

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on August 17, 2022, at 2:30 p.m. at 1:00 p.m., Lane Auditorium, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeffrey B. Richardson; County Attorney, Steve Rosenberg; 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 2:34 p.m. by the Chair, Ms. Donna Price. Ms. Price said the opportunities for the public to access and participate in the hybrid meeting are posted on the Albemarle County website on the Board of Supervisors home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

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

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

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

NAYS: None.

ABSTENTIONS: Ms. LaPisto-Kirtley.

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

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Agenda Item No. 4. Adoption of Final Agenda.

Ms. Price said for clarification, SE2022-365600 Turkey Sag Road Homestay, which had previously been slated on August 3 would be moved to this meeting, had now been moved to the September 7 agenda. She said this was not a formal amendment to the agenda since that item was never published, but because it had been referenced, she wanted to ensure that clarification was in the record. She said additionally, she said she would like to add, during Item 18. From the Board, to discuss approval from the Board for her to be able to send a letter on behalf of the Board to a local community member for a recent accomplishment.

Ms. Price asked if there were any amendments to the agenda by any Board member. Hearing none, she asked if there was a motion to approve the agenda.

Ms. Mallek **moved** to adopt the agenda as presented. Mr. Andrews **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

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

Ms. Mallek said Saturday, September 24, from 9 a.m. to 12 p.m., there would be an accessibility day at the Blue Ridge Tunnel, which meant that people who would find it difficult to walk it entirely but wanted to see it could have a tour by golf-cart. She said this was sponsored by the Blue Ridge Tunnel Foundation in Nelson County and information at BlueRidgeTunnel.org would be a way to send questions, or if any businesses wanted to sponsor the golf-cart rides, they could send that information to their email address.

Ms. McKeel said that seven western states in the US were facing a catastrophic water crisis. She said there was an urgency around their situation in Albemarle County because while they had reservoirs that were full right now, it could turn on a dime. She said many people had lived in this community and experienced the 2001 drought when they were close to closing the University of Virginia due to lack of water. She said that while they had plenty of water right now, it could change very quickly, and she would like for them to address the issue through their Climate Action Plan and specifically talk about the urgency and changes that they might need.

Ms. McKeel said for example, she would like to talk about building and ordinances around their codes; if they needed to start requiring codes for gray water usage in new buildings and homes. She said

there were things they could be doing right now and at least discussing moving them forward in a much more proactive way so that they were not caught short if, and when, these unfortunate situations happen to them. She said the only other thing she would say was that while the country was facing a catastrophic water crisis in the west, they may be the recipients of climate migration, which they should be preparing for as well.

Ms. McKeel said the Washington Post on Sunday had an informative article titled “Meltville” in which they built a fake metropolis to show how extreme heat could wreck cities, and she brought the hard copy. She said the electronic version was interactive and a great article to take a look at. She said it talked about transportation, power grid, and buildings, and as much as she thought she had informed herself about how climate change would affect their cities, this article was very informative, so she highly recommended it. She said the lead was Bonnie Berkowitz.

Ms. LaPisto-Kirtley said she knew there were a number of states and localities that used gray water for their golf courses, so that was something that, if it was not being done already, could definitely be done. She continued that tonight was the Albemarle County Police Department putt-putt night, where they went to putt-putt on Rio Road that was sponsored by the Police Foundation.

Mr. Andrews said that they received an email that the electronic waste collection, which was not until September 17 at the Ivy Waste MUC would start having online sign-ups as early as tomorrow, so people could visit [Rivanna.org/ewaste](http://Rivanna.org/ewaste) for disposing of electronic waste.

Ms. Price said that yesterday, County Executive Jeff Richardson and she had the great honor and privilege of participating in the Albemarle County Public Schools convocation at the Ting Pavilion, where every employee from the public schools in the County was gathered—around 2,700 people—and it was a fabulous way to start the year. She said there was a lot of excitement, great speakers, and stories related to education and making a difference every single day. She said it was a great event and her hat went off to Dr. Haas and the School Board for putting it together.

Ms. Price said last weekend she was in Harrisonburg as part of the Political Leaders Program (PLP) of the Sorenson Institute. She said what she would be discussing today dealt with industrial solar installation. She said while they were there, they were meeting with dairy cattle farmers, and two of them were members of the Augusta County Board of Supervisors. She said they pointed out something significant, which was that calling them solar farms was not a very good idea; they were industrial installations. She said Augusta County’s agriculture was substantially different in many ways from Albemarle County’s, but they did have agriculture here.

Ms. Price said she wrote a letter to Community Development with about eight different items that came up during their conversation, one of which was that soils were graded from 1 to 8, and they should not be looking primarily at grades 1 through 4 out of agricultural production, rather they should be looking at grades 5 through 8, because they would not really be productive from the soil in that respect, among other things. She said there was more to learn on that, and there was a proposal coming up, the Woodridge Solar Project, in Albemarle County, and there was a lot more they needed to know before making decisions on these.

Ms. Price said as a quick note for everyone, UVA students were moving in this weekend, beginning tomorrow, so it was wise to avoid the area around the Corner.

Ms. Price said that she wanted to echo Ms. McKeel’s comments concerning environmental planning, and gray water was a great idea. She said she grew up in Atlanta, and in the same year of the drought in Albemarle, Lake Sidney Lanier, northeast of Atlanta on the Chattahoochee River, was the largest manmade reservoir in the eastern United States, and the City of Atlanta, which currently had 8 million people in the metropolitan area, was one day away from running out of water. She said she was watching the rivers in Europe, which was going through a significant drought.

Ms. Price said she saw a photo this morning of what was formerly known as the Loire River was a dry ditch that went under a bunch of bridges; the Rhine was almost below navigable levels, the Danube was similarly constrained, and out west in the US was as Ms. McKeel mentioned. She said now was the time in Albemarle County for them to take environmental planning seriously, which meant things like requiring in building codes the use of gray water rather than fresh water, which they were literally flushing down the toilet. She said it also meant they should start taking into consideration lawns. She said out west in Las Vegas, they had removed all the greenery from medians. She said they needed to conserve water now and prepare for conservation now and not when the crisis hit.

Ms. Mallek said that starting tomorrow at the VACo summit in Roanoke, there were two programs on industrial solar, so she would get notes on that. She said also that the Rivanna River Basin Conference, which was on September 29, would focus on people from Virginia Department of Environmental Quality (DEQ) and several other state agencies about solar and the various aspects that they had to deal with.

Ms. Price asked Ms. Mallek if it was last year when the Mechums River was almost dry in some areas.

Ms. Mallek said the Moormans River, closer to the north, did get very low, especially when water was being taken out for the Ragged Mountain Reservoir.

Ms. LaPisto-Kirtley said she read an article regarding using paint on playgrounds and tops of buildings that reflected the heat and the infrared light, so it cooled down that whole area as much as almost 30 degrees. She said they were using it in Los Angeles to paint the playgrounds and parking lots to cool the area.

Ms. Price said that was important, as well as greenery. She said she noticed an eight-degree temperature change between downtown Charlottesville to her house in the woods, so they needed to do anything possible to reduce these heat islands.

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Agenda Item No. 6. Proclamations and Recognitions.

a. Proclamation Celebrating the Kiwanis Club of Charlottesville 100th Year of “Serving the Children of the World.”

**Proclamation Celebrating the Kiwanis Club of Charlottesville 100<sup>th</sup> Year of “Serving the Children of the World”**

**WHEREAS,** the Kiwanis Club of Charlottesville was founded in April, 1922 and is celebrating its 100<sup>th</sup> year of service as a pioneer in empowering community volunteers dedicated to tackling local and international community issues, especially those that affect young children and youth; and

**WHEREAS,** Kiwanis is perhaps best known for its service leadership programs, currently with Key Clubs at four local high schools, the Circle K International Club at the University of Virginia, and an Aktion Club at Innisfree Village where more than three hundred youth are members of these clubs; and

**WHEREAS,** the Kiwanis Club of Charlottesville is truly committed to serving the children and youth of the community through volunteer projects, civic engagement, fund-raising, and leadership development and Kiwanians and Kiwanis family leaders have been giants of service and leadership in this community for more than a third of the span of this community's history; and

**WHEREAS,** Kiwanis International was founded in Detroit, Michigan in 1915 and there are now over 200,000 adult Kiwanians and more than 325,000 Kiwanis Family members in 80 countries and geographic areas around the world serving on projects in conjunction with UNICEF working to eliminate Maternal and Neonatal Tetanus from the face of the earth and ridding the world of Iodine Deficiency Disorders, the leading preventable cause of intellectual disabilities worldwide.

**NOW, THEREFORE, BE IT PROCLAIMED,** that we, the Albemarle County Board of Supervisors, celebrate the Kiwanis Club of Charlottesville 100<sup>th</sup> year of “Serving the Children of the World”.

Signed this 17th day of August 2022.

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Ms. LaPisto-Kirtley **moved** to adopt the Proclamation Celebrating the Kiwanis Club of Charlottesville 100th Year of “Serving the Children of the World.”

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

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

Mr. Hart thanked the Chair and Supervisors for this honor on behalf of the 48 current members of Kiwanis and the more than 300 Kiwanis family members in the four key clubs in the high schools, Circle K at UVA and the Action Club at Ennis Free Village. He said they were all working under a banner that said “serving the children of the world,” and when they gathered on August 29 for their celebration at Club of Glenmore, the attendees would be thrilled when he brought this proclamation to them and read it to them. He thanked the Board for that and continued that the various parts of the proclamation as evidence of the impact of the hundreds of Kiwanians who showed their care, concern, and hard work toward the single goal of improving the community, especially helping children and youth in need.

Mr. Hart said today, these Kiwanians were standing on the shoulders and looking toward their second century of service was an idea he wanted to leave with the Board. He said they were standing on their shoulders and looking toward the second century so that they could do that same care, concern, and hard work for the aim of improving the community, especially the children and youth in need, wherever their needs were. He said they had another banner that they were flying and working with, a more modern banner that read “#kidsneedkiwanis.” He thanked the Board for taking this action and that they were proud to be in Albemarle County serving the children of the world for one hundred years and hoped to do so for one hundred years more.

Ms. Price asked if any Supervisors wished to make any comments.

Ms. Mallek thanked Mr. Hart for what he and his predecessors had done and what his successors would do because it brought value to the whole community. She said it was one example of how Albemarle was the way it was due to so many citizens who stepped up and did things.

Mr. Gallaway thanked Mr. Hart for being there and stated that it was an honor to vote yes for the proclamation. He said he was very appreciative of all the time, effort, and volunteers in their organization. He thanked Mr. Hart.

Ms. LaPisto-Kirtley said it was an honor to read the proclamation and that she looked forward to meeting Mr. Hart in person and seeing what she could do to help them all.

Mr. Andrews said having grown up as a part of a key club and playing in a Kiwanis park, he very much appreciated all that Kiwanians had done for them. He thanked Mr. Hart.

Ms. McKeel said she grew up in Staunton, where her father was a Kiwanian and past president of the Kiwanis Club in Staunton. She said she remembered many discussions around the dinner table about what the Kiwanians were doing in Staunton. She said she was thrilled to learn that their four local high schools had clubs. She said she did not know that even as a former School Board member. She said having been to Ennis Free a few times, it was good to know they had an action club.

Mr. Hart said that "Aktion" was spelled with a "k" for Kiwanis. He said it was a club specially designed for adults with disabilities and was unique as a wonderful opportunity for people who usually age out of services. He said they worked with the adult academy at the Virginia School of Autism through the Aktion Club as well, although the pandemic had made things difficult. He said the response from those people who would not normally have an opportunity to do the volunteer and civic work was resolved through the Aktion Club, and they were proud of the accomplishments they had completed. He said Albemarle, Monticello, Western, and Charlottesville High School had key clubs since 1948.

Ms. McKeel said she was thrilled Mr. Hart was there and thrilled they could pass the proclamation. She said she assumed the Kiwanis Club in Staunton was active.

Mr. Hart said Kiwanis baseball at the parks, also from the 1940s, was recognized as one of the most outstanding signature projects in the entire Kiwanis national organization at the national convention. He said they would be celebrating their hundredth anniversary in September with a golf tournament to support youth golf.

Ms. McKeel said she had some great pictures of Kiwanians from the 1950s and 1960s.

Mr. Hart said he was collecting memorabilia, and the giants of the community were all in there.

Ms. Price said that she and Mr. Hart had a great conversation before they convened. She said when she was reading about the Kiwanis, 1915 was when Kiwanis International was founded in Detroit, and 1918 was when they came to Virginia, and 1922 in Charlottesville. She said that reflected the significance of their Central Virginia location. She said she appreciated reading the history and the discussion of the challenges they had faced. She said one of the important points that Mr. Hart mentioned was that so many of these service organizations were founded during a time of crisis, during the 1910s and 1920s. She said they as a nation were in a time of crisis again and really needed their organization. She gave Mr. Hart the proclamation.

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

Mr. Peter Krebs, Piedmont Environmental Council (PEC), said he wanted to take this opportunity to congratulate the County, the staff, the Board, and the residents for the recently awarded, federally funded RAISE Grant to design a significant portion of the Three Notched Trail. He said the Three Notched Trail would eventually connect from Williamsburg to Richmond to Charlottesville to Afton to Waynesboro to Staunton with a ten-foot-wide, shared-use path that was appropriate for walkers and cyclists of all abilities. He said that this grant, which was prepared by County staff with significant support from numerous citizens' groups, would design the portion from Charlottesville to Crozet to the Blue Ridge Tunnel, which Supervisor Mallek just mentioned. He said it would be safe, gentle, and appropriate for all users of all ages. He said he thought it would be a game-changer for the County.

Mr. Krebs said this \$2 million grant would identify a route for the overall trip from Charlottesville to Afton and provide detailed designs for key segments of the route that might be independently useful in addition to being part of the whole route. He said one example might be connecting UVA to Boar's Head; part of a larger route but also a significant land portent piece of the mix. He said RAISE Grants were extremely competitive, and he would not say that their peers around the state were surprised, but there was quite a bit of elation. He said in addition to the excellent submission materials, he believed the fact it was Albemarle County played a significant role.

Mr. Krebs said, for example, in the letter of support he wrote for PEC, he talked about how this would allow somebody to ride their bike from Monticello to UVA to the tavern where the site was selected for UVA. He said this was great for them as locals and great for Virginia, but it was a national resource, which was why it had received national funding. He said he would also quickly point out that the County

was already working on a couple of key pieces of the Three Notched Trail. He said they had just approved the SMART SCALE grant for the Rivanna River Bridge, and the County was also working on the Old Mills Trail along the Rivanna River, where one could actually see traces of the Three Notched Trail. He thanked the Board and said it was just a great example of the quality work of staff support from elected officials as well as the citizens of the County.

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Ms. Laurel Davis said she was speaking on behalf of herself as well as many of her neighbors and people in the broader community who were adamantly opposed to the placement of the waste site on Esmont Road. She said the Comprehensive Plan, the Biodiversity Action Plan, and the healthy stream initiative, were intended to be guiding documents for those who were but temporary guardians of the County, and yet a plan was approved that was in direct opposition to all of them in numerous ways and on multiple levels. She said the first and most egregious was the placement of this huge trash center.

Ms. Davis said the Comprehensive Plan directed them to place industrial commercial enterprises only in the designated development areas, and page 7.2 stated that the County was directed to “retain rural area zoning on rural area designated land” and yet they rezoned this parcel so that they could place an industrial enterprise in a rural zone. She said page 4.3 said that natural resource protection was the County’s highest priority. She said page 4.15 said that protection of groundwater supply was best achieved through the protection of forests and avoiding impervious land cover, yet they approved a plan that raised and flattened acres of woodland and put down a huge slab of impervious asphalt.

Ms. Davis said page 4.13 said they were directed to “maintain the integrity of stream channels,” and on page 4.22 they were directed to “maintain and improve land cover near rivers and streams, yet they improved a plan that decimated a piece of woodland on which there was a spring and a stream not shown on the site plans that would certainly be, if not obliterated, polluted by this activity, and this on the heels of them pushing through the healthy stream initiative in response to the data that said that 69% of the County streams were impaired.

Ms. Davis said page 2.8 said that for centuries, laws had required owners to use their properties in ways that respected the needs of their neighbors, in return landowners ensure protection from actions that lead to a decline in the value of their investment, yet they approved a plan that would negatively impact the value of many residents’ sole asset: their homes. She said pages 4.19 to 2.1, page 7.17 were all about fragmentation of habitat. She said page 4.20 said an ongoing threat in Albemarle County was habitat fragmentation, yet they approved a plan that destroyed the connectivity of two large tracts of woodland on either side of Esmont Road.

Ms. Davis said page 4.18 directed them to help protect local and mutual air quality, yet they approved a plan that encouraged people to drive many miles for a single purpose, as well as bringing huge, polluting dumpster haulers up and down Route 20. She said in light of all of these reasons and many more she would cite if she had time, she would implore the Board to reconsider this plan.

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#### Agenda Item No. 8. Consent Agenda.

Ms. Mallek **moved** to approve the consent agenda as presented. Ms. McKeel **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

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#### Item No. 8.1. Approval of Minutes: December 16, 2020.

Mr. Gallaway had read the minutes of December 16, 2020 and found them to be in order.

**By the above-recorded vote, the Board approved the minutes of December 16, 2020.**

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#### Item No. 8.2. Set Public Hearing for Central Virginia Health Services WellAWARE Program Lease.

The Executive Summary forwarded to the Board states that in March 2018, the Board of Supervisors adopted a use framework for the B.F. Yancey Community Center (“Yancey Community Center”) located in Esmont. The use framework provides for public entities, such as Local Government, Community Agency Partners, and human service-oriented non-profits, to occupy space within the Community Center at no cost.

WellAWARE is a grant-funded, geographically-based community health worker program under the fiscal agency of Central Virginia Health Services (“CVHS”) that aims to help medically underserved communities overcome obstacles to good health and healthcare. CVHS has requested office space for its WellAWARE program at Yancey Community Center at no charge, to serve area residents more efficiently. A proposed lease (Attachment A) would provide a single secured classroom for the program’s use. Program Details regarding this request as well as the Mission and Vision of this program are attached (Attachment B).

Yancey Community Center already has several tenants that provide home-based services to the Southern Albemarle Community. A single classroom in the Yancey Community Center would provide the needed space for two WellAWARE staff members.

Under the proposed lease, the County would forego rent for this improved space. No additional expenditures or revenues are projected.

Staff recommends that the Board authorize advertising a public hearing to consider a proposed lease of Yancey Community Center space to Central Virginia Health Services.

**By the above-recorded vote, the Board authorized the clerk to schedule a public hearing to consider a proposed lease of Yancey Community Center space to Central Virginia Health Services.**

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Item No. 8.3. Transit Shelter Agreement - Northside Library.

The Executive Summary forwarded to the Board states that portions of Albemarle County are served by Charlottesville Area Transit (CAT), a department of the City of Charlottesville. The County has agreed to pay CAT for the transit service provided to the County. CAT is responsible for the maintenance and/or improvement of all transit stops within the County.

Although shelters and benches are a desired amenity for many and a necessity for transit users with disabilities, few transit stops within the County have transit shelters or benches. County staff is working with CAT staff to identify and prioritize transit stops and to install transit shelters and benches. Factors considered in the identification and prioritization process are ridership rates at each transit stop and the right-of-way/physical constraints at the site.

Northside Library has been identified by County and City staff as a location where a transit shelter and bench can be immediately installed. Though no transit stop currently exists at the Northside Library, CAT would relocate the existing transit stop southeast of Northside Library (stop ID 13306) to the northwest corner of the County-owned Northside Library parcel. See Attachment A for the exact location of the proposed transit shelter. The existing transit stop has neither a shelter nor a bench.

Jefferson-Madison Regional Library (JMRL) leases the Northside Library parcel from Albemarle County. JMRL staff is in full support of relocating the existing transit stop and installing a transit shelter and bench to better serve their patrons (see Attachment B).

Because the Northside Library parcel is owned by the County, any agreement to allow the City of Charlottesville to construct and maintain a transit shelter on County-owned property requires County approval.

There is no foreseeable budget impact for the proposed Agreement. The City of Charlottesville would be responsible for the cost of construction and maintenance of the transit shelter.

Staff recommends that the Board adopt the attached Resolution (Attachment D) authorizing the County Executive to sign a proposed License Agreement and any related documents on behalf of the County, once approved as to substance and form by the County Attorney.

**By the above-recorded vote, the Board adopted the resolution (Attachment D) authorizing the County Executive to sign a proposed License Agreement and any related documents on behalf of the County, once approved as to substance and form by the County Attorney:**

**RESOLUTION TO APPROVE A TRANSIT SHELTER AGREEMENT  
ON THE NORTHSIDE LIBRARY PROPERTY**

**WHEREAS**, shelters and benches are a desired and at times necessary amenity for transit users of all ages and abilities; and

**WHEREAS**, no transit shelter or bench currently serves the transit stop near the Northside Library; and

**WHEREAS**, leadership of the Jefferson Madison Regional Library (JMRL), which leases Northside Library from the County, has expressed support for a transit shelter at the Library; and

**WHEREAS**, the Board finds it is in the best interest of the County to enter into an agreement authorizing Charlottesville Area Transit to construct and maintain a transit shelter on the County-owned Northside Library property.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to execute an agreement and any related document(s) authorizing Charlottesville Area Transit to construct and maintain a transit shelter on County-owned Northside Library property, once such documents are approved as to substance and form by the County Attorney.

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**This agreement was not signed and executed.**

**TRANSIT STOP LICENSE AGREEMENT**

This TRANSIT STOP LICENSE AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Charlottesville, a Virginia Municipal Corporation (hereinafter referred to as the "City"), and the County of Albemarle, a political subdivision of the Commonwealth of Virginia (hereinafter referred to as the "County").

**WITNESSETH:**

**WHEREAS** the County owns the Real Property located at 705 Rio Road West, Charlottesville, Virginia; and

**WHEREAS** the County is willing to grant the City permission to establish a transit stop within that portion of the Real Property shown on Exhibit A (the "Licensed Premises") in order to provide transit services for the purpose of origin-to-destination transit for the residents of Charlottesville and Albemarle County providing public transportation access through a fixed bus service route; and

**NOW, THEREFORE,** for and in consideration of the sum of \_\_\_\_\_ DOLLARS (\$) and other good and valuable considerations and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the County does hereby grant unto the City a License to use and occupy the Licensed Premises subject to the provisions set forth herein:

1. The County hereby allows and conveys to the City on a non-exclusive basis the use of its Licensed Premises for the sole purpose of operating a transit stop and transit services at a location more specifically located on Exhibit A, incorporated herein by reference.
2. The initial term of the agreement will be one (1) year but may be renewed at the option of the City for additional periods of two (2) years upon written extension between the County and the City.
3. Except in emergencies, the City will give one (1) days advance notice of any maintenance or construction work being performed within the Licensed Premises to the County at the address of record specified herein in paragraph 16.
4. Based on appropriated funding, the City will provide and install a bus shelter with bench, bus stop signage, and bus stop amenities as warranted, on a concrete shelter pad sized to accommodate the bus shelter and amenities. The City will also provide and install a concrete pad (3ft x 4ft) (with the 4ft dimension parallel and next to the width of the shelter pad) to serve as a base for an artwork installation.

5. Artwork will be stationed on the 3ft x 4ft concrete base pad in a manner that does not hinder or block accessways, route of travel, and otherwise limit handicap accessibility. Artwork will not be attached to the bus shelter. The City will not own the artwork nor be responsible for installation. The City will be responsible for maintenance and upkeep exclusively of the transit stop. The City will not be responsible for repair and/or removal of artwork due to vandalism, graffiti, or other damage.
6. The City is responsible for all advertisement on bus shelters. The City is not an insurer of customers' safety after they exit the bus on the Licensed Premises, subject, however, to paragraph 12 herein.
7. The City is not responsible for clearing the parking lot after inclement weather, subject, however, to paragraph 12 herein.
8. Either party may cancel this Agreement upon thirty (30) days written notice to the other party.
9. Nothing in this Agreement obligates the City to expend any funds in excess of funds already appropriated for installation and maintenance of the proposed stop, provided such funds are adequate for such installation and maintenance.
10. The City will at all times comply with the rules and posted speed limits throughout the Licensed Premises. The City also will provide proof of vehicle liability insurance for all vehicles entering the Licensed Premises as well as all other insurance required pursuant to Exhibit B attached hereto and incorporated herein by reference.
11. The County must be named as an additional insured on a primary and non-contributory basis on the general liability policy and umbrella policy. A copy of said insurance certificate will be made available upon request. A waiver of subrogation will also be required.
12. To the extent permitted by the laws of the Commonwealth of Virginia and without waiver to any claims the City may have to sovereign immunity, the City will indemnify and hold harmless the County, its employees and designated representatives, from any and all claims, suits, actions, liabilities and costs of any kind, caused by the City's negligence as it relates specifically to this Agreement, including any accidents, personal injuries and/or death resulting from the City's customers getting on and off of the City's vehicles at the Licensed Premises.
13. The City will at all times conduct its activities on, and with respect to, the Licensed Premises in such manner as not to conflict or interfere with the County's use of the Licensed Premises or any other property of the County or other interest by the County, its successors, assigns or licensees.



14. The City may not assign, grant by license, permit, or otherwise convey to any other party any rights, privileges, or encroachments of any nature in, on, or with respect to the Licensed Premises without the prior written consent of the County. The obligations, requirements and rights described to which the City is subject under this Agreement will be binding upon and inure to the benefit of the successors and assigns of the City. No assignment will be effective until the assignee notifies the County in writing of its acceptance of the obligations and requirements of the City under this License Agreement. The obligations and requirements to which the City is subject under this License Agreement will be binding upon the successors and assigns of the City.

15. All notices, requests, demands and other communications required or permitted to be given hereunder will be deemed to have been duly given if in writing and delivered personally, or mailed first class, postage prepaid, registered, or certified mail, as follows:

If to the City:  
City of Charlottesville Transit Department  
Attn: Juwhan Lee  
1545 Avon Street Extended  
Charlottesville, VA 22902

If to the County:  
Albemarle County Executive  
401 McIntire Road  
Charlottesville, Virginia 22902

16. In the case of any change of such mailing address, the party so changing a mailing address will give notice thereof to the other party in the manner hereinabove provided. In the absence of any such notice, notice mailed in accordance with the foregoing section will be deemed sufficiently given and served for all purposes.

17. This License Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous negotiations, covenants, representations, agreements, and understandings of the parties hereto relating to the subject matter hereof.

18. This License Agreement may be amended, modified, superseded, or canceled, and any of the terms, covenants, representations, or conditions hereof may be waived, only by a written instrument executed by the parties, or, in the case of a waiver, by or on behalf of the party waiving compliance. The failure of any party at any time or times to require performance of any provisions hereof will in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition, or of any breach of any term, covenant or representation contained in this License Agreement, in any one or more instances, will be deemed to be, or construed as, a further or continuing waiver of any such condition or breach or a

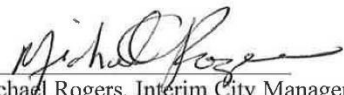
waiver of any other condition or of breach of any other term, covenant, or representation.

19. If any one or more of the terms, provisions, covenants, or conditions of this License Agreement be held to be void, invalid, illegal, or unenforceable in any respect, the same will not affect any other term, provision, covenant, or condition contained herein.
20. In exercising the rights granted by, and undertaking activity pursuant to this License Agreement, the City will act in accordance with the laws of the Commonwealth of Virginia and will be subject to the jurisdiction of the Courts located within the City of Charlottesville.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

CITY OF CHARLOTTESVILLE

Date: 5/12/22

By   
Michael Rogers, Interim City Manager

COUNTY OF ALBEMARLE

Date: \_\_\_\_\_

By \_\_\_\_\_  
Jeffrey B. Richardson, County Executive

- (i) that the nature of the home occupation would require storage or additional space within the dwelling unit to conduct the home occupation;
- (ii) that the primary use of the dwelling unit as a residence would be maintained; and
- (iii) that the special exception would not change the character of the neighboring agricultural area or the residential neighborhood.



**NOW, THEREFORE, BE IT RESOLVED**, that in association with the 3618 Rolling Road (Division Lane Inc.) Home Occupation, the Albemarle County Board of Supervisors hereby approves the special exception to modify maximum allowable area for the home occupation from 1500 square feet to 3370 square feet for a Home Occupation in the Rural Areas zoning district, subject to the conditions attached hereto.

\* \* \*

**SE2022-00024 - 3618 Rolling Road (Division Lane Inc.) Home Occupation  
Special Exception Conditions**

1. The maximum area allowed for this home occupation is 2100 square feet.
2. The home occupation must be located in the existing barn (3618 Rolling Road) as indicated on the property layout (Attachment D) dated June 27, 2022.

June 27, 2022

**Attachment D**

**Property lines Property Layout**



Item No. 8.5 Amend Rule 8 of the Board's Rules of Procedure.

The Executive Summary forwarded to the Board states that during the COVID-19 pandemic, the

Board's Rules of Procedure ("Rules") were amended several times to accommodate virtual meetings, and then hybrid meetings, which is the current meeting posture that began with the Board's April 6 meeting. Effective September 1, 2022, the Freedom of Information Act, specifically Virginia Code § 2.2-3708.3, will impose new requirements and limitations for public body virtual meetings and remote participation in meetings by individual public body members. Accordingly, the proposed amendments to Rule 8 of the Board's Rules of procedure are legally required.

The proposed amended Rules (Attachment A) would omit any mention of virtual or hybrid meeting throughout the Rules of Procedure and amend Rule 8 to align with Virginia Code § 2.2-3708.3, as amended in the 2022 session of the General Assembly by HB444.

Following the Board's review of the draft Rules presented August 3, staff made three additional revisions to the attached draft Rules:

1. Rule 1(E) -- Deleted the definition of "hybrid meeting," as that term is no longer used in the rest of the Rules.
2. Rule 1(E) -- Added a definition of "remote participation," to clarify that any remote participation requires that a quorum be physically assembled.
3. Rule 8(B)(4) -- Restored the Board's existing rule regarding the audibility of absent Supervisors participating remotely. Though this provision is no longer required by state law, there was interest in continuing this local specification.

There is no budget impact associated with this action.

Staff recommends the Board adopt the draft amended Rules of Procedure (Attachment A).

**By the above-recorded vote, the Board adopted the draft amended Rules of Procedure as presented in Attachment A:**

**Albemarle County  
Board of Supervisors**

**Rules of Procedure  
Effective September 1, 2022**

**Rules of Procedure  
of the  
Albemarle County Board of Supervisors**

**1. Introduction**

- A. Purpose.** The purpose of these Rules of Procedure (the “Rules”) is to facilitate the timely, efficient, and orderly conduct of public meetings and decision-making, and they are designed and adopted for the benefit and convenience of the Albemarle County Board of Supervisors (the “Board”).
- B. Rules Do Not Create Substantive Rights in Others.** The Rules do not create substantive rights in third parties or participants in matters before the Board.
- C. Compliance with These Rules.** The Rules that are parliamentary in nature are procedural, and not jurisdictional, and the failure of the Board to strictly comply with them does not invalidate any action of the Board. The Rules that implement the requirements of state law are jurisdictional only to the extent that Virginia law makes them so.
- D. Applicability.** These Rules apply to all meetings of the Board, as those meetings are defined in these Rules.
- E. Definitions.** The following definitions apply to the administration of these Rules:
  - 1. Present.** A person is “present” at a meeting when physically attending on the date, and at the time and place, identified for the meeting, or is connected to the meeting by electronic communication means.
  - 2. Remote Participation.** “Remote participation” means participation by an individual member of the Board by electronic communication means in a public meeting where a quorum of the Board is otherwise physically assembled.

**2. Supervisors**

- A. Equal Status.** Except for the additional responsibilities of the Chair provided in Rule 3(A), all Supervisors have equal rights, responsibilities, and authority.
- B. Decorum.** Each Supervisor will act in a collegial manner and will cooperate and assist in preserving the decorum and order of the meetings.

**3. Officers and Their Terms of Office**

- A. Chair.** When present, the Chair presides at all Board meetings during the year for which elected. The Chair has a vote but no veto. The Chair also is the head official for all of the Board’s official functions and for ceremonial purposes. (Virginia Code §§ 15.2-1422 and 15.2-1423)
- B. Vice-Chair.** If the Chair is absent from a Board meeting, the Vice-Chair, if present, presides at the meeting. The Vice-Chair also discharges the duties of the Chair during the Chair’s absence or disability. (Virginia Code § 15.2-1422)
- C. Acting Chair in Absence of Chair and Vice-Chair.** If the Chair and Vice Chair are absent from any meeting, a present Supervisor must be chosen to act as Chair.
- D. Term of Office.** The Chair and Vice-Chair shall each be elected to serve for a term of one calendar year, but either or both may be re-elected for one or more additional terms. Such officers shall serve until their successors have been elected and qualify. (Virginia Code § 15.2-1422)
- E. References to the Chair.** All references in these Rules to the *Chair* include the Vice-Chair or any other Supervisor when the Vice-Chair or any other Supervisor is acting as the Chair.

**4. Meetings**

- A. Annual Meeting.** The *Annual Meeting* is the first meeting in January held after the newly elected Supervisors qualify for the office by taking the oath and meeting any other requirements of State law, and the first meeting held in January of each succeeding year. At the Annual Meeting, the Board:
  - 1. Elect Officers.** Elects a Chair and a Vice-Chair.
  - 2. Designate Clerks.** Designates a Clerk of the Board (“Clerk”) and one or more Deputy Clerks who serve at the pleasure of the Board, and who have the duties stated in Virginia Code §

15.2-1539 and any additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code § 15.2-1416)

3. **Establish Schedule for Regular Meetings.** Establishes the days, time, and place of regular meetings. (Virginia Code § 15.2-1416)
4. **Adopt Rules and Policies.** Adopts Rules of Procedure and Policies that will apply in the calendar year, subject to amendment under Rule 12.
- B. **Regular Meetings.** *Regular Meetings* are those meetings established at the *Annual Meeting* to occur on specified days and at specified times and places, with instructions for how the public may connect to the meeting by electronic communication means.
  1. **Regular Meeting Falling on a Holiday.** If any day established as a Regular Meeting day falls on a legal holiday, the meeting scheduled for that day will be held on the next regular business day without action of any kind by the Board. (Virginia Code § 15.2-1416)
  2. **Adjourning a Regular Meeting.** Without further public notice, the Board may adjourn a Regular Meeting from day to day, from time to time, or from place to place, but not beyond the time fixed for the next Regular Meeting, until the business of the Board is complete. (Virginia Code § 15.2-1416) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).
  3. **Continuing a Regular Meeting When Weather or Other Conditions Create a Hazard.** If the Chair finds and declares that weather or other conditions are hazardous for Supervisors to physically attend a Regular Meeting, prevent one or more Supervisors from being present at a meeting, or prevent a reasonably significant portion of the public from being present at a meeting considering, among other things, the items on the agenda, the meeting must be continued to the next Wednesday (one week after the date of the continued Regular Meeting). The Chair's finding, and the continuation of the meeting, must be communicated by the Chair or the Clerk to the other Supervisors and to the general news media as promptly as possible. All hearings and other matters previously advertised will be conducted at the continued meeting and no further advertisement is required. (Virginia Code § 15.2-1416)
  4. **Establishing a Different Day, Time, Place, and Instructions.** After the Annual Meeting, the Board may establish for Regular Meetings different days, times, places, and instructions for how the public may connect to the meeting by electronic communication means by adopting a resolution to that effect. (Virginia Code § 15.2-1416)
- C. **Special Meetings.** A *Special Meeting* is a meeting that is not a Regular Meeting. The Board may hold Special Meetings as it deems necessary at times and places that it deems convenient. (Virginia Code § 15.2-1417)
  1. **Calling and Requesting a Special Meeting.** A Special Meeting may be called by the Chair or requested by two or more Supervisors. The call or request must be made to the Clerk and shall specify the matters to be considered at the meeting. (Virginia Code § 15.2-1418)
  2. **Duty of Clerk to Provide Notice; When Notice May Be Waived.** Upon receipt of a call or request, the Clerk, after consultation with the Chair, must immediately notify each Supervisor, the County Executive, and the County Attorney about the Special Meeting. The notice must be in writing and be delivered to each Supervisor, the County Executive, and the County Attorney at their place of residence or business. Notice will be provided by email to each Supervisor's County email address. The notice may be waived if all Supervisors are present at the Special Meeting or if all Supervisors sign a waiver of the notice. (Virginia Code § 15.2-1418) An email from the Supervisor to the Clerk waiving notice satisfies this requirement. The Clerk must also notify the general news media about the Special Meeting.
  3. **Contents of the Notice Provided by the Clerk.** The notice provided by the Clerk must state the date, time, and place (if applicable) of the meeting, provide instructions for how the public may connect to the meeting by electronic communication means, and specify the matters to be considered.
  4. **Matters That May Be Considered.** Only those matters specified in the notice may be considered at a Special Meeting unless all Supervisors are present. (Virginia Code § 15.2-1418)
  5. **Adjourning a Special Meeting.** A Special Meeting may be adjourned from time to time as the Board finds necessary and convenient to complete the business of those matters identified in the notice of the Special Meeting. (Virginia Code § 15.2-1417) If a quorum was not established or was lost during the meeting, the Supervisors present may only adjourn the meeting (See also Rules 7(B), (C), and (D)).

5. **Order of Business for Regular Meetings**

- A. **Establishing the Agenda.** The Clerk must establish the agenda for all Regular Meetings in consultation with the County Executive and the Chair. The County Executive and the Clerk will



then review the agenda with the Chair and the Vice Chair before the meeting. The Clerk sets the order of business as provided in Rule 5(B), provided that the Clerk may modify the order of business to facilitate the business of the Board. The draft agenda must be provided to the Board at least six days before the Regular Meeting date.

1. **Resolutions or Proclamations Proposed by Supervisors.** Resolutions or proclamations may be proposed by a Supervisor requesting the Board to take a position on an issue of importance to the Board, to make a proclamation, or to recognize a person.
  - a. **Initial Notice by Supervisor.** A Supervisor requesting the Board to adopt a resolution or proclamation should give notice of the intent to request action on the resolution or proclamation on a specified meeting date and submit a draft of the proposed resolution or proclamation.
  - b. **When Request Must be Made.** The request must be made at least seven days before the meeting at which the resolution or proclamation may be considered.
  - c. **Distributing the Draft Resolution or Proclamation to Supervisors for Comments.** The Clerk will distribute the draft resolution or proclamation with background information, if available, to all Supervisors. Any Supervisor may submit proposed changes to the proposed resolution or proclamation to the Clerk in a redline format. The Clerk must forward all comments received from any Supervisor to the Board.
  - d. **Preparing the Resolution or Proclamation.** The Supervisor requesting the resolution or proclamation will then coordinate with the Clerk to prepare a resolution or proclamation for consideration by the Board.
  - e. **Adding the Resolution or Proclamation to the Agenda.** The Clerk then polls the Supervisors to determine if a majority of the Supervisors supports adding the resolution or the proclamation to the agenda for consideration. Subject to the following, if a majority of the Supervisors indicates support for considering the resolution or proclamation, the resolution or proclamation will be added to the proposed final agenda:
    - i. **Unanimous Support for Resolution or Proclamation.** If all Supervisors indicate support for the resolution or proclamation, the resolution or proclamation may be placed on the proposed consent agenda unless any Supervisor requests otherwise.
    - ii. **No Recipient of Resolution or Proclamation.** If no person has been identified to receive the resolution or proclamation at the meeting of the Board during which the resolution or proclamation will be considered, the resolution or proclamation shall be placed on the consent agenda unless any Supervisor requests otherwise.
  - f. **Proclamations and Recognitions Proposed by Residents.** Proclamations and recognitions proposed by residents are subject to Rule 5(A)(3).
2. **Items Other Than Resolutions and Proclamations Proposed To Be Added to the Clerk's Draft Agenda.**
  - a. **By Supervisors.** Any Supervisor may propose to add items, other than resolutions and proclamations subject to Rule 5(A)(1), to the Clerk's draft agenda for action if notice of that item has been given in writing or by email to all Supervisors, the Clerk, and the County Executive by 5:00 p.m. two days before the date of the meeting or upon the unanimous consent of all Supervisors present at the meeting. Any item that has been timely proposed and properly noticed will be added to the end of the agenda for discussion or action unless a majority of the Supervisors present agrees to consider the item earlier on the agenda.
  - b. **By the County Executive.** The County Executive may add items to the Clerk's draft agenda for action by 5:00 p.m. two days before the date of the meeting if the item requires consideration and action by the Board at its next meeting. In an emergency, the County Executive may add an item at any time with the consent of the Chair and the Vice Chair. In order to add an item to the agenda, the County Executive must provide information about the item to all Supervisors as soon as practicable and prior to the meeting.
3. **Proclamations and Recognitions Proposed by Residents.** A request by a resident to place a proclamation or recognition on the agenda, whether directed to the Clerk or a member of the Board, must be made as follows:
  - a. **When Request Must be Made.** The request must be made at least four weeks in advance of the Board meeting date.
  - b. **Request Made to the Clerk.** The resident must submit the request to advance a proclamation or recognition to the Clerk. If the request is made to a Supervisor, the person making the request will be directed to make the request to the Clerk. The Clerk will advise the person making the request of the process and submittal requirements.



- c. **Review of the Request for Completeness and Distribution.** Upon submittal of the request, the Clerk will review the submittal for completeness and forward it to the Supervisors for review.
- g. **Adding the Proclamation or Recognition to the Agenda; Informing the Requester.** The Clerk shall poll Supervisors to determine whether a majority of the Supervisors supports adding the proclamation or recognition to the agenda. The Clerk will advise the person requesting the proclamation or recognition whether the proclamation or recognition will be considered by the Board.
  - i. **Unanimous Support for Proclamation or Recognition.** If all Supervisors indicate support for the proclamation or recognition, the proclamation or recognition may be placed on the proposed consent agenda unless any Supervisor requests otherwise.
  - ii. **No Recipient of Proclamation or Recognition.** If no person has been identified to receive the proclamation or recognition at the meeting of the Board during which the proclamation or recognition will be considered, the resolution or proclamation shall be placed on the consent agenda unless any Supervisor requests otherwise.
- 4. **Public Hearings for Zoning Map Amendments; Prerequisites.** Public hearings for zoning map amendments are subject to the following rules in order for the item to be placed on the agenda and heard by the Board:
  - a. **Public Hearing May Not Be Advertised Until Final Documents Are Received.** A public hearing for a zoning map amendment may not be advertised until all final documents for a zoning application have been received by the County and are available for public review. To satisfy this preference, applicants should provide final plans, final codes of development, final proffers, and any other documents deemed necessary by the Director of Community Development to the County so that they are received no later than two business days before the County's deadline for submitting the public hearing advertisement to the newspaper. Staff will advise applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks' advance notice of the deadline.
  - b. **Effect of Failure to Timely Receive Final Documents.** If the County does not timely receive the required final documents, the public hearing must not be advertised and the matter shall not be placed on the agenda. If the matter is not advertised, a new public hearing date will be scheduled.
  - c. **Receipt of Final Signed Proffers.** Final signed proffers must be received by the County no later than nine calendar days before the date of the advertised public hearing. This Rule is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Supervisors at the public hearing.
- 5. **Public Hearings; Zoning Map Amendments; Deferral at Applicant's Request.** Zoning map amendments advertised for public hearing must be on the agenda for public hearing on the advertised date, provided that an applicant may request a deferral as provided in County Code § 18-33.11.
- B. **Order of Business at Regular Meetings.** At Regular Meetings of the Board, the order of business will be generally as follows:
  - 1. Call to Order.
  - 2. Pledge of Allegiance.
  - 3. Moment of Silence.
  - 4. Adoption of the Final Agenda.
  - 5. Brief Announcements by Supervisors.
  - 6. Proclamations and Recognitions.
  - 7. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.
  - 8. Consent Agenda.
  - 9. General Business.
  - 10. Closed Meeting.
  - 11. Certify Closed Meeting.
  - 12. Actions Resulting from Closed Meeting.
  - 13. From the County Executive: Report on Matters Not Listed on the Agenda.
  - 14. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.
  - 15. General Business, Including Public Hearings.
  - 16. From the Board: Committee Reports and Matters Not Listed on the Agenda.
  - 17. Adjourn.
- C. **Closed Meetings.** A *Closed Meeting* is a meeting of the Supervisors that is not open to the public when authorized by the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*). A Closed Meeting may be held at any point on the agenda, as necessary. Generally, a Closed

Meeting will be scheduled either at the midpoint of the agenda or at the end of the agenda prior to adjournment. The Clerk must promptly post and make available for public inspection the motion to convene a Closed Meeting after it is distributed by the County Attorney; provided that: (i) the contents of the motion may be subject to change without further posting or availability; and (ii) the failure of the Clerk to comply with this subsection does not affect the legality of the Closed Meeting.

**6. Rules Applicable to the Items of Business on the Agenda**

- A. Adoption of the Final Agenda.** *Adoption of the Final Agenda* is the first order of business for a Regular Meeting of the Board. The Board may modify the order of business as part of its adoption of the Final Agenda. The Final Agenda must be adopted by a majority vote of the Supervisors present and voting. No item for action not included on the Final Agenda may be considered at that meeting. Notwithstanding the foregoing, any changes to the Consent Agenda, including removing an item from the Consent Agenda for discussion and separate action, should be made when the Consent Agenda is considered in accordance with Rule 6(E)(3).
- B. Brief Announcements by Supervisors.** *Brief Announcements by Supervisors* are announcements of special events or other items of interest that are not considered committee reports and are not otherwise on the meeting agenda.
- C. Proclamations and Recognitions.** *Proclamations* are ceremonial documents or recognitions adopted by the Board to draw public awareness to a day, week, or month to recognize events, arts and cultural celebrations, or special occasions. *Recognitions* are ceremonial acknowledgements by the Board of a person for service or achievement.
- D. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.** *From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board* ("Matters from the Public") allows any member of the public to speak on any topic of public interest that is not on the Final Agenda for a public hearing at that meeting, any matter that was previously considered by the Board, and any matter pending before the Board that is not on that day's Board agenda. The following rules apply:
- 1. Number of Speakers.** Up to 10 persons, whether appearing in-person or by electronic communication means, may speak during each Matters from the Public session. The 10 speakers are determined on a first-come, first-served basis, with those persons signing up to speak before the meeting having priority. Only those persons signed up to speak before the Chair or presiding officer opens the Matters from the Public item shall be heard.
  - 2. Time.** Each speaker may speak for up to three minutes. Time may not be shared with another speaker.
  - 3. Place.** Each speaker may speak using electronic communication means or, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
  - 4. Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker may speak at only one Matters from the Public session at each meeting, must address only the Board, and must not engage in speech or other behavior that actually disrupts the meeting. The speaker may include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the Matters from the Public session at which the speaker plans to speak.
- E. Consent Agenda.** The *Consent Agenda* is for items for action that do not require discussion or comment and are anticipated to have the unanimous approval of the Board, and for items provided for the Board's information.
- 1. Questions to Staff.** Supervisors should ask the County Executive or the staff member identified in the executive summary any questions regarding a Consent Agenda item before the Board meeting.
  - 2. Discussion and Comment.** There should be either no discussion or comment or only a brief discussion or comment on Consent Agenda items at the meeting except as provided in Rule 6(E)(3).
  - 3. Removing an Item from the Consent Agenda.** Any Supervisor may remove an item from the Consent Agenda at the time the Consent Agenda is being considered for adoption. Any item removed from the Consent Agenda should be moved to a specific time or to the end of the meeting agenda for further discussion or action. However, an item removed from the Consent Agenda requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda, if necessary. A Supervisor who intends to remove an item from the Consent Agenda will endeavor to notify the Clerk of the Supervisor's intention at least two days prior to the Regular Meeting date.

4. **Effect of Approval of the Consent Agenda.** A successful motion to approve the Consent Agenda approves those Consent Agenda items identified for action and accepts Consent Agenda items identified for information.
- F. **General Business.** *General Business* includes public hearings, work sessions, appointments, and other actions, discussions, and presentations.
1. **Public Hearings.** The Board may not decide any item before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the public hearing or consideration of the item. The procedures for receiving a presentation from the applicant and comments from members of the public are at the discretion of the Board provided that they satisfy all minimum legal requirements. However, unless otherwise decided by a majority of the Supervisors present during a particular public hearing, the following rules apply:
    - a. **Time.** The applicant is permitted up to 10 minutes to present its application; provided, when as a matter of convenience the Board determines to combine related public hearings, the applicant is permitted an additional five minutes for each additional application, with the total time to be managed by the applicant, in the applicant's discretion, to present all applications. Following the applicant's presentation, any member of the public is permitted to speak once for up to three minutes on the item; provided, when the Board combines related public hearings, a member of the public is permitted an additional one and one-half minutes for each additional application. Time may not be shared with another member of the public. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation; provided, when the Board combines related public hearings, the applicant is permitted an additional two and one-half minutes for each additional application.
    - b. **Place.** The applicant and each member of the public presenting and speaking may speak using electronic communication means or, if the speaker physically attends the meeting, must speak from the podium or other location provided for the meeting.
    - c. **Manner.** In order to allow the Board to efficiently and effectively conduct its business, each speaker must address only the Board, speak to issues that are relevant to the item for which the public hearing is being held, and not engage in speech or other behavior that actually disrupts the meeting. The applicant and its representatives may include a visual or audio presentation. Any other speaker may also include a visual or audio presentation, provided that the presentation is received by the Clerk at least 48 hours before the time scheduled for the public hearing.
  2. **Public Hearings; Zoning Map Amendments; Applicant's Documents Not Available During Advertisement Period.** If the public hearing is held without the applicant's final documents being available for review throughout the advertisement period because substantial revisions or amendments are made to the submitted documents after the public hearing has been advertised, or for any other reason, it is the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application. In deciding whether to defer action or to deny the application, the Board must consider whether deferral or denial would be in the public interest or would forward the purposes of this policy.
  3. **Action Items on Deferred Matters Not Listed on the Agenda for Public Hearing When Public Hearing Previously Held.** On any matter before the Board for action that is not listed on the agenda for public hearing and was previously deferred after the close of a public hearing, the following rules apply:
    - a. **Time.** The applicant is permitted up to seven minutes to present its application; provided, when as a matter of convenience the Board determines to combine related action items, the applicant is permitted an additional three minutes for each additional application, with the total time to be managed by the applicant, in the applicant's discretion, to present all applications. Following the applicant's presentation, any member of the public is permitted to speak once for up to two minutes on the item; provided, when the Board combines related action items, a member of the public is permitted an additional one and one-half minutes for each additional application. Time may not be shared with another member of the public. Following comments by members of the public, the applicant is permitted up to five minutes for a rebuttal presentation; provided, when the Board combines related action items, the applicant is permitted an additional two and one-half minutes for each additional application.
    - b. **Place and Manner.** The place and manner rules in Rule 6(F)(1)(b) and (c) apply.
- G. **Report from the County Executive.** The *Report from the County Executive* is a report on matters that the County Executive deems should be brought to the Board's attention and provide updates, if necessary, to the monthly County Executive's Report.
- H. **From the Board: Committee Reports and Matters Not Listed on the Agenda.** *From the Board: Committee Reports and Matters Not Listed on the Agenda* is limited to matters that are not

substantial enough to be considered as agenda items to be added to the Final Agenda. Reports include routine committee reports and information updates by Supervisors. Any matters discussed during this part of the agenda may not be acted upon by the Board at that meeting.

## **7. Quorum**

- A. Establishing a Quorum.** A quorum for any meeting of the Board is a majority of the members of the Board present, except as provided in Rule 7(B)(2). (Virginia Code § 15.2-1415)
- B. Quorum Required to Act; Exceptions.** The Board may take valid actions only if a quorum is present. (Virginia Code § 15.2-1415) There are two exceptions:
  - 1. Quorum Not Established; Adjournment.** If a quorum is not established, the only action the Supervisors present may take is to adjourn the meeting.
  - 2. Quorum Not Established or Lost Because of a Conflict of Interests; Special Rule.** If a quorum cannot be established or is lost because one or more Supervisors are disqualified from participating in an item because of a conflict of interests under the State and Local Government Conflict of Interests Act (Virginia Code § 2.2-3100 *et seq.*), the remaining Supervisors are a quorum, and they may conduct the business of the Board.
- C. Loss of Quorum During Meeting.** If a quorum was established but during a meeting the quorum is lost, the only action the Supervisors present may take is to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code § 15.2-1415)
- D. Quorum Required to Adjourn Meeting to Future Day and Time.** A majority of the Supervisors present at the time and place established for any regular or special meeting is a quorum for the purpose of adjourning the meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

## **8. Remote Participation**

### **A. Applicability of Policy.**

- 1. Purposes.** Pursuant to Virginia Code § 2.2-3708.3, the following policy (a) describes the circumstances under which remote participation will be allowed and the process the Board will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and (b) fixes the number of times remote participation for personal matters can be used per calendar year, not to exceed the limitations set forth in Virginia Code § 2.2-3708.3(B)(4).
- 2. Application.** This policy will be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the Supervisor(s) requesting remote participation or the matters that will be considered or voted on at the meeting.
- 3. Adoption on Behalf of Other County Entities.** This policy is also adopted on behalf of any committee, subcommittee, or other entity (however designated) of the Board empowered to perform delegated functions of the Board or to advise the Board and applies to remote participation by members of any such committee, subcommittee, or other entity.

### **B. Non-Emergency Individual Participation.** Except as provided in Rule 8(C) below, Supervisors may use remote participation instead of attending a public meeting in person only pursuant to and in compliance with the following rules:

- 1. Grounds for Remote Participation; Advance Notice of the Chair.** Individual Supervisors may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the Supervisor notifies the Chair that:
  - a. Personal Medical Condition.** The Supervisor has a temporary or permanent disability or other medical condition that prevents the Supervisor's physical attendance;
  - b. Family Member's Medical Condition.** A medical condition of a member of the Supervisor's family requires the Supervisor to provide care that prevents the Supervisor's physical attendance;
  - c. Distant Meeting Location.** The Supervisor's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
  - d. Identified Personal Matter; Limitation on Use.** The Supervisor is unable to attend the meeting due to a personal matter (such as a family event or business commitment) and identifies with specificity the nature of the personal matter. However, the Supervisor may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. **Minutes.** If participation by a Supervisor through electronic communication means is approved pursuant to this Rule, the Board shall record in its minutes the remote location from which the Supervisor participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description.
    - a. **Medical Condition.** If participation is approved pursuant to Rule 8(B)(1)(a) or 8(B)(1)(b), the Board shall also include in its minutes the fact that the Supervisor participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the Supervisor's physical attendance or (ii) family member's medical condition that required the Supervisor to provide care for such family member, thereby preventing the Supervisor's physical attendance.
    - b. **Distant Meeting Location.** If participation is approved pursuant to Rule 8(B)(1)(c), the Board shall also include in its minutes the fact that the Supervisor participated through electronic communication means due to the distance between the Supervisor's principal residence and the meeting location.
    - c. **Identified Personal Matter.** If participation is approved pursuant to Rule 8(B)(1)(d), the Board shall also include in its minutes the specific nature of the personal matter cited by the Supervisor.
    - d. **Disapproval.** If a Supervisor's participation from a remote location pursuant to Rule 8(B) is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.
  3. **When Chair Requests to Participate Electronically.** In the event the Chair seeks to participate through electronic communication means from a remote location, the Chair must notify the Vice-Chair or other presiding officer and should notify the Clerk on or before the day of the meeting.
  4. **Audibility of Absent Supervisor.** The Clerk shall arrange for the voice of the absent Supervisor to be heard by all persons in attendance at the meeting location. If, for any reason, the voice of the absent Supervisor cannot reasonably be heard, the meeting may continue without the participation of the absent Supervisor.
  - C. **During a Declared Emergency or When a Continuity of Government Ordinance is in Effect.** The Board may meet by electronic communication means without a quorum of the Board physically assembled at one location when a state of emergency is declared pursuant to Virginia Code § 44-146.17 or a local emergency is declared pursuant to Virginia Code § 44-246.21, subject to the provisions and requirements of Virginia Code § 2.2-3708.2. The Board also may meet by electronic communication means when an ordinance adopted pursuant to Virginia Code § 15.2-1413 to ensure the continuity of County government is in effect. (Virginia Code § 2.2-3708.2 and § 2.2-3708.3)
9. **Conducting the Business of the Board**
- A. **Enable Efficient and Effective Conduct of Business.** Meetings will be conducted in a manner that allows the Board to efficiently and effectively conduct its business, without actual disruptions.
  - B. **Minimizing Disruptions.** To minimize actual disruptions at meetings:
    1. **Speakers.** While speaking during public hearings, members of the public must comply with Rule 6(F)(1). While speaking at all other times during Board meetings (including but not limited to Matters from the Public), members of the public must comply with Rule 6(D).
    2. **Persons Physically Attending the Meeting.** Any person physically attending a meeting must comply with the following:
      - a. **Sounds.** Persons may not clap or make sounds in support of or in opposition to any matter during the meeting, except to applaud during the Proclamations and Recognitions portion of the meeting. Instead of making sounds, persons who are not speaking at the podium or other location provided for the meeting are encouraged to raise their hands to indicate their support or opposition to any item during the meeting. Cell phones and other electronic devices shall be muted.
      - b. **Other Behavior.** Persons may not act in a manner, make sounds, or both, that actually disrupts the Board meeting.
      - c. **Signs.** Signs are permitted in the meeting room so long as they are not attached to any stick or pole and do not obstruct the view of persons physically attending the meeting.
  - C. **Guidelines Stated on the Final Agenda.** The Guidelines stated on the Final Agenda apply during each Board meeting. The Board may amend the Guidelines from time to time without amending these Rules provided that the Guidelines are consistent with these Rules.
  - D. **Chair May Maintain Order.** The Chair is to maintain order of the meeting, including the following:

1. **Controlling Disruptive Behavior of Persons Physically Attending the Meeting.** The Chair may ask any person physically attending a meeting whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may ask the Clerk to silence the audio of that person and may order the removal of that person from the meeting.
2. **Controlling Disruptive Behavior of Persons Participating Through Electronic Communication Means.** The Chair may ask any person participating in a meeting through electronic communication means whose behavior is so disruptive as to prevent the orderly conduct of the meeting to cease the conduct. If the conduct continues, the Chair may ask the Clerk to silence the audio and hide the video of that person.

10. **Motion and Voting Procedures**

- A. **Action by Motion Followed by a Vote.** Except as provided in Rule 10(B)(2), any action by the Board must be initiated by a motion properly made by a Supervisor and followed by a vote, as provided below:
  1. **Motion Must Be Seconded; Exception.** Each action by the Board must be initiated by a motion that is seconded; provided that a second is not required if debate immediately follows the motion. Any motion that is neither seconded nor immediately followed by debate may not be further considered.
  2. **Voting and Recording the Vote.** The vote on any motion must be by a voice vote. The Clerk must record the name of each Supervisor voting and how each Supervisor voted on the motion.
  3. **Required Vote, Generally Required Vote for Specific Items.** Each action by the Board must be made by the affirmative vote of *a majority of the Supervisors present and voting* on the motion; provided that an affirmative vote of a *majority of all elected Supervisors* of the Board shall be required to approve an ordinance or resolution concerning the following:
    - a. **Appropriations.** Appropriating money exceeding the sum of \$500.
    - b. **Taxes.** Imposing taxes.
    - c. **Borrowing.** Authorizing money to be borrowed. (Article VII, § 7, Virginia Constitution; Virginia Code §§ 15.2-1420, 15.2-1427, 15.2-1428)
  4. **Tie Vote.** A tie vote defeats the motion voted upon. A tie vote on a motion to approve is deemed a denial of the item being proposed for approval. A tie vote on a motion to deny is not deemed an approval of the item being proposed for denial, and another motion may be made.
  5. **Abstention.** Any Supervisor who will abstain from voting on any motion must declare the abstention before the vote is taken and state the grounds for abstaining. The abstention must be recorded by the Clerk.
- B. **Motion and Vote Required to Act; Exception.** The Board acts on matters as follows:
  1. **Motion and Vote Required.** Any action by the Board to adopt an ordinance or a resolution, and any other action when a motion is required by law or by these Rules, must be made by a motion followed by a vote.
  2. **Motion and Vote Not Required; Unanimous Consent.** On any item in which the Board is not adopting an ordinance or a resolution, or for which a motion and a recorded vote is not otherwise required by law, the Board may make a decision by unanimous consent. This procedure is appropriate, for example, to provide direction to County staff on an item.
- C. **Other Motions.**
  1. **Motion to Amend.** A *motion to amend* a motion properly pending before the Board may be made by any Supervisor. Upon a proper second, the motion to amend must be discussed and voted on by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both Supervisors making and seconding the original motion, respectively. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.
  2. **Motion to Call the Question.** The discussion of any motion may be terminated by any Supervisor making a *motion to call the question*. Upon a proper second, the Chair must call for a vote on the motion to call the question without debate on the motion itself, and the motion takes precedence over any other item. If the motion is approved, the Chair must immediately call for a vote on the original motion under consideration.

3. **Motion to Reconsider.** Any decision made by the Board may be reconsidered if a *motion to reconsider* is made at the same meeting or an adjourned meeting held on the same day at which the item was decided. The motion to reconsider may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to reconsider, if approved, is to place the item for discussion in the exact position it occupied before it was voted upon.
4. **Motion to Rescind.** Any decision made by the Board, except for decisions on zoning map amendments, special use permits, special exceptions, and ordinances, may be rescinded by a majority vote of all elected Supervisors. The *motion to rescind* may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Decisions on zoning map amendments, special use permits, special exceptions, and ordinances may be rescinded or repealed only upon meeting all of the legal requirements necessary for taking action on the items as if it was a new item before the Board for consideration; otherwise, decisions on zoning map amendments, special use permits, special exceptions, and ordinances are eligible for reconsideration as provided in Rule 10(C)(3).

#### 11. **Other Rules: Robert's Rules of Order Procedure in Small Boards**

Procedural rules that are not addressed by these Rules are governed by *Robert's Rules of Order Procedure in Small Boards*, which provide:

- A. **Not Required to Obtain the Floor.** Supervisors are not required to obtain the floor before making motions or speaking, which they can do while seated.
- B. **No Limitation on the Number of Times a Supervisor May Speak.** There is no limitation on the number of times a Supervisor may speak to a question, and motions to call the question or to limit debate generally should not be entertained.
- C. **Informal Discussion.** Informal discussion of a subject is permitted while no motion is pending.
- D. **Chair; Putting the Question to a Vote.** The Chair need not rise while putting questions to vote.
- E. **Chair; Speaking During Discussion.** The Chair may speak in discussion without rising or leaving the chair, and, subject to rule or custom of the Board (which should be uniformly followed regardless of how many Supervisors are present), the Chair usually may make motions and usually votes on all questions.

#### 12. **Amending the Rules of Procedure**

These Rules may be amended only as follows:

- A. **Rules Eligible for Amendment.** Any Rule may be amended.
- B. **Procedure to Amend.** The Board may amend any Rule by any of the following procedures:
  1. **Notice Followed by Action at Next Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting, followed by a majority vote of the Supervisors present and voting to amend the Rules at the next Regular Meeting.
  2. **Notice Followed by Action at Later Regular Meeting.** A Supervisor provides notice of an intention to amend the Rules to the other Supervisors present at a Regular Meeting and requests that the proposed amendment be considered at a meeting other than the next Regular Meeting; at the same meeting, a majority of the Supervisors present and voting establish the later Regular Meeting date at which the proposed amendment will be considered; followed by a majority vote of the Supervisors present and voting to amend the Rules at the Regular Meeting.
  3. **By Supermajority Vote.** A proposed motion to amend is added to the Final Agenda at any Regular Meeting; at the same meeting, five or more Supervisors vote to amend the Rules. This procedure should be used only to make minor technical amendments deemed to be necessary to allow the Board to efficiently and effectively conduct its business.
- C. **Motion.** The motion to amend a Rule may be made by any Supervisor. Upon a proper second, the motion must be discussed and voted on. In deciding whether and how to amend a Rule, the Board shall consider that Rules 3, 4, 6(D), 6(F)(1)(a) through (c), 7, 8, 9(B), 10(A)(3), and 10(B)(1) address statutory or constitutional requirements.
- D. **Limitation on the Effect of an Amendment.** The Board's approval of a motion to amend one or more Rules does not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

### 13. Suspending the Rules of Procedure

These Rules may be suspended only as follows:

- A. **Rules Eligible to be Suspended.** Rules 1, 2, 5, 6, 9(A), 10 (except for Rules 10(A)(3) and 10(B)(1)), 11, and 12 may be suspended.
- B. **Procedure to Suspend, Generally.** Any Rule eligible for suspension may be suspended by a majority plus one vote of the Supervisors present and voting. The motion to suspend a Rule may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on. The effect of the motion to suspend a Rule, if approved, is to make that Rule inapplicable to the item before the Board.
- C. **Suspending Rules Pertaining to Motions When There is Uncertainty as to Status or Effect.** If one or more motions have been made on an item, and there is uncertainty as to the status or effect of any pending motions or how the Board is to proceed at that point, the Board may, by a majority vote of the Supervisors present and voting, suspend the Rules in Rule 10 for the sole purpose of canceling any pending motions and to permit a new motion to be made. The motion to suspend a Rule pertaining to any pending motions may be made by any Supervisor. Upon a proper second, the motion may be discussed and voted on.
- D. **Limitation on Effect of Suspended Rules.** The Board's approval of a motion to suspend one or more Rules shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

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(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006; 1-3-2007; 1-9-2008; 1-7-2009; 1-6-2010; 1-5-2011; 1-4-2012; 1-09-2013; 1-8-2014; 7-9-2014; 1-7-2015; 1-6-2016; 1-4-2017; 2-8-2017; 1-3-2018; 3-20-2019; 01-08-2020; 9-2-2020; 12-2-2020; 1-6-21; 1-5-22; 4-6-22; 4-20-22; 8-3-22; 1-4-23; 1-3-24).

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Item No. 8.6. VDOT Monthly Report (August) 2022, ***was received for information.***

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Agenda Item No. 9. **Action Item:** Business Process Improvements – Economic Opportunities Fund.

The Executive Summary forwarded to the Board states the Economic Development Fund was established by the Board of Supervisors in 2018. Within the Economic Development Fund is a sub-fund called the Economic Opportunities Fund (EOF), which was established by the Board in 2006 to provide funding to match state and federal economic development grant programs. These grant programs create jobs and expand business capital investment in the County.

In Fiscal Year 2022, \$110,700 of the EOF was awarded to six local entities. These matching funds will ultimately leverage a total of \$595,800 in grants funds over the term of each respective performance agreement. Under the current review process, Economic Development Authority (EDA) considers requests for EOF funding from local entities. If a request is approved by the EDA, then the Board must approve the appropriation of grant funds from the EOF to the EDA Fund, which serves as the conduit for EOF disbursements.

With the on-going implementation of Project Enabling a Better Life Economically (ENABLE), the Economic Development Office (EDO) has seen a significant increase in requests from local entities for matching funds to state and federal grant opportunities. In many instances, the state and federal grant deadlines require a quick response time which is often difficult to accommodate within the current review process. The EDO, with concurrence from the Department of Finance and Budget, recommends a more streamlined approach where the Board appropriates a set dollar amount from the EOF to the EDA at the beginning of the fiscal year.

The EDA would then be authorized to award funding to approved entities within the appropriation authority. The EDA has a standard agreement for grant awardees which incorporates the "external recipients" clause of the Board's appropriation resolution, which maintains the Board's standing in the grant approval process.

Notably, external recipients may use the fundings solely for which the funds are appropriated, must maintain accurate fund accounting records, and return any unspent balance to the County.

Approximately, \$465,000 remains unallocated in the EOF at the end of Fiscal Year 2022. The EDO requests the unallocated Fiscal Year 2022 funds be re-appropriated in Fiscal Year 2023 to the EDA for the purposes of administering the grant program.

If approved, \$465,000 will be requested for appropriation from the Economic Opportunities Fund to the EDA Fund.



Staff recommends the Board of Supervisors approve the attached Resolution (Attachment A) supporting a more streamlined approach to the appropriation process for the Economic Opportunities Fund and directing staff to prepare the appropriation request of FY23 funding to the Economic Development Authority Fund for the Board's consideration on September 7, 2022.

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Ms. Price said Mr. Roger Johnson, Director of Economic Development, would be joining the meeting via Zoom.

Mr. Roger Johnson, Economic Development Director, said he was presently located in Fripp Island, South Carolina. He said present in person at the meeting was J. T. Newberry, the Principal Business Manager in the Economic Development Office.

Mr. Johnson said that Project ENABLE had a goal of leading efforts by County staff to help businesses take advantage of state and federal financing opportunities. He said what they would discuss today was to some degree the Board delegating its authority once a year as opposed to multiple times per year to improve, reorganize, streamline, and process. He said instead of staff coming to the Board multiple times and asking for permission, they believed this would provide greater efficiency for staff and the Board, and also improve financial stewardship as there was an identification of a best practice by Jacob Sumner in the Finance Department.

Mr. Johnson said the County created an Economic Development Fund that had two components, one of which was an Economic Opportunity Fund and the other was the Economic Development Investment Pool that started in 2018. He said those particular economic development funds were provided funding through year-end savings and CARES funding. He said the Economic Opportunity Fund, established in 2006, provided a matching grant for state and federal opportunities, whether it be the Virginia Job Investment Program, the Commonwealth Opportunity Fund, the Agricultural and Forestal Industrial Development Program, or the Growth Opportunity Virginia Fund.

Mr. Johnson said it also provided a different bucket of money that was used for targeted economic development initiatives, whether that be the creation of websites for small businesses, the jointly-approved Buy Local campaign from the City of Charlottesville and the County, Project FALCONS, or public-private partnerships. He said the general process was that the Board appropriated money from one of those two funds to the Economic Development Authority, who then turned around and gave those funds to the private sector once they met certain thresholds or standards of performance. He said almost all of those were contractual in nature, although they may have one or two that did not have a contract associated with it. He said some examples of recipients of the Economic Opportunity Fund included Willowtree, Afton Scientific, Venture Central, Castle Hill Gaming, and Cville Biohub.

Mr. Johnson said the existing process was that the Economic Development Office was often approached with a state or federal grant matching opportunity, and they would then go into closed session with the Board and with the Economic Development Authority to talk about them and get tentative approval, but not any sort of formal approval to move forward with particular grants. He said in doing so, it took time to go to the Board and EDA and then come back to the Board for action at a later date.

Mr. Johnson said oftentimes, that process took much longer than the grant opportunity itself; the grant opportunities often had a 60- or 90-day window if they were not associated with a project, so it made them non-responsive to the needs of their community when those situations arose. He said the existing process also included some enhancements that were brought to them by their Finance Department, which would require anyone who received grants to submit an annual report that their funds be used for authorized expenditures only and that they return any unspent money. He said that was in place with all their performance agreements but not necessarily with all grants, so they decided they would start those for all grants in the fourth quarter of 2022.

Mr. Johnson said the new process being proposed was that the Board each year allocate unallocated Economic Opportunities Fund funding to the EDA once a year instead of multiple times per year, and that would allow the EDA to use its already-existing authority to match state and federal grants, to which they would continue to be part of, and also ensure they were keenly aware of anything that happened in advance. He said they would continue to utilize best practices for financial stewardship.

Mr. Johnson said staff recommended the Board support this streamlined appropriation process for the Economic Opportunities Fund, and if they agreed with this today, Finance and the Economic Development Office would come back on September 7 with a one-time appropriation that allowed the EDA to take care of actions they had already approved through either policy or guidelines. He said he would pause for any questions from the Board.

Ms. Mallek said she felt the County had been very methodical and cautious in the way this had been rolled out so far, so she wanted to hang onto that information and make sure that when things were ready for public discussion that there be a report that came to the Board project by project as opposed to an agglomeration later on. She asked if the dollars had been fairly consistent over the last few years or if they expected for some years there to be leftovers and others would be short.

Mr. Johnson said he would expect the Board to be involved in all those economic development projects and also be made aware of those through either closed session, Consent Agenda item, or as they often met with the County Executive's Office one-on-one, so there would be formal communication

well in advance of any sort of activity the EDA would take. He said anything that would be in addition to those policies that they had already approved, which included the AFID (Agriculture and Forestry Industries Development) Grant, which included the Commonwealth Opportunity Grant and the VGA (Virginia Growth Alliance) Grant, would certainly have to come back through the Board in those scenarios.

Mr. Johnson said the funding levels were reduced as a result of some of the grants earlier mentioned; the Board appropriated additional monies and replenished those funds, so at this particular juncture they had some balance left in their Economic Opportunity Fund, albeit some of those funds were earmarked for future projects and while they may know what those were they had not been made public today.

Ms. Mallek asked if she understood it correctly that Mr. Johnson said that everybody would have contracts moving forward.

Mr. Johnson said that was correct. He said there was a standardized template created by the County Attorney's Office which they would utilize for those who did not already have customized performance agreements.

Ms. Mallek said in regards to the complaint that it took too long, they were always available for a special meeting when something needed to happen, and that had not been used to her knowledge in the past, so she wanted to bring it up for discussion.

Mr. Gallaway said he was fully supportive of this. He said that Project ENABLE was created and adopted by the Board, and the fact it was being implemented well was why they were in the position of needing to be more flexible in getting these grants done. He said as a member of the TJPDC, they had to do multiple special meetings because of the procedural nature of things that came up, so this was something that he felt they had plenty of control and oversight because they created the policy that was making this activity happen, and it worked against it to try to slow it down if they did not use the money for the purpose for which it was meant to be used. He said he was fully supportive of that knowing the reports would come back to them and they would have the information, and that satisfied his oversight.

Mr. Gallaway said he did not want the amount of money to be too limiting year-in and year-out to where they then had to come to the Board to get more funds, because that process was probably less efficient than trying to get the turnaround for the grant projects using the money itself. He said he presumed the Department of Finance working with the Office of Economic Development every year made sure that whether they were using historical information or grants, they would have enough money in there so that they would not have to ask for additional funding requests. He said otherwise, it was a good idea and sign that Project ENABLE was working, so he was glad to support it.

Ms. McKeel said she was very supportive of this change. She said anything they could provide that allowed more flexibility and timeliness, they needed to be able to act quickly, so to be able to ensure that the Economic Development personnel could do that was excellent. She said it was good to hear that there would be an annual report and a great change for those who perhaps may not have been doing that, and performance agreements were obviously a good idea. She said she wanted to thank the Economic Development team for their hard work during the pandemic and for the response to their small, independent businesses, and without them, some may not have survived.

Ms. McKeel said Project ENABLE had been eye-opening for the community in showing there was a lot of angst around economic development when they first began the office and hired Mr. Johnson. She said it had provided a lot of confidence in what their office was doing and what their work was, so she appreciated that. She said the community had much more trust with what they were doing with economic development. She said the Board was always available if they were needed for anything.

Ms. LaPisto-Kirtley said she agreed regarding streamlining and flexibility. She said Mr. Gallaway discussed all the points she was concerned about. She said this was a very good thing and she was fully supportive. She said she had heard nothing but compliments regarding the EDA so she gave her appreciation to them.

Mr. Andrews said that it was a good idea but he wanted to understand some of the numbers. He said in Fiscal Year 22, there was \$110,700 in grants, leveraging a total of \$595,800 in grant funds awarded elsewhere, and the \$110,000 was matching. He said this proposal included \$465,000 of remaining funding to be a starting point, and he would just like a sense of what they expected the range of grants might be, and there was some concern about if this was not coming prior to being committed to the Board, was there any control over how much it was and for what grant.

Mr. Johnson said the largest grant that a business generally received was from the Commonwealth Opportunity Fund, which the Governor announced and called his deal-closing fund. He said last year, Bonumose was awarded \$250,000 and that was the largest that was provided. He said that was on the larger side of things, and by way of process, they had an existing memorandum of understanding between the Board and the Economic Development Authority, which basically said that the Board would be made aware of any sort of economic development activity before it took action.

Mr. Johnson said that meant if they were ever to have an award like a COF Award, the Board would hear about that in closed session in advance of the EDA taking any action and obviously would have standing in that process as the EDA basically was appointed by the Board. He said to clarify, the

Board would not be removed from the process but be removed from the administrative process in this particular scenario. He said the smallest grants that they generally dealt with were agricultural, forestall, and industrial development grants, which were generally for agriculture companies and as low as \$3,000 to \$5,000.

Mr. Andrews thanked Mr. Johnson. He said it was efficient and he appreciated it.

Ms. Price said that they were all very appreciative of the work done by Mr. Johnson's staff with Project ENABLE. She said she echoed the comments of support for Mr. Johnson and Mr. Newberry. She said ensuring that they had the procedures in place so that if there was a change of personality that they knew they had the right mechanisms to ensure the proper stewardship, and she had no doubt at all under the current leadership of Mr. Richardson and Ms. Birch as their CFO that they would have the proper procedures in place to ensure accountability. She said the only thing she would add was that in addition to the annual report, she would too like to get a periodic report as each decision was made or something similar so they knew throughout the year what was happening, rather than at the end of the year having to parse out an entire year's worth of actions. She said she also was very much in support of this.

Ms. McKeel **moved** to approve the resolution as presented in Attachment A supporting a more streamlined approach to the appropriation process for the Economic Opportunities Fund and directing staff to prepare the appropriation request of FY23 funding to the Economic Development Authority Fund.

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

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

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**RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT OFFICE  
BUSINESS PROCESS IMPROVEMENT FOR THE ECONOMIC OPPORTUNITIES FUND**

**WHEREAS**, the Economic Opportunities Fund was established by the Board of Supervisors in 2006, which allows fund matching of state and federal economic development grant programs;

**WHEREAS**, in FY22 \$110,700 of the EOF was awarded to six local entities which will ultimately receive a total of \$595,800 in grants due to the fund matching of each respective performance agreement;

**WHEREAS**, the Economic Development Office has seen a significant increase in requests for matching funds to state and federal grant opportunities;

**WHEREAS**, staff from the Economic Development Office and the Department of Finance and Budget recommends a more streamlined approach where the Board appropriates a set dollar amount from the Economic Opportunities Fund at the beginning of the fiscal year and authorizes the Economic Development Authority to award funding to approval entities within the appropriation authority;

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby supports Staff's approach to streamline the appropriation process for the Economic Opportunities Fund and directs Staff to prepare the appropriation request of FY23 funding to the Economic Development Authority Fund for the Board's consideration on September 7, 2022.

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Agenda Item No. 10. **Work Session:** 10. COVID-19 Reconstitution Update.

The Executive Summary forwarded to the Board states that on March 11, 2020, the World Health Organization declared the outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, commonly referred to as COVID-19, a pandemic. On March 12, 2020, the County Executive, acting as the Director of Emergency Management, declared a local emergency because of the COVID-19 pandemic pursuant to Virginia Code 44-146.21, and this declaration was confirmed by the Board of Supervisors on March 17, 2020. Beginning on April 1, 2020, all public meetings have been held virtually, pursuant to and in compliance with Ordinance No. 20-A(16), An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster.

On March 30, 2020, Albemarle County closed its office buildings to the public and transitioned to virtual service delivery, with key exceptions in public safety, inspections, and maintenance. Throughout the pandemic, adjustments have been made to County operations in-line with guidance and best practices from federal and state public health and safety agencies.

At its March 2, 2022 work session, the Board provided direction to begin meetings of the Board, Planning Commission, and School Board (Tier 1 public bodies) in April 2022 and approved a framework for Tier 2 "virtual public access" meetings and Tier 3 "in-person meetings" for its various Boards and Commissions - Tier 2 being reserved for those with legislative or judicial function and Tier 3 being for those with an advisory function. On May 18, 2022, due to projected rising cases, the Board endorsed holding further reconstitution of public meetings until the Continuity of Government period ends, in

September 2022, and for staff to return to the Board with a final briefing in August 2022.

To prepare for in-person public meetings, investments have been made in equipment, software, and training to allow for some meetings to have elements of virtual participation and/or virtual access for the public, under the 3-Tier framework for public meetings. Staff have been trained on the new system and are prepared to transition public meetings to be held with members of public bodies convening in-person, in compliance with the Freedom of Information Act (FOIA). Staff expects all public meetings held beginning September 1, 2022 will be held under the new framework.

There is no budget impact associated with this transition.

Staff recommends the Board receive this update.

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Mr. Trevor Henry, Deputy County Executive, thanked the Board for the time today for his update about reconstitution and the transition to in person meetings. He said they last discussed this topic in May, at which time they discussed what they were seeing in the area around COVID-19, operations, and understanding the continuity of government operations ordinance. He said they made a recommendation to allow that Continuity of Government Ordinance to expire in September, and with that, it would be implementing the tier two and tier three programming that had been discussed a couple of times. He said at the time, they discussed continuing to monitor the state of affairs in their region and community and coming back to the Board at this meeting to provide adjustments in that recommendation.

Mr. Henry said that the COVID-19 metrics were monitored weekly and what was presented today would be a snapshot in time that was reflective of what had been averaged over the past weeks and several months. He said that shown on the slide were the CDC community levels, a chart for the state that looked at new cases per 100,000 of the population and medical resources. He said their County had been marked green for the past eleven weeks and had been pretty consistent in that as compared to other Counties and regions in the state.

Mr. Henry showed a graph of the new daily cases of the last six months for Albemarle County. He said the gold line was the seven-day moving average and the bars were what was reported on a daily basis. He said the spikes were anomalies tied to how the health system did data updates, such as the timeframe for when results were accurately reported. He said they were fairly flat during the summer, especially compared to what was seen during the winter surge. He showed another chart that he said was a longer time horizon and reflected hospitalizations.

Mr. Henry said when they were in front of the Board in May, there were some questions about what the new variant would look like, and hospitalizations had ticked up, but stays in the hospital had been reported as lower than prior variants, and as a result, the resource capacity had remained relatively good. He said this also reflected the good work in their region around the vaccine, boosters, and staying protected.

Mr. Henry showed the UVA model from the biocomplexity institute, which was a tool for the County and community to reference during the pandemic, while the exact dates and exact numbers were not always right, the timeframe and order of magnitude. He said the smaller graph in the upper right of the slide was what they were showing to the Board in May, which predicted a noticeable summer surge. He said that surge did not play out as projected, and the projection as it moved through the fall expected a continuing decline in the number of cases.

Mr. Henry showed a different map of the state by health district that showed the surge as red, yellow as slow growth, and blue as declining or plateau. He said in May, they were in a surge state, and today they were in a slow growth state. He said last he would show a graph meant to forecast the future, a model from UVA that looked at various scenarios and how they impacted the area. He said the predictions show that even the worst-case scenario was still far less than what was seen a year ago in the same timeframe.

Mr. Henry said with what was seen throughout the summer and what was projected for the fall and winter, the recommendation would be to stay the course with what was recommended with the continuity of government to expire in September and return to the tier two and tier three concept, bringing many meetings back in person to the public. He said this was a snapshot in time, but the data had tracked well throughout the summer and was something they would continue to monitor and keep eyes on, but nothing they had seen would deter them from a prior recommendation. He said he and their team was there for any questions about the data; otherwise, they could move forward to the legal framework section of the presentation.

Ms. McKeel said that school would be starting soon and UVA students would be returning.

Mr. Henry said they would be keeping an eye on that, and the model would reflect that.

Ms. McKeel said she was impressed with the way UVA, the City, and the County were able to work together and realize that viruses and infections did not recognize borders. She said she was unsure if the community realized how closely they all worked together regularly. She said if they needed to, they could go back to that process.

Mr. Henry said they could do that if need be.

Ms. McKeel said they could do it quickly. She said they did not know what would happen in the fall.

Mr. Andy Herrick, Deputy County Attorney, said he would go over the legal framework, much of which had to do with the Freedom of Information Act (FOIA) and the rules regarding virtual meetings and so forth. He said right now, the virtual meeting environment that the Board and the County's public bodies had enjoyed had been the result of Albemarle County's Continuity of Government Ordinance.

Mr. Herrick said the local emergency that was declared ended on March 16 of this year, and under the terms of the Continuity of Government Ordinance, they had six months to resume normal operation, so that left them until September 16 of this year to resume normal operations; that was the point at which their virtual meetings, under the Continuity of Government Ordinance, expired, and they returned to the default rules under the Freedom of Information Act. He said the Continuity of Government Ordinance authorized but did not require virtual meetings, and they all had taken advantage of that over the last several months by transitioning both themselves and the Planning Commission and the School Board to in-person meetings.

Mr. Herrick said once the Continuity of Government Ordinance expired on September 16, they would return to the default rules of the Freedom of Information Act, the requirements of which included that the members of the public body must be physically assembled, that the members of the public must have open access to the physical meeting location, the quorum of the public body must be in physical attendance, and virtual access to a meeting of a public body was allowable, but not required. He clarified that with the Freedom of Information Act, the important part was the attendance of the members of the body rather than the members of the public, so what the Freedom of Information Act considers the virtual presence or virtual absence of members of the body. He said the access provided to members of the public was on top of the access of the members of the body itself.

Mr. Herrick said that the Freedom of Information Act was subject to some upcoming amendments that took effect on September 1, and their office had been at work to try to adjust both the Board and the County's other public bodies to enable them to move into that transition. He said the two main parts of the FOIA amendments dealt with individual remote participation, such as how Supervisor LaPisto-Kirtley participating today, as well as allowing some bodies to meet all virtually. He said the next two slides went over briefly some of the ground rules that were going to be in effect as of September 1.

Mr. Herrick said that public bodies may choose to allow individual remote participation under certain conditions, as this Board was already doing, the body must first adopt a remote participation policy, which they had, and the policy must be applied strictly and uniformly. He said a quorum must be physically assembled, so with the six-member Board, four members must always be present in person. He said that absent members may ask to participate remotely based on four different grounds: a personal medical condition, a family member's medical condition, a distant meeting location (where the member resides more than 60 miles away from the meeting location and unlikely to apply to a local governing body), and an identified personal matter. He noted that for personal matters, members were restricted to only invoking that twice per year or in 25% of the meetings, whichever was greater; the other three reasons could be invoked an unlimited number of times for individuals participating remotely. He said the body must record remote participation requests and decisions in its minutes. He said those were the high points of the remote individual participation that were allowed under the amendments to the Freedom of Information Act.

Mr. Herrick said the second prong of the FOIA amendments had to do with all-virtual meetings, but to clarify, the Board of Supervisors was not eligible to hold all-virtual meetings under the new Freedom of Information Act. He said local governing bodies, local School Boards, Planning Commissions, Architectural Review Boards, and Zoning Appeals Boards were specifically prohibited under state law from availing themselves of all-virtual meetings going forward. He said however, the remaining bodies were eligible if they went through the process of having their own policies and enforcing those policies. He said that for example, the Economic Development Authority, the Broadband Authority, the Board of Equalization, the Conservation Easement Authority, which were all in tier two, as well as all the tier three local governing bodies, were legally eligible for all-virtual meetings.

Mr. Herrick said there were a few restrictions for all-virtual meetings, the first being that no more than two virtual meetings were allowed per year, or 25% of the meetings, whichever was greater, and those could not be consecutive meetings, so even though the bodies that could have all-virtual meetings, they could not do several all-virtual meetings in a row and they must be non-consecutive. He said another major constraint with all-virtual meetings was that a phone number or other live contact must be provided and monitored to alert the public if the audio or video transmission of the meeting failed, so there had to be someone constantly monitoring to see whether the public was retaining access to these all-virtual meetings.

Mr. Herrick said in terms of looking at what had been done and what was remaining to be done, the Board just adopted on the Consent Agenda earlier today amendments to Rule 8 of the Board of Supervisors' Rules of Procedure. He said that was a project that spanned three County Attorneys, and involved a Deputy and Senior Assistant County Attorney, but there were some rules that they were comfortable with that tracked the changes in state law.

Mr. Herrick said their office had also been corresponding rules that tracked both state law and now the Board's rules to implement for the Board of Zoning Appeals, the Planning Commission, the

Economic Development Authority, and the Broadband Authority, though none allowed all-virtual meetings, so the policies adopted for them only dealt with remote individual participation rather than all-virtual meetings. He said one of the main purposes of the presentation today was to get the Board's feedback and guidance on what to allow, encourage, and support for the tier two and tier three bodies.

Ms. McKeel asked if "all-virtual" was referring to all the people.

Mr. Herrick said yes, it was referring to all the members of the body.

Ms. McKeel said that there was a nuance between all members and all meetings.

Mr. Herrick said the all-virtual meetings could not be held all the time, and an all-virtual meeting was limited to two meetings were year or 25% of the meetings, whichever was greater.

Mr. Andrews asked if a body held a virtual meeting and then went to hold an in-person meeting and a quorum was not present, would they be prohibited from then having a virtual meeting because it could not be two consecutive meetings.

Mr. Herrick said that was correct. He said if they failed to get a quorum, they could not immediately transition to an all-virtual meeting, because it would have to be noticed as an all-virtual meeting. He said Mr. Andrews was correct in that hypothetical and they would not be able to do a virtual, schedule an in-person, and then transition on the fly to an all-virtual.

Mr. Andrews asked if they would be able to follow with a scheduled all-virtual meeting.

Mr. Herrick said they would not be able to have two consecutive meetings that were all-virtual regardless of whether they were planned.

Mr. Andrews said if there was no quorum there was no meeting.

Mr. Herrick said after an all-virtual meeting, the next meeting had to be in person with a quorum physically assembled. He said there could be individual remote participants, but the quorum had to be physically assembled at that subsequent meeting.

Mr. Andrews said the reason being given and the location and what went in the minutes versus what had to be said, there was some discussion as to what had to be said and where located, but could be vague in the minutes.

Mr. Herrick said the state law was not very specific as to how one needed to be in the personal reasons or the medical reasons, so a brief summary of the personal reason was sufficient, and when it came to the medical reason, the state law did not require people to divulge their individual medical conditions. He said the question was a good one, and for better or for worse, state law did not provide much guidance as to how specific one needed to be.

Ms. Price said on slide 14, Mr. Herrick had referenced the distant meeting location. She asked if that referred to if the Board met in a distant location rather than in Charlottesville.

Mr. Herrick said that where a member's residence was more than 60 miles away from the meeting location. He said this particular provision of FOIA not only dealt with local governing bodies but also with state or regional bodies and it was more applicable to them in that the local governing body was always going to meet within sixty miles of each of the residences. He said it was not very applicable but was adopted in Rule 8 in the event the Board had a meeting outside of the County and one of the Board members could not attend.

Ms. Price thanked Mr. Herrick for his explanation and asked for the next segment of the presentation.

Ms. Emily Kilroy, Director of Communications and Public Engagement, said Mr. Andrews' question was a very good one that illuminated some of the challenges of working with the new state code provisions because they ran into things where they had a plan, something happened, then they would have to make a new plan. She said there was a little bit of flexibility that they would have to have to meet the spirit of FOIA moving forward.

Ms. Kilroy showed a slide that she said contained all the things they were trying to balance when planning for the success of public bodies. She said as they transitioned to virtual and transitioning back to the new normal, they wanted to make sure they were striking the right balance between maximizing the effectiveness of the public body to conduct its business, to create a consistent, safe, and comfortable user experience, and have a high degree of reliability that the meeting would start and finish as expected. She said with virtual, they were looking at what they could resource with the right A/V resources because different meetings had different needs. She said these were always underpinned by their obligations to meet the terms of the Freedom of Information Act.

Ms. Kilroy showed the framework that they reviewed with the Board in May. She said there was one exception in here that she wanted to highlight, which had an asterisk under tier two. She said they had omitted the Albemarle Conservation Easement Authority from the list of tier two public bodies, which was the decision-making and authority level of public bodies. She said that was an omission error that

they wanted to highlight. She said the tiers articulated which public bodies would utilize which meeting template they developed. She said hybrid was what they were doing right now for legislative bodies, and it allowed anyone to participate live from wherever they were. She said tier two was virtual public access and return to in-person for the advisory committees and Boards.

Ms. Kilroy showed an image of an example of the hybrid meeting. She said they were doing the hybrid meeting for today with Supervisor LaPisto-Kirtley and Mr. Roger Johnson's remote participation. She said virtual public access was more akin to a stationary camera in a room, so it was a window into an in-person meeting for the convenience of the public to follow along, but it was not as high-level production where they could participate equally no matter where they were. She said this would apply to tier two groups, which were displayed on the screen. She said one of the last conversations they had was around utilization of Lane Auditorium, and it was mentioned that the Board of Zoning Appeals had traditionally met in Lane Auditorium, which they were recommended to continue.

Ms. Kilroy said the Architectural Review Board was a shift from meeting in room 241 and appreciated a lot of benefits from having access to the screens as part of their deliberations. She said they looked at if there were other opportunities to improve 241 to bring the same level of screens for the members serving on the public body into that room, and for several reasons, the cost and loss of flexibility of that meeting space to make some of the upgrades that would be needed to bring screens into that room, they were recommended that they be allowed to meet in Lane for their meetings moving forward as well.

Ms. Kilroy said that in-person meetings did not have virtual access or hybrid because many of those bodies met all over the County in meeting spaces that were controlled by various entities such as schools or libraries, so it was difficult to meet that standard of the meeting to start and end reliably every time because they are meeting in spaces where the County local government does not directly control the resources. She said when speaking to members of public bodies, they valued the opportunity to be out meeting in specific geographic areas of the County, so that flexibility in meeting location had been important.

Ms. Kilroy showed a slide of a summary of the timeline of what this looked like and the timeline for implementation. She said they had done tier one since April and were looking to move forward with the plan to transition the remaining public bodies for September 1. She said the Continuity of Government Ordinance was through September 16, but for ease and clarity in communicating that shift, they recommended moving forward with all meetings going to their new framework on September 1.

Ms. Kilroy said this is where she would tie in how the provisions of the Freedom of Information Act had shifted at the state level. She said they recommended for the opportunity for virtual meetings as provided under FOIA be extended to all public bodies. She said that would be that two times or 25% per year, whichever was greater, those bodies would have the ability to have virtual meetings. She said that was something they had done with great success over the past few years and was easy to bring forward for scheduled meetings in the future.

Ms. Kilroy said for individual remote participation where a member of the body may participate remotely in certain circumstances, this rule only applied to bodies under the code and not all public bodies, that applicable tier two be supported and applicable tier three bodies not be supported. She said that was because they needed AV resources in place to support individual remote participation in a meeting, and tier three bodies did not have AV resources in place to support those. She said they recommended moving forward as articulated on the table presented in the slide, and the County Attorney's Office would work with the bodies to amend their rules of procedure in accordance with FOIA to enact those.

Ms. Mallek said that tier three included citizen advisory committees (CACs). She asked if there would be an ability for them to participate remotely via telephone. She asked if they were in the Crozet Library for the Crozet CAC, there would not be Zoom as they had been accustomed to, but if someone wanted to listen in or ask a question, they had for many years, if someone wanted to listen in, that had been offered. She asked if there was any legal prescription against it.

Mr. Herrick said there was not a legal prohibition against that. He said that Ms. Kilroy was saying that if that was something the Board wished to support given there would be requisite resources for it, but to answer Ms. Mallek's question, it was legally allowed.

Ms. Mallek said it would not be a high production thing, but if someone had to be absent and wanted to listen in, that would be a solution.

Ms. Kilroy said that for one individual remote participant, but when there was more than one and the same meeting, it could get complicated, such as if there were two cell phones with feedback noises that would be generated, or if someone had to figure out how to do a conference line on the phone. She said the recommendation to not support individual remote participation came from the complication of how they chose who got to do it and knowing that they were trying to come to solutions that were easy to implement, templated, and had a consistent experience across the board.

Mr. Gallaway asked if a CAC met twelve times a year they would be able to meet virtually three of those times.

Ms. Kilroy said yes.

Mr. Gallaway asked if Zoom would suffice as they had been meeting for the last couple of years.

Ms. Kilroy said they would have to put in the cushion of the consecutive meetings, and if something were to happen with the quorum, they would have to shift their scheduled virtual meeting to in-person. She said that was where management would be difficult, but she thought they would be able to manage through that.

Mr. Gallaway asked Mr. Herrick if advisory committees were treated separately or if they were all regarded simply as public bodies.

Mr. Herrick said they were all public bodies subject to the same FOIA law.

Mr. Gallaway said that advisory committees should be something defined, because the virtual nature of an advisory committee would allow for much better participation for more people. He said that was something perhaps the legislative packet attacked or continued to attack.

Ms. McKeel said she believed they all agreed with that.

Ms. Kilroy said that was certainly how the individual remote participation was structured, where some were allowed and some were not. She asked for confirmation from Mr. Herrick.

Mr. Herrick said not exactly.

Ms. Kilroy said she was wrong.

Mr. Herrick said there were five local bodies for whom all-virtual participation was not allowed, but there was no distinction when it came to individual remote participation; they were equally allowed or disallowed depending on whether the public body had a policy.

Mr. Gallaway said he felt like a CAC was a good example of an advisory committee that if it met virtually all the time, if they wished to do so, he did not see an issue, but that was for the state to get into. He said it allowed for more people to participate since they were usually in the evenings and seemed like better governance to allow that.

Ms. McKeel said they all had questions about the CACs. She said what she was hearing from Ms. Kilroy was that they could have 25% of CAC meetings virtually.

Ms. Kilroy said yes.

Ms. McKeel said they would need to be coordinating very carefully with her department because they needed support for those virtual meetings as they had in the past.

Ms. Kilroy said they would be working as they had through the pandemic with the resources. She said for different advisory committees, there were different departments, but her office had been coordinating what those standard operating procedures were and they certainly would continue that work.

Ms. McKeel said she was referring to having someone send the Zoom link and being able to accommodate.

Ms. Kilroy said that would be part of the noticing requirements as well.

Ms. McKeel said that at some point, they needed to work that out as they went through what they needed from their CACs to make that structure happen.

Ms. McKeel said she had a separate question which was, if a CAC had a member that had a medical condition and could not meet publicly if they could participate virtually because if you were meeting in a school there was no support.

Ms. Kilroy said that was how the recommendation was structured.

Ms. McKeel asked if a CAC member could remain a member of the CAC but only participate in the virtual meetings they held.

Ms. Kilroy confirmed this.

Ms. McKeel said they needed to talk about this issue with their legislators because it made sense. She asked if Ms. Mallek was confused.

Ms. Mallek said she supported it entirely. She said she was digesting the information.

Ms. McKeel said not every member who was a part of an advisory committee could assume that they were safe if they went back in person because people had individual medical conditions. She thanked the County Attorney's Office and Mr. Herrick for allowing them to see the policy changes before they took effect in September.



Ms. LaPisto-Kirtley asked if in planning the virtual meetings, everyone would know the next meeting was a Zoom meeting by sending out the meeting link.

Ms. Kilroy said yes, much like how the Board adopted the calendar at the beginning of the calendar year, they would look to set up a similar structure where they were setting a target for ones they thought would be virtual so that they ensured the 25% was managed with enough of a cushion that they would not get into an issue like Mr. Andrews raised around having two virtual meetings back-to-back. She said localities around the state would have to work through the intricacies of this over the next couple of months, so she was sure there were more discussions to be had.

Ms. LaPisto-Kirtley asked if at the beginning of the year they should ask the CACs if they wanted to have virtual meetings and if so, put those dates on the calendar.

Ms. Kilroy said it would be good to go into the year with a plan, understanding that they could pivot as things might happen.

Ms. LaPisto-Kirtley asked if it would be possible for a member of the public to text in a question to the meeting so their concerns were heard. She said so far in her CAC meetings, they had not had anyone from the public, but it would be another way for people to participate.

Ms. Kilroy said particularly with advisory bodies, there was often an opportunity before and after a meeting for people to put in questions about things discussed in the meeting. She said the timeliness of being in the meeting was not usually critical to the matter before those advisory bodies.

Ms. LaPisto-Kirtley said it sounded like this was something very manageable, and she wanted to thank Ms. Kilroy and Mr. Herrick for their great work.

Mr. Andrews said the slide said he interpreted the slide that said what they would support as referring to not supporting AV resources meant that they would prohibit virtual meeting participation in a tier three body.

Ms. Kilroy said that it meant that staff was not putting any resources into supporting that.

Mr. Andrews asked if a body were meeting and had a phone for someone who could not attend could call into, would they be prohibited from participating under these rules.

Mr. Herrick said for the bodies that were not advisory bodies, they had the ability to decide that for themselves, but as Ms. Kilroy was suggesting, the term support dealt with technical support, so legally, the Conservation Easement Authority was a political subdivision and therefore had the ability to make that decision for itself, but the County may not be able to provide the technical support, which was what was being alluded to here.

Mr. Andrews said they were saying the CACs would not have the ability to allow the member to participate.

Mr. Herrick said that was a closer call because the state Freedom of Information Act talked about advisory bodies to the Board that the Board had the ability to dictate that for advisory bodies, so that was a closer call and there was nothing to interpret the new FOIA law on yet. He said some bodies like the Conservation Easement Authority more clearly had the ability to make that decision for themselves, but when it came to CACs, it was not as clear.

Mr. Andrews state that they had meetings associated with projects coming up through the planning process that were called community meetings and were sometimes held in conjunction with the CAC, but not always. He asked what the rules were regarding those.

Mr. Herrick said if those were CAC meetings, they were considered the meetings of a public body and would be subject to FOIA, but if there were not more than perhaps two Planning Commissioners or more than two Supervisors in attendance, and if the only County representation there was from appointed staff rather than members of a public body, they were not subject to FOIA.

Mr. Andrews said for tier one and tier two, he was attempting to understand what was policy and what was required. He said for tier one hybrid meetings, there was policy, but he would like to know if they were required to have a hybrid meeting in all cases. He asked what meetings were recorded.

Mr. Herrick said hybrid meetings were not required to be recorded and the Board would have the ability to shut all electronics down if it so chose.

Mr. Andrews asked about the recording process. He said obviously they would have to take minutes.

Mr. Herrick said there would have to be minutes and the public could still record meetings, but the County was not required to make recordings of meetings under FOIA. He said as Mr. Andrews indicated, they were required to keep minutes.

Ms. Kilroy said that under the public health emergency, the code changes that went into place at the state level that enabled virtual meetings of public bodies required recording of those meetings and

being held in perpetuity. She said when the public health emergency ended, that also ended. She said every meeting was recorded and posted during that time for that legal purpose, but that shifted when FOIA shifted.

Mr. Herrick said it was a requirement of the Continuity of Government Ordinance they were under now, but that went away when the ordinance expired.

Mr. Andrews said there was a discussion about which bodies would be in Lane, and there were questions about the County facilities generally being more open to the public. He said he understood there were rules currently in place prior to the pandemic for permitting events at COB McIntire, 5<sup>th</sup> Street, and different locations within those buildings such as conference rooms or this auditorium. He asked if there were any changes to those or if they would go back to what they were.

Mr. Henry said he understood Mr. Andrews' question. He said they had a facilities use policy that was in effect and would be in effect back in September.

Mr. Andrews said yes.

Mr. Henry said there had not been any adjustments made to that since the pandemic. He said there was a lot of work that occurred as they went into the pandemic and a lot of changes that remained in the 2019 timeframe.

Mr. Andrews said he wanted to ensure that was clarified for the public.

Ms. Price said that she concurred with the interest in adding to their legislative agenda some modifications to the law. She said she totally supported that any entity that wanted to do the virtual meetings should be done with calendaring early in the year in order to support the staff's ability to manage resources for them. She said she was again amazed at the staff's recall and knowledge of information as they were asked questions.

Ms. Mallek asked if recordings of the meetings would be stopped. She said the minutes obviously would continue, which she absolutely would support as they were available even when the systems did not work, but they had done a lot about streaming meetings and listening in to recordings of those.

Mr. Herrick said recording of meetings could continue but was not legally required. He said that went back to the distinction between what was legally required versus what the County chose to use resources to continue. He said the Board meetings were recorded and archived, as were Planning Commission and School Board meetings. He said recording was not required.

Ms. Mallek said it was not going away. She said her only issue with having to set up CAC virtual meetings in advance was that when there was an application in the Community Development Department that would have large interest and have lots of people show up to the meeting, they would not know that in January. She said the CACs met on certain determined days but she hoped they would be able to figure out a way that allowed for some things to not be figured out in advance because she did not see how it could be done.

Ms. Mallek said in support of the legislative changes, there had been continual feedback for the last two years that subcommittees, advisory to the advisory committees, which had been forbidden from meeting because of FOIA. She said when these people had no voting or legislative power, they were only trying to develop ideas to share with the bigger advisory committee, who might decide to share their ideas with the Board of Supervisors or Planning Commission. She said she hoped they would be able to lessen the restrictions on those people and give them back their lives.

Mr. Gallaway asked Ms. Kilroy what the plan was for educating the other advisory boards and committees as they were educating them today.

Ms. Kilroy said there was a meeting scheduled in a week or so with staff to update them on the outcome of today's meeting, then they would be equipped with information to share at their first meetings with their bodies in the September and October timeframe as regular meetings came up. She said they let everyone know that September was probably going to move forward based on what they were seeing with COVID-19 metrics, so plans were underway to be ready for September 1 in terms of scheduling rooms and getting familiar with different reservation systems around the County. She said those efforts would be done with more earnest after today as they did not want to move forward without input from the Board. She said as FOIA continued to be looked at, they would continue to make operational changes as needed.

Mr. Gallaway said there were many people to update on all their Boards and Commissions since they have so many. He said on the facility use question, they had made changes leading up to the pandemic so the facility use policy was probably something the Board should be refreshed on so they could help their respective committees to help with that. He said when Mr. Andrews mentioned the community meetings, what he heard was that if a developer held a community meeting as they were required to per the process at the CAC, they obviously had to follow CAC rules, but if they wanted to hold their own community meeting outside of that, they could do it however they wanted (virtual or in person).

Mr. Gallaway said this was a good time to remember that the developers were using the CACs as a convenience, because if they did not have anyone show up, it was already on the calendar, they could

schedule it, and if no members of the body came up, the CAC became the public and met the requirement. He said he was okay with that and understood why it was easy for them, but if they wanted more participation, the community meeting should be held outside of the CAC and they could figure out how to do it virtually. He said that would only help educate the public, so perhaps through Community Development they could suggest to applicants that the CAC was the way to get the public meeting requirement satisfied as a way to help with participation that was not governed by the FOIA items. He said the function of the CAC was never to just serve to fulfil developers' community meeting requirements.

Ms. Kilroy said they could discuss that as a follow-up. She said there was a discussion the Board had a few years ago about whether a CAC was a good venue for community meetings. She said back then, there was not the option of virtual meetings, so it might be timely to look at what the best procedure would be.

Mr. Gallaway said the CAC members were usually the most engaged with questions at those meetings and he did not want to undercut that but holding them outside of CACs could also allow for virtual participation not governed by their use policies if it was not attached to the CAC. He said it was something to think about and that developers should think about when making their plans.

Ms. McKeel said it would be interesting to see what developers thought about that. She asked if they had a virtual meeting for a CAC and someone from staff was helping with the technology, if those particular meetings were recorded or not.

Ms. Kilroy said they were not required to be recorded under FOIA, but they certainly could build into that, and that was where they had the opportunity under their standard operating procedures. She said that was something they could require.

Ms. McKeel said it seemed easy to do. She said it was an opportunity to have some of them recorded anyway.

Ms. Kilroy said absolutely.

Ms. McKeel said they had inquiries from the public about the use of the McIntire Rd Count Office Building, because it had been very open in the past. She said she was unsure of where they were with that because they had that discussion a long time ago. She said it was probably better to talk about it at a meeting so the Board and the public could understand.

Ms. Price said she would revise her earlier comment in light of Supervisor Mallek's comment. She said she agreed that things did come up and she realized there had to be flexibility there. She said with regard to more than two members of a body in a meeting, they must comply with FOIA rules, and that was just the law they must deal with.

Ms. Mallek said people were told that even two members could not meet without supervision from staff. She said it had been an ongoing debate.

Mr. Andrews said that was referring to a subcommittee of three people.

Mr. Herrick said with a subcommittee of three people, two people made a quorum.

Ms. Price thanked Mr. Herrick for that clarification.

Ms. Mallek said they needed a legislative ability.

Ms. Price said they could do away with subcommittees.

Ms. Mallek said this evening there would be a public hearing about a project where the community meeting was scheduled separately, notice was not done correctly, and she did not know about it until she was going out to buy a new refrigerator and someone from the meeting called her and asked if she knew about the community meeting about the project. She said it was a fiasco and there were very few people there.

Ms. Mallek said the great advantage for a CAC to be the host was that there was generally a set time, so the public knew that on the second Wednesday, if something were scheduled for the CAC, that was the day they could come and know what it was going to be. She thought they should be done as part of the CAC, because the staff would benefit from that so that they would not be corralling people to stay on task. She said assuming all stayed well and September happened, she would formally request they allow the Veterans Day folks to come in on November 11 at 11 a.m. and use Lane Auditorium and for the community salutes in May.

Mr. Henry said yes.

Mr. Andrews said he would like the community meetings to be recorded so the information got out there, and the CACs were a good place for them, but more people could participate if they were virtual. He said however, it became very complicated to put the rules in place to know they were being done properly by the developer if they were not in charge of them.

Ms. Price said if the community meeting was part of the CAC, it could eat into the time of the CAC if it became a very long community meeting.

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Agenda Item No. 11. **Closed Meeting.**

At 4:36 p.m., Mr. Andrews **moved** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:

- under subsection (1) to discuss and consider appointments to the Fire Prevention Code Appeals Board/Local Board of Building Code Appeals;
- under subsection (8) to consult with legal counsel regarding specific legal matters requiring legal advice related to land use applications and a decision of the Board of Zoning Appeals;
- pertaining to drainage infrastructure in the Northfields subdivision, under subsection (3), to discuss and consider the acquisition of real property where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County, and under subsection (8), to consult with legal counsel regarding specific legal matters requiring legal advice related to the negotiation of right of entry agreements and easements; and
- under subsection (7), to consult with legal counsel and receive a briefing by staff members pertaining to (1) actual litigation concerning the Ragged Mountain Natural Area, and (2) probable litigation concerning alleged violations of the Virginia Freedom of Information Act and State and Local Government Conflict of Interests Act, where consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the County and the Board.

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

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

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Agenda Item No. 12. **Certify Closed Meeting.**

At 6:00 p.m., Mr. Andrews **moved** that the Board of Supervisors certify by a recorded vote that in the closed meeting the subject of probable litigation concerning alleged violations of the Virginia Freedom of Information Act and State and Local Government Conflict of Interests Act was not heard, discussed or considered and otherwise, to the best of each Supervisor's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting.

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

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

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Agenda Item No. 13. Boards and Commissions.

Item No. 13.a. Vacancies and Appointments.

Ms. LaPisto-Kirtley **moved** that the Board accept the following for their Boards and Commissions vacancies and reappointment list:

- **Appoint** Mr. Walter N. Perkins to the Fire Prevention Board of Appeals and Local Board of Building Code Appeals with said terms to expire November 21, 2026.
- **Appoint** Mr. Raymond E. Gaines to the Fire Prevention Board of Appeals and Local Board of Building Code Appeals as an alternate member to fulfill partial terms ending November 21, 2023

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

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

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Mr. Andrews **moved** to authorize the County Executive, in connection with emergency drainage repairs in the Northfields subdivision (1) to enter into right of entry letter agreements with property owners, substantially in the form presented to the Board in the closed meeting, and other agreements necessary

to such repairs, once the agreements are approved as to form and substance by the County Attorney, and (2) to proceed with and complete such repairs as detailed in the letter agreements.

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

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

NAYS: None.

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Agenda Item No. 14. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Jeff Richardson, County Executive, said tonight was his County Executive's Monthly Report. He said Kristy Shifflett, Director of Performance and Strategic Planning, who would discuss some information regarding some of their internal continuous improvement efforts with the systems and structure focus they had in their organization, as well as the connection across County departments. He said he would first provide the Board with several slides of information that went back to two meetings ago, when several Board members expressed interest in some updated Human Resources vacancy numbers. He said one Board member talked about looking at a broader annual report from Human Resources, which was something they were looking to achieve. He said also introduce this evening Mia Coltrane, Director of Human Resources, who was in the auditorium.

Mr. Richardson said the first slide showed the data of present vacancies across County government. He said the pie chart showed a total of 118 vacancies, 28% being newly created positions in the FY23 budget. He said that was shown in blue, and 72% were vacant incumbent positions so that had been in the organization for some period of time, and that was the red color. He said in the bar chart at the bottom that the vacancies in red had been relatively flat month to month looking back to April.

Mr. Richardson said that was five months looking back, and the red line was hovering somewhere around 80 to 90 positions on an average per month. He said the newly created positions were not all under active recruitment; of the total number of positions authorized in FY23, they gave permission to begin the process as would be done normally in May and June, but some of the positions were authorized half-year, which meant recruitment would begin around November and December.

Mr. Richardson said the current slide looked in more detail at the 85 incumbent positions. He said the pie chart shared vacancies by pay grade. He said as a reminder, public safety positions were on the public safety pay scale; other positions were on a grade system. He showed the vacancy count and said while they were seeing the largest number of vacancies in the public safety departments, those were also their largest departments. He said 43% of the total vacancies were in police and fire, and on the far right, by department, that went down in descending order. He said the Sheriff's Department had the lowest vacancy count in the County, with one vacancy.

Mr. Richardson said they would continue to analyze this data as there was a lot more to look at over the course of time. He said on the left side, it could be seen that when looking at vacancies by pay grade, it was fairly equitably spread across the organization, but at the far left, the majority of the vacancies were with entry-level positions. He said they had discussed over the past eighteen months stabilizing workforces in police and fire. He asked if there were any questions so far. He said copies would be given to the Board before they met next week.

Ms. Mallek said 30 vacancies was less alarming to her when she thought of the total number of personnel in the public safety departments. She said she knew they were working hard to fill those positions.

Mr. Gallaway asked if 85 was the total or just the incumbent.

Mr. Richardson said the 85 figure was incumbent positions, and adding to that the newly created positions of FY23 gave a total of 118. He said of the positions that were authorized July 1, it was not expected that they would have filled any of those positions at this point.

Mr. Gallaway said after public safety, the Department of Social Services had the highest vacancy total, but that was before the new positions they added.

Mr. Richardson said that was right.

Mr. Gallaway said when thinking of moving the positions from January up and they were already a department with a deficiency, so preventing them from having to wait another six months validated the pull-ahead for those positions so they could be filled sooner. He said with CDD's vacancies just behind that, in many ways, that was an income-generating department, and knowing the constraints they had from a personnel standpoint, they should consider the total amount of vacancies in those departments. He said he was not asking for action to be taken but he appreciated having this information.

Ms. McKeel said the information was helpful. She said it would be good for their Board to see the school side as well, because it was informative to see what teacher retention and recruitment were like. She said likewise, it would be helpful for them to see this as well. She said the HR report was nice because it gave both sides of information, schools and local government.

Ms. LaPisto-Kirtley said it appeared they had some work to do, and she knew they would be actively recruiting.

Mr. Andrews said he would be interested in seeing what percentage of positions in each area was unfilled so they would see how many positions CDD and Social Services was down as a percentage.

Ms. Price said to Ms. Coltrane that she would like to acknowledge the work she and her department were doing throughout this process with the revision of the entire HR process; she knew they worked very hard to get this to them. She asked Mr. Richardson what, in pre-pandemic normalcy, would the average vacancy rate across the organization typically ran as a historic average.

Mr. Richardson said he had seen information from Human Resources since he arrived in 2017 that suggested at different times, they were between 5% and as high as 12% but it was varied. He said embedded in that number was retirements, which were inevitable. He said to Chair Price that it was impossible to see with this topical level of data a deeper level of analysis that they would be able to do soon under their new HR system regarding efforts to fill these positions. He said in some cases, a position was open and there were perhaps three recruitments that were unsuccessful, and it may take as many as four recruitments for one position opening in order to find a top candidate.

Mr. Richardson said things like how many postings and the number of applicants compared to postings two years ago were things they were hearing anecdotally through department heads who were working very hard with Human Resources to get this work accomplished, but he could say with confidence that recruiting was very different for this organization than it was three years ago in terms of building applicant pools, working through them, and identifying top candidates. He said they did not use outside consultants often, but when they did, they gave feedback that it was the most difficult they had ever seen and they had to hurry because building an applicant pool did not mean it would stay intact through the process.

Ms. Price said that made perfect sense. She said she did not want to ignore Ms. Shifflett's contribution. She said if their typical range of vacancies in some degree of normalcy was between 5% and 11%, as a general thought process, she thought if she looked at a chart like this for voter registration down on the column to the right where there were under 5% vacancy, that appeared to be in the normal range, but going below that, with Finance and Budget and the rest going counterclockwise around the circle, getting to 7% or above 11%, it was clearly showing areas that were not in extremis but were reaching that critical stage. She said they knew there would always be some series of vacancies as people rotated in and out for whatever reasons, but this clearly showed their workforce stabilization efforts had to continue and in some areas had to increase.

Mr. Gallaway said during their budget season, getting financial reports and hearing about surplus year-in and year-out and the comments they received about why the surplus existed, but with that many vacancies and they were not paying the salaries that were approved, that was how they ended up getting a surplus. He said it was important to point out that those dollars were not being used, but it went somewhere.

Ms. Price said to that point, having a surplus did not indicate that the County did not properly or adequately prepare its budget and expenditures, it was some of the unplanned changes that resulted.

Ms. Mallek said some agencies had talked about growing their own, such as Fire and Rescue training their own personnel for the job. She said perhaps they could strengthen working with the workforce system, which in Virginia was Career Works. She said having more apprenticeships and things like that so they could train their own to get into the system and know they were a career ladder employment agency too so they would not only look to businesses to do that.

Mr. Andrews said that was an excellent point. He clarified that the percentages on this chart were percentages of the 85 and not percentages of the area. He said they did not have the information there to know that the vacancies might be out of two people.

Ms. Price said that was a good point. She said they did know from prior conversations that some of these departments were the ones with the highest vacancies.

Ms. Shifflett said they had discussed the modernization effort as a budget line item approved for FY23 that was core systems modernization, so today she wanted to give an update on the work they had been doing to improve not only their technology but their processes in this. She said this connected directly to the conversation they just had about having performance measurements. She said the better systems and reporting they could have, the more they could provide the Board with better data.

Ms. Shifflett said there were several things they were working on internally as organizational initiatives that were not often seen and more staff-focused efforts. She said they were working on the Human Resources Information System (HRIS), which had been underway for many months, with the plan to go live in November, when they did the new open enrollment process. She said a significant point to make there was that this was going to be School Division and the County government doing that together.

Ms. Shifflett said they would now have the same system funneling into the Finance Department; however, they were able to modify their onboarding and recruitment planning differently. She said to notice that training and change management to make sure their staff knew how to function well in the system and know what actions they needed to take, because this was their wellness, benefits, and pay

that were all connected.

Ms. Shifflett said next, they knew about the compensation classification study, which was an update that was very timely as they were looking at the workforce stabilization conversation. She said they just provided job descriptions where they looked at essential functions, and the consultant would be looking at those items and doing that market study and benchmarking. She said they would analyze classification as well. She said that information they were timing with their long-range financial planning, so that information would come to the Board in the late fall.

Ms. Shifflett said next, they divided HR services officially on July 1; however, they were continuing to improve as they had to reengineer their processes and train new staff. She said it was an effort that was impacting several departments as they began onboarding the new HR team and ensuring that payroll and other employee onboarding was being reengineered with the County government focus they had not had in the past.

Ms. Shifflett said next was facility space planning. She said a study had been completed about their current space and how they might want to work differently after the pandemic and implement a telework policy, so internal work and conversations would continue and more information would come before the Board as they learned of options. She said lastly was the community development system. She said the Community Development Department had been working very hard with her team and they had just posted the proposal for vendors to take a look at, so they were moving through that process this fall. She said they were very excited and was going to be a lot of work to look at all of the processes in Community Development and how they processed those applications, permitting, and policy work, but she thought with Jodie Filardo leading, they would be successful partners.

Ms. Mallek asked if the previous slide showed the internal process.

Ms. Shifflett said that was correct. She said they implemented a Camino System for application intake and this was the development tracking system.

Mr. Gallaway asked if under “facilities space planning,” study results were the same thing as the space utilization.

Ms. Shifflett said yes. She said this was more information about how they were currently using the space as staff who were also teleworking and how they may be able to use the space differently.

Mr. Gallaway said he was thinking of a study about how the land on Berkmar Road could be connected to the results. He asked if this was the same entity.

Ms. Shifflett said that was separate.

Mr. Gallaway said he could not recall the name of the study.

Ms. McKeel said she was going to ask the same question, because they were looking at all of the properties.

Mr. Gallaway said he believed it was a space utilization study, so it sounded familiar but this sounded different.

Mr. Richardson said he could get an update on the properties outside of the County Office Building in the 5th Street location, and where they were with that work. He said Ms. Shifflett was talking about where their people worked and space utilization needs for departments with projected growth, a hybrid work schedule, and inputting that fully coming out of the pandemic, as well as forecasting the buildings’ useful life based on that data and analysis.

Mr. Gallaway said there could be no overlap, but there were certain elements of the other study that the Board was expecting to come back to them, so when he saw the timeline, it seemed to him that this was a subset or something different.

Mr. Richardson said he was not disagreeing in any way. He asked Mr. Walker to assist with the clarification.

Mr. Doug Walker, Deputy County Executive, responded that there was a separate study, referred to as the Brookhill proffer site, which was off Berkmar Road, and they were assessing possible future uses. He said that study was in addition to the J.C. Penny use and separate from the spatialization of the 5th Street and McIntire Road County office buildings.

Mr. Gallaway clarified that it did not inform that other work.

Mr. Walker responded yes.

Ms. McKeel clarified that the work would intersect at some point.

Mr. Richardson said when they met with consultants the prior week, it was not part of the discussion, so he was not prepared to inform the Board at the moment.

Ms. McKeel said she knew it was delayed due to the pandemic. She noted there was work being done by Economic Development, and they were assessing site readiness. She noted there were multiple studies regarding space, land, and properties.

Mr. Richardson responded that there were multiple studies. He said they did not fall under the work they were performing specific to the workforce and the County office buildings. He said they could be prepared to speak to the Board on the matter at a future date. He said Mr. Trevor Henry was prepared to provide more information.

Ms. McKeel said they could wait for the information. She said it would be interesting to see the various areas of work that were happening in a report whenever the information did come back before the Board.

Ms. LaPisto-Kirtley mentioned the payroll process had changed, and she asked for an update on the rollout.

Ms. Shifflet said the HR information system displayed on the slide also connected to the payroll system—it was all going to be ADP. She noted the HR information system provided the data for payroll processing. She mentioned there had been difficulties implementing the new system, transitioning to positive pay and biweekly pay, but many of the issues had been addressed. She said there would be further improvement once the data input workflow was refined.

Ms. Price noted the compensation and classification study. She said when they reviewed compensation, they considered the value of the employee to the employer. She said she heard from several jurisdictions and from several types of employment how the employees were changing what they were looking for from the employer beyond compensation. She said the typical employment offers were not matching the options that potential employees desired. She said employees looked for flexibility in the benefits and the compensation package for employment.

Ms. Price noted that when she met with leaders of different industries, they were considering going into middle schools and high schools and recruiting children to their industry professions. She said they went to the schools to advertise the position to the students. She said the types of avenues existed to grow their own employees. She noted there were on-the-spot awards for employees at the Department of Defense (DOD). She suggested the County should set aside funding for on-the-spot recognitions of individuals.

Mr. Gallaway said he wanted to clarify the prior piece. He noted that of the FES quarterly reports, there was the FES Master Plan study along with the Brookhill proffer assessment. He noted the interaction between the plans.

Ms. Shifflet said she would discuss the steps for the development process. She explained the existing strategic plan was extended through FY23. She said they had to determine goals and priorities for FY24, and the core values would be used to set expectations for how the organization will go about achieving its goals and priorities. She said the County vision would be used to connect to the goals and priorities.

Ms. Shifflet noted the Comprehensive Plan review happening concurrently and the projects that had already been selected and committed to. She said they intended to build the plan with the Board and its direction, and the plan would be used to aid in the five-year financial planning and annual budget process.

Ms. Shifflet said the aligned approach would consider the vision statement, build strategic goals, form narrowed objectives, and build the projects and initiatives through the annual budget. She said they would provide performance indicators as well. She explained that the following week, there would be a work session with the Board, and they would discuss the proposed goals and objectives. She said in September and October, they would discuss, draft, and revise the goals and objectives. She said the strategic planning work session would be held on August 24, 2022 at 9 a.m. at the North Fork UVA Discovery Park.

Ms. Mallek asked Ms. Shifflet to clarify which building the work session was being held in.

Ms. Shifflet responded signage would be posted that directed people to the meeting.

Ms. Price said the community did not understand that the Board was not precluded from cutting down trees or paving parking lots. She said there were tasks that needed to be completed so the Board could achieve its objectives. She noted the time frame of the strategic plan—from FY24 to FY29—and how it would require continuous monitoring through the duration of the plan to ensure they were meeting objectives.

Mr. Richardson announced they continued to work with community partners on “Seas the Day”—the veterans’ partnership community outreach connection to community services on Sunday, August 28, 2022, at Walnut Creek Park. He asked Mr. Henry when the event began.

Mr. Henry said the “Seas the Day” event commenced at noon and ended at 3 p.m. He said there were flyers requesting pre-registration for food. He said there would also be music.

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

There were no speakers.

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Agenda Item No. 16. **Public Hearing: 16. ZMA202000005 Old Dominion Village.**

PROJECT: ZMA202000005 Old Dominion Village (Signs #47 & 48)

MAGISTERIAL DISTRICT: White Hall

TAX MAP/PARCELS: 056000000067B0, 056000000074A0

LOCATION: 1263 Parkview Drive, Crozet, VA 22932, 5258 Three Notch'd Road, Crozet, VA 22932

PROPOSAL: Request to rezone two properties from RA (Rural Area) to NMD (Neighborhood Model District) to allow a mixed-use development with up to 115 residential units and veterinary clinic uses.

PETITION: Request to rezone 23.68 acres from the RA Rural Area zoning district which allows for agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots) to NMD Neighborhood Model District which allows for residential (3 – 34 units/acre) mixed with commercial, service and industrial uses. Proposal includes 0.9 acres to be used for a veterinary clinic with open space and recreation areas throughout the development. A maximum of 110 dwelling units are proposed at a gross residential density of 4.64 du/acre for the entire development and a net density of 7.93 du/acre for the area designated for development in the Crozet Master Plan. Request for a Special Exception to Section 18-5.1.11 (b) of the Zoning Ordinance to reduce the minimum required 200' separation distance to 50' between soundproofed animal confinements and residential properties. Request to approve an application to amend the Service Authority Jurisdictional Area from No Designation and Water Only to Existing Structures to Water and Sewer. Request for approval of a central sewerage system, request to allow a private pump station within the development.

OVERLAY DISTRICT: Entrance Corridor (EC); Flood Hazard (FH); Managed and Preserved Steep Slopes.

PROFFERS: Yes

COMPREHENSIVE PLAN: Middle Density Residential - 6 – 12 units /acre; supporting uses such as religious institutions, schools, commercial, office and service uses; Neighborhood Density Residential - 3-6 units/acre; supporting uses such as religious institutions, schools and other small scale non-residential uses; and Greenspace - public parks, open space, environmental features within the Crozet Master Plan. Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

The Executive Summary forwarded to the Board states that at its meeting on Tuesday, February 15, 2022, the Planning Commission (PC) conducted a public hearing and voted 7:0 to recommend approval of ZMA202000005. During the public hearing a number of issues were identified by both staff and Commissioners that would need to be addressed prior to the Board of Supervisors public hearing. The applicant has been working to address those issues and with this submittal, staff believes that they have been addressed.

The applicant has also applied for a Special Exception (SE202000010) to reduce the minimum separation between an animal confinement facility and a residential lot line from 200' to 50'. Despite staff support for this Special Exception, the PC voted 4:3 to recommend denial of this Special Exception. The applicant has provided additional information relative to this request for the Board of Supervisors to consider. The PC's staff report, action letter, and meeting minutes are attached (Attachments A, B, and C).

At the PC meeting, staff recommended approval of the proposed Zoning Map Amendment. The proposal is consistent with the future land use and density recommendations identified in the Crozet Master Plan. The PC voted 7:0 to recommend approval of ZMA202000005.

The following sections discuss the changes that have been made to address the issues that staff and Commissioners had with the original application. Attachments D, E, F, G, and H are revised materials, with the changes described below and related supplementary information provided by the applicant.

Code of Development

The Code of Development has been revised to allow for a wooded buffer along the Rt. 240 frontage that includes a mix of trees and shrubs, evergreen and deciduous, in an informal arrangement, as requested by the Architecture Review Board (ARB).

The Code of Development has been revised to include a note that allows only kennel uses within the Block 1 (the location of the existing veterinary clinic) in conjunction with the veterinary use and not as an independent use.

Application Plan

A suggestion was made for the applicant to include sound attenuation measures such as a vegetative buffer surrounding the existing veterinary office to reduce the potential for noise impacts to the future residential areas. The applicant has expressed willingness to include this buffer if the Board of

Supervisors deems it necessary.

The grading plan has been revised to show the steep slopes overlay in relation to the proposed grading.

Draft Proffer Statement

Proffer 1C has been revised to state 'For-Rent Affordable Dwelling Units' as suggested by the Housing Policy Manager.

Following the submittal of the PC Staff Report, an issue was identified with the proposed private pump station and sewer line shown on the Application Plan and described in the Narrative. The Albemarle County Sewer Authority (ACSA) informed staff that the connection to the private sewer line would not be allowed. The project would have to connect to a public sewer line. Further, it was found that an agreement that would have allowed the connection to the private sewer line that serves the Emerson Commons development, had expired. Therefore, changes to the proposal were necessary to address this connection. The revised Application Plan, on Sheet Z-106, now shows a revised alignment of the sanitary force main to connect to the existing manhole on TMP 56A3-9. Additionally, the Narrative has been revised accordingly.

During the Planning Commission Public Hearing, questions were raised about parking for the development, particularly if enough parking was being provided and the concern for the layout, which had no on-street parking options. The required parking for the development appears to be met based on the application plan. The applicant has agreed to evaluate and consider the potential for on-street parking during the site plan stage.

Regarding the Special Exception (SE202000010), the Planning Commission was concerned about the potential noise impact of the veterinary clinic as well as the general design of the proposal that placed the veterinary clinic at the center of the development. The veterinary clinic is an existing use and the proposal is to construct the residential portions of the proposal around it. A noise study (included in Attachment A7) demonstrated that the soundproofing met the required levels. Attachment H also shows various buffer distances from the veterinary clinic in relation to the development.

Additional approvals will be required to expand the ACSA Jurisdictional Area and to approve the private pump station requested for the development. The ACSA Jurisdictional Area Expansion will be held as a separate Public Hearing for the Board on August 17, 2022. The private pump station will require additional designs and would return to the Board at a future meeting.

The Planning Commission has recommended that the Board adopt the attached Ordinance (Attachment H) to approve ZMA202000005 Old Dominion Village.

The Planning Commission has recommended that the Board deny the Special Exception Request SE202200010 to reduce the buffer between a veterinary clinic and residential lots.

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Mr. Kevin McDermott, Planning Manager in Community Development, clarified he would present the rezoning application for the property which included a special exception. He said once the Board had made a decision on the item, there would be a hearing on the ACSA jurisdictional area, which was related but required a separate hearing.

Mr. McDermott said the hearing was to rezone ZMA2020-00005 Old Dominion Village. He said the parcel was located in the Crozet Development Area. He said the proposal was to rezone two parcels totaling 23.68 acres from rural areas (RA) to neighborhood model development (NMD).

Mr. McDermott said a community meeting was held on July 29, 2020, but it was not held at a CAC meeting because the Master Plan update had been underway at the time. He noted that the Crozet CAC addressed the proposal at the August 12, 2020 meeting when the lead planning for the proposal attended the CAC meeting and reviewed the project with them. He said no follow-up meetings had been held because there had not been substantive changes that would require an additional meeting. He said the Planning Commission held a public hearing on February 15, 2022, and they voted unanimously to support approval of the rezoning.

Mr. McDermott presented some pictures of the site and described the orientation of the images and how they viewed the site. He presented another slide that showed a figure with the current zoning of the property and the surrounding parcels. He said the surrounding parcels in white were zoned RA, south of the parcels across Three Notched Road you could see the two parcels zoned light industry (the former site of Acme Visible Records), and to the northwest a planned residential development (PRD) called Emerson Commons. He noted the location of the flood plain that followed Parrott Branch Creek and the location of steep slopes on the parcel, particularly in the Northeast of the property.

Mr. McDermott said the Comprehensive Plan recommended the parcel be zoned for green systems along the 100 ft Parrot Branch stream buffer, and there were two development recommendations: middle-density residential (6 to 12 units per acre), and neighborhood density residential (3 to 6 units per acre).

Mr. McDermott said within the code of development, there were permitted uses and development standards. He said the site was broken into blocks. He noted Block 1, at the center of the development,

permitted commercial development between 3,000 and 5,000 square feet, and it was the location of the Old Dominion Animal Hospital. He said the allowed uses in Block 1 allowed veterinary, office, country store, daycare, and others. He said the applicant proposed to retain the existing animal hospital and move the parking lot.

Mr. McDermott said blocks 2 through 4 included single-family attached residential units or townhomes (6 through 12 units per acre), and blocks 6 through 10 included single-family attached and detached (3 to 6 units per acre). He said the site had a total of 110 proposed residential units at a gross density of 4.65 units per acre. He said the proposal met the Comprehensive Plan in terms of net and gross density.

Mr. McDermott said 20 affordable units were proposed, which is between 18% and 20% of the total number of units. He said the applicant was dedicating 57% of the property within the parcels as open space or amenity areas.

Mr. McDermott said the area comprising the 100-foot stream buffer was proposed to be dedicated to the County as a conservation area. He said the applicant offered to construct a primitive trail through the stream buffer for public use that would connect to other trails. He noted the amenity area which would be made up of recreation space and tree buffers. He noted the locations of two tot lots and a dog park along the tree buffer near Route 240. He said Route 240 was an entrance corridor, so the Architectural Review Board (ARB) had reviewed the proposal, and the applicant had accepted the recommendations. He reiterated the location of each of the blocks within the parcel.

Mr. McDermott said a traffic impact analysis (TIA) was not required for the application. He said the traffic engineer trip generation estimates showed approximately 795 trips per day generated by the development. He said the internal public road system included sidewalks, and construction of a sidewalk and a bicycle lane across from the Route 240 frontage of the development was included. He said traffic turn lanes would be determined at the site planning stage, and if needed would be paid for by the applicant, and the applicant had included cash proffers to offset the transportation impacts.

Mr. McDermott said there were nearby transportation improvements in progress. He said at the Route 240/US 250 intersection, there was a project to reconstruct the intersection as a roundabout. He mentioned the intersection had been noted as a safety concern in the past, and it had been awarded Highway Safety Improvement funding. He said a new road connection was being installed from Park Ridge Drive to Crozet Drive as part of a couple existing developments, including Barnes Lumber. He said those projects would disperse some of the traffic coming from the development.

Mr. McDermott said Albemarle County Public Schools (ACPS) reviewed the project proposal and provided a student generation calculator. He noted the number of students that would be generated by the 110 units was 49.5 students. He said those students would attend Crozet Elementary School, Henley Middle School, and Western Albemarle High School.

Mr. McDermott mentioned Crozet Elementary would open its expansion for the school year and was expected to remain under capacity for the foreseeable future. He said Henley Middle was expected to remain under capacity, but Western Albemarle High was expected to reach capacity within a 5-year timeframe. He said the proposal included cash proffers to offset the impacts on ACPS.

Mr. McDermott said the first proffer was for affordable housing; providing a total of 20 affordable dwelling units, for sale or rent, which exceeded the County's requirement. He said the second proffer was the amenity area dedication; dedicating the proposed amenity areas to the HOA for the use and enjoyment of the residents. He said the third proffer was the greenway area dedication; dedicating those areas identified as Greenspace 1 and 2, totaling 7.8 acres, as a conservation area to the County upon its request for public use.

Mr. McDermott noted the owner would also construct a pedestrian path within the greenspace or on public use easements of the amenity areas to make connections. He said the fourth proffer regarded financial contributions; proffering a cash contribution of \$3,000 for each new single-family detached dwelling and \$2,500 for each new single-family attached or townhouse dwelling to address transportation or school impacts.

Mr. McDermott said the Commission and Staff identified points that resulted in changes to the application. He said the applicant revised the frontage along Route 240 for a wooded buffer to include a mix of trees and shrubs, both evergreen and deciduous, as determined by the ARB. He said the uses were revised to allow for the kennel uses within Block 1, the location of the existing veterinary clinic. He explained the kennel uses were only allowed in conjunction with veterinary use, and not as an independent use., which was similar to the current conditions on that veterinary office.

Mr. McDermott mentioned concerns were identified related to the grading plan and the steep slopes overlay. He said the concerns had been addressed and a new grading plan was provided to show the steep slope overlays would be avoided with the grading—fully meeting the neighborhood model assessment. He said typos had been corrected in the proffer document. He noted the draft proffer document included in the Board's packet was unsigned, but the County had a signed version that he could distribute.

Mr. McDermott noted concerns regarding the sewer line. He said the applicant previously proposed the sewer line, which would have a private pump station, would connect to the Emerson

Commons private sewer line, but because of related issues the applicant moved the sewer connection to a gravity-fed public sewer line located on a parcel located to the west of the development. He said in the future, approval for the private pump station would be necessary for the development, but that occurred at the site plan stage. He said the applicant agreed to evaluate and consider the potential for on-street parking during the site plan stage. He said the Planning Commission questioned the lack of on-street parking and the use of private driveways and disparate parking lots.

Mr. McDermott said staff identified favorable factors for the request. He said it was consistent with the recommendations of the Crozet Master Plan and with the neighborhood model principles. He noted the applicant proposed to dedicate 7.8 acres of land surrounding Parrott Creek to the County, and the adjacent lands were reserved as amenity areas. He said the proposal provided pedestrian and bicycle facilities along Three Notched Road in addition to the internal pedestrian facilities. He noted the proposal offered up to \$283,000 in cash proffers to mitigate impacts to ACPS and transportation. He said the proposal proffered 20 affordable dwelling units which exceeded the required 15% rate. He said staff did not find any unfavorable factors to the request.

Mr. McDermott said in accordance with County code, a commercial kennel, veterinary service, office, or hospital, animal hospital, or animal shelter with soundproof confinements can have no structure located closer than 200 feet to any agricultural or residential line. He said the applicant had submitted a special exception, SE202200010, to modify the requirement to reduce the maximum distance to 50 feet.

Mr. McDermott said a noise study was submitted showing the maximum allowed decibels of 55 was not exceeded by the noises from the kennel because of existing soundproofing. He noted the veterinary use was an existing use, and the residential units would be constructed around the veterinary use, so potential residents would be aware of the existing use. He said the primary use of the facility was a veterinary clinic, and there was only occasional overnight boarding of animals.

Mr. McDermott said the Commission voted 4 to 3 to deny the special exception. He said the Commission's concerns included noise, and they did not believe a veterinary office was the best use to serve as the center for an NMD. He said the applicant had expressed willingness to include additional sound attenuation measures if the Board believed it was necessary, and they had included the note in the code of development that stated the kennel use was approved in conjunction with the veterinary use, and shall not be operated independently. He said he had recommended motions available.

Ms. Mallek asked if there would be soil disturbances in Greenways 1 and 2.

Mr. McDermott said there would not. He noted that in the application plan, the sewer line no longer went through the area, but there was an existing gas line easement, and that was marked on the map. He said the applicant had worked with the owner of the easement to ensure the development did not impact the easement.

Ms. Mallek said the community in Crozet was cautious about unpermitted tree clearing. She said she wanted to make it clear the buffer area was protected and would not have any soil disturbances. She asked what occasional overnight boarding meant. She asked for clarification whether animals would be boarded only for overnight observation or if they would be boarded while people went on vacation.

Mr. McDermott said the owner was present to answer in more detail, but staff assumed that the overnight boarding was related to patients at the animal hospital and not for people going on vacation.

Mr. Gallaway confirmed that the proposal would still construct a private pump station, and the only change in regards to the sewer was the connection.

Mr. McDermott said that was correct, that the sewer was previously proposed to connect to another private sewer line. He said the agreement for the private connection had expired, so it now connected to a public line.

Mr. Gallaway asked if there was a total cash proffer amount.

Mr. McDermott said the cash proffer could total \$283,000 if built to the maximum 110-unit density.

Mr. Gallaway confirmed the cash proffers were to address ACPS and transportation impacts.

Mr. McDermott said that was correct.

Mr. Gallaway asked if a dog park was proposed.

Mr. McDermott said yes.

Mr. Gallaway asked if there were setback requirements for the dog park. He noted the setback requirements for the kennel use and that the dog park would also have barking.

Mr. McDermott said there was no setback requirement for a dog park.

Mr. Gallaway asked if the dog park was on a residential line.

Mr. McDermott said the location of the exact structures was unsure, but the dog park would be

surrounded on two sides by residential units.

Mr. Gallaway noted the concerns regarding barking, but he did not recall discussion related to the dog park from the Commission. He confirmed that there were no setbacks required for dog parks.

Mr. McDermott said that was correct; there were no setbacks for dog parks.

Mr. Gallaway asked if the dog park could be 25 feet from a residential lot line.

Mr. McDermott responded yes. He said it was listed as one of the potential amenity areas for the development.

Mr. Gallaway noted the development would turn into an HOA, and there would be rules for using the dog park. He said the school impact was equal to two full classrooms at the elementary and high school level, and a half classroom size at the middle school. He said asked if Henley Middle would be under capacity for the foreseeable future.

Mr. McDermott said they would be under capacity for the next ten years.

Ms. Mallek said she did not understand how they were under capacity because the school was designed for 750 students and it had been over 800 students years ago.

Mr. Gallaway said it stood out because he believed there was capacity at all the middle schools except Henley Middle. He considered whether the cash proffer was enough for the students when it was supposed to cover ACPS and transportation. He confirmed the cash proffer was for the schools and transportation.

Mr. McDermott confirmed the cash proffer was for the school and transportation impacts.

Mr. Gallaway asked when they would begin requiring the 20% affordable housing proffer as part of Housing Albemarle.

Mr. McDermott said he was unsure because the housing policy updates were still being drafted.

Ms. McKeel asked if the roads in the development were public.

Mr. McDermott said the roads were public.

Ms. McKeel noted the public road designation contributed to the parking issue.

Mr. McDermott said that was correct. He explained initially, a private road system was proposed, and at staff's request, it was changed to public. He said VDOT had requirements for public roads and on-street parking, so that was why the parking was removed. He said VDOT could allow on-street parking, but it would require more work. He said the applicant expressed willingness to reimplement the on-street parking.

Ms. McKeel said she agreed with Mr. Gallaway's comments. She questioned how much benefit the County would get from the cash proffers since it was to be stretched out over ACPS and transportation.

Ms. LaPisto-Kirtley clarified that the veterinary hospital was currently operating and that it had been in business for some time.

Mr. McDermott said that was correct.

Ms. LaPisto-Kirtley clarified the applicant requested a smaller setback.

Mr. McDermott said they requested a smaller setback than required by County code. He said currently, there were no residential lot lines that would be impacted by the existing 200-foot setback.

Ms. LaPisto-Kirtley clarified that the veterinary clinic was surrounded on two sides by a road.

Mr. McDermott said that was correct; two sides of the clinic were directly adjacent to the road.

Ms. LaPisto-Kirtley asked if the parking lot would be located on the backside of the clinic.

Mr. McDermott explained the parking lot would be between the sides adjacent to the road. He indicated where the veterinary office, parking, and roads were located. He said a document provided in the packet showed a map with the marked distances. He noted the housing units that would be impacted if the special exception were not approved.

Ms. LaPisto-Kirtley clarified that the animals to be boarded at the clinic were patients and were not being boarded while their owners went on vacation.

Mr. McDermott said that was what the language in the code appeared to state, but the applicant could provide further clarification.

Mr. Andrews asked what would prevent people from parking on the street regardless of what was permitted.

Mr. McDermott said it would be possible for people to park on the streets, but the residences had private driveways. He said those types of questions were typically addressed during the site planning stage. He said if no parking was permitted on the roads, then they would be designed to be narrow to not allow parking, and signage could be erected.

Mr. Andrews clarified whether the 200-foot setback requirement was separate from applicable noise ordinances. He asked if the noise ordinances would apply to a 50-foot buffer if the levels increased beyond permitted levels.

Mr. McDermott said the noise was required to remain below 55 decibels in any case.

Mr. Gallaway mentioned there was a dog barking ordinance. He asked if the ordinance was different for veterinary use.

Mr. McDermott said it was not different.

Mr. Gallaway clarified that if there was a veterinary use without a setback, and dogs did not stop barking for more than 30 minutes, the vet would violate the dog barking ordinance.

Mr. McDermott said yes.

Ms. Mallek said the dog barking ordinance applied to dogs outside, so the applicant should stipulate whether the dogs would be outside or indoors.

Mr. Gallaway clarified a dog could not be reported if they were barking inside the house.

Ms. Mallek confirmed that the dogs could not be reported if they were barking inside.

Mr. McDermott said the ordinance still required the kenneling to occur in a soundproof area for the application.

Ms. Price asked how accurate the 100-year flood plain was given climate change. She noted the recent floods in Kentucky. She said she was unable to see how far the flood plain extended past the property. She said they needed to evaluate how accurate historic data was given the undergoing historic climate changes. She said she assumed the proposed site was not subject to the same flooding seen in other areas, but it was unclear from the map. She clarified that no development could occur in the 100-year flood plain.

Mr. McDermott said that was correct. He said no development could occur in the area because of the County's stream buffer ordinance as well.

Ms. Price said the stream buffer would only apply to part of the flood plain. She noted the applicant's proffer of the greenspace was for land that could not be developed, regardless. She noted the amenity space was in the areas of critical slopes and steep slopes. She said the greenspace and amenity space were beneficial.

Ms. Price noted the Route 240/US 250 roundabout construction. She asked where it was located in relation to the proposed development.

Mr. McDermott said the roundabout was proposed to the east of the development at the trestle bridge.

Ms. Price said the applicant had not committed to allowing or disallowing on-street parking. Ms. Price asked whether there would be language in the residence purchase documents that would make the pre-existing veterinary use known or if it was presumed the potential residents would be aware of the use.

Mr. McDermott said it was a presumption that was part of the analysis. He said staff recommended approval partially because the veterinary use was an existing use, and they assumed people would recognize the use when they moved. He said there was no language requiring notification of the veterinary use.

Ms. Price said as a pre-existing use, the veterinary use had to be considered in support of the application. She said she was unsure whether further sound attenuation measures were necessary. She said the difference between 50 and 200 feet was not substantial in terms of noise isolation, and the noise levels were sufficiently within the 55 decibel requirements. She noted the potential cash proffer of \$283,000. She said the Board had to determine the value of proffers as they related to the actual impact from the development. She said the proposal provided density of 110 units if it were rezoned. She said by right, there could be up to 11 residential units on the parcel which promoted sprawl. She said there was a comment in the packet materials that stated the impact on ACPS would be the same regardless of whether it was a by-right development or rezoned development. She said she was unsure how that comment was accurate.

Mr. McDermott said it sounded like a misstatement, but he would have to review the material. He said he agreed that the impact of 11 residential units would be lower than 110 residential units.

Ms. Price said the specific language was, "they are not an increase over the student numbers that would be generated by any by-right development that would occur." She said it was factually unsustainable.

Ms. McKeel said there had been five 1,000-year floods in less than a year in the country, and one of those floods occurred in Maryland.

Ms. Mallek said there was one in 2018 in Albemarle County.

Ms. Price opened the public hearing. She noted there were no speakers signed up for comment. She invited the applicant to speak.

Mr. Katurah Roell, Design Builders & Remodelers LLC, said in regards to the flood plain, the area was 30 feet lower than the upper buffer and residential area. He said it was a wide valley that extended to other parcels. He said a trail would be constructed along the upper ridge of the flood plain so it would not be washed out, and it would be provided to the County and dedicated for preservation. He said the green areas on the map indicated open area around the vet clinic where the bulk of the density would be. He said the rest of it is surrounded by smaller areas of lots and trees. He indicated the central location of the old homestead and old growth trees, the ones Ms. Mallek was probably familiar with, which was well worth keeping and would be preserved as green space.

Mr. Roell said to address the dog park, it was not for use by the veterinary clinic but by the townhouse owners. He said a need for a dog park had been identified by potential builders who had been contacted about potentially building out this area. He said he had been informed that 50% to 60% of the potential townhouse owners would have dogs when they bought these homes. He noted the decibel level for the veterinary clinic was under the requirement already and compared it to the potential scenario of a neighbor owning a dog that lived 20 ft away and was barking. He said the decibel level was more important than the setback requirement. He said they were more likely to hear neighborhood dogs barking rather than dogs at the clinic that were recovering in a sound-proof room. He offered to answer any additional questions.

Mr. Martin Schulman, the property owner, said he had worked and lived at the site for 40 years to be in the position to forward priorities that he valued. He said the greenway hiking trail would hopefully eventually extend to the downtown area and was a high priority to him. He said affordable housing was critical, and in the updated, signed proffer, 20% of the total units (22 units) were proffered based on the development plan before the Board. He said affordable housing was a rare and diminishing resource in our modern world. He said Mr. Bill Yoder, the sound engineer, would explain how the sound study was performed. He noted there was some confusion at the Planning Commission but some of the highest sound readings occurred when dogs were not barking and was actually due to traffic.

Mr. Bill Yoder said Acentech was an acoustic consulting firm. He explained the firm had been requested to determine if there was any concern about violating the noise code with reduced setbacks for the animal hospital. He said two tests were conducted, the first was the barking test. The question was did kennel activity raise the external sound level. He explained that to do the test, the dogs were excited to bark in the kennel, and sound level measurements were taken inside and outside of the kennel.

Mr. Yoder said the second test was long-term monitoring—the sound level was monitored for a week to determine if the noise code was met during the week-long period. He noted there were patients at the kennel during the trial. He explained sound level measurements were taken at two locations close to the kennel, and they focused on the nighttime periods when there was a lower noise requirement of 55 dB instead of the daytime 60 dB. He explained sound levels were measured 40 feet from the kennel window during the excited barking period and for five minutes following the excited barking. He said the maximum sound level was higher during the five-minute period without barking due to vehicle traffic, and the average sound level was the same.

Mr. Yoder said the long-term measurements were taken 40 feet east and north of the building. He explained if the sound elevations were due to the dogs, then the sound levels would be higher on the east end because it was in the line of sight of the kennel. He noted the site was 200 feet from Route 240 and 900 feet from the railroad tracks. He said they collected 756 average noise levels across five-minute intervals. He said only one five-minute interval violated the noise ordinance on the east side of the building, and four five-minute intervals violated the ordinance on the north side. He said more violations occurred on the north side where fewer were expected.

Ms. Price said the Board would have questions and then the applicant would have the chance for a five-minute rebuttal.

Ms. Mallek said it was important to her that the applicant construct adequate guest parking. She said she was persuaded by the noise study presentation. She noted the driveway lengths and that trucks longer than 18 feet would not be able to fit in the driveway. She suggested including language recognizing the animal hospital in the deed. She said she would like more information regarding the plans for tree preservation. She said she would like more details in regard to the level of affordability of the units.



Mr. Roell said the affordability level was 20% of the affordable units. He said most of the townhomes were intended to be affordable workforce housing based on the design and size.

Ms. Mallek asked if they would be priced for tenants making 80% AMI.

Mr. Roell said that was correct. He mentioned there was a small section of single-family lots along with a buffer. He noted areas of maintained tree buffer, and that the inclusive language for types and species of tree and shrubs enabled the old growth to be kept. He said the driveways would be addressed during the site plan. He said street parking would have to be addressed through VDOT, and they were not permitted to have a standalone parking lot. He said the County ordinance did not permit residential parking lots, only commercial.

Mr. Gallaway asked the applicant to explain what "agree to consider on-street parking" meant in terms of their application.

Mr. Roell said it was VDOT issue to be reviewed to make sure the road width and infrastructure met its profiles and distances so that it could accommodate on street parking. He said the property had the area to provide an adequate road with space for parking.

Mr. Gallaway said he appreciated the applicant changing the proffer to the future standard of 20% affordable at 80% AMI, even though it was not yet required. He said he hoped other developers would do the same in the future. He asked if there were plans to ensure the affordable units were rented by low-income individuals and did not return to market rate after the affordable period lapsed.

Mr. Roell said he would work with people in the area to advertise the units. He said by the time the units were priced, people would be willing to purchase them before they went to market rate. He said the units would be advertised as affordable units.

Mr. Gallaway mentioned the Regional Housing Partnership and the other resources beyond Housing Albemarle. He said Porch Light was a service to advertise affordable units. He encouraged the applicant to explore those tools and do what he could to get low-income people into the affordable units.

Mr. Roell said he had worked with Piedmont Housing Authority in the past.

Ms. McKeel asked what the applicant's goal for affordable was.

Mr. Roell said it was a sales value based upon the median average of the County, and then it was a reduced rate from that established by the County. He said the other units would be workforce housing.

Ms. McKeel asked for the average size of the residential units.

Mr. Roell said the units were 1,600 to 1,800 square feet, and some were 2,000 square feet.

Ms. McKeel said it was important for VDOT to be able to maintain the roads. She said the neighborhood association would be able to determine some of the street parking rules. She mentioned to Ms. Mallek that the Out of Bounds development had several large cut-ins where three or four cars could park along the roads.

Mr. Roell said there were sections of the proposed internal roads that had small cut-ins for on-street parking. He said that was as detailed as they could get at the moment.

Ms. LaPisto-Kirtley mentioned pickup trucks are long, and she questioned the length of the driveways. She asked if long trucks would stick out of the driveway.

Mr. Roell said the typical driveway was planned to be 20 feet. He said his son drove a club cab pickup truck with four-wheel drive, and it took up a 20-foot parking space. He added that a garage was included with each unit, and they were wide enough to allow a second car to pull in.

Mr. Andrews said he was also concerned about parking. He noted the sloped landscape into the flood plain.

Mr. Roell said they had detailed topographical maps, they knew where the critical slopes were, and they ensured there were no impacts from general grading, utilities, or roads.

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

Mr. Shulman said as part of the 1988 permit, the animal hospital had a reduction in the required setback from 200 feet to 100 feet to the closest residential neighbor. He said they were seeking to further reduce the setback to 50 feet. He said there was another animal hospital in Crozet, and they received a special exception, SE202000022, which came before the Board in January. He said the applicant would like similar wording as in SE202000022 be applied to their special exception; the use must be air-conditioned, soundproofed, and meet the 55 dB noise level. He said the other location in Crozet was 50 feet from the closest residential neighbor.

Mr. Yoder said the barking tests showed no increase in ambient sound levels and that the traffic on Route 240 generated noise louder than the indoor barking activity. He said the long-term monitoring

showed violation of the County's nighttime noise ordinance was rare at both locations and most likely caused by trains. He said the violations mostly occurred at the second location which was least impacted by the noise from the indoor kennel.

Mr. Yoder said the roof and exterior wall constructions provided large amounts of sound isolation, and the windows and doors to the kennel were the likeliest target for future improvements. He said the simplest solution to improve their performance would be to add a storm window and a storm door, and beyond that, the solutions became more expensive. He said the improvements were not necessary to meet the sound requirements of the ordinance. He added soundproofing measures could be added to the interior of the kennel.

Mr. Roell said the presence of the veterinary kennel would be documented in the HOA documents that were distributed with the purchase packages. He said potential uses for the site would also be included.

Ms. Price closed the public hearing.

Ms. Mallek said many of her concerns would be addressed during the site plan stage. She said she supported the proposal. She said the County needed authority to provide more by way of tree preservation. She said the sidewalk and bicycle lanes were an incremental step in improving Three Notched Road. She said thousands of homes on the south side of Route 240 would benefit from sidewalk and bicycle path connections. She mentioned getting better information about the school impacts.

Mr. Gallaway asked if the Commission's vote was intended to remove the veterinary use or to include more sound attenuation.

Mr. McDermott said the concern was not elevated to the level of removing the veterinary use, they just felt like it was not the best use for the central business of the neighborhood. He said the Commission discussed moving the animal hospital to a location that was not central. He said a number of speakers at the Commission's public hearing commented with noise complaints.

Mr. Gallaway said he was satisfied the 50-foot setback and noise attenuation measures would be adequate. He mentioned that the neighborhood dogs might compete with the dogs at the hospital. He said it would be worth a discussion to go over how proffers were determined and evaluated to decide if they sufficiently addressed the impacts. He said the County needed to start requiring 20% affordable housing because there were several developments that were still using the 15% level. He said the policy was now a year old.

Ms. McKeel said she was supportive of the proposal as well. She said she was not a fan of dog parks, however. She said the sound study was useful.

Ms. LaPisto-Kirtley said she appreciated the sound study. She said she supported the proposal.

Mr. Andrews said he was supportive of the proposal. He said he had packs of coyotes at his house at night.

Ms. Price said she was supportive of the proposal.

Mr. Rosenberg said he wanted to ensure the Board was provided with an updated ordinance that had been furnished to the Clerk, Ms. Borgersen. He said the ordinance would be the subject of a possible motion.

Ms. Price noted an administrative error in the packet that was superseded by the updated ordinance. Ms. Price asked if there needed to be one or two motions.

Mr. Rosenberg suggested there be two separate motions; one to address the proposal and one to address the special exception.

Ms. Mallek **moved** that the Board adopt the attached Ordinance (Attachment H) to approve ZMA202000005 Old Dominion Village.

Ms. McKeel **seconded** the motion.

Mr. Herrick recommended the Board use the motion provided on the screen because it refers to the ordinance provided by staff and avoided any ambiguities as to which ordinance was being approved, the revised ordinance provided by staff at the meeting or the prior version that was in the Board packet.

Ms. Mallek **moved** that the Board adopt Ordinance 22-A as provided by staff approving ZMA202000005, Old Dominion Village, for the reasons stated in the staff report. Ms. McKeel **seconded** the motion.

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

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

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Ms. Mallek **moved** that the Board adopt the resolution as provided by staff approving the special exception to § 18.5.1.11(b) to reduce the required buffer from 200' to 50' between the veterinary/kennel use and residential lot line. Ms. McKeel **seconded** the motion.

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

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

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**ORDINANCE NO. 22-A(9)**  
**ZMA 2020-00005 OLD DOMINION VILLAGE**  
**AN ORDINANCE TO AMEND THE ZONING MAP**  
**FOR PARCELS 05600-00-00-0067B0 & 05600-00-00-074A0**

**BE IT ORDAINED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2020-00005 and their attachments, including the proffers and application plan, each last revised on April 21, 2022, the information presented at the public hearing, any comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code §§ 18-19 and 18-33.6, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2020-00005 with the proffers and application plan, each last revised on April 21, 2022.

\* \* \* \*





















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**PROFFER STATEMENT**  
**OLD DOMINION VILLAGE**  
**THREE NOTCH ROAD**  
**CROZET**

**Date:** November 9, 2020

**Revised:** March 29, 2021

**Revised:** August 9, 2021

**Revised:** November 19, 2021

**Revised:** April 21, 2022

**ZMA#:** 2020-00005 Old Dominion Village Rezoning

**Tax Map Parcel #:** 05600-00-00-067B0 & 05600-00-00-074A0

**23.68 acres to be rezoned from RA - Residential to NMD - Neighborhood Model**

Martin Schulman is the fee simple owner of TMP 05600-00-00-067B0. The Thomas F Starke Revocable Trust and the Betty G Starke Revocable Trust is the fee simple Owner of TMP 05600-00-00-074A0 (the "Property"). Emerald Land Co., LLC is the Contract Purchaser and shall hereinafter be referred to as the "Owner." The Property is the subject of the zoning map amendment application ZMA-2020-00005 known as "Old Dominion Village". The Old Dominion Village development is herein referred to as the "Project."

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed in this Proffer Statement, which shall be applied to the Property if the rezoning is approved by Albemarle County. These conditions are proffered as part of the rezoning, and it is agreed that the conditions are reasonable.

**1. Affordable Housing.**

The Owner shall provide a total of twenty (22) Affordable Dwelling Units (as defined herein) within the Project (the "Affordable Housing Requirement"). The Owner or its successors in interest reserve the right to meet the Affordable Housing Requirement through a variety of housing types, including but not limited to, for-sale units or rental units.

**A. For-Sale Affordable Dwelling Units.**

The Owner may meet the Affordable Housing Requirement by constructing Affordable Dwelling Units. For purposes of this Proffer 1(A), "Affordable Dwelling Unit" shall mean any unit affordable to households with incomes less than eighty percent (80%) of the area median income (as determined from time to time by the Albemarle County Office of

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Housing) in no event shall the selling price for such affordable units be more than sixty-five (65%) of the applicable federal HOME Investment Partnership Program (HOME) Homeownership Value Limits at the beginning of the 180-day period referenced in Proffer 1(A)(1) hereof (the "VHDA Limit"). The Owner shall impose by contract the responsibility herein of constructing and selling the Affordable Dwelling Units to any subsequent owner or developer of the Property (or any portion thereof). Such subsequent owner(s) and/or developer(s) shall succeed to the obligations of the Owner under this Proffer 1; and the term "Owner" shall refer to such subsequent owner(s) and/or developer(s), as applicable.

**B. Role of County Office of Housing.**

All purchasers of the for sale Affordable Dwelling Units shall be approved by the Albemarle County Office of Housing or its designee (the "Office of Housing"). At the proposed time of construction of any Affordable Dwelling Unit, the Owner shall provide the Office of Housing a period of one hundred eighty (180) days to identify and approve an eligible purchaser for such affordable unit. The 180-day qualification period shall commence upon written notice from the Owner to the Office of Housing of the approximate date the Unit is expected to receive a certificate of occupancy from the County (the "Notice"). Such Notice shall be given no more than ninety (90) days prior to the expected issuance of the certificate of occupancy, and the 180-day approval period shall extend no less than ninety (90) days after the issuance of the certificate of occupancy. Nothing in this Proffer 1 shall prohibit the Office of Housing from providing the Owner with information on income eligibility sufficient for the Owner to identify eligible purchasers of Affordable Dwelling Units for approval by the Office of Housing. If, during the 180-day qualification period, (i) the Office of Housing fails to approve a qualified purchaser, (ii) a qualified purchaser fails to execute a purchase contract for an Affordable Dwelling Unit or (iii) a local non-profit affordable housing provider does not purchase the unit, then, in any case, the Owner shall have the right to sell the Unit without any restriction on sales price or income of the purchaser(s), and such unit shall be counted toward the satisfaction of this Proffer 1. This Proffer 1 shall apply only to the first sale of each of the for-sale Affordable Dwelling Units. For the purposes of this Proffer 1, such Affordable Dwelling Units shall be deemed to have been provided when the subsequent Owner/builder provides written notice to the Albemarle County Office of Housing or its designee that the unit(s) will be available for sale.

**C. For-Rent Affordable Dwelling Units.**

- i. **Rental Rates.** The net rent for each rental housing unit which shall qualify as an Affordable Dwelling Unit ("For-Rent Affordable Dwelling Unit") shall not exceed HUD's affordability standard of thirty percent (30%) of the income of a household making less than or equal to sixty percent (60%) of the area median income (as determined by HUD from time to time). In each subsequent calendar year, the monthly net rent for each For-Rent Affordable Dwelling Unit may be increased up to three percent (3%). The term "net rent" means that the rent does not include Homeowners Association fees but does include an allowance for tenant-paid utilities. The requirement that the rents for such For-Rent Affordable Dwelling Units may not

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exceed the maximum rents established in this Section shall apply for a period of ten (10) years following the date the certificate of occupancy is issued by the County for each For-Rent Affordable Dwelling Unit, or until the units are sold as low or moderate cost units qualifying as such under either the VHDA, Farmers Home Administration, or Housing and Urban Development, Section 8, whichever comes first (the "Affordable Term").

- ii. **Conveyance of Interest.** All deeds conveying any interest in the For-Rent Affordable Dwelling Units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this Section. In addition, all contracts pertaining to a conveyance of any For-Rent Affordable Dwelling Unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this Section. At least thirty (30) days prior to the conveyance of any interest in any ForRent Affordable Dwelling Unit during the Affordable Term, the then-current Owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this Section have been satisfied.
- iii. **Reporting Rental Rates.** During the Affordable Term, within thirty (30) days of each rental or lease term for each For-Rent Affordable Dwelling Unit, the Applicant or its successor shall provide to the Housing Office a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the Applicant or its successor shall provide to the County, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.

**D. Tracking.**

Each subdivision plat and site plan for land within the Property shall: i) designate the lots or units, as applicable, that will constitute Affordable Dwelling Units within the Project and ii) contain a running tally of the Affordable Dwelling Units either constructed or contributed for under this Proffer 1. The designated lots or units shown on the applicable subdivision plat or site plan may not be shown as being constructed in a future phase.

**2) Amenity Dedication to HOA.**

**A. Amenity Areas.**

Amenity Areas shall be used for the use and enjoyment of the residents of the Property, subject to the restrictions that may be imposed by any declaration recorded as part of a conveyance of these areas to a homeowner's association. The amenity areas must be substantially completed prior to the issuance of approval of the thirty-fifth (35) CO within the project. The owner shall pay the cost of subdividing and conveying the Parks and Civic Spaces to the homeowner's association.

**3) Greenway Area Dedicated to the County.**

**A. Greenway and Stream Buffer.**

Green Space 1 and Green Space 2 are designated as Conservation Area on the concept plan with a total area of 7.80 Acres.

**B. Dedication of Greenway Area.**

Upon the request of the County, but not prior to the issuance of the tenth (10<sup>TH</sup>) CO within the project, the Owner shall convey fee simple ownership of Green Space 1 and Green Space 2 to the County for public use. The Owner may record easements within the Green Space necessary for rights of access, utilities, and maintenance. If the County requests dedication of the Greenway Area, then, at Owner's expense, a subdivision plat shall be generated and recorded to dedicated fee simple ownership of the Greenway Area to the County within six (6) months of such request.

**C. Construction of Greenway Pedestrian Path.**

The Owner will construct a Class B – Type 2 "high-maintenance pedestrian path" per the Trail Standards in the Albemarle County Design Standards Manual. The conceptual alignment of the pedestrian path is shown on the Application Plan. The actual alignment of the pedestrian path will be determined prior to construction as agreed to by the Owner, Director of Parks, and County Engineer (or their designees). The pedestrian path shall be constructed, inspected, and accepted prior to Owner's dedication of Greenway Area as described above. If any portion of the Pedestrian Path is constructed outside of the Greenway Area, then a 20' Public Access Easement centered on the constructed Pedestrian Path shall be recorded and dedicated to the county.

**4) Financial Contributions.**

- A.** Cash Proffers for Capital Improvements. The owner shall contribute cash for each new residential unit that is not classified as an Affordable Housing Unit. The cash contribution shall be for the purposes of addressing the fiscal impacts of development on the schools and transportation serving the Community of Crozet. The cash contribution shall be \$3,000 cash for each new single- family detached dwelling unit. The cash contribution shall \$2,500 cash for each single family attached or townhouse dwelling unit. The cash contribution shall be paid at the time of the issuance of the certificate of occupancy for each new unit in order to be consistent with current state law.



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This Proffer Statement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

WITNESS the following duly authorized signature:

Owner TMP 05600-00-00-067B0:

*Martin Schulman*  
DocuSigned by  
*Martin Schulman*  
11E5B88B19A344A...

By: Martin Schulman

Owner TMP 05600-00-00-074A0:

The Thomas F Starke Revocable Trust, the Betty G. Starke Revocable Trust

*Ashley L. Starke (Trustee)*      *Thomas Starke*

By: Trustees

Ashley Starke      Thomas Starke  
Trustee, Fee Simple Owner      Trustee, Fee Simple Owner

Contract Purchaser:

**Emerald Land Co., LLC**

*Katurah Roell*

By: Katurah Roell

5      04/21/2022

Doc ID: 62cfbe9d1060c81ca3a67b537899adc467188779

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**RESOLUTION TO APPROVE SE202000010 OLD DOMINION VILLAGE**

**BE IT RESOLVED** that, upon consideration of the staff reports prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, all of the comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.11 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the applicable requirement.

**WHEREUPON**, the Albemarle County Board of Supervisors hereby approves SE202000010 Old Dominion Village and grants a modification of Albemarle County Code § 18-5.1.11 to allow a soundproofed animal confinement to be located closer than 200 feet, but no closer than 50 feet, from an agricultural or residential lot line.

Agenda Item No. 17. **Public Hearing: 17. ACSA202200004 Jurisdictional Area Amendment Request, Old Dominion Village (Crozet).**

PROJECT: ACSA202200004  
MAGISTERIAL DISTRICT: White Hall  
TAX MAP/PARCEL: 056000000067B0, 0560000000074A0  
LOCATION: 1263 Parkview Drive, Crozet, VA 22932, 5258 Three Notch'd Road, Crozet, VA

22932

PROPOSAL: Request to amend the Albemarle County Service Authority Jurisdictional Map Boundary to modify the service designation on Tax Map Parcel 05600000067B0 and TMP 05600000074A0 from "Limited Service" and "Water Only to Existing Structures" designation, respectively, to "Water and Sewer" for both parcels.

COMPREHENSIVE PLAN: Middle Density Residential - 6 – 12 units /acre; supporting uses such as religious institutions, schools, commercial, office and service uses; Neighborhood Density Residential - 3-6 units/acre; supporting uses such as religious institutions, schools and other small scale non-residential uses; and Greenspace - public parks, open space, environmental features within the Crozet Master Plan. Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots).

The Executive Summary forwarded to the Board states that the applicant/parcel owner is requesting Albemarle County Service Authority (ACSA) Jurisdictional Area designation for "Water and Sewer" service for the two above noted parcels, located on the north side of Three Notched Road, Route 240 (Attachment A). The subject property is in the Crozet Development Area and is designated for Neighborhood Density and Middle Density Residential uses, with a

Green Systems designation along a stream located on-site. The water supply for Crozet is provided by the Beaver Creek Reservoir. Sewer service is provided by the Moore's Creek Treatment Plant via the Crozet Interceptor. The parcel is currently designated in the ACSA Jurisdictional Area map for "Water Only" service. The applicant is requesting an amendment at this time to provide "Water and Sewer" service to the proposed Old Dominion Village development (ZMA 202000005, Old Dominion Village).

Thriving Development Areas - Attract quality employment, commercial, and high density residential uses into development areas by providing services and infrastructure that encourage redevelopment and private investment while protecting the quality of neighborhoods.

The Comprehensive Plan, in the Community Facilities chapter, provides the following guidance concerning the provision of water and sewer service:

Objective 9: Provide public water and sewer in the Development Areas.

Strategy 9a: Continue to provide public water and sewer in jurisdictional areas.

Water and sewer jurisdictional areas ensure the County's Growth Management Policy, Land Use Plan, and Develop Area Master Plans are implemented by guiding the direction of public utility placement. The areas also permit these services to be provided in a manner that can be supported by the utility's physical and financial capabilities. The jurisdictional areas are those portions of the County that can be served by water or sewer service, or both, and generally follow the Development Areas boundaries...The boundaries of the

Development Areas are to be followed in delineating jurisdictional areas. (p.12.30)

The Comprehensive Plan recommends that land within the Development Areas be served by public water and sewer service. Because these parcels are located within a designated Development Area and are recommended for further development (See Attachment A), this request for a "Water and Sewer" service designation on the ACSA Jurisdictional Area map is consistent with Comprehensive Plan policies and recommendations.

A small portion of Parcel 74A is located outside of the designated Development Area. That area is proposed to remain undeveloped/greenspace based on the proposed application plan for the Old Dominion Village development (ZMA202000005). Staff would recommend that the "Water and Sewer" designation for this parcel be limited to only the area within the designated Development Area. The remainder of the property (outside of the Development Area) would not be designated for public water or sewer service.

There is no direct budget impact from this request. The property owners would bear the cost for water and/or sewer connections.

Staff recommends that the Board approve an amendment to the Albemarle County Service Authority Jurisdictional Area to designate Tax Map 56, Parcel 67B and the portion of Tax Map 56, Parcel 74A within the designated Development Area for "Water and Sewer" service. The remainder of Parcel 74A would not be designated for public water or sewer service.

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Mr. McDermott, Planning Manager in Community Development, said the request was to have water and sewer designation for TMP 56-67BO and a portion of TMP 56-74AO, the subject parcels for Old Dominion Village located on Three Notched Road. He said the parcels were currently designated for water only to existing structures and limited service on another portion.

Mr. McDermott said the dominant portion of the parcels were within the Crozet Development Plan and were designated for middle density and neighborhood density residential along with green system uses. He noted a small, northwestern portion of the parcels was outside of the development area

boundary for Crozet and was designated Rural Area (RA). He indicated on the slide where the individual service areas and density recommendations were inside the parcels.

Mr. McDermott indicated to surrounding properties that had already been adopted into the ACSA Jurisdictional Area including Emerson Commons to the northwest and multiple properties to the south.

Mr. McDermott said the Comprehensive Plan addressed the provisioning of water and sewer to the development areas in Chapter 12.1 Strategy 9a. He quoted it, saying "Continue to provide public water and sewer in jurisdictional areas. ... The jurisdictional areas are those portions of the County that can be served by water or sewer service, or both, and generally follow the Development Areas boundaries." He said, therefore, the Comprehensive Plan recommends serving the Development Areas with public water and sewer service and that the parcels are located within the Crozet Development Area, making this request consistent with County policy.

Mr. McDermott noted the small portion of TMP 56-74A which was outside of the Development Area boundary. He said staff proposed to only provide service to the portions within the Development Area. He said the ACSA jurisdictional boundary would only be extended to the edge of the Development Area, consistent with the proposals in the rezoning that was approved in the prior public hearing that evening. He said staff recommended the ACSA jurisdictional area be amended to designate TMP 56-67B and the portion of TMP 56-74A within the Development Area for water and sewer services. He said provided a slide with suggested motions for the Board.

Mr. Andrews asked if splitting the parcel was based on existing dwelling locations. He noted it was strange to have part of the parcel in the Development Area and part in the rural area.

Mr. McDermott explained the parcels were added to the Development Area around the 2015 Comprehensive Plan update. He said it was supposed to follow drainage areas and streams. He said they were unable to determine why the Development Area split the parcel.

Ms. Mallek added that there was a land swap with Mechums Depot, so it might have been an acreage issue.

Ms. Price noted the reality was that the TMP did not always follow natural boundaries. She said the application was from the County. She asked if there was an applicant.

Mr. McDermott said yes, there was an applicant and it was the same applicant as the prior public hearing.

Ms. Price noted Ms. LaPisto-Kirtley had already read the rules for comment.

Mr. Katurah Roell said the utilities were necessary to complete the development. He said the portion of the parcel in the flood plain in the northeast was not included. He noted the animal hospital already had water connections.

Ms. Mallek asked Mr. Herrick if the motion displayed on the screen incorporated the exclusion noted on the amended ordinance that was distributed to the Board.

Mr. Herrick said that was correct. He said the Board should also have an updated resolution for the jurisdictional area that incorporated the exclusion of the portion that was outside the Development Area.

Ms. Mallek **moved** that the Board adopt a resolution, as provided by staff, approving an amendment to the Albemarle County Service Authority Jurisdictional Area to designate Tax Map 56, Parcel 67B and the portion of Tax Map 56, Parcel 74A within the designated Development Area for "Water and Sewer" service. The remainder of Parcel 74A would not be designated for public water or sewer service.

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

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

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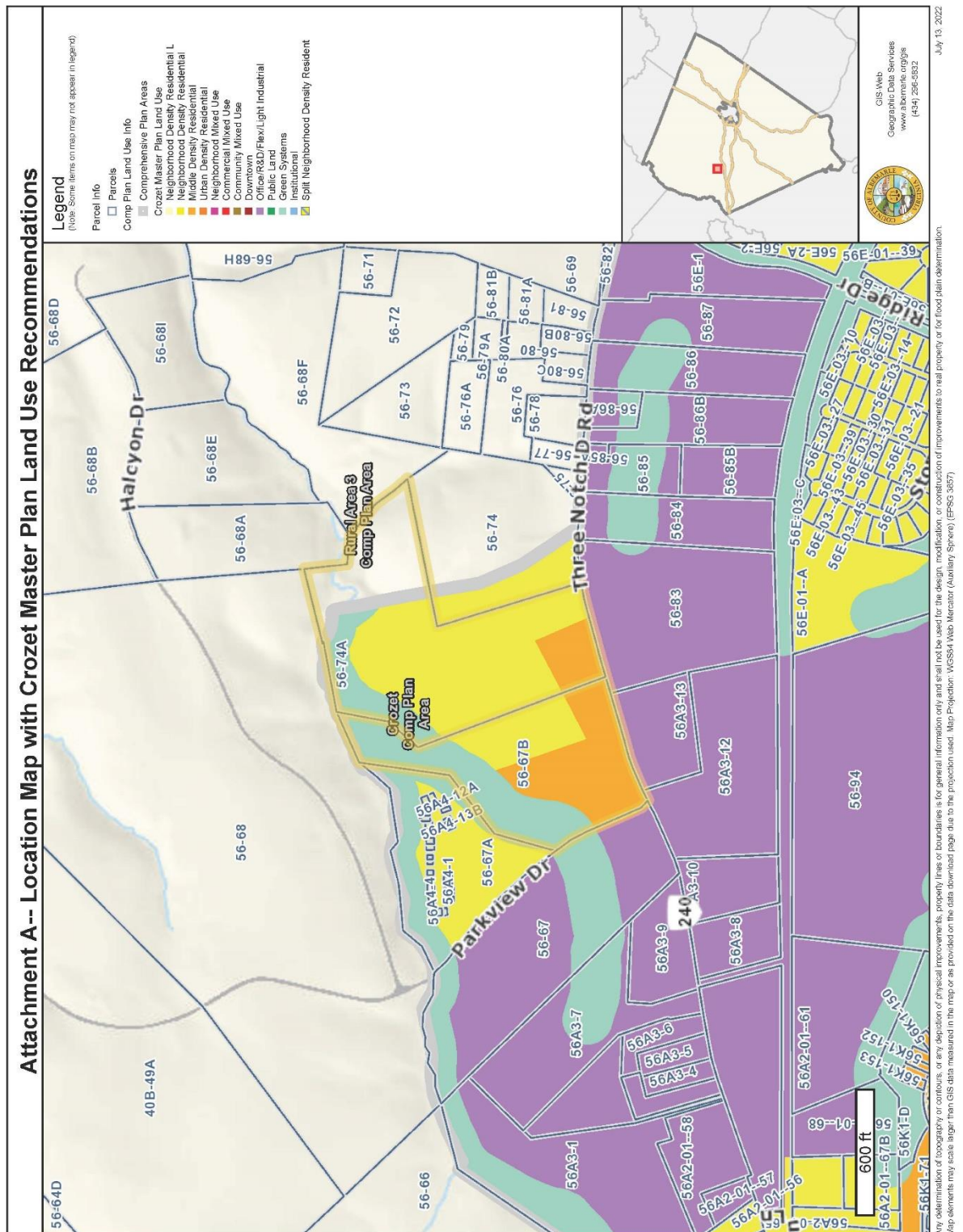
**RESOLUTION TO APPROVE  
ACSA202200004 OLD DOMINION VILLAGE (CROZET)  
FOR PARCELS 05600-00-00-067B0 & 05600-00-00-074A0**

**WHEREAS**, as part of application ACSA202200004 (ACSA 2022-04), the owner of Parcels 05600-00-00-067B0 (TMP 56-67B) & 05600-00-00-074A0 (TMP 56-74A) has requested an amendment to the Albemarle County Service Authority (ACSA) Jurisdictional Area to include TMP 56-67B and TMP 56-74A for limited sewer service; and

**WHEREAS**, on August 17, 2022, the Albemarle County Board of Supervisors held a duly noticed public hearing on ACSA 2022-04.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for ACSA 2022-04 and all of its attachments, the information presented at the public hearing, any comments received, the factors relevant to the ACSA Jurisdictional Area in Chapter 12.1, Community Facilities, Strategy 9a, of the Albemarle County Comprehensive Plan, and the Comprehensive Plan's Growth Management Policy and Land Use Plan, the Albemarle County Board of Supervisors hereby approves ACSA 2022-04, as authorized by Virginia Code §§ 15.2-2111 and 15.2-5111, subject to the condition that the portion of TMP 56-74A designated for water and sewer service is limited to the Development Area, depicted as the "Crozet Comp Plan Area" on the GIS map dated July 13, 2022, attached hereto and incorporated herein.

\* \* \* \*



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

Ms. Mallek requested the Board to consider redesignating the appointment of Lonnie Murray, representing the Soil and Water Conservation District, to the Rivanna River Basin Commission. She said there had been a longstanding vacancy, and Mr. Murray was no longer at the Soil and Water Conservation District. She requested the Board consider appointing Mr. Murray to the vacant Albemarle County appointment of the Rivanna River Basin Commission.

Ms. Mallek said there was some information provided after the stream health discussion and she noted it was not recommended to change the soil disturbance threshold, reducing it from 10,000 square feet to 2,500 square feet. She said, however, it was one of the primary recommendations about 4 or 5 years ago that came out of a joint meeting of the Board of Supervisors and Planning Commission. She said they would avoid future issues if they were able to restore control along their streams.

Ms. Mallek said lastly, related to the length of the CIP and proffered money, she had talked to staff about this and even if they were working off the old system and calculated it based on by-right development of 50 children multiplied by \$14,000, the cost to educate them, would equal \$800,000 for one year. She spoke with Charles Rapp, and he said that in order for the Board to take advantage of the current proffer law as it exists, they had to identify items in the CIP that would be affected, and what the cost would be. She said there is some administrative work left to do and she asked the Board to consider whether it was important work that they should pursue.

Ms. Mallek said there was great concern in the legislature when counties in Northern Virginia were asking for \$30,000-\$50,000 per unit in proffers and that poisoned it for the rest of them who were only asking for much less and no proffers for affordable units. She said this was something for future discussion and when they were pondering other things so they could find ways to take the burden for new developments off of the residents who already live here.

Mr. Gallaway said at the past TJPDC meeting, the day after the Board's meeting on the stream health initiative, there was an update on the regional watershed improvement plan with a presentation. He said he left the presentation with a note about decreasing water treatment costs. He asked if there was modeling that showed how stormwater management systems and stream health initiatives connected to the reduction in water treatment costs. He suggested more information be provided during a stormwater management or stream health discussion about how water treatment costs were affected. He said he was not sure which staff person to direct that to but perhaps it could be included when the stream health initiative is brought back for an update or with the climate action plan. He said he thought there was something helpful there for the Board to better understand since he had not initially considered reduction of water treatment costs as a rationale when they were discussing the stream health initiative.

Mr. Gallaway said at the same meeting, an update was provided on a program called "Safe Streets for All" which was a federal program that required a 20% local match, cash or in-kind. He asked for confirmation from staff that they were aware of the program since it sounded like the TJPDC was working closely with each locality and their departments. He said there could be some grant money out there for smaller projects and areas, such as the hill they were talking about in the Rio Road Corridor Study. He said he was interested in learning if the County had projects that would fit the program that didn't necessarily rise to level of a SMART SCALE application or other big grant application.

Ms. McKeel said, when talking about water, the algae bloom advisory had been expanded at Lake Anna. She said the upper, middle, and lower sections were experiencing algae blooms. She noted the County was experiencing its own algae blooms, and they needed to figure out what was causing the blooms so they could respond to the root cause and not just respond to the resulting algae blooms.

Ms. McKeel noted she had read an interesting article in *The Washington Post* on how some communities were using art installations to act as traffic mitigation measures, such as murals on crosswalks and other strategically located murals on the roads. She said she was not sure how much they could get VDOT to go along with. She said was recently visiting Old Town Alexandria and noticed they used a combination of orange attenuators and concrete blocks to protect cyclists and pedestrians. She suggested the County consider similar methods to protect cyclists and pedestrians.

Mr. Andrews said the Solid Waste Alternatives Advisory Committee met, and Andrea Johnson from van der Linde Recycling gave a presentation. He noted that of the 200-500 tons they receive a day, 76% of material was diverted from going to the landfill. He said it was a very interesting presentation.

Ms. Price noted for their legislative agenda, they all knew of the deficiencies from proffers was what they were stuck with, but they really needed to have impact fees. She said in regard to piping streams, an accumulation limit over a period of time had to be included in the ordinance. She noted they approved a motion after their closed meeting to repair a sinkhole caused by a failing culvert that was built for a water flow. She said in Foxcroft, on Secretarys Road, and the motion they had today, she knew of a number of places where the infrastructure was built on top of a spring, and the spring perpetually undermined the roads. She said an application from the Whitehall district proposed piping a stream. She said she was concerned about the long-term engineering and infrastructure impacts from that. She said if they allow that, and it fails then the County is looking at the cost of having to repair it. She urged the Community Development staff to be very careful when looking at that in applications and weighing potential future costs.

Ms. Price said the warming weather was causing the algae blooms, and it was also causing brain eating and flesh-eating bacteria in the water. She noted several cases of flesh-eating bacteria from the Rivanna River. She noted the traffic calming measures of roundabouts. She said she had recently toured the van der Linde Recycling Facility. She encouraged the other Supervisors to take a tour.

Ms. Mallek said sediment had to be filtered out of the water at the South Fork Water Treatment Plant. She said the South Fork Rivanna watershed was 274 square miles of mostly farmland. She said the residents of St. George Avenue had no sidewalk and was a primary cut-through for dump trucks. She said residents painted a medallion in the street, but VDOT later removed it. She noted the medallion was anecdotally effective at slowing traffic. She said it was important to keep streams above ground.

Ms. Price said she had PLP (Political Leaders Program) in Harrisonburg. She said they visited a dairy farm, and noted the technology required for effective commercial farming. She said there was a presentation from a senior executive from JMU who discussed how they had improved relationships with the community. She said they had a presentation how businesses were going into middle and high schools to recruit employees at an early age.

Mr. Richardson said last fall, a report was published by the Free Enterprise Forum that raised questions about the Acquisition of Conservation Easement program (ACE). He said the County Attorney's Office had completed its review of the questions, and he was distributing copies of the memo to the Board. He said he was satisfied with the findings of the review and the work of the County Attorney's Office. He said the memo showed all purchases under the program were lawful.

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Agenda Item No. 19. Adjourn to August 24, 2022, 9:00 a.m., 994 Research Park Blvd., Room B, Charlottesville, VA. (North Fork UVA Discovery Park).

At 8:49 p.m., the Board adjourned its meeting to August 24, 2022, 9:00 a.m., 994 Research Park Blvd., Room B, Charlottesville, VA. (North Fork UVA Discovery Park). Information on how to participate in the meeting will be posted on the Albemarle County website Board of Supervisors home page and on the Albemarle County calendar.

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Chair

Approved by Board
Date: 08/07/2024
Initials: CKB