposal's effect on vegetative cover along the Route 29 entrance corridor. In addition, two neighboring owners expressed concerns both in writing (Attachment A.6) and during the public comment portion of the Planning Commission meeting. Again, however, following the public hearing, the Planning Commission unanimously recommended approval.

Staff recommends that the Board adopt the attached Resolution (Attachment D) to approve SP202000007 subject to the conditions contained therein.

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Mr. Clark said this was a presentation on the special use permit request for the Rappahannock Electric Cooperative. He said this proposal affects several parcels shown in red on the slide along the west side of US 29 North in the north part of the County, largely in the rural areas, and the proposal is to add pole toppers, which are essentially steel extension poles, on top of the existing power line poles to increase from an average of 46 feet to about 82-85 feet and include a 115-kilovolt transmission line above the existing distribution line along this 1.6-mile corridor running from the County boundary down to the substation on Dickerson Road.

Mr. Clark said the reason for the special use permit is that in the County zoning ordinance, the small-scale distribution lines for local use are by-right, but transmission lines require a special use permit. Mr. Clark presented a slide to demonstrate the appearance of the corridor as it stands with the existing poles with the distribution lines on them at Frays Mill Road looking south along 29, and then a little farther to the south just showing more of the character of the corridor, in the next case looking back north so US 29 is on the right side of the picture. He showed a few more pictures to illustrate the character of the corridor and said in some places, there is a thin line of trees between the road and the open power line corridor and then more vegetation behind that; in other places, there are not.

Mr. Clark showed a view of a portion of the conceptual plan for this use. He pointed out the very southern end with the REC substation on Dickerson Road. He demonstrated that in the blue dashed lines are the existing 40-foot rights-of-way, which is sufficient for the smaller scale distribution lines. He said in the dashes of lime-green lines on either side of that, that extend out into 29 and also farther into private properties on the left side, is the proposed 75-foot right-of-way easement which is necessary for the taller poles and higher voltage lines to create a clear area for safety to prevent grounding out, fires, things like that.

Mr. Clark showed the area on the east side of the existing corridor and said that new expansion of the clear area in that utility easement is actually overhanging US 29; the lines will not be, but that is just part of the clear area that has to be established. He said on the west side for this whole 1.6-mile length, this extension of 17-1/2 feet on that side adds up to about 3.4 acres total. He showed a view from the applicants, who provided much more detailed information on this proposal, and demonstrated an idea of what the change would be. He said the bottom half is the existing structure height and shows what the poles look like now; they are already designed for this extension. He said they have a bolt plate at the top where the new poles can be added on and so they label this an average of an additional 35 feet of pole on top of this. He demonstrated the mounts where the higher voltage transmission lines would go.

Mr. Clark showed a photo simulation from the applicant showing the before and after conditions, standing on the southbound side of 29 looking south just at the very north end of the county. He showed the difference between the existing distribution lines and then the combined poles with both types of lines that would be put on there. He showed the simulation of the after condition.

Mr. Clark said that factors to consider for the special use permit request are that this is largely a matter of consistency with the comprehensive plan, and this was the set of most important features that they found to this given that otherwise it is an existing use on the site. He said there are several points in the comprehensive plan where there are objectives and strategies about protecting scenic resources along the scenic highways and protecting the visual integrity of the entrance corridors. Mr. Clark said in order to address this, the applicants met with the Architectural Review Board on two occasions last year to show the visual impacts of their proposal and also to get the review board's feedback on how they might be addressed.

Mr. Clark discussed the approach to visual impacts review for this unusual use. He referred to the ARB staff report which stated there are clear limitations associated with screening utility lines; it is difficult to screen something that tall, and as noted, the typical screening of shrubs and walls, things like that, which are used for buildings and infrastructure on an individual single commercial site, for example, cannot be effectively applied to utility poles that are 80 feet in height.

Mr. Clark said the approach they took in working with the applicants and the ARB on this was to try to offset the visual impacts of the pole height increase rather than to try to conceal the new construction, which is not practical.

Mr. Clark said as part of that process, the applicants proposed that they could use what is known as integrated vegetation management to offset the visual impacts of the poles as well as to better manage the corridor itself, the idea being that the visual character of the easement would go from some trees but frequently very low down to the ground in the open areas and would add more varied vegetation to improve the appearance of the entrance corridor.

Mr. Clark presented several nonlocal examples from other utilities and localities. He said there are different ways of doing integrated vegetation management. He said the applicants would explain it in more detail, but essentially it is a selective form of management where instead of just removing everything that might possibly get in the way, they manage trees that would be too tall for safety in the utility corridor or weeds that are unwanted, non-native species, things like that can be cut back, whereas low-growing trees, shrubs, and tall perennials can be left to grow in the corridor which create more visual variety, more visual interest, and are more appropriate to the entrance corridor than just a mowed flat strip of grass.

Mr. Clark demonstrated another example from Eversource Energy in New England with a lot of small trees and shrubs that had been allowed to continue under the transmission lines; he said they are never going to get tall enough to interrupt, but it makes a big difference in comparison to just a grass right-of-way.

Mr. Clark stated that was the plan for managing both the vegetation in the corridor and visual appearance of the corridor. He said it was important to note that utility easements allow a utility to control the vegetation that they plant or that they cut; however, they are not the only ones that have rights in this case. He said the underlying landowners also have the right to remove vegetation, so there might be a small tree like a juniper or something like that that the applicants feel is perfectly safe to stay there, but the landowners might not want it and also have the right to remove it, so there is no absolute control of the vegetation in there and the exact result is unknown, unlike a landscaping plan where one knows exactly what one is going to get on a site plan; however, staff felt that the potential visual improvement in the corridor from having shrubs, small trees, tall native plants in the corridor compared to just mowing would be a significant improvement.

Mr. Clark said that the Architectural Review Board voted 3:1 to forward a recommendation of no objection to the proposal provided that the integrated vegetation management (IVM) plan included goals

to promote native plants, low-growing shrubs and any pollinators, and that it would include management for lower growing trees, grasses, wildflowers, and other compatible and pleasing vegetation, so staff has included the ARB's direction in the proposed conditions of approval to undertake that approach.

Mr. Clark said this project is almost entirely in the rural areas. He said those goals generally focus on protecting natural resources and protecting viability of rural land for agriculture and forestry. Mr. Clark said the only real alternative to this corridor would be to create a new corridor that saved an impact to the entrance corridor and its visibility but that would require a lot of land disturbance across land that is currently in other uses, so it is actually less impactful on the rural areas to reuse the same corridor and build up on the existing poles than to make a new corridor somewhere else.

Mr. Clark summarized that staff found two factors favorable. Mr. Clark said the proposed upgrade would increase the reliability of electrical utility service to area residents. He said the reason for that is that this is the third of three legs of a new transmission network for the electrical cooperative that helps them have multiple sources for any given area such that if one transmission source goes down, they have a backup, and they can reduce outages in the rural parts of this County and others as well as in the northern part of the development areas from hours to minutes by having a backup system.

Mr. Clark said that using the existing corridors is more appropriate in the rural areas than starting a new one for these taller poles.

Mr. Clark said the unfavorable factor was that the pole height increase would be very visually obvious to anyone traveling in the entrance corridor, and they hoped to offset that by using the IVM approach to improve the character and appearance of vegetation along this 1.6-mile stretch.

Mr. Clark said that the Planning Commission voted 6:0 to recommend approval of the special use permit request with the conditions of general accord with the plan and requiring the management technique that was worked out with the Architectural Review Board.

Mr. Clark said that he had a couple of motions for the Board of Supervisors to consider and stopped to answer questions.

Ms. LaPisto-Kirtley said she had no questions at this time.

Ms. Palmer asked if the integrative plant management issue meant that the property owner through whose land the easement goes, could decide if they wanted it mowed flat like a lawn to mow it.

Mr. Clark said that was true. He said in cases where the utilities control their own right-of-way, they can carry out this kind of management and select exactly the plants they want to remain; however, this is not a case where they own the right-of-way. He said instead they have an easement over underlying landowners, and those landowners always have the choice to do their own mowing or vegetation management as they choose.

Ms. Palmer asked if there was any intention on the part of the electrical co-op to educate the landowners as to why they are doing what they are doing.

Mr. Clark said it would be better for the applicants to answer that portion of the question, but the special use permit is the first step here, finding out whether or not the Board will approve the use. He said that has to be followed by the applicants going out to their underlying landowners and securing the actual easement expansion, which is a matter between the utility and the landowner, and he would assume that there would be a fair amount of education during that process.

Ms. Palmer said this could be a question for later when the applicant comes forward, but she said she did get a chance to get through all the Planning Commission minutes, and there was a question from a citizen at the public meeting about their lack of an easement to their driveway. Ms. Palmer wanted to make sure that somebody can address that and make sure that was taken care of. She said that was in their packet.

Mr. Clark said that he did not remember that specifically but did recall in discussions with the applicants that nothing on the ground is changing, so there is nothing new going in that would interrupt any accessways that are already out there; literally, the only change is new poles and wires on top of the existing ones, so anything that is clear for access now would remain that way at least as far as the utility improvements go.

Ms. Palmer said according to the letter, the owner of the property had property back off of the easement, and they had never had formal easement for their driveway to go over back to their property, and they wanted to formalize it, but if that was taken care of, that was fine. She said that perhaps the applicant could address that.

Mr. Kamptner said that person should be talking to the owner of the property to gain access if that is the issue. He added that he thought this come through in an email.

Ms. Price thanked Mr. Clark for his presentation. She said as she understood from the materials, these poles were installed in 2009, and when they were installed, they already had the cap at the top, so it would appear there was clearly contemplation that at a later point in time, pole toppers may be installed. She asked if she was accurate.

Mr. Clark agreed. He said the applicants were trying to prepare for this option in the future. He said it saves them money compared to replacing the poles entirely, but it does not remove the need for the special use permit process or the right-of-way acquisition.

Ms. Price thanked Mr. Clark and said what it does tell her is at the time that the County approved these poles, there clearly was contemplation that at a future point in time, the applicant may come back to do this, so this is not unexpected in that respect.

Ms. McKeel asked Mr. Clark if he wanted to confirm because that was her understanding as well.

Mr. Clark said the applicants could talk more about their intent, but it is worth saying that when those poles had gone in previously, they were distribution lines, so they do not require legislative approval from the County, it was just a building project, and he does not recall whether or not they even need building permits, but that would be the most they would need as a by-right use of an existing right-of-way.

Ms. Mallek noted that Mr. Clark had provided the input she was going to give and said she had no questions.

Mr. Gallaway opened the public hearing. He said the applicants would have the first 10 minutes.

Valerie Long introduced herself to the Board and said she was with the law firm of Williams Mullen representing the applicant, Rappahannock Electric Cooperative, also known as REC. She thanked Mr. Clark for all his help and guidance over the last year as they worked through the review process. She said he had been very helpful and among other things grasped the issues very quickly and did a great job explaining it.

Ms. Long introduced the members from the team from REC: Ms. Lee Brock, Manager of Engineering and Power Supply; Mr. John Arp, Vice President of Engineering, Operations, and Power Supply; Mr. Sam Wilson, Director of Substation and Transmission Engineering; Ms. Cindy Musick, Director of Vegetation Management Services and Certified Utility Corridor Arborist; Mr. Jeff Powell, Executive Managing Key Commercial Accounts; and Mr. Gary Durdock, Director of System Planning and Engineering Design. She also introduced Mr. Charlie Alvis from her firm.

Ms. Long said she would show a few slides that they had assembled to help further explain and then she would be happy to address some of the questions that were raised earlier.

Ms. Long said as a refresher, the corridor is a 1.6-mile span from the Greene County line extending to just beyond the intersection with Dickerson Road. She said that southern side of Dickerson is where REC has its substation. She demonstrated a project overview slide to help provide some big-picture context.

Ms. Long demonstrated the project area and the entire Route 29 corridor. She pointed out the existing Rivanna substation at Dickerson Road. She said that REC has an existing power substation just off Proffit Station Road, and there is an existing 115-kV line there about 4-1/2 miles away. She showed the span with the distribution lines but no transmission line. She reiterated that these were current conditions in this area right now and showed the area where there is a 60-megawatt capacity with no demand because there is no need there, and if the Rivanna substation were to go down, they do not have enough demand there. She said if the Proffit substation were to go down, there would be a 72-megawatt demand but zero capacity with that connection down. She then pointed out an area in the project area where there would be a demand for 72 but only a 60-megawatt capacity, so the idea is to address that problem by adding this 115-kV transmission line that would allow them to restore the electricity to their member customers very quickly so it would allow them to back feed from their Preddy Creek substation that is located further north on Route 29.

Ms. Long reiterated that the poles exist already. She addressed the questions raised about this and said that it is correct that back in 2009 or 2010 when REC replaced some much older wooden poles with these new stronger metal poles, they actually wanted to install the transmission line at that time. She said it required a special use permit, though, and unfortunately at the time, the zoning ordinance did not allow a rural electric cooperative to submit a special use permit, and although they had met with some people from the County and tried to find a solution, they were not able to. Ms. Long said since they had to go ahead and replace those poles, they went ahead and spent the additional money and planned ahead to use stronger poles and design the foundations for those poles to support the weight of the future pole toppers so that in the hopeful event that they were able to secure a special use permit for the transmission line in the future, they would be all set and ready to go and could just add the tops to the poles without having to do any additional land disturbance, grading, clearing, or creating any other impacts.

Ms. Long explained to Ms. Price that it was a year or two ago that they worked with the Board and secured a zoning text amendment that actually allowed REC to submit the application, so that was the first year and a half of this project. Ms. Long said that the existing utility corridor is 40 feet, 20 feet on either side, and with the addition of the pole toppers to accommodate the transmission line, the easement does need to be widened by 17-1/2 feet on either side of the pole. She said the good news is that much of that closest to the roadway is almost entirely within VDOT right-of-way, but on the other half to the west of the existing poles, that expansion of the easement area will need to take place on land of existing

member customers.

Ms. Long said the Board had seen some of the slides already, but she had included just a few examples, and the full set was in the Board's package, just to explain there is a variety of conditions along the entire 1.6-mile corridor. She said some of the areas are open; the blue line is the existing boundary of the right-of-way, and the green line represents the expanded area. She said in some areas, the wider easement will not have an impact; in other areas, it will require some clearing, likewise along the right-of-way, but some areas are more open, some that are far less open, almost entirely wooded, and then some at the end of the County line that are very much open, and some of the landowners along the corridor prefer to mow their lawns and keep it very open; others prefer to keep it wooded, and as Mr. Clark had clarified, REC does not have the ability to dictate how they manage their property so long as it is not inconsistent with the easement rights and will not interfere with the safety of their line.

She said that she could let Ms. Musick speak more to how they will educate their member-owners, but they do have to go back and secure easement amendments from all the underlying landowners, so that does provide a perfect opportunity to educate them on integrated vegetation management.

Ms. Long demonstrated some of the same slides the Board had seen and were in their packet, photo simulations illustrating what the conditions would look like after the line is constructed.

Ms. Long spoke more about integrated vegetation management (IVM). She said the best way to explain it might be to read a definition that EPA provides for what IVM is; it was the way that she found most helpful. She said EPA described it as a land management practice that promotes desirable, stable, low-growing plant communities that will resist invasion by tall-growing tree species through the use of appropriate environmentally sound and cost-effective control methods such as pruning and herbicide treatments. She said it is an approach to vegetation management that supports herbaceous plant diversity and effective control of incompatible plant species including invasive species and those that are fast growing and that would interfere with the lines and create safety problems, but it also allows for habitat improvement and the enhancement for wildlife species.

Ms. Long said vegetation managers working throughout utility rights-of-ways implement IVM strategies to develop the types of low-growing stable plant communities, shrubs, and grass species that promote both system resiliency and mitigate the risks associated with fire hazards or limited site accessibility. Ms. Long said the most common reason for outages is vegetation, and so obviously the goal for REC is to avoid that whenever possible, and so the best way to do that is to keep the vegetation managed within the utility corridor. She pointed out an exhibit showing a wire zone and a border zone where there can be slightly taller vegetation so long as it does not reach the height of the lines, and then the taller trees are on the outer edges beyond the boundaries of the corridor.

Ms. Long said the use of herbicide treatments is very small scale; they use backpack canisters to walk along, and it is not the massive spraying seen in some other areas. She said she had included a few pictures as well of the post-maintenance conditions to demonstrate what the corridor looked like not too long after maintenance had taken place. She showed one that she thought was helpful in showing the variety with a property left fairly mowed and open, some of that due to the billboard issues in terms of visibility. Ms. Long pointed out a bush on the left and said when she first saw it, she was surprised that it was allowed to remain because it certainly looked like it is growing and about to reach and interfere with those lines, but it was not growing any taller, maybe vines, and provides nice animal habitat and is allowed to stay because it does not interfere. She showed a similar example of a dead tree left behind that does not get in the way but is not growing taller.

The Clerk informed Ms. Long that her time had expired.

Ms. Long said she would be happy to answer more questions or talk more about the benefits of the system.

Ms. LaPisto-Kirtley asked Ms. Long to go back to two of her earlier photos which showed the line and then the wattage and then the improved wattage, a before and after. She said she was interested in the second one.

Ms. Long asked if she meant the photo simulations.

Ms. LaPisto-Kirtley said yes, where it had 72 and 60 as far as the strength.

Ms. LaPisto-Kirtley said if there were improvements, then that would help the Preddy Creek station and Rivanna. She asked what the "X" meant between Rivanna and Proffit.

Ms. Long said that was just to demonstrate the connection between the Proffit substation and the Rivanna substation, and if that line were to go down due to a storm event, then the system could overload because they do not have any capacity going from Proffit to Rivanna, but they have a 72-megawatt demand, so if they cannot get an alternative source from somewhere else, they have a problem, so if this project is approved and constructed with that transmission line, they can then back feed power from the other direction, from the Preddy Creek substation, and get people back up on line very quickly.

Ms. LaPisto-Kirtley asked, if this were approved and there was an overload, if it would carry all the way over to Rivanna and Proffit.

Ms. Long said it hopefully would avoid any overloads generally, but what this would mean is you could not serve the area because your demand is higher than your capacity, so that would be an overload, and they had explained to her would be not what they would do, but if the transmission line is in place, they can restore the Rivanna substation because even though they have lost the connection to the Proffit substation, they now have a connection to the Preddy Creek substation, and they have more capacity than they do demand so they are able to get their member customers back on line.

Ms. LaPisto-Kirtley asked if they would be able to service the customers between the Rivanna and the Proffit substation.

Ms. Long said yes, but she could ask her team members.

Ms. LaPisto-Kirtley said that the red "X" did not look like that would happen.

Ms. Long said certainly this will help restore their customer service back much more promptly. She asked if anybody else from the REC team wanted to weigh in. She said Ms. Brock may want to correct or clarify.

Ms. Brock explained that they have two sources into this entire area, one from Proffit which normally serves the Rivanna substation, which serves Albemarle County, then the other is way up in Madison at the Gordonsville substation. She said the line between Proffit and Rivanna is a transmission line; there are no members served off that, and all of the members are served from the Rivanna substation, so if they lose the Proffit substation source or the line going to Rivanna, they do not have enough capacity to serve the Rivanna substation and its members all the way from Gordonsville because of the limit of the capacity of the line in between, so this would allow them to restore all of the Rivanna substation members.

Ms. LaPisto-Kirtley said the graph was not the best but she now understood.

Ms. Long said they had worked so hard to try and make it clear and apologized that it was not better.

Ms. Palmer said she gathered from the picture shown of the dead tree with the vines growing over, though she could not see it in detail enough, that there is no attempt to remove invasives. She asked if that were so.

Ms. Long said that certainly an integral part of integrated vegetation management is to remove invasives, and certainly if they are going to be creating problems and getting in the way of the lines or creating other safety problems, but she would ask Ms. Musick to weigh in if she had anything else to add.

Ms. Musick said the invasives that would probably show up here if they were not treated would be autumn olive, Russian olive, Ailanthus, those kinds of tree and shrub species that get very thick very quickly, and they inhibit access, particularly the autumn olive. She said the Ailanthus would definitely get tall enough within three to five years to impact the line, which of course would not be wanted, so to answer the question, they definitely go after invasives. She said not only do they choke out the native species, but many of them are high density and one simply cannot get in to make restorations if something happens from one of the outside-the-right-of-way trees, so yes, they do treat invasives as well, pretty aggressively actually.

Ms. Palmer asked if they were just treating invasives for access and safety issues but not treating invasives that were crowding out the other plants that they would like to grow like the beautiful picture of the mountain laurel through the right-of-way.

Ms. Musick said they do treat invasives of all kinds, and there is a plethora of them, and the list seems to grow a little bit more robust every year. She said their primary focus is to treat tall-growing trees and trees that are going to impede access and brush, but they do actually treat invasives, and that started about 2-1/2 to 3 years ago.

Ms. Palmer asked if that was on this five-year schedule.

Ms. Musick said they come through and trim the trees on the side and remove the incompatible species, the tall-growing species that can grow up into the line, within the next five years. She said they leave low-growing species, grasses, forbs, sedges, low-growing shrubs, anything native that they want to keep, and retain those, and then the year following, they go back in and do the herbicide treatment.

Ms. McKeel expressed her fascination with IVM; she said it is an interesting approach that she was not aware of and was most impressed. She said in her mind, she looks at this project as a redundancy project.

Ms. Long said that was correct; it is redundancy and resiliency in the system both.

Ms. McKeel said that was exactly the parity in her head and the way she viewed it, and that is really critical for the folks in the area.

Ms. Mallek said she thought they had a challenge probably of having to mechanically hand paint

the herbicides because by hosing things down, all the good plants that you want to keep would be killed. She said she appreciated the care to make sure that this works well and appreciates getting all the lower growth thickening up in there. She said that would be a huge advantage. She stressed the redundancy for the neighbors there who often suffer allergies as well as Rivanna station just down the road is incredibly important.

Mr. Gallaway said he understood they had some people lined up and asked Ms. Price to go through the speaking guidelines.

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Mr. Robert Messick said he owned some property along 29, about three-quarters of a mile. He said this property along 29 has been in his family since the early 19th century. He said it is family property, and his family has until now always supported Rappahannock Electric Co-op. He said his grandmother, Reanie Estes, granted an easement in the early 1950s, and his mother Nora expanded this easement in the late 1960s or early 1970s with the understanding that there would be no transmission line, which this proposed line is. He said his family is opposed to this transmission line. He said he had two questions for REC: When Greene County needs more electric power for its development and as a result REC needs to increase the voltage on the transmission lines along 29 from Albemarle County, will they need more right-of-way easement to accommodate the arms holding the transmission lines; and second, other than 34-kV lines, is there currently any transmission line feeding the substation behind the Sheetz store in Greene County; other than the power line currently along 29 from Albemarle County, what other power source is there for this Greene County substation behind Sheetz. Mr. Messick said they are very unhappy with this proposed transmission line proposal, and he is disturbed to hear that REC is talking about spraying herbicides on his property.

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Mr. Eric Myers said that he was representing his mother, Marie Myers, who owns property along 29, and he is related to Ray Messick, and they have a few comments for the Albemarle County Board of Supervisors. He said they had read through the Albemarle County climate action plan from October 2020, and it states on page 28, ID/action point 2.5, "The County will incentivize and support land conservation in the rural areas, provide opportunities for carbon sequestration and protection of existing carbon stores." He said page 36 of the same document says, "While over half the energy produced in Virginia is from burning natural gas, less than 1% currently comes from solar and wind." He said REC has put forward no plans to reduce carbon emissions. He said blanket approval of the special use permit will represent business as usual for electric utility, which in turn will actually increase electrical capacity and in the future consumption of fossil fuels. He said this appears to be counter to the climate action plan.

Mr. Myers said that point two is their concern of the 2018 biodiversity action plan for Albemarle County that states on page 8 the problem of forest fragmentation and degradation. He said should the Board of Supervisors approve the expanded right-of-way with another 17 feet added onto REC's existing right-of-way, mature oak, maple, and holly trees would need to be chopped down, thereby continuing more forest fragmentation while removing shade canopy that helps cool the ground surface. He said this also appears to be counter to the biodiversity action plan.

Mr. Myers said his family has voluntarily kept the southbound entrance into Albemarle County along 29 South undeveloped and natural. He said from personal experience, he has seen fox, evidence of bear, white-tailed deer, and all kinds of flora such as ferns, wild blueberries, and running cedar species. He said there is also a stream that runs through existing REC right-of-way. He said to their knowledge, no environmental impact study independent of REC has been required.

Mr. Myers said that point three of their concern was the Planning Commission meeting of February 2021 discussing this special use permit with REC, and his uncle Ray Messick and he attended this meeting. He said between their two properties, they represent one mile of the 1.6 miles of the proposed REC expansion. He said during this meeting, they observed Planning Commission members exchanging pleasantries on a first-name basis with REC members including advice on how to improve their presentation for the Board of Supervisors. He said this appeared to be a conflict of interest.

Mr. Myers said they wanted to acknowledge that REC and the Planning Commission were talking about what to do with the "football" but never once acknowledging that his families own the football. He said they felt like tolerated spectators. He said in summary, he would ask three things. He would ask that the Board of Supervisors delay approval, and in line with renewable energy, President Biden is set to announce bold climate action plans tomorrow, and he would ask they support him in that, delay the approval of the special use permit and require an independent environmental impact study to be conducted in line with the biodiversity action plan and require REC to use existing right-of-way should the pole extensions be used.

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Mr. Chris Hawk with the Piedmont Environmental Council said that the proposed line upgrade is located outside of the Places29 growth area and extends between the former and the Greene County line, and it is proposed to impact approximately 1.6 miles of frontage on Route 29. He said they have concerns related to extending the service district beyond the growth area, enlargement of the growth area, power security, and Albemarle's valuable scenic resources. He said they are concerned that this line upgrade could open up the door for development outside of the designated growth area. He said they support the power security and backup measures for resiliency and redundancy but do not support speculative expansion of the energy grid. Mr. Hawk said that PEC is not supportive of unwarranted

transmission line upgrades that impact the character of the County in a main entry corridor. He said they raise the following questions: whether a condition can be included to provide the requested redundancy and resiliency without creating additional capacity for an expanded customer base that could foster unplanned growth area expansion; how does the proposed line upgrade work favorably for the County's growth vision, and is there County urgency to create additional capacity along this corridor for customers; how does this proposed line upgrade work against the County's growth vision, and will this increased capacity create pressure for an expansion of the Places29 growth area; if the County deems this line upgrade as favorable, how will the height be mitigated to protect the viewsheds along and within the land surrounding the Route 29 entry corridor.

Mr. Hawk said that undergrounding transmission lines would work more favorably for protecting Albemarle's scenic resources while adding the required and requested resiliency and redundancy in the face of increasing weather-related risks. He said additional options for mitigation include but are not limited to alternative tower design and color schemes. He questioned how many Albemarle REC members this upgrade would affect. He said the application states that REC serves approximately 2,000 members in Albemarle, but it does not state how many of its members are currently served along this corridor. He asked if there are other transmission lines within the County that have the same current design that would allow for pole toppers to increase height. He asked if the County is monitoring those as it relates to future upgrades and the consideration of impacts and conflicts to the comprehensive plan in the growth areas. Mr. Hawk asked if most blackouts are caused by vegetation impacts on transmission lines or by vegetation impacts on distribution lines, as this is a big difference. Mr. Hawk said the current transmission lines were developed and placed to accommodate pole extension suggesting that the original intent of the current lines was to expand height in the future. He said if that is the case, they have even greater concerns about future line upgrades throughout the County. He thanked the Supervisors for their time.

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Mr. Gallaway closed the comment portion of the public hearing and informed Ms. Long that she had five minutes to respond.

Ms. Long said probably the most important thing she wanted to clarify is that Rappahannock Electric does not generate electricity; it purchases it wholesale and then distributes it to its member-owner customers. She said this project actually supports several goals of the County's climate action plan. She mentioned that climate action is already occurring right now; these storms are more and more frequent, more and more intense, cause more and more destruction, property damage, and cost to everyone. She said the County Board should be commended for the adoption of the climate action plan; it includes very aggressive goals and creative, innovative ideas, and there are a lot of wonderful aggressive climate action plans that are being proposed including by President Biden. She said this supports those efforts, though those goals are not going to achieve progress overnight; these storms are already here and already impacting Albemarle County residents, businesses, agricultural operations that are REC's customers, so this project will help address the infrastructure needs that already exist right now.

Ms. Long said that Mr. Hawk is correct; this transmission line was planned in advance and is 10 years overdue; they had wanted to install it 10 years ago. She said they were trying to be forward-thinking and were trying to avoid any additional impact on the three streams that are within this corridor. Ms. Long said that because the pole toppers are all that are needed, there is no need for any grading or earth disturbance, no need to upgrade the foundations of these poles; all they have to do is attach the pole toppers. She said they think that is absolutely the most environmentally sensitive approach out there. She said they are not shy about being very clear that this transmission line was planned 10 years ago.

Ms. Long said it also will not extend REC's service area; their service area is already established, and these customers are already here, and a portion of their service area is within the designated development area. She said the project territory ends at Dickerson Road, but that is not the end of their customer service area; their member customers include Rivanna Station. There are a number of large commercial businesses and small businesses that are Rappahannock Electric member-owners as well, not to mention all of their individual homeowners who rely on their service. She said the question was how many of those members will be impacted by this project, and the answer is all of them and all of them in a very positive, favorable way. She said there was a question about the number of landowners; there are 19 different parcels and 17 different landowners because several of them own multiple parcels.

Ms. Long said the benefit is its system resiliency, as it will result in shorter power outages for all their member-owners, and strategic planning; the project meets the growing demand for power along the Route 29 corridor. She said it supports interconnections from solar and other renewable projects. She said it will help improve their response to the increasingly frequent severe weather events, and by using the existing utility corridor instead of creating an entirely new one, the project uses land efficiently; it minimizes the impacts on the land and on additional property owners. She said it also supports economic development because reliable electric power is a key factor for the large employers that already exist in the designated development area and those who want to relocate to the County or those who want to expand in the development area. She said it also again supports the County's renewable energy future, creates new opportunities for solar developers.

Ms. Long said they think that there are so many benefits of this. She said they all wish that they did not have to increase the height of the poles and wish that the width of the utility corridors did not have to be increased. She said REC takes those issues very seriously as part of its infrastructure project and will be meeting with all these individual landowners. She said they have attempted over the three years

that she has been involved in this project on repeated occasions to reach directly to the landowners who spoke this evening. She said they held two community meetings. She said she knew that REC sent six or seven letters to those who did not respond immediately, so they have worked very hard on community engagement and to hear the concerns and comments from the member-owners whose property is affected. She said she is confident that they will work hard to minimize any impact to the extent possible, but this is a critical vital infrastructure improvement. She said what happened in Texas in February was the worst of all situations, and this is the type of infrastructure improvement that is designed to avoid those types of terrible situations.

Mr. Gallaway said that the matter was back before the Board, and he did hope that everybody saw the note that if for some reason they get bounced out, zoom is doing maintenance and to log back in.

Ms. Palmer said as far as the question from the speaker about spraying herbicides on the easement, she is assuming that is something that they would work out with the landowner. She asked if that would be another one of those things that required landowner's permission since they cannot control the easement entirely.

Ms. Musick said there are signs in REC's territory that say NHA nailed onto the pole, so any one of these property owners has the option to opt out of the herbicide spray program, and they find other ways to manage the right-of-way. Ms. Musick said that what it usually ends up being is much more stem density per acre; when one sees those signs, it is normally accompanied by lots of invasive species because the best tool to control invasive species according to the Fish and Wildlife Service, the National Park Service, the Forest Service, and EPA is through low-volume application of herbicide. She said that is the tool that they use, but absolutely one can opt out of it.

Ms. Palmer said she just wanted to make sure that that was understood. She said she wished she had Mr. Hawk's letter entirely because she could not catch all the issues but asked if someone could comment on his question about the trees causing outages in distribution rather than transmission lines, that she might be getting the terminology incorrect, but the lower lines to people's houses versus these larger higher lines.

Ms. Brock said for the most part, yes it does affect the lower lines distribution more than transmission because they are up higher. She said there is a wider right-of-way with transmission; however, it does happen. She said with some of the windstorms, they have had limbs and tree roots almost uprooted and thrown into transmission lines, so it can happen.

Ms. Palmer agreed that there had been some pretty massive storms in the last decade or so. She said she just wanted to make sure that they had covered the questions from the public comment period. She said if there was anything that they had written down that Ms. Long did not cover, it would be wonderful if they could mention that.

Ms. Brock said she could think of one other who asked if the 35-kV line that is existing that goes by Preddy Creek, whether that is served by the 35-kV line, and that is served by the northern section. She said right now, Rivanna is only served by Proffit, and the 35-kV line that goes the whole loop, Preddy Creek is served from the north end of that.

Ms. Price said this was not her area of expertise and if she got the language wrong to please correct her, but her understanding was that the distribution lines are the lower ones; the transmission lines are the higher ones both in terms of height as well as voltage. She said her experience has been that quite frequently the distribution lines may be buried, but she questioned whether transmission lines are frequently buried or more generally on the poles.

Ms. Long answered that they are not generally, and she did not believe ever, buried. She said the cost would be about 10 times the cost of certainly adding the poles to the pole topper; it would also result in significantly more earth disturbance; to put the lines underground, giant underground vaults would have to be created where someone could access them for maintenance purposes. She said she could not remember the precise dimensions, but they were large, and along the span, much more tree clearing would be involved, and even if that were the preference of the Board and there was money available to REC to incur that expense, which of course their member-customers would have to cover, it would not mean that the distribution lines would go away, that existing distribution line would stay. She said they could not put a transmission line underground in the same corridor as this one; they would have to put it in a completely new corridor, and they have some slides that show where a different corridor is that they considered, but it would have a substantial impact on a large number of property owners and require substantial clearing, so then you would end up with two corridors, one with an underground line and lots of clearing and the other one that looks exactly like the one does now. She asked for someone at REC to confirm or correct her as to whether any transmission lines are ever put underground.

Ms. Brock said they are, but it is very much more expensive with much more earth disturbance, and more trees would be killed because the root systems are underground, and all that gets dug up.

Ms. Price asked if it were more likely that an underground transmission line would be in a highly developed area rather than in a rural area.

Mr. Wilson answered that Dominion has underground lines in Arlington and the type of areas where it is under the streets with huge vault scenarios like that, but as far as Rappahannock, they have no underground transmission. He said with the splicing and capabilities of doing that, they do not even

have the expertise in house.

Ms. McKeel said that her questions had been answered.

Ms. Mallek said she just wanted one clarification and that is if this is approved and the distribution line has a tree fall on it, assuming the transmission line high is intact, it would still back feed to do its job while something could be repaired underneath and asked if that were correct.

Ms. Brock said yes.

Mr. Gallaway said if there were no other questions or discussion or comments to entertain a motion on this item.

Ms. Mallek **moved** to adopt the Resolution (Attachment D) to approve SP202000007 Rappahannock Electric Cooperative subject to the conditions contained therein.

Ms. McKeel **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. Gallaway said that the application was approved and thanked Ms. Long and everyone else from Rappahannock Electric.

Mr. Gallaway informed the Board that before going to #17, they would attempt to get the public comment from earlier in this round if they were still available.

Mr. Morris asked Mr. Gallaway to come back to public comment after the public hearing.

Mr. Gallaway said the Board would come back after the next item.

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#### **RESOLUTION TO APPROVE SP 202000007 RAPPAHANNOCK ELECTRIC COOPERATIVE**

**NOW, BE IT RESOLVED** that, upon consideration of the staff report prepared for SP 202000007 and all of its attachments, the information presented at the public hearing, any comments received, and the factors relevant to the special use permit in Albemarle County Code §§ 18-5.1.12, 18-10.10.2(6), 18-26.2(a), and 18-33.40, the Albemarle County Board of Supervisors hereby approves SP 202000007, subject to the conditions attached hereto.

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#### **SP 202000007 RAPPAHANNOCK ELECTRIC COOPERATIVE CONDITIONS**

1. Development must be in general accord, as determined by the Director of Planning and the Zoning Administrator, with the conceptual plan titled "Proposed 75' R/W Easement" shown on the plan titled "Rappahannock Electric Cooperative Transmission Line Improvement - Special Use Permit Plans SP2020-00007," prepared by Alan Franklin, PE, LLC, and dated February 18, 2020. At a minimum, to be in general accord with the conceptual plan:

- Supporting structures for the electrical transmission lines must remain within the "Existing 40' R/W Easement", as shown on the plan.
- All pole extensions added to the existing poles must be similar in color to the existing poles. Minor modifications to the plan that do not conflict with the above elements may be made to ensure compliance with the Zoning Ordinance.

2. Vegetation within the "Proposed 75' R/W Easement" must be managed according to an Integrated Vegetation Management Plan in general accord with the draft plan titled "Integrated Vegetation Management Plan to Accompany SUP 2020-00007", date December 11, 2020. Vegetation must include the following target vegetation types:

- Native Virginia meadows, low growing shrub landscapes, and pollinator-friendly native species by suppressing forest succession, and
- Lower-growing trees, grasses, wildflowers, and other vegetation compatible with safety needs and regulations.

The Executive Summary forwarded to the Board states that with the goal of improving stream health, staff conducted a public review of the County's stream buffer regulations in 2017, culminating in a work session with the Board on December 6, 2017. From October through December of 2018, staff conducted a public engagement process to receive feedback and public comment on the proposed strategies. The proposals that arose from this input were subsequently shared with the Board.

During a work session on January 9, 2019, the Board directed staff to work on nine of the initial thirteen proposals to improve stream health in the County's Development Areas. At a joint work session with the Board and Planning Commission on July 9, 2019, more detailed proposals and staff recommendations were presented and discussed. At a Board work session on November 6, 2019, specific recommendations were presented and the Board provided further direction.

On July 15, 2020, staff returned to the Board with final proposals for consideration, which included the recommendation to phase the adoption of the proposals because of staff resource needs. The Board agreed to implement the proposals that have no or minimal impacts on staff resources.

On March 3, 2021, the Board directed staff to schedule a public hearing to consider the adoption of an ordinance that addresses the first phase of proposals.

The attached proposed ordinance includes changes that address the following proposals:

- Proposal #3 - Allow temporary Erosion & Sediment Control (ESC) measures within the stream buffer if the area is restored.
- Proposal #14 - General Water Protection Ordinance (WPO) updates and clarifications.
- Proposal A2 - Require a maintenance bond for stormwater facilities prior to release of the construction bond if the developer requests to have its construction bond released and the facility has not been transferred to the Property Owners Association.

Specifically, the proposed ordinance would:

- Amend § 17-201 by updating the name of the Facilities and Environmental Services Department;
- Amend the following definitions in § 17-205:  
“Agricultural road” to require construction in compliance with the water quality protection procedures established by the Virginia Department of Forestry;  
“Best management practice” to update the Virginia Stormwater BMP Clearinghouse Website hyperlink;  
“Nonstructure best management practices” to include “forest and open space;”  
“Land disturbance or land disturbing activity” to include filling; and  
“Water supply protection area” to delete Chris Greene Lake from the list of reservoirs;
- Add definitions for “Forest and Open Space” and “Streamside Management Zone” to § 17-205;
- Amend § 17-209(A) to allow payment of fees through the County online payment system;
- Amend § 17-209(B)(4) to change the billing and due dates of maintenance fees;
- Amend § 17-301(F) to require that forestry activities comply with Virginia Department of Forestry Best Management Practices, including streamside management zones, to be exempt from VESCP requirements;
- Amend § 17-303(B) to require that forestry activities comply with Virginia Department of Forestry Best Management Practices, including streamside management zones, to be exempt from VSMP requirements;
- Add § 17-402(D)(1)(a) to require a Critical Resources Plan with each agreement in lieu of an erosion and sediment control plan;
- Add § 17-402(D)(1)(b) to identify land disturbances not eligible for agreements in lieu of an erosion and sediment control plan;
- Amend § 17-402(D)(2) to allow the administrator to require additional information for an agreement in lieu of an erosion and sediment control plan or to not accept an agreement;
- Amend § 17-414 to require an agreement with surety before any land disturbance activity;
- Amend § 17-414(A) to require an agreement with surety as a condition of a land disturbance permit;
- Add § 17-423(C) to require developers, prior to release of construction performance security, to either (1) transfer maintenance responsibilities of stormwater management facilities to a Property Owners Association or (2) provide the County with a maintenance security;
- Amend § 17-603(B) to delete temporary erosion and sediment control measures from the types of structures, improvements and activities allowed in a stream buffer without mitigation; and
- Add § 17-604(G) to permit temporary erosion and sediment control measures within the outer 50-feet of a stream buffer, provided that the measures are located outside of the stream buffer to the extent practical and that the disturbance impacts are minimized.

Please note that the revisions to § 17-209(B)(4) (highlighted in Attachment A) have been proposed since the Board's prior review on March 3. The additional revisions address when the mandated annual Virginia Stormwater Management Program (VSMP) maintenance fees are billed and due.

Staff plans to schedule a work session with the Board this summer regarding the next phase of stream buffer proposals, which includes lowering the threshold for area of disturbance and expanding the applicability of the County's stream buffer regulations, and which is currently resource-constrained.

An estimated 0.10 Civil Engineer FTE and 0.10 Community Development Administrative FTE are required by these proposals. We are of the opinion that this work can be absorbed by current staff during times of normal workload. No other budget impacts have been identified.

Staff recommends that the Board adopt the proposed ordinance (Attachment A) with an effective date of July 1, 2021.

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Mr. Pohl, County Engineer, said he was there to present the WPTA, which means water protection text amendment 2021-00002, water protection ordinance regarding stream buffer regulations. He said this is the first phase of the stream health initiative that is coming to the Board for adoption for changes to the ordinance. He said the consent agenda item for a public hearing was heard in March, and as a requirement for changes to this ordinance, a public hearing is required, which is why they are here.

Mr. Pohl presented a brief history. He said he keeps adding to the bottom of the slide as certain additional milestones pass. He said the initiative was started back in 2017, and the latest action was a March 3rd consent agenda item for this public hearing. He said in a brief summary of the proposals, this was presented last year in July when they had talked about separating out the phases. He said the phasing discussion is confusing, but they started out when Mr. David Hannah was here; phase 1 was development areas and phase 2 was rural areas, which is another effort that is ongoing that Ms. Kim Biasioli is heading up. Mr. Pohl said that he presented this in July and included phase 1 and 2, which further confused things. He said that phase 1 he is calling phase 1a, and phase 2 he is calling phase 1b. He said the ones that are highlighted are the ones before the Board this evening. He said he plans to come back to the Board to discuss the other ones in late summer/early fall.

Mr. Pohl stated that the revisions before the Board this evening include the sections shown on the slide, and he would not go through all the changes, some of them are administrative changes, but he did want to highlight some of the more key revisions in the ordinance proposed this evening.

Mr. Pohl said he would first start out with two of the definitions. He said there was a change in the definition for agricultural road. He said they added this language here to provide some additional protections for construction of agricultural roads. He said they did receive an email from a constituent who raised some valid points. He said the email has gone around, and he is recommending providing an option for adoption to include this and then another option to not include the revision to this definition. Mr. Pohl said he agreed with the points that the gentleman brought up, they are valid points, and his recommendation is to postpone adoption of this change or to not include it with the ordinance change this evening.

Mr. Pohl said that a definition that they did add is a streamside management zone; this is a term that is used in the Department of Forestry (DOF) Best Management Practices (BMPs) for forestry activities for harvesting of trees. He said they did not have that definition but wanted to include that to make it clear that they do require a 50-foot buffer called a streamside management zone that will allow 50% removal of trees within that zone, so it will also keep 50%, and they have used the term in the DOF handbook intentionally to be different from stream buffers because stream buffers are a little bit different.

Mr. Pohl said that they included some clarification and some exemptions for the VESCP, which is the Virginia Erosion and Sediment Control Program portion of the permitting requirements, and this has to do with forestal activities again. He said that they state that the forestry activities are exempt if they follow forestry BMPs including implementation of the streamside management zones. He said this was brought to their attention by DOF personnel that it was not clear to them that the SMZs (streamside management zones) were required. Mr. Pohl said that DOF had been requiring it by policy, and in the last year to two years, they brought it to attention that it was not specifically called out and they were not enforcing it anymore. Mr. Pohl said he thought they had one project where they did not enforce the streamside management zone, so they wanted to make it clear in the ordinance.

Mr. Pohl presented the next slide, which is the same change but relative to VSMP exemption. He said they did already allow an exemption for it but just wanted to make it clear that they want to have these streamside management zones.

Mr. Pohl stated that the next slide is a change to section 402 for erosion and sediment control plans and specifically related to agreements in lieu of a plan. He said agreements in lieu of a plan are allowed only for single family dwelling units, and it allows up to an acre (so between 10,000 and an acre) they are allowed an agreement in lieu of plan, and also all single-family homes within a common plan of development. Mr. Pohl said they wanted to add a few requirements to be eligible for an agreement. He said one is to include a critical resources plan. He said that requirement is in the design standards manual, but he wanted to go ahead and put it in the ordinance. Mr. Pohl said he had an example of the critical resources plan on the next slide.

Mr. Pohl stated that the second one was to allow them to disallow an agreement if there are chances or concerns about downstream waters or problems. He said the alternate to an agreement in lieu of a plan would be a full plan submittal.

Mr. Pohl presented a slide of a CRP (critical resource plan) example and said a few members of the Board had asked what a critical resources plan is, and this is what one is. He said on the left is the County GIS (geographic information system), and on the left bar one clicks on maps, and it opens up a

map theme, and then one can click on the critical resources plan theme. He said that shows the critical resources on that particular parcel and shows it throughout the County. He said it shows contouring and critical slopes, floodplain, and buffers. He said on the right is an example that used to be included in the design standards manual; it includes the location of the house and the driveway and identifies area of land disturbance, and it provides an estimate based on the area of land disturbance, and they show the outside of critical slopes and outside of stream buffers or flood plains, and there is a statement on the side that they agree to build according to this plan, and then they sign it. Mr. Pohl said that is what a critical resources plan is.

Mr. Pohl presented the next slide showing a change in the requirements for bonding, which is required currently for all projects during construction, but when projects are completed, if a developer has not transferred the property to the HOA (homeowners association), they can get their bond released; there is no mechanism or requirement to hold that bond. Mr. Pohl said they have had this on a few occasions; it does not happen very often. He said most developers are eager to close out the projects and transfer projects, but they wanted to provide some kind of surety in the event they do decide to close out the bond prior to transfer to a property owners association. Mr. Pohl said there was still an option here; they can transfer to the property owner's association prior to, or they can provide a maintenance security. Mr. Pohl noted that they do not usually let bonds go until the facilities are completed in accordance with the regulations; it is just after a bond is released, there can be a lag, and if there is a lag, maintenance could be delayed, and that is the concern they have about the transfer not occurring prior to bond release.

Mr. Pohl said the next change or revision is moving an allowance for temporary erosion and sediment control measures from a "by-right" use within the buffer to another section of the ordinance which is on the next slide that still allows it but has some restrictions. Mr. Pohl said they are basically moving paragraph B to a section of the ordinance which is 604 that requires mitigation, and they have also added in there that the impacts can only occur in the outer 50 feet and not within the inner 50 feet of a stream. He said they would still allow some level of impacts for temporary E&S (erosion and sediment) measures, but there will be some restrictions on how close they can get to the stream. He said that one may ask why even allow this to begin with, but all projects have to discharge to a stream somewhere, so there are going to be some impacts to buffers if developments with streams around them are allowed, so this at least minimizes those impacts.

Mr. Pohl said those were the key changes that he wanted to point out. He said if the Board approves this, it still must be submitted to DEQ within 30 days after the adoption, and then there is a 90-day appeal period for the public from the date of the adoption, not from the date of submitting to DEQ but from today's date if adopted. He said regarding the 90-day appeal period, he had put July 1st in his original Board documents, thinking it was a 60-day appeal period, when he realized last night that there is a 90-day appeal period, so after consultation with legal staff, he is changing that to an effective date of 09/01/2021.

Mr. Pohl said that he would be happy to answer questions.

Ms. LaPisto-Kirtley asked regarding streams and plugging up the streams and such, on a rural or gravel road that is not paved by VDOT yet, what happens when the gravel they use spills over into the side of the ditch and then plugs up the stream.

Mr. Pohl said that someone needs to remove the gravel, or it gets washed downstream. He said that is something that he and Ms. Biasioli will talk to VDOT about, ways of trying to reduce that from happening.

Ms. LaPisto-Kirtley said she did not know if that was somehow addressed. She said a lot of it also is the fact that they use a fine material in with their gravel, and it almost forms a cement-type thing that plugs up the streams. She asked if the answer is to work with VDOT, but it is not addressed in the proposal.

Mr. Pohl confirmed that it is not addressed in this proposal, and they plan to reach out to VDOT with the next phase, which is the rural area phase, of this initiative.

Ms. Palmer said with the agricultural roads issue that Mr. Pohl had said there was an email that has been going around, and she had not seen that and was hoping that would be distributed to all the Supervisors. She asked Mr. Pohl to talk about that, and she was going to ask him to give an example of how that would impact agricultural road building, what he had suggested originally in their materials.

Mr. Pohl said the reason why he included this to begin with was, as an example, they had two projects where the project started out as forestry and then they turned into a conversion to pasture, and on those two projects, there were roads that were eroding on the neighboring properties, and the Department of Forestry basically said it is no longer forestry and they had no jurisdiction. Mr. Pohl said they also did not have jurisdiction because it was agriculture, so that is why he thought it was a good idea to add this.

Mr. Pohl said the person who brought this to their attention had sent it a few days ago, and it will be forwarded. Mr. Pohl said it might not be best to handle this as a change to the definition; if they decide that it is something they want to move forward with, it might be more appropriate to be included with the language for exemptions, in other words, like they do for the forestry. He said forestry is exempt if they provide BMPs in accordance with DOF and streamside management zones. Mr. Pohl said instead of

changing the state definition, they could say agricultural roads are exempt if they follow these BMPs; it would be included with the exemption.

Mr. Pohl said the other issue brought up in the email had to do with enforcement, and he was thinking of these two particular projects and could see how enforcement could be an issue, so he thinks it requires greater discussion and agrees with what the gentleman said about a few of these things, so he thinks it does involve some larger-scale discussions of whether these two instances warrant this type of change. He said the third thing is whether there are other local laws, and he is not sure of the answer to this, that could address the problem. Mr. Pohl said he did not know if the attorneys want to add anything to that, but that is his feeling on this issue.

Mr. Gallaway clarified that an email was received last night by a constituent that he forwarded to Ms. Filardo and Mr. Kamptner today and asked for review. He said he was happy to forward that to anybody.

Mr. Pohl agreed that was just last night.

Mr. Kamptner agreed that they had received it late morning, already prepping for the meeting, but he supports Mr. Pohl's recommendation that they remove the proposed amendment to that particular definition in order to work through that and the issues that he raises.

Ms. Palmer said that was fine; she just will skip her questions on agricultural roads if that is going to change. She said one of them was to explain how it would impact going through pastures. She said in reading through the information, and this was not one of the things that would be changed, but there was a statement in there about discharges to sanitary sewers or combined sewer systems in the ordinance exempt from BSMP (Virginia Biosolids Management Plan). She wondered when a combined sewer system is allowed, whether that is referring to a combined stormwater sewer system in that statement or is there some place where that is allowed.

Mr. Pohl confirmed it was under the VESCP, conventional onsite sewer systems. He said if they are associated with the actual building permit, they are not exempt. He said they do show those, and they are required to show them. He said if they are an individual, then a building permit is not required and they are typically under 10,000 square feet, so they are regulated by VDH. He noted those exemptions are from state standards, so they were originally adopted.

Ms. Palmer asked if it were correct that a combined sewer system does not refer to a combined stormwater/sewer system; it is referring to a specific kind of sewer system.

Mr. Pohl said he did not see the combined sewer system.

Ms. Palmer said she would get the reference and email it to Mr. Pohl and ask specifically then.

Ms. Palmer said on the bonding work, she has had some instances in her district where things were bonded, and the developer just never did it and just left the money with the County. She said in the one she was thinking about, there was a deadline, and when she asked Mr. Mark Graham at that time, he told her that they generally do not push these things very hard and are lax about letting them go longer if they need to go longer. Ms. Palmer wanted a comment on that and how aggressive they were about requiring infrastructure to be taken care of within the timeline and what the timelines are usually.

Mr. Pohl said the timelines are set by the developers for projects, and he is speaking regarding road bonds specifically because he knows a few road bonds that are lingering for quite a long time; from 2005, they just completed one actually. He said they had to pull the bond for that. He said in terms of how hard they push, they try to work with developers, understanding the economics of things and how that works, and they also take into consideration the residents. Mr. Pohl said there was a situation in northern Albemarle with roads which did not have three houses, and they were supposed to be public roads, and it has been 12-15 years, but they finally got their third house on, and now they are trying to get those roads accepted; it is not a quick operation when they have to come in and mill everything, and there are other issues. He said there are easements that might need to be adjusted with lots that have changed hands, so it is a very time-consuming proposition on roads; for instance, rural roads have been the projects that are more difficult now.

Mr. Pohl said in terms of stormwater, typically what they see are developers finish those projects; they are not necessarily timely, but they are trying to wait for all of the homes to be built, for instance, so that when they do convert to a permanent base and it is not impacted by sediment, so there is some justification for that, and so long as they are holding the bond and they are moving forward, they are not pressuring them because they understand that things do take time and delays occur. Mr. Pohl said he thought he had been pretty successful in closing out a lot of old projects called legacy projects, and they are still continuing to do that.

Ms. Palmer said there are a lot of private roads that go into some of these developments, and the maintenance of those roads is up to the homeowners' association or whomever, and she had seen a lot of them that were built without any ditches, and the rains in recent years seem to be really doing some damage in those. She asked if they decide to go back and retrofit ditches on some of these roads whether the VSMP is required to do those kinds of projects.

Mr. Pohl said if they return them to grade, no; there may be E&S requirements but not VSMP

requirements. He said if they exceed 10,000 square feet, there is a VSMP requirement for projects that are trying to restore grade, for instance, dredging of ponds. He said they did one in the County when he was at FES, and they had to get an E&S permit for that.

Ms. Price addressed Ms. Palmer and said she thought when she was talking about the combined sewer system, that may have been section 17-303 (E), page 6 of the materials, because it appeared that may not have been accurate, and she thought maybe she would just bring that up so Mr. Pohl could address that if discharges to the sanitary sewer or a combined sewer system was the one Ms. Palmer was referring to.

Ms. Palmer said she assumed so, but she had not gone back and pulled that up; she had just put it in her notes, so she would have to make sure.

Mr. Pohl thanked Ms. Price and said he could answer the question now. He said that is exemption from the stormwater component of permitting, not for erosion and sediment control, though, so yes that is an exemption for discharges to a sanitary sewer or combined sewer system from the stormwater management requirements.

Ms. Palmer said her question is when it is allowed to have a combined system; she thought they were not allowed.

Mr. Pohl said if they go to the Board, the Supervisors can approve combined systems.

Ms. Palmer asked if a combined system would mean stormwater plus sewer or would it mean something else.

Mr. Pohl said he was not sure how to answer that; he would assume this is for sewer and not storm.

Ms. Palmer said typically when she hears people talking about combined sewer systems, they are talking about having stormwater attached so stormwater is going into the sewers. She said this is seen in some older cities, and so that is what she is thinking of when she is thinking of a combined system.

Mr. Pohl said he did not think that was the case here.

Ms. Price said if she understood where things stand at the moment, the proposal attachment A minus the revision to the agricultural road definition in section 17-205 and changing of the effective date to September 1, 2021, were the only changes that have been discussed.

Mr. Pohl confirmed that was correct.

Ms. Price said the value of community input has clearly been demonstrated by the question regarding the definition of agricultural roads, and she wanted to thank the community once again for stepping up to help the Board reach the best decision they can.

Ms. McKeel said that she had a question, but because of time and the fact that it would not change her thought about this particular proposal, she would call Mr. Pohl tomorrow. She said she agreed with Ms. Price and was going to thank the community member and also wanted to thank Mr. Pohl for reading what the constituent wrote and being willing to put a pause on his work today at the very last minute to readdress this.

Ms. Mallek said she was scrambling because she did not get the email, and so she is having a hard time with something which at the last minute is seriously undercutting where they were starting to make some real progress. She said the proposed redefinition of agricultural road narrows the definition of the term to include only those agricultural roads constructed in compliance with the water quality protection. She said this is from the email, and what is being suggested is that it be put in a different place than where it was put in the draft. She asked if that sounded correct.

Mr. Pohl said that was one of the recommendations, yes.

Ms. Mallek said she would strongly urge that the Board not abandon this issue; this is a very important issue that in every single district in the County causes problems for neighbors. She said there are neighboring properties all over the County who suffer financial as well as property damage when things are not done correctly somewhere else, and so this whole effort of these improvements is to try to get a handle on some of the most egregious ones of these. She said if there is a pause while the wording is moved around, then she could certainly support that because she wants something to be legal and defensible, etc.

Ms. Mallek asked Mr. Pohl to explain the 50-foot buffer BMP that he had mentioned in the streamside management zone; when it is 50%; whether it is 50% of the stems or 50% of the canopy. She said what is happening is that all the big trees, for example, 100 big trees 2 feet in diameter, are taken away and 100 little trees 2 inches in diameter are left in some of the development projects, and then there is no ability for those piddly little trees which are left to in any way protect the soil from erosion from the kinds of rains happening now. She asked him to please help her understand what that sentence means.

Mr. Pohl said he was going to open up the manual and try to find that answer. He said on her other comments about the agricultural road, they are definitely not just going to drop it and leave that and forget about it. He assured her that they were going to continue discussing the agricultural road issues, and in fact it might even be more appropriate in the rural area discussion that they were having currently. He said he could come back as he searched for this.

Ms. Mallek said that was fine; if everything was going to be postponed for a month or so anyway, then she understood that. She said she could take the canopy question another time. She said she was horrified by what Mr. Pohl reported that 2 years ago, DOF stopped enforcing their buffers and did not bother to tell anybody.

Mr. Pohl interjected that they did tell them, and it was probably a year and a half, not to take the timeline as an absolute. He said he could actually find the email discussion about that and forward it to Ms. Mallek. He said they did tell them, and that is why he wanted to make sure this got into the new ordinance.

Ms. Mallek said this is why it needed to be put in there, very good. She thanked Mr. Pohl for his description of the critical resources plan, which was helpful, and the agreements in lieu of. She asked about bonding and whether a developer can transfer an incomplete project to the HOA legally.

Mr. Pohl answered no.

Ms. Mallek asked for confirmation that when that has happened in the 10-, 15-, 20-year past, that it was not something that is happening anymore.

Mr. Pohl said he did not know the answer to that.

Ms. Mallek said she was not asking him to refer to buildings, but there were lakes that never got their certification from DEQ and were just dumped on the HOA. She said that was not Mr. Pohl's job (that was somebody else's job a long time ago) but these are the kinds of things she is very concerned to not have happen anymore.

Ms. Mallek brought up the enforcement issue and said there was a comment made somewhere that she had written down about whether this really is a significant problem. She reiterated that when anything crosses a property line, it is a significant problem to the person on the other side. She said she has had great debates with many of her constituents and for 20 years before she was on the Board about, "My property rights stop at my property line," and it is not moral or ethical to have any other approach. She said she feels that they should be using whatever legal influence and authority they have to encourage and require that impacts stay on people's own property. She said she was very encouraged by many of the aspects of this particular draft that seemed to be large steps in that direction.

Mr. Pohl said he did have an answer on the 50%. He said 50% of the basal area or up to 50% of the forest canopy can be harvested.

Ms. Mallek said that is another really wonderful thing they need to think about enforcing better.

Mr. Gallaway said he wanted to clarify something he heard. He said the only thing being deferred is the agricultural road item and not all of this.

Mr. Kamptner said that was their recommendation.

Mr. Gallaway said that he was going to have questions around this agricultural road piece, but since that is being deferred, he thought that was wise and gives the Board more time to consider it.

There were no speakers for this item.

Mr. Gallaway closed the public hearing and said the matter is back before the Board for additional questions, comments, or motion.

Ms. Palmer commented that she was very interested in taking care of this agricultural road issue in some way and looked forward to finding out how.

Ms. Mallek said her question then to follow up the last comments is whether it was going to be harder to get this addressed if it is dropped into the mill with the work program and then is three years from now, or were they better off holding off on this vote for a month and figuring this out and bringing it back and getting it done because every one of staff has spent lots of time getting to this point, and this is one of the core principles of this work, that they are considering just letting go for some undetermined period of time, so she would love to get some more information about how this would actually be dealt with. She said the wording that was suggested in the draft is excellent and has lots of statutory backup; if the attorney and engineer think it is in the wrong place, she certainly has no argument with that, but going back to square one is not a preferred thing here because this is an every day, every week, every rainstorm issue in the County all over. She said they are dealing with this and staff is dealing with this for inspections a lot, and neighbors are certainly dealing with it as well. She asked how they can get some information now about how this would go.

Mr. Pohl offered to try to address those questions. He said this was on two projects where there

were roads that created some issues. He said the applicants did address on one of them; the other one was not addressed to his knowledge. He said the concern is that this will have other effects on any number of agricultural roads throughout the County that they have never even set eyes on. He said how to regulate all the agricultural roads that go through all the farms if they want to move a road and to ensure enforcement of these regulations is a large concern, and he queried how enforceable it is. He said usually they do not hear about problems except through complaints, and the larger issue on these complaints received for forestry and/or conversion of pasture is not necessarily related to the road itself but to the overall clearing of land. He said he does not think this can be addressed in a month, which is why he does not want to delay this current proposal except for this one provision. He said he thought it would take a longer amount of time, and that is why he is recommending moving forward.

Ms. Mallek said that DOF has been enforcing it on their side very well because they are the ones with the definition. She said she would acquiesce but was very disappointed.

Ms. Palmer asked to see what the motion is at this point before moving that.

Mr. Pohl said there were two possible Board motions and read, "Should a Board member choose to approve this water protection amendment, please state one of the following." He said the first one is the way it was written and included with the Board documents, and the second motion includes the exclusion of the changes for the agricultural road definition.

Ms. Palmer **moved** that the Board adopt the proposed ordinance (Attachment A) except for the redefinition of "agricultural road," with an effective date of July 1, 2021. 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.

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#### ORDINANCE NO. 21-17(1)

#### AN ORDINANCE TO AMEND CHAPTER 17, WATER PROTECTION ORDINANCE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 17, Water Protection Ordinance, are hereby amended and reordained as follows:

By Amending:

- Sec. 17-201 Designation of program administrator; powers and duties; express designations
- Sec. 17-205 Definitions
- Sec. 17-209 Fees; payment
- Sec. 17-301 Land disturbing activities exempt from the VESCP
- Sec. 17-303 Land disturbing activities exempt from the VSMP
- Sec. 17-402 Erosion and sediment control plans, and agreements in lieu of a plan; form and content
- Sec. 17-414 Agreement with surety
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- Sec. 17-603 Types of structures, improvements and activities authorized in a stream buffer
- Sec. 17-604 Types of structures, improvements and activities which may be allowed in a stream buffer by program authority

#### Chapter 17. Water Protection Ordinance

##### Article II. Administration

###### **17-201 Designation of program administrator; powers and duties; express designations.**

The County Engineer is hereby designated the program administrator (the "administrator") for the purpose of administering this chapter. The administrator has the powers and duties to administer and enforce the VESCP and the VSMP, and to exercise all powers and perform those duties of the program authority as provided in this chapter. In addition, the following officers and employees are hereby designated specific tasks in order to assist the administrator in administering this chapter:

- A. *Plan reviewers and inspectors.* County employees qualified under section 17-202 and under State law are designated to act as certified plan reviewers and certified inspectors under the VESCP and the VSMP.
- B. *Administrator for post-construction stormwater management facilities and best management practices.* The director of the County's Department of Facilities and Environmental Services is hereby designated to administer the VSMP for post-construction stormwater management facilities and best management practices.
- C. *Administrator for the County's MS4 permit and MS4 program plan.* The director of the County's Department of Facilities and Environmental Services is hereby designated as the administrator of the County's MS4 permit in order to ensure compliance therewith, and to develop and administer the County's MS4 program plan.

(Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference** – Va. Code §§ 62.1-44.15:27, 62.1-44.15:54.

**17-205 Definitions.**

*Agricultural land.* The term “agricultural land” means land used for horticulture, viticulture, silviculture or other gardening which may involve the tilling of soil for the raising of crops; the keeping of livestock and/or poultry; and/or agricultural industries or businesses, such as, but not limited to, orchards, fruit packing plants, dairies, nurseries or wayside stands.

*Agricultural road.* The term “agricultural road” means a road or portion of a road that is constructed exclusively for access to agricultural land and is located on or serves a lot which is not the subject of a pending or approved preliminary or final plat, initial or final site plan, zoning map amendment to a non-agricultural zoning district, or a special use permit for a use or activity not directly related to agriculture.

*Best management practice (BMP).* The term “best management practice” or “BMP” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems, and includes both structural and nonstructural practices described as follows:

- A. *Structural best management practice.* Structural best management practices include storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as biofilters, grassed swales, sand filters and filter strips; infiltration practices such as infiltration basins and infiltration trenches; and any post-construction BMP listed in the Virginia Stormwater BMP Clearinghouse Website (<https://swbmp.vwrrc.vt.edu/>).
- B. *Nonstructural best management practice.* Nonstructural best management practices are preventative actions that involve management and source controls such as: (i) policies and regulations that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; (ii) policies or regulations that encourage infill development in higher density urban areas, and areas with existing infrastructure; (iii) education programs for developers and the public about project designs and maintenance activities that minimize water quality impacts; and (iv) measures such as minimizing the percentage of impervious area after development and minimizing directly connected impervious areas; and (v) forest and open space.

*Forest and open space.* The term “forest and open space” means land that is protected to meet water quality requirements.

*Land disturbance or land disturbing activity.* The term “land disturbance” or “land disturbing activity” means: (i) for purposes of the VESCP, any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the State, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, but does not include those land disturbing activities exempt under section 17-301; and (2) for purposes of the VSMP, a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, filling, or excavation, but does not include those land disturbing activities that are exempt under Virginia Code § 62.1-44.15:34 and section 17-303.

*Streamside Management Zone.* The term “streamside management zone” means an area of reduced management activity on both sides of the banks of perennial and intermittent streams and bodies of open water where extra precaution is used in carrying out forest practices to protect bank edges and water quality.

*Water supply protection area.* The term “water supply protection area” means those areas of land within the County that are within the watershed of a public water supply reservoir or water supply intake, and those areas shall consist of all land within the County that drains naturally to the South Fork Rivanna Reservoir, Beaver Creek Reservoir, Totier Creek Reservoir, Sugar Hollow Reservoir, Ragged Mountain Reservoir, the North Fork Rivanna River intake, and to any impoundment or water supply intake designated in the future by the board of supervisors as a public water supply reservoir.

(§ 7-2, 6-18-75, § 4, 7-9-80, 2-11-87, 3-18-92, § 19.1-5, 9-29-77, art. I, § 2, 9-13-78, 7-11-90, 8-3-94; § 19.2-4, 6-19-91; § 19.3-5, 2-11-98; Code 1988, §§ 7-2, 19.1-5, 19.2-4, 19.3-5; § 17-104, Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07; Ord. 08-17(1), 2-6-08; Ord. 08-17(3), 8-6-08; § 17-205, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference** – Va. Code §§ 62.1-44.15:24, 62.1-44.15:51; 9VAC25-840-10, 9VAC25-870-10.

**Sec. 17-209 Fees; payment.**

Each owner shall pay the fees imposed by sections 17-207 and 17-208 as follows:

- A. *Form.* Each fee shall be in the form of cash or a check payable to the "County of Albemarle" or may be paid through the County online payment system.
- B. *When payment to be made.* Payments shall be made as follows:
  - 1. *VESCP.* Each owner seeking approval of an erosion and sediment control plan shall pay all applicable fees upon submittal of the application.
  - 2. *VSMP; permit issuance.* Each owner required to pay the permit issuance fee shall pay one-half of the applicable total fee required by column 1 of the table in section 17-208 upon submittal of the application, and the remaining one-half shall be paid prior to issuance of coverage under the general permit.
  - 3. *VSMP; transfer or modification.* Each owner required to pay the transfer or modification fee required by column 3 of the table in section 17-208 shall pay the fee upon submittal of the application to transfer or modify.
  - 4. *VSMP; annual maintenance fee.* Each owner required to pay the general permit coverage maintenance fee required by column 4 of the table in section 17-208 must pay the fee annually to the County until a notice of termination is effective. The maintenance fee will be billed in arrears and is due by April 1 of each year. On the first April 1 after the land disturbing activity has begun, this fee will be prorated on a monthly basis, and the full fee will be due by April 1 of each year thereafter. The final fee will be prorated on a monthly basis based on the date of permit termination.
- C. *Required information to be included with VSMP permit application payments.* Each owner shall submit the following information with the fee payment, or submit a completed Virginia Department of Environmental Quality permit application fee form:
  - 1. Applicant name, address, and daytime phone number.
  - 2. The name of the facility or activity and its location.
  - 3. The type of general permit applied for.
  - 4. Whether the application is for a new general permit issuance, general permit reissuance, general permit maintenance, or general permit modification.
  - 5. The amount of fee submitted.
  - 6. The existing general permit number, if applicable.
  - 7. Other information as required by the administrator.
- D. *Use of fees.* The County's portion of the fees imposed under sections 17-207 and 17-208 shall be used solely to carry out the County's responsibilities under the Virginia Stormwater Management Act, the Erosion and Sediment Control Law, the applicable regulations in 9VAC25-830 through 9VAC25-890, this chapter and any other applicable standards and specifications.

(Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference** – Va. Code §§ 62.1-44.15:36, 62.1-44.15:54; 9VAC25-840-30, 9 VAC25-870-700, 9VAC25-870-750, 9VAC25-870-760, 9VAC25-870-780, 9VAC25-870-820.

### **Article III. Applicability of the VSCP and the VSMP to a land disturbing activity or a site condition**

#### **Sec. 17-301 Land disturbing activities exempt from the VSCP.**

The following land disturbing activities are exempt from the VSCP:

- A. *Minor residential-related activities.* Minor residential-related land disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work.
- B. *Connections.* Individual service connections.
- C. *Public utility lines.* Installing, maintaining, or repairing any underground public utility lines when the activity occurs on an existing hard surfaced road, street, or sidewalk, provided that the land disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced.
- D. *Conventional onsite sewage systems.* Septic tank lines or drainage fields for a conventional onsite sewage system unless they are included in an overall plan for land disturbing activity related to constructing the building to be served by the system.
- E. *Mining, oil and gas operations and projects.* Permitted surface or deep mining operations and projects, and oil and gas operations and projects conducted pursuant to Title 45.1 of the Virginia Code.

- F. *Agricultural, horticultural, and forestal activities.* Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, the construction of agricultural roads unless and until a plan of development is submitted and the road is no longer exempt as provided in section 17-300(D), or as additionally set forth by the State Water Control Board in regulations; provided that this exemption shall not apply to the harvesting of forest crops unless the area on which the harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Virginia Code § 10.1-1100 *et seq.*) of Title 10.1 of the Virginia Code or is converted to bona fide agricultural or improved pasture use as described in Virginia Code § 10.1-1163(B), and harvesting is conducted in compliance with the water quality protection procedures established by the Virginia Department of Forestry in its "Virginia's Forestry Best Management Practices for Water Quality," including the implementation of Streamside Management Zones (SMZ).
- G. *Agricultural engineering operations.* Agricultural engineering operations including, but not limited to, constructing terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (Virginia Code § 10.1-604 *et seq.*), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation.
- H. *Railroad improvements.* Repairing or rebuilding the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.
- I. *Posts and poles.* Installing fence and sign posts or telephone and electric poles and other kinds of posts or poles.
- J. *Emergency work.* Emergency work to protect life, limb, or property, and emergency repairs; provided that if the land disturbing activity would have required an approved erosion and sediment control plan if the activity was not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the County.

(§ 7-3, 6-18-75, § 5, 2-11-76, 4-21-76, 2-11-87, 3-18-92; § 19.3-8, 2-11-98; Code 1988, §§ 7-3, 19.3-8; § 17-200, Ord. 98-A(1), 8-5-98; Ord. 08-17(1), 2-6-08; § 17-301, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference** – Va. Code § 62.1-44.15:51.

**Sec. 17-303 Land disturbing activities exempt from the VSMP.**

The following land disturbing activities are exempt from the VSMP requirements of this chapter, unless otherwise required by federal law:

- A. *Mining, oil and gas operations and projects.* Permitted surface or deep mining operations and projects, and oil and gas operations and projects conducted pursuant to Title 45.1 of the Virginia Code.
- B. *Agricultural, horticultural, and forestal activities.* Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Water Control Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Virginia Code § 10.1-1100 *et seq.*) of Title 10.1 of the Virginia Code or is converted to bona fide agricultural or improved pasture use as described in Virginia Code § 10.1-1163(B) and harvesting is conducted in compliance with the water quality protection procedures established by the Virginia Department of Forestry in its "Virginia's Forestry Best Management Practices for Water Quality," including the implementation of Streamside Management Zones (SMZ).
- C. *Single-family residences.* Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures.
- D. *Land disturbance of less than 10,000 square feet.* Land disturbing activities that disturb less than ten thousand (10,000) square feet of land area except for land disturbing activities that are part of a larger common plan of development or sale that is ten thousand (10,000) square feet or greater of disturbance.
- E. *Discharges.* Discharges to a sanitary sewer or a combined sewer system.
- F. *Reclamation of abandoned property.* Activities under a State or Federal reclamation program to return an abandoned property to an agricultural or open land use.
- G. *Project maintenance.* Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road

with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection.

H. *Emergencies.* Conducting land disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In a public emergency, the owner shall advise the administrator of the disturbance within seven (7) days after commencing the land disturbing activity, and compliance with the administrative requirements of this chapter to obtain approval of a VSMP permit is required within thirty (30) days after commencing the land disturbing activity.

(§ 19.1-6, 9-29-77, art. II, § 1, 10-19-77, 9-13-78, 10-22-80, 7-11-90, 8-3-94; § 19.2-5, 6-19-91, § 5; § 19.3-24, 2-11-98; Code 1988, §§ 19.1-6, 19.2-5, 19.3-24; § 17-300, Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07; § 17-303, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference** – Va. Code §§ 62.1-44.15:24, 62.1-44.15:34.

## **Article IV. Procedure for submitting, reviewing and acting on Applications; post-approval rights and obligations**

### **Division 1. Application requirements**

#### **Sec. 17-402 Erosion and sediment control plans, and agreements in lieu of a plan; form and content.**

Any owner whose proposed land disturbing activity is subject to the VSMP, or is subject solely to the VESCP, shall submit an erosion and sediment control plan for review that includes the following, in the form required by the administrator:

A. *Application form.* A completed application on an application form provided by the administrator, if the land disturbing activity is subject only to the VESCP and a VSMP permit is not required.

B. *Fee.* The fee required by section 17-207, if the land disturbing activity is subject only to the VESCP, and a VSMP permit is not required.

C. *Elements of plan.* Except as provided in subsection (D), an erosion and sediment control plan that contains all of the following elements:

1. *Temporary and permanent controls.* The specifications for temporary and permanent controls of soil erosion and sedimentation in such detail as the administrator deems to be reasonably adequate, considering the nature and extent of the proposed land disturbing activity, implementing appropriate erosion and sediment control best management practices and satisfying the requirements of 9VAC25-880-70, Part II(A)(2). All control measures required by the plan shall be designed and installed in accordance with good engineering practices.
2. *Maintenance responsibilities.* A statement describing the maintenance responsibilities of the owner to ensure that the land disturbing activity will satisfy the purposes and requirements of this chapter.
3. *Technical criteria.* The technical criteria required by section 17-500.
4. *Identification of land disturber.* Identify the person holding a certificate of competence required by Virginia Code § 62.1-44.15:54, who shall be in charge of and responsible for carrying out the land disturbing activity.
5. *Additional information.* Additional information required by the administrator as determined to be necessary for a complete review of the plan.
6. *Certification.* A certification on a form provided by the administrator and signed by the owner stating that all requirements of the approved plan will be complied with.

D. *Agreement in lieu of a plan.* Notwithstanding subsection (C), if the land disturbing activity is for the purpose of establishing or modifying a single family dwelling unit, the administrator may allow an agreement in lieu of a plan for the land disturbing activity required for constructing the dwelling; provided:

1. *Eligibility.* The single family dwelling unit is on an individual lot of one (1) acre or less which is not subject to an active erosion and sediment control plan or is not part of a common plan of development or sale. Additionally, the following requirements apply:
  - a. An agreement in lieu of a plan must be accompanied by a Critical Resources Plan.
  - b. Land disturbance associated with diverting, restoring or otherwise disturbing the channel of a stream or where there is a probability of sediment being deposited into state waters or on to adjacent properties is not eligible and requires an erosion and sediment control plan.

2. *Other factors to be considered by administrator.* In determining whether to allow an agreement in lieu of a plan under this section, the administrator shall consider the potential threat to water quality and to adjacent land resulting from the land disturbing activity, and whether the land disturbing activity is within the mountain overlay district identified in the Comprehensive Plan. The administrator, at its sole discretion, may require additional information or may not accept an agreement in lieu of a plan where necessary to protect downstream properties or the environment.
3. *Contents and form of the agreement in lieu of a plan.* The contents of any agreement in lieu of a plan shall be established by the administrator, and they shall: (i) be sufficient to ensure that the purposes and requirements of the VESCP, including the requirements of 9VAC25-880-70, Part II(A)(2) are satisfied; and (ii) identify the person in charge of and responsible for carrying out the land disturbing activity and holding a valid certificate of competence for that task. The form of the agreement shall be subject to review and approval by the County attorney.
4. *Effect of agreement in administration of the VESCP.* Except as provided in subsection (C) and section 17-500 pertaining to the content and technical criteria applicable to erosion and sediment control plans, all other references in this chapter to an erosion and sediment control plan shall include an agreement in lieu of a plan, and the County and the owner shall have all of the rights, responsibilities and remedies set forth in this chapter as though the agreement in lieu of a plan was an erosion and sediment control plan.

(§ 17-203: § 19.3-11, 2-11-98; § 7-3, 6-18-75, § 5, 2-11-76, 4-21-76, 2-11-87, 3-18-92; § 7-4, 6-18-75, § 6, 10-22-75, 4-21-76, 11-10-76, 3-2-77, 4-17-85, 2-11-87, 12-11-87, 12-11-91, 3-18-92; Code 1988, §§ 7-3, 7-4, 19.3-11; § 17-203, Ord. 98-A(1), 8-5-98; Ord. 01-17(1), 7-11-01; Ord. 09-17(1), 8-5-09, effective 9-5-09) (§ 17-205: § 7-4, 6-18-75, § 6, 10-22-75, 4-21-76, 11-10-76, 3-2-77, 4-17-85, 2-11-87, 12-11-91, 3-18-92; § 19.3-13, 2-11-98; Code 1988, §§ 7-4, 19.3-13; § 17-205, Ord. 98-A(1), 8-5-98; Ord. 01-17(1), 7-11-01; § 17-402, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference** – Va. Code § 62.1-44.15:55; 9VAC25-840-60, 9VAC25-870-400, 9VAC25-880-70, 9VAC25-890-40.

### **Division 3. Required Agreements as Prerequisites to Approval; Surety and Maintenance**

#### **Sec. 17-414 Agreement with surety.**

Any agreement with surety required by this chapter shall be provided by the owner as a prerequisite to any land disturbance activity, as follows:

- A. *Purpose for agreement.* The owner shall enter into an agreement with the County to take all appropriate measures required by the approved plan or as a condition of the land disturbance permit (collectively, the “conservation actions”).
- B. *Form of the agreement.* The agreement accompanying the surety shall be on a form prepared by the County attorney and any proposed amendment to the agreement shall be subject to review and approval by the County attorney.
- C. *Purpose for surety; type of surety permitted amount.* The owner shall provide a surety to guarantee that the conservation actions will be taken and satisfied. The applicant shall furnish to the administrator a cash escrow, certified check, official check, bond with surety, letter of credit, or collaterally assign funds in a manner satisfactory to the County attorney (collectively, the “surety instrument”), in an amount sufficient for and conditioned upon the satisfactory performance of all conservation actions. Any proposed surety instrument shall be subject to being acceptable to the administrator, shall be in a form and have the substance approved by the County attorney, and shall be subject to review and approval by the County attorney.
- D. *Estimate.* The owner shall submit a request for an estimate of the surety amount to the administrator. The administrator shall prepare an estimate of the total estimated cost to initiate and maintain appropriate all conservation actions based on the unit price for new public or private sector construction in the County and a reasonable allowance for estimated administrative costs and inflation, which shall not exceed twenty-five (25) percent of the estimated cost of the conservation actions.
- E. *Use of surety.* The County may make use of monies guaranteed by the surety instrument if either: (i) the owner fails to timely renew the bond with surety, letter of credit, or the collaterally assigned funds; or (ii) the administrator, in his discretion, determines that the owner, after written notice, failed within the time specified in the notice to initiate, maintain or complete appropriate conservation actions required by the approved plan or by a condition of the permit.
- F. *Right to collect shortfall.* If the County takes a conservation action because the owner failed to do so, the County may collect from the owner the difference if the amount of the reasonable cost of the conservation action exceeds the amount of the security held.

G. *Release of surety.* The surety shall be released as provided in section 17-423.

(§ 17-207: § 7-5, 6-18-75, § 7, 2-11-76, 4-21-76, 6-2-76, 7-9-80, 7-8-81, 2-11-87, 3-18-92; § 19.3-15, 2-11-98; Code 1988, §§ 7-5, 19.3-15; § 17-207, Ord. 98-A(1), 8-5-98; Ord. 09-17(1), 8-5-09, effective 9-5-09) (§ 17-306: § 19.1-7, 9-29-77, art. II, § 2, 7-11-90; § 19.3-30, 2-11-98; Code 1988, §§ 19.1-7, 19.3-30; § 17-306, Ord. 98-A(1), 8-5-98; Ord. 09-17(1), 8-5-09, effective 9-5-09; § 17-414, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference –** Va. Code §§ 62.1-44.15:34, 62.1-44.15:57; 9VAC25-870-104.

#### **Division 4. Post-approval rights and obligations**

##### **Sec. 17-423 Release of surety.**

Any surety required by this chapter shall be released as follows:

A. *Partial release.* In order for any surety to be partially released:

1. *Request by owner.* The owner shall submit a statement to the administrator on a form provided by the administrator that adequate stabilization of the land disturbing activity has been achieved, and pay the fee for a partial release required by sections 17-207 or 17-208, or both.
2. *Response by administrator.* Within thirty (30) days after receipt of the statement required by subsection (A)(1), the administrator shall provide written notice to the owner that responds to the request in one of the following ways: (i) grant the partial release, if an inspection of the project by a certified inspector confirms that the requirements for partial release are satisfied; or (ii) inform the owner that an inspection of the project by a certified inspector confirms that the requirements for partial release are not satisfied and identify any specified defects, deficiencies or further conservation action required.
3. *Release.* If the administrator grants the partial release as provided in subsection (A)(2), the surety shall be partially released within sixty (60) days after receipt of the request required by subsection (A)(1). The amount of the release shall be based upon the percentage of stabilization accomplished determined by the inspection.

B. *Full release.* In order for any surety to be fully released:

1. *Request by owner.* The owner shall submit a statement to the administrator on a form provided by the administrator and pay the fee for a full release required by sections 17-207 or 17-208, or both. For any surety required in conjunction with an erosion and sediment control plan, the owner shall state that adequate permanent stabilization of the land disturbing activity has been achieved. For any surety required in conjunction with a VSMP permit, the owner shall state that the requirements of the permit have been satisfied.
2. *Response by administrator.* Within thirty (30) days after receipt of the statement required by subsection (B)(1), the administrator shall provide written notice to the owner that responds to the request in one of the following ways: (i) grant the full release, if an inspection of the project by a certified inspector confirms that the requirements for full release are satisfied; or (ii) inform the owner that an inspection of the project by a certified inspector confirms that the requirements for full release are not satisfied and identify any specified defects, deficiencies or further conservation action required.
3. *Release.* If the administrator grants the full release as provided in subsection (B)(2), the surety shall be fully released within sixty (60) days after receipt of the request required by subsection (B)(1).

C. *Maintenance.* Prior to the release of the performance security or bond, the developer must either (1) transfer the maintenance responsibilities of the stormwater management facilities to a Property Owners Association or (2) provide the County with a maintenance security.

1. Requirements for Transfer of Maintenance Responsibilities to the Property Owners Association (POA). To transfer the maintenance responsibilities of stormwater management facilities to a Property Owners Association, a developer must:
  - i. Submit acceptable record drawings.
  - ii. Obtain an acceptable final inspection of the stormwater management facility by the County.
  - iii. Transfer the necessary property to the POA.

iv. Organize and hold a meeting attended by the developer, the County and members of the POA; and provide evidence to the County that each member of the POA was provided prior notice of the meeting. The meeting must be held at a place and time convenient for members of the POA.

v. Provide a copy of the recorded documents establishing the Property Owners Association to the County.

vi. Provide the County with evidence that the Property Owners Association is funded. Minimum funding will be based on the following schedule:

1-20 lots = \$1,000

21-50 lots = \$1,500

51 and over = \$1500 + \$30 per lot over 50

2. Requirements for Posting Maintenance Security.

i. The County will require a maintenance guaranty in the amount of twenty (20%) percent of the construction costs of the stormwater management facility.

ii. The maintenance security must contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain appropriate actions which may be required of the permittee in accordance with the approved stormwater management plan.

iii. If the County takes such action upon such failure by the permittee, the County may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

iv. The maintenance agreement and security will be the responsibility of the permittee or owner until such time as the permittee or owner provides the County with the necessary requirements for Transfer of Maintenance Responsibilities to the Property Owners Association as outlined above in subsection (C)(1).

(§ 17-207: § 7-5, 6-18-75, § 7, 2-11-76, 4-21-76, 6-2-76, 7-9-80, 7-8-81, 2-11-87, 3-18-92; § 19.3-15, 2-11-98; Code 1988, §§ 7-5, 19.3-15; § 17-207, Ord. 98-A(1), 8-5-98; Ord. 09-17(1), 8-5-09, effective 9-5-09) (§ 17-306: § 19.1-7, 9-29-77, art. II, § 2, 7-11-90; § 19.3-30, 2-11-98; Code 1988, §§ 19.1-7, 19.3-30; § 17-306, Ord. 98-A(1), 8-5-98; Ord. 09-17(1), 8-5-09, effective 9-5-09; § 17-423, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference – Va. Code §§ 62.1-44.15:34; 62.1-44.15:57.**

## Article VI. Stream buffers

### Sec. 17-603 Types of structures, improvements and activities authorized in a stream buffer.

If otherwise authorized by the applicable regulations of the Zoning Ordinance, the following types of structures, control measures and activities shall be allowed in a stream buffer, provided that the requirements of this section are satisfied:

A. *Pre-existing buildings or structures.* Any building or structure which existed on February 11, 1998 may continue in its location on that date. However, nothing in this section authorizes the continuance, repair, replacement, expansion or enlargement of any such building or structure except as provided in sections 18-6 and 18-30.3.

B. *Water-dependent facilities and miscellaneous uses.* Water-dependent facilities; water wells; passive recreation access, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities; provided that all applicable Federal, State and local permits are obtained.

(§ 19.3-44, 2-11-98; § 19.2-7, 6-19-91, § 7; § 19.2-8, 6-19-91, § 8; Code 1988, §§ 19.2-7, 19.2-8, 19.3-44; § 17-320, Ord. 98-A(1), 8-5-98; Ord. 08-17(2), 5-7-08; § 17-603, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference – Va. Code § 62.1-44.15:73; 9VAC25-890-40.**

### Sec. 17-604 Types of structures, improvements and activities which may be allowed in a stream buffer by program authority.

Structures, improvements and activities may be authorized by the administrator in the circumstances described below, provided that a mitigation plan satisfying the requirements of section 17-406, is submitted to, and approved, by the administrator:

A. *Within the landward 50 horizontal feet.* On a lot within the fifty (50) horizontal feet of a stream buffer that is the most landward (furthest from the stream), if the structures, improvements or

activities either: (i) would be for necessary infrastructure to allow reasonable use of the lot; or (ii) would be on a lot that is within a water supply protection area where the stream buffer protects an intermittent stream and the lot is within a development area. In all cases under this subsection, any new building site and sewage disposal system shall be located outside of the stream buffer.

- B. *Lakes, ponds or restoration projects.* On a lot on which the development in the stream buffer will consist of a lake, pond, or ecological/wetland restoration project.
- C. *Stream crossings.* Stream crossings of perennial and intermittent streams for roads, streets or driveways, provided they meet the following minimum criteria:
  - 1. *Bridges and culverts.* Bridges and culverts shall satisfy the following:
    - a. *Perennial streams.* For crossings of perennial streams, bridges, arch culverts, or box culverts shall be used for the stream crossing and shall be sized to pass the ten (10) year storm, or the twenty-five (25) year storm if the design standards in either section 14-410 or 18-32.7.2.1 apply, without backing water onto upstream properties. Bridges or arch culverts shall either leave the stream section, consisting of the stream bed and the stream bank, undisturbed or shall allow the stream to return to a natural stabilized cross-section upon completion of installation. The lowest interior elevation (invert) of a box culvert installation shall be a minimum of six (6) inches below the stream bed. Culvert walls and bridge columns should be located outside the stream banks wherever possible.
    - b. *Intermittent streams.* For crossings of intermittent streams, bridges or culverts shall be used for the stream crossing and sized to pass the ten (10) year storm, or the twenty-five (25) year storm if the design standards in either section 14-410 or 18-32.7.2.1 apply, without backing water onto upstream properties.
  - 2. *Stream stabilization and energy dissipation.* Stream stabilization and energy dissipation measures below each bridge or culvert shall be provided.
  - 3. *Disturbance minimized.* The stream buffer disturbance shall be the minimum necessary for the lot(s) to be used and developed as permitted in the underlying zoning district and under the applicable regulations of the Subdivision Ordinance. Stream crossings shall not disturb more than thirty (30) linear feet of stream for driveways and sixty (60) linear feet for roads or streets, provided that the administrator may allow additional length of stream disturbance where fill slopes or special conditions necessitate additional length.
  - 4. *Stream bed and stream bank stabilization.* The stream bed and stream banks shall be stabilized within seven (7) days from the start of backfilling for the bridge or culvert.
  - 5. *Establishment of buffer vegetation.* For stream crossings where any portion of the pre-construction stream buffer is not fully vegetated as determined by the administrator, and for any portion of a vegetated stream buffer that is disturbed during the installation of the stream crossing, buffer vegetation shall be established and maintained within the stream buffer but outside of the stream crossing at a ratio of two (2) square feet of stream buffer restored for every one (1) square foot of stream buffer that was either not fully vegetated or is disturbed during the installation of the stream crossing. Buffer vegetation shall be established and maintained at the 2:1 ratio to the extent that the stream buffer is fully vegetated outside of the stream crossing, provided that the owner shall not be required to establish vegetation outside of the stream buffer in order to satisfy the 2:1 ratio. The administrator may require that the owner enter into an agreement providing for the ongoing maintenance of the plantings in the stream buffer, and may require a bond with surety or other acceptable instrument as provided in section 17-414. Stream buffer plantings shall be consistent with guidance supplied by the administrator.
  - 6. *Evidence of required permits.* The owner shall provide the administrator with copies of approved State and Federal permits associated with the stream crossing, if applicable.
  - 7. *Limitation on number of stream crossings; exception.* In order to ensure that the encroachment into or across the stream buffer is minimized, on and after May 7, 2008, it shall be presumed that one stream crossing is adequate to serve the owner's lot(s) existing on that date and all lots created therefrom on and after that date. The administrator shall allow only one stream crossing to serve all lots, provided that it may allow additional crossings under subsection (D).
- D. *Stream crossings not allowed under subsection (C).* On a lot on which the development in the stream buffer will consist of the construction and maintenance of a road, street or driveway that would not satisfy the requirements of subsection (C) and the administrator determines that the stream buffer would prohibit access to the lot necessary for the lot to be used and developed as permitted in the underlying zoning district and under the applicable regulations of the Subdivision Ordinance, or to establish more than one stream crossing.
- E. *Water and sewer facilities or sewage disposal systems on pre-existing lots.* On a lot which was of record prior to February 11, 1998, on which the development in the stream buffer will consist of

the construction, installation and maintenance of water and sewer facilities or sewage disposal systems, and the administrator determines that the stream buffer would prohibit the practicable development of those facilities or systems. Any sewage disposal system must comply with all applicable State laws.

F. *Sole building sites on pre-existing lots.* On a lot which was of record prior to February 11, 1998, if the stream buffer would result in the loss of a building site, and there are no other available building sites outside the stream buffer on the lot, or to allow redevelopment as permitted in the underlying zoning district.

G. *Temporary erosion and sediment control measures.* Temporary erosion and sediment control measures within the fifty (50) horizontal feet of a stream buffer that is the most landward (furthest from the stream), provided that to the extent practical, as determined by the administrator, the control measures must be located outside of the stream buffer and the disturbance impacts minimized.

(§ 19.3-45, 2-11-98; § 19.2-8, 6-19-91, § 8; Code 1988, §§ 19.2-8, 19.3-45; § 17-321, Ord. 98-A(1), 8-5-98; Ord. 08-17(1), 2-6-08; Ord. 08-17(2), 5-7-08; Ord. 11-17(1), 10-5-11; Ord. 12-17(1), 5-9-12; § 17-604, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

**State law reference** – Va. Code § 62.1-44.15:73; 9VAC25-890-40.

This Ordinance is effective on and after September 1, 2021.

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Agenda Item No. 15. 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. Gallaway asked if they were going to check in to see about the public comment (which had been delayed due to technical difficulties).

Ms. Judy Schlussel confirmed she had heard the guidelines earlier. She said she was a Rio district resident and member of the Rio 29 CAC. Ms. Schlussel recited the lyrics of "I'm late" from Alice in Wonderland and asked whether the white rabbit could have sung this because of traffic here; traffic there; traffic, traffic everywhere. She said when they had moved here in 1977, driving beyond what is now the current 29 Place would give the feeling of driving in the country. She said the bucolic atmosphere is gone, and instead they hear bulldozers clearcutting to make way for new developments, mostly apartments. She said she had been attending the stream health initiatives, and the March 19th session titled "Stream Health Ecology Monitoring" highlighted a factor for streams in Albemarle County not being particularly healthy was because of the impermeable surfaces that had been created with the approved rezoning for buildings of single-family homes as well as apartment complexes.

Ms. Schlussel said although developments of the parcel known as the Wetzel property is currently on hold, the new developer will in the future bring forth a proposal for evaluation and ultimate approval. She said currently the property is developed by-right; however, there is a possibility the developer's proposal will be for rezoning. She said that if rezoning comes before the Board, she would like to highlight a few sections of the recommendations for the new housing policy document that currently is tabled but will come before the Board in the future: "Establishing a minimum period of affordability of 30 years for rental units and 40 years for homeownership." Ms. Schlussel said currently, none of the apartments have anything close to this standard, and single-family neighborhoods achieve greater housing supply and diversity by allowing small-scale residential structures such as duplexes, triplexes, fourplexes that are in keeping with the scale of existing neighborhoods. She said, "support and promote housing options that allow for aging in place both within the community and at home." She noted an apartment complex will not necessarily be able to meet this objective.

Ms. Schlussel said that thus far, she had touched on housing concerns as well as traffic and would like to take the traffic concern a bit further. She said Route 29 is considered an entrance corridor, and traveling Route 29 from the Greene County line, it is amazing to see how many new automobile-focused businesses have been developed. She noted that driving from the South Fork of the Rivanna River, there is Umansky dealership, Malloy Ford, Chevrolet, Kia, Colonial dealership, a proposed carwash at Rio Hill as well as the Caliber Collision plus a parking lot-type dealership at the site of the old Hardee's and the Toyota service center, just to name a few of the establishments. She said that sometime in the future, the Caliber Collision business will come before the Board for approval. She requested that the Board look at this proposal very seriously, look at all types of scenarios before approving another vehicle-focused establishment in the entrance corridor.

Mr. Kent Schlussel said he lives in the Rio district. He said a few weeks ago, he spoke to the Board about the issue of clearcutting by developers to build houses. He said from an environmental perspective, this has been a disaster. He said recently he had escorted a group of people from the Rivanna Conservation Alliance along with some County officials to examine the erosion and pollution along the Rivanna River that borders the Dunlora homeowner's property. He said they also inspected several of the streams that come through Dunlora HOA property and empty into the Rivanna River. He said the small streams near the HOA property are polluted. He said according to the people taking measurements in the stream, they stated it was mostly from a recent development that is north of the HOA property. Mr. Schlussel said he had been to a clearcutting site next to Dunlora property, and one can already see, despite adherence to the rules of having screens around the property, sediment coming

from the property into the streams on Dunlora property. He said in order to orient the Board, he requested somebody put up the first attachment he had requested.

Mr. Schlussel was told that was not possible.

Mr. Schlussel said it was supposed to be a map of the area, and this was in the attachments he had sent to the Board. He said the green boundary is HOA/HOA property; the orange is RTF (Rivanna Trail Foundation) trail that volunteers from Dunlora maintain with no financial contributions except for the Dunlora HOA. He said the red boundary is the clearcutting, 15 acres. He said the blue are some streams that flow into Town Branch into the Rivanna River. He said he also had in one of his attachments a slide of the clearcutting. He said on the right-hand side is the HOA property with the trees; some of the trees mowed down on the left-hand were 2 feet in diameter at the base. He said it would take decades for these trees to be replaced. He said the drainage from the clearcutting goes into feeder streams on Dunlora property and eventually ends up in the Rivanna River.

He said reading the proposed housing policy and the comprehensive plan, trying to get about 95% of the County population to 5% of the land would deprive the citizens of so-called natural beauty of the County and would only increase pollution in the streams and air. He said the current housing policy and practice coupled with the comprehensive plan in his opinion will lead to the County being a much less desirable place to live, all the while the 95% County residents on 5% of the land would be deprived of adequate green space to enjoy life by having the environment deteriorate around them. He said no number of mass transits, electric cars, or solar power would make up for these lost trees, and by crowding people into such a small area, pollution will increase. He said in plain words, the County's plan for housing, the comprehensive plan, and environmental goals of the County are not compatible with each other, and he urged the Board to think long and hard that perhaps some of these goals need to be changed so that Albemarle County continues to be a pleasant place to live for all the citizens. He said he would like to invite any member of the Board or any staff to come with him and walk some of the trails where one can see the pollution is increasing.

Mr. Gallaway closed the public comment period.

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**Agenda Item No. 18. Public Hearing: Community Development Department Fees:**

- 1) **BTA 2021-0001.** To receive comments on a proposed ordinance to amend County Code Chapter 5, Building Regulations. The proposed ordinance would amend Chapter 5, Article 2, Fees, by increasing all current fees imposed in that section by up to 10.05%, rounded to the nearest dollar, an increase that reflects the increase in the County's reasonable costs to provide services for which each fee is imposed since the last time that each respective fee was increased or established; and to impose new fees for:
  1. Plan review fee – commercial building permits: \$0.04 per square foot, for structures under 5,000 gross square feet - \$16.00 minimum; \$0.03 per square foot for structures greater than or equal to 5,000 gross square feet - \$16.00 minimum;
  2. Plan review fee – commercial electrical permits: \$0.01 per gross square foot; \$16.00 minimum;
  3. Plan review fee – commercial plumbing permits: \$1.80 per fixture; \$16.00 minimum;
  4. Plan review fee – commercial mechanical permits: \$0.01 per gross square foot; \$16.00 minimum;
  5. Plan review fee – residential building permits: \$0.05 per square foot; \$8.00 minimum;
  6. Plan review fee – residential electrical permits: \$0.05 per square foot; \$8.00 minimum;
  7. Plan review fee – residential plumbing permits: \$0.05 per square foot; \$8.00 minimum;
  8. Plan review fee – residential mechanical permits: \$0.05 per square foot; \$8.00 minimum;
  9. Plan review fee – fire suppression/alarm plan: \$0.02 per square foot; \$75.00 minimum;
  10. Request for permit extension: \$74.00;
  11. Commercial temporary certificate of occupancy: \$150.00 for each thirty days;
  12. Addition or change in contractor or mechanic's lien agent after permit is issued: \$34.00;
  13. Elevator certificate: \$100.00 per elevator;
  14. Code modification request: \$250.00; no refund allowed;
  15. Group home/daycare/adultcare form, with no inspection: \$74.00;
  16. Administrative fee for working without a permit: \$250.00; and
  17. Technology surcharge: An additional 4% of each fee in Sections 5-201 through 5-208(S).
- 2) **STA 2021-00001 Fees.** To receive comments on a proposed ordinance to amend County Code Chapter 14, Subdivision of Land. The proposed ordinance would amend § 14-203, Fees, by increasing all current fees imposed in that section by up to 10.05%, rounded to the nearest dollar, an increase that reflects the increase in the County's reasonable costs to provide services for which each fee is imposed since the last time that each respective fee was increased or established; and to impose a new Technology Surcharge of an additional 4% of each fee in County Code § 14-203(A) through § 14-203(H)(7). The proposed fees and fee increases are authorized by Virginia Code § 15.2-2241(9).
- 3) **ZTA 2021-00001 Fees.** To receive comments on a proposed ordinance to amend County Code Chapter 18, Zoning. The proposed ordinance would amend § 18-35.1, Fees, by increasing all

current fees imposed in that section by up to 10.05%, rounded to the nearest dollar, an increase that reflects the increase in the County's reasonable costs to provide services for which each fee is imposed since the last time that each respective fee was increased or established; and to impose new fees for:

1. Review by the ARB – Conceptual plan/advisory review: \$538.00;
2. Review by the ARB – Preliminary/initial review of a site development plan: \$538.00;
3. County-wide certificate of appropriateness – Structures 750 feet or more from the Entrance Corridor, no taller than five stories: \$538.00;
4. County-wide certificate of appropriateness – Structures located behind a structure that fronts the Entrance Corridor: \$538.00;
5. County-wide certificate of appropriateness – Personal wireless service facilities: \$538.00;
6. County-wide certificate of appropriateness – Fencing or equipment or lighting: \$269.00;
7. County-wide certificate of appropriateness – Additions to ARB-approved buildings: \$538.00;
8. County-wide certificate of appropriateness – Minor amendments to site or architectural plans: \$538.00;
9. County-wide certificate of appropriateness – Building permits where the change is 50% or less of the altered elevation: \$538.00;
10. Review of any sign to be constructed in the Entrance Corridors: \$130.00;
11. Review of the resubmittal of any sign to be constructed in the Entrance Corridors: \$65.00; and
12. Technology Surcharge – an additional 4% of each fee in *County Code* § 18-35.1(A) through § 18-35.1(H)(3).

The proposed fees and fee increases are authorized by Virginia Code § 15.2-2241(9) (pertaining to *County Code* § 18-32, Site Plans) and § 15.2-2286(A)(6).

4) **WPTA 2021-0001.** To receive comments on a proposed ordinance to amend County Code Chapter 17, Water Protection. The proposed ordinance would amend § 17-207, Fees for land disturbing activity subject solely to the VESCP; and § 17-208, Fees for land disturbing activity under VSMP.

The proposed ordinance would amend § 17-207 by increasing all current fees imposed in this section by up to 13.36%, rounded to the nearest dollar, an increase that reflects the increase in the County's reasonable costs to provide services for which each fee is imposed since the last time that each respective fee was increased or established; and to impose new fees for:

1. Each reinspection, subsequent to the first reinspection, for all land disturbing activity pertaining to a single family dwelling unit - \$270.00;
2. Each reinspection, subsequent to the first reinspection, for all land disturbing activity pertaining to non-exempt agricultural land - \$270.00;
3. Permit and first year inspection fees pertaining to all other land disturbing activity, on an area one acre or larger - \$113.00 per fraction over an acre;
4. Annual permit renewal and inspection fee, pertaining to all other land disturbing activity, on an area one acre or larger, starting with second year - \$113.00 per fraction over an acre;
5. Each reinspection, subsequent to the first reinspection, pertaining to all other land disturbing activity - \$383.00;
6. Each stream determination - \$320.00; and
7. Technology Surcharge – additional 4% of each fee in *County Code* § 17-207.

The proposed ordinance would amend § 17-208 by increasing all current fees imposed in this section by up to 13.36%, rounded to the nearest dollar, an increase that reflects the increase in the County's reasonable costs to provide services for which each fee is imposed since the last time that each respective fee was increased or established; and to impose new fees for:

1. Each reinspection, subsequent to the first reinspection, pertaining to other services - \$383.00;
2. Each stream determination - \$320.00; and
3. Technology Surcharge – additional 4% of each fee in *County Code* § 17-208.

The Executive Summary forwarded to the Board states that under the provisions of Chapters 5, 14, 17, and 18 of the County Code, the Department of Community Development (CDD) charges fees for services the Department provides to the development community and the public. The purpose of the fees is to help CDD recover a portion of the cost of providing these services. The cost recovery levels as a percentage of each fee were predicated on a fee study adopted by the Board of Supervisors in 2008.

In August of 2008, the Board adopted a policy for updating the levels of existing fees. This policy provides for biennial fee adjustments, based on Board-approved salary adjustments. Under this approach, if Board approved staff salaries increased cumulatively by a certain percentage over the course of the two years, CDD fees would increase by that same percentage. This policy has not been routinely applied. Most CDD fees were last adjusted on November 1, 2015, although some fees were adjusted as recently as November 1, 2018, and as far back as July 1, 2014.

The lack of the regular, adopted increases in fee levels over the course of several years has resulted in the percentages of cost recovery per fee reducing over time. In addition, staff recently has identified several CDD costs the current County Code does not address; this situation further constrains the Department's ability to provide services efficiently.

On January 6, 2021, the Board adopted a Resolution of Intent to update the CDD fees. On

February 2, 2021, staff made a presentation to the Planning Commission related to fees in County Code Chapter 18 (Zoning). On March 3, 2021, staff made a presentation to the Board regarding the proposed updates to fees contained in County Code Chapters 5 (Building), 14 (Subdivisions), 17 (Water Protection), and 18 (Zoning) (see the related Attachments A, B, and C). On March 23, 2021, after the Planning Commission's public hearing regarding the fees proposed for Chapters 14 and 18, the Planning Commission voted to recommend that the Board approve the proposed fees for these two chapters (see the related Attachments D, E, F, G, and H). Staff now seeks

Board approval of all proposed fee updates (Attachments I, J, K, and L).

To address the imbalance between the cost of providing services and the fee revenue generated from those services, the proposed fees contained in Attachments I, J, K, and L (Ordinances to amend County Code Chapters 5, 14, 17, and 18) reflect two strategies - increasing existing fees consistent with policy and establishing new fees, as described below.

Increase existing fees consistent with the policy that the Board of Supervisors adopted in August of 2008. As noted above, CDD fees have been adjusted in recent years, during Fiscal Year (FY) 2015, 2016, and 2019. Board-approved salary increases in the intervening years increased cumulatively by 13.36% (FY 15 to 21), 10.05% (FY 16 to 21), and 3.00% (FY 19 to 21), respectively. In Attachments I, J, K, and L, staff has used these respective percentage changes to make the appropriate proposed adjustments to existing CDD fees. These proposed amounts appear in red font. Staff recommends that these new fee amounts become effective July 1, 2021 (FY 22).

Establish new fees that would capture CDD costs that the current County Code does not include. Staff has identified several services related to architectural review, building inspections, and Water Protection Ordinance-related activities for which CDD currently does not charge a fee. Staff has estimated the amount of time necessary to perform each of these services, the associated costs in terms of salaries and benefits, and the indirect costs that these services generate in administrative work and technological infrastructure. Staff recommendations for new fees, and the proposed dollar or percentage levels of these fees, appear in green font in Attachments I, J, K, and L. Staff recommends that these new fees become effective July 1, 2021 (FY 22).

As part of staff's work to update CDD fees, staff conducted a set of case studies in order to determine the impact the adoption of the proposed fees might have on the cost of various types of development (available in Attachment B). As reported to the Board on March 3, 2021, staff found that, relative to the overall dollar value of the projects examined in the case studies, the impact of the fees would be small. Staff also examined other jurisdictions' development-related fees to determine whether the proposed updated levels for existing fees and the proposed levels for new fees were reasonable. Staff specifically looked at the technology fees in Fairfax, Montgomery, and Roanoke Counties; the architectural review fees in the City of Alexandria; as well as the broader fee structure in the City of Charlottesville and Hanover, Henrico, James City County, and Roanoke Counties. As reported to the Board on March 3, 2021, staff found that the proposed fees appear reasonable compared with fees in the comparison jurisdictions (see Attachment C).

Additionally, in early 2021, staff engaged in community outreach as part of the CDD fees update effort. Notifications were sent to the County's e-newsletter subscribers, as well as to anyone who had done planning and/or building work with CDD in the past two years, inviting them to learn about the proposed updates to CDD's fees, and provide feedback about the fees via the County website:

<<https://www.albemarle.org/government/community-development/community-development-fees>>

As of the comment deadline (February 26, 2021), roughly 700 people visited the site, and one visitor left comments.

Other public outreach included meetings with members of the development and environmental communities.

In January 2021, staff met with representatives from the Blue Ridge Home Builders Association, the Free Enterprise Forum, Southern Development, Great Eastern, Southern Environmental Law Center, and the Piedmont Environmental Council. From these meetings, staff gained several points to consider, and resulted in the fee comparisons and case studies, discussed above.

Please note that revisions to § 17-208 (highlighted in Attachment K) have been proposed since the Board's prior review on March 3. The additional revisions include removing column 2, which sets forth the amounts of the "State Portion of Permit Issuance Fee." Because the County neither sets nor collects these fees, there is no need to include them in the County Code. In addition, the amounts in column 1 were recalculated to reflect only the County permit issuance fee. They previously included the "State Portion of Permit Issuance Fee" from column 2.

In addition, an effective date of July 1, 2021 was added to all four proposed ordinances.

Staff estimates that the adoption of the proposed ordinances, including increases to current fees and the addition of new fees, may generate approximately \$345,000 in additional CDD General Fund revenue in Fiscal Year 2022 (FY 22). This estimate assumes that CDD's workload and mix of services provided in FY 22 would be identical to the workload and mix of services provided in FY 21. Components of this \$345,000 figure include approximately \$215,000 in additional revenue generated by changes in the levels of existing fees, about \$88,000 from the proposed Technology Fee, and roughly \$42,000 in revenue from the various proposed new fees related to architectural review, WPO-related services, and

building-related services.

Staff recommends that after holding a public hearing, the Board adopt the proposed Ordinances to amend County Code Chapters 5 (Building Regulations, Attachment I), 14 (Subdivision of Land, Attachment J), 17 (Water Protection, Attachment K), and 18 (Zoning, Attachment L), to be effective on and after July 1, 2021.

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Mr. Allhouse, Department of Community Development, confirmed his screen was visible to the Board. He said when he met with the Board back on March 3rd, he had walked the Board through general information regarding the fees updates. He said he outlined the staff work that had been done on the updates up to that point and then talked about some studies that he had done. He said he had walked the Board through a comparison of the proposed fees with those that exist in other localities, and finally he provided some case studies showing the impact of the fees on particular projects that actually had been built in Albemarle County and looked at how the fees might have impacted those projects. Mr. Allhouse said what he would like to speak about tonight is the work that they have done since March 3rd. He said he also wanted to talk a little bit and follow up with a couple of questions that had come up at the March 3rd Board meeting, then wanted to move onto the remaining timeline and then take questions.

Mr. Allhouse said they had developed a tentative set of calculations for updates to existing fees using a policy that the Board adopted back in 2008. He said they proposed some new fees to cover costs of services for which CDD currently is not charging and also proposed a technology fee that would help pay for replacement to the County View software system. He said as he had mentioned back on March 3rd, it was envisioned that this software replacement might be shared potentially among partners in the County. He said they also engaged back in January in public outreach with builders, the Free Enterprise Forum, the SELC, and the PEC. He added that they had on their website proposed fees posted and gave people the opportunity to leave comments if they chose to do so. He said they received exactly one comment, but that was about it, and the comments section closed on February 26th.

Mr. Allhouse said they also compared fees with various counties around the state, also the cities of Charlottesville and Alexandria, and their conclusion was that Albemarle's proposed fees appeared to be reasonable. He said they also conducted case studies and found that the incremental changes in fees when compared with the dollar values in the case study projects were relatively small.

Mr. Allhouse said at the March 3rd Board meeting, a couple of issues came up that he was asked to investigate. He said the question came up that if the County had followed Board policy as it was adopted in 2008 and had increased fees per the Board policy every year between then and now, would he be coming to the Board with anything different from what he was proposing in terms of dollar fees. He said the answer is no. He said if they are talking about the fees that existed at the time of the 2008 policy adoption, the fees that he would be proposing this evening would be identical. He said to keep in mind that they have proposed some new fees, so those would not have existed in 2008, but there would be absolutely no difference between what he is proposing now and what would have occurred if the policy had been followed through.

Mr. Allhouse said he went back and looked at what CDD had done in 2015, which was a little bit before his tenure with the CDD department, and again he saw that they had faithfully looked at the Board policy and made their recommendations, and the fees that were adopted were in keeping with the Board policy; they just had not been followed every two years.

Mr. Allhouse said the other issue that someone had mentioned and he wanted to reiterate was cost recovery percentages. He said there were two ways to look at this, and the first one is for services for which CDD charges a fee; about 40% of the cost of providing those services is being recovered, and this is consistent with the recovery ratio that was included in the PFM Group study which was done in 2007, which led to the adoption of the fees in 2008. He said another way to look at this is to look at all the costs that CDD incurs in a given year and ask what percentage of those costs are covered or recaptured in fees and fee revenues. He said the FY 21 budget has about a 6.9-million-dollar budget for CDD including inspections, and of that total, about 2.1 million was budgeted revenues to offset their costs, so that is about a 31% cost recovery.

Mr. Allhouse moved to the timeline with the fee project; he said the first was that he had come before the Board on March 3rd. He said on March 23rd, he went before the Planning Commission with the fees that were proposed for chapters 14 and 18. He said these deals with subdivisions that require zoning and include everything that they were proposing, existing fees that they were updating, new fees that they were proposing, mostly related to ARB work, and the technology fee. Mr. Allhouse said on the 23rd of March, the Planning Commission voted unanimously to recommend adoption of the fees as proposed. Mr. Allhouse said here they were on April 21st and were going to have a public hearing later in the evening on the fees. He said if the Board adopts the fees, they would become effective on July 21st.

Mr. Allhouse said if the Board would like to proceed with the proposed fees, he had some motions that the Board can consider. He said he could come back to those at any time if they would like to discuss the motions. He mentioned one technical issue that was brought to his attention on motion #2, but he would come back to that if the Board wished to pursue the fee update. Mr. Allhouse said that he would be happy to entertain questions.

Ms. LaPisto-Kirtley said she had no questions and thanked Mr. Allshouse.

Ms. McKeel asked Mr. Allshouse to help her with what the driver was for the technology surcharge.

Mr. Allshouse said that County View is a very old system; it is 16 years old. He said it is a very difficult system to use both for staff and for people outside of the County who are trying to get development done, so at some point it needed to be updated. He said the idea behind the technology fee is basically to say that they have identified a need and have identified a potential revenue stream to upgrade the system. He said in the interest of transparency, they have listed it as being a separate item, but that is speaking about it in general terms. He asked if there was anything specific that Ms. McKeel wanted to know.

Ms. McKeel said she was trying to figure out whether the folks that would be paying this surcharge would be paying for the technology that they were going to use to support their work or whether it was going to support the work throughout the County for all the technology work that is done.

Mr. Allshouse said if the question were whether people using CDD fees paying for this piece of technology that would be used potentially by other departments would be shouldering the entire burden of that technology, the answer is no. He said the idea would be that this new technology would be shared among departments, and so it would not simply be the case that, for example, a builder or a developer would be supporting something that is being used for the benefit of the HR department or finance or some other group, so the answer would be no.

Mr. McKeel said he had answered her question and thanked him.

Ms. Mallek said she was very glad that Mr. Allshouse had brought this to the Board and had done all this great analysis. She said it reminded her of 2008 with a very different Board composition, but it had been so long since the fees had been adopted then, and she was very surprised to read the facts of 31% and 40% as being recommended because what she remembered was that some of them wanted 100% cost recovery and had settled on something between 60% and 80% because there was perhaps some community benefit to the review processes that they were charging for, so that was why it was not 100% of the costs, so she looked forward to seeing this move on.

Mr. Gallaway asked if there were speakers signed up from the public.

Ms. Price read the rules for public hearings.

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Mr. Neil Williamson said he was a bit confused; while Albemarle staff members Ms. Jodie Filardo and Mr. Steve Allshouse had been very helpful in this process, he remains befuddled. He said when they last discussed this proposed fee increase, he had pointed out on page 35 of the audited 2020 financial statement showing where community development's total costs went down 4%, and the net cost of service went down over 2%. He said by comparison, general government net costs increased during that same time by 25%, yet here they are raising community development fees, thus he is confused. He said staff has readily admitted this fee increase is really a Band-Aid and is not based on any kind of a fee study such as was done in 2008. He said that staff had looked around and seen other localities charging higher fees, and so they should too, and then they built the case studies to advance that case. He said as a part of the last fee increase, the development community was told Albemarle was acquiring new task management software that would allow them to track how much it cost to process each application. He said they have now been told this software has since been customized to the point of being rendered useless. He repeated that he was confused.

Mr. Williamson said that Mr. Allshouse mentioned that the CDD revenue covers 31% of the community development budget; it would be wise to add to that bullet that CDD does more things than just revenue-producing fees—he would think of master plans and CAC work and all the other things that the Planning Commission has the community development department involved in, so not everything is involving a fee. He said in addition to the several new fees for architectural review, the ordinance proposes a 4% technology surcharge to fund technology advancements to make the office more efficient; if the office is more efficient, fees should be reduced. He said he recognized that the community development department also uses desks and chairs and asked if a furniture fee would be next. He said he was confused. He said that staff anticipates these new fees and increases to current fees will generate over a quarter of a million dollars. Mr. Williamson said the Free Enterprise Forum believes this ordinance would make it a quarter of a million dollars more expensive to build homes and enterprises in Albemarle County; this is not business friendly nor supportive of housing affordability, but it might slow development in the development areas. He said perhaps if that is part of the goal, he may not be as confused. He thanked the Board for the opportunity to speak.

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Mr. Gallaway closed the portion from the public and said it was back before the Board.

Ms. Palmer said she did not have any questions, except if staff wanted to address some of Mr. Williamson's concerns, that would probably be appropriate.

Mr. Allshouse said he would like to address one thing that Mr. Williamson said and thought that the Board probably received an email from staff regarding this issue. Mr. Allshouse said Mr. Williamson

had mentioned just now that he had looked through the consolidated annual financial report, the County's CAFR, and the table he was referring to was actually on page 11. Mr. Allshouse said he found it and went through previous years because Mr. Williamson was referencing only one year, and they are trying to recapture costs that have accrued over the course of five years, so he went back and looked at the historical CAFRs and found that costs actually had increased during those five years, and the increase was about 9%. He said in terms of the technology fee, he had explained a few times now that the system is very old; it is very cumbersome to use and was put into use in 2006 before smart phones and tablets, so he wanted to just make that observation generally.

Ms. Price repeated what she had mentioned at the previous discussion on this, that she accepted the proposal by community development as a temporary fix. She said she did expect that they would engage in a much more thorough analysis of what the actual costs are and does look forward to that report coming to the Board, but she accepted that the expenses have gone up and this temporary fix would address the disparity between costs and fees as they have come in, so she did support this.

Ms. McKeel said she agreed with Ms. Price that they must address this even if it is temporarily now and come back at a later time and figure out if there are any additional changes that need to be made.

Ms. Mallek said her only question was in relation to what someone just said about 31% of the cost of the entire department operations or whether it was 31% of the cost of the plan review in question. She said if someone could answer that easily right now, she was happy to have it; otherwise, she would not worry about it because she supported the changes.

Mr. Allshouse said the 31% was looking at CDD's entire budget and what percentage of that was recouped through fee revenue.

Ms. Mallek said that probably straightened out her previous confusion; when compared to just the task at hand, it was that higher percentage probably.

Mr. Gallaway said his question was about arriving at the 4% for the technology fee, he asked for a reminder of the rationale behind that.

Mr. Allshouse said before getting into that, for comparison's sake, recall that there are three other jurisdictions that have one: one is Fairfax; one is Roanoke County; and one is Montgomery County. He said the way he derived it was this: They used a placeholder for what they thought the costs of such a system might be and divided that out with the idea of sharing the cost with other departments, so he thought the placeholder for that was to take the total cost and divide that by three, and then he had to make an assumption about the number of years that the system might have for its life cycle. He said at that point, he was being very bold in assuming 15 years, although again for software, that is ages. He said that gave him an estimate for each year of how much the system would be costing the CDD share per year. He said when he looked at what the fee revenue was, and again this surcharge would be based on the fee revenue, he took the cost per year and divided it by what revenues were back when he was looking at this, and it came to 4.01%. He said this is in line again with what they found when they were looking around the state at the other fees. He said that Fairfax's is 4%; Roanoke simply was 3%; Montgomery's was less at 2.5% or close to 3%. He said in any case, this was pretty much in line with what the Fairfax fee is and is not too far removed from what the other jurisdictions' technology fees are.

Mr. Gallaway said he understood, and others have made the comment about how if it is designed to make things efficient to reduce costs in the future, then the Board has to be disciplined enough to remove the fee at the appropriate time. He said he thought without making any commentary on it, the idea of adding fees in that will never be sunsetted or be brought away and may have had good purpose or well intentions up front, but do they actually follow through with it, so he thought that was something important to adhere to that if they are stating it up front as the intent.

Mr. Allshouse presented the suggested motions. He stated that the one little thing he needed to mention, and Mr. Kamptner might want to jump in if he has anything additional to say, was on motion #2 which deals with subdivisions, in chapter 14, the language in reading in the packet before the Board says, "technology surcharge 4% of each transaction in chapter sections A through A7 above." Mr. Allshouse said this word "transaction" is inconsistent with the wording that is in each of other three chapters and that the wording should read, "technology surcharge 4% of each fee in chapter 14, sections A through A7 above." He said this was a clerical mistake, and Mr. Kamptner informed him earlier that if the Board adopts as motions indicate here, it is simply a matter of his office making the clerical change in that one word, and his office would be happy to send that to the Board clerk after that change has been made. Mr. Allshouse said it is a relatively minor point, but Mr. Kamptner did want him to bring it up.

Mr. Kamptner said that he had spoken to Mr. Herrick earlier in the day and needed to confirm that with the word "transaction" there and "fee" in the other, the intention was that the principle, the rule, was the same for all four ordinances. He said there are some stylistic differences that are clerical in nature, and that gets to the cross-reference, using similar language in all four, but it is non-substantive and is just using a particular style. He said unfortunately all four ordinances have slightly different style, but the substance once "transaction" is changed to "fee" in the subdivision ordinance will be identical.

Ms. Price asked Mr. Kamptner if they could make a motion for all four at one time or must they be made separate.

Mr. Kamptner said his preference would be to have a separate motion for each one.

Ms. Palmer wanted to know if they needed to say anything extra on motion two with the clerical mistake.

Mr. Kamptner said when motion two is made to add with the additional change of the technology surcharge referring to "fee" in place of "transaction."

Ms. Palmer **moved** that the Board approve BTA2021-00001 as presented and adopt the proposed ordinance to amend County Code Chapter 5 – Building Regulations (Attachment I). 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.

#### ORDINANCE NO. 21- 5(1)

#### AN ORDINANCE TO AMEND ARTICLE 2, FEES, OF CHAPTER 5, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Article 2, Fees, of Chapter 5, Building Regulations, is hereby reordained and amended as follows:

##### **By Amending:**

Sec. 5-201 - Fees for building permits.  
Sec. 5-202 - Fees for electrical permits.  
Sec. 5-203 - Fees for plumbing permits.  
Sec. 5-204 - Fees for mechanical permits.  
Sec. 5-205 - Fees for amusement devices.  
Sec. 5-206 - Fee for demolition permits.  
Sec. 5-207 - Fees for zoning inspections.  
Sec. 5-208 - Fees for other building services; and technology surcharge.

#### CHAPTER 5 BUILDING REGULATIONS ARTICLE 2. FEES

##### **Sec. 5-201 - Fees for building permits.**

The fees for building permits are:

- A. *Residential structures in use groups R-3 and R-5.* The fee for each new structure in use group R-3 or R-5 (one- and two-family dwellings), other than a garage, deck, or porch, or for an addition to an existing residential structure in either use group, is \$0.58 per square foot, calculated on gross finished square footage. The minimum fee is \$88.00.
- B. *Accessory residential structures.* The fee for each residential attached garage, detached garage, shed, deck, or porch ten square feet or larger, is \$0.18 per square foot, calculated on gross finished square footage. The minimum fee is \$30.00.
- C. *Residential swimming pools, hot tubs and spas.* The fee for each residential swimming pool, hot tub, or spa is \$60.00.
- D. *Mobile homes and prefabricated homes.* The fee for each mobile home or prefabricated home is \$53.00.
- E. *New commercial structures in various use groups.* The fee for each new structure in use group A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R- 1, R-2, R-4, S-1, S-2, or U, or an addition to an existing commercial structure in any such use group, is \$0.24 per square foot for the first 5,000 square feet, plus \$0.17 per square foot for each square foot in excess of 5,000 square feet, calculated on gross square footage. The minimum fee is \$88.00.
- F. *Change of building occupancy classification.* The fee for a change of occupancy classification evaluation is \$177.00.
- G. *Commercial swimming pools.* The fee for each commercial swimming pool is \$361.00.
- H. *Elevators, escalators and lifts.* The fee for each elevator, escalator, or lift is \$284.00.
- I. *Paint spraying booths.* The fee for each paint spraying booth is \$30.00.
- J. *Mobile offices and premanufactured units.* The fee for each mobile office or premanufactured unit is \$53.00.
- K. *Tents.* The fee for each tent is \$60.00.
- L. *Alterations and repairs of structures in all use groups.* The fee for an alteration or repair of a structure

in any use group is \$0.20 per square foot of floor area affected, provided that there is no increase in gross square footage. The minimum fee is \$88.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-201, Ord. 98-A(1), 8-5-98; [Ord. 08-5\(1\)](#), 8-6-08; [Ord. 15-5\(1\)](#), adopted 10-14-15, effective 11-1-15; [Ord. 18-5\(1\)](#), 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference—** Va. Code § [36-105](#).

**Sec. 5-202 - Fees for electrical permits.**

The fees for electrical permits are:

- A. *Residential structures in use groups R-3 and R-5.* The fee for each new structure in use group R-3 or R-5 (one- and two-family dwellings) other than a garage, deck, or porch, or for an addition to an existing residential structure in either such use group, is included as part of the building permit fee under County Code § 5-201(A).
- B. *Accessory residential structures.* The fee for each residential attached garage, detached garage, shed, deck, or porch ten square feet or larger, is \$35.00.
- C. *Mobile homes and prefabricated homes.* The fee for each mobile home or prefabricated home is \$35.00.
- D. *Commercial structures in various use groups.* The fee for each new structure in use group A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R-1, R-2, R-4, S-1, S-2, or U, or an addition to an existing commercial structure in any such use group, is \$0.04 per square foot. The minimum fee is \$88.00.
- E. *Swimming pools, hot tubs and spas.* The bonding fee for each swimming pool, hot tub, or spa is \$35.00. The equipment wiring fee for each swimming pool, hot tub, or spa is \$35.00.
- F. *Alterations and repairs of structures in all use groups.* The fee for an alteration or repair of a structure in any use group is \$0.04 per square foot of floor area affected, provided that there is no increase in gross square footage. The minimum fee is \$88.00.
- G. *Signs.* The fee for each sign is \$53.00.
- H. *Temporary service.* The fee for each temporary electric service is \$112.00, unless the service is sought as part of a building permit for which a fee is paid under County Code § 5-201(A).
- I. *Early service.* The fee for each early electric service shall be \$72.00, unless the service is sought as part of a building permit for which a fee is paid under County Code § 5- 201(A).
- J. *Fuel dispensing pumps.* The fee for each fuel dispensing pump is \$35.00.
- K. *Alarm systems.* The fee for each alarm system is \$0.04 per square foot of the gross square footage of the structure. The minimum fee is \$88.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-202, Ord. 98-A(1), 8-5-98; [Ord. 08-5\(1\)](#), 8-6-08; [Ord. 15-5\(1\)](#), adopted 10-14-15, effective 11-1-15; [Ord. 18-5\(1\)](#), 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference—** Va. Code § [36-105](#).

**Sec. 5-203 - Fees for plumbing permits.**

The fees for plumbing permits are:

- A. *Residential structures in use groups R-3 and R-5.* The fee for each new structure in use group R-3 or R-5 (one- and two-family dwellings), or for an addition to an existing residential structure in either use group, is included as part of the building permit fee under County Code § 5-201(A).
- B. *Mobile homes and prefabricated homes.* The fee for each mobile home or prefabricated home is \$35.00.
- C. *Commercial structures in various use groups.* The fee for each new structure in use group A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R-1, R-2, R-4, S-1, S-2, U, or an addition to an existing commercial structure in any use group, is \$10.00 per fixture. The minimum fee is \$88.00.
- D. *Alterations and repairs of structures in all use groups.* The fee for an alteration or repair of a structure in any use group is \$10.00 per fixture, provided that there is no increase in gross square footage. The minimum fee is \$88.00.

- E. *Water lines*. The fee for each water line is \$30.00, unless the lines are included as part of a building permit for which a fee is paid under County Code § 5-201(A).
- F. *Sewer laterals*. The fee for each sewer lateral is \$30.00, unless the lateral is included as part of a building permit for which a fee is paid under County Code § 5-201(A).
- G. *Fire suppression systems*. The fee for each fire suppression system is \$0.95 per head. The minimum fee is \$88.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-203, Ord. 98-A(1), 8-5-98; [Ord. 08-5\(1\)](#), 8-6-08; [Ord. 15-5\(1\)](#), adopted 10-14-15, effective 11-1-15; [Ord. 18-5\(1\)](#), 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference— Va. Code § [36-105](#).**

**Sec. 5-204 - Fees for mechanical permits.**

**The fees for mechanical permits are:**

- A. *Residential structures in use groups R-3 and R-5*. The fee for each new structure in use group R-3 or R-5 (one- and two-family dwellings), or for an addition to an existing residential structure in either use group, is included as part of the building permit fee under County Code § 5-201(A).
- B. *Mobile homes and prefabricated homes*. The fee for each mobile home or prefabricated home is \$35.00.
- C. *Commercial structures in various use groups*. The fee for each new structure in use group A-1, A-2, A-3, A-4, A-5, B, E, F-1, F-2, H-1, H-2, H-3, H-4, H-5, I-1, I-2, I-3, I-4, M, R-1, R-2, R-4, S-1, S-2, or U, or an addition to an existing commercial structure in any use group, is \$0.04 per square foot of gross square footage. The minimum fee is \$88.00.
- D. *Alterations and repairs of structures in all use groups*. The fee for an alteration or repair of a structure in any use group shall be \$0.04 per square foot of gross square footage, provided that there is no increase in gross square footage. The minimum fee is \$88.00.
- E. *Underground tanks*. The fee for each underground tank, including associated piping, is \$201.00, unless the tanks are included as part of a building permit for which a fee is paid under County Code § 5-201(A).
- F. *Aboveground tanks*. The fee for each aboveground tank, including associated piping, is \$119.00, unless the tanks are included as part of a building permit for which a fee is paid under County Code § 5-201(A).
- G. *Gas and oil lines*. The fee for each gas or oil line is \$42.00, unless the lines are included as part of a building permit for which a fee is paid under County Code § 5-201(A).
- H. *Furnaces, wood stoves and gas log systems*. The fee for each furnace, wood stove, or gas log system is \$77.00, unless the furnace, stove, or gas log system is included as part of a building permit for which a fee is paid under County Code § 5-201(A).
- I. *Range hoods*. The fee for each range hood is \$30.00.
- J. *Hood suppression systems*. The fee for each hood suppression system is \$35.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-204, Ord. 98-A(1), 8-5-98; [Ord. 08-5\(1\)](#), 8-6-08; [Ord. 15-5\(1\)](#), adopted 10-14-15, effective 11-1-15; [Ord. 18-5\(1\)](#), 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference— Va. Code § [36-105](#).**

**Sec. 5-205 - Fees for amusement devices.**

The fees for amusement devices are as provided in the fee schedule in 13VAC5-31-75

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-205, Ord. 98-A(1), 8-5-98; Ord. 15-5(1) , adopted 10-14-15, effective 11-1-15; Ord. 18-5(1) , 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference— Va. Code § [36-105](#); 13VAC5-31-75.**

**Sec. 5-206 - Fee for demolition permits.**

The fee for each demolition permit is \$112.00.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-206, Ord. 98-A(1), 8-5-98; Ord. 08-5(1) , 8-6-08; Ord. 15-5(1) , adopted 10-14-15, effective 11-1-15; Ord. 18-5(1) , 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference— Va. Code § [36-105](#) .**

**Sec. 5-207 - Fees for zoning inspections.**

The fees for inspections to determine compliance with the zoning ordinance are:

- A. *Initial zoning inspection.* The fee for each inspection related to the issuance of a building permit for main or accessory structures is \$18.00 per inspection.
- B. *Final site inspection.* The fee for each final site inspection before a certificate of occupancy may be issued is \$18.00 per inspection.

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-207, Ord. 98-A(1), 8-5-98; [Ord. 08-5\(1\)](#) , 8-6-08; [Ord. 15-5\(1\)](#) , adopted 10-14-15, effective 11-1-15; [Ord. 18-5\(1\)](#) , 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference— Va. Code § [36-105](#) .**

**Sec. 5-208 - Fees for other building services; and technology surcharge.**

The fees for other building services are:

- A. *Other permits.* The fees for any other building, electrical, plumbing, or mechanical permit not identified in this article is \$35.00 per inspection.
- B. *Plan amendments.* The fee for each new plan submitted which requires any structural or fire safety review is \$35.00.
- C. *Reinspections.* The fee for each inspection of work performed, after the second inspection of the work, is \$35.00 per inspection.
- D. Plan review fee – commercial building permits: \$0.04 per square foot, for structures under 5,000 gross square feet - \$16.00 minimum; \$0.03 per square foot for structures greater than or equal to 5,000 gross square feet - \$16.00 minimum.
- E. Plan review fee – commercial electrical permits: \$0.01 per gross square foot; \$16.00 minimum.
- F. Plan review fee – commercial plumbing permits: \$1.80 per fixture; \$16.00 minimum.
- G. Plan review fee – commercial mechanical permits: \$0.01 per gross square foot; \$16.00 minimum.
- H. Plan review fee – residential building permits: \$0.05 per square foot; \$8.00 minimum.
- I. Plan review fee – residential electrical permits: \$0.05 per square foot; \$8.00 minimum.
- J. Plan review fee – residential plumbing permits: \$0.05 per square foot; \$8.00 minimum.
- K. Plan review fee – residential mechanical permits: \$0.05 per square foot; \$8.00 minimum
- L. Plan review fee – fire suppression/alarm plan: \$0.02 per square foot; \$75.00 minimum.
- M. Request for permit extension: \$74.00.
- N. Commercial temporary certificate of occupancy: \$150.00 for each thirty days.
- O. Addition or change in contractor or mechanic's lien agent after permit is issued: \$34.00.
- P. Elevator certificate: \$100.00 per elevator.
- Q. Code modification request: \$250.00; no refund allowed.
- R. Group home/daycare/adultcare form, with no inspection: \$74.00.
- S. Administrative fee for working without a permit: \$250.00
- T. Technology surcharge: An additional 4% of each fee in County Code §§ 5-201 through 5-208(S).

(§ 5-3; 10-18-73, § 6-3; 3-21-74; 10-17-74; 10-4-78; 4-17-85; 7-13-88; 6-7-89; Res. of 9-6-95; Code 1988, § 5-3; § 5-208, Ord. 98-A(1), 8-5-98; [Ord. 08-5\(1\)](#) , 8-6-08; [Ord. 15-5\(1\)](#) , adopted 10-14-15, effective 11-1-15; [Ord. 18-5\(1\)](#) , 3-14-18; Ord. 21-5(1), 4-21-21, effective 7-1-21)

**State Law reference— Va. Code § [36-105](#) .**

This ordinance is effective on and after July 1, 2021.

Ms. Palmer **moved** that the Board approve STA2021-00001 as presented with a change in the wording from “transaction” to “fee” in reference to the technology surcharge and adopt the proposed ordinance to amend County Code Chapter 14 – Subdivision of Land (Attachment J). 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.

**ORDINANCE NO. 21- 14(1)**

**AN ORDINANCE TO AMEND CHAPTER 14, SUBDIVISION OF LAND, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA**

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 14, Subdivision of Land, is hereby reordained and amended as follows:

**By Amending:**

Sec. 14-203 - Fees.

**CHAPTER 14**

**SUBDIVISION OF LAND**

**Sec. 14-203 Fees.**

Each subdivider shall pay a fee upon the submittal of a plat or other application, based on the schedule below; provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant. Except as provided in subsection (H)(7), the fee shall be in the form of cash or a check payable to the “County of Albemarle.”

A. Preliminary plat:

1. If subject to review by the agent:
  - (a) Two-lot subdivision as described in section 14-232(B)(2) or if all lots front on an existing public street: \$296.00.
  - (b) 1 or more lots: \$1,360.00.
2. Reinstatement of review: \$615.00.
3. A fee must accompany each filing of a version of a preliminary plat.

B. Final plat:

1. If subject to review by the agent:
  - (a) Two-lot subdivision as described in section 14-232(B)(2) or if all lots front on an existing public street: \$639.00.
  - (b) 1 to 9 lots: \$1,183.00.
  - (c) 10 to 19 lots: \$1,301.00.
  - (d) 20 or more lots: \$1,455.00.
2. Condominium plat: \$119.00.
3. Reinstatement of review: \$615.00.

C. Other subdivision plats:

1. Plat for a rural subdivision, family subdivision, or resubdivision: \$817.00.
2. Plat for a boundary line adjustment: \$237.00.
3. Plat creating one or more special lots and one residue lot: \$105.00.
4. Plat for subdivision following final site plan approval:
  - (a) 1 to 9 lots: \$1,183.00
  - (b) 10 to 19 lots: \$1,301.00
  - (c) 20 or more lots: \$1,455.00

D. Easement plat or plats, per easement:

1. Easement plat(s) without a deed: \$580.00.
2. Easement plat(s) with a deed: \$899.00.
3. Easement plat(s) required with a site plan: \$237.00.

4. Easement plat(s) amending a previously approved easement plat(s): \$237.00.

E. Streets:

1. Public road plans: \$296.00 for each review of a submitted plan, including reviews of revisions after plan approval.
2. Private road plans: \$473.00 for each review of a submitted plan, including reviews of revisions after plan approval.
3. Authorization for one or more private streets within a subdivision filed separately from a subdivision application: \$792.00.
4. Variation to or exception from one or more street standards before approval of a preliminary plat under section 14-203.1: \$639.00.
5. Variation to or exception from curb and/or gutter requirements before approval of a preliminary plat under section 14-203.1: \$639.00.
6. Variation to or exception from street interconnection requirements before approval of a preliminary plat under section 14-203.1: \$639.00.
7. If required to construct a street, the subdivider shall pay to the county a fee equal to the cost of the inspection of the construction of any such street. These fees shall be paid prior to completion of all necessary inspections and shall be deemed a part of the cost of construction of the street for purposes of section 14-435(B).

F. Bonds:

1. Bond estimate request for subdivision improvements: \$296.00.
2. Bonding inspection for a plat or bond reduction: \$296.00.

G. Groundwater assessment information required by section 14-308.1:

1. Tier 1 assessment under section 17-1001: \$59.00.
2. Tier 2 assessment under section 17-1002: \$391.00.
3. Tier 3 assessment under section 17-1003: \$603.00.
4. Tier 4 assessment under section 17-1004: \$1,302.00.

H. Other matters subject to review:

1. Variation or exception under section 14-203.1 before approval of a final plat, not provided for under subsections (E)(4), (5), or (6): \$982.00.
2. Variation or exception under section 14-203.1 after approval of a final plat, not provided for under subsections (E)(4), (5), or (6): \$982.00.
3. Relief from plat conditions imposed by the commission prior to the date of adoption of this chapter: \$461.00.
4. Appeal of a plat decision to the board of supervisors: \$319.00.
5. Extension of a plat approval: \$142.00.
6. Vacation of a plat or part thereof: \$284.00.
7. Dam break inundation zones; administrative fee as required by section 14-441: One percent of the total amount of payment required by section 14-441 or one thousand one hundred one dollars (\$1,101.00), whichever is less. (Payment made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority).
8. Technology surcharge – 4% of each fee in subsections (A) through (H)(7) above.

I. Notices as required by section 14-218:

1. Preparing and mailing or delivering up to fifty (50) notices: \$237.00.
2. Preparing and mailing or delivering, per notice more than fifty (50): \$1.19 plus the actual cost of first class postage.

(§ 3, 8-28-74; 11-10-76; 3-2-77; 12-14-77; 12-1-82; 4-17-85; 6-7-89; 12-11-91; § 18-43, 9-5-96; § 14-203, Ord. 98-A(1), 8-5-98; Ord. 99-14(1), 6-16-99; Ord. 02-14(2), 7-3-02; Ord. 04-14(1), adopted 12-8-04, effective 2-8-05; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(1), 5-13-09, effective 10-1-09; Ord. 11-14(1), 6-1-11; Ord. 13-14(1), 12-4-13, effective 1-1-14; Ord. 15-14(1), adopted 10-14-15, effective 11-1-15; Ord. 21-14(1), 4-21-21, effective 7-1-21; Ord. 21-14(1), 4-21-21, effective 7-1-21)

**State law reference**--Va. Code § 15.2-2241(9).

This ordinance is effective on and after July 1, 2021.

Ms. Palmer **moved** that the Board approve WPTA2021-00001 as presented and adopt the proposed ordinance to amend County Code Chapter 17 – Water Protection (Attachment K). 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.

#### **ORDINANCE NO. 21- 17(2)**

#### **AN ORDINANCE TO AMEND CHAPTER 17, WATER PROTECTION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA**

**BE IT ORDAINED** By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 17, Water Protection, is hereby reordained and amended as follows:

##### **By Amending:**

Sec. 17-207 - Fees for land disturbing activity subject solely to the VESCP.  
Sec. 17-208 - Fees for land disturbing activity under VSMP.

#### **CHAPTER 17**

#### **WATER PROTECTION**

##### **Sec. 17-207 Fees for land disturbing activity subject solely to the VESCP.**

The following fees are for any land disturbing activity subject solely to the VESCP and shall apply to the services provided by the County under this chapter. Any required fee shall be paid upon submittal of an application and prior to each reinspection. Neither the County nor the County school board shall be required to pay any fee if it is the applicant:

<b>Land disturbing activity pertaining to single family dwelling unit</b>	
Agreement in lieu of a plan if single family dwelling unit located in a residential development	\$170
Agreement in lieu of a plan if single family dwelling unit not located in a residential development	\$170
Plan review for a single family dwelling unit	\$170
Permit and first year inspection fees for a single family dwelling unit	\$170
Annual permit renewal and inspection fees for a single family dwelling unit, starting with second year	\$170
Each reinspection	\$170 for the first reinspection and \$270 for each subsequent reinspection.
<b>Land disturbing activity pertaining to non-exempt agricultural land</b>	
Plan review	\$170 per review
Permit and first year inspection fees	\$170
Each reinspection	\$170 for the first reinspection and \$270 for each subsequent reinspection.
Annual permit renewal and inspection fees, starting with second year	\$170
<b>All other land disturbing activity</b>	
Plan review, disturbed area less than one acre	\$170 per review
Permit and first year inspection fees, disturbed area less than one acre	\$227
Annual permit renewal and inspection fee, disturbed area less than one acre	\$227
Plan review, disturbed area one acre or larger	\$340 per review

Permit and first year inspection fees, disturbed area one acre or larger	\$113 per disturbed acre or fraction over an acre.
Annual permit renewal and inspection fee, disturbed area one acre or larger, starting with second year	\$113 per disturbed acre or fraction over an acre.
Each reinspection	\$283 for the first reinspection and \$383 for each subsequent reinspection.
Each request for partial or full release of surety	\$283
Amendment to approved plan	\$227 per plan review
<b>Other services</b>	
Review of mitigation plan pertaining to a land disturbing activity in a stream	\$170
Variances	\$170 per request
Stream Determination	\$320
Technology Surcharge – additional percentage of each fee in this section	4%

(§ 7-4, 6-18-75, § 6, 10-22-75, 4-21-76, 11-10-76, 3-2-77, 4-17-85, 2-11-87, 12-11-91, 3-18-92; § 19.3-17, 2-11-98; Code 1988, §§ 7-4, 19.3-17; § 17-209, Ord. 98-A(1), 8-5-98; Ord. 98-17(1), 11-11-98; Ord. 02-17(1), 7-3-02; Ord. 08- 17(3), 8-6-08; Ord. 11-17(1), 10-5-11; § 17-207, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(2), 4-21-21, effective 7-1-21)

**State law reference** – Va. Code § 62.1-44.15:54; 9VAC25-840-30.

**Sec. 17-208 Fees for land disturbing activity under VSMP.**

Each owner seeking coverage under the general permit, each owner requesting a transfer or modification of its existing registration statement for coverage under the general permit, each owner requesting a major modification to a general permit, and each owner covered under the general permit required to maintain permit coverage shall pay a fee upon submittal of the VSMP permit application or, for the permit maintenance fee, annually, in the amounts according to the following schedule:

Fee Type	Permit Issuance Fee 1	Transfer or Modification Fee Amount 2	Permit Maintenance Fee 3
Small construction activity or land clearing that is less than 1 acre/if involves construction of a sole single family detached dwelling	\$237 \$237	\$20 \$23	\$140 \$159
Small construction activity or land clearing that is equal to or greater than 1 acre and less than 5 acres/ if involves construction of a sole single family detached dwelling	\$2,204 \$237	\$227	\$1,530
Large construction activity or land clearing that is equal to or greater than 5 acres and less than 10 acres	\$2,775	\$283	\$1,927
Large construction activity/land clearing that is equal to or greater than 10 acres and less than 50 acres	\$3,673	\$340	\$2,551
Large construction activity/land clearing that is equal to or greater than 50 acres and less than 100 acres	\$4,979	\$510	\$3,457
Large construction activity/land clearing that is equal to or greater than 100 acres not involving construction of a sole single family detached dwelling	\$7,835	\$793	\$5,441
<b>Other services</b>		<b>Fee</b>	
Each reinspection			\$283 for the first reinspection and \$383 for each subsequent
Bond agreement with surety; establish, amend or replace			\$283
Each request for partial or full release of surety			\$283
Amendment to approved plan			\$227 per plan review
Review of mitigation plan pertaining to a land disturbing activity in a stream buffer			\$170
Exceptions			\$272 per request
Construction record drawing; review			\$340

Stream Determination	\$320
Technology Surcharge – additional percentage of each fee in this section	4%

1. The fees imposed by this column are the total fees to be paid by the owner to cover the County's costs to review a stormwater management and other required plans, VSMP registration statement review, if such a statement is required under sections 17-401(C) and 17-405(A)(1), VSMP permit issuance, general permit coverage verification, inspections, reporting and compliance associated with a land disturbing activity. Any land disturbing activity subject to the fees in this section is not subject to the separate fees under section 17-207. For any site that has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to the applicable fees required by this column. The reduced fee if the construction or land clearing involves construction of a sole single family detached dwelling applies regardless of whether the activity and the dwelling are within or outside a common plan of development or sale.
2. The fees imposed by this column are intended to cover the County's costs to review a request to modify or transfer registration statements from the general permit and major modifications to the general permit that result in changes to stormwater management plans that require additional review by the County. The applicable fee shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, any modification resulting in an increase in total disturbed acreage shall pay the difference in the fee imposed by column 1 that was initially paid and the permit fee imposed by column 1 that would have applied for the modified total disturbed acreage. No fee shall be required for a minor modification.
3. The fees imposed by this column are an annual permit maintenance fee, and include fees imposed on expired permits that have been administratively continued. The fee, which shall be prorated in the first year, shall be paid at the time provided in section 17-209(B). With respect to the general permit, these fees shall apply until the general permit coverage is terminated.

(§ 19.3-34, 2-11-98; § 19.1-8, 9-29-77, art. II, § 3, 7-11-90; Code 1988, §§ 19.1-8, 19.3-34; § 17-310, Ord. 98-A(1), 8-5-98; Ord. 02-17(1), 7-3-02; Ord. 08-17(3), 8-6-08; Ord. 11-17(1), 10-5-11; § 17-208, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(2), 4-21-21, effective 7-1-21)

**State law reference** – Va. Code §§ 62.1-44.15:28, 62.1-44.15:31, 62.1-44.15:34, 62.1-44.15:36; 9VAC25-870-730, 9VAC25-870-820, 9VAC25-870-825, 9VAC25-870-830.

This ordinance is effective on and after July 1, 2021.

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Ms. Palmer **moved** that the Board approve ZTA2021-00001 as presented and adopt the proposed ordinance to amend County Code 18 – Zoning (Attachment L), to be effective on and after July 1, 2021. 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.

#### **ORDINANCE NO. 21-18(2)**

#### **AN ORDINANCE TO AMEND ARTICLE IV, FEES, OF CHAPTER 18, ZONING, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA**

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Article IV, Fees, of Chapter 18, Zoning, is hereby reordained and amended as follows:

**By Amending:**

Sec. 35.1 – Fees.

#### **CHAPTER 18. ZONING**

#### **ARTICLE IV. FEES**

**Sec. 35.1 - Fees.**

Each applicant shall pay the following applicable fees, provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant:

- a. Zoning map amendments:

1. Less than 50 acres; application and first resubmission: \$2,958.00

2. Less than 50 acres; each additional resubmission: \$1,479.00
3. Fifty acres or greater; application and first resubmission: \$4,141.00
4. Fifty acres or greater; each additional resubmission: \$2,070.00
5. Amendments submitted under section 30.7.6: (i) because the slopes are not steep slopes: no fee; (ii) to change any slope's designation from preserved to managed or to remove steep slopes from the steep slopes overlay district: any application fee under subsections (b)(1) through (5).
6. Amendments solely pertaining to proffers that do not affect use or density, when the board of supervisors authorizes alternative application and procedural requirements under section 33.7(f): \$503.00 plus calculated notification and legal advertisement costs.
7. Reapplication that is substantially the same as the withdrawn application, when authorized by the Board of Supervisors: \$1,823.00.

b. Special use permits:

1. Additional lots under section 10.5.2.1, public utilities, child day center, home occupation Class B, to amend existing special use permit, or to extend existing special use permit; application and first resubmission: \$1,183.00
2. Additional lots under section 10.5.2.1, public utilities, child day center, home occupation class B, to amend existing special use permit, or to extend existing special use permit; each additional resubmission: \$592.00
3. Signs reviewed by the board of zoning appeals: See subsection 35.1(e)
4. All other special use permits; application and first resubmission: \$2,366.00
5. All other special use permits; each additional resubmission: \$1,183.00
6. Farmers' markets without an existing commercial entrance approved by the Virginia Department of Transportation or without existing and adequate parking: \$580.00
7. Farmers' markets with an existing commercial entrance approved by the Virginia Department of Transportation and with existing and adequate parking: \$130.00
8. Reapplication that is substantially the same as the withdrawn application, when authorized by the Board of Supervisors: \$1,823.00.

c. Site plans:

1. Initial site plans: \$1,420.00 plus \$16.00 per dwelling unit and \$0.016 per square foot of nonresidential structure; the fee paid for preapplication plans shall be applied to the fee for initial site plans
2. Preapplication plans: \$592.00
3. Final site plans: \$1,775.00
4. Exception to drawing of site plan under section 32.3.5(a): \$1,775.00
5. Site plan amendments under section 32.3.3(b): \$592.00 (minor); \$118.86 (letter of revision)
6. Site plan amendments under section 32.3.3(b) (major): \$1,775.00
7. Appeals under section 32.4.2.6: \$284.00
8. Reinstate of review under sections 32.4.2.1(d) and 32.4.3.1(e): \$284.00
9. Reinstate of review under section 32.4.2.5(e): \$95.00
10. Extension of period of validity: \$562.00
11. Inspections pertaining to secured site plan improvements; per inspection: \$331.00
12. Dam break inundation zones; administrative fee as required by section 32.8.6: One percent of the total amount of payment required by section 32.8.6 or \$1,101.00, whichever is less. (Payment made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority).

d. Certificates of appropriateness considered by the architectural review board ("ARB"):

1. For a site plan; per review by the ARB: \$1,183.00
2. For a building permit; per review by the ARB: \$698.00
3. Major amendment: \$266.00
4. Review by the ARB – Conceptual plan/advisory review: \$538.00
5. Review by the ARB – Preliminary/initial review of a site development plan: \$538.00
6. County-wide certificate of appropriateness – Structures 750 feet or more from the Entrance Corridor, no taller than five stories: \$538.00
7. County-wide certificate of appropriateness – Structures located behind a structure that fronts the Entrance Corridor: \$538.00
8. County-wide certificate of appropriateness – Personal wireless service facilities: \$538.00
9. County-wide certificate of appropriateness – Fencing or equipment or lighting: \$269.00
10. County-wide certificate of appropriateness – Additions to ARB-approved buildings: \$538.00
11. County-wide certificate of appropriateness – Minor amendments to site or architectural plans: \$538.00
12. County-wide certificate of appropriateness – Building permits where the change is 50% or less of the altered elevation: \$538.00
13. Review of any sign to be constructed in the Entrance Corridors: \$130.00
14. Review of the resubmittal of any sign to be constructed in the Entrance Corridors: \$65.00

e. Matters considered by the board of zoning appeals:

1. Variances: \$592.00
2. Appeals: \$284.00
3. Special use permits for signs under sections 4.15.5 and 4.15.5A: \$592.00
4. Interpreting a district map: \$284.00

f. Matters considered by the zoning administrator or other officials:

1. Official determinations regarding compliance: \$219.00
2. All other official determinations, including development rights: \$119.00
3. Zoning clearance for a homestay: \$119.00
4. Zoning clearance for a home occupation, class A, a major home occupation, or a minor home occupation: \$30.00
5. Zoning clearance for temporary fundraising activity: No fee
6. All other zoning clearances: \$59.00
7. Sign permits under section 4.15.4A; no ARB review required: \$30.00, except for applications for temporary signs submitted under section 4.15.4A(c)(2)(b) or (c)(2)(c), for which there shall be no fee.
8. Sign permits under section 4.15.4; ARB review required: \$142.00
9. Letter of Map Change review: \$177.00 (topographic plan only): \$355.00 (topographic plan with floodplain model)
10. Floodplain Impact Plan review: \$355.00
11. Variation or exception under section 32.3.5 before approval of a final site plan: \$982.00
12. Variation or exception under section 32.3.5 after approval of a final site plan: \$982.00

g. Groundwater assessments:

1. Tier 1 assessment under section 17-401: \$59.00
2. Tier 3 assessment under section 17-403: \$603.00
3. Tier 4 assessment under section 17-404: \$1,302.00

h. Miscellaneous:

1. Change in name of development or change in name of street: \$95.00
2. Special exception: \$503.00
3. Tier II personal wireless service facilities: \$2,154.00
4. Technology Surcharge: an additional 4% of each fee in subsections (a) through (h)(3) above.

i. Required notice:

1. Initial notice fee to be provided in conjunction with an application, for preparing and mailing notices and published notice: \$448.00, except for uses under sections 5.1.47 and 5.2A, or applications submitted under section 30.7.6, for which there shall be no fee.
2. Fee for farmers' markets for published notice under section 35.1(b)(6): \$227.00.
3. Fee for readvertisement and notification of public hearing after advertisement of a public hearing and a deferral is made at the applicant's request:
  - a. Preparing and mailing or delivering up to 50 notices: \$237.00, except for uses under sections 5.1.47 and 5.2A, or applications submitted under section 30.7.6, for which there shall be no fee.
  - b. Preparing and mailing or delivering, per notice more than 50: \$1.19 plus the actual cost of first class postage. No fee shall be required for applications submitted under section 30.7.6.
  - c. Published notice: cost based on a cost quote from the publisher, except for farmers' markets under section 35.1(c)(7) and (8), or applications submitted under section 30.7.6, for which there shall be no fee.

(§ 35.1: Amended 5- 5-82; 9-1-85; 7-1-87; 6-7-89; 12-11-91 to be effective 4-1-92; 7- 8-92; [Ord. 10-18\(7\)](#), adopted 8-4-10, effective 1-1-11; [Ord. 11-18\(1\)](#), 1-12-11; [Ord. 11-18\(7\)](#), 6-1-11; [Ord. 12-18\(6\)](#), 10-3-12, effective 1-1-13; [Ord. 12-18\(7\)](#), 12-5-12, effective 4-1-13; [Ord. 13-18\(7\)](#), 12-4-13, effective 1-1-14; [Ord. 14-18\(1\)](#), 3-5-14; [Ord. 14-18\(2\)](#), 3-5-14; [Ord. 15-18\(8\)](#), adopted 10-14-15, effective 11-1-15; [Ord. 16-18\(4\)](#), 4-6-16; [Ord. 18-18\(5\)](#), 11-7-18; Ord 19-18(3), 6-5-19; [Ord. 19-18\(6\)](#), 8-7-19; Ord. 21-18(2), 4-21-21, effective 7-1-21)

**State Law reference—** Va. Code §§ [15.2-2286](#) (A)(6), [15.2-2241](#) (9), [15.2-2243.1](#).

This ordinance is effective on and after July 1, 2021.

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Agenda Item No. 19. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Item No. 19.a. Legislative Agenda Timing and the Addition of Speed Cameras.

Ms. LaPisto-Kirtley said going into the legislative season for the next year, which she hoped would be shortly, when they have their agenda, she would like to include the use of speed cameras, especially on rural roads. She said the problem on the rural roads is that there are stretches where police cannot pull someone over without causing miles-long backup, and there just are not any areas for pull-over. She said it is not a very good use of police resources, and there are areas where there are long stretches of roads in the rural areas, maybe in the urban areas also but especially in the rural areas, where people are exceeding the speed limit by 10-20 miles an hour creating a very serious safety hazard, so she would like the Board to be able to include that in their legislative agenda for the state for this coming season. She said she was hoping they have a legislative agenda meeting soon.

Mr. Kamptner added that Ms. LaPisto-Kirtley had called him, and they had talked about it and that he takes notes when a Board member presents an idea for an item that they want to come forward with as part of the Board's legislative priorities. He said he will be coming back to the Board, and he does have Mr. James Douglas in his office who does the legislative work with him, and they have a meeting. He saw the meeting invite come in for our first meeting with David Blount, and they will discuss not only the priorities but also the timing; this will be an election year, which always affects the timing of the legislative priorities and meeting with the local delegation, but as the 2021 session is wrapped up, work will be starting on 2022. He said for the Board's recollection, the General Assembly did adopt, which became effective July 1, 2020, the photo speed monitoring devices for school zones and highway construction zones, and early on, the Board had under consideration to expand it, and the

recommendation from Mr. Blount this past year was to let the new law come into effect and see how it is going. He said per Mr. Blount, the General Assembly's preference is to let a new law have a little time to see how it is working before they want to consider amending it, but it is on the list, and they will be coming back to the Board soon to get the process going.

Ms. LaPisto-Kirtley asked how long he suggested it be working before.

Mr. Kamptner said at least a year. He said this past year, the law really just came into effect while it was being discussed with the Board, and Mr. Blount recommendation was that he thought it was too soon for them to be willing to amend it.

Ms. Mallek said speed monitoring devices were mentioned, but what has been discussed a lot off and on by this Board is being able to send tickets through the mail, not just to find out how fast people are going (VDOT can do that all the time) it is getting tickets so that people have to slow down because they are tired of paying a \$200 fine. She said she did not think that had been addressed by either of these unless it is something she did not understand about what took effect on July 1st. She said a campaign year was what finally got Delegate Bell to be able to support the bill that allowed tickets to be sent through the mail by the cameras on the ends of the arms of the school buses because he had flatly rejected it for the 2 years before that.

Mr. Kamptner said the photo speed monitoring device legislation does have enforcement capability, and unfortunately, before the Board meeting started, the online version of the Virginia code had slowed to a crawl, so he was not able to get back into the code in time to review the several sections of the Virginia code that were amended last year.

Ms. LaPisto-Kirtley said she thought it was Maryland where they have these photo cameras all over the place, and there is usually a sign announcing the fact that there are photo cameras along this road, and then if you speed, it takes a picture of the license plate and you do get a fine for that. She said it actually works, and she thinks it would be very effective on their roads also.

Ms. Mallek said that DC has it also, very effective.

Ms. LaPisto-Kirtley agreed.

Ms. Price said that she had this listed to talk about, and then the WillowTree conversation really brought it back into the forefront of her mind. She said first off, she wanted to applaud Albemarle County staff for the work that they have done tremendously under very difficult circumstances during the pandemic. She said she believed that there are some inefficiencies that they have experienced as a result of the remote working. She said as the vaccination effort continues and as more people are protected and hopefully able to get through the worst of the pandemic and look towards having employees back working in the County office building, she hopes that some sort of analysis will be conducted to look at the efficiencies and benefits that come from having people working within the building while still at the same time maintaining the degree of flexibility which has been to the benefit of both the community as well as the employees. She said they can look at this as some positives in terms of how they can continue to do things better, not necessarily continuing exactly as has been done over the last year, but also not necessarily believing it necessary to go completely back to the way things were before the pandemic, perhaps some sort of a hybrid or a mix. She said she would like to see some sort of analysis done on what may be the best way to achieve the efficiencies possible.

Ms. McKeel added that she would like staff to begin thinking somewhat about the Board's zooming and outreach to the community which really has improved under zoom. She said while she is happy to meet in the auditorium at some point and have meetings, they really have been able to connect better with the community through zoom, and they have liked it. She said she did not know if there is a hybrid model, but she hated to lose that community engagement. She said there are lots of people that do not feel comfortable coming down at night, just cannot make it, but she would simply add that to what Ms. Price said, and she just wanted to emphasize the public meeting piece of it and a zooming hybrid of some sort.

Ms. LaPisto-Kirtley asked if those two items regarding the speed cameras and developing some sort of a hybrid meeting type forum would have to go through the state legislature and would those be on the Board's agenda when they do discuss legislative issues.

Ms. McKeel said she thought the zooming would have to be and asked Mr. Kamptner if they would have to be allowed by state law.

Mr. Kamptner said as long as the Board is physically assembling, there is nothing that limits also allowing public input via zoom or any other technology; that is fine. He said the baseline is that once the emergency is over, the public bodies would need to start physically assembling.

Ms. McKeel said that was what she was getting at; she would like to have the ability not to have a statewide emergency and be able to zoom. She said she would like to put it on their legislative packet. She said they need a bigger discussion than just five minutes right now.

Mr. Kamptner said what he was gathering now was that these proposed revisions to the Freedom of Information Act are being vetted through the Virginia Freedom of Information Act (FOIA) Advisory Council, and there is committee work taking place before these ideas get to the General Assembly in the

form of a bill.

Ms. Mallek said she assumed allowing their constituents to participate was sort of like having livestreaming going on, so she was sad to know that they have to go get authority for that too if they want to be able to do it, or for them to stay home if there is an emergency or even a plumbing issue.

Mr. Kamptner said it is the latter that would require a change to FOIA. He said there is currently a very limited exception that would allow an individual Supervisor to miss a meeting, and it has been amended very slightly for an emergency or for personal reasons, and there is a process, but at least at this point, the General Assembly expects that the public bodies will be physically assembling once the emergency is over.

Ms. Mallek said she personally is looking forward to that, and the only other thing she was going to add is the image that Mr. O'Connell circulates that a penny of money buys a gallon and a pint of water, a penny, so they have to always think about that when they are worried about CIP and increasing costs and things is that our water here has been so cheap for so many generations and they need to emphasize that.

Ms. Palmer added that they could stop buying plastic water bottles at the County office building.

Ms. Mallek agreed.

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#### Agenda Item No. 20. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson said he had the monthly report and several slides with what he hoped the Board and the general public would find to be some very interesting information. He said last meeting, they had indicated that their annual community report would be released shortly, and they are very pleased to present the 2020 community report. He said this report was launched online two weeks ago, and it will be available in print starting today. He said the report shares stories about projects and programs that made an impact in 2020 including the Yancey Community Center's first year of operations, how the parks were kept open during the pandemic, the At Ready removal as well as budget information.

Mr. Richardson said that print copies were already in the Board of Supervisors' boxes; digital copies are available at Albemarle.org, and they look forward to continuing to share this with the community.

Mr. Richardson presented a picture denoting recognition of child abuse prevention month. He said the child protective services unit within the Department of Social Services with many regional partners, wanted to take the opportunity to remind everyone that April is child abuse prevention month; the goal of the annual pinwheel planning is to raise awareness of that goal, and they want wonderful childhoods for all our children.

Mr. Richardson said that Albemarle County partnered with the Virginia State Police for Operation: Safer Roads following the release of the statistic that Albemarle County had the highest number of motor vehicle crashes in the State of Virginia in 2020. Mr. Richardson said that on March 31st, officers were performing traffic enforcement on primary roadways throughout the County to increase visibility and to educate drivers about dangerous driving habits, speeding but also distracted driving. He said in one out of five crashes in Albemarle County, it is reported that speed is a factor, and generally speed and distractions contribute to dangerous driving conditions. He said Albemarle County Police Department's message was simple: focus on operating your vehicle when you are behind the wheel. Mr. Richardson thanked the police department for their ongoing efforts on a day-to-day basis as they continue to cover about 725 square miles in the County.

Mr. Richardson said he did hear a little bit of a reaction from one of the Board members that Albemarle County is first out of 95 counties, and he had the same reaction whenever he read that statistic. He said Mr. Walker and he had already reached out to the police chief and scheduled a meeting for next week to sit down and ask if there are things that they can consider doing that are not being done currently that would address that statistic in a meaningful way over the next year. He said he or Mr. Walker and Chief Lantz would follow back up with the Board on that statistic.

Ms. Mallek asked Mr. Richardson to repeat that statistic to make sure she heard it correctly.

Mr. Richardson repeated that in 2020, Albemarle County had the highest number of motor vehicle crashes in the State of Virginia of all 95 counties.

Ms. Palmer asked if that was not per population but talking about total, comparing Albemarle County with Northern Virginia with their much denser population.

Mr. Richardson promised Ms. Palmer that he had the same thought in his mind but did not follow up on that and does not want to misspeak or overstate something. He said she deserved an answer to that, whether that number has been per 100,000 or something like that. He said he did not know the answer but would follow up.

Ms. LaPisto-Kirtley interjected that speed cameras would help.

Ms. Mallek agreed.

Mr. Richardson thanked the Supervisors for the feedback. He said in recognition of Earth Day, he wanted to highlight a few initiatives around the climate action plan implementation. He said one that is still under construction is the electric vehicle (EV) charging stations. He said these charging stations will be available for the public and for staff to charge an electric vehicle which provides infrastructure that supports electric vehicle use across the community. He said Albemarle County will be participating in Dominion Energy's smart charging infrastructure pilot program; this program offers rebates to help cover the cost of "make-ready" infrastructure along with the purchase and installation of approved EV charging equipment. He said Dominion is prepared to cover 70% of the project cost.

Mr. Richardson said over the winter, they partnered with the community climate collaborative, the Virginia Discovery Museum, and Albemarle County public schools and also the Batten School at UVA to provide climate activity kits to fourth-grade students at Agnor-Hurt. He said included in the kit was some information for parents introducing them to the idea of an energy assessment and yielding interest in the program Albemarle County has with LEAP for at-home energy assessments to walk through steps that can be taken to increase the energy efficiency of the home.

Ms. LaPisto-Kirtley asked if Dominion or anyone was looking into having small charging stations in someone's garage for their electric vehicle.

Mr. Richardson said he did not know the answer to that specifically but would make a note to follow back up with Dominion and find out and come back to the Board with that.

Ms. LaPisto-Kirtley said those are available.

Mr. Richardson said if a staff member were on the call that has more information on that to step in, but otherwise he could follow up and come back to Ms. LaPisto-Kirtley.

Mr. Gallaway asked the Board members to track their questions until Mr. Richardson was through.

Mr. Richardson stated that he had a couple of updates on the summer swim program. He said based on local and state guidelines, the Parks and Recreation Department has been planning for how to safely operate the swimming lakes this summer. He said recruitment is now open for lifeguards, and assuming that sufficient staffing can be recruited, the current plan would be to operate all three lakes on a shorter season, and that would be June 15th through August 24th, which follows the school year calendar as opposed to the typical Memorial Day to Labor Day. He said one of the challenges is recruitment, and that is tied to certification courses that have been operating at a reduced level.

Mr. Richardson said that on another front, the Board will recall that each of the past few summers, there have been interruptions to swim due to algae at different times in the lakes. He said this is not an issue that is unique to one lake or just Albemarle County's lakes. He said they have studied the watersheds and the lakes themselves with a consultant, and it has been determined that during extended hot temperature days, that results in a release of phosphorus within the lake that with a lack of oxygen creates conditions that support algae growth. He said with the initial study complete, they can begin to now develop a management strategy moving forward.

Mr. Richardson said that Governor Northam announced on Thursday, March 18th, that Albemarle County and Century Link have been awarded a Virginia Telecommunication Initiative (VATI) grant to improve broadband infrastructure in locations around Albemarle County providing connectivity to 1,675 locations with the construction of approximately 100 miles of fiber optic cable. He said this project was awarded approximately 2.3 million dollars, and it will take 18 months to execute. Mr. Richardson said he wanted to personally extend his appreciation to the Board of Supervisors and to the Albemarle Broadband Authority for their leadership and efforts that have led to five successful VATI funding applications in a row.

Mr. Richardson said he wanted to talk about their building posture moving forward. He said the office building will be reopening for members of the public in support of tax payments beginning May 24th and running through the tax deadline on June 25th. He said they continue to urge customers to make use of other convenient payment options online, using the upgraded payment kiosk. He said that customers wishing to receive on-site services this cycle will be able to do so. He said community members will need to go through screening questions, temperature checks, and must wear masks to enter the building. He said a wider return to more normal operations is still being explored, and more information is expected shortly. Mr. Richardson said that the on-site management team is working with the guidance from the CDC, FEMA, OSHA, VOSH, data from the VDH, advice from the Blue Ridge Health District as well as internal planning, logistics, human resources, and legal teams to evaluate how to best continue to meet the goals of keeping staff and the community safe while maintaining County operations. He said they would be back to the Board to talk more about that in detail.

Mr. Richardson asked for follow-up questions and said other staff were on the call, and if they need to follow back up with the Board after tonight, they would be happy to do so.

Ms. LaPisto-Kirtley said that she knew that Charlottesville has extended their zooming for another six months. She asked if that was something that the Board can do or whether it was something that had to be approved when the emergency is over; if it is prior to that, then they are the ones that make that

decision.

Mr. Richardson said that Mr. Walker and Mr. Kamptner may want to tag team that.

Mr. Kamptner said that they certainly do have the authority to maintain the continuity of government operations through the summer. He said that is part of the consideration looking at future phases of reconstitution and opening up. He said they are very aware of the ability to continue to deliver what they think are good services through the virtual platforms, and that will be part of the conversation. He said that they are in conversations with Charlottesville. He said they did not have to mirror what Charlottesville does but are certainly aware of what their posture is as well.

Ms. Palmer said she had no questions and thanked Mr. Richardson for the presentation.

Ms. Price thanked Mr. Richardson and all his staff for what they did in 2020 under very difficult circumstances and said it was a great report.

Ms. McKeel reiterated that it was a great presentation. She said she looked forward to picking up her own hard copy to go through it. She said everybody is right; she has been so impressed over the last year with all their employees and wanted to thank everybody.

Ms. Mallek asked if the wonderful community report was already being distributed to libraries or if that was something the Board should do.

Mr. Richardson said he would like to ask Ms. Kilroy as she and her staff had done an outstanding job of putting this document together.

Ms. Kilroy, Director of Communications and Public Engagement, said that she had hot off the presses the first draft of the one-page version of the community report that they will be distributing at community events through the spring and also reaching out to the libraries to get their agreement to provide to customers who are picking up books through their pick-up services. She said they have been working with JMRL throughout the pandemic to spread information through those means as well. She said they would be working on that over the next couple of weeks, and there is a short form version of some of the narrative and then a QR code for folks to be able to scan with their phone's camera to get right into the full report, which is available online, so information for everyone in a digestible format.

Ms. Mallek said that sounded great. She said on the algae that she would hope that parks and rec staff and FES staff as well as anybody else who is interested would google algae blooms and glyphosate because there are probably 50 different academic reports that will come up on that google page within the last few years on the connection of the fact that Roundup's components cause the algae plants to take much more phosphorus out of the water and therefore go crazy in their blooming that was not happening before. She said there may be some management things that could be changed around the lakes that would help and certainly in the watersheds of all of the public bodies they need to be thinking about this bigger picture than just putting more chemicals in to kill the algae because that has side effects too.

Mr. Gallaway said that he had been watching the charging stations get installed as it is developed, and he wondered if the piece that looks like a big wall or sign on the road-facing side would be decorated or have something on it; he wondered if there is a plan to put something on that side facing forward or if that is even allowed.

Ms. Kilroy said the wall along McIntire Road that is the host for all the utilities to support the charging stations will be screened with vegetation so there will be some plantings that go in to screen the wall from the road. She said fortunately, or unfortunately, they are in an entrance corridor in the City of Charlottesville, and so any written or illustrations that might go on that wall would be subject to BAR review, and so vegetative screening is what has been approved at this point.

Mr. Gallaway agreed that one would not want to cover it all up. He said a well-designed mural or something would probably pass their review, but if vegetation is going to be there blocking it, then understood.

Mr. Gallaway thanked Mr. Richardson for the report and thanked Ms. Kilroy. He noted that the next meeting is a public hearing on their budget.

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Agenda Item No. 21. Adjourn to April 28, 2021, 6:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(16).

At 9:17 p.m., the Board adjourned its meeting to April 28, 2021 at 6:00 p.m., which would be an electronic meeting held pursuant to Ordinance No. 20-A(16); An Ordinance to Ensure the Continuity of Government During the Covid-19 Disaster. Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors home page.

Approved by Board
Date 03/01/2023
Initials CKB

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Chair