

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on November 17, 2021 at 1:00 p.m. This meeting was held by electronic communication means using Zoom and a telephonic connection due to the COVID-19 state of emergency.

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

ABSENT: None.

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

Agenda Item No. 1. Call to Order. The meeting was called to order at 1:05 p.m. by the Chair, Mr. Ned Gallaway.

Mr. Gallaway said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." He said that the opportunities for the public to access and participate in the electronic meeting were posted on the Albemarle County website, on the Board of Supervisors' homepage, and on the Albemarle County calendar. He stated that participation included the opportunity to comment on those matters for which comments from the public would be received.

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

Agenda Item No. 4. Adoption of Final Agenda.

Mr. Gallaway said that there were no changes to be made to the agenda and no items to pull from the consent agenda.

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

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

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

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

Ms. McKeel said that Thursday, November 18, from 6:30 to 8:30 there would be a virtual meeting with Thomas Jefferson Planning District Commission (TJPD) and the regional transit partnership about the regional transit plan. She said that the meeting was a great opportunity for anyone who was interested. She encouraged everyone to listen into the meeting and to provide input and comments. She said that she recently went to the Ivy Materials Utilization Center (MUC) and dropped off 10 cans of paint. She said that the experience was great and that she was able to dispose of paint for free. She said that as of September, 42 containers of paint had been shipped out of the facility. She continued that it was the equivalent of 176,400 paint cans since the beginning of the program in August 2016. She said that paint spills created environmental and visual impacts for the community.

Ms. Mallek said that on Veterans Day, there were four different ceremonies in Albemarle County, and each had a large turnout. She said there was information that she would share later about a bill before Congress to increase the support for veterans who were reentering civilian life. She said the bill needed local agitation to pass.

Ms. Price said that she, Mr. Gallaway, Ms. LaPisto-Kirtley, and Ms. Mallek had attended the annual conference of the Virginia Association of Counties (VACo). She announced that Ms. Mallek had been elected as the first vice president of the VACo, which reflected years of dedicated work to the County and the Commonwealth. She said that each of the supervisors had the opportunity to attend several group sessions. She noted that she attended a session on "civility in leadership." She said the session was standing room only which reflected the desire across the political spectrum to achieve a betterment of the community. She said it followed the Virginia way of "let's disagree about policy issues, but let's not be disagreeable."

Ms. LaPisto-Kirtley noted the multiple Veterans Day celebrations and said she was proud of what Albemarle did for its veterans. She said she had attended a session on education at the VACo conference. She said there would be funding through grants and other methods from the state for capital improvement projects for schools. She said she would contact her local school district about the funding. She said she also attended a session about "innovative ideas." She said that the removal of the monument was an example of an "innovative idea." She said that the removal required staff to work beforehand so that the removal of the monument was seamless and without controversy. She continued that the Blue Ridge Tunnel in Nelson County was another example. She said that initially, the expected

traffic for the tunnel was 30,000 travelers per year, and now it was at 100,000 travelers per year.

Ms. LaPisto-Kirtley said that Governor Ralph Northam was at the conference. She said the Governor welcomed Governor-elect Youngkin and his wife and said that they would do a good job. She noted the smooth, gentlemanly transition from one political party to the other. She echoed Ms. Price's comment that the Virginia way was "to agree to disagree, but in the end, we all come together for what is best for Virginians."

Ms. Palmer explained that the MUC had different fees depending on if the materials contained trash or not. She said that if the material was clean fill, then the cost was only \$10 a tipping ton, and that if there was trash in the load, then the cost was \$52 a ton. She said developers and demolition crews would save money if they sorted the waste they brought for disposal. She said that asphalt, concrete, and dirt were heavy materials that added up, so the lower price would make a significant difference. She said she wanted a way to notify developers of the price-savings for sorting the trash from the loads.

Mr. Gallaway said he attended the VACo conference as well. He said if there was interest in any of the sessions he attended, he would go into more depth. He continued that the topics of the sessions he attended were the future of economic development in Virginia, the Children's Services Act, and collective bargaining. He said that a few days before the conference, he did a presentation as the Vice Chair of the Regional Housing Partnership (RHP) along with Mr. Keith Smith, Chair of the RHP, at the Virginia Governor's housing conference. He continued that Mr. Smith and others did a second presentation on the community land trust in Piedmont Housing, and that Mr. Anthony Haro of the Thomas Jefferson Area Coalition for the Homeless (TJACH) presented on the premiere circle project. He noted that the region was well represented at the conference and that there was interest in the County's work.

Agenda Item No. 6. Proclamations and Recognitions.

Item No. 6.1. Resolution of Appreciation for Lori Allshouse.

Mr. Gallaway **moved** to adopt the "Resolution of Appreciation for Lori Allshouse" as he read it aloud. Ms. LaPisto-Kirtley **seconded** the motion.

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

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

Ms. Nelsie Birch, Chief Financial Officer, said she had supervised Ms. Allshouse for 1 1/2 years, since she had started worked with the County. She said Ms. Allshouse had been the face of all things budget related, capital projects, capital planning, five-year financial planning, financial policies, and outside agencies. She said Ms. Allshouse had supported the Office of Finance and Budget behind the scenes, ensured that the team was prepared, ensured coordination with the Clerk's Office, and made sure that she was prepared and briefed on the topics since she was new to the County. She said that all the work of the Office of Finance and Planning included work done by Ms. Allshouse.

Mr. Jeff Richardson said he had the Albemarle County values on his office wall. He said the values had evolved as the community and the organization evolved. He continued that recently, the values evolved when "community" was added as a value. He noted that the values stated: "Albemarle County believes in excellence in public service." He said that mission was carried forward through integrity, innovation, stewardship, learning, and community. He said Ms. Allshouse was always able to weave the County values into all of her work. He said she was an excellent mentor to people new to the profession. He mentioned that there was a retirement get-together and attendees included people who had worked with Ms. Allshouse. He said Ms. Allshouse was diplomatic and able to make lasting relationships.

Ms. Allshouse said the comments meant a lot to her. She said the comments about the Virginia way made her think about the Albemarle way. She said there was something special about the County. She said it was an honor to serve with dedicated public service professionals. She continued that Albemarle was one of the most beautiful counties in the Commonwealth—it was part of the County's essence. She said the Board of Supervisor had been hardworking, dedicated, and visionary. She said that with Mr. Richardson's and Ms. Birch's leadership, and the work that had been done on the budget and long-range planning and development, the County was well-positioned and well-run. She expressed gratitude for being able to serve the County.

Ms. McKeel said it was hard for her to remember a time when Ms. Allshouse was not working for the County. She said that over the years, she had challenged Ms. Allshouse, and Ms. Allshouse had always responded diplomatically. She continued that the Board would surprise Ms. Allshouse with work, and Ms. Allshouse would always be happy to perform the duties asked. She commended Ms. Allshouse for her work.

Ms. Mallek said that the day of Ms. Allshouse's retirement party was cold and beautiful. She continued that the attendees exemplified Ms. Allshouse's community impact. She said Ms. Allshouse represented the face of the process improvements made for the budget. She said Ms. Allshouse implemented a debrief process after the budget process to ensure that the Board could provide suggestions while the process was fresh in their minds. She said the readability of the budget and the

accessibility of the information to the public was important. She continued that Ms. Allshouse had been the representative to work with the arts community and other partner agencies that did not participate in the ABRT. She said those agencies were important to the success of the County and needed more support. She mentioned she had learned of “Dodgeball with Doug” and “Tennis with Tom”—she volunteered to take on the dodgeball role because she thought it would be fun.

Mr. Gallaway said he should make a comment about the dodgeballs, but he did not know enough.

Ms. Price said the moment was bittersweet. She said she was crushed to be unable to attend Ms. Allshouse’s retirement party because she was in Norfolk for the VACo conference. She said that there were about 50 or 60 public meetings a year for the Board of Supervisors. She continued that for 19 of the 22 1/2 months that she had been a supervisor, the meetings had been virtual. She said that during part of the 19 months, she used a conference room for internet access and would often see Ms. Allshouse as she came into the building. She said the resolution covered many of the ways Ms. Allshouse had served the community. She wished Ms. Allshouse fair winds and following seas.

Ms. LaPisto-Kirtley said it was great to work with Ms. Allshouse for the almost two years that she had been on the Board. She said she would not have been able to understand much of the budget process if it were not for Ms. Allshouse’s calming presence and thorough explanations. She added that Ms. Allshouse also served the people of Albemarle, the staff and the supervisors. She said Ms. Allshouse was the essence of the can-do attitude of the County.

Ms. Palmer said she agreed with all the previous comments. She said she appreciated the Saturday night emails that answered the Board’s budget questions. She said that the supervisors were not specialists and that she felt more like a referee. She said they always had to learn. She appreciated that Ms. Allshouse was always steady and calm in her explanations to all their questions.

Mr. Gallaway noted that the Board had learned a lot from Ms. Allshouse. He said Ms. Allshouse’s orientation when he joined the Board set him up for success. He commented that it was visionary that Ms. Allshouse continued to ask how the processes could be improved, and he appreciated that she was always open to new ways to question, to ask, and to think.

Resolution of Appreciation for Lori Allshouse

- WHEREAS,** Lori Allshouse has faithfully served the County of Albemarle for over 20 years, most currently as the Assistant CFO for Policy and Partnerships, serving as the Office of Management and Budget Director for 10 years, and in the years prior, serving in multiple positions within the County Executive Office; and
- WHEREAS,** Lori has shown superior leadership as a visionary in strategic business initiatives, a fiscal steward with a thoughtful approach, and an influential liaison between the County of Albemarle and numerous community partners and boards; and
- WHEREAS,** Lori initiated the Board of Supervisors strategic planning processes promoting a connection of strategic goals to financial resources and provided leadership in developing the County’s five-year financial planning process, operating budget, and the Capital Improvement Plan (CIP); and
- WHEREAS,** Lori championed numerous partnerships within the community centered around mentorship and the development of others; she spearheaded a fellowship program that mentored numerous fellows and University of Virginia interns interested in public service careers, and collaborated with participants in the Leadership Charlottesville Program to bring an Arts and Music program to the County’s Juvenile Detention Center; and
- WHEREAS,** Lori is a highly regarded strategic partner for her State legislative work in collaboration with the Thomas Jefferson Planning District Commission and as the County liaison to UVA’s Weldon Cooper Center, including community surveys and demographic research project, and serving on various Boards as a representative of the County Executive.
- NOW THEREFORE BE IT RESOLVED,** by the Albemarle County Board of Supervisors that Lori Allshouse is hereby honored and commended for her many years of exceptional service to the County of Albemarle, its residents, the broader community in which we live, and the entire Commonwealth of Virginia with knowledge that Albemarle County is strengthened and distinguished by Lori’s dedication, commitment, professionalism, and compassion in meeting community needs; and
- BE IT FURTHER RESOLVED,** that a copy of this Resolution be spread upon the minutes of this meeting of the Albemarle County Board of Supervisors as a lasting, visible testament to the esteem in which Lori is held by this Board and previous Boards for her legacy of community service and the tangible results from her work to make Albemarle County better for future generations.

Ms. Robyn Mattern said she resided in the White Hall District. She said she was addressing the turf and light project at Darden Towe Park. She explained that the project was approved and budgeted in the Spring of 2019, but the start was delayed and then the pandemic hit. She asked the Board to revisit, revise, and restart the project. She said it was an embarrassment that there was not an all-weather, all-season, lit sports facility in the community. She continued that youth and adult sports organizations were forced to rent a high school turf field at high prices at off-peak hours. She elaborated that the previous week, she had picked her children up from Albemarle High School from 8 – 9:30 practice three times. She said that in 2018, the Albemarle County Parks and Recreation needs assessment specifically recommended upgrades to the athletic fields at Darden Towe Park as a high priority. She said the park was in dire shape—there were ankle-breaking potholes throughout. She said the community was forced to use the facility because of the lack of options. She said the footprint was there for a beautiful facility, and that parking, shelters, and bathrooms already existed.

Ms. Mattern said she was a mother of two active children, and she was driving to neighboring counties and staying in hotels for games and tournaments. She said that a renovated park would allow the County to host tournaments and bring revenue into the communities. She said hotels and restaurants were hit hard by the pandemic, so it was necessary to generate business. She said that “tourn-cations,” a combination of “tournament” and “vacation,” were an increasing trend. She said that Charlottesville would be an amazing destination for families to attend a tournament and then explore the community. She noted that Henrico County hosted 186 tournaments in 2019, generating an estimated \$66.2 million in local spending. She said she was aware that the County had a budget surplus of \$13.2 million. She asked that part of that money be used for the project.

Mr. Terry Newell said he had worked with Ms. Allshouse and wished her the best in retirement. He said he lived in the White Hall district. He said that since 2009, a sign along Old Trail Drive designated a site for a community park. He said that the western park was now more than just a sign. He thanked Ms. Mallek for not forgetting about the park, Tim Pendolino for shepherding the process, the Board for using proffer funds, and the staff of Parks and Recreation for their work.

Mr. Newell said that the first part of the park to be completed would be a playground. He said there were 3 phases to the park according to the Western Park master plan adopted in 2018. He continued that considering the growth of western Albemarle and the requests for more infrastructure, the western park offered a way to meet the need for more outdoor recreational spaces. He said that of the park’s 36 acres, 33 would be left in a natural state, only crisscrossed by walking trails—necessary to maintain the biodiversity of the natural area. He said that the 3 remaining acres included picnic areas, athletic fields, a community garden, and other recreational spaces. He asked for the Board to support funding for the rest of phase 1.

Mr. Newell said that phase 1 would continue to focus on restrooms, an entrance, limited parking, landscaping, and an amphitheater. He continued that the Crozet master plan called for the completion of phase 1 in 1 to 2 years through funding from the capital improvements program. He said phase 2 provided sports fields, basketball courts, natural play areas, additional parking and restrooms, and a bridge over Licking Hole Creek. He said that in the 12 years it took to start the project, Albemarle had added hundreds of homes and apartment complexes with more development to come. He said the children and community were owed the park. He said the park was a pressing capital improvement need.

Mr. Neil Williamson said he was president of the Free Enterprise Forum, a privately funded public policy organization focused on Central Virginia’s local governments. He said that getting a building permit from the Albemarle County Community Development Department (CDD) was like waiting in line at a restaurant to be placed on the seating list. He continued that it was like having to pay to be on the list at the only restaurant around. He said that the Free Enterprise Forum learned there were over 300 commercial and residential building permits that had been received by CDD but had yet to be entered. He said that coupled with increasing review times, the result was an untenable situation. He continued that it currently took longer than 4 months to pull a building permit in Albemarle County. He said that the CDD leadership, as well as other department heads, were keenly aware of the situation and struggled to find solutions.

Mr. Williamson said the leadership had been transparent and communicative throughout the effort. He said that the Free Enterprise Forum had worked with the Blue Ridge Homebuilders Association, and Community Development, to fix the problem. HE said the regulatory bottleneck helped no one. He asked on behalf of the Free Enterprise Forum for the Board to address the problem in four steps: one, authorize the County Executive to dedicate the funds required to properly process the existing backlog and future building permit applications; two, invest in a new software platform to allow more efficient processing of all applications; three, in the spirit of the famous land use reform committee clerk, and the Development Initiatives steering committee’s disc 1 and 2, establish a broad-based committee charged with reviewing and streamlining the development procedures to get the permits approved and completed in Albemarle County; four, receive a quarterly report regarding permit processing statistics on the consent agenda.

Mr. Bert Miller said he resided in the Rivanna District. He said he would discuss Ms. Mattern’s comments about Darden Towe Park and the situation with the field. He referenced the quote from the movie Field of Dreams, “If you build it, they will come.” He said that Darden Towe Park was an immaculate piece of property along the river, well located near restaurants and hotels. He said from far it

looked great, but it was far from great. He said that the condition of the fields was not serving the community. He explained that the sports tourism industry ranges between \$15 to \$25 billion a year. He continued that teams all along the East Coast travelled to areas like Williamsburg, Roanoke, Richmond, and Northern Virginia. He said that the County did not have a facility to service those kinds of events. He emphasized that sports tourism brought in lots of money for hotels. He noted that the Hampton Inn across the way from Darden Towe Park was built in anticipation of a larger facility. He said that the project being delayed was understandable, but the project needed to move forward in order to serve the community.

Mr. Gallaway closed Matters from the Public.

Agenda Item No. 8. Consent Agenda.

Item No. 8.1. Approval of Minutes: June 3, 2020.

Ms. Mallek had read the minutes of June 3, 2020, and found them to be in order.

By the above-recorded vote, the Board approved the minutes of June 3, 2020 as read.

Item No. 8.2. Resolution Approving the County's Participation in the Proposed Settlement of Opioid- Related Claims.

By the above-recorded vote, the Board approved the attached Resolution approving the County's participation in the proposed settlement of opioid-related claims:

RESOLUTION

A RESOLUTION OF THE ALBEMARLE COUNTY BOARD OF SUPERVISORS APPROVING OF THE COUNTY'S PARTICIPATION IN THE PROPOSED SETTLEMENT OF OPIOID-RELATED CLAIMS AGAINST MCKESSON, CARDINAL HEALTH, AMERISOURCEBERGEN, JANSSEN, AND THEIR RELATED CORPORATE ENTITIES, AND DIRECTING THE COUNTY ATTORNEY TO EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY'S PARTICIPATION IN THE SETTLEMENTS

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts the Commonwealth of Virginia and its cities and counties by adversely impacting, amongst other things, the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services; and

WHEREAS, the Commonwealth of Virginia and its cities and counties have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Virginia; and

WHEREAS, settlement proposals have been negotiated that will cause McKesson, Cardinal Health, AmerisourceBergen, and Janssen to pay up to \$26 billion nationwide to resolve opioid-related claims against them.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors, this 17th day of November, 2021, approves of the County's participation in the proposed settlement of opioid-related claims against McKesson, Cardinal Health, AmerisourceBergen, Janssen, and their related corporate entities, and directs the County Attorney to execute the documents necessary to effectuate the County's participation in the settlements, including the required release of claims against settling entities.

Item No. 8.3. Resolution Regarding the County's Participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding.

By the above-recorded vote, the Board approved the Resolution regarding the County's participation in the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding:

RESOLUTION

A RESOLUTION OF THE ALBEMARLE COUNTY BOARD OF SUPERVISORS APPROVING OF THE COUNTY'S PARTICIPATION IN THE VIRGINIA OPIOID ABATEMENT FUND AND SETTLEMENT ALLOCATION MEMORANDUM OF UNDERSTANDING ("MOU") AND DIRECTING THE COUNTY ATTORNEY TO EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY'S PARTICIPATION IN THE MOU

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts the Commonwealth of Virginia and its cities and counties by adversely impacting, amongst other things, the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services; and

WHEREAS, the Commonwealth of Virginia and its cities and counties have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Virginia; and

WHEREAS, in order to advance their common interests, Virginia local governments and the Commonwealth of Virginia, through counsel, have extensively negotiated the terms of a memorandum of understanding relating to the allocation and use of litigation recoveries relating to the opioid epidemic.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors, this 17th day of November, 2021, hereby authorizes and approves of the Virginia Abatement Fund and Settlement Allocation Memorandum of Understanding ("MOU") attached hereto and incorporated by reference as Exhibit "A," and directs the County Attorney to execute the MOU.

* * * * *

**VIRGINIA OPIOID ABATEMENT FUND AND
SETTLEMENT ALLOCATION MEMORANDUM OF UNDERSTANDING**

WHEREAS, the people of the Commonwealth of Virginia and its communities have been harmed through the national and statewide epidemic caused by licit and illicit opioid use and distribution within the Commonwealth of Virginia;

WHEREAS, the Commonwealth of Virginia, through the Office of Attorney General Mark R. Herring, and certain Political Subdivisions, through their elected representatives and counsel, are separately engaged in litigation seeking to hold those entities in the Pharmaceutical Supply Chain accountable for the damage caused;

WHEREAS, the Commonwealth of Virginia and its Political Subdivisions share a common desire to abate and alleviate the impacts of the opioid epidemic throughout Virginia; and now

THEREFORE, the Commonwealth of Virginia and certain of its Political Subdivisions, subject to completing formal documents effectuating the Parties' agreements, enter into this Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of any Settlements as described herein.

A. Definitions

As used in this Virginia Term Sheet:

1. "The Commonwealth" shall mean the Commonwealth of Virginia acting through its Attorney General.
2. "Political Subdivision(s)" shall mean the Virginia counties and independent cities represented by Counsel.
3. "Participating Political Subdivisions" shall mean the Political Subdivisions, along with all Virginia counties and independent cities who agree to become signatories to this MOU and to be bound by the terms of future Settlements.

4. "Counsel" shall mean the undersigned private attorneys representing the Political Subdivisions.
5. "The Parties" shall mean the Commonwealth of Virginia, the Political Subdivisions, and Counsel.
6. "Negotiating Committee" shall mean a three-member representative group of the Parties. The Commonwealth shall be represented by the Virginia Attorney General or his designees. The Political Subdivisions and Counsel shall be represented by W. Edgar Spivey of Kaufman & Canoles, P.C. or his designee, and J. Burton LeBlanc of Baron & Budd, P.C. or his designee.
7. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant named in Complaints filed by all the Political Subdivisions in court on or before April 30, 2020 when that resolution has been jointly entered into by the Commonwealth, the Political Subdivisions, and Counsel. "Settlement" also shall include the approval by a United States Bankruptcy Court of a plan of reorganization or liquidation of a Pharmaceutical Supply Chain Participant, or any other determination, ruling, or decision by a United States Bankruptcy Court, in which legal or equitable claims against the Pharmaceutical Supply Chain Participant by the Commonwealth and the Political Subdivisions are settled, adjudicated, released, or otherwise resolved.
8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.
9. "Approved Abatement Purposes" shall mean efforts to treat, prevent, or reduce opioid use disorder or the misuse of opioids or to otherwise abate or remediate the

opioid epidemic, including but not limited to those efforts described in Section C(4)(a) through (j) of this MOU. In addition, "Approved Abatement Purposes" shall include the types of efforts approved for funding by the Authority that is defined in Section C(1). "Approved Abatement Purposes" also shall include any other abatement or remediation purposes to the extent such purposes are described in a Settlement.

10. "Pharmaceutical Supply Chain" shall mean the process and channels through which opioids or opioid products are manufactured, marketed, promoted, distributed or dispensed.
11. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in or has engaged in the manufacture, marketing, promotion, distribution, or dispensing of an opioid analgesic.

B. Allocation of Settlement Proceeds

1. All Opioid Funds shall be initially divided with fifteen percent (15%) going to the Participating Political Subdivisions ("Subdivision Share"), seventy percent (70%) going to the Virginia Opioid Abatement Fund and to other Approved Abatement Purposes as further described herein ("Opioid Abatement Share"), and fifteen percent (15%) going to the Commonwealth of Virginia ("Commonwealth Share").
2. The Subdivision Share shall be allocated and paid to the Participating Political Subdivisions in accordance with the division of proceeds referenced in the schedule attached hereto as Exhibit A. The shares of Virginia counties and independent cities who elect not to become Participating Political Subdivisions, if any, shall be reallocated ratably to the Participating Political Subdivisions.

3. In the event a Participating Political Subdivision merges, dissolves, or ceases to exist, the allocation percentage for that Participating Political Subdivision shall be redistributed equitably based on the composition of the successor subdivision.
4. The Commonwealth Share shall be deposited to the Attorney General's Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund with moneys transferred to the Commonwealth's General Fund as provided by law. To the extent a Settlement requires that all Opioid Funds be used only for abatement or similar purposes, then the Commonwealth Share shall be deposited and distributed accordingly.
5. The Opioid Abatement Share of 70% of the Opioid Funds shall be allocated and paid as follows:
 - a. Fifty-five percent (55%) of the Opioid Funds shall be allocated and paid to the Virginia Opioid Abatement Fund ("Fund").
 - b. Fifteen percent (15%) of the Opioid Funds shall be allocated and paid to the Participating Political Subdivisions and shall be used for Approved Abatement Purposes ("Direct Subdivision Abatement Share"). Upon request, a Participating Political Subdivision shall make publicly available information showing the purposes for which the Participating Political Subdivision used Direct Subdivision Abatement Share funds. The Direct Subdivision Abatement Share shall be allocated and paid to the Participating Political Subdivisions in accordance with the division of proceeds referenced in the schedule attached hereto as Exhibit A. The shares of Virginia counties and independent cities who

elect not to become Participating Political Subdivisions, if any, shall be reallocated ratably to the Participating Political Subdivisions.

6. To the extent a Settlement requires that all Opioid Funds be used only for abatement or similar purposes, then the Subdivision Share and the Commonwealth Share shall be used for Approved Abatement Purposes.
7. To receive funds allocated under this MOU from any Settlement, the Commonwealth and the Participating Political Subdivisions will comply with the terms of any such Settlement, including, among other things, any reporting requirements or restrictions on the use of funds for administrative purposes.

C. Virginia Opioid Abatement Fund and Virginia Opioid Abatement Authority

1. The Parties have sought creation of a Virginia Opioid Abatement Authority ("Authority") through legislation submitted to the Virginia General Assembly, which passed in the form attached hereto as Exhibit B. The Authority shall administer the Fund, which also shall be created through the legislation. The Authority shall seek to abate and remediate the opioid epidemic in Virginia through financial support from the Fund in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in Virginia.
2. The Authority shall be governed by a Board of Directors consisting of 11 members as follows: (i) the Secretary of Health and Human Resources, or his designee; (ii) the Chair of the Senate Committee on Finance and Appropriations or his designee and the Chair of the House Committee on Appropriations or his designee; (iii) an elected member of the governing body of a Participating Political Subdivision, to

be selected from a list of three submitted jointly by the Virginia Association of Counties and the Virginia Municipal League; (iv) one representative of a community services board or behavioral health authority of an urban or suburban region containing Participating Political Subdivisions and one representative of a community services board or behavioral health authority of a rural region containing Participating Political Subdivisions, each to be selected from lists of three submitted by the Virginia Association of Community Services Boards; (v) one sheriff of a Participating Political Subdivision, to be selected from a list of three submitted by the Virginia Sheriffs' Association; (vi) one licensed, practicing City or County Attorney of a Participating Political Subdivision, to be selected from a list of three submitted by the Local Government Attorneys of Virginia; (vii) two medical professionals with expertise in public and behavioral health administration or opioid use disorders and their treatment; and (viii) one representative of the addiction and recovery community.

- a. The members appointed pursuant to clause (i) shall serve ex officio, and the members appointed pursuant to clauses (iii) through (viii) shall be appointed by the Governor.
- b. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Ex officio members shall serve terms coincident with their terms of office.

- c. The Board shall elect annually a chairman and vice-chairman from among its membership. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Board shall meet annually or more frequently at the call of the chairman.
- 3. The Authority shall establish specific criteria and procedures for awards from the Fund; establish requirements for the submission of funding requests; evaluate funding requests in accordance with the criteria established by the Authority; make awards from the Fund in a manner that distributes funds equitably among all community services board regions of the Commonwealth, including the establishment of minimum percentages of funds that must be awarded to each Participating Political Subdivision; and evaluate the implementation and results of all efforts receiving support from the Authority.
- 4. The Authority may make grants and disbursements from the Fund that support efforts to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic. Such efforts may include but shall not be limited to the following:
 - a. Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies.
 - b. Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

- c. Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
- d. Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved, or are at risk of becoming involved, in the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;
- e. Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;
- f. Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions, and the needs of their families, including babies with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;
- g. Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed methods, programs, or strategies;
- h. Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;

- i. Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and
 - j. Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services.
5. The Authority shall provide financial support only for efforts that satisfy the following conditions:
- a. The efforts shall be conducted or managed by a Virginia state agency or Participating Political Subdivision;
 - b. No support provided by the Authority shall be used by the recipient to supplant funding for an existing program or continue funding an existing program at its current amount of funding;
 - c. No support provided by the Authority shall be used by the recipient for indirect costs incurred in the administration of the financial support or for any other purpose proscribed by the Authority; and
 - d. Recipients of support provided by the Authority shall agree to provide the Authority with such information regarding the implementation of the effort and allow such monitoring and review of the effort as may be required by the Authority to ensure compliance with the terms under which the support is provided.
6. The Authority shall give priority to applications for financial support for efforts that:

- a. Collaborate with an existing program or organization that has an established record of success treating, preventing or reducing opioid use disorder or the misuse of opioids;
 - b. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a community with a high incidence of opioid use disorder or opioid death rate relative to population;
 - c. Treat, prevent or reduce opioid use disorder or the misuse of opioids in a historically economically disadvantaged community, as that term is defined in Va. Code § 56-576; or
 - d. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount.
7. For every deposit to the Fund, the Authority shall allocate a portion to the following purposes:
- a. Fifteen percent (15%) shall be restricted for use by state agencies;
 - b. Fifteen percent (15%) shall be restricted for use by Participating Political Subdivisions with these funds distributed in accordance with the division of proceeds referenced in the schedule attached hereto as Exhibit A. The shares of Virginia counties and independent cities who elect not to become Participating Political Subdivisions, if any, shall be reallocated ratably to the Participating Political Subdivisions.
 - c. Thirty-five percent (35%) shall be restricted for use for regional efforts (a partnership of at least two Participating Political Subdivisions within a community services board region); and

- d. Thirty-five percent (35%) shall be unrestricted and may be used to fund the Authority's staffing and administrative costs and may be distributed for use by state agencies, by the Participating Political Subdivisions, or for regional efforts in addition to the amounts set forth in subparagraphs 7(a)-(c), provided that the Authority shall ensure that such funds are used to accomplish the purposes described above or invested as described immediately below.
8. In distributing money from the Fund, the Authority shall balance immediate and anticipated needs with projected receipts of funds in order to best accomplish the purposes for which the Authority is established.
9. The Board may designate any amount from the Fund to be invested, reinvested, and managed by the Board of the Virginia Retirement System.

D. Payment of Counsel and Litigation Expenses

1. The Parties anticipate that any national Settlement will provide for payment of all or a portion of the attorneys' fees and litigation expenses of named plaintiff Participating Political Subdivisions. Counsel for any named plaintiff Participating Political Subdivision that seeks to recover attorneys' fees and litigation expenses from Settlement funds shall first seek to recover such fees and expenses from any national Settlement fund established to pay such fees and expenses. For such purposes, the Parties agree that the monetary recoveries obtained via Settlement are attributable to the Commonwealth and the Political Subdivisions 50% each.
2. In addition, the Parties agree that a supplemental attorneys' fees and costs fund (the "Deficiency Fund") will be created; provided, however, that such Deficiency Fund may not violate the terms of any national Settlement. In such event, the Parties

agree to exert diligent efforts to accomplish an alternate arrangement that preserves the payment of counsel and litigation expenses outlined hereunder. Administration of the Deficiency Fund shall be the responsibility of the Political Subdivisions, and the costs of administration may be paid out of the Deficiency Fund.

3. The Deficiency Fund is to be used to compensate counsel for the Participating Political Subdivisions that filed suit on or prior to April 30, 2020. Eligible contingent fee contracts shall have been executed on or before April 30, 2020.
4. The Deficiency Fund shall be funded as follows: from any national Settlement, the funds deposited in the Deficiency Fund shall be 25% of the Subdivision Share and 25% of the Direct Subdivision Abatement Share of each payment (annual or otherwise) that is allocated to the Commonwealth of Virginia (including its political subdivisions) for that Settlement. These funds shall be deposited to the Deficiency Fund prior to distribution to the Participating Political Subdivisions. No portion of the Deficiency Fund shall be drawn from the Commonwealth Share or the Fund.
5. The maximum percentage of any contingency fee agreement permitted for compensation shall be 25% of the portion of the Subdivision Share and the Direct Subdivision Abatement Share attributable to the named plaintiff Participating Political Subdivision that is a party to the contingency fee agreement, plus expenses attributable to that named plaintiff Participating Political Subdivision. Under no circumstances may counsel collect more for its work on behalf of a named plaintiff Participating Political Subdivision than it would under its contingency agreement with that named plaintiff Participating Political Subdivision.

6. To the extent that funds available in the designated amounts or percentages set forth in this Section D are inadequate to fully pay amounts due under contingent fee contracts, funds shall be distributed to private counsel for named plaintiff Participating Political Subdivisions who filed suit and entered into contingent fee contracts prior to April 30, 2020 on a pro rata basis based on the percentage of the total population of named plaintiff Participating Political Subdivisions contained in the named plaintiff Participating Political Subdivision that private counsel represents.
7. Any funds remaining in the Deficiency Fund in excess of the amounts needed to cover private counsel's representation agreements shall revert to the Participating Political Subdivisions and be allocated to the sources from which they derived.
8. Any attorneys' fees related to representation of the Commonwealth of Virginia shall not be paid from the Subdivision Share, the Direct Subdivision Abatement Share, or the Fund but shall be drawn directly from the Commonwealth Share or through other sources. Any payments of attorneys' fees related to representation of the Commonwealth of Virginia from such other sources shall not be deemed Opioid Funds subject to allocation under this MOU.

E. Settlement Negotiations

1. The Negotiating Committee members agree to inform each other in advance of any negotiations relating to any Virginia-only Settlement with a Pharmaceutical Supply Chain Participant that includes both the Commonwealth and its Political Subdivisions and shall provide each other the opportunity to participate in such negotiations.

2. The Parties further agree to keep each other reasonably informed of all other global settlement negotiations with Pharmaceutical Supply Chain Participants. Neither this provision, nor any other, shall be construed to state or imply that the Commonwealth or the Political Subdivisions are unauthorized to engage in settlement negotiations with Pharmaceutical Supply Chain Participants without prior consent or contemporaneous participation of the other, or that either party is entitled to participate as an active or direct participant in settlement negotiations with the other. Rather, while the Commonwealth's and the Political Subdivisions' efforts to achieve worthwhile settlements are to be collaborative, incremental stages need not be so.
3. As this is a Virginia-specific effort, the Negotiating Committee shall be chaired by the Attorney General or his designee.
4. The Commonwealth of Virginia, the Political Subdivisions, or Counsel may withdraw from coordinated Settlement discussions detailed in this Section upon 5 days' written notice to the remaining Committee Members and counsel for any affected Pharmaceutical Supply Chain Participant. The withdrawal of any Member releases the remaining Committee Members from the restrictions and obligations in this Section E.
5. The obligations in this Section E shall not affect any Party's right to proceed with trial or, within 30 days of the date upon which a trial involving that Party's claims against a specific Pharmaceutical Supply Chain Participant is scheduled to begin, reach a case-specific resolution with that particular Pharmaceutical Supply Chain Participant.

6. Nothing in this MOU alters or changes the right of the Commonwealth or any Political Subdivision to pursue its own claim. The intent of this MOU is to join the Parties to reach a Settlement or Settlements.

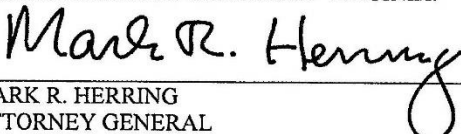
Acknowledgment of Agreement

We, the undersigned, have participated in the drafting of the above MOU, including comments solicited from client Political Subdivisions. This document has been collaboratively drafted to maintain all individual claims while allowing the Commonwealth and its Political Subdivisions to cooperate in exploring all possible means of resolution. Nothing in this agreement binds any party to any specific outcome. Any resolution under this document will require acceptance by the Commonwealth of Virginia and the Participating Political Subdivisions.

We, the undersigned, hereby accept the VIRGINIA OPIOID ABATEMENT FUND AND SETTLEMENT ALLOCATION MEMORANDUM OF UNDERSTANDING. We understand that the purpose of this MOU is to permit collaboration between the Commonwealth of Virginia and Political Subdivisions to explore and potentially effectuate earlier resolution of the Opioid Litigation against Pharmaceutical Supply Chain Participants. We also understand that an additional purpose is to create an effective means of distributing any potential Settlement funds obtained under this MOU between the Commonwealth of Virginia and the Participating Political Subdivisions in a manner that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Virginia.

Executed this 20th day of August, 2021.

FOR THE COMMONWEALTH OF VIRGINIA:



MARK R. HERRING
ATTORNEY GENERAL

Executed this 20th day of August, 2021

Signature: _____

Printed Name: W. Edgar Spivey

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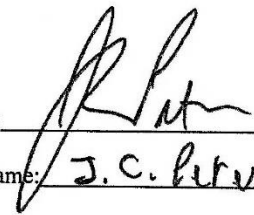
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EXHIBIT A

Table 1: Opioid Settlement Allocations to Counties and Independent Cities

Location	%	Location	%	Location	%
Accomack	0.348%	Franklin City	0.079%	Norton City	0.110%
Albemarle	0.863%	Frederick	1.277%	Nottoway	0.133%
Alexandria City	1.162%	Fredericksburg City	0.524%	Orange	0.638%
Alleghany	0.213%	Galax City	0.139%	Page	0.410%
Amelia	0.100%	Giles	0.409%	Patrick	0.329%
Amherst	0.299%	Gloucester	0.424%	Petersburg City	0.395%
Appomattox	0.133%	Goochland	0.225%	Pittsylvania	0.750%
Arlington	1.378%	Grayson	0.224%	Poquoson City	0.186%
Augusta	0.835%	Greene	0.178%	Portsmouth City	1.937%
Bath	0.037%	Greensville	0.124%	Powhatan	0.262%
Bedford	0.777%	Halifax	0.353%	Prince Edward	0.190%
Bland	0.147%	Hampton City	1.538%	Prince George	0.351%
Botetourt	0.362%	Hanover	1.079%	Prince William	3.556%
Bristol City	0.434%	Harrisonburg City	0.523%	Pulaski	1.061%
Brunswick	0.107%	Henrico	4.473%	Radford City	0.247%
Buchanan	0.929%	Henry	1.220%	Rappahannock	0.091%
Buckingham	0.127%	Highland	0.023%	Richmond	0.084%
Buena Vista City	0.078%	Hopewell City	0.344%	Richmond City	4.225%
Campbell	0.456%	Isle of Wight	0.356%	Roanoke	1.498%
Caroline	0.318%	James City	0.612%	Roanoke City	1.859%
Carroll	0.440%	King George	0.306%	Rockbridge	0.235%
Charles City	0.073%	King William	0.178%	Rockingham	0.614%
Charlotte	0.138%	King and Queen	0.072%	Russell	1.064%
Charlottesville City	0.463%	Lancaster	0.135%	Salem City	0.786%
Chesapeake City	2.912%	Lee	0.556%	Scott	0.421%
Chesterfield	4.088%	Lexington City	0.093%	Shenandoah	0.660%
Clarke	0.125%	Loudoun	2.567%	Smyth	0.592%
Colonial Heights City	0.283%	Louisa	0.449%	Southampton	0.137%
Covington City	0.100%	Lunenburg	0.088%	Spotsylvania	1.417%
Craig	0.070%	Lynchburg City	0.816%	Stafford	1.443%
Culpeper	0.790%	Madison	0.163%	Staunton City	0.440%
Cumberland	0.100%	Manassas City	0.452%	Suffolk City	0.710%
Danville City	0.637%	Manassas Park City	0.095%	Surry	0.058%
Dickenson	0.948%	Martinsville City	0.494%	Sussex	0.081%
Dinwiddie	0.196%	Mathews	0.088%	Tazewell	1.606%
Emporia City	0.050%	Mecklenburg	0.344%	Virginia Beach City	4.859%
Essex	0.101%	Middlesex	0.108%	Warren	0.766%
Fairfax	8.672%	Montgomery	1.205%	Washington	0.996%

Fairfax City	0.269%	Nelson	0.147%	Waynesboro City	0.363%
Falls Church City	0.102%	New Kent	0.156%	Westmoreland	0.223%
Fauquier	1.210%	Newport News City	2.047%	Williamsburg City	0.086%
Floyd	0.182%	Norfolk City	3.388%	Winchester City	0.649%
Fluvanna	0.194%	Northampton	0.122%	Wise	1.756%
Franklin	0.954%	Northumberland	0.129%	Wythe	0.642%
				York	0.561%

EXHIBIT B

Va. Code Ann. § 2.2-2365

Current through the 2021 Regular Session and Special Session I of the General Assembly

**VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT >
SUBTITLE I. ORGANIZATION OF STATE GOVERNMENT > PART D. STATE AUTHORITIES,
BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2365. Definitions

As used in this article, unless the context requires a different meaning:

"Authority" means the Opioid Abatement Authority.

"Board" means the board of directors of the Authority.

"Community services board region" means a region as determined by the Department of Behavioral Health and Developmental Services for purposes of administering Chapter 5 (§ 37.2-500 et seq.) of Title 37.2.

"Fund" means the Opioid Abatement Fund.

"Historically economically disadvantaged community" means the same as such term is defined in § 56-576.

"Local apportionment formula" means any formula submitted to the Attorney General by participating localities pursuant to the provisions of subsection B of § 2.2-507.3.

"Participating locality" means any county or independent city that agrees to be bound by the terms of a settlement agreement entered into by the Attorney General relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and that releases its own such claims.

"Regional effort" means any effort involving a partnership of at least two participating localities within a community services board region.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

This section is effective July 1, 2021.

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End of Document

Va. Code Ann. § 2.2-2366

Current through the 2021 Regular Session and Special Session I of the General Assembly

**VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT >
SUBTITLE I. ORGANIZATION OF STATE GOVERNMENT > PART D. STATE AUTHORITIES,
BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2366. Opioid Abatement Authority established

The Opioid Abatement Authority is established as an independent body. The purpose of the Authority is to abate and remediate the opioid epidemic in the Commonwealth through financial support from the Fund, in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in the Commonwealth. The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

This section is effective July 1, 2021.

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End of Document

Va. Code Ann. § 2.2-2367

Current through the 2021 Regular Session and Special Session I of the General Assembly

**VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT >
SUBTITLE I. ORGANIZATION OF STATE GOVERNMENT > PART D. STATE AUTHORITIES,
BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2367. Board of directors; members

A. The Authority shall be governed by a board of directors consisting of 11 members as follows: (i) the Secretary of Health and Human Resources or his designee; (ii) the Chair of the Senate Committee on Finance and Appropriations or his designee and the Chair of the House Committee on Appropriations or his designee; (iii) an elected member of the governing body of a participating locality, to be selected from a list of three submitted jointly by the Virginia Association of Counties and the Virginia Municipal League; (iv) one representative of a community services board or behavioral health authority serving an urban or suburban region containing participating localities and one representative of a community services board or behavioral health authority serving a rural region containing participating localities, each to be selected from lists of three submitted by the Virginia Association of Community Services Boards; (v) one sheriff of a participating locality, to be selected from a list of three submitted by the Virginia Sheriffs' Association; (vi) one licensed, practicing county or city attorney of a participating locality, to be selected from a list of three submitted by the Local Government Attorneys of Virginia; (vii) two medical professionals with expertise in public and behavioral health administration or opioid use disorders and their treatment; and (viii) one representative of the addiction and recovery community.

The member appointed pursuant to clause (i) shall serve ex officio, and the members appointed pursuant to clauses (iii) through (viii) shall be appointed by the Governor. If the term of the office to which a member appointed pursuant to clause (iii) or (v) was elected expires prior to the expiration of his term as a member of the board, the Governor may authorize such member to complete the remainder of his term as a member or may appoint a new member who satisfies the criteria of clause (iii) or (v), as applicable, to complete the remainder of the term.

B.1. After an initial staggering of terms, members of the Board shall serve terms of four years. No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms.

2. Ex officio members shall serve terms coincident with their terms of office.

C. The Board shall elect annually a chairman and vice-chairman from among its membership. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board.

D. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business.

E. The Board shall meet annually or more frequently at the call of the chairman.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EDITOR'S NOTE. --

Acts 2021, Sp. Sess. I, cc. 306 and 307, cl. 2 provides: "That the initial appointments of nonlegislative citizen members to the board of directors of the Opioid Abatement Authority shall be staggered as follows: (i) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of one year, (ii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of two years, (iii) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of three years, and (iv) two nonlegislative citizen members appointed by the Governor shall be appointed for a term of four years. For purposes of this enactment, "nonlegislative citizen member" means any member identified in clauses (iii) through (viii) of § 2.2-2367 of the Code of Virginia, as created by this act. Any nonlegislative citizen member appointed to an initial term of less than four years shall be eligible to serve two additional full four-year terms."

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2368

Current through the 2021 Regular Session and Special Session I of the General Assembly

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BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2368. Duties of the Authority

The Authority shall:

1. Establish specific criteria and procedures for awards from the Fund;
2. Establish requirements for the submission of funding requests;
3. Evaluate funding requests in accordance with the criteria established by the Authority and the provisions of this article;
4. Make awards from the Fund in a manner that distributes funds equitably among all community services board regions of the Commonwealth, including the establishment of mandatory minimum percentages of funds to be awarded from the Commonwealth to each participating locality;
5. Evaluate the implementation and results of all efforts receiving support from the Authority; and
6. Administer the Fund in accordance with the provisions of this article.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2369

Current through the 2021 Regular Session and Special Session I of the General Assembly

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BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2369. Powers of the Authority

In order to carry out its purposes, the Authority may:

1. Make grants and disbursements from the Fund that support efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids or otherwise abate or remediate the opioid epidemic;
2. Pay expenditures from the Fund that are necessary to carry out the purposes of this article;
3. Contract for the services of consultants to assist in the evaluation of the efforts funded by the Authority;
4. Contract for other professional services to assist the Authority in the performance of its duties and responsibilities;
5. Accept, hold, administer, and solicit gifts, grants, bequests, contributions, or other assistance from federal agencies, the Commonwealth, or any other public or private source to carry out the purposes of this article;
6. Enter into any agreement or contract relating to the acceptance or use of any grant, assistance, or support provided by or to the Authority or otherwise in furtherance of the purposes of this article;
7. Perform any lawful acts necessary or appropriate to carry out the purposes of the Authority; and
8. Employ such staff as is necessary to perform the Authority's duties. The Authority may determine the duties of such staff and fix the salaries and compensation of such staff, which shall be paid from the Fund. Staff of the Authority shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees. Staff of the Authority shall not be subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2370

Current through the 2021 Regular Session and Special Session I of the General Assembly

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BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2370. Conditions and restrictions on financial assistance

- A. The Authority shall provide financial support only for efforts that satisfy the following conditions:
1. The efforts shall be designed to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic, which may include efforts to:
 - a. Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - b. Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - c. Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - d. Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved in, or are at risk of becoming involved in, the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;
 - e. Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;
 - f. Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions and the needs of their families, including infants with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;
 - g. Support efforts to prevent overprescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed methods, programs, or strategies;
 - h. Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;
 - i. Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and
 - j. Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services;
 2. The efforts shall be conducted or managed by any agency of the Commonwealth or participating locality;
 3. No support provided by the Authority shall be used by the recipient to supplant funding for an existing program or continue funding an existing program at its current amount of funding;
 4. No support provided by the Authority shall be used by the recipient for indirect costs incurred in the administration of the financial support or for any other purpose proscribed by the Authority; and

5. Recipients of support provided by the Authority shall agree to provide the Authority with such information regarding the implementation of the effort and allow such monitoring and review of the effort as may be required by the Authority to ensure compliance with the terms under which the support is provided.
- B. The Authority shall give priority to applications for financial support for efforts that:
1. Collaborate with an existing program or organization that has an established record of success treating, preventing, or reducing opioid use disorder or the misuse of opioids;
 2. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a community with a high incidence of opioid use disorder or opioid death rate, relative to population;
 3. Treat, prevent, or reduce opioid use disorder or the misuse of opioids in a historically economically disadvantaged community; or
 4. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2371

Current through the 2021 Regular Session and Special Session I of the General Assembly

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CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2371. Cooperation with other agencies

All agencies of the Commonwealth shall cooperate with the Authority and, upon request, assist the Authority in the performance of its duties and responsibilities.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2372

Current through the 2021 Regular Session and Special Session I of the General Assembly

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CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2372. Form and audit of accounts and records

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

B. The accounts and records of the Authority are subject to an annual audit by the Auditor of Public Accounts or his legal representative.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2373

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BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2373. Annual report

The Authority shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Authority no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. The executive summary shall include information regarding efforts supported by the Authority and expenditures from the Fund.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2374

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CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2374. Opioid Abatement Fund

A. There is hereby created in the state treasury a special, nonreverting fund to be known as the Opioid Abatement Fund, referred to in this section as "the Fund," to be administered by the Authority. All funds appropriated to the Fund, all funds designated by the Attorney General under § 2.2-507.3 from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids, and any gifts, donations, grants, bequests, and other funds received on the Fund's behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be authorized by majority vote of the Board.

B. Moneys in the Fund shall be used to provide grants and loans to any agency of the Commonwealth or participating locality for the purposes determined by the Authority in accordance with this article and in consultation with the Office of the Attorney General. The Authority shall develop guidelines, procedures, and criteria for the application for and award of grants or loans in consultation with the Office of the Attorney General. Such guidelines, procedures, and criteria shall comply with the terms of any applicable settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities.

C. The Authority shall fund all staffing and administrative costs from the Fund. Its expenditures for staffing and administration shall be limited to those that are reasonable for carrying out the purposes of this article.

D. For every deposit to the Fund, the Authority shall allocate a portion to the following purposes:

1. Fifteen percent shall be restricted for use by state agencies;
2. Fifteen percent shall be restricted for use by participating localities, provided that if the terms of a settlement, judgment, verdict, or other court order, or any agreement related thereto between the Attorney General and participating localities, require this portion to be distributed according to a local apportionment formula, this portion shall be distributed in accordance with such formula;
3. Thirty-five percent shall be restricted for use for regional efforts; and
4. Thirty-five percent shall be unrestricted. Unrestricted funds may be used to fund the Authority's staffing and administrative costs and may be distributed for use by state agencies, by participating localities, or for regional efforts in addition to the amounts set forth in subdivisions 1, 2, and 3, provided that the Authority shall ensure that such funds are used to accomplish the purposes of this article or invested under subsection F.

E. In distributing money from the Fund under subsection D, the Authority shall balance immediate and anticipated needs with projected receipts of funds to best accomplish the purposes for which the Authority is established.

F.The Board may designate any amount from the Fund to be invested, reinvested, and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.40. The State Treasurer is not liable for losses suffered by the Virginia Retirement System on investments made under the authority of this section.

History

2021, Sp. Sess. I, cc. 306 , 307 .

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2375

Current through the 2021 Regular Session and Special Session I of the General Assembly

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CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2375. Exemption from taxes or assessments

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on tangible personal property used in the operations of the Authority, and shall at all times be free from state and local taxation. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Va. Code Ann. § 2.2-2376

Current through the 2021 Regular Session and Special Session I of the General Assembly

**VA - Code of Virginia (Annotated) > TITLE 2.2. ADMINISTRATION OF GOVERNMENT >
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BOARDS, COMMISSIONS, COUNCILS, FOUNDATIONS AND OTHER COLLEGIAL BODIES >
CHAPTER 22. AUTHORITIES > ARTICLE 12. OPIOID ABATEMENT AUTHORITY**

§ 2.2-2376. Exemption of Authority from personnel and procurement procedures

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this article.

History

2021, Sp. Sess. I, cc. 306, 307.

Annotations

Notes

EFFECTIVE DATE. --

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Item No. 8.4. Resolution to Accept Road(s) in Chesterfield Landing Subdivision Phase I and II into the State Secondary System of Highways.

By the above-recorded vote, the Board adopted a Resolution to accept road(s) in Chesterfield Landing Subdivision Phase I and II into the State Secondary System of Highways:

R E S O L U T I O N

WHEREAS, the street(s) in **Chesterfield Landing Phase I & II**, as described on the attached Additions Form AM-4.3 dated **November 17, 2021**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Chesterfield Landing Phase I & II**, as described on the attached Additions Form AM-4.3 dated **November 17, 2021**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

* * * * *

Report of Changes in the Secondary System of State Highways

Project/Subdivision: Chesterfield Landing Phase I & II

Addition - New subdivision street §33.2-705

Rte Number	Street Name	From Termini	To Termini	Length	Number Of Lanes	Recordation Reference	Row Width
1804	Oxbow Drive	Rt 1805, Watervale Drive	0.05 Miles North to CDS/Stub Ouy	0.05	2	DB 4788; PG 244-255	36
1804	Oxbow Drive	Rt 1805, Watervale Drive	0.25 Miles South to Rt 240, Crozet Avenue	0.25	2	DB 4788; PG 244-255/389-403	36
1805	Watervale Drive	Rt 240, Crozet Avenue	0.15 Miles East to Rt 1804, Oxbow Drive	0.15	2	DB 4788, PG 244-255	36

Item No. 8.5. Resolution to Accept road(s) in Old Trail Blocks 1B & 3C into the State Secondary System of Highways. (White Hall Magisterial District).

By the above-recorded vote, the Board adopted a Resolution (Attachment A) to accept road(s) in Old Trail Blocks 1B & 3C into the State Secondary System of Highways:

R E S O L U T I O N

WHEREAS, the street(s) in **Old Trail Blocks 1B & 3C**, as described on the attached Additions Form AM-4.3 dated **November 17, 2021**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Old Trail Blocks 1B & 3C**, as described on the attached Additions Form AM-4.3 dated **November 17, 2021**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

* * * * *

Report of Changes in the Secondary System of State Highways

Project/Subdivision: Old Trail Blocks 1B & 3C

Addition - New subdivision street §33.2-705

Rte Number	Street Name	From Termini	To Termini	Length	Number of Lanes	Recordation Reference	Row Width
1913	Ashlar Avenue	Rt 1815, Old Trail Drive	0.06 Miles East To Claremont Lane (PVT)	0.06	2	DB 4565, PG 576-591	43

Item No. 8.6. SE202100035 2247 Frays Mill Road Homestay.

The Executive Summary states that the applicants are requesting one special exception for a homestay at 2247 Frays Mill Road, reduce required minimum yards. Pursuant to County Code § 18-5.1.48(i)(1)(ii), the applicants to are requesting to modify County Code § 18-5.1.48(j)(2)(v) to reduce the required 125-foot setbacks to 115 feet +/- from the northern property line and 20 feet +/- from the southern property line for a homestay and its accompanying parking.

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

Staff recommends that the Board adopt the attached Resolution (Attachment F) to approve the special exception with the conditions contained therein.

By the above-recorded vote, the Board adopted the attached Resolution (Attachment F) to approve the Frays Mill Road Homestay special exception:

**RESOLUTION TO APPROVE SPECIAL EXCEPTION FOR
SE2021-00035 2247 FRAYS MILL ROAD HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE202100035 2247 Frays Mill Road Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.5, the Albemarle County Board of Supervisors hereby finds that the requested special exception would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

NOW, THEREFORE, BE IT RESOLVED, that in association with the 2247 Frays Mill Road Homestay, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot northern and southern yards required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

* * *

SE 2021-00035 2247 Frays Mill Road Homestay Special Exception Conditions

1. Parking for homestay guests must continue to meet the approved setbacks required for homestays.
2. Homestay use is limited to the existing structures as currently configured and depicted on the House and Parking Location Exhibit dated October 27, 2021, or in additional structures or additions meeting the approved setbacks required for homestays.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated October 27, 2021, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

Item No. 8.7. Proclamation Granting a Half-Day County Holiday on Wednesday, November 24, 2021.

By the above-recorded vote, the Board approved the Proclamation granting a half-day County holiday on Wednesday, November 24, 2021:

**PROCLAMATION GRANTING A HALF-DAY COUNTY HOLIDAY
ON WEDNESDAY, NOVEMBER 24, 2021**

WHEREAS, the Commonwealth of Virginia is providing a four-hour holiday for State employees on Wednesday, November 24, 2021; and

WHEREAS, County Personnel Policy§ P-86 authorizes the Board of Supervisors to grant by proclamation additional holidays, including half-day holidays, for benefits-eligible 12-month County employees by proclamation.

NOW, THEREFORE, the Board of Supervisors of the County of Albemarle, Virginia, proclaims Wednesday, November 24, 2021, a half-day holiday for benefits-eligible 12-month County employees, and the County Office Buildings at McIntire Road and Fifth Street will close to the public at 12:00 p.m. on that day.

Item No. 8.8. Resolution to Add January 12, 2022 as a Regular Meeting.

By the above-recorded vote, the Board adopted the resolution to add January 12, 2022 as a regular meeting:

**RESOLUTION
TO ADD JANUARY 12, 2022 AS A REGULAR MEETING OF
THE ALBEMARLE COUNTY BOARD OF SUPERVISORS**

WHEREAS, on January 6, 2021, the Board of Supervisors of the County of Albemarle, Virginia (the "Board") established the days, time, and place for its regular meetings for Calendar Year 2021 and January 2022; and

WHEREAS, the Board established January 5 and 19, 2022 as the days the Board would hold regular meetings in that month; and

WHEREAS, the Board desires to add January 12, 2022 as a regular meeting.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Albemarle that January 12, 2022 is added as a regular meeting day of the Board, with that meeting to begin at 1:00 p.m. in the County Office Building at 401 McIntire Road, Charlottesville or be held using electronic communication means as provided in Ordinance No. 20-A(16), An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster, or a combination thereof.

Item No. 8.9. FY 22 First Quarter Financial Report, **was received for information.**

Item No. 8.10. VDOT Monthly Report (November) 2021, **was received for information.**

Agenda Item No. 9. **Work Session** – Personal Wireless Services Facilities Ordinance Study.

The Executive Summary forwarded to the Board states that this work session is to discuss and approve the scope of work to be included in the Request For Proposals (RFP) to study existing regulations and potentially amend the regulations for Personal Wireless Service Facilities (PWSF).

The Community Development work plan includes reviewing the Personal Wireless Service Facilities regulations. This work is intended to be completed by a consultant. The Board of Supervisors has allocated \$100,000 to this effort.

The Board of Supervisors has prioritized the evaluation of potential amendments to the Personal Wireless Service Facility (PWSF) regulations. The County adopted a PWSF policy in 2000 and a complete overhaul of the regulations in 2004. The policy has not been revisited since 2000 and updates to the regulations have been largely limited to addressing changes in technology, court actions and changes in State and Federal regulations. The proposed review of PWSF regulations will be the first comprehensive review in 20 years. Prior to preparing and releasing the RFP, staff is seeking confirmation from the Board of Supervisors as to the scope of the project and the public engagement process incorporated into the review process. Staff is proposing to include a review process that will include:

- Meeting with public using public engagement best practices
- Meeting with wireless industry
- Planning Commission Public Hearing
- Board of Supervisors Public Hearing

A resolution of intent to amend the Zoning Ordinance will be presented to the Board for consideration and adoption after the consultant has reviewed the ordinance for compliance with current law, evaluated changes to address technical issues, and considered comments from the industry and public. The scope of possible amendments includes:

- Updates for technology (terms, antenna size, mounting standards, etc.)
- Updates for state/federal law
- Revise/Eliminate list of Avoidance areas that cause by-right Tier II facilities to be classified as special use permit Tier III facilities
- Revise ordinance to eliminate need for Special Exceptions that have been routinely approved
- Allow facilities of greater height/lesser design standards in areas with poor coverage or with limited broadband coverage

The above reflect areas to be studied for possible amendment. Any, all, or none of these changes may ultimately be recommended by the consultant or approved by the County.

The direct budget impact will be up to \$100,000 for the hiring of a consultant. Staff resources will be required to manage and support the work of the consultant.

Staff recommends that the Board of Supervisors endorse the proposed public engagement process and project scope.

Mr. Gallaway said Mr. Bill Fritz would be speaking.

Mr. Bill Fritz said he was the Development Process Manager for the Community Development Department. He said the CDD's work program included review of the personal wireless services facilities (PWSFs) regulations. He continued that the Board had allocated \$100,000 for consultant work. He said that staff wanted to ensure an RFP would be put out that met the Board's expectations for the scope of work and the review of the regulations. He said that the PWSF policy was adopted in 2000, and the regulations were adopted in 2004. He said that the policy had not been revisited since, and changes in the regulation had only occurred to keep up with changing state and federal regulations, court decisions, and changes in technology. He said that the RFP proposed by staff would be the first comprehensive review in 20 years.

Mr. Fritz explained that the work of the consultant would include meeting with the public and industry using best practices, a Planning Commission public hearing, and a Board of Supervisors public hearing. He said the work would be comprehensive and include updates for technology, state and federal law, and may include changes such as revised or eliminated avoidance areas that caused by-right tier 2 facilities to be classified as tier 3 special use permit facilities, revisions to eliminate the need for special exceptions that had been routinely approved, and the allowance of taller facilities with lesser design standards. He noted that these were potential items and were not meant to limit the scope of ideas. He asked the Board to endorse the engagement process and the consultant's range of review.

Ms. McKeel said that the policy was old and needed updating to 21st century standards. She

asked what the difference was between policies and ordinances. She said she understood from her conversations that the policy was almost too old and too much work to revise and rewrite. She said that the policy was so old she would start instead with an ordinance. She wanted to know if the document that was produced would be a modern ordinance or not.

Mr. Fritz explained that the policy was a component of the comprehensive plan as an addendum. He said the policy set the framework and served as a guide for how to achieve the vision. He continued that the policies were set in 2000, and the ordinances adopted in 2004. He said that another comprehensive plan analysis could be done, but what was recommended was to use the engagement process for the zoning text amendment and then to bring the amendment before the Board.

Ms. McKeel confirmed that the Board was not being asked to specifically outline what it wanted in the ordinance.

Mr. Fritz said that Ms. McKeel was right. He said there were no specific proposals at the time. He said that the whole ordinance would be reviewed and was up for consideration. He said the proposal would be brought back to the public, the Planning Commission, and the Board to discuss potential changes.

Ms. McKeel said that because the policy was old, it dealt mostly with negatives. She said that the positives developed after the policy had been drafted. She said that the benefits of cell towers had to be addressed. She hoped that the review would be holistic to include the modern ways people relied upon cell towers—telemedicine, safety, education, or economic development. She asked if that discussion was saved for a later date.

Mr. Fritz said yes.

Ms. Mallek said she thought that the framework of the process was good. She said she was concerned that the industry would be consulted first as a stakeholder group before the public was consulted. She said it was like considering a big investment but only talking to the salesperson. She said maybe there were reassurances that the consultant would mitigate her concern. She said that the future implications of FCC changes due to court action should be added as a consideration to the proposal. She said that the County had made a dedicated investment to deliver broadband through fiber infrastructure. She said she did not want the broadband discussion to complicate the policy review of PWSF infrastructure.

Ms. Price agreed that the policy needed to be updated to acknowledge the changes in technology and needs of the community.

Ms. LaPisto-Kirtley agreed with Ms. Price's comment. She said that the policies needed to be updated and that the community had a great need for access.

Ms. Palmer said that there was the perception that the County did not allow cell towers in the rural areas. She said it was important to educate the citizens that changes in policy by the Board did not necessarily create an incentive for the providers to install cell towers in the rural communities.

Mr. Fritz said that a note about education could be added to the RFP.

Mr. Gallaway said he agreed with Ms. Palmer's comment. He said it was important to understand the different contexts of 20 years ago and the present. He said that cellular access was a necessary utility. He said he was supportive of the proposal. He asked Mr. Fritz if he needed anything else from the Board.

Mr. Fritz said the Board provided what he needed. He said the office would try to get the work done as quickly as possible.

Agenda Item No. 10. **Work Session** – Long Range Financial Planning.

Mr. Andy Bowman began his presentation, entitled "Five-Year Financial Plan." He said that the Board was not being asked to take any action. He said the work session was designed around two outcomes: to inform the Board of the County's long-range planning assumptions, including the FY 22 financial picture, and of the alignment with the strategic priorities; and to receive feedback from the Board on the financial plan. He said that the Board held a joint session in October with the School Board related to the CIP. He said that the CIP discussion would continue into November with the CIP advisory committee. He continued that there would be another five-year financial plan work session in December. He said the work sessions would emphasize different topics. He said that this work session was about grounding the assumptions about financial planning and providing feedback to the plan. He explained that the work session scheduled for December 15 was geared toward guidance on future policy discussions and information on the FY 23 budget process.

Mr. Bowman said that there was a significant update to the FY 22 budget underway. He said that the update would come before the Board on December 1. He said at the November 3 Board meeting, the staff provided a financial update based on the preliminary close of FY 21. He said that staff indicated the update, combined with the improved revenue trends into FY 22, would lead to an amendment of the FY 22 budget on December 1. He said the revenues for County government would be applied towards work

force stabilization efforts. He said the information was incorporated into the five-year financial plan.

Mr. Bowman said it had been about 2 years since there had been a work session on long-range financial planning. He said long-range financial planning was part of the County's financial policy. He said it was not done during the FY 22 budget process because of the uncertainty from the pandemic. He continued that it was important to restart the planning process because it was valuable. He said long-range planning and budgeting were separate activities. He said he usually presented budget changes that went into effect immediately or in a matter of months. He said long-range planning planned for beyond the next year. He continued that the planning would provide the framework to answer the question: "can the decisions today be afforded in the future." He said there would be questions for the Board in terms of the policies and strategies to consider changing the trajectory of the five-year plan. He said the framework would ensure that funding recommendations were aligned with County priorities. He said the assumptions were based on the best information available.

Mr. Bowman said that there would be three topics of the work session: the review of revenue and expenditure assumptions and the alignment with strategic priorities; scenarios for consideration; and time for the Board to discuss. He provided questions in advance for the Board to consider during the presentation. He asked, "what does the plan do well," "what may be missing," and "what areas required additional information."

Mr. Bowman said that the slide showed a projection of revenues from FY 23 to FY 27. He said the projection assumed an average annual growth rate of +3.8% in general fund growth. He said the 3.8% figure came from staff's analysis of FY 07 to the present. He said that staff found the average increase in revenue over that time period was 3.8%. He said the time period included before the Great Recession, during the Great Recession, the years recovering from the Great Recession, some strong growth years, the pandemic, and the years when the real-estate tax rate was raised and lowered. He said there was a good representation of different economic and environmental situations in the data and that 3.8% was a representative figure.

Mr. Bowman said that there was a projected +5.1% increase in FY 22 revenue over the FY 21 actual revenue. He said that there was a significant change in revenues based on the end of the fourth quarter of FY 21 and continuing into FY 22. He said that staff had projected an improved revenue picture in the FY 22 budget compared to FY 21. He continued that based on how FY 21 ended and how well FY 22 was performing, improvement was happening sooner and stronger than anticipated. He noted that property taxes, mainly real property and personal property, made up 68% of the FY 22 general fund. He said that the assumed real estate reassessment value had not changed from +1.75% for calendar year 2022. He said the County Assessor would update the Board on December 15 about the results of the reassessment. He said the information could be incorporated into the long-range planning discussion. He mentioned that while the reassessment value had not changed, the revenue administration division had observed the impacts of the supplemental projects that occurred throughout the year, from new construction to land divisions. He said growth was anticipated from the changes in property values.

Mr. Bowman said the slide showed a chart that plotted the actual sales, meals, and transient occupancy taxes that had been received by the County, by quarter, for 3 1/4 years. He said the yellow line was FY 19 and represented the pre-pandemic baseline. He said FY 20 was the green line—he noted how it performed well for three quarters before a significant downturn due to the onset of the pandemic. He said the purple line was FY 21 and noted how it started below the yellow line and ended above it. He said the red dot represented the first quarter of FY 22 and that preliminary data from October showed the upwards trend continuing into the second quarter. He said the recovery was not equal across sales, meals, and transient occupancy taxes, but there had been significant movement in all of them. He said that the County was in a stronger position than prior to the pandemic.

Mr. Bowman said the slide showed a chart that plotted recordation and seller's tax revenues together from FY 07 to FY 21. He said that FY 21 was a historic year for recordation and sellers' taxes—the revenues were 52% above the FY 20 actual. He said the graph showed that FY 20 was not a blip lowered by the pandemic. He said that the revenue through November for FY 22 was 10% higher than FY 21. He said there was an unprecedented rate of change even during a pandemic.

Mr. Bowman said the slide showed a graph that plotted business professional and occupational license taxes (BPOL) from FY 07 to FY 21. He said that during the Great Recession, there were 3 years of decline in the revenues from FY 09 to FY 11 of -6.0%, -1.2%, and -0.1% respectively. He said the budget planning anticipated the pandemic would have an impact comparable to the beginning of the Great Recession. He said the recessions were different in terms of orders of magnitude and the shifts in the economy. He noted that the Great Recession was real-estate driven and did not have the same business analytics challenges of the pandemic. He said that the revenues only declined by -0.2% in FY 21.

Mr. Bowman said more information would come before the Board at the December 1 meeting. He said the rest of the presentation would focus on long-range planning. He said the slide had a graph that plotted revenue and expenditure assumptions. He said the chart at the bottom of the slide showed that the budget of FY 23 was assumed to be balanced. He noted that each following year, the budget was unbalanced. He asked the following questions: "what were the expenditure assumptions," "how do they align with the County's priorities," and "what could be done in the long-term to change the long-range projected trajectory."

Mr. Bowman said that a balanced budget was always presented, but it was normal to plan to

have the out years be unbalanced in order to create a framework for strategic discussions about how to think differently in terms of operations, finances, and strategies. He said it was assumed that the formula for allocating tax revenue among operations, capital projects, debt, the school division, and County government remained the same. He said the assumed operating impacts of County projects were modeled into the projections. He said that expenditure assumptions were guided by 9 strategic priorities identified by the Board of Supervisors. He said those priorities were underlined by the value of “quality government operations.” He noted that the pyramid graph on the slide guided funding recommendations, through a financial foundation, an economic outlook, and workforce stabilization, during the pandemic. He acknowledged there were other guides to long-range planning. He mentioned discussions with the Board about the framework for funding from the American Rescue Plan Act (ARPA), and the County values, such as the newest value of “community,” and how to ingrain equity in the assessment of new projects and programs.

Mr. Bowman said his first point was to explain the expenditure assumptions of quality government operations. He noted that according to the County Executive’s November 3 comments, workforce stabilization would be part of the December 1 FY 22 update. He said that was reflected in the initial planning model. He said the following assumptions were conceptual: there would be a compensation study, and the recommendations from that study would be phased in over the course of the five-year financial plan; there would be market salary increases for personnel as well as the impact of the County’s health insurance fund—there was a five-year model for the fund; there was the impact of the establishment of the County Human Resources Department in FY 23; and there was the impact of critical staffing needs.

Mr. Bowman said that “core systems modernization” was a concept also called “business process optimization.” He continued that the technology systems used across the County systems were disjointed, antiquated, and did not allow the citizens to interact with the government as they were expected. He said the County organization would begin using new financial systems, new human resource systems, new community development systems, and all the related systems, to enhance the customer and employee experience. He said the systems would improve customer relations and enhance employee recruitment and retention. He said that there had to be communication between the planning of the operating budget and the capital budget. He said that as projects were completed and facilities became operational, the assumed impact of the operation costs were included in the five-year financial planning.

Mr. Bowman said that there were ongoing costs for services that needed funding. He said grants were being phased out, such as the Yancey Community Center grant, which expired the following year. He continued that the Board was aware of two FEMA SAFER grants that funded 20 Fire Rescue positions and services. He said there were ongoing costs with fleet replacement. He said fleet replacement had stalled during the pandemic, but a normal level of maintenance and replacement was proposed for FY 22. He said that new positions were expected in order to support the increased service demand. He continued that the Board requested the Fire Rescue Chief prepare a long-range plan for the Fire Rescue system. He said the plan took steps to address the Fire Rescue system over the next five years. He said the Pantops fire engine would run 24/7, and the associated impacts were taken into account.

Mr. Bowman said that climate action planning included the implementation of current strategies underway and the implementation of the plastic bag tax and related services pursuant to the Board’s direction on October 13. He also acknowledged that the Southern and Northern Convenience Centers’ capital and operating costs were included in the five-year plan. He explained that funding had been provided and work was ongoing for Red Hill Elementary, Scottsville Elementary, Crozet Elementary, Mountain View Elementary, and for the High School Center II design. He said the CIP Advisory Committee would consider future facilities as a follow-up to information shared by the School Board and staff on October 20. He said the court complex expansion and upgrade was included in the remaining capital budget, and capital and operating costs were included in the five-year plan as well.

Mr. Bowman said that the CIP Advisory Committee would address the topic of outdoor recreational parks and amenities, such as the future phases of Biscuit Run Park and the related operating impacts. He said the language of infrastructure planning focused on water resources. He continued that there were dedicated funding balances for water resources for consideration in future CIP planning. He said that there had been resources provided for the Rio and Route 29 Area Redevelopment plan in years prior. He said the next steps for the project included leveraging private entity interest and economic development and infrastructure planning.

Mr. Bowman said that a one-time investment in the economic development fund from the end of FY 21 funding with ongoing funding beginning in FY 24 was proposed, but not up for discussion today. He said the matter would be discussed on December 15. He said the priority was not related to, but was similar to, the approach for the Housing Fund. He said the CIP Advisory Committee would address the transportation leveraging program. He continued that \$4.5 million was allocated from ARPA funding to leverage additional grant funding through the Virginia Telecommunications Initiative, and that the application was pending.

Mr. Bowman said that the assumptions were based on the best information available. He said he listed several unknown variables on the slide, some favorable, some unfavorable. He said that the pandemic was ongoing and there could still be unforeseen impacts. He said that inflation and its impact was being closely observed. He said that the Federal Infrastructure Bill had been approved, and the County was planning how to use funding from that plan. He said that the real-estate reassessment was an unknown that would be known in December. He continued that there were FY 23 unknown variables around revenue calculations with the City of Charlottesville. He said those figures were not gathered until

early January. He stated that the County received news that the Virginia Retirement System rates might decrease, but the actual rate had not been received.

Mr. Bowman displayed a chart with projected revenues for different economic situations. He explained that the trendline with alternating dots and dashes represented the revenue projections if growth was 1% lower than expected, or +2.8% annual growth. He said that in this scenario, the budget ran a higher deficit further into the out years. He explained that the dotted line represented the revenue projections if growth was 1% greater than expected, or +4.8% annual growth. He said under that scenario, the budget was balanced. He said the scenarios were not representative of a worst-case or best-case situation. He wanted to show how ripples in the plan in the short-term could be compounded in the long-term.

Mr. Bowman said he was setting the stage for policy questions the Board would be engaged in on December 15. He said that there was \$13.2 million in one-time funding from the General Fund's fund balance available after policy, appropriated, obligated, and planned uses. He said that real-estate tax would make up 55% of the County General Fund budget in FY 22. He said that the state provided additional enabling authority for localities in 2020. He noted that the Board had approved and directed staff to explore a cigarette tax. He said there were other options made available by the state that the Board could pursue. He said that staff would provide an overview of relief programs in December and what other enabling authority existed. He said he would open his presentation up to questions from the Board.

Mr. Gallaway asked if there were questions from the Board.

Ms. McKeel said in response to the question of what the plan did well, she thought they hit the highlights for her. She said she was particularly interested in the slide about government operations and future planning, and she agreed with everything she saw in the presentation. She said she did not find anything missing from it, but perhaps the other Board members could point out some. She said that areas requiring additional information included, while perhaps not completely relevant to the presentation today, a discussion about how floating a referendum for a bond may help them with their school's facility needs. She said she was unsure if that were appropriate or what they were looking for today, but it was a discussion she would like to have as they were talking about the Capital Improvement Program and how the schools can get some of their facilities funded. She said they rightfully pointed out that it was exciting when they received the grants, but eventually they phase out, and they were faced with picking up whatever good things they brought them. She said that was always really important as they were accepting grants. She said she was sure her fellow Board members would have some outstanding ideas that she would agree with.

Ms. Mallek said when they were getting to the scenarios, her computer crashed, so she missed slides 19 through 25, so she would come back at the end if anything came up, and she would listen to what she missed in order to catch up. She said she was glad to hear the focus on the business process optimization because she thought that got to the core of a lot of what their citizens' frustrations were at the moment. She said she did not have enough understanding about how the previous ARPA funds and the next tranche will affect these things. She said they were probably planning to continue to explain that as they went along, but that was a knowledge gap she had right now.

Ms. Price said it was helpful having the slide numbers listed in the presentation so that they could be referred to later. She asked to see slide 22. She said it was very interesting to her, and although she could not remember the exact figure, 3.826 was the average increase over the previous number of years with 5% last year, so to put a range of plus or minus one percent was pretty substantial. She said that was up to a 20% variance on the average range. She said it was important for their community members to understand that was fairly significant, recognizing that last year's increase was unanticipated, with a great economic recovery before anyone thought it might happen. She said this tied in with a number of the other slides, 14 and 20, where they talked about the difference between revenues and expenditures in the outyears as they moved forward, which reflected a lot of work they had to do to make up for some of that. She asked to see slide 23, which showed the additional taxes.

Ms. Price said the meals tax and the transient occupancy taxes, she honestly did not know what they charged for taxes here in Albemarle County, since she did not often stay at a hotel here. She said having just come back from Norfolk, where she stayed at a hotel where they had the VACo conference, they paid for the room and there was a state hotel tax of 6%, a city lodging tax of 9%, a city occupancy tax of \$3, a state tax of the tourism development financing program of 1%, a state tax and additional access fee of .5%. She said if Albemarle County were not collecting all of those same taxes that their other communities in the Commonwealth were collecting, and if they now had that enabling authority, she would definitely recommend that they look to match the other communities. She said that people generally would not make a decision whether to stay or to not stay if there was an additional tax that the local community requested. She said she really appreciated the focus on a couple of things. She said their community members really needed to understand that it was not just what they could afford to build for their Capital Improvement Program, but what they could afford to operate.

Ms. Price said as was just mentioned, in another area, those grants would go away, and those were costs that had been providing services that they had come to expect and want in their community, and they would have to pick up those costs as they moved forward. She said finally, she appreciated the recognition that they had to look at a major review of the County's entire compensation program, because they were behind some of their surrounding communities in what they had been paying their very valuable workers, and they could not afford to lose them and have them move next door.

Ms. LaPisto-Kirtley said she was also interested in slide 23. She said she was glad they would not be taking any action on December 15, because she thought there was a lot more information they needed to mull over before they decided where the 13.2 in one time funding goes. She said that making sure they had additional hotel taxes that the other counties implement was important, but she also thought it was important to phase those prices in at a slow momentum. She said regarding current programs, she was interested in seeing what they could do with a referendum for bonding for some of the schools. She said there was a lot here to unpack and it would take them a while.

Ms. Palmer asked Mr. Bowman to remind her of when they got the ability to collect sales tax from internet sales, and if they had any idea what percentage of that sales tax increase was internet sales versus local.

Mr. Bowman said he believed the change in the Supreme Court decision – he believed it was the increase he showed earlier in a consumer tax from 19 to 20, and there were several factors that drove that. He said it was around fiscal year 20 when they began to see the impact of that.

Ms. Birch said she believed it was January of 2020 when they started to be able to tax those. She said she did not know the actual breakdown, but they could provide that as a follow-up.

Ms. Palmer said it was a curiosity. She said she actually thought it was before February of 2020, so that was good information. She said she was in the same thought process as Supervisor McKeel right now. She said she knew this was not the place to discuss this, but tomorrow night, they had their community meeting for the 5th and Avon, where phase 2 of the habitat at the project at Southwood would be discussed with a potential maximum of 1000 units. She said she wondered where all those kids were going to go to school, and if they would need to revise this five-year plan to incorporate something to do about schools and that very large development. She said she did not know the timing on that. She said she would be very curious to know about the internet sales, because the pandemic caused a dramatic increase in the amount of cardboard sent to recycling centers, so she knew a lot of online shopping was happening.

Mr. Gallaway asked Mr. Bowman about a slide that said that 68% of revenue was from property taxes. He said he was curious what that trend was.

Mr. Bowman said that could be provided as follow-up and they could prepare something to show what that trend was over time with major sources and real personal property and so on.

Mr. Gallaway said he did not think anything was missing. He said he was very happy that the investment that they had put into economic development and affordable housing was there, and he agreed with the additional comment about; he said he saw two phrases when it came to salaries, it was right sizing, and market adjustment. He said the slide went by and if those two phrases were not connected to salaries, they should be, because it was not just that they may be behind, which was the right size portion, but they also had to be ready to continue to do the market adjustment as they moved forward. He said that was what allowed them to keep and retain. He said they could right size it and find oneself down the road in two years out of luck again. He stated that he appreciated that that was in there. He said he did not know what the approach would be, he knew staff did a good job of this, if they knew they had a change in governors happening for this budget cycle and they always tracked what was going on at the state level and how that impacted the local situation. He said they were in the habit of doing that, and now they had done that with the ARPA funding that had come down, so this infrastructure funding was going to take quite a lot of scrutiny about how that impacted local dollars. He said his understanding was that it was going to funnel through the state and direct down to the localities. He said he heard that at VACo, but he was not sure if that was fact or not. He said there could be a way in this planning, which would take place over multiple years, they would understand if whether it was broadband or wastewater, they had a dedicated person for those services, but if the federal government came forward with additional broadband monies, would they need to make sure the local dollars are going to that broadband infrastructure, or could it be redirected elsewhere. He said they did not know any of that yet, but it would play out.

Mr. Gallaway said it would be his suggestion as a process that they continue to plan, but it would be smart to ask what they knew they had and to strategize that way. He said in their budget time, they would often park items and return to them, but they should probably start thinking about if local funds freed up, whether through an infrastructure bill or some other means, and they would have already had the conversation about the priority projects that that money redirected to, rather than going back and saying they had an extra \$3 million of broadband monies coming down from the federal government and were left wondering what to spend the monies on. He said he would rather it be more strategic to think about it as a possibility, and they could start having those conversations, so it was not just a reaction to whatever pops up. He said that was something he would suggest could be part of that process if it made sense. He said they had discussed what they had gone through with the pandemic, and it should be noted that they did not know what the next pandemic would be. He said this pandemic could still have shelf life and continue, but there could be a different or new health crisis they were unaware of, or something that rises to this level. He said he thought they did a good job of planning for those type of things, but he wanted to keep it in mind. He said in terms of the questions that Mr. Bowman had hoped the Board would address – he asked Ms. McKeel to speak, and he would return to his question.

Ms. McKeel said she wanted to add a couple of things. She said she referenced governmental operations, but when she said that about compensation of critical staffing needs, so all of those things

that other supervisors had mentioned, she agreed on because they were critical to their work. She said it went to the heart of some of the comments they had heard from the public that afternoon. She said to Mr. Bowman that Ms. Price made some interesting comments when she was talking about checking out of the hotel at VACo. She said her understanding was that some of the taxes Ms. Price referenced, the County did not have the ability to institute based on the fact they were a county and not a city, and clarity on those for the Board of Supervisors would be really important as to what they could do and what they could not do. She said maybe that was more of a comment, or maybe it could be answered quickly now, but Ms. Price was right in that cities were able to do all of this, but her understanding was that they could not do that.

Mr. Bowman said there was not full equal authority with the City, but there was more flexibility, and he did not know if Mr. Kamptner could add anything to that, because he actually was reading a memo he wrote the other day about some of their authority and what they could and could not do based on the latest state changes.

Mr. Kamptner said the basic local transient occupancy tax also would have regional taxes and state level taxes that would be imposed that were experienced in Norfolk.

Ms. McKeel said a quick discussion for the future would be good for them to all understand and they may find that with the new General Assembly, some of what they had been given was not given anymore, but it remained to be seen.

Ms. Birch said the plan for the December 15th conversation was at least to tee up what they had the authority to do and make it relative to the other areas, most notably the City of Charlottesville. She said she believed it was Supervisor Price who mentioned that people did not typically make their decision about what hotel to stay in based on the taxes they paid, so there may be some equalization or some rebalancing there just to be consistent with their neighbor. She said she believed their authority enabled them to use at least the rate that they charged.

Mr. Kamptner said the cap on counties was lifted, but they still had to dedicate, as they did under the prior law, three cents to tourism, but the cap was lifted for counties.

Mr. Richardson said there were some things that Board members said that resonated with him. He said the first was talking about their five-year planning and a meeting with Southwood that discussed their growth and needing to keep an eye on their schools' capacity. He said the Board recently went through a joint planning meeting with schools and the CIP advisory board would be meeting next week. He said they saw the partnership with their schools as very valuable not just as they began their budget process, but because they were meeting with their schools' leadership every single month, and the steering team every single month all twelve months of the year to discuss their operational challenges, capital needs, and capital challenges. He said with this encouraging revenue news, one of the things they were doing was looking at how capital could be connected to and inform their operations. He said one of their Board members said today that it was not only about capital, but was also about once they built capital, how would that affect their operations.

Mr. Richardson said that he remembered in the last several years that they had talked about high school center 2 and it has an operational cost of \$1.6 million a year, which what it cost to staff it and open it. He said that was old news and old data, but where he was going with this was as they looked at their capital needs on the government side, they were not just looking at capital and strategy, but they were looking at the lines of five-year costs of operations. He said they were working with their schools in a strong economy that continued to improve, but they also had to anticipate not just what the capital needs were, but what the operational needs were too, so that they were able to afford things as they opened it up. He said those were the discussions they were having with their school partners, and they wanted to continue to have those with the school board and the Board of Supervisors. He said it was their hope they were able to meet everyone's expectations as much as possible.

Mr. Richardson stated that next week was the December 1st meeting, and someone said earlier that decisions they made today, if they had the ability to afford that tomorrow. He said the conservative management of the last 18 to 20 months had put them in a position where they could begin to address some needs now and they would talk more about that on December the 1st. He said that would not do was that it would not hamstring their fiscal year 23 budget process in any way.

Mr. Gallaway asked if Mr. Bowman had any follow-up questions for the Board.

Mr. Bowman said they had some specific follow-up and data that they would research, and they appreciated the feedback and looked forward to the work session on December 15th.

Recess. The Board recessed its meeting at 3:16 p.m. and reconvened at 3:31 p.m.

Agenda Item No. 11. **Presentation** – The County's Partner Entities and the Fiscal Year 2020 (FY 20) Cost Allocation Plan.

The Executive Summary forwarded to the Board states that over the years, the County has effectively partnered with other jurisdictions to form authorities, commissions, regional partnerships, joint

exercises of powers, and shared facilities. The County also has entered into agreements with numerous other entities to provide funding to support critical services to our community. The County's Fiscal Year 2022 (FY 22) Budget provides \$25.8 million to support 70 joint operations, organizations, agencies, and the courts that are not under the direct supervision of the Board of Supervisors. Collectively, these contributions consist of 8% of the General Fund budget. Additionally, the County provides administrative support to a number of these entities. This support ranges from fiscal agent services (such as accounts payable, payroll, and procurement) to services such as human resource administration, information technology support, legal support, and facility maintenance. The County currently collects fees for the County's fiscal agent services from eight of these partner entities. In-kind assistance provided to other entities vary both in type of service provided and in the formality of the structure that governs the relationship.

In FY 21, the Department of Finance & Budget (DF&B) began a project to clarify all of these relationships, identify the true cost of providing these services, compare it to the contractual obligations, and develop a plan forward, where needed. To provide the County with a greater understanding of the cost to provide administrative support services to partner entities, this year, DF&B contracted with MAXIMUS Consulting, Inc., which prepares more cost allocation plans than any other firm in the nation. The company's process utilized cost data and allocation statistics to allocate costs to departments, divisions, programs, and partner entities. Their cost allocation development system allocated costs in alignment with the County's accounting code structure and in accordance with federal cost allocation principles. In addition to providing data about the County's support for partner entities, the Plan provides administrative cost allocation information for all County departments.

MAXIMUS Consulting, Inc. completed the County's FY 20 Cost Allocation Plan in October. The results demonstrate that in every case, the County's cost to provide administrative services exceeds the amount recovered by the County in fees. The Cost Allocation Plan is envisioned to be used to guide the services provided by the County to outside entities, and the cost recovery of those services, going forward.

The results of the FY 20 Cost Allocation Plan provide beneficial data on the County's internal services costs that will inform the FY 23 Budget development process.

The results will also increase the County's understanding of departmental staff capacity, improve business processes, and inform future discussions with partner entities as the County considers the level of services that will be provided to them in-kind going forward, and/or whether there will be administrative fee adjustments to more fully recover the County's costs.

On November 17, staff will provide the Board with a presentation on staff's partner entity review, results of the FY 20 Cost Allocation Plan, and next steps.

The FY 20 Cost Allocation Plan provides information about the County's costs to provide administrative support for partner entities. This report provides important data for consideration in the FY 23 Budget Development process.

Staff recommends that the Board receive results of the FY 20 Cost Allocation Plan, which will improve departmental business processes and help inform the development of the FY 23 Budget.

Ms. Allshouse stated that she would be joined by others in her presentation and introduced herself as the Assistant Chief Financial Officer of Policy and Partnerships in the Department of Finance and Budget. She said joining her today were Nelsie Birch, the County's Chief Financial Officer, Newsha Dau, the Manager of Policy and Performance in the Department of Finance, and two representatives from Maximus Consulting, Inc., Mr. Clugston, who was the Vice President of Financial Services, and Jason Jennings, Director of Cost and Accounting, who was lead on the cost allocation project here in the County. She said they were there for any questions after the presentation on the cost allocation plan. She said she and Ms. Dau would be presenting the information. She said the cost allocation plan had just been completed in October and they just had eleven slides today. She said Ms. Birch may provide supporting context along the way and was also available for any questions. She said they would provide time at the end of the presentation for any questions or comments by Board members.

Ms. Allshouse said the agenda began with providing information on the Partner Entities Project. She said they would provide background information on what they worked on, what they learned, and the results of their efforts. She said they would share information on the cost allocation plan. She said the cost allocation plan was something they had done every year in the County, although this one was a little different and she would share why later. She said it was a finance related document that provided them with information primarily about the cost of the internal departments in the County, the administrative departments such as finance, information technology and human services. She said they were sometimes called their administrative support services of the County or central services depending on how people view them. She said it would share how those costs were spread across all the other departments as well as their partner entities. She said it also shared information on how costs were shared. She said support costs were provided to the County schools as well. She said while they completed this cost allocation plan for each year, Maximus was very experienced and thorough, and they completed more cost allocations than any other firm in the nation. She said this year, their cost allocation plan was more robust, and that was why they were bringing it before the Board today. She said it had much more detail about the administrative support they were providing to their departments and partner entities, commissions, and committees across the County.

Ms. Allshouse said that a little bit of background to give context was on page 61 in the adopted FY 22 budget, with a chart called "Expenditure by Type," and was another way to look at the budget from different lenses. She said the chart showed that the County provided more than \$26 million in direct pragmatic support to a variety of outside entities, which included regional joint operations that were established together with the County and others, such as the Albemarle-Charlottesville Regional Jail, multiple non-profit organizations they worked with such as the ASPCA. She said the \$26 million also included agencies they funded through the human services ABRT funding process. She said the reason she was sharing that with them today was to show the magnitude of how they worked with outside entities in Albemarle County. She said there were many community benefits from those partnerships, and they provided critical and valued services all across the community.

Ms. Allshouse said that in addition to providing the direct funding to these outside entities, they provided direct administrative support to over 50 entities such as committees and commissions and those types of things as well, fiscal services, legal support, information technology support, human resource administration, facility management, and grant management. She said they managed grants for a number of outside entities. She said the services they provided ranged from complete stand-in administrative support across the board, like they used to do for the Albemarle County Regional Jail; it was a much more limited support such as payroll services that they would provide for CATEC. She said their agreements vary also. She said some were very detailed and thorough, and some agreements they had in the past were just verbal agreements. She said some of their agreements were quite dated now, and some needed to be carefully reviewed and updated. She said she failed to mention earlier that it was important to know that the County Clerk's collected fees for fiscal agent services from eight partner entities provided a variety of direct administrative services to many others.

Ms. Allshouse said they clarified their relationships. She said they looked at everything they were doing for these different partner entities. She said they studied them, organized information, and categorized agreements. She said they also assisted the Albemarle-Charlottesville Regional Jail to stand up its own administrative services. She said that they revamped their grants administration business processes and incorporated administrative fees for the County's services associated with grants. She said they finally contracted with Maximus Consulting, Inc., who provided this fiscal year 2020 Cost Allocation Plan for them, to provide much more knowledge in these areas and guide them in their future work. She said Ms. Dau would provide further details about the first three items on the slide.

Ms. Newsha Dau, Policy & Performance Manager, introduced herself and said she had been with the County for over a year now. She said first, they collected all the agreements they could find related to partner entities and centralized them in one repository on the County's internal website. She said all County departments had access, and for the first time, partner entity agreements were easy to find and located in one place. She said they included historic and current agreements. She continued that second, they assisted the Albemarle-Charlottesville Regional Jail. She said since 1977, the County had provided fiscal agent services to ACRJ, and in January of this year, it was mutually decided that the County would no longer serve as the jail's fiscal agent, though the County would help stand up its administrative services. She said in January, they provided project management services to assist with the transition.

Ms. Dau stated that she worked as the project manager on the County's side, and helped the jail hire its own project manager. She said they worked in detail through finance, accounting, human resources, benefits, payroll, and other areas to ensure a seamless transition. She stated that as of July 1st, the County was no longer the jail's fiscal agent. She said while they no longer collected the fiscal agent fee, which was \$160,000 this past year, they greatly reduced the associated work for a number of departments. She said in finance and budget, this resulted in the removal of 151 positions from their payroll system, and from now on, they would no longer be providing up to 17,000 accounting transactions per year. She said they coordinated the development of a new MOU, and per this agreement, ACRJ remained on the County's health plan while they researched the plan that was best for them.

Ms. Dau said that third, they improved grant administration. She said in fiscal year 2021, they received \$20 million in grants. She said \$17 million of that was CARES funding. She stated that usually, they received \$4 million per year, so this was a phenomenal year. She said it was an important year to get proactive and improve their processes to be competitive, because they knew there was more federal funding coming. She said they refined the grants management business processes to be more efficient and effective. She stated they had a dedicated grants team, which included a grant accountant for the first time. She stated that she ensured funding was disbursed on time and focused on grant accounting services. She said they systematically requested administrative fees when partner entities' grant funding either flowed through the County as a pass-through when they applied with a partner entity, which happened on many occasions, or when they applied on behalf of a partner entity and contracted with them to do the work for the community. She said Ms. Allshouse would share information about the Cost Allocation Plan and their next steps.

Ms. Allshouse said, as mentioned earlier, they conducted a more robust cost allocation plan this year. She said a copy of it was attached to the executive summary that went with this presentation. She said the plan was 300 pages and very robust. She said they were required to do this every year for some of their federal and state funding. She said they wanted to really do much more work this year and have a more thorough analysis that included a strong focus on entity efforts. She said this project was led by Mr. Jennings who worked closely with Ms. Dau to ensure the incorporation of additional information and details that were provided directly by internal departments. She said the plan was completed in October 2021. She said it utilized financial data that came right from their system, so when they heard the word

"transactions" from Ms. Dau, it took all these financial accounts of what they were doing and used allocation statistics.

Ms. Allshouse explained that Maximus was a company that did more cost allocations than any company across the nation, so they used a lot of their algorithms and statistics in preparing these types of plans, and they allocated these costs and used the County's accounting code structure in accordance with the federal cost allocation principles that they adhered to. She said they provided cost allocation across all of the County departments, so it was known, for example, how much financial services they were providing to a community development. She said it really showed them how they worked amongst themselves and between themselves, and also provided data regarding the one thing she and Ms. Dau were focused on, County support for their partner entities. She said they had representatives today who were available at the end of the presentation about any questions they may have about the plan.

Ms. Allshouse said that they did this work with the partner entities and were thinking about what it told them. She said when they got the plan back, what they learned was that their unreimbursed administrative support services limited their capacity to serve their local governments and their partner entities. She said they learned that in every case, County government's cost to provide administrative services exceeded the amount recovered in the County in fees in 2020. She said they provided an equivalent of approximately \$3 million in unreimbursed direct services to their schools, and an equivalent of approximately \$1.6 million in services to their partner entities. She said they learned from all of the work this year was that they strongly believed that dedicated contract management resources that were centralized would increase the County's efficiency and effectiveness in working with agreements with their partner entities and other agreements there in the County.

Ms. Allshouse said the next steps were that this plan could really help inform a lot of things that they did. She said it would really inform their conversations with their partner entities. She said they could work with their partner entities with this data and talk with them about whether to increase their administrative fees to cover the cost of the services they provide. She said alternatively, they may want to provide some or all services in kind or may want to reduce the amount of services they provide. She said with that information and conversations, they would prepare or amend existing agreements as appropriate. She said the plan would help them with the development of the County government's human resources department. She said it would provide a road map for a new director, so she could clearly understand the HR work that the County provided to each department and their partner entities as she developed her staffing plan. She said the results could also improve performance in the County's internal business processes. She said this could be used in support of the new office of performance of strategic planning, and it would inform the core systems modernization project.

Ms. Allshouse said this data would be very useful in the development of the fiscal year 23 budget. She said soon the Department of Finance and Budget would present a recommendation for some dedicated resources to centrally start managing those agreements. She said they believed this project would provide lasting benefits to the County by improving partnerships with others and their service to the community. She said she wanted to recognize Ms. Dau and say how wonderful it was to work with her on this project as a County employee.

Ms. McKeel said the public did not realize that the packet had an almost overwhelming amount of information about this agenda item. She asked for clarity that the presentation was informational, and they were not asking for Board input today, and they would be coming back at a later date with recommendations and suggestions. She said it was an area that had needed attention for some time, but not many of them knew 70 joint operations and agencies in the community were supported. She said the work they were doing in their HR department or their business office to support 70 agencies was incredible, and while she really appreciated all that good work and understood how these memorandums of understanding had happened over the years, they could not be everything to everybody.

Ms. McKeel stated that if they were going to continue to support many of these agencies, they were going to have to recoup their costs and could not continue to lose money that they could direct to other work the County needed to do. She said she did not want to discuss the divisions right now because they may need to be treated individually. She they did mention the Albemarle-Charlottesville Regional Jail, which was handling their own now. She said that Mr. Walker could speak to it better than she, but from her viewpoint as the Chair, it had worked out very well. She said it was partly better for the jail, while they had to absorb a higher cost, they were actually getting the work done quicker, because Albemarle County was supporting 70 joint agencies.

Ms. McKeel said there were many meetings where Superintendent Martin Kumer would say that something had been submitted to the County, but there had been no response as of yet. She said they had to wait often to hear back from the County, and now they were just able to do the work themselves. She said that was not critical of staff, but she was trying to be very clear that in a way, it had been a win for the jail to take over their own accounting and other organizations may find that was the case as well. She said she looked forward to more recommendations from staff on this endeavor, and while they were working on their systems and updating their software and all the other work, the timing was perfect. She asked if she got into what Ms. Allshouse wanted answered today.

Ms. Allshouse said absolutely.

Ms. Mallek said that what jumped off the page for her was that 8 of their 70 agencies were paying in the overhead. She asked if she understood that correctly, and if the others were just getting a free ride, even running HR and things like that. She said she was glad they were working on changing that. She

said that there was a range of services and asked if there was a range of costs. She asked if someone had a full sweep, were they paying much more than someone who only had one little chapter done. She said she could not find it in the document.

Ms. Allshouse said the fees varied, but usually was a percentage, such as 2% on the budget or 2% on revenues. She said in some cases there was a fee per quarter, so they were not all consistent, and that was something they found across the board. She said there was no consistency, and it did not have the range, but that was so exciting about Maximus' Cost Allocation Plan, because they could look at it and see the buffet of services that a particular agency took from the County and what fee they paid. She said for someone else, the fee may be right, but depending on the amount of services they got, the fee should possibly be restructured differently. She said that was why they said this would start these conversations with their partner entities, because now they had data. She said they had a theory they were getting less than what they were having to put out from all the internal departments and backs it up, and even though the data was from 2020, it provided a great starting point.

Ms. Birch said there was a disconnect between what was being charged and the actual cost of doing the service, which connected back to what Ms. McKeel said. She said they had to have a recognition as they moved forward that when they charged the true cost, they were not still staffed to do that thing, like procurement or HR, or another thing they had promised. She said that to Chair Gallaway's comment earlier, there had to be a rightsizing as well if they were going to provide a service that meets the expectation of some of their external partners. She said that right now, it was very disconnected, but the first step was that they had some decisions they could make and some choices. She said the last slide was trying to say that they could either cut back on services, or they could beef up their resources to be able to service these entities, or they had to say that County taxpayers had to pay for this, and it would be an in-kind service they would be providing to this outside entity, and be deliberate about it and modify or clarify what the service level agreement actually was, so that they could meet the expectations of their outside entities and service them well.

Ms. Mallek said the other point she wrote down was about centralization and standardization process in-house was so important, because over decades, individual departments had different operations that had floated along and different outside agencies, some people had to pay for field use and other did not, and those kinds of inequities were a very big problem in the public, so having this kind of study they were doing would really help to get everyone on the same page. She said someone with the skills to manage all of this would be brilliant and important.

Ms. Price said she concurred that the work that was being done was critical, and there must be an allocation of cost that paid for the services they provided. She said she struggled to understand some of the data she saw here. She said she did not want to take the Board's time, but she wanted to ask someone to go through it with her. She said she would throw out a few examples of things she did not quite understand, for example, schedule A, C-35, the Albemarle School Board had zero cost allocation for building depreciation, and she did not understand that because they were in the spaces, they should also have some depreciation. She said on page C-44 for summary of allocated cost, the school board \$2,123 both of CACs, the 5th and Avon CAC and the Village of Rivanna CAC had a cost allocation higher than the school board. She said she did not understand how some of this was calculated, so at a different time she would like someone from Ms. Birch's office to sit down with her, so she had a better grasp of what exactly it was they were looking at there, because the work itself was critical.

Ms. LaPisto-Kirtley said the recouping of actual cost and the in-kind possible services and a third she could not recall were good and she liked the flexibility and variety that they were showing. She said Ms. Allshouse referred to the buffet approach, which was good because it was based on need, affordability, and those that they were serving. She said she liked the fact they had to cut back on services, whether it be from staff, with the buffet approach of what is affordable, and it was all part of their fiscal accountability, and they owed the citizens and County. She said she was surprised they were not already doing this, but now they were, and it went hand in hand with the software improvement they were investing in now, which she thought was critical. She said it was updating how they did business, and she agreed with Supervisor Price that she also would like to sit down with somebody.

Ms. Allshouse said she would like to mention again they had Maximus representatives with them today, Mr. Jennings and Mr. Clugston. She said they had been sitting down with them a lot, and they would be willing to help with those questions and answers, because it was their product, and they knew how their algorithms and information flowed through those documents. She said she knew they did not have time for detailed questions today, but they would be supportive of them all in the future to understand this better.

Ms. LaPisto-Kirtley said that would be very nice, and she did not expect them to go through the 300 pages tonight.

Ms. Palmer said she agreed with everything and appreciated all the work. She said she had one suggestion was along the lines of what Supervisor Price and thought she did not understand things in the packet. She said she would not sit down with anyone since she would not be on the Board next year, but her suggestion for the public and for everyone would be to have a good executive summary with this document. She said there really was not one in the document, but that Ms. Allshouse gave the Board a good verbal summary.

Mr. Gallaway said he agreed with making sure if they were providing services, they were recouping the cost, and if not, then they needed to understand the rationale behind why they were

comping it. He said there could be degrees as to why they had done that over the years, but that added up, so now they were realizing that. He said that not only did Ms. Allshouse dizzy them with her retirement, but she also left them with this document. He said he would reiterate that for those who wanted to understand the document, when they put their eyes on these things, at the level at they were used to looking at this, he hoped the insight, he hoped would be valuable to those who were used to being down in the weeds.

Mr. Gallaway said if they could not make sense of the view, then they could not add anything to the conversation, which could be frustrating from the Board's position wanting to help and do that. He said that whoever was best who could do that was great, and it was not to say that what was provided here was insufficient and they got the highlights, and he was not anticipating that. He said he had questions as others did about allocation units. He said it may just be him being unsettled, but he could not understand the logic behind it, but once it was explained, there could be valuable input coming back from the Board as they went through it. He said he thought that could be useful, for what it was worth.

Ms. Birch said they would absolutely do that. She said she definitely would keep his comments in mind as they navigate this in the future, and as they think about the current plan. She said this will be updated annually, so it was not a one-and-done thing, but this was a more robust plan, and they wanted it to have its moment, not only because of that, but because she really pushed for this to be in front of the Board. She said this was representative of an effort that they started because of Doug Walker, Deputy County Executive, and some of his work with the jails, that they needed to take a deeper look. She said that when Ms. Allshouse came over from the Office of Management and Budget and became the assistant CFO for Policy and Partnerships, this was the work that she had been doing for the last year and a half and had focused with Ms. Dau to try and understand, and she was the perfect person for it because she already knew the partners and get the information to a place where they could do something with it.

Ms. Birch said she was proud of this work, and it was one of the best things that Ms. Allshouse could leave them with, because they did not have it in this comprehensive way before. She said they would continue to iterate on this and figure out how best to get the Board and the public to understand that this was such a valuable piece of information, and also how and what the relationship with outside partners and outside entities would be in the future. She said lastly, it was more of an awareness than anything, and she knew that in her time here, many Board members had talked about if they were giving away their capacity and if they needed to do something differently, and they now had a tool and structure in place where they could start to answer questions and evaluate their relationship differently. She said she was excited and was glad this was the moment that Ms. Allshouse got to hand this off to them and Ms. Dau, and she had a week to train her successor beginning on Monday. She said she believed they were in a really good place in order to help the Board along and help their entity partners who were going to need to understand this as well, so they would need to refine that.

Mr. Gallaway said it was one thing if they got it, but if they did not get it they either input their own logic in, which could be dangerous, or just put it aside until the logic was understood. He said he fully expected that they all understood that, and he did not want to suggest otherwise. He said he did not want to insert his own logic.

Ms. Price said what they got from the sense of the Board was that they also appreciated the necessity of the depth of the detail that had gone into this work. She said she needed the magic decoder ring so she could understand what it was she was reading.

Ms. Allshouse said she would like to provide an opportunity for Mr. Clugston to say a few words. She said she asked him earlier how they were different than anyone else or unlike other people they encounter all over the state and nation. She thought maybe he could share a few words on that.

Mr. Clugston said that he enjoyed working with Ms. Allshouse and Ms. Dau, that they had a good relationship with the County and that the County had challenged them in many ways. He said they had worked with a lot of cities and counties in different states, but they had more partners than anyone else they had worked with, in terms of the outside entities that they supported. He said they worked with Chesterfield County, and they may have two to four of these different entities, but Albemarle seemed to have a lot more of them.

Mr. Gallaway said he was surprised by that since Chesterfield County was larger. He said they hoped to see Ms. Allshouse again.

Agenda Item No. 12. Closed Meeting.

At 4:10 p.m., Ms. LaPisto-Kirtley **moved** that the Board enter a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider the annual performance of the County Executive; and
- Under Subsection (5), to discuss and consider the expansion of three existing Albemarle County businesses identified as Projects Poma, Cardinal, and Stark where no previous announcements have been made of their interest in expanding their facilities at new locations in the County; and
- Under Subsection (6), to discuss and consider the investment of public funds related to an economic development project in the Scottsville Magisterial District where bargaining is

involved and where, if made public initially, the financial interest of the County would be adversely affected; and

- Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice related to a land use application.

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

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

NAYS: None.

Agenda Item No. 13. Certify Closed Meeting.

At 6:03 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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

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

NAYS: None.

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

Ms. Borgersen confirmed that there were no speakers signed up for this item.

Mr. Gallaway closed items from the public.

Mr. Gallaway said there was an announcement in regard to that night's public hearing. He said it was brought to the Board's attention that the notice provided via signage that directed the public to a website was done incorrectly, and the landing page for the website was not accurate, so that brought the public notice into question, and because of this error, they would need to defer this application to do the proper public notice process. He said provided nothing changed, they would put public notice out and the earliest that could occur would be December 15th. He said if that changed, the appropriate public timelines would have to be adhered to and that notice would be put out. He said again that that public hearing would not be heard tonight due to the inaccurate notice, and the Board would like to apologize to both the applicant and to the community members for this error, but the proper public notice must be followed, so at this point they would defer and follow the correct process to bring this matter back before the Board.

Agenda Item No. 15. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Richardson reported that twice each year, the Albemarle County Police Department partnered to present a community drug takeback day, which was a way for community members to safely and securely dispose of unused, unwanted, and expired prescriptions, over the counter medicines, and drugs. He said no questions were asked at the events as the items were collected and then they were safely incinerated. He said the program had a lot of benefits, such as keeping drugs out of the hands of those they were not intended for, and also out of their waterways. He thanked the police department, and community partners Wegmans and Sentara Martha Jefferson Hospital for a successful fall event. He said they expected to be out again for this event again in the spring because it was very popular. He said at this most recent event, the pictures on the slide showed they collected a total of 728 pounds of drugs and related drug materials.

Mr. Richardson said that the Albemarle County Police Department supported two community events to celebrate Halloween this year, one at Southwood and one in Crozet that emphasized pedestrian safety tips. He said down in Esmont, the love Albemarle cleanup was only the first of a series of events to celebrate the fall season and foster fellowship. He said that over 300 people participated across these events, with over 4,500 pieces and counting being distributed throughout the community.

Mr. Richardson said that Albemarle County Police Department was working hard to raise awareness of the hazards of distracted driving, which contributed to the high number of fatal crashes on County roads. He said that on November 9th, officers were out on the most dangerous roadways in their County doing proactive enforcement of distracted driving. He said most often, it was a cell phone being used by the driver. He said that 82 vehicles were stopped, and 76 drivers were ticketed for using handheld phones while driving. He stated that the police department wanted the community to focus on operating a vehicle while out on the roads because it helped keep everyone safe.

Mr. Richardson said their fall love Albemarle community litter cleanup series wrapped up with the final event on Saturday, October the 30th, which focused on the roadway litter in Esmont, mostly along Porter's Road. He said to recap, they organized events this fall on the east side by the Milton boat

landing, central along the Rivanna River, near Darden town, and south at Esmont. He said they had 90 volunteers participate in three events, and they estimated that they picked up over 1000 pounds of trash. He said they expected to be back picking up in the spring.

Mr. Richardson said that today, the second community read was launched, which was a read on racial covenants and the legacy of exclusionary housing practices in Albemarle County. He said that racial covenants were deed restrictions that carried with the land inserted by the seller, and were common as a practice across the United States until they were banned in the 1940's. He said this topic was timely due to the upcoming comprehensive plan review. He said the reader was available on their website, through their regional library, and in the little free libraries in Albemarle County parks.

Mr. Richardson said there was a banner currently on their website that tied to the application processing delays that their community development department was facing due to a number of issues. He said he would remind the Board that they received a memorandum from the Deputy County Executive, who sent that on October the 28th, which talked about the challenges of work volume and the delays they were experiencing in the community development department. He said along with that, they were identifying solutions both with contract help, outside assistance, along with positions that had been previously frozen that were now unfrozen. He said they were aggressively recruiting to fill those positions. He said they were on track this year to receive 3,500 building permits alone, which was an increase of almost 15% over the last year.

Mr. Richardson said in the first three months of fiscal year 21, in July through September, they received over 700 new permits with a construction value of over \$88 million. He said from August to September only, the number of permits received went up 56%, and for the same time period, job values went up \$1.5 million, or 5%. He said in the span of that month, there were more permits with a smaller job value per permit. He said they were working on this issue through some process optimization and were trying different approaches to staffing in order to clear the backlog. He thanked the building community for being willing to actively engage with them. He said they had met with some of the folks in the building community so they could understand some of the issues and work together to provide opportunities, and they certainly wanted to catch back up to get back into a position to report to the Board that they were improving their situation.

Mr. Richardson stated that earlier that year, they announced the award of another Virginia Telecommunications Initiative Grant to Albemarle County and the Albemarle County Broadband Authority, partnering with CenturyLink to install over 80 miles of fiber to serve 1675 locations. He said the \$2.2 million, 18-month project would begin the first fiber installation soon and the first customer orders would be available by the end of the calendar year, with rolling new availability as the location areas shown in the timeline on the slide were completed.

Mr. Richardson said earlier this year, Facilities and Environmental Services completed its chiller replacement at its 5th street office location. He said the new system had been online for several months, and what the chart shown on the slide showed was the energy use chart, which showed that the new system they installed was much more efficient than the previous system, providing long-term fiscal benefit savings to the County. He said that in July, for example, the electric bill for the 5th COB building was down by \$3,000, and that was less than the year before in the same month. He said despite rate increases, he would like to especially recognize Michael Freitas, and the project Tyler Gifford for bringing forward suggestions that resulted in a better project, and they made sure the BAS controlled what program to be able to optimize the efficiency of the building. He said it tied nicely with the efficiency programs to save money on energy over the course of time in all of their departments, and this was just one example. He said \$3,000 a month could be reprogrammed into the organization, and that amount of money was significant over a period of time.

Mr. Richardson said that they were not only looking at internal energy programs, and the Board approved funding in 2021 for Albemarle Housing Improvement Program, or AHIP, to launch the assisted home performance program, in which AHIP partnered with LEAP to make energy efficiency improvements to low-income Albemarle County homes. He said that projects included replacing HVAC systems with more efficient ones, conditioning crawl spaces, sealing air leaks, and installing high-efficiency doors and windows. He said at nine months into this new partnership, AHIP had identified approximately \$235,000 in projects for 29 homes, and they had already completed about \$135,000 in energy efficiency investments in 16 homes. He said this project was important because it helped reduce the County's greenhouse gas emissions more acutely, and it helped lower income residents save money each month, and it improved the efficiency of these homes.

Mr. Richardson said that one of the areas in which they advanced the American Rescue Plan Act funding was to keep their Emergency Financial Assistance program operational in partnership with the United Way. He said in the first quarter of fiscal year 22, which ran from July through September the 30th, 190 households were supported with a total of nearly \$160,000 towards rent, mortgage, and utility payments. He said he was going to call on Mr. Kamptner, but he was unsure if he was back with them, to take a few moments to address a report that was recently issued by the Free Enterprise Forum regarding the administration of the Albemarle Conservation Easement program. He said the County Attorney's Office reviewed the report and had conducted a review of how the Acquisition of Conservation Easement (ACE) program had been administered over time.

Mr. Kamptner said he would read a statement, and to anyone who was not fully familiar with the ACE program, he apologized. He said it was a statement in response to the Free Enterprise Forum white paper that was issued and not an overview of the ACE program itself. He said, "County staff had

reviewed the white paper prepared by the Free Enterprise Forum titled 'Five Aces,' which pertained to the County's Acquisition of Conservation Easement, or ACE program. The primary focus of the white paper was the assertion that the County had not correctly applied the criterion of division rights, which was one of numerous criteria to determine whether a proposed parcel scored enough points to qualify from further consideration under the ACE program. The essence of the white paper was that the correct way to determine the number of division rights on a parcel was by developing a preliminary subdivision plan, or schematic land plan for each property, a suggestion made by one member of the ten member ACE committee. This approach was what a developer must do under the zoning ordinance when subdividing land in the rural area's zoning district. This process established actual development rights. However, the ACE program deliberately moved away from the concept of development rights, and that term was understood in the zoning ordinance, beginning in 2002, and the Board of Supervisors adopted the current definition and division rights on December 5th, 2007. The definition did not explain how division rights would be determined, but the discussion between supervisors and staff at that meeting were clear that the method to be used under the ACE program was not the same as that to be used to determine actual development rights into the zoning ordinance. At that meeting, County Attorney Larry Davis explained that it was not the intent of the government to require that kind of analysis and testing expected under the zoning ordinance. Instead, he explained that the amendment would allow staff and the ACE committee to make a reasonable determination that there was a developable lot. David Benish, Chief of Community Development, said that when figuring out the number of division rights, staff would look at the proposed easements and evaluate whether they had been through the sites in a general envelope for development, and then would advise the ACE committee. He said the purpose was to avoid crediting a parcel with division rights that had no real building sites in terms of dimensions and land outside of critical slopes and flood plains. An interview with staff in the Department of Community Development this past Monday confirmed that this remained the approach."

He said the County would provide a more complete response in the near future.

Mr. Gallaway re-announced the Rio Point zoning map amendment #16 would be deferred to December 15, due to an advertising error. He said it was determined that it would be appropriately noticed and announced.

Agenda Item No. 16. **Public Hearing – ZMA201900008 Rio Point (formerly Parkway Place).**

PROJECT: ZMA201900008 Rio Point (formerly known as Parkway Place)

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL(S): 06100000016700, 061000000167C0

LOCATION: 878 E. Rio Road

PROPOSAL: Proposal to rezone two properties for up to 328 residential dwelling units

PETITION: Rezone a total of approximately 27.31 acres from the R4 Zoning District, which allows residential uses at densities up to 4 units/acre to Planned Residential Development (PRD), which allows residential (3 – 34 units/acre) with limited commercial uses. A maximum of 328 multifamily residential units are proposed along with approximately 13 acres of both public and private open space at a net density of 16.17 units/acre, and a gross density of 12.01 units/acre. Request for a substitution of recreation facilities in accordance with 18-4.16.2.

ZONING: R-4 Residential - 4units/acre

OVERLAY DISTRICT(S): AIA – Airport Impact Area Overlay, EC – Entrance Corridor, FH – Flood Hazard Overlay, Managed and Preserved Steep Slopes Steep Slopes

PROFFERS: Yes

COMPREHENSIVE PLAN: Neighborhood Service Center – commercial, retail, and employment uses with supporting residential (3-20 units/acre); Urban Mixed Use (in Centers) – retail, residential, commercial, employment, office, institutional, and open space; Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses; Public Open Space – recreation and open space uses; and Privately Owned Open Space, Environmental Features – privately owned recreational amenities and open space; floodplains, steep slopes, wetlands, and other environmental features in Neighborhood 2 of the Places29 Comprehensive Plan Area.

The Executive Summary states that this is a request to rezone 27.31 acres from R-4 Residential (4 units/acre) to PRD Planned Residential Development - residential (3 – 34 units/acre) with limited commercial uses. Up to 328 units are proposed with a gross density of up to 12.01 units/acre and a net density of up to 16.17 units/acre. Application includes proffers for transportation improvements, and dedication of land to public use for parks.

At its meeting on March 10, 2020, the Planning Commission voted 5:2 to recommend approval of ZMA201900008, based on the factors favorable listed in the staff report. Commissioners Dotson and Randolph, who voted to oppose recommending approval, cited concerns about the effects on transportation infrastructure and traffic congestion, and the proposed density as being too high.

Links to the Commission's original staff report, action memo, and minutes are provided below.

The Board first considered this application at a public hearing held on June 3, 2020. At the request of the applicant, the Board deferred action on the application. Links to the application materials and revised staff report from the June 3, 2020 Board of Supervisors public hearing are provided below.

In late 2020, the original developer, Kotarides Developers LLC, terminated its contract to

purchase the subject properties. In January 2021, the properties were purchased by Rio Point, LLC. Paperwork was filed by Rio Point LLC to continue pursuing the rezoning proposal (Attachment E1).

To address concerns and comments from the previous public hearings, Rio Point, LLC revised the Application Plan (Attachment E3) and proffers (Attachment E4). Changes made are primarily related to transportation improvements. Minor changes to the internal layout of buildings and greenspace were also made. The applicant discusses these changes in Attachment E2. A summary and staff analysis of the revised application is included in Attachment F.

Public input received from members of the public between March 3, 2020 and July 28, 2021 is contained in Attachment G.

Staff recommends that the Board adopt the attached Ordinance to approve ZMA201900008 Rio Point (Attachment H).

Due to an advertising error, this item was deferred to December 15, 2021.

Agenda Item No. 17. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. McKeel said she drove by what used to be the Greyhound bus stop. She said it was between the old Greyhound bus building and the fire station. She said there were people standing there looking absolutely bewildered with nowhere to sit and no indication of where they even were. She said it was an appalling welcome to the City, no matter how they cut it, and no matter how temporarily they were in their City and their community. She said she noticed in the news that Greyhound had been purchased by FlixBus. She said that she called Garland Williams, the Director of CAT. She asked Mr. Williams if there was any way that the Greyhound buses could utilize the transit center on the downtown mall, and he said that he had thought about that, but the process of that type of bus would not work at the CAT transit center because the Greyhound buses park and sit for hours sometimes and were unlike the CAT buses that loaded and unloaded frequently.

Ms. McKeel said that Mr. Williams said they did not have the space for those types of buses, but the train station was the appropriate place if this community were going to think about another alternative, and that he said that in most communities, train stations and bus stations were co-located. She said that she was bringing this up publicly because she felt so bad for those folks and she was wondering if they, as a Board, could reach out to the City and see if there was any interest in trying to see if they could work out something for those buses to be able to go to the train station. She said if they did not take the initiative and reach out, she had not heard the City Council talk about it, but maybe there was a way they could all work together on it. She said that Ms. Price had brought it up before as well.

Ms. Price said she agreed and said she drove by the bus stop frequently. She said it was inside City limits, but it affected their community, and the train station was just down the street, and would be the ideal location with at least some protection from the weather, but that was something they had to work out not only with the City but also with Amtrak.

Ms. McKeel said that if no one took the initiative and at least tried, nothing would change. She said to think about it and maybe staff could come back with a thought about how they might approach the City and the train station.

Mr. Gallaway said it had been an issue since the summer when the heat was bad and there was no shade.

Ms. McKeel said that when CAT Director Garland Williams said that there was no way he could offer up the transit center and explained, it made sense, and he said the perfect place and where it was in many communities was at the train station.

Mr. Gallaway said they had to brainstorm on this.

Ms. Mallek said she would follow along that suggestion and say there was a Smart Scale or similar type of application done perhaps with the TJPDC as the facilitator about completely redoing that whole train facility. She said that only a small part of that area was an Amtrak lease, and the rest was controlled by someone else. She said hopefully, they could figure out who the right target people were, but that was supposed to be a whole transit center 15 years ago, and it never happened, so hopefully it would make traction with the new grant cycles coming around. She said she had not heard about it at the APO for at least three years, but she thought it had been filed.

Ms. McKeel said that a developer owned some of that land, and Ms. Mallek was right, it was located in the City. She said she had a bound book that was a report on the Amtrak station and the changes, and there was some significant work done on it a few years ago and they had not heard about it since.

Ms. Mallek said the other item she had was for a to-do list for further understanding was a process issue about their special exception process, and she did not know if it were an ordinance requirement or just a policy that would be easier to modify, that applicants were not allowed to speak and answer questions from the Board. She said this came up recently because of the many unanswered questions that ended up returning a possible application two weeks ago for a homestay in downtown

Crozet, where there was at the time an affordable housing in the basement that was going to be taking care of this property and had two employees that were going to be working for the company. She said that was a lot of information that did not come out until too late. She said the second question to add to the list was the owner in that case did not know that he could speak during matters from the public on the same afternoon, so if that information was given to every applicant so that it was not just those who had lawyers who knew that was a possibility to have that chance to speak. She said she looked forward to more information about this question in the future.

Ms. Palmer said she threw hers in earlier, but she would mention that she knew Community Development did not have any extra time now, but to try to coordinate with developers and demolition crews and recognize they had the ability to take clean fill at \$10 a ton if it was not mixed with trash, and it would save money and somehow if they could get that message out there, it would help the environment and help them.

Mr. Kamptner said he did not have time to create a new closed meeting motion, so Ms. LaPisto-Kirtley could read that the Board needed to go back into closed session.

Non-Agenda Item: Closed Meeting.

At 6:32 p.m., Ms. LaPisto-Kirtley **moved** that the Board enter a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- Under Subsection (1), to discuss and consider the annual performance of the County Executive.

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

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

Non-Agenda Item: Certify Closed Meeting.

At 7:25 p.m., Ms. LaPisto-Kirtley **moved** that the Board of Supervisors certify by a recorded vote that, to the best of each supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting, were heard, discussed, or considered in the closed meeting.

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

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

Agenda Item No. 18. Adjourn to November 29, 2021, 11:00 a.m., electronic meeting pursuant to Ordinance No. 20-A(16).

At 7:26 p.m., Mr. Gallaway adjourned the Board meeting to November 29, 2021 at 11 a.m., which would be an electronic meeting held pursuant to Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors homepage.

Chair

Approved by Board
Date 08/02/2023
Initials CKB