

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on November 15, 2023 at 1:00 p.m. in Lane Auditorium on the Second Floor of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, VA 22902.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; County Attorney, Steve Rosenberg; and Clerk, Claudette Borgersen.

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

Ms. Price said Albemarle County Police Officer Andy Muncy and Master Officer Paul Quillian were present at the meeting to provide their services.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price mentioned that Item 8.3 would be removed from the consent agenda. She asked if there were any other amendments to the consent or full agenda. Seeing none, she said the floor was open to a motion.

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

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

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

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

Mr. Andrews stated that many of the Board members were at VACo (Virginia Association of Counties). He said that Ms. McKeel and he had attended an update on the Southwood project in a meeting with the representatives of the Monacan Nation, Chief Diane Shields. He also said that he had been given another tour of Southwood, including a look at the back of the village where there will be a Monacan Indian Nation tribute park. He said that it was particularly nice because it offered a slight elevation overlooking a stream which was located in traditional Monacan hunting grounds. He said that the design of both the village and the tribute park would be determined by the residents as the project progressed.

Mr. Andrews also mentioned that there had been a proclamation on the consent agenda regarding the celebration of National Native American Heritage Month during their previous meeting. He said that because no one was present at that time to receive it, they conducted a more formal presentation at yesterday's meeting, reading the proclamation and handing it over to Chief Diane Shields and the tribal representatives. He said that it was an excellent event.

Mr. Gallaway stated that he would share a few thoughts about attending VACo. He said that he attended three sessions, which were "Behavioral Health Strategies and Solutions for Crisis Care and Criminal Justice Diversion." He said that the session was presented by Jeffrey McKay, Chairman of the Fairfax County Board of Supervisors, and Doug Bilski, Assistant Director for Clinical and Prevention Services in Chesterfield County.

Mr. Gallaway said that their program aligned with crisis intervention strategies, as it aimed to alleviate pressure on calls to the Police Department and reduce the need for local jailing due to mental health or behavioral health crises. He said that he found the strategy and program implemented by Fairfax were proving effective. He said that they had been using an intercept model for some time to help individuals in crisis receive appropriate treatment and services rather than being incarcerated. He found it encouraging to see the economic benefits of this approach, in addition to its moral aspects. He said that one quote that stood out was from Mr. McKay, who emphasized that it was not just a program but an entire ecosystem.

Mr. Gallaway said that considering crisis intervention as an ecosystem rather than a program implemented for individuals was crucial because it demonstrates the entire strategy and how it intertwined between the County Executive's team, the Department of Social Services, the Police Department, emergency medical response teams, ambulance personnel, caregivers, schools, finance teams, and the criminal justice system to make everything function effectively.

Mr. Gallaway said that the other two sessions focused on school state funding and rural economic development. He said that he would not delve into the details of these sessions and would keep to only sharing those key points from the behavioral health session that he attended.

Ms. McKeel stated that many of them attended the Veterans Day program held in the auditorium, which was sponsored by the Charlottesville Albemarle American Legion Post 74. She said that it was a well-attended and great event, and she looked forward to it every year.

Ms. McKeel said that she agreed with Mr. Andrews that the Monacan Indian Nation program yesterday was wonderful, the Southwood celebration in the park. She said that after the tour, they had the opportunity to discuss the next steps for the park. She expressed her gratitude toward Jesse Brookins for his outstanding contribution during the event and acknowledged the other team members who were a part of this work. She said that there were plans to conduct Zoom meetings with representatives from the Monacan Indian Nation to determine their preferences and vision for the park's development. She said that she found this discussion highly beneficial.

Ms. Mallek stated that the breakout sessions at VACo were particularly informative, and she wanted to share a brief report on the three that she attended. She said that recordings of each session would be posted online soon, allowing others to listen and access her notes for further reference. She said that the first session was hosted by Penny Gross and featured David Boliva, a delegate from Northern Virginia, Fairfax, who had also worked with them as a consultant on stormwater issues in the past. She said that they presented an overview of what to expect in the legislature. She said that the session attracted a large audience, all of whom had various questions about different aspects of the environment. She said that it was fascinating to see the level of engagement and interest from everyone present.

Ms. Mallek said that the second session focused on the local government caselaw update, led by Andy McRoberts, whose affiliation she unfortunately did not remember at this time. She said that he provided an update of a dozen cases currently moving through the appellate system, with several of Albemarle County government's coming out on the positive side, while many of the other counties were overturned. She said that he also discussed in detail how this was happening and what the court used to analyze these matters.

Ms. Mallek said that the third one focused on regional transportation authorities and initiatives, which was organized by Bill McCartney. She said that it included Vivian Watts, the delegate from District 39, Kevin Page from Hampton Road's Transportation Accountability, and Chet Parsons, who she believed was either a consultant or state government employee. She said that it was exciting to learn from their accomplishments and how their smaller organization could benefit from their experience. She said that they volunteered to present this information throughout the Commonwealth. She said that she submitted her card to get their locality on the list to receive the presentation.

Ms. LaPisto-Kirtley said that she enjoyed the VACo conference and what they did as Supervisors. She said that each of them went to a different session so they could report back, and a lot of their information would probably be online. She said that she was sending two PowerPoints to the Clerk so she could share them with everybody else and also with the public.

Ms. LaPisto-Kirtley said that two sessions she attended that she really enjoyed were "The State Budget Outlook: Preparing for the Next Biennium" and "Virginia Energy Landscapes." She said that in the first session, they learned about the positive outlook for the state's finances in the upcoming biennium. She said that although revenue-wise, they were not exactly where they were before the pandemic, they were still in a good position. She said that the outlook was better than initially anticipated.

Ms. LaPisto-Kirtley said that the second session focused on energy landscapes in Virginia. She said that this one was truly worrisome because if their Comprehensive Plan designated office, retail, or office space, data centers could come in with as little as 5 to 10 acres. She said that it was very worrisome, which meant that she hoped they would be discussing this hopefully with the Supervisors. She said that instead of having a Comprehensive Plan every five years, they should discuss having a rolling comprehensive plan so that they could actually keep up with things that were coming up that they did not even know about yet.

Ms. LaPisto-Kirtley said that the fact that data centers could come in by right was very worrisome because they used a lot of energy and water. She said that they were working on reducing their consumption, but nevertheless, it was a great big concrete building. She said that those were things that they needed to watch out for, and she would supply the link for that to everyone, her colleagues, and also to the public.

Ms. LaPisto-Kirtley said that she did not attend the Veterans Day event because she was at another event on the same date, held at the Rosenwald School. She said that she felt proud to represent the Board there, and she would share some information that would better help in appreciating the event.

Ms. LaPisto-Kirtley explained that the Rosenwald Rural Schools Initiative was a program specifically designed to address the educational disparities faced by African American children in the segregated South. She said that this initiative emerged from a collaboration between Booker T. Washington, the president of the Tuskegee Institute in Alabama, and Julius Rosenwald, a Chicago businessman and philanthropist who served as the president of Sears and Roebuck Company. The two men developed a matching grant program between 1912 and 1937, starting with the construction of six

schools in Alabama.

Ms. LaPisto-Kirtley said that this sparked an initiative that facilitated the construction of more than 5,300 schools, vocational shops, and teachers' homes across 15 states in the south and southwest. She stated that the buildings were constructed based on modern designs that ensured adequate lighting, ventilation, and sanitation. She said that they had no lights; they required lighting from the outside. She stated that classrooms were required to be fully equipped with books, chairs, desks, blackboards, and other materials to ensure an adequate learning environment. She said that the effort had been called the most important initiative to advance Black education in the early 20th century. She said that she had great pride in attending the event.

Ms. Price said that she wanted to express her gratitude and would like to display a few photographs from recent events. She said that there were four Supervisors present at the VACo conference, which was fortunate as VACo typically only accommodates three, but Supervisor Mallek's position as president allowed them to secure the fourth seat. She said that the displayed images showed Supervisor Mallek assuming the presidency of VACo, representing 95 counties across the state.

Ms. Price proceeded to share several photographs and emphasized their intention to discuss the significance of this achievement for Albemarle County and to honor Ms. Mallek's accomplishments over her 16-year tenure on the Board. She said that as Ms. Mallek prepared to enter her 17th year, she had served in approximately 30 different committees and leadership positions within County, regional, state, and national organizations, such as Albemarle County, the National Association of Counties, the Environmental Protection Agency, and VACo. She said that she served on various committees at VACo, including the Energy Committee and Environmental and Agricultural Committee.

Ms. Price said that Ms. Mallek had also served as a former chair of the board of directors for District 5 for four years and had also held positions in the executive committee for three years and served as president-elect before becoming the current president of VACo. She said that she would provide the Clerk with a list of Ms. Mallek's past positions, along with her remarks upon accepting the role of president at VACo, to be kept in the record for future historians. She said that this achievement was significant, as they should strive to be leaders not only locally and regionally but also throughout the state and the broader region. She commended Ms. Mallek on her work and accomplishments.

Ms. Price asked if there was a consensus from the Board to move the recess for today's meeting from 2:00 p.m., which she found to be early, to 3:45 p.m. She stated that there appeared to be consensus, and the County Attorney confirmed that that was satisfactory.

Ms. Price said that also at VACo, having four representatives allowed each Supervisor to attend a different session. She commented on how well they worked together to ensure that each Supervisor had the opportunity to attend the sessions that were most relevant to them. She said that the collaborative approach they took as a Board was indicative and representative of how they handled everything.

Ms. Price said that she attended the "Federal Funding for Broadband Infrastructure" session but would not cover the details because she sent emails to staff during the meeting about what they needed to do. She said that she also attended "Key Issues and Opportunities in Election Administration." She mentioned that early voting for the Virginia presidential primary would begin on January 22, 2024, and emphasized the need to pay attention to what was happening around the nation. She asked who they would call regarding issues and perspectives in public safety. She said that she had an interesting statistic, which was that in 2012, there were 120,000 volunteers in fire and rescue across the Commonwealth of Virginia. She said that by 2021, the number had decreased to 20,000.

Ms. Price said that the decline from 120,000 to 20,000 had been experienced locally as well as throughout the Commonwealth. She said that this situation reflected the challenges faced by volunteerism in general. She said that in the past, a fire truck might have cost \$300,000, which seemed expensive today, but fire trucks now ranged from \$750,000 to \$1 million. She expressed her gratitude to the County Executive and their Board for their efforts in creating the public safety compensation scale, which had helped them address this issue. She said that in their last class, they had 100 qualified volunteers for a fire and rescue course. She said that the work done for workforce stability was truly remarkable.

Ms. Price expressed her appreciation to Peter Thompson, who was about to retire from the Center. She said that the Center was one of the three major capital improvement projects that the County had funded. She said that she been fortunate enough to attend several events at the Center, and it was a worthwhile investment not only for their seniors but also for their entire community.

Ms. Price said that last week she had the distinct pleasure of accompanying their County Executive, Mr. Richardson, to the University of North Carolina Chapel Hill. She said there he presented to both the MPA (Masters in Public Administration) class and the ICMA (International City/County Administration) fellows.

Ms. Price said that witnessing Mr. Richardson interacting with these students was a thrilling experience, unlike any other she had seen. She said that Mr. Richardson had now directly impacted over 500 MPA students, influencing the quality of service they would provide to their communities. She said that the fellows had secured the prime-time slot on Thursday afternoon, and after a very demanding week, they were leaving on Friday morning. She said Mr. Richardson managed to engage and energize the class. She said that they were honored by his service, which had also honored the region. She expressed her gratitude for that.

Ms. Price said they had already discussed the Veterans Day event, so she would not address it further.

Ms. Price said that last weekend, she had the opportunity to visit the Vinegar Hill Theater and watch Adrenaline. She said that it was an incredible experience. She said that there were 11 teams, each consisting of three producers, who worked together with actors. She said that in a 72-hour period, they were required to develop an idea and a genre for a movie, create a 5- to 10-minute film, and if successful, they would be judged by national judges, who were individuals who had produced first-line movies. She said that if the judges did not approve their idea, they had to restart within the 72-hour timeframe. She said that the movies were exceptional. She said that the winning team consisted of three students from Albemarle County High School, whom she voted for. She said that they did not win the audience's choice award but were selected by professionals. She said that their film was titled "Eviction Notice" and was remarkable. She highly recommended attending Adrenaline at Vinegar Hill next year.

Ms. Price said that two final points she wanted to make were that on December 4, 2023, they would collaborate with the Planning Commission and local developers to discuss housing incentives during an important afternoon meeting. She said that additionally, as Thanksgiving approached, the busiest travel period of the year, she urged everyone to get adequate rest before embarking on their journeys, ensuring a safe holiday experience with family and a timely return.

Ms. McKeel said that she also wanted to thank Ms. Mallek for her work at VACo, and to Mr. Richardson for his contributions.

Agenda Item No. 6. Proclamations and Recognitions.

There were none.

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

Ms. Susan Perry, Scottsville District, said that she would be sharing some concerns and suggestions regarding the jail renovation. She said that with the Board's allotted money, she requested that the Board demand a detailed and itemized contract from the architects and engineers involved in this project. She said that it would enable all stakeholders to make informed decisions about each aspect of the renovation. She said that to meet the needs of the jail, it did not require tens of millions of dollars.

Ms. Perry said that at the October 12 ACRJ (Albemarle County Regional Jail) Board meeting, Superintendent Kumer and ACRJ Board Director Diantha McKeel acknowledged that the primary plans were based on a wish list without any consideration for cost. She said that she was one among the community members present via Zoom during this meeting, along with representatives from Mosley. She said that it was a fun exercise without any basis in reality. She said that the discussion at the Board meeting promised that the community would be involved once the architects and engineers began working on the actual plans.

Ms. Perry said that Superintendent Kumer also stated that the initial estimate of \$49 million was not binding and could potentially be significantly less if the plans were more modest. She said that considering the complexity of the project, she was advocating for an advisory board stakeholder, including former inmates committee, to work with the architects and jail staff for not only transparency but also to add expertise, creative ideas, and practical solutions. She said that this committee could contribute to the stated commitment for community involvement. She said that she believed that creativity was fostered through limits and boundaries.

Ms. Perry said that there were numerous boundaries in the existing building, so creative solutions could be fostered. She said that the plan should also include the use of the wing built in 2000. She said that with the proposed plans, the annual cost to Albemarle for the loans and bonds was \$1 million or more for 27 years. She said that as a community, they must decide their priorities for spending tax dollars. She said that prevention, housing, jobs, education, transportation, childcare, etc., should be their highest priority rather than spending more than necessary on incarceration.

Mr. Doug Earl, Scottsville District, said that last week, in three Michigan cities, which were Kalamazoo, East Lansing, and Royal Oak, the voters approved ranked choice voting (RCV) for their local municipal elections. He said that this marked the 27th consecutive time that RCV had been approved by voters when put to a ballot for municipal elections. He noted that in contrast, Virginia did not offer this option to its voters. He said that local governing boards decided on RCV in Virginia. He said that RCV had a proven track record when put to voters, but there were also instances where elected officials had blocked its implementation. He said that when presented to voters, RCV had won 27 times in a row at the municipal level.

Mr. Earl said that in Albemarle County, most residents were unaware that RCV was an option for them. He said that they had never asked them about their feelings toward it. He said that one year ago, the Board considered RCV. He said that over the past year, there had been consistent progress. He said that the obstacles of software acquisition and implementation have been resolved, and budget funding

has been allocated.

Mr. Earl said that for March of the past year, it was too late to adopt for the 2023 elections. He said that however, those elections were now over successfully, and it was time to become intentional about RCV.

Mr. Earl stated that Virginia law requires that the Board pass a resolution before adopting an RCV ordinance, but it would not make sense to consider a resolution before first knowing how the community felt about RCV. He said that as part of the County's existing Engage Albemarle public affairs program, the Board had the capability and resident expertise to assess public opinion on this issue. He asked the Board to schedule an RCV resolution for the Board in the near future, within the next year.

Mr. Earl asked the Board to announce the opening on the portal of Engage Albemarle, allowing citizens to comment on RCV, either positively or negatively. He said that if the results from the portal were mixed or unenthusiastic, then they should not vote for RCV. He said that as a minimum requirement, they should provide residents with an opportunity to voice their opinions since, by law, only the Board could decide this matter and should be open to public input. He said that residents in the County could not petition for RCV and could not vote for it on a ballot. He said that only this government body had the authority to make this decision for the citizens of Albemarle County.

Mr. John Hall, City resident, said that he was a resident of both the Samuel Miller and Jack Jouett Districts. He said that as people, they split too many hairs governing their country and counties, including the County and regional area around Charlottesville. He said that they were confused as leaders, and their language had become oxymoronic when discussing political issues such as affordable housing, healthcare, taxation, and criminal and civil justice reform. He said that the public was often misunderstood in their approach to the City Council or the Albemarle County Board of Supervisors.

Mr. Hall said that they were gathered there to discuss a financial plan for the Albemarle Charlottesville Regional Jail. He said that he had approached Mr. Martin Kumer, Superintendent of ACRJ, about realizing second chance artisans and farmers in Biscuit Run Park, as well as vegetable gardening there. He said that he would form a 501(c)3 Johnny Angel Network, John Hall Technologies, and Medicine Hall, with a salaried board of directors to accomplish the construction of buildings paid for and financed by Albemarle County government.

Mr. Hall said that Daniel Funk of artisan manufacturing had agreed to serve on his board of directors and oversee the establishment of a government-erected artisan wood shop. He said that Martin Kumer had agreed to serve on his board of directors, acting as superintendent of the ACRJ and reviewing the ACRJ inmate handbook as an editor, with his revisions. He said that along with past supervisor Colonel Ron Matthews, he aimed to achieve his dream and hope during Jim Webb's tenure in Congress when he attempted to bring about criminal justice and jail reform across the nation.

Mr. Harold Folley said he would begin by quoting the Dalai Lama: "The lack of transparency results in distrust and a deep sense of insecurity." He said that he was there to discuss the ACRJ renovation. He said that he had sent out a statement to everyone on the Board, the City Council, and the media. He said that they had been fighting this issue for some time now, and what they had realized was that there have been many changes made to the schedule of the renovation. He said that they were trying to determine what actions they could take to help promote decarceration.

Mr. Folley said that before the pandemic, the population in the jail had been decreasing. He noted that at the same time, as they spoke now, the population continued to decrease even more. He said that he wanted to focus on the need for bringing people together for a task force focused on developing proposals for the new jail renovation. He said that the task force should include reentry groups and individuals who had previously been incarcerated. He said that he hoped that this collaborative effort would result in discussions on how to prevent future incarcerations and to help those re-entering back into society. He expressed his gratitude for the opportunity to speak.

Ms. Ruby Cherian stated that she was a member of the People's Coalition and Jail Committee and was a recent graduate from UVA Law. She asked them to pause the request for funding for the RFP (Request for Proposals) for a couple of reasons, which she would briefly discuss. She said that first, with any expenditure of taxpayer dollars, especially one costing over \$1 million, they needed community engagement and input that had been lacking up until this point. She said that as Mr. Folley mentioned, they required a task force to collaborate with stakeholders in this matter, people who provided care to the jail, family members of those incarcerated, and individuals personally affected by these issues.

Ms. Cherian said that also as Mr. Folley stated, the main reason for requesting this pause was to address the lack of transparency that had occurred up until now. She said that for example, the timeline that was posted on the ACRJ website was altered without any prior notice. She said that ACRJ board meetings were canceled frequently during an essential period to share knowledge with the community and inform people about what was happening. She said that this was particularly concerning as it limited opportunities for individuals to learn more during this critical time when funding requests were being made.

Ms. Cherian said that this money could be allocated toward other resources such as reentry

programs and restorative justice initiatives, which had been supported by Commonwealth Attorneys. She said that they should prioritize investing in housing, and as mentioned previously, addressing the shortage of firefighters. She said there were numerous other areas where this funding could be more effectively utilized rather than building a nicer cage.

Mr. Daniel Funk, Scottsville District, said that for the past 15 years, he had been running an artisan woodshop with his brother. He said that their specialty lay in antique furniture restoration, repairs, and custom one-off new builds. He said that customers who owned antiques requiring cosmetic or structural repair usually contacted them. He said that they collected their pieces, brought them to their studio for assessment, and performed the necessary repairs alongside their small and dedicated team. He said that recently, they had acquired the old Moose Lodge at 3756 Richmond Road as a more permanent workspace.

Mr. Funk said that their intention was to use this building for their woodshop and accommodate a staff of five to seven people. He said that although the building was currently in disrepair, it met their requirements. He said that if they obtained permission to use the space, they would be able to maintain the property and make repairs to the building while providing a much-needed service to the area in terms of artisanal craft and service. He said that he understood that the Board had already approved water hookup, which he believed set a precedent for repairing, maintaining, and making the property usable.

Mr. Funk said that originally, they were attempting to rezone the property, but after consideration, they realized that because of its small size and nature of their operation, they now thought that a text amendment to the current zoning may be more appropriate. He said that he would allow Conor O'Donnell, who had kindly supported their goal and had been working with them managing the day-to-day operation of the business, to speak. He said that Mr. O'Donnell could describe for them the details which they were trying to accomplish.

Mr. Conor O'Donnell, Jack Jouett District, said that the issue at hand was that rezoning to a commercial building would essentially characterize them as a factory, which they were not. He said that if Ms. Price were to leave office and decide to have a custom-made lectern made by someone in Albemarle for her home, it would be difficult to find such an artisan in the area because small-scale artisans could not operate in the Rural Area. He said that they could not find a factory producing this kind of furniture in Charlottesville either. He said their request was for a text amendment to incorporate the definition of artisan manufacturing as a permitted use by special use permit in the Rural Area.

Mr. O'Donnell said that there already existed a definition for artisan manufacturing in the Rio 29 form-based code. He said that if they were operating currently, they would have to be in either commercial or industrial zones. He said that the activities they undertook fell under manufacturing, processing, and assembly. He said that they contacted another individual with whom they collaborate, who ran an upholstery shop, and inquired about their classification. He said that this person was also considered a factory. He said that they attached new fabric to the seat tops and must adhere to specific restrictions for a factory. He said that at present, there was an approved use for gift, craft, and antique shops in Rural Areas under special use permits; however, as previous staff determinations have stated, this did not allow for any form of making or manufacturing.

Mr. O'Donnell said that for example, if he were a pottery artist, he could sell his pottery but would not be permitted to create it there. He said that if someone desired a custom lectern, they would need to locate someone with a home-based workshop or garage in a Rural Area that had the necessary permits, or alternatively, find someone situated in a commercial zone. He said that there was precedent for this. He said that Nelson County and Goochland County also allow for small-scale artisan manufacturing, primarily in Rural Areas.

Mr. O'Donnell said that in the Rio 29 District form-based code, there were some restrictions already laid out. He said that for instance, an artisan manufacturing establishment may not have more than 20 full-time employees. He said that they were asking for this as a special use so that they could impose any desired restrictions on it. He said that it was either the Board of Supervisors or the Planning Commission who could initiate a zoning text amendment. He said that this was their request to the Board to at least inquire with staff to study this matter. He said that they would love for them to initiate it immediately after they left because this was such an excellent idea. He said that taking the next step forward would allow for further education on the matter. He said that he would leave his two pages of information with the Clerk so they could follow up later.

Ms. Lisa Draine stated that she currently lived in the City but had lived in Albemarle County for 10 years and still owned property there. She said that she was speaking to them as a taxpayer in Albemarle County. She said that she was currently serving as a citizen representative to the Albemarle Charlottesville Regional Jail Board from Charlottesville. She said that she had been on the board for approximately two years now. She said that during this time, they had been considering the renovation plan that the Supervisors would hear more about from Superintendent Kumer in a few minutes.

Ms. Draine said that she would like to request that they all exercise careful consideration when allocating this taxpayer money. She said that as they were aware, the renovation would be funded by the three localities, but in the proportions that each locality used the jail. She said that Albemarle County would fund the majority of the project at approximately 41% to 42%. She said that the lion's share of this

money would come from Albemarle County taxpayers.

Ms. Draine said that as a community, they all wanted to prevent incarceration and should consider what created true public safety. She said that supporting people before they enter the criminal legal system was essential for achieving their goal. She said that instead of investing in a building that housed individuals in an inhumane situation, she would encourage the Board to invest in the community by providing solutions that prevented people from entering the carceral system. She said that they knew these were safe, affordable housing, quality education, and healthcare.

Ms. Draine also encouraged the Board to use taxpayer funds to assist individuals who were already within the system but are transitioning out. She said that reentry programs, such as the Fountain Fund, and mental health services like Region Ten, Partner for Mental Health, could benefit from their support. She said that organizations like the Uhuru Foundation and Women's Initiatives would be deserving of their support. She said that in terms of the building itself, considering the decline in the census, before the pandemic there were approximately 450 people at the jail, whereas now it has reduced to around 240 individuals.

Ms. Deirdre Gilmore stated that she was a lifelong resident of Charlottesville. She said that the reason they needed to invest in people in their community and not cages was because of the reasons stated by other people. She said that she was tired but would try to stay focused. She said that she had believed that over half of the individuals going in and out of the criminal justice system were dealing with mental illness but had learned from recent statistics that 90% of those entering the system who suffered from mental health issues.

Ms. Gilmore said that one thing that frustrated her and which she witnessed before coming here was the arrest of a young Black man surrounded by at least seven police officers. She said that this incident reminded her of a time when her family was treated similarly. She said that she did not understand why they had people who sat in high places with no lived experiences making decisions for them, deciding that they should be in prison as if they could do better by them. She said that she would reiterate the point that most of these individuals were suffering from mental illness and abuse.

Ms. Gilmore said that when dealing with people who suffer from mental illness and abuse, they often act in ways that others did not understand. She said that she believed that many of them did understand, but when it was their people, she thought people thought it was fine, and it had been going on for far too long. She said that what they needed to do was invest in clinics, provide affordable housing, and support their teachers while also investing in those who were working with the people in their community.

Ms. Gilmore said that before deciding to imprison individuals, maybe they should experience spending a night in a jail cell. She said that she knew for a fact that they locked people up in jails. She said that someone dear to her had been on lockdown for two weeks, only allowed to come out to shower every three days. She said that this approach was not helpful to them and there must be better ways than building a three-story jail with a fancier gym, or whatever they wanted to call it. She asked them to invest in people, and to look at brown and Black people, who made up the majority of those imprisoned, as humans.

Ms. Rosia Parker said that she was a City resident and also had family in Albemarle County. She said that she had created the PCRB (Police Civilian Review Board) with her people in 2017. She said that she also sat on the Reentry Council and had served on the DMC (Disproportionate Minority Contact). She said that she had sat on many boards dealing with incarceration. She said that she was a mother of a child who had been incarcerated. She said that a majority of her family members had been incarcerated throughout her life. She said that this made her a fighter. She said that she must continually fight for her people who had been traumatized, dehumanized, and desocialized.

Ms. Parker said that they were human beings, and the color of their skin did not make them different from anyone else. She said that if the Supervisors had lived in communities like those they had lived in, where the City and the County had traumatized their people, where there were no funds or resources for them to overcome substance abuse and mental health issues, maybe they would understand. She said that putting their people in cages did not make anything better and made it worse, causing the inmates to become more traumatized. She said that as a member of the Reentry Council, it took them years to come up with solutions and for the jail to agree to help their people before their release.

Ms. Parker said that 30 days was not enough, 60 days was not enough, 90 days was not enough because they were already coming in traumatized. She said that they were traumatized by the police, entering the system, going to jail, and going to the court system. She said that this was not correct for them. She said that not everyone deserved to be in jail. She said that with mental health, Region Ten was not the only solution. She said that other people in the community did the same work, but there was a lot of work to be done.

Ms. Parker said that there were individuals who strived to be politically correct and want to say things that people want to hear, but it was not their opinion or was not what they felt. She said that she was standing before the Board, requesting that they refrain from installing three-story rooms in the jail. She asked what purpose this would serve for their community, as it would only traumatize them more.

She said that they should focus on providing resources within the prison system that offered assistance and proper care to those in need.

Ms. Parker noted that they had homelessness out there, which contributed to their involvement with the criminal justice system; people did not understand them. She said that her people were very misunderstood, and although Caucasians were also present in the jail, Black people significantly outnumbered them. She said that they tirelessly advocated in the City to get people to really understand what it was like to really live in trauma, and there was definitely trauma in Albemarle County.

Agenda Item No. 8. Consent Agenda.

Ms. Price noted that she had pulled Item 8.3 from the consent agenda. She said the floor was open to a motion.

Mr. Andrews **moved** to approve the consent agenda as amended.

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

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

Item No. 8.1. Approval of Minutes: March 30, 2022.

Ms. McKeel had read the minutes of March 30, 2022, and found them to be in order.

By the above-recorded vote, the Board approved the minutes of March 30, 2022.

Item No. 8.2. Thomas Jefferson Soil and Water Conservation District Agreement – ACAP.

The Executive Summary forwarded to the Board states that on September 5, 2019, the County and Thomas Jefferson Soil and Water Conservation District (TJSWCD) entered into a Memorandum of Agreement (MOA) to establish the Albemarle Conservation Assistance Program (ACAP). This program serves as an incentive for County property owners to implement practices that reduce stormwater pollution and/or enhance native wildlife habitat. In each of the first four fiscal years of the program, \$32,000 in County operating funds were appropriated to fund ACAP, with \$5,000 of this annual appropriation assigned by the MOA to support administration by TJSWCD staff. In response to the County's Stream Health Initiative, which called for an increase in ACAP funding, a total of \$45,000 in County operating funds was appropriated for the program in FY 24, with \$8,000 to support TJSWCD administrative costs.

In the summer of 2023, County and TJSWCD staff recognized that the original MOA (Attachment A) would need to be revised to facilitate an increase in funding for the administrative portion of the annual ACAP appropriation. This increase is proportional to the overall increase in ACAP funding that has been appropriated in FY 24. In further reviewing the original MOA, County and TJSWCD staff identified additional changes that should be made to the MOA to improve its clarity and increase accountability (e.g., reporting requirements, and invoicing instructions). Those changes have been incorporated into a new MOA.

There is no budget impact associated with this item. FY 24 funding for ACAP was included in the adopted operating budget in the amount of \$45,000.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the new ACAP agreement (Attachment C) and to authorize the County Executive to execute the Agreement after the agreement is approved as to form and substance by the County Attorney.

By the above-recorded vote, the Board adopted the resolution as presented in Attachment B to approve the new ACAP agreement (Attachment C) and to authorize the County Executive to execute the Agreement after the agreement is approved as to form and substance by the County Attorney:

**RESOLUTION TO APPROVE REVISED AGREEMENT
BETWEEN THE COUNTY OF ALBEMARLE AND
THE THOMAS JEFFERSON SOIL AND WATER CONSERVATION DISTRICT**

WHEREAS, the Board of Supervisors finds it is in the best interest of the County to revise its Agreement with the Thomas Jefferson Soil and Water Conservation District for administration of the Albemarle Conservation Assistance Program.

NOW, THEREFORE, BE IT RESOLVED that, the Board of Supervisors of Albemarle County, Virginia hereby approves the Agreement between the County of Albemarle and the Thomas Jefferson Soil and Water Conservation District and authorizes the County Executive to execute the agreement on behalf of the County after it is approved as to form and substance by the County Attorney.

Item No. 8.3. Biscuit Run Maintenance Facility Design-Build Procurement, ***this item was removed from the consent agenda.***

Item No. 8.4. Renumbering the C-PACE Ordinance.

The Executive Summary forwarded to the Board states that on December 7, 2022, the Board adopted the Commercial Property Assessed Clean Energy (C-PACE) financing program ordinance after a public hearing. The adopted ordinance's numbering in the County Code mistakenly overlapped an existing ordinance, which has prompted staff to request the Board's approval to renumber the C-PACE ordinance.

Staff is requesting that the Board adopt the proposed ordinance (Attachment A), which is solely for administrative purposes to avoid two ordinances having overlapping numbering.

No budgetary impact is anticipated.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A) to renumber the previously adopted ordinance within the County Code.

By the above-recorded vote, the Board adopted the proposed ordinance as presented in Attachment A to renumber the previously adopted ordinance within the County Code:

ORDINANCE NO. 23-15(2)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, 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 15, Taxation, of the Code of the County of Albemarle, Virginia, is hereby renumbered as follows:

By Renumbering:

15-1601 Purpose.

15-1602 Definitions

15-1603 Effective date.

15-1604 C-PACE Program; Eligible Improvements.

15-1605 C-PACE Loan requirements; Program Fees; reporting; Program Administrator; Program Guidelines.

15-1606 Levy of assessment; recordation; priority; amendment; enforcement and collection costs.

15-1607 Role of the County; limitation of liability.

15-1608 Severability.

Chapter 15. Taxation

ARTICLE 16

Article 16 Commercial Property Assessed Clean Energy (C-PACE) Financing Program

Section 15-1601 - Purpose.

The purpose of this chapter is to create the "County of Albemarle Commercial Property Assessed Clean Energy (C-PACE) Financing Program," to operate in coordination with the statewide C-PACE program, all in accordance with Virginia Code § 15.2-958.3 (hereinafter, the "C-PACE Act"). The local and statewide C-PACE programs, working together, will facilitate Loans made by Capital Providers to Property Owners of Eligible Properties to finance Eligible Improvements thereon. Subject to the limitations set forth in this chapter, the C-PACE Act, and other applicable law, each C-PACE Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, will be secured by a voluntary special assessment lien on the Property that is the subject of such Loan.

Section 15-1602 - Definitions.

(a) *Assessment Payment Schedule* means the schedule of installments of C-PACE Payments to be made in the repayment of the C-PACE Loan, which schedule will be attached as Exhibit B to the C-PACE Program Agreement.

(b) *Board of Supervisors* means the Board of Supervisors of the County of Albemarle, Virginia.

(c) *Capital Provider* means (i) a private lending institution that has been approved by the Program Administrator in accordance with the Program Guidelines to originate a C-PACE Loan and the institution's successors and assigns; or (ii) the current holder of a C-PACE Loan.

- (d) *Clerk's Office* means the Office of the Clerk of the Circuit Court of the County of Albemarle, Virginia.
- (e) *Commonwealth* means the Commonwealth of Virginia.
- (f) *County* means the County of Albemarle, Virginia.
- (g) *C-PACE* means Commercial Property Assessed Clean Energy.
- (h) *C-PACE Act* means Virginia's "Commercial Property Assessed Clean Energy (C-PACE) financing programs" law, codified at Virginia Code § 15.2-958.3.
- (i) *C-PACE Amendment* means an amendment of the C-PACE Lien executed by the Capital Provider, the Property Owner, and the Program Manager, as permitted in the C-PACE Documents, which C-PACE Amendment must be recorded in the Clerk's Office to evidence each amendment to the C-PACE Loan and the C-PACE Lien.
- (j) *C-PACE Assignment (CP)* means a written assignment by one Capital Provider to another Capital Provider of the C-PACE Payments and/or C-PACE Lien pursuant to the terms of the assignment document.
- (k) *C-PACE Assignment (Locality)* means a written assignment by the County to the Capital Provider to whom the C-PACE Loan is then due, wherein the County relinquishes and assigns its right to enforce the C-PACE Lien to the Capital Provider, substantially in the form attached as Addendum 1 to the C-PACE Lien Certificate.
- (l) *C-PACE Documents* means the C-PACE Program Agreement, Financing Agreement, C-PACE Lien Certificate, C-PACE Assignment (CP) (if any), C-PACE Assignment (Locality) (if any), C-PACE Amendment (if any), and any other document, agreement, or instrument executed in connection with a C-PACE Loan.
- (m) *C-PACE Lien* or *Lien* means the voluntary special assessment lien levied against the Property as security for the C-PACE Loan.
- (n) *C-PACE Lien Certificate* means the voluntary special assessment lien document duly recorded among the Land Records against an Eligible Property to secure a C-PACE Loan.
- (o) *C-PACE Loan* or *Loan* means a loan from a Capital Provider to finance a Project, in accordance with the Program Guidelines.
- (p) *C-PACE Payment* means the periodic installment payments of the C-PACE Loan by a Property Owner, due and payable to the County or Capital Provider as permitted by the C-PACE Act in such amounts and at such times as described in the Assessment Payment Schedule.
- (q) *C-PACE Program* means the program established by the County through this chapter, in accordance with the C-PACE Act, which in coordination with the Statewide Program facilitates the financing of Eligible Improvements and provides for a C-PACE Lien to be levied and recorded against the Property to secure the C-PACE Loan.
- (r) *C-PACE Program Agreement* means the agreement executed among the Property Owner, the County, the Director of Finance, and the Capital Provider, and their respective successors and assigns, which includes the terms and conditions for participation in the C-PACE Program and the Property Owner's acknowledgment and consent for the County to impose a voluntary special assessment, record a C-PACE Lien Certificate against the Property Owner's Eligible Property and, if the County so determines, assign the rights to enforce the C-PACE Lien and C-PACE Lien Certificate to the Capital Provider (and if so assigned, also a consent of the Director of Finance to such assignment). The C-PACE Program Agreement will be substantially in the form attached hereto as Appendix A.
- (s) *Delinquent Payment* means any C-PACE Payment that was not paid by a Property Owner in accordance with the C-PACE Documents.
- (t) *Director of Finance* means the Director of Finance of the County, who is the official executing the tax collection duties that would otherwise be carried out by a Treasurer.
- (u) *Eligible Improvements* means the initial acquisition and installation of any of the following improvements made to Eligible Properties:
 - (1) Energy efficiency improvements;
 - (2) Water efficiency and safe drinking water improvements;
 - (3) Renewable energy improvements;
 - (4) Resiliency improvements;
 - (5) Stormwater management improvements;

- (6) Environmental remediation improvements; and
- (7) Electric vehicle infrastructure improvements.

Eligible Improvements may be made to both existing Properties and new construction, as further prescribed in this chapter and the Program Guidelines. Eligible Improvements will include types of authorized improvements added by the General Assembly to the C-PACE Act after the date of adoption of this chapter, without need for a conforming amendment of this chapter. In addition to the elaboration on the types of Eligible Improvements provided in Section 15-1504(a), below, a Program Administrator may include definitions, interpretations, and examples of these categories of Eligible Improvements in its Program Guidelines or other administrative documentation.

(v) *Eligible Property or Property* means all assessable commercial real estate located within the County, with all buildings located or to be located thereon, whether vacant or occupied, improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the County, excluding (i) a residential dwelling with fewer than five units, and (ii) a residential condominium as defined in Virginia Code § 55.1-2100. Common areas of real estate owned by a cooperative or a property owners' association described in Virginia Code Title 55.1, Subtitle IV (§ 55.1-1800 et seq.), that have a separate real property tax identification number are Eligible Properties. Eligible Properties will be eligible to participate in the C-PACE Program.

(w) *Financing Agreement* means the written agreement, as may be amended, modified, or supplemented from time to time, between a Property Owner and a Capital Provider, regarding matters related to the extension and repayment of a C-PACE Loan to finance Eligible Improvements. The Financing Agreement may contain any lawful terms agreed to by the Capital Provider and the Property Owner.

(x) *Land Records* means the Land Records of the Clerk's Office.

(y) *Lender Consent* means a written subordination agreement executed by each mortgage or deed of trust lienholder with a lien on the Property that is the subject of a C-PACE Loan, which agreement allows the C-PACE Lien to have senior priority over the mortgage or deed of trust liens.

(z) *Loan Amount* means the original principal amount of a C-PACE Loan.

(aa) *Locality Agreement* means the Virginia Energy – Locality Commercial Property Assessed Clean Energy Agreement between Virginia Energy and the County, pursuant to which the County elects to participate in the Statewide Program. The Locality Agreement will be substantially in the form attached hereto as Exhibit B.

(bb) *Program Administrator* means the private third party retained by Virginia Energy to provide professional services to administer the Statewide Program in accordance with the requirements of the C-PACE Act, this chapter, the Locality Agreement, and the Program Guidelines.

(cc) *Program Fees* means the fees authorized by the C-PACE Act and charged to participating Property Owners to cover the costs to design and administer the Statewide Program, including, without limitation, compensation of the Program Administrator. While Capital Providers are required to service their C-PACE Loans, if a Capital Provider does not do so and the Program Administrator assumes the servicing responsibility and charges a servicing fee, the servicing fee will also be included among the Program Fees.

(dd) *Program Guidelines* means a comprehensive document setting forth the procedures, eligibility rules, restrictions, Program Fees, responsibilities, and other requirements applicable to the governance and administration of the Statewide Program.

(ee) *Program Manager* means the County Executive or such person designated in writing by the County Executive to (i) supervise the County's C-PACE Program and participation in the Statewide Program, (ii) act as liaison with the Program Administrator and (iii) advise the Program Administrator as to who will sign the C-PACE Documents to which the Locality is a party on the Locality's behalf. If the employee of the County who customarily signs agreements for the Locality is not the person designated as Program Manager, then references in this Ordinance and in the C-PACE Documents to the Program Manager signing certain C-PACE Documents on behalf of the Locality will be construed to also authorize such customary signatory for the County to execute such C-PACE Documents.

(ff) *Project* means the construction or installation of Eligible Improvements on Eligible Property.

(gg) *Property Owner* means (i) the Property Owners of Eligible Property who voluntarily obtain a C-PACE Loan from a Capital Provider in accordance with the Program Guidelines; or (ii) a successor in title to the Property Owner.

(hh) *Property Owner Certification* means a notarized certificate from a Property Owner, certifying that (i) the Property Owner is current on payments on Loans secured by a mortgage or deed of trust lien on the Property and on real estate tax payments, (ii) that the Property Owner is not insolvent or in bankruptcy proceedings, and (iii) that the title of the Property is not in dispute, as evidenced by a title report or title insurance commitment from a title insurance company acceptable to the Program Administrator and Capital Provider.

(ii) *Statewide Program* means the statewide C-PACE financing program sponsored by Virginia Energy, established to provide C-PACE Loans to Property Owners in accordance with the C-PACE Act, this chapter, the Locality Agreement, the C-PACE Documents, and the Program Guidelines.

(jj) *Useful Life* means the normal operating life of the fixed asset.

(kk) *Virginia Code or Va. Code* means the Code of Virginia of 1950, as amended.

(ll) *Virginia Energy* means the Virginia Department of Energy.

Sec. 15-1603 - Effective date.

This chapter will become effective immediately following its adoption.

Sec. 15-1604 - C-PACE Program; Eligible Improvements.

(a) *C-PACE Program*. The C-PACE Program will be available throughout the County, provided that the Property Owner, the Property, the proposed Eligible Improvements, the Capital Provider, and the principal contractors all qualify for the Statewide Program. The following types of Eligible Improvements may be financed with a C-PACE Loan:

(1) Energy usage efficiency systems (e.g., high efficiency lighting and building systems, heating, ventilation, and air conditioning (HVAC) upgrades, air duct sealing, high efficiency hot water heating systems, building shell or envelope improvements, reflective roof, cool roof, or green roof systems, and/or weather-stripping), or other capital improvements or systems that result in the reduction of consumption of energy over a baseline established in accordance with the Program Guidelines;

(2) Water usage efficiency and safe drinking water improvements (e.g., recovery, purification, recycling, and other forms of water conservation), or other capital improvements or systems that result in the reduction of consumption of water over a baseline established in accordance with the Program Guidelines;

(3) Renewable energy production facilities (e.g., solar photovoltaic, fiber optic solar, solar thermal, wind, wave and/or tidal energy, biomass, combined heat and power, geothermal and fuel cells), whether attached to a building or sited on the ground, and the storage and/or distribution of the energy produced thereby, whether for use on-site or sale or export to a utility or pursuant to a power purchase agreement with a non-utility purchaser;

(4) Resiliency improvements that increase the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:

- a. Flood mitigation or the mitigation of the impacts of flooding;
- b. Inundation adaptation;
- c. Natural or nature-based features and living shorelines, as defined in Virginia Code § 28.2-104.1;
- d. Enhancement of fire or wind resistance, including but not limited to reinforcement and insulation of a building envelope to reduce the impacts of excessive heat or wind;
- e. Microgrids;
- f. Energy storage; and
- g. Enhancement of the resilience capacity of a natural system, structure, or infrastructure;

(5) Stormwater management improvements that reduce onsite stormwater runoff into a stormwater system, such as reduction in the quantity of impervious surfaces or providing for the onsite filtering of stormwater;

(6) Environmental remediation improvements, including but not limited to:

- a. Improvements that promote indoor air and water quality;
- b. Asbestos remediation;
- c. Lead paint removal; and
- d. Mold remediation;

(7) Soil or groundwater remediation;

(8) Electric vehicle infrastructure improvements, such as charging stations;

(9) Construction, renovation, or retrofitting of a Property directly related to the accomplishment of any purpose listed in subsections (1) – (8) above, whether such Eligible Improvement was erected or installed in or on a building or on the ground; it being the express intention of the County to allow Eligible Improvements that constitute, or are a part of, the construction of a new structure or building to be financed with a C-PACE Loan; and

(10) Any other category of improvement (i) approved by the Program Administrator with the consent of the Program Manager as qualifying for financing under the Statewide Program, in accordance with the C-PACE Act (including amendments thereto that authorize additional types of Eligible Improvements), or (ii) added by the General Assembly to the C-PACE Act after the date of adoption of this chapter, without need for a conforming amendment of this chapter. In addition, a Program Administrator may include in its Program Guidelines or other administrative documentation definitions, interpretations, and examples of these categories of Eligible Improvements.

(b) *Use of C-PACE Loan proceeds.* The proceeds of a C-PACE Loan may be used to pay for the construction, development, and consulting costs directly related to Eligible Improvements, including without limitation, the cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting services (e.g., engineering, energy, financial, and legal), program fees, C-PACE Loan fees, capitalized interest, interest reserves, and C-PACE transaction underwriting and closing costs.

(c) *Program applications; prioritization.* The Program Administrator will make available the Statewide Program's program application process, to provide for the review and approval of proposed Eligible Improvements and C-PACE Documents. Program applications will be processed by the Statewide Program in accordance with the eligibility requirements and procedures set forth in the Program Guidelines.

Section 15-1605 - C-PACE Loan requirements; Program Fees; reporting; Program Administrator; Program Guidelines.

(a) *Source of Loans.* C-PACE Loans will be originated by Capital Providers. The County and/or its respective governmental entities will have no obligation to originate or guarantee any C-PACE Loans.

(b) *C-PACE Loan Amount thresholds.* The minimum Loan Amount that may be financed for each Project is fifty thousand dollars (\$50,000.00). There is no maximum aggregate amount that may be financed with respect to an Eligible Property, except as stipulated in the Program Guidelines. There will be no limit on the total value of all C-PACE Loans issued under the C-PACE Program.

(c) *C-PACE Loan refinancing or reimbursement.* The Program Administrator may approve a Loan application submitted within two years of the County's issuance of a certificate of occupancy or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the County and that such Loan may refinance or reimburse the Property Owner for the total costs of such Eligible Improvements.

(d) *C-PACE Loan interest.* The interest rate of a C-PACE Loan will be as set forth in the C-PACE Documents.

(e) *C-PACE Loan term.* The term of a C-PACE Loan must not exceed the weighted average Useful Life of the Eligible Improvements, as determined by the Program Administrator.

(f) *Apportionment of costs.* All of the costs incidental to the financing, administration, collection, and/or enforcement of the C-PACE Loan must be borne by the Property Owner.

(g) *Financing Agreements.* Capital Providers may use their own Financing Agreements for C-PACE Loans, but the Financing Agreement may not conflict with the provisions of this chapter, the C-PACE Act, or the C-PACE Program Agreement. To the extent of any conflict, this chapter, the C-PACE Act, and the C-PACE Program Agreement will prevail.

(h) *C-PACE Program Agreement.* In order to participate in the C-PACE Program, the Property Owner and the Capital Provider must enter into a C-PACE Program Agreement, which sets forth certain terms and conditions for participation in the C-PACE Program. The Program Manager is authorized to approve the C-PACE Loan and execute the C-PACE Program Agreement on behalf of the County without further action by the Board of Supervisors. The Director of Finance is also authorized to execute the C-PACE Program Agreement without further action by the Board of Supervisors. The C-PACE Program Agreement will be binding upon the parties thereto and their respective successors and assigns until the C-PACE Loan is paid in full. The Program Administrator may modify the C-PACE Program Agreement as necessary to further the Statewide Program's purpose and to encourage Program participation, so long as such modifications do not conflict with the Program Guidelines, this chapter, the Locality Agreement, or the C-PACE Act.

(i) *Repayment of C-PACE Loan; collection of C-PACE Payments.* C-PACE Loans will be repaid by the Property Owner through C-PACE Payments made in the amounts and at such times as set forth in the Assessment Payment Schedule, the C-PACE Documents and Program Guidelines. The Capital Provider will be responsible, subject to and in accordance with the terms of the C-PACE Program Agreement and other C-PACE Documents, for the servicing of the C-PACE Loans and the collection of

C-PACE Payments. If a Capital Provider fails to service a C-PACE Loan, such C-PACE Loan will be serviced by the Program Administrator. Nothing herein will prevent the Capital Provider or the Program Administrator from directly billing and collecting the C-PACE Payments from the Property Owner to the extent permitted by the C-PACE Act or other applicable law. The enforcement of C-PACE Loans and their C-PACE Documents during an event of default thereunder is governed by Section 15-1506(e).

(j) *C-PACE Loan assumed.* A party that acquires a Property that is subject to a C-PACE Lien, whether it obtained ownership of the Property voluntarily or involuntarily, becomes the Property Owner under the C-PACE Documents and, by virtue of the C-PACE Lien running with the land, assumes the obligation to repay all remaining unpaid C-PACE Payments that are due and that accrue during such successor Property Owner's period of ownership. Only the current C-PACE Payment and any Delinquent Payments, together with any penalties, fees and costs of collection, will be payable at the settlement of a Property upon sale or transfer, unless otherwise agreed to by the Capital Provider.

(k) *Transfer of C-PACE Loans.* C-PACE Loans may be transferred, assigned, or sold by a Capital Provider to another Capital Provider at any time until the C-PACE Loan is paid in full provided that the Capital Provider must (i) notify the Property Owner and the Program Administrator of the transfer prior to the billing date of the next C-PACE Payment due (and within 30 days if the C-PACE Loan is serviced by the Program Administrator), (ii) record a C-PACE Assignment (CP) among the Land Records, and (iii) deliver a copy of the recorded C-PACE Assignment (CP) to the Property Owner, the County, and the Program Administrator. Recordation of the C-PACE Assignment (CP) will constitute an assumption by the new Capital Provider of the rights and obligations of the original Capital Provider contained in the C-PACE Documents.

(l) *Program Fees.* The Statewide Program is self-financed through the Program Fees charged to participating Property Owners, together with any funds budgeted by the General Assembly to support the Statewide Program. The Program Fees are established to cover the actual and reasonable costs to design and administer the Statewide Program, including the compensation of a third-party Program Administrator. The amount of the Program Fees will be set forth in the Program Guidelines. Program Fees may be changed by the Program Manager from time to time and will only apply to C-PACE Loans executed after the date the revised fees are adopted.

(m) *Locality Agreement.* The County will opt into the Statewide Program by entering into the Locality Agreement, adopting the Statewide Program as the County's own C-PACE Program. In accordance with the C-PACE Act, opting into the C-PACE Program will not require the County to conduct a competitive procurement process. The Program Manager is authorized to execute the Locality Agreement on behalf of the County without further action by the Board of Supervisors.

(n) *Program Guidelines.* The Program Administrator, under the direction of and in consultation with Virginia Energy, has designed the Program Guidelines to create an open, competitive, and efficient C-PACE Program. The Program Administrator may modify the Program Guidelines from time to time, provided such amendments are (i) consistent with the C-PACE Act and (ii) approved by Virginia Energy before taking effect.

(o) *Indemnification.* The Program Administrator must indemnify, defend, and hold the County harmless against any claim brought against the County or any liability imposed on the County as a result of any action or omission to act by the Program Administrator.

Section 15-1606 - Levy of assessment; recordation; priority; amendment; enforcement and collection costs.

(a) *Levy of voluntary special assessment lien.* Each C-PACE Loan made under the C-PACE Program will be secured by a voluntary special assessment lien (i.e., a C-PACE Lien) levied by the County against each Property benefitting from the Eligible Improvements financed by such C-PACE Loan. The C-PACE Lien will be in the Loan Amount, but will secure not only the principal of the C-PACE Loan, but also all interest, delinquent interest, late fees, penalties, Program Fees, and collection costs (including attorneys' fees and costs) payable in connection therewith.

(b) *Recordation of C-PACE Lien Certificate.* Each C-PACE Lien will be evidenced by a C-PACE Lien Certificate in the Loan Amount, but will also expressly state that it also secures all interest, delinquent interest, late fees, other types of fees, penalties, and collection costs (including attorneys' fees and costs) payable in connection therewith, and a copy of the Assessment Payment Schedule will be attached thereto as an exhibit. The Program Manager is hereby authorized to, and will promptly, execute the C-PACE Lien Certificate on behalf of the County and deliver it to the Capital Provider, without any further action by the Board of Supervisors. Upon the full execution of the C-PACE Documents and funding of the C-PACE Loan, the Capital Provider must record the C-PACE Lien Certificate in the Land Records.

(c) *Priority.* The C-PACE Lien will have the same priority as a real property tax lien against real property, except that it will have priority over any previously recorded mortgage or deed of trust lien on the Property only if prior to the recording of the C-PACE Lien:

- (i) the Property Owner has obtained a written Lender Consent, in a form and substance acceptable to the holder of such prior mortgage or deed of trust in its sole and exclusive discretion, executed by such lienholder and recorded with the C-PACE Lien Certificate in the Land Records; and

- (ii) prior to the recording of the C-PACE Lien Certificate, the Property Owner has delivered an executed Property Owner Certification to the County in connection with the C-PACE Loan closing.

Only the current C-PACE Payment and any Delinquent Payments will constitute a first lien on the Property. The C-PACE Lien will run with the land and that portion of the C-PACE Lien under the C-PACE Program Agreement that has not yet become due will not be eliminated by foreclosure of a real property tax lien.

(d) *Amendment of lien.* Upon written request by a Capital Provider in accordance with the Program Guidelines, the Program Manager, without any further action by the Board of Supervisors, will join with the Capital Provider and the Property Owner in executing a C-PACE Amendment of the C-PACE Loan and the C-PACE Lien after the closing of a C-PACE Loan. The C-PACE Amendment must be recorded in the Land Records.

(e) *Enforcement and collection costs.* In the event of Property Owner's default under the terms of the C-PACE Documents, the County, acting by and through the Director of Finance, may enforce the C-PACE Lien for the amount of the Delinquent Payments, late fees, penalties, interest, and any costs of collection in the same manner that a property tax lien against real property may be enforced under Title 58.1, Chapter 39, Article 4 of the Virginia Code. If the County elects not to enforce the C-PACE Lien, which election will be made within 30 days of receipt by the County from the Capital Provider of notice of the Property Owner's default under the terms of the C-PACE Documents, then the County, acting by and through the Director of Finance, will, within 15 days of the County's determination not to enforce the C-PACE Lien, assign the right to enforce the C-PACE Lien in accordance with the terms of the C-PACE Documents to the Capital Provider by executing a C-PACE Assignment (Locality) and delivering such instrument to the Capital Provider for recordation in the Land Records. The preceding sentence notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded at any time during the term of the C-PACE Loan, including at the C-PACE Loan's closing, regardless of whether the C-PACE Loan is then in default. Upon such assignment and recordation, the Capital Provider is authorized to, and will, enforce the C-PACE Lien according to the terms of the C-PACE Documents, in the same manner that a property tax lien against real property may be enforced under Title 58.1, Chapter 39 of the Virginia Code, including the institution of suit in the name of the County and its Director of Finance, and this right to enforce expressly includes authorization for the Capital Provider to engage legal counsel to advise the Capital Provider and conduct all aspects of such enforcement. Such legal counsel, being authorized to institute suit in the name of the County and its Director of Finance, will have the status of "Special Counsel to the County and its Director of Finance" and an "attorney employed by the governing body," and possess all the rights and powers of an attorney employed under Virginia Code § 58.1-3966 and § 58.1-3969, with the express authority to exercise for the benefit of the Capital Provider every power granted to a local government and/or its Director of Finance and its or their attorneys for the enforcement of a property tax lien under, or in connection with, any provision contained in Title 58.1, Chapter 39, Article 4 of the Virginia Code. The County, on its behalf and on behalf of the Director of Finance, waives its right to require such legal counsel to post the optional bond described in Virginia Code § 58.1-3966. All collection and enforcement costs and expenses (including legal fees and costs), interest, late fees, other types of fees, and penalties charged by the County or Capital Provider, as applicable and consistent with the C-PACE Act and the Virginia Code, will (i) be added to the Delinquent Payments being collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Loan, and (iv) be secured by the C-PACE Lien. Nothing herein will prevent the Capital Provider to which the C-PACE Lien has been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE Documents, the C-PACE Act or general law. The Property Owner of a Property being sold to pay Delinquent Payments, or other interested party, may redeem the Property at any time prior to the Property's sale, in accordance with Virginia Code § 58.1-3974 and § 58.1-3975.

Section 15-1607 - Role of the County; limitation of liability.

Property Owners and Capital Providers participate in the C-PACE Program and the Statewide Program at their own risk. By executing the C-PACE Documents, including the C-PACE Program Agreement, or by otherwise participating in the C-PACE Program and the Statewide Program, the Property Owner, Capital Provider, contractor, or other party or participant acknowledge and agree, for the benefit of the County and as a condition of participation in the C-PACE Program and the Statewide Program, that:

- (i) The County undertakes no obligations under the C-PACE Program and the Statewide Program except as expressly stated herein or in the C-PACE Program Agreement;
- (ii) In the event of a default by a Property Owner, the County has no obligation to use County funds to make C-PACE Payments to any Capital Provider including, without limitation, any fees, expenses, and other charges and penalties, pursuant to a Financing Agreement between the Property Owner and Capital Provider;
- (iii) No C-PACE Loan, C-PACE Payment, C-PACE Lien, or other obligation arising from any C-PACE Document, the C-PACE Act, or this chapter will be backed by the credit of the County, the Commonwealth, or its political subdivisions, including, without limitation, County taxes or other County funds;
- (iv) No C-PACE Loan, C-PACE Payment, C-PACE Lien or other obligation arising from any C-PACE Document, the C-PACE Act, or this chapter will constitute an indebtedness of the County within the meaning of any constitutional or statutory debt limitation or restriction;
- (v) The County has not made any representations or warranties, financial or otherwise, concerning a Property Owner, Eligible Property, Project, Capital Provider, or C-PACE Loan;

- (vi) The County makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or completeness of any C-PACE Document, or any assignment or amendment thereof;
- (vii) The County assumes no responsibility or liability in regard to any Project, or the planning, construction, or operation thereof;
- (viii) Each Property Owner or Capital Provider must, upon request, provide the County with any information associated with a Project or a C-PACE Loan that is reasonably necessary to confirm that the Project or C-PACE Loan satisfies the requirements of the Program Guidelines; and
- (ix) Each Property Owner, Capital Provider, or other participant under the C-PACE Program, must comply with all applicable requirements of the Program Guidelines.

Section 15-1608 - Severability.

As provided by Section 1-104 of the Code of the County, the provisions of this chapter are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid, or that the application of any part of the chapter or provision to any person or circumstance is invalid, the remaining provisions of this chapter will not be affected by that decision and continue in full force and effect.

(Ord. 22-15(8), 12-7-23; Ord. 23-15(2), 11-1-23)

State Law reference – Va. Code § 15.2-958.3

This ordinance is effective immediately.

Item No. 8.5. SE202300028 Mechums Trestle Parking Special Exception.

The Executive Summary forwarded to the Board states that the applicant requests a special exception to reduce the minimum number of parking spaces otherwise required by County Code § 18-4.12.6, which requires restaurant uses to provide 13 parking spaces per 1,000 square feet of gross floor area. This special exception request is pursuant to County Code § 18-4.12.2(c), which permits modifications to certain parking requirements. The applicant requests a special exception to provide 51 spaces rather than the required 59 spaces. The reduction request is based on an analysis of parking requirements of similar jurisdictions. Staff has also compared that information to the Institute of Transportation Engineers (ITE) trip generation data for restaurants of the same size, which require fewer spaces than the current County Code requires. The applicant has also indicated site constraints hinder adding more parking spaces to the site. (Attachment A).

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve the proposed special exception.

By the above-recorded vote, the Board adopted the resolution as presented in Attachment C to approve the proposed special exception:

**RESOLUTION TO APPROVE
SE202300028 MECHUMS TRESTLE PARKING**

BE IT RESOLVED that, upon consideration of the staff reports prepared in conjunction with SE202300028 and the attachments thereto, including staff's supporting analysis, all of the comments received, and all of the relevant factors in Albemarle County Code §§ 18-4.12.6, 18-4.12.2(c), and 18-33.9, the Albemarle County Board of Supervisors hereby finds that the public health, safety or welfare would be equally or better served by the proposed modification and that the proposed modification would not otherwise be contrary to the purpose and intent of the Zoning Ordinance.

WHEREUPON, the Albemarle County Board of Supervisors hereby approves SE202300028 Mechums Trestle Parking to modify Albemarle County Code § 18-4.12.6 to reduce the total required parking spaces from 59 to 51 parking spaces for a restaurant use on Parcel 05700-00-00-031A0.

Item No. 8.6. AC44 Phase 2: Draft Goals and Objectives, **was received for information.**

Item No. 8.7. FY 24 First Quarter Financial Report, **was received for information.**

Item No. 8.8. VDOT Monthly Report (October) 2023, **was received for information.**

Agenda Item No. 9. **Action Item:** Albemarle-Charlottesville Regional Jail (ACRJ) Renovation Project Interim Financing.

The Executive Summary forwarded to the Board states that the Albemarle-Charlottesville Regional Jail (ACRJ) Board Authority became aware of deficiencies in the regional jail facility, including Americans with Disabilities Act (ADA) non-compliance, antiquated design, lack of special management

unit and lack of proper visitation area, deferred building systems maintenance (HVAC and proper ventilation and air filtration system, plumbing and electrical) and other issues with the facilities infrastructure, and in 2021 engaged in a Community Based Corrections Plan (CBCP) to understand the long-term facility needs of the regional jail. A CBCP study is also required in order to request 25% reimbursement from the General Assembly for capital improvements.

The CBCP determined there was no need to increase the facilities operating capacity of 329 and provided a roadmap for meeting the programming needs for the facility. After meeting with jail staff, the community and stakeholders, a plan to address the above items was submitted to and approved by the Board Authority for final submission to the General Assembly for consideration of 25% reimbursement. The Board Authority was notified in September 2023 that the reimbursement request had been approved by the General Assembly.

At the Board of Supervisors' February 15, 2023 meeting, Superintendent Martin Kumer and Davenport & Company, Financial Advisor to the Albemarle-Charlottesville Regional Jail Authority, presented the interim finance plan for the Jail renovation and the projected budgetary/cash flow impact to each Member Jurisdiction.

Now that the General Assembly approved budget includes the 25% reimbursement as requested by the Jail Board Authority, it is timely to engage the ACRJ member jurisdictions to consider the interim financing strategy. The strategy was previously proposed by Davenport and Company, ACRJ's financial advisors, at the January 23, 2023, Board of Supervisors meeting. The interim funding will be used to procure architecture and engineering services to develop a final design. If approved, the debt will be issued by the Jail Board Authority and debt service will be provided by each jurisdiction based on inmate share.

The selected architecture and engineering firm will engage with and seek input from all stakeholders to include the general public to determine final design. The Jail Board Authority will approve the final design. The approved design will be bid in order to determine the cost of the project. Once the total cost is known, the permanent financing strategy will be presented to all jurisdictions governing bodies for consideration.

The County's share of future costs are included in the supporting documentation and were included in the FY 24 budget. The Jail Board Authority's FY 24 budget already includes the County's projected interest share (Attachment A).

ACRJ recommends that the Board approve the Resolution (Attachment B).

Mr. Jacob Sumner, Interim Chief Financial Officer, stated that the primary focus of today's presentation would be the finance plan for the jail renovation project. He said that in January of this year, Colonel Kumer had presented before the Board discussing the plan for this project. He said that today's meeting marked the next step and phase of that project.

Mr. Sumner noted that Courtney Rogers was present with Davenport, who served as the financial advisor for the County. He clarified that during this meeting, Mr. Rogers represented the jail in his capacity as a financial advisor.

Colonel Martin Kumer, Superintendent of Albemarle Charlottesville Regional Jail (ACRJ), stated that he was before the Board to seek approval for a resolution to obtain interim funding. He said that the interim funding would be used for architectural and engineering services. He emphasized that all parties had agreed that there needed to be some type of renovation at the jail. He said that the scope of work was currently in question within the community and among those present.

Mr. Kumer explained that the interim financing would help hire an architectural firm to come and work with the community through community engagement sessions to determine the ultimate scope of work. He added that it was included in the contract with the A&E firm to carry out this process, requiring them to hold public sessions with community members to engage, seek feedback, and input as to what the jail would look like and what the scope of work would entail. He said that without that information, they had no idea what the final cost would be or what it would look like.

Mr. Kumer said that once that was done, three versions of the scope of work or the renovation would be submitted. He said that the community would then review all three options, and then the Board would make the final decision as to which scope of work would be pursued. He said that once that was determined, they would put it up for bid for project contractors, determining the final cost. He said that at that point, he would return to each of the three jurisdictions with the final cost to build using the selected design and would seek a resolution to move forward with permanent construction financing.

Mr. Kumer said that over the past couple of years, several things had been discussed was the need for the renovation. He said that one was to work with individuals and provide services for people suffering from mental illness. He said that a significant portion of individuals in jails nationwide suffered from mental illness, with the majority experiencing mild to moderate mental health issues. He said that those with extreme mental illnesses were treatable in other hospitals or settings. He said that for those who ended up in jail and were beyond his control, deserved a space and resources to address their mental health issues so that when they released them back into the community, they would be better off. He said that currently, they lacked such facilities.

Mr. Kumer said that the air quality in that particular facility was poor; it was not filtered, conditioned, or properly heated. He said that he was referring to the older section from 1974. He said that over the past 50 years, the facility had been occupied 24/7, 365 days a year, with people living and working there. He said that the occupancy had exceeded its rated capacity, making the building three times older in terms of its wear and tear compared to a normal 50-year-old office building, which was occupied for 40 hours per week. He said that it was time for a renovation to some extent.

Mr. Kumer said that it was not just for him, not just for his staff, not just for the inmates, but also for the family and friends and people who visited that jail. He said that they deserved a safe, conducive environment that was more efficient to operate and was more comfortable for everyone who worked there. He said they needed community input. He said that he did not have all the ideas or solutions and needed community input to make that happen. He said that this interim financing would make that process possible.

Mr. Courtney Rogers from Davenport and Company stated that he served as the County's financial advisor but was actually present today on behalf of the Jail Board. He said that he would like to mention briefly that they had successfully closed on the financing that morning. He gave his congratulations and stated that the funds were now in the bank, allowing them to proceed with some much-needed County projects.

Mr. Rogers said that they were there today to discuss the Jail. He said that members of the Board may recall his previous presentation to them before, when they were aware of the situation with the General Assembly. He said that their schedule was affected by the budget process of the General Assembly, and it had been delayed. He said that they were now there with a revised schedule. He said that he would go over some key points to refresh their memory and for those in the public who may not have attended that meeting.

Mr. Rogers said that the process was quite unusual and different from what they recently experienced together. He said that there were two parts to consider: interim financing and permanent financing approval. He explained that they sought permission to proceed with interim financing to fund the A&E design of the facility, which would provide a more permanent number upon completion and allow them to bid it out. He said that after obtaining that number, they would return for permanent financing approval.

Mr. Rogers said that in today's world, the state reimbursed up to 25% for eligible costs, and that was what they went to the General Assembly for. He said that to achieve this, the authority needed to undertake a community-based corrections plan and planning study. He said that they completed it and submitted it to the Board of Local and Regional Jails, which accepted it. He said that then, they forwarded it into the General Assembly's queue, where it was approved during the budget process. He said that as a result, they received their 25% reimbursement for eligible costs. He said that they were unsure about the exact eligible cost since they did not have the final numbers yet; however, they had made some assumptions in today's presentation.

Mr. Rogers said that now that it had been approved, they proceeded with interim financing, which was why they were there today. He said that the interim financing would take them to the point of getting design. He said that they had completed the bidding process and selected a firm. He said that they knew that number and would discuss this amount shortly. He said that once they had the state budget approval, they needed to determine what they would borrow funds for and what the amount would be. He said that they had this information, they would proceed with the next step in the process.

Mr. Rogers said that in part two, they would address permanent financing as well as a grant anticipation note, which covered approximately 25% of the project cost. He explained that the state did not provide funding upfront; instead, they must borrow the required amount. He said that after finalization, the state reimbursed them for the borrowed funds. He said that the grant anticipation note would be paid off with this reimbursement.

Mr. Rogers said that their current assumptions regarding the project cost were \$49 million. He said that it was estimated that \$48 million of this total would be eligible for state reimbursement, leaving approximately \$12 million that would be reimbursed by the state. He said that consequently, the total amount to be borrowed was roughly \$37 million.

Mr. Rogers said that they had updated since they last spoke about the estimates, breaking them down by jurisdictions. He said that Albemarle's number had decreased, Charlottesville's number had actually decreased, and then Nelson's increased slightly.

Mr. Rogers said that the amount they were looking to borrow for the interim piece was \$4.1 million, with an estimated interest rate of around 4.5%. He said that they would do a term of 18 months, which they believed was sufficient to complete this process while allowing some cushion in case of delays. He said that this debt would be paid off approximately in the spring of 2025.

Mr. Rogers said that as they reviewed the schedule, they could see the checkmarks on the slide indicating that they had completed the first four items. He said that they had decided to expedite these tasks due to the holidays and the two weeks they lost during that time. He said that they sent out the RFP to give the banks time to review it. He said that if any or all of the localities declined participation, there would be no cost; they would simply inform the banks that the project was not proceeding. He said that

they felt it necessary to send the RFP, keeping everyone informed about its release.

Mr. Rogers said that they needed permission from all three localities involved in the financing process. He said that to obtain this approval, he planned to present the proposal at Nelson County and the City of Charlottesville. He said that they were looking to receive responses by early December. He said that this would allow time to review them and take any questions back to the banks, and returning to the authority board for a final decision on selecting a financial partner and determining the interest rate. He reiterated that the goal was to get closed by the year's end.

Mr. Rogers said that in part two of this report, they presented numerical data that had not changed materially from what they saw last time. He said that the estimated GAN (Grant Anticipation Note) was \$14.4 million, which higher than the \$12 million due to the inclusion of interest. He said that the state did reimburse a portion of this interest. He said that they used an interest rate of 4.5% for a three-year term. He said that for long-term financing, they applied a 5.5% takeout interest rate over a 27-year period. He said that the initial years would be interest-only, followed by 25 years of level debt service.

Mr. Rogers said that examining the timeline, it was projected that construction completion and state repayment of the GAN would occur in 2027. He said that it would be roughly two years of construction.

Mr. Rogers said that next he would present the debt service schedule, which had been seen before. He said that on the left side of the chart, the first column displayed the projected debt service for the BAN (Bond Anticipation Note). He said that the GAN paid by the state was in column B. He said that the third column showed the debt service on the bonds themselves. He said that the last three columns showed allocations among the three jurisdictions, with the County's percentage decreasing to 45.4%. He said that this number changed year to year, but that was the number they were working with.

Mr. Andrews asked if half of the interest costs were covered by the state for the GAN.

Mr. Rogers said yes, on the GAN it was half of the interest cost. He said that column B displayed the other half they would have to cover.

Mr. Gallaway stated that the information had remained consistent with what they had received over the past three years that it had been presented before the Board, so he had no questions at this time.

Ms. McKeel asked if Mr. Kumer could clarify the amount of money that had been arrived at. She said that a public speaker had referenced a wish list, and Mr. Kumer could potentially explain that.

Mr. Kumer said that in order to seek a 25% reimbursement from the state, they must conduct a community-based corrections plan (CBCP). He said that they had hired Mosaic Architects to do so. He said that they assessed two parts of the plan. He said that the first was to determine whether additional beds were needed, and the answer was no. He said that this demonstrated the effectiveness of this community and its collaborators, including local prosecutors, defense, courts, police, and reentry services. He said that no new beds would be added, and the Board of Local Regional Jail found this refreshing, as they were not asked for more beds but to improve their facilities' conditions. He said that this was one aspect that may have helped get the reimbursement approval.

Mr. Kumer said that they had held a community meeting during COVID, which was conducted virtually via Zoom; however, attendance was poor. He said that he was certain that COVID had a significant impact on the situation. He said that public engagement was sought multiple times. He said that from this public engagement, they met not only with the general public but also with all stakeholders, including law enforcement, courts, sheriff's department, service providers, probation, and parole.

Mr. Kumer said that they received feedback on what improvements were needed in the facility to meet their needs. He said that a list was compiled, which included some wishes such as outdoor recreation, skylights, a garden, and bike racks. He said that the architects took these suggestions into account when designing the facility, ensuring it met the results of the CBCP. He said that an estimate was also provided so that the authority knew how much they would be responsible for reimbursing.

Mr. Kumer said that they came up with a design that implemented everything discussed to meet the needs of the community, stakeholders, his staff, and what they saw the facility needed in terms of mechanicals, changes to the building to bring it to code, ADA (Americans with Disabilities Act) compliance, new Department of Correction Standards, number of toilets and showers per individual. He said that the estimated cost was \$49 million. He said that they submitted that to the state, which reimbursed them 25%. He said that while they could always go back and ask for less money from the state without objection, they could not ask for more. He said that therefore, they put the maximum amount they would be seeking in their original proposal, which was \$49 million.

Ms. McKeel asked if Mr. Kumer could address the public comments regarding a task force to talk to inmates and staff regarding the renovation project. She asked if he could discuss what the public engagement process would look like.

Mr. Kumer said that he had heard that from the community for two years now. He said that in order to make that happen at that table, they had to have architects, engineers, and experts for public engagement and to listen to input, then to respond regarding which ideas would be feasible or would be

required by code or not allowed because of code. He emphasized that the person must be at the table to make that happen. He said that interim funding would be used to hire architects primarily, with a contract specifying there shall be active community engagement, requiring that they seek input on priorities and preferences, with costs associated accordingly.

Mr. Kumer said that it was difficult to provide itemized costs initially but that they would present three individual plans with total estimated costs for each. He said that after further community engagement, all three plans would be presented to the ACRJ Board for a final decision. He said that the selected plan would then go out to bid, and the actual cost would be known at that time. He said that he would return before the Board of Supervisors to seek the full amount.

Ms. Mallek said that she had reviewed the report and found her tour of the facilities very beneficial, so she had no questions.

Ms. LaPisto-Kirtley said that what was proposed seemed to involve not only renovation and updating of the jail facility but also addressed moderate and medium mental health issues since serious mental health issues were handled by other facilities, as mentioned. She asked how they planned to separate hardened or criminal individuals from those with mild mental health issues during this renovation process. She said that it was important so that they did not become further entrenched in criminal behavior and suffer due to being around people who did not care about them, because they were in jail for a reason. She emphasized that the individuals with mild mental health issues should not be exposed. She asked if this was being addressed or how they thought about the mental health issue.

Mr. Kumer said that in 1974, it was evident that mental illness in jails was not a priority for anyone. He said that the old part of the jail had no space designed to accommodate individuals suffering from mental illness. He said that the 2000 edition failed to address this issue; it only aimed to add more bed spaces for minimum to medium custody inmates without considering those with mental health issues. He said that the proposal that had been presented to the state included two floors, and there had never been three floors. He said that the second floor would focus on providing a safe environment that would be conducive to the mental health of individuals with mental illness by incorporating trauma-informed design.

Mr. Kumer said that it would allow them to stabilize if they had been off their medication in a quiet environment with natural sunlight, sound-deadened materials, and increased staff observation from the medical department's mental health staff. He said that the mental health staff was available as needed. He said that he had two full-time mental health nurse practitioners and a part-time one as well. He said that he could treat them, but needed an environment to keep them stable, helping them maintain their health. He said that it was one thing to provide medication, but to keep them in an environment as it currently existed, a situation could deteriorate rapidly.

Mr. Kumer said that people with mental illness would be better treated in the community, but if they came to his jail, which he had no control over, he had an obligation to do the best he could to treat them while they were there until their release. He said that this new addition, as presented, would indeed create that space and keep them separate from this population.

Mr. Andrews asked to see the part two timetable. He said that he would like to ensure that he understood a particular aspect of the timetable. He said that he applauded the inclusion of stakeholder engagement at the beginning of the design phase, which was scheduled for an entire year. He said that it stated County design approvals and had mentioned coming back to this Board for approval of the design; however, he knew that the Authority ultimately approved the final design, and they had three jurisdictions involved. He said that he would like to understand, in the end, the three jurisdictions had to approve the financing, and asked which part was done by which jurisdiction and by the Authority.

Mr. Kumer replied that since the jail was located in Albemarle County, specific permits and designs must be authorized by the Building and Permitting Office rather than the Board of Supervisors alone, as part of the construction aspect. He said that each jurisdiction would approve the subsequent resolution seeking full-time permanent funding for the project if it was approved today.

Mr. Andrews asked what would happen if there was not an agreement between the three jurisdictions.

Mr. Kumer said that all three jurisdictions must agree to both the interim funding resolution and the final resolution for permanent funding.

Ms. Price commented that, as mentioned by Mr. Gallaway, it had been several years that they had reviewed this process at its different phases. She said that everything presented for this part with regard to the construction was consistent, so she had no questions. She noted that this was an action item, so there would be action required after Supervisors had made their final remarks on this item.

Mr. Andrews said that he was supportive of the request. He said that he recognized there was no increase in the size of the facility, and it was necessary to go through a more than year-long design process with community engagement. He said that he very much appreciated the presentation of three options. He said that he was also pleased to see an email from Commonwealth Attorney Hingley related to this matter. He said that Hingley stated, "I completely agree we need many more harm reduction-based, voluntary, accessible, culturally appropriate, and community-based responses to criminal behavior that are fully disconnected from the criminal legal system, addressing root causes is and remained a high

priority, the desire for community-based responses does not change the fact that ACRJ was an immediate and urgent need of renovation and improvement.”

Mr. Andrews said that Hingley also mentioned that “these contemplated improvements would create a supportive, humane environment for residents, family members, visitors, program personnel, treatment providers, and staff.” He said that he applauded the thought that was going into this and appreciated that that was the spirit with which they were trying to move forward.

Mr. Gallaway said that he was very supportive and wanted to make a couple of points as to why. He said that he saw the renovation of the jail as the continuation of the programming that took place, particularly when Commonwealth Attorney Hingley came into office. He said that the diversionary programs and crisis intervention programs they had implemented were examples of this. He said that he agreed with all the public speakers that there were numerous things they had done over the past four years to achieve the very goals that they said they were supportive of. He said that perhaps they just needed to align themselves on what had been invested in in terms of people and programming to accomplish these objectives.

Mr. Gallaway said that one critical point to consider was that the CIP (Capital Improvement Plan) program represented an investment in a capital asset for them. He said that if the funds were not used for this purpose, they would not be redirected back to programming or personnel. He said that the funding came from a separate source entirely. He said that it could be used for a school or other item; however, their responsibility lay in managing capital investments. He said that proper maintenance was necessary to maintain the physical plant's viability, regardless of its use. He said that this facility required significant maintenance and renovation, making it an appropriate use of CIP programming.

Mr. Gallaway said that he appreciated the letter from Commonwealth Attorney Hingley and Commonwealth Attorney Platania's input. He said that it was mentioned that jail populations were at historic lows, and he was committed to working with their Police Department and others in the criminal justice system to provide support services for those in need. He said that he had observed from the VACo session he attended that they followed a sequential intercept model. He said that one of his notes coming back to the County was that he assumed they were using that model, but he was not certain. He said that it would be a follow-up question about whether the sequential intercept model was being implemented.

Mr. Gallaway said that the model consisted of seven stages where different individuals, depending on the crisis and level of crisis they were experiencing, intercepted or intersected with services or the Police Department, or whatever. He said that then, the gaps in services identified by the model needed to be addressed. He said that they aimed to reduce jail as a solution for those in crisis, as it was not the appropriate treatment for most individuals. He said that in Fairfax, they had seen a diversion rate of around 70% to 80%. He said that their crisis intervention team had already invested in this approach and was moving forward with its implementation.

Mr. Gallaway said that he appreciated that not everyone was interested in following the intricacies of their work over several years, but he encouraged people to work together to understand the things that they were doing. He said that they could then discuss whether enough effort was being put into targeting programming. He said that he was happy to engage in such dialogue.

Mr. Gallaway said that regarding the careful consideration of how money was used, a comment made during public feedback, he took great care in considering how funds were allocated, not just for large projects like the \$49 million one, but also for smaller \$250,000 programming initiatives they undertook annually in the budget. He said that they all stood before their constituents at town halls and other events to explain why they are doing what they do with the money collected from taxpayers. He said he believed that this was a responsible use of tax dollars.

Mr. Gallaway said that during his tour of the facility, it became evident that there was a need for renovation and investment in order to improve the conditions within the building. He said that alongside the various diversionary programs they have implemented, the tour highlighted the urgent need for significant improvements to make it a suitable environment for all individuals, regardless of their reasons for being there. He said that he appreciated the consistency maintained throughout this process, as it has been ongoing since its inception three years ago. He said that as a Board member, he could attest that the discussions and decisions had remained focused and consistent, without any unexpected changes or surprises.

Ms. McKeel said that she appreciated everything that her fellow Supervisors had said so far. She said that she wanted to quote Jim Hingley's email as well, which stated "we intend to continue reducing the number of people confined at ACRJ, consistent with public safety, but I believe that there would always be people for whom confinement in jail was the only reasonable alternative. I want the jail to be a supportive and humane environment for those people."

Ms. McKeel said that regarding Mr. Gallaway's statement, they had heard a number of people in the community suggesting solutions such as replacing the HVAC system. She said that in the section where the renovation would take place, there were no air filters to replace in that area, as it consisted of solid concrete walls. She said that the only way to provide a healthy environment for both staff and inmates was to tear down the walls and start from scratch. She said that there was no existing piping or anything there, and it was crucial to complete this renovation. She said that she was supportive of the renovation.

Ms. McKeel said that members of the community had expressed the need for investment in people. She said that in her view, this project did just that. She said that they were investing in their staff, inmates, and the broader community that interacted with the Jail, including families, lawyers, and attorneys. She said that this renovation represented an investment in people in her opinion.

Ms. McKeel said that it had occurred to her over the last couple of days that the community had allocated or was allocating \$50 million for a court facility renovation. She said that the \$50 million was being directed toward a space where individuals did not reside 24/7 and where some professionals may not even be present daily. She said that it benefited the community by utilizing the courts, judges, attorneys, and other professionals. She said that while they might not actually have to spend \$50 million; and they did not know what that amount would be at present, they were investing a significant amount of money in a different population, and it was a population of individuals who worked and lived within their criminal justice system.

Ms. McKeel said that the \$50 million price tag, that she found it amazing that it was okay to spend it on one population but not the other. She said that it was deeply saddening to her. She said that they desperately required renovations for their inmates, staff, and community. She said that ADA compliance was not yet met. She said that Colonel Kumer's staff had to carry people in wheelchairs from the parking lot into the building. She said that they had to transport individuals in wheelchairs into cells. She said that it was truly time for this renovation.

Ms. Mallek said that she appreciated the staged plans and the staged levels of funding to spend the appropriate amount of money to determine the accurate figure. She said that over the past 20 years, she had observed that projects were sometimes advanced based on insufficient information due to cost-saving measures in the initial stage, which ultimately led to inadequate planning and more years of wasted resources. She said that a well-structured plan for moving forward made sense to her, and she thought that it would have the right outcome. She said that however, they must have the time and the expertise to identify the needs and get the right design drawn, and to learn from all the various players.

Ms. Mallek said that getting it right and not fast was really important, but their residents and community deserved modern, healthy spaces so that the people who lived there could get the proper care for their recovery and true rehabilitation, not just warehousing. She said that it was also needed so that the people who worked there could provide the best services that they could to the residents due to the facility's improved conditions. She said that having a place where families could stay connected was so important for family preservation. She said that she was happy to vote in favor of this proposal.

Ms. LaPisto-Kirtley said that she was also supportive. She said that she believed that they wanted the diversionary efforts initiated in Albemarle to continue. She said that she agreed with supporting the mental health accommodations presented. She said she thought that as for other types of individuals who had committed crimes, she hoped that number would decrease. She said that she appreciated their careful consideration of costs to ensure that they accommodated the needs of those incarcerated, addressed the mental health issues of those requiring such assistance, and supported the families of those in custody so that the families could help, especially those with mental health issues, enabling them to be there for their loved ones and hopefully participate in a program that would allow them to return to their families.

Ms. Price said that her 45-year career as an attorney in the criminal justice system drew near a close, and she firmly believed that there would always be a need for incarceration because there would always be people who engaged in criminal conduct. She said that Colonel Kumer, discussed the difference between those who did not have the capacity to understand the criminality of their conduct due to mental incapacity. She said that she would like to read from the Model Penal Code, §401, which stated that "a defendant was not responsible for criminal conduct where that individual, as a result of mental disease or defect, did not possess a substantial capacity either to appreciate the criminality of their conduct or to conform their conduct to the requirements of the law." She said that this referred to the group they were discussing.

Ms. Price said that what needed to be recognized was that there were people who had psychological conditions, but these conditions did not necessarily rise to the level where they were not criminally culpable or responsible for their conduct. She said that a process needed to be established that addressed the issue, which may involve incarceration. She said that they were dealing with a jail rather than a prison, focusing on lower levels of criminality instead of those sentenced to long terms. She said that she was a "both and" believer, that she believed both in improving the physical facility, and responding to public comments, which she greatly appreciated, she also believed they must continue to do the things they were already doing in order to reduce the likelihood of incarceration.

Ms. Price said that she would like to draw a parallel with affordable housing. She said that it was untrue to claim that they had sufficient housing if it was substandard. She said that the community would not accept such a conclusion merely because everyone had a roof over their head if those roofs were substandard. She said that for those who were detainees in the jail, this was substandard housing, and they had an obligation to bring it up to a sufficient level. She said that they would not allow their employees to work in an environment that was not healthy, so improving the facility and continuing to reduce the likelihood of incarceration was essential for protecting both staff and detainees, and they would be able to provide a better avenue for them to avoid going back into jail. She said that nothing by itself would achieve this goal; all of it must be done, and she was in favor of this.

Ms. McKeel asked if the County Executive would like to speak to some of the current mental

health work being done in the County and some of his thoughts after recently touring the Jail.

Mr. Jeff Richardson, County Executive, said that he had an opportunity to tour the Jail within the last 45 days and had not had an opportunity to work with Colonel Kumer in his six years in the community to any degree. He said that he was aware that their staff sat on the regional jail board, as well as Ms. McKeel. He said that having an opportunity to tour the Jail was quite interesting for him. He said that this was his fourth community he had served in, and in every community, they had had jail facilities. He said that they either built a new jail or went through renovation and/or expansion.

Mr. Richardson said that when he visited the jail, he spent about an hour with Colonel Kumer, and all 60 minutes of it were educational opportunities for him. He said that upon first examining the basic foundational elements of the facility, he was examining the process of bringing a 1972 facility up to code to adhere to the Americans with Disabilities Act, passed in 1990. He said that addressing the basic needs of the inmate population, including medical and mental health care, was a priority 33 years after the law's implementation.

Mr. Richardson mentioned how Ms. McKeel spoke about how the organization had redesigned its services over the past 18 months with the Board's support. He said that they adopted a cross-departmental, holistic model that involved analyzing 911 calls for service, and collaborating with emergency operators to respond to staff calls appropriately when identifying mental health crisis situations. He said that the Department of Social Services would collaborate with their Fire Rescue Department and Police Department to provide cross-connection services. He said that their goal was to provide these individuals with the necessary resources in the field.

Mr. Richardson stated that upon visiting the facility, Colonel Kumer and he examined the design model for medical and mental health facilities. He said that he commended what Colonel Kumer said earlier; that from a staffing standpoint, they were doing good work, and they had a well-qualified team addressing various medical needs. He said that there was a need to redesign the space to accommodate the requirements of 2023.

Mr. Richardson said that in conclusion, he believed there were opportunities for improving basic inmate services through space redesign, resulting in a more suitable environment for family visitations with increased privacy and accessibility. He said that it also had to address the legalities of attorneys being able to cater to client needs in a more suitable environment. He said that the facility was from 1972, so the air quality was one of the basic requirements that needed attention, and it was important to consider workforce stability and ensure their safety and security, and Colonel Kumer faced those same challenges.

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

Ms. McKeel **moved** for the Board to adopt the Resolution (Attachment B) for the ACRJ Interim Financing.

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

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

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY,
VIRGINIA, APPROVING THE ISSUANCE OF OBLIGATIONS FOR IMPROVEMENTS TO THE
ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL AUTHORITY FACILITIES**

WHEREAS, the Albemarle-Charlottesville Regional Jail Authority (**the "Authority"**) is a public instrumentality of the Commonwealth of Virginia created pursuant to Article 3.1, Chapter 3, Title 53.1, Code of Virginia of 1950, as amended (**the "Act"**) by resolutions duly adopted by the governing bodies of the County of Albemarle (**the "County"**), the County of Nelson and the City of Charlottesville, Virginia (**collectively, the "Member Jurisdictions"**) for the purpose of developing regional jail facilities, in particular, the regional jail joint security complex located at 1600 Avon Street Extended, Charlottesville, Virginia (**the "Regional Jail"**) to be operated on behalf of the Member Jurisdictions by the Authority;

WHEREAS, the Authority and the Member Jurisdictions have entered into an Amended and Restated Service Agreement, dated June 9, 2022 (**the "Service Agreement"**), in which the Authority has agreed to, design, construct and equip the Regional Jail and obtain financing therefor.

WHEREAS, the Authority has been authorized by the General Assembly of the Commonwealth of Virginia in 2023 to obtain significant funding (**the "Commonwealth Funds"**) for eligible costs of certain improvements to the Regional Jail (**the "Improvements"**);

WHEREAS, the Authority proposes to issue a series of financing, including but not limited to, interim financing relating to the design and construction of the Improvements to the Regional Jail and subsequently issue its revenue notes and bonds to provide longer term financing of the same (**the "Obligations"**) a portion of which Obligations are to be repaid with the Commonwealth Funds;

WHEREAS, the Authority's financial advisor, Davenport & Company LLC has advised the Authority that an interim financing of the Obligations would be in the best interests of the Authority given current market conditions and preliminary nature of cost estimates for the Improvements;

WHEREAS, Section 3.1 of the Service Agreement provides that in order for the Authority to issue the Obligations, the governing bodies of each of the Member Jurisdictions are required to approve of the issuance thereof;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA:

1. It is determined to be in the best interests of the County and its citizens for the Board of Supervisors as the governing body of the County, to approve the Authority's issuance of the Obligations for interim financing of the Improvements in amount not to exceed \$4,500,000 by adoption of this resolution.
2. In consideration of the Authority's undertakings with respect to the issuance of the Obligations, the Chair or Vice-Chair of the Board of Supervisors, is hereby authorized and directed to execute and deliver such instruments and certificates as deemed appropriate and necessary for the issuance of such Obligations by the Authority, including but not limited to a support agreement or agreements relating to its obligations as a Member Jurisdiction under the Service Agreement.
3. The County Executive is hereby authorized and directed to take all proper steps on behalf of the County as may be required, in accordance with the plan of financing set forth above, including, but not limited to, certificates and documents relating to the issuance of the Obligations and the above-referenced support agreement or agreements.
4. Nothing contained herein is or shall be deemed to be a lending of the credit of the County to the Authority, or to any holder of any of the Obligations or to any other person, and nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the County.
5. All actions previously taken by representatives or agents of the County in furtherance of the plan of financing of the Improvements and the issuance of the Obligations are hereby ratified and approved.
6. This resolution shall take effect immediately.

Agenda Item No. 10. **Work Session:** Five-Year Financial Plan Work Session.

The Executive Summary forwarded to the Board states that long-range financial planning is part of the County's adopted financial policies: "The County will develop and annually update a long-range five-year Financial Plan. The Financial Plan will include a review of revenue trends and expenditures from the prior years' projections of revenues and expenditures, as well as future costs and the financing of the Capital Improvement Plan."

A long-range financial plan is different from the annual budget in that it emphasizes where the County may be headed at the end of the plan rather than the coming fiscal year. This planning can provide a helpful framework to inform the annual budget to ensure funding recommendations are aligned with County priorities. It also provides a framework to illuminate discussion around questions such as:

- a) Are the County's operating and capital plans in alignment? For example, if the County starts constructing a new facility in the capital budget, is it able to open and operate it in a future operating budget - can the decisions being made today be afforded in future years?
- b) What long-term strategies or policies could be considered to change the long-term trajectory of the financial plan?

The Five-Year Financial Plan is the next step in the County's long-term financial planning process, where to date:

- On August 16, the Board approved the FY 25 operating and capital budget calendar
- On October 4, the Board received an Economic Outlook Report

Next, in accordance with the budget development schedule, the Board will hold a series of work sessions in the fall to review long-range financial planning information prior to the annual budget process. The work sessions are scheduled for November 15, December 6 (a joint meeting with the School Board), and December 13.

During this work session, staff will present initial revenue and expenditure assumptions, which have been developed using the best information available at the time, and illustrate the financial plan's alignment with the Strategic Plan. These assumptions will continue to be updated in the annual budget development process and subsequent financial plans. Staff will also share the proposed financial plan's alignment with the Strategic Plan and seek Board feedback on the financial plan.

Long-range financial planning connects long-range fiscal planning with strategic planning priorities and provides an important context for the annual budget process.

Staff recommends that the Board share feedback on the initial long-range Five-Year Financial Plan.

Mr. Andy Bowman, Interim Chief Financial Officer for Policy and Partnerships, stated that he wanted to take a moment while Mr. Ryan Davidson pulled up the presentation to express his gratitude to Senior Budget Analyst Laura Vincent. He said that while she was not presenting today, her significant contributions to coordinating content, conducting technical analysis, and providing leadership in assembling this program were highly valued by her colleagues in the Office of Management and Budget. He said that today's work session would focus on discussing the five-year financial plan, with no action requested from the Board.

Mr. Bowman said that previously, they had discussed long-range planning, and in October, Dr. Sheryl Bailey and he were there to present the economic outlook report. He said that two weeks ago, he was there with consultants from the Texas A&M Transportation Institute to discuss an analysis of the County's transit system. He said that the focus was not only on financial matters but also on taking a long-term look at some analytical questions surrounding the County's transit services. He said that today marked the beginning of the five-year plan process, which would continue on December 6 with the School Board and then on December 13 to discuss further topics.

Mr. Bowman said that the two desired outcomes for today's meeting were that staff would inform the Board about the long-range planning assumptions they were making and ensure alignment between the Board's 23 objectives and six strategic goals with their financial plans. He said that this would involve presenting various scenarios for the Board's consideration and opening up discussions. He said that if it assisted the Board during their discussion later, they had provided several questions for the Board to consider as they listened to the content today.

Mr. Bowman said that the three questions were: what did this plan do well, what did they expect to see but perhaps did not, and finally, what were some areas that required additional information. He said that they may discuss Strategic Plan Goal 1 concerning health and safety. He said that the Board might be satisfied with the staff items as identified. He said that they may have expected to hear a particular initiative that had been discussed in the past but was not mentioned this time, or there may be other areas that truly warranted a later policy or strategic discussion that had not yet occurred.

Mr. Bowman said that before they delved into the content, one final slide of introduction would be presented. He said that it served to raise public awareness about what long-range financial planning was and what it was not. He said that as someone who had held the title "budget" in his job for many years, he knew that long-range financial planning was a different exercise than budgeting.

Mr. Bowman said that typically, when he was before the Board of Supervisors, they discussed changes that would either take effect immediately or within a few months as they approved the budget. He said that long-range planning, on the other hand, involved considering what their long-term trajectory looked like in the County for the next five years. He said that questioning whether the decisions made today could be afforded in the future was part of their framework. He said that they examined practical questions such as aligning or operating capital budgets.

Mr. Bowman said that if the County was building a facility, they must find if it would be affordable to operate once it became operational within their projected revenues. He said that this framework also informed their annual budget process, and he acknowledged that his usual disclaimer applied, which was that the information was the best information they had as of today. He said that when the County Executive returned in February with the annual budget, they would have updated information to incorporate new assumptions into the process. He said that for now, they were working on assumptions and scenarios based on their current understanding.

Mr. Bowman said that they would not have as many numbers, charts, or graphs as usual during a budget work session, however, he promised to share the busiest chart upfront when discussing their revenue picture for the coming five years. He showed a slide that illustrated the change in general fund revenue growth from FY07 to FY23, with each bar representing year-to-year changes.

Mr. Bowman said that the larger the blue chart was in a given year indicated stronger revenue growth. He said that they could observe that revenues declined during the Great Recession in FY10. He explained that FY07 was chosen as the starting point because it marked when the County began reassessment of property on an annual basis, whereas previously, this assessment occurred every other year. He said that this historical context served as a framework for contemplating both their past and future revenue trends.

Mr. Bowman said that the slide had an unusual-looking chart, and he added several lines as references. He said that the first line showed that if the average of all years, various economies, the Great Recession, the pandemic, recovery, and numerous factors such as tax rate changes and inflation were considered, and programs that had changed, County revenues would have grown by 4.5% on average. He said that this did not tell the complete story. He said that two distinct periods were observed, during the Great Recession and its initial recovery, depicted by the orange line, revenues grew less than 2% on average, taking a while for them to recover even after FY14. He said that another frame of reference was provided by considering what happened after the initial recovery leading up to the pandemic, depicted by the yellow line, where revenues grew at approximately 5.5%. He said that this period prior to the

pandemic was one of relatively stable revenue growth year to year.

Mr. Bowman said that for the last four years, they had experienced a very unique time with a deep and abbreviated recession happening in FY20, and the impacts extending into FY21. He said that prior to then, there had been very strong revenue growth. He said that as consumer behaviors changed, there was a very strong real estate market and other factors that the Board had taken to diversify revenues with their actions as well. He said this provided a framework to understand the past and where they might go into the future.

Mr. Bowman said that they knew that in their revenue picture, it was not only the past they needed to consider but also what was changing in their community right now and the factors at play both at a micro and macro level. He said he was there with Dr. Bailey in October to present the Economic Outlook Report, which was a very dense report. He said that he would highlight three significant points for their revenue projection.

Mr. Bowman said that first, staff recognized that Albemarle's economy remained strong, similar to the previous year and following state and national trends. He said that second, there was a cooling in the national economy compared to a year ago, although not as severe or rapid as initially anticipated. He said that this did not indicate a recession or declining revenues but rather slower growth. He said that third, when they think about the near future with these continued mixed signals, they should expect more of the same; an economy that continues to change rapidly, with mixed signals affecting different sectors. He said that in comparison to last year's report, this one was more optimistic. He said that this was some of the other revenue factors that staff was thinking as they looked at what the future might look like.

Mr. Bowman said that looking at the revenue side of their projection for FY24 to FY29. He said that the slide shown was the same slide he had shown the Board before, but that he would add some green projected revenue growth for the next five years. He said that he would elaborate on FY24. He said that they closely monitored their revenues on a monthly basis, and their first quarter financial report presented today confirmed that their revenues were performing slightly better than initially anticipated. He said that they were approximately 1% higher than their initial expectations and the budget figures set at that time. He noted that although the revenue growth in the current fiscal year may not be as strong as it was in FY22 and FY23, it aligned with their predictions for FY24, and that their revenues were currently outperforming the assumptions that were adopted around six months ago.

Mr. Bowman said that as they looked into FY25 and further into FY26, it reflected an economic cooling. He said that the decrease was ahead of the changes observed during the Great Recession and recovery but not as impactful as the brief recession that occurred during the pandemic. He said that recognizing that some slowdown would be prudent to plan for, this slowdown was not as deep or wide compared to the same chart from last year. He said that furthermore, the final three lines merely assumed historical averages. He said that consulting numerous economists and financial analysts, predicting beyond two years remained extremely challenging. He said that their strategy had been to assume the average and update annually to adjust as necessary due to increased volatility. He said that they would also explore scenario planning should circumstances improve or not.

Mr. Bowman said that he would transition the discussion from revenue projections to expenditure projections. He said that this particular slide represented the first version of three charts that the Board would see today. He said that the blue line represented their revenue projection, which remained unchanged in the charts. He said that the red line represented their expenditure line. He said that they considered what a five-year plan might look like if they focused solely on mandates and obligations.

Mr. Bowman said that they first examined expenditures, assuming that revenue growth would be allocated to public schools operations and their capital debt program, in accordance with Board policy. He said that as they planned for capital projects, they assumed they would pick up those operations. He said that they would fulfill obligations like County revenue sharing or if they had expiring grants and the Board desired to continue certain services, they would pick those up. He said that this led to a starting point where they were fundamentally balanced. He said that the challenge ahead was that the Board's Strategic Plan did not keep a status quo or merely meet mandates and obligations. He said that they then had to consider all of the conversations with the Board over the past year regarding their financial discussions and the Strategic Plan to build in potential changes and alter their trajectory.

Mr. Bowman said that before concluding his presentation, he wanted to discuss one way to look at their Strategic Plan and its six goals, which were displayed on the screen. He said that Mr. Ryan Davidson would further discuss this content, but he was pleased to introduce Kristy Shifflett, the County's Chief Operating Officer, who would focus on workforce and customer service as Goal 6. He said that although this goal was not more important than others, it served as a unique linchpin, as the ability to retain and recruit their workforce had a substantial impact on the success of the other five goals. He said that if they failed to attract and maintain these staff members, it may hinder their progress toward achieving those other five goals.

Ms. Kristy Shifflett, Chief Operating Officer, said that she would focus on workforce and customer service. She said that the intention of the first slide was to introduce the Board and their community to their current environment around workforce stabilization. She said that they had been working diligently on recruitment and retention of staff, but they had encountered some hurdles in this process. She said that last year, they adjusted their market to compare themselves with other organizations that provided similar services in nearby localities or local organizations such as UVA. She said that however, the market had shifted since then. She said that when they provided a 4% increase in July, most of their

market competitors offered an average increase of about 6%. She said that this was one significant change they had observed.

Ms. Shifflett said that another major difference was the widespread adoption of hybrid work environments by communities and organizations. She said that this had presented challenges as people could now live almost anywhere in Virginia while continuing to work in a locality's local government. She said that this had always been a prevalent issue and represented a modern approach to work in many different organizations but not as much in government services, until now.

Ms. Shifflett said that as organizations adapted to various working scenarios, returning to the office, remote work, or hybrid models, they observed that many employees had options to stay home and drive to that other locality two days each week and receive that different compensation. She said that in their recruitment experiences, they had found that many recruitments had been difficult and their vacancies hard to fill.

Ms. Shifflett said that since July, they had maintained approximately 80 vacancies across the entire organization, which was a high number for them. She said that they did not wish to remain at this level, and in those 80 vacancies, they had had to either repost or undertake extensive recruitment efforts for 44 positions to retain qualified and highly talented individuals. She said that she wanted to share some of the challenges they have had with the Board.

Ms. Shifflett said that the high cost of housing and living in their area often led to candidates deciding against relocation despite being close to acceptance. She said that to address this issue, they aimed to develop strategic approaches. She said that this led them back to their Gallagher study conducted last year on compensation and classification. She said that in the study, they had discussed transitioning to a competitive compensation philosophy, which they had successfully implemented.

Ms. Shifflett said that in the previous fiscal year, they had prioritized public safety by investing in their public safety pay scale and retaining staff members in those positions. She said that regarding their classified scale, they could only afford to increase salaries up to 90% of the midpoint. She said that to address this issue, they recommended moving to a 100% midpoint on the pay scale for future hiring ranges. She said that they would implement a compression strategy based on time and seat per position. She said that would be step one in the two-step process and would move the pay scales forward and the staff forward on that pay scale, and make the County more market competitive.

Ms. Shifflett said that they also proposed a 2% mid-year increase for all employees as a cost of living adjustment, which should help them keep up with their shifting market, and would make a better impact on their abilities to recruit staff. She said that the state had taken action to provide increases mid-year for their employees, which was another consideration they were monitoring. She said that this decision would not be presented to the Board today; it would be discussed at their next meeting.

Ms. Shifflett said that they would now talk more about the next steps. She said that the affordability lens must be considered in light of all the interests they wished to pursue. In the context of the five-year plan, market-based compensation strategies had been incorporated, including a 5% market increase for FY25 and a 2% increase for public safety. She said that there were also increases planned for the outyears. She said that they would discuss these details at a later date, but for now, their aim was to remain competitive and to fill their vacancies, whatever that might take.

Ms. Shifflett said that new positions had been added each year for core services, and this was a topic they could discuss further. She said that for FY25, there were eight new positions to accommodate growth and increased demand for their services. She said that there were also 15 new positions included in subsequent years. She said that lastly, healthcare increases had been incorporated into the budget, along with funding for an employee health clinic. She said that this initiative aimed to offset rising healthcare costs by providing a comprehensive employee health clinic.

Ms. Shifflett said that the next slide focused on Goal 6, which emphasized enhancing the overall work experience of their staff. She said that this encompassed salary, staff development, and the optimization of core business processes and systems. She said that this was an acknowledgment of the decisions they had made regarding modernizing their systems. She said that they were currently working on the Community Development system and planned to move toward a project on their financial management system as well, and that these costs were included in the five-year plan.

Ms. Shifflett said that additionally, they were addressing hybrid workspaces, recognizing the challenges with facilities due to rapid growth, which had led them to reconsider space requirements and staff working from home. She said that this may involve developing new utilization programming. She said that this topic had been discussed previously, and the associated costs were also included in the five-year plan.

Mr. Ryan Davidson, Deputy Chief of Budget, said that he would guide them through the remaining expenditure assumptions in the FY25 to FY29 five-year plan. He said that last year's discussion regarding the five-year plan and the budget was centered around activating the Strategic Plan to strengthen their foundations. He said that as they advanced through the implementation of efforts guided by the Strategic Plan, the assumptions in this year's plan were centered around the continuation of those efforts, programs, and projects from previous years, and looking at those items that contributed to their progress with the Strategic Plan and, in some areas, moving on to the next steps of the Strategic Plan.

Mr. Davidson said that as they progressed through each slide, there would be objectives represented by the orange color under each goal that had funding categorized in three ways. He said that first there were items where recent investment had occurred, either through new funding or resources, and the benefits may not yet be fully recognized, but they were underway.

Mr. Davidson said that second was items where resources were already in place, and no new funding was required at present; however, staff capacity was being expanded to progress these initiatives further. He said that these would be listed under the heading of recent new funding. He said that the third area involved key new assumptions within the five-year plan, many of which the Board had previously discussed or provided direction on, and some that were scheduled for future discussions with the Board, as Ms. Shifflett had mentioned earlier. He said that these would be noted under new funding.

Mr. Davidson said that as they proceeded, starting with Goal 1, he highlighted recent funding, such as the HARTS (Human Services Alternative Response Team) team, a topic they had covered earlier in the day, this project received funding in FY23 and FY24, and the community benefits were now beginning to emerge as this program commenced its operations. He said that regarding the assumptions for new funding in this plan, as they had recently learned about, the ACRJ jail renovations would take place in the coming years. He said that the regional jail would undertake these renovations, and the County would need to finance its share of the debt service to fund these upgrades.

Mr. Davidson said that there had been an increased level of funding dedicated to blight remediation, as outlined in the ordinance, along with the inclusion of operating impacts for the court's facility addition and renovation as these facilities came online in the near future. He said that they were enhancing and developing human service initiatives for their community, with notable operational and one-time funding support for the emergency assistance program and multiple positions within various human services. He said that new funding assumptions included allocating funds for the ABRT (Agency Budget Review Team) human service priority areas discussed by Kaki Dimock with the Board in July while examining the community nonprofit agency funding processes.

Mr. Davidson said that also included was that the County had been approved for three FEMA (Federal Emergency Management Agency) SAFER (Staffing for Adequate Firefighters and Emergency Response) grants, which would fund approximately 50 Fire Rescue employees for three years per grant. He said that these positions began to be funded locally in FY24, with increases in local costs and shares in FY25, FY26, and the outyears as the grants expired. He said that finally, the Fire Rescue long-range planning had been initiated in response to changing service demands and requests for supplemental staffing from various volunteer stations, as well as in response to the Board's direction to adapt to this evolving landscape. He said that this effort aimed to be more proactive in addressing changing demands and less reactive.

Mr. Davidson said that moving on to Goal 2, there were two objectives where utilizing existing funding and/or continuing recent efforts applied. He said that specifically, in the area of climate action implementation, it involved using the existing climate action pool and other existing resources to advance these efforts. He mentioned that the five-year plan included operating funding for the Northern Convenience Center and the recently funded bailer facility once they were constructed. He said that while these were not solely related to this goal or objective, he did not want them to be overshadowed among the other assumptions as they had operational impacts moving forward.

Mr. Davidson said that continuing with Goal 2, Stream Health, they aimed to continue the work of the next phase of stream health initiatives where funding had been previously added for those phases. He said that the last item, community risk mitigation and recovery, did not have anything specifically tied to it since this was about collaboration and the continuation of work already started rather than additional resources.

Mr. Davidson said that as they transitioned to Goal 3, focusing on broadband, it was again the same narrative regarding the continuation of work initiated in previous fiscal years. He said that they would utilize existing program resources to progress these efforts but would not necessarily add additional new funding at this stage. He said that in terms of the Long-Range Water and Wastewater Plans Initiative, they had established a collaborative working group with their community partners, Albemarle County Service Authority (ACSA) and Rivanna Water and Sewer Authority (RWSA). He said that the emphasis was on collaboration rather than seeking new funding at present.

Mr. Davidson said that continuing forward with Goal 3, the street sweeper program was fully funded in FY24 and commenced operations during the previous summer, alongside entrance corridor and right-of-way maintenance programming efforts. He said that although this presentation primarily addressed operating funding, he wanted to highlight the transportation leveraging funds incorporated into the FY24 to FY28 CIP (Capital Improvement Plan), as it directly pertained to this goal and objective. He said that they would discuss these further at a later time.

Mr. Davidson said that in terms of new funding assumptions included in the five-year plan, he said that they had transit where they began the discussion with the Board on this item at their last meeting, and as they moved forward with the transit services in this community, including microtransit as well as others, there would be operational funding impacts. He said that these impacts had been contemplated in the five-year plan.

Mr. Davidson said that for Goal 4, AC 44, it was more about the capacity to continue existing

efforts rather than new resources. He said that in FY24 and some prior years, the Economic Development Fund received one-time funding infusions, and in FY25 through FY29, the five-year plan assumed the beginning of an ongoing and sustainable funding stream for that program as they moved forward. He said that as was noted on the previous slide around the Economic Development Fund, the Housing Fund had also received one-time infusions of funding, as well as some new positions. He said that again, the FY25 to 29 five-year financial plan assumed the inclusion of an ongoing and sustainable funding stream for that program.

Mr. Davidson said that as they continued to build out their parks and recreation facilities, the new funding was for the additional operational costs as these projects came online. He said that while he did not refer to the new CIP funding in this context, although there would be some funding allocated as outlined in the FY24 to FY28 CIP, this was really looking at the operational expenses required to move these facilities forward and maintain their operations once they became functional.

Mr. Davidson said that his comments on Goal 5 would be brief since the December 6 work session would be dedicated to a joint meeting with the School Board. He said that he wanted to note that the five-year plan provided funding for School operations based on the operating formula around the revenue allocations and the revenue splits with Schools. He said that he would like to highlight some of the larger projects in the current five-year CIP plan, such as high school capacity, elementary schools, and school renovations. He said that there would be ample opportunities for further engagement with Schools at the December 6 meeting.

Mr. Davidson said that in light of the discussions regarding various assumptions, it was important to consider their implications within the context of the five-year plan. He said that before delving into the specifics of the chart, he would like to reiterate some of the same disclaimers that Mr. Bowman mentioned earlier. He said that this information was based on their best information as of today, and as they continued to refine their future revenue and expenditure assumptions, that would adjust this picture.

Mr. Davidson said that there were several notable uncertainties at present, including the timing and severity of an economic slowdown, fluctuations in inflation and energy prices, potential impacts of future federal funding, what their real estate assessments would look like, as well as other factors such as revenue sharing with the City, retirement, and healthcare cost increases. He said that Mr. Bowman emphasized that this was merely a starting point; it was not a finalized plan. He said that their intention was to provide a starting point to look at. He said that as they updated their projections, they would also consider potential future developments, when they might expect these changes, and how they may need to adapt if necessary.

Mr. Davidson said that the focus was on the long-term trajectory, not necessarily FY25, as that gap would be worked heading into the annual budget process. He said that the displayed graph included all mandates and obligations from the first graph Mr. Bowman spoke about earlier, as well as areas where staff felt there was Board support and Strategic Plan alignment through previous discussions held with the Board. He said that the assumptions were laid out in the new funding presented in the previous slides.

Mr. Davidson said that compensation strategies were inflationary based at around 2%. He said that Ms. Shifflett's mentioned 5% increases for market-based strategies. This was a pure inflationary-based around that 2% mark to move the County forward with inflationary-based increases. He said that the graph also included position growth above zero but below what Ms. Shifflett said was needed to maintain the proper per capita ratio, which was 15, an approximation of half of that in this assumption. He said that the lines started to diverge as they input these assumptions; however, they could close and widen depending on the choices and discussions had with the Board.

Mr. Davidson said that in the final graph, they included all mandates and obligations, areas where there was Board-supported Strategic Plan alignment, and inflationary-based compensation strategies. He said that they also layered on top of that what it would look like if they added all staff needed to maintain the FTE per capita ratio, 15 new and additional staff per year. He said that they had identified areas for future in-depth Board discussion, such as market-based compensation strategies and long-range planning for their Fire Rescue system.

Mr. Davidson said that although they had received feedback on many assumptions, they wanted to provide the Board with an opportunity for additional information, feedback, and discussion on these particular items listed to the right of this chart, as well as any other items the Board may want further information on. He said that the next steps involved presenting before the Board again, with the first occasion being the joint meeting with the School Board on December 6, focusing primarily on the CIP.

Mr. Davidson said that following this, they would return on December 13 to discuss tax relief for the elderly or disabled and workforce stabilization items mentioned in the previous slides. He said that this was intended to provide the Board with the opportunity for additional information, provide feedback, and have discussion on these particular items that had not received the same level of discussion as some of the other Strategic Plan and five-year plan items or other areas the Board may wish to explore further.

Mr. Andrews said that Mr. Bowman discussed the difference between budgeting and financial projections. He noted that it was evident that budgeting could be challenging, but creating financial projections felt even more difficult. He said that one positive aspect of this process was that they were preparing to gather all the necessary information for their projections, focusing on achieving their goals. He said that he appreciated that inflation had been considered in terms of salaries, but there were other things like expected revenue growth that may have come from real estate assessments, or other matters

that he did not know how exactly they were couched and whether they were inflationary growth in and of itself in terms of the projections on their revenues and how much inflation was involved in all of the assumptions.

Mr. Andrews acknowledged that this process was indeed challenging, but he supported closing any gaps and recognizing the importance of retaining top-quality employees and attracting qualified candidates for their positions. He said that in this analysis, he would like to have a better understanding of how their investments in various areas contributed to their return on investment and savings realized from these investments.

Mr. Andrews said that modernization systems would undoubtedly help them with recruitment and may also assist them in saving money in the future. He said that it would be beneficial to quantify the returns on these investments. The same applied to economic development; an economic development plan was intended not only to maintain the vibrancy of their community but also to expand the tax base and increase revenues. He said that if possible, it would be helpful to project this information. He acknowledged that this task was challenging.

Mr. Gallaway asked about the best-case scenario for the number of vacancies given the current situation with vacancies, even if their compensation were leading the market. He said that he assumed there was a percentage representing this ideal situation. He also asked how many of the 80 vacancies might be filled if they were already where they wanted to be in terms of compensation and work-life balance. He asked if there was an estimation for that scenario.

Ms. Shifflett said that she believed that the current vacancy rate was approximately 12%. She said that the aim was to reduce it to around 5%, which would be a significant improvement.

Mr. Gallaway asked if they were planning to achieve a more normal rate of 5%.

Ms. Shifflett said yes, that was right.

Ms. McKeel said that she recalled discussing their five-year financial outlook and several years ago, there had been a conversation regarding the necessity of having a new ECC (Emergency Communications Center) facility. She said that she had not heard anything about that for quite some time. She emphasized that she was not attempting to derail their discussion but rather considering they had been discussing the renovation for the jail and an authority for transit. She said that there had also been the ECC discussion about needing a new facility, which was a shared facility. She asked if staff could provide current information about the status of the ECC center.

Mr. Bowman said that the Emergency Communication Center had prepared a CIP request and submitted it to their staff this fall. He said that this was one of the upcoming budget processes they would discuss in the context of the CIP.

Ms. Mallek said that staff had done a wonderful job in trying to analyze and present them with all the things they did not know. She said that understanding the potential challenges and risks was something that she believed they did better every year. She said that she was grateful that they were in the state they were in compared to where many other places were, who were really struggling and extremely worried about their survival, let alone how well they would be able to perform or how many new wonderful things they would be able to do.

Ms. Mallek noted that what was missing and not expected to be present was the extent to which they could save versus an offsetting as processes were redirected, and software might take over some of the roles that would allow staff to do different tasks. She said that it was still greatly uncertain, but she would love more additional information on a topic that was not available today, which was how they would do as they continued to diversify their business growth and would they ever get closer to a 20% revenue share for the business pie. She said that this could make a significant difference to them.

Ms. Mallek said that one of the wonderful additions made to their operation within the last year was hiring a grants person, as there were many areas where they lacked capacity to secure funding. She said that now they could pursue and manage these opportunities themselves. She said that at VACo, transportation people discussed what was missing for localities to take better advantage of federal dollars, such as BIL (Bipartisan Infrastructure Law). She said that a new consultancy was established by the governor to offer technical assistance to localities for a change.

Ms. Mallek stated that similarly, the EPA (Environmental Protection Agency) provided various technical assistance for climate things that they would typically be paying for on their own. She explained that the significant challenge was determining where an organization fit within these programs and which funding sources to pursue. She said that the advice consistently given was not to focus on the money but rather to develop a program first and then explore potential financial support. She said that staff had already completed the initial step of developing the program, and now it was time to address the second part.

Ms. LaPisto-Kirtley said that there was a lot of information and some of it was worrying to her because of the fact that they had expenditures and revenues, with a gap between them. She said that she expected to find out later on how they would be closing that gap. She said that the volunteer fire departments had been asking for more help, which had been mentioned in the presentation. She asked if it was taken into account that they would continue to ask for more assistance. She noted that their

SAFER grants would be expiring, each about three years in duration. She emphasized that they must account for all the associated costs.

Mr. Jeff Richardson, County Executive, said that he would like to address that. He said first, he wanted to thank the Board and the grants folks, ACFR (Albemarle County Fire Rescue) leadership, and Budget and Finance with the strategy to go after the SAFER grants. He said he also wanted to thank the volunteer fire departments across the County for their exceptional service over many decades. He said that their dedication had greatly benefited their community and citizens. He noted that the number of volunteer firefighters in the Commonwealth had decreased significantly, as Ms. Price mentioned, from 120,000 to 20,000 over time. He said that they recognized that this was a national-level concern, and they were working diligently with the Chief's assistance to determine a long-term plan, which the Board had requested.

Mr. Richardson said that they must look beyond SAFER grants to project what they will look like five years from now. He said that they would have to look beyond federal funding in order to maintain the level of service necessary, and what funding would be necessary if the County would need to fully fund those services. He said that it was a significant issue for them to discuss, as public safety services were crucial in their community. He said that they had been working on addressing this matter for approximately six years now, exploring strategies to afford more services while also leveraging the outstanding volunteer programs they had there.

Ms. LaPisto-Kirtley said that the community supported the Fire and Police Departments and wanted those positions to be maintained. She thanked Chief Eggleston for his efforts in working with the volunteer fire departments to ensure they received necessary resources. She said that the community had been fortunate to have a very good volunteer fire department, but it looked like it was not continuing, so the expenses would have to be absorbed. She asked at what level they assumed assessments would affect the five-year plan and if they had a forecast. She said they had large assessments last year, and asked whether there was any kind of forecast, whether it was a middle-of-the-road approach, or a little higher or a little lower.

Mr. Bowman said that it certainly would affect them in the future. He said that their approach to revenue projection was at a very high level in the outyears, looking at revenues from no particular one source. He said that he knew that as they looked at their revenue data, it was too early to predict what the next reassessment values would be, but at the same time, they had signs that it should not cause them alarm with a dramatically different picture. He said that it was premature to make definitive statements while the reassessment did not come until January 1.

Ms. LaPisto-Kirtley asked if they had taken more of a middle-of-the-road approach with the five-year plan from that perspective.

Mr. Bowman said yes.

Mr. Richardson said that slide 9 displayed the projected revenue growth through FY29.

Mr. Gallaway asked to see slide 25. He said that this was the total cost to align with their Strategic Plan. He asked if the gap presented on this slide was that in addition to the gap on the previous slide, one already included the gap that was in here.

Mr. Davidson said that this specific slide included the gap from the previous one. He said that they had taken what was in the previous slide and added to it market-based compensation strategies, as well as incorporating the Fire Rescue long-range planning process.

Ms. Price asked to look at slides 9, 10, 25 and 26. She said that the focus of slide 9 was taking a conservative approach based on an average 4% revenue increase. She said that if the actual increase were lower than 4%, the gap in the last two slides would become even greater. She said that moving to slide 10, she acknowledged that revenues exceeded expenditures but that was before all of the things they wanted and needed to do in order to achieve their overall objectives, and all of these assumptions relied on anticipated revenues and expenditures.

Ms. Price said that she thought the plan was well done and appreciated that staff continually updated the Board. She said that she believed that the Supervisor compensation was inadequate, and that she would like to see a comprehensive compensation review of Supervisors, not just the staff. She said that she thought while they were not expecting nor should their public expect this to be a full-time compensation based upon their population, unlike for example Fairfax County where each District is larger than their total County and they were full-time, based upon her four years, the hours that she put in, the hours she knew her predecessor and the hours she knew every member on this Board did, she believed it was inadequate.

Ms. Price said that in areas requiring additional information, they were covering everything very well. She said that she wanted to give Supervisors an opportunity to go around one more time for any additional comments that they might have.

Mr. Andrews emphasized that being nimble would be crucial as they navigated through challenges, given the size of their organization. He said that although it may be difficult to change direction, there would undoubtedly be situations requiring a quick response and anticipation.

Mr. Gallaway said that regarding the compensation issue, he regretted not having the foresight when he was on the School Board to understand that aiming for 80% of the market was a foolish strategy. He said that they had been chasing that goal, and their strategy was to be at a percentage of the market rather than being at the market itself. He said that he simply could not see what this meant for their long-term organizational health.

Mr. Gallaway said that for any suggestion or recommendation on compensation, in his opinion, it was not about catching up or merely keeping pace. He said that they must keep pace but also move ahead and maintain a leading position in the market. He said that the health of their organization and their ability to achieve their Strategic Plan would demand this. He said that if they only managed to get at market and stay at pace without leading the way, they would ultimately fall behind. He said that whatever actions were necessary to achieve that objective had his full support.

Mr. Gallaway said that if positions remained unfilled, the burden on the rest of the staff became particularly problematic because the workload remained, but with fewer people to handle it. He said that the vacancies created a morale issue if they remained unfilled. He said that the performance and effectiveness of the organization became critical. He said that if they were not at 80% of the market, although they had had talented individuals under that compensation strategy, not paying them well and not filling all positions while demanding a large Strategic Plan with high expectations may hinder achieving their goals.

Mr. Gallaway said that the Strategic Plan demanded that they implement the compensation recommendations that had been brought forward. He said that it was always important to inform taxpayers about what drove these decisions. He said that the decisions regarding the Strategic Plan were informed by what they heard from taxpayers in the community regarding their desires and needs, so they better get the employees needed to make that happen.

Mr. Gallaway said that the Economic Outlook Report contained seven recommendations toward the end of it. He said that the second one was clearly defined in refined strategic goals, which they just walked through where they were going. He stated that the third one was long-run financial planning and robust scenario planning to illuminate potential checkpoints and develop shopping lists of potential response options. He said that what they were doing in today's presentation aligned with the recommendations of the Economic Outlook Report.

Mr. Gallaway said that the first recommendation was a detailed assessment of the organization's financial foundation, including strengths, weaknesses, and vulnerabilities. He said that he had been hearing a lot about that. He said that the seventh recommendation was agility and action, where they needed to be able to make decisions at a moment's notice and not just wait. He said that a mid-year adjustment or looking at reality became another item addressed as part of the recommendations from the Economic Outlook Report.

Mr. Gallaway said that the final statement emphasized enhancing resiliency by combining financial forecasting with strategizing to project revenues, expenses, and cash for a minimum of three to five years and longer if possible. He said that this involved anticipating the future impacts of cost increases, contracts, revenue trends, service demands, and liabilities in developing robust alternative scenarios with documented assumptions. He said that as a Board member, he could not be more pleased with what he was hearing today after receiving this Economic Outlook Report that they all agreed was difficult to digest. He said that then, they had come back to them today and demonstrated how they were achieving the recommendations in that report by the folks that were advising them on their finances and their planning.

Mr. Gallaway said that in terms of additional information or expect to see, nothing came to mind at this point, but he would bring them up later if he thought of any.

Ms. McKeel said that she appreciated that the presentation highlighted the gap and challenges they were facing, and that was critical, because they needed to know what was coming. She said that she also appreciated the analysis of their market, which had evolved over time. She said that it was great to see that they had moved away from an inadequate market, and that 80% had not worked. She said that everyone agreed that they needed to become an employer of choice. She said that to achieve this status, they must consider various factors, such as the health clinic and other aspects discussed during the presentation.

Ms. McKeel said that she recalled a statistic from before the pandemic suggesting that for a community to be considered healthy, it should generate 30-35% of its revenue from business tax base. She said that it should not place too much emphasis on property tax and residential, and they needed to focus on economic development. She said that the last she had checked, it was around 18% or 19%. She said there was a lot of work to be done in this area. She said that she looked forward to engaging in detailed discussions about how best to support and strengthen their economic development efforts. She said that this would help them diversify their tax base and better support their residents by balancing the distribution of costs.

Ms. Mallek said that she had thought of a couple in response to other people's questions. She acknowledged the volunteer numbers mentioned were concerning but highlighted their successes in recruiting and engaging young people from the university and others. She said that updating facilities for 50- and 70-year-old volunteer fire stations was an aspect not on the list, but possibly forthcoming, as they needed to include it on the list to avoid forgetting it and later realizing in February that they neglected to

add it to the budget.

Ms. Mallek said that she supported the economic development comment, noting their progress over the past several years in shifting from home building to primary business. She said that if a company was manufacturing widgets and selling them outside the area, they were bringing in outside money into their community. She said that one of the reasons why Rivanna Station was so important was because it brought in federal dollars to circulate throughout their community.

Ms. LaPisto-Kirtley said that she liked the plan and that it was very understandable and understood there was more information to come in the future. She said that she would like to have an update regarding the amount of businesses contributing to the tax base of the County.

Mr. Bowman said that he did not have a precise number, but he understood that the commercial real estate tax base was in the 15% to 20% range, but he could follow up with more accurate information.

Ms. Price said that she supported the proposal and believed that reaching the 100% midpoint was essential for achieving their goals. She said that she supported across-the-board measures, such as hiring and retention bonuses. She said that she commended the innovative idea of introducing a health care clinic to address employee needs. She expressed concern about the 80 vacancies in the County workforce, which represented approximately 10% of their employees, and tie that in with 44 that had to be reposted.

Ms. Price said that she understood that attracting highly qualified individuals could be challenging due to factors such as cost of living and employment opportunities for family members. She said that their recent experience with hiring the County Attorney demonstrated the challenges they faced in securing the best candidates. Despite these difficulties, she was pleased with their successful outcome and was thankful to have Mr. Rosenberg there. She said that it had been a challenge to find the right candidate, which was a reality faced by many local governments today.

Ms. Price said that the things that were proposed, she supported and appreciated the hard work that had been put in. She said that she appreciated the fact that regular updates were provided with some frequency, allowing them to consistently see where they have been, where they were, and where they thought they were heading. She acknowledged that there were numerous variables at play. She said that furthermore, during this week's VACo event, a number of people she spoke with expressed their desire to know how Albemarle County achieved its success. She thanked Mr. Richardson and his entire staff for their dedication and efforts in maintaining their progress.

Recess. The Board recessed its meeting at 3:47 p.m. and reconvened at 4:00 p.m.

Agenda Item No. 11. **Presentation:** Clean Earth Fill and Inert Waste Activity Program Update.

The Executive Summary forwarded to the Board states that on November 6, 2019, the Board of Supervisors adopted a resolution of intent to consider amending the zoning ordinance regulations for fill and waste areas. Over the next year, staff worked on the ordinance revision with input from stakeholders. On September 16, 2020, the Board adopted ZTA201900007.

At the time of adoption, the Board requested that the impact of the ordinance be evaluated in one year. However, due to a lack of applications the evaluation was not done. It has been approximately three years since Article 5.1.28 has been amended. During that time period, there have been two clearances submitted and 22 complaints investigated. The County began seeking feedback in September 27, 2023 regarding these regulations and the survey closed on October 20, 2023. The County received a total of 67 responses via the survey and emailed comments.

At this time, the impact of activity related to the ordinance on current workload is minimal and is being absorbed by current staffing. Staff will continue to monitor the workload and budgetary impacts of this regulation.

Staff recommends that the Board receive the program update. Staff will continue monitoring complaint numbers and budgetary impacts.

Ms. Jodie Filardo, Community Development Director, stated that they were present to discuss the clean earth fill and waste code. She said she would go through a few slides to outline the background of how they arrived at this point, the feedback they have received on this ordinance, and then she would present a couple of options to the Board before opening it up for questions and discussions.

Ms. Filardo said that in 2019, the Board adopted a resolution of intent that subsequently resulted in the adoption of ZTA 2019-0007, which created their zoning code 5.1.28, which was the fill and waste code. She said that on July 20, 2022, staff presented to the Board a special exception request made by Kindrick Farm for the opportunity to haul in dirt to improve the soil and create pasture land available for the Kindrick Farm, and the Board approved that. She said that after receiving approval, they received feedback from the Board expressing their interest in learning more about and receiving an update on their experience with a temporary waste ordinance.

Ms. Filardo said that they sought stakeholder comment on the fill and waste ordinance for approximately one month this year. She said that during this period, they received 67 responses, with 51 of them being from Virginia farmers who used a boilerplate template provided to them. She said that they had several responses from Albemarle County farmers and two specific individual letters that were shared. She said that the remaining 11 responses came from various sources not categorized under one topic.

Ms. Filardo said that the feedback could be summarized into three main areas. They heard from their farmers, who said to not regulate clean earth fill or inert waste, as they found it useful on the farm and were not interested in moving forward with it. She said that they were supportive of regulating contaminants. She said that neighbors expressed concerns about the volume of trucks passing through their neighborhood and the volume of activities as dirt was being moved. She said that several people suggested that inert waste should not be buried but recycled instead. She said that this was another interest. She said that additionally, individuals from the 11 other responses mentioned having gardens at home on less than five acres and wanted to bring in fill dirt for their gardens.

Ms. Filardo said that as staff members, they faced difficulties while working through the special exception with Mr. Kindrick regarding certain aspects of this code. She noted that one issue was that there was no clarity in the code about who held the regulatory authority from the County. She said that there was question as to whether it was the Zoning Ordinance or the County Engineer.

Ms. Filardo said that this confusion made it unclear as to who had to make the decision on how to proceed with the matter. She said that they had faced challenges in regulating fill coming from site plans and expressed her desire to clarify these issues along with the staff. She said that with that in mind, they presented three options for consideration from the Board. She said the first was that they could continue monitoring the situation and return to the Board at a later date with an update; the second was that they could engage with interested stakeholders to recommend modifications to fill and waste; and the third was that they could revise the code and incorporate it into the Zoning Ordinance modernization process, which would take a few years to complete.

Mr. Andrews asked to see slide five. He said that as far as options, they did not appear to be distinct options but rather steps in a process to monitor, engage stakeholders, and revise the Zoning Ordinance modernization. He asked for assistance in understanding how these three steps represented separate options rather than stages of an overall plan.

Ms. Filardo said that after they put in the code, they did not go through an extensive stakeholder process as they normally liked to do, because there was concern regarding a particular event that was driving a lot of the Board's concern relative to fill and waste when this first went in. She said that they have continued to monitor and return to the Board since that code went in.

Ms. Filardo said that they could look at that as continue to monitor and engage, but staff recommended that if they were going to go that direction, waiting until July 1 of the new fiscal year to ensure proper staffing for a thorough engagement process. She said that staff heard from various individuals within the community who expressed interest in collaborating with them on revisions. She said that particularly, a gentleman from the Farm Bureau, one of the constituencies eager to assist, was present in the audience today. She said that staff intended to continue to monitor and move forward but hoped to extend the engagement process to a more suitable time.

Mr. Andrews said that he appreciated the time constraints and the need to take the issue when staff was ready to take it, and did not think July was unreasonable to engage more fully. He said that while he was not present when the ordinance was passed, after reading through it, he was not in favor of a wholesale repeal. He said that the ordinance contained several steps that were important for regulating activities and preventing potential issues such as mosquito pools, unsafe conditions, or disruptions to nearby properties. He said that there were many protections included within the ordinance. He said that, however, he could see revisiting certain aspects of the ordinance based on the experiences they had had. He said that option two was good to him, and if the process had to begin in July, he would be open to that.

Mr. Gallaway said he did not believe he would be in a different position. He noted that there were two instances where clearances had been granted, and it seemed possible that the individuals who went through that process could provide feedback and engage with staff to understand what could be done moving forward. He said that the regulation of finding common ground suggested that the contaminant was the issue everyone wanted to address, whether it involved regulating. He said that this appeared to be a mutual concern. He said that if the ordinance needed to be revisited, the focus should be on ensuring it did not prohibit or prevent activities that all parties agreed were acceptable and that it did not need to target a different area to prevent what they were trying to prevent from happening.

Mr. Gallaway expressed gratitude for Mr. Andrews pointing out that one, two, and three did not seem like options but rather like steps. He said that he was certainly in favor of this approach. He said that the timing of when it would need to happen should be determined by the staff and their requirements. He said that he understood the need for speed back when they first did this, and if they now had more time and could gather additional input to scrutinize it further, then he would be comfortable with that decision.

Ms. McKeel said that she agreed with what Mr. Andrews and Mr. Gallaway said, and that there was a reason why they put this into place, which was because they were trying to provide some

protection. She said that she also understood the importance of reevaluating the system with stakeholders. She said that she was a bit confused because they had only received two clearance submissions, which did not seem like enough to base significant changes upon.

Bart Svoboda, Zoning Administrator, said that they had one who fell into the category of clearance that qualified for just the clearance. He said that the other, the property owner of which was present this afternoon, had come to the Board twice for two special exceptions. He said that on the first application, it was denied; on the second, they worked with Mr. Kindrick and reached a resolution and approval. He said that they had those two ends of the spectrum, and there had not been many in between that the County was aware of.

Mr. Svoboda said that some may be familiar with the large farm on the south side of the County, possibly in the Crossroads area. He said that they were doing a lot of grading on their farm. He said that if they read through the regulation, that moving dirt on their own land or parcel did not qualify as a fill activity. He said that they have had other cases where the site plan covered the fill area off site, which, according to the first line of that regulation, was acceptable if it was in accordance with an approved plan, site plan, on-site, or covered the fill area, ensuring that issues like mud in the streams was covered in the plan.

Mr. Svoboda said that they had a handful of the other ones. He said that there was actually a special exception that would be submitted or already submitted for two lots in a subdivision in Crozet. He said that this was an example of whether it was far enough or too far. He said that it was under two acres, and if they pulled the house permit, they would not call it fill because it was associated with an approved permitted activity. He said that what they wanted to do was get the two house lots pad-ready. He said that the two lots together equaled a little over half an acre. He said that each lot individually did not meet the two-acre minimum, yet it was in an approved subdivision, but the subdivision was old enough that there were no active plans. He said he did not have any protections in place, meaning they would fall under the protective plan.

Mr. Svoboda said that there was a third scenario that would come before the Board a few months later on whether it was too much or not enough. He said that this situation was somewhat similar to the comment on whether or not it was fill for a garden.

Mr. Svoboda stated that the issue was that if they performed maintenance on the farm road, it did not count as fill. He said that some other activities allowed for a dump truck load of material, but not 20 loads, depending on the size of the garden. He said that there was a balance there, and in the time, they had, they had very few examples to work with. He said that they received numerous questions and hypothetical scenarios.

Ms. McKeel asked if the 22 complaints investigated resulted from just these two clearances or from complaints.

Mr. Svoboda said that they were just complaints. He said they had some on these two clearances, and some on the farm activities he had just described that were exempt from the regulation. He said there were other complaints that turned out to be illegal dumping complaints. He acknowledged that there were some where they must conduct an investigation, and they would determine the outcome. He said that some of these complaints were repetitive; for instance, out of those, three or four may have originated from the same site but different individuals.

Ms. McKeel said that she was not willing to throw the entire thing out and start over again. She said that she agreed with Mr. Gallaway and Mr. Andrews that it seemed there was a way to nuance it to investigate it more. She said that she needed more than two events to make a significant change.

Mr. Svoboda said that there were likely only minor adjustments rather than significant changes to be made. He said that an ordinance should be a living and evolving document, and modifications should be made as new information becomes available. He noted that even with the limited examples provided, it had become apparent that certain alterations were necessary. He said that some positive aspects of the ordinance must be preserved. He said that he concurred that examining, analyzing, and making appropriate adjustments was the most suitable course of action. He said that a complete removal of the ordinance would only be considered if the Board expressly desired it; otherwise, they should focus on refining rather than discarding the document.

Ms. McKeel said that she believed that this Board was always interested in examining their ordinances and determining how they could be improved. She said it was essential to have sufficient data to identify what changes were necessary for improvement, and she was not certain if they possessed such information there. She said that although she was willing to agree on making some adjustments at present, she said she was unwilling to commit to a complete overhaul of the current system.

Ms. Mallek said that over the years, categories of questions had emerged. She said that one category included people asking why asphalt was allowed on the ground because the state claimed it was inert, despite containing petrochemicals that leached out and caused issues. She said that this ongoing assessment may evolve over time. She said that another category focused on the impacts to neighbors, which was an important characterization for their other processes, and people questioned why that did not count here. She said that she understood all of the different threads that had come together on this issue. She said that she hoped that more experiences would be shared in the coming weeks, providing them with valuable information to consider potential changes.

Ms. LaPisto-Kirtley asked to see slide 4. She asked if it was correct that the neighbors complaining about the number of trucks was regarding a specific property.

Mr. Svoboda said no. He said that there was a site in Earlysville that was probably the most active. He said generally, when they received a complaint, it started with a lot of dump trucks going down his road, and people wanted to know why. He said that it could be that someone had a house permit, and they were building a house, but it was also that trigger. He said that one of the things they had learned through the process was sometimes it was not the fill itself, but the amount of traffic or trucks that were put on the road. He said that they knew from their previous research that other localities regulated the amount of truck trips as part of it as a threshold. He said that going back to what they had learned or tweaked, there was some additional research for them to do with other localities who were doing similar things.

Ms. LaPisto-Kirtley said that it would be important to see what other localities were doing. She said that it was interesting that they allowed residential field projects less than five acres for a garden or similar purpose. She said that perhaps people would bring one truck to transport soil and materials needed for the project. She asked to see slide five. She said that step two was important because it engaged the stakeholders who were actually involved.

Ms. LaPisto-Kirtley said that this approach was also used for affordable housing initiatives. She said that they implemented certain measures and then stopped at the developer incentives stage. She said that the reason for this was to obtain input from developers, ensuring that their incentives would be effective. She said that she viewed this as a similar situation. She said that by engaging those who are directly involved in this, not necessarily people complaining about trucks passing back and forth. She said that their primary focus should be on involving stakeholders to provide recommendations for improving the ordinance so that they could avoid situations like Mr. Kindrick's property or anyone else that came through.

Ms. LaPisto-Kirtley said that as Ms. McKeel mentioned, she believed they should get the ordinance right as best they could. She said that they knew that things evolved through the years. She said that farmers and everyone else were seeking protections and control over contaminants, and the Board got to decide which contaminants should be present. She said that they shared the same goal as farmers and anyone bringing in large amounts of clean fill. She said that the best approach was engaging stakeholders, possibly starting in June or July when staff had the opportunity but perhaps gather information from stakeholders before then. She said that this information could then be incorporated into revising and modernizing the ordinance, a process that would take two to three years.

Mr. Andrews said that they could look to adjacent localities and utilize local expertise among stakeholders to take a serious look at what could be done.

Ms. Price said that perspective could greatly influence one's perception of a situation; for example, what might be considered a deduction by some could be seen as a loophole when it came to taxes. She said that what others may view a change as merely a tweak, others may require significant alterations. She said that while she was not prepared to discard the ordinance entirely, she believed that, much like under common law, courts can establish precedents through their decisions that affect the application of a statute. She said that in light of this, they in the County should consider using the precedent set by their experience with the Kendrick situation as a basis for identifying appropriate changes to the ordinance without necessarily focusing on the number of property owners affected.

Ms. Price said that additionally, it was important to remember that a complaint does not always indicate non-compliance; people may file complaints for various reasons, and they may find that these complaints are not factually substantiated. She said that they must consider all these factors. She said that referring back to slide number four, inert waste raised concerns and disagreements regarding its definition. She acknowledged Ms. Mallek's point about some inert items having consequences that others do not. She said that she wished they could actually recycle all plastic instead of bundling it up with uncertain outcomes. She said that they should continue striving for the best possible results.

Ms. Price said that she generally agreed with the points presented here. She said that she agreed that farmers should be allowed to use clean earth or inert waste as appropriate to enhance their land's productivity from an agricultural perspective. She said that she doubted a farmer would intentionally damage their property. She said that she appreciated the recognition that contaminants must be regulated. She said that she was concerned about regulating truck volumes because it did not account for the actual amount of work that may want or need to be done on the land.

Ms. Price said that regarding the Kendrick situation, there were a number of other related issues, including improperly-controlled construction, with the proposal. Ms. Price said that it was unfortunate, and that should not fall on other property owners trying to improve their land, and that everyone would rather regulate waste rather than burying it. She said that it seemed appropriate to her that a smaller property owner should be able to improve their property for a garden just like a farmer on a larger piece of land could do.

Ms. Price said that she was not competent to address whether it was the County Engineer or Zoning that had authority, and hoped staff could help her better understand how that would come into play. She said that she believed that returning to the Kendrick situation, they, as the Board, made the correct decision in the end. She said that should ensure that they took the necessary time to gather data

and work together effectively. She said that she hoped that both the County and the Board acknowledged the deficiencies in their ordinance and did not make it overly difficult for those who wished to adhere to its spirit.

Agenda Item No.12. Closed Meeting.

At 4:33 p.m., Ms. LaPisto-Kirtley **moved** that the Board go into a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- under subsection (1), to discuss and consider:
 - appointment of the County's director of economic development; and
 - the annual performance of the county attorney; and
- under subsection (7), to consult with legal counsel and receive briefings by staff members pertaining to actual litigation in the case styled *County of Albemarle v. The Vine and Fig Tree Farm, LLC, Jason Williamson and Susan Williamson*, where consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the County and the Board;
- under subsection (8), to consult with legal counsel regarding specific legal matters requiring legal advice related to alcoholic beverage control laws and decisions of administrative law judges of the Virginia Alcoholic Beverage Control Authority; and
- under subsection (29), to discuss the award of a public contract involving the expenditure of public funds for photo speed monitoring devices in school crossings and highway work zones, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the County and the Board.

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

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

Agenda Item No.14. Certify Closed Meeting.

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

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

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

Non-Agenda Item. Appointment of Director of Economic Development.

Mr. Andrews **moved** that the Board adopt the Resolution Appointing Barry Albrecht as the Director of Economic Development, in the form provided to them.

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

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

**RESOLUTION
APPOINTING BARRY ALBRECHT AS THE
DIRECTOR OF ECONOMIC DEVELOPMENT**

BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia ("Board") that:

1. upon the recommendation of the County Executive, Barry Albrecht ("Albrecht") is hereby appointed the Director of Economic Development for the County of Albemarle, Virginia, pursuant to Virginia Code § 15.2-512;
2. this appointment will be effective on and after December 18, 2023;

3. Albrecht will serve as Director of Economic Development at the pleasure of the Board and for an indefinite term pursuant to Virginia Code § 15.2-513;
 4. Albrecht will serve as the head of the County's Office of Economic Development; and
 5. Albrecht will act under the supervision of the County Executive.
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Agenda Item No. 14. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Jeff Richardson, County Executive, said that from October 25 through 27, County staff attended a three-day masterclass hosted by the Department of Homeland Security on the National Standard Active Shooter Management Checklist Integrated Response Process. He said that it was hosted by the City of Charlottesville, and nearly 50 first responders, ranging from various ranks and organizations such as Albemarle County Fire Rescue, Police, Cape, the City of Charlottesville's fire and police departments, UVA and their police department, Albemarle County Sheriff's Office, attended this course.

Mr. Richardson said that the course provided a model framework to improve incident management and the integration of law enforcement, fire, and EMS response during active shooter event response. He said that it aimed to reduce the time taken to neutralize the threat, provide medical intervention, and ultimately improve the survivability of victims. He said that the course included 11 full-scale exercises that utilized a combination of computer-based simulation and in-person scenarios.

Mr. Richardson said these exercises placed responders in the middle of the incident and in command centers to develop and implement resource management and action planning. He said that dispatchers and radios were used to replicate a real-world feel for sharing information, and each scenario concluded with a mock press conference to share timely and vital information.

Mr. Richardson said that the City, University of Virginia, Albemarle County, the police department, the sheriff's office, and key emergency response agencies collaborated effectively in this course. He said that because in a community event of this sort, they must have the collaborative feel with their emergency response partners because minutes matter.

Mr. Richardson said that the Ivy Corridor Input Focus group was a new partnership between Community Development and VDOT. He said that Community Development supported the corridor community input focus group and supported VDOT's efforts to gain community input on any necessary improvements to the Route 29/Route 250 study. He said that a focus group was established to identify needs and potential solutions during the first phase of the process.

Mr. Richardson said the members represented the neighborhoods and businesses along the corridor. He said that there had been two focus group meetings thus far, one in August and one in October. He said they discussed transportation challenges and the needs for the area and potential solutions for those challenges. He said the most feasible of the potential solutions discussed would be the topic of an upcoming public meeting, but that the date had not been determined.

Mr. Richardson said that on Friday, October 20, Ed Brooks hosted the third annual Yancey Community Partners Retreat. He said that representatives from 14 partner agencies and four County departments attended to discuss the Yancey Community Center Partner Agency's accomplishments in 2020, as well as their mission, community objectives, and visions for 2024. He said that the gathering aimed to strengthen the collaborative integrated service model throughout southern Albemarle County.

Mr. Richardson said that Ms. Kristy Shifflett recently completed the Virginia Women's Municipal Leadership Institute. He said the program, a partnership between Virginia Women's Leading Government and the Virginia Tech Roanoke Center, provided women, aspiring leaders and current leaders, with connections, content, tools, and opportunities to further develop their skills and broaden their network as they pursued local government leadership.

Mr. Richardson said that Ms. Shifflett and 24 other high potential women leaders from across the Commonwealth attended sessions designed to develop their skills and confidence for pursuing positions as community leaders. He said it was the second year of this program, with attendees in both years. He said it was part of their continuing professional development commitment to staff.

Mr. Richardson said that Brian Miller from the Police Department, Titus Castens from Fire Rescue (ACFR), Stephen Hitchcock from DSS (Department of Social Services), Sue Hess from Partners for Mental Health, and Virginia Levelle with ACFR responded to emergency calls related to mental health or substance abuse each morning after their team meeting to plan the day. He said that they attached themselves to emergency calls and followed up on any overdoses and discharges from treatment facility hospitals through an officer referral. He said that Ms. Hess could navigate any necessary ongoing care for the individuals involved, while Virginia Levelle responded to substance use disorder overdose cases and follow-ups.

Mr. Richardson said that since July, they had responded to 111 individuals experiencing varying states of behavioral health crisis. He said that of those, 85 fell under the broad heading of mental health crisis, while 26 were related to substance abuse overdoses. He said that the majority of the 111 involved multiple contacts. He said that they would continue to follow this model and collect data for review as they approached the budget process.

Mr. Richardson said that demolition of the Levy Annex began in mid-June and was completed by late August. He said that the selective interior demolition of the historic Levy Opera House had also been completed as part of the renovation work to upgrade the facility to house the County's Commonwealth Attorney's offices. He said that substantial completion for the first phase of this project was expected to be achieved by early 2025. He said that updates on progress were shared with the community at www.albemarlecountycourtscomplex.com.

Mr. Richardson said the IT project tracker application launch had taken place within their IT Department in October. He said the new project management system provided a standardized and efficient approach to the scoping and planning of technology requests by County staff. He said that the new request system would enable IT staff to more effectively determine a project's impact on security, infrastructure, and the overall IT system. He said that there were currently 104 active projects in the system.

Mr. Richardson said Trunk or Treat took place in October. He said that County police officers organized and hosted two pedestrian safety-focused trunk or treat events at Claudius Crozet and Darden Towe parks. He said that between the two events, approximately 1,700 people attended. He said that they would leverage their success and involve other departments to maximize community engagement at the events. He said 10 community partners participated, sharing treats and safety tips between the two events.

Mr. Richardson said the Battle of the Badges softball tournament was held on October 30. He said ACPD (Albemarle County Police Department) organized and participated in the event, which coincided with the Trunk or Treat at Darden Towe Park. He said that Team ACPD emerged victorious, winning the inaugural Battle of the Badges trophy after remaining undefeated throughout the tournament. He said that the final game was between ACPD and the Charlottesville Fire Department. He said that the ceremonial first pitch was given by Daniel Birch, the executive assistant to Colonel Reeves, and Jessica Downey, the executive assistant to Chief Kochis.

Mr. Richardson said that the Charlottesville Regional Chamber of Commerce will host the Best in Business Awards. He said that the County will be a presenting sponsor at the event, which takes place on November 30. He said that the Chamber of Commerce aimed to honor local business leaders who made a positive impact in the community.

Mr. Richardson said that on November 11, the ceremony for Operation Greenlight took place, a program of NACo (National Association of Counties). He said that the office building was illuminated with green floodlights to recognize Veterans Day. He said that American Legion Post 74 held a ceremony to honor Veterans Day on Saturday, November 11, at Lane Auditorium. He said that he had received encouragement from several Board members that they would like to see County staff continue to move in a direction of supporting the event and American Legion Post 74. He said that after conducting due diligence, they would get in touch with American Legion Post 74 to see if they could make the event next year even better.

Mr. Trevor Henry, Deputy County Executive, said that he had returned the Association of Defense Communities Installation Conference in Florida, marking its tenth iteration with about a thousand attendees from across the nation. He said that a strong contingent from Northern Virginia and Hampton Roads were present, allowing him to connect with local government officials as well as military personnel at the base commander and installation commander levels. He said that the investment of time was undoubtedly worthwhile.

Mr. Henry said significant sources of funding were available through the DoD (Department of Defense), particularly in the areas of resilience, energy, connectivity, water security, and various funding vehicles. He said the new economic development director was well-connected to these funding sources. He said that a best practice he had learned was many defense communities with a strong presence have a position called a military liaison. He said that Fairfax had a Fort Belvoir liaison.

Mr. Henry said that the County established a similar role through their funding and support of the DAC (Defense Affairs Committee). He said that his role had also focused on the DoD.

Mr. Henry said that it was important as a locality to maintain strong relationships with Rivanna Station and Fort Belvoir, who was the parent command. He said that there were some grants that could not be applied for unless the commanding officer of Fort Belvoir signed off on them. He said that in the past few weeks, they had made significant progress in strengthening their relationships with senior leadership at Fort Belvoir and Rivanna Station. He said that they were scheduled to visit in early December for a meeting involving emergency management representatives from both stations. He said that they had been working on an intergovernmental support agreement, which was discussed extensively during the recent sessions. He said that these agreements allowed localities to contract and perform tasks such as snow removal, with the government covering the costs.

Mr. Henry said that tomorrow afternoon, he would be attending a quarterly Virginia Military Advisory Council meeting in Richmond. He said that the council was convened by the governor and managed through Secretary Crenshaw's office. He said that it brought together base and installation commanders to discuss the issues they faced. He said that attending this meeting would provide an excellent opportunity for further networking and collaboration.

Mr. Henry said that he wanted to shift gears and discuss questions related to outdoor burning. He said he was aware that some Supervisors had inquiries regarding this topic. He said they had issued an advisory last week, and since then, he had connected with their fire department on a procedure called the "Outdoor Fire and Wildlife Risk Assessment Determination Procedure." He said that he would share this procedure with the board via email so that they could all have access to it.

Mr. Henry said the process involved the Fire Marshal's Office, the resiliency branch of Fire Rescue, as well as the emergency manager. He said that they evaluated daily the current situation in consultation with the National Weather Service and the Virginia Department of Forestry (VDF) Fire Danger classifications. He said that based on data-driven assessments, if there was a significant level of concern regarding either factor, they would then recommend that they move to a fire ban status.

Mr. Henry said that the VDF ranges varied from a minimal threat at level one to a significant threat at level five. He said over the past week, the data indicated that the Charlottesville area or Albemarle County had experienced levels of one or two. He said that today they were at level two, and there was a possibility that they would move to a level three tomorrow. He said that they were closely monitoring this situation and received daily updates from the fire department as well as VDEM (Virginia Department of Emergency Management) for state-wide information, including their region's weather conditions and forecasts.

Mr. Andrews said that he always looked forward to these reports, appreciating their breadth and scope of various activities. He said that the integrated incident response had undoubtedly been a significant starting point. He said that it was encouraging to see 111 individual situations addressed by the HARTS (Human Services Alternative Response Team) team. He said he appreciated the update on the emergency response aspect in connection with the burn advisory, and that being prepared for unexpected events such as fire, flood, and snowmageddon was important. He said that two years ago, an unanticipated event occurred, reminding them of the need to be ready at all times. He said that he was excited about the 29/250 focus group efforts and was thrilled to learn more about the work being done in Yancey.

Mr. Gallaway said that the CIT (Crisis Intervention Team) team should be linked to the individuals they heard from today because it demonstrated the type of programming aimed at diverting people in crisis situations. He said that if the CIT team were not present, the calls would likely be handled by the Police Department or emergency personnel, which could result in a different outcome. He said that although the officers were trained to handle such situations, the primary goal was to identify and address the immediate crisis.

Mr. Gallaway said that the situation was becoming increasingly urgent as they had been receiving SMART SCALE updates, that the cooperation that would take place between Economic Development and the Planning Department regarding their ability to understand how to submit transportation applications and maintain their track record.

Mr. Gallaway said that it appeared that there was a significant amount of cross-pollination occurring between economic development and transportation, as well as economic development and affordable housing. He said that as a result, their focus may need to shift so that while working on economic development projects such as Rivanna Futures, they must be prepared for new developments that were emerging.

Ms. McKeel said she looked forward to ongoing reports about the health crisis team. She said that she hoped that as the team went through the year and became comfortable with their responses, they would be able to respond to some of the issues they had with panhandlers. She said that occasionally they received calls from panhandlers in their community, and it would be great if they could extend their work to those calls as well. She asked for more information about the situation with the fire.

Ms. McKeel said a constituent reported to her that a neighbor had a fire burning in their backyard. She asked about the process for instituting a burn ban.

Mr. Henry said that they possessed the authority to implement a burn ban based on the Fire Marshal's recommendation. He said that this action aligned with the guidelines outlined in the code referenced within their procedural documents.

Mr. Steve Rosenberg, County Attorney, said that was correct, but he would affirm the information. He said that the Fire Marshal had the authority to impose the ban.

Ms. McKeel said that she simply wished to confirm whether it was accurate that they possessed the capability to activate that feature promptly should they deem it necessary.

Ms. Price said that she and ACFR Chief Eggleston had exchanged emails the previous week in which Chief Eggleston articulated the process and the mechanism, and that he had the authority to do that. She said that she would provide a copy of those emails to the other Board members.

Ms. Mallek said that individuals needed to be aware of the potential consequences of their actions, like burning leaves or using a chainsaw without proper precautions. She said that careless acts could lead to disastrous results, such as nearly burning down a neighbor's barn.

Ms. LaPisto-Kirtley said that she was very impressed with the new HARTS program and how many people it was currently helping. She said that she attended the Trunk or Treat at Darden Towe and

had to fight off children trying to get into the police vehicles. She said that the event provided a positive moment for Fire and Police to interact with children and their parents.

Ms. Price said that the Trunk of Treat event was significant because those of her generation remembered going through neighborhoods. She said that over the years, there had been incidents of candy being contaminated with razor blades and needles. She said that parents had grown concerned about their children's safety, and having these community events provided a safe venue in a controlled environment. She said that she agreed with Mr. Gallaway's comments regarding the behavioral health crisis response team. She said that the crisis response team addressed situations daily, which could reduce the likelihood of them falling into the criminal justice system or resulting in worse outcomes. She said that they had all seen reports around the country where such situations escalated into violence and death, so they needed to improve the jail while taking actions that would reduce incidents.

Ms. Price said that the Virginia Women's Leadership Initiative aligned perfectly with what County Executive Jeff Richardson taught at UNC. She said that it reflected how the County Executive led the County, which was very important for both workforce stability and service delivery. She said that when she was a child in her early teens, they went to Washington, D.C. on a family vacation, and it was possible to practically walk into the White House. She said she returned to D.C. in the 80s, both early and late, while working with the federal government as part of her service in the Navy. She said she was surprised and disappointed to see the barriers, barricades, and security measures in place due to the increased threats, such as the Edward Morrow building incidents.

Ms. Price said that over the past 20 to 30 years, they were confronted with shootings in various locations such as clubs, movie theaters, schools, government facilities, and more. She said that this was the reality of their current situation. She said that the actions taken by Mr. Richardson and Mr. Henry in preparing not only the County but also their community for the possibility of such events were critical because every second counted.

Agenda Item No. 15. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.

Mr. Matt Helt, from Crozet in the White Hall District, said that he walked to the meeting to discuss Western Park and Old Trail. He said that upon entering the building, he noticed that they had an excellent sign for parks and recreation stating that the organization managed 14 parks. He asked if any of them had visited Western Park and Old Trail. He said that one person raised their hand, which meant the rest of them had not. He said that these people had not attempted to park or find a place to play soccer, lacrosse, or football in these parks. He asked how many houses and residents the Board had approved for construction in Crozet. He said that Western Park was the only one situated within a neighborhood they received from developers in 2009.

Mr. Helt said that the County created a master plan in 2009, calling for \$3.3 million, and in 2018, they revised the master plan, requesting \$5.5 million. He said that the inaction of the Board had increased the cost of the park due to inflation by \$7 million or \$8 million. He said that it was well past time for the Board to take action and improve the infrastructure in Crozet. He said that Western Park was one of many things the Board had failed to deliver on their promises to the residents of Crozet.

Mr. Helt said that regarding Supervisor Andrew's comments about the snow, it was worth mentioning that six or seven years ago, the Board had requested the state to change the law so that the County could have a sidewalk clearing ordinance. He said that they had failed to implement such an ordinance.

Mr. Helt said that Supervisor McKeel commended serving 1,700 kids candy and praised the County Executive for organizing the Trunk or Treat event, as it helped them all connect with the residents. He said that the Board should organize an infrastructure meeting with the residents of Crozet to address their concerns and work together toward improvements in the area. He said that they might get 1,700 people.

Mr. Helt said that in regard to Supervisor Price, there had been no incidents of people having candy contaminated by razor blades or needles. He said that thousands of kids trick-or-treat in Crozet every single year, and there were no incidents according to the Police Department or the hospital. He said that it did not happen.

Mr. Helt said that he wanted to talk about Western Park. He asked when the Board would start work on developing the park and provide the funding for the park that had been approved. He asked how many thousands of residents lived in Old Trail; how many hundreds of houses had been built; how many businesses existed in Old Trail. He said that the Board had failed to live up to its expectations and the promises that it made to the residents of Crozet.

Ms. Price said that each of the following two items consists of two applications. For the first item, there was a special use permit and a special exception. A public hearing needed to be held for the special use permit, and the Board was required to take action on the special use permit. For that reason, both items would be presented together, and the actions would be taken on both items separately at the end of the hearing.

Ms. Price said that for the second item, the Board was required to have a public hearing for both items, and there would therefore be some different time periods allotted for the speakers on those.

Agenda Item No. 16. **Public Hearing: SP202200022 and SE202200047 Walnut Creek Park Tier III PWSF.**

PROJECT: SP202200022 and SE202200047 VERIZON - WALNUT CREEK PARK - TIER III PERSONAL WIRELESS SERVICE FACILITIES

MAGISTERIAL DISTRICT: Samuel Miller

TAX MAP/PARCEL(S): 10000-00-00-03500

LOCATION: The proposed facility is located immediately south of the nearest addressed parcel at 3760 Walnut Creek Park.

PROPOSAL: The applicant proposes to construct a 195-foot-tall monopole tower to be used as a Personal Wireless Service Facility. The facility will include a lease area with ground equipment. The applicant has also requested a special exception to allow the antenna to be mounted 18 inches from the face of the tower instead of 12 inches.

PETITION: Tier III Personal Wireless Service Facilities are permitted by special use permit in the RA, Rural Areas district in accord with Chapter 18, Section 10.2.2(48) of the Code of Albemarle. A special exception request may be made in accord with Chapter 18, Section 5.1 of the Code of Albemarle.

ZONING: RA, Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

OVERLAY DISTRICT(S): FH Flood Hazard Overlay

PROFFERS: No

COMPREHENSIVE PLAN: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/residential density 0.5 unit/acre in development lots. Rural Areas 4 Comp Plan Area

The Executive Summary forwarded to the Board states that at its meeting on November 22, 2022, the Planning Commission (PC) voted 5:1 to recommend denial of both the proposed special use permit (SP202200022) for the wireless facility and the proposed special exception (SE202200047) due to the visibility of the tower, and its lack of concealment that a treetop tower, no more than 10' above the tree line, would have afforded.

Attachments A, B, and C are the PC staff report, action letter, and meeting minutes. The applicant has not submitted additional information or made revisions since the PC action.

At its meeting on September 20, 2023, the Board of Supervisors by a vote of 5:1 adopted a resolution to authorize a lease of approximately 2,500 square feet of land (and associated easements) at Walnut Creek Park, to Cellco Partnership (doing business as Verizon Wireless). The sole subject of that public hearing was the proposed leasing of the property. This proposed special use permit has been reviewed separately from the lease matter and must be acted on based on the merits of the special use permit request. If the special use permit application were not approved, Verizon would have the right to cancel the lease.

The PC discussion on the tower primarily focused on visibility and aesthetic impacts due to the proposed height of the tower. These concerns were also raised by several members of the public who spoke during the meeting. The PC noted that it may have recommended approval of a shorter tower, such as a Tier II PWSF ("tree top tower").

Though staff agrees that a tree top tower would have less visual impact than the tower as proposed, staff believes the proposed facility is well-sited and provides ample opportunities for screening to minimize its visibility from adjacent parcels and streets. Most of the visibility is from within Walnut Creek Park itself. As indicated in the staff report, where the proposed tower would be visible from adjacent parcels and streets, the view would be mitigated by distance and existing vegetation.

Staff recommends that the Board adopt the attached Resolutions to approve SP202200022 (Attachment D) and SE202200047 (Attachment E) Verizon – Walnut Creek Park Tier III Personal Wireless Service Facility with the conditions as proposed in the staff report.

Alternatively, if the Board wishes to follow the recommendations of the Planning Commission to disapprove these applications, staff has also prepared alternate resolutions to disapprove SP202200022 (Attachment F) and SE202200047 (Attachment G).

Mr. Kevin McCollum, Senior Planner, said that he was presenting staff's findings on the Walnut Creek Park Tier III cell phone tower application. He said that the proposal entailed an application for a personal wireless service facility, commonly known as a cell phone tower.

Mr. McCollum said that the applicant's plan involved a 195-foot-tall monopole tower with a four-foot lightning rod at the top. He said that the proposed site was on the County Walnut Creek Park property, near the entrance to the park off an existing driveway that led to a park maintenance building. He said that according to ordinance regulations, grounding rods should not exceed two feet in length; thus, the applicant had recently indicated that the lightning rod would be reduced to the required two-foot length.

Mr. McCollum said that the applicant submitted a special exception application for the projection standards, requesting permission to mount the antenna at the top of the tower 18 inches parallel to it.

Mr. McCollum said that staff believed that this location was suitable for a tower of this size. He said that the majority of the surrounding area consisted of wooded land, which limited visibility. He said that staff's analysis primarily focused on the impacts to adjacent properties and streets. He said that the only visibility staff observed was from portions of Old Lynchburg Road. He said that where the tower was visible along the road, views were significantly reduced by existing trees and vegetation. He said that based on the tower viewshed analysis, some properties to the north and west appeared to have some visibility as well; however, this potential was greatly diminished by distance and existing trees.

Mr. McCollum said that a majority of Old Lynchburg Road was screened by existing trees and vegetation; however, in some cases, there was an opening where the proposed tower could be visible from the road.

Mr. McCollum said that at its meeting on November 22, 2022, the Planning Commission (PC) voted 5-1 to recommend denial of the application due to the visibility of the tower and its lack of concealment that a treetop tower would have provided. He said that the PC discussion on the tower focused primarily on visibility and impacts to users of the park.

He said that, as mentioned in the staff report, a majority of the tower's visibility was from within the park. He said that the PC may have recommended approval of a shorter tower, such as a tier two treetop tower. He said that staff agreed that a treetop tower would have less visual impact; however, staff believed that the proposed facility was well sited and its visibility from adjacent parcels and streets was minimal.

Mr. McCollum said that the favorable factors for a facility in this location included improved wireless service in the area, substantial screening of the facility from adjacent properties and public roads due to existing vegetation, and the request was consistent with the Comprehensive Plan. He said that the facility's visibility from Walnut Creek Park was an unfavorable factor. He said that staff recommended approving the special use permit and special exception with specific conditions.

Mr. Andrews asked if there was a sense of what the maximum height would be for the tier 2 tower at the site. He asked what the treetop height was in the area.

Mr. McCollum said that a tier 2 tower would be 10 feet taller than the closest tree within a 25-foot radius of the structure. He said that he was not sure what the height of the trees in the area was, but that it would be much shorter than the proposed tower.

Ms. Mallek said that from the photograph, it appeared that the trees were about half as tall as the tower, and she asked for clarification on the applicant's ability to add an extra 20 feet and the conditions for adjusting the height.

Mr. McCollum said that staff was recommending conditions that limited the tower's height to 175 feet. He said that the FCC (Federal Communications Commission) regulations allowed the applicant to apply for a one-time increase of 20 feet in the tower's height. He said that if they approved the tower's height at 175 feet, it could be constructed up to the proposed 195 feet.

Ms. Mallek asked if the concealment had to be specified so that it would not continue to grow.

Mr. McCollum said that was correct. He said that according to the FCC guidelines, the applicant could increase the standoff by up to 20 feet. He said that staff proposed a condition that limited it to the initially suggested 18 inches. He said that he examined the tree survey to provide context on the heights of the existing trees. He said that several of them were 87 feet tall, while others measured at 85 and 86 feet. He said that the smallest tree was 77 feet in height.

Ms. Price opened the public hearing and asked the Clerk if there were individuals signed up.

The Clerk, Ms. Claudette Borgersen, said that there were.

Ms. Lori Schweller, Williams Mullen, representing Verizon Wireless, said that Nate Holland with GDN Sites was present and served as the zoning manager for this project. She said that this property was located on the south side of Old Lynchburg Road in the northern parcel of Walnut Creek Park. She said that the County also owned the southern parcel to the south of the subject property, where the lake, walking trails, and boat dock were situated. She said that the project aimed to serve both Walnut Creek Park and the neighboring residences along Old Lynchburg Road.

Ms. Schweller said that in the spring of this year, they held a series of two-by-two meetings with the Board to present proprietary Verizon Wireless coverage maps to help visualize the coverage that this site was intended to provide. She said that the Verizon Wireless Engineer responsible for providing coverage in Central Virginia demonstrated what that coverage would look like using computer modeling with three different heights. She said that a tier 2 tower would be 97 feet. She said that they showed a 92-foot pole, 152, and 192, which is what they would have with this site.

Ms. Schweller said that the coverage within the park was very poor, marginal to poor, resulting in

some areas without coverage and dropped calls for individuals traveling on trails, pedestrians, and cyclists, as well as those near the lake. She said that the target coverage areas encompassed the entire park and the residences to the north, northeast, and east of the park.

Ms. Schweller said that the outcomes from those two-on-two meetings were that at 92 feet, there was still extensive, marginal, and very poor coverage. She said that this height was not high enough to serve that southern parcel of Walnut Creek Park. She said that at 152, there was still insufficient coverage both in the park and north of the site due to elevation north of the site. She said that at 192, the modeling showed good coverage almost everywhere within the target area.

Ms. Schweller said that the distance to most surrounding properties was a thousand feet or more. She said that the closest parcel was where the closest residence was approximately 840 feet away. She said that the site was located in a forested area near the maintenance compound. She said that the highest elevation was what they were looking for, which was 666 feet above mean sea level. She said that when moving down into the lower part of the park, there was a significant drop, as low as 460 feet, with an average range of 460 to 500 feet near the lake, so a taller tower would be necessary to serve that area effectively.

Ms. Schweller said that the site would be accessed by a 20-foot access easement off Walnut Creek Road. She said that it was a small compound, featuring a 50 by 50-foot lease area and a 40 by 40-foot compound. She said that the applicant requested a 195-foot monopole with a two-foot lightning rod and an 18-inch standoff for the antenna.

Ms. Schweller said that the balloon test was conducted last summer, and photographs were taken at various locations along Walnut Creek Park Road and Old Lynchburg Road. She said that the site was not visible along Old Lynchburg or Red Hill roads farther to the north or south, so there were no photographs from those locations. She said that it was evident that on Walnut Creek Park, the site would be visible when driving along the road right beside the site and possibly from the lake as well. She said that on Old Lynchburg Road, the site was visible near the park site from the north but not in other locations.

Mr. Andrews asked about how multiple towers on one site would impact service.

Ms. Schweller said that multiple towers in the same location would not serve the purpose. She said that they were not approved to do two projects, so the coverage and impact of two poles at two different locations had not been analyzed.

Mr. Andrews clarified that they could not increase coverage by installing multiple smaller poles in the same location.

Ms. Schweller said that was correct; it was a line-of-sight technology. She said that when they demonstrated the propagation for lower heights, that represented the propagation. She said that regardless of having two poles of the same height, they would not be able to propagate any farther than a single pole of that height. She said it would not be beneficial to have more than one in terms of coverage area.

Ms. McKeel clarified that the coverage was dependent on the height of the pole because it was line-of-sight.

Ms. Schweller said yes. She said that was because they were attempting to cover an area that was nearly 200 feet lower in elevation than the site's location, so it was necessary to have a taller pole for adequate coverage.

Ms. Mallek clarified that the company had not considered conducting two shorter events on the park grounds, one near the water and another at the top.

Ms. Schweller said not to her knowledge, but that she would defer to Mr. Holland.

Mr. Nate Holland, Verizon Wireless, said that the engineer had looked into the matter and determined that more than two facilities would be needed for adequate coverage in the park. He said that the location of these facilities would depend on access to electrical and telephone services. He said that some trees may need to be removed, which could be undesirable. He said that covering the entire park with shorter poles was not a viable option due to its size.

Ms. LaPisto-Kirtley said that her understanding was that the poll must be high enough above the trees to cover a larger area. She said that they were considering this factor in her area, where there were many tall trees and a large area to cover. She said that if one was positioned near mountains, it was possible to focus the antenna toward the road.

Ms. Price said that she understood that the current technology required line of sight. She said that if they placed treetop poles on every hill and hillock in the park, they could potentially cover the entire area with shorter polls, however, this would require multiple poles. She said theoretically, it was possible to install numerous poles, but the practical aspect, cost, and feasibility of covering a large area with so many poles made it unfeasible. She said that they considered multiple options but ultimately dismissed them due to financial and practical constraints.

Mr. Holland said that the poll was not only covering the park but also the area southwards along the road leading up to Red Hill. He said that consequently, it offered better coverage for the residents living near the park.

Ms. Price opened the hearing for public comment.

Ms. Eliza Evans said that she lived just across from Walnut Creek Park, and that she was the closest neighbor except for her parents. She said that her dad often painted landscapes around that area. She said that she frequently exercised at Walnut Creek Park. She said previously, she had poor Verizon coverage on her phone, with almost no bars, but now, she had two bars throughout the entire red trail, which extended from the lake to the park's edge, ensuring consistent service during her visits. She said that approximately three or four years ago, the service in that area likely changed to provide coverage. She said that prior to this change, they did not have service, which could be problematic at times when making calls and experiencing dropped connections. She said that now she consistently had at least two bars of signal strength. She said that she thought a few people in the neighborhood did not have cell phone service.

Ms. Evans said that she believed that a more suitable location for a cell phone tower would be approximately one mile to the north on Old Lynchburg Road, at a similar elevation. She said that Dominion Power was constructing a substation at the location, which may be slightly higher in elevation than the existing structure. She said that Bailey Field, the name of the field where the proposed tower will be built, offered a picturesque view of west-facing sunsets and moonrises for those walking or driving along the road.

Mr. Timothy Collins said staff opinions and analyses were conveniently conducted in the summer when leaves were on the trees, and the tower was clearly visible throughout the roads south of the park and within the park and many residents' properties. He said that he did not know why they continued to persuade the Board about how hidden it was. He said that considering a tower 130 feet above treetops and an otherwise undisturbed viewshed would be a slap in the face of the park.

Mr. Collins said that the park was a crown jewel of Albemarle and deserved better stewardship. He said that the tower was situated on a ridge and was highly visible. He said that there was a general lack of transparency and clear disregard for the park's scenic views, making it difficult to determine whether Verizon was acting in their own best interests or the interests of local residents and park visitors. He said that there were alternative options for sites, such as the new substation or in that general area, where visible infrastructure already existed.

Mr. Collins said that this might involve smaller towers, which seemed possible. He said that it might require Wi-Fi via existing phone lines, emergency phones that were already in place at the gate and the lake. He said that it might necessitate additional effort from Verizon, and clearly they did not want to put in that effort. He said that the Planning Commission was correct in rejecting it, and he thought it was their responsibility to do the same.

Ms. Jessica Adkinson, Samuel Miller District, said she also desired better cell service but believed that permanently altering the landscape in a designated park space did not seem prudent. She said that there was a nearby site less than a mile away that already had the necessary infrastructure in place. She said that the park should be a refuge, and a tower over twice the height of surrounding mature trees would have a significant visual impact.

Ms. Adkinson said that in this area, mature hardwoods typically reached 80 to 100 feet, so 200 feet, it is what it is. She said that as towers continued to emerge across the landscape, they would increasingly appreciate the opportunity to visit natural areas with unimpeded views. She said that it was their responsibility to protect the natural landscape, which the County had already promoted through the establishment of parks. She said that they must now strive to be good stewards of these spaces. She said that while infrastructure was becoming increasingly desired, it did not necessarily mean that this site was suitable.

Ms. Price said that the applicant had five minutes for a rebuttal.

Ms. Schweller said that they examined the proposed future Dominion substation and found it to be too far north to effectively serve the intended area. She said that the search area for serving the park was quite small and specific in its coverage requirements.

Mr. Andrews asked why service had improved in the area over the years.

Mr. Holland said that he was guessing that they might have made some equipment changes to adjacent tower sites. He said that from speaking with their engineers, they had very poor coverage, if any, in the park. He said that it was difficult for him to explain why the signal may have improved and possibly they upgraded equipment.

Mr. Gallaway said that he was seeking information on current expectations regarding communication coverage for staff members. He said that it seemed evident that there was no tower

present at the location, and presumably, the coverage was low. He said that in case of an emergency, what procedures should be followed and how should the situation be handled.

Mr. Bill Fritz, Development Process Manager in Community Development, said that there was a landline available at the pavilion by the beach and at the entrance.

Mr. Bob Crickenberger, Director of Parks and Recreation, said that they had landlines at the bathhouse and maintenance facility; however, they were not always accessible to the public. He said that these landlines were available during the swim season but once the season ended, the facility was closed. He said that there was an emergency call box located at the beach, apart from which, there were no other means of communication available.

Ms. LaPisto-Kirtley asked for information about emerging technologies and whether cellular towers would become obsolete in the future.

Mr. Holland said that the question was complex because there were numerous technological advancements available. He said that new iPhones could use satellite technology for calling. He said that landline connectivity required facilities on the ground and in the air to provide service. He said that he could only speculate about any emerging technologies.

Ms. LaPisto-Kirtley said that she believed in the future, cellular towers would no longer be needed.

Mr. Holland said that the County had a lease with Verizon. He said that if they decided the lease ran its full course, they could also choose to remove the tower from the location if they no longer wanted it there

Ms. Price closed the public hearing and brought the matter back before the Board for comments and consideration.

Mr. Andrews said that he would rather look at a sunset than a cell tower, but that there were limited suitable locations where they could establish this infrastructure to achieve their objectives. He said that in light of safety concerns, ensuring cell coverage in this area was essential.

Mr. Gallaway said that he would be supportive. He said that he was not dismissive nor did he undervalue visibility or aesthetics. He said that even if the discussion were solely about coverage versus aesthetics, it would be challenging; however, in this particular scenario, coverage equated to safety, and he had to prioritize safety over aesthetics.

Ms. McKeel said that she too was supportive of the cell tower, having experienced a lack of coverage in that area as she drove around. She said that her daughter used to be a lifeguard at Walnut Creek Park. She said she would be very concerned about letting her do that job now, given the emotional trauma her daughter could experience if she had a problem and could not get quick cell coverage as a lifeguard.

Ms. McKeel said that they were a destination for tourists. She said that through CACVB (Charlottesville-Albemarle Convention & Visitors Bureau), they encouraged people to come to their community and enjoy their parks; however, they were not providing safety for them when they visited. She said that many people came into their community with the expectation that the place they had come from had cell coverage, and there was an expectation that they would have cell coverage there as well.

Ms. McKeel said she had a friend who recently had a family reunion scheduled in the late summer at Walnut Creek Park. She said that the event ended up not happening because people coming from outside the area could not find it in the park. She said that it was a disaster for their family get-together as they did not have connectivity. She said that a police officer had informed her previously about an incident at Walnut Creek, where someone died due to lack of cell coverage while on the trails and alone.

Ms. McKeel said that this highlighted a safety issue. She said that it was not in a neighborhood, and she understood people's concerns about installing cell towers in their backyards. She said she believed there were appropriate places for a cell tower, such as this one, considering the park had some existing vegetation screening. She said that most individuals utilizing this park prioritized safety and connectivity, if necessary, over disregarding a single cell tower.

Ms. McKeel said that the region had attracted tourists from around the world, recently being named the wine region of the world. She said that during her travels to Spain and Portugal that summer, she experienced 5G coverage everywhere. She said that even in the Pyrenees Mountains, 1,000 feet below the summit, she had better cell reception than at her backyard off Barracks Road. She said that while she understood the frustration with cell towers, there were specific locations where they were critical for visitor and community safety.

Ms. Mallek said that Ms. McKeel had summed up her problem. She said that visibility and aesthetics were the only aspects on which the County had court permission to make a decision regarding the citing issue. She said according to the provided images, the tower would be significantly exposed. She said that this was why she had been consistent in the past - they lose the ability to make decisions if

they cannot maintain a level of consistency. She said she wished there had been some willingness to offer an alternative.

Ms. McKeel asked if the County Attorney could speak to whether, if the Board approved this application, it would stop other applications.

Ms. Price asked the County Attorney whether there was some precedential value based upon a decision on one special use application as it may apply to others coming later.

Mr. Steve Rosenberg said that the consideration of each application was highly fact-specific, so there may be factors associated with another application that would allow the Board to make a different decision and for it to be distinguished from a decision of this case, for example.

Ms. LaPisto-Kirtley said that she considered it a health and safety issue, so she would be supportive. She said that she prioritized the health and safety of their community, including all residents, over aesthetics.

Ms. Price said that she would be concise in her remarks. She said that she had voted against the construction of towers in certain locations due to their appearance. She said that in her opinion, the key difference here was that it was a public park where the County encouraged visitors, and given its rural setting and potential for injury, she prioritized public safety over aesthetics. She said that this did not imply disregard for aesthetics; rather, it was an acknowledgment of the risks involved.

Ms. Price said that when she drove through the Valley, she observed several tall towers and found them unattractive. She said she recognized that without those towers, anyone in the rural area who suffered an injury might face a life-threatening situation due to the lack of accessible emergency care. She said that one of her children was nearly killed by being hit by a vehicle where every second mattered. She said that she was not satisfied with a landline that may be available during part of the year being sufficient and believed that the County had both a moral and legal obligation to provide the safety net that comes with this. She said that she believed that it was appropriate, and she would be supportive.

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

Mr. Andrews **moved** for the Board to adopt the Resolution attached to the staff report as Attachment D, to approve SP202200022.

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

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

**RESOLUTION TO APPROVE
SP202200022 VERIZON – WALNUT CREEK PARK TIER III PWSF**

WHEREAS, upon consideration of the staff report prepared for SP202200022 Verizon – Walnut Creek Park Tier III PWSF, the information presented at the public hearing, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-5.1.40, 18-10.2.2(48), and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas district, with the applicable provisions of Albemarle County Code § 185.1.40, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP202200022 Verizon – Walnut Creek Park Tier III PWSF, subject to the conditions attached hereto.

* * *

SP202200022 Verizon – Walnut Park Creek Tier III PWSF

1. The maximum height of the tower is 175 feet above ground level.
2. The facility must be located and designed in accord with the plans titled “Walnut Creek Park – III Personal Wireless Facility,” prepared by Hillary G. Siegall and dated 6/03/22.

Mr. Andrews **moved** for the Board to approve SE202200047 in the form of Attachment E.

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

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

**RESOLUTION TO APPROVE
SE 2022-00047 VERIZON – WALNUT CREEK PARK TIER III
PERSONAL WIRELESS SERVICE FACILITY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE 202200047 SE 2022-00047 Verizon – Walnut Creek Park – Tier III PWSF application and the attachments thereto, including staff's supporting analysis, any comments received, all of the relevant factors in County Code §§ 18-5.1.40 and 18-33.9, and the information provided at the Board of Supervisors meeting, the Albemarle County Board of Supervisors hereby finds that a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the specified requirement, and that the proposed special exception would not have adverse visual impacts.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves a special exception to modify the requirements of County Code § 18-5.1.40(b)(2)(c) on Parcel 10000-00-00-03500, provided that no antenna authorized by this special exception may project more than 18 inches from the face of the monopole to the farthest point of the back of the antenna.

Agenda Item No. 17. Public Hearing: SP202300004 Briery Creek Farm (Reventon Farm) – Water Related Uses and SP202300005 Reventon Farm – Boarding.

The Executive Summary forwarded to the Board states that the Planning Commission held a public hearing on September 12, 2023, and by a vote of 5:0 (Clayborne, Missel absent) recommended approval of SP202300004 Briery Creek Farm (Reventon Farm)- Water Related Uses and SP202300005 Briery Creek Farm (Reventon Farm) - Boarding Camp.

The applicant has provided updated information about the distribution of cabins between Albemarle and Fluvanna County. The applicant is requesting a total of 250 cabins. The original distribution was 200 in Albemarle and 50 in Fluvanna. The applicant has amended the distribution to 210 in Albemarle and 40 in Fluvanna.

During its public hearing, the Planning Commission raised some concern about reversibility of the development and a lack of cellular phone service. The Commission confirmed that no cabins would be located in an inundation zone in the event of dam failure. The applicant confirmed an intention to provide excursion vans for visits to local wineries and breweries.

Staff recommends that the Board adopt the attached resolutions to approve SP202300004 Briery Creek Farm (Reventon Farm)- Water Related Uses (Attachment D) and SP202300005 Briery Creek Farm (Reventon Farm) - Boarding Camp (Attachment E).

Mr. Bill Fritz, Development Process Manager, said that two special use permits were before the Board: one for a boarding camp and the other for water-related uses in the floodplain. He said that the proposed docks, beaches, and boating activities on the lake required a special use permit because they were in the floodplain, and the boarding camp required a special use permit in the RA (Rural Areas) District.

Mr. Fritz said that the application also included a central water and sewer system, which would be reviewed by the Board after additional design information was received. He said that they had already obtained a significant amount of well information, which indicated the adequacy of water, and this had been included in their analysis. He said that there was a central well system that needed to be done later, as well as a sewer system, which would also be done later, and that primarily concerned design.

Mr. Fritz said that the applicant had applied for permits in Fluvanna County for the camp, a special event facility, and the central water and sewer system. He said that he had been in contact with the Fluvanna planner, as recently as yesterday, to coordinate the review and project details, identifying concerns and impacts.

Mr. Fritz said that a public hearing with the planning commission in Fluvanna was held in October, which resulted in a deferral until December. He said that they wanted additional economic development information. He said that the Albemarle County Planning Commission on September 12 unanimously recommended approval. He said that during that Planning Commission meeting, concerns about reversibility and the lack of cell phone coverage were raised.

Mr. Fritz said that the entrance was located on Briery Creek Road, while the exit could be found on Rolling Road. He indicated on the map presented where there was an emergency access. He said that the property featured pastures, an arts and crafts house, fitness facility, beach and docks, a pool, dining facility, camp store, and additional beaches and docks. He said it featured health and wellness facilities and a meadow were also present on the property. He said that trails would be provided throughout the property, including along the south side of the lakes.

Mr. Fritz said that the highlighted areas represented the proposed locations for cabins. He said that there were a total of 250 cabins, with 210 located in Albemarle County. He said that Fluvanna's amenities included access, guest check-in, guest meeting space, walking paths, lakes, pasture, horse barn, and maintenance facility. He said that the applicant had submitted extensive information, which was included in their packet for both of the special use permits.

Mr. Fritz said that there was a staff report where they went into some detail about the specifics of the request, compliance with the Comprehensive Plan, and so forth. He said that all of this had been reviewed, and both staff and the Planning Commission recommended approval of both applications. He said that the project would require site plan approval. He said that the process would address stormwater issues, mark the extent of the WPO (Water Protection Ordinance) buffers, and ensure that access, health, and fire safety issues were addressed.

Mr. Andrews asked for clarification about the land use status of the properties and how this proposal would change any of those.

Mr. Fritz said that it was land use value taxation that applied currently. He said that he did not claim to be an expert on this matter at all. He said that when the land use changed, they must pay back taxes, and it would only be eligible if they could prove that all or a portion of it remained eligible for land use value taxation. He said that this aspect was not considered in the review, so they did not get into that.

Mr. Andrews asked about the size of the boats and the lakes.

Mr. Fritz said that the lakes had been built in the late 60s and early 70s based on photo interpretation. He said that the large lake at location 7, as shown on the screen, had a property owner with a house and dock. He said that the owner used jet skis on the property. He said that the lake was quite sizable, but canoes and John Boats were what were intended for use there.

Mr. Andrews asked if there were restrictions on the type of craft that could be used on the lake.

Mr. Fritz said that there were no restrictions in the ordinance, nor any proposed for the special use permit.

Mr. Andrews asked for clarification whether the cabins were considered dwellings.

Mr. Fritz said that in order to qualify as a dwelling, one must possess facilities for sleeping, cooking, and sanitation. He said that even a kitchenette-type facility could suffice. He said that staff had not many any distinction about that. He said that the applicants had included proposals in their applications. He said that in a boarding camp, all necessary facilities could be housed within a single structure and still meet the requirements for classification as a boarding camp. He said that this concept was similar to what one might find in state parks.

Mr. Andrews said that he would inquire about food preparation from the applicant.

Mr. Fritz said that the other cabins in the County possessed all the necessary facilities and could be considered dwellings, the campground in the western part of the County.

Ms. McKeel asked if the lakes were manmade.

Mr. Fritz said that the lakes were manufactured. He said that the applicant had already completed a significant amount of work on it. He said that the access across the lakes had also been considered, along with what needed to be done. He said that thinking about stability and potential upgrades had already begun. He said that all these aspects would be addressed during the site plan stage to ensure their adequacy.

Ms. McKeel asked if there were complications because the property was split between two counties.

Mr. Fritz said that the complications were largely on the applicant's part, as they had five potential discretionary approvals that they needed to hear instead of just three. He said that the applicant needed to address these issues in order to proceed. He said that in terms of organization, there were none. He said that there had been collaboration between the two organizations. He said that as they moved forward with the site plan, they would continue to collaborate and ensure that all necessary steps were taken.

Mr. Fritz said that they would ensure the roads were adequately designed for fire protection throughout the facility, and they would have to meet the building code. He said that one of the advantages of the site when discussing it with their fire experts was the ability to access water resources.

Ms. McKeel clarified that guests of the camp would not experience any issues because it was split between two counties.

Mr. Fritz said that they had been very careful working with both counties, ensuring that their conditions were similar and following each other's lead. He said that it was essential to recognize that both counties had their own jurisdiction. He said that this was why he wanted to emphasize the specific conditions applicable to the County. He said that there were several provisions of the Albemarle County

ordinance that would apply in Fluvanna County during the site plan process.

Mr. Fritz said that one of the things they did routinely whenever they crossed jurisdictional boundaries was to apply their access standards, and the applicant already knew this. He said that they knew that the fire protection provided by the road in Fluvanna County entering into Albemarle County would be adequate for fire protection purposes.

Ms. Mallek asked whether the cabins could be turned into permanent housing with rental agreements.

Mr. Fritz said that it would not in compliance with the conditions set forth in the special use permit.

Ms. Price asked for clarification about the factors that differentiated a boarding camp from 250 short-term home stays.

Mr. Fritz said that a boarding camp, by definition, included extensive recreational activities as part of its offerings.

Ms. Price asked the Clerk if any of the public were signed up. Hearing that there were, she opened the hearing for public comment.

Mr. Bill Raffoul, principal proponent for the applicant, Sun Communities, said that he was joined by Steven Blaine, counsel, and Greg Schmitt, Kimley-Horn, who was their civil engineer. He said that Sun Communities was founded in 1975 and went public in 1993 with 23 properties. He said that they now owned and managed over 670 properties across 34 states, Ontario, and the United Kingdom. He said that despite their size, this project would be a unique addition to their portfolio. He said that among all 670 properties that they owned and operated, there was only one other property that they believed was similar to what they were proposing at Briery Creek Farm, called El Capitan Canyon, located in Santa Barbara, California.

Mr. Raffoul said that these passion projects for their company were primarily driven by the passions of CEO Gary Shiffman, whose grandfather founded the company, and whose son worked alongside him on this project. He said that they were dedicated to creating unique opportunities for people to experience the outdoors. He said that they were drawn to Charlottesville from a business perspective due to the burgeoning growth of the area as a tourist destination. He said that they were convinced once they had the chance to see the property and truly understand the surrounding region.

Mr. Raffoul said that the property spanned 744 acres. He said that their proposed project would preserve approximately 85% of it in its existing state. He said that even the areas intended for disturbance, such as cabin and recreational facility locations, would remain mostly passive in terms of landscaping and nature. He said that they were excited with the opportunity to undertake this project partly because they believed their vision aligned well with that of the County and the preservation of the rural area.

Mr. Raffoul said that they were proposing an optimal balance between economic development and meeting the preservation goals of the County while creating authentic settings that complemented the continued tourist growth in the area. He said that one of their purposes with this proposed development was to demonstrate that they were an environmentally and socially responsible company. He said that this opportunity allowed them to showcase some of the development initiatives they would like to incorporate into their portfolio in the future, such as carbon neutrality, preserving open spaces and forest areas. He said that all of these things were very much aligned with what they had been doing as a company.

Mr. Raffoul said that the proposed program at a high level included camping cottages, outdoor recreation, authentic farm experiences, and equestrian experiences. He said that they would like to have a working farm. He said that they had yet to work with a local agriculturalist to figure out what was most appropriate in the area, as the current property operated a hay business along with a small vineyard. He said that rural preservation was important for creating an immersive nature experience for their guests. He said that maintaining the beauty of the site aligned with their goal of providing opportunities for guests to connect with nature.

Mr. Raffoul said that there were 14 lakes on the property and an existing barn located near the road, which currently operated as a wedding event venue by the current owner. He said that by the lake, there was a boat house pavilion, a large event pavilion located on the lake. He said that there was a single-family home on the property used for short-term rentals. He said that they proposed only an equestrian facility in the area marked by fields and pasture.

Mr. Raffoul said that they would be moving the event space by the road over a thousand feet into the property, which was also in response to public comment related to noise. He said that they believed this was going to be a good way to address the issue. He said that there was an equestrian barn where they would begin horse rides and horse trail rides throughout the property. He said that otherwise, the whole area would be preserved primarily for agricultural uses.

Mr. Raffoul said that the landscape architect selected for this property was EDSA. He said that it

was noteworthy that they had presented this project for an award for planning excellence. He said that they felt very strongly that what they had proposed here was uniquely beautiful and something that they wanted to showcase even among their own trade as landscape architects. He said that their planning philosophy revolved around embedding a peaceful and rejuvenating guest experience into the farm's landscape while preserving its intrinsic character. He said that this value had guided their planning principles throughout the process.

Mr. Raffoul said that facilities included those for farm-to-table, and culinary experiences would be located on the property so they could feed people on the property. He said they included numerous recreational activities, fitness, and wellness options were available to offer guests an opportunity to experience a natural setting and come back refreshed.

Mr. Raffoul said that they had hosted numerous community events to engage with the public. He said that prior to the statutory community event that was hosted at the property, they organized a voluntary event whereby they contacted all of the neighbors surrounding the property and brought them to the property to present what they were proposing there. He said that this allowed them to gather preliminary feedback and make adaptations to their plan before presenting a final application.

Mr. Raffoul said that after submitting the application, they hosted an additional community event. He said that approximately 150 to 200 people attended the initial event, while around 50 or fewer showed up for the second one, despite inviting more than three times as many people. He said that this indicated that once they understood their intentions, many community members felt more comfortable with the process.

Mr. Raffoul said that the most common feedback they received that required a response was related to the impact of events on the property, particularly noise, site security and screening, conservation on the property, impacts to traffic, and people's desire to understand the community benefits were also areas of concern. He said that regarding events, they proposed moving the event venue 1,000 feet into the property and orienting it toward the back of the property to minimize noise impacts as much as possible. He said that this was a significant improvement compared to the current setup, which was located near the roadside.

Mr. Raffoul said that although they did not believe cabins would have any significant aesthetic negative impact, they would be very nice in and of themselves. He said that most of the site would be preserved in open space. He said that traffic had been studied extensively both with Albemarle County, Fluvanna County, and VDOT. He said that their civil engineer, Kimley-Horn, had extensive experience in the state. He said that they had studied numerous points for all areas of ingress from every point to get to the property. He said that the road was statistically only at 6% of its current capacity; and this proposal would increase it to 8% of its current capacity.

Mr. Raffoul said that as a condition on the Fluvanna side, there was a taper turn lane from Rolling Road to Briery Creek Road proposed to improve the safety of the turning radius. He said that they had intentionally created a one-way loop on Rolling Road to improve circulation. He said that the entrance to the property came down Rolling Road onto Briery Creek Road, with one-way entry into the property and one-way exit back out on Rolling Road. He said that this would greatly improve circulation and prevent congestion on the frontage of the property.

Mr. Raffoul said that the most important aspect of the project was its consistency with preserving the rural character, which was the primary planning goal of the rural area. He said that the project would provide necessary accommodations to support the growing tourism market in the County, create job opportunities, and generate substantial tax revenue for the County. He said that during the study period, an economic impact analysis had been presented as part of the application, showing tens of millions of dollars in revenue.

Mr. Andrews asked whether guests would be preparing their own meals in the cabins.

Mr. Raffoul said that the proposed units would not have traditional cooking facilities. He said that they would only contain a refrigerator or a sink but no stove top, oven, or any other such appliances. He said that essentially, it would be similar to a hotel room.

Mr. Andrews asked whether outdoor campsites would be associated with the cabins.

Mr. Raffoul said that it was common for individuals to bring a barbecue grill.

Mr. Andrews asked how the air in the cabins was treated for hot weather.

Mr. Raffoul said that they would be conditioned spaces. He said that they usually used a mini split unit for the cabins. He said that at El Capitan Canyon, the cabins were 399 square feet, and they proposed increasing the size to 400 to 500 square feet for additional space. He said that these units could sleep a small family or couples and small families.

Mr. Andrews asked for clarification about boating activities and whether jet ski rentals would be available.

Mr. Raffoul said that the lake was large, but to keep it peaceful, he was unsure if they would desire jet skis racing across it. He said that primarily, it would consist of small two-person or four-person

sailing vessels, such as sunfish sailboats and canoes. He said that there may be a few small, motorized fishing boats for navigating to the center. He said that the lake's size necessitated having at least one motorized boat for safety and health concerns.

Mr. Gallaway asked how many jobs would be generated.

Mr. Raffoul said that it would be over 100 jobs.

Mr. Gallaway asked if they would be full-time or seasonal.

Mr. Raffoul said that there would be some seasonal, so it would not be a consistent 120 full-time annual positions. He said it could potentially reach even more during peak seasons. He said that they aimed to incorporate a level of conservatism in their studies. He said that the site would likely have around 30 to 40 full-time year-round employees, encompassing management, sales, marketing, and other essential aspects of the business operations.

Ms. McKeel asked how food and eating would happen at the cabins and whether people brought their own food.

Mr. Raffoul said that they encouraged people to experience the things offered on the site, as one could imagine. He said that they would not prevent individuals from bringing in their own barbecue. He said that at El Capitan, guests could visit their small grab-and-go restaurant and purchase over-the-grill barbecue kits. He said that they could then prepare the food themselves over a campfire using a grate. He said that they encouraged these types of activities; however, their primary intention was not to provide facilities for guests to prepare their own meals.

Ms. Mallek asked if they would be open during winter months.

Mr. Raffoul said that their intention was to remain open for 12 months. He said that business circumstances would determine their future course. He said that the nature of these situations could sometimes be unpredictable; however, he believed that the climate there would enable them, at least on a reduced scale, to maintain their operation for 12 months.

Ms. LaPisto-Kirtley clarified that the rooms would be air conditioned and heated.

Mr. Raffoul said that was correct.

Ms. LaPisto-Kirtley asked if there would be fireplaces.

Mr. Raffoul said that sometimes they would install gas stoves.

Ms. Price said that she suggested limiting the types of craft allowed on the lakes to battery-powered, pedaled, paddled, or sailed. She said that residents appreciated not hearing internal combustion engines.

Mr. Raffoul said that at one of their marinas on Harbor Island in San Diego, through their Safe Harbor Marina subsidiary, had unveiled new electric boats. He said that the user-friendliness was exceptional, and they could very easily accommodate that.

Ms. Price opened the hearing for public comment.

Mr. Jason Fulton, Fluvanna, said that he felt it necessary to come and speak about the project because the presentation did not accurately represent what was being proposed. He said that the proposal was a resort. He said that they were selling it as keeping it raw and focused on agriculture, but that was far from the truth. He said that Sun Corporation's focus was on RVs. He said that when this project first came to light, everyone was concerned that it would become an RV park, but they assured that it would not.

Mr. Fulton said he was struggling to find evidence that this would not eventually turn into an RV park because there was no good example of a similar development that had successfully maintained its intended purpose without becoming an RV park. He said that El Capitan differed significantly from this project: it was located in California, it featured a distinct setting. He said that the County could not accommodate the proposed plans.

Mr. Fulton said that Rolling Road was called as such for a reason. He said that he was not convinced by their traffic study. He said that they had miscalculated the speed limits. He said that they seemed to have used 45 mph, while the actual speed limit was 50 mph on that road. He said that the road was not able to accommodate the potential traffic. He said that the infrastructure was not designed to handle such an influx of visitors; it remained rural by design.

Mr. Fulton said that the special event space did not even go through a special use permit process with the County. He said that another issue to discuss was sewage, which they did not mention. He said that they would produce 25,000 gallons of sewage. He said that they could apply for a direct discharge permit and request permission from the state and DEQ (Department of Environmental Quality) to clean their sewage and release it into a body of water. He said that he was concerned about having 25,000

gallons of sewage being disposed of in a body of water where recreational activities were planned.

Mr. Fulton asked what would happen if there were major outbreaks. He said that they had infrastructure running all around the dams, including sewage lines and water lines, which made it more than just a boarding camp. He said that Green County had faced the same issue where the Board of Supervisors denied it twice because no one wanted such facilities in their backyard. He said that it included a full-fledged restaurant, swimming pools, and equestrian centers.

Mr. Fulton said that they were a publicly traded corporation, so they would prioritize profit. He said that the RV park was where they generated their revenue - it was just a slab with sewer and water connections. He said that the cabins, however, would be expensive to build and maintain. He said that he did not want the use in his backyard.

Ms. Price said that the applicant had time to provide a rebuttal to public comment.

Mr. Raffoul said that regarding the wastewater treatment facilities necessary to support the property, their intention was groundwater discharge rather than surface water. He said that advanced treatment would be implemented, and these facilities must be permitted by the state. He said that Kimley-Horn was well-equipped to design such facilities, as they had designed them worldwide. He said that they currently operated over 100 private utility systems across their portfolio, which was not an uncommon occurrence for what they were doing. He said that 25,000 gallons of sewage discharge may seem like a significant amount, but the 744 acres of land on this property provided more than adequate space for infiltration, and there would be no known environmental concerns associated with it.

Mr. Andrews asked for clarification on the possibility of RV park activities.

Mr. Raffoul said that they were not permitted to do that on the property, and if they wanted to establish an RV park, they would have to return and request permission to do so.

Mr. Fritz said that the documents were written in a way that they could not obtain an RV park approval. He said that they would need to return for an amendment to the special use permit. He said that the condition he was addressing was that development must adhere to the plan presented, and there were no RV pads depicted on that plan.

Ms. McKeel asked for more information about the sewerage issues.

Mr. Fritz said that at the beginning of his presentation, he noted that there was also a central water and sewer system coming before them, which would include the design. He said that direct discharge, for example, if proposed, would be something they would look at. He said that if they did not think it was an appropriate solution, they would have the opportunity to review the actual design of the central water and sewer system to determine whether it was consistent with the existing regulations and appropriately designed for the property. He said that information from their designers would be obtained. He said that he had been in contact with them, and the health department must also be involved in this process.

Ms. Mallek asked if by infiltration, that there would be septic fields to take the treated wastewater.

Mr. Raffoul said that there would be drain fields.

Ms. Mallek asked if the cabins would be built in phases.

Mr. Raffoul said that he expected the cabins to be built in phases.

Ms. Mallek asked for clarification about the recommendations for central water and sewer systems.

Mr. Fritz said that they were generally not encouraged by the Board of Supervisors to promote residential development. He said that this type of facility lent itself to a central water and sewer system due to its nature. He said that the Board had tended to consider central water and sewer systems that were single-user, such as commercial developments operating a central system or something similar, rather than neighborhoods where multiple individuals were responsible for operating the system.

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

Mr. Andrews said he looked forward to its success.

Mr. Gallaway said that he would be supportive. He said that in order to be respectful of the comments he heard, he did not want it to feel like he did not think this was a resort-like experience or that it was somehow less than glamping. He said that the pictures alone showed that this was not a rugged experience. He said that he heard something in the rural economic development session at VACo (Virginia Association of Counties) where one tried to turn challenges into positives or take advantage of them.

Mr. Gallaway said that one of the challenges often discussed about their rural area was

maintaining aesthetic value. He said that by producing something with an economic return, they could maintain and potentially elevate the aesthetic value of the property. He said it was a method to accomplish smart economic activity in rural areas without altering their inherent nature or character. He said that this seemed appropriately placed, and with the manmade lakes, it was designed for this. He said that with additional oversight, they could address other concerns and maintain control over the situation.

Ms. McKeel said that she was intrigued by his project and supportive. She said that she understood that their staff would ensure that everything necessary was completed. She said that it was indeed an interesting project. She said she agreed this was not the same as traditional camping trips.

Ms. Mallek said that she was intrigued by the opportunity. She said that living in the country, she was accustomed to a more rustic lifestyle than what was presented there. She said that it had the potential to be very lovely. She said that if the existing vineyard remained on the property, she noted that there were numerous educational opportunities for people to learn various skills such as pruning, sheering sheep, or other activities.

Ms. LaPisto-Kirtley said that she supported the project. She said that she appreciated the farming aspect and the equestrian aspect of it. She said that it would be highly beneficial for their tourism industry, particularly for the Tourism Bureau, but also for local residents who could visit with their families.

Ms. Price said that she had an opportunity to view this property, and that it was beautiful. She said that initially, there was a misunderstanding within the local community, who believed this would become an RV park. She said that these concerns were quickly addressed and clarified, ensuring that the property will be used for family-oriented purposes rather than as an RV park. Ms. Price said that she lived in the area, and RVs would not be heading out that direction.

Ms. Price said that this was an excellent opportunity to diversify Albemarle County's attractions and further establish it as a desirable destination. She said that it as an economic benefit to both Palmyra and Scottsville because it was equidistant between the two. She said that she viewed this development as an addition to maintaining their area as a destination for those who did not want to camp on the ground in a tent but also did not wish to stay in a hotel and preferred to enjoy nature. She said that this as a positive development, and she would be supportive.

Ms. Price, hearing no other comments from Board members, said that as the Supervisor of record of the Scottsville Magisterial District, she would make the motion.

Ms. Price **moved** that the Board approve SP202300004 Briery Creek Farm (Reventon Farm) Water-Related Uses, Attachment D.

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

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

**RESOLUTION TO APPROVE
SP 202300004 BRIERY CREEK FARM (REVENTON FARM)
WATER RELATED USES**

WHEREAS, upon consideration of the staff reports prepared for SP 202300004 Briery Creek Farm (Reventon Farm) – Water Related Uses and all of their attachments, the information presented at the public hearings, any comments received, and the relevant factors in Albemarle County Code § 18-30.3.11 and § 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Flood Hazard Overlay zoning district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202300004 Briery Creek Farm (Reventon Farm) – Water Related Uses, subject to the conditions attached hereto.

* * *

SP202300004 Briery Creek Farm (Reventon Farm)- Water Related Uses

1. Development of the water-related uses must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plans included in the applicant's submittal for SP202300004 Briery Creek Farm (Reventon Farm) – Water Related Uses (Attachment 2). To be in general accord with the Conceptual Plans, development must reflect the

- following major elements within the development essential to the design of the development:
- The location of improvements must be as shown on the Conceptual Plans.
 - Structures are limited to the docks and storage racks for boats shown on the Conceptual Plans.

Ms. Price **moved** that the Board adopt the Resolution to Approve SP202300005 Briery Creek Farm (Reventon Farm) - Boarding Camp, Attachment E.

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

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

**RESOLUTION TO APPROVE
SP202300005 Briery Creek Farm (Reventon Farm) - Boarding Camp**

WHEREAS, upon consideration of the staff reports prepared for SP 202300005 Briery Creek Farm (Reventon Farm) – Boarding Camp and all of their attachments, the information presented at the public hearings, any comments received, and the relevant factors in Albemarle County Code § 18-10.2.2(20) and § 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

- not be a substantial detriment to adjacent parcels;
- not change the character of the adjacent parcels and the nearby area;
- be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the Rural Areas zoning district, with the applicable provisions of Albemarle County Code § 18-5.1.05, and with the public health, safety, and general welfare (including equity); and
- be consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves SP 202300005 Briery Creek Farm (Reventon Farm) – Boarding Camp, subject to the conditions hereto.

* * *

SP202300005 Briery Creek Farm (Reventon Farm) - Boarding Camp

- Development of the camp use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the conceptual plans included in the applicant's submittal for SP202300004 Briery Creek Farm (Reventon Farm) – Boarding Camp (Attachment 3). To be in general accord with the Conceptual Plans, development must reflect the following major elements within the development essential to the design of the development:
 - The maximum number of cabins in Albemarle County is 210.
 - The location of improvements must be as shown on the Conceptual Plans.
- Use of recreational facilities and other facilities on site is limited to individuals staying in onsite cabins in either Albemarle County or in Fluvanna County as shown on the Conceptual Plans.
- Prior to commencing the use, the owner(s) must provide contact information for on-site campground management to all owners within 1,000 feet of the exterior boundaries of the area included in the Conceptual Plans. The notice must be re-sent to all owners within 1,000 feet of the exterior boundaries if any contact information changes. The notice must include:
 - Telephone number(s) at which the on-site manager may be contacted at any time when the facility is in operation, and
 - The County's zoning complaint hotline telephone number, currently 434-2965834.
- Other than the owners or their employees or agents, no one may reside on the subject property for more than 180 days in any calendar year.
- The boundary of the subject property must be posted to alert people that they are approaching the boundary of the property and that they are not permitted to trespass on the abutting property.

Agenda Item No. 18. **Public Hearing: ZTA2023-00003 Residential Density Bonus Factors.** To receive comments on proposed amendments to the following section of the Albemarle County Code: Section 18-2.4.1 – to clarify that if no density range or maximum density is shown in the comprehensive plan, no bonus density factor may be applied.

The Executive Summary forwarded to the Board states that on September 27, 2022, the Zoning Administrator issued a letter of determination that residential bonus factors could not be used in areas designated as Office/Research & Development (R&D)/Flex/Light Industrial in the Comprehensive Plan. On January 3, 2023, the Board of Zoning Appeals reversed the Zoning Administrator's determination. The decision of the BZA allows the use of residential bonus factors in areas not recommended primarily for residential uses.

The proposed amendment would bring the zoning ordinance into alignment with the Comprehensive Plan.

The Planning Commission held a public hearing on September 12, 2023, and by a vote of 5:0 (Clayborne, Missel absent) recommended approval of the proposed amendment. The Planning Commission stated that provision of affordable housing could be considered a factor in a rezoning application that would allow the density to be increased. It was also noted that the proposed zoning text amendment would permit by-right density increases for the provision of affordable housing if the allowance for a density increase was included in the revised Comprehensive Plan currently under review.

Staff recommends that the Board adopt the attached proposed ordinance (Attachment D) to approve the zoning text amendment.

Mr. Bill Fritz, Development Process Manager, said that the proposal aimed at aligning the Zoning Ordinance with the Comprehensive Plan. He said that the use of bonus provisions enabled an increase in residential density and return by providing specific benefits to the community, such as preservation of wooded areas, provision of affordable housing, and design standards. He said that the by-right density increases were intended not to exceed the recommended density in the Comprehensive Plan. He said that allowing properties to achieve densities above that recommended was inconsistent with the purpose of the Zoning Ordinance and good planning practices.

Mr. Fritz said that this amendment became necessary due to a BZA (Board of Zoning Appeal) decision for a property designated as office research and development flex light industrial in the Comprehensive Plan. He said that if the ordinance remained unamended, this decision could apply to other properties, including those zoned residential but shown as open space in the Comprehensive Plan.

Mr. Fritz said that the Planning Commission (PC) recommended approval on September 12. He said that during the PC meeting, the members discussed the possibility of allowing by-right density increases in the future if the new Comprehensive Plan recommended increases in density for affordable housing. He said that this section only covered by-right increases in density and that a property owner always had the opportunity to apply for a rezoning to increase the density. He said that one sentence was proposed to be added: if the Comprehensive Plan does not have a density range listed, you cannot apply for a by-right bonus density. He said that they had been working with their other staff to make sure the proposed Comprehensive Plan included recommended residential densities or was clear that there were no residential densities so that this revision could be applied. He said that staff recommended approval.

Ms. Mallek clarified that the new Comprehensive Plan would avoid future issues because it would specify densities.

Mr. Fritz said that the plan would specify numbers. He said that currently, for example, they had Comprehensive Plan districts such as the office flex light industrial that listed residential as a secondary use but did not associate any density with it. He said that the staff interpretation was that this meant one could not apply bonus factors to it. He said that the BZA disagreed and overturned the zoning administrator's decision. He said that the zoning text amendment (ZTA) would state that one could only receive a bonus density increase up to what was recommended in the Comprehensive Plan but could not exceed it. He said that if there was no number listed in the Comprehensive Plan, one had the base density and could not use a bonus.

Ms. Mallek said that in certain areas, they did not want additional density, so they should be careful where they listed figures. She said that she wanted to ensure that part wasn't lost and she did not hear it at the beginning. She said that as they were discussing R&D Flex and making things more flexible and accommodating, years ago, the residential component was initially intended for individuals who needed to be present 24/7 to monitor the labs and research facilities, not apartments and housing. She said she was concerned that this aspect might have been overlooked.

Ms. LaPisto-Kirtley asked if office research and development would include putting in a data center by right. She said that if it was, then they should consider the Board's decision carefully. She said that if the Board decided against having a data center in the office space, they needed to explicitly state that in their plans.

Mr. Fritz said that was outside the scope of this ZTA. He said that it could be stated in the Comprehensive Plan and in the Zoning Ordinance.

Ms. Price opened the hearing for public comment.

Ms. Kelsey Schlein said that she was a City resident and a land planner at a local civil engineering firm. She said that she had a few clients whose properties would be impacted by the proposal being discussed tonight. She said that there were concerns about the potential unfair impact on several properties within the County. She said that these properties were subject to the Places 29 Master Plan and Southern and Western Master Plan, designated as community mixed use or office flex, R&D light industrial. She said that she had prepared a handout of these land uses for Places 29, Pantops, Crozet, and Southern and Western, which she had emailed to them earlier that day.

Ms. Schlein said that in the recently updated master plans, specifically the Pantops Master Plan and Crozet Master Plan, density ranges were listed for commercial mixed use, office flex, and R&D light industrial. She stated that she believed that with this ZTA, if a property was located in the Pantops Master

Plan or Crozet, the owner would be entitled to utilize bonus factors. She said that if the property was subject to an older master plan that had not been updated relatively recently, in Southern and Western areas or Places 29, they would not be entitled to bonus factors because density ranges were not provided for community mixed use or office R&D flex light industrial.

Ms. Schlein said that she wanted to bring up another item, which was affordable housing. She said that they might want to continue the conversation to consider its impact on the provision of affordable housing in Albemarle County. She said that there were three density bonuses available to property owners seeking to utilize them, which were development standards, open space, and affordability. She said that affordability offered the highest density bonus at 30%. She said that in the bonus factor provision, the affordability income limit for renters was lower at 60% AMI (Area Median Income) compared to the standard accepted for rezonings, which was 80% AMI.

Ms. Schlein noted that with bonus factors, they actually achieved a deeper level of affordability for their renters in terms of income eligibility for those units. She said that this continued until the entire Housing Albemarle policy was updated with developer incentives. She said that regarding the open space comment made by staff, she would like to have further conversation about whether any parcel designated as open space, since she did not believe any master plan listed residential as a recommended use in open space, would be eligible for bonus factors.

Mr. Neil Williamson, President of the Free Enterprise Forum, said that the Forum was a public policy organization focused on local government in Central Virginia. He expressed his gratitude to Bill Fritz and Kelsey Schlein for their comments and their reporting. He said that as he reviewed the ZTA, it reminded him of the TV detective Colombo. He said that the previous night, he had spent several hours at the Albemarle County Planning Commission, listening to their Comprehensive Plan discussion.

Mr. Williamson said that the staff report presented Albemarle's philosophical pro-housing position, which stated that the benefits of housing choice were important for both quality of life and addressing climate change. He said that ensuring that there were a variety of housing options at various price points near centers of employment, daily needs, and community amenities provided places for community members to live with shorter travel distances and commute times, increasing the opportunities to walk, bike, or take transit. He said that housing was strongly tied to many other topics in the Comprehensive Plan, including land use, transportation, and economic development.

Mr. Williamson said that he had just one more thing. He asked why the anti-housing ZTA was in such conflict with Albemarle's pro-housing philosophy. He said that in the case presented to the Board of Zoning Appeals, it served as a great example of opportunity for housing as an accessory use to the primary flex R&D zoning. He said that this was a very live, work, and play community within the Development Areas that Albemarle planners had been dreaming of for the last 20 years. He said that in the end, the Board of Zoning Appeals decided on the side of allowing housing.

Mr. Williamson said there was an easy fix to this anti-housing ZTA. He said that he encouraged the Board to examine changing the base zoning from zero to 18 to 24 units per acre, as long as housing remained accessory to the primary use. He also requested that they permit bonus density in these parcels if housing remained accessory to the primary use. He said that the reality was that the bonus density was rather small but large enough to push some projects into economic viability.

Mr. Williamson said that as they had discussed several times during today's meeting, economic development was critical and equally important as housing. He said that the staff report indicated that the environmental impacts of workers living closer to their place of business helped reduce greenhouse gas emissions. He said that it was beneficial for the environment, economic development, housing, and the community. He asked the Board to make one more change, which was to alter the proposed ZTA to determine that there were zero Comprehensive Plan residential units to 18 to 24 units.

Ms. Price asked if there were any other members of the public who wished to speak. Seeing none, she closed public comment and said that the matter was back before the Board to ask questions to County staff.

Mr. Andrews asked if staff had a response regarding the differences between the master plan and some of them specifying the number of units but some of them not.

Mr. Fritz said that when examining the ZTA, their objective was to align the Zoning Ordinance with the Comprehensive Plan. He said that this adjustment only applied to conventional properties without proffers, excluding planned developments. He said that the focus was on ensuring that parcels adhering to this criterion would not have a density greater than what is indicated in the Comprehensive Plan. He said that there were certain properties designated as open space within the Comprehensive Plan, which did not recommend any residential. He said that in such cases, the Board of Zoning Appeals' decision may apply, but it would only pertain to a single parcel or property.

Mr. Fritz said that a conventionally zoned R-4 parcel that was marked as open space in the Comprehensive Plan might be eligible for bonus densities. He said that staff maintained that this was inconsistent with the Comprehensive Plan. He said that it should be done through a rezoning or by changing the Comprehensive Plan to state that yes, they can indeed do so if the property as zoned residential and located in an open space area; they can then apply bonus factors. He said that the

appropriate place for such provisions would be within the Comprehensive Plan itself.

Mr. Fritz said that this ZTA aimed to clarify that it looked back at the current Comprehensive Plan rather than forward to a new one. He said that people were free to write a new Comprehensive Plan with any stipulations they desired, such as making all properties eligible for bonus factors regardless of their land use designation or comprehensive land classification. He said that alternatively, they could limit eligibility to specific densities and have this ordinance apply only to those individual properties. He said that nevertheless, the determination of appropriate bonus levels should be made within the Comprehensive Plan rather than in the Zoning Ordinance.

Mr. Andrews asked for clarification regarding the specifics of the Places 29, Pantops, and Southern and Western Master Plans.

Mr. Fritz said that there were multiple master plans of varying ages. He said that some had density ranges in them and some did not.

Mr. Gallaway said the dilemma was between the pragmatist of wanting what they wanted philosophically and the technicality of policy writing. He said keeping things in line with the intent of the former Comprehensive Plan was what he suggested they do. He said that if they wanted to change what some of them may want to do philosophically, then they should address that in their upcoming Comprehensive Plan rewrite. He said that in the meantime, it could disafford additional units that could fall under the affordability piece. He said that he was unsure if he was more concerned about that or about staying true to the intent of the policy looking backward. He said that he had not appreciated the dilemma when first approaching this topic.

Mr. Gallaway said that from the standpoint of ensuring things were clean, it made sense to make the amendment and keep it in line with what was there. He said that he understood that there were negative impacts associated with it, but he suggested cleaning it up in their Comprehensive Plan. He said that this would give the Supervisors, and everyone involved the opportunity to have a debate about what could or should not be included, after which they could set it down in stone. He said that in the meantime, if there was a place like this that did not align and wanted to achieve its goals, the alternative path was to do a rezoning.

Mr. Fritz said that their aim was to bring the Zoning Ordinance into compliance with the Comprehensive Plan. He said that if someone wished to exceed what was currently in the Comprehensive Plan or on their property, the appropriate place for this discussion should be with the Board of Supervisors rather than staff members or administratively. He said that having that conversation with the Board of Supervisors to say that they might be designated as a secondary residential use but they were providing affordable housing and they think that should justify their rezoning, then the Board could make that decision.

Ms. McKeel said that a rezoning was an expense, but that they were coming into 24, when their Comprehensive Plan would be finalized. She said that the change would take effect with the new Comprehensive Plan, and in the meantime, the people affected by this could do a rezoning.

Mr. Fritz said that was correct.

Ms. Mallek said that she would address the comment about accessory use raised by one of the public commentators. She explained that in order for there to be an R&D flex zone, having an accessory use for residential purposes means that they must have some R&D flex included, otherwise it became the primary use.

Mr. Fritz said that that situation had no relationship to an administratively granted bonus density. He said that it would be a discussion if they were proposing to change the zoning of the property in order to determine what the mix of uses was that would bring it into compliance with the Comprehensive Plan. He said that it would be an issue for a discretionary action. He said that this was a by-right action where applicants said they had affordable housing and wanted a 30% density increase, and staff would grant that. He said that staff believed that they should not be granting it because it exceeded what was recommended in the Comprehensive Plan, and the Zoning Ordinance was supposed to further the Comprehensive Plan.

Ms. LaPisto-Kirtley asked what the negative effects would be to the effected parcels if they adopted this ZTA.

Mr. Fritz said that if they did not adopt the proposed item, developers would be able to make use of bonus factors, and if they did adopt it, they would not be able to make use of bonus factors if there was not a specified density range in the Comprehensive Plan for that property.

Ms. LaPisto-Kirtley asked if it was in the Comprehensive Plan, they could request a bonus factor from the Board.

Mr. Fritz said that if it was put in the Comprehensive Plan that there was a density range in there, they would grant them bonus factors administratively up to the density range contained in the Comprehensive Plan.

Ms. LaPisto-Kirtley asked if currently the bonus factors were administratively granted and would

not appear before the Board.

Mr. Fritz said yes, without the change in the ordinance.

Ms. Price asked if there were no bonus density factors included in the current Comprehensive Plan, and an applicant wanted to attempt obtaining bonus density, they must request a zoning map amendment.

Mr. Fritz said that they had a Comprehensive Plan and a Zoning Ordinance, which were very different documents. He explained that the Zoning Ordinance stated the density allowed on each property by right, and one could develop their land up to that density limit. He said that there was a bonus factor provision that allowed an administratively increased density if certain conditions were met. He said that they had been interpreting this provision as requiring that the resulting density not exceed what was recommended in the Comprehensive Plan.

Mr. Fritz said that, however, the Board of Zoning Appeals' action removed this last condition. He said that now, they would only consider whether one was preserving trees, providing internal access or other design features, and offering affordable housing before granting the bonus factor. He said that the Comprehensive Plan did not matter in that case. He said that they did not consider it when determining the recommended density. He said that they would be administratively increasing the density on the property.

Mr. Fritz said that if this adoption occurred, they would look at the Comprehensive Plan to see if any residential density was recommended for that property. He said that if there was no residential density recommendation, no density was recommended. He said that with this adoption, they could not obtain an administrative density increase. He said that to achieve a density increase, one must apply for a rezoning application and present their case before the Board of Supervisors.

Ms. Price said that the difference lied in whether the Comprehensive Plan, which was based on the master plans, included a density bonus, it would just be administrative, and if it did not, an additional process must be followed by the applicant. She asked what the extra time and cost that would be incurred by the applicant due to this additional procedure.

Mr. Fritz said that rezoning applications can take a year. He noted that they may take less time, but they are likely to take several months, ranging from six to 12 months typically.

Ms. Price asked how long it would take administratively if they did not have to do a rezoning.

Mr. Fritz said that the site plan or subdivision process could be significantly shortened, taking less than 180 days. He mentioned that going through both an initial and final approval could often be completed in much less time than that in many cases.

Ms. McKeel said that it seemed that staff did not want to make that decision.

Mr. Fritz said that staff could make the decision, but they believed that the Zoning Ordinance was a tool to implement the Comprehensive Plan, and right now, the tool was broken and it needed to be sharpened, and they recommended the ZTA to do that.

Ms. McKeel asked if they would make the needed changes upon approving the new Comprehensive Plan next year.

Mr. Fritz said that if the Board of Supervisors were to say that bonus factors should be eligible anywhere, and it did not matter what the underlying Comprehensive Plan land use designation was if affordable housing was what they were applying for, they would put that in the Comprehensive Plan. He said that staff would then look at the application, see that the application was providing affordable housing, and approve it.

Ms. McKeel said that the issue was that over the next year, it would require anyone affected by the change to do a rezoning, which cost an unknown amount of time and money.

Ms. Price asked how many of these situations had occurred in recent memory. He said that they had one appeal of this decision, and the BZA agreed with the applicant and not the County, but he could say that in the 30 years he had been doing this, they had had many conversations with people where they said they could not get the bonus density because the Comprehensive Plan did not have a density recommendation for them, and those individuals did not pursue an appeal.

Ms. LaPisto-Kirtley said that the issue seemed to be that there lacked a bonus density definition in the Comprehensive Plan.

Mr. Fritz said that for some properties, there was, and for others, they did not. He said that it was just about how they wanted to handle that.

Ms. LaPisto-Kirtley said that if they left it as is, it could be beneficial for developers to achieve the 30% bonus density so that they could maximize the amount of affordable housing.

Mr. Fritz said that if the Board of Supervisors were so inclined, they could not adopt this ZTA and

instead could instruct staff to go back, work on a new ZTA or language that would state that one cannot receive the bonus factor for environmental or design purposes but could receive it for affordable housing. He said that the bonus factor could be tailored in such a way if desired as a stopgap between now and the adoption of the Comprehensive Plan. He said that they did not recommend this approach because they saw a clear line between the Comprehensive Plan and the Zoning Ordinance following it.

Mr. Gallaway said that if everything was cleaned up on the current Comprehensive Plan, they had a general understanding of its timing. He asked, if the suggestions Mr. Fritz provided were implemented, what would the timing for that be.

Mr. Fritz said that they would begin working on it the following week and provide an update at an available Board date.

Mr. Gallaway asked if the BZA appeal would be impacted by the changes.

Mr. Fritz said that the property had an approved initial site plan and was vested against any changes to the ordinance so long as the plan remained valid, which was for a period of five years.

Ms. Mallek said that she wanted to know where the Board would consider and adopt different criteria for affordable housing. She asked for examples like how long and how many units should be required. She asked if it was part of the Comprehensive Plan change or the Zoning Ordinance. She said that just saying they wanted to add a few more units may not meet her desired standard. She said that she supported the proposal in order to have sufficient time to do it correctly and avoid creating a larger problem for themselves.

Mr. Fritz said that the Zoning Ordinance already included that language; therefore, when applying the ZTA, it did not affect that part. He said that they did not examine the definition of affordable housing within the Zoning Ordinance. He said that this amendment considered granting a bonus factor if the affordable housing criteria in the Zoning Ordinance were met. He said that if one wished to change that criterion, it would necessitate a separate ZTA distinct from the current proposal. He said that they did not address the definition of affordable housing during their deliberations.

Ms. Mallek said that lends to supporting this and quickly bringing the affordable housing piece to fruition so they would have both things covered.

Ms. Price closed the public hearing, and the matter rested with the Board for comments and a possible motion.

Mr. Andrews said that they were concerned about a matter that needed to be resolved within a year and hopefully resulted in a better solution than merely considering housing as an alternative option. He acknowledged that sending it back and requesting an exception for affordable housing would still fall under the old rules, leaving them without control over their actions in that regard. He said that he supported going with the staff recommendation at this point.

Mr. Gallaway said that he would like to see units online, and this was his primary concern. He acknowledged that it might be cleaner to follow staff's suggestion to discuss and clarify the matter as part of the Comprehensive Plan. He said that if there were a significant number of units affected, they could revisit the issue later and consider alternative approaches. He said that he agreed this was the proper way to proceed.

Ms. McKeel said that she would support staff's recommendation because it was cleaner, and they were going through the process for the Comprehensive Plan, and there was an out if needed.

Ms. Mallek said that she would support staff's recommendation. She said that it was compelling to listen to the Planning Commission meeting in which they felt the rezoning alternative provided sufficient ability for individuals to move forward more quickly if they so chose.

Ms. LaPisto-Kirtley said that she would support staff's recommendation. She said that she approved of aligning the Zoning Ordinance with the Comprehensive Plan.

Mr. Steve Rosenberg, County Executive, noted that there was a small error in the proposed ordinance, Attachment D. He explained that the heading in the ordinance referred to Chapter 18 Agricultural and Forestal Districts, and it should refer to Chapter 18 Zoning. He said that if a Board member chose to move to adopt the ordinance included as Attachment D, he proposed that they do so with a suggested amendment to change the language from "agricultural and forestal districts" to "zoning."

Ms. Price commented that she did not have the comfort with what was proposed at this time and would like to see it modified so as to reduce the detrimental impact on either affordable housing as well as the additional time or expense to an applicant simply because of where the master plan and Comprehensive Plan addressed bonus density factors. She said that for those reasons, she would prefer the Board not act on this and give County staff an opportunity to modify it. She said that she would not support the proposed ordinance.

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

Ms. Mallek **moved** to adopt the Ordinance ZTA202300003 Residential Density Bonus Factors,

included as Attachment D, which should say "Chapter 18 Zoning."

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

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

NAYS: Ms. Price.

ORDINANCE NO. 23-18(2)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, 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 18, Zoning, Article I, General is hereby reordained and amended as follows:

By Amending:

Sec. 2.4.1 Application of bonus factors

Chapter 18. Zoning

...

Article I. General Provisions

...

Sec. 2.4.1 Application of bonus factors.

Bonus factors will be applied to the gross density-standard level in accordance with the regulations of the applicable district, provided that:

(a) the resulting density may not exceed the recommended density shown in the comprehensive plan, provided that if no density range or maximum density is shown in the comprehensive plan, no bonus factor may be applied; and

(b) the cumulative effect of all density factors may not exceed 50 percent.

Unless otherwise specifically provided, bonus factors will not be permitted for any improvement or design feature required by this ordinance, Chapter 14 of the Code of Albemarle, or any other applicable law or regulation. Where permitted, bonus factors will be applied in toto only.

(§ 20-2.4.1, 12-10-80; 8-14-85; § 18-2.4.1, Ord. 98-A(1), 8-5-98; Ord. 22-18(1) ,1-12-22; Ord. 23-18(2), 11-15-23)

Agenda Item No. 19. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Gallaway said that on January 10, 2024, there would be a safety summit which would be the kickoff for the Safe Streets for All Grant. He said that it had been discussed at their TJPDC (Thomas Jefferson Planning District Commission) meeting. He said that localities would have an opportunity to determine their participation and that if they were available to live stream or participate directly. He added that the TJPDC had conducted their annual audit and received a clean report with no issues, which was worth noting. He said that the Regional Housing Partnership (RHP) had held their quarterly meeting, which went well. He said that the RHP would rejoin them for the incentive conversation on December 4.

Mr. Gallaway said that he also wanted to bring up another point he had recently learned about. He said that he noticed when businesses closed down and new ones had not taken their place yet, there could be issues with maintenance and security. He said that for example, in two instances, the previous business, Allen, Allen, Allen, & Allen, which had now become a car spa called Tidal Wave, during this transition period, the building faced problems such as vandalism and trash accumulation. He said that a similar situation was occurring at the Wendy's location on 29, where the business was out of operation, and it seemed that a new owner would be taking over soon.

Mr. Gallaway said that as these changes took place, they should ensure that both old and new property owners understood the importance of maintaining the buildings and keeping them in good condition, especially for entrance corridors like those. He said that they been doing an excellent job at operating the street sweeper, consistently working to improve the medians and surrounding areas. He said that it was important to ensure that businesses undergoing a transition process also maintained their appearance. He said that there were several vacant buildings in the Rio District that had been properly maintained, and that he was just calling that out to have on the radar.

Ms. Mallek said that the County Office Building was featured on the NACo (National Association of Counties) site for Operation Green Light. She expressed her gratitude to the staff for their ingenious and reasonable efforts in making it look spectacular for their veterans. She said that this initiative had

inspired them to aim for 100% participation in the 96 localities in Virginia, as Minnesota was able to get 100% of their 83 Counties to participate. She said that she would be forwarding to the Board a draft letter to Congress regarding the larger trucks bills, which were coming back. She encouraged everyone to review and modify the text as needed before sending their own versions to their congressional delegation. She said that it would be pretty bad, in her opinion, allowing these bills to pass, even as a pilot program, would have significant negative consequences.

Ms. LaPisto-Kirtley said that everyone should have received a copy of the Virginia State General Fund Budget, Outlook and Issues with K-12 funding, along with everything else in the document. She said that the outlook was more positive than initially anticipated. She noted that each person present had access to the PowerPoint presentation, as did the public.

Ms. Price said that as a reminder, Thanksgiving was approaching soon and asked everyone to exercise caution and drive safely on the roads. She stated that they had scheduled the developers incentive joint work session for December 4. She said that following their next Board meeting on December 7, there would be a meeting with their legislative delegation.

Agenda Item No. 20. Adjourn to December 6, 2023, 1:00 p.m. Lane Auditorium.

At 9:03 p.m., the Board adjourned its meeting to December 6, 2023, 1:00 p.m. Lane Auditorium. Opportunities for the public to access and participate in this meeting are posted on the Albemarle County website on the Board of Supervisors home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

Chair

Approved by Board
Date: 05/07/2025
Initials: CKB