

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 20, 2022 at 1:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; Interim County Attorney, Cynthia Hudson; 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, Ms. Donna Price. Ms. Price said the opportunities for the public to access and participate in the hybrid meeting are posted on the Albemarle County website on the Board of Supervisors home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

Ms. Price said Officers Angela Jamerson and Josh Wright were present at the meeting to provide their services.

Ms. Price said Supervisor Bea LaPisto-Kirtley was not presently at the dais; she requested to participate remotely in accordance with applicable Board Rules of Procedure enacted pursuant to the Freedom of Information Act. She said that Ms. LaPisto-Kirtley was unable to attend the meeting due to a personal medical condition. She said that Supervisor LaPisto-Kirtley was seen on the monitor and asked her to please state her location.

Ms. LaPisto-Kirtley said she was located in Keswick, Virginia.

Ms. Price said Supervisor LaPisto-Kirtley was requesting to participate remotely. She asked if there was a motion to approve Supervisor LaPisto-Kirtley's participation in this manner.

Ms. Mallek **moved** to allow Ms. LaPisto-Kirtley to participate remotely. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. Mallek, Ms. McKeel, Mr. Andrews, and Ms. Price.

NAYS: None.

ABSTENTIONS: Ms. LaPisto-Kirtley.

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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.

Ms. Price asked if there were any amendments to the agenda by any Board member.

Ms. Mallek asked to pull her minutes.

Ms. Price asked which ones those were.

Ms. Mallek said she believed they were October 21, 2020.

Ms. McKeel said she would like to pull her minutes because she had a change to those minutes.

Ms. Price asked which ones were those.

Ms. McKeel said they were the October 28, 2020 minutes.

Ms. LaPisto-Kirtley said she had already sent her typographical corrections to Ms. Redden-Tamblyn, and she believed her minutes were from November 20, 2020.

Ms. Price said if they were simply editorial corrections, they did not need to be pulled.

Ms. LaPisto-Kirtley said she did not want to pull them.

Ms. Price said there was an amendment to the Consent Agenda to pull from 8.1 the minutes of October 21 and October 28. She asked if there was anything else by any Supervisor. She said the floor was open for a motion to adopt the agenda as amended.

Ms. McKeel **moved** to adopt the final 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, Mr. Andrews, and Ms. Price.

NAYS: None.

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

Mr. Andrews said that in the news, there was a new peer-reviewed study from Yale about average climate models that said they had gotten extreme precipitation events wrong by a factor of 2, and they were experiencing that, so he hoped everyone was staying safe. He said they would have to consider stormwater management and other issues related to that at a future meeting.

Ms. Mallek said since this was their first gathering since the 4th of July, she would like to report that the community rebuilding after Covid-19 was alive and well in their County. She said the parades in Crozet had big crowds lining the entire two-mile route, and great crowds came to the park, despite the fact there were no fireworks. She said that was reassuring to her that people came to see each other and gather. She said in Earlysville, their one-mile route was also well-attended; churches provided lunch and dessert to parade-goers and marchers, and there were floats of veterans representing Army, Navy, Air Force, and Marines in their parade. She said they were recruiting Coast Guard members for next year so they wanted to have all those branches covered.

Ms. Mallek said she was fortunate enough to have a wonderful trip accompanied by Stacy Pethia to the High Growth Coalition meeting, which focused on affordable housing and where they both learned a lot. She said they would be bringing more information from there as well, and also the 5th and 7th District VACo Summer Mini-Conference talked about many County issues, but many Counties in the 12 Counties represented there also had the same many issues going forward to the General Assembly, so that was reassuring.

Ms. Mallek said they may have heard of the Governor's case, which was the 12 best wines produced by Virginia wineries each year and were used for promotion of Virginia wines all around the world. She said this was the 40th year that the Governor's cup had been awarded and the Governor's case had been chosen. She said this year contained six wines out of 12 from the Monticello Wine Trail. She said she wanted to use this moment to congratulate Michael Shaps chardonnay, the Trump Winery sparkling from the Scottsville District, Wisdom Oaks Meritage Blend from the Samuel Miller District, Stanson and Pollock Vineyards Meritage from the Whitehall District, and the sixth was Barboursville in the Rivanna District because the vines were in Albemarle, although the winery was in Orange.

Mr. Gallaway said that being this was their first official meeting since June 29, they appointed their County Attorney, Steve Rosenberg, and he would be beginning next week on the 27th. He said he came to them by way of the City of Staunton as their previous City Manager, and in the past, he served on the Office of General Counsel at UVA, so they were looking forward to welcoming him next Wednesday and would see him join them at the dais at their next meeting.

Ms. McKeel said she would like to let Ms. Mallek know that the Jack Jouett District would love to have a vineyard at some point.

Ms. Mallek said they had some possibilities; they would have to recruit that.

Ms. McKeel said that was right.

Mr. Gallaway said they could just claim the vines from the Whitehall District.

Ms. McKeel said she wanted to remind folks that as of this last Sunday, they now had a mental health crisis number to use, which was 988. She said her understanding was that it was active as of Sunday, so she would encourage people that were having a mental health crisis or who had a family member having a mental health crisis to use 988. She said the ECC, or Emergency Communications Department, was running that and in charge of that particular line. She said she knew they were all happy it was up and running.

Ms. Price said following up with Supervisor Mallek's and Supervisor Gallaway's comments, it had been a while since they had a meeting. She said she was extremely appreciative of this Board recognizing the work that County staff had done in approving a missed meeting in July to allow County staff to actually have a vacation after 2.5 years of the pandemic. She said the parades in Scottsville and Crozet were superb.

Ms. Price said she also had the opportunity last week to visit the Van der Linde Recycling Center in Fluvanna County, and she learned that 82% of what went to the landfill was eligible for recycling. She said they did they did a tremendous job there in separating out all of the things that could be recycled as opposed to simply going to the dump. She said there was not a dump in Albemarle County, but somewhere, all of that stuff did get dumped. She said she shared this information with senior leadership in the County. She said she was not asking or looking for the Ivy Materials Utilization Center to be comparable, but there were things she believed they could do to reduce the amount of debris that was going to the dump as opposed to what was being recycled, and she hoped the County would be able to continue to work towards improving that in reducing the volume they had to send to the dump. She said it was an incredible experience.

Ms. Price said in the next 10 days, they were looking at temperatures each day going over 90 degrees and up to 100. She said the last seven years had been the hottest reported in climate history, and climate change was real. She said she asked everyone to be careful to do what they could to try and reduce the heat footprint they were creating. She said it was a difficult time right now, but fortunately gas

prices were going down a little bit. She said in many areas of the country, the power grid was subject to some extreme stress, and she asked they try to do what they could.

Ms. Price said on the medical front, they were seeing yet another Covid-19 surge in Europe now, and there was no reason not to believe that would reach the United States, and additionally they had monkeypox as a concern. She said it was important they all remembered to act as carefully for their own health and those of the neighbors, and that meant avoiding overcrowding in local areas.

Ms. Price said the final but not least significant was that she wanted to publicly express her deep appreciation and gratitude for Ms. Hudson for the work she had performed since April 1 as their interim acting County Attorney, and it was only in the legal sense that she was interim or acting; she had stepped in and taken full charge of all responsibilities and provided exceptional legal guidance to them in this time of transition. She said her own words were inadequate to express the appreciation that she knew every member of this Board, County staff, and the community had for the work she had done for them. She said they were better for it and it had been a pleasure to have her here with them. She thanked Ms. Hudson.

Ms. Hudson thanked Chair Price and the Board. She said it had been her pleasure.

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Agenda Item No. 6. Proclamations and Recognitions.

There were no Proclamations or Recognitions.

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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. Brian McKay said he was speaking on behalf of Earlysville Forest Homeowners Association, which was in the Whitehall District. He said they appreciated the Board letting them speak today. He said they were directly affected by and objected to the Kendrick Farms Special Exemption for a fill dirt operation. He said their objection was to the way that activity was being carried out. He said as background, Earlysville Forest had a right-of-way easement agreement with the Kendrick family, which was signed when the neighborhood was first developed.

Mr. McKay said the terms of that agreement were for a driveway access 15 feet wide from a single-family home across Earlysville Forest land and entering Carriage Hill Drive, a residential street in their neighborhood. He said in fact, the Kendricks used Carriage Hill Drive as their home address and had their mailbox at the end of that driveway as does any other resident of Earlysville Forest. He said that driveway crossed and defined the lots of three homeowners in their association and it came within several feet of one of those houses. He said again that it was 15 feet wide, unpaved, and intended for use as a driveway to a home. He said however, that driveway was now being used as access for the fill dirt operation requiring repeated trips by heavy dump trucks, it was not adequate for that purpose.

Mr. McKay said that had serious adverse effects anyway on the surrounding neighborhood, and even worse, the three homeowners directly sharing the right-of-way. He said the special exception already in use required the Virginia Department of Transportation to approve access entrance onto the highway. He said he wondered if that approval was ever received, because the driveway actually did not enter a highway, but the neighborhood street that was Carriage Hill Drive. He said to reach a highway, those dump trucks then had to drive through their neighborhood on unmarked streets that were not throughways.

Mr. McKay said these streets had no sidewalks and were used by neighborhood residents and their children for walking, cycling, and other enjoyments. He said they thought those dump trucks had an adverse impact on public health, safety, and welfare. He asked that they not allow Kendrick Farm to use the Carriage Hill right-of-way across their land and through their neighborhood streets as access for the heavy trucks for their fill dirt operation. He said finally, they just in the last hour sent the Board an email with a photograph taken of the yard of Ms. Bretschneider, who was there today, showing what it looked like with a heavy truck going across this access, if they could look at that in their email. He thanked the Board for letting them speak.

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Mr. Tim Kendrick said he resided in the Whitehall District. He said later today, they would consider a request from himself waive the requirements to the Zoning Ordinance 15.1.28 regarding clean earth fill. He said he believed his comments provided to the Board outlined the specifics of the project, but he would like to add these brief comments.

Mr. Kendrick said he was currently working under a multi-year, federally funded, environmental quality incentive program to improve the overall agricultural production of a 254-acre farm, which had been in his family since the 1730s. He said additionally, the contract provided added protection to the natural resources on and surrounding the farm. He said this was a bona fide agricultural project under the United States Department of Agriculture and Natural Resource Conservation Service. He said it had been recognized as an agricultural use by County staff, the County Attorney's Office, and the Albemarle County Conservation Easement Authority, who went on the record that the proposed activities were allowed under the conservation easement, that they had no concern, and it seemed like a worthy project. He said Albemarle County Farm Bureau had visited this site and determined without question that this was an agricultural project.

Mr. Kindrick said Chapter 18, Section 31.5 stated that the zoning clearance shall be required in the following circumstances: new use, prior to establishing a new non-residential use including those provided in subsection A6 and A7, or clean earth fill activity, or inert waste activity other than an agricultural use. He said he had been required to get a zoning clearance. He said the Virginia Right to Farm Act stated that no locality shall enact an ordinance that would unreasonably restrict or regulate farming in an agricultural district or classification unless such restrictions bared relationship to the health, safety, and general welfare of its citizens, which this legitimate agricultural use did not pose, however, he had been held hostage for 12 months by this ordinance. He said it also stated that no locality shall require an ordinance that a special exception be obtained for any agricultural activity, but he stood before them today asking for a special exception.

Mr. Kindrick said as they were aware, this ordinance was rushed through and approved with the contention of review, which had not occurred. He said its purpose was to protect agricultural land from becoming a dump site for construction waste, while fully supported had now prevented a legitimate project to improve the agricultural land and protect the natural resources of the area. He said for these reasons, he asked that the Board approve this waiver, and the entranceway had been approved by VDOT for use. He thanked the Board.

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Ms. Barbara West of Keane, Virginia in the Samuel Miller District asked why people decided to live in rural areas versus city life. She said they chose rural life for peace and quiet, for serenity, and for the beauty and complexity of nature. She said they valued peace and quiet to such an extent that they were willing to put up with inconveniences, and in Southern Albemarle, bad internet and no cellular. She said still they remained for peace and quiet. She said her own husband, a Vietnam combat war veteran asked for nothing more in life than peace and quiet, and quite frankly, he had earned it.

Ms. West said science dictated that for every species of plant or animal, no matter how lowly that was allowed to go extinct was one step closer to the extinction of man. She said every living thing had a purpose, and every living thing was important to their survival. She said they understood this and were stewards of the land. She said when poorly thought-out County proposals, nonstop development with increasing population density, cement in place of trees, encroach upon their good stewardship, their obligation and privilege to save the land and living world within, they must protest and fight. She said they were also fighting for the survival of humanity, and they asked those in power to help them.

Ms. West said rural agricultural zoning changed with the flick of a wrist to commercial in a pristine, wooded setting in a bad location for no other reason than that they owned the land, and was absolutely unacceptable. She said they had taken the easy way out, making lame justifications for this decision, and all six of them as leaders had gone along with this travesty. She said they demanded better, and through their vote, they would get better if they did not wake up to what their constituents were telling them. She thanked the Board.

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Ms. Laurel Davis said she lived on Esmont Road in the Samuel Miller District and that the handouts on the dais were from her, and she apologized for that confusion. She said she wanted to address the decision that Ms. West discussed, where they put the convenience center there. She said she was so afraid of what this plan implied about the Board as a governing body and the future of their County and collective home place. She said they had actively ignored the will of the people, certainly those of them most negatively impacted by this who just happened to live in a historically low-income and majority African-American corner of the County with a history of being told to accept the County's trash.

Ms. Davis said they had also ignored the Comprehensive Plan, their guiding document. She said they were but temporary guardians of this County, and the Comprehensive Plan told them that the number one reason people moved here was for the natural beauty. She said it went on to say that natural resource protection was the County's highest priority, and there was no ambiguity about that. She said the highest priority included trees, woodlands, animals, and wild places. She said yet, objective seven of the Comprehensive Plan directed them to maintain or improve the visual quality of all of Albemarle County's roadways, yet they approved a plan that replaced mature oaks with black chain-link fence, that replaced an understory of huckleberries with acres of nonpermeable asphalt, more than seven lanes of roadway. She asked if this improved her road and if it was protecting natural resources and beauty.

Ms. Davis said if they did not listen to the will of the people and did not follow the guidance of the Comprehensive Plan, it begged the question: who or what were they in service to? She said this plan was conceived more than a decade ago and was antiquated, outdated, and read to the domination paradigm, which was brought their species to this treacherous moment in the first place, and it ignored science. She said they now knew, or should know, that plastic recycling did not work, that it was promoted by plastic manufacturers in fact, and if they were truly to reduce single-use plastic waste, they knew of lots of ways that were far more effective.

Ms. Davis said if they wanted more people to recycle, reduce solid waste, and make an effort to protect their planet, then people should not have to go out of their way to do it; recycling bins should be everywhere people congregated. She said if they wanted to help people who could not afford trash pickup, then give those elders or people without cars trash pickup vouchers. She said this plan was a plan from the past and should have stayed there. She said the taxpayers of this County deserved better, deserved a governing body that made decisions based on current science, that followed the guidance of the Comprehensive Plan. She said they needed the governing body that looked for innovative and

effective solutions. She said she implored them to reexamine this plan.

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Mr. Howl West said has was a resident of Esmont Road, Keane, Virginia, in the Samuel Miller District. He said he knew they had come quite a way with their plan to put the convenience, transfer, or recycling center in Keane. He said they wanted to remind the Board of how dangerous the intersection was, and they were making it worse with numerous large trucks going in and out. He said to not pass it off on VDOT to not accept the blame for traffic accidents that occurred. He said many had occurred already, and he thought this would make it worse.

Mr. West said he did not see how they could justify spending more than one million dollars in taxpayer money when smaller bins would suffice, and any shopping center in Scottsville, behind the school, in Mill Creek, in any shopping center around, he sent pictures to the Board members that small bins of about five square feet were all over Europe and their country as well in many housing developments. He said they did not need to place the site where it was not needed, but in large growth areas. He said to look at what they were doing to Charlottesville in the Mill Creek area. He said as he said, the shopping center for simple drop-offs and simple collection of recyclable goods there.

Mr. West said to use common sense and save their environment by not putting it where it was not needed. He said he wished everyone would go to FLCC.net website to read from the immunologists who had been ignored. He said people needed to pay attention and research everything they could on Covid-19 and the proper treatments, not the vaccine push that everyone had been doing around the country and around the world. He said the mainstream media knew this was wrong, too. He thanked the Board.

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Agenda Item No. 8. Consent Agenda.

Ms. Mallek **moved** to adopt the consent agenda as amended. Ms. LaPisto-Kirtley **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, Mr. Andrews, and Ms. Price.  
NAYS: None.

Ms. McKeel said she had pulled some minutes she wished to discuss and then she would approve them.

Ms. Price said they would add that as the last item on the agenda.

Ms. McKeel said that was okay.

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Item No. 8.1. Approval of Minutes: October 21, October 26, October 28, November 18, November 20, and December 8, 2020.

Ms. Price had read the minutes of October 26, 2020, and found them to be in order.

Mr. Gallaway had read the minutes of November 18, 2020, and found them to be in order.

Ms. LaPisto-Kirtley had read the minutes of November 20, 2020, and found them to be in order.

Ms. McKeel had read the minutes of December 8, 2020, and found them to be in order.

**By the above-recorded vote, the Board approved the minutes of October 26, October 28, November 18, November 20, and December 8, 2020.**

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Item No. 8.2. Building Reuse Grant Policy Update.

The Executive Summary forwarded to the Board states that at the Board of Supervisors and Economic Development Authority (EDA) joint meeting on October 19, 2021, both bodies expressed support for creating a Building Reuse Grant to assist growing businesses that could not find suitable commercial or industrial space within the County and adaptively reuse existing buildings in the development area. Each body recognized that the limited supply of commercial and industrial space created a barrier to economic vitality and undermined the goals of Project ENABLE, the County's Economic Development Strategic Plan. This grant would support businesses or property owners making capital investments in previously vacant commercial or industrial space to make business expansion possible. Staff was directed to develop a policy for the grant such that its criteria could be informed by the Board, but the review process could be administered by the EDA.

The Board approved the first draft of the Building Reuse Grant Policy on May 18, 2022. Shortly thereafter, staff recognized the approved policy unintentionally omitted commercially or industrially zoned properties within the Town of Scottsville. Eligible properties were limited to "commercially or industrially zoned space within the Development Areas." The Town of Scottsville is not identified as a Development Area within the Comprehensive Plan.

Staff revised the proposed policy to include eligible properties within the Town of Scottsville (see

Attachment A). At their meeting on June 21, 2022, the EDA supported the revised policy.

No budget impact is anticipated. If approved, the Economic Development Office will reserve a portion of the Economic Development Investment Pool for Building Reuse Grant opportunities.

Staff recommends the Board adopt the Resolution (Attachment B) approving the updated Building Reuse Grant Policy.

**By the above-recorded vote, the Board adopted the resolution as presented in Attachment B to approve the updated Building Reuse Grant Policy:**

**RESOLUTION APPROVING THE EDA REVISED  
BUILDING REUSE GRANT POLICY**

**WHEREAS**, on October 19, 2021, the Board and the Economic Development Authority held their joint meeting and expressed support and interest in creating a Building Reuse Grant to assist growing businesses that could not find suitable commercial or industrial space within the County;

**WHEREAS**, the Economic Development Authority created a draft Building Reuse Grant Policy that included criteria identified by the Board to be administered by the Economic Development Authority;

**WHEREAS**, the Board of Supervisors approved the first draft of the Building Reuse Grant Policy on May 18, 2022;

**WHEREAS**, staff realized that the Town of Scottsville is not within a Development Area in the Comprehensive Plan and would be ineligible under the Building Reuse Grant Policy; and

**WHEREAS**, the Economic Development Authority supported a revised draft Building Reuse Grant Policy that includes the Town of Scottsville at its June 21, 2022, meeting;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia, hereby approves the revised Building Reuse Grant Policy (Attachment A).

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Item No. 8.3. Albemarle Broadband Authority Quarterly Report, **was received for information.**

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Item No. 8.4. Rivanna Water and Sewer Authority (RWSA) Quarterly Report, **was received for information.**

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Item No. 8.5. Albemarle County Service Authority (ACSA) Quarterly Report, **was received for information.**

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Item No. 8.6. Virginia Department of Transportation (VDOT) Quarterly Report, **was received for information.**

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Item No. 8.7. Facilities & Environmental Services Quarterly Report, **was received for information.**

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Item No. 8.8. Albemarle County Service Authority Fiscal Year 2023 Annual Operating and Capital Improvement Budget, **was received for information.**

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Item No. 8.9. Board-to-Board, June 2022, a monthly report from the Albemarle County School Board to the Albemarle County Board of Supervisors, **was received for information.**

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Agenda Item No. 9. Requests for Housing Fund Support.

The Executive Summary forwarded to the Board states that between September and November 2021, the County solicited applications for funding through both the Agency Budget Review Team (ABRT) and American Rescue Plan Act (ARPA) processes. A total of eight funding requests to support affordable housing projects were received during the application periods, with one additional funding request received outside of the ABRT and ARPA processes. The combined total funding amount associated with these requests equals \$22,187,152, which would support the construction of 445 and preservation of 133 affordable housing units.

On April 20, 2022, the Board approved the use of \$1,296,520 from the Housing Fund Reserve to support the construction and preservation of 78 affordable housing units. During this meeting, staff identified two additional affordable housing projects to be recommended for funding in Fiscal Year 2023

(FY 23).

With the adoption of the FY23 Budget on May 4, 2022, the Board of Supervisors approved a total of \$548,870 in ABRT funding, and \$2,735,680 in ARPA funding to support additional affordable housing projects and programs. The Board also approved the transfer of \$3.1 million in FY 21 General Fund balance, and \$698,410 from the American Rescue Plan Act (ARPA) Reserve to the Housing Fund Reserve.

At the completion of the both the ABRT and ARPA application processes, an interdepartmental County team reviewed the housing project-specific applications to identify any applications that could potentially receive funding through the County's Housing Fund Reserve. The review team recommended five of those projects for additional funding, three of which were approved for FY 2022 funding by the Board on April 20, 2022. The review team also recommended an allocation of a total \$3,306,504 from the FY 2023 Housing Fund Reserve available balance as follows:

Agency: Piedmont Housing Alliance  
Project: Southwood Apartments  
Amount: \$3,000,000  
Agency: Greater Charlottesville Habitat for Humanity  
Project: Master Leasing for Resident Relocation Efforts Amount: \$306,504

If the Board chooses to approve these funding requests, the funds would be used to support the construction of 121 affordable rental units in the Southwood Apartments project, and to provide up to two years of rental assistance for Southwood residents needed to be relocated from their current units during Southwood Phase 2 construction work.

The table found in Attachment A provides complete summaries and comparisons of both of these funding requests, as well as summaries and comparisons of all ABRT and ARPA evaluated by the review team members.

The total amount of recommended FY 23 project funding equals \$3,306,504. After accounting for the proposed project funding, and approved set-asides of \$900,000 for the Southwood Performance Agreement, \$421,520 for AHIP, \$625,000 for the Piedmont Community Land Trust, \$250,000 for the Energy Efficiency program, and \$85,201 for a Southwood Project Manager, \$457,152.80 would remain in the Housing Fund Reserve to support future affordable housing projects.

Staff recommends the Board approve the additional allocations for the Southwood Apartments and the Master Leasing for Resident Relocation Efforts from the FY2023 Housing Fund Reserve at the recommended funding levels.

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Ms. Stacy Pethia, Housing Policy Manager, said she was there today to request funding support through the Housing Fund Reserve for two projects that would increase and support affordable housing in Albemarle County. She said they would start with a background of housing funding over the last fiscal year, then move onto looking at funding needs, then look at funding activity in FY2022, what had already been approved for affordable housing projects in 2023, and then the recommendations for funding discussed today.

Ms. Pethia showed the Housing Office's graphic that looked at the spectrum of housing needs within the County, moving from the most vulnerable category in blue (including individuals and families experiencing homelessness) and moving all the way up to the least vulnerable households (that would be the workforce housing category) which were households earning up to 120% of Area Median Income or AMI. She said as a reminder, their current Area Median Income was \$111,200 per year per household.

Ms. Pethia said to review how affordable housing projects were typically budgeted within the County, some of that was done through the Agency Budget Review Team (ABRT) process, for which there was an application process beginning generally around September, and those projects and programs were approved through the budget process for the following fiscal year. She said this year, they also had the American Rescue Plan Act (ARPA) funding, and the application process was done at about the same time as the ABRT process. She said those were also approved through adoption of the current fiscal year budget. She said they also had the Housing Fund Reserve, which was created in Fiscal Year 2019 to focus on Phase 1 of Southwood Redevelopment Project as well as any housing initiatives that were one-time costs. She said those funds were approved by the Board of Supervisors on an individual basis such as today.

Ms. Pethia said to review the information presented during the April 20 Board meeting, during the ABRT and ARPA processes, they received requests for more than \$20 million in funding support, and in total, that funding request would have supported 445 affordable units through new construction, the preservation of 133 units of existing affordable housing, and also provided support to homeless services programs and for shelter beds for victims of domestic violence.

Ms. Pethia said during the April 20 Board meeting, Board members approved \$1.29 million in FY2022 funds through the Housing Fund Reserve, and that money went to the Albemarle Housing Improvement Project to preserve 41 affordable units. She said \$625,000 went to the Piedmont Community Land Trust to create 12 permanently affordable housing units, and \$250,000 was awarded to expand the County's current energy improvement program, which would extend that program for an

additional 25 existing units.

Ms. Pethia said overall, in FY2022, that funding added to the \$3.6 million that the County dedicated to affordable housing projects and programs. She said that \$3.6 million helped create 256 affordable rental units and 220 affordable owner-occupied units. She said it supported 25 shelter beds for victims of domestic violence, provided services for 122 individuals experiencing homelessness, and provided housing counseling services for more than 200 households.

Ms. Pethia said also through the budget process that was adopted in May, the Board approved an allocation of \$548,870 through the ABRT, which went to several different programs including services, affordable homeownership opportunities through AHIP and the preservation of those, and to support affordable rental housing with Piedmont Housing Alliance. She said with the ARPA Reserve recommendations approved by the Board, the bulk of the \$2.7 million went to Premier Circle to help create 80 units of permanent supportive housing. She said it could be seen on both of the last two slides that there were squares with each of the funding streams color-coded to match that spectrum of housing needs that was on the first slide.

Ms. Pethia said throughout that process with the ABRT and ARPA application process, as she mentioned, the County received requests for more than \$20 million in funding. She said at the time in April when they requested the Board approve funding through the housing fund for that \$2.9 million, they mentioned there were two additional projects that, should the Board approve the addition of \$3.1 million to the Housing Fund Reserve through the budget, that they would come back with recommendations for two additional project fundings. She said that was why they were meeting today, and staff was requesting the Board approve \$3.3 million in funding, \$3 million of which would be given to Piedmont Housing Alliance to support the Southwood Apartment Project, and \$306,504 would go to Habitat for Humanity to provide temporary rental assistance for 40 Southwood families that needed to be relocated during the redevelopment process.

Ms. Pethia said, in the agenda packet as Attachment A, there were several tables that summarized the complete applications for all of these, but she would summarize them briefly. She said for the Piedmont Housing Alliance, that \$3 million would help support the construction of 121 affordable rental units in the Southwood Apartment Project; that was located in Phase 1 of the Southwood Project. She said those units would serve households with incomes between 30% and 60% of Area Median Income, and the total project cost was \$24,919,488. She said the County's total contribution, if the Board approved the \$3 million, would be 12% of the total project cost. She said that came down to a per-unit cost of about \$25,000 per unit.

Ms. Pethia said looking at their funding stream, this \$3 million filled a crucial gap in project funding. She said the bulk of their budget was coming from the Low-Income Housing Tax Credits awarded last year, and they were also receiving money from the National Housing Trust Fund and the Virginia Housing Trust Fund. She said the Office of Housing had awarded them eight project-based vouchers, which equaled approximately \$500,000 and would provide rental assistance to dedicated units for 15 years, helping families with 30% AMI or below actually live in those units.

Ms. Pethia said it was also important to note that approximately six additional units would serve homeless individuals and would be treated as permanent supportive housing for a number of years as well. She said there was no direct funding associated with that, but she thought it was an important point. She said the \$3 million filled the gap between what was seen here with the project funding streams and what was needed to make the project move forward.

Ms. Pethia said for Habitat for Humanity, the request and recommended amount was \$306,504. She said again, that would provide two years of rental assistance for 40 households who needed temporary housing while construction in Phase 2 of the Southwood Redevelopment Project moved forward. She said households served by this funding would have incomes between 50 and approximately 60 percent of Area Median Income. She said the total project cost to relocate the families was approximately \$2 million, so the \$300,000 would be about 15% of that total project cost. She said the County's cost per unit was about \$7,663 per unit, and Habitat had matching funds through private donations of approximately \$799,000. She said that concluded the presentation and asked if there were any questions.

Ms. LaPisto-Kirtley thanked Ms. Pethia for her very thorough presentation.

Mr. Andrews asked how the relocation was managed. He said she mentioned on slide 13 there were 66 households, but also said the funding was for 40 households.

Ms. Pethia said that was correct. She said they had already relocated about 24 or 26 households, so there were 40 left that must be relocated for the beginning construction activity in Phase 2. She said Habitat was managing that process, and she believed they were building a condominium unit in Phase 1 and Village 1 now, and those units would provide that temporary replacement housing, so families that must move initially in Phase 2 would move into those condominium units and this would help fill the gap that they needed to pay for the rent. She said they paid so much now, and the rents would be higher when they moved in to help with the cost of construction, so this would provide that temporary gap in their housing aids.

Mr. Andrews asked if those same units would then be rented eventually at a higher rate than as proposed.



Ms. Pethia said that was correct. She said they should all remain affordable as Habitat was owning and managing that property, but this was temporary housing for those families who intended to purchase units from Habitat once they were finished; they just needed a place to live in the time that their trailers needed to be demolished to make way for site clearance and for the time that their houses were finished being built.

Mr. Andrews asked if that was on the same site itself at Southwood.

Ms. Pethia said that was correct. She said the intention was to keep the residents together as a community and not move them offsite.

Ms. Mallek asked Ms. Pethia to describe the future as far as the timetable when they were investing in the construction of these affordable units. She said Ms. Pethia mentioned a term that struck her as uncertain as to how long they were going to be affordable, so she was trying to ask what happened at the end of the 15 years, such as reinvestment from outside sources like state, federal, and local, or for rehabilitation. She said they had had some of those, but in thirty-year intervals.

Ms. Pethia asked if Ms. Mallek was referring to Piedmont Housing Alliance's Southwood Project.

Ms. Mallek affirmed this.

Ms. Pethia said those would remain affordable for 30 years at a minimum due to the Low-Income Housing Tax Credit financing. She said it would be a minimum of 30 years, and once that time period hit, they would have the option to apply for additional tax credits to bring the property up to current standards.

Ms. Mallek said she was reassured by that. She said in regards to providing the housing for the 40 households, she would like to know if this would help the people who were on the septic failures right now, or if they were still waiting for permits and condo construction for those people.

Ms. Pethia said construction had begun in Phase 1, but she was uncertain where they were in regard to all the building permit issuance. She said the intention was that as Phase 2 began, it would cover that in that section impacted by the septic issues, so those would be the first families to move out and be relocated.

Ms. Mallek asked if they still did not know when that would happen.

Ms. Pethia said that was correct.

Ms. Mallek said okay. She said every day was a long day for people in that circumstance, and she would continue to harp on that because it concerned her.

Mr. Gallaway said he did not have any questions, but he had a few comments. He said they knew this was coming, because it had been brought up to them a few months ago. He said he made the point then that the conversation and discussion around the trust fund could not happen soon enough. He said they were on the twentieth day of the fiscal year, and their housing fund, which had taken four or five years to get up to \$5 million was now down to under \$500,000 again. He said that was not bad, because they were using it, but there was still so much more out there that they needed to do. He said the \$5 million was accumulated through one-time monies, ARPA savings, and other surpluses related to what they did to manage throughout the pandemic to free up these millions of dollars. He said that was not a sustainable approach to addressing the housing issues in the County moving forward.

Mr. Gallaway said he was grateful in the last budget cycle that Mr. Richardson put out a commitment to begin putting annual operational dollars to the housing fund, and he hoped those dollars would go into the trust fund, but he was taking the opportunity to say there was a lot more they needed to do to invest in and help people with affordable housing. He said he hoped the Board would continue to be supportive once the trust fund discussion came up of how they got the dollars in there other than simply waiting to see if they had savings somewhere or money left for one-time purposes.

Ms. McKeel said she appreciated Ms. Pethia compiling all the numbers for this project together. She said the only question she had was if Ms. Pethia would discuss the money in the trust fund now.

Ms. Pethia said she did not have additional slides for that.

Ms. McKeel said she agreed with Mr. Gallaway that they needed to come back to that discussion at some point, because they needed consistent funding in some way or another, and she had no idea where they would go for that, although different suggestions had been offered in the past.

Mr. Gallaway said the dollars remaining were the 450 sum, so that was what was left in the housing fund for the remainder of the fiscal year at this point. He said if something came up that was going to cost more than that, he was certain they would get creative as to how to figure that out if the project merited it. He said they had just avoided 15 other million-dollar projects doing these.

Ms. McKeel said she was wondering if Ms. Pethia had slides to talk about that on the screen for the community.

Ms. Price said she had no questions. She said she totally concurred with Supervisor Gallaway and the support for that from Supervisor McKeel. She asked Ms. Hudson if this was something they needed a motion for or simply a statement of concurrence.

Ms. Hudson said they had consensus.

Ms. Mallek said to ensure she did not misunderstand, in Attachment A of the staff report in the very first slide, she understood the first block was what they were talking about when it talked about the \$1.2 million and all of the rehabilitation. She asked if that was the FY23 allocation.

Ms. Pethia said no. She said the first slide with the \$1.29 million was the FY22 housing fund money.

Ms. Mallek asked if this was underway already.

Ms. Pethia said that was correct.

Ms. Mallek said okay. She said it said recommended for FY23 funding, so that confused her. She said she did not know if they were voting on that today.

Ms. Pethia said no. She said they would go to that last slide with the \$3 million.

Ms. Mallek thanked Ms. Pethia.

Ms. Price said she appreciated Ms. Hudson's comment. She said she just spoke with Supervisor Gallaway, who suggested that it would be a better and cleaner record to do a vote, and she concurred. She said a motion was on the floor to allocate the funds as articulated by Ms. Pethia in her presentation.

Ms. Price **moved** to approve the additional allocations for the Southwood Apartments and the Master Leasing for Resident Relocation Efforts from the FY2023 Housing Fund Reserve at the recommended funding levels. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

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Agenda Item No. 10. **Action Item:** North Garden Volunteer Fire Company Capital Project Conditional Donation and Loan Request.

The Executive Summary forwarded to the Board states that the Board of Supervisors previously supported the Thomas Jefferson Planning District Commission's (TJPD) application for technical assistance funding for a Regional Transit Vision Plan. This application was awarded funding by the Department of Rail and Public Transit (DRPT), and work is ongoing through August 2022.

The purpose of this Plan is to develop a long-term vision for transit service in the Charlottesville-Albemarle region. The consulting team utilized meetings with the Regional Transit Partnership, a technical advisory committee, and the public, as well as an online public survey, to determine the community's priorities and make recommendations for how to achieve that vision.

While the vision plan document has not yet been finalized, the consulting team for the study has started to identify community priorities and sketch out broad goals and recommendations. Consultant staff will provide an update on the progress of the Regional Transit Vision Plan and a preview of the draft vision and goals; network assumptions and scenarios; and performance metrics and analysis before they are distributed for public comment.

This information will also be shared with Charlottesville City Council and the Boards of Supervisors for Greene, Louisa, Fluvanna, and Nelson counties. The presented project materials will be shared with the public for input during the next engagement period between June and July 2022.

No additional funding from Albemarle County is requested at this time.

Staff recommends the Board receive the update and provide feedback to the presentation team.

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Mr. Doug Walker, Deputy County Executive, said this item was for the Board's consideration of both a one-time grant and a loan to North Garden Volunteer Fire Company for an expansion of their facility at their current location. He said he would like to acknowledge there was a number of staff active in this issue that were here supporting this matter today, including David Puckett, Deputy Chief of Albemarle County Fire-Rescue (ACFR); Jacob Sumner, Assistant CFO for Policy and Partnerships in the Department of Finance and Budget; Amanda Farley, Senior Assistant County Attorney; and their most significant partner, North Garden Volunteer Fire Company, represented today by President John Shifflett. He thanked the Board for acknowledging they were there to answer any questions they might have after the presentation.

Mr. Walker said the North Garden Volunteer Fire Company was first established in 1970,

providing vital fire service in the southwestern part of the County for many years. He said this was their primary first due, as with all of their companies, they also provided critical backup support throughout the County as well as through mutual aid to nearby localities. He said the current station contained seven apparatus bays, a small bunk room, a community meeting room, and a kitchen.

Mr. Walker said the expansion was intended to provide a significant and meaningful additional use, including a decontamination area, six additional bunk rooms, a day room, and an exercise area. He said it would address ADA compliance limitations with the installation of an elevator to access the second floor, and upon completion, the fire company would be able to house an ambulance, adding a needed resource to the area. He said currently, the bays were not large enough to accommodate both the apparatus on site and an ambulance on site. He said this became even more important with the addition of the career staffing weekday/daytime around October, and that would also include use of an ambulance to provide EMS services out of that location as well. He said the project cost was currently estimated at \$2.5 million, and the completion date was intended to be December of 2022.

Mr. Walker said the North Garden Volunteer Fire Company project funding and donations were \$1.3 million, and they were requesting the County's support of a total of \$1.2 million to make the total amount of \$2.5 million available. He said County staff was recommending a one-time conditional donation of \$585,364 as well as a maximum loan amount of \$650,000 at 0% interest. He said the source of these monies would be the FY23 General Fund's fund balance.

Mr. Walker said the conditional donation for the \$585,364 would take the form of a lump sum contribution and did require project expenditure reporting that would comport with the interest of the County Attorney's Office and their Department of Finance and Budget. He said the loan terms they recommended were 0% interest for a twenty-year repayment term, and the funding source of the repayment by North Garden Volunteer Fire Company was from non-County sources. He said they had donations and also property that was rented to the post office there that provided them reliable and consistent income that could be used to support the loan.

Mr. Walker said additional requirements were that they remained in good standing with the County with respect to the coordinated fire and rescue system, and the interpretation of that was that in general they would abide by all of the policy practices and procedures that were identified within the documents that governed the relationship between the career and the volunteer. He said they had done that throughout their history, so it was not a concern, but was a condition they wanted to make note of, and perhaps more importantly was the condition that the title to the real property that was subject to this contribution and its improvements would transfer to the County upon dissolution.

Mr. Walker showed a photograph of what it was previously and what it was as of mid-July. He noted that the project had already begun. He said they were making good progress, and staff who had been out there to see the project's progress were pleased with how well it was going. He said that concluded his formal presentation and he was glad to answer questions. He said there was a resolution in the Board's packet to authorize the County Executive to execute the additional donation and loan agreements, and if adopted, the funding appropriation was on the agenda for later this evening, so it was tied to action being taken later today.

Ms. LaPisto-Kirtley said she was in favor of this and liked the stipulations put on the loan, which protected the County, protected the fire company, and the taxpayers. She said this was a good template to be used throughout the County when they did other things with other volunteer fire departments. She said she knew they had gone to one small bunk room to six. She asked if there were accommodations for male and female firefighters.

Mr. Shifflett said there would be six additional bunk rooms upstairs, and two bathrooms upstairs that would be added. He said there would be accommodations for males and females.

Ms. Price identified Battalion Chief Shifflett for the record who responded to Ms. LaPisto-Kirtley's question.

Mr. Andrews said he was grateful to the North Garden Volunteer Fire Company, who he would look to if anything were to happen in his area, so he was very much in favor of this. He said he was impressed by the support that was given to raise the \$3.1 million so far; it showed the community support and resources available.

Ms. Mallek congratulated those involved who got to this point today. She said her only question was one of definition. She asked if dissolution was different than no longer providing services, because that should be defined.

Mr. Walker said to the extent that it was a legal definition, either Ms. Hudson or Ms. Farley may know.

Ms. Mallek said that it was a technical and legal term, so she wanted to make sure that if services stopped and they were no longer doing that, that was when this would kick in, as opposed to something else that she did not know.

Ms. Hudson said she believed dissolution was used here in its legal sense, which was a corporate action of a business entity dissolution methodology, and consequences were provided for in the Virginia State Code in the title regarding businesses and corporations. She said Ms. Amanda Farley was

present and could discuss how exactly she intended to use that language, and what that language meant.

Ms. Amanda Farley, Senior Assistant County Attorney, said given the context of the last several years, they would be very specific in their agreement that dissolution meant, just as Ms. Hudson indicated, in that the corporation could be dissolved voluntarily by the North Garden Volunteer Fire Department, however, they would also be encapsulating that if a further relationship were to be dissolved or an agency relationship were to be dissolved, meaning they would no longer be authorized to provide volunteer fire fighting services within the County. She said they would address both of those scenarios.

Ms. Mallek said it sounded like they were addressing her concern.

Ms. Farley said she thought so.

Ms. McKeel thanked everyone for their hard work on this project.

Ms. Price said on behalf of the County, the Board had great appreciation for the North Garden Fire Company. She said they were volunteers, so it was inherent in what they did to have a civic duty, but they appreciated the manner in which this had been resolved. She said she had the opportunity the other day to do a drive-by and take a look at the work being done, and it was exciting to see what they were doing up there. She said they wanted to thank them and say they were happy to be partners with them on this.

Mr. Andrews **moved** that the Board adopt the Resolution to Authorize the County Executive to Execute the Conditional Donation and Loan Agreement with the North Garden Volunteer Fire Company (Attachment A). Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

**RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO EXECUTE  
CONDITIONAL DONATION AND LOAN AGREEMENT WITH THE NORTH  
GARDEN VOLUNTEER FIRE COMPANY**

**WHEREAS**, the North Garden Volunteer Fire Company, Inc. is undertaking a building expansion and improvement project. The approximate \$2.5M project will expand the current structure providing a decontamination area for firefighters returning from active calls, improving firefighter staffing areas including overnight housing quarters and exercise areas, as well as improvements to ensure the building is ADA compliant; and

**WHEREAS**, the North Garden Volunteer Fire Company, Inc. funded over \$1.3M of the design and construction costs and is requesting financial support from the County to fully fund the project; and

**WHEREAS**, the County recognizes North Garden Volunteer Fire Company's contribution to the County's Coordinated Fire and Rescue System and desires to support the construction project.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute all necessary documents to make a \$585,364 conditional donation and a 0% interest loan maximum of \$650,000 loan to the North Garden Volunteer Fire Company, Inc. for its building expansion and improvement project, provided the agreements are approved as to form and content by the County Attorney.

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Agenda Item No. 11. **Action Item:** SE 2022-25 1213 Tilman Road Cottage Homestay.

The Executive Summary forwarded to the Board states that the applicant is requesting a special exception for a homestay at 1213 Tilman Road.

Reduction of minimum yards. Pursuant to County Code § 18-5.1.48(d), the applicant is requesting to modify County Code 18-5.1.48(b)(3) to reduce the minimum rear yard requirements for a homestay.

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

Staff recommends that the Board adopt the attached Resolution (Attachment G) to approve the special exception, subject to the conditions attached thereto.

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Mr. Svoboda said he was covering the presentation due to Ms. Brumfield's absence. He said it was a homestay special exception. He said they had not seen a number of them regarding setbacks, because they had moved those to consent. He said this particular one fell below that qualifier, meaning it was closer to the property line than the normal setbacks, and this particular site line would be 25 feet for a main structure, and this particular structure was 15 feet.

Mr. Svoboda said they were dealing primarily with Section 5.1.48, their homestay regulations, and

as he just stated, this particular structure would need to meet those main structure setbacks, and because it did not, it required a special exception. He said because this was located in the rural area, they were asking for up to two guest rooms.

Mr. Svoboda said the factors they normally considered were shown on the slide. He said there was no adverse impact on the neighbors' health, safety, or welfare, and the proposed special exception was consistent with the Comprehensive Plan. He said it would be consistent with the size and scale of the neighborhood, but with all special exceptions, the administrative process used inserted an automatic screening requirement, and what that did was present the equivalent of what the normal setback would be. He said in this particular case, one of the things they considered when they looked at all those things was some total of all the factors to consider was if that was equivalent to what the ordinance regularly called for.

Mr. Svoboda showed an aerial photograph of the location. He said the residence was shown with the blue asterisk and the green asterisk was the homestay location. He showed the letter of support that came in late that they had identified that particular property owner, with the homestay location and residence house to the left. He said it was a very wooded area. He said in parcel 65D, it was wooded topography and that particular house was quite a way away, so the screening that was provided there between what was on the parcel and what was on the adjacent parcel, with no objection, was the equivalent to what the ordinance would require. He said it was a 2.5-acre parcel, and the original house was built in 1958 with renovations, and then the 1970 structure, which was the homestay structure, was last renovated in 2011.

Mr. Svoboda said that staff recommended the Board adopt the attached Resolution (Attachment F) to approve the homestay special exception subject to the following conditions: parking for homestay guests must meet the requirements for homestays as outlined in County Code, and the homestay use was limited to the existing structure as currently configured and depicted on the House and Parking Location Exhibit dated June 28, 2022. He said that concluded staff's presentation and he would answer any questions.

Mr. Andrews said he appreciated hearing support from the neighbor. He said he wanted to emphasize that he was in no way related to the applicants despite their shared last name, and he appreciated the nearest houses were a ways away.

Ms. Mallek asked if, even though it was not listed on those two conditions, in other places in the ordinance it talked about owner occupancy required on the property in the other house.

Mr. Svoboda said that was correct.

Ms. LaPisto-Kirtley commented that she appreciated staff and the Board, because as they went through all these different things, they realized that they had a number of unique properties, and it was important to remain flexible in what they did in order to allow their residents to have something that was not flagrantly against the law or impeded others, but was reasonable and made sense.

Mr. Andrews **moved** to adopt the resolution approving Special Exception SE202200005 (Attachment G), subject to the conditions contained therein. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

#### **RESOLUTION TO APPROVE SE2022-00025 1213 TILMAN ROAD COTTAGE HOMESTAY**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the SE2022-00025 1213 Tilman Road Cottage Homestay Application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that that a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the applicable requirement, and that the proposed special exception:

- (i) would not cause adverse impacts to the surrounding neighborhood;
- (ii) would not cause adverse impacts to the public health, safety, or welfare;
- (iii) would be consistent with the Comprehensive Plan and any applicable master or small-area plan(s); and
- (iv) would be consistent in size and scale with the surrounding neighborhood.

\* \* \* \*

1. Parking for homestay guests must meet the requirements for homestays as outlined in County Code § 18-5.1.48(b) (Attachment C).
2. Homestay use is limited to the existing structure as currently configured and depicted on the House and Parking Exhibit dated June 28, 2022, or in additional structures or additions meeting the setbacks required for homestays.

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Non-Agenda Item. **Recess.** The Board recessed its meeting at 2:14 p.m. and reconvened at 2:25 p.m.

Agenda Item No. 12. **Action Item:** SE202200018 Kindrick Farm Clean Fill Area.

The Executive Summary as forwarded to the Board states that pursuant to County Code § 18-5.1.28(d), the applicant has applied for an exception from all requirements of County Code § 18-5.1.28 on Parcels 03200-00-00-00100 and 03200-00-00-00200.

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

Staff recommends that the Board adopt the attached Resolution (Attachment G) to deny the exception application.

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Mr. Svoboda said this was a special exception request for a clean fill area. He said it was the first one of its type since they adopted the ordinance. He said the proposal was for clean earth fill activity, and under the Zoning Ordinance, the activity was not agricultural. He said fill activity was specifically excluded as an agricultural activity under State Code and local County Code. He said within the Right to Farm Act, there were certain things a locality could and could not do, but also within State Code Section 15.2.228, there was a section that also talked about what a locality may not do, but within that section was what a locality shall do.

Mr. Svoboda said to summarize, within that section, production of agriculture and civil culture shall not include "the disposal of non-agricultural excavation material that was not generated on the farm." He said when they looked at their ordinance, and this was something covered when they adopted the ordinance and matched up their definition with what was in the ordinance to the state code section, it stated that that activity from bringing fill offsite was not an agricultural use. He said it supported agriculture, but under those definitions, was not an agricultural use.

Mr. Svoboda said the applicant was requesting the exemption from all of County Code 5.1.28, which was the totality of the County's clean fill and inert waste regulation. He said that particular regulation was adopted September 16, 2020. He showed a copy of the NCRS plan submitted by the applicant. He said there was a key that may be difficult to see. He said the blue was not a stream, it was a line for the well water he had set up for the cattle on the place, and the green lines were fencing to fence out streams.

Mr. Svoboda showed a layer from their GIS that showed critical resources, and the purple color was the 100-foot setback for the stream and stream buffer, and there was some hatch in there that was difficult to see, but it was not really on the Kindrick property and on the 100-year flood line on Chris Green Lake, the water body to the east. He said Jacob's Run was the purple going through the middle of the parcel.

Mr. Svoboda said the applicable ordinance sections were 5.1.28 and 5.1(a), which was the beginning of their special exception regulation. He said that outlined what the provisions were, what the application factors were that must be considered that went through that. He said that was not only the regulations themselves in 5.1.28, but some factors at the end, also one granting a special exception in 5.1(a), which talked about having the equivalent measures in place when they granted a special exception.

Mr. Svoboda said a summary of those sections was that compliance with the requirement would not forward the purposes of this chapter, meaning the special exception would be better or equivalent. He said again, the modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement. He said the fill regulations were developed to protect public health, safety, and welfare, and those regulations were designed to limit the scale and impact on roads, the adjacent areas, noise, runoff, etc. He said requiring compliance with those regulations forwarded the purpose of the ordinance and served that public health, safety, and welfare component. He said again, when granting any exceptions, they should at least be doing the equivalent of what the ordinance stated.

Mr. Svoboda said one of the concerns with the application was that they were increasing the fill areas and traffic. He said again, with the fill area, it was not that this property could not have fill; it was beyond what they allowed administratively, which was the 2 acres per parcel. He said fill could still take place, just at a lower level, and that lower level, as part of the discussion they adopted the ordinance for mitigating those impacts of traffic, noise, runoff, and other public health, safety, and welfare concerns. He said also within the ordinance, there was a 50-foot setback from the property lines and 100 feet from dwellings.

Mr. Svoboda said the project used an adjacent easement and did not access the state road directly, although their ordinance did not speak directly to it, it had to access a state road. He said that was brought up earlier, but the easement language was a matter between the easement holders. He said it was a similar issue to what they discussed with HOA covenants and other things, so that was similar. He said filling was limited to 8 feet above natural grade, and without a plan, he was unsure of how that took place. He said when looking at the factors they needed to consider without the information to make those conclusions, they could not draw the conclusion that it was at least equivalent to protecting health, safety, and welfare.

Mr. Svoboda said that staff recommended the Board adopt Attachment G to deny the request for

a special exception. He said again, the request was difficult to explain, because they usually picked a certain section for a setback, access, or owner. He said this however was about being exempt from the entire regulation, so their ask was about being exempt from all of 5.1.28. He said again, without having an equivalent, if he asked to be completely exempt from 5.1.28, it was staff's interpretation that the suggestion was that there was not an equivalent provided and no standard. He said to be exempt from the standard completely as opposed to replacing it completely with a different one exempted them completely. He said that was not an equivalent, so they recommended denial of the request.

Mr. Andrews said they had some conversations about the notice requirements, and he wanted to make sure it was understood what happened here with respect to who got notice, because there were clearly people affected by this property's access easement who were not in the original notice. He said also, his sense was that this was an attempt to say this regulation should not apply at all and asking the Board to make that determination seemed highly inappropriate. He said without conditions, he could not understand what he was looking at.

Mr. Svoboda said he could answer his question about the notice. He said they followed the standard notice, which was the abutting properties. He said there was a small right-of-way that went through there, and the easement was located on that property, but was not part of the property subject to the special exception, so under the abutting notice and guidance followed for all their applications through State Code, that all their easement did not count as abutting, so they did not notify that particular owner, or anyone along the road whose property did not touch the subject property of the application. He asked if that information was helpful.

Mr. Andrews said he understood it was not required by State Code, but he was hopeful they could look at situations and perhaps expand their notices when they were on private properties' easements and that was the only access.

Mr. Svoboda said yes.

Ms. Mallek said she concurred about the notice. She said to remember that until the postal service solved their monstrous problems, people still did not receive the mailed notice in the neighborhood after three weeks. She said they had to figure out a way to deal with that and she did not have an answer today. She said based upon the potential impact, it seemed that when impacts arose, she hoped they would consider being more expansive with their notices required. She said it was important to note that it was not agricultural, because it had been used for decades as a way to say they were exempt from everything because they were farming, but there were different elements of agriculture.

Ms. Mallek said the definition came from the State and she was happy to rely on that, because they should follow state law. She asked if Mr. Svoboda could discuss what "any" meant, because it was suggested that if it met one of the six, it must be granted, and it was mentioned in an earlier statement today. She asked if Mr. Svoboda could give more information about that.

Mr. Svoboda said he could. He said he would not focus on the word "any," but on the word "may."

Ms. Mallek said okay.

Mr. Svoboda said that if any of the conditions were met, the Board may grant the special exception. He said that meant it could meet some or could meet all, but under that section, it still needed to be the equivalent of what the regulation was. He said when looking at 5.1.28's criteria, they also had to consider 5.1(a), which was in the beginning of the supplemental regulations, and that was the foundation of any of those things they granted special exceptions for. He said when they had done it for some other applications and there was a reduced setback, they added noise attenuation, for example. He said again, this was about that equivalent, and that particular section had the "any" that Ms. Mallek referred to, but the focus should be on the "may" and that it was not necessarily required that the Board grant a special exception if it met any.

Ms. Mallek said Mr. Svoboda's presentation about equivalence was helpful. She said she would maintain that the requirements to protect health and safety applied to the neighbors and the photograph that was provided of the proximity of the neighbor's deck to the heavy equipment and trucks going by was shocking for their wellbeing. She asked if there was an ongoing inspection timetable for the ongoing operation that was approved in May. She asked what the norm would be in that circumstance with the trucks going back and forth.

Mr. Svoboda said he visited the site with Mr. Kindrick prior to any application. He said they had been out there a couple of times and left a card for Mr. Kindrick. He said right now, there were some piles of dirt there, and they went out there about once a month, but not on a regular schedule. He said there was a CCO who checked it out, and he checked in with her regularly. He said at this point, when the inspection was done, he would go out with her, and if Mr. Kindrick was not present, they went up to the house and left a card for him. He said right now, it was compliant with the clearance.

Ms. Mallek asked if that was in regards to all the areas it had been replaced so far.

Mr. Svoboda said yes, it was within the 2 acres he had designated on either parcel.

Ms. Mallek said okay. She said she had a conversation with the FSA representative who explained some of the things she did not understand about the soils, because it did not make sense to

have the best soil underneath and two feet of subsoil on top. She asked what the logic of that was, and he said they provided guidance but were not involved in the fill approvals in any way. She said she wanted to clarify for the Board that they had federal programs they were providing cost-share guidance for, but they were not in a position or advocating for representing about how this was to be done.

Mr. Gallaway asked if the HOA was opposed to the access point, the activity, or both.

Mr. Svoboda said he was not in contact with a lot of the people in the HOA. He said he had spoken with the HOA president, Mr. McKay.

Mr. Gallaway asked if it would be appropriate to ask because it came up during the public comment and he was still there. He said it was a point he would like to understand and he did not get it from the writing or the comments.

Ms. Price said that was fine.

Mr. Gallaway asked Mr. McKay to step forward.

Mr. Svoboda said they had not received any letters in support. He said the Board had any comments received.

Mr. Gallaway said he was curious if the HOA was opposed to the access way, the activity, or both of those.

Ms. Price asked the speaker to identify himself for the record.

Mr. Brian McKay, president of the Earlysville Forest Homeowner's Association, said their opposition was directly tied to the use of this access by heavy equipment and they wanted to stop that. He said they were not opposed to the clean fill operation or anything else done on the property, but it was the fact the access was being used improperly by heavy trucks. He said it was not adequate for the job.

Mr. Gallaway thanked Mr. McKay. He said that was an important note to make, because the ordinance said the variation or exception was supported by the abutting owners impacted by the variation. He said the activity and the access to the activity was an important distinction to make. He asked if it was denied what options the applicant had moving forward.

Mr. Svoboda said they could meet with the applicant and discuss what the plan was as far as how to address the traffic issues, topography restored to resembling natural grade, sufficient road surface, and those things that would require a plan.

Mr. Gallaway asked if other access points were reasonable.

Mr. Svoboda said other access points would be difficult. He said he had been on the property with Mr. Kindrick, and to get from one side of the property to the other, at this point, unless there was another access he was unaware of, they would have to ford Jacob's Run. He said that was not uncommon for normal farm practices across the creek, because they either had a culvert or stones there. He said based on the age, that ford had been there for the age of the farm.

Mr. Gallaway said aside from addressing the impacts of the access, if a site plan was brought forward or outlined what the activity was, perhaps they had the site plan, but number six of the ordinance was the one they asked. He said the denial did not prevent the applicant from coming back, presenting a plan, and perhaps asking for a special exception for one item instead of all of them.

Mr. Svoboda said that was correct.

Mr. Gallaway said then nothing would be blocked out or an obstacle. He said to Supervisor Andrews' point, it did seem that this was just a question of whether the ordinance was valid or not. He said he had already answered that question because he voted for the ordinance. He said if that was what this was about, then that was a clear answer for him, but it seemed that some of these things were there and were to be about whether this was a valid ordinance or not. He said this was bound to happen when putting a new ordinance into play and if someone questioned that, then there were paths that could be pursued for that. He said it seemed that with some work here, this could be worked out in another way, but that was for another day.

Ms. McKeel said her only question at this point was if Mr. Svoboda had any comments about what Mr. Gallaway just said.

Mr. Svoboda asked which part Ms. McKeel was referring to.

Mr. Gallaway asked if he was clear in his remarks.

Ms. McKeel said they were talking about access versus the activity and the opportunity to sit down with staff.

Mr. Svoboda said with a plan, it would be similar to, but probably not at the level of a site plan. He said it would be called a site plan but would not be a normal site plan. He said they would look at access,



whether or not somehow a stream crossing under best management practices could be addressed if they were coming from one side of the farm to the other.

Ms. McKeel said there was definitely concern about the stream and water.

Ms. Price said she provided the Clerk with some additional images to be shown in order to visually be able to see what was being discussed. She said she met with the applicant, Mr. Kindrick, several times and had a tour just earlier this week out to the property to see what was being proposed. She said in the image shown on the slide, in the lower-right corner was the Charlottesville-Albemarle Airport, and in the upper right corner was Chris Greene Lake. She said the property in question was basically a little to the left of Chris Greene Lake.

Ms. Price showed another image with Chris Green Lake, and in the center-left of the photo was the residence where that circular driveway was. She said as the driveway went to the southwest in this image, there was the access point that went over toward Carriage Hill, and below the tee of Carriage Hill was where the house in the earlier image where the truck went right by. She said most of the wooded area between the main driveway and top of the tee was the main area that was principally under the application. She noted that one of the areas of concern in the materials was the siltification of Chris Greene Lake, and noticeable on the left side lower part it could be seen where siltification had taken place. She said however, that siltification had come from Earlysville Forest and not really from the property in question here.

Ms. Price showed another image that she said raised a number of questions. She said they could see where the easement came off of Carriage Hill Drive, and those properties immediately on the north side of this image of the easement were the ones that had been referenced earlier today. She said the one on the far left, they could see where that residence was built literally right next to that easement, which raised another question, which was why in the world they would authorize or approve the construction of a house within mere feet of an easement. She asked Mr. Svoboda when this easement was established.

Mr. Svoboda said it was some time ago. He said they looked back briefly, and he did not have the exact dates, but those houses were constructed prior to their current setbacks.

Ms. Price said they were in the 1980s, and she recognized they had done a lot with regard to regulations and everything since then. She said the farm had been in existence since 1739 for 283 years. She said it clearly showed the need for having more of a setback when things were done. She said the farm was in operation well before those homes were constructed. She said in another image it could be seen the topography that reflected the siltification of the lower portion of Chris Greene Lake had come principally from Forest Hills and the airport, not from the Kindrick Farm. She said a letter received today was a recommendation that access to the farm come down Jacob's Run on the north side of the farm, but as best she could find, and as Mr. Svoboda just indicated, there was no vehicular access established on the northern side, so the only access to this farm was coming off of Carriage Hill Drive.

Ms. Kilroy said that was all the images they had.

Ms. Price thanked Ms. Kilroy. She thanked Ms. Borgersen for making those images available. She said she had a tour of part of the property, and she saw where livestock exclusion fencing had been constructed to protect the waterways. She said she also saw non-freezable watering systems, which were the blue lines Mr. Svoboda referenced. She said the family history of the ownership of the farm and the actions taken were clear indications this property was under a conservation easement and actions being taken towards improving the agricultural use of the property. She said it did not appear to at all be using a regulation in order to do development to sell and divide the property, but if the farm was unable to operate, then rather than having the farm, they would see more residential construction supposing on what the easement may say.

Ms. Price said her concern was that the ordinance may somehow have created a law of unintended consequences by limiting the soil to have to come from the farm itself. She said she recognized and understood at least part of the reasoning behind that ordinance was to avoid what happened with the carpet from University Hall that had been dumped in other places in the County. She said having driven out onto the property, she saw a number of areas where there was scouring or erosion and siltification, and she believed Mr. Kindrick was being very honest and sincere that he wanted to improve the agricultural use of the property.

Ms. Price said the farm was kept for 283 years in the same family; the house was constructed in the 1880s, and it was the only access point to the farm. She said the president of the HOA said they wanted to stop industrial use of that access point. She said it was a farm and a farm naturally engaged in some sort of industrial use. She said she also lived on a gravel road, and dust was an inevitable aspect of it. She said she was struggling with several things and would have to ask their County Attorney. She said she had mentioned to Ms. Hudson the other day about the Right to Farm Act. She asked if the ordinance, which implied zoning was in compliance or consistent with the Right to Farm Act and the way it would now be restricting the ability of a farm owner to improve the agricultural property of the farm.

Ms. Hudson said she tried to find whether or not there had been any challenge of zoning provisions of this nature on that basis. She said the County's ordinance was derived directly from State Code, so the question would be whether or not the State Code provision was somehow challengeable on the basis that Ms. Price described. She said she was unable to find anything she thought created that

conflict or interfered with a landowner's rights on that basis. She said Mr. Andy Herrick was present and may have a deeper appreciation for whether there was actually a conflict.

Mr. Andy Herrick, Conty Attorney's Office, said to address Ms. Price's question as to whether or not this somehow impinges on Mr. Kindrick's right to farm, as Mr. Svoboda said at the beginning, there was a difference between agricultural use on the one hand and fill use on the other. He said as Mr. Svoboda also pointed out, there was a recent amendment to state law that specifically amended agricultural activity so as not to include imported fill, so that agricultural activity allowed dirt to be used from the property itself, but there was a key distinction between dirt that came from the property itself versus dirt that was imported. He said that was where the state law definition of agricultural activity was drawn.

Ms. Price said that was very helpful.

Ms. Hudson said per state law, this was not farming, or at least it called into question whether or not it was farming if it was imported.

Ms. Price said she understood. She said she did not know who drafted the Resolution (Attachment G), but she also had some questions on that. She said her questions related to their materials, in which they were provided information regarding the Zoning Ordinance's fill requirements, specifically County Code 18-5-1.28D1, which listed six various factors. She said any of the following, if they were met, may be sufficient to authorize the approval of the request, and in their materials, the County acknowledged that items 1 and 2 had been met.

Ms. Price said it was arguable as to whether 5 had been met, although she would note that it was one of the two that was listed as not being met in the proposed Resolution (Attachment G). She said that left two that were never mentioned, so she questioned whether there was a prioritization that was given to two of those that the County had said had not been met as opposed to the other four, and why the motion was saying not to approve because two of the permissible six had not been met but did not address the other part.

Mr. Herrick said as Ms. Price pointed out, there were a total of six, two of which were mentioned specifically in the resolution, but before even getting to those two subpoints of the resolution in Attachment G, it went to the other point that Mr. Svoboda brought up earlier, which was part of 5.1(a), which was that if an applicant requested an exception, there had to be equivalency or some sort of protection in place where if they asked for a waiver of a regulation, it could not just be left with no replacement. He said the Board had to decide whether in fact the alternate regulation protected the public interest to the same extent, if not greater, than the standard provision. He said he believed that language was in the resolution.

Ms. Price thanked Mr. Herrick. She said she was not vouchsafing for the accuracy but reporting what had been told to her or what she had seen in documents, which was that according to Mr. Kindrick, Kenny Thacker from County staff told him what to write for the request, and he was now being criticized for not being complete enough. She said Frank Poll from the program side said this appeared to be fine and they could move forward, but Bart Svoboda from zoning said it was not fine. She said there was internal inconsistency of information being provided by County staff to the community, and while she was not saying it was accurate, that was what had been reported to her.

Ms. Price said she did not think that was helpful for the process, because their County generally worked hard to try and help members of their community to be able to find a way to achieve what they were requesting within compliance of the law, and she did not know if anyone could address those differences, but she would appreciate the help for her to understand why this conflicting information had been provided.

Mr. Svoboda said it did not change the conflicting information that went out. He said since that time, they were communicating better with engineering. He said for context, speaking out of turn for Mr. Thacker and the Engineering Department, in the conversations they had had since and the process they had implemented involving fill areas and checking with all the applicable regulators. He said normally, when they talked about earth disturbance, the WPO ordinance was what ruled in most cases. He said if there was an agricultural use, the WPO ordinance may not and in most cases would not regulate that, but that did not make them exempt from Zoning. He said when they were answering questions in the past, they were answering based on what they knew not based on a thorough understanding of the new regulation.

Mr. Svoboda said an example would be farm buildings, for instance, which must have a zoning permit, undergo zoning inspections, and must meet the Zoning Ordinance. He said however, over years of discussions with the Board, it was determined that farm buildings did not need building code inspections, so they were not required to get a building permit per se, but they were required to have a zoning permit.

Mr. Svoboda said the same thing was what started the confusion with these fill areas; if they were agricultural, they may not be subject to the WPO ordinance, but they were still subject to the zoning ordinance, so the language that was used was more technical and they were trying to do a better job at explaining things to community members. He said the same thing happened with farm buildings, where they said they must have a permit, so the applicant understood that as a building permit, but they were exempt from the building code, and it was clear they did not do a good job of communicating the

difference between the regulations.

Ms. Price asked if Mr. Kindrick would be allowed to perform what had been shown using soil from within his property already.

Mr. Svoboda said yes.

Ms. Price said the issue was bringing it from outside, and that was from a change in state law that said if they used their own dirt, the regulations would not apply.

Mr. Herrick said that was right, although he was unsure if it was a change in state law, but more of a clarification of state law that the imported dirt was not considered an agricultural activity. He said it was a key distinction because the basis of the complaints heard by the Board were about the traffic, and that concern was mitigated, if not eliminated entirely, if the only moving was among dirt already on the property.

Ms. Price said that was true for those industrial uses. She said she still had some concerns about restricting any industrial use on that driveway, because it was a farm and there would be normal, farm-related industrial movement of equipment, and she did not think they could deny a farm the ability to operate. She said she had no further questions.

Mr. Andrews said he understood what Ms. Price was saying about the history and expectation of how the property had been done in the past, but he looked at this as an exemption from the ordinance that was being requested, and he could not know for sure without conditions or a plan as part of this what was going to happen, and therefore he could not support it without those plans and conditions that could be part of any approval they would get.

Ms. Mallek said there were a couple of clarifications she would like to make. She said it was reported there was no other access to this farm, yet the main entrance to this farm was on Advance Mills Road, with a big herald sign that said Jacob's Run Farm and had been there since the 1970s in her personal memory. She said that was an existing road that had some houses off of that road, but there was a full road that had been there forever. She said she was unsure of when this easement began to be used, but the first she heard about it was when the property was timbered 10 years ago. She said she did not think it was fair to criticize the person in the house when this was potentially a handshake agreement, because there was no documentation to her knowledge about what was to be allowed on this property, but those houses were definitely there before she returned to Albemarle in 1982, so that meant it was from the 1970s at least for that neighborhood.

Ms. Price asked Mr. Svoboda if he had said earlier that it was possible to go across Jacob's Run, but there was not another access to the farm. She said she appreciated Ms. Mallek clarifying that point.

Mr. Svoboda said there was another access point to Jacob's Run on the other side of the farm where one could go through Jacob's Run, but it would be difficult at best.

Ms. Price asked if, when he said going through Jacob's Run, he was referring to the creek.

Mr. Svoboda said that was correct; it was going through the creek. He apologized for the confusion.

Ms. Price said that was opposed to Jacob's Run which was a road.

Mr. Svoboda said that was correct.

Ms. Mallek said the stream was Jacob's Run, and the road was Advance Mills. She said it was important that the full information was received. She said there were choices to be made about activities on different parts of one's property based upon what could be accomplished, and there were lots of ways to slow erosion, such as building rock cairns in gullies to stop the soil and let the grass grow over. She said the power of water was astronomical, and anyone who did not appreciate that was destined to repeat the same problems had before. She said bringing in more loose dirt to put in an area of very high-water flow would take it downstream, and that movement of soil was something they all experienced, no matter where they lived.

Ms. Mallek said she appreciated what Mr. Svoboda said about the various staff members working together, because even after so many years, she had difficulty keeping straight the WPO versus the zoning along with everything else. She said she understood the confusion, because in 1982, she wanted to build a barn along her property line and went to the zoning administrator in the County for a permit, and she was told she did not need a permit.

Ms. Mallek said they built the barn, and when the building official came to do their certificate of occupancy for her house, he asked what the barn was doing there. She said she told him they were told they could build it, and he said that was not true and they must go to the BZA and get a waiver. She said that was an example of how confusion happened, and she appreciated the extra diligence on the part of staff to ensure they did the best job possible to help everyone understand.

Ms. Mallek said the state law definition of the fill being different was incredibly important to her, and the equivalency was incredibly important. She said they spent years on this ordinance, and it did not

come out of nowhere. She said there were roundtables and discussions that went on for a long time between 5 and 10 years, and she wondered if anything would be adopted. She said she could not support someone saying they did not want a law to apply to them, and she thought they had to make a decision based on the information they had now.

Ms. Mallek said perhaps if there was a future application that came with something different that was fair to the neighbors and the process, but to eternally modify this application was not fair because they had been very clear about what they wanted and the decision to approve that or not must be made. She said that was the clearest way to handle it in her opinion.

Mr. Gallaway said when getting an exception from one, there had to be a replacement or equivalent. He asked if there was a supporting factor and if they accepted one of the other factors as enhancing support for the other factor, could that be a replacement. He said his idea was that if he went to 15,000 cubic feet brought in instead of 10,000, that would be an exception, and his rationale was that that would further support the agricultural use because the plan would say how that would be used. He asked if it were agricultural, they could use that as a replacement or if it would have to be different.

Mr. Herrick said there would need to be a modified regulation that would serve the public interest to at least the same degree as the original regulation. He said he could read from the ordinance "The Board of Supervisors may modify or waive any such requirement upon defining that such requirement would not forward the purposes of the chapter of the zoning ordinance, or otherwise serve the public health, safety, or welfare, or that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement." He said in other words, if the Board, when looking at the default regulation, decided an alternate regulation could meet the purposes of the Zoning Ordinance just as well, then the Board had the ability to implement that alternate regulation.

Mr. Gallaway thanked Mr. Herrick. He said if he were the property owner, he would be frustrated by this, especially with the history of the property, but he would not rehash why they put the ordinance in place. He said the ordinance was put into place for good reasons and even then, they knew it would frustrate good actors coming forward, but the ordinance was put into place to stop the bad actors or the activities they were concerned about. He said that being said, when looking at these six factors and started to theorize what a different application could be, he thought there was likely a way forward here.

Mr. Gallaway said they voted on an ordinance, and this was the first time something had come up in front of it, and they were now being asked to forget about the ordinance. He said he disagreed; the ordinance was legitimate and done for good purpose. He said while he could empathize with the frustrations that must exist here, with what they set up to allow for exceptions, one of which did not apply because it was an entrance corridor, he would think there was a way forward other than asking for the whole ordinance. He said it seemed they had a good actor who would be in front of them for the actual property.

Ms. Price said she forgot to mention earlier that she agreed they needed to expand the notification requirements beyond what was currently the requirement. She said she knew in some other areas, staff had recommended things such as a 500-foot radius, but she would ask County staff to think about applying a reasonable standard rather than a hard and fast rule on adjacent property. She said that would be much more in line with how the County operated. She said from the very outset, she had tried to ascertain the difference between three things, which were the application of the ordinance to an individual property owner, an exemption from the ordinance, and an exception to parts of the ordinance. She said those were three very different things.

Ms. Price said she appreciated Ms. Hudson, Mr. Herrick, Mr. Svoboda, and other County staff members who had allowed her today to reach the understanding of the difference in this particular case as it related to the application of their ordinance, the exemption from the ordinance, and exceptions to the ordinance. She said the clarification of the state law that Mr. Herrick provided was tremendously helpful. She said she had struggled when this was a good actor trying to improve his farm that had been in his family for years. She said with the clarification, she found herself where she was not able to support the request, but she wanted County staff to help this community member to achieve within the law what this applicant wished to do, which was improve the quality of his farm.

Ms. McKeel said she agreed with Ms. Price and what others had said as well. She said they had a state law and their ordinance, and she was sympathetic to the property owner. She said she had a difficult time when coming to the dais and pitting what one staff member said and what another staff member said. She said to her, that took her into an area that she believed should be discussed at another time with staff to gain clarity and hear explanations. She said she would not do that this time, because they were trying to conform to state law. She said she was not supportive right now of this application and agreed with staff. She said she would like to get to the point of he-said-she-said among the staff and applicants. She said clarity on that should be had before the meetings.

Ms. Price said she had gone to County staff multiple times and asked for help understanding.

Ms. McKeel said she was not being critical of Ms. Price but was referring to the process.

Ms. Mallek **moved** to adopt the Resolution to Deny SE2022-00018 – 4394 Carriage Hill Drive (Kindrick Fill Area), as presented in Attachment G. Mr. Andrews **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, Mr. Andrews, and Ms. Price.  
NAYS: None.

**RESOLUTION TO DENY SE2022-00018 –  
4394 CARRIAGE HILL DRIVE (KINDRICK FILL AREA)**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the SE202200018, 4394 Carriage Hill Drive (Kindrick Fill Area) application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the exception in Albemarle County Code § 18-5.1.28 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that a modified regulation would not satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the applicable requirement, and that the proposed exception:

- (i) would not be consistent with an approved and valid initial or preliminary site plan or any other land use decision of the County;
- (ii) would not be of limited duration (less than 90 days) and/or would involve more than 10,000 cubic feet of fill within any 12 months,

**NOW, THEREFORE, BE IT RESOLVED**, that in association with the SE202200018, 4394 Carriage Hill Drive (Kindrick Fill Area), the Albemarle County Board of Supervisors hereby denies the application for an exception from all requirements of Albemarle County Code § 18-5.1.28.

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Agenda Item No. 13. **Presentation:** Transportation Planning Quarterly Report.

Ms. Jessica Hersh-Ballering, Principal Planner, said Mr. McDermott was unable to join the meeting because he was out of the office. She added that the newest member of the Transportation Planning Team, Mr. Alberic Karina-Plun, was at a conference and also unable to attend the meeting—he would be at the next quarterly report.

Ms. Hersh-Ballering said much of the work over the last quarter was focused on SMART SCALE. She explained the SMART SCALE grant program was the primary method for funding large scale transportation projects in Virginia. She said the program provided state and federal funds for the design, right-of-way, and construction of projects. She said SMART SCALE was a competitive grant program. She explained Virginia Department of Transportation (VDOT) evaluated potential transportation projects based on how likely it was that the project would improve safety, reduce congestion, increase accessibility, contribute to economic development, promote efficient land use, and impact the environment.

Ms. Hersh-Ballering said once a project was funded, the design, right-of-way, and construction process could be administered locally or by VDOT. She said in the last round of SMART SCALE, they requested VDOT administer the projects, and the same request was made the current round. She said requesting VDOT to administer the project did not make the program more or less competitive, but it did reduce the burden on County staff to complete the funded projects.

Ms. Hersh-Ballering said the County submitted pre-applications in April. She said in June, there was a presentation to the Board on the projects the County and its partners would submit as final applications. She said at that meeting, the Board approved a Resolution of Support for all of the presented projects.

Ms. Hersh-Ballering said there were 12 project applications presented at the June meeting. She said if funded, all of the projects would be constructed at least partially within the County. She said the numbers displayed next to each project indicated the priority ranking according to the County's 2019 Transportation Priorities Document.

Ms. Hersh-Ballering said the projects in the orange column were projects that County staff would be directly submitting. She said the projects in the green and blue columns were projects that the TJPDC and MPO staff were submitting on the County's behalf. She noted the descriptions for each project were included in the written quarterly report.

Ms. Hersh-Ballering said final applications would be submitted by August 1. She said funding decisions would be finalized by June 2023. She said once a SMART SCALE project was funded, there was usually a lag of about five years before work began. She said four projects from 2020—Old Lynchburg Road/5th Street Extended intersection improvements; Route 20/Route 53 intersection improvements; Rio Road/John Warner Parkway intersection improvements; and Route 250 East corridor improvements from Stony Point Road to Rolkin Road—had been fast-tracked at VDOT's discretion.

Ms. Hersh-Ballering said the first three projects would be constructing roundabouts. She said VDOT would begin design on the three roundabout projects in FY23, and the corridor project would be designed in FY25. She said the construction for the corridor project would be bundled with another project that was currently in design: the Route 20/US 250 intersection improvements in Pantops.

Ms. Hersh-Ballering said bundling construction maximized cost efficiencies and reduced disruption to road users. She said in design was the Hydraulic Road/Route 29 intersection improvements project. She said the project would reconfigure the aforementioned intersection along with the Angus

Road/Route 29 intersection. She continued that the project would construct a pedestrian bridge over Route 29 near Zan Road and other features. She said VDOT was administering the project. She said they held a public meeting for the project in May.

Ms. Hersh-Ballering said revenue sharing was another source of grant funding for transportation projects. She said the application for revenue sharing funds for Eastern Avenue South was successful. She said the grant would allow the construction of a new roadway from Route 250 to Cory Farms Road and crossing Lickinghole Creek. She said there was a lag between when revenue sharing funds were awarded and when they became available to use, similar to SMART SCALE.

Ms. Hersh-Ballering said the County was evaluating advancing local funding to move the project along while they waited for the revenue sharing funding to become available. She said the other projects listed were previously awarded revenue sharing funds and were in various stages of design. She said more details were available for the Berkmar Drive Extension project from VDOT's quarterly report, and more details on the other projects—Commonwealth Drive; Crozet Square; Library Avenue Extension; and Berkmar Drive Bicycle and Pedestrian Improvements—from the FES quarterly report. She noted both were included in the meeting materials.

Ms. Hersh-Ballering said the Secondary Six Year Plan allocated funding for the construction, maintenance, and improvement of roads in the state secondary system. She said funding included the hard surfacing of unpaved roads. She said the Board recently approved minor changes to the road paving process. She said the changes included clarifying that, in order to add an unpaved roadway to the County's paving priority list, 2/3 of residents on the roadway must voice support for the action, such as through a petition. She said since the change was made, staff had received requests and inquiries to add Sutherland Road, an unpaved portion of Hammocks Gap Road, and Decca Lane to the paving priority list. She said the changes further clarified that in order to use funds to actually pave a roadway on the priorities list, 2/3 of the residents on the road had to support paving.

Ms. Hersh-Ballering noted the County may eventually run out of unpaved roads that residents wanted to be paved, and in anticipation, the County was working with VDOT to explore how other jurisdictions used the funds for other projects. She said staff would keep the Board updated as they came up with more information.

Ms. Hersh-Ballering said County staff continued to attend Regional Transit Partnership (RTP) meetings. She said the partnership was completing work on the Regional Transit Vision Plan—a County-supported project to develop a community driven vision for the future of transit in the region. She said as part of the Regional Transit Vision Plan efforts, a public survey was being conducted, and it was available on the project website through July 22.

Ms. Hersh-Ballering said Thomas Jefferson Planning District Commission (TJPDC) received funding from the Department of Rail and Public Transit (DRPT) for a Regional Transit Governance study. She said the study was intended to build upon the Regional Transit Vision Plan and answer the question, "What is the appropriate governance structure to move forward the regional transit priorities identified in the vision plan. She said the Board supported the study at the January Board meeting.

Ms. Hersh-Ballering said the Albemarle County Transit Expansion study was done to examine potential, immediate service changes to improve transit in up to three areas of the County. She said the study had concluded and ultimately recommended a one-year pilot micro transit service for two of the study areas: Route 29 North and Pantops. She said the Board supported the recommendation in January. She said it was recently learned that the Charlottesville Area Transit (CAT) grant application to fund most of the micro transit service was successful. She said County staff was working with CAT to make necessary preparations to begin the service, and it would likely begin in the spring of 2023.

Ms. Hersh-Ballering said slow progress was being made on the transit stop improvements. She said CAT had experienced staffing changes that slowed the improvements. She said a transit shelter on District Avenue in Stonefield was expected very soon. She said more information on the Northside Library transit stop would be expected within the next month.

Ms. Hersh-Ballering said the slide highlighted the larger development projects that transportation staff reviewed during the previous quarter. She noted that since the transportation team was filled out due to a new hire, they were able to review more development projects. She said the slide highlighted some of the reported transportation issues addressed in the previous quarter. She said the issues related to speeding and safety concerns. She said the concerns were addressed in the collaboration with VDOT and ACPD.

Ms. Hersh-Ballering said she would provide a preview of the upcoming work. She said as part of the current budget, the Board approved funding for conceptual planning for three bicycle and pedestrian focused projects: Free Bridge Lane; Route 20 shared use path; and Solomon Road and Inglewood Drive pedestrian improvements. She said the scope for each of the projects was outlined in the written report.

Ms. Hersh-Ballering said staff had been cognizant of the many new and expanded funding opportunities that came from the bipartisan infrastructure law. She said the Board was familiar with the RAISE application submitted the previous quarter requesting funds to support planning activities for a Three Notched Trail shared used path through the County from the City to the Blue Ridge tunnel. She said staff would know if the project was funded the following month.

Ms. Hersh-Ballering said staff was working with the grants team and was planning to submit an application for grant funds through the Reconnecting Communities Pilot program. She said the program addressed the reality that transportation infrastructure could have the negative impact of functioning as a barrier—cutting communities in half and preventing individuals from accessing necessary resources and opportunities. She said the Reconnecting Communities program supported planning grants and capital construction grants to restore community connectivity.

Ms. Hersh-Ballering said staff was examining the barrier Route 29 posed to the community, especially the most under-served populations. She said staff expected to return to the Board as soon as more details were identified for a potential project application. She said staff planned to apply for a Safe Routes to School technical assistance grant. She explained the grant would help staff identify competitive Safe Routes to School planning and construction projects, and the focus would be on schools within the development area.

Ms. LaPisto-Kirtley noted the slide that displayed three columns. She said two items on the slide were marked with an “N/A.” She asked what the “N/A” meant, and if it meant they were not being funded or considered.

Ms. Hersh-Ballering said the numbers represented how the projects were prioritized in the 2019 Transportation Priorities document. She said the “N/A” meant the project was not prioritized in the document, either because it was introduced after the document was finalized or it was prioritized in other documents. She noted the Rivanna River Bicycle and Pedestrian Bridge project was not prioritized in the County’s priorities document, but it was prioritized in the Regional Bicycle and Pedestrian Plan.

Ms. LaPisto-Kirtley asked about Milton Road and Rolkin Road.

Ms. Hersh-Ballering said the TJPDC applied for all of the projects in the green column on the County’s behalf. She said those projects were identified as part of VDOT’s project pipeline process. She said it was a project where VDOT, using its VTRANS priority system, identified areas that they wanted to investigate more closely. She said the projects came from VDOT priorities that matched up with the SMART SCALE scoring system. She said they were priorities for the County even though they were not identified in the 2019 document.

Ms. LaPisto-Kirtley clarified that the projects would be accomplished.

Ms. Hersh-Ballering said they would be if they were funded.

Ms. LaPisto-Kirtley noted 2/3 of residents along an unpaved road submitted an application then it would be taken into consideration for paving. She asked if the requirement was still true even if the road was not wide enough to meet VDOT standards.

Ms. Hersh-Ballering said she was not able to immediately answer the question. She said to her understanding, the road had to meet VDOT standards before they were willing to pave it, but she wanted to double check the information.

Ms. LaPisto-Kirtley said many of the secondary rural roads were only 16 feet, and VDOT required 18 feet.

Mr. Andrews asked to view slides 7 and 9. He noted there were issues regarding scenic designations related to paving secondary roads. He clarified 2/3 of residents along the road were required to show support for adding the road to the paving priorities list, and 2/3 of residents were required to support paving, and those were two separate actions at different times.

Ms. Hersh-Ballering said that was correct.

Mr. Andrews asked if the three projects that were listed already had 2/3 of resident support or if they were inquiries.

Ms. Hersh-Ballering said some petitions had been started for Sutherland Road and Hammocks Gap Road, but they were not complete, and VDOT had not done its approvals yet. She said staff had only received inquiries for Decca Lane.

Mr. Andrews asked if the projects listed on slide 9 had their reviews completed.

Ms. Hersh-Ballering said the bulk of the work had been completed for the listed projects, but she did not know whether the projects were fully reviewed by all staff. She said the projects were those that transportation staff had reviewed.

Ms. Mallek said the Board had been informed that the leftover sections of both Decca Lane and Hammocks Gap Road did not qualify for VDOT evaluations. She said Sutherland Road was a dead-end road with five houses, and she had looked at a farm on the road in 1978.

Mr. Andrews said the road went to the winery.

Ms. Mallek said it was Mort Sutherland’s Old Farm Place on the road.

Mr. Andrews said there was probably more on the road, now.

Ms. Mallek said all of the traffic numbers would apply. She said Solomon Road had been waiting for improvements. She said her father's animal hospital was next to it. She said progress on the gravel roads issue would help staff. She said other jurisdictions in Virginia were using the secondary roads funding for other projects.

Mr. Gallaway said when he was first on the Board, the Belvidere/Rio intersection was not on the transportation priorities list, and now it was going forward with a SMART SCALE application. He said the project had since been added to the list. He said just because the projects were marked "N/A" did not mean they were not important or prioritized.

Mr. Gallaway suggested that the corridors in which the projects were located be identified in the report. He noted there could be questions as to why a non-prioritized project was receiving funding over a prioritized project, even though the reason was the projects were prioritized in other plans and documents. He said he did not know the micro transit grant was successful and that it was great news.

Ms. McKeel said in June, the Commonwealth Transportation Board (CTB) had approved the grant. She asked when work could be expected on the Hydraulic Road improvements.

Ms. Hersh-Ballering asked if Ms. McKeel was referring to the Hydraulic Road and Route 29 intersection improvements.

Ms. McKeel said yes.

Ms. Hersh-Ballering said the project was not technically fast-tracked as the other projects were. She said it had funding leftover from the previous planning process. She said the project was moving forward, and VDOT was administering it. She said they held a public meeting in May, and there was a project website available for constituents to review the information. She said she did not have information readily available, but she could provide an answer as to when construction and right-of-way would move forward at a later time.

Ms. McKeel asked if the County was at risk of losing the project.

Ms. Hersh-Ballering said they were not.

Ms. McKeel said the intersection was one of the most dangerous in the state. She asked if CAT had determined a provider for the pilot micro transit service. She said there was some discussions as to whether it would be CAT or another provider.

Ms. Hersh-Ballering said they did not know yet who the provider would be for the micro transit service. She said it was part of the early preparation work they were doing.

Ms. McKeel said it would be a shame to bring in another provider into the community. She said the Solomon Road project was concerning. She said there was a disconnect between Ms. Hersh-Ballering's presentation on the Solomon Road and Inglewood Drive pedestrian improvements and what she read in the document. She asked Ms. Hersh-Ballering to clarify the item. She said she was aware there was a need for safe pedestrian access along Solomon Road and Inglewood Drive.

Ms. McKeel said her understanding from VDOT was that, due to the driveways, the project would be expensive. She noted that because the road was wide, the Board had discussed utilizing different types of lines on the roads to offer safe pedestrian movements through the area. She said she did not see anything about that in the report. She said she wanted to know where the project progress was.

Ms. Hersh-Ballering said what Ms. McKeel stated was accurate. She said the conceptual planning phase would help visualize the project and work through early conversations with VDOT over whether they would accept such a design.

Ms. McKeel noted Inglewood Drive had recently been paved by VDOT. She said half of Solomon Road had been repaved. She said there was the equivalent of one block along Solomon Road that was left out of the paving project, it had deteriorated. She said she was trying to approach VDOT to see if they could complete paving in the area, but it was not for the Board to get involved.

Ms. Price said to Ms. LaPisto-Kirtley that VDOT may be requiring wider roads because people drove big trucks and needed space.

Ms. LaPisto-Kirtley said maybe the Board should consider getting rid of the big trucks.

Ms. Mallek said she had forwarded links to an NPR (National Public Radio) story about Wilson, North Carolina and its micro transit program to Mr. McDermott, Ms. Hersh-Ballering, and the Board. She said Wilson was having success with the program, and they were now getting rid of their buses. She asked whether CAT could decide if it would provide service and receive the funding.

Ms. McKeel said her understanding was that CAT could be the provider, or CAT could select another service provider.



Mr. Trevor Henry, Deputy County Executive, explained CAT was the provider, as had been presented to the Board in the spring. He said CAT was contractually obligated for the service. He said the implementation of the service would be achieved through discussions with JAUNT and other options. He said the only way the County would receive the grant was if CAT was the applicant.

Ms. Mallek noted the money was being used to purchase vehicles which cut down the funding for providing services.

Mr. Henry said the costs associated with the grant were not for vehicles. He said the grant was for operations expenses.

Ms. Mallek said that changed the formula.

Ms. McKeel said her understanding was that CAT could select another provider.

Mr. Henry said CAT could do that. He said what was modeled was potentially bringing in a service that would be contracted. He said from the County's perspective, there was a budget and an expectation of performance.

Ms. McKeel said CAT would be responsible for those expectations. She said CAT could make an agreement with another provider.

Mr. Henry said it was possible.

Ms. McKeel said DRPT had encouraged it.

Mr. Henry said DRPT was clear that the only way they would accept it was through CAT.

Ms. McKeel said there were other contractors that DRPT provided to CAT.

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Agenda Item No. 17. From the County Executive: Report on Matters Not Listed on the Agenda.

Ms. Price said item 17 on the agenda, From the County Executive, would be moved up in the agenda to expedite the meeting.

Mr. Jeff Richardson, County Executive, said he would provide the July County Executive Report. He said the Community and Public Engagement (CAPE) division pulled the information together for the presentation. He noted the heatwave moving through the community. He said the County was seeing the normal increase in activities at its parks, trails, and rivers. He said they had to close swim operations at Mint Springs Lake Park due to a lifeguard shortage.

Mr. Richardson said Chris Green Lake Park and Walnut Creek Lake Park both had high-use numbers, and they provided safe, affordable ways for the community to cool off and enjoy the parks. He said water quality testing would continue, and the water quality conditions would be monitored through the summer. He said there had been 14,000 visitors to the swimming lakes year-to-date, and there had been over 1 million park visits year-to-date.

Mr. Richardson said the July 4th Holiday was a busy public safety weekend, and it was one of the busiest of the year. He said the County had 996 calls for service to Albemarle County Police Department (ACPD) and ACFR during the holiday weekend. He said the calls included 32 vehicle crashes, 13 firework complaints, and five firework shows that were inspected. He said the County had zero fatal crashes over the weekend, as well. He said the ACPD traffic unit continued to monitor the necessity for high-visibility enforcement initiatives in an effort to influence dangerous driving behaviors that often led to serious crashes. He noted the work staff put in to address the service calls over the weekend.

Mr. Richardson provided a slide on the AC44 update. He said the process continued its Phase 1 work: the Plan for Growth. He said in June, several in-person and online meetings were held to introduce growth management policy options. He said the meetings built on the data received from the Land Use Buildout analysis. He said over 470 people participated in an online survey to provide feedback to inform future discussions by the Planning Commission and the Board.

Mr. Richardson said 30 people attended the scheduled events. He said the County had 2,100 webpage visits in total. He said the work was underway with the Commission to begin modernizing the zoning code and reviewing the general regulations and minimum standards. He noted the community outreach meetings often added onto staff's already busy workday. He said the community benefitted from the outreach.

Mr. Richardson said summer was a busy time for the Department of Facilities & Environmental Services (FES), particularly in the Facilities Planning and Construction Division. He said window replacement at the County office building on McIntire Road was nearing completion. He said it would provide a boost to the comfort of the staff as the new windows had a much higher efficiency rating for light and UV light.

Mr. Richardson said in addition to the construction projects at the schools, staff continued to focus on preparing for high profile projects like the courts renovation and expansion. He said for that

project, they expected to move into demolition in early 2023. He said Biscuit Run Park would open in 2023. He said Parks and Recreation wanted to remind the community that Biscuit Run Park was closed to the public for any use until it was developed. He said the reasons related to public safety and the impact on first responders. He said it was a large property with terrain and topographical issues.

Mr. Richardson said the spotted lanternfly was an agricultural pest that attacked over 70 species of trees. He said it was a particular threat to the County's vineyards and orchards. He the Virginia Department of Agriculture and Consumer Services (VDACS) had expanded its quarantine area to include Albemarle County effective July 8. He said businesses were required to go through the training and get a permit from VDACS and inspect all regulated materials leaving the quarantine area. He said the VDACS website included information about permitting as well as what was considered a regulated article.

Mr. Richardson requested that if someone spotted a spotted lanternfly on their property or on the trails, stomp it out and report it to the Albemarle County/Charlottesville Office of Virginia Cooperative Extension. He said a full resource page was available on the County website: <[albemarle.org/lanternfly](http://albemarle.org/lanternfly)>. He said the County recently announced a partnership led by the Department of Social Services with the Legal Aid Justice Center to support eviction prevention efforts for County residents who faced eviction due to the loss of income tied to COVID-19. He said during a pilot period that ran from December 2021 through May 2022, EPP prevented 158 evictions. He said the formal program would run through June 2023, and it had a program budget of \$200 thousand offered through ARPA funding.

Mr. Richardson said the County had been recognized in several ways for its work. He said Mr. Doug Walker was invited to present at the Blue Ridge Health District team building offsite. He said there was a program called "The Heart and Soul of Public Service." He noted Mr. Walker presented the program at the University of Virginia. He said UVA was in its first week of a two-week senior executive institute formal training. He said there were about 45 participants from across the U.S.; cities and counties from the 50 states. He said Mr. Walker and Ms. Kristy Shifflett were invited to present on behalf of the County.

Mr. Richardson said the Center for Digital Government and the National Association of Counties had announced the winners of the 20th Annual Digital County Survey, and the County had been awarded recognition as a top 10 county among localities of similar size across the country. He said the survey identified the best technology practices across the counties, including initiatives that streamlined delivery of government services, encouraged collaboration, enhanced cybersecurity, and applied innovative and emerging technologies to County priorities. He said the IT Department continued to show leadership in its field.

Mr. Richardson said Mr. Roger Johnson and Mr. Peter Lynch, along with the Economic Development team, spoke at the Virginia Association of Assessing Officers. He said the 67th Education Seminar was hosted in the County. He said Mr. Walker welcomed the attendees to the community. He said Mr. Walker encouraged them to visit the restaurants in the County and spend money while they visited. He said Ms. Nelsie Birch recently presented in the first week of June. He said she was invited to the Virginia Local Government Managers Association in Virginia Beach.

Mr. Richardson said he and Mr. Walker were honored to attend the 2.5 day continued education training in Virginia Beach. He said several jurisdictions were represented. He said Ms. Birch presented on the last day of the conference. He said the Finance and Budget Department discussed the finance needs assessment that was conducted two years ago and the ongoing work in the department to transform the service delivery and embed change management with process design and systems infrastructure across the department to be able to work faster, better, and provide better report to do a better job for the community. He noted several supervisors were interested in the work.

Mr. Richardson said there had been time for staff to leave the office. He said there was a focus on team building as well. He said the pictures on the slide presented the FES group. He said they enjoyed an afternoon of fellowship and friendly competition. He said they participated in an activity to safely drop an egg without breaking it. He said two individuals would be joining the organization before the next Board meeting.

Mr. Richardson said Mr. Steve Rosenberg would be joining as the Board's next County Attorney. He noted Mr. Gallaway had mentioned his starting date was the following week. He said Mr. Jesse Brookins was joining to serve as the next Director of the Department of Diversity, Equity, and Inclusion. He said the organization had been working with both individuals on an onboarding process. He said they would be joining the organization within the following weeks. He thanked Ms. Cynthia Hudson for working with staff and the Board during the transition time. He said he was able to answer questions along with staff present.

Mr. Andrews said there was a reference to the July 4th weekend calls for service. He said there were about 1,000 calls for service to ACPD and ACFR. He said there were also 2,237 calls to the Emergency Communications Center (ECC). He asked what the difference was.

Mr. Richardson clarified that the ECC served the City, UVA, and the County. He said they had the ability to pull out just the calls for service for the County that went into the joint ECC. He said they were able to further divide those calls between those that went to ACFR and ACPD. He said in some cases, both departments were called simultaneously.

Mr. Andrews said that answered his question.

Mr. Richardson noted it was a busy weekend and that there were no traffic fatalities.

Ms. Mallek said a citizen had asked about Mint Springs being closed. She asked if the County had the authority to have “swim at your own risk” as other jurisdictions had at their swimming lakes. She said she did not receive a response. She said the next two months would bring hot weather. She said she was pleased to see the high number of online participants for the Comprehensive Plan surveys. She asked if those were County residents who were signing up to participate. She said she did not know if there was a way to determine that.

Ms. Emily Kilroy, Director of Communications and Public Engagement, said they had initially asked people to leave their name and email address. She said any data could be put into those form fields, so it was not a stable way to verify County residency. She said it was best practice in the public engagement field to not have barriers for participation because people had different opinions regarding registering with the government and how the information would be used.

Ms. Kilroy said it was best practice to not collect that data as a requirement to get maximum participation. She said, for example, when there was an in-person meeting, they typically had a sign-up sheet but did not require people to use the sheet. She said over the years, there were a decent amount of people who did not want their name on the piece of paper. She said they had ended up removing the field because they received feedback about putting up an email address.

Ms. Kilroy said there was not a way to know if all of the participants were County residents. She said when the comments were reviewed, they performed a QA/QC for spam, bots, and multiple comments from the same individual. She said the vast majority of comments were thorough and thoughtful. She said they reflected the opinions of people connected to the County in some way.

Ms. Mallek said moving forward, when they got to the discussion on the topic, and when they discussed the data, they should state whether they knew if the comments were from County residents or not. She said there was a concern that the residents were the ones who would be living with the consequences of the decisions. She said the residents felt entitled that their choices be recognized. She said someone had asked her how the Planning Commission would be involved in the Comprehensive Plan as it was their first statutory requirement.

Mr. Charles Rapp, Deputy Director of Community Development and Acting Planning Director, said there had been two work sessions with the Commission, and they were now in an alternating cycle between the zoning modernization project and the Comprehensive Plan. He said there was a work session the following week to discuss the next steps.

Mr. Rapp said they returned as many times as needed throughout the phases of the Comprehensive Plan. He said they would bring an engagement approach and a scoping for each phase of the Comprehensive Plan for feedback. He said it would be adopted and they would work through that and identify the different steps along the way. He said the Commission was actively engaged, but they had not been able to meet more than twice as the planning was only in the first phase.

Ms. Mallek said they were not discussing bringing in a finished draft, and there would be discussions through the process.

Mr. Rapp said that was correct.

Ms. Mallek said that was a concern that the Board would be excluded from the planning until it was finished.

Mr. Rapp said no drafting had taken place. He said staff had presented the capacity analysis to the Commission and the Board. He said they received similar feedback from the Commission regarding the additional work they wanted done. He said they had considered options for different growth patterns that could be explored, and they were examining the themes from the feedback they had received from the popups and community groups they had met with. He said they would continue the cyclical process until they believed they had received feedback from all interested parties.

Ms. Mallek noted the mention of the spotted lanternfly. She said the Paradise tree was one of the primary hosts for the larvae of the pest. She said the difficulty that was determined was that the trees grew many feet a year and were identifiable due to a red stem. She said it looked like a walnut tree. She said now they were fighting to eradicate the insect. She said when people inquired to VDOT to receive assistance in removing the trees, they were told that whatever people did in the right-of-way was their responsibility. She said she would report what else she learned about the issue. She said they did not have time to waste with inter-departmental issues. She said <horse@vt.edu> was a good email to reach out and report information on the lanternfly.

Ms. McKeel asked if it was possible for Mr. Richardson to send the Board the presentation. She said her understanding was that the commissioners have had or had the opportunity to join the groups that were currently working on the Comprehensive Plan.

Mr. Rapp said they tried to structure it so each of the commissioners could have the opportunity. He said there were two commissioners who were liaisons for the working group meetings, and they rotated who participated. He noted Commissioner Julian Bivins had been attending the meetings.

Ms. McKeel said Mr. Bivins had provided her with updates. She said Mr. Bivins had stated at the Commission meeting that other members were able to participate.

Ms. Mallek said only two members were allowed unless it was advertised.

Mr. Rapp said they did not want to constitute a meeting. He said there would be several phases with different working groups, so members could rotate in.

Ms. McKeel said the commissioners could join the groups, they just had to be assigned.

Ms. Mallek asked if the rural would be done at a later time, or if there were connections throughout the process.

Mr. Rapp said there would be threads throughout the process. He noted some of the topics they had discussed, such as the initial growth management, and how they would rethink some of the terminology. He said those were some of the options they had been exploring. He said it was threaded throughout the whole process as they went through the policies and implementations as a holistic approach.

Ms. McKeel asked if there was a picture of the tree Ms. Mallek mentioned, the Tree of Heaven, available on the website. She said it would be a good idea for the community.

Ms. Kilroy said the resource page had a lot of information and included graphics to help identify. She said the spotted lanternfly, in its most mature form, was red with dotted wings. She said the resource page also provided images of the various stages of the lanternfly's lifecycle.

Ms. Price said Mr. Richardson said at every parade, law enforcement was at every intersection. She said she noticed the number of intersections and the number of officers required to be out, standing for hours in Crozet. She said Mr. Gallaway was the one who worked through the process with the new County Attorney.

Mr. Richardson noted Ms. Mallek's question regarding allowing residents to swim at their own risk at closed County lakes. He said it was not a simple question, and it was a County owned lake. He said he would consult with the County Risk Manager to review the question through two lenses: public safety and legal liability to the County. He said he would come back to the Board with more information. He said he did not know if other counties allowed a similar practice. He said under normal circumstances, if the lake were open, there would be lifeguards and regulations in place. He said the insurance provider would have to be consulted as well.

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

At 4:18 p.m., Mr. Andrews **moved** the Board go into a Closed Meeting pursuant to Section 2.2-3711(a) of the Code of Virginia:

- Under Subsection (1) to discuss and consider appointments to various boards and commissions;
- Under Subsection (3) to discuss the disposition of publicly held real property in various areas of the County, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County;
- Under Subsection (6) to discuss and consider the investment of public funds involving Darden Towe Park where bargaining is involved and where, if made public initially, would adversely affect the financial interest of the County;
- Under Subsection (7) to receive a briefing from and consult with legal counsel regarding matters pertaining to actual litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the County; and
- Under Subsection (8) to consult with legal counsel employed or retained by the County regarding specific legal matters pertaining to certain County documents and requiring the advice of counsel.

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. Mallek recused herself from participating in or being present for the portion of the closed session that would address a matter of litigation due to personal interests. She said she would support the motion to convene a closed session and for the Board to discuss the matter in her absence.

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Agenda Item No. 15. **Certify Closed Meeting.**

At 6:08 p.m., Mr. Andrews **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. 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.

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Agenda Item No. 16. Boards and Commissions.

a. Vacancies and Appointments.

Ms. LaPisto-Kirtley **moved** that the Board appoint the following individuals to County Boards and Commissions:

- **Appoint** Ms. Tammy Johnston to the Community Policy and Management Team (CPMT) as the Private Service Provider representative with said term to expire June 5, 2025.
- **Appoint** Mr. Jeff Morrill to the Economic Development Authority as the Samuel Miller District representative to fill an unexpired term ending January 19, 2024.
- **Appoint** Mr. Matthew Lawless to the Economic Development Authority as the Scottsville District representative to fill an unexpired term ending January 19, 2024.
- **Appoint** Mr. Jay James to the Jail Authority to fill an unexpired term ending August 6, 2023.
- **Reappoint** Ms. Chanley Sage Bradburn to the Solid Waste Alternatives Advisory Committee (SWAAC) with said term to expire May 31, 2026.
- **Appoint** Mr. Kendall Dix to the Solid Waste Alternatives Advisory Committee (SWAAC) with said term to expire May 31, 2026.

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. 18. 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. Kent Schlusell, Rio District, said that on July 5th, the Daily Progress newspaper had an article from the Richmond Times-Dispatch with the title "Urban heat islands are dangerous" and that the point of the article is that neighborhoods without trees are heat islands.

Mr. Schlusell said he had presented data to this Board in the past about the benefits of trees. He said back in January of this year, he stated that trees are the most important element of environmental goals and are the most earth friendly and, according to the Department of Agriculture, one acre of mature trees provides four tons of oxygen and absorbs six tons of CO2 and other pollutants. He said this is enough oxygen for a year for 18 people and that the Amazon Rainforest had been responsible for 20% of oxygen produced in the world. He said trees are nature's only source of oxygen.

Mr. Schlusell said the fifteen acres of clear cutting done to expand Belvedere is the equivalent of driving 390,000 miles in a year. He said the clear cutting of 15 acres means they have cut off the oxygen supply for 270 people. He asked: "What is there now -- townhouses, asphalt, cement and no trees".

Mr. Schlusell said this is now an urban heat island. He said not only have these 15 acres become an urban heat island, but the development has also significantly changed the topology of the land and has caused significant increases in pollutants in a stream created by the development that goes across Dunlora property and flows into the Rivanna River. He said so much for improving the health of our streams. He said as he drives around the County, he sees hundreds of acres being clear cut for new developments and this practice of clear cutting is only making the environment worse.

Mr. Schlusell said they are doing their part in Dunlora, where he lives, to maintain and improve the environment. He said they, along with the Rivanna Conservation Alliance, have planted almost 2800 native trees on about 13 acres. He asked what the rest of County and the Board of Supervisors doing to encourage the of planting of trees and improving the environment?

Mr. Schlusell said trees lower the temperature and provide shade. Thus, houses use less electricity to operate air conditioning. He said with the developers clear cutting for every new project, this not only will increase temperatures but also has health care implementation.

Mr. Schlusel asked why can't the Board implement rules for developers to keep as many mature trees as possible and call for replacement of every tree destroyed? He said the rules and regulations for developments need to change from destroying the environment to improving the environment. He urged the Board to take action now and help the environment.

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Ms. Judy Schlusel, a member of the Rio 29 CAC, said the Thursday, July 14, 2022, edition of the Daily Progress front page article states: "County residents split on growth. Comments help plan for the future, but agreement is rare."

Ms. Schlusel said officials stated the county began surveying last month about seven proposed growth management options and 119 people had taken the survey from June 23 to July 7th which closed at 10 pm Sunday, July 17th.

Ms. Schlusel said she is enrolled in the Albemarle County News emails to stay informed as to what is happening in/around the county. On 14th she received an email from the A-News at 1:48 p.m. advising her the online questionnaire closed at 10 p.m. on Sunday, July 17th.

Ms. Schlusel said, according to 2020 data, approximately 109,000 people call Albemarle their home. With only 119 people responding to the survey that means that approximately .1% of the population responded.

Ms. Schlusel said this survey, which focuses on the growth management in the County, is rather important. She said she read the article in the Daily Progress with a great deal of interest yet doesn't remember seeing or hearing much from the County advertising there being a survey opportunity for citizens to give their input.

Ms. Schlusel said she has a radio on all day long, paying particular attention to the news, and she watches the local TV stations and obviously have referenced the fact that she reads the Daily Progress plus is signed up for the Albemarle A-news emails. Yet with all these different types of media, she didn't recall a blitz of sorts letting the citizens know of this opportunity to voice their opinion.

Ms. Schlusel asked why wasn't there public service announcements on the radio, why wasn't someone from the Community Development office interviewed on the TV and although it would be an expense, why wasn't an article plus perhaps with a picture in the local newspaper (The Daily Progress or even The C-ville)? She said she assumed that the Community Development team would collate the 119+ responses and then eventually make a presentation to the Board, perhaps implying these are the desires of the citizens of Albemarle.

Ms. Schlusel said the email that she did receive has the logo AC44. She said she suspects most citizens would be clueless as to what this logo references. She said, as the AC44 team moves forward towards gathering input to update the Comprehensive Plan, she hoped that the office of Community Development would consider reaching out to confer with individuals who had expertise in advertising as well as how best to write survey questions to ensure a diverse sampling of responses are obtained.

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Mr. Elliot Harding said he was a resident of the City. He said for the past six years, he had represented the owners of a dog that was euthanized by the County. He said the dog's name was Niko. He said he was not speaking on behalf of the owners. He said he was disappointed with the outcome of what was a choice given to the County. He said the County fought hard to have the choice to euthanize the dog. He said contrary to referenced code sections in County releases, the dog was never deemed a vicious dog by the Courts.

Mr. Harding said it was a specific code section different from the dangerous dog code section his client was convicted of in 2015. He said the dangerous dog code section did not require a dog to be euthanized. He said every copy of every order in the case did not direct the County to euthanize the dog. He said there were five specific exceptions to euthanasia that were preferred. He said life and humane alternatives should be the presumptive outcome of the County.

Mr. Harding said the community was loving and open to second chances. He said the decision to euthanize the dog did not reflect the community. He said his last correspondence with the County proffered an open offer for any solution other than euthanasia. He said they had been approached by individuals and organizations across the U.S. who were interested in claiming the dog. He said they did not hear back from the County for over a month.

Mr. Harding said when he checked in for an update, the day before the dog was euthanized, he received no answer from the County; animal control, the police, the County Attorney, or any other representative. He said the CASPCA had received enough lead time to allow his client to visit the dog before it was euthanized. He said there were more questions than answers.

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Mr. Mason Pickett said he would discuss the three-minute speaking limit. He said sometimes people took two or four minutes. He said the three-minute limit was determined to allow for multiple people to comment. He said now, the public comment was limited to 10 speakers. He said the problem was partially addressed. He said the reason he thought the limit was three minutes was because the

Board did not want to hear from its constituents. He said in Central and South America, there was a hand gesture. He demonstrated the hand gesture.

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Ms. Maddy Wells said she lived in the County and that she was one of the owners of the dog Niko. She said Niko was her best friend, and she had been unable to see him due to family issues. She said the dog was far from dangerous, and that was evident in the video and photo evidence. She said they were told that Niko would only be taken to the SPCA for 7 days. She asked how those 7 days turned into 7 years.

Ms. Wells said Niko did not kill the cat, and a necropsy would have proven it. She said the necropsy was refused. She said Niko was held at the SPCA for 7 years to be killed. She said Officer Crickenberger had a conflict of interest with Toni Stacy; he stood in a meeting with his boss present and said, "I could not stand you." She said she felt as though he should have been taken off the case.

Ms. Wells said when she learned Niko was euthanized, she was devastated, and when she learned what had happened, she was beyond angry. She said Niko was taken from the SPCA after hours, and she was not informed where Niko was euthanized, where his body was located, and she was denied his remains to provide a final resting place. She said she missed her dog. She said there were other options, and several rescuers were willing to take Niko. She said the Court ordered the dog to be disposed of, which included Niko being sent to a rescue. She said she was sick at what had happened to her dog.

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Agenda Item No. 19. **Action Item:** Public Safety Operations Center Lease.

The Executive Summary forwarded to the Board states that the administrative and operational functions of the Albemarle County Fire-Rescue Department (ACFR) and Albemarle County Police Department (ACPD) have grown substantially over recent decades. In addition to an expansion in service area, ACFR has expanded its support of volunteer companies, assumed responsibility for EMS training and maintenance of all fire and rescue equipment, and created new programs. ACPD's needs for secure storage of specialty equipment and vehicles, for seized property, and for evidence processing have exceeded available space for many years.

In 2021, staff began seeking opportunities to purchase or lease property suitable to meet the operational needs of the County's public safety functions, either in separate locations or in a single location. Preliminary discussions with Seminole Trail Properties, LLC, were initiated to explore the suitability of the property located at 1639 East Rio Road, which is the site of the former J.C. Penney's store at Fashion Square Mall. This retail store included approximately 33,000 square feet of "back of the house" functions, including a large warehouse with loading dock, former tire shop, and office space for employees. The proposed lease would allow the County to renovate and occupy these areas to meet the operational needs of ACPD and ACFR. If approved, the relocation of these functions would allow vacated ACPD and ACFR space in the 5th Street County Office Building to be repurposed to help meet those departments' administrative space needs.

Terms of the proposed lease include:

- designation of a large parking area for secure storage of specialty equipment and vehicles;
- initial lease term of 10 years; with additional lease term renewals options in increments of 5 years each; and
- County option to expand with the building to meet future space needs.

The estimated cost of capital improvements is \$3,100,000, and the cost of lease and operational overhead in Fiscal Year 2023 is estimated at \$558,000. The funding for the capital improvements would be appropriated from the Capital Fund balance. Operating funds were appropriated in the Space Reserve as part of the Fiscal Year 2023 budget.

Staff recommends that the Board adopt the attached resolution (Attachment A) approving a lease from Seminole Trail Properties, LLC of a portion of the property located at 1639 East Rio Road, and authorizing the County Executive to execute a lease in a form acceptable to the County Attorney.

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Mr. Lance Stewart, Director of FES, said he would discuss a recommendation from staff that the Board authorize the County Executive to execute a lease for a property to help support the needs of ACFR and ACPD. He said it was a known and growing need for many years, including capitol requests submitted for new construction in the past that were unfunded. He said they had been looking for solutions for a number of years.

Mr. Stewart said Colonel Sean Reeves, Chief of ACPD, and Mr. David Puckett, Deputy Chief of ACFR, were present to aid in the presentation. He said both individuals would discuss the space needs of their departments. He said he would present on the space they were considering, the lease terms, and the driving factors related to the costs of improvements and operating costs. He said he would present on the opportunities that relocating some functions from the existing buildings would provide to meet other needs of other departments.

Mr. Puckett noted the Board had made investments in ACFR services over the last several years.

He said the vast majority of those positions provided for were in the field, and a number of administrative positions were added to successfully onboard, train, and support the additional field responders. He said during the pandemic, the Board created an Emergency Management position within ACFR. He said the increased administrative positions had driven demand for office and meeting spaces. He said the overall growth at ACFR had placed an increased demand on training needs.

Mr. Puckett noted there were challenges to the logistics division. He said in 2017, the Board authorized the department to hire a fleet maintenance supervisor to perform in-house preventative maintenance and repairs. He said since that time, the fleet and service had been extended, and they had taken a more active role in consolidated purchasing and warehousing. He said in 2022, they hired an additional mechanic to perform more repairs in-house. He said the program had been successful and well received, but there were opportunities for improvement. He said the lack of a centralized facility required ACFR to store parts and equipment in fire station closets and storage rooms throughout the County which resulted in lost productivity.

Mr. Puckett said the largest storage room was located at the County Office Building on 5th Street. He said there were not adequate loading docks or parking space to receive tractor trailers, and the storage room was on a second floor with no freight elevator access. He noted the working conditions and lack of dedicated maintenance bays meant the mechanics were operating via a mobile platform. He said the mechanics went to the fire stations and performed repairs directly onsite. He said the stations were not designed for vehicle maintenance, so it required the mechanics to work outdoors where they had to move the firetrucks to have adequate room to complete the repairs.

Mr. Puckett explained moving the logistics division to a dedicated maintenance and warehousing space created efficiencies, provided better working conditions for staff, and freed up training and office space at the 5th Street location.

Mr. Reeves said he would discuss the needs of ACPD. He said he had been with ACPD for the past 20 years. He said 20 years ago, ACPD relocated its operation basis to the County office building on McIntire Road. He said they quickly expanded beyond the capacity of the building. He said some of the CIP projects from the previous decade called for a site that could be used to store evidence. He said the forensic technicians had to process vehicles in evidence during inclement weather and sometimes relied on the school bus bays to process the vehicles.

Mr. Reeves said they often relied on private storage facilities to store the vehicles for chain of custody. He said the proposal before the Board would provide an opportunity to cut down on the preliminary \$7 million figure and create space opportunities within the 5th Street County office building. He said the traffic unit along with the traffic equipment currently stored at 5th Street would be relocated to the new location. He said the space created at the 5th Street office would be used to support the new mental health unit.

Mr. Reeves said ACPD had to create new and innovative ways to create workspace for its staff. He said they had to repurpose closets and cafeterias into functioning workspace. He said they had several large items they were struggling to store.

Mr. Stewart said the proposed lease was at the location of a former J.C. Penney's building in Fashion Square Mall. He said the building had many benefits, and a number of potential spaces around the County were reviewed. He noted there were few spaces in the County that would meet even one of the agencies' needs. He said the need for a central location for both departments was an important factor. He said the proposed site was centrally located, had a large warehouse with a loading dock, had a former tire shop located onsite, had built-in office space, and it was an extensive site.

Mr. Stewart said he would provide images to help illustrate the site layout. He said the warehouse and loading dock area was a large open space that could be segmented into different storage functions or other functions within that with relative ease. He said the warehouse area marked in blue on the image was envisioned to primarily be used by ACFR for operations, maintenance, and storage needs. He said the tire shop was located at the bottom of the image. He said the tire shop included a storage area behind it. He noted the office space along with public restrooms were between the other two mentioned sites. He said all together, the site was 33,000 square feet, almost a third of the former J.C. Penney's site.

Mr. Stewart noted the images provided a view of the interior of the site. He noted the storage area off the tire shop was two stories. He said the storage was efficient and easily securable. He said it would be secured for the storing of crime scene evidence. He noted the parcel boundaries of the site. He said the parcel was no longer part of the Fashion Square Mall site. He said any work or development including Fashion Square Mall would not necessarily include the proposed site. He said there were 160 parking spaces in the parcel that no one used when it was operational. He said the parking area offered the opportunity to store large vehicles and equipment from both departments. He said the area would be secured with fencing to serve as a buffer as well. He said the site was outside of the entrance corridor requirements.

Mr. Stewart noted the terms of the lease. He said the site was approximately 33,000 square feet. He said as they progressed with a programming plan, the numbers would be refined before they finalized the lease. He said the ability to expand elsewhere within the J.C. Penney's building was built into the lease. He said the lease rate was not based on the exterior site, so the use of the large parking lot was free of charge. He said the annual cost per square foot would be based on \$12.50 per square foot per year for the first year. He said the cost was below the typical market rate. He said the normal price range



was 50% more than the amount. He said it was a fair and reasonable value that was well-suited to the County's needs.

Mr. Stewart said an initial term of 10 years was proposed, and there were options for two additional five-year terms. He said if the County wanted to create a permanent facility, then it would take time to plan and fund. He said the initial investment in the lease would be a relatively long-term solution. He said he would provide a breakdown of the initial costs. He said they estimated a \$3.1 million budget.

Mr. Stewart said they had engaged an architectural firm to help the County confirm the costs and prepare to design the more complex work that may need to be done to create a vehicle maintenance shop in an open warehouse—penetrations of exterior walls, ventilation requirements, and storage of used Personal Protective Equipment (PPE) for ACFR. He noted there were code implications. He said the office area was able to meet the departments' needs. He said the site had not been improved since it was constructed. He said they were examining replacing sections of the concrete floor to be able to withstand the weight of the ladder trucks and other vehicles.

Mr. Stewart said the rent for the first 12 months was \$412,000. He said for the same period, utilities, custodial services, and IT, were other costs. He said the major maintenance requirements of the facility—structural, heating and A/C, and electrical—would remain the responsibility of the landlord.

Mr. Stewart said before the pandemic, they were strained for parking. He said the majority of the lower level of the lot was taken up fulltime. He said it caused constraints for public meetings, voter registration, and early voting periods. He said the equipment taking up space in the parking deck could be relocated if the lease were approved.

Ms. LaPisto-Kirtley said she was in favor of the proposal. She said the Board had reviewed the proposal before, and it was a good opportunity for the County.

Mr. Andrews asked what would happen to the space being used at the 5th Street office building.

Mr. Stewart said ACFR had a large storage area and the Quarter Master's office that took up about 1/5 of the footprint on the second floor. He said the relocation would create opportunities for offices for the additional administrative personnel who were in the process of onboarding and did not have desks or offices. He noted the conference rooms had been repurposed to have desks. He said moving the ACPD traffic unit out of the 5th Street building along with some of the ACPD storage would create opportunities for the mental health unit. He said the space programming was focused on the functions that were moving into the leased space, and the next phase would focus on the reuse of the existing County office spaces to maximize efficiencies and use.

Mr. Gallaway asked how many employees there were in total.

Mr. Stewart said they were still working to finalize programming and scope. He said they had a good understanding of the traffic unit staffing. He said there were other items on the list of functions of ACPD that could potentially be moved to the leased site at no additional cost. He said the programming and budgeting of the construction had to be addressed before there was a final answer.

Mr. Gallaway said he was glad there was a solution for both departments below cost. He noted the lease was within the Rio district and the Rio Small Area Plan. He said the County could serve as a vibrant anchor tenant to the area which needed new development and activity.

Ms. McKeel said she had experienced parking challenges at the 5th Street office building. She said the lease would provide relief to the parking at 5th Street. She said she appreciated the location of the site. She said Route 29 North was the population center. She said it was good to have a satellite space for ACFR and ACPD. She said the police had specifically told her they wanted a satellite space in the area so that they were not constantly required to drive back to 5th Street. She said everyone needed a place to go to get work done. She requested the presentation be added to the website because a constituent had requested it. She asked for clarification about the rental rate.

Mr. Stewart said at the end of each 12-month period of the lease, there was a flat 3.5% increase in the rent.

Ms. McKeel said they had locked in the rate so that they could plan around it. She asked when they would begin to be able to move into the new space.

Mr. Stewart said they hoped to move some functions in sooner rather than later. He said some functions may not require significant construction and would not interfere with other construction. He said some areas that required more work would require some design, bidding, and construction. He said updates would be provided in the quarterly report, and updates could be provided in other forms at the request of the Board.

Ms. McKeel said there used to be an automobile mechanic at the site, and the site was ideal.

Ms. Price said she concurred with the other supervisors. She said a citizen in the community had offered these generous lease terms to the County. She said the 3.5% rental rate increase per year would likely be substantially below the market rate increases.

Mr. Gallaway **moved** to adopt the resolution as presented in Attachment A to approve a lease from Seminole Trail Properties, LLC of a portion of the property located at 1639 East Rio Road, and authorizing the County Executive to execute a lease in such form as was acceptable to 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, Mr. Andrews, and Ms. Price.  
NAYS: None.

**RESOLUTION TO APPROVE A LEASE OF 1639 RIO ROAD EAST  
FOR PUBLIC SAFETY OPERATIONS CENTER**

**WHEREAS**, the Board finds that it is in the best interest of the County to enter into a lease of property located at 1639 Rio Road East, Charlottesville, VA 22901, for a Public Safety Operations Center;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby approves entering into a lease of property located at 1639 Rio Road East, Charlottesville, VA 22901, for a Public Safety Operations Center, and authorizes the County Executive to execute the lease on behalf of the County after approval as to form and substance by the County Attorney, and contingent on approval of an appropriation by the Board of Supervisors to appropriate the required funding.

Agenda Item No. 20. **Public Hearing: FY 2022 Budget Amendment and Appropriation.**

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

The cumulative total of the Fiscal Year 2022 (FY 22) appropriations itemized below is \$7,981,997. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 22 Budget Amendment totals \$7,981,997. The estimated expenses and revenues included in the proposed amendment are shown below:

**ESTIMATED REVENUES**

Local Revenues	\$	7,738
State Revenues	\$	3,566,477
Federal Revenues	\$	3,948,441
General Fund Balance	\$	12,260,000
Other Fund Balances	\$	(11,800,659)
<b>TOTAL ESTIMATED REVENUES</b>	<b>\$</b>	<b>7,981,997</b>

**ESTIMATED EXPENDITURES**

General Fund	\$	17,286
Special Revenue Funds	\$	5,195,771
School Special Revenue Funds	\$	43,678
Capital Funds	\$	2,725,262
<b>TOTAL ESTIMATED EXPENDITURES</b>	<b>\$</b>	<b>7,981,997</b>

The budget amendment is comprised of a total of 14 separate appropriations, 11 of which have already been approved by the Board of Supervisors: - Two appropriations approved 04/06/2022

- Four appropriations approved 05/18/2022
- Three appropriations approved on 06/01/2022
- Two appropriations approved on 06/15/2022
- Three appropriation requests for approval on July 20, 2022 are the remaining as described in Attachment A.

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

**FY 22 Appropriations**

**Appropriation #2022051**

<b>Sources:</b>	Federal	\$27,365
<b>Uses:</b>	School Special Revenue Fund	\$27,635
<b>Net Change to Appropriated Budget:</b>		\$27,635

**Description:**

This request is to appropriate the Public Schools appropriation request approved by the School Board on June 9, 2022:

- The Virginia Department of Education designated funding from the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act Governor’s Education Relief Fund (GEER II) and CRRSA Act Elementary and Secondary School Emergency Relief (ESSER II) to assist in the recruitment and retention of school bus drivers. Albemarle County Public Schools was awarded \$27,365, which will be used to reimburse the division for bus driver bonuses being provided in the current school year.

**Appropriation #2022052**

<b>Sources:</b>	Albemarle Broadband Authority (ABBA) Fund Balance	\$3,000
<b>Uses:</b>	ABBA	\$3,000
<b>Net Change to Appropriated Budget:</b>		\$3,000

**Description:**

This request is to appropriate the following for entities where the County serves as fiscal agent:

- This request is to appropriate \$3,000 from ABBA’s fund balance for grant administration fees.

**Appropriation #2022053**

<b>Sources:</b>	Federal	\$2,725,262
<b>Uses:</b>	Capital Project: School Maintenance Replacement Program	\$2,725,262
<b>Net Change to Appropriated Budget:</b>		

**Description:**

This request is to appropriate \$2,725,262 in federal revenue for Indoor Air Quality projects as part of the School Maintenance Replacement Program. A portion of this funding was previously appropriated to begin in FY 23 but is being requested to be moved forward to FY 22 to coincide with the expenditures of work already completed that is eligible for grant reimbursement. There is a corresponding FY23 appropriation, Appropriation #2023002, to decrease the funding that is being moved forward with this appropriation.

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Mr. Bowman said under the state code, a public hearing was required to amend the budget under certain circumstances due to the cumulative amount of appropriations. He noted that though the fiscal year ended on June 30, they were in the process of closing out FY22. He said the most notable item in the requested appropriation for FY22 is to add \$2.7 million in federal revenue related to the public schools’ indoor air quality project. He said the project was part of the FY23 – FY27 CIP.

Mr. Bowman said the amendment proposed to take advantage of the ability to reimburse those expenses sooner. He said the budget or scope of the project was not changing, only the timing was being accelerated to FY22. He said with the timing change, the FY23 budget had to be amended in the CIP. He said the public schools had identified they were able to obtain the reimbursement sooner than they had believed. He said the other items were less significant and noted in Attachment A. He said staff

recommended the Board adopt the resolution, Attachment B.

Ms. McKeel noted the Board had received an email. She asked if Mr. Bowman would discuss the email before the Board.

Mr. Bowman said the email was an item for the August 3 Board meeting. He said the email item was not part of the requested action.

Ms. Price opened the public hearing. She noted there were no speakers signed up for comment. She closed the public hearing.

Mr. Gallaway **moved** that the Board adopt the resolution as presented in Attachment B to approve the appropriation for local government and school projects and programs, as described in Attachment A. 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.

**RESOLUTION TO APPROVE  
ADDITIONAL FY 2022 APPROPRIATIONS**

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

- 1) That the FY 22 Budget is amended to increase it by \$7,981,997;
- 2) That Appropriations #2022051; #2022052; and #2022053 are approved;
- 3) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2022.

\* \* \* \*

APP#	Account String	Description	Amount
2022051	3-3165-63165-333000-330012-6599	SA2022051 Bus Driver Incentive Grant	\$27,364.67
2022051	4-3165-63165-462320-160060-6504	SA2022051 Other Compensation-Bonus	\$25,420.04
2022051	4-3165-63165-462320-210000-6504	SA2022051 FICA	\$1,944.63
2022052	4-4300-91097-491097-390003-9999	SA2022052 Grant Admin Fees	\$3,000.00
2022052	3-4300-91097-352000-510100-9999	SA2022052 Grant Admin Fees	\$3,000.00
2022053	3-9000-69970-333000-330001-9185	SA2022053 SA2022053 Move IAQ from FY 23 to FY 22	\$2,725,262.00
2022053	4-9000-69970-466760-301210-6101	SA2022053 SA2022053 Move IAQ from FY 23 to FY 22	\$2,475,262.00
2022053	4-9000-69970-466760-312350-6101	SA2022053 SA2022053 Move IAQ from FY 23 to FY 22	\$250,000.00

Agenda Item No. 21. **Public Hearing: FY 2023 Budget Amendment and Appropriations.**

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

The cumulative total of the Fiscal Year 2023 (FY 23) appropriations itemized below is \$9,283,889. Because the cumulative amount of the appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 23 Budget Amendment totals \$9,283,889. The estimated expenses and revenues included in the proposed amendment are shown below:

**PROPOSED FY 2022-23 BUDGET AMENDMENT**

ESTIMATED REVENUES

State Revenues	\$	20,000
Federal Revenues	\$	(1,471,501)
General Fund Balance	\$	1,235,364
Other Fund Balances	\$	9,500,026

TOTAL ESTIMATED REVENUES	\$	9,283,889
<u>ESTIMATED EXPENDITURES</u>		
General Fund	\$	1,235,364
Special Revenue Funds	\$	5,980,177
Capital Funds	\$	2,068,348
TOTAL ESTIMATED EXPENDITURES	\$	9,283,889

The budget amendment is comprised of a total of six appropriation requests for approval on July 20, 2022 as described in Attachment A.

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

\* \* \* \*

**Appropriation #2023001**

<b>Sources:</b> ARPA Reserve (currently appropriated)	\$750,000
General Fund Public Safety Pay (currently appropriated)	\$10,000,000

<b>Uses:</b> Charlottesville Albemarle Convention and Visitors Bureau	\$750,000
Transfer to ARPA Reserve	\$10,000,000

**Net Change to Appropriated Budget:** \$0

**Description:** In the FY 23 Adopted Budget, the Board of Supervisors approved:

- the creation of a \$10,000,000 American Rescue Plan Act (ARPA) Reserve through the reimbursement of public safety expenses in the General Fund with federal revenue; and
- the allocation of \$750,000 to the Charlottesville Albemarle Convention and Visitors Bureau (CACVB) from the ARPA Reserve.

This request is to implement the Board's prior approval for accounting and reporting purposes by:

- Transferring \$10,000,000 in Public Safety Pay that will be reimbursed as a transfer to the ARPA Reserve. This action was not included in the Adopted Budget for clarity in reporting. If this action was included at the time of budget adoption, the budget comparisons for FY 22 to FY 23 and in the future, FY 23 to FY 24 may have appeared unclear due to this one-time circumstance.
- Appropriating the \$750,000 in expenditure authority for the CACVB to reflect the Board's prior approval. This additional step is required because the County serves as the fiscal agent for the CACVB.

**Appropriation #2023002**

<b>Sources:</b> Federal	\$ (1,567,762)
Capital Fund's Fund Balance	\$407,762

**Uses:** Capital Project: School Maintenance Replacement Program \$ (1,160,000)

**Net Change to Appropriated Budget:**

**Description:**

This request is to de-appropriate \$1,567,762 in federal revenue and increase the use of fund balance for the Indoor Air Quality projects as part of the School Maintenance Replacement Program. This funding was originally appropriated to begin in FY 23, but is being requested to be moved forward to FY 22 to coincide with the expenditures of work already completed that are eligible for grant reimbursement.

There is a corresponding FY 22 appropriation, Appropriation #2022053, to increase the funding that is being amended with this appropriation. In addition to these appropriations, the upcoming FY 24-28 Capital Improvements Plan (CIP) will be amended because this update also impacts expenditures and related revenues planned in FY 24-27. These appropriations and that upcoming CIP update are a change in timing, not total project funding.

**Appropriation #2023003**

**Sources:** General Fund's Fund Balance \$1,235,364

<b>Uses:</b> North Garden Volunteer Fire Company Conditional Donation	\$585,364
North Garden Volunteer Fire Company Loan Up to \$650,000	

Net Change to Appropriated Budget: \$1,235,364

**Description:**

This request is for County financial support for the North Garden Volunteer Fire Company building expansion and improvement project, which will expand the current structure providing a decontamination area for firefighters returning from active calls; improve firefighter staffing areas, including overnight housing quarters and exercise areas; as well as improvements to ensure the building is ADA compliant. The County funding support would entail a conditional donation of \$585,364, coupled with a 0% interest loan with a maximum loan amount of up to \$650,000.

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

Approval of this appropriation is contingent upon prior Board of Supervisors approval of the resolution to authorize the County Executive to execute the conditional donation and loan agreements with the North Garden Volunteer Fire Company, which will be considered previously in the agenda at the July 20, 2022 Board of Supervisors meeting.

**Appropriation #2023004**

<b>Sources:</b>	Capital Fund's Fund Balance	\$3,100,000
	Space Reserve (currently appropriated)	(\$558,000)
<b>Uses:</b>	Capital Project: Public Safety Space Upfit	\$3,100,000
	General Fund: Facilities and Environmental Services	\$558,000
<b>Net Change to Appropriated Budget:</b>		\$3,100,000

**Description:**

This request is for the appropriation of \$3,100,000 of cash from the Capital Fund's fund balance to support initial capital costs to renovate portions of the former J.C. Penney's building and site to accommodate operational functions of the Albemarle County Police Department (ACPD) and Albemarle County Fire-Rescue Department (ACFR). ACPD operating functions to be housed at the new facility include: Traffic Unit; vehicular evidence processing facility; short- and long-term evidence storage; and special response vehicle storage. ACFR operating functions to be housed include: maintenance shop for fire trucks and ambulances; Quartermaster offices; central storage of uniforms; turnout gear storage for ACFR and volunteer companies; and logistics supply storage. Other public safety operational functions may also be included within the facility as space and funding allow.

This request also includes the transfer of \$558,000, currently appropriated in the Space Reserve, to the Facilities and Environmental Services operating budget to cover the operating costs associated with the County use of this space, which includes items such as rent, utilities, non-capital maintenance and repair costs, and custodial services.

This appropriation does not impact any other projects included in the Adopted FY 23 – 27 Capital Improvements Program. This recommended use of cash from the Capital Fund's fund balance was not included at the time of the FY 23 budget adoption due to the County's consideration of an interest in real property for a public purpose where discussion in an open meeting would have adversely affected the bargaining position or negotiating strategy of the County.

Approval of this appropriation is contingent upon prior Board of Supervisors approval of the resolution to authorize the County Executive to execute the lease for portions of the former J.C Penney's building, which will be considered previously in the agenda at the July 20, 2022 Board of Supervisors meeting.

**Appropriation #2023005**

<b>Sources:</b>	Housing Fund's fund balance	\$5,960,177
<b>Uses:</b>	Housing Fund	\$5,360,177
	Economic Development Authority	\$600,000
<b>Net Change to Appropriated Budget:</b>		\$5,960,177

**Description:** This request is to re-appropriate \$5,960,177 in Housing Fund's fund balance as follows:

- \$3,763,657 for a Housing Fund Reserve intended to support housing initiatives that are one-time costs and will support the County's strategic and housing goals. Uses of this reserve will be determined by the Board of Supervisors as a separate agenda item at the 7/20 board meeting.
- \$1,296,520 for programs approved at the April 2022 Board of Supervisors meeting.

- \$600,000 to the Economic Development Authority (EDA) pursuant to the performance agreement between the County, EDA, and Habitat for Humanity of Greater Charlottesville. Habitat for Humanity of Greater Charlottesville has met an additional milestone for cash contributions pursuant to the terms of the performance agreement.
- \$300,000 for a Reserve for the Performance Agreement between the County, Economic Development Authority, and Habitat for Humanity of Greater Charlottesville approved by the Board of Supervisors at its June 19, 2019 meeting. This funding is held in reserve and will be distributed pursuant to the terms of the agreement.

**Appropriation #2023006**

<b>Sources:</b>	Federal Revenue	\$96,261
	State Revenue	\$20,000
	Water Resources Capital Fund's fund Balance	\$32,087
<b>Uses:</b>	Charlottesville & Albemarle Convention and Visitors Bureau (CACVB) Virginia Tourism Corporation (VTC) Destination Marketing Organization (DMO) Marketing Grant	\$20,000
	Capital Project: Building Resilient Infrastructure and Communities (BRIC) Grant Program	\$128,348
<b>Net Change to Appropriated Budget:</b>		\$148,348

**Description:** This request is to appropriate the following grants:

- \$96,261 in Federal revenue for the Building Resilient Infrastructure and Communities (BRIC) Grant Program to support a proposed study of the 770-acre watershed draining to the Branchlands pond on Hillsdale and Greenbrier. This amount, plus a local match of \$32,087 requested for appropriation from the from Water Resources Capital Fund's fund balance will make up the total project amount of \$128,348.
- \$20,000 in State Revenue for the VTC DMO Marketing Grant for the Charlottesville & Albemarle Convention and Visitors Bureau's (CACVB) Historic Vines. New Roots campaign. The focus is on creating awareness of Charlottesville and Albemarle County as a wine destination, especially among a diverse audience. The County serves as the fiscal agent for the CACVB.

Mr. Bowman said this was a public hearing to amend the FY23 budget. He said the most substantial items in terms of dollar amount had already been discussed by the Board. He said the Board had approved actions related to uses of the housing fund, the public safety operations center lease, and the conditional donation and loan request related to North Garden Volunteer Fire Company. He said there were other details in Attachment A on other appropriations. He said he could speak to those items if there were questions. He said staff recommended the Board approve the attached resolution, Attachment B.

Mr. Gallaway clarified that a total of \$6 million would be taken from multiple funds and allocated to the FY23 housing fund. He said the funds were coming from multiple sources.

Mr. Bowman said the \$6 million included a reserve for the performance agreement with the EDA and Habitat for Humanity. He said there were items that the Board had approved at the meeting and during the April meeting. He said the \$6 million was from FY22. He added that in addition to the funds, at the tail end of the FY23 process, the Board added \$700 thousand in funding to the ARPA reserves which was available for future initiatives.

Mr. Gallaway said that got them to the \$400 thousand currently in the housing fund.

Mr. Bowman said the \$400 thousand was left over from FY22, and the \$700 thousand was additional.

Mr. Gallaway said he wanted to clarify that the transfer was not from the housing fund to the housing fund, it included funds from various other sources.

Mr. Bowman said clarification could be provided for the exact dollar amounts of what was restricted and unrestricted.

Ms. McKeel noted that the appropriation included the costs for the J.C. Penney's lease.

Mr. Bowman said that was correct.

Ms. Price opened the public hearing. She noted there were no speakers signed up for comment. She closed the public hearing.

Ms. LaPisto-Kirtley **moved** that the Board adopt the resolution as presented in Attachment B to approve the appropriation for local government and school projects and programs, as described in Attachment A. 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.

**RESOLUTION TO APPROVE  
ADDITIONAL FY 2023 APPROPRIATIONS**

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

- 1) That the FY 23 Budget is amended to increase it by \$9,283,889;
- 2) That Appropriations #2023001; #2023002; #2023003; #2023004; #2023005; and #2023006; are approved;
- 3) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2023.

APP#	Account String	Description	Amount
2023001	3-4600-73000-319000-191100-9999	SA2023001 ARPA Reserve to CACVB	\$750,000.00
2023001	4-4600-73000-481000-379300-1106	SA2023001 ARPA Reserve to CACVB Advertising	\$720,000.00
2023001	4-4600-73000-481000-362000-1106	SA2023001 ARPA Reserve to CACVB Research	\$30,000.00
2023001	4-1000-91000-493000-935200-1106	SA2023001 GF to ARPA Reserve	\$10,000,000.00
2023001	4-1000-31100-431000-119998-1106	SA2023001 Police Lapse to ARPA Reserve	-\$5,000,000.00
2023001	4-1000-33500-432000-119998-1106	SA2023001 FR Lapse to ARPA Reserve	-\$5,000,000.00
2023002	3-9000-69000-352000-510100-9185	SA2023002 SA2023002 Move IAQ from FY 23 to FY 22	\$407,762.00
2023002	3-9000-69970-333000-330001-9185	SA2023002 SA2023002 Move IAQ from FY 23 to FY 22	-\$1,567,762.00
2023002	4-9000-69970-466733-800605-6599	SA2023002 SA2023002 Move IAQ from FY 23 to FY 22	-\$1,160,000.00
2023003	3-1000-99000-352000-510100-9999	SA2023003 Revenue - GF Fund Balance	\$1,235,364.00
2023003	4-1000-34000-432000-560000-7301	SA2023003 North Garden Volunteer Fire Donation	\$585,364.00
2023003	4-1000-34000-432000-591001-7301	SA2023003 North Garden Volunteer Fire Loan	\$650,000.00
2023004	3-9010-99000-352000-510100-9999	SA2023004 Revenue - Capital Fund Balance	\$3,100,000.00
2023004	4-9010-41009-494300-800605-9889	SA2023004 Public Safety Center Capital Upfit	\$3,100,000.00
2023004	4-1000-94000-499000-939997-9999	SA2023004 GF - Space Reserve	-\$558,000.00
2023004	4-1000-41401-443000-540200-7300	SA2023004 Public Safety Ops Center -Lease/Rent - Building	\$525,000.00
2023004	4-1000-41401-443000-331210-7300	SA2023004 Public Safety Ops Center-Building & Facilities Repair	\$4,800.00
2023004	4-1000-41401-443000-331211-7300	SA2023004 Public Safety Ops Center-Building & Facilities Maint	\$4,000.00
2023004	4-1000-41401-443000-331212-7300	SA2023004 Public Safety Ops Center-Custodial Services	\$10,400.00
2023004	4-1000-41401-443000-510121-7300	SA2023004 Public Safety Ops Center-Electrical Services	\$7,000.00
2023004	4-1000-41401-443000-510200-7300	SA2023004 Public Safety Ops Center-Heating Services	\$5,000.00
2023004	4-1000-41401-443000-510300-7300	SA2023004 Public Safety Ops Center-Water & Sewer Services	\$1,800.00
2023005	3-5801-99000-352000-510100-9999	SA2023005	\$5,960,177.00
2023005	4-5801-89000-481000-560000-0057	SA2023005	\$300,000.00
2023005	4-5801-94000-499000-999999-9999	SA2023005	\$3,763,657.00
2023005	4-5801-99000-493000-934001-9999	SA2023005	\$600,000.00
2023005	4-5801-59100-481000-560000-0056	SA2023005	\$421,520.00
2023005	4-5801-59100-481000-560000-1106	SA2023005	\$625,000.00
2023005	4-5801-59100-481000-560000-0058	SA2023005	\$250,000.00
2023005	3-4700-91095-351000-512000-9999	SA2023005	\$600,000.00
2023005	4-4700-91095-491095-560000-0057	SA2023005	\$600,000.00



2023006	3-4608-73000-324000-240500-9999	SA2023006 DMO Historic Vines	\$20,000.00
2023006	4-4608-73000-481000-379300-9999	SA2023006 DMO Historic Vines Advertising	\$20,000.00
2023006	3-9100-41200-333000-330611-9278	SA2023006 VDEM BRIC Grant 97.047	\$96,261.00
2023006	3-9100-99000-352000-510100-9278	SA2023006 Use of FB Code, NEW location BRIC 97.047	\$32,087.00
2023006	4-9100-41200-494800-344400-9278	SA2023006 VDEM BRIC Grant 97.047	\$128,348.00

Agenda Item No. 22. **Public Hearing: Ordinance to Amend County Code Chapter 12, Regulated Enterprises, to Reorganize the Chapter.** To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 12, Regulated Enterprises, by reorganizing and rewriting the chapter, and removing Article 2, Amusements, and Article 5, Taxicabs, as staff now relies on the Virginia Code to enforce provisions related to amusements and taxicabs. The subject matter of proposed Chapter 12 is composed of: Article 1, False Alarms; Article 2, Dealers in Precious Metals; and Article 3, Solicitors and Peddlers.

The Executive Summary as forwarded to the Board states that the Board has directed the County Attorney’s Office to conduct a comprehensive review and recodification of the County Code. Chapter 12 of the County Code regulates false alarms, amusements, dealers in precious metals, solicitors and peddlers, and taxicabs and other vehicles for hire. The most recent amendment to Chapter 12 was the revision of the false alarm provisions in 2015.

The process of recodifying the County Code includes making formatting, style, organizational, and substantive changes. These changes are being addressed at the chapter level before the Board considers adopting a complete, recodified County Code.

The attached proposed Ordinance removes Article 2, Amusements, and Article 5, Taxicabs and Other Vehicles for Hire. These removals reflect that these are outmoded areas of the Code, as staff now relies on the Virginia Code to enforce provisions related to amusements and taxicabs.

Where possible, without changing the underlying substance, staff has included stylistic revisions, eliminating archaic or redundant language, to make the chapter easier to read.

There is no expected budget impact.

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

Mr. Anthony Bessette, Senior Assistant County Attorney, said it had been a while since Chapter 12 had been reviewed. He said much of the language was dated or no longer applied. He said the proposal substantively removed the regulation in the local ordinance of dance halls, bingo halls, and taxi cabs. He said the remaining sections of the chapter were edited and reviewed to make them more readable and understandable to the average citizen.

Ms. LaPisto-Kirtley said she was glad the chapter was reorganized.

Mr. Andrews said he supported the changes. He noted a source of confusion was the references to state code. He asked if those references were linked to code sections on the online versions.

Mr. Bessette said the code sections were not previously linked, but the County now used a service called Municode, which once fully updated included links to the referenced sections in the state code.

Ms. Mallek said she appreciated the improvements. She asked if the change in regulation would have an impact on bingo activities hosted as fundraising events, such as by ACFR.

Mr. Bessette said the reason it did not affect those activities was because charitable activities were not covered by the relevant local or state code sections.

Mr. Gallaway said it was interesting to read old code.

Ms. McKeel noted the County was continuing to address antiquated language.

Ms. Price concurred with Ms. McKeel’s comment. She said it was important that a government organization continually improved the process of updating the regulations so that they did not have antiquated language or provisions that were unlawful as declared by the courts.mu

Ms. Price opened the public hearing. She noted there were no speakers signed up for comment. She closed the public hearing.

Ms. LaPisto-Kirtley **moved** to adopt the attached proposed ordinance as presented in Attachment A. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

**ORDINANCE NO. 22-12(2)**

AN ORDINANCE TO AMEND CHAPTER 12, REGULATED ENTERPRISES, 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 12, Regulated Enterprises, is hereby amended and reordained as follows:

By Amending:

- 12-101 Definitions.
- 12-102 Registration of alarm systems designed to seek a police response.
- 12-103 Maintenance of alarm systems required; disconnection of alarm systems.
- 12-104 False alarms prohibited; service fees.
- 12-105 Deliberate false alarms a criminal offense.
- 12-106 Automatic dialing devices prohibited; penalty.
- 12-108 Appeals.

By Amending and Renumbering:

- 12-200 Definitions.
- 12-201 Permit--Required.
- 12-202 Permit--Procedure for obtaining; term; renewal.
- 12-203 Permit--Nontransferable and to be displayed.
- 12-204 Permit--False statements.
- 12-205 Dealer's bond or letter of credit.
- 12-206 Private action on bond or letter of credit.
- 12-207 Penalties.
- 12-208 Records, copies of bills of sale required; inspection.
- 12-209 Examination of record and property; seizure of stolen property.
- 12-210 Prohibited purchases.
- 12-211 Dealer to retain purchases.
- 12-212 Record of disposition.
- 12-300 Definitions.
- 12-301 Exempt activities.
- 12-302 Registration required.
- 12-303 Permits--standards for issuance or denial.
- 12-304 Permits--Fees.
- 12-305 Prohibited acts.
- 12-306 Penalty.

By Repealing:

- 12-200 Dance hall; defined.
- 12-201 Permits--Required; applications.
- 12-202 Revocation of permit.
- 12-203 Attendance of persons under eighteen years of age.
- 12-204 Exemptions.
- 12-205 Violations; penalties.
- 12-206 Relation of article to zoning ordinance.
- 12-207 Local ordinance adopted.
- 12-208 Limitation on bingo operations.
- 12-209 Exemption.
- 12-500 Definitions.
- 12-501 Registration of vehicles for hire.
- 12-502 Registration of drivers.
- 12-503 Exemptions.
- 12-504 Indemnity bond or liability insurance required.
- 12-505 Cleanliness of vehicles.
- 12-506 Enforcement and penalties.

**CHAPTER 12. REGULATED ENTERPRISES**

**ARTICLE 1. FALSE ALARMS**

**Sec. 12-100 Purpose.**

The Board of Supervisors hereby finds that malfunctioning alarm systems, and the false alarms associated with them, constitute a hazard to public safety personnel and to the public in general. The regulation of alarm systems and false alarms is necessary to promote the health, safety and welfare of County citizens. False alerts of intrusions or robberies increase the County's public safety costs, divert public safety resources from other critical areas of work, and burden the Charlottesville-U.Va.-Albemarle Emergency Communications Center. In order to preserve the integrity and efficiency of the County's police and fire and rescue emergency services, those who utilize automatic alarm systems must be required to maintain those systems in good working order and to promptly repair any defects which may cause those systems to trigger false alarms.

(Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 22-12(1), 3-16-22)

**Sec. 12-101 Definitions.**

For the purposes of this article and, unless otherwise required by the context, the following words and terms shall have the following meanings:

*Alarm system* means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which a police or fire and rescue response is expected.

*Alarm system user* means: (1) any person or entity owning or leasing an alarm system; or (2) any person or entity owning or leasing the premises on which such alarm system is maintained. An “alarm system user” shall not include the United States, the Commonwealth of Virginia, or their respective agencies or political subdivisions.

*Automatic dialing device* means any device, system or equipment that automatically transmits over telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of an emergency situation to which a police, fire, or emergency medical services response is expected.

*Emergency communications center* means the regional 911 center known as the Charlottesville-U.Va.-Albemarle Emergency Communications Center.

*False alarm* means an alarm that causes a police or fire and rescue response when there is no actual or threatened hazard requiring urgent police or fire and rescue attention. False alarms include—negligently or accidentally activated signals; signals that are the result of faulty, malfunctioning or improperly installed or maintained equipment; signals that are purposefully activated to summon a police or fire and rescue response in situations not requiring an immediate police or fire and rescue response; and alarms for which the actual cause is not determined. False alarms shall not include any alarms caused by failure of the equipment at the emergency communications center, any alarms determined by the responding police or fire and rescue officer to have been triggered by criminal activity, or any alarms caused by a disruption of electrical service to the building for four consecutive hours or longer, or damage to the building that would activate the alarm.

(Ord. of 4-17-91; Code 1988, § 2.2-1; Ord. 98-A(1), 8-5-98; § 12-100; Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 15-12(1), 1-7-15; Ord. 22-12(1), 3-16-22)

**State law reference**--Va. Code § 15.2-911

**Sec. 12-102 Registration of alarm systems designed to seek a police response.**

- A. *General requirements.* Before installing, using or maintaining on any premises within the County an alarm system that is designed to seek a police response, an alarm system user shall register such alarm system by providing the following information, using forms provided by the County, to the Chief of Police or his designee:
1. The street address of the premises at which the alarm system is to be installed or used (the “premises”); the name, mailing address and telephone number of the owner and lessee, if any, of such premises; and the name and mailing address of an individual (alarm user or designee of the alarm user) to whom notices regarding the alarm system may be sent; and
  2. The names, street addresses and telephone numbers of at least two individuals who will have day-to-day responsibility for the premises and alarm system, who will be immediately available to be contacted if an alarm is activated, and who are authorized and able to deactivate the alarm system; and
  3. A description of the specific type of alarm system, manufacturer’s name, and the name and telephone number of the alarm company monitoring, responding to or maintaining the alarm system; and
  4. If registering an alarm system that has been disconnected or disabled following a notice to disconnect or disabled issued pursuant to County Code § 12-103, documentation that the alarm system has been repaired or passed inspection by an individual or entity qualified to repair or inspect alarm systems.
- B. *Changes in alarm system registration information.* Whenever any registration information provided by an alarm system user pursuant to subsection (A) changes, the alarm system user shall provide correct, updated information to the Chief of Police within 10 business days of the change. When an individual or entity takes possession of premises equipped with an activated alarm system, the individual or entity must provide updated registration information within 10 business days of taking possession as required by subsection (A).
- C. *Failure to register alarm system.* Upon the first police or fire and rescue response to an unregistered alarm system in response to a signal issued by the alarm system, a written notice shall be issued to the alarm system user that the alarm system must be registered. This notice shall be mailed to the

physical address of the dwelling where the alarm system is located and to the address of the owner listed in the real estate tax assessment records of the County. If the physical address of the alarm system user is the same as the address of the owner listed in the real estate tax assessment records of the County, then only one notice shall be mailed. The alarm system user shall be assessed a service fee in the amount of \$150.00. The fee for the first offense may be waived if the alarm system user files an appeal pursuant to County Code § 12-108, and presents satisfactory evidence that the alarm system has been registered. Upon the second or subsequent police or fire and rescue response caused by an unregistered alarm system, the alarm system user shall be assessed a service fee in the amount of \$150.00.

- D. Registration of an alarm system does not create an obligation upon police or fire and rescue to respond to a notification from that alarm system.

(Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 15-12(1), 1-7-15; Ord. 22-12(1), 3-16-22)

**Sec. 12-103 Maintenance of alarm systems required; disconnection of alarm systems.**

- A. *Maintenance of alarm systems.* Alarm system users shall maintain their alarm systems in good working order. The Chief of Police or the Chief of Fire and Rescue may suspend dispatches to the location of an alarm system after the second false alarm generated within a 24-hour period. The suspension shall last for the following twenty-four hour period.
- B. *Disconnection of alarm systems* Upon notice of a written determination by the Chief of Police or the Chief of Fire and Rescue, that the installation, use, operation, or maintenance of an alarm system would constitute an unreasonable burden on police or fire and rescue resources, that alarm system user shall disable the alarm system. Any alarm system that generates eight or more false alarms within any four day period is deemed an unreasonable burden on police or fire and rescue resources. An alarm system user required to ~~or~~ disable an alarm system may register a new or repaired alarm system, in accordance with County Code § 12-102.

(Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 22-12(1), 3-16-22)

**Sec. 12-104 False alarms prohibited; service fees.**

- A. *Prohibition.* No alarm system user or other person shall activate a false alarm that causes a police or fire and rescue response. Violations of this section shall result in the assessment of service fees as provided below.
- B. *Service fee amounts.* Alarm system users shall pay a service fee for false alarms within 90 days of billing. The service fee shall be assessed for each false alarm during any 12 month period as follows:
1. First false alarm: No charge.
  2. Second false alarm: No charge.
  3. Third false alarm: \$100.00.
  4. Fourth false alarm: \$150.00.
  5. Fifth false alarm: \$200.00.
  6. Sixth and subsequent false alarms: \$300.00.

(Ord. of 4-17-91; Code 1988, § 2.2-4; Ord. 98-A(1), 8-5-98, § 12-101; Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 15-12(1), 1-7-15; Ord. 22-12(1), 3-16-22)

**State law reference**--Va. Code § 15.2-911.

**Sec. 12-105 Deliberate false alarms a criminal offense.**

It shall be a class 1 misdemeanor for any person to knowingly and without just cause to activate a false alarm.

(Ord. of 4-17-91; Code 1988, § 2.2-2; Ord. 98-A(1), 8-5-98, § 12-102; Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 22-12(1), 3-16-22)

**State law reference**--Va. Code § 27-97; false alarms, §18.2-212, 18.2-461

**Sec. 12-106 Automatic dialing devices prohibited; penalty.**

No person or entity shall install, use, or maintain on any premises within the County any device that delivers, or causes to be delivered, any prerecorded voice message or coded signal to the emergency communications center or any department of the County. Violations of this section shall constitute a class 4 misdemeanor.

(Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 22-12(1), 3-16-22)

**Sec. 12-107 Administration.**

The Chief of Police, the Chief of Fire and Rescue, in coordination with the Director of Finance, shall have joint responsibility for administering this article under the supervision of the County Executive.

(Ord. of 4-17-91; Code 1988, § 2.2-5; Ord. 98-A(1), 8-5-98, § 12-104; Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 22-12(1), 3-16-22)

**Sec. 12-108 Appeals.**

Any fee imposed or notice to disable an alarm system under this article may be appealed in writing to the Chief of Police or the Chief of Fire and Rescue, as appropriate, within 30 days after the date of notice. Should the fee or notice be affirmed, the alarm system user may appeal the decision to the County Executive by a written appeal within 30 days of the date of the decision. The decision of the County Executive is final.

(Ord. of 4-17-91; Code 1988, § 2.2-6; Ord. 98-A(1), 8-5-98, § 12-105; Ord. 11-12(2), adopted 8-3-11, effective 11-1-11; Ord. 15-12(1), 1-7-15; Ord. 22-12(1), 3-16-22)

**ARTICLE 2. DEALERS IN PRECIOUS METALS**

**Sec. 12-200 Definitions.**

The definitions in Virginia Code § 54.1-4100 apply to this article.

(11-12-80, § 1; 7-8-81; Code 1988, § 5.1-1; § 12-300, Ord. 98-A(1), 8-5-98; Ord. 11-12(1), 2-2-11; § 12-200, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code §§ 54.1-4100.

**Sec. 12-201 Permit--Required.**

No person shall engage in the activities of a dealer, as defined in Virginia Code § 54.1-4100, without first obtaining a permit from the Chief of Police.

(11-12-80, § 1; 7-8-81; 11-14-84; Code 1988, § 5.1-2; § 12-301, Ord. 98-A(1), 8-5-98; § 12-201, Ord. 22-12(1), 3-16-22)

**State law reference**--Va. Code §§ 54.1-4108, 54-1.4111.

**Sec. 12-202 Permit--Procedure for obtaining; term; renewal.**

To obtain a permit, the dealer shall file with the Chief of Police an application and pay the application fee as required by Virginia Code § 54.1-4108 on the form provided by the Chief of Police.

(11-12-80, § 1; 7-8-81; 11-14-84; 4-13-88; Code 1988, § 5.1-3; § 12-302, Ord. 98-A(1), 8-5-98; Ord. 11-12(1), 2-2-11; § 12-202, Ord. 22-12(1), 3-16-22)

**State law reference**-- Permitting process set out in Va. Code § 54.1-4108.

**Sec. 12-203 Permit--Nontransferable and to be displayed.**

The permit issued under this article is a personal privilege and is not transferable, nor will there be any abatement of the fee for a permit due to the dealer having exercised the privilege for a period of time less than that for which it was granted. The permit must at all times be displayed prominently on the business's premises.

(11-12-80, § 1; 7-8-81; Code 1988, § 5.1-4; § 12-303, Ord. 98-A(1), 8-5-98; § 12-203, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code §§ 54.1-4108(D); 54.1-4111.

**Sec. 12-204 Permit--False statements.**

A permit issued upon an application containing a statement made with knowledge of its falsity is void from its issuance.

(11-12-80, § 1; 7-8-81; § 12-304, Code 1988, § 5.1-5; Ord. 98-A(1), 8-5-98; § 12-204, Ord. 22-12(1), 3-16-22)

**Sec. 12-205 Dealer's bond or letter of credit.**

- A. Before receiving a permit, a dealer shall provide a bond to the County, secured by a corporate surety authorized to do business in the Commonwealth, to be payable to the County in the penal sum of \$10,000.00, and conditioned upon due observance of the terms of this article. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the Commonwealth a letter of credit in favor of the County in the sum of \$10,000.00.
- B. A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location.

(11-12-80, § 1; 7-8-81; Code 1988, § 5.1-11; § 12-305, Ord. 98-A(1), 8-5-98; § 12-205, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code § 54.1-4106.

**Sec. 12-206 Private action on bond or letter of credit.**

Any person aggrieved by a dealer's violation of the provisions of this article may bring

an action for recovery in any court of proper jurisdiction against that dealer and that dealer's surety, provided that recovery against the surety can be only for that amount of the judgment that is unsatisfied by the dealer.

(11-12-80, § 1; 7-8-81; Code 1988, § 5.1-12; § 12-306, Ord. 98-A(1), 8-5-98; § 12-206, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code § 54.1-4107.

**Sec. 12-207 Penalties.**

- A. Any person convicted of violating any of the provisions of this article shall be guilty of a class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense, such person shall be guilty of a class 1 misdemeanor.
- B. Upon the first conviction by any court of a dealer for violation of any provision of this article, the Chief of Police may revoke his permit to engage in business as a dealer for a period of one year from the date the conviction becomes final. Revocation is mandatory for two years from the date that a second conviction becomes final.

(11-12-80, § 1; 7-8-81; 11-14-84; 4-13-88; Code 1988, § 5.1-13; § 12-307, Ord. 98-A(1), 8-5-98; Ord. 11-12(1), 2-2-11; § 12-207, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code § 54.1-4110; as to punishment for class 1 and 2 misdemeanors, see Va. Code § 18.2-11.

**Sec. 12-208 Records, copies of bills of sale required; inspection.**

- A. Every dealer shall keep at the dealer's place of business an accurate and legible record of each purchase of precious metals or gems, security arrangement, or transaction involving the removal of precious metals or gems from any manufacture article not then owned by the dealer. The record of each purchase or security arrangement must be retained by the dealer for not less than 24 months. These records shall set forth the following:
  - 1. A complete description of all precious metals or gems purchased, taken as security or removed from a manufactured article not then owned by the dealer, including the true weight of the precious metals or gems purchased or taken as security and all names, initials, serial numbers or other identifying marks or monograms appearing on each item in question; and
  - 2. The price for each item purchased or taken as security; and
  - 3. The date, time, and place of receiving the items purchased or taken as security; and
  - 4. The full name, residence address, workplace, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, other identifying marks, and legible handwritten signature of the person selling the precious metals or gems; and
  - 5. Verification of the identification by the exhibition of a government-issued identification card, such as a driver's license or military identification card that contains a photograph of the seller and at least one other corroborating piece of identification. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon; and
  - 6. A statement of ownership from the seller; and
  - 7. A digital image of the form of identification used by the person involved in the transaction.
- B. The information required by paragraphs (1) through (5) of subsection (A) shall appear on each bill of sale, the form of which shall be provided by the Chief of Police. One copy of the form must be

retained by the dealer, one copy must be delivered during regular work hours to the Chief of Police at the Chief's office within 24 hours of the purchase or loan or mailed to the Chief of Police within the same 24 hour period, and one copy must be delivered to the seller of the precious metals or gems or to the borrower. If the purchase or loan occurs on a Saturday, Sunday, or recognized holiday, then the delivery or mailing to the Chief of Police shall be made no later than 10:00 A.M. of the next regular workday.

(11-12-80, § 1; 7-8-81; 11-14-84; 4-13-88; Code 1988, §§ 5.1-6, 5.1-7; § 12-308, Ord. 98-A(1), 8-5-98; Ord. 13-12(1), 7-3-13; § 12-208, Ord. 22-12(1), 3-16-22)

**State law reference**--Va. Code § 54.1-4101.

#### **Sec. 12-209 Examination of record and property; seizure of stolen property.**

Each dealer and the dealer's employees shall admit the Chief of Police or any state or federal law enforcement official to the dealer's premises during regular business hours. The dealer and the dealer's employees shall permit the Chief of Police or other law enforcement official to: (i) examine all records required by this article and any article listed in those records which is believed by the officer or official to be missing or stolen; and (ii) search for and take into possession any article known to be missing or believed to be stolen.

(Code 1988, § 5.1-7; § 12-309, Ord. 98-A(1), 8-5-98; § 12-209, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code § 54.1-4101.1.

#### **Sec. 12-210 Prohibited purchases.**

- A. No dealer shall purchase precious metals or gems from any seller who is under the age of 18.
- B. No dealer shall purchase precious metals or gems from any seller whom the dealer believes or has reason to believe is not the owner of the items, unless the seller has written and duly authenticated authorization from the owner permitting and directing their sale.

(11-12-80, § 1; 7-8-81; Code 1988, § 5.1-8; § 12-310, Ord. 98-A(1), 8-5-98; § 12-210, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code § 54.1-4103.

#### **Sec. 12-211 Dealer to retain purchases.**

- A. The dealer shall retain all precious metals or gems in the condition in which purchased for a minimum of 15 calendar days from the time of filing the bill of sale for their purchase with the Chief of Police. During that period of time, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the County.
- B. If a dealer performs the service of removing precious metals and gems, the dealer shall retain the precious metals or gems removed and the article from which the removal was made for a period of 15 calendar days after receiving the article and precious metals or gems.
- C. All items required to be retained hereunder must be retained at the location specified in the dealer's permit application. An agent of the dealer must be readily accessible throughout the applicable retention period to make the retained items available for inspection by the Chief of Police or any state or federal law enforcement official.

(11-12-80, § 1; 7-8-81; 11-14-84; Code 1988, § 5.1-9; § 12-311, Ord. 98-A(1), 8-5-98; Ord. 11-12(1), 2-2-11; Ord. 13-12(1), 7-3-13; § 12-211, Ord. 22-12(1), 3-16-22)

**State law reference**--Similar provisions, Va. Code § 54.1-4104.

#### **Sec. 12-212 Record of disposition.**

Each dealer shall keep and maintain for at least 24 months an accurate and legible record of the name, address, and age of the person to whom the dealer sells any precious metal or gem in its original form after the waiting period required by County Code § 12-211 and shall require that person to verify that information by a government-issued identification card such as a driver's license or military identification card containing a photograph of the person and one other piece of corroborating means of identification. This record shall also show the name and address of the seller from whom the dealer purchased the item.

(11-12-80, § 1; 7-8-81; Code 1988, § 5.1-10; § 12-312, Ord. 98-A(1), 8-5-98; § 12-212, Ord. 22-12(1), 3-16-22)

**State law reference**--Va. Code § 54.1-4105.

### **ARTICLE 3. SOLICITORS AND PEDDLERS**

#### **Sec. 12-300 Definitions.**

For the purpose of this article, the following words and phrases have the following meanings:

*Solicitor* means any individual, whether a resident of the County or not, who goes from door to door visiting single-family or multi-family dwellings, for the purpose of taking or attempting to take orders for sales of goods, wares or merchandise, subscriptions, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. This definition shall include any person who, for himself or for any other person, corporation or organization, hires, leases, uses or occupies any building, structure, lodging house, apartment, shop or any other place within the County for the sole purpose of exhibiting samples and taking orders for future delivery.

*Peddler* means any individual, whether a resident of the County or not, who goes from door to door transporting goods, wares or merchandise, offering and exposing the same for sale, or making sales or delivering articles to purchasers, or who otherwise transports from place to place any goods, wares or merchandise and offers to sell or barter the same, or actually sells or barter the same. This definition incorporates the definition of the term “peddler” provided in Virginia Code § 58.1-3717(A), and the exemptions provided in Virginia Code § 58.1-3717(D), and other sections of the Code of Virginia with reference to peddlers generally.

(§ 12-400, Ord. 98-A(1), 8-5-98; § 12-300, Ord. 22-12(1), 3-16-22)

**Sec. 12-301 Exempt activities.**

Neither the term “solicitor” nor the term “peddler” shall be construed to include the following:

- A. Farmers or traveling gardeners selling, offering for sale or soliciting orders for any products grown, raised or produced by them.
- B. Vendors of milk, butter, eggs, poultry, fish, oysters, game, meat, ice, wood, charcoal, or other family supplies of a perishable nature.
- C. Salespersons or agents for wholesale houses or firms who solicit orders from or sell to retail dealers in the County for resale or other commercial purposes, or to manufacturers for manufacturing or other commercial purposes.
- D. Children 18 years of age or younger, except when they are acting as agents of adults subject to this section.
- E. Route salespersons for laundry, dry cleaning, upholstery cleaning, garment storage, linen supply, towel supply, and diaper services operating from clearly identifiable vehicles, and newspaper delivery persons on a regular route.
- F. Persons who visit the residence or apartment of any person at the request or invitation of the owner or occupant thereof.
- G. Vendors or other persons otherwise licensed by the Commonwealth of Virginia under Title 38.2 of the Virginia Code.
- H. Members of any civic or charitable organization who have an approved means of identification provided by the organization represented.
- I. Persons 18 years of age or less who attend primary or secondary schools in the City of Charlottesville or the County and are soliciting in the furtherance of a school-sponsored activity.

(Code 1988, §§ 17-6, 17-1; § 12-401, Ord. 98-A(1), 8-5-98; § 12-301, Ord. 22-12(1), 3-16-22)

**Sec. 12-302 Registration required.**

All persons, before entering residential premises within the County for the purpose of soliciting or peddling, shall register with the Chief of Police and furnish the Chief with the following information:

- A. The applicant's name, local and permanent addresses, age, weight, height, color of hair and eyes, and any other distinguishing physical characteristics.
- B. The purpose for which solicitations will be made and the nature of the goods, wares, merchandise, or services offered for sale.
- C. The name and permanent address of the employer or organization represented.
- D. A statement as to whether the applicant has been convicted of any felony or misdemeanor, and if so, the nature of the offense, when and where convicted, and the penalty or punishment assessed therefor.
- E. The license plate number of the motor vehicle the applicant will use while soliciting in the County.

(4-13-88; Code 1988, § 17-2; § 12-402, Ord. 98-A(1), 8-5-98; § 12-302, Ord. 22-12(1), 3-16-22)



**Sec. 12-303 Permits; standards for issuance or denial.**

- A. Upon furnishing the information required under County Code § 12-302, and upon proof that the applicant has obtained the appropriate County business license and paid all applicable County business license taxes related to his activities as a solicitor or peddler, the applicant shall be issued a permit unless the Chief of Police finds that:
1. The criminal record of the applicant shows that he or she has been convicted (including pleas of nolo contendere and forfeitures) of a crime involving moral turpitude or of a felony within the past 10 years;
  2. The applicant has been convicted (including pleas of nolo contendere and forfeitures) of more than one misdemeanor, excluding motor vehicle code violations;
  3. The applicant has made a false, fraudulent or misleading material statement in his application;
  4. The applicant has been convicted (including pleas of nolo contendere and forfeitures) of a violation of the laws of any jurisdiction relating to selling, vending, soliciting, peddling or canvassing; or
  5. The applicant has been convicted (including pleas of nolo contendere and forfeitures) of a crime involving a fraud upon any person, whether or not such fraud was perpetrated in the course of his conducting a solicitation activity.
- B. In the event of a denial of a permit, the Chief of Police shall, upon request, serve upon the applicant a written statement of facts and the reasons therefore.
- C. A permit issued under this section shall be valid for one year from the date of issuance, unless earlier revoked for the reasons outlined in paragraphs (1) through (5) of subsection (A), or for any of the reasons outlined as elsewhere provided in this chapter.
- D. Every solicitor or peddler shall carry the permit at all times while engaged in soliciting or peddling and shall display the permit to any person who requests to see the permit while the solicitor or peddler is engaged in soliciting or peddling pursuant to this article.

(4-21-76; Code 1988, § 17-3; § 12-403, Ord. 98-A(1), 8-5-98; § 12-303, Ord. 22-12(1), 3-16-22)

**Sec. 12-304 Permits; fees.**

Each permit applicant shall pay a fee of 10.00 to cover the costs of investigation of the applicant and processing the application. The fee shall be paid to the Chief of Police when the application is filed, and shall not be returnable under any circumstances.

(4-12-89; Code 1988, § 17-4; § 12-404, Ord. 98-A(1), 8-5-98; § 12-304, Ord. 22-12(1), 3-16-22)

**Sec. 12-305 Prohibited acts.**

No person shall:

- A. Enter into or upon a residential premises in the County under false pretenses to solicit for any purpose or for the purpose of soliciting orders or peddling for the sale of goods, wares, merchandise or services.
- B. Remain in or on any residential premises after the owner or occupant has requested any such person to leave.
- C. Enter upon any residential premises for soliciting or peddling when the owner or occupant has displayed a "No Soliciting" sign on such premises.
- D. Engage in the practice of soliciting in the County without a permit as provided for in this chapter.
- E. Knowingly give false information or fail to provide correct information in obtaining a permit.

(Code 1988, § 17-5; § 12-405, Ord. 98-A(1), 8-5-98; § 12-305, Ord. 22-12(1), 3-16-22)

**Sec. 12-306 Penalty.**

Any person who violates a provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished for the first offense by a fine of not less than \$100.00 and not more than \$1,000.00 or by confinement in jail for nor more than six months, or both, and for the second or any subsequent offense by a fine of not less than \$500.00 and not more than \$2,500.00 or by confinement in jail for not more than one year, or both.

**State law references** -- Va. Code §§ 15.2-913, 57-63.

(§ 12-406, Ord. 98-A(1), 8-5-98; § 12-306, Ord. 22-12(1), 3-16-22)

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Agenda Item No. 23. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek requested an update on whether there was a role for the Board to reach out to support staff efforts to address issues with communications agencies.

Ms. Price said that would be left with the County Executive to determine when there would be a quarterly report. She noted the work done through the Albemarle Broadband Authority (ABBA) and the Broadband Affordability and Accessibility Office (BAAO).

Mr. Gallaway said since it was the first meeting after the start of the fiscal year, many of the new positions included in the budget were being advertised. He noted some were to be filled immediately or mid-year. He requested the Board receive an update as to the status of the hiring progress for those approved positions. He said it would be useful information that could be included in the Consent Agenda. He said it would reveal where there was turnover.

Mr. Richardson said it was absolutely an understandable request, especially as they prepared for the fall planning with the CIP and strategic planning. He said this Board had talked about workforce stabilization, and he talked with them earlier in the year when they made the mid-year adjustments in January of this past year, and again in the budget they talked about the challenges they had. He said the Human Resources Director specifically indicated that there were more than 100 vacancies across the organization. He said he would be happy to go back to Human Resources and ask for a reasonable time to get that information to the Board, perhaps in the County Executive's Report so they could see where they were in their efforts.

Mr. Richardson said at the end of last year's budget, they approved positions for mid-year, and they approved positions for July 1, some of which were approved by the Board to be recruited for in July, and some were approved mid-year, which would be January of 2023. He said they would try to figure out a way to report to the Board to see how recruitment retention was going.

Mr. Gallaway said that would be great.

Ms. McKeel said she agreed with Mr. Gallaway completely. She said her memory was that they usually received from HR a report in the fall.

Mr. Richardson said she was referring to the annual report.

Ms. McKeel said yes. She said that talked about a lot of these issues.

Mr. Richardson said that was a great reminder, because they were in the process of moving through the split-apart of the shared services department, so the report in the past was for schools, HR, and the local government HR. He said he would have to speak with the Human Resources Director to ask what the reasonableness given their workload, new employees, and not-yet-fully-developed systems to collect information, what the annual report would look like and when they would get it. He said under the previous director, the report usually came out in the fall or winter.

Ms. McKeel said that report had great information for them on hiring and retention. She said she understood about the separation, but she found some of the school information very informative as to how they were able to retain teachers. She said the thought was that the County government would be getting one this time, but it might be good if some information was received from the School Division.

Mr. Richardson said anything they produced would be information the staff would be happy to share. He said it was an issue about either Board, the School Board or the Board of Supervisors seeing either organization work. He said it was a concern about their workload right now, because it had been a very difficult year to split those services apart given all the work stabilization issues that were occurring as a result of going through a two-year pandemic. He said he would go to them and ask for statistics for the Board, and one of those would be where they stood on recruitment and retention, but in that old report, there were other things in there as well.

Ms. McKeel said for now what Mr. Gallaway was asking for and perhaps a few other highlights that might be needed would suffice for now.

Mr. Richardson said he appreciated the Board's interest as well as their support and past discussions on the understanding of the challenges they continued to face on workforce stabilization. He said there was nowhere where it was not apparent that they were aggressively recruiting, adjusted their hours, or something else specific to workforce stabilization. He said discussed tonight was one of their County parks that was closed and they felt terrible about that, but he was proud of the fact they had been able to maintain the level of service in Parks and Recreation they had been able to maintain given some of the challenge with summer help.

Ms. McKeel said she always found some of the information such as what they were talking about with regards to recruitment and retention informative as they went into the budget cycle, which was

started pretty early.

Mr. Richardson said that was a good point.

Ms. McKeel said she pulled the October 28, 2020 minutes from the Albemarle County Board of Supervisors, City of Charlottesville, and UVA joint meeting. She said she noticed as she was reading it that they did not have embedded in the minutes as was legally required when people arrived or left the meeting, it must be legally notated. She asked that page 8 be amended to add that Mr. Ryan left the meeting at 3:04 p.m. and on page 10 that Ms. Davis left the meeting at 3:18 p.m. She said that completed and made their minutes legal and accurate.

Ms. Price asked what time that meeting started.

Ms. McKeel said she did not know.

Ms. Price said she would check with the Clerk later.

Ms. Price asked with Ms. McKeel's permission that the amendment include the commencement time of that meeting.

Ms. McKeel said it was at 2:00 p.m.

Ms. Price thanked Ms. McKeel. She asked if there was a second to the motion.

Ms. McKeel **moved** the Board adopt the October 28, 2020, minutes as amended. Ms. Mallek **seconded** the motion, which passed unanimously.

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

Ms. Price said that workforce stabilization was an important issue they were dealing with, and she did not know if the pandemic was the catalyst or the straw that broke the camel's back in terms of what everyone around the country was facing with regard to workforce stabilization. She said particularly, she had been looking for and reading information with regard to law enforcement, which was a problem around the country that made it harder for them above the normal extreme difficulty, because everyone else was struggling just as much, meaning that there was no place geographically they could go to find the supply of officers needed.

Ms. Price said Mr. Richardson and his staff were doing everything to close that gap because it was something they had to work on. She said it tied back to their legislative agenda, with things like speed cameras, which was another reason they needed to get back to their legislature to approve things like the increased utilization of technology, because they were going to continue to struggle with personnel availability. She said her remarks applied not only to law enforcement but to every other position in the County.

Ms. LaPisto-Kirtley said Ms. Mallek had mentioned keeping parks and lakes open without lifeguards, which she had asked staff to look into, but her thought was that with only a month left that they had before children went back to school, if they did something like this, which she did not think they had done before, she did not know if the community would be ready in a few weeks' time when they would be notified they were opening up with no lifeguards. She said some parents may not read that and send their kids, so she was concerned about the liability issues, and if they were going to do something like that, staff should take their time and look at it if they continued to have workforce stabilization problems as a possibility for next year to prepare the public. She said for this year, it was too much too soon, and it would be intense to pull this off, because she was not in favor of doing that this year due to the timeline and the liability issues.

Ms. Mallek said that was her intention, as it would be impossible to bring that about in two weeks. She thanked Ms. LaPisto-Kirtley.

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Agenda Item No. 24. Closed Meeting (if needed).

This Closed Meeting was not needed.

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Agenda Item No. 25. Adjourn to August 3, 2022, 1:00 p.m. Lane Auditorium.

At 7:10 p.m., the Board adjourned its meeting to August 3, 2022 at 1:00 p.m. in Lane Auditorium. Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors home page and on the Albemarle County calendar.

Approved by Board
Date 04/17/2024
Initials CKB

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Chair

