

ACTIONS
Board of Supervisors Meeting of May 6, 2020

May 8, 2020

AGENDA ITEM/ACTION	ASSIGNMENT	VIDEO
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 2:00 p.m., by the Chair, Mr. Gallaway. All BOS members were present. Also present were Jeff Richardson, Greg Kamptner, Claudette Borgersen and Travis Morris. 		Link to Video
4. Adoption of Final Agenda. <ul style="list-style-type: none"> Item 6.3 was pulled from the consent agenda for discussion. By a vote of 6:0, ADOPTED the final agenda as amended. 		
5. Brief Announcements by Board Members. <u>Liz Palmer:</u> <ul style="list-style-type: none"> Announced that International Compost Awareness Week is May 3- 9 and spoke towards its importance. <u>Donna Price</u> <ul style="list-style-type: none"> Commented on citizens in the southern part of the district that are working hard during the COVID -19 pandemic. <u>Ann Mallek:</u> <ul style="list-style-type: none"> Announced that today, May 6, 2020 is National Nurse's Day and thanked all nurses working during the pandemic and at all other times. Announced several military days <u>Diantha McKeel:</u> <ul style="list-style-type: none"> Concurred with Ann Mallek's remarks regarding National Nurse's Day and expanded the expression of thanks to include all health care workers. Thanked citizens for practicing social distancing. 		
6.1 FY 2020 Appropriations and Official Intent to Reimburse Expenditures with Proceeds of a Borrowing. <ul style="list-style-type: none"> APPROVED appropriations #2020057; #2020058; #2020059; #2020060; #2020061 and #2020062 for local government and school division projects and programs. ADOPTED Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing. 	<u>Clerk:</u> Forward copy of signed ordinance to the Office of Management and Budget and the County Attorney's office. (Attachment 1 and Attachment 2)	
6.2 Ordinance to Change the Name of the Cale Precinct and the Cale Elementary School Polling Place Location. <ul style="list-style-type: none"> SET Public Hearing to consider the adoption of the attached proposed ordinance to change the name of the Cale Precinct and the Cale Elementary School polling place location in the Scottsville Magisterial District. 	<u>Clerk:</u> Schedule on agenda and advertise in Daily Progress.	
6.3 Proposed Emergency Assistance to Tenants - Old Crozet School Arts (OCSA), The Field School of Charlottesville, The Crozet Artisan Depot LLC, and Crozet Running LLC. <ul style="list-style-type: none"> By a vote of 6:0, APPROVED the rent waiver and late payment penalty and interest relief for Old Crozet School Arts (OCSA) beginning on April 1, 2020 and until such time as there is an executive order from the governor allowing such business to open and granting the County 	<u>Staff:</u> Proceed as Authorized.	

<p>Executive the authority to evaluate any further waivers though the duration of the COVID-19 Disaster.</p> <ul style="list-style-type: none"> • By a vote of 5:1 (Galloway), DISAPPROVED providing emergency assistance to The Field School of Charlottesville in the form of rental payment relief. • By a vote of 4:2 (Galloway, Mallek), DISAPPROVED providing emergency assistance to The Crozet Artisan Depot LLC in the form of rental payment relief. • By a vote of 5:1 (Galloway), DISAPPROVED providing emergency assistance to Crozet Running LLC in the form of rental payment relief. • By a vote of 6:0, APPROVED providing emergency assistance to The Field School of Charlottesville, The Crozet Artisan Depot LLC, and Crozet Running LLC in the form of late payment penalty and interest relief beginning April 1, 2020 and until such time as there is an executive order from the governor allowing such business to open. 		
<p>6.4 Update to the Old Lynchburg Road/Moore's Creek Bicycle and Pedestrian Improvements Revenue Sharing Application Resolution</p> <ul style="list-style-type: none"> • ADOPTED the revised Resolution for the Old Lynchburg/Moore's Creek Bicycle and Pedestrian Improvements Revenue Sharing Grant application. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and the County Attorney's office. (Attachment 3)</p>	
<p>6.5 SDP201800040 Hunters Way Coffee Shop - Special Exception for a Drive-Through Window and Waiver for Critical Slopes.</p> <ul style="list-style-type: none"> • ADOPTED the attached Resolution to approve the special exceptions with conditions contained therein. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and the County Attorney's office. (Attachment 4)</p>	
<p>6.6 B202000407ATWR Special Exception for an Antenna Array at an Existing Wireless Service Facility (700 Holiday Trails Lane).</p> <ul style="list-style-type: none"> • ADOPTED the Resolution approving the special exception subject to the conditions contained therein. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and the County Attorney's office. (Attachment 5)</p>	
<p>7. HS202000027 Homestay Special Exception Pop's Cottage (Profaci).</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Resolution to approve the special exception with the conditions contained therein. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and the County Attorney's office. (Attachment 6)</p>	
<p>8. HS202000030 Homestay Special Exception Windfield (Winstead).</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Resolution to approve the special exception with the conditions contained therein. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and the County Attorney's office. (Attachment 7)</p>	
<p>9. Sidewalk Maintenance Agreements.</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the Resolution to authorize the Board of Supervisors Chair to execute the agreement with VDOT and ADOPTED the Resolution to authorize the County Executive to execute "pass through" agreements with a responsible party or parties (such as a developer or POA) that would shift the responsibility for maintenance of its sidewalks. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and the County Attorney's office. (Attachment 8, and Attachment 9)</p>	
<p>10. Market Studies from Retail Strategies and Downtown Strategies.</p>		

	<ul style="list-style-type: none"> • RECIEVED. 		
11.	<p>Closed Meeting.</p> <ul style="list-style-type: none"> • At 4:47 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: • Under Subsection (1), to discuss and consider: <ul style="list-style-type: none"> 1. Appointments to the Agricultural and Forestal District Advisory Committee, the Rivanna River Basin Commission, and the Rivanna River Corridor Project; and 2. The appointment of the Director of Finance; and 3. The appointment of the Purchasing Agent. • Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to holding public hearings on land use applications through electronic communication means. 		
12.	<p>Certify Closed Meeting.</p> <ul style="list-style-type: none"> • At 6:00 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
	<p>Non-agenda.</p> <ul style="list-style-type: none"> • APPOINTED Nelsie L. Birch as the Albemarle County Director of Finance. • APPOINTED Allison McNally as the designated the Purchasing Agent Albemarle County. 	<p>(Attachment 10)</p> <p>(Attachment 11)</p>	
13.	<p>Vacancies and Appointments.</p> <ul style="list-style-type: none"> • REAPPOINTED Mr. Benjamin Baer and Mr. David Powell to the Agricultural and Forestal District Advisory Committee with said term to expire April 17, 2024. • REAPPOINTED Mr. Zachary Wheat to the Rivanna River Basin Commission with said term to expire September 30, 2024. • APPOINTED Ms. Ann Mallek and Ms. Bea LaPisto-Kirtley to the Rivanna River Corridor Project. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	
14.	<p><u>ZMA201900015 Child Development Center.</u></p> <ul style="list-style-type: none"> • Motion to adopt Ordinance ZMA201900015 failed by a vote of 3:3 (Palmer, Mallek, McKeel). 		
15.	<p><u>FY 2020 – FY 2021 Revised Proposed Operating and Capital Budgets.</u></p> <ul style="list-style-type: none"> • HELD 		
16.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • Discussion regarding holding Public Hearings, including land use public hearings, during the Covid-19 Disaster. <ul style="list-style-type: none"> ○ CONSENSUS to continue to hold Public Hearings, including land use public hearings during the Covid-19 Disaster • Discussion to reinstate From the Public: Matters Not Listed for Public Hearing during the Covid-19 Disaster. <ul style="list-style-type: none"> ○ Schedule for discussion on the May 11, 2020 agenda. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> • Inquired if any Supervisors had changed their minds about the May 6, 2020 decision on the waiver of rents for Crozet Depot. 	<p><u>Staff:</u> Proceed as directed.</p> <p><u>Clerk:</u> Schedule on May 11 agenda.</p>	
17.	<p>From the County Executive: Report on Matters Not Listed on the Agenda.</p>		

	<ul style="list-style-type: none"> • There were none. 		
18.	<p>Adjourn to Adjourn to May 11, 2020, 4:00 p.m., electronic meeting pursuant to Ordinance No. 20-A(6).</p> <ul style="list-style-type: none"> • The meeting was adjourned at 10:06 p.m. 		

ckb/tom

Attachment 1 – Resolution to Approve Additional FY 2020 Appropriations

Attachment 2 – Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing

Attachment 3 – Resolution to Participate in Virginia Department of Transportation Revenue Sharing Program for Fiscal Year 2021 Old Lynchburg Road/Moore’s Creek Bicycle and Pedestrian Improvements

Attachment 4 – Resolution to Approve Special Exceptions for SDP 201800040 Hunters Way Coffee Shop

Attachment 5 – Resolution to Approve Special Exception for B2020-00407 ATWR

Attachment 6 – Resolution to Approve Special Exception for HS2019-00027 Pop’s Cottage Homestay

Attachment 7 – Resolution to Approve Special Exception for HS2020-00030 Windfield (Winstead) Homestay

Attachment 8 – Resolution authorizing Board Chair execution of VDOT Agreement

Attachment 9 – Pedestrian Facilities Located Outside of Secondary Highway System Right-Of-Way Agreement for County of Albemarle

Attachment 10 – Resolution Appointing the Director of Finance

Attachment 11 – Resolution Designating the Purchasing Agent

**RESOLUTION TO APPROVE
ADDITIONAL FY 2020 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2020057; #2020058; #2020059; #2020060; #2020061 and #2020062 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2020.

RESOLUTION OF OFFICIAL INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF A BORROWING

WHEREAS, the Albemarle County Board of Supervisors, Virginia (the "Borrower") intends to acquire, construct and equip the items and projects set forth in Exhibit A hereto (collectively, the "Project"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both.

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

- 1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt to pay the costs of the Project in an amount not currently expected to exceed \$855,366.00.
- 2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.
- 3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure); (b) a cost of issuance with respect to the Bonds; (c) a nonrecurring item that is not customarily payable from current revenues; or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.
- 4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.
- 5. The Borrower intends that the adoption of this Resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.
- 6. This Resolution shall take effect immediately upon its passage.

* * *

Exhibit A

**CAPITAL IMPROVEMENT PROGRAM
BOND FUNDED PROJECTS
FY 20**

School Division	Amount (\$)
Red Hill Elementary Phase II Addition & Improvements	\$855,366
School Division Subtotal	\$855,366
Total Debt Issue Not to Exceed - FY 20 Projects	\$855,366

**RESOLUTION TO PARTICIPATE IN
VIRGINIA DEPARTMENT OF TRANSPORTATION
REVENUE SHARING PROGRAM FOR FISCAL YEAR 2021
Old Lynchburg Road/Moore's Creek Bicycle and Pedestrian Improvements**

WHEREAS, the County of Albemarle desires to submit an application for the allocation of funds through the Virginia Department of Transportation Fiscal Year 2021 Revenue Sharing Program; and

WHEREAS, the County is willing to commit local funds of a minimum of fifty percent (50%) of the total project cost in order to compete for a Revenue Sharing Program award; and

WHEREAS, these funds are requested to implement the Old Lynchburg Road/Moore's Creek Bicycle and Pedestrian Improvement project which proposes to construct bicycle and pedestrian facilities along Old Lynchburg Road and the Moore's Creek Greenway between Sunset Avenue and Old Lynchburg Road.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby commits to provide local funds of a minimum of fifty percent (50%) of the total project cost in its application for revenue sharing funds from the FY 2021 Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby grants authority to the County Executive to execute project administration agreements for any approved Fiscal Year 2021 Revenue Sharing Program projects.

**RESOLUTION TO APPROVE SPECIAL EXCEPTIONS
FOR SDP 201800040 HUNTERS WAY COFFEE SHOP**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1(a), 18-5.1.60, 18-4.2, 18-4.2.5(a)(3), and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exceptions for SDP 201800040 Hunters Way Coffee Shop, subject to the conditions attached hereto.

* * *

SDP 201800040 Hunters Way Coffee Shop Special Exception Conditions

1. The drive-through window shall be located within the general area shown on the exhibit entitled "2300 Hunter's Way: For Illustrative Purposes Only" prepared by Shimp Engineering and dated December 20, 2019.
2. The area of land disturbance on critical slopes may not exceed 2,488 square feet as described in the request entitled "Major Site Plan Amendment (SDP201800040 An Amendment to SDP201600012) Critical Slopes Waiver Request" and as shown on the plan exhibit entitled "Critical Slope Waiver Exhibit," both of which were prepared by Shimp Engineering and are dated October 22, 2019.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR B2020-00407A TWR**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.40 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the requirements of County Code § 18-5.1.40(b)(2)(c) for B2020-00407A TWR, subject to the condition attached hereto.

* * *

B202000407A TWR Special Exception Condition

1. No antenna authorized by this special exception may project more than five (5) feet from the face of the monopole to the back of the antenna.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR HS2019-00027 POP'S COTTAGE HOMESTAY**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot north side yard required for a homestay in the Rural Areas zoning district for HS2019 -00027 Homestay Special Exception Pop's Cottage, subject to the conditions attached hereto.

* * *

HS 2019-00027 Pop's Cottage Homestay Special Exception Conditions

1. The Homestay use is limited to one (1) guest room within the existing residence as depicted on the Parking and House Location Exhibit dated April 9, 2020.
2. Parking for homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated April 9, 2020.
3. The existing 20' vegetative buffer located along the northwestern property line as depicted on the Parking and House Location Exhibit dated April 9, 2020 may not be disturbed and must be maintained with screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-€.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR HS2020-00030 WINDFIELD (WINSTEAD) HOMESTAY**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot north side yard required for a homestay in the Rural Areas zoning district for HS2020-00030 Homestay Special Exception Windfield (Winstead), subject to the conditions attached hereto.

* * *

HS 2020-00030 Windfield (Winstead) Homestay Special Exception Conditions

1. The Homestay use is limited to one (1) guest room within the existing residence as depicted on the Parking and House Location Exhibit dated April 9, 2020.
2. Parking for homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated April 9, 2020.
3. The existing 20' vegetative buffer located along the eastern property line as depicted on the Parking and House Location Exhibit dated April 9, 2020 may not be disturbed and must be maintained with screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

RESOLUTION APPROVING A SIDEWALK MAINTENANCE AGREEMENT WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE CHAIR OF THE COUNTY'S BOARD OF SUPERVISORS TO EXECUTE THE AGREEMENT

WHEREAS, new streets intended for maintenance by the Virginia Department of Transportation (VDOT) must meet all applicable standards outlined in VDOT's Secondary Street Acceptance Requirements (SSAR), including the provision of sidewalks for most secondary streets; and

WHEREAS, when a required sidewalk is located outside of a dedicated right-of-way, VDOT requires an agreement with the locality to ensure the maintenance of the sidewalk before VDOT will accept the street for maintenance; and

WHEREAS, the County in turn is requiring an additional "pass through" maintenance agreement with a responsible party or parties (such as a developer or property owners' association) to ensure that the sidewalk maintenance costs and responsibility are not borne by the County; and

WHEREAS, the efficiency of government would be improved by entering into an agreement with VDOT that assures, among other things, that the County will make formal arrangements to ensure that pedestrian facilities located outside of secondary highway rights-of-way are sufficiently maintained and that documentation of these arrangements will be supplied to VDOT prior to street acceptance.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the Chair of the County's Board of Supervisors to sign a sidewalk maintenance agreement with the Virginia Department of Transportation, provided that the agreement is approved as to form and substance by the County Attorney.

**RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE
SIDEWALK MAINTENANCE AGREEMENTS WITH RESPONSIBLE PARTIES WHEN A SIDEWALK IS
LOCATED OUTSIDE OF A DEDICATED RIGHT-OF-WAY**

WHEREAS, new streets intended for maintenance by the Virginia Department of Transportation (VDOT) must meet all applicable standards outlined in VDOT's Secondary Street Acceptance Requirements (SSAR), including the provision of sidewalks for most secondary streets; and

WHEREAS, when a required sidewalk is located outside of a dedicated right-of-way, VDOT requires an agreement with the locality to ensure the maintenance of the sidewalk before VDOT will accept the street for maintenance; and

WHEREAS, the County in turn is requiring an additional "pass through" maintenance agreement with a responsible party or parties (such as a developer or property owners' association) to ensure that the sidewalk maintenance costs and responsibility are not borne by the County; and

WHEREAS, the efficiency of government would be improved by delegating the authority to the County Executive to sign "pass through" sidewalk maintenance agreements with responsible parties on behalf of the County.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive, on behalf of the County, to sign sidewalk maintenance agreements with responsible parties when a sidewalk is located outside of a dedicated right-of-way, provided that the agreement is approved as to form and substance by the County Attorney.

**RESOLUTION
APPOINTING THE DIRECTOR OF FINANCE**

BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia (the "Board" and the "County") that, upon the recommendation of the County Executive, Nelsie L. Birch ("Birch") is hereby appointed the Director of Finance for the County pursuant to Virginia Code § 15.2-512, and this appointment is effective on and after June 15, 2020; and

BE IT FURTHER RESOLVED that Birch will serve as Director of Finance at the pleasure of the Board and for an indefinite tenure pursuant to Virginia Code § 15.2-513; and

BE IT FURTHER RESOLVED that Birch will serve as the head of the County's Department of Finance and have the powers and duties stated in Virginia Code §§ 15.2-519 through 15.2-525, except to the extent that the Board has designated other persons to perform specific tasks including, but not limited to, assessing property for taxation and acting as the County's purchasing agent; and

BE IT FURTHER RESOLVED that Birch shall act under the supervision of the County Executive; and

BE IT FURTHER RESOLVED that the County Executive may designate a job title for Birch as he determines to be appropriate, including "Chief Financial Officer," provided that Birch's status, powers, and duties as Director of Finance are not affected by any different job title.

RESOLUTION DESIGNATING THE PURCHASING AGENT

BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia (the "Board" and the "County") that, upon the recommendation of the County Executive, Allison McNally ("McNally") is hereby designated the Purchasing Agent for the County pursuant to Virginia Code § 15.2-524, and this designation is effective immediately; and

BE IT FURTHER RESOLVED that McNally will act under the supervision of the Director of Finance; and

BE IT FURTHER RESOLVED that, in McNally's temporary absence and only if necessary, the Director of Finance is empowered to perform the duties of the Purchasing Agent; and

BE IT FURTHER RESOLVED that McNally is empowered to designate members of her staff to perform the duties as she may determine are appropriate to delegate; and

BE IT FURTHER RESOLVED that the County Executive may designate a job title for McNally as he determines to be appropriate, including "Chief of Procurement," provided that McNally's status, powers, and duties as Purchasing Agent are not affected by any different job title.